

**SECOND 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; Mrs J H M Phiri MP; Mr C C Silavwe, MP; Mr K Kakusa, MP; Mr L H Chota, MP; Rev V Sampa-Bredt, MP; and Mr B M M Ntundu, MP.

The Membership of your Committee reduced following the removal of Mrs J H M N Phiri, MP from the Committee who is no longer a Member of Parliament and the conviction and sentencing of Mr C C Silavwe, MP for a period of more than six months thereby disqualifying him from performing functions as a Member of Parliament until his appeal to the High Court is determined.

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

Sir,

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

Functions of the Committee

2.0 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

3.0 During the course of their deliberations, your Committee adopted the following programme of work:

- (i) consideration of corporate governance and corporate social responsibility in Zambia;
- (ii) consideration of the rights of orphans and vulnerable children in orphanages; and
- (iii) tours arising from its deliberations.

Your Committee's Report is divided into two parts. Part I deals with topical issues considered by the Committee while Part II consists of the tour report of your Committee.

PART I

CONSIDERATION OF TOPICAL ISSUES

4.0 Corporate Governance and Corporate Social Responsibility in Zambia

Background Information

4.1 Corporate Governance has economic development implications. It helps increase financial inflows to corporations in a country. This is an important aspect, particularly, to policy makers in their quest to find ways and means of attaining high and long-term growth rates of at least seven percent per annum within the New Partnership for Africa's Development's (NEPAD) framework.

It is a well-founded argument that without efficient companies or business enterprises, Zambia will not create wealth or employment. Without investment, companies will stagnate and eventually close down. If business enterprises do not prosper, the consequences are that there will not be growth in the economy, no employment, and no revenue to the Treasury. Invariably there will be no economic development in the country.

In the early 1990s, Zambia witnessed a substantial number of business entities going into liquidation, which many believed was largely due to non-practice of good corporate principles. The liquidation of Meridien BIAO Bank, Prudence Bank, Commerce Bank and more recently, Agri-flora are a few examples. Your Committee were informed that there must have been some element of unethical business conduct such as creative accounting which could have led to the collapse of some of these companies.

Good corporate governance, therefore, is a prerequisite for national economic development. It was in this light that the World Bank recently stated that the way a country was governed was as important as the way a corporate entity was run.

In this regard, your Committee are of a strong view that Zambia needed well-governed and managed business enterprises that would attract investment, create jobs and wealth for its people and remained viable, sustainable and competitive in the global market.

Further, your Committee strongly believe that good corporate governance was closely correlated with corporate social responsibility. Corporate entities ought to act responsively to the needs and interests of a society in which they operate. While they create wealth, corporations must also bear in mind the effects of their operations on society.

Concerned about the above, and also bearing in mind that Zambia is in the process of creating Multi-Facility Economic Zones (MFEZ) in which business entities would operate, your Committee were compelled to undertake a detailed study of corporate governance and corporate social responsibility in Zambia. The study was aimed at assessing the preparedness of the country in view of the anticipated increase in economic activities.

Objectives of the Study

4.2 The following were your Committees' objectives for the study:

- (i) investigate measures existing in Zambia to promote good corporate governance;

- (ii) determine whether or not, in its current form, the *Companies Act, Cap 388 of the Laws of Zambia* and any other statutes adequately provide for good corporate governance;
- (iii) find out the extent to which corporations were involved in corporate social responsibility matters in Zambia; and
- (iv) find out the incentives, if any, for corporations involved in substantial social responsibility.

Procedure adopted

4.3 In order to make informed recommendations to the Government, your Committee sought information from various Chief Executive Officers from both the public and private sectors as follows:

- (i) the Permanent Secretary (FMA), Ministry of Finance and National Planning;
- (ii) the Permanent Secretary, Ministry of Commerce, Trade and Industry;
- (iii) the Permanent Secretary, Ministry of Labour and Social Security;
- (iv) the Governor, Bank of Zambia;
- (v) the President, Zambia Institute of Chartered Accountants;
- (vi) the Chief Executive Officer, Zambia Chamber of Commerce and Industry;
- (vii) the President, Law Association of Zambia;
- (viii) the Chief Executive Officer, Zambia Business Forum;
- (ix) the Registrar, Patents and Companies Registration Office;
- (x) the Chairperson, Bankers Association of Zambia; and
- (xi) the President, Institute of Directors of Zambia.

These stakeholders were requested to make written submissions on the topic and later to appear before your Committee to make oral clarifications on their written submissions.

SUMMARY OF SUBMISSIONS FROM STAKEHOLDERS

5.0 From the various submissions by the above stakeholders, your Committee were informed as set out hereunder:

(a) **Definition**

There was no universally accepted definition of both corporate governance and corporate social responsibility. While some stakeholders defined corporate governance as a set of processes, customs, policies, laws and institutions affecting the way a corporation was directed, administered and controlled, others viewed corporate governance as comprising matters relating to private and public institutions, including laws, regulations and accepted business practices which, in a market economy, govern the relationship between corporate managers and entrepreneurs on the one hand and those who invest resources in corporations on the other.

