

# Working with the Universal Periodic Review of the United Nations Human Rights Council

A Handbook for Civil Society Organizations



African Women  
Millennium  
Initiative on Poverty  
& Human Rights  
Z a m b i a

# **Working with the Universal Periodic Review of the United Nations Human Rights Council**

**A Handbook for Civil Society Organizations**

**Lusaka, Zambia, 2010**

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This publication is meant to be used by civil society actors and other stakeholders interested in engaging with the Human Rights Council, particularly with the Universal Periodic Review (UPR) mechanism.

# ACRONYMS

<b>AWOMIZ</b>	African Women Millennium Initiative on Poverty and Human Rights in Zambia
<b>CSO</b>	Civil Society Organization
<b>ECOSOC</b>	Economic and Social Council
<b>HRC</b>	Human Rights Council
<b>LCN</b>	Lesotho Council of NGOs
<b>NHRI</b>	National Human Rights Institution
<b>NGO</b>	Non-governmental organization
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OSISA</b>	Open Society Initiative for Southern Africa
<b>SuR</b>	State under Review
<b>UN</b>	United Nations
<b>UPR</b>	Universal Periodic Review
<b>WG</b>	Working Group

**H**UMAN rights in general are understood as rights which belong to any individual as a consequence of being human, independently of any acts of law. Simply put, they are rights that accrue to a person by virtue of being a human being and nothing more.

They are inherent to all human beings, whatever their nationality, place of residence, sex, nationality, ethnic origin, color, religion, language or any other label. That is why they are said to be universal. These rights are all interrelated, interdependent and indivisible. Human rights in nature are a powerful force meant to empower human beings to take action ranging from defending one's basic rights to claiming and demanding for the upholding of these rights by duty bearers at different levels.

In his 1990 book entitled 'The Age of Rights', L. Henkins observes that, human rights are "An assertion of fact about human psychology and emotion, that human beings cannot close their minds and hearts to mistreatment or suffering of other human beings, a moral statement that mistreatment or suffering of human beings violates a common morality (perhaps also natural law or divine law) and that all human beings are morally obligated to do something about such mistreatment or suffering, both individually and through their political and social institutions, an international political statement that governments will attend to such mistreatment or suffering in other countries through international institutions and will take account of them also in their relations with other states". It is therefore imperative that governments step up efforts to promote and protect people's rights with the help of other actors such as Civil Society Organizations.

I'm aware that this Handbook is a product of the regional training that was conducted by AWOMI Zambia in September, 2009 in Lusaka, Zambia, sponsored by OSISA, which focused on the United Nations Human Rights Council Machinery and the Universal Periodic Review. To this end, I would like to urge the organization to continue with the spirit of networking and creating a platform for sharing knowledge.

Therefore, I would like to urge all civil society actors to maximize opportunities therein in collaborating with the United Nations Human Rights Council and other regional human rights systems such as the African Commission. Both the civil society organizations and the government have the challenge to ensure that there is upholding of international standards and that there is effective implementation of these global standards that will entitle for a just and peaceful world.

I hope that this handbook will be a valuable tool to support CSOs' work on strategic engagement in working with the Human Rights Council and their Governments through the Universal Periodic Review process.

Matrine B. Chuulu

AWOMI Zambia Vice-Board chairperson

**T**HIS Handbook is designed to give Civil Society Organizations (CSOs) a start off know-how on how to engage with the Universal Periodic Review (UPR) process, which is one of the mechanisms of the United Nations Human Rights Council (HRC). It puts a strong emphasis on the UPR being an ongoing process. It offers some basic information on the United Nations Human Rights Council and the Universal Periodic Review. It also aims at providing basic steps that CSOs can undertake throughout the UPR process both at the national and international levels. Included in this handbook are samples of reports, e.g A State Report, NGO Report, A Compilation of UN information, prepared by OHCHR and Working Group Report. There is not just one single way of engaging with the UPR: hence this handbook just provides ideas that are presented in a more structured way. Therefore, CSOs are encouraged to take advantage of the various existing ways to engage with their governments and the Human Rights Council.

The UPR is a significant innovation introduced by the Human Rights Council since it replaced the Human Rights Commission in 2006. It is a mechanism which reviews all the 192 member States of the UN in cycles of four years. It should not only be seen as an international obligation, but rather as an ongoing national process in which civil society organizations engage with their governments either to pressure them to comply with their human rights engagements or to increase their efforts in the promotion and protection of those same rights. Its most significant characteristics which also account for its importance, are its universality and periodicity.

It is important to note that the UPR is not the only mechanism through which CSOs can engage with the UN System and the Human Rights Council. They can engage with other mechanisms in various ways, ranging from submitting information to participating in activities of the Council. More information on how CSOs can engage in different mechanisms can be found at the Office of the High Commissioner on Human Rights (OHCHR) and Human Rights Council websites, as well as in other useful websites, some of which are listed at the end of this Handbook.

# THE UNITED NATIONS HUMAN RIGHTS COUNCIL

The Human Rights Council (HRC) is the main United Nations intergovernmental body responsible for human rights protection. It is a subsidiary body of the General Assembly and was established by the General Assembly Resolution 60/251 in March 2006 to replace the Commission on Human Rights, which met from 1947 till 2006.

The HRC is responsible for “*promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner*” and “*should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system*”<sup>1</sup>.

## THE HUMAN RIGHTS COUNCIL:

- It was created in 2006 by a General Assembly resolution (60/251) with the objective of being less politicized and selective than its predecessor, the Human Rights Commission;
- It has different forms of actions, but the most important innovation it introduced is the Universal Periodic Review (UPR);
- The membership is by regional distribution: 13 African States, 13 Asian States, 8 Latin American and Caribbean, 6 Eastern European States and 7 Western European and other States;
- In addition, the HRC shall hold three Universal Periodic Review Working Group meetings per year (in February, May and December);
- The Office of the United Nations High Commissioner for Human Rights (OHCHR) is the secretariat for the Human Rights Council as it was for the Commission.

A full account of the Human Rights Council mandate, as provided in Resolution 60/251<sup>1</sup> adopted by the General Assembly afore mentioned is to:-

(a) *Promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned;*

(b) *Serve as a forum for dialogue on thematic issues on all human rights;*

(c) *Make recommendations to the General Assembly for the further development of international law in the field of human rights;*

(d) *Promote the full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits;*

# THE UNITED NATIONS HUMAN RIGHTS COUNCIL

*(e) Undertake a Universal Periodic Review, based on objective and reliable information of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session;*

*(f) Contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies;*

*(g) Assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the General Assembly in its resolution 48/141 of 20 December 1993;*

*(h) Work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society;*

*(i) Make recommendations with regard to the promotion and protection of human rights;*

*(j) Submit an annual report to the General Assembly.*

## **MECHANISMS OF THE HUMAN RIGHTS COUNCIL**

In order to achieve the objectives specified, the HRC has a number of mechanisms that assist it in the accomplishment of its goals it set when it was created (most of which it inherited from the Commission). For pedagogical reasons, some of them are mentioned below. According to the HRC Handbook for Civil Society<sup>iii</sup>, some of the mechanisms are:-

- ***Human Rights Council Advisory Committee***
- ***Complaint Procedure***
- ***Special Procedures***
- ***Working Groups of the Human Rights Council***
- ***Social Forum***
- ***Forum on Minority Issues***
- ***Durban Declaration and Program of Action***
- ***The Universal Periodic Review (developed later on<sup>iv</sup>)***

The Human Rights Council agenda contains 10 items<sup>v</sup>, among which are items related to the promotion and protection of all human, civil, political, economic, social and cultural rights. Item 6 deals with the UPR.

For pedagogical reasons, we may say that, in order to achieve its mandate, the HRC carries out debates and research, aiming at adopting new international instruments for the promotion and protection of human rights; discusses and adopts resolutions which show its preoccupation with particular human rights violation situations; discusses and adopts resolutions on particular human rights issues aiming at its promotion and protection; creates special mechanisms to monitor the human rights situation in a particular country or for a specific human rights issue; and finally analyzes the human rights situation in each of the 192 UN member-states through the UPR mechanism.

### HOW CIVIL SOCIETY ORGANIZATIONS CAN ENGAGE WITH THE HUMAN RIGHTS COUNCIL

**I**n Resolution 60/251, the General Assembly acknowledges the important role played by CSOs at both the national and international levels in the promotion and protection of human rights. The participation of civil society in the Human Rights Council takes at least, two forms: at the national level and in Geneva, although participation in Geneva is limited only to CSOs with ECOSOC consultative status. The CSOs without ECOSOC status can contribute to the overall work of the HRC and its mechanisms in various ways<sup>vi</sup>. In cases where an organization wishing to participate in the Council's activities in Geneva has no ECOSOC Status, there are some NGOs with the Status who assist such organizations and prior arrangements can be made. For more details on how this can be done, CONECTAS, AWOMI Zambia and International Service for Human Rights can be contacted; the contact addresses are provided at the end of this Handbook. In addition, civil society organizations can engage with the Human Rights Council in the following ways:

- Submit written statements to the Human Rights Council ahead of given session (see deadline for submission in the box below);
- Make oral interventions during all substantive items of the Human Rights Council agenda;
- Participate in debates, interactive dialogue and panel discussions;
- Organize “parallel events” on issues relevant to the work of the Human Rights Council.

## DEADLINES FOR SUBMISSION OF INFORMATION BY CIVIL SOCIETY ORGANIZATIONS

### **Deadlines for submission of information by the civil society for session 10 (January 2011):**

- *5 July 2010* for submissions on Mozambique, Namibia, Niger, Rwanda, Sao Tome and Principe, Myanmar, Nauru, Nepal and,
- *12 July 2010* for submissions on Oman, Paraguay, Saint Kitts and Nevis, Saint Lucia, Australia, Austria, Estonia and Georgia.

### **Deadlines for submission of information by the civil society for session 11 (May 2011):**

- *1 November 2010* for submissions on Seychelles, Sierra Leone, Somalia, Sudan, Palau, Papua New Guinea, Samoa, Singapore; and
- *8 November 2010* for submissions on Solomon Islands, Saint Vincent and the Grenadines, Suriname, Belgium, Denmark, Greece, Hungary and Latvia.

### **Deadlines for submission of information by the civil society for session 12 (October 2011):**

- *14 March 2011* for submissions on Swaziland, Togo, Uganda, United Republic of Tanzania, Zimbabwe, Syrian Arab Republic, Tajikistan, Thailand; and
- *21 March 2011* for submissions on Timor Leste, Trinidad and Tobago, Bolivarian Republic of Venezuela, Antigua and Barbuda, Iceland, Ireland, Lithuania and Moldova.



# THE UNIVERSAL PERIODIC REVIEW

As aforementioned the UPR is the newest mechanism of the Human Rights Council. It is also referred to as intergovernmental or cooperative mechanism which puts an emphasis on cooperation and dialogue among States.

## BASIC INFORMATION ABOUT THE UPR PROCESS<sup>x</sup>

- It consists of a review of every 192 UN member-state's human rights situation, in cycles of 4 years
- It's a State driven process and based on cooperation
- It is transparent and can be a tool for increased accountability: all debates are public and webcast, so citizens can follow what governments are doing and saying
- It puts reviewed governments on record for making public statements on their human rights performance and reviewing governments in the spotlight on how they treat human rights in their foreign policy
- It is an opportunity to raise domestic concerns at the international level, while linking this to international obligations
- It can help to promote changes in practice and legislation
- It is an opportunity for NGOs to meet and discuss with their governments
- It provides a unique opportunity to look at the human rights record of countries that are never in the spotlight, have a low level of ratification of human rights treaties, and/or do not invite the HRC independent inquiry mechanisms (the special procedures)
- It can turn into something disappointing and a mockery if the States under review and the reviewing States only use it for public relations purposes

The Council resolution 5/1<sup>vii</sup> stresses that the examination of each State should be “conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner”.

## OBJECTIVES OF THE UPR ACCORDING TO COUNCIL'S RESOLUTION 5/1<sup>viii</sup>

- *The improvement of the human rights situation on the ground;*
- *The fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State;*
- *The enhancement of the State's capacity and of technical assistance in consultation with the consent of the State concerned;*
- *The sharing of best practice among States and other stakeholders;*
- *Support for cooperation in the promotion and protection of human rights; and*
- *The encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights.*

### *Basis for review*

- *The United Nations Charter;*
- *The Universal Declaration of Human Rights;*
- *Human rights instruments to which a State is party;*
- *Voluntary pledges and commitments made by the States; and*
- *Applicable international humanitarian law.*

The review is based on three documents, namely: the national report, the stakeholder's compilation report and the UN information report. The three documents provide distinct and complementary perspectives on the human rights situation in each State under review. The information should be available at least six weeks before each review and are posted on the UPR section of the OHCHR website.<sup>ix</sup>

### **National report**

This is a 20-page document prepared by the State under Review (SuR). According to Council resolution 5/1, States are supposed to prepare the information through a broad consultation process at the national level with all relevant stakeholders. *Check for a sample of State Report in the annex*

## Compilation of UN information, prepared by HRC

This is a 10-page compilation prepared by the HRC of the reports by Treaty Bodies, Special Procedures, including observations and comments by the State concerned and other relevant official UN documents. Some UN bodies submit reports to the HRC on the State under Review. *Check for a sample of this report in the annex*

## Stakeholders' report

This is a 10-page report prepared by the HRC based on information submitted by CSOs. Reports sent by CSOs are summed up by the HRC. To limit the amount of information received, the HRC has set the following requirements for all stakeholders wishing to submit their reports: it must be 5 pages (if written alone) or 10 pages (if written with other CSOs). It must include information from reliable sources on different human rights issues. This report must be submitted, on average, 5 months prior to the review. *See annex for a sample of the compilation.*

## ARRANGEMENTS AND PRACTICES FOR NGOs PARTICIPATING IN THE UNIVERSAL REVIEW PROCESS

### *Accreditation*

Representatives of NGOs in consultative status with ECOSOC should seek accreditation to the Human Rights Council sessions that they wish to attend. A letter requesting accreditation should:

- Be submitted on the official letterhead of the organization;
- Clearly state the title and duration of the session that the organization wishes to attend;
- Be signed by the president or the main representative of the organization in Geneva; and
- Indicate the names of the persons who will represent the organization at the Human Rights Council's session. Note that the names of persons must appear exactly as they appear in identification documents and family names should be capitalized.

### *Written Statements*

Ahead of a given Human Rights Council session, NGOs in consultative status with ECOSOC may submit to the Human Rights Council, individually or jointly with other NGOs, written statements that are relevant to the Human Rights Council's work (see attached an example of written statement submitted). The statements must be on subjects for which the NGO has special competence. Once received the individual and joint NGOs statements, the Human Rights

Council compiles them into a summary which then is included in the official documents for deliberation. Note that:

- NGOs in general consultative status with ECOSOC may submit written statements of not more than 2000 words; and
- NGOs in special consultative status with ECOSOC or on the Roster may submit written statements of not more than 1500 words.

NGOs are encouraged to consult the General Information Note available on the Human Rights Council's session of the HRC website. Written statements should be submitted to the Human Rights Council's secretariat at: [hrcngo@obchr.org](mailto:hrcngo@obchr.org)

### ***Oral Statements***

NGOs in consultative status with ECOSOC may make oral interventions during all substantive items, both in general debates and in interactive dialogues at Human Rights Council sessions. The modalities for NGOs' oral interventions, which continue to evolve taking into account that the Human Rights Council meets continually throughout the year, can be found on the Human Rights Council's Extranet under the NGO Liaison information page. Representatives of NGOs wishing to make oral interventions should register in person at the "List of Speakers" desk in the meeting room (the Plenary). Registration forms for individual and joint statements can be downloaded from the Human Rights Council's homepage and should be brought in person to that desk when registering. For more details, check the Council's website<sup>x</sup>. The Extranet is linked to the Human Rights Council's homepage. The page contains valuable details regarding the UPR with information on each session of the Working Group.

### ***Parallel Events***

NGOs in consultative status with ECOSOC, once accredited to attend a Human Rights Council's session may organize public events that are of relevance to the work of the Human Rights Council. These events are known as "parallel events" and take place in the margins of the session, normally during lunch breaks. The Combination of panel presentations with open discussions and parallel events provide NGOs with a space to share their experiences and engage in dialogue with other NGOs, States and other stakeholders (including Special Procedures Mandate-Holders) on human rights issues and situations of relevance and importance to the Human Rights Council. Rooms are provided free of charge for the hosting of parallel events and bookings are processed on a "first come, first served" basis. NGOs wishing to co-sponsor a parallel event should complete a "co-sponsorship form."<sup>xi</sup>

NGOs hosting the parallel event may invite persons that are not accredited to the Human Rights Council's session to attend the parallel. A complete list of the invitees must be provided to the Human Rights Council's Secretariat and to the UN security section at the Pregny Gate (This is the main entrance gate to the Palais des Nation) office, 48 hours before the event in order for invitees to be accredited. Invitees will be issued with accreditation for the parallel events only. NGOs hosting a parallel event are responsible for its content and for the conduct of participants at the event. Please also note that:

- The secretariat does not provide interpretation for NGO parallel events. NGOs may bring their own interpreters if they wish and should inform the secretariat accordingly ahead of time; and
- The use of cameras/video recorders at parallel events is not encouraged, except by journalists and camera persons duly accredited with the United Nations Office at Geneva (UNOG) <sup>xii</sup>

Room bookings for hosting parallel events should be faxed to: +41(0) 22 917 90 11. NGOs in consultative status with ECOSOC have the responsibility to conform at all times to the principles governing the establishment and nature of this consultative relationship. It's important to note that the meetings of the Council are broadcast live on HRC webcast, other documentation and information can be found on the Council's homepage and Extranet. NGOs, at the country level may organize themselves to follow the review of their country live through the HRC webcast. Some UNDP country offices have assisted NGOs in that regard.

## TECHNICAL GUIDELINES FOR THE SUBMISSION OF STAKEHOLDERS' INFORMATION TO THE HRC

### *Where to submit*

Written information for the UPR review should be sent to the following address: [uprsubmissions@ohchr.org](mailto:uprsubmissions@ohchr.org). Please avoid sending information to other HRC electronic addresses. Please note, (a) the HRC secretariat will confirm electronically receipt of your message and submission; and (b) while stakeholders are discouraged to fax or mail a hardcopy of their submission to the HRC secretariat, they may do so in the case of repeated technical difficulties with electronic mail to: +41 22 917 90 11.

### *Format of the written submissions*

Each electronic submission and relevant e-mail message should refer to one country only. In the e-mail message accompanying the submitted documents kindly include:

- (1) In the title of the e-mail message: the name of the (main) stakeholder/NGO submitting the contribution, the kind of contribution (individual and/or joint), the name of the reviewed country and indicate the month and year of relevant UPR session, e.g., "Women's coalition – joint UPR submission – Brazil – April 2008";
  - (2) In the text of the e-mail message accompanying the submission, stakeholders should indicate the details of the relevant contact person;
  - (3) A paragraph describing the main activities of the submitting organization/coalition, as well as date of establishment, especially for those organizations which interrelate for the first time with the UN, would be also welcomed;
- Should the submission be prepared jointly, the names of all submitting stakeholders should appear at the beginning of the submission text (not in the relevant e-mail

message).

- Stakeholders' submissions should not be longer than five pages, to which a more detailed and factual report may be attached; submissions by large coalitions of stakeholders can be up to ten pages;
- Written submissions should be saved as a Word document only, i.e. not as PDF files in Times New Roman, font 12;
- Written contributions should be submitted in UN official languages only, preferably in English, French or Spanish;
- Written submissions should be final; in principle, it will not be possible to accommodate revisions;
- Paragraphs and pages of each submission should be numbered;
- Stakeholders are encouraged to include in their written submissions an introductory executive summary, capturing the main points contained therein; as a way of introduction, key words may also be indicated (e.g., domestic violence);
- Written submissions should not include second-hand information (except when it clearly supports original information). Facts and details to support the identified priority issues and recommendations may be annexed for reference to the submission;
- Annexes to the submissions should NOT include pictures, maps, organizations' annual reports or reports from other organizations;
- HRC's summary will not refer to names of individuals mentioned in the written submission, except if they refer to emblematic cases;
- The extensive use of footnotes is discouraged;

***Please note also:***

- Submissions in excess of the five/ten page maximum will not be considered;
- Submissions received in a language other than the six official UN languages (Arabic, Chinese, English, French, Russian and Spanish) will not be considered;
- Submissions received after specified deadlines will not be considered; and
- Submissions containing language manifestly abusive (i.e. incitement to violence, inherently racist language, etc.) will not be considered.<sup>xiii</sup>

## CONTENTS AND FORMAT OF WRITTEN SUBMISSION BY RELEVANT STAKEHOLDERS TO THE HUMAN RIGHTS COUNCIL

1. HRC decision 6/1026 sets out General Guidelines for the preparation of information under the UPR. The Guidelines<sup>xiv</sup> outlined apply to States and other stakeholders, as well as to OHCHR for the preparation of the documents under its responsibility.<sup>xv</sup>

2. Drawing from the above-mentioned general guidelines, stakeholders may wish to include in their submissions:

(a) The methodology and the broad consultation process followed nationally for the preparation of information provided to the UPR by the country under review;

(b) The current normative and institutional framework of the country under review for the promotion and protection of human rights: constitution, legislation, policy measures such as national action plans, national jurisprudence, human rights infrastructure including national human rights institutions;

(c) The implementation and efficiency of the normative and institutional framework for the promotion and protection of human rights as described at subparagraph (b) above. This includes information on the implementation of the country's human rights obligations and commitments at the national and the international levels (for example information on the implementation of commitments made by the country under review at international conferences and other United Nations fora; of constitutional and legal reforms aimed at protecting human rights, of national action plans, of mechanisms and remedies aimed at improving human rights); on the activities of national human rights institutions; on human rights education and public awareness;

(d) Cooperation of the country under review with human rights mechanisms, and with national human rights institutions, NGOs, rights holders, human rights defenders, and other relevant national human rights stakeholders, both at the national, regional and international levels;

(e) Achievements made by the country under review, best practices which have emerged, and challenges and constraints faced by the country under review;

(f) Key national priorities as identified by stakeholders, initiatives and commitments that the State concerned should undertake, in the view of stakeholders, to overcome these challenges and constraints and improve human rights situations on the ground. This includes, for example, national strategies, areas where further progress is required, steps regarding implementation and follow-up to recommendations made by human rights mechanisms, commitments for future cooperation with OHCHR and human rights mechanisms and agencies, etc.; and

(g) Expectations in terms of capacity-building and technical assistance provided and/or recommended by stakeholders through bilateral, regional and international cooperation.

3. Stakeholders are strongly encouraged to provide written submissions that:

- Are specifically tailored for the UPR;



- Contain credible and reliable information on the State under review;
- Highlight the main issues of concern and identify possible recommendations and/or best practices;
- Cover a maximum four-year time period;
- Do not contain language manifestly abusive; and
- Are no longer than five pages in the case of individual submissions, to which additional documentation can be annexed for reference. Submissions by large coalitions of stakeholders can be up to ten pages.

4. Stakeholders are encouraged, while drafting their contribution, in accordance with Human Rights Council Resolution 5/1 (paragraph 1), to take into consideration all human rights obligations and commitments, including those set out in the United Nations Charter, the Universal Declaration of Human Rights, Human Rights instruments to which the country under review is a party, voluntary pledges and commitments made by that country, as well as applicable international humanitarian law.

