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Human Rights Committee**Concluding observations on the fourth periodic report of
Zambia***

1. The Committee considered the fourth periodic report of Zambia¹ at its 3962 and 3963 meetings,² held on 2 and 3 March 2023. At its 3987 meeting, held on 20 March 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Zambia and the information presented therein, while regretting the considerable delay in its submission. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee appreciates the State party's written replies³ to the list of issues⁴, which were supplemented by the oral responses provided by the delegation, and the additional information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative measures:

- (a) The Anti-Gender Based Violence Act, Act No. 1 of 2011;
- (b) The Education Act, Act No. 23 of 2011;
- (c) The Gender Equity and Equality Act, Act No. 22 of 2015;
- (d) The Mental Health Act, Act No. 6 of 2019;
- (e) The Legal Aid Act, Act No. 1 of 2021;
- (f) The Children's Code Act, Act No. 12 of 2022;
- (g) The Anti-Human Trafficking Act, Act No. 16 of 2022;
- (h) Amendments of the Penal Code No. 23 of 2022 repealing defamation of the President and No. 25 of 2022 abolishing the death penalty.

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) Convention on the Rights of Persons with Disabilities, on 1 February 2010;

* Adopted by the Committee at its 137th session (27 February to 24 March 2023).

¹ [CCPR/C/ZMB/4](#).

² See CCPR/C/SR.3962 and CCPR/C/SR.3963.

³ [CCPR/C/ZMB/RQ/4](#).

⁴ [CCPR/C/ZMB/Q/4](#).

- (b) Convention for the Protection of All Persons from Enforced Disappearance, on 4 April 2011;
- (c) African Charter on the Rights and Welfare of the Child, on 2 December 2008;
- (d) Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, on 28 December 2002.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented

5. While noting the progress in the constitutional review process of the State party, the Committee remains concerned about inconsistencies in national legislation, including the Bill of Rights, with the Covenant. The Committee is also concerned that the customary law and its application is not fully compliant with the Covenant. The Committee regrets the lack of information provided on implementation of the Views in the State party during the follow up process and application of the Covenant by domestic courts. While welcoming the establishment of the National Mechanisms for Reporting and Follow-up, the Committee is concerned that the body has not yet been constituted (art. 2).

6. The State party should strengthen its efforts, including through the constitutional review process, to ensure consistency of its statutory and customary law with the Covenant. The State party should give full effect to the Committee's Views and thereby ensure access to effective remedies when violations of the Covenant are committed. The Committee should raise awareness about the Covenant and its applicability in domestic law among judges, lawyers and prosecutors to ensure that its provisions are taken into account by the courts. It should speed up constituting the National Mechanism for Reporting and Follow-up to enable its effective functioning and benefiting from further OHCHR capacity building support.

National Human Rights Institution

7. While welcoming the progressive increase in budgetary allocations to the Zambian Human Rights Commission, the Committee is concerned that the Commission continues facing challenges in its independent and effective functioning, including with respect to financial autonomy, decentralization of its services, provision of full-time members, and the minimum term, grounds and the process for dismissal of Commissioners, as noted by the Global Alliance of National Human Rights Institutions (GANHRI) (art.2).

8. The State party should continue its efforts, including through implementing GANHRI's recommendations, to ensure that the Zambian Human Rights Commission fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and is able to carry out its mandate effectively and independently.

Anti-corruption measures

9. While noting measures of the State party to address corruption, the Committee is concerned about the delays in concluding corruption cases in courts, complaints of poor performance of integrity committees and lack of capacity of prosecutors and judges to efficiently deal with the corruption cases (art. 2).

10. The State party should increase the capacity of judiciary, prosecutors and members of the integrity committees, including through adequate training, and provide them with adequate technical, human and financial resources to deal with cases of corruption speedily and efficiently.

States of emergency

11. Referring to its previous concluding observations (CCPR/C/ZMB/CO/3, para. 15), the Committee reiterates its concern about a lack of clarity governing states of emergency and states of threatened emergency in articles 30 and 31 of the Constitution, derogations that may

be applied under article 25 of the Constitution, and compatibility of these provisions with the article 4 of the Covenant (art. 4).