With regard to corporate social responsibility, (CSR) most stakeholders defined it as referring to business decision making processes incorporating ethical values, compliance with legal requirements, and respect for people, communities and the environment. In this regard, CSR was considered to extend beyond statutory obligations of compliance with legislation by corporations. It required corporations taking voluntary steps to improve the quality of life for its employees, their families, the local community in which they operated and the society at large.

The most accepted definition of corporate governance, however, was as contained in the Cadbury Report (1992), which defined corporate governance as “*a system by which the power of a corporation or an organisation was exercised in the stewardship of the corporation’s total portfolio of assets and resources with the objective of maintaining and increasing shareholder value, with the satisfaction of other stakeholders in the context of the organisation’s aims and objectives*”.

(b) **What corporate governance entails**

The non-existence of a universally accepted definition of corporate governance notwithstanding, it was common cause by stakeholders that at the core of corporate governance was conflict of interest between the shareholders and boards of directors. This conflict could be actual or potential. This problem was commonly referred to as a principal-agent problem and grew out of the separation of ownership and control of corporations.

In the absence of good corporate governance, corporate insiders (i.e. Boards of Directors) might take decisions that would be injurious to the corporate outsiders (shareholders or investors). Without good governance practices it would be difficult to monitor the true picture of a company which, in turn, would mean that investors, who lacked control over the corporations, would find it risky and costly to protect themselves from opportunistic behaviours of managers and controlling shareholders.

Corporate governance, therefore, came in and brought to the fore issues of probity, accountability, transparency, consistency and ethical conduct on the part of business entities so as to address the principal-agent problem.

(c) **What corporate social responsibility entails**

Your Committee were informed that, in most cases, best managed corporations were also aware of their responsibility towards all stakeholders and society. In other words, companies or corporations that practised good corporate governance were also showing a large degree of corporate social responsibility. CSR was intrinsically linked to the concept of sustainable development in that businesses needed to integrate the economic, social and environmental impact in their operations. As such CSR should not be considered an option “add on” to business core activities but rather as a way in which businesses were managed.

COMMITTEE’S FINDINGS

5.1 The study brought the issues set out below to the attention of your Committee:

Corporate Commitment to good Governance and Social Responsibility

5.1.1 The concepts of corporate governance and corporate social responsibility seemed to have very little appreciation in Zambia. This was particularly true of private companies and state owned enterprises where issues of transparency, and accountability as well as probity were not fully taken on board. On the other hand, large corporations, especially those public companies listed on the Lusaka Stock Exchange (LuSE), and banks seemed to fair well in this regard. Furthermore, there were business entities engaged in marketing strategies that appeared to be corporate social responsibility to members of the public.

The reason for non-appreciation of these concepts was, probably, that they (the concepts) were relatively new in Zambia and many business entities did not understand or appreciate the contribution the concepts made to the success of their businesses.

Legal and Institutional Frame work

5.1.2 It was brought to the attention of your Committee that there was no piece of legislation specifically on corporate governance and social responsibility in Zambia. This was because it was rather practically difficult to legislate on corporate governance. However, there existed various statutes that hinged on corporate governance. The most prominent ones are set out hereunder.

(i) *The Companies Act, Cap 388 of the Laws of Zambia.*

This Act establishes the Patents and Companies Registration Office, an institution charged with the responsibility of ensuring compliance with the provisions therein by companies. It has provisions for, among others, the appointment and duties of directors and secretaries of companies. However, the Act does not provide for the qualifications of a company secretary, a position extremely cardinal in the promotion of good corporate governance. The Act also does not specify the fiduciary duties of directors towards the company in which they are directors. These duties were only invoked as part of common law. This situation made some directors of companies go scot-free despite their contribution to the insolvency of companies.

(ii) *The Banking and Financial Services Act, Cap 387 of the Laws of Zambia*

This Act complements the provisions of the Companies Act by way of placing on directors of banks and financial institutions further duties and obligations. Acting under the provisions of this Act, the Bank of Zambia issued corporate governance guidelines for financial institutions in 2006. These guidelines set forth a broad framework of fundamental corporate governance principles to guide the actions of directors and managers of banking and financial institutions operating in Zambia.

(iii) *The Securities Act, Cap 354 of the Laws of Zambia*

This Act regulates stock exchanges, brokers, public listed companies, investment advisors, fund managers and so on. The Act creates a body corporate called the Securities and Exchange Commission (SEC) whose role and functions are contained therein. It was stated to your Committee that there was only one stock exchange for the time being, the Lusaka Stock Exchange (LuSE). All public listed companies were obliged to comply with the provisions of the Act. In addition, in 2005, LuSE issued a Code of Conduct for all public listed companies to abide by. This code of conduct was meant to enhance good corporate principles by the public companies.

Your Committee also found out that there existed various other statutes that sought to promote corporate governance in one way or another.

Appreciation of corporate social responsibility

5.1.3 There seemed to be lack of, or inadequate, understanding of what CSR entailed. CSR did not only entail giving alms to charity but went beyond. Commitment to charity work was only one part. Your Committee learnt that CSR entailed, among others, the issues set out below.

