

AMNESTY INTERNATIONAL

21 March 2022

AI Index Number: AFR 63/5376/2022

END OF VISIT TO ZAMBIA STATEMENT

Introduction

1. An Amnesty International delegation led by Secretary General Agnes Callamard conducted an official country visit to Zambia from 13 to 18 March 2022.
2. The main objective of the visit was to review the progress made by the government towards implementing its electoral manifesto on human rights protection and to encourage them to implement their promises towards turning the page of the last decade and unleashing a new era of human rights protection enshrined in the laws, policies and practices of those in positions of power.
3. The Secretary General warmly thanks the Zambian authorities, members of the diplomatic community, partners, Civil society organizations, ordinary Zambians who met with us and the government of Zambia, including President Hakainde Hichilema, for their availability and support during the visit.
4. During Amnesty's six-day visit, the delegation had several meetings with different stakeholders interested in human rights, including senior government officials and His Excellency, President Hichilema, the Human Rights Commission, some members of the Diplomatic corps; civil society organizations; community activists; and with survivors of human rights violations and abuse.
5. Today, the Secretary General presents the preliminary findings of the visit to which she wishes to draw attention on a number of issues that she engaged with during her visit in the country.

Context

6. Zambia has long held a reputation of being a beacon of peace and example of respect for the rule of law for the rest of the continent. Between 2011 and 2021, that reputation deteriorated with significant suppression of human rights under the Patriotic Front rule. Speaking out against corruption or misrule became a crime. Opposition parties and civil society organizations were prevented from holding peaceful public assemblies. Independent media, such as *The Post* and *Prime TV*, that had been alternative sources of information were shut down for their fearless investigative journalistic work, while several associations such as trade unions and political parties had their certificates of registration cancelled for doing their work, including scrutinizing the government. A number of people lost their lives, often at the hands of the police, with no accountability. The run up to the elections in August 2021 exacerbated the crackdown. Amnesty International documented these cases in detail in our report [Ruling by Fear and Repression](#) published in June 2021.
7. Following a general election held on 12 August 2021, there was a peaceful transfer of power ushering a new government led by President Hakainde Hichilema (who had been in opposition for 15 years under the United Party for National Development) and with it, hopes of turning the tide of repression to enjoyment of human rights.
8. President Hichilema is no stranger to Amnesty International. He has been previously arrested 15 times. The Organization campaigned for his release after he was arrested and persecuted in 2017. He had been arrested on trumped up charges of treason for allegedly obstructing the presidential motorcade. Amnesty International called for the [dropping of charges against him](#) and for [his release](#). He spent four months (127 days) in Mukobeko, Zambia's largest Maximum Security prison, before his case was dismissed.
9. President Hichilema assumed office on 24 August 2021. His speech at his inauguration focused on promoting and protecting human rights, a commitment to uphold the constitutional rights to

freedom of association, assembly and movement which were in serious jeopardy during the recent past for perceived government critics.

Overview of key findings

10. The messages originating from the Government and the President are all affirming a new era and a renewed commitment to the rule of law and human rights protection. President Hichilema has openly declared that he wants to lead a country that respects human rights and he told us that his administration “wants to institutionalize human rights”.
11. During our visit, the recurrent theme was the need for legislative reforms, particularly of laws impeding the enjoyment of the rights to freedom of expression, association and assembly. Key among the laws in need of reform are, f Section 69 of the Penal Code which provides for Criminal defamation of the President and must be repealed, and the Public Order Act and the Cyber Security and Cyber Crimes Act which should be thoroughly amended to comply with international human rights standards.
12. We also heard that other laws require attention. They are the Access to Information Bill, which has been in the making for over two decades, and the Anti torture legislation which was approved by Cabinet and submitted for deliberation to Parliament in June 2017.
13. Finally, we heard that Constitutional reform should also be on the agenda, along with the revision of the Bill of Rights. The former would require a two third majority of the Parliament and the latter a referendum
14. Amnesty International acknowledges the steps taken by the government to place the Child Code Bill before Parliament in the current legislative session. Amnesty acknowledges the inroads made on 15 February 2022 when the Zambia Law Development Commission (ZLDC) and the Technical Committee on the review of the Penal Code and the Criminal Procedure Code presented a detailed report on laws incompatible with human rights standards that need to be reformed. Amnesty International adds its voice to those calling for these reforms. In discussion with the authorities, they admitted that these laws were incompatible with human rights. The authorities also confirmed that six members of the National Human Rights Commission had been appointed although by the time the Amnesty delegation left Zambia, these appointments had not yet been made public.
15. Amnesty International urges authorities to develop a clear roadmap for implementation of these plans in order to match the rhetoric with concrete action.