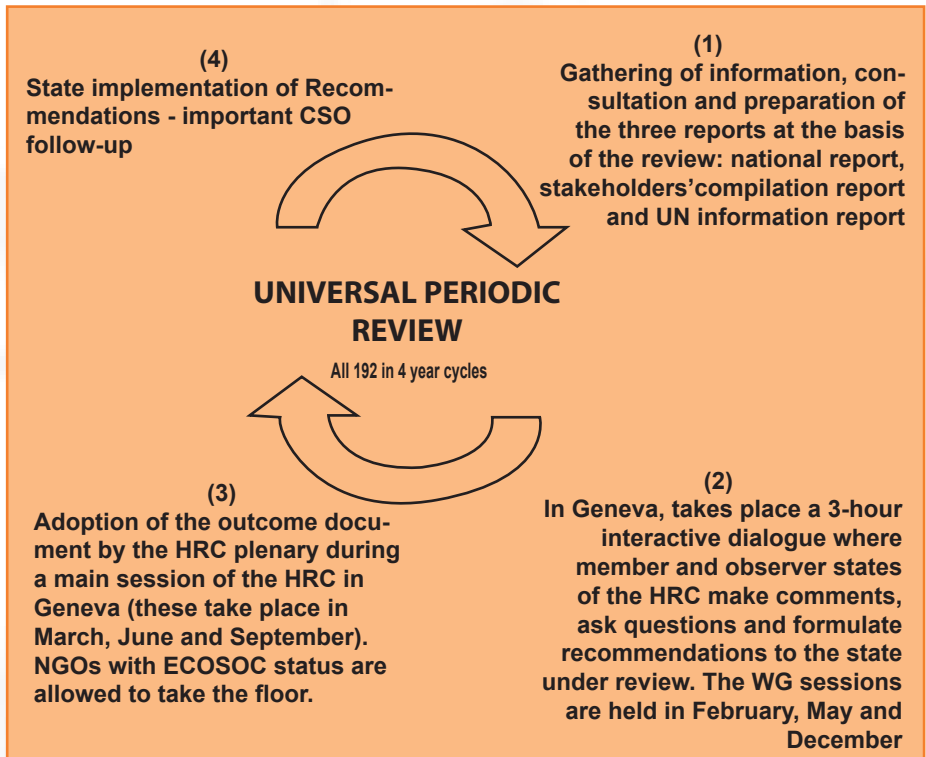
5. Stakeholders may also, if they so wish, draw attention to specific conclusions and recommendations made by international and regional human rights mechanisms, and refer to the extent of implementation. However, stakeholders should refrain from listing all treaties ratification, concluding observations and recommendations of the human rights treaty bodies and/or the special procedures of the HRC, as the latter are reflected in the UN compilation prepared by OHCHR.

6. The UPR mechanism does not provide for confidentiality and is conducted on the basis of public documents. Submissions, as originally received, will be made available on-line on OHCHR's website, including the name of the submitting party (provided they do not contain language manifestly abusive).

7. Stakeholders are encouraged to consult with one another at the national level for the preparation of the UPR submissions. Joint submissions by a large number of stakeholders are encouraged.



The Universal Periodic Review constitutes 4 phases:



## Phases of the review:

### Phase 1: Gathering of information, consultation and preparation of reports

The Council's Resolution 5/1 encourages States to prepare the information to be included in the National report through a broad national consultation process involving relevant stakeholders. The Stakeholders can include the NGO representatives, NHRIs, human rights defenders, academic institutions, e.t.c.

In this phase, CSOs can engage on a number of ways; team up with other NGOs, academic institutions, human rights defenders, e.t.c. to come up with a stakeholder's report to be submitted to the OHCHR. The same report submitted to the OHCHR can be shared with embassies in the country and missions in Geneva especially to the troikas. The sharing of the report is done with a view to allow for other representatives from the named agencies to either ask the SuR questions or make recommendations based on the information in the report. CSOs can participate in the national consultation process; inputting in the national report, comment on the final report if SuR makes it available.

## ORGANIZING FOR REPORT PREPARATION AT NATIONAL LEVEL

### ANGOLA

OSISA Angola Office learnt about the Universal Periodic Review process in Cape Verde. Upon returning back in Angola, the office mobilized NGOs and established an NGO coalition working to engage in the process. It organized a capacity-building training for local organizations in order to enable them engage effectively in the UPR process. It also provided technical assistance to the NGO coalition in preparation of a report which was submitted to Human Rights Council for considerations under the Universal Periodic Review.

The Angolan Government did not conduct a public national consultation as recommended by the Council. However the government invited some NGOs during its report preparation. The NGOs coalition expressed its concern over government's selective process which it termed as "secrecy" as the government only involved "GONGOS" (Government Owned NGOs). The government also did not disseminate its report to public; therefore, analysts and academicians did not have access to the report.

The NGO coalition cited a number of challenges faced in the process such as: problems in prioritizing, which human rights issues to highlight in the report as in the context of Angola with so many violations of basic human rights and given the limited number of pages for the report; coordination of local NGOs to work together is not easy in Angola; lack of capacity by NGOs in gathering accurate information regarding human rights violations; Limited financial resources to fund the trip to Geneva for the UPR session; The organizations faced difficulties in finalizing the report as it touched so many issues and all seemed important;

The Coalition also learnt a lot of things through its engagement in the process such as: Planning for advocacy and lobbying activities targeting the international organizations and diplomatic missions for purposes of sharing the report; Lobbying government to initiate the national consultation process; Following up with the OHCHR 's HRC to ensure that your report is received and posted on the website; Liaising with the media and publishing information and if possible get the media to follow the process in Geneva; Get to know which countries are part of the Troika for your country's review.

## Phase 2: The Interactive Dialogue

The review is conducted by the UPR Working Group which consists of the 47 members of the Council; however, any UN Member State can take part in the dialogue with the reviewed States. During three hours, the SuR presents its report, while peer States ask questions and make recommendations. Each State's review is assisted by groups of three States, known as "troikas", who serve as rapporteurs. The OHCHR is present throughout the whole process by collaborating with the presence of Independent Experts and being in charge of the Final Report. The selection of the troikas for each State review is done through a drawing of lots prior for each Working Group session.

## SUBMITTING STAKEHOLDERS' REPORTS AND PARTICIPATING IN THE STATE'S REPORT VALIDATION

### LESOTHO

Having participated in the UPR training which was organized by AWOMI Zambia in September 2009, the Lesotho Council of NGOs (LCN) embraced the knowledge gained from the training and took immediate action. The body mobilized its members and organized for quick action to come up with a stakeholder's submission. The members of LCN were not discouraged by the lack of financial resources and limited time for stakeholder's submission deadline.

LCN assembled its members in an ordinary meeting to select topics related to their daily activities and compiled sections of the report. The LCN Human Rights Coordinator ensured that the write up was done in good time. When the report was compiled, the LCN members were assembled again to approve the report sections and contents and endorsed the formal submission.

Later government invited the Lesotho Council of NGOs to a workshop validating the State report. This session was a platform for different government departments and the civil society to comment on the work done by the Ministry of Justice and Human Rights. The NGOs and other ministries shared its sentiments that, the report was more of an appeasement of the international community rather than stating the human rights situation on the ground and actions being taken to address the challenges. The NGOs challenged the Ministry not to consider the report as the final document for presentation in Geneva as the process leading to the preparation of the report was not done in a participatory manner to which the Justice Minister acknowledged the concerns.

Lastly, the two representatives from LCN attended the Interactive Dialogue in Geneva at which the State presented its National report and answered to questions raised before the review and during the review.

### Phase 3: Adoption of the Outcome Report

During the regular session of the Human Rights Council, the Working Group adopts the report containing a summary of the discussion and all recommendations made to the State under Review, and it then automatically becomes the Outcome Report. Before adoption, CSOs may take the floor; while it is important to keep in mind that their contribution will not influence the Outcome Report, this moment is very important since it constitutes an opportunity for them to bring up issues that were not treated. In this phase, the Council meets in one of the main sessions (March, June and September) and presents its outcome report to the State. At this stage, CSOs can take the floor.

## **Phase 4: Implementation and follow-up of recommendations**

After the adoption of the outcome report and up until the next UPR (within 4 years), it is important for CSOs to help the State in the implementation process of the recommendations accepted. Civil society organizations can do this by monitoring their Government's actions in any way, and whenever possible by supplementing the State's efforts to continue improving the human rights situation on the ground. This is essential in order for the UPR not to become a meaningless process. Below is an example of CSO's involvement in the UPR process. See attached a report of the country response to the HRC made during the Working Group session.

### **WORKING ON FOLLOW-UP ON THE UPR OUTCOME**

#### **ZAMBIA**

Zambia was reviewed in May 2008 during the second session of the UPR. After the review, the African Women Millennium Initiative on Poverty and Human Rights Zambia (AWOMIZ) has undertaken the following actions:

- The organization partnered with CONECTAS Human Rights and organized a regional workshop on the Human Rights Council machinery and Universal Periodic Review. The training drew participants from the following countries; Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe; The training aimed to promote CSOs engagement in the UPR process both at the national and international levels;
- The organization shared the UPR recommendations widely with other human rights organizations, institutions and media houses in the country. Some of the organizations have begun incorporating some of the recommendations into their organizational advocacy work.;
- The organization facilitated the establishment of a coalition of CSO working on monitoring and engaging in the implementation process of the UPR recommendations;
- The organization has also held consultative meetings with the Ministry of Justice in a bid to lobby the ministry to unveil the implementation plan and discussion are still going on;
- Lastly, this handbook is a product of the work with regard to the UPR.

## CONCLUSION

**A**dvancing the agenda on the promotion and protection of human rights will continue to be of priority for civil society hence, throughout in this Handbook, the emphasis has been placed on the important role civil society plays in the Universal Periodic Review process with regard to making the UPR an ongoing process. Civil Society Organizations' participation is crucial in every phase of the UPR process as indicated previously. Participation in this context means strategically engaging and influencing the process both indirectly and directly. Therefore the UPR will only be successful if it is seen as an ongoing national process instead of just a few moments in Geneva.

There is a Road map for Civil Society Engagement with the UPR process which provides clear suggestions of actions and strategies that can be undertaken by civil society organizations at both the national and international levels. The Road Map does not only mention opportunities for CSOs' engagement in the UPR but it also states the possible creative actions that can be taken in order to effectively contribute to the process. For more information on the Road Map, check the CONECTAS website whose address is given at the end of this handbook. It is undeniable that human rights guarantees in international and national laws must be implemented by States to be effective. However, it's essential that civil society organizations participate in national, regional and international human rights processes and systems, always encouraging, pressuring and monitoring States in their compliance with international human rights standards.

It's important to note that, civil society organizations have the potential and capacity to do more than what resources can permit with regard to engaging in human rights monitoring of their countries. This should be seen as a commitment to the course of advancing human rights work as seen from the example of Lesotho Council of NGOs, AWOMI Zambia and OSISA's Angolan office. There is need for civil society organizations to engage in strategic partnerships that will ensure that effective use of the international community is maximized in influencing their own governments to adhere to international and regional standards.

And finally, human rights guarantees in international and national laws are of little practical worth unless they are effectively implemented by States. Therefore, the importance of civil society participation in the National, Regional and International processes and systems can not be over emphasised.

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HUMAN RIGHTS COUNCIL  
Working Group on the Universal Periodic Review  
Third session  
Geneva, 1-15 December 2008

**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Botswana**

## I. METHODOLOGY AND CONSULTATION PROCESS

1. The Ministry of Foreign Affairs and International Cooperation was responsible for coordinating an inter ministerial effort towards the preparation of the national report submitted for periodic review by the Human Rights Council of the United Nations<sup>1</sup>. The report was prepared jointly with the Office of the President/Ministry of Justice, Defence and Security and the Attorney General's Office (which comprised the Drafting Committee). Once a draft had been prepared the draft was shared with stakeholder government departments and ministries.

2. A working draft was then prepared by the Drafting Committee and was shared with stakeholder Government Ministries and Departments with a view that they provide further contribution and feedback. A stakeholder workshop was then convened on 5-6 August 2008 that brought together all stakeholders including the civil society and non-government organizations (NGOs) to go through the initial draft and make comments, suggestions and recommendations to improve the document.

## II. BACKGROUND: NORMATIVE AND INSTITUTIONAL FRAMEWORK

3. Adopted by Botswana at independence in 1966, the Constitution established a non racial democracy, maintaining freedom of speech, of the press and of association, and affording all citizens equal rights. The Constitution also provides for a republican form of Government headed by the President with three main administrative organs: the Executive, a unicameral Legislature and the Judiciary. Each of these organs is independent from other organs.

4. The Executive branch of government consists of the Cabinet headed by the President and is responsible for initiating and directing national policies through government ministries and departments. There are 16 Ministries each headed by a Cabinet Minister. Each ministry is divided into departments and divisions with different areas of responsibility.

5. The Legislative branch comprises of the National Assembly and the President. The National Assembly is the supreme law making authority in the country and it acts in consultation with the House of Chiefs on tribal matters. The House of Chiefs advises on matters affecting customs and tradition. This long lasting democratic "*Kgotla*" system, passed on from generation to generation has provided a strong base on which to build, with free political debate encouraged at all levels.

6. The Constitution provides that the National Assembly is made up of fifty-seven (57) directly elected members and four (4) Specially Elected members and a Speaker of the National Assembly.

7. Since independence Botswana has held peaceful, free and fair elections in 1965, 1969, 1974, 1979, 1984, 1989, 1994, 1999 and 2004. The next general election is in 2009. The ruling Botswana Democratic Party (BDP) has so far won every election, with four changes of President since independence in 1966. There is a "first past the post" system.

8. There are 11 Opposition Parties registered with the Independent Electoral Commission (IEC) in Botswana. In the 2004 general elections, there were 552,849 registered voters. Out of this number, 421,272 voted, representing 76.2 per cent of the people that voted. The Opposition got 23 per cent of parliamentary seats, which was an increase from 16 per cent obtained in the 1999 general elections, and equivalent to 40 per cent of the popular vote.

9. The third organ of government is the Judiciary which is presided over by the Chief Justice and consists of the Court of Appeal, the High Court and Magistrate Courts. Independent of the Executive and the Legislature organs, the Judiciary interprets and administers the law.
10. The power to appoint judges and magistrates vests in the President acting in accordance with the advice of the Judicial Service Commission.
11. There is also the Industrial Court whose judges are appointed by the President in terms of the Trade Dispute Act.
12. In addition to the above structures, there is also the Office of the Ombudsman and the Land Tribunal.
13. The Ombudsman is mandated in terms of the Ombudsman Act to investigate complaints of injustice or maladministration in the Public Service. The Ombudsman's jurisdiction extends to the investigation of alleged violations of constitutionally enshrined fundamental rights and freedoms. In the event of non-compliance with the recommendation the Ombudsman is obliged to make a special report to the National Assembly.
14. Disputes relating to land are referred to the Land Tribunal for settlement and all decisions of the Land Tribunal are appealable to the High Court and Court of Appeal.
15. There are other quasi judicial bodies such as the Tax Board and Licensing Board which deal with quasi judicial matters.

### **Legal system**

16. Botswana has a dual legal system, comprising customary law and what is usually termed received law (or common law). Customary law is the law of any particular tribe or tribal community insofar as it is not incompatible with the provisions of any written law or contrary to morality, humanity or natural justice. Customary law is not written and has variations among different communities. The received law consists of English law and Roman Dutch law as it was in force at the Cape of Good Hope on 10 June 1891, and as amended by statutes from time to time and interpreted by the Courts. The two systems coexist although there are differences in the law and its application.
17. The highest court in Botswana is the Court of Appeal. It is the superior court of record to which appeals can be made from the High Court. The High Court has original jurisdiction to hear and determine civil and criminal proceedings. It acts as an appellate body for the Magistrate Courts and the Customary Court of Appeal.
18. The common law is made up of statute and precedents, which are cases upon which the High Court and Court of Appeal have ruled.
19. The Customary Courts derive their authority from the Customary Courts Act. The Customary Law Act also lays down rules which are meant to guide the courts in deciding whether customary or common law applies. The Customary Courts have jurisdiction to deal with a wide variety of matters of civil<sup>2</sup> and criminal<sup>3</sup> law such as financial disputes, petty theft, marital disputes, divorce (where the couple is married under customary law), livestock theft, insults and defamation, among others. The jurisdiction of the Customary Court is limited by the potential penalties or fines to be imposed, or the particular types of crimes or disputes to be



adjudicated. When dealing with criminal matters the courts follow the Customary Court Procedure Rules.

20. Lawyers are not permitted to give legal representation at the Customary Courts. However, a person has the right to have a case transferred to another court (a common law court) where they have the right to legal representation if the permission to transfer is given by the Customary Courts of Appeal. If however an accused person instructs a lawyer to represent him, and the lawyer informs the courts that they wish to have the case transferred, then the court is obliged to transfer the case so that the accused can access his right to have legal representation.

21. Local police are officials of the Customary Courts and their work exists alongside the national police service. Both police services tend to prefer to use Customary Courts because they dispense swift and accessible justice. The High Court may refer matters to the Customary Court on issues involving divisions of the joint estate and married persons or where the Court finds that it will be equitable for such division of the joint estate to be dealt with by Customary Courts.

22. The Customary Court of Appeal deals with appeals from the Customary Courts. Decisions of the Customary Court of Appeal may be appealed to the High Court. On issues which refer to land claims, appeals can also be made to the Land Tribunal.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS-IMPLEMENTATION OF HUMAN RIGHTS TREATIES AND OBLIGATIONS**

23. Botswana is party to the following main human rights instruments:

- (a) African Charter
  - (i) African Charter on Human and Peoples Rights, ratification 17 July 1986;
  - (ii) Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples' Rights, signed 9 June 1998.
- (b) Children
  - (i) Convention on the Rights of the Child, accession 14 March 1995;
  - (ii) African Charter on the Rights and Welfare of the Child, ratification 10 July 2001;
  - (iii) Amendment to the Convention on the Rights of the Child (Article 43, paragraph 2), acceptance 6 March 2002;
  - (iv) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, accession 24 September 2003;
  - (v) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, ratification 4 October 2004;
- (c) Civil and political rights
  - International Covenant on Civil and Political Rights, ratification 8 September 2000.
- (d) Racial discrimination

International Convention on the Elimination of all Forms of Racial  
Discrimination, accession 20 February 1974.

(e) Torture

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or  
Punishment, ratification, 8 September 2000.

(f) Trafficking in persons

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially  
Women And Children, supplementing the United Nations Convention against  
Transnational Organised Crime, ratification 29 August 2002.

24. Botswana has not acceded to the International Covenant on Economic, Social and  
Cultural rights and the Convention on the Rights of Migrant workers and members of their  
families.

25. Notwithstanding the fact that the ICESCR has not been acceded to Botswana has strived  
to deliver on internationally accepted social and cultural norms and thus has made great strides in  
its healthcare and education system.<sup>4</sup>

26. In Botswana international instruments are not self-executing and require legislative  
implementation to be effective as law. Thus an individual cannot complain in a domestic court  
about a breach of Botswana's international human rights obligation unless the right has been  
incorporated into domestic law.

27. Nevertheless the courts in Botswana have in some cases given judicial notice to  
international instruments which Botswana has ratified even though they have not been reduced to  
domestic legislation. The judgement in the Unity Dow Case illustrates the point that international  
instruments may be referred to as an aid to interpretation, notwithstanding that the provisions of  
those international instruments do not confer enforceable rights and corresponding obligations on  
individuals within Botswana until parliament has enacted them into the national laws.<sup>5</sup> In the  
case of Good v The Attorney General, the court explained the status of international instruments,  
and noted that international treaties to which Botswana is a signatory do not have the force of  
law until incorporated into domestic law.<sup>6</sup> Section 24 (1) of the Interpretation Act.<sup>7</sup>

(g) Women's rights

28. Botswana's has made great strides as regards empowerment of women. The Government  
has set up a Women's Affairs Department within the Ministry of Labour and Home Affairs. The  
role of the Department is to deal with women's issues and to promote their development and  
integration into economic, social, cultural and political activities. In 1996 Botswana acceded to  
the Convention for the Elimination of All Forms of Discrimination against Women, and has  
since then made a concerted effort to promote gender issues within its National Policy. The  
Convention has since been translated into Setswana – the national language.

29. In 1996, Government adopted a National Policy on Women in Development. The goal of  
the Policy is to achieve effective integration and empowerment of women in order to improve  
their status, enhance participation in decision making and their role in the development process.  
Specific measures undertaken include, gender main streaming in structures such as political  
parties, civil society and tertiary institutions, gender sensitization and training programmes, as  
part of a broad strategy of capacity building and advocacy. The Policy is been reviewed to bring

it in line with the Gender and Development Approach, the Vision 2016, the United Nations Millennium Development Goals and other international human rights instruments.

30. Botswana has also achieved gender equality and gender parity in the formal education system.<sup>8</sup>

(h) The abolition of Marital Power

31. Marital Power was abolished in 2004. Before 2004 the Common Law principle of marital power treated the husband as the head of the family with powers over his wife including legal representation and administration over her property. Since the abolition, women stand in an improved position. Persons married in community of property have equal powers to dispose of assets held in a joint estate. The Abolition of Marital Power Act does not apply to Customary and Religious marriages. Consultations are on-going to address the disparities and extent of the application of the Act to these marriages.

(i) Access to education

32. Botswana has made major progress towards achieving universal access to Primary education, which provides a strong base for achieving access to basic education. This is evident in the Net Enrolment Rates (NER) for children aged 7-13 and 6-12 which has consistently been above 85 per cent between 1994 and 2005. Over the same period, the Gross Enrolment Rates has always been above 100 per cent.

33. Deliberate efforts have been made to encourage girls into the fields of science, technology and vocational education and training through career fair and career guidance videos where female role models are used as resource persons. The Education Regulations were reviewed with the result that a policy was developed that facilitates the retention rate of girls, by allowing the return of the girl child to school after pregnancy thus addressing the issue of girls being kept out of school due to pregnancy.

34. Botswana provides inclusive education to all children of school going age regardless of the differences, in line with the Salamanca Statement and Framework for Action of 1994. Such inclusive education responds to the diverse needs of the learners, especially those with disabilities. The posts of “Senior Teachers Advisors - Learning Difficulties” has been created at both primary and secondary schools with the aim of assisting teachers to address the diverse needs of learners including those with various forms of disabilities.

35. Guidance and counselling is part of the curriculum from primary education to secondary education level. The programme aims to break stereotypes prevalent in career decision making for boys and girls.

36. In the past the provision of education was free until 2005 when Government introduced school fees on a cost sharing basis. The cost sharing was recently revised in 2008 to introduce an income threshold by which households in need of assistance will be exempted from paying school fees.

### A. Children

37. At the last national census held in 2001, 44 per cent of the population was under the age of 18 years.

38. The largest portion of the Government of Botswana's operation expenditures are incurred by the Ministry of Local Government, which houses the Department of Social Services, which is responsible for dealing with the rights and welfare of children and the Ministry of Education. There is no specific institution tasked with overall responsibility for coordinating policies for children and ensuring their execution, as such it is difficult to obtain a reliable figure on funding for children's rights.

39. The National Plan of Action (NPA) for Children 2006-2016 has been adopted and seeks to promote Human Rights via the promotion of several key areas (education and training; health and nutrition; children and HIV/AIDS; sport and recreation; child protection; environment and safety; and policy and legislation). The NPA provides various mechanisms and structures for its coordination and monitoring to actualize it. The Plan aims to correct the short-comings of the previous National Plan of Action. Notwithstanding its adoption, the Government of Botswana has experienced challenges in its implementation.

40. Government is also in the process of domesticating the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and a draft Bill has been circulated, it is expected to be tabled before Parliament in November. The expectation is that the resulting law will be human rights based, catalysing the maximum realisation of child rights, performance of correlative duties, and compliance with human rights for the dignified living of every child.

