

REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS AND GENDER MATTERS FOR THE SECOND SESSION OF THE TENTH NATIONAL ASSEMBLY APPOINTED ON 17TH JANUARY 2008

Consisting of;

Mr J J Mwiimbu, MP (Chairperson); Mr J C Kasongo, MP; Ms J H M Njovu MP; Mr C C Silavwe, MP; Mr K Kakusa, MP; Mr L H Chota, MP; Rev V M Sampa-Bredt, MP; and Mr B M M Ntundu, MP.

The Honourable Mr Speaker,
National Assembly,
Parliament Buildings,
LUSAKA

Sir,

Your Committee have the honour to present their first report for 2008.

Functions of the Committee

2. In addition to any other duties placed upon them by Mr Speaker or any Standing Order or any other order of the National Assembly, the duties of your Committee are to:

- (i) oversee the activities of the Ministry of Justice, Gender in Development Division(GIDD) and other government departments or agencies directly related to the operations of your Committee;
- (ii) study, report and make appropriate recommendations to the Government through the House on the mandate, management and operations of government ministries, departments and/or agencies on issues related to your Committee;
- (iii) carry out detailed scrutiny of certain activities being undertaken by government ministries, departments and/or agencies under their portfolio and make appropriate recommendations to the House for ultimate consideration by the Government;
- (iv) make, if considered necessary, recommendations to the Government on the need to review certain government policies and/or certain existing legislation; and
- (v) consider any Bill(s) that may be referred to them by the House.

Operations of the Committee

3. During the course of their deliberations, your Committee considered and adopted the following programme of work:

- (i) detailed study on women, land acquisition and customary law as a legal and gender concern;
- (ii) detailed study on the criminal justice system and congestion in Zambia's prisons; and
- (iii) tours arising from their deliberations.

Procedure Adopted by the Committee

4. Your Committee requested for detailed memoranda from Permanent Secretaries of various ministries and Chief Executives of institutions and Non-Governmental Organisations on the topics stated above. Thereafter, your Committee invited witnesses to appear before them to clarify issues contained in their written submissions.

PART I

CONSIDERATION OF TOPICAL ISSUES

A. WOMEN, LAND ACQUISITION AND CUSTOMARY LAW: A LEGAL AND GENDER CONCERN

5. Your Committee, recognising that land was a critical resource in economic development and also recognising the challenges women in Zambia faced in accessing land as a result of the dual system of law, felt it imperative to undertake this study in order to:

- (i) find out whether there was a policy by the Government to empower women with land;
- (ii) find out how far Government had gone in the domestication of international instruments on gender discrimination; and
- (iii) advocate for the amendment of the articles in the Constitution that were discriminatory in nature as regards the application of customary law to the property rights of women.

To assist them in their study, your Committee invited the following to provide information on the subject:

- (a) the Permanent Secretary, Ministry of Lands;
- (b) the Permanent Secretary, Gender in Development Division (GIDD);
- (c) the Executive Director, Non-Governmental Coordinating Council (NGOCC);
- (d) the Executive Director, Women and Law in Southern Africa (WLSA);
- (e) the Executive Director, Women in Law and Development in Africa (WILDAF);
- (f) the Executive Director, National Legal Aid Clinic for Women;
- (g) the Chairperson, Lands Tribunal;
- (h) the Coordinator, Zambia Land Alliance;
- (i) the General Secretary, Council of Churches in Zambia; and
- (j) the General Secretary, Zambia Episcopal Conference.

SUMMARY OF SUBMISSIONS BY WITNESSES

6. Your Committee were informed that Zambia's adherence to a dualist legal framework posed a considerable number of challenges to its citizens, especially women. This was because both statutory and customary tenures did not appreciate the fact that there should be an equitable distribution of land to all citizens regardless of their gender. It was submitted further that rules and conditions governing both tenures were modeled from the premise that did not pay due regard to the social and economic background of the country in which women had been marginalised.

