

Mandates of the Independent Expert on the enjoyment of human rights by persons with albinism; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL ZMB 4/2021
(Please use this reference in your reply)

24 November 2021

Excellency,

We have the honour to address you in our capacities as Independent Expert on the enjoyment of human rights by persons with albinism; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 46/12, 44/10, 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the attacks and mutilations of [REDACTED], a two year old girl with albinism in the Senga district, Northern Province; [REDACTED], a 9 year old boy with albinism in the Chasefu District, Eastern Province and [REDACTED], a 12 year old boy with albinism residing in Mpulungu, also in Northern Province.

According to the information received:

On 19 May 2021, around 9:00pm, three men in black clothing and masks knocked on the door of [REDACTED] house in the Senga district. [REDACTED]'s mother opened the door to three men who pointed a gun at her, told her to keep quiet and to come out of the house. The men alleged that they were police officers searching for drugs. [REDACTED]'s mother was questioned by two men outside while another went into the house where [REDACTED], her brother and her grandmother were sleeping. The mother then heard her son screaming and crying that the man in the room was cutting off his sister's hand.

[REDACTED]'s mother then started to shout for help, while the children screamed and the men continued to threaten the mother with the gun. Soon after, the man in the room came out and said, "it's done, let's go" and they left. [REDACTED]'s mother rushed into the house and found [REDACTED] in a pool of blood with her left hand cut off. She rushed to find help and some of the people in the village took her to get medical assistance. At around 5 a.m. on 20 May 2021, [REDACTED] was admitted to Mbala hospital where she remained for two weeks. [REDACTED] is reportedly in a stable condition but still feels pain due to her wound. Her brother is also traumatized by the attack.

We have been informed that while [REDACTED] was in the hospital, four men were taken into custody for questioning regarding the case. The men apparently also live in the village. However, due to insufficient evidence against them, they were released. As far as we are aware, no further arrests have been made in relation to this case.

On **11 July 2021**, another attack reportedly took place in Chibanda Village in Chasefu District of Eastern Province against 9-year-old ██████████. The incident took place between the hours of 5 p.m. and 6 p.m. as ██████████ was walking with his older brother at Chibanda's village garden. A group of unknown men suddenly approached him and chopped off his small finger on his left hand leaving him unconscious. The assailants fled the scene with his finger. ██████████ was rushed to Lundazi District hospital for treatment. Reportedly, a relative had been arrested in relation to the attack but has been released. The case has been transferred from the Chasefu police to the Lundazi police for further investigation.

A third attack reportedly took place on **1 September 2021** in Mpulungu in the Northern Province against 12-year-old ██████████. ██████████ resides with both of his parents. According to reports, he was attacked by men who also said they were police officers. The men tried to cut off his arm, but ██████████'s father was able to stop the attack and the men fled leaving ██████████'s arm partially cut off. It was later amputated at the hospital as the doctors could not save it. A relative of ██████████ has been arrested in relation to the attack.

We are gravely concerned about the continuing attacks and the rate of attacks against persons with albinism, particularly children, in Zambia. We are further concerned that these three incidents occurred in the span of just four months.

In this context, we wish to refer to previous communications sent by Special Procedures mandate holders concerning attacks and killings of persons with albinism in Zambia:

On 22 May 2020, a communication was sent by the Independent Expert on the enjoyment of human rights by persons with albinism, Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel and inhuman treatment concerning the killing and dismemberment of Emmanuel Phiri¹ of Chipata district in Eastern Province. On 1 March 2018, the Independent Expert on the enjoyment of human rights by persons with albinism sent a communication concerning the case of Mirriam Kumwenda², a 19-year-old student of Chama district in Muchinga Province who was attacked, and whose body was then dismembered. On 9 March 2016, a communication was sent by the Independent Expert on the enjoyment of human rights by persons with albinism, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on violence against women, concerning the killing and dismembering of three persons with albinism, namely Ms. Charity Zimba (age 37), Mr. Billy Chulu (age 46), Mr. Jefferey Sikanyai (age 36)³, and the kidnapping of a 15 year old boy with albinism.

To date, we have not received any response to these communications from your Excellency's Government. These gruesome attacks, which result in grievous bodily

¹ ZMB 2/2020 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25287>

² ZMB 1/2018 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23683>

³ ZMB 1/2016 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=19654>

harm and death of individuals with albinism, are reportedly linked to harmful ritualistic practices and result from a failure of the authorities' duty to protect individuals at risk. We would like to express serious concern that these cases highlight the likelihood of further attacks and human rights violations being perpetuated against persons with albinism.