12. The State party should review article 25 of the Constitution to bring it in line with article 4 of the Covenant and ensure that states of emergency are applied in compliance with the Covenant.

Non-discrimination

13. The Committee is concerned about inconsistency of article 23 of the Constitution with the Covenant, in particular its clause (4)(c) excluding women from the protection against discrimination in matters such as adoption, marriage, divorce, funeral, devolution of inheritance and other personal law matters. The Committee is concerned about discrimination of women and girls, particularly in rural areas, in their inheritance rights, ownership of land, housing and livestock, due to prevalent customary practices (arts. 2-3 and 26).

14. The State party should continue its constitutional review process to bring article 23 of the Constitution in line with the provisions of the Covenant. It should also step up its efforts to counter discriminatory customary practices affecting women and girls, including with respect to inheritance rights and ownership of land, ensuring that, inter alia, inheritance matters are adjudicated fairly without discrimination between men and women, particularly in rural areas.

15. Referring to its previous concluding observations (CCPR/C/ZMB/CO/3, para. 24), the Committee remains concerned about:

(a) Criminalization of the same sex adult consensual relationship in the Sections 155, 156 and 158 of the Penal Code and the lack of efforts made by the State party to repeal these provisions;

(b) Allegations of increased harassment and violence, including while in police custody, against lesbian, gay, bisexual, transgender and intersex individuals perpetrated with impunity; and

(c) Reported hate speech of Zambia's high-level public officials and politicians instigating social stigma and prejudice against lesbian, gay, bisexual, transgender and intersex individuals (arts. 2, 17 and 26).

16. The State party should take appropriate steps to:

(a) Amend the Penal Code to decriminalize consensual sexual relations between adults of the same sex;

(b) Make genuine efforts to eradicate all forms of discrimination, harassment and violence on the basis of sexual orientation and gender identity and provide access to justice and remedies for victims;

(c) Address discriminatory attitudes, including hate speech, stigmatization and prejudice towards lesbian, gay, bisexual, transgender and intersex persons among judges, prosecutors, law enforcement officials and the general public, including through comprehensive training, awareness-raising and sensitization activities.

Gender equality

17. The Committee regrets the lack of adequate resources directed to the implementation of the legislations and policies that aim to strengthen gender mainstreaming efforts in the public and private sectors, the abolition of the Ministry of Gender, and the failure to establish and operationalize the Gender Equity and Equality Commission as prescribed in article 231 of the Constitution. The Committee is also concerned about the low rate of women's political representation, particularly about: (a) the laws and practices having disproportionate effect over the ability of women to run for public office, such as the minimum educational requirements for candidates prescribed by the Constitution; and (b) allegations that female candidates are subjected to violence, cyber bullying and intimidation to discourage their pursuit of public elective positions (arts. 2,3, 25 and 26).

18. **The State party should step up its efforts to guarantee gender equality in law and in practice. In particular, it should take steps to:**

(a) **Intensify its efforts to ensure effective equality between men and women in all spheres of society and life; in particular, take tangible steps to increase the representation of women in decision-making positions at all levels in the public and the private sector, including through allocation of adequate resources and speedy implementation of the Gender Equity and Equality Act, and constituting the Gender Equity and Equality Commission;**

(b) **Adopt temporary special measures, such as statutory quota and a gender parity system for nominations to government bodies, with a view to increasing the representation of women in decision-making positions at all levels of the executive, the legislative and judicial branches;**

(c) **Eliminate the obstacles in law and practice preventing women from pursuing or being elected for public positions, including through encouraging gender parity in electoral lists by political parties and ensure accountability for political violence against women candidates during elections and access of women candidates to an effective remedy.**

Violence against women, including domestic violence

19. While noting the measures taken by the State party to improve country-wide support for victims of gender-based violence, the Committee is concerned about the still prevalent high levels of gender-based violence, in particular the high prevalence of girl children subjected to sexual violence, including the harmful practice of defilement. The Committee is further concerned about the lack of efficiency of the fast-track courts, insufficient training of judges and prosecutors, lack of capacity of law enforcement officials, including transport, financial and human resources in police stations, inappropriate content in educational materials shifting the blame to victims, and alleged withdrawal of cases from the court by victims (arts. 2-3, 7, 24 and 26).