(i) **Environmental Issues**

Your Committee were informed that CSR activities ought to assist in ensuring that there was sustainable development and as a result companies should adapt practices that:

- did not emit gases or other effluent that would pollute the environment.
- ensured that solid waste produced must be disposed off in a safe manner; and
- promoted the creation of parks and other such social facilities.

(ii) **Labour Issues**

Your Committee were informed that CSR initiatives must ensure that the working environment and relations with employees were conducive so as to encourage productivity. This entailed:

- *Skilled Manpower*
Companies must put in place arrangements to develop its workforce ensuring that it (the work fore) was equipped with the necessary skills;
- *Labour Laws*
Companies must comply with all labour laws, including any that involved child labour or differently abled employees;
- *Labour Conditions*
Companies must pay their workers well and workers rights should be respected; and
- *Working Environment*
The working environment must be conducive in terms of provision of amenities, which translated into increased productivity.

(iii) **Social Issues**

Your Committee were informed that CSR was traditionally associated with social issues but was historically restricted to giving donations to charitable organisations. Currently, it is felt that CSR should address such issues as:

- *Corruption*
The corporate world must include in their CSR activities measures aimed at reducing the practice of corruption;
- *HIV/AIDs and Malaria*
Companies should assist in activities relating to HIV/AIDs, malaria and other diseases, they should adopt workplace programmes toward such health matters;
- *School and Medical Institutions*
CSR entailed setting up or contributing towards the construction of schools and health centres.

Incentives for Involvement in Corporate Social Responsibility

5.1.4 Your Committee learnt that there were no incentives given by government to business entities involved in corporate social responsibility. It was pointed out by the Permanent Secretary in the Ministry of Commerce, Trade and Industry that Government did not have any policy that would give incentives particularly, in form of tax rebates to companies exercising corporate social responsibility.

He admitted, however, that incentives played a critical role in the promotion of corporate social responsibility. A corporate entity that knew it would be entitled to some incentives as a result of their involvement in the social life of the community, would, most certainly, tend to be substantially involved in the welfare of the community.

Learning from Experiences of other Jurisdictions

5.1.5 Your Committee's findings in other jurisdiction are set out below.

(i) Republic of Kenya

Your Committee learnt, with admiration, that the Republic of Kenya was well ahead in corporate governance issues. Between 1998 and 2000, consultative corporate sector seminars were held and culminated into the establishment of a Private Sector Initiative for Corporate Governance (PSCG) which was mandated to formulate and develop a code of best practices for corporate governance in Kenya. The PSCG facilitated the establishment of a national body; the National Corporate Sector Foundation to promote corporate governance in Kenya. The PSCG was furthermore, tasked to coordinate developments in corporate governance in Kenya with other initiatives in East Africa, Africa, the Commonwealth and globally.

Consequently, the corporate sector adopted a national code of best practices for corporate governance to guide corporations in Kenya irrespective of the size of the company. It was noteworthy that the PSCG had already started moving towards regional and international initiatives in promoting good corporate governance.

(ii) Republic of Ghana

Your Committee learnt that corporate responsibility issues were highly practiced in Ghana. For example, Cadbury Schweppes worked with Ghanaian farmers to produce high quality cocoa and played a positive role in cocoa growing communities. The Company ensured that farmers and their families had a decent livelihood and also that cocoa and other crops that farmers grew, yielded sufficient income to support their families and villages. The Company was keen to make sure that there was enough investment for future supply of cocoa at the same time observing high international labour standards.

In addition, over a period of five years, the Company had embarked on a programme to provide water to the cocoa growing communities. By the end of 2006, the Company had built at least 375 water wells; thereby providing around 50,000

people with clean and safe water. This move by the Company had not only enabled communities access to clean potable water but also it reduced water borne diseases and freed up peoples' time, especially women, spent collecting water from far-away places.

Cadbury Schweppes was also a member of the Sustainable Tree Crops Programme (STCP). This was an international initiative aimed at improving the economic and social well being of smallholders and the environmental sustainability of tree crops farms. Through it, farmer field schools were run thus enabling cocoa farmers gain knowledge and skills in maintaining high quality cocoa production.

OBSERVATIONS AND RECOMMENDATIONS

5.2 From the study above, your Committee make the observations and recommendations set out below.

- (a) The efforts to promote corporate governance in Zambia are fragmented. There is need for the corporate world to come together, as in the Kenyan and Ghanaian cases referred to earlier, and establish a national institution that will coordinate and monitor corporate governance issues. Such a body should be mandated to develop a code of corporate governance practices, which should be applicable to all corporate entities. This is better than the current situation where, banks and financial institutions have their own code, public listed companies also have their own code. The Government in conjunction with the Zambia Business Forum should take a leading role towards the realisation of these goals.
- (b) It is practically impossible to legislate on corporate governance. However, there is need for the Government and the private sector to embark on sensitisation programmes on both corporate governance and corporate social responsibility so that the corporate world is morally obliged to give back to the community in which it operates.
- (c) Corporate social responsibility seems to be synonymous with donations to charity. Corporate social responsibility goes beyond giving alms. Issues of labour and environmental protection should be taken on board. The corporate world need not concentrate on supporting sport only but rather embark on sustainable projects and programmes that improve the livelihood of a wide spectrum of society as in the case of Cadbury Schweppes, in Ghana.
- (d) In its current form, the *Companies Act Cap 388 of the Laws of Zambia* does not adequately provide for good corporate governance practices. There is need, therefore, for its revision so that it takes into account not only the qualifications of a company secretary but also specify fiduciary duties of directors vis-à-vis the company in which they are directors.
- (e) There is need for harmonisation of all statutes that hinge on corporate governance.
- (f) In a Zambia, where CSR was beginning to take root, incentives for corporate entities involved in corporate social responsibility could attract more business entities getting involved in meaningful CSR activities and thereby improve the social welfare of a wide spectrum of the Zambian society. In this regard, your Committee recommend that in order to attract more companies to get involved into corporate social responsibility, the Government should consider providing incentives by way of allowable deductions for tax purposes.