## **B. Protection of economic and social rights**

41. The Department of Social Services has some of the following social safety nets in place that address the social and economic rights of the most vulnerable groups within society:

(a) The revised national policy on destitute persons provides for the provision of a nutritionally balanced food basket, cash amounting to P81.00 monthly, as well as some rehabilitation for the eligible. The rehabilitation component aims at providing individuals with relevant skills, knowledge and the right attitude to engage in sustainable economic and social activities to the extent that they are able to obtain a livelihood without direct dependence on the state. The destitute policy benefits members within a household and does not only target individuals who may be registered. The policy further makes provision for the construction of shelter for the most deserving. Destitute persons are also exempted from payment of publicly provided services like medical fees, water charges, and service levy and electricity charges;

(b) The non contributory pension benefits all Botswana citizens aged 65 years and above;

(c) The World War II veterans or their widows also get cash allowance to help cushion them from economic hardship. The old age pensioners and the World War II veterans get P220.00 and P359.00, respectively;

(d) The Short Term Plan of Action for Orphans caters for children under the age of 18 years who are orphaned. They are also provided with a nutritionally balanced food basket as well as school requirements. These children are exempted from any fees required under the cost sharing exercise and any other publicly provided service;

(e) Patients on Home Based Care who cannot afford a diet that is sufficient to satisfy their nutritional needs are also entitled to a food basket;

(f) The Remote Area Development (RAD) Programme caters for people who live in remote areas where there is very little development or economic activity. The RAD settlements are provided with basic social services such as schools, health facilities, potable water, access roads etc. The programme focuses on ensuring that beneficiaries achieve sustainable social and economic development and that they benefit equally from rapid economic development of the country;

(g) The Economic Promotion Fund whose aim is to create employment opportunities for remote area dwellers. The scheme funds productive and business oriented activities including game ranching, harvesting and utilization of veld products and arable agriculture.

### **C. CIVIL AND POLITICAL RIGHTS**

42. The Constitution has a bill of fundamental rights and freedoms ( which guarantees civil and political rights) and especially provides that every person in Botswana is entitled to these fundamental rights and freedoms irrespective of race, sex etc.<sup>9</sup>

#### **1. Right to participation in democratic governance**

43. The Constitution provides for free and fair elections. The Independent Electoral Commission (IEC) monitors the holding of elections and educates the nation on democracy and the importance of voting. The Government's commitment to the participation in democratic governance is also reflected in the willingness of the Government to involve the populace in determining issues affecting them especially through commissions of inquiry and referenda for example, the Balopi Commission set up in 2000 by the President calling for the amendment of the Constitution to make it tribally neutral.

#### **2. Right to life**

44. The right to life is protected under the Constitution which confers the right to life on all individuals. However, Botswana retains the death penalty and the Constitution outlines circumstances considered reasonably justifiable where there can be deprivation of life. The Penal Code states that death may be inflicted as punishment by a court of law. The Penal Code further lists the offences that attract the death penalty. Safeguards have been put in place to protect those accused of offences that carry the death penalty. The Constitution provides that the accused shall be afforded a fair hearing within reasonable time by an independent and impartial court established by law. This has the effect of preventing arbitrary deprivation of life where one is charged with an offence that carries the death penalty. People charged with capital offences are provided with *pro deo* counsel to represent them at the state's expense.

45. The Prisons Act also provides Regulations concerning the treatment of prisoners on death row. The purpose of the Regulations is to protect the prisoners from any arbitrary treatment.

46. Capital punishment may not be imposed on any person under the age of 18 years or expectant woman.

#### **3. Torture and other cruel, inhuman, or degrading treatment**

47. The Constitution provides for the protection against torture and inhuman punishment. Other pieces of legislation augment the Constitution in this regard such as the Criminal Procedure and Evidence Act which provides that any confession obtained by use of torture is inadmissible and the Prisons Act which also protects prisoners from torture.

#### 4. Corporal punishment

48. Corporal punishment in schools is allowed by the Education Act and the regulations to the Act govern its administration.

49. Customary Courts are empowered to administer corporal punishment within the limits of the Customary Courts Act. However women or any man over the age of 40 cannot be sentenced to corporal punishment. It is general practice that upon sentencing the Court will enquire from the offender as to whether he has any health impediment preventing him from receiving corporal punishment, if he says such impediment does exist, corporal punishment will only be administered after the offender has been examined by a medical practitioner at the state's expense and a certificate of fitness issued to certify that he is medically fit to undergo corporal punishment.

#### 5. The rights of minority groups

50. In Botswana, there are minority groups and they enjoy all the rights under the laws of the country. They have the right to practice their own culture, to profess and practice their own languages.

51. In both government and private institutions employment opportunities are based on merit. Access to social services is also available to every person without discrimination.

52. Some minority groups were not represented in the *Ntlo Ya Dikgosi* and in some quarters this was viewed as being discriminatory. Hence, the Government of Botswana appointed a commission to look at the constitutional provisions that are alleged to be discriminative.

53. The commission's findings were that the Sections were indeed discriminatory and needed to be amended to make them tribally neutral. The Chieftainship Act (now referred to as the Bogosi Act) and the Constitution were amended to remove discriminatory provisions.

54. Currently there are four minority group associations registered with the Registrar of Societies and these are the Society for the Promotion of the Ikalanga Language (SPIL), Lentswe la Batswapong, Kamanakao Association and Reteng. The main objectives of these associations are to promote, maintain, protect and develop their languages and cultures.

#### 6. Access to justice

55. One of the ways in which Government seeks to ensure access to justice is through the provision of assistance to criminal defendants charged with capital offences who do not have the means to afford their own legal representation for Capital offences. The criteria for assigning *pro-deo* counsel is whether it is desirable in the interest of justice that the appellant should have legal aid.<sup>10</sup> Section 56 of the Legal Practitioners Act, imposes a duty on every legal practitioner to do *pro-deo* work. It is pursuant to this section that the Registrar of the High Court assigns *pro-deo* work to individual legal practitioners. However, *pro-deo* fees paid by Government are nominal and this has implications on the legal representation that clients receive from lawyers. The low fees are a disincentive to experienced lawyers who are unwilling to take *pro-deo* matters on nominal fees. Where such instructions are taken, some lawyers do not put more effort in the preparations of the case because the fees are low”

56. To further address this, the Government is in the process of coming up with a legal aid system which will assist litigants considered to be paupers to access affordable legal services (see discussion at paragraph 104).

### **7. Freedom of expression**

57. Transparency is ensured through press freedom, and information dissemination. Press freedom is respected and there is a small but independent media and press. There is freedom of speech, association and reasonable access to information.

58. The Government has set up a Media Consultative Council whose primary mission is to promote and preserve the media in public; it has representation from the private media and other stakeholders. The Media council provides an avenue to further promote the right to freedom of expression.

59. The National Broadcasting Board (NBB) was established in 1996 as a statutory agency with responsibility for among others; issuing broadcasting licenses; supervising broadcasting activities; monitoring and settling disputes among operators; allocation and managing optimal utilization of broadcasting spectrum.

### **8. Actions to eradicate discrimination**

60. The Constitution of Botswana guarantees equality for all Batswana. This is further complemented by other legislative provisions, for example, the Penal Code which outlaws discrimination and the Societies Act which makes peremptory the refusal to register organizations which have expressly or implicitly, racism and racial discrimination as their objects.

61. Every individual in Botswana has the right to practice their own culture, to profess and practice their own religion and use their own language. This is guaranteed by the Constitution. There is no official religion in Botswana; however, the dominant religion is Christianity. There is also a sizeable number of Islam, Bahai and Hindu believers.

### **9. Human rights training in disciplined forces**

62. The Botswana Police Service has mainstreamed human rights training for its personnel. Human rights forms part of Pre Service and In Service Training at the Botswana Police College. The training encompasses concepts of human rights; applicable international legal instruments on human rights; applicable local statutes and applicable cases touching on human rights abuse.

63. The Botswana Police Service Management in an effort to address issues of abuse of human rights came up with a hand book for Botswana Police Service Strategic Foundations and subscribes to the human rights ideal espoused in the Southern African Regional Police Chiefs Cooperation Organisation Code of Conduct (of which the Botswana Police Service is a member).

64. The Botswana Defence Force has components of international humanitarian law and human rights law in its basic training for recruits.

#### IV. ACHIEVEMENTS AND BEST PRACTICES, CHALLENGES AND CONSTRAINTS

##### A. Achievements and best practices

65. There have been considerable developments in the recognition of Women's Rights. The Government has amended a number of legal instruments to eliminate all forms of discrimination against Women and create a gender balance:

(a) The Citizenship Act was amended in 2003 such that a citizen of Botswana who had acquired the citizenship of another country as a consequence of marriage shall; upon renouncing such citizenship and applying to resume citizenship of Botswana, be reinstated as a citizen of Botswana;

(b) The Government amended the Mines and Quarries Act in 1996 by removing restrictions placed on women to work underground in mines;

(c) The Criminal Procedure and Evidence Act was amended to provide for the mandatory hearing in camera of sexual offences such as rape;

(d) The Deeds Registry Act was amended in 1996 to:

- (i) Allow women whether married in community of property or not to execute deeds and other documents required or allowed them to be registered in the deeds registry without their husbands' consent;
- (ii) Allow for immovable property to be transferred or ceded to a woman married in community of property and to allow the woman to have her own separate estate, whereby a condition of the bequest or donating it is excluded from the community and marital power;
- (iii) Ensure that neither party in a marriage in community of property unilaterally deals with immovable property forming part of the joint estate, without the written consent of the other irregardless of in whose name the property is registered; unless such party has been so authorized by an order of the court.

66. The Government of Botswana also amended the Penal Code; the Affiliations Proceedings Act; the Public Service Act; the Marriage Act; the Abolition of Marital Power Act; and also enacted the Domestic Violence Act.<sup>11</sup>

##### 1. Attainment of health for all

67. In order to promote the right to life, in the early 1970s Government adopted a primary healthcare strategy which it has managed to implement and improve upon.

68. Health Care delivery is anchored on the Primary Health Care strategy, in line with the Alma-Ata Declaration of 1978.<sup>12</sup>

69. Between independence and 2002 the number of health centers has increased from 100 to 1426 while improvements and infrastructure saw life expectancy at birth rising from 46 years in 1966 to 65.3 years in 1991.



70. In an endeavour to provide accessible and affordable healthcare, health service provision in Botswana is currently at a nominal fee for citizens and more than 80 per cent of the population is within a five kilometre radius from the nearest health facility.

71. Significant strides have been made in the prevention and control of communicable diseases such as TB, malaria, HIV/AIDS, childhood diseases such as polio, tetanus, and measles.

72. The healthcare strategy has seen the following measures being put in place to address emerging health needs and problems:

(a) Monitoring the quality of water supply in towns and rural areas thereby reducing the risk of diseases such as cholera, typhoid, etc. These diseases continue to claim lives in the region today, while in Botswana the country has not had outbreaks in recent years as a result of safe water supply;

(b) A good child welfare program is in place: implementation of an Expanded Program on immunization against preventable childhood disease has resulted in immunization coverage of over 90 per cent. The growth monitoring and infant feeding program of children under 5 years has resulted in a decline of malnutrition to 5 per cent while the prevalence of severe malnutrition has decreased to 1 per cent. As a result of these initiatives, infant mortality has decreased from 56/1 000 live births to 48/1 000 live births due to wide availability of the Prevention of Mother to Child Transmission (PMTCT) program;

(c) Maternal and Child Health Care including Family Planning: Through the safe motherhood initiative, maternal mortality rate at health facility has decreased from 175/100 000 in 2004 to 167/100 000 in 2006. A good family planning program has resulted in a decline in teenage pregnancies;

(d) Prevention and control of major communicable diseases such as malaria and TB has resulted in the reduction in the number of malaria cases from 72000 to below 34000 in 2007. In 1989 the TB notification rate was 202/100 000 population, increasing to 649/100 000 in 2002 due to emergence of HIV/AIDS epidemic and later declining 511/100 000 in 2006 due to wide availability of ARVs and Isoniazid Prevention Therapy (IPT). IPT was initiated for HIV positive patients to prevent them from developing active tuberculosis, which is the major cause of mortality especially among patients with depleted immune systems due to HIV.

(e) Other programmes that were introduced as a result of the HIV/AIDS epidemic are the Infant Feeding Programme;

(f) Prevention and Control of Non-communicable Diseases and Injuries: Botswana as a developing country has also been experiencing a steady increase of non-communicable diseases, namely: hypertension, cancers and diabetes (health statistics reports). Hypertension, which is a risk factor for cardiovascular disease, is the commonest cause of morbidity and mortality. Currently, the Ministry of Health in collaboration with the World Health Organization is undertaking a study on hypertension, diabetes and stroke among those aged 50 years and above. The results of this study will be useful in developing health policies regarding care of the elderly in respect of these diseases;

(g) Communicable Disease Surveillance: an integrated disease surveillance and disease programme has been started in the unit as a major regional initiative to strengthen disease surveillance and epidemic response.

## 2. Human rights Awareness training for traditional leaders

73. Pursuant to concerns raised by some treaty bodies (CERD and ICCPR) and Non Governmental Organisations (NGOs), about the capacity of traditional leaders to dispense justice in matters dealing with human rights, Government identified a need to build capacity in the area of human rights obligations and implementation. Workshops were conducted to strengthen the delivery of justice in customary courts. *Dikgosi* were trained on elements of fairness in administering justice. The Training was intended to address concerns raised regarding the application of Customary Law and procedures of the Customary Courts, and the limited levels of training of presiding officers.

74. In Botswana, Customary law is administered in Customary Courts by *Dikgosi* (chiefs, headmen or court presidents) with the assistance of elders in the community. Cases are generally dealt with at the *Kgotla* (a traditional public meeting place).

75. Criminal jurisdiction is limited and prevents them from dealing with cases such as treason, bigamy, corruption, abuse of office, rape, robbery and other serious offences. Further, they do not deal with matters such as dissolution of civil marriages, testate succession or insolvency.

## 3. Domestic violence

76. In acknowledgement of the fact that the existing structures have been insufficient to deal with the phenomena of domestic violence the Government of Botswana has enacted a Domestic Violence Act in 2007. The Act provides for the protection of survivors of domestic violence and for matters connected therewith. However the issue of femicide is not specifically referred to but other provision of the laws such as the Penal Code do address the issue.

## 4. Domestication of the Convention on the Rights of Children

77. There has also been a reform to improve the position of children notably, the draft Children's Bill of 2008. The Ministry of Local Government has been conducting consultations on the draft Children's Bill of 2008.

## 5. Response by Government to HIV/AIDS

78. The Government response to the HIV and AIDS pandemic has been realised as evidenced by the declining HIV prevalence trends among the younger age group of pregnant women aged 15-19, where the prevalence rate has declined from 28.6 per cent in 1998 to 17.2 per cent in 2007. Reduction in new infections is also supported by the preliminary incidence studies from 2005-2007.

79. The PMTCT program increased in coverage whereby in 2007, 89 per cent of HIV positive pregnant women took prophylaxis to reduce transmission to the unborn child, compared to 37 per cent in 2003, resulting in an estimated reduction in mother to child transmission rate down to 4 per cent. Routine HIV testing (RHT) was introduced in 2004 to increase access to HIV testing. Comparatively the number of people tested through Voluntary Counselling and Testing (VCT) rose from 73 551 in 2004, to 109 403 in 2004, while those who tested through RHT rose from 60846 in 2004 to 178 176 in 2006.

80. There has been significant decrease in HIV prevalence in pre transfused blood and blood products from 9 per cent in 2001 to 3.8 per cent in 2005.

81. With the advent of public wide provision of ARV's and increased survival of patients on treatment, the life expectancy has increased from 56 years in 2001 to 58 years in 2006.

82. Routine HIV testing has been available in all public health facilities since 2004. There is also a national programme which aims at preventing Mother-to-Child Transmission of HIV (PMTCT) as well as a national antiretroviral treatment (ARV) programme. The PMTCT programme is operating nation-wide and is available as part of routine antenatal services at all public health facilities. While the National Anti Retroviral (ARV) programme has been expanded to cater for the public health needs of the society at large. Patients receive free ARV treatment from the public sector but treatment is also available privately. In addition, paediatric antiretroviral treatment is available.

83. Infants are tested at the Botswana- Harvard Partnership laboratory. Those found to be HIV positive may access paediatric drugs at any of the ARV sites country-wide. The Botswana-Baylor Children's Clinical Centre of Excellence (BBCCCOE) also provides specialized treatment for HIV positive children under the age of twelve.

84. There has been an increase in the number of people taking advantage of PMTCT and ARV programs which indicates that the country has adopted an effective strategy for dealing with the problem.

## **6. The Independent Electoral Commission**

85. In 1997, the Constitution (Amendment) Act No. 18 of 1997 established the Independent Electoral Commission (IEC). The Commission exists to facilitate the formation of a democratically elected government by delivering transparent, free and fair elections in accordance with established legal framework for Botswana. The mandate of the Commission is to manage the electoral process and disseminate voter awareness information; they are also responsible for ensuring that voters are informed about the electoral process, mobilizing the public to register and vote.

86. It is the responsibility of the Commission to conduct and supervise elections of members of the National Assembly and also of Local Authority, to conduct referenda and to ensure that the elections are conducted efficiently, properly, freely and fairly. The IEC has since its inception managed two elections that were declared free and fair by local, regional and international observers.

87. The IEC has strengthened its integrity by adhering to regional and international electoral principles and norms set in instruments such as the Principles for Election Management, Monitoring and Observation in the SADC region and the SADC Parliamentary Forum – Norms and Standards in SADC Region.

## **7. Establishment of trade unions**

88. Initially only associations could be formed. The law has since been amended to allow for the establishment of trade unions. There are currently trade unions which have been registered with the Registrar of Trade Unions.

## **B. Challenges and constraints**

### **1. Poverty in a “middle” income country**

89. Having attained middle income status Botswana still faces economic diversification and unemployment challenges. Conditions of poverty still persist as evident from the high percentage of the population living below poverty datum line (approximately 30 per cent). Furthermore unemployment remains high particularly amongst the youth and in rural areas. Fluctuation of unemployment rates has been observed with high rates during periods of recession and lower rates when the economy is growing quickly. In addition, a high prevalence of HIV/AIDS has negatively impacted on human development gains. The persistence of these conditions of poverty are not commensurate with the country’s Vision 2016’s goal of poverty eradication.

90. The major challenge is to reduce poverty at speed and depth required to meet the Millennium Development Goal Targets by 2015 (especially the target on income poverty reduction) and the Vision 2016 target (eradication of absolute poverty).

91. It is against this background that in 2003, the Government of Botswana introduced the National Poverty Reduction Strategy, a scheme which has attempted to decrease poverty levels (see discussions at paragraphs 114 to 116).

### **2. Population growth and development**

92. The population of Botswana has grown at an average annual rate of 2.4 per cent. The growth rate has been declining over the years. Annual growth rates between 1971 and 1981 as well as between 1981 and 1991 were 4.5 and 3.5 per cent, respectively. While the AIDS pandemic might have contributed somewhat to the decline in recent years, it must be noted that there was a decline during the pre-HIV/AIDS era. Indeed, factors such as declining fertility rates, increased women participation in economic activities, increased literacy rates, access to better health care, etc., may have a profound effect on population growth.

93. The main features of Botswana’s population are declining fertility rate and life expectancy, and increasing mortality rate. Crude death rate rose between 1981 and 1991 mainly due to the HIV/AIDS pandemic. Life expectancy at birth also decreased from 65.3 years in 1991 to 55.7 years in 2001. Regarding the fertility rate, there has been a notable decline in all fertility indicators.

### **3. Access to education**

94. Although the Government has made significant strides in its endeavour to provide access to education it still faces several challenges:

- (a) There is no legislation that makes primary or basic education compulsory;
- (b) Drop outs in the early years continue to add to the already existing problem of illiteracy;
- (c) Preschool education is only provided by private individuals and nongovernmental organisations and as a result there is low access to preschool education;
- (d) There are cultural and language barriers which hamper the admission, progression and completion of primary schooling by children in remote areas.

#### **4. Undocumented migrants**

95. Undocumented migrants are usually rounded up by the police and other law-enforcement agents. Upon arrest these immigrants are put in safe custody before being transferred to the Centre for Illegal Immigrants for undocumented migrants or persons arrested for being in the country unlawfully. This is the only facility of this nature in the country and it is located in the northern part of the country and it has a holding capacity of 504 inmates. Migrants at the Centre are entitled to unlimited visits by friends and relatives. They also receive visits from diplomats including the International Committee of the Red Cross. The undocumented migrants are registered at the Centre, and their countries of origin are notified before the deportation is carried out.

96. Before the Centre was built, immigrants or persons arrested for unlawfully being in the country were held in prisons as immigration detainees and were entitled to essentially the same rights as now.

97. The bulk of the undocumented immigrants are from Zimbabwe. In the period April 2006 to March 2008 approximately 118 343 Zimbabweans were repatriated at a total cost of P11 000 000 (approximately US\$1 833 333). In the period April to July 2008, 9 554 Zimbabweans were repatriated at a cost of P259 516 (approximately US\$43 253) excluding police and prisons expenditure.

98. The large number of undocumented migrants, place a huge financial and human resource burden on the Government. Furthermore, they are a challenge in the area of law enforcement and security (there has been an increase in criminal activities involving undocumented migrants).

#### **5. Refugees**

99. There are about 3000 refugees in Botswana, from 15 African countries these are Algeria, Angola, Burundi, Democratic Republic of Congo, Eritrea, Ethiopia, Namibia, Rwanda, Somalia, Sudan, Uganda, and Zimbabwe. Although Botswana has a policy of “first country of asylum”, which discourages the granting of refugee status to asylum seekers who would have crossed safe countries not seeking asylum on their way to Botswana, Botswana has always considered such applications on humanitarian grounds.

100. An increase in the number of refugees compounds efforts to find durable solutions for their problems. Durable solutions includes among others: repatriation; resettlement; and reintegration. Countries which used to accept refugees for resettlement have since stopped doing so, in accordance with international law and Botswana does not repatriate refugees back to their countries.

101. Another difficulty encountered is the lengthy process in determining the status of asylum seekers. The Refugee Act provides that status should be determined within 28 days, however in practice the 28 days has not always been met.

102. Currently refugees are not covered under the ARV treatment because of the constraints of financial sustainability. Government has been offered donor funding for the sustainable provision of ARV treatment to refugees.

## **6. Congestion in prisons**

103. The Prisons authorities are mandated to maintain safe custody and security, and to reform and rehabilitate prisoners in accordance with the Prisons Act<sup>13</sup>. The prisons authorities discharge their mandate in accordance within the scope of the Prisons Act, and international treaties. The Prisons authorities are presently experiencing congestion in prisons which hamper this effort at providing humane and dignified treatment whilst incarcerated. To this end the Government of Botswana is in the process of constructing additional prisons to address the problems caused by overcrowding.

## **V. NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS TO OVERCOME CHALLENGES**

### **A. Judicial Case Management system**

104. It was observed that the judicial system was experiencing excessive delays in the disposal of cases and that there was generally slow resolution of cases leading to a backlog. For this reason the Administration of Justice<sup>14</sup> decided to adopt Judicial Case Management (JCM). Through JCM the Administration of Justice expects to achieve a just, efficient and speedy dispensation of justice by ensuring that new cases are settled expeditiously and addressing a backlog.

#### **1. Provision of legal aid**

105. There is no provision for legal aid in Botswana. However, Government assistance to defendants in criminal matters is offered to those charged with capital offences.

106. There have been a number of recommendations made by various stakeholders calling for the provision of free legal services to indigent persons.

107. A consultant was recently appointed to conduct a feasibility study on legal aid and Alternative Dispute Resolution mechanisms in Botswana largely as a result of the Government recognising the need for such an initiative. Ultimately this will help Government in its implementation of the right to legal representation for indigent persons. This will also be in line with Article 14 (3) (d) of the ICCPR which provides for the right of everyone charged with a criminal offence to have legal assistance.