In this regard, we strongly urge that all necessary and immediate measures be taken to protect persons with albinism in Zambia.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on, and where available the results of, any investigation, medical and other forensic examinations, and judicial or other inquiries carried out in relation to these cases including efforts made to ensure that perpetrators of the alleged acts are brought to justice.
3. Please provide detailed information and available data on any court cases that have been concluded on human rights violations or crimes against persons with albinism, to date.
4. Please provide the full details on comprehensive strategies and protective measures adopted by your Excellency's Government to ensure the physical and mental integrity and security of persons with albinism, particularly in light of the ongoing attacks in the country, to prevent abduction, killing and dismembering of persons with albinism, including awareness raising campaigns and education programs, training of professionals dealing with survivors and potential victims.
5. Please provide information on regional or international cooperation mechanisms that are in place to assist in investigating attacks and killings related to trafficking of body parts.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Muluka-Anne Miti-Drummond
Independent Expert on the enjoyment of human rights by persons with albinism

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

We wish to draw your Excellency's Government's attention to articles 3 of the Universal Declaration of Human Rights, 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), to which Zambia acceded on 10 April 1984, and article 10 of the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Zambia on 1 February 2010, which guarantee the right to life and security of person and that no one is to be arbitrarily deprived of the right to life. Furthermore, under the CRPD, States must take all appropriate measures to protect persons with disabilities from all forms of exploitation, violence and abuse (article 16), and to protect their integrity on an equal basis with others (article 17)

We further wish to refer your Excellency's Government to Article 2(3) ICCPR, which states that ... "Each State Party to the present Covenant undertakes (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy."

At this point it is important to note that the Human Rights Committee in its General Comment No. 36 has found that: "Given the importance of the right to life, States parties must generally refrain from addressing violations of article 6 merely through administrative or disciplinary measures, and a criminal investigation is normally required, which should lead, if enough incriminating evidence is gathered, to a criminal prosecution. Immunities and amnesties provided to perpetrators of intentional killings and to their superiors, and comparable measures leading to de facto or de jure impunity, are, as a rule, incompatible with the duty to respect and ensure the right to life, and to provide victims with an effective remedy." General Comment No. 36 on the right to life further states that the duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. This includes persons with albinism, among other vulnerable groups. States parties must respond urgently and effectively in order to protect individuals who find themselves under a specific threat, by adopting special measures such as the assignment of around-the-clock police protection, the issuance of protection and restraining orders against potential aggressors and, in exceptional cases, and only with the free and informed consent of the threatened individual, protective custody.

General Comment No. 36 further reminds States that the duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. States parties should also develop strategic plans for advancing the enjoyment of the right to life, which comprise measures to fight the stigmatization associated with disabilities and diseases, including {...} harmful practices.

States parties must enact a protective legal framework which includes effective criminal prohibitions on all manifestations of violence or incitement to violence that are likely to result in a deprivation of life, including, inter alia, ritual killings and death threats. The criminal sanctions attached to these crimes must be commensurate with their gravity, while remaining compatible with all provisions of the Covenant.

We would also like to draw your attention to Article 26 of the International Covenant on Civil and Political Rights, which stresses that ‘all persons are equal before the law and are entitled without any discrimination to the equal protection of the law’. Additionally, in its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). Furthermore, according to Principle 9 of the Principles of the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, there is an obligation to conduct thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death. The Minnesota Protocol on the Investigation of Potentially Unlawful Death which in 2016 updated the original UN Manual on the Effective Prevention of Extra-legal, Arbitrary and Summary Executions of 1991; and the UN Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989), states that an investigation must be a) prompt; b) effective and thorough; c) independent and impartial; and d) transparent.

We would like to remind your Excellency’s Government of the absolute and nonderogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, such as defined in the Convention Against Torture, ratified by your Excellency’s Government on 11 June 1996, as well as in article 15 of the CRPD. In their Concluding Observations addressing the right to life for persons with albinism, the Committee on the Rights of Persons with Disabilities has expressed concern at the different forms of violence perpetrated against persons with albinism, including kidnappings, killings and attacks for the purpose of witchcraft practices, and the absence of measures to protect victims and to prosecute and convict perpetrators. The CRPD Committee urged the States where this type of violence was taking place to: (a) Promptly investigate all cases of violence against persons with albinism ensuring that they are appropriately prosecuted and punished; (b) Create shelters and redress services for victims of attacks including healthcare, counseling and free legal aid; and (c) Redouble efforts to raise awareness about the dignity and rights of persons with albinism and ensure the involvement of organizations of persons with albinism in any campaigns aimed at eliminating stigmatization and myths that underpin violence against persons with albinism (CRPD/C/KEN/CO/1 paras.19 and 20).