

Communiqué on the Capacity Building Workshop on International Human Rights Protection Mechanisms in Zambia

Lusaka, 16 – 17 August 2017

1. A capacity building workshop (the workshop) on international human rights protection mechanisms in Zambia was held at the Intercontinental Hotel in Lusaka, Zambia, on 16 and 17 August 2017. The workshop was co-organised by the Centre for Human Rights, University of Pretoria, and the School of Law, University of Zambia, as part of the Human Rights Law Implementation Project (HRLIP). The aim of the workshop was to create awareness, sensitise and facilitate interviews with relevant stakeholders in Zambia on international human rights protection mechanisms and obstacles that impede the implementation of decisions.
2. The Human Rights Law Implementation Project (HRLIP) is an academic research project initiated by the University of Bristol with Open Society Justice Initiative and the University of Pretoria, the University of Essex and the University of Middlesex as partner universities. The Project relies on the three most advanced continental human rights protection systems, namely the inter-American system, the European system and the African system. It deals with the implementation of international human rights law in general and in particular the implementation of the decisions issued by the international human rights bodies. In Africa, the HRLIP is being implemented in three countries: Burkina Faso, Cameroon and Zambia.
3. In attendance at the workshop were Dr. Zonke Majodina, former member of the Human Rights Committee (HRC), Attorney General of Zambia, Mr. Likando Kalaluka, legal officers and staff of various ministries such as the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Gender, Ministry of Home Affairs, staff of the Zambian Human Rights Commission, other academic institutions in Zambia, Zambia Open University, Centre for Human Rights researchers, Law Association of Zambia, civil society organisations and the press.
4. The workshop was opened with welcome remarks from Mr. Landilani Banda, Lecturer, School of Law, University of Zambia and Professor Frans Viljoen, Director, Centre for Human Rights, University of Pretoria. Professor Michelo Hansungule also addressed the participants in the course of the workshop.
5. The Republic of Zambia (Zambia) has ratified 8 of the 9 core United Nations (UN) human rights treaties, which constitutes an exemplary record. These treaties establish treaty bodies charged with the mandate to monitor state implementation of the obligations arising from corresponding treaties. The Human Rights Committee is one of such

treaty bodies. It was established by the International Covenant on Civil and Political Rights (the Covenant) to monitor the implementation of the Covenant. However, Zambia has only accepted one of the optional complaints mechanisms allowing for individuals to submit complaints to the treaty bodies under these treaties, namely, the Optional Protocol to the Covenant.

6. As at March 2016, the Committee had dealt with 18 communications from Zambia: four (4) were declared inadmissible, four (4) were discontinued and in ten (10) communications, the Human Rights Committee found violations of the Covenant. Of these 10 communications only 6 form a part of the HRLIP study. They are: 821/1998 **Chongwe v Zambia** (October 2000), 856/1999 **Chambala v Zambia** (July 2003), 1132/2002 **Chisanga v Zambia** (November 2005), 1520/2006 **Mwamba v Zambia** (April 2010), 1859/2009 **Kamoyo v Zambia** (April 2012) and 1303/2004 **Chiti v Zambia** (August 2012). On the status of implementation, according to information available to us that non-compliance was recorded in *Mwamba v Zambia*, *Kamoyo v Zambia* and *Chiti v Zambia* and no information has been submitted to the Committee. On-going compliance was noted in *Chambala v Zambia* and *Chongwe v Zambia* as steps have been taken towards implementation. Full implementation was recorded in *Chisanga v Zambia* as the author's death sentence was commuted.
7. At the African Union (AU) level, Zambia has ratified the African Charter on Human and Peoples' Rights (African Charter) as well as the Protocol to the African Charter on Human and Peoples' Rights on Women's Rights (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child (African Children's Charter) amongst others. However Zambia is yet to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights (the Court's Protocol).
8. The African Commission on Human and Peoples' Rights (African Commission) was established to monitor implementation of the African Charter. Individual communications are automatically allowed for under the African Charter, and need not be accepted by way of an optional declaration or further ratification. Zambia has been involved in 6 communications before the African Commission but for the purposes of this HRLIP study, only these two are applicable as one resulted in settlement and yet two other cases involved other states. They are: 212/98 **Amnesty International v Zambia** (May 1999) and 211/98 **Legal Resources Foundation v Zambia** (May 2001) and noted as ongoing compliance as steps are being taken to implement these decisions according to available information.

9. The participants of the workshop identified some implementation challenges including: ineffective coordination, dormant institutions, delayed responses, insufficient awareness of regional and global adjudicatory mechanisms and their procedures as well as inadequate budget for implementation.
10. One of the mechanisms adopted for human rights promotion is the state reporting procedure which allows an opportunity for monitoring state action and implementation of human rights obligations. As a result of the state report procedure, concluding observations are given by the relevant treaty body or human rights mechanisms which the state ought to also implement. Zambia last submitted its state report to the African Commission in 2004. Therefore, the state is encouraged to submit a report in the first quarter of 2018 at the next African Commission's session. Zambia's last report to the Human Rights Committee was considered in 2006; it is therefore also overdue with its reporting under the Covenant. Zambia is also due to report at the United Nation's Universal Periodic Review (UPR) in November 2017.
11. On the way forward, Zambia was urged to work towards effective implementation of human rights law and decisions in a more coordinated, prompt and effective manner which could include the formation of an institutional mandate that is given prominence and permanence to facilitate implementation. Also the state should consider allocating a budget for implementation. In addition, the State is urged to ratify the Court Protocol and consequently make the article 36(4) declaration which allows for individual access to the African Court. Participants welcomed the Attorney-General's statement that Zambia is in the process of ratifying the Court Protocol, and encouraged the government to speed up the process. They further encouraged the government to submit all its outstanding state reports, in particular those under the African Charter and Maputo Protocol, and the Covenant on Civil and Political Rights.

Done in Lusaka, Zambia, on 17 August 2017