



**Government of the Republic of Zambia**

**STATEMENT TO THE 22<sup>ND</sup> SESSION OF THE HUMAN RIGHTS COUNCIL  
DURING THE ADOPTION OF ZAMBIA'S REPORT ON THE UNIVERSAL  
PERIODIC REVIEW MADE BY THE SOLICITOR GENERAL, MR. MUSA  
MWENYE, SC**

**14<sup>TH</sup> MARCH, 2013**

**Mr. President,**

Zambia was delighted to go through the second review under the Universal Periodic Review in October, 2012. The process not only served to highlight the tremendous progress Zambia has made in respecting and protecting human rights since the review of 2008 but has also helped the Government of the Republic of Zambia to reflect on the short comings in certain areas.

The Government of the Republic of Zambia is determined to continue to making improvements in human rights protection. Zambia wishes to register its gratitude to all the countries that made recommendations and Zambia appreciates the candour with which the recommendations were made.

My delegation wishes to reiterate Zambia's commitment to the advancement of democracy and the observance of human rights.

**Mr. President,**

As you may all know, Zambia received a total of 125 recommendations. 70 recommendations were immediately accepted during the meeting of the working group back in October of 2012, while 1 recommendation was rejected. Zambia deferred 54 recommendations due to the need for further consultations back home. Consultations on the 54 recommendations that were deferred were held at the highest level and with different stakeholders including civil society. Ultimately a decision was made to reject 33 of the 54 deferred recommendations. The following recommendations were rejected:

103.1. Consider the ratification of the following international instruments: the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2); the Optional Protocol to the Convention on Economic, Social and Cultural Rights; and the Optional

- Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Rwanda);
- 103.2. Ratify all main international human rights treaties, especially ICCPR-OP2, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), the Optional Protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict (OP-CRC-AC) and on the sale of children, child prostitution and child pornography (OP-CRC-SC), and incorporate these treaties fully in the national legislation (Slovenia);
- 103.4. Ratify OP-CAT; ICCPR-OP2; the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (OP-CEDAW); the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CERD); OP-CRC-AC and OP-CRC-SC (Spain);
- 103.6. Ratify the remaining international human rights instruments and implement them and follow up on them (Benin);
- 103.9. Consider acceding to ICCPR-OP2 (Italy);
- 103.10. Consider ratifying the remaining instruments in a progressive manner and have them effectively incorporated in the national legislation for effective implementation (Kenya);
- 103.12. Enshrine the principle of equality and non-discrimination in the Constitution without qualifications by avoiding any discriminatory clauses as the draft is finalized (Ireland);
- 103.13. Guarantee, within the framework of the Constitutional reform, both individual and collective rights, under the principles of equality, taking into account its international human rights obligations (Nicaragua);
- 103.14. Hold a transparent and inclusive Constitutional reform process and referendum by ensuring that consultative bodies, such as National and Sector Group

- Convention, are composed of a representative balance of civil society and government stakeholders (United States of America);
- 103.15. Ensure that the provisions of CEDAW are reflected in the new draft constitution by, inter alia, retaining the removal of article 23 (Finland);
- 103.16. Remove from the final version of the new Constitution all references to traditions or customary law in the field of family and private law which may be conducive to violations of human rights (Italy);
- 103.19. Harmonize traditional and legal regulations regarding the protection of women as well as the elimination of all exceptions based in traditional practices, to the principle of non-discrimination of article 23 of the Constitution (Spain);
- 103.20. Eliminate criminalization of homosexual relations as well as the elimination of all discriminatory practice towards (Lesbians, Gays, Bisexuals and Transsexuals (LGBT) persons (Spain);
- 103.21. Decriminalize same-sex relationships between consenting adults and strengthen efforts to address inequality and discrimination based on sexual orientation (Australia);
- 103.22. Repeal laws that criminalize a person's sexuality (Canada);
- 103.23. Repeal the law criminalizing same-sex relations among consenting adults (France);
- 103.24. Review and repeal domestic law which criminalizes sexual orientation (Uruguay);
- 103.32. Extend an invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Belarus);
- 103.33. Remedy the lack of coordination between the main human rights institutions (Congo);