Furthermore, it was pointed out that the fight for women's rights required that laws relating to land acquisition and complaints relating to land matters be reformed so that they include issues relating to customary tenure.

Your Committee were informed that among the laws that needed to be revised were the *Intestate Succession Act*, the *Lands Act*, the *Lands and Deeds Registry Act* and the *Housing (Statutory and Improvement Areas) Act*.

Your Committee were informed that reform was needed to ensure clarity on women's rights to own real property in their own right. Reform of the intestacy laws needed to relate to the ownership of the matrimonial land by the woman after the husband's death. The law only gave a life interest to the surviving spouse. In other words, the law indirectly made ownership of real property by women not realisable.

Most witnesses proposed to your Committee that the following measures needed to be put in place in order to address the imbalance above:

- (i) that new policies and the *Lands Act* should explicitly include a provision to compel the Ministry of Lands, the Lands Tribunal, district councils and other stakeholders to desegregate data according to gender and disseminate the same to the public;
- (ii) that policy and law should categorically spell out an easy process of acquiring land by poor rural women in order that they do not go through the rigorous procedures;
- (iii) that since rural women were not economically empowered, Government should establish a scheme where they would be assisted to pay for land and then pay back in installments;
- (iv) that schemes should be put in place to help rural women with implements to develop land;
- (v) that there should also be a national awareness programme to change the mindset of the people about the role of women in development through land ownership;
- (vi) that the Government needs to seriously engage chiefs through Gender in Development Division (GIDD) to sensitise them on the Convention on Elimination of Discrimination Against Women (CEDAW) and the Government's commitment to this Convention and how chiefs could contribute towards achieving this by empowering women with land as is the case with HIV/AIDS;
- (vii) that the Lands Tribunal should be decentralised to all districts of the nation to enable rural women to appeal for arbitration at places closer to home; and
- (viii) that the Republican President should use his constitutional power to influence chiefs to give land to women as he had influenced chiefs to give land to investors.

In addition, your Committee were informed that although Government had taken the view that the rights contained in the preamble to the Constitution, namely, economic, social and cultural rights would be progressively achieved, this was not happening. It was also stated that although many international instruments had been signed and ratified, they could not be used in the country's legal system because they had not yet been domesticated.

Your Committee were further informed that one way of assisting vulnerable women would be to adopt affirmative action measures in land alienation, create a Women's Development Fund, as was the case with the youths, and encourage lending financial institutions to give loans to women. It was suggested to your Committee that a land policy and legislation that would provide for affirmative action with at least fifty percent (50%) of land being allocated to women applicants and measures to inform women of their right to apply for, and their entitlement to land allocation, should be put in place as a deliberate government policy.

The Permanent Secretary, GIDD, informed your Committee that Government recognised gender inequalities that existed in the application and practice of Zambian laws. She stated that this was because of application of the dual legal system where statutory law existed alongside customary law. The Permanent Secretary also informed your Committee that whereas application of statutory law provided for some degree of equality between women and men, the application of customary law had a tendency of subordinating women's rights to masculine preferences, and, thus, contributing to discrimination against women and girls.

It was further stated by the Permanent Secretary that harmonising of statutory and customary laws had not been successful because customary laws were not written; they existed in traditions and practices of various tribes.

Your Committee were furthermore informed that in 2003, Government, through the Zambia Law Development Commission and the Ministry of Justice, initiated a restatement of customary law project. The objective of the assignment was to ascertain customary laws and their conformity with socio-economic and political values of the country as reflected in statutory laws. This exercise was intended to harmonise the two legal systems and avoid conflict between the two laws and to ensure non-discrimination.

With regard to acquisition of land by women, your Committee were informed that GIDD worked closely with the Ministry of Lands during the formulation of the draft land policy that brought about the reservation of thirty percent (30%) of titled land for women as prescribed in the National Gender Policy of 2000. These measures had been introduced as part of the mechanisms of economically empowering women and enhancing their property rights, particularly through ownership of land. In this vein, the Ministry of Lands had developed a Policy that would ensure that women were allocated 30 percent of all available land and at the same time compete with men for the remaining 70 percent of the land.