6.0 RIGHTS OF ORPHANS AND VULNERABLE CHILDREN IN ZAMBIA WITH SPECIAL EMPHASIS ON CHILDREN IN ORPHANAGES

Your Committee, concerned with numerous press reports of child abuse especially in orphanages, were compelled to undertake a detailed study on the rights of children in orphanages or child care homes.

In order to appreciate issues involving rights of such children, your Committee sought information from the following stakeholders:

- (i) the Permanent Secretary, Ministry of Community Development and Social Services;
- (ii) the Permanent Secretary, Ministry of Home Affairs;
- (iii) the Permanent Secretary, Ministry of Justice;
- (iv) the General Secretary, Council of Churches in Zambia;
- (v) the Founder, Kabwata Orphanage and Transit Home;
- (vi) the Executive Director, YWCA council of Zambia; and
- (vii) the Secretary General, Islamic Council of Zambia.

Objectives of the Study

- 6.1 Your Committees' objectives of the study were to investigate:
- (i) the effectiveness of relevant statutes dealing with rights of orphans and vulnerable children in Zambia;
 - (ii) whether or not these statutes were in harmony; and
 - (iii) whether or not there was need for a completely new legislation for orphans and orphanages operations in the country.

SUMMARY OF STAKEHOLDERS SUBMISSIONS

6.2 From the submissions by various stakeholders, your Committee were informed of the issues set out below.

(i) Definition of an orphan and a vulnerable child

Each stakeholder had a different understanding of who an orphan and a vulnerable child really was. In other words, stakeholders were not agreed on the definition of these two concepts.

The Permanent Secretary in the Ministry of Community Development and Social Services informed your Committee that an orphan was a child whose parent or parents were deceased and that a vulnerable child was one who was at risk of not having adequate basic requirements and protection arising from being orphaned, neglected or abandoned. This definition by the Government was in contrast with that of the Secretary General of the Islamic Council of Zambia, whose institution too, was involved in looking after orphans and vulnerable children. According to the Secretary General of the Islamic Council of Zambia, an orphan was a child below the age of sixteen years who had lost only a father through death. He explained that Islam put emphasis on a child who had lost a father as opposed to one who had lost a mother. The Secretary General informed your Committee that the rationale for such a definition was that a child who lost a father was more vulnerable as he /she would have lost a breadwinner. The Secretary General justified this position by stating that even in the Zambian culture, it was rare to find a

father seeking help from well wishers in order to take care of the children of his deceased wife. He stated that it was not uncommon to find a mother seeking assistance from the public in order to take care of her deceased husband's children.

(ii) Definition of a child care home/ Orphanage

Your Committee were informed that an orphanage and a child care home were used interchangeably and that they referred to a facility meant to provide shelter and serve the best interests of an orphan or a vulnerable child. The Permanent Secretary, Ministry of Community Development and Social Services informed your Committee that such a facility ought to meet minimum standards including, but not limited to, the following:

- (a) a clear administrative and communication system;
- (b) a register for admissions and discharges;
- (c) assessment services;
- (d) arrangements for field trips;
- (e) parental communication;
- (f) qualified personnel;
- (g) staff records; and
- (h) appropriate operational and physical environment.

Asked whether these minimum standards were provided for in any statute, the Permanent Secretary informed your Committee that the minimum standards were merely administrative measures put in place by the Government to guide the management of orphanages in the Country.

(iii) Statutes protecting the rights of orphans and vulnerable children

Your Committee learnt that the terms 'orphan' and 'vulnerable' children were not defined by any statute in Zambia although the National Child Policy (2006) defined an orphan as a child below the age of eighteen years that had lost either or both of his/her parents. Similarly, the National Child Policy defined a vulnerable child as a person who was below the age of eighteen years and was or was likely to be in a risky situation of having their basic rights not being fulfilled.

Since no statute defined an 'orphan' and a 'vulnerable child,' it followed that no statute provided for the rights specifically for orphans and vulnerable children. The Permanent Secretary in the Ministry of Justice informed your Committee that under the Republican Constitution, orphans and vulnerable children were entitled to the same rights and freedoms as all other children in Zambia. She stated that the main statute in the protection and care of children generally was the *Juveniles Act, Cap 53 of the Laws of Zambia*.