108. The consultant is due to submit a final report in October 2008 and this will be followed by a stakeholder's workshop to assess the outcomes of the study.

#### **2. HIV/AIDS**

109. In combating HIV/AIDS over the past decade, a huge share of the national budget has been allocated to the National Aids Coordinating Agency (NACA) which is mandated with the overall response to the epidemic.

110. The Government has incorporated its entire strategy for combating the effects of HIV/AIDS, into a written framework, the Botswana National Strategic Framework (NSF) for HIV/AIDS (2003-2009) whose lifespan is nearing its end. Already work has begun on the development of the subsequent framework that will guide the national response to the epidemic beyond 2009 in the Botswana National Strategy Framework II (2009-2016) aligned to the

National Development Plan 10. It is expected that the framework will result in a further decline in the number of new infections.

### **3. Elimination of child labour**

111. In order to address the International Labour Organisation (ILO) goal of eliminating child labour by 2015, Botswana has formulated an Action Programme on The Elimination of Child Labour (APEC). The APEC was finalised in May 2008.

### **4. Strengthening of the inter-ministerial committee on treaties protocols and conventions**

112. An inter-ministerial committee was established in 2002, the mandate of the committee was to facilitate treaty implementation, particularly reporting as required by the various international treaties. Due to capacity constraints both financial and human, this Committee has not delivered on its mandate effectively. The Government has recently made a commitment to strengthening the capacity of the committee and to this end is being assisted by United Nations Development Programme (UNDP).

### **5. Access to education**

113. In order to address some of the challenges described above, Government has put in place the following initiatives :

- (a) The establishment of multi grade school to increase access to education by children in remote areas;
- (b) Government is considering a legislation to make basic education compulsory;
- (c) Introduction of pre-primary education as an integral part of the formal education system;
- (d) Mainstreaming gender in educational policies, programmes and projects;
- (e) Establishment of centres for children with multiple disabilities;
- (f) Implementation of Adult Basic Education Programme (ABEP);
- (g) Implementation of the out of school children education programme; and
- (h) Introduction of the integrated early childhood education programme.

### **6. National Strategy for Poverty Reduction**

114. The Government adopted the National Strategy for Poverty Reduction (NSPR) that sets poverty reduction as its overarching goal. It seeks to do this by fostering sustainable livelihoods, expanding employment opportunities and improving access to social investment. The country also has a number of policies and programmes to address vulnerable groups such as the unemployed, poor, destitute and marginalised, various social welfare and safety-net programmes.

115. The strategy provides the policy and implementation framework for the realisation of the Millennium Development Goals (MDGs) targets and the Vision 2016 ideals. The strategic pathways for poverty reduction chartered in the NSPR include:

- (a) Promotion of broad-based economic growth;
- (b) Enhancing access to basic quality education;
- (c) Health and nutrition for the poor;
- (d) Enhance effective response to HIV/AIDS (reducing the aggravating effects of the disease on employment and productivity);
- (e) Participation of the poor in the development process through a decentralised planning process with augmented capacity of Local Government institutions to provide for poverty reduction at the local level; and
- (f) Strengthening the national development management capacity for effective poverty reduction.

116. The Government through the rural development council, supported by the multi-sectoral committee on poverty reduction supervises the implementation of the NSPR including coordination, monitoring, and evaluation of different poverty alleviation policies and programmes.

## 7. Vision 2016

117. The development plans of Botswana have always been based upon the five national principles, which are Democracy, Development, Self-reliance Unity and Botho. These principles are still valid today, and have been re-focused to embrace change and relate to Botswana's current level of development.

118. In 1997 the country adopted the *Long Term Vision for Botswana* (Vision 2016) after extensive national consultation. It is a statement of long term goals that seeks to address challenges faced by Botswana and proposes a set of strategies that will meet them.

119. The Vision 2016 document is the principal guide for the governance of the country and seeks to make Botswana a better society by 2016, which would be 50 years after independence. Specifically, Vision 2016 has seven “pillars” or ideals that must be attained, which are: to build an educated and informed; a prosperous, productive and innovative; a compassionate, just and caring; a safe and secure; an open, democratic and accountable; a moral and tolerant; and a united and proud nation.

120. These pillars have issues of direct relevance to human rights, for example:

(a) By the year 2016, Botswana will be an educated and informed nation. All people will be able to have good quality education that is adapted to the needs of the country. Schooling will be universal and compulsory to the secondary level. Good quality vocational and technical training will be available at secondary level and beyond as an alternative to academic study. Entrepreneurship and business skills will be an integral part of all schooling. No student will be disadvantaged by ethnic origin, gender, language or remoteness of settlement;

(b) By the year 2016, Botswana will be an open, democratic and accountable nation. There will be a system of decentralised democracy and political tolerance. Civil society will play a full part in the development of the country, alongside government. The nation's leaders will be



open and accountable to the people. The role of traditional leaders will have been enhanced. Freedom of expression as well as press freedom will be fully protected;

(c) By the year 2016, Botswana will be a moral and tolerant nation. There will be high standards of personal morality, and tolerant social attitudes towards people of different cultures, ethnic traditions, religions or disabilities;

(d) By the year 2016, Botswana will be a united and proud nation, sharing common ideals, goals and symbols. Society will be under-pinned by resilient family values with a strong sense of tradition and pride in its history.

## VI. EXPECTATION IN TERMS OF TECHNICAL ASSISTANCE

121. The Government of Botswana seeks the support in the following areas :

(a) Assistance with building national capacities on treaty body reporting, follow up on concluding observations and recommendations of special procedures and mechanisms of the United Nations including national monitoring of the implementation of international human rights instruments;

(b) Continued human rights and international humanitarian law education and training for the disciplined forces;

(c) Improvement of case management and tracking procedure throughout the criminal justice process;

(d) Support capacity strengthening across a range of components of the National Statistical System- (poverty, trade and investment, health, and education) to support evidence based pro-poor policy making; and

(e) Strengthen systems to monitor development (MDGs, Vision 2016).

### *Notes*

<sup>1</sup> Botswana has an inter-ministerial committee on Treaties, Conventions and Protocols', which Committee was responsible for coordinating the preparation of this report.

<sup>2</sup> The civil jurisdiction of the Customary Court does not allow the courts to deal with matters such as the dissolution of civil marriages, testate succession or insolvency.

<sup>3</sup> The criminal jurisdiction of the Customary Court is limited and prevents the court from dealing with cases such as treason, bigamy, corruption, abuse of office, robbery, rape and other serious offences.

<sup>4</sup> See paragraphs 32 to 36, 41 and 67 to 72.

<sup>5</sup> The land mark case of Attorney General v Dow (1992) B.L.R 119 also clarified the courts approach to international instruments, and held, "...the courts must interpret domestic statutory laws in a way as is compatible with the States responsibility not to be in breach of international law as laid down by law creating treaties, conventions agreements and protocols within the United Nations Organisation and the Organisation of the African Unity"(page 172).

<sup>6</sup> Good v Attorney General (2205) 1 BLR 462.

<sup>7</sup> Interpretation Act CAP (01:04) of the Laws of Botswana.

<sup>8</sup> Although girls used to account for over half the net and gross enrolments at both primary and secondary level of education current statistics show that the percentage of boys and girls is almost the same at these levels. Even at

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tertiary level where the access and participation of girls used to be low in the 1990s, their current share of total enrolment has increased substantially. However vocational education remains the only area where girls' participation lags behind mainly due to the socialization process from the family through the community and school as agents of socialization.

<sup>9</sup> Dow; Kamanakao; Good; CKGR Several actions have been brought before the courts for the protection of such rights, Unity Dow v Attorney General is an example of such action where the Citizenship Act was successfully challenged because it was discriminatory.

<sup>10</sup> Rule 48 of the Court of Appeal Rules (04:01).

<sup>11</sup> The Penal code was amended in 1998 to make the offence of rape gender sensitive and deny bail to persons accused of the offence. The amendment introduced a minimum sentence of ten years and mandatory HIV testing for persons convicted of rape; The Affiliations Proceedings Act was amended in 1998 to make it possible for a person other than a mother to institute legal proceedings under the Act for child support; The Public Service Act was amended in 2000 to recognise sexual harassment as misconduct in the workplace and introduced appropriate penalties; The Marriage Act was amended to make it illegal for any person under the age of 18 years to marry; and the Abolition of Marital Power Act abolished the common law principle of marital power which recognised the husband as the head of the family; As a consequence of these various amendments, the Miscellaneous Amendments Act was passed to align with Abolition of Marital Power Act.

<sup>12</sup> The Declaration of Alma-Ata was adopted at the International Conference on Primary Health Care, at Alma-Ata, [Kazakhstan](#) (6 to 12 September 1978). It expressed the need for urgent action by all governments, all health and development workers, and the world community to protect and promote the health of all the people of the world. It was the first international declaration underlining the importance of [primary health care](#). The primary health care approach has since then been accepted by member countries of [WHO](#) as the key to achieving the goal of "Health for All". Primary Health Care is essential care made universally accessible to individuals and families in the community through their full participation.

<sup>13</sup> Prison Act Cap (21:03).

<sup>14</sup> The mission of the Department of the Administration of Justice is "... to maintain, sustain, and develop an efficient and effective judicial system that dispenses justice fairly, impartially and effective judicial system ... expeditiously ... in accordance with the Constitution of Botswana."

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HUMAN RIGHTS COUNCIL  
First session of the Working Group on the  
Universal Periodic ReviewSUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 c) OF  
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\***South Africa**

The present report is a summary of eighteen stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

\* The present document was not edited before being sent to the United Nations translation services.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations

1. Human Rights Watch (HRW) indicated that South Africa has made strides in developing a legislative and institutional framework for social, economic and cultural rights, it has struggled to progressively implement these rights. It further noted that South Africa has yet to ratify the International Covenant on Economic Social and Cultural Rights<sup>2</sup>. In addition, the Centre on Housing Rights and Evictions (COHRE) reported that South Africa has neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and has not yet ratified the Convention on the Rights of Persons with Disabilities (CPD)<sup>3</sup>.

2. The national human rights institution, the South African Human Rights Commission (SAHRC), has called on the Government of South Africa to commit to the passage of comprehensive legislation criminalizing human trafficking<sup>4</sup>. The Community Law Centre (CLC) indicated that the South African Constitution guarantees a range of children's rights and a key success has been the finalisation of the Children's Act 38 of 2005. Nevertheless some practical challenges remain. According to the CLC<sup>5</sup>, although the promulgation of some parts of the Children's Act is still pending, there is considerable political will behind this endeavour. However, the same cannot be said of the Child Justice Bill 49 of 2002, another key child rights legislation, which continues to languish. The CLC recommended that South Africa take urgent steps to see the Children's Act promulgated in full and the Child Justice Bill 2002 and the Children's Amendment Bill of 2006 enacted into law and implemented speedily as possible<sup>6</sup>.

## II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### A. Implementation of international human rights obligations

#### 1. Equality and non-discrimination

3. Although South Africa has taken concerted and successful steps towards eliminating racial discrimination in *de jure* terms, COHRE stated that there still exists *de facto* racism and racial discrimination, particularly related to the access to adequate housing, water and sanitation. Policies and politics of racial segregation prior to 1994 have left a legacy of inadequate and peripheral accommodation for the urban poor, including a substantial under-provision of decent housing opportunities for black people; and the segregation of black people in overcrowded townships and informal settlements on the periphery of the City far away from employment opportunities and facilities<sup>7</sup>. Furthermore, according to CLC, poverty in South Africa is stratified along gender lines, as indicated by, *inter alia*, the higher unemployment rate for women. Women, particularly black women, typically have lower incomes and less job security than men<sup>8</sup>.

4. According to HRW, while South Africa's constitution outlaws discrimination based on sexual orientation, and same-sex marriage has been legalized, gay and lesbian people remain vulnerable<sup>9</sup>.

## 2. Right to life, liberty and security of the person

5. The Centre for the Study of Violence and Reconciliation (CSVR) informed that allegations of torture and other assaults have continued to be reported by the Independent Complaints Directorate (*see table in the contribution*), suggesting that there continues to be a systemic problem of torture being used for the purposes of interrogation, and that steps taken in implementing the prevention of torture policy fall short of the type of measures necessary to ensure that torture is prohibited<sup>10</sup>.

6. According to CLC, South Africa has not yet criminalised the act of torture as required by Article 4 of CAT. While two earlier draft bills were circulated in 2005 for comment by the responsible department (Justice and Constitutional Development), there has been no reported progress to date (October 2007). The overall impression of CLC is that South Africa has made little progress in taking active steps to prevent and combat torture. Apart from a policy on the prevention of torture developed by the South African Police Service (SAPS), no other legislation, regulations or policies dealing with people deprived of their liberty, and especially prisoners, make mention of the absolute prohibition of torture<sup>11</sup>.

7. The CSVR reported that the South African Police Services (SAPS) Policy on the Prevention of Torture provides for prompt steps to be taken to ensure that complaints of torture are properly investigated. It also informed that the Independent Complaints Directorate (ICD) has a legal mandate to investigate offences allegedly committed by any member of the SAPS or municipal police agency. However, obstacles to the effectiveness of these mechanisms in relation to their impact in ensuring that instances of torture are properly investigated and in preventing torture, include: SAPS does not record data on reports of torture or on investigative or other steps which have been taken in relation to allegations of torture; while the ICD is obliged by law to investigate deaths in police custody and as a result of police action, cases of torture are not given particular priority and the ICD has not given any specific priority to ensuring its effectiveness in investigating such cases. ICD investigations are also not of a consistently high quality, even in high priority cases. Instances of lack of cooperation by the SAPS with ICD investigations have been reported. Prosecutors allocated to prosecuting cases of torture are also not necessarily of senior rank or properly experienced. The cumulative effect of the weaknesses on the part of the SAPS, ICD and the prosecution service is that torture cases have little chance of succeeding except in exceptional circumstances<sup>12</sup>. Furthermore, Amnesty International reported that the ICD is under-resourced in relation to the size of the police services whose conduct it monitors<sup>13</sup>.

8. AI reported that there is also an oversight body, the Judicial Inspectorate of Prisons, responsible for monitoring conditions in detention and complaints of ill-treatment and other abuses<sup>14</sup>. AI indicated that it continues to receive reports of torture and other forms of ill-treatment and misuse of excessive force against arrested crime suspects, prisoners awaiting trial or sentenced and community-based and other political activists involved in public demonstrations. Widespread public concern about high levels of violent crime and continuing police fatalities on duty have remained as continuing contexts for police misconduct and institutional weaknesses with internal and external accountability mechanisms<sup>15</sup>. According to AI, in October 2007, corroborated cases of torture have included the police use of dogs against prone and shackled crime suspects, suffocation and electric shock devices, as well as kicking and beating of suspects. In some cases injured detainees have been denied urgent

medical care. In several cases the detainees died as a result of the torture and denial of access to medical care<sup>16</sup>.

9. The Commonwealth Human Rights Initiative (CHRI) indicated that South Africa is considered to be a leader on human rights focused police transformation, particularly in Africa. It is also considered to be a good practice example of effective accountability and protection of human rights through civilian oversight. While advances have been made recently such as the development of a system of police performance monitoring by the Gauteng Department of Community Safety and a far more robust oversight role evident by the National Parliamentary Portfolio Committee on Safety and Security, more broadly the attention given to civilian oversight has not kept pace with developments in policing. Since the disbanding of the Anti Corruption Unit in 2000, the South African Police Services has yet to implement their Corruption and Fraud Prevention Strategy to any significant extent<sup>17</sup>. CLC recommended that, as a matter of urgency; that the Government should conduct a comprehensive independent judicial enquiry to investigate the immediate and underlying reasons for the persistent high number of unnatural deaths and assaults taking place in prisons with a view to develop recommendations for prevention; that, in compliance with Article 17 of the Optional Protocol to CAT (which it signed in June 2006), the Government should enact legislation designating the National Preventive Mechanisms, and in particular the mechanism applicable to the prison system<sup>18</sup>.

10. From 2004 police have had to respond to an increasing number of public protests, according to AI. In the majority of cases they have done so without resorting to the use of excessive force. However, throughout this period and as recently as September 2007, police units have in a number of incidents resorted to unlawful levels of force, including with prohibited sharp ammunition, precipitous use of rubber bullets – the weapon of “last resort” under South African Police Services regulations - the misuse of pepper spray against demonstrators already under police control and indiscriminate beatings against unarmed demonstrators notwithstanding their compliance with regulations governing public gatherings<sup>19</sup>.

11. According to CLC, the South African prison system faces a number of critical challenges, being overcrowding, a growing prison population, increasing sentence lengths, a rapid increase of prisoners serving life imprisonment, a high mortality rate amongst prisoners presumable due to HIV/AIDS, high levels of inter-prisoner violence, the assault of prisoners by officials often with fatal consequences, and an increasingly youthful prison population. Particular concern is expressed about deaths in custody and the assault of prisoners by officials<sup>20</sup>.

12. AI indicated that in November 2006 the government made public the report of the Jali Commission of Inquiry into corruption and other abuses within the prison system and recommended that all necessary measures be taken to implement the Commission’s recommendations<sup>21</sup>. The report drew attention to institutionalised corruption and maladministration, to the routine use by C-Max Super-Maximum security prison of solitary confinement, and that sexual violence was rife, with warders implicated in facilitating or covering-up incidents<sup>22</sup>. According to AI, impunity for abuses was fostered by management failure to institute hearings and follow up on criminal charges with the police service. Inhumane prison conditions persist due to severe overcrowding. Several deliberate and high profile incidents of *refoulement* have occurred, but they more routinely happen as a

consequence of systematic failures within the Department of Home Affairs which have led to breaches of the State's obligations<sup>23</sup>.

13. As reported by the CHRI, South Africa has been criticized for justifying its return of a non-resident to his home country on the grounds that it could not be certain that the victim *would* be tortured there. The absolute prohibition of torture would require the government to ascertain that the person will *not* be tortured. Once returned, the suspect had disappeared and had been allegedly tortured<sup>24</sup>.

14. The Masimanyane Women's Support Centre (MWSC) indicated that the South Africa's Anti-Rape Strategy was implemented in 2003, yet official rape statistics released from 2000 – 2005 indicate an overall national increase in reported rapes from 52,891 to 65,939<sup>25</sup>, and, according to Children Now (CN), around 50% of these are perpetrated against children<sup>26</sup>. CSVR noted that it represents one of the highest rape statistics in the world<sup>27</sup>. However, as noted by CSVR, a report by the South African Law Reform Commission (SALRC) found that in the year 2000, only 5% of adult rape cases and 9% of child rape cases reported to South African Police Services resulted in convictions. Respectively, 68% and 58% of cases reported to the police did not even make it to court. 15% and 18% of cases were withdrawn. Withdrawals included cases where the rape survivor was intimidated by the perpetrator, where the rape survivor was afraid of the possible reaction of unsupportive partners or parents; or because the police persuade the complainant to withdraw the charges where the evidence is weak. Progressive legislation does not guarantee the end to gender-based violence, but it is a step ahead. In this regard, an important piece of legislation is still languishing of the National Assembly<sup>28</sup>. CSVR indicated that the Criminal Law (Sexual Offences and Related Matters) Amendment Bill was passed by the National Assembly on 22 May 2007, but the hopes of the Bill finally becoming an Act in the year 2007 are fading, as it is now being revised at a very slow pace by the National Council of Provinces (NCOP). The Bill has been in the drafting for almost 10 years, denying victims of sexual violence access to justice and full exercise of their human rights<sup>29</sup>. According to HRW, rape continues to be under-reported and complainants frequently receive inadequate response by police officials. The Government has established 52 specialized sexual offenses courts (SOCs) throughout the country, which have had relative success in improving conviction rates. The Government has also established 10 Thuthuzela Care Centers (TCCs) in close proximity to these courts, where survivors of rape are able to report the crime, access specialist investigators and prosecutors, and obtain medical care and counseling<sup>30</sup>.

15. AI was informed by rape survivors and non-governmental service-providing organizations (SPOs) about cases of failed police response to these crimes, including by exhibiting gender-insensitive and prejudiced attitudes towards complainants, among them lesbian women; by delaying the complainants' access to urgent and appropriate medical examination and treatment; and by taking incomplete statements and conducting inadequate investigations. There are also examples, however, of improved police practice where strong cooperation between police, SPOs and healthcare providers has enhanced victims' access to health services and justice<sup>31</sup>.

16. The CSVR indicated that it is clear that the interest and dedication that police members have in domestic violence incidents is very low. Unless the offences committed amount to serious and violent crime, the South African Police Service has not proved its commitment and effectiveness in performing the positive duties imposed by the Domestic Violence Act

and the National Instruction 7/1999<sup>32</sup>. AI also reported that between July 2006 and June 2007, the police recorded a total of 88,784 incidents of “domestic violence”. During this period in about 38 percent of cases the complainants opened criminal cases against the perpetrators<sup>33</sup>.

17. Corporal punishment is lawful in the home as noted by the Global Initiative to End All Corporal Punishment of Children (GIEACPC)<sup>34</sup>. It noted that under common law, parents have the power “to inflict moderate and reasonable chastisement on a child for misconduct provided that this was not done in a manner offensive to good morals or for objects other than correction and admonition” (*R v Janke and Janke* 1913 TPD 382). This power may be delegated to a person acting in the parent’s place, though not in the case of teachers. As noted by the GIEACPC corporal punishment is unlawful in schools, in the penal system and in alternative care settings<sup>35</sup>. Similar observation was made by HRW<sup>36</sup>. According to CLC, an attempt through the Children’s Amendment Bill of 2006 to ban, among others, domestic corporal punishment and remove the ‘reasonable chastisement’ defence was to be discussed by Parliament this year (2007) but has been deferred for next year (2008)<sup>37</sup>. Similar observation was made by CN and SAHRC<sup>38</sup>. Children Now recommended that the full prohibition of corporal punishment is prioritised in the second Children’s Act Amendment Bill, to be developed in 2008<sup>39</sup>. Similar recommendation was made by CLC, GIEACPC and HRW<sup>40</sup>.

18. According to the Joint Working Group (JWG), there is a high rate of hate crimes and violations targeted against Lesbian, Gay, Bi-Sexual and Transgender (LGBT) people, particularly black lesbians, in South Africa. These range from hate speech to physical abuse and assault, rape and other forms of sexual violence and murder. Sexual assault and even murder motivated by homophobic prejudice is a particularly common problem, especially for black lesbian and bisexual women<sup>41</sup>. HRW noted that a spate of homophobia-induced murders of lesbians prompted the South African Human Rights Commission to develop a program of action to combat escalating hate crimes and to determine whether South Africa needs legislation in this regard<sup>42</sup>.

19. Despite an apparent prioritisation of child labour issues, CN reported that a large numbers of children in South Africa are being used by adults in the commission of crime, and find themselves in situations of commercial sexual exploitation. In addition, significant numbers of children are allegedly being trafficked into, out of and around South Africa. Objective data on the numbers of such children is virtually non-existent, and very little research of sufficient quality has been undertaken in this area. Some estimates, though, put the number of children trafficked into South Africa from neighbouring countries as high as 30,000<sup>43</sup>.