Your Committee were informed that GIDD and other stakeholders would embark on awareness creation campaigns on the policy to ensure that all categories of women participated, accessed and benefited fully from this policy provision.

It was learnt that the Ministry of Lands was also committed to informing all district councils that when implementing the policy, they should ensure that 30 percent allocation of land was to women in their respective jurisdictions.

It was further stated to your Committee that Zambia was a full member of the United Nations Commission on the Status of Women (CSW) and was also a signatory to the following international, regional and sub-regional instruments that related to women and children's humanitarian and social issues, economic development and regional integration, democracy, good governance and peace and security:

- (a) the Declaration on the Elimination of Violence Against Women, (UN, 1993);
- (b) the African Charter on Human and People's Rights, (OAU, 1981);
- (c) the SADC Declaration on Gender and Development, 1997; and its Addendum on the Prevention and Eradication of Violence Against Women and Children, 1998;
- (d) the International Conference on the Great Lakes Region (IC/GLR) Dar es Salaam Declaration on Peace and Development, December 2004; and
- (e) the December 2006 IC/GLR Pact on Peace, Security and Development.

Your Committee, however, learnt that Zambia had not yet signed the *African Charter's* Protocol on the Rights of Women in Africa; the Optional Protocol on the Elimination of all Forms of Discrimination Against Women and the two Optional Protocols on the Convention on the Rights of the Child. Nonetheless, some provisions of the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) had been domesticated through the Penal Code Amendment Act, 2005 (No. 15 of October 2005) and in the Policy documents such as the National Gender Policy and National Child Labour Policy, 2006.

On customary land tenure, the Permanent Secretary in the Ministry of Lands informed your Committee that in rural areas, land was owned and occupied by both men and women under customary tenure and that 94% of all the land in Zambia constituted customary land. Distribution of land for settlement by villagers to men and women was done by traditional rulers according to their respective customs.

Further it was stated that as for the 6% State land, whose distribution was done by the Ministry of Lands, national statistical figures were not gender desegregated. The Ministry of Lands was redesigning the system to capture gender parameters on all properties.

Your Committee were informed that, comparatively, the sample from Lusaka City Council on two adverts in 2006 and 2007 showed the pattern set out below.

(i) ***October 2006 Advertisement***

Of the 741 applications received, 299 were women, representing 40%. From the available seventy five plots, forty were allocated to women representing 53%.

(ii) ***January 2007 Advertisement***

Upon advertisement, 250 applications were received and out of these, ninety-six were women, representing 38%. From the available forty plots, twenty-three were allocated to women, representing 57%.

Your Committee were further informed that the assistance rendered by the Government to women in acquiring and owning land was in the form of land advocacy programmes where Ministry of Lands officials visited chiefs in their palaces and urged them to also consider allocating land to women in their own right.

Your Committee heard that the main legal challenge faced by women in rural areas in acquiring and owning land with regard to customary law was the unwritten customary laws and practices that prohibited women from owning land in their own right. Under customary law, land was owned by men, hence, land user rights of women depended on marriage. Upon termination of marriage, a wife lost user rights to the land that the couple had been using. Therefore, the *Intestate Act* needed to take into account women's rights to land as was the case with property left by deceased persons under statutory law.

Committee's Observations and Recommendations

From the foregoing, your Committee observe the following:

- (i) that there exist discriminatory laws, in particular *Article 23 (4) (c) and (d) of the Constitution*, which provide for discrimination against citizens on the basis of personal and customary laws;
- (ii) that the *Intestate Succession Act* does not provide for ownership of customary land to be inherited by a surviving wife;
- (iii) that the Government has not adopted and domesticated various protocols relating to women's rights that it is a State Party to; and
- (iv) that customary law varies with tribe and tends to be generally discriminatory against women.