The Permanent Secretary informed your Committee further, that the *Juveniles Act* provided for the care of Juveniles in need of care but not necessarily those in orphanages. She pointed out that the law neither provided minimum standards-regulations on how orphanages should operate nor minimum facilities expected to be available for the proper administration of orphanages.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

6.3 Your Committee make the following observations:

- (i) that an orphan and a vulnerable child are not legally provided for, and thus, not defined by any statute, which situation has resulted in different organisations adopting different understanding of these concepts; a situation which is unfortunate;

- (ii) the current statutory law with regard to the protection of children such as the *Juveniles Act Cap 53 of the Laws of Zambia* and the *Adoption Act Cap 54 of the Laws of Zambia* provide generally for the rights of children not necessarily those in orphanages or child care homes who have peculiar needs;
- (iii) there exists no legally binding minimum standards for orphanages to follow; as the standards set by the Ministry of Community Development and Social Welfare are mere guidelines and are of no legal effect; this has resulted in children being kept in infrastructure not suitable for their proper human development;
- (iv) the Social Welfare Department in the Ministry of Community Development and Social Services has largely contributed to the mushrooming of orphanages or child care homes in that it has no capacity to carry out inspections as provided for under the *Juveniles Act*;
- (v) due to lack of inspections, it is possible that some orphanages are used as recruitment centers for child trafficking through dubious adoptions;
- (vi) the breakdown in the extended family system in the country has grossly contributed to the increase in the number of orphans and vulnerable children; and
- (vii) there exist no criteria for determining which child deserved to be in an orphanage and that if the Government does not deal comprehensively with the issue of orphans and orphanages, the situation may reach unmanageable levels.

In this regard, your Committee urge the Government to:

- (i) ensure that there is uniformity in the understanding and definition of who an orphan and a vulnerable child is; this could be done by way of amending the *Juveniles Act, Cap 53 of the Laws of Zambia* or by bringing to Parliament a new Bill to take care of children with special and peculiar needs;
- (ii) ensure that the minimum standards for operations of orphanages are enshrined in a relevant statute for them to have legal effect;
- (iii) ensure that adequate personnel are deployed as inspectors of orphanages. Alternatively, the amended law or a new law should provide for establishment of an autonomous national body charged with the responsibility of orphanage operations by which all inspectors will be employed. This will minimise dubious adoption cases; and
- (iv) hold a national symposium on the issue of orphans and orphanages in Zambia so that a lasting solution is found.

PART II

TOUR REPORT

7.0 FOREIGN – REPUBLIC OF GHANA (9 – 13 June 2008)

Introduction

7.1 Your Committee undertook a study tour to Ghana from 9 – 13th June 2008. The main objective was to familiarise themselves with issues pertaining to corporate governance and corporate social responsibility in Ghana. They were also desirous to share experiences with their Ghanaian counterparts on matters relating to rights of children especially those in orphanages.

Background Information

7.2 Ghana returned to constitutional rule following the enactment of the fourth Republican Constitution in 1992. Like the Zambian, the Ghanaian Constitution provides for a hybrid system of Government. However, there is a slight difference in that in the Ghanaian case, the executive President chooses a majority of his Cabinet from within Parliament (ie 50% +1) and the rest from outside whereas in Zambia the President appoints his Cabinet exclusively from within Parliament. Ministers appointed from outside Parliament may participate in the debates in the House but cannot vote. Another striking feature in the Ghanaian system is that all Ministerial appointments especially those from outside parliament are required to be made with prior approval of Parliament.

The Constitution of Ghana also provides for appointment of various Committees from membership of the House to exercise oversight of ministries, departments and agencies of Government. One important function of the Committees is to examine, in detail, Bills presented to Parliament and propose amendments where necessary. Once a Bill has been presented to Parliament, it was taken to be property of Parliament and as such it was referred to an appropriate select committee for consideration. Such a Committee may hold public hearings on the Bill before reporting back to the House on its findings.

COMMITTEE'S FINDINGS

7.3 From the various meetings held during the tour, the findings of your Committee are as set out hereunder.

- (i) There exists, in Ghana, a unit called “Child Rights Protection” in the Department of Social Welfare. This Unit is responsible for, among others, custody of trafficked children and operations of orphanages. The Unit is established under the legislation against Human trafficking.
- (ii) Human trafficking involving women and especially vulnerable children was a serious problem in Ghana. Although there was legislation in place against Human trafficking, there were very few prosecutions for various reasons, among them, inadequate or lack of evidence of trafficking.
- (iii) With regard to adoptions, your Committee learnt that local adoptions were encouraged and that international adoptions were only possible where there was no local adoption of a child.
- (iv) The Government of Ghana was deeply involved in the protection and preservation of children’s basic rights. In this regard, OSU Children Home in Accra is fully supported by the Government. The Home caters for children from 0 – 18 years. The Home also has facilities for early child development while older children attend school in government institutions. Like any other school-going child in Ghana, children from OSU Home, get free rides on government buses to and from school provided they are in school uniforms.

