**Zambia’s Compliance with the International Covenant on Civil and Political Rights**

**Suggested List of Issues to Report**

**Submitted by Maat For Peace, Development, and Human Rights**

**a nonpartisan and nonprofit civil society organization in special consultative status with the United Nations Economic and Social Council.**

Maat For Peace, Development, and Human Rights is a nonpartisan and nonprofit civil society organization. Established in 2005, Maat seeks to use the human rights approach, mechanisms and tools; to promote the values ​​and practices of social peace, development, democracy and good governance. It also works through international and regional mechanisms and bodies in the framework of networks and alliances to advocate and mobilize support for the promotion of peace and sustainable development practices and policies; mobilizing against all forms of violence, conflict and injustice.

**Introduction**

1. Following the concerns raised by the Committee to the State Party regarding significant human rights issues, among which are: extrajudicial killings, torture, and arbitrary detentions by state security forces, harsh and life-threatening prison conditions, death penalty, restrictions on freedom of expression and freedom of the press, and censorship including arbitrary application of criminal libel laws against government critics, and unjustified arrests or prosecutions against journalists and other members of the media; as well substantial interference with the right of assembly and the right to expression; the State party has taken steps to address these concerns, as well as investigate, prosecute and punish perpetrators of human rights violation.
2. However, human rights violations have remained problematic. There have been numerous claims and reports that perpetrators affiliated with the ruling party or serving in the government were either not prosecuted for serious crimes[[1]](#footnote-1). The government has continued to apply the law selectively to prosecute or punish individuals who committed abuses and mostly targeted those who opposed the ruling party[[2]](#footnote-2).
3. Furthermore, issues relating to autonomy and self-determination, freedom of expression as well as the right to association and assembly, and right to life and liberty are neither addressed nor mentioned within the State Party’s report.
4. Therefore, this report raises a few concerns regarding the violations of the human rights since the Committee’s last review of Zambia. It concludes that the Government of Zambia is still failing to uphold its human rights obligations regarding freedom of assembly, association, and speech, as well as the right to self-determination. It has also engaged in arbitrary arrests and detention, torture as well as extrajudicial executions.

**Zambia fails to uphold its obligations under the International Covenant on Civil and Political Rights within the following spheres:**

1. ***Article 1: The State Party has failed to uphold the right to self determination***
2. Since 2011-2012, **the** Kingdom of **Barotseland has** taken peaceful diplomatic steps for the restoration of its sovereignty that began with the Unilateral Declaration of Independence (UDI) which the Zambian state has not challenged in any reputable impartial international court of arbitration[[3]](#footnote-3). **Evident from the power imbalance between Barotseland and Zambia, the protests have been peaceful and nonviolent**[[4]](#footnote-4)**.**
3. However, there have been reports of systematic discrimination against the people of Barotseland[[5]](#footnote-5). Furthermore, in violation of the law of treaties, it is alleged that the State Party has sustained a high level of aggression towards Barotseland, designed to force the later to remain within a union to which is no longer binding as per the provisions of the 1964 Barotseland Agreement.
4. There have also been reports of acts by the State Party aimed at intimidating citizens of the Barotseland, such as the deployment of soldiers to the region on November 30, 2012 to quell activist uprising allegedly organized by the Barotse Liberation Army[[6]](#footnote-6).
5. Similarly, on December 5, 2014, three leaders of Barotseland including Afumba Mombotwa, the sworn Administrator General of Barotseland were arrested and detained on charges of treason[[7]](#footnote-7). However, on September 10, 2018, their case was appealed at the Supreme Court of Zambia. The Court upheld the High Court’s previous ruling and added a further five-year extension to their sentence.

***Suggested Questions to the State Party relating to Article 1***

* What steps has the state party taking to engage in peaceful dialogue and negotiations to address the concerns of the people of Barotseland over their quest for autonomy and self-determination?
* What steps has the State Party taking to ensure that the provisions regarding self-determination in the Covenant upheld?
  + Please provide details regarding this**.**

