

**Concluding Observations of the African Commission on the Initial
Report of the Republic of Zambia**

41st Ordinary Session

Accra, Ghana

16 – 30 May 2007

Introduction

1. In accordance with Article 62 of the African Charter on Human and Peoples' Rights, the Republic of Zambia which ratified the African Charter in January 1984 submitted its initial report to the African Commission.
2. The Initial Report of the Republic of Zambia was received at the Secretariat of the African Commission on Human and Peoples' Rights (the Commission) in February, 2006 and was considered at the 41st Ordinary Session of the African Commission which took place in Accra, Ghana from 16 – 30 May 2007.
3. The Report was presented before the Commission by the Permanent Secretary of the Ministry of Justice of the Republic of Zambia.
4. The African Commission welcomes the submission of Zambia's initial report and its subsequent presentation in an atmosphere of frankness that encouraged constructive dialogue between the distinguished representatives from Zambia and Members of the African Commission on Human and Peoples' Rights.
5. The present concluding observations flow from the presentation of the report. They highlight the positive aspects identified in the Report as well as the factors restricting the effective enjoyment of human and peoples' rights in the country. They also underline areas of concern where, in the Commission's view, action needs to be taken. Finally, recommendations have been made to the State on measures to be taken to enhance the enjoyment of human rights in general and the rights guaranteed in the African Charter in particular.

Positive Factors in the Report

6. After careful examination of the Report and a fruitful dialogue with the distinguished representatives from the Republic of Zambia, the African Commission observed the following positive factors in the report which merit commendation:
7. The Commission commends the Republic of Zambia for ensuring that the Initial State Report conforms to its guidelines for the preparation of State Reports and further that the Report identifies legislative and other measures put in place to implement the basic rights and fundamental freedoms enshrined in the Charter.
8. The African Commission recognises in particular that the Republic of Zambia does not only indicate the measures it has put in place to ensure implementation of the Charter but has also indicated the difficulties it encounters in the implementation of the Charter.
9. The African Commission notes that Zambia's Constitution makes provision for a Bill of Rights and further provides for various constitutional bodies to provide remedy when human rights are violated. These bodies include the courts as well as the Permanent Human Rights Commission.
10. The African Commission also takes note of the fact that Zambia has ratified major international and regional human rights instruments. These include the following:
 - The International Covenant on Civil and Political Rights (ICCPR);
 - The International Covenant on Economic, Social and Cultural Rights (ICESCR);
 - The International Convention on the Elimination of all forms of Racial Discrimination (CERD);
 - The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW);
 - The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and
 - The UN Convention on the Rights of the Child;
 - The African Charter on Human and Peoples' Rights;
 - The African Charter on the Rights and Welfare of the Child; and
 - The OAU Convention Governing Specific Aspects of Refugee Problems in Africa.

11. The Commission welcomes the government's decision to amend legislation that violates the right to freedom of expression.
12. The Commission welcomes measures adopted by the Zambian government to deal with overcrowding in prisons, such as the construction of new prisons, the rehabilitation of old prisons and the adoption of non-custodial sentence.
13. The Commission welcomes the adoption of child labour policies and the implementation of the ILO standards on child labour.
14. The commission welcomes the provision of free medical services to persons over the age of 65 and the provision of food supplement to persons living with HIV/AIDS.
15. Regarding the elimination of harmful traditional practices, the Commission welcomes the study that was conducted in 2002 to identify oppressive customary laws with a view to effecting necessary amendments therefore.
16. The Commission welcomes the government's decision to prepare a training manual on human rights law; and conduct training courses for all law enforcement agencies, and in particular, the fact that the manual will be distributed to all Zambians in order to enhance their knowledge of human rights.
17. The Commission notes the government's efforts to ensure that training in human rights is given in primary, secondary and higher institutions of learning within the framework of social studies and civics.
18. The Commission further welcomes the government's decision to associate other stakeholders in the preparation of the report, including the responsibility of coordinating the collection of data contained in this Report, and notes that the Committee that prepared the report comprised of Government Ministries and Departments, the Judiciary, the Human Rights Commission, the Police and Prisons services, the Drug Enforcement Commission, Civil Society and the Academia.
19. The Commission recognises the fact that in spite its limited resources, the government has embarked on a programme to mitigate the effects of HIV/AIDS by making available medication to prevent opportunistic infections for people infected with the virus, and introduced measures aimed at providing free treatment for all persons infected with Sexually Transmitted Infections (STIs) and Tuberculosis (TB).
20. The Commission appreciates the fact that Zambia has not executed any person on death row since 1987.
21. The Commission recognizes and welcomes the government's efforts to fight corruption in the country.

Factors inhibiting the effective enjoyment of human rights in the country

22. The African Commission is concerned that the HIV and its pandemic “has put at risk many years of development effort”.
23. The Commission notes that the Republic of Zambia is yet to ratify the Protocol on the establishment of the African Court on Human, and Peoples’ Rights and the Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the child.
24. The Commission notes that Zambia is yet to domesticate the African Charter and other international and regional instruments it has ratified;

Areas of concern

25. The Commission is concerned about the high child mortality rate especially in the rural areas which is reported to be due to inadequate health personnel (nurses, doctors and midwives); inadequate access to health centres, distance to health centres, ambulance services and poor road network.
26. The Commission is equally concerned about the high prevalence of malaria and HIV/AIDS in the country which has impacted negatively on the State party’s limited resources.
27. The Commission is concerned that the “Zambianization” Policy, if not properly managed, may be used to promote xenophobia and related intolerances against foreigners. In a globalised world where there is the potential for free movement of labour and capital, the policy would need an elaborate sensitisation of the population.

Recommendations

The African Commission recommends to the Government of Zambia to:

- Take necessary and urgent measures to ratify the Protocol to the African Charter establishing the African Court on Human and Peoples’ Rights and make the declaration under article 34 (6), as well as ratify the protocol on the rights of women in Africa; and the African Charter on the Rights and Welfare of the Child, the OAU Convention on Combating Corruption in Africa;
- Explore the possibility of integrating the Directive Principles of State Policy as justiciable socio-economic rights and not leave them as mere aspirations;

- Explore the possibility of supporting the Extended Family System which the Government has recognised plays a major role in protecting and maintaining the larger family;
- Encourage the government to work closely with civil society organisations to ensure the enjoyment of the rights and freedoms contained in the Charter;
- Encourage the government to ensure regular submission of its periodic reports in accordance with Article 62 of the Charter;
- Call on the international community to support Zambia's efforts at promoting human rights and social welfare;
- Take measures to ensure the implementation of the Robben Island Guidelines as well as the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules);
- Abolish the death penalty; and
- Submit its next periodic report in 2009 and indicate what measures are taken to give effect to these recommendations.