### 3. Administration of justice and the rule of law

20. The CSVR indicated that the provision of amnesty, including for torture, within the mandate of South Africa’s Truth and Reconciliation Commission (TRC), was justified on the grounds that the building of a new democratic order was a very difficult task and that this could not be achieved without a firm and generous commitment to reconciliation and national unity, which included a conditional amnesty. Those who did not apply for amnesty, or were denied amnesty by the TRC were to be prosecuted. However, after a few limited attempts at prosecutions for apartheid era crimes, the National Prosecuting Authority in February 2006, introduced amendments to its prosecution policy that creates a special dispensation for crimes



committed prior to 11 May 1994<sup>44</sup>. The amended policy authorizes the National Director of Public Prosecutions (NDPP) to take a decision not to prosecute on the basis of a full disclosure by a perpetrator of an offence committed prior to 11 May 1994 with a political objective. The policy requires the NDPP to exercise his prosecutorial discretion in a way which would amount to a rerun of the truth for amnesty procedure under the former TRC. The policy purports to confer powers, formerly exercised by the TRC's Amnesty Committee, upon the NDPP. It amounts to an improper attempt to perpetuate the TRC's legal regime in order to allow those who chose not to participate in the TRC a second bite at the amnesty cherry. No law will authorize the extension of such powers. It does so rather under the guise of prosecutorial discretion. In so doing the policy interferes with the independent exercise of the NDPP's discretion as to whether or not to prosecute<sup>45</sup>. According to CSVR<sup>46</sup>, the policy is both unconstitutional and a violation of South Africa's obligations under international law, including the ICCPR and the CAT, and is currently being challenged in the High Court in South Africa.

21. According to SAHRC, South Africa deserves substantial praise for its creation of the Equality Courts. These courts hear complaints relating to discrimination and are designed to be accessible to the average South African acting without a lawyer. Unfortunately, whilst great strides have been taken on the legislative front and Equality Courts have been set up, it is now becoming apparent that these courts are grossly underutilized and that some appear even to have been closed without notice to the Commission or to the general population<sup>47</sup>. The SAHRC<sup>48</sup> called on the South Africa to commit to taking further measures to popularize these courts (Equality Courts) and ensuring that discrimination is redressed.

#### **4. Freedom of expression, association and peaceful assembly**

22. Reporters Without Borders (RSF) indicated that the press freedom situation in South Africa is satisfactory and comparable to that prevailing in most western European countries. The problems affecting the South African press stem for the most part from controversial court decisions, challenges to the principle of confidentiality of journalists' sources, or the acquisition of mass media by political or business leaders. Media diversity is real and press legislation is democratic in essence. Access to information is, however, still a problem in some provinces, where local governments are sometimes reluctant to provide the public with evidence of their mismanagement<sup>49</sup>. As reported by the CHRI, the Promotion of Access to Information Act (PAIA) was passed by the Parliament in 2000. The legislation is exemplary. Yet, according to CHRI, the implementation of this law raises a number of concerns. In the absence of an ad hoc body, the supervision and promotion of the PAIA is the responsibility of the SAHRC<sup>50</sup>. To fulfill these duties fully, much more active involvement of SAHRC is necessary. Similarly, under the Act no appeal bodies have been created and the applicants are therefore compelled to appeal to the High Court, an extremely expensive and lengthy process that is out of the reach of the vast majority of South Africans<sup>51</sup>.

#### **5. Right to work and to just and favourable conditions of work**

23. According to the International Federation for Human Rights (IFHR), documented and undocumented migrants are exposed to exploitation at work. Many of them are paid below the legal minimum wage (experienced foreign teachers, whether documented or undocumented, were paid between 600 and 800 rands per month, and one as little as 350 rands, when teachers in government schools often start at 2 000 rands per month or more), work for longer hours

than authorised by law, without obtaining necessary break and leave. Inspections conducted by the Department of labour remain rare and rarely lead to imposing penalties on the employer<sup>52</sup>.

## **6. Right to social security and to an adequate standard of living**

24. SAHRC reported that the wealth gap in South Africa has been growing, rather than shrinking, since the end of Apartheid. Additionally, many poor South Africans have sunk deeper into poverty since the end of Apartheid. Further, according to SAHRC, it continues to be true that a grossly disproportionate number of those living in extreme poverty are black. This is a substantial threat to the health of a new democracy, and is connected with many of other pressing social problems, including the extremely high levels of violence and the spread of HIV/AIDS. Indeed, some reports, including ones emanating from government sources, exist of people living in such desperate poverty that there are persons intentionally infecting themselves with HIV in the hope of getting a disability grant. There have also been reports of HIV positive persons deliberately refusing to take ARV treatment for fear of losing their disability status and disability grant. Despite no research to substantiate allegations, there are persistent reports in the media that teenage girls intentionally become pregnant in order to access a child support grant from government<sup>53</sup>. SAHRC called on the Government to continue prioritizing the creation of jobs and job programs<sup>54</sup>. Children Now recommended that the deep poverty in which so many South African children live be addressed via extending the Child Support Grant to all children, and that the means test be removed so that primary health care programmes are rolled out more widely<sup>55</sup>.

25. SAHRC was also deeply troubled by reports of government corruption. This corruption substantially interferes with the exercise of social and economic rights and also contributes to the poor and the vulnerable being unable to access government services<sup>56</sup>.

26. As reported by the COHRE, South African domestic law, particularly following extensive progressive jurisprudence developed by the Constitutional Court, includes extensive protections against forced eviction. These protections notwithstanding, according to COHRE's database of forced evictions, over 840,000 people were forcibly evicted in South Africa between 1995 and 2006, with over 5000 people being evicted in 2006<sup>57</sup>. CLC indicated that between 1995 and 2005, 826 679 people were reportedly evicted<sup>58</sup>. According to SAHRC, the Government has been speaking of setting up an alternative dispute resolution to deal with evictions for a number of years, but to date this is not forthcoming. There is also a dire need for additional legal services to be offered to farm dwellers faced with eviction<sup>59</sup>. As reported by COHRE, another impediment facing South Africa in terms of its commitment to providing adequate housing is the critical shortage of rental public housing stock for low-income groups<sup>60</sup>. It stated that South Africa's water delivery and sanitation system has been criticised for having a number of weaknesses, including community non-engagement, lack of consumer education resulting in widespread refusal to pay for water and sanitation services, vandalism and water piracy<sup>61</sup>. CN indicated that adequate access to safe drinking water and sanitation is still denied to many South African children in 2005, only 54% of children had access to basic sanitation and only 58% had access to drinking water at their homes. Over 6 million children (35%) live in informal housing or traditional dwellings<sup>62</sup>.

27. SAHRC indicated that the government has placed a significant emphasis on the provision of services to rural areas. However, there are still some rural households that are

without adequate housing, water, sanitation, and electricity. Additionally, many rural residents are unable to access government services, including medical services, due to lack of transportation. This has many disturbing implications, including in the areas of female reproductive health and HIV/AIDS<sup>63</sup>. HRW recommended that a pro-poor public health care system must be developed, with upgraded public health care infrastructure, capacitated and trained staff, and increased funding<sup>64</sup>.

28. SAHRC noted that South Africa is to be commended for its attempts to make medical care available to all South Africans, in accordance with its Constitution. Unfortunately, the achievement of this goal has been hampered by consistent under-resourcing and by the increased demand created by HIV/AIDS. Currently, there is a four-year wait for many common medical procedures. Additionally, resources for education in medicine and nursing have been cut, leading to a current shortage of health care providers. There is an enormous disparity in South Africa between public and private health care that further fuels inequality<sup>65</sup>.

29. According to the CLC, gender-based violence (GBV) is a key factor in increasing women's risk of contracting HIV. South Africa also remains the country with the highest number of people living with HIV in sub-Saharan Africa. UNAIDS estimates that by the end of 2005, 5.5 million people were living with HIV in South Africa, 3.1 million of them women<sup>66</sup>. Concern was expressed by the SAHRC that, while the rates of HIV and AIDS are decreasing in many countries, there does not appear to be a substantial decrease in South Africa<sup>67</sup>. According to SAHRC, many rural residents lack even basic information about the cause and treatment of HIV/AIDS<sup>68</sup>.

30. HRW indicated that while the work of non-governmental AIDS organizations and civil society groups in South Africa has been widely commended, the Government's response has been criticized, both domestically and internationally. Much of this criticism has focused on the lack of access to antiretroviral treatment (ART) across the country<sup>69</sup>. AI noted that according to the government's Mid-Term Report on the Millennium Development Goals in May 2007, "a cumulative total of 303,788 patients" were in antiretroviral therapy treatment programs at 316 public sector healthcare sites across the country. However, health rights monitoring organizations observed at the time that this still represented less than half of those needing ART. While treatment is free in public health sector facilities, other factors operate to undermine the availability, accessibility and quality of health services for people living with HIV and AIDS. These include, from AI's field observations, a critical shortage of health personnel, particularly in rural and other under-served areas; delays by national and provincial departments of health in the "accreditation" of additional healthcare facilities to provide ART<sup>70</sup>.

31. MWSC noted that the State has attempted to address accessibility issues through the Choice on Termination of Pregnancy Amendment Bill but the legislation has faced major opposition from pro-life groups who successfully challenged the amendments in the Constitutional Court on procedural grounds. Government was given 18 months (until beginning of 2008) by the Constitutional Court to follow proper public consultative processes to have the Amendment Act passed, failing which it will be declared invalid. Reproductive and sexual health education and information targeting adolescent girls and boys are generally confined to HIV/AIDS education<sup>71</sup>. Although crucial it is necessary to broaden this approach to include practical and appropriate information on the prevention of pregnancy through various contraceptive and barrier methods, early pregnancy<sup>72</sup>.

### **7. Right to education and to participate in the cultural life of the community**

32. Serious concerns persist according to HRW regarding the quality of rural education: many farm schools are staffed by unqualified teachers, and lack resources and infrastructure. State schools are required to waive fees for families that are unable to afford them, yet some local administrators refuse to do so. This contributes to de facto discrimination against very poor children and those from families affected by HIV/AIDS, who may consequently be excluded from attending school. Sexual violence, corporal punishment, bullying, gang-related activities, and occasional murders continue to occur in some South African schools<sup>73</sup>. In September 2007 the South African Parliament proposed that legislation to curb violence in schools be included in the Education Laws Amendment Bill, currently under consideration. SAHRC recommended that the Government commit to prioritising this issue and taking innovative and interdisciplinary approaches to resolving it. SAHRC called also on the government of South Africa to commit to increasing its efforts to provide services to rural areas<sup>74</sup>.

### **8. Minorities and indigenous peoples**

32. Cultural Survival (CS) indicated that the South African government should officially recognize its indigenous peoples and should eliminate the legislative classification of its citizens into Black, White, and Colored categories in order to improve accountability for violations of their rights, and ensure that they are adequately represented within the government. The government must continue to denounce unjustified police violence and should take steps to eliminate police violence directed at Khoisan peoples. While the steps the Government has taken towards restitution of Khoisan lands are welcome, the Government needs to provide better resources to Khoisan indigenous communities, both during resettlement onto their lands and after they are resettled, to ensure proper sustainable development within these areas. Finally, for CS, South Africa must do more to preserve indigenous languages and promote Khoisan traditional history and culture<sup>75</sup>. According to Unrepresented Nations and Peoples Organization (UNPO), despite the progress of South Africa to ensure the protection of cultural heritage and the increasing participation of the different indigenous group in decision making, including the Vhavenda, the South African government needs to implement its laws incorporating the indigenous groups and providing access to the sacred sites of the latter<sup>76</sup>.

### **9. Migrants, refugees and asylum seekers**

33. According to IFHR, migrants, which represent around 500 000 persons for a population of 47 millions, are amongst the most exposed to human rights violations and have the least legal protection and support to defend their rights. Highest numbers come from neighbouring countries in recent years due to the political situation in their country<sup>77</sup>. According to recent studies, IFHR noted that there is a growing number of children entering South Africa through neighbouring countries border posts, both accompanied and unaccompanied; they seem to be staying in Gauteng and border areas, working on farms, in informal trade, etc. There are growing numbers of women and children amongst undocumented migrants<sup>78</sup>.

34. According to CSV, while the Refugees Act of 1998 (Act 30 of 1998) was a significant achievement, in that it separated out refugees and asylum seekers from other categories of migrants, and provided for non-refoulement, there are a few issues which require attention in

relation to the implementation of the Act. While the Act provides for the completion of an application for asylum of 180-days, in practice the Department of Home Affairs, which is tasked with this responsibility currently has a backlog of just over 110,000 applications that are in its system. According to CSVr, the latest backlog initiative was undertaken between June and October 2007. People wait on average 3-4 years to have their refugee status determined. While waiting for their applications to be decided, such asylum seekers are also harassed by police, who do not understand South Africa's refugee legislation, and are often inappropriately detained<sup>79</sup>. Zimbabwe refugees have borne the brunt of ill-informed officials, and government policy which did not identify Zimbabwe asylum seekers until 2004. Training on the rights of refugees and asylum seekers within various Governments is lacking, and refugees and asylum seekers continue to be victims of xenophobic attitudes<sup>80</sup>. Similar observation was made by HRW<sup>81</sup>.

35. According to IFHR, migrants, even documented, live in permanent insecurity. Police control and harassment is a common experience among foreign migrants. Interviews and reports indicate that ID controls are frequent and may come with police officers asking for bribes or sexual favours, extorting money or goods, inflicting verbal or physical abuse. Such migrants are also faced with hasty deportation at the country borders without adequate verification of their legal status, subjected to police violence, destruction of identity documents and properties, etc. Migrants also run the risk of being arrested (including wrongfully), detained (including for longer periods than authorised by law: in 2006 hundreds of suspected illegal immigrants detained at Lindela Repatriation Centre were unlawfully held beyond the period allowed under the Immigration Act (30 days or 120 days with a court warrant) and deported. These practices clearly contravene migrants rights to dignity, personal security and property<sup>82</sup>. Similar concerns were raised by the CSVr<sup>83</sup>.

#### **10. Land redistribution**

36. SAHRC was concerned by the failure of the government to meet its targets for land redistribution. There are many challenges in this area including the inability to carry out land reform due to lack of adequate resources and skills. In some instances, land reform projects have failed due to inadequate support from government. SAHRC called on the South African government to commit to hiring the skilled personnel needed to carry out land redistribution and to provide requisite services to new landowners. This commitment should extend to the provision of necessary support services to new land owners so that they can be successful in their farms<sup>84</sup>.

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

37. A best practice identified by CN is the development of a sophisticated model of costing, budgeting and implementation planning for child-related legislation<sup>85</sup>.

#### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

38. [n/a]

#### **V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE**

39. [n/a]

Notes

<sup>1/</sup> The following stakeholders have made a submission (all original submissions are available in full text on: [www.ohchr.org](http://www.ohchr.org)):

Civil Society:

JWG: Joint Working Group, UPR Submission, November 2007, Braamfontein;

CHR: Center for Human Rights, University of Pretoria, UPR Submission, November 2007, Pretoria;

Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein;

GIEACP: Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, London;

Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville;

HRW: Human Rights Watch, UPR Submission, November 2007, New York (USA)\*;

Voice of Wrongfully Imprisoned, UPR Submission, November 2007, Johannesburg;

Cultural Survival, UPR Submission, November 2007, Cambridge (USA)\*;

Unrepresented Nations and Peoples Organization, UPR Submission, November 2007, The Hague (the Netherlands);

Masimanyane Women's Support Centre, UPR Submission, November 2007, East London;

COHRE: Centre on Housing Rights and Evictions, UPR Submission, November 2007, Geneva (Switzerland)\*;

CHRI: Commonwealth Human Rights Initiative, UPR Submission, November 2007, New Delhi (India)\*;

RSF: Reporters Without Borders, UPR Submission, November 2007, Paris (France)\*;

IFHR: International Federation for Human Rights, UPR Submission, November 2007, Paris (France)\*;

Centre for the Study of AIDS, University of Pretoria, UPR Submission, November 2007, Pretoria;

AI: Amnesty International, UPR Submission, November 2007, London (UK)\*;

Children Now, Alliance of South African NGOs, UPR Submission, November 2007;

National Human Rights Institution, SAHRC: South African Human Rights Commission, UPR Submission, November 2007, Johannesburg\*\*.

NB: \* NGOs with ECOSOC status; \*\* National Human Rights Institution with A status.

<sup>2/</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 5.

<sup>3/</sup> Centre on Housing Rights and Evictions (COHRE), UPR Submission, November 2007, Geneva (Switzerland), page 5.

<sup>4/</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 14.

<sup>5/</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, page 6 and Human Rights Watch, UPR Submission, November 2007, New York (USA), para 27.

<sup>6/</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, p. 4. See also: Human Rights Watch, UPR Submission, November 2007, New York (USA), page 6 and para 28.

<sup>7/</sup> Centre on Housing Rights and Evictions (COHRE), UPR Submission, November 2007, Geneva (Switzerland), page 7.

<sup>8/</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 25.

<sup>9/</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 5.

<sup>10/</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 3.

<sup>11/</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 11 and 12.

<sup>12/</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 3.

<sup>13/</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.

<sup>14/</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.

<sup>15/</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.

<sup>16/</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.

<sup>17/</sup> Commonwealth Human Rights Initiative (CHRI), UPR Submission, November 2007, New Delhi (India), pages 3-4.

<sup>18/</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, page 3.

<sup>19/</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.

- <sup>20</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 9.
- <sup>21</sup> Amnesty International, UPR Submission, November 2007, London (UK), pages 4-5.
- <sup>22</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.
- <sup>23</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 4.
- <sup>24</sup> Commonwealth Human Rights Initiative (CHRI), UPR Submission, November 2007, New Delhi (India), page 4.
- <sup>25</sup> Masimanyane Women's Support Centre, UPR Submission, November 2007, East London, page 2-3.
- <sup>26</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 5.
- <sup>27</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 5.
- <sup>28</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 5.
- <sup>29</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 5.
- <sup>30</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 2.
- <sup>31</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 1.
- <sup>32</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 5.
- <sup>33</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 2.
- <sup>34</sup> Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, London, page 2.
- <sup>35</sup> Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, London, page 2.
- <sup>36</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 7.
- <sup>37</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 30.
- <sup>38</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 1 and South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 15.
- <sup>39</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 6.
- <sup>40</sup> Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, London, page 1; Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, p. 6 and Human Rights Watch, UPR Submission, November 2007, New York (USA), page 7.
- <sup>41</sup> Joint Working Group, UPR Submission, November 2007, Braamfontein, page 4.
- <sup>42</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 5.
- <sup>43</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 2
- <sup>44</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, pages 1-2
- <sup>45</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 2
- <sup>46</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 2
- <sup>47</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 6.
- <sup>48</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 6.
- <sup>49</sup> Reporters Without Borders, UPR Submission, November 2007, Paris (France), page 1.
- <sup>50</sup> Commonwealth Human Rights Initiative (CHRI), UPR Submission, November 2007, New Delhi (India), page 3.
- <sup>51</sup> Commonwealth Human Rights Initiative (CHRI), UPR Submission, November 2007, New Delhi (India), page 3.
- <sup>52</sup> International Federation for Human Rights (IFHR), UPR Submission, November 2007, Paris (France), page 2.
- <sup>53</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, page 2.
- <sup>54</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, page 2.
- <sup>55</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 6.
- <sup>56</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 17
- <sup>57</sup> Centre on Housing Rights and Evictions (COHRE), UPR Submission, November 2007, Geneva (Switzerland), page 5-6.
- <sup>58</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 20.
- <sup>59</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 10.
- <sup>60</sup> Centre on Housing Rights and Evictions (COHRE), UPR Submission, November 2007, Geneva (Switzerland), page 7.
- <sup>61</sup> Centre on Housing Rights and Evictions (COHRE), UPR Submission, November 2007, Geneva (Switzerland), pages 8-9.
- <sup>62</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 3-4.
- <sup>63</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 8.
- <sup>64</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 7.

- <sup>65</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 11.
- <sup>66</sup> Community Law Centre, University of Western Cape, Human rights situation in South Africa: some areas of concern, November 2007, Bellville, para 23-24.
- <sup>67</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 12.
- <sup>68</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 12.
- <sup>69</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 6.
- <sup>70</sup> Amnesty International, UPR Submission, November 2007, London (UK), page 3.
- <sup>71</sup> Masimanyane Women's Support Centre, UPR Submission, November 2007, East London, page 5.
- <sup>72</sup> Masimanyane Women's Support Centre, UPR Submission, November 2007, East London, page 5.
- <sup>73</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), page 4.
- <sup>74</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 8.
- <sup>75</sup> Cultural Survival, UPR Submission, November 2007, Cambridge (USA), page 1.
- <sup>76</sup> Unrepresented Nations and Peoples Organization, UPR Submission, November 2007, The Hague (the Netherlands), page 1.
- <sup>77</sup> International Federation for Human Rights (IFHR), UPR Submission, November 2007, Paris (France), page 1-2.
- <sup>78</sup> International Federation for Human Rights (IFHR), UPR Submission, November 2007, Paris (France), page 3.
- <sup>79</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, pages 3-4.
- <sup>80</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 4.
- <sup>81</sup> Human Rights Watch, UPR Submission, November 2007, New York (USA), pages 2-4.
- <sup>82</sup> International Federation for Human Rights (IFHR), UPR Submission, November 2007, Paris (France), page 2.
- <sup>83</sup> Centre for the Study of Violence and Reconciliation, UPR Submission, November 2007, Braamfontein, page 3-4.
- <sup>84</sup> South African Human Rights Commission, UPR Submission, November 2007, Johannesburg, para 9.
- <sup>85</sup> Children Now, Alliance of South African NGOs, UPR Submission, November 2007, page 7.



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**UNIVERSAL PERIODIC REVIEW**

**Report of the Working Group on the Universal Periodic Review**

**Zambia \***

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## Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of Zambia was held at the 9th meeting on 9 May 2008. The delegation of Zambia was headed by Mrs. Gertrude M.K. Imbwae, Permanent Secretary, Ministry of Justice of the Republic of Zambia. For the composition of the delegation, composed of 19 members, see annex below. At its 13th meeting held on 14 May 2008, the Working Group adopted the present report on Zambia.
2. On 28 February 2008, the Human Rights Council selected the following group of Rapporteurs (troika) to facilitate the review of Zambia: Senegal, Switzerland and the Philippines.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Zambia:
  - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/ZAB/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/ZAB/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/ZAB/3).
4. A list of questions prepared in advance by Germany, the Netherlands, Denmark, Ireland, Latvia, Sweden and the United Kingdom of Great Britain and Northern Ireland and was transmitted to Zambia through the troika. These questions are available on the extranet of the UNIVERSAL PERIODIC REVIEW.

## I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

### A. Presentation by the State under review

5. At the 9th meeting, on 9 May 2008, Mrs. Gertrude M.K. Imbwae, Permanent Secretary, Ministry of Justice and Head of Delegation of Zambia, presented the national report and indicated that it had been prepared by the Government through the Ministry of Justice. Broad national consultations were undertaken and inputs from stakeholders, including civil society, were incorporated into the draft report and thereafter validated through the same process. She indicated that Zambia took note of the Working Group's advance questions to the national report and responded to them. With regard to Denmark, Sweden and the United Kingdom's question on how the issue of the death penalty will be dealt with in the ongoing revision of the Constitution, she indicated that in the year 2002, a constitutional review commission was appointed to collect public opinion, inter alia, on the abolition or retention of capital punishment in Zambia's statutes. Its report and the draft constitution are currently being considered by the National Constitutional Conference (NCC) which was established in 2007. In response to a question by Denmark on gender-based violence bill, it was indicated that the Zambia Law Development Commission has been tasked with carrying out research and consultations on legislation pertaining to gender gender-based violence. The Commission has established a 15-member committee which consists of both Government and civil society organizations and is chaired by the Directorate of Public Prosecutions. According to the Commission's programme of activities, it is hoped that a bill will be in place by the end of

2008. She also stated that Zambia was in the process of preparing legislation against gender-based violence.

6. On concerns raised by Denmark on the high number of cases involving violence and in some cases torture by the police, it was stated that the Constitution of Zambia prohibits torture and other form of cruel and degrading treatment against any person. The Prisons Act Cap. 97 also make it an offence for any member of the Service to commit any act of violence against a prisoner. The Human Rights Commission also has unlimited access to prisons and it has investigated cases of violence against prisoners reported to it. She also reported that the police have started training officers in investigations and purchased investigations tools, for instance, forensic equipment like cameras and computers. Pursuant to an Amendment to the Zambia Police Act the Government set up the Police Public Complaints Authority (PPCA) as part of the remedial measures to mitigate, among others, acts of torture at the hands of the police. By August 2006 the PPCA had received and investigated 1,273 complaints of torture and abuse of authority leading to 14 officers being dismissed and disciplined.