- 103.34. Apply special temporary measures in all areas where women are underrepresented or under unfavourable conditions (Chile);
- 103.35. Study the possibility of strengthening measures to eliminate all discriminatory treatment based on sexual orientation and gender identity (Argentina);
- 103.37. Abolish the death penalty (Burundi, Namibia and Togo);
- 103.38. Take steps to abolish the death penalty (New Zealand);
- 103.39. Abolish the death penalty in the new Constitution and pending the abolition of the death penalty, establish an official moratorium on the use of the death penalty (Slovenia);
- 103.40. Abolish definitely the death penalty as a culmination to the de facto moratorium which has been in place since 1997 (Spain);
- 103.41. Restrict the application and to consider the possibility of abolition of the death penalty (Ukraine);
- 103.42. Legislate to remove the death penalty from its statute and commute to custodial sentences those death sentences that have already been handed down (United Kingdom of Great Britain and Northern Ireland);
- 103.45. Abolish the death penalty and accede to ICCPR-OP2 (Australia);
- 103.46. Abolish the death penalty in law and consider ratifying ICCPR-OP2 (France);
- 103.47. Adopt concrete measures to address violence against women, including by criminalizing marital rape and increasing public awareness of the problem, with a particular focus on religious and community leaders (Norway);
- 103.48. Recognize marital rape as a criminal offence (Canada);
- 103.51. Repeal any law limiting the right to free expression in the media (Iraq); and
- 103.53. Make the necessary legislative changes, including restricting the scope of the Public Order Act, to ensure the fullest possible freedoms of association and expression; and to ensure the police enforce these and other laws in a

proportionate manner, including in Western Province (United Kingdom of Great Britain and Northern Ireland).

**Mr. President,**

Because of historical issues that have seen the aspirations of the Zambian people on constitution making being betrayed, the Zambian people have developed an aversion to their Government pre determining the process of constitution review and prescribing the content of the Constitution. Zambia is currently undergoing a constitution review process which is entirely people driven with the Zambian Government playing a strictly facilitative role.

Although the Government of the Republic of Zambia agrees with the recommendations made on women's rights, children's rights and the need to reform the constitution to remove most discriminatory clauses, the Government of Zambia is compelled to reject all recommendations that would have the effect of pre-empting the outcome of the current constitution making process. This has been done to ensure that the Constitution is truly a result of the will of the people without any form of prompting from the Government.

My delegation also wishes to make it clear that the decision to reject the recommendation on extending an invitation to special mandate holders, has been made because Zambia has already extended an open invitation to all special mandate holders, and therefore sees no added value in extending further special invitations. We therefore urge all special mandate holders to take advantage of this open invitation by informing the Government of their desire to visit our country.

With regard to the recommendation on criminalizing marital rape, the Government of the Republic of Zambia wishes to state that it is not aware that marital rape is not a problem in Zambia at the moment. However, the Government of Zambia expresses its

willingness to consult widely on the effect of enacting a law criminalizing marital rape with particular emphasis on the possible adverse repercussions on the traditional cohesion of the family. We also wish to state that Zambia has recently enacted comprehensive Anti-Gender based violence legislation that enhances rights of women with regards to gender based violence of all forms. We welcome any constructive debate on this issue.

On the recommendation on freedom of expression especially in western province, Zambia rejects this recommendation because the people and Government of Zambia believe that freedom of expression should be respected and enhanced in the whole of Zambia but such freedom of expression must not be exercised in contravention of the constitution provisions by which Zambians have determined to maintain the country as a unitary state.

**Mr. President,**

We wish to assure the Council that Zambia takes the recommendations which it has accepted seriously and we will accordingly begin the process of consultation back home with a view to implementing the recommendations. The Zambian Government commits itself to work with all stakeholders who have a genuine interest in the protection of human rights.

Finally Mr. President, we wish to state that it is very possible that a lot of the recommendations which touch on the process of constitution reform and content of the Zambian constitution will be implemented once the constitution making process is completed. We anticipate that the final draft constitution will be ready by June, 2013 after which it will be subjected to the approval by the people of Zambia through the institutions and processes available for such approval.

I thank you.