Laws requiring Urgent attention

16. **Contentious provisions in the penal code impeding freedom of expression**

Criminal defamation of the President, incitement of public disorder, and sedition have been used as a weapon to effectively criminalise peaceful dissent. Section 69 of Zambia’s Penal Code, provides that “any person who, with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter, whether by writing, print, word of mouth or in any other manner, is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years.” In the last few years, section 69 has been used to arrest a number of critical opposition leaders, human rights defenders, activists, journalists, and other people simply for peacefully exercising their human rights. Amnesty International has called on authorities to repeal these provisions as they do not meet the test of necessity and proportionality and are incompatible with Zambia’s obligations under the International Convention on Civil and Political Rights (ICCPR).
17. **The Public Order Act (POA)**

The Public Order Act came into effect in 1955. Although it has gone through some changes, the Act remains one of the most contentious as its application by the police has led to various human rights violations, such as arbitrary arrests, extrajudicial executions and a denial of the right to assembly. In 2019, a revised Bill had been drafted which was a step in the right direction. But this draft bill (Bill No 4) was never tabled, and it is still not on the agenda for deliberation during this

legislative session. Less than a year ago, the POA was used as a blunt instrument to curtail the rights of mainly critical voices from assembling. In the past seven months since the new Administration came into power, authorities have not used the POA to target public processions. This has been evident during recent by-elections in which political parties campaigned without fear of attacks from the police. However, there is a need to institutionalise this practice by ensuring that it leaves no room for interpretation by police. In our meetings, both the Minister of Justice and the President made commitments towards ensuring that the POA was amended.

18. **Cyber Security and Cyber Crimes Act**

The Cyber Security and Cyber Crimes Act was promulgated in March 2021. Its purported aim is to protect people from various forms of online abuse. However, this law contains a plethora of draconian provisions including infringing on the right to privacy, giving blanket powers to authorities to conduct searches and seizures without warrants, and ordering internet shutdowns among others. All these measures are incompatible with an open society. Significant parts of the Act must be repealed.

Other Issues

19. The Amnesty International delegation also focussed on a number of issues requiring urgent attention. These include:

- a. Active Promotion of Press Freedom including through changing the State Broadcaster into a truly Public Service broadcaster
- b. Abolishing the death penalty: Zambia has maintained a moratorium on executions since 1997.
- c. Prioritising the enactment of bills such as the Anti Torture bill which has been cold since June 2017 when Cabinet approved its tabling before Parliament as well as the Access to Information bill
- d. Taking all necessary steps to strengthen the independence and effectiveness of the Judiciary
- e. Protecting women against gender-based violence and promoting gender equality
- f. Undertake constitutional reforms to ensure that the Constitution is in line with Zambia's international human rights obligations. This includes a comprehensive bill of rights. There must be an inclusive and transparent process for this reform
- g. Ensure that the Human Rights Commission is fully capacitated, functional and empowered to do its work without fear or favour.
- h. Ensure protection of all Zambians against discrimination, including discrimination on the basis of sexual orientation and other minorities. This move would be in line with Zambia's Constitution and its international obligations.
- i. Ensure independence of the Electoral Commission to ensure that people are not denied rights to freely exercise their will during election times.
- j. Ensuring an open and transparent process in the auctioning of the 5G spectrum.

Conclusion

20. The vision to "institutionalize human rights" by President Hichilema ought to be translated into an actual plan of action. Legal and institutional reforms are essential to cement the rule of law, so that the Government and the country does not relapse. Amnesty has found a lot of good will, optimism and commitment from all sectors of society. Remarkably, people have told us that fear has disappeared. .

21. It is essential that the authorities put in place a clear and accessible Road Map as soon as possible. While recognising the need for internal government consultations, the government should communicate clear mechanisms for stakeholder consultation on the proposed reforms. Many of the proposed reforms have already been the object of in-depth assessment by a variety of actors,

and for some, draft amendments already exist. Observers note that from a procedural and substantive standpoint, the process ahead for submitting these reforms to the Parliament should be relatively straight forward. Amnesty International acknowledges that the questions of constitutional reform and Bill of Rights will require further planning.

22. Time is of the essence. Good intentions must be accompanied by good strategy towards realising the reforms. The organization is concerned about the Government's ability to deliver on these reforms. As one person stated, "What is missing is action"

Recommendations

23. *Criminal Defamation*: The government must repeal the law on Criminal Defamation of the President as it is inconsistent with human rights.
24. *Public Order Act*: Amend the Act which is a main source of human rights violations around the country.
25. *Cybersecurity Act*: The Government must repeal sections incompatible with the enjoyment of human rights.
26. Actively respect and protect press freedom, including by reforming the Independent Broadcasting Authority to strengthen and ensure its independence, transforming ZNBC into a truly independent public broadcaster in line with the African Charter on Broadcasting, and protecting community broadcasting,
27. *Death Penalty*: Zambia is one of 28 countries that have a moratorium on the use of death penalty. The government should now take steps towards abolishing the death penalty, joining the 108 countries (the majority of countries around the world) that have done so already. .
28. *Human Rights Commission*: Make public as soon as possible the identity the 6 Commissioners who have been appointed. Currently, there is only one Commissioner in place, rendering the Human Rights Commission unable to deliver on its mandate.
29. *Anti-Torture Bill*: Authorities must resuscitate this bill which was already presented for first reading in parliament in June 2017.
30. *Access to Information*: Access to information is critical to ensure transparency and accountability to building an open country. Authorities must actively promote access to information in law and practice.
31. *Gender Equity and Equality Commission*: Establish and Operationalise the Gender Equity and Equality Commission, in order to curb the increasing abuse and violation of women's and girls' rights.
32. Ensure smooth delivery of justice for past violations by previous Zambian administration, including police excessive use of force and extrajudicial killings. These must be investigated and those responsible brought to justice. The regime of impunity attached to police violence must be brought to an end.
33. Initiate steps towards revision the Bill of Rights to ensure inclusion of economic, social and cultural rights.