7. In response to Ireland's question on women human rights defenders being subjected to stigmatization, discrimination and intimidation, Zambia stated that like all persons within the territory of the Republic, they enjoy the rights contained in part III (the Bill of Rights) of the Constitution, including the right to life, freedom from torture, freedom of assembly and association, freedom from discrimination, and liberty and security of persons. Article 28 of the Constitution further provides for remedies for individuals whose rights under the Bill of Rights are alleged to have been violated. On a question raised by Ireland in relation to libel and security laws, it was indicated that the country does not have nor does it intend to have laws targeted at intimidating journalists. It is the Government's desire to create a free and conducive environment for the media to operate in and also to ensure that individuals, including journalists, enjoy their constitutional freedom of expression. There have been a few instances where the Government had taken journalists to court or brought criminal charges of defamation against them, and individual Government officials have also used defamation laws to seek civil redress. Libel laws are necessary to ensure that the media enjoys their freedoms with responsibility, balance and fairness. As the Supreme Court ably put it in the case of *Sata v. Post Newspaper*, freedom of speech and press cannot be synonymous with the freedom to defame. However, she indicated that Zambia has noted that there are some laws that may need reform.

8. Defamation of the President is a criminal offence under Zambia's domestic laws and that this does not only apply to journalists and no deliberate steps have been taken hitherto to reform the Criminal Code with regard to the issue of defaming the President and publishing false news. In response to Ireland's question on measures aimed at improving overcrowding and the living conditions in prisons, Zambia is currently transferring prisoners from the most congested prisons to prisons with higher holding capacity and a prisons conditions' working group has just recently been established under the Access to Justice Programme. In response to Latvia's question on whether Zambia would consider extending a standing invitation to all special procedures of the Human Rights Council in the future, she indicated that Zambia, as a member of the Human Rights Council, will issue an open/standing invitation. On the question put by the United Kingdom on the role of civil society in the preparation of the national report, the national report was prepared through the Ministry of Justice which had appointed an inter-ministerial committee on human rights comprising relevant ministries and departments, the judiciary, and the Human Rights Commission to coordinate the preparation of the report. In response to the question by the United Kingdom on the steps Zambia is taking to incorporate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Economic, Social and

Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) into domestic law, the Fifth National Development Plan for the period 2006-2010 prioritized the promotion and protection of human rights in the Governance Chapter. One of the activities that will be undertaken in order to achieve this objective is the domestication of international human rights treaty provisions, including of those four instruments, which are not already part of Zambian legislation. On the steps Zambia is taking to reduce the length of police custody and of pre-trial prison custody, it was reported that under the Access to Justice Programme, consultants were hired to develop a handbook on best practices and guidelines for the criminal justice system. The aim of the handbook is to improve case management by coming up with best practice guidelines for effective coordination, communication and cooperation amongst criminal justice institutions.

9. On measures that are being considered to help reduce the prison population, in particular in relation to judicial reforms, it was reported that the Criminal Code Amendment Act provides for community service as one of the penalties that can be meted out on a convicted person. However, in practice community service has been difficult to implement due to the lack of a clearly defined supervisory mechanism. The Act is currently being reviewed in order to provide for a supervisory mechanism for convicts sentenced to community service. Another measure that Zambia has put in place is the parole system. While parole has been provided for in the Prisons Amendment Act No.16 of 2004, it has not been put into practice due to certain mechanisms that have not been put in place. It is in line with this that a draft statutory instrument providing for such mechanisms, including the functions of a Parole Board that will oversee the implementation of parole, has been submitted to the Ministry of Justice for consideration and further action. In concluding, the Head of Delegation conveyed Zambia's commitment to the promotion and protection of human rights and to cooperate with the Universal Periodic Review mechanism both during and after the review.

### **B. Interactive dialogue and responses by the State under review**

10. During the ensuing interactive dialogue, 39 delegations made statements, praising Zambia for its high-level representation as well as the quality of their presentation and their national report.

11. Algeria commended Zambia for the recent establishment of the National Human Rights Institution in accordance with the Paris Principles. It welcomed Zambia's efforts to strengthen its national machinery on gender mainstreaming and recommended to Zambia to strengthen its efforts on gender issues. It commended Zambia on the continuing efforts to ensure the right to education, in particular in view of the increase of girls and recommended that Zambia continue its efforts to improve its educational system and seek international assistance in this regard. It also recommended that Zambia continue improving the living conditions of detainees.

12. China noted Zambia's human rights legislation and human rights institutions. It noted Zambia's considerable efforts in ensuring the right to life, and in improving the access to housing, education and other economic, social and cultural rights. China asked for information about the Ministry for the Integration of Women in Development and new measures Zambia intended to take to improve the observance of women's human rights.

13. Latvia noted with appreciation Zambia's efforts in gender mainstreaming and on the adoption of several policies and programme to promote the rights and full equality of women, including in the areas of reproductive health and the legal and social protection of children and women. It noted as well the high degree of freedom of expression enjoyed in the country, which plays a significant role in the promotion of human rights. It also noted with great satisfaction Zambia's decision to issue a standing invitation to all special procedures, and called upon other countries to follow this example.

14. Brazil noted that the national report highlighted examples of progress made and of obstacles to improving the human rights situation. It commended Zambia on the establishment of several human rights institutions and noted that despite the numerous positive measures adopted, violence against women continues to be a serious problem, as referred to by treaty bodies. It asked what programmes and practical measures are taken to prevent gender-based violence and what legal reforms have been undertaken to strengthen the laws against violence and discrimination against women. Brazil recommended to Zambia to consider adhering to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

15. The Russian Federation asked whether members of all 72 official tribes in Zambia had equal access to participating in State elections and receiving education, and whether tribal languages were also taught in schools. It also cited problems related to the prison system - overcrowding, poor nutrition, lack of appropriate medical care, unsanitary conditions and lack of a proper water supply, and asked what was being done to improve the situation. It asked how the Government was tackling the high levels of maternal mortality, malaria and HIV/AIDS. It further asked whether Zambia had sought technical cooperation to improve the situation with respect to its treaty reporting obligations.

16. Austria commended Zambia on the consultative process in the drafting of the report. On the issue of eliminating discrimination against women, concerns were expressed by the treaty bodies that article 23 of the Constitution provided for exclusions and exceptions to the prohibition against discrimination, including in matters concerning civil and customary law. Austria recommended that the prohibition of discrimination be strengthened in the context of the current constitutional-review and that specific legislation be adopted to ensure the full implementation of CEDAW. Austria asked about the status of compliance with the Convention on the Rights of the Child (CRC) in particular with regard to the obligation to register children immediately after birth, the protection from all of physical or mental violence, injury or abuse, and the implementation of a juvenile justice system. Austria recommended that juvenile courts and justices be established to enhance access to justice of children in conformity with their specific needs.

17. The Democratic Republic of the Congo noted with satisfaction that Zambia is a party to many international human rights treaties, and that the Constitution guarantees the protection of fundamental freedoms. It expressed admiration regarding the fact that Zambia constitutes a peaceful multiracial, multiethnic and multicultural State. It also expressed its support to Zambia's reform efforts and asked Zambia about measures to improve access to water by the population. It recommended that international treaties adhered to by Zambia enjoy full implementation and that their incorporation in domestic law be accelerated.

18. Slovenia commended Zambia on its commitment to improving human rights of its citizens. It raised concern that there was no law prohibiting discrimination against people with disabilities and asked if the Government envisaged adopting anti-discrimination legislation in that regard. It also noted that the Constitution and laws carry union rights but noted that non-unionised workers do not enjoy protection under law. It recommended to interpret statutory law and to set enforcement mechanisms in a way that protects unionised and non-unionised workers equally and without discrimination. Slovenia also asked what Zambia had done to integrate a gender perspective in the consultations and national report for its Universal Periodic Review and what was planned for the next stages, including the outcome of the review. It recommended that Zambia systematically and continuously integrate a gender perspective in the follow-up process to the review.

19. Canada noted that Zambia represents a multiparty democracy which ensures the full enjoyment of human rights and welcomed its announcement to issue a standing invitation to all

special procedures. It referred to the Human Rights Committee's concern about the lack of clarity of the legal provisions governing the state of emergency. It also referred to the Human Rights Committee's concerns that the Criminal Code criminalizes consensual same-sex activity and (a) recommended that it be amended to decriminalize same-sex activity between consenting adults and that (b) Zambia develop programmes to respond to the HIV/AIDS related needs of sexually active gay men. Canada further (c) recommended to improve access to antiretroviral treatment for vulnerable groups, including women. Canada commended Zambia on the adoption of a National Gender Policy in 2000 and the launch of a Strategic Plan of Action on Gender 2004. It also referred to concerns by the Committee on Economic, Social and Cultural Rights (CESCR) about traditional practices and (d) recommended that Zambia take measures to improve the situation of widows and girl orphans, including by ensuring protection of inheritance through the enforcement of legislative provisions. Canada further (e) recommended that the provisions on equality before the law regardless of sex, and provisions in the draft constitution prohibiting any law, culture, custom, or tradition that undermine the dignity, welfare, interests, or status of women or men as proposed in articles 38-40, are retained in the draft constitution currently under consideration.

20. The delegation of Zambia responded to the questions raised, in particular on the question on sanitation facilities in schools, it referred to the existent water supply and sanitation facilities and programmes promoting new facilities related to hygiene in all schools. On the question on article 23 of the Constitution, the issue is currently being examined by the NCC. The draft constitution, which is before the NCC, has progressive provisions regarding the issue of discrimination on the grounds of personal and customary law. Regarding education, the delegation stated that in addition to English, seven local languages are taught in schools from grades 1 to 12, and explained that whereas private schools use English as language of instruction and no laws compel them to use the local languages. Regarding the question on health and maternal mortality rate, it recalled Zambia's commitment to the attainment of the MDGs and that it has pledged to reduce maternal mortality by three quarters by 2015. The national health strategic plan's objective is to increase access to integrated reproductive health and family planning services, and several strategies have been formulated to reduce the maternal mortality rate. On questions regarding gender-based violence and prison conditions, the delegation referred to its previous statement.

21. France noted the dynamic nature of the Human Rights Commission and recommended that Zambia strengthen this with a status in accordance with the Paris Principles, particularly with respect to human resources and independence. It noted that the President of Zambia announced his opposition to the death penalty and that a de facto moratorium had been introduced, and asked whether Zambia intended to formally abolish the death penalty or, if not, to transform de facto moratorium into a de jure moratorium. France also asked, if the National Constitutional Conference would propose to write down the abolition of the death penalty in the new Constitution, whether the Zambian Government would give effect to such a proposal. Noting that Zambia has denounced violence against women and expressed its intention to combat it by strengthening its legislative framework, it asked for further information on present and future measures in that regard, as well as about measures taken to combat child labour.

22. The Netherlands appreciated Zambia's openness in reporting problems it faces with regard to economic and social rights. It welcomed the de facto moratorium and called on the Government to permanently abolish the death penalty. It asked if Zambia intended to sign the Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty, commended it on the ratification of many international conventions and its pledges to incorporate their provisions into domestic law. It (a) recommended that Zambia report to the Human Rights Council about further concrete steps that will be taken to incorporate the ratified international conventions in domestic law. It noted the Human Rights Committee's concern about the criminalization of consensual same-sex activity and

(b) recommended that Zambia strive to amend its Criminal Code to decriminalize same-sex activity between consenting adults in accordance with the recommendation of the Human Rights Committee. It also noted concerns by the Committee on the Rights of the Child on the number of children living and working on the street, particularly their exposure to physical and sexual abuse, prostitution and HIV/AIDS and (c) recommended that a strategy be developed for the prevention and assistance to children living and working on the street in order to protect and guarantee their rights, involving community-based associations and other civil society organizations.

23. Mexico acknowledged the progress made by Zambia, that it has ratified most of international human rights treaties, and noted the establishment of various human rights institutions, programmes and policies. It also recognized the challenges Zambia is still facing. It welcomed the announcement to issue a standing invitation to all special procedures, noted with great satisfaction that the death penalty has not been applied and suggested to declare a moratorium on death penalty. It commended Zambia on its efforts to harmonize its legislation and its customary practices with its international human rights obligations. As 90 per cent of the sentences in the country are handed down by local courts governed by customary law, it recommended to train in human rights judges working in the local courts, administering Zambian customary law, in particular, in respect to the human rights of women and children and a gender perspective and to promote a flexible and effective system of reviewing sentences, so as to guarantee the due process of law. It also recommended that Zambia consider ratifying the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

24. Ghana noted with appreciation that the national report of Zambia was prepared through a very participatory and inclusive approach. It commended Zambia on several initiatives, including the establishment of institutions to promote and protect human rights and the incorporation of human rights education in the training curricula of law enforcement personnel and recruits. It requested more information on how the authorities ensure the development and efficiency of the Access to Justice Programme, and how it is addressing the shortage of professional magistrates in the judiciary.

25. Egypt noted that Zambia was one of the leading African countries in the promotion of democracy, political participation and human rights for all. It sought more information on the multi-party system in Zambia and asked what advice it had for other countries in Africa struggling to overcome problems in these areas and in their political development.

26. Chile commended Zambia on its efforts in the promotion and protection of human rights. With respect to the issue of death penalty, it recommended that the de facto moratorium on death penalty in place since 1997 be transformed into a de jure moratorium with a view to reach a total prohibition. It noted that under the law, a person may be deprived of liberty when suffering from mental illness, is addicted to drugs or alcohol, or is a vagrant; and asked what safeguards exist to avoid abuse of this legislation. It also noted in the national report that between 2004 and 2006 urban poverty has declined whereas rural poverty has increased, and asked what measures are taken or are planned to deal with this phenomenon. As concerns discrimination against women, it appreciated measures adopted to improve the situation of women and asked whether an evaluation of the strategic action plan on gender had been made.

27. Chad highlighted major achievements of Zambia in the field of human rights. It noted the high priority given to health, education, water provision, social security and environmental and other rights in the Fifth National Development Plan. It welcomed the protection of economic, social and cultural rights and stated that economic growth would further improve access to rights by



improving the situation of the poor. It also noted that press freedom was being strengthened and a centre for rehabilitation of victims of human rights violations had been established. It asked what was being done to address customary law and traditional practices, particularly dowry, the place of women in society and polygamy, which are in opposition with human rights, and to ensure access to courts

28. Denmark commended Zambia on its efforts to involve civil society in the preparation of the national report. It noted the establishment of the Police Public Complaint Authority (PPCA) but expressed concern about the high number of cases of ill-treatment by the police and in some cases, of torture, and asked about measures in that regard. Denmark recommended that all possible measures be taken to eliminate torture and other inhuman or degrading treatment or punishment, including that all mechanisms such as the PPCA and Victim Support Unit are fully implemented. It also recommended that Zambia ensure that every case of torture or ill-treatment by police officers is seriously investigated, prosecuted and punished and that adequate reparation is granted to victims.

29. Germany commended Zambia on its pledge to extend a standing invitation to special procedures mandate holders. It noted that Zambia was not party to the Second Optional Protocol to ICCPR, and the optional protocols to CEDAW, CAT and the CRC, and asked when Zambia intends to sign and ratify them and what concrete measures would be taken to better incorporate the provisions of those conventions into domestic legislation. Referring to CESCR concerns about the negative impact of extreme poverty on the enjoyment of economic, social and cultural rights, especially by the most disadvantaged groups such as girl children and those affected by HIV, it asked what measures were planned to improve the situation of these groups.

30. Tunisia commended Zambia's commitments to the promotion and protection of human rights, and noted that despite a very difficult international situation and economic and social problems, it continues to make major efforts to ensure that its people can enjoy human rights in the best possible conditions. Noting the challenges faced by Zambia on the issue of access to drinking water, it welcomed efforts to ensure clean drinking water and an equitable distribution of it to its people, including in rural areas, which deserve encouragements by the international community. It requested further details on private public partnerships in the promotion of clean and drinking water.

31. The United Kingdom congratulated Zambia on the broad consultations with civil society in the preparation of the national report, and noted its strong commitment to human rights and congratulated on the progress made. On the abolition of the death penalty, it welcomed the NCC debate on this issue and recommended that Zambia take further steps in relation to the abolition of the death penalty. It noted that overcrowding and poor conditions in prisons and other places of detention still remain a challenge. It welcomed progress in improving access to justice and noted its increased investment in prison infrastructure and its efforts to reduce the length of pre-trial detention. It recommended that Zambia sign the Optional Protocol to the Convention against Torture at the earliest possible opportunity. It further stated that Zambia has demonstrated its commitment to creating a conducive environment for the media to operate freely with a pledge to implement a Freedom of Information Act in 2008. In order to further encourage the desired environment, the United Kingdom encouraged the reform of the Criminal Code in relation to the prosecution of journalists. It further recognized the important role of local courts in processing civil and minor criminal cases, thus relieving pressure from a heavily overburdened judiciary. However, it recommended that further measures be put in place to ensure that the cultural and traditional beliefs practiced in customary law applied by the local courts do not lead to discrimination against women. It also noted that the establishment of the Human Rights Commission in 1996 and the

Police Public Complaints Authority in 2002. It urged the Government to continue to improve their capacity and to provide them with adequate resources to carry out their important functions.

32. Cuba expressed admiration for Zambia's progress in economic and social rights, particularly in education and health, adding that being a developing country with financial and material difficulties has not been an obstacle to Zambia's decisive protection of the human rights of its people. It congratulated the Government's determination and efforts to attain the MDGs, its good legal framework and human rights institutions, and its progress in enrolling girls in schools. It asked what measures and actions Zambia had taken to achieve these results as a useful guide for other countries facing disparities in gender in the education system. It recommended that Zambia continue its efforts in economic, social and cultural rights to further build upon the progress it has already made. It also recommended that Zambia share its experiences and good practices, which have enabled them to obtain significant results in the field of education, particularly in the access of girls to education and training.

33. Malaysia recognized the progress in the promotion and protection of human rights despite the challenges and constraints faced. It commended Zambia on the policy measures made to advance the right to health in the Fifth National Development Plan 2006-2010 and Vision 2030. It requested information on the efforts to address the high level of maternal mortality and child mortality. It also noted the policy direction of the Government to provide education for all by 2015. The substantive increase in the enrolment at public universities in 2005 reflects the emphasis on education, and in this regard, it asked about efforts made or planned by the Government to achieve its objective to provide free and compulsory basic education by 2015.

34. Italy referred to the concern of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights about the persistence of customary practices which lead to violations of women's rights. It recommended that Zambia take all appropriate measures to improve the situation of women's rights on the ground and retain in the draft constitution currently under discussion both the provision on equality before the law regardless of sex and the provision prohibiting any law, culture, custom or tradition that undermines the dignity, welfare, interests or status of women. It also recommended that Zambia develop a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers, and the practice of human rights in the school community.

35. Norway praised Zambia for its active and constructive engagement with the Council. It noted that while there are many media outlets in Zambia, few engage in political reporting or analysis, even though Zambia deems itself a multi-party democracy. The so-called Defamation Act, prohibiting defamation of the Head of State and carrying a sanction of three years' imprisonment, was said to contribute to this situation as it was often interpreted to apply to the Government in general. It asked if Zambia has taken or will take steps to change the Defamation Act in the Penal Code in order to broaden the space for exercising the freedom of expression and recommended that Zambia consider taking such steps. It noted that a process to adopt a new bill on freedom of information had been stalled for more than two years and asked why the adoption was not moving forward and at the same time recommended swift adoption of the bill on freedom of information. While Zambia enjoys an active civil society, strict regulations in the proposed NGO Bill, such as a registration procedure which allows extended control by the Government, were issues of concern. Norway asked about the current status of this proposed bill.

36. The delegation of Zambia responded to the questions raised, in particular on the issue of the death penalty and same-sex relationships, and stated that the laws in any country are reflections of

its socio-economic development. It noted that the issue of the death penalty has been referred to the NCC for deliberation and requires a referendum in any case. The question of the state of emergency is also a constitutional issue, which means that possible amendments to the law depend on the outcome of the NCC and can therefore not be identified at this point. On the issue of access to justice, the delegation stated that the programme in place focuses on criminal justice, but that the Government intends to extend it in the future to other areas, such as civil and administrative justice. The decentralization of the legal aid board is one of the initiatives already taken; lawyers have been recruited and are being posted in the nine provinces. So-called justice houses, where the legal aid board and the DPP will be present, will be constructed in five provinces. The delegation also referred to the training of local court justices, in particular relating to human rights of women. Through these trainings, Zambia hopes that local justices will be educated to deal adequately with laws relating to justice for women and children. In addition, local courts and some of the Magistrates Courts are being rehabilitated to ensure easy access to justice. The delegation also mentioned a programme to deal with the rehabilitation of prisons; a number of prisons have been identified, as already stated, and several donors are willing to support the programme. The delegation indicated that some prisons have already been rehabilitated. Offices of the victims' support unit, one of the departments benefiting from the Access to Justice Programme and dealing mainly with gender based violence cases, have also been rehabilitated so that officers can have a conducive working environment.

37. On the PPCA and concerns voiced by Denmark, the delegation explained that the PPCA does not prosecute but makes recommendations to the police itself as well as to prison and police authorities, which take the matter before the courts of law in case of a criminal nature. As previously mentioned, at least 14 police officers have already been dismissed. On the question as to whether they are discriminating, the delegation stated that the customary laws are currently un-codified and administered by local courts in civil matters, with the possibility of appeal to the Magistrates Courts, the High Court and the Supreme Court. The 72 tribes in Zambia have their own customary laws, some of which are similar, but most of them are different. A study has been undertaken to identify similar customary laws for the purpose of codification in order to have, at least, written guidelines to which the local court justices can refer. The delegation also noted that harmful customary laws have been identified and outlawed through amendments to the Criminal Code, and that those violating these laws are being prosecuted. The delegation mentioned that polygamy is allowed under customary laws, that according to a survey some people were against it and others in favour, and that not all tribes practice polygamy.

38. As regards the Freedom of Expression Bill, the delegation stated that it had been deferred, but that recent announcements by the Ministers on Public Information indicate that the bill will be taken back to Parliament. Regarding the NGO Bill, the Government did what was necessary; a consultation process was under way. NGOs wanted to come back to the Government on several issues, and the bill should be presented to Parliament. On the question from China on measures taken to improve women's rights, the delegation stated that, as a basic measure, sensitization campaigns in the provinces are being carried out to that effect. In addition, in 2000, the national policy on gender was developed, which outlines a number of items linked to rights of women. Zambia also intends to domesticate CEDAW, and legislation is currently being developed which will be specific to gender based violence. The Government, together with cooperating partners, has developed a joint gender support programme to expedite gender issues and to ensure that sufferings of women are alleviated quickly. On the question from France on child labour, the delegation stated that Zambia has ratified ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and that the Government revised the Employment of Young Persons and Children Act in order to ensure full implementation of the Convention. Through programmes sponsored by the ILO, measures are being taken to eradicate

child labour, and the Government is currently considering a draft document on child labour. In terms of institutions, a child labour unit has been set up within the Ministry of Labour, which monitors issues regarding child labour and a national steering committee has been established, which is comprised of ministries, NGOs and other stakeholders that have child welfare/labour-related programmes. The delegation underlined the importance of developing a multi-faceted approach, which requires concerted efforts of all stakeholders, and stated that child labour committees are being created that carry out awareness programmes.

