



REPUBLIC OF ZAMBIA

REPORT

of the

**COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE,
HUMAN RIGHTS AND GENDER MATTERS**

for the

**FIFTH SESSION OF THE NINTH
NATIONAL ASSEMBLY APPOINTED ON
19TH JANUARY 2006**

PRINTED BY THE NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS AND GENDER MATTERS FOR THE FIFTH SESSION OF THE NINTH NATIONAL ASSEMBLY APPOINTED ON 19TH JANUARY 2006

Consisting of:

Ms I M Wina, MP (Chairperson); Mr T M Bwalya, MP; Mr Y H Banda, MP; Mr S Kalumiana, MP; Mr J Masowe, MP; Mr K S Chitanga, MP; and Mr B S K Chiti, MP.

The membership of your Committee was reduced to seven following the appointment of Ms R Chipampe, MP as Deputy Minister.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
Lusaka

Sir,

Your Committee have the honour to present their Report for the Fifth Session of the Ninth National Assembly.

FUNCTIONS OF THE COMMITTEE

2.0 The Functions of your Committee are set out as follows:

- a. to oversee the activities of the Ministry of Justice, the Gender in Development Division (GIDD) at Cabinet Office, the Human Rights Commission and other Government Departments or Agencies directly related to the operations of your Committee;
- b. to carry out detailed scrutiny of certain activities being undertaken by the Government Ministries, Departments and/ or Agencies and make appropriate recommendations to the House for ultimate consideration by the Government;
- c. to study, report and make recommendations to the Government through the House on the mandate, management and operations of the Government Ministries, Departments and /or Agencies on issues related to your Committee;
- d. to make, if considered necessary, recommendations to the Government on the need to review certain government policies and/ or existing legislation; and
- e. to consider any Bill (s) that may be referred to them by the House.

MEETINGS OF THE COMMITTEE

3.0 Your Committee held eleven meetings during the year under review.

Programme of Work of the Committee

4.0 Your Committee considered and adopted the following programme of work for the year 2006;

- a) consideration of the Action-Taken Report on the Report of your previous Committee for the fourth Session of the Ninth National Assembly;
- b) detailed study on human trafficking as a human rights, legal and gender concern; and
- c) tours of the following:
 - Border Posts: Chirundu Border Post and
 - Livingstone Border Post; and the
 - Victim Support Unit (VSU).

OPERATIONS OF THE COMMITTEE

5.0 Your Committee requested detailed memorandum on the topic under study from Permanent Secretaries of various ministries and chief executives of non governmental organisations. Thereafter, your committee invited the witnesses to exchange views with them based on the written submissions.

Your Committee were unable to undertake study tours in relation to their programme of work due to lack of time.

The Report is in two parts. Part I consists of the topical issue while Part II comprises the Action-Taken Report on your previous Committee's Report for 2005.

PART I

CONSIDERATION OF TOPICAL ISSUES

Human Trafficking – a human rights, gender and legal concern

Human trafficking has been described as the second largest criminal industry in the world after drug dealing. It is alleged that recruitment and transportation or sale of human beings is mainly for the purposes of sexual exploitation and servitude including forced marriages.

Human trafficking is a gender concern. Although victims of traffickers can be of either gender, an overwhelming majority of the victims are women and children. This