1. ***Article 4: The State Party fails to uphold Civil Rights in periods of State of Emergency***
2. On July 5, 2017, following a spate of arson attacks on parts of the State capital Lusaka, the State Party declared a state of public emergency[[8]](#footnote-8). These arson attacks which affected about 1,900 traders, was the latest in a series of infernos that had razed a number of public buildings in the country[[9]](#footnote-9). They were termed as “acts of treason” and revenge by the opposition, for the arrest of opposition leader Hakainde Hichilema on treason charges, after his convoy allegedly blocked the presidential motorcade at a traditional ceremony earlier in the year[[10]](#footnote-10).
3. However, the invocation of the state of emergency declaration led to fears that political opponents, civil society and the media who have questioned the legitimacy of the President following the 2016 controversial presidential and parliamentary elections will be silenced[[11]](#footnote-11). This was further emphasized by the United Party for National Development UPND Vice President Geoffrey Bwalya Mwamba, who criticized the invocation of the state of emergency as an attempt by the State Party to silence government critics and violate human rights in the country[[12]](#footnote-12).
4. For example, there are reports that one Mutinta Lushoma the administrator of the Facebook page of the “Zambia Accurate News Services” was reportedly tortured in July 2017[[13]](#footnote-13). She was beaten and tortured until she provided details of her password to state security officers who immediately accessed and deleted the account[[14]](#footnote-14).

***Suggested Questions to the State Party relating to Article 4***

* What steps did the State Party take to investigate and ascertain the cause of the fires?
* What evidence exists to show that if the situation was left unchecked, it would degenerate into an emergency?

1. ***Article 7: The State Party fails to provide protection against torture and inhuman or* *degrading treatment***
2. Despite being charged with the responsibility to provide support and ensure protection of human rights, the State security forces are continuously being accused of major human rights violation[[15]](#footnote-15). It is constantly reported that the use of torture by State security forces has become as become informally institutionalized as a means to obtain false confessions and administer extra judicial punishment and humiliation supposed government opposition[[16]](#footnote-16).
3. On April 11, 2017, it was reported that heavily armed State security officials raided the home of opposition leader Hakainde Hichilema and arrested him[[17]](#footnote-17). Details of intimidation by State security forces include turning off power at the house; blocking the main roads and breaking down the gates to gain entrance to the house; firing teargas into the house; confiscation of mobile devices and damaging of household items[[18]](#footnote-18). Eventually, linking the arrests to a motorcade incidence that happened earlier in the month, where it was alleged that Hichilema’s motorcade blocked the Presidents convoy, Hakainde Hichilema and 5 others were arrested and charged with treason[[19]](#footnote-19). It was also reported that the accused were denied access to legal counsel, tortured, denied access to medical services, and kept in dirty rooms which posed a risk to their health[[20]](#footnote-20).
4. According to the US Department of State’s 2019 Human Rights report, there were several reports that State Security agents committed arbitrary and unlawful killings. For example, on June 19, 2019, it was alleged that one Mundia Samulele was killed at Kalabo Police Station while in police custody. As detailed in the Human Rights Commission (HRC) investigation, police arrested, Samulele and another suspect were detained, and tortured on June 13 for the alleged offense of aggravated robbery. They were physically assaulted with metal pipes and wooden sticks which were found as medical evidence consistent with the allegations[[21]](#footnote-21).

**Suggested Questions relating to Article 7**

* What steps are the State Party taking to reform and educate state security officials on their duties as well as the importance in the upholding of basic human rights?
  + Please provide details of this.
* What effort is the State Party making to criminalize the use of torture by State Security forces?
* How are members of the State security forces held accountable for human rights violations?
* What laws, policies and procedures are in place to ensure that arrested citizens are not subject to discrimination, torture, or ill-treatment based on their political beliefs?
* What policies are in place to ensure that citizens who have been subjected to torture are properly rehabilitated and reintegrated into society?

1. ***Article 9: The State Party fails to protect the Right to Life, Liberty and Security of Persons.***
2. In July 2016, it was alleged that State security forces shot and killed a female UPND supporter[[22]](#footnote-22). It was reported the planned protest had been applied for in accordance with the provision of the Public Order Act and approved by the police central command but was cancelled less than 24 hours before the stated time. Unfortunately, the new developments were not communicated to the supporters who showed up at Chawama compound Lusaka leading to shots fired by the State security forces. Mapenzi Chibulu was pronounced dead on arrival to the hospital and a male supporter sustained serious injuries[[23]](#footnote-23).
3. In October 2017, fourth year student Vespers Shumunzhila died during a student riot over delayed payment of allowances[[24]](#footnote-24). In 2018, the cause of her death was determined to be asphyxia as a result of tear gas smoke fired by the State security forces into her room[[25]](#footnote-25). This is a reckless and negligent act on the part of the State Party with complete disregard for human life. Although a meagre K500,000 was offered as compensation to the Shumunzhila family, as of May 2020, the State Party has not charged any official with the death of the student[[26]](#footnote-26).