In view of the above, your Committee recommend that:

- (i) *Article 23 of the Constitution Cap 1 of the Laws of Zambia* should be amended;
- (ii) the *Intestate Succession Act Cap 59 of the Laws of Zambia* should be amended so that land held under customary land tenure can be inherited by a surviving spouse and children;
- (iii) Government should adopt and domesticate all protocols that relate to women and children's rights; and
- (iv) a Women's Empowerment Fund should be created with guidelines on its administration to enable women access financial resources.

B. THE CRIMINAL JUSTICE SYSTEM AND CONGESTION IN ZAMBIA'S PRISONS

7. Your Committee were concerned with congestion in prisons and other detention facilities in Zambia and undertook the study to assess the measures, if any, that Government had put in place to decongest the prisons.

Your Committee invited the following witnesses to submit memoranda on this issue:

- (i) the Permanent Secretary, Ministry of Home Affairs;
- (ii) the Commissioner of Prisons;
- (iii) the Chief Immigration Officer;
- (iv) the Director, Human Rights Commission;
- (v) the Attorney-General; and
- (vi) the Inspector-General of Police.

SUMMARY OF SUBMISSIONS FROM WITNESSES

8. It was submitted to your Committee by various stakeholders that Zambian prisons were overcrowded resulting in human rights violations. Some of the causes of the congestion included:

- (i) the slow judicial process;
- (ii) inadequate judicial officers to preside over the matters (cases);
- (iii) delays in delivery of judgments;
- (iv) inadequate transport within the Prison Service (particularly for the purpose of ferrying prisoners to and from court);
- (v) inadequate housing facilities for prisoners (i.e. cells); most prisons were built in the colonial days and were in dire need of major rehabilitation; and
- (vi) non-attendance of court by remandees (i.e. suspects that were awaiting trial and had not yet been convicted); this particular category of prisoners often suffered prolonged detention, especially when they had been arrested for minor offences or for offences that attracted a minimal sentence.

Your Committee were further informed that prisons lacked facilities to ensure that different kinds of offenders such as juveniles and adult were detained separately. The mixing of juveniles with adult offenders turned juveniles into habitual offenders.

Furthermore, your Committee were informed that for the criminal justice system to function effectively and efficiently and to deliver on its intended objectives, there was need to ensure that:

- (i) the criminal justice system was adequately equipped with necessary financial, human and other resources;

- (ii) alternative forms of punishment to custodial be encouraged in an effort to decongest prisons particularly in respect of minor offences;
- (iii) the judiciary disposes of cases expeditiously; and
- (iv) the efficiency of the legal system is improved through increased numbers of court rooms, advocates and adjudicators.

The Permanent Secretary, Ministry of Home Affairs, informed your Committee that there were approximately 15,000 inmates occupying infrastructure meant for 4,000 prisoners. He stated that there had been no new prisons facilities built or expanded for a long time other than the uncompleted Mwembeshi Prison in Lusaka.

Further, the Permanent Secretary informed your Committee that Government was expanding prisons facilities at Mwembeshi open and at Kamfinsa and that once completed, they would decongest Lusaka, Kabwe and Copperbelt prisons, respectively.

Furthermore, the Permanent Secretary informed your Committee that community service legislation in Zambia was introduced in 2000 and existed in the form of amendments to three principal statutes, namely, the *Penal Code – (Amendment) Act* (No. 12 of 2000), the *Criminal Procedure Code (Amendment) Act* (Act No. 13 of 2000), and the *Prisons (Amendment) Act* (No. 14 of 2000).

The Permanent Secretary stated that the introduction of community service as a non-custodial punishment was as a result of worldwide penal reforms. It had also been influenced by local and regional pressures against worsening prison conditions and the treatment of offenders. In view of the above, the Government had found it necessary that community service sentencing be resorted to more frequently as this would greatly assist reduce the pressure on prisons. Consequently, a committee of stakeholders was put in place to run a pilot programme which would facilitate the imposition, implementation and management of community service orders.

