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REFERENCE: cc/jmnf/fg/follow-up/CAT

12 November 2009

Excellency,

In my capacity as Rapporteur for follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the second periodic report of Zambia (CAT/C/ZMB/2) by this Committee, at its 40<sup>th</sup> session, from 28 April - 16 May 2008. At the end of that session, the Committee's Concluding Observations (CAT/C/ZMB/CO/2) were transmitted to your Permanent Mission. In paragraph 31 of those Concluding Observations, the Committee asked, pursuant to its rules of procedures, that Zambia provide, within one year (by May 2009) further information regarding areas of particular concern identified by the Committee in paragraphs 8, 9, 11, 13 and 18 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Concluding Observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Zambia on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Felice D. Gaer'.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations  
Committee against Torture

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION

Concluding observations of the Committee against Torture  
(Extracts for follow-up of CAT/C/ZMB/CO/2)

ZAMBIA

(...)

C. Principal subjects concerns and recommendations

(...)

**Obligation to investigate and the right to complain**

8. The Committee notes with satisfaction that the Human Rights Commission is allowed to conduct prison and police cells inspections. However, it is concerned that it does not have sufficient financial and human resources to conduct such visits nor the power to take action against persons found guilty, as it can only make recommendations to the competent authorities. The Committee also expresses concern about the frequent failure by the State party to implement the Commission's recommendations and that the Commission is not competent to initiate legal proceedings on behalf of complainants (art. 11).

**The State party should provide the Human Rights Commission with sufficient financial and human resources and allow it to receive financial support without the prior agreement of the President. It should also reinforce the independence of the commissioners, especially with regard to the appointment process, and enhance the enforcement power of the Commission. Additionally, the State party should ensure that the Commission is competent to initiate legal proceedings and that its recommendations are fully and promptly implemented by the authorities to whom they are directed.**

9. While noting that the State party has begun the process of drafting a prosecution policy, the Committee is concerned that, despite the State party's commitment expressed seven years ago,<sup>1</sup> no measures have been taken to remove the function of prosecution from the police to the Director of Public Prosecutions (art. 12).

**The State party should ensure the prompt enactment of an adequate prosecution policy in order to ensure a fully independent complaint mechanism for victims of torture. In that regard, it should remove the function of prosecution from the police to the Director of Public Prosecutions in order to guarantee the suspect's rights in the administration of justice.**

(...)

**Fundamental safeguards**

11. The Committee notes with concern that the police service rely on the judges' rules, which are not enforceable, for guidance on the procedures to be followed by police officers in detaining and questioning suspects. The Committee also expresses concern that there are no formal rules ensuring the right to contact relatives, the right of access to a lawyer, including for children, and medical examination from the outset of detention (arts. 2 and 11).

**The State party should consider amending its Code of Criminal Procedure and take effective measures to ensure that fundamental legal safeguards for persons detained by police officers are respected, including the right to inform relatives, have access to counsel and independent medical assistance from the outset of detention.**

(...)

**Administration of justice**

13. The Committee notes the efforts made by the State party to punish police and prison officers for torture, abuses or violations of human rights. It remains concerned however, about the fact, acknowledged by the State party, that most people living in the State party are unaware of their rights and thus unable to present their allegations before appropriate authorities or tribunals (art. 13).

**The State party should undertake awareness-raising campaigns in order to ensure that all persons in the State party are aware of their rights, as envisaged in article 13 of the Convention.**

(...)

18. The Committee notes with concern that juveniles are often not held separately from adults, women from men, and pretrial detainees from convicted prisoners. The Committee is also concerned at the low legal age for criminal responsibility (8 years) (art. 16).

**The State party should take urgent measures to ensure that accused persons are detained separately from convicted ones and that children and women are detained separately from adults and men respectively, in all circumstances. The State party should raise the age of criminal responsibility to a more internationally acceptable age.**

(...)

31. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 8, 9, 11, 13 and 18 above.

(...)