20. **The State party should intensify its efforts to:**

(a) **Encourage the reporting of cases of violence against women, including by ensuring that all women and girls have access to multiple forms of reporting and information about their rights and available remedies;**

(b) **Investigate all allegations of violence against women, including domestic violence, prosecute and, if found guilty, punish perpetrators with penalties commensurate with the gravity of the offences, and provide victims with full reparation and means of protection, including access to adequately resourced shelters and legal assistance;**

(c) **Provide appropriate resources and adequate training for judges, prosecutors, lawyers, and law enforcement officers, in handling cases of violence against women, including domestic violence;**

(d) **Strengthen awareness-raising campaigns for the whole society with a special focus on traditional, religious and public opinion leaders to address harmful cultural practices that generate gender-based violence.**

Death penalty

21. The Committee welcomes the abolition of the death penalty in the Penal Code, and the pledge to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, and the information provided by the delegation that the President commuted the sentences of all individuals on death row to life imprisonment on 8 February 2023. The Committee nevertheless remains concerned that the imposition of the death penalty remains possible under article 12(1) of the Constitution and article 29(1) of the Defence Act for military crimes. The Committee is also concerned about the inability of incarcerated persons initially sentenced to death to challenge their convictions or sentences based on newly discovered evidence (art. 6).

22. The State party should

(a) **take all necessary steps to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, and repeal the provisions concerning the death penalty in the Defence Act and the Constitution;**

(b) **remove procedural barriers to the reconsideration of convictions and sentences on the basis of newly discovered evidence, as suggested by the Committee's general comment No. 36 (2018) on the right to life, and provide appropriate remedies, including compensation, to those who have been exonerated.**

Termination of pregnancy and sexual and reproductive rights

23. While noting a directive issued by the State party in 2021 allowing performance of safe abortions by nurses, the Committee remains concerned about prohibitive conditions stipulated in the Termination of Pregnancy Act, including the requirement of three doctors and that the abortion should be carried out only in the hospital, without providing alternatives which may render a safe termination of pregnancy accessible, particularly for rural women. The Committee is also concerned that the Penal Code does not explicitly allow for termination of pregnancy resulting from rape, defilement, or incest for all women (arts. 6 and 17).

24. **Bearing in mind the Committee's previous recommendations and paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, the State party should take concrete steps to amend its legislation, including the Termination of Pregnancy Act and Penal Code, as well as policies and guidelines, to guarantee safe, legal and effective access to abortion, in particular in rural areas, where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable.**

Prohibition of torture and other cruel, inhuman or degrading treatment of punishment and treatment of persons deprived of their liberty

25. The Committee remains concerned about an absence of an anti-torture legislation, including definition of torture, despite the constitutional prohibition of torture, while noting information about the legislative work underway provided by the delegation. The Committee regrets the lack of information on the prosecutions and convictions of acts of torture, provided by the State party stating that the data is not available as torture is not criminalized in the Penal Code (art. 7).

26. **The State party should expedite adoption of the anti-torture legislation and ensure that it contains a definition of torture compliant with international law.**

27. While noting the State party's efforts to improve its correctional services and conditions in places of detention, the Committee remains concerned about the reports of inadequate conditions in detention facilities, in particular overcrowding, poor sanitation, ventilation and temperature control, food and potable water shortages, limited access to medical care, inadequate pre-natal and post-natal services, and the lack of complete separation of juvenile from adult detainees (arts. 7, 9, 10 and 24).

28. **The State party should intensify its efforts to ensure that the conditions of detention are in full compliance with relevant international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should, in particular:**

(a) **Take immediate measures to significantly reduce overcrowding in detention facilities, including by taking practical steps to curtail delays in the highly centralized judicial system and through the wider application of non-custodial measures as an alternative to imprisonment, as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(b) **Intensify its efforts to improve the conditions of detention and ensure adequate access to food, clean water and health care for persons held in all places of**

deprivation of liberty and ensure separation of juvenile from adult detainees, including by accelerating the building of separate child transit and reformatory centres as prescribed in the Children's Code Act;

(c) Ensure that women in detention, in particular those who are pregnant or have children, have adequate access to medical care and other necessary services that meet their specific needs.