**Suggested Questions to the State Party relating to Article 9**

* What steps have the State Party taken to investigate the allegations of extrajudicial executions and enforced disappearances?
  + Please provide reports of such investigation.
* What measures have been to hold perpetrators of such human right violations accountable?

1. ***Article 19*: The State Party fails to uphold the rights to the freedom of expression**
2. After the highly contested election, in which the opposition political parties refused to accept election results, the State Party, continually curtailed the right to freedom of expression through use of arbitrary regulations and oppressive legislations such as the Public Order Act (POA)[[27]](#footnote-27). Citizens attempting to express their dissatisfaction through the internet, press briefings, peaceful protests or demonstration about the government are usually arrested and detained without trial.
3. On October 5, 2016, Mrs Lesa Kasoma Nyirenda, the director of Komboni Radio, a community station, was allegedly harassed, beaten, stripped naked and arrested by a team of 6 policemen who had accused her of assaulting them and resisting arrest[[28]](#footnote-28). It was reported that Mrs Nyirenda asked the officers to vacate the private community radio station following the decision by the government controlled Independent Broadcasting Authority (IBA) to reinstate the suspended broadcasting license[[29]](#footnote-29). More importantly it has been reported that Inonge Wina, the Vice-President during question time in Parliament on October 6, 2016, justified the State police’s actions saying Mrs Nyirenda assaulted the officers[[30]](#footnote-30). However, Wina apologized to Mrs Nyirenda following pressure from civil societies[[31]](#footnote-31).
4. On August 3, 2017, Saviour Chishimba leader of the United Progressive Party (UPP), was arrested just before a radio interview[[32]](#footnote-32). Chishimba had been a leading critic of the president Edgar Lungu, accusing him of shielding corrupt ministers and berating his decision to impose emergency security powers[[33]](#footnote-33). He was reportedly charged with defamation of the President over a video in which he was heard saying the president was making decisions while drunk[[34]](#footnote-34). The State security forces decided to discontinue the case and Mr. Chishimba was released after spending a week in jail[[35]](#footnote-35).
5. Derrick Sinjela, *Rainbow Newspaper* editor, was given an 18-month jail sentence imposed by the Supreme Court on 9 December 2018 after being convicted on contempt of court charges[[36]](#footnote-36). Sinjela had published an article written by an activist alleging corruption in the judiciary on the Supreme Court decision in the case of *Savenda Management Services v Stanbic Bank Zambia Limited[[37]](#footnote-37)*.  The summons stated that Sinjela published an article titled "Zambian Supreme Court Verdict in the Savenda vs Stanbic Bank is 'Questionable'”, which utterances were deemed contemptuous. He was convicted on charges of publishing an article alleging that the judges had received bribes to overturn an earlier High Court ruling which was in favour of Savenda Management Services. Although Amnesty International states that the usual penalty for this offence is a jail sentence of not more than six months or the option to pay a fine Sinjela was sentenced to 18months in jail. He was pardoned and released November 11, 2018, his 63rdbirthday[[38]](#footnote-38).
6. In a bid to control online speech, in May 2018, Zambia’s regulatory authority announced new rules which would require WhatsApp group administrators to register their WhatsApp groups and create a code of ethics, or risk being arrested[[39]](#footnote-39). Similarly, the Cybersecurity and Cybercrimes Draft Bill which was introduced in April 2018 and approved for review in August 2018 also contained provisions that infringe on internet freedoms. Particularly, the draft bill provides penalties of up to a year in prison, fines, or both for “any electronic communication, with the intent to coerce, intimidate, harass, or cause substantial emotional distress to a person,” which could be used to crackdown on legitimate online expression[[40]](#footnote-40).
7. In August 2019, Chishimba Kambwili President of the deregistered National Democratic Congress (NDC) party was arrested for criminal defamation of President Lungu after the release of a video in which he referred to the president in a disparaging manner[[41]](#footnote-41).

**Suggested Questions to the State Party Regarding Article 19**

* How does the State Party guarantee that legitimate activities of the media and journalists are not inhibited by arbitrary, unjustified, or politically motivated lawsuits?
* How does the State Party investigate allegations of threats and defamation of character against private citizens and also members of the opposition?
* Please provide relevant data stating the steps taken.