39. On the need for technical support for State reporting obligations, the delegation stated that Zambia is one of those countries in the region which are almost up to date with all State reports. Local capacity has been created to deal with these obligations, and the Government intends to update all reports. On the Human Rights Commission and its mandate, the delegation stated that like any other granted institution, it has its autonomy. However, it relies on finances from the treasury, which has limited resources. Like any body relying on Government funds, 100 per cent funding cannot be provided.

40. New Zealand welcomed the efforts made by Zambia in improving the rights of its citizens and in engaging constructively with civil society and the international community to address human rights issue in a transparent and genuinely democratic manner. It welcomed the announcement that Zambia will issue a standing invitation to all special procedures. It noted the challenges faced by Zambia in health services and also noted the high level of mortality rate due to a high percentage of unskilled home deliveries and limited access to facilities. It however noted that the infant and child mortality has declined. It welcomed the positive steps taken to address maternal neo-natal and child health and would welcome any information on current levels of engagement with practitioners at the community level who are involved in the development of national strategies to improve health standard in these areas. It also indicated that if it is not happening yet, it recommended that Zambia consider developing a strategy that ensures that the experiences of community practitioners are taken into account in the development of its national strategies to improve health standards in these areas.

41. Ireland welcomed the announcement that Zambia will be issuing a standing invitation to all special procedures. It welcomed the ongoing efforts of Zambia to improve prison conditions and recommended that Zambia continue to prioritize the improvement of the conditions of detention. It welcomed the information received concerning freedom of expression and recommended Zambia continue the reform of the Criminal Code in relation to the prosecution of journalists. Regarding the issue of decriminalization of same sex relationships between consenting adults, it thanked the information provided by the Zambian delegation and stated that criminalization leads to unnecessary suffering of men and women and respectfully asked Zambia to keep an open mind with regard to it.

42. The Syrian Arab Republic welcomed the Government's efforts to respect its human rights obligations, its national plan of work to implement treaty body recommendations, national education services to increase the number of girls receiving education, and its efforts to combat hunger, poverty and corruption. It noted that Zambia was among the foremost African States and 30<sup>th</sup> in the world in the fight against corruption, according to a report of Transparency International in 2004. HIV/AIDS was cited as one of the main challenges for the country and the Syrian Arab Republic appealed to states to strengthen development assistance to Zambia in this regard. It asked what measures were being adopted by Zambia to raise awareness among population of the dangers of AIDS and what measures were implemented for people affected by it. It also asked what negative consequences had emerged from TRIPS agreements at the international level.

43. Morocco commended the inclusive approach undertaken by Zambia in the preparation of the national report and commended it on the continuous commitments and improvements demonstrated in the field of human rights despite the difficulties and objective obstacles that it is facing. It commended it on the large number of achievements in the area of health and housing as well as the establishment of commissions to apply programmes and the adoption of a law to fight against corruption. It asked about further measures in the area of legislation to combat discrimination against women and strengthening training and education of women on human rights subjects.

44. Botswana congratulated Zambia for its open and inclusive manner employed in the preparation of its national report. It commended it on the establishment of national human rights institutions, including the Human Rights Commission, the Commission for Investigations, the Police Public Complaint Authority and existing processes aimed at enhancing access to justice institutions for the poor and vulnerable. It also noted Zambia's efforts to incorporate human rights training in the curricula of law enforcement personnel and recruits. It further noted Zambia's robust civil society, including the church and the media which were historically significant in helping raise awareness of democracy and human rights situations. It also noted Zambia's impressive record of ratification of regional and international human rights instruments.

45. Azerbaijan appreciated the willingness of Zambia to comply with its human rights obligations, through the establishment of the Human Rights Commission and the Investigator General and through its efforts in combating trafficking in persons. It commended Zambia on methods of eradicating extreme poverty and the measures taken in the area of education, adequate housing, health, employment and in women's rights. It asked how the Human Rights Commission would be strengthened, and if treaty body recommendations to amend article 23 of the Constitution would be implemented during the ongoing process of renewal of the Constitution.

46. The Libyan Arab Jamahiriya commended Zambia on the legislative reforms to ensure the protection of the rights of the child and the additional resources allocated by Zambia thereto and the adoption of a national plan for children. It recommended that Zambia continue its efforts to strengthen the rights of the child and protect them even further; in particular, the necessary resources should be earmarked so as to protect the weakest segments of the population, above all disabled persons, and assistance should be requested from UNICEF in that regard.

47. The United States of America stated that it was impressed by Zambia's commitment to good governance and to improving the opportunities available to the Zambian people. It commended Zambia on efforts to focus more on anti-corruption measures within the past couple of years. While progress had been achieved, it stated that there still is a need for more legislative and institutional reforms. It asked about the anti-corruption initiatives planned in the country. In referring to trafficking in persons as a serious issue in Zambia, it asked what steps are taken by the authorities to bring traffickers to justice.

48. The Republic of Korea mentioned the Human Rights Commission and efforts to improve human rights education as clear examples of significant improvements in Zambia. It asked whether steps had been taken to increase awareness of the right to appeal before statutory courts. It also cited the concern of the Committee on the Rights of the Child that Zambia lacks juvenile courts and juvenile judges and asked what measures had been taken to guarantee special protection of juveniles.

49. Slovakia enquired about the freedom of association and referred to the Constitution and the national legislation in that regard. It noted that the number of registered association is impressive. However, it noted some restrictions to form trade unions and to register, as it was reported by an

association which fights against discrimination based on sexual orientation or gender identity. On these two issues, it asked for clarifications.

50. Nigeria welcomed that Zambia was party to some major United Nations and regional human rights instruments and was encouraged by the establishment of the Police Public Complaints Authority, which addresses public complaints against police misconduct. Nigeria recognized challenges faced in the housing sector and encouraged Zambian authorities to continue constructing adequate houses for people under the housing development programme. It also asked whether congestion in prisons, a problem that is common in most developing countries, was a result of inmates awaiting trial or a high rate of conviction.

51. Angola commended Zambia on the constructive approach to drafting its report as well as the progress made in the field of human rights. It welcomed the citizens' access to basic rights and freedoms. It also acknowledged and thanked Zambia for having hosted refugees from Angola and its efforts to ensure the respect of the rights of refugees. It also noted that treaty bodies have made comments and recommendations with a view to improving certain aspects of the human rights situation and Angola believes that Zambia should take those recommendations into consideration as it will help to improve the human rights situation in the country. It also noted with great interest the efforts made by Zambia to improve the living condition of its people and asked about measures taken to ensure the legal protection of women and children.

52. South Africa commended on the progress made thus far in the area of empowerment of women and it encouraged Zambia to further intensify these efforts. It requested information on the programmes in place including the progress achieved in relation to ensuring that the right of access to drinking water and sanitation. It further requested Zambia to share information on measures that are in place to ensure that traditional practices are not in contravention of international human rights norms and standards. It noted that illiteracy still poses a great challenge and asked what programmes are in place to ensure that the Government deals with these challenges in an effective manner and about the successes of such interventions. It referred to the issue of corruption and its negative impact on the enjoyment of economic, social and cultural rights and recommended that Zambia accelerate its efforts to finalize the national anti-corruption policy and mechanisms for monitoring its implementation.

53. The Holy See appreciated Zambia's consideration of input from civil society stakeholders in its report. It noted with satisfaction Zambia's policies on the right to life, which starts at conception, and is interpreted broadly referring to environmental protection, public health and nutrition as well. It noted that the death penalty is legal in Zambia but executions have not been carried out since 1997 and encouraged Zambia to continue on this road and arrive at a complete abolition of the death penalty.

54. Bangladesh commended Zambia on having undertaken a broad consultation with all stakeholders for the drafting of their national report. While noting the difficult socio-economic conditions, it noted that Zambia has made serious stride in improving the human rights protection through a variety of institutional, legal and administrative measures. It also noted with interest the progress made in gender mainstreaming and the increase participation of women at the highest policy level both elected positions and public services. It also noted with appreciation Zambia's initiatives for the advancement of girl education. It also noted the frankness with which Zambia identified the shortcomings faced by developing countries such as in the field of economic, social and cultural rights which are also due to resources constraints. It noted that Zambia is doing its utmost, and certainly needs international support, to fully and successfully overcome those

shortcomings. It asked about the expectations of Zambia from the international community to complement national efforts to promote and protect human rights.

55. The delegation of Zambia responded to the questions raised. In particular on awareness measures related to HIV/AIDS, it stated that many measures have been taken, including trainings for public officers. To combat discrimination against women, consultations have been undertaken to develop legislation on gender-based violence. A first meeting with traditional leaders, who are critical in this process, took place to collect recommendations from them. Concerning the rights of the child, a child law reform secretariat within the Ministry of Community Development has been set up with the purpose of reviewing all child-related legislation to bring it into conformity with CRC and the African Charter on the Rights of the Child. The legal reform involves other line ministries, United Nations agencies as well as NGOs. Furthermore, a legislative audit has been completed and a National Plan of Action for Children on the Street has been developed to sensitize all stakeholders working in this area. Regarding Nigeria's question as to whether prison congestion is a result of convictions, the delegation stated that there are several reasons, one of them being that prisons date from the colonial times and therefore lack capacity. Moreover, for a long time, the human resources necessary to deal with cases were not available, in particular due to understaffing of lawyers in the DPP and the legal aid board, which is being dealt with through decentralization. Also, the coordination between the justice institutions is being improved through the Access to Justice Programme, which also reduces prison congestions.

56. On South Africa's question on the right to safe water, the delegation referred to its previous statement. On the issue of illiteracy, the delegation informed that an inter-ministerial committee is looking into this issue. Regarding the questions from New Zealand and Malaysia regarding maternal mortality and HIV/AIDS, the delegation reiterated its goal to reduce maternal mortality by three quarters by 2015. Strategies include strengthening the quality of post-natal services and family planning services with a special focus on rural districts. Many nursing schools have been opened to enhance the availability of human resources, especially of midwives. Appropriate training tools have been developed and improved self-motherhood services are being advocated for. Regarding child mortality, the Government supports a countrywide child health programme. On the question from the United States of America regarding human trafficking, the delegation stated that the offence of trafficking was criminalized through the amendments to the Criminal Code in 2005, and that the Government is currently working on a comprehensive human trafficking legislation and policy. Regarding discrimination against people with disabilities, the delegation noted that a disability policy is in place, which looks at all forms of discrimination against people with disabilities. On the question as to how the Human Rights Commission could be strengthened, the delegation highlighted the connection to economic development and to the fact that all areas of economy must be developed, so that the Commission and other institutions can access adequate funding. Finally, the delegation stated that it took note of the recommendations made by the delegations during the interactive dialogue, for instance those on the ratification of treaties to which Zambia is not a party to, and that it will convey the message to the necessary authorities so that the consultative process to ratify these treaties can be initiated. Regarding the implementation in the current NCC proceedings of international instruments to which Zambia is a party, the delegation explained that one committee of the NCC, chaired by the director of the Human Rights Commission, deals with human rights issues.

57. At the 13th meeting, held on 14 May 2008, during the adoption of the report, Mrs. Imbwa, Permanent Secretary, Ministry of Justice of Zambia, indicated Zambia's confidence that the structure of the Universal Periodic Review will contribute to improving the situation of human rights in Zambia and indicated that it will continue to engage with all stakeholders in the follow-up to the Universal Periodic Review. Despite challenges, Zambia committed itself to working towards



the observance of all its regional and international human rights obligations, and it took note of all comments, observations and recommendations made during the review process. She commented on the issue of registration of unions, and noted that section 5 of the Industrial and Labour Relations Act, Chapter 269, of the Laws of Zambia entrenches the fundamental provisions of ILO Convention No. 89 on freedom of association and protection of the right to organize. Under this provision workers have the right to belong to a union of their choice without prior authorization or indeed other legal requirements. As to all 73 tribes in Zambia, the Constitution prohibits discrimination on any grounds including tribes. In order to improve sanitation and access to safe drinking water, Zambia has put in place programmes to operationalize water sector policies to promote sustainable water resource development and ensure equitable provision of adequate quality of water to all users. Zambia will implement programmes that aim at providing adequate, safe, cost effective water supply and sanitation services to more people in urban and peri-urban areas, up to 80 per cent of the population by 2015. In terms of measures to address extreme poverty and its impact on the enjoyment of economic, social and cultural rights by vulnerable groups such as girl children and those affected by HIV/AIDS, these matters are being addressed under various programme of the Fifth National Development Plan. With regard to the issue of inadequate number of professional magistrates, measures in place to address the matter include, sponsoring law graduates to the Zambia Institute of Advanced Legal Education (ZIALE) for their bar examination to enable them enter the judiciary as professional magistrates; sponsoring serving lay magistrates to university and later to ZIALE; and improving conditions of service in order to attract advocates to join the bench. In terms of juvenile justice, most cases are heard before a magistrate camera and some magistrates are now specialized in dealing with matters involving juveniles. The Juvenile Act, Chapter 59 of the Law of Zambia provides protection for children in conflict with the law and creates special conditions for the treatment of children in conflict with the law. In conclusion, the Permanent Secretary reiterated Zambia's commitment to the promotion and protection of human rights and also its commitment to cooperate with the Universal Periodic Review mechanism both during and after the review.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

58. **The recommendations formulated during the interactive dialogue have been examined by the Republic of Zambia and the recommendations listed below enjoy the support of Zambia:**

1. **That further measures be put in place to ensure that the cultural and traditional beliefs practiced in customary law applied by the Local Courts do not lead to discrimination against women (United Kingdom);**
2. **To strengthen its efforts on gender issues (Algeria);**
3. **To systematically and continuously integrate a gender perspective in the follow-up process to the review (Slovenia);**
4. **To take measures to improve the situation of widows and girl orphans, including by ensuring protection of inheritance through enforcement of legislative provisions (Canada);**
5. **To train in human rights judges working in the local courts, administering Zambian customary law, in particular, in respect to the human rights of women and children and a gender perspective and to promote a flexible and effective system of reviewing sentences, so as to guarantee the due process of law (Mexico);**



6. That all possible measures be taken to eliminate torture and other inhuman or degrading treatment or punishment, including that all mechanisms such as the PPCA and Victim Support Unit are fully implemented (Denmark);
7. To ensure that each case of torture or ill-treatment by police officers is seriously investigated, prosecuted and punished and that adequate reparation should be granted to victims (Denmark);
8. To continue improving the living conditions of detainees (Algeria) and ensure its prioritization (Ireland);
9. To strengthen the Human Rights Commission with a status in accordance with the Paris Principles, particularly with respect to human resources and independence (France);
10. That juvenile courts and justices be established to enhance access to justice of children in conformity with their specific needs (Austria);
11. That a strategy of assistance and prevention be developed for street children in order to protect and guarantee their rights, involving community-based associations and other civil society organizations (The Netherlands);
12. To continue with its efforts to strengthen the rights of the child and protect them even further, in particular, the necessary resources should be earmarked so as to protect the weakest segments of the population, above all the disabled persons, and assistance should be requested from UNICEF in that regard (Libyan Arab Jamahiriya);
13. To continue its efforts to improve its educational system and seek international assistance in this regard (Algeria);
14. To develop a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers, and the practice of human rights in the school community (Italy);
15. To continue its efforts in economic, social and cultural rights to further build upon the progress it has already made (Cuba);
16. To consider developing a strategy that ensures that the experiences of community practitioners are taken into account in the development of its national strategies to improve health standards in maternal neo-natal and child health (New Zealand);
17. To improve access to anti-retroviral treatment for vulnerable groups, including women (Canada);
18. To share the experiences and good practices which have enabled Zambia to obtain significant results in the field of education, particularly the access of girls to education and training (Cuba);

19. To accelerate its efforts to finalize the national anti-corruption policy and mechanisms for monitoring its implementation (South Africa).

59. The following recommendations will be examined by Zambia which will provide responses in due time. The response of Zambia to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session:

1. To interpret statutory law and to set enforcement mechanisms in a way that protects unionized and non-unionized workers equally and without discrimination (Slovenia);
2. That the prohibition of discrimination be strengthened in the context of the current constitutional-review and furthermore that specific legislation be adopted to ensure the full implementation of CEDAW on the ground (Austria);
3. To consider adhering to the optional protocol to CEDAW (Brazil);
4. To transform the de facto moratorium on death penalty into a de jure moratorium (France, United Kingdom, Chile);
5. To sign the Optional Protocol to the Convention against Torture at the earliest possible opportunity (United Kingdom);
6. To consider taking steps to change the Defamation Act in the Criminal Code in order to broaden the space for exercising the freedom of expression (Norway);
7. The swift adoption of the bill on freedom of information (Norway);
8. That international treaties adhered to by Zambia enjoy full implementation and that their incorporation in domestic law be accelerated (Democratic Republic of the Congo) and to report to the Human Rights Council about further concrete steps that will be taken to implement the ratified international conventions in domestic law (Netherlands);
9. To consider ratifying the Convention on the Rights of Persons with Disabilities and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico);
10. To take all appropriate measures to improve the situation of women's rights on the ground and retain in the draft Constitution currently under discussion both the provision on equality before the law regardless of sex and the provision prohibiting any law, culture, custom or tradition that undermine the dignity, welfare, interests or status of women (Italy, Canada);
11. To continue the reform of the Criminal Code in relation to the prosecution of journalists (Ireland).

60. The recommendations noted in the report in paragraph 19 (a) and (b) and paragraph 22 (b) above did not enjoy the support of Zambia.

61. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

**Annex**

**Composition of the delegation**

The delegation of Zambia was headed by H.E. Ms. Gertrude Imbwae, Permanent Secretary, Ministry of Justice and composed of 19 members:

Mr. Mathias Daka, Chargé d' Affaires, Permanent Mission of Zambia to United Nations, Geneva;

Ms. Encyla Sinjela, Counsellor, Permanent Mission of Zambia to United Nations, Geneva;

Ms. Sindiso N. Kankasa, Governance Secretariat;

Ms. Inonge K. Mweene, Ministry of Justice - ILA;

Ms. Catherine L. Phiri, Directorate of Public Prosecutions;

Mr. Greenwell Lyempe, Immigration Department ;

Ms. Dorothy Zimba, Police Public Complaints Authority;

Mr. Tsibu Bbuku, Ministry of Health;

Ms. Annettee Nhekairo, Zambia Law Development Commission;

Mr. Edward Musona, Judiciary;

Ms. Lynn M. B. S Habanji, Ministry of Lands;

Mr. Teddy Chola, Zambia Prisons Service;

Ms. Chileshe Kasoma, Ministry of Community Development and Social Services;

Mr. John Zulu, Ministry of Youth, Sport and Child Development;

Mr. Danny Zulu, Ministry of Local Government and Housing;

Ms. Rhoda Mwiinga, Gender in Development Division;

Mr. Ronald Kaulule, Ministry of Education;

Ms. Hope N. Chanda, Human Rights Commission;

Mr. Palan Mulonda, Human Rights Commission.

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## General Assembly

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Eighth session  
Agenda item 6

### UNIVERSAL PERIODIC REVIEW

#### Report of the Working Group on the Universal Periodic Review

**Zambia**

**Addendum**

**Responses of the Republic of Zambia to the recommendations it received  
during the Universal Periodic Review on 8 May 2008\***

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\* The present document was not edited before being sent to the United Nations translation services.

**RESPONSES OF THE REPUBLIC OF ZAMBIA TO THE RECOMMENDATIONS IT RECEIVED DURING THE UNIVERSAL PERIODIC REVIEW ON 9 MAY 2008**

Under paragraph 59 of the report of the Working Group of the Universal Periodic Review, the Republic of Zambia undertook to examine eleven (11) recommendations and to provide responses at the eighth session of this Council. With regard to the eleven recommendations, the Republic of Zambia wishes to state the following:

(a) that it supports the recommendation by Slovenia relating to the interpretation of statutory law and setting enforcement mechanisms that protect both unionised and non-unionised workers equally and without discrimination;

(b) that it supports the recommendation by Austria to strengthen the prohibition of discrimination in the context of the current Constitutional review process and the adoption of legislation to ensure full implementation of the CEDAW;

(c) that it supports the recommendation to consider adhering to the optional protocol to CEDAW as recommended by Brazil;

(d) that the recommendations to transform the de facto moratorium on death penalty into de jure moratorium that were made by France, United Kingdom of Great Britain and Northern Ireland and Chile, do not, at present, enjoy its support. This is as a result of the view that the majority of Zambians hold on the matter as evidenced by the submissions to the Constitutional Review Commission. However, the National Constitution Conference is currently deliberating this very important matter and Zambia's position will be certain once the Constitution making process is completed;

(e) that it supports the recommendation of the United Kingdom of Great Britain and Northern Ireland to sign the optional protocol to the Convention against Torture;

(f) that the recommendation that was made by Norway to amend the defamation provision in the Penal Code does not, at present, enjoy the support of the Republic of Zambia. Zambia wishes to reiterate her position that this provision is not targeted at journalists as has been suggested. In this regard, the Council is referred to the response to recommendation number 11 under paragraph 59 of the report of the Working Group;

(g) that it supports Norway's recommendation to adopt the Freedom of Information Bill;

(h) that it supports the recommendation that was made by the Democratic Republic of the Congo relating to the domestication of international treaties that it is a party to, in so far as they relate to provisions that are not within its domestic laws. In this regard, one of the activities she intends to undertake during the implementation period of the Fifth National Development Plan is domestication of international human rights treaties;

(i) that it supports Mexico's recommendation to consider ratifying the Convention on the Rights of Persons with Disabilities and the Convention on the Protection of the Rights of all Migrant, Workers and Members of their Families;

(j) that it supports recommendations that were made by Italy and Canada on the draft Constitution relating to equality before the law and prohibition of any culture, custom or tradition that undermine the dignity, welfare, interests or status of women. As earlier stated this

is an issue which is being deliberated upon by the National Constitutional Conference which is an on-going process;

(k) that the recommendation by Ireland to reform the Penal Code in relation to the prosecution of journalists does not enjoy the support of the Republic of Zambia on the basis that there are no provisions in the Penal Code or indeed any other law that are targeted at Journalists. The provision relating to defamation of the President applies to all individuals within the territory, and not journalists alone, as has been suggested.