Freedom of movement

29. The Committee is concerned about reported incidents of arbitrary restriction of travel of opposition leaders to some regions, allegedly to prevent them from participating in public gatherings, while noting information provided by delegations that the restrictions have been lifted (art. 12 and 25).

30. The State party should guarantee freedom of movement and avoid any restrictions incompatible with article 12 of the Covenant, considering the Committee's general comment No. 27 (1999), in particular during the next election period.

Right to privacy

31. The Committee is concerned that the Cyber Security and Cyber Crimes Act No. 2 of 2021 allows for arbitrary surveillance of citizens and journalists, including seizure of information and communication equipment, based on mere suspicion of law enforcement officials that a person may have engaged or is in the process of committing a crime (art. 17).

32. The State party should review the Cyber Security and Cyber Crimes Act to ensure that any surveillance activities comply with the principles of legality, proportionality and necessity, in full conformity with the Covenant, in particular article 17. The State party should also ensure that surveillance activities are subject to effective judicial oversight mechanisms and ensure access to effective remedies in cases of abuse.

Elimination of slavery, servitude and trafficking in persons

33. While welcoming the adoption of the National Policy on Human Trafficking and Smuggling of Migrants, a National Referral Mechanism as well as the adoption of the Anti-Human Trafficking Act No.10 of 2008 including the submission of a draft Anti-Human Trafficking (Amendment) Bill to Parliament to address the gaps in the 2008 Act, the Committee is deeply concerned about reports of trafficking of women and children, including for forced domestic work, sexual exploitation and child labour. The Committee is concerned about gaps in the identification of victims of trafficking in persons and the low number of investigation, convictions and sanctioning of perpetrators (arts. 2, 8 and 26).

34. The State party should strengthen its measures to protect victims of trafficking in persons, in particular women and children, by, inter alia, improving proper identification of victims, and effective prosecution and sanctioning of perpetrators of trafficking in persons.

Treatment of aliens, including migrants, refugees and asylum seekers

35. The Committee is concerned about the lack of harmonization between the Refugee Act No.1 of 2017 and the Immigration Act No.18 of 2010 that reportedly led to avoidable arrests and detentions. The Committee is further concerned about reports of migrants being placed in detention facilities for prolonged periods of time, alongside persons convicted for a crime. The Committee is also concerned about lack of training of immigration and law enforcement officers dealing with migrants and refugees on relevant standards and procedures, and limited access to legal aid of migrants in detention (arts. 7, 9 and 13).

36. The State party should:

(a) Take steps to harmonize its legislation and bring it into full compliance with the Covenant and international standards protecting refugees and migrants;

(b) Ensure that the detention of migrants and asylum seekers is reasonable, necessary and proportionate, in accordance with the Committee's general comment

No. 35 (2014) on liberty and security of person, and that alternatives to detention are found in practice;

(c) Provide immigration and law enforcement officers dealing with migrants and refugees with an adequate training on the rights of asylum seekers, refugees and migrants under the Covenant and other international standards;

(d) Ensure access to legal aid to migrants in detention facilities.

Freedom of expression, peaceful assembly and association, and protection of journalists and human rights defenders

37. The Committee is concerned about allegations of lack of respect of freedom of expression of political opponents, human rights defenders, and journalists. The Committee is also concerned about reports that opposition political parties have been denied access to public media and that some private radio stations have been forced to stop broadcasting programs featuring opposition political leaders. The Committee is further concerned about delay in an adoption of the Access to Information Bill. The Committee is also concerned about reports regarding the lack of impartiality of the Independent Broadcasting Authority (IBA) (arts. 19 and 25).

38. The State party should take the necessary measures to guarantee the full enjoyment of freedom of expression by everyone, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. In particular, the Committee urges the State party to:

(a) Redouble its efforts to prevent harassment and intimidation of political opponents, human rights defenders, and journalists, and guarantee their timely and effective protection;

(b) Ensure effective and non-discriminatory access of political parties, including of the opposition, to media;

(c) Speed up the adoption of the Access to Information Bill;

(d) Take steps to ensure impartial operation of the Independent Broadcasting Authority.