1. **Article 21: The State Party fails to uphold the right to Peaceful Assembly and association**
2. According to reports of Amnesty international, State police and the ruling Patriotic Front party factions continued to disrupt peaceful assemblies and the right to freedom of association especially during election campaign periods and demonstrations[[42]](#footnote-42). In numerous cases, the suppression of rights to assemblies and association resulted in physical injuries, arbitrary arrests, damage to property, at times, deaths[[43]](#footnote-43). The suspected perpetrators had not been brought to justice by the end of 2019[[44]](#footnote-44).
3. Due to the elections, there were intensive political campaigning in the Sesheke parliamentary by-election and local government by-elections in seven wards in Lundazi, Katete and Isoka districts between January 10, 2016 and February 12, 2016 witnessed[[45]](#footnote-45). Hakainde Hichilema, the leader of the opposition United Party for National Development (UPND) claimed there was an attempt on his life by the police after they fired live ammunition at him and his supporters in Sesheke[[46]](#footnote-46). The presence of heavily armed police and Patriotic Front cadres in Sesheke resulted in violence as the UPND leader instructed his UPND activists to defend themselves if attacked. The violence caused in loss of property and many sustaining injuries. Suspected perpetrators were never brought to justice, but there are reports of four police officers who were summarily retired from the Zambia police service for spearheading the beating of ruling party Patriotic Fund cadres during the Sesheke by elections[[47]](#footnote-47).
4. Similarly, on October 10, 2016, the Kaoma district council chairperson by-elections held on were also marred by violent clashes between UPND and PF supporters, which resulted in damage to property and the death of a UPND youth cadre, Lawrence Banda. According to the UPND, Banda was shot twice in the head by a known PF youth cadre on 6 October[[48]](#footnote-48). In a related incident however, on October 5, 2016 Chola Simwamba a UPND cadre was arrested for firing warning shots after he had been attacked by a PF youth cadre[[49]](#footnote-49). It is important that the murder of Lawrence Banda is investigated, and the perpetrators are brought to justice, to ensure impunity does not become entrenched in the State.

**Suggested Questions to the State Party relating to Article 21**

* What has the State Party done to investigate and bring to justice the perpetrators of violence, murders and other human rights violations in the 2016 elections?
  + Please provide details of this.

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2. Ibid. [↑](#footnote-ref-2)
3. UNPO, *Leaders of Barotseland continue to be imprisoned in Zambia*, (November 30, 2018). Available online at https://unpo.org/article/21258 [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. Ibid. [↑](#footnote-ref-5)
6. Gershom Ndhlovu, *Zambian President orders killings of “Rebels” no one can find,* (December 12, 2012). Available online at https://isnblog.ethz.ch/security/zambian-president-orders-killing-of-rebels-no-one-can-find. [↑](#footnote-ref-6)
7. UNPO, *Barotseland:Jailed Independence Leaders Receive additional Sentences*, (September 17, 2018). Available online at https://unpo.org/article/21089 [↑](#footnote-ref-7)
8. Abdi Latif Dahir, *One of Africa’s most stable democracies just declared a state of emergency*, (July 6, 2017). Available online at https://qz.com/africa/1022493/zambias-president-declares-state-of-emergency-and-sparked-authoritarian-rule-concerns/ [↑](#footnote-ref-8)
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14. Ibid. [↑](#footnote-ref-14)
15. Lusaka Times, *Torture and Police Brutality in Zambia: The need to end impunity*, (May 26, 2017). Available online at https://www.lusakatimes.com/2017/05/26/torture-police-brutality-zambia-need-end-impunity/ [↑](#footnote-ref-15)
16. Ibid [↑](#footnote-ref-16)
17. Taonga Clifford Mitimingi and Matthew Hill, Zambian Police Charge Opposition Leader with Treason. (April 12, 2017). https://www.bloomberg.com/news/articles/2017-04-12/zambia-opposition-leader-charged-with-treason-his-deputy-says [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Ibid. [↑](#footnote-ref-19)
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39. Freedom House, Freedom on the Net 2018, Zambia, (November 1, 2018). Available online at https://www.ecoi.net/en/document/2001035.html [↑](#footnote-ref-39)
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41. Lusaka Times, Chisimba Kambwili arrested for defamation of President Lungu, (August 28, 2019). Available online at https://www.lusakatimes.com/2019/08/28/chishimba-kambwili-arrested-for-defamation-of-president-lungu/ [↑](#footnote-ref-41)
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