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## UNIVERSAL PERIODIC REVIEW OF THE UN HUMAN RIGHTS COUNCIL

### - ANGOLA -

#### INFORMATION SUBMITTED BY ANGOLAN CIVIL SOCIETY ORGANIZATIONS

#### **PART 1 – Introduction**

This document was written by 10 Angolan Human Rights Organizations based in different Provinces of the Country

1. **“Associação Construindo Comunidades” – ACC (Community Building Association)** – Founded in 2003, carries out a set of projects related to the issue of access to land and land possession in the Southern Province of Huila specifically in the region of Gambos. It also provides legal assistance to victims of torture and private detentions in that region. This organization has an observer status before the African Commission for Human and People’s Rights. [acchuila@gmail.com](mailto:acchuila@gmail.com)
2. **“Centro Cultural Mosaiko” (Mosaiko Cultural Centre)** – Is an Organization of the Catholic Church founded in 1995 by Dominican Priests. It is a human Rights and research Centre having a broad experience in Community capacity building on human rights issues. [mosaiko@mosaiko.op.org](mailto:mosaiko@mosaiko.op.org)
3. **“Associação Omunga” (Omunga Association)** – This Organization works on promotion and protection of the Rights of children and the youth through actions that facilitate their active participation in political, social and cultural affairs. It is a member of the World Campaign to Prevent Child Abuse and has an Observer status before the African Commission on Human and People’s Rights. [omunga.coordenador@gmail.com](mailto:omunga.coordenador@gmail.com)
4. **“Acção Angolana Para o Melhoramento e Apoio ao Meio Rural” – AMMAR (Angolan Action for the Support and Advancement of Rural Area)** – Founded in 1998 and based in Benguela Province, it develops projects in the area of conflict prevention, social and economical integration of adolescents and the youth, as well as the strengthening of community leaderships. [ammar2898@yahoo.com.br](mailto:ammar2898@yahoo.com.br)
5. **“Kitomavo Comunidades” (Kitomavo Communities)** – This Organization is based in Luanda and was founded in 2002. Its main objective is the protection of vulnerable women and children in rural areas. [kitomacomunid@yahoo.fr](mailto:kitomacomunid@yahoo.fr)
6. **“Conselho de Coordenação dos Direitos Humanos” – CCDH (The Human Rights Coordination Council)** – Was established in 2005 and it coordinates 25 human rights organizations working all over the country. [conselhodh@yahoo.com.br](mailto:conselhodh@yahoo.com.br)
7. **“Organização de Ajuda ao Desenvolvimento Comunitário” – OADEC (Organization for Community Assistance and Development)** – Was established in 1994 and implements projects in the Eastern part of the Country in the areas of economic, social and cultural rights, as well as conflict resolution in rural communities. [oadec2004@yahoo.com.br](mailto:oadec2004@yahoo.com.br)

8. **“Visão Angolana Para Protecção e Assistência Popular” – VAPA** –Was founded in 1999. Its objective is the protection, promotion and social assistance to unprotected population. Its main areas of intervention include: Education, leadership, good governance, and social development. [vapa05@hotmail.com](mailto:vapa05@hotmail.com)
9. **“Associação para o Desenvolvimento da Saúde em Angola” – ADSA ( The Association for Health Development in Angola)** – Was established in 2001 its social object is the promotion of the biological, psychological, and social welfare of the Communities. Its main activity is advocacy for the right to free and qualitative public education for the Angolan youth. It is the current executive secretary of the Angolan network for education for all. <http://ong-adsa.blogspot.com/> **PBWIKI:** <http://fme-angola.pbwik.com>
10. **“Centro Nacional de Aconselhamento” – NCC (The National Counselling Centre)**– This organization was established in 2000, and works in the area of strengthening democracy and human rights and it has an observer status before the African Commission on Human and People’s Rights. [nccangolaong@yahoo.com.br](mailto:nccangolaong@yahoo.com.br)

## **PART 2 – Executive summary and methodology**

The Angolan organizations subscribing this document aim to contribute and ensure that Angola’s passage in the Universal Periodical Review Mechanism provides a diagnosis of the application of human rights in the Country, and also bring about recommendations that will promote improvements on the field.

**Six topics** on human rights have been identified and for each one of the topics the organizations presented their growing concerns and identified alternatives for upholding the respective human rights and freedoms. As a reference, there is an allusion to the information on the human rights situation recently submitted by the Angolan State to the regional and international human rights systems<sup>1</sup>

**Key-words:** *Angola, right to habitation, right to education, right to health, right to land, right to association, and the right to participation and demonstration.*

## **PART 3 – Thematic analysis**

### **A) RIGHT TO HOUSING**

#### **- Information in recent Angolan official reports to the international and regional systems**

<sup>1</sup> African Commission on Human and People’s Rights and the UN Committee on Economical, Social and Cultural Rights, respectively (both sent in April 2008). The last one is available in <http://daccessdds.un.org/doc/UNDOC/GEN/G08/415/48/PDF/G0841548.pdf?OpenElement> .



1. There is no reference whatsoever on the forced evictions and payment of compensations.

- Recommendations and observations already made by the regional and international systems

2. Lack of data in general (namely the census of the population), and in particular on housing and forced evictions (E/C.12/AGO/CO/3/CRP.1, par.30 e 31);
3. Also the lack of guidelines related to these evictions, adequate alternatives to housing, compensations, and access to legal resources. (E/C.12/AGO/CO/3/CRP.1, par.30 e 31).

- Growing concerns of the Angolan civil society organizations

4. From 2001 to 2007, over 30.000 people were removed from their houses (according to data by national and international organizations). Many cases that were taken to court are pending until now. In July 2009 alone, 4000 houses were destroyed in the outskirts of Luanda. Since February 2009, the Lobito and Benguela local Administrations, two neighbouring cities with high touristic potential on the coast, announced the clearance of 6 slums, with about 1000 to 35.000 people, in order to build hotels, and luxurious residential compounds. The majority of the people affected were displaced by the war and relocated in these areas by the Administration itself, without ever having access to legal documents, but now they have become victims of the peace dividends.
5. The Organizations fear an increase in the number of forced evictions and even stronger slum clearances in the coming years, because, amongst other things, the following factors: Current definition of land reserves in the whole country which will be the only areas where building will be considered as legal; A new mining law which in case of approval will establish restricted areas for all mineral resources in the whole country, including those for building; many other huge investments and “development” projects; and
6. The Government has been announcing since the 2008 electoral campaign, the building of one million houses in 4 years, but so far the access conditions are not clear. There were promised kits for self construction but they will be bought for \$22.000. There was the launching of a special building and credit programs for the youth, but they have to have a formal employment in order to have access to it, while the majority of the population lives from the informal economy.

- Necessary explanation to improve the situation

7. What mechanisms were set up for a fair compensation of the families whose houses were demolished? And what mechanisms were established for negotiations between the State and the victims of demolition?
8. Why is the Government refusing to provide title deeds to the displaced or evicted families, in the new areas where they are relocated?

9. What mechanisms are established by the new mining law, bilateral and multilateral agreements, and negotiations of big projects, to protect local communities against enforced removals and land expropriations?
10. What are the mechanisms set up to inform the public about land reserves?
11. Information on the 1 million houses program and the process to access them.
12. What are the mechanisms established to ensure access to an adequate housing for the most vulnerable people?

- Alternatives to improve the situation

13. The creation of a master plan of habitation with a component dedicated to the most disadvantaged people (pro-poor policies);
14. Building of adequate houses for the families victims of demolitions;
15. Establishment of a mechanism of definitive conveyance of land in the areas where evicted people are relocated;
16. Utilization of the right to housing as the base for its policies, programs and housing, urbanism and land utilization budgets, which must have a systematically pro-poor component, in order to start reverting the social inequalities in our country;
17. Integration of the right to an adequate housing for all in the new Constitution of the country;
18. Respect for the right to housing and all other human rights in the statutes and bilateral and multilateral agreements; and
19. The creation of a master plan on habitation with a component dedicated to the most disadvantaged people (pro-poor-policies) and disseminates clear public information on the conditions for having access to habitation.

**B) RIGHT TO EDUCATION**

- Recent Information in the Angolan official reports to the regional and international systems

20. It mentions the approval of the law on the education system and adult literacy strategy for the recovery of school retardation, complemented to the “*sim eu posso*” (yes I can) program;
21. There is a reference to the establishment, by order of the Ministry of Education, of a commission to coordinate the integration of human rights in the primary and secondary school systems.

- Recommendations and observations already made by the regional and international systems

22. The education indicators are very low; the illiteracy rate of those above 15 years old and the children of the poorest is very high; disabled school girls and boys including the victims of landmine accidents leaving in remote rural and urban areas have a

very limited access to education including the mother tongue and they drop out of school very early in life. (E/C.12/AGO/CO/3/CRP.1, par. 38 e 39); and

23. Lack of State Investment in human rights education for the citizens, with special emphasis for the professionals who play a direct role in promoting and protecting human rights (E/C.12/AGO/CO/3/CRP.1, par. 38 e 39).

#### - Growing concerns of the Angolan civil society organizations

24. The School and literacy rates in Angola are increasing, but the efforts are not yet enough and education is not a greater priority today, if compared to the end of the war period. 7.14% of the State Annual Budget was allocated to education in 2004, 3.82% in 2005, 5,61% in 2006, and it is about 5% this year.
25. Although the basic education system provides for a free of charge primary education, it is not however put into effect due to the lack of classrooms, lack of conditions in schools and corruption. Therefore, the majority of learners pay monthly fees, besides the payment for the tests.
26. Of the general budget for education, 0,01%(2004); 0,03%(2005) 0,28%(2006) and 1,15% (2007) was allocated to the adult literacy. This is sensitive but not enough to curb the continuing high adult illiteracy rates;
27. So far, the Coordinating Commission for the Integration of Human Rights in the Education Subsystems has not yet presented a national human rights education plan.

#### -Necessary explanations to improve the situation

28. What are the supporting and supervising mechanisms to ensure that primary education is really free of charge, as provided by law?
29. Considering that corruption affects education in Angola what measures are taken to enable the participation of civil society in monitoring the resources allocated to the budget for the education sector?
30. Is there a specific budget for funding the teaching activities of literacy teachers?
31. What are the measures taken to allow the different social stakeholders to contribute in the drafting of a National Human Rights Education Plan?

#### - Alternatives to improve the situation

32. Establishment of mechanisms for monitoring the fees charged by the schools and support to the most underprivileged children and adults to ensure their access to education;
33. The setting up of a department for education of young people and adults in the Ministry of Education in order to solve specific issues of youth and adult education;
34. Te creation of mechanisms that will enable a greater interaction with civil society and the public organs in the field of youth and adult education;
35. Ensure the creation of mechanisms to organize the specific remuneration of literacy teachers;

36. Incorporate in the academic syllabus of each school grade the Human Rights Subject, and establish specializations in Human Rights in the Universities.

### **C) RIGHT TO HEALTH**

- Information in recent Angolan official reports to the regional and international systems.

37. It is admitted that there are inefficiencies in the National Health System

- Recommendations and observations already made by the regional and the international systems

38. High mother/children mortality rates, especially children under 5 years of age, and a high cholera and HIV/AIDS incidence (E/C.12/AGO/CO/3/CRP.1, par. 35 e 36); e

39. Insufficient investment in health (E/C.12/AGO/CO/3/CRP.1, par. 35 e 36).

- Growing concerns of the Angolan civil society organizations

40. Although the net amounts increased the budget allocated to health decrease from about 5% in 2004 to less than 4% in 2006. So far, health is not considered as a priority. Notice that the budgets allocated to both education and health put together is still inferior to that of the police and the army alone;

41. Insufficient infrastructure, equipments, medicines, and qualified health personnel; and

42. Lack of qualified people to work with the people with disabilities.

- Necessary explanations to improve the situation

43. What is the plan of the Angolan Government for reforming the National Health System?

- Alternatives to improve the situation.

44. A greater investment in health, taking into account the community needs in health services delivery; and

45. Reopen the National Institute for the Rehabilitation of people with disabilities.

### **D) RIGHT TO LAND FOR THE FARMERS AND CATLE BREEDING NATIVE COMMUNITIES: ACCESS TO LAND AND TO THE RESOURCES**

- Information in recent Angolan official reports to the regional and international systems

46. There is not reference to the existence of a program of encouragement to the development of family agriculture and cattle breeding, the protection and promotion of native communities, and a especial program to protect and promote the cattle belonging to traditional cattle breeders.

- Recommendations and observations already made by the regional and international systems

47. The ECOSOC committee observed with a great concern the mass migration of communities and ethnic groups from rural areas to urban ones and there was a concern about respecting and preserving their cultural heritage. (E/C.12/AGO/CO/3/CRP.1, par. 39).

- Growing concerns of the Angolan civil society organizations

48. Although the land act has meaningful advances, it is not explicit in regard to the existence of a traditional sector, as is the case of the farmers and cattle breeders whose survival and development depends on an explicit acknowledgement and protection by the State;

49. There has been an increase of conflict situations brought about by the illegal occupation of land belonging to the farmers and cattle raising communities by business men, and this is a threat to food security, social stability, and the survival of the communities;

50. The farmers and cattle breeders, especially those from the South of Angola have no possibility to have access to bank credit as a group, especially from the Development Bank.

- Necessary explanation to improve the situation

51. What mechanisms will the Angolan Government use to protect the ecosystem, the culture and equality of rights for native people ( ex.: The San, the Vatua, and farmers and cattle raising communities of the Southwest of Angola)?

52. How will the Angolan State facilitate access to bank credits and other facilities in order to develop and promote Agriculture and cattle breeding in the traditional sector?

53. What practical measures have the Angolan Government to stop the destruction of the environment in the natives' territory?

54. With the growing conflicts between the peasant and cattle breeding communities, what is position of the Angolan State in the protection of community land and families?

55. What mechanisms do the granite mining companies have in the farmers and cattle breeders' territory, in order to respect the human rights and contribute for the development of local communities, especially for the creation infrastructures of health, education, potable water and basic sanitation?

- Alternatives to improve the situation

56. Drafting of a especial legislation that acknowledges the existence of native territories of the peasant and cattle breeding communities, and establish especial mechanism for the State protection of the right to land and territory for the farmers and cattle breeding communities;
57. Urgent implementation of the population census, because it would facilitate the recognition and updating of data about the different ethnic groups;
58. Explicit recognition of the land belonging to the farmers and cattle breeding communities of Southern Angola and establishment of concrete mechanisms to safeguard and promote their cattle and agriculture based economy;
59. Creation of a especial food basket for the poorest families and underprivileged in the farmers and cattle breeding communities, in order to alleviate the endemic hunger worsened by the shortage of rain and the scarcity of food;
60. Create measures that help to protect the environment with the involvement of local communities; and
61. Creation of a system that demands the mining companies to fulfill their corporative responsibilities in areas of native communities, with regard to respect for human rights and the environment, and also enables the community to have a free access to legal resources.

## **E) RIGHT TO ASSOCIATION**

### - Information in recent Angolan official reports to the regional and international systems

62. Recognition that the current legal instruments regulating the process to constitute associations are inadequate and too slow.

### - Recognition and observations made by the regional and the international systems

63. Submission of non-Governmental organizations to a rigorous supervision, coordination, evaluation and inspection by the Humanitarian Assistance Technical Coordination Unit (E/C.12/AGO/CO/3/CRP.1, par. 13).

### - Growing concerns of the Angolan civil society organizations

64. The “*Unidade Técnica de Coordenação de Ajudas Humanitárias*” (UTCAH) (Technical Coordination Unit for Humanitarian Assistance) was founded in a war context and therefore, its mandate was to coordinate the action of humanitarian assistance. Its role has no been redefined ever since the end of the war; and
65. There is not a standard implementation of the law on the associations and the process is hard for organizations from certain provinces. Some have to go to Luanda to legalize them.

### - Necessary explanations to improve the situation

66. Why are the procedures and administrative costs related to the process of constitution and recognition of (human rights organizations) associations in Angola no standardized in all provinces, above all if compared to the capital - Luanda?
67. The process of revision to the current law on associations and the statute of the Technical Coordination Unit for Humanitarian Assistance (UTCAH) is underway. At what stage is the process and what is the civil society's role in it?

- Alternatives to improve the situation.

68. Promote a broader participation of civil society organizations in the process of revision of the associations act and the drafting of the respective regulations;
69. The standardization of the administrative procedures for the constitution and recognition of (human rights) associations including the necessary costs.

**F) THE RIGHT TO PARTICIPATION AND DEMONSTRATION**

- Information in recent Angolan official reports to regional and international systems

70. Relate the exercise of citizenship to the ownership of the identity card (ID);
71. Speaks about the massive participation of the citizens in political parties, in social organizations, in the elections, and in cultural and sports events.

- Recommendations and observations already made by the regional and international systems

72. Low membership in trade unions (E/C.12/AGO/CO/3/CRP.1, par. 22).

- Growing concerns of the Angolan civil society organizations

73. The delay and the costs for obtaining the identity card (ID) are the reasons why at least half of the population does not have it yet. Notice that it was not compulsory to have an ID to vote in the 2008 legislative elections, but it is compulsory to have it in order to have access to formal employment or open a bank account;
74. People from many social organizations defending human rights have been harassed, and in case of activism in the areas of clearance and enforced removal they are abused and in certain cases even detained;
75. In regard to the enforced removals, the people are only informed sometimes but never consulted. During the enforced removals in previous years, there were some examples of compensation, but with the systematic increase of demolitions even affecting entire neighborhoods, there is no more any process of negotiation or participation, except in those instances in which the community and civil society resist in pressurizing despite the harassment. In Lobito only a community was informed and it is strongly harassed whenever they try to claim for their rights. Another community of the 6 threatened quarters was not yet officially informed, but it was already forbidden to use the graveyard without any explanation. Still in Lobito, some open spaces and public infrastructure (pediatric hospital, maternity

hospital, playgrounds) are being privatized without the participation of the population in taking decisions related to their city;

76. A new mining law has been drafted after consultation between the companies and the central authorities only. Neither the provincial and municipal administrations of the mining areas, nor the civil society and the communities were consulted. This act is expected to be approved by the Council of Ministers as law, meaning that it is not expected to be discussed in the National Assembly.

- Necessary explanations to improve the situation

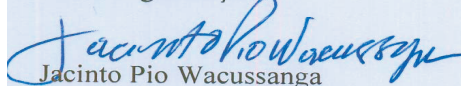
77. What is the mechanism established to facilitate the acquisition of identity cards (ID)?
78. What are the mechanisms set up to protect the human rights of activists?
79. What are the existing mechanisms to ensure the previous information, of people about to be removed and facilitate their participation in the process?
80. Which mechanisms allow citizens to participate in decision making processes at local level of city planning in particular and other public affairs in general?
81. Some steps of public consultation (direct or through the parliament) are necessary before the approval of the new Mining law, considering that it binds the whole country and its mineral resources, and therefore have a potentially high impact on the lives of the local communities.

- Alternatives to improve the situation

82. Establishment of mechanisms that facilitate the acquisition of identity cards (ID) by all citizens (the example is the system that was used for the electoral registration); and
83. Setting up commissions in each Municipality, with full participation of civil society and representatives of each area and community, to discuss previously all plans related to the building of houses, requalification, and the utilization of public spaces, slum clearances and removals, relocations in the area, all this in order to facilitate the consultations and negotiations case by case.

By the organizations

Pelas Organizações



Jacinto Pio Wacussanga

Presidente do Conselho de Direcção

Associação Construindo Comunidades - ACC



## THE ROLE OF NGOs AT THE UPR

<u>UPR Stage:</u>	<u>Timescale:</u>	<u>What to do:</u>
<u>Before the Review</u>	Review (R) – 12 months	<p><b>Participate in national consultations</b> with the State under Review (SuR) for the drafting of the SuR National Report</p> <hr/> <p><b>Submit a report</b> (5 pages for an individual NGO and 10 pages for coalitions) on the SuR's human rights situation to be used by the Office of the High Commissioner for the summary of other stakeholders' information as part of the basis of the UPR</p> <hr/> <p><b>Lobby States</b> (missions in Geneva or embassies in the SuR) participating to the UPR to get your issues/ recommendations raised/made during the review</p>
	R – 8 to 6 months	
	R – 3 to 2 months	
<u>During the Review</u>	R	<ul style="list-style-type: none"> <li>• <b>Attend the review</b></li> <li>• Hold a <b>side event</b></li> <li>• Conduct <b>assessment meetings</b> on the review of the SuR</li> <li>• Hold a <b>press conference</b> or issue a <b>press release</b> to give your assessment of the review of the SuR</li> </ul>
<u>Human Rights Council Session</u>	R + 3 to 4 months	<ul style="list-style-type: none"> <li>• Give an <b>oral statement</b> providing "general comments before the adoption of the outcome by the plenary" (20 minutes is allocated to NGOs, coalitions of NGOs are given priority)</li> <li>• Issue a <b>written statement</b></li> </ul>
<u>Between 2 Reviews</u>	R + 1 to 4 years	<ul style="list-style-type: none"> <li>• <b>Make</b> accepted recommendations and voluntary commitments <b>public</b></li> <li>• <b>Monitor their implementation</b></li> <li>• <b>Engage in dialogue</b> with the State reviewed to participate in their implementation</li> </ul>

## KEY CONTACTS

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United Nations Department of Economic and Social Affairs Section - For request relating to consultative status with ECOSOC: Email: *desangosection@un.org*

## INTERESTING SITES, CONTACTS AND BIBLIOGRAPHY

Office of the United Nations High Commissioner for Human Rights – [www.ohchr.org](http://www.ohchr.org)

The handbook on Working with the United Nations Human Rights Programme: A Handbook for Civil Society can be found on: [www.ohchr.org/civilsocietyhandbook/](http://www.ohchr.org/civilsocietyhandbook/)

International Service for Human Rights: [www.ishr.ch/](http://www.ishr.ch/)

CONNECTAS Human Rights: [www.conectas.org](http://www.conectas.org)

UPR info: [upr-info.org](http://upr-info.org) (dedicated to providing information about the UPR)

AWOMI Zambia: [awomizambia@gmail.com](mailto:awomizambia@gmail.com)

Human Rights Council – [www2.ohchr.org/english/bodies/hrcouncil/](http://www2.ohchr.org/english/bodies/hrcouncil/) (more information on the UPR, sessions, calendar and documentation can be found on this site)

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NewDeadlines.aspx>

[http://www.surjournal.org/eng/conteudos/getArtigo7.php?artigo=7,artigo\\_nader.htm](http://www.surjournal.org/eng/conteudos/getArtigo7.php?artigo=7,artigo_nader.htm) more info on how civil society can engage with the UPR

Open Society Initiatives for Southern Africa: [www.osisa.org](http://www.osisa.org)

- i. General Assembly, Human Rights Council, Resolution A/RES/60/251
- ii. GA 60/251 resolution, available at [http://www2.obchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www2.obchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf), last checked on 11/02/2010
- iii. OHCHR Handbook for Civil Society, available at [http://www.obchr.org/EN/AboutUs/CivilSociety/Documents/Handbook\\_en.pdf](http://www.obchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf), last checked on 23/02/2010  
This list is based on the one provided in Chapter V of the OHCHR Handbook for Civil Society which deals with the HRC.
- iv. [http://www.obchr.org/EN/AboutUs/CivilSociety/Documents/Handbook\\_en.pdf](http://www.obchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf), last checked on 23/02/2010
- v. [http://74.125.93.132/search?q=cache:tLNfqMm327gJ:ap.obchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_5\\_1.doc+brc+resolution+5/1&cd=1&hl=en&ct=clnk](http://74.125.93.132/search?q=cache:tLNfqMm327gJ:ap.obchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc+brc+resolution+5/1&cd=1&hl=en&ct=clnk)
- vi. Conectas Human Rights – Roadmap for NGO’s engagement with the UPR process.
- vii. [www2.obchr.org/english/bodies/hrcouncil/](http://www2.obchr.org/english/bodies/hrcouncil/)
- viii. Available on the Human Rights Councils website.
- ix. working with the United Nations Human Rights Programmes: Handbook for civil society
- x. Conectas Human Rights – Roadmap for NGO’s engagement with the UPR process, see as annex
- xi. From HRC documents, available at [http://74.125.113.132/search?q=cache:tQODH\\_6FDqwJ:www2.obchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-31.doc+%22conducted+in+an+objective,+transparent,+non-selective,+constructive,+non-confrontational+and+non-politicized+manner%22&cd=6&hl=pt-BR&ct=clnk&client=firefox-a](http://74.125.113.132/search?q=cache:tQODH_6FDqwJ:www2.obchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-31.doc+%22conducted+in+an+objective,+transparent,+non-selective,+constructive,+non-confrontational+and+non-politicized+manner%22&cd=6&hl=pt-BR&ct=clnk&client=firefox-a), last checked on 11/02/2010
- xii. Human Rights Council, <http://www1.umn.edu/humanrts/iwraw/Inst-building-UN.pdf>, last checked on 23/02/2010
- xiii. Working with the United Nations Human Rights Programme: A Handbook for Civil Society
- xiv. Information and guidelines for relevant stakeholders on the Universal Periodic review mechanism
- xv. [http://ap.obchr.org/documents/sdpage\\_e.aspx?b=10&se=69&t=3](http://ap.obchr.org/documents/sdpage_e.aspx?b=10&se=69&t=3)
- xvi. See section I. “General guidelines for the preparation of information under the Universal Periodic Review





OSISA

Open Society Initiative  
for Southern Africa