However, your Committee were informed that despite community service sentencing legislation being in place in Zambia since 2000, it had suffered implementation setbacks and courts rarely imposed community service sentences on convicted persons. A number of reasons were given for this adverse development which included:-

- (i) inadequate authorised officers to supervise community sentences;
- (ii) non-availability of resources and facilities for authorised officers to use when supervising community sentences; and
- (iii) absence of clearly defined activities to be undertaken by convicted persons when carrying out a community service.

Asked whether it was practically possible for the judiciary to have a stipulated time limit within which to dispose of cases before courts, the Permanent Secretary informed your Committee that the Ministry of Home Affairs was of the view that such a law would create more problems than it would be intended to solve. He stated that some cases, by their nature, were difficult and were not easily investigated. In the event of such a law coming into force, courts may be forced to release possible criminals who may have stayed in custody longer than the law may have stipulated.

The Permanent Secretary stated that, in the recent past, there had been some remarkable improvement in prisons and prison service. He said that Government had procured a fleet of trucks to ease and quicken movement of inmates from one place to another. Furthermore, tractors were purchased and distributed to each province to boost production of food for feeding inmates. He also stated that all provincial prisons had been fitted with electrical cooking pots in order to feed the inmates twice a day. In addition, 15,000 mattresses for distribution to all prisons were procured.

Your Committee heard that the Government, under the Administration of Justice priority area of the Governance Chapter of the Fifth National Development Plan (FNDP), was implementing a programme designed to improve access to justice for all, including the poor, vulnerable, women and children.

The programme would be achieved through development of an effective and accountable justice system that was capable of meeting the needs and interests of the poor, vulnerable and marginalised people. Key access to justice institutions involved in the programme included the Zambia Police, the Legal Aid Board, the Office of Director of Public Prosecutions (DPP), the Judiciary and the Prisons Service.

Regarding congestion in Zambian prisons, the Permanent Secretary in the Ministry of Justice informed your Committee that the issue of remandees as a cause of congestion in Zambian Prisons was a serious matter that required an urgent solution.

The Permanent Secretary stated that the Police were trying to address this problem in the following ways:

- (i) the Inspector General had given a directive to all Officers-in-Charge to ensure that police bonds were given to suspects who were alleged to have committed minor offences or cases that were bondable in order to avoid unnecessary detentions and thereby minimise congestion in both police cells and prisons;
- (ii) police had come up with a re-training policy where Officers-in-Charge and Criminal Investigations Officers (CIOs) were taught, among other topics, the concept of overcrowding in cells and prisons and on how best to decongest prisons, to ensure that officers did not only learn and have practical answers to the problem at hand, but also disseminated this knowledge to their subordinates;
- (iii) police criminal investigators were being sensitised on the need to do their investigations in an expeditious manner so that cases were disposed of without much delay so that suspects were not held longer than was necessary; so that for a case that was not bondable orailable, congestion could be minimised if such a case was speedily investigated; and
- (iv) stakeholders and the three arms of the Criminal Justice System were being encouraged to work together as a team.

In conclusion, the Permanent Secretary informed your Committee that the majority of prisoners were convicts and this had significantly contributed to congestion in some prisons. Therefore, Government had embarked on the process of transferring convicted prisoners from congested prisons such as Lusaka Central Prison and Kabwe Maximum Security Prison to Kamfinsa Prison. Through this exercise, prison authorities had transferred a total of 833 prisoners to Kamfinsa

Prison, of whom 164 prisoners were from Lusaka and 669 prisoners were from Kabwe Maximum Security Prison. Consequently, they had significantly reduced congestion at the above-mentioned two prison establishments. There was room to accommodate at least 500 more prisoners at Kamfinsa because eight dormitories were not occupied at the time of this study.

