Lusaka Meeting Report

1. Background

1.1. The Zimbabwe Human Rights NGO Forum (the Forum) as the Southern African Focal Point for the African Court Coalition together with the African Women Millennium Initiative Zambia organised a round table meeting on the African Court on Human and Peoples’ Rights. The meeting was held on the 3rd of February 2011 in Lusaka Zambia under the theme “African Court; A common platform for the protection of human rights for African People”. Twenty two (22) participants took part in the meeting. The participants were drawn from representatives from the civil society in Zambia, Zambian Lawyers Association, Zambian Human Rights Commission and a representative from the Ministry of Foreign Affairs.

2. Presentations

2.1. The meeting discussed the African Human Rights system and the role of Civil Society as well as coming up with some strategies for ratification as we move forward.

2.2. Five Facilitators made presentations on various topics. The presenters were Ms Blessing Gorejena, who gave a background to the African Court Coalition, Mr Rangu Nyamurundura, who shared experiences on litigation in the African Human Rights System, Ms Matrine Chuulu who spoke on the role of civil society in strengthening the African Human Rights System, Mr Lloyd Kuveya who gave an overview of the African Court and the role of civil society and Commissioner Mumba Malila, who explained the relationship between the African Court and the African Commission on Human and Peoples’ Rights. Commissioner Malila also shared with the meeting on the outcome of the 48th Ordinary Session of the African Commission regarding the Court.

2.3. The following are some of the highlights from the presentations;

2.4. That civil society has a role to play in strengthening the African Human Rights System and in particular lobbying for the ratification of the protocol establishing the Court as well as making it accessible to individuals. It was noted that there is need for civil society in Zambia to coordinate and engage more with the regional human rights institutions.

2.5. It was highlighted that cases are available as human rights violations are happening in Zambia despite Zambia being a party to a couple of treaties such as the African Charter on
Human and Peoples’ Rights, the Protocol to the Charter on the Rights of Women in Africa etc. It is the role of civil society to bring these to the attention of the regional institutions. Now that Zambia is preparing for elections this year, there are reports already on the violations of media freedoms but very little has been done to engage the mechanisms within the regional systems.

2.6. The process of ratification requires constant reminders to be sent to the governments. Participants were urged to research more on the issues before approaching the government. The strategy should be to encourage the government as well as raising awareness on the existence and role of such institutions. It should also be impressed upon the state that the institutions, the court in particular should be accessible to citizens and that the state should make such declarations were applicable.

2.7. Challenges in accessing regional institutions were also noted. The processes are too costly for litigants. Furthermore the limitations of the international tribunals in particular regarding enforcement of decisions/ recommendations by the international Tribunals were also highlighted. Political influence by the executive in the operations of the tribunal was also highlighted as a cause of grave concern. The decision adopted by the SADC Heads of States and governments to suspend the SADC Tribunal in August last year was cited as a perfect example.

2.8. The presentations also highlighted the need to impress upon the states the fact that International and Regional courts are not appeal courts to address the fears by some states that international tribunals are coming in to usurp the powers of their domestic courts. International courts are only triggered when domestic remedies are not available. They become relevant in terms of applying international law. Thus their decisions are not meant to challenge the judicial architecture of the country.

2.9. It was also highlighted that sometimes there is dearth of information between the responsible ministries or government departments regarding developments on international commitments and civil society. Often civil society and the citizens are not informed when the government sign and or ratifies a certain international treaty. This sometimes makes it difficult for civil society to follow on the developments. In some instances this same information is not even relayed within the government departments themselves. It was noted that as a result Zambia seconded a national to be elected to the bench of the Court and it did not occur to the responsible ministry as well as the embassy in Addis that the country had not ratified the protocol and as such did not have the privilege of seconding its nationals to the court as judges. This was an interesting observation.

3. Recommendations

3.1. After the deliberations on the way forward, it was noted;

a. There was need for capacity building for CSOs, particularly in documentation of human rights violations and also in terms of their role to strengthen democratic processes.
b. The CSO movement in Zambia has not been very active in utilising the African Human Rights Institutions and that there was need to constantly remind each other of these tribunals.

3.2. It was therefore recommended that;

a. The Coalition researches on the possibilities of having a roving court and lobby the Court to consider such to encourage more participation by all citizens;

b. Civil society in Zambia with the assistance of the Coalition to come up with a lobby package which identifies the entry points and also drawing lessons from the four countries that have completed the ratification process as well as those that have ratified and are yet to deposit the declarations;

c. The national human rights commission needs to be empowered so that it can contribute meaningfully to the strengthening of the human rights system; as such CSOs need to lobby for the empowerment of their human rights commission; empowerment of the HR Commission;

d. CSOs need to continuously engage the government and it was noted that on this particular protocol, there is need to follow up on the meeting with the relevant ministries that is the ministry of Justice and Foreign Affairs. It was therefore agreed that the Coalition together with the organising partner in Lusaka should make the follow up.

e. CSOs to come up with a centralized tracking system on the developments happening in the Parliament, regarding international treaties;

f. CSOs to develop Advocacy modules on all the international treaties signed and or ratified by Zambia; These will target and engage the executive, parliamentarians and help in publicising and advising governments that more people know about it, encourage the movement of motions on parliament.

g. That the Awareness raising process has just begun. There was therefore the need to follow up on the meeting to strategise on how we are going to engage the government and identify opportunities. AWOZIM undertook to organise the follow up meeting and will advise on whether they would need assistance from the Coalition.