- (v) Private sector participation in the Ghanaian economy is admirable. Through the Private Enterprise Foundation (PEF), the interests of the private sector are brought to the attention of Government authorities regularly. For instance, PEF meets the Republican President twice a year for this purpose.
- (vi) Founded in 1994 by various business organizations, PEF's mission is to service the development needs of the private sector by influencing government policies and regulations in order to create an enabling environment for a private sector-led economic growth strategy and national development.
- (vii) Among its objectives, PEF provides communication channels and consultation mechanisms for policy dialogue between the private sector and government and initiates economic and business policy recommendations for ultimate government's consideration. In addition, PEF undertook policy based research for making effective representation to government on behalf of member associations on issues of concern to the private sector, such as land reform, the impact of legal and regulatory frameworks, competitiveness, tax regime and multilateral and bilateral trade agreements.
- (viii) Furthermore, PEF monitors best practices and identifies strategic factors accounting for enhanced enterprise competitiveness and disseminates such best practice findings among member enterprises.
- (ix) As a result of its activities, PEF has gained national prominence as a private sector advocate by participating in key national advisory, policy planning and formulation and monitoring fora. PEF's advocacy activities culminated in the recognition by government of the need to set up a Ministry for Private Sector Development to provide focal point for coordinating and harmonising government's initiatives and policies biased towards the private sector.
- (x) With financial support from international organisation, PEF is actively involved in HIV/AIDS study of the behaviour in Small and Medium Enterprises (SMEs) in various regions of the country. The Foundation facilitated, for example, a programme called Treatment Acceleration Project (TAP) in 100 companies in the country. The TAP programme was aimed at scaling up comprehensive treatment for HIV/AIDS infected persons including care and support.
- (xi) PEF has produced the Ghana Business Code. This is as a result of a concerted effort of all stakeholders in Ghana; Chief among them being the Ghana National Chamber of Commerce and Industry, the Association of Ghana Industries and DANIDA. The Code is a series of prescription based on the Universal principles referred to in the United Nations (UN) Global compact 10 principles relating to human rights, labour standards, the environment and anti-corruption. Compliance with the code of conduct is increasingly becoming a requirement in supply chain management, business match making, business monitoring schemes, financing and national and international procurement.
- (xii) The Business Code is intended to present best practices by adding requirements beyond core legislation. It (the code) was formulated to apply to all segments of national business community including State Owned Enterprises (SOEs) and Small-Medium Enterprises (SMEs).
- (xiii) With this Business Code in place, Ghana stands to:
 - (i) increase opportunity to attract foreign business operations;
 - (ii) increase companies abilities to attract and retain the highest qualified employees;

- (iii) increase employee motivation and loyalty and thereby productivity; and
- (iv) create brand value of best business practice' towards consumers.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee note that:

- (i) in Ghana, the Private Sector initiated consultations amongst stakeholders, the development of a code of best practices applicable to sizes of business entities;
- (ii) doing business in Ghana is extremely difficult for a corporate entity that is not a member of the Private Enterprise Foundation. This is because of the uncertainty that third parties would have with regard to protection of their interests in the absence of good corporate governance practices as contained in the Code of Conduct; and
- (iii) though not legally binding, the Code of Conduct for business entities in Ghana is almost assuming legal status. As a result, Ghana's economy was attracting major and massive investments locally and internationally.

In this regard, your Committee reiterate the urgent need in Zambia for the development of a Code of Conduct for business entities if the country is to compete favourably on the international plane. The Zambia Business Forum is urged to organise a stakeholders consultative meeting with a view to developing a Code of Conduct for corporate entities.

8.0 LOCAL – LUSAKA, CENTRAL, COPPERBELT AND NORTH-WESTERN PROVINCES (28 July – 5 August 2008)

Your Committee also undertook local tours to Central, Copperbelt, North-Western and Lusaka Provinces. The main objective of the tours was twofold. Firstly, to physically see for themselves the involvement of the Corporate World in issues of corporate social responsibility especially in areas where mining activities were prominent. Secondly, your Committee wished to determine the extent to which the rights of children especially those in orphanages or child care homes were being observed and respected.

Central Province

8.1 In Kabwe, they visited two orphanages and the Maternal Child Health Ward at Kabwe General Hospital. The details of their findings are set out below.

Ark of the Covenant Orphanage (ARTECO)

8.1.1 Your Committee learnt that the orphanage was a brain child of Art of the Covenant Ministries Incorporated and was co-sponsored by the Railway Systems of Zambia. The orphanage had been in operation since 1995 and has a total of 70 resident children while one hundred and nine were non-residents.

The Orphanage caters for orphaned and vulnerable children ranging from the ages of 7 to 18 years. The main sponsors were Christian organisations based in Sweden and Finland. It was stated that there were very little, if any, subventions from Government. This situation put a lot of pressure on the institution in terms of education, health and nutritional needs of the children.

Your Committee inspected the facilities and found that some of them especially the classrooms were in deplorable state. The classrooms were not spacious and ventilation was poor. The dormitories and other facilities, however, were satisfactory. The Orphanage provided education up to basic school level (ie grade 9) and thereafter, children were sponsored into high schools and tertiary institutions depending on their academic abilities.

There was no health centre at the orphanage. Children who fell ill were taken to government medical facilities within Kabwe town, a distance of about 10 km away.

On nutritional aspects, your Committee were informed that the orphanage followed a particular menu which was substantially balanced.