Your Committee heard that as of 11th June 2007, prisons had a population of fourteen thousand three hundred and ninety-five (14,395) prisoners broken down as follows:

- Convicts: 9 062
- Remandees: 4 545
- Prohibited Immigrants: 146
- Condemned: 299
- Juvenile Remandees: 162
- Juvenile Convicts: 153
- His Excellency's pleasure: 28

The Commissioner of Prisons informed your Committee that fifty-three prisons were made to accommodate 5,500 prisoners. This meant that they had an occupancy rate of 262% or 162% overcrowded.

Committee's Observations and Recommendations

9. Your Committee observe the following:

- (i) the problem of congestion is very serious and deserves urgent attention as it is a human rights issue;
- (ii) prison infrastructure is currently inadequate to cater for the large number of prisoners, hence the congestion;
- (iii) the sentencing policy in the Judiciary needs to substantially take into account non-custodial sentences;
- (iv) prison personnel lack motivation as their conditions of service remain poor;
- (v) prisoners are held for long periods without being taken to courts;
- (vi) there is inadequate funding to the prisons, police, judiciary and the DPP's office; and
- (vii) there is no coordination among the stakeholders in the Criminal Justice System.

In this regard, your Committee recommend that the Government should:

- (i) consider building more prison facilities to accommodate the increased prisoner intake;
- (ii) renovate existing prison facilities;
- (iii) improve communication, cooperation and coordination among criminal justice institutions and other stakeholders;
- (iv) increase competence and motivation of personnel in criminal justice institutions;

- (v) improve funding to the prisons, police, the judiciary and the DPP's office;
- (vi) establish a co-coordinating mechanism among the offices of the police and the DPP's office in order to strengthen investigations and prosecutions.

PART II

TOUR REPORT

In order to complement their study on the topical issues, your Committee conducted tours to the following institutions:

- (i) Mukobeko Maximum Security Prison;
- (ii) Mporokoso State Prison;
- (iii) Mumbwa State Prison;
- (iv) Katombora Reformatory School; and
- (v) Lusaka Central Prison.

Mukobeko Maximum Security Prison - Kabwe

10. Your Committee undertook a tour of Mukobeko Maximum Security Prison in Kabwe to conduct an on-the-spot check of the conditions prevailing at the institution. They were met by the Officer-in-Charge who took them on a conducted tour of the prison. The Deputy Regional Commanding Officer joined the entourage from the Commissioner's office. Your Committee only managed to tour the male section of the prison due to time constraints. Apart from meeting with convicts and remandees, your Committee met with the prison staff.

During the tour, your Committee observed the following:

- (i) procurement of foodstuffs was done by central administration;
- (ii) there were obsolete security gadgets in the prison;
- (iii) prison facilities were dilapidated;
- (iv) there were no beds and blankets in the prison and very few mattresses;
- (v) there were not enough prison officers to match the number of prisoners;
- (vi) prison cells were congested;
- (vii) diet was poor and inadequate;
- (viii) there was lack of equipment for rehabilitation of inmates;
- (ix) funding was inadequate;
- (x) there was general lack of accommodation for prison officials; and
- (xi) delays in taking suspects to court.

In the circumstances, your Committee recommend that:

- (i) funding to the prison should be improved;
- (ii) equipment should be replaced;
- (iii) more prison cells should be built and existing ones rehabilitated;
- (iv) accommodation for prison officers should be improved;
- (v) the diet for the convicts should be improved and quantities increased;
- (vi) more prison officers should be deployed to the prison;
- (vii) procurement of foodstuffs for the prisons should be decentralised;
- (viii) modern security gadgets should be fitted at the prison;
- (ix) suspects should be taken to court on time to avoid infringement of their rights to a speedy and fair trial;
- (x) more beds, mattresses and blankets should be purchased; and
- (xi) Ministry of Home Affairs officials should visit the prison to have up to date information on the situation at the prison.