39. While welcoming that Section 69 of the Penal Code Act on a criminal offence of defamation of the President has been repealed, the Committee is concerned that the Penal Code still contains several provisions that could be used for charging any person with criminal defamation of the President. The Committee is further concerned that the Section 67 on false news remains in the Penal Code despite being declared unconstitutional by the High Court (art. 19).

40. The State party should continue the revision of the Penal Code, including revoking remaining provisions on defamation and false news, to bring them in full conformity with article 19 of the Covenant.

41. While noting the review process of the Public Order Act, the Committee is concerned that the legal requirement of notification of peaceful assembly may amount to de facto authorization incompatible with the article 21 of the Covenant. The Committee is further concerned about allegations of restrictions of peaceful assemblies in the past, such as cancelling assemblies at the last minute, arbitrary arrests, bodily injuries, deaths and property damage, especially during peaceful anti-government protests and political gatherings organized by the opposition (arts. 6, 21 and 25).

42. In accordance with article 21 of the Covenant and in light of the Committee's general comment No 37 (2020) on the right of peaceful assembly, the State party should:

(a) Expedite its efforts to revise the Public Order Act to ensure that individuals fully enjoy, both in law and in practice, their right of peaceful assembly;

(b) Ensure that any restrictions on the right of peaceful assembly comply with the strict requirements of article 21 of the Covenant;

(c) **Effectively investigate all cases of the arbitrary arrest and detention of peaceful protesters, as well as acts of violence against them, namely by law enforcement officers, bring perpetrators to justice and provide victims with effective remedies.**

Rights of the child

43. The Committee is concerned about the lack of legislation to explicitly and clearly prohibit corporal punishment of children in all settings. The Committee is also concerned that the minimum age of criminal responsibility is set at 12 years. The Committee is seriously concerned about the reports of child marriages, despite the legal age for marriage being 21 years. The Committee also expresses its grave concern about reports of child labour and exploitation, particularly in mining, agriculture, and domestic service (arts. 23-24 and 26).

44. **The State party should:**

(a) **Enact legislation that explicitly and clearly prohibits corporal punishment of children in all settings, encourage non-violent forms of discipline as alternatives to corporal punishment, and conduct awareness raising campaigns about its harmful effects;**

(b) **Raise the minimum age of criminal responsibility in accordance with internationally accepted standards;**

(c) **Strengthen its efforts to prevent child marriages in practice, including through community awareness-raising campaigns and the involvement of families, community and children themselves in those campaigns;**

(d) **Speed up taking measures to protect children against any form of abuse and exploitation, including the child labour, particularly in mining, agriculture and domestic service.**

Participation in public affairs

45. While noting the progress in making electoral services more accessible, including for persons in detention, the Committee is concerned about the significant barriers for women, youth and persons with disabilities in exercising their right to stand for election, such as elevated nomination fees and other financial requirements for participating in political campaigns. The Committee is also concerned that the process of decentralizing the Electoral Commission has yet to be undertaken at the district level, contributing to the lack of transparency and oversight for voter registration (arts. 2, 25 and 26).

46. **The State party should ensure that its electoral regulations and practices are in full compliance with the Covenant, particularly article 25, and in light of the Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs (2018) by guaranteeing, inter alia: (a) the full and effective enjoyment of right of political participation by all citizens, including women, youth, and persons with disabilities; and (b) national elections that ensure fairness, transparency, inclusiveness and pluralism, through the provision of mixed member electoral systems and financing and decentralization of the Electoral Commission at the district level.**

D. Dissemination and follow-up

47. **The State party should widely disseminate the Covenant, its two Optional Protocols, its fourth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the official language of the State party.**

48. **In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 17 March 2026, information on the**

implementation of the recommendations made by the Committee in paragraphs 20 (violence against women, including domestic violence), 22 (death penalty) and 26 (prohibition of torture and other cruel, inhuman and degrading treatment or punishment) above.

49. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fifth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2031 in Geneva.