Children of the Promise Orphanage

8.1.2 Your Committee learnt that this orphanage was established by Kabwe Chapel, a church organisation. The Orphanage was supported by the Railway Systems of Zambia (RSZ) in terms of foodstuffs, maintenance of the buildings, cleaning materials and so on.

The Orphanage has a capacity of 16 children and at the time of the visit, there were only 13 children. Your Committee learnt, further, that the Orphanage acts as a transit home of abused children who came through the Department of Social Welfare.

A physical inspection of the facilities revealed that the bedrooms for both boys and girls were spacious and well ventilated. The Orphanage has a computer room for the children. The Committee also learnt that RSZ employees took time off to teach the children computer skills.

On the education aspect of the children, it was stated that the children attended school at various government schools within Kabwe as the orphanage did not provide any. The Committee learnt that some children were sponsored up to university level or up to the level of being self-reliant.

Your Committee was informed that the Orphanage does not receive Government financial support although quite often vulnerable children were taken to the orphanage through the Department of Social Welfare. The Orphanage was situated not too far away from Kabwe General Hospital and, therefore, it was easier to seek medical attention for ill children.

On nutritional aspects, your Committee found a menu displayed on the board which appeared balanced. The kitchen was fitted with stoves and fridges and was as tidy as other rooms.

Kabwe General Hospital (KGH)

8.1.2 At KGH, the Acting Executive Director led your Committee on a conducted tour of the Maternal and Child Health (MCH) ward renovated by Lusemfw Hydro Power Station. Your Committee were informed that the support from the power company was as a result of the request by the Maureen Mwanawasa Community Initiative (MMCI) on behalf of the Hospital.

Your Committee was also informed that the Railway Systems of Zambia (RSZ) supported the Hospital in 2004 by way of procuring and installing water tanks. It was stated that there was very little appreciation for corporate social responsibility by most corporations in Kabwe. Your Committee was further informed that the Hospital needed a lot of support as it was intending to establish an Intensive Care Unit (ICU) which was critical to the operations of the Hospital.

COPPERBELT PROVINCE

8.2 The findings of the Committee are set out below.

St Theresa Children Village-Ndola

8.2.1 It was learnt by your Committee that St Theresa Children Village was established in 2003. It has a total of one hundred and seventeen children. Most of the children are vulnerable and orphaned largely due to HIV/AIDs related illness either of themselves or their parents.

The Village also caters for children with cerebral palsy who required special attention on a daily basis. There are children as young as a few days old and as old as 21 years in the village.

It was revealed that the Village last received financial support of about K3 million from Government in 2007. It was stated that most support was received from German Catholic Sisters.

On the issue of education, your Committee learnt that the Village did not have adequately trained teachers to handle differently abled children at the institution.

Bwana Mkubwa Mine

8.2.2 At Bwana Mkubwa Mine, your Committee were briefed that First Quantum Company, in general, and Bwana Mkubwa Mine in particular was substantially involved in corporate social responsibility within the Copperbelt.

It was stated to your committee that in 2007, the Company spent US\$789,000 towards corporate social responsibility projects. Some of the projects were outlined as follows:

- (a) once every year the Company supplies equipment and personnel for roll back malaria purposes;
- (b) annual dredging of the Kafubu stream to ensure free flow of water as a preventive measure for various diseases;
- (c) drilling and equipping boreholes in various communities such as schools and health centres;
- (d) road repairs and fixing of street lights in conjunction with the Ndola City Council;
- (e) construction and equipment of classroom blocks;
- (f) supporting orphanages in meeting water and electricity bills;
- (g) supporting eye cataract operations in conjunction with Lions Club.

In addition, your Committee learnt that the Company took matters of corporate governance seriously. The provision of free VCT services and condoms, training of peer educators, employment of a full-time Aids Officers, extensive training programme for middle and senior management staff were some of the issues the Company was involved in.

Furthermore, the Committee was informed that the Company had a comprehensive environmental protection programme which met international standards and was approved by the Environmental Council of Zambia.

The Company was also involved in youth sports development in games such as basketball and tennis.

Friends of the Street Children Home-Kitwe

8.2.3 Your Committee were informed that the Home was opened in 2002 to provide rehabilitation services to street children. The Home has two houses each accommodating 15 children aged between 1 and 16 years. However, at the time of the visit, the Home had a total number of 23 children who were all boys.

In terms of education, your Committee were informed that the Home has one classroom block where children attended school. It was stated to your Committee that after rehabilitation, the children were ultimately, reintegrated into the community where that was possible.

The Committee was further informed that the main supporters of the Home were the Street Child Africa, a Non-Governmental Organisation based in the United Kingdom. At the time of the visit, the Home had received some financial support from the Government and the land on which the Home was situated was donated by Government.

With regard to the health of the children, the Home did not seem to have any programme in place to ensure effective attention to children's health. In terms of physical security of the children, your Committee noted with concern that the Home was not fenced off and therefore, children were at risk to all sorts of mischief by outsiders.

Mopani Copper Mines Limited (MCM)

8.2.4 At Mopani Copper Mines, your Committee learnt that the Company operates two hospitals, 2 primary schools and a secondary school in areas of its operation as part of its corporate social responsibility. These facilities were open to everyone regardless of whether or not they were employees of the Company. The Company also supported selected sports disciplines.