Mporokoso Prison - Mporokoso

11. Your Committee undertook a tour of Mporokoso State Prison and were met on arrival by the Officer-in-Charge who gave them a brief before taking them on a conducted tour of the prison. Your Committee had a chance to meet with the prisoners and prison officers.

Your Committee made the following observations:

- (i) the prison infrastructure was dilapidated;
- (ii) prisoners had no uniforms;
- (iii) there was lack of beds, beddings and mattresses;
- (iv) there was lack of accommodation for staff;
- (v) the diet for the prisoners was poor;
- (vi) warrant holders were based in Kasama thereby delaying court cases;
- (vii) the funds allocated to the prison were inadequate;
- (viii) there was lack of transport; and
- (ix) staff had no uniforms.

In view of the foregoing, your Committee make the following recommendations:

- (i) the Government needs to refurbish the infrastructure at the prison;
- (ii) there is need to purchase beds, beddings and mattresses for the inmates;
- (iii) there is need to purchase uniforms for the inmates;
- (iv) there is need to improve the diet for the prisoners;
- (v) transport should be provided to the prison;
- (vi) uniformed staff should be provided with uniforms or uniform allowance;
- (vii) there is need to decentralise the warrant holders;
- (viii) conditions of service for prison staff need to be improved; and
- (ix) prisoners need to be taken to court on time.

Mumbwa Prison

12. Your Committee toured Mumbwa Prison and were met on arrival by the Officer-in-Charge who took them on a conducted tour of the prison dormitories and the gardens.

Your Committee made the following observations:

- (a) there were inadequate toilets and bathroom facilities in the dormitories;
- (b) prisoners had no uniforms;
- (c) the institution needed beds, mattresses and blankets;
- (d) food rations for the prisoners were poor;
- (e) kitchen facilities were inadequate; and
- (f) land within prison grounds was being alienated to private developers by the local authority.

Consequently, your Committee make the following recommendations:

- (a) the Government should refurbish the prison dormitories and provide them with adequate toilets and bathrooms;
- (b) there is need for the Government to purchase uniforms for the inmates;
- (c) beds, mattresses and blankets should be purchased for the inmates;
- (d) kitchen facilities should be improved;
- (e) Central Administration should allow the prison to utilise the food grown at Mwembeshi to feed the inmates; and
- (f) land within the precincts of the prison should not be alienated to private developers but be reserved for expansion purposes.

Katombora Reformatory

13. Your Committee toured Katombora Reformatory and made the following observations:

- (a) prison dormitories were dilapidated;
- (b) there were not enough pots in the kitchen and there was need to fit electrical pots;
- (c) there was lack of beds, mattresses and blankets;
- (d) there was lack of equipment for training of the inmates;
- (e) teaching staff was inadequate;
- (f) the environment for female juveniles was not conducive;
- (g) the number of officers manning the institution was inadequate;
- (h) the Reformatory gardens were able to cater for the vegetable requirements of the inmates;

- (i) prison staff did not wear uniform and were not paid any uniform allowances; and
- (j) conditions of service for prison officers were very poor.

Your Committee recommend as follows:

- (a) the Reformatory should be refurbished before the infrastructure completely breaks down;
- (b) the kitchen should be well equipped with electrical pots and other kitchen staff to assist the young prisoners to prepare their meals;
- (c) beds, mattresses and blankets should be purchased for the institution as a matter of urgency;
- (d) equipment for training of inmates should be procured as what is there is now obsolete;
- (e) facilities for female juveniles should be built;
- (f) teaching staff should be increased;
- (g) the staff manning the prisoners should be increased;
- (h) officers should be paid their uniform allowances; and
- (i) conditions of service for prison staff should be improved.

Lusaka Prisons

14. Your Committee were unable to tour Lusaka Prisons as the Commanding Officer who was supposed to take them on a conducted tour of the prisons was busy launching the “Keep Zambia Clean” campaign with the Permanent Secretary at the Ministry of Home Affairs, on the proposed date of the tour.

Your Committee wish to express their disappointment over this apparent lack of consideration of your Committee’s work by both the Permanent Secretary, in the Ministry of Home Affairs and the Commanding Officer for Lusaka Province when, in fact, the tour programme had been circulated prior to the tour being undertaken.

PART III

CONSIDERATION OF OUTSTANDING ISSUES

15. Your Committee considered outstanding issues in the Action-Taken Report on the Committee's Report for 2006.

HUMAN RIGHTS COMMISSION

Your previous Committee had requested a progress report on the vacant positions in the establishment of the Human Rights Commission. They had observed that the provincial centres were in urgent need of qualified staff as they were being administered by under-qualified and/or junior clerical staff.

Your Committee were informed that, despite Treasury Authority being granted to the Commission in 2002, a number of vacant positions had not been filled because budget ceilings that were given to the Commission in 2004, 2005 and 2006 did not cater for recruitment for vacant positions. Therefore, the staffing levels were at 30 percent of the approved establishment.

The Secretary to the Treasury informed your Committee that, funding to the Human Rights Commission had been inadequate due to Government policy of prioritising funding to key sectors such as Health.

Your Committee heard that the Government was aware of the staffing needs of the Commission but, due to budgetary constraints, it could not do much.

Observations and Recommendations

While noting the response, your Committee request to be updated on the status of funding to the Commission and urge the Government to consider prioritising funding to the Human Rights Commission to improve its capacity.

DEPARTMENT OF LEGAL AID

16. Your previous Committee had requested the Permanent Secretary to furnish them with a progress report on the independence of the Directorate of Legal Aid as regards funding and its impact after implementation of the legal provisions making it autonomous.

Your Committee were informed that, through Act No.17 of 2000, the Legal Aid Department was transformed into a board, with a Legal Aid Fund, and further amendments were made. However, the Board was not yet fully operational as a number of logistical measures had not yet been put in place. New Board members had since been appointed and plans were under way to recruit professional staff, including paralegals. It was hoped that when the Board was fully operational, many issues pertaining to the operations of the Legal Aid Department such as funding would be addressed.

The Secretary to the Treasury informed your Committee that some funds had been released and that there would be some improvements in the operations of the Department.

Observations and Recommendations

Your Committee, while noting the response, request a progress report on the status of funding for the Department.

POLICE AND PRISONS SERVICE

Your previous Committee had recommended that the conditions of service for the Police and Prisons Service should be improved to address problems such as corruption amongst the officers. Your Committee had also recommended that these conditions of service be harmonised with those of other defense wings.

Your Committee were informed that the Conditions of Service for the Ministry of Home Affairs were tied to the Final Restructuring Report which was submitted to Cabinet Office for approval. The Ministry was awaiting Cabinet approval.

The Secretary to the Treasury informed your Committee that funding for the Police and Prisons Service was released through the Ministry of Home Affairs. Your Committee were informed that actual release of funds was based on the Ministry's budgetary requirements.

Observations and Recommendations

Your Committee note the response, but urge the Ministry of Home Affairs to improve the conditions of service for the Police and Prisons Service and equate them with those of other security wings.

Your Committee further wish to urge the Government to expeditiously release funding to the Police and Prisons Service.

Your Committee request for a progress report on the Final Restructuring Report submitted to Cabinet Office and Cabinet response.

CONCLUSION

17. In conclusion, your Committee wish to express their gratitude to you, Mr Speaker, and the Clerk of the National Assembly for the support rendered to them during the year. They are indebted to all witnesses who appeared before them, for their co-operation in providing the necessary memoranda and briefs. Your Committee hope that the observations and recommendations contained in this report will help in the formulation and implementation of gender-based legislation and improve the environment in prisons.

J J MWIIMBU, MP
CHAIRPERSON

June 2008
LUSAKA