Your Committee were informed that the Company spent about K20.0 million kwacha per month as a contribution to Mufulira Wanderers Football Club.

On health matters, it was learnt that the Company was involved in malaria control programmes in conjunction with the Ministry of Health as part of its corporate social responsibility.

Further, your Committee was informed that MCM supported community projects such as gardening and tailoring in addition to finically St. John's Orphanage and CINDI within Kitwe.

Besides, as part of the Company's good corporate governance, the Company had acquired a farm in Mufulira where its employees were taught farming skills which they would utilise once resettled on the same farm as retirees. The Company also was involved in HIV/AIDs Programmes for its employees and their dependents. In this regard, the Company had trained peer educators at both place of work and in various communities. It was stated that the Company's expenditure on health and malaria control would be in excess of US\$9.8m in 2008.

NORTH-WESTERN PROVINCE

8.3 Your Committee toured the places set out herebelow.

Kyawama Market - Solwezi

8.3.1 This was a new market constructed by Kansashi Copper Mines in conjunction with Kansashi Foundation Trust at the cost of K7.3bn as part of its corporate social responsibility.

Kikombe Basic School - Solwezi

8.3.2 At Kikombe Basic School, Kansashi Mine constructed a 1 x 4 classroom block at the cost of K483.0m. The block has a special classroom for children with special needs. The classroom has in-built cooking facilities. It was stated that the Company had also provided the school with 20 desks. Further, your Committee was informed that the Company had constructed classroom blocks and provided desks besides drilling atleast 19 boreholes and 20 water wells in various communities. This provided clean and safe drinking water to masses in the North-Western Province.

Kilelabalanda Orphanage and Widows Care - Solwezi

8.3.3 This orphanage was supported by Kansashi Mine in several ways. For example, the Company constructed two dormitories one for the boys and the other for the girls. The Company also drilled and equipped a borehole and paid ZESCO

to have the orphanage electrified. They further, provided the orphanage with 25 beds and other pieces of furniture. There was also a fish ponds and a banana plantation supported by the Company.

Lord's Mountain Orphanage - Zambezi

8.3.4 The Lord's Mountain Orphanage was established in 2001 by the United Methodist Church. Its main aim was to provide spiritual, physical and mental assistance to distressed children particularly orphans and the neglected.

The Orphanage cared for 35 children with ages ranging between 3 and 21 years. The Orphanage did not have any school at the time of the visit. They, instead, sent children to various Government educational institutions.

Your Committee were informed that although the dormitories for both girls and boys had been completed, none of the children was in residence due to lack of electricity at the Institution. It was stated to your Committee that although the Orphanage made a payment to Zambia Electricity Supply Company (ZESCO) amounting K28.0m in November 2007, ZESCO had at the time of the visit failed to provide power to the Orphanage. As a result children were kept by their guardians in various villages.

Further, it was learnt that the Orphanage had never received any financial or material support from government except relief food under the Disaster Management and Mitigation Unit. The major donors were the United Methodist Church in the United States of America.

(d) LUSAKA PROVINCE

8.4 Your Committee's findings in Lusaka Province are set out below.

Kabwata Orphanage

8.4.1 Your Committee visited Kabwata Orphanage and Transit Home in Kabwata Township. The Orphanage was administered and managed by an individual as a result of the passion they had for orphans and vulnerable children. The Orphanage supported children in formal and informal education according to the children's academic abilities. At the time of the visit the Orphanage had 4 fully sponsored students at the University of Zambia and a substantial number of children were in high and secondary schools.

Due to its proximity to the University Teaching Hospital and Kabwata Clinic, the Orphanage did not face much hardships in attending to sick children. Of special interest, was a child who had had his head and back burnt allegedly by an uncle in Kalomo District. It was stated that at the time the boy was brought to the orphanage was on the brink of death. When Government through the Ministry of Health was contacted to evacuate the boy to South African for specialist treatment, Government allegedly turned down the request. The Orphanage had to look for resources for the boy's medical attention in South Africa. It was reported to your Committee that the boy needed plastic surgery in the United States of America. However, an American visa had been denied and the orphanage did not know what to do next.

With regard to nutrition, your Committee were satisfied that children were fairly well fed under the circumstances.

The Founder informed your Committee that the Government through the Ministry of Community Development of Social Welfare provided financial assistance of about K1.0m at least twice a year while the Ministry of Youth and Sports provided about K2.1m twice a year.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

8.5 Your Committee observe that the responsibility to uphold protect and preserve the rights of children regardless of their status lies with Government.

From the local tours, it is evident that Government is not doing enough to alleviate the suffering of children especially orphans and vulnerable children. In most cases, Government provided very little, if any financial support to orphanages.

Your Committee recommend that Government policy on orphanages should be clearly spelt out so that adequate support is given.

CONCLUSION

9.0 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 are hopeful that the observations and recommendations contained in this report will help in the formulation and implementation of gender-based legislation, improvement in the prisons' environment and enactment of a Constitution that will stand the test of time through good governance systems in Zambia.

J J MWIIMBU, MP
CHAIRPERSON

September 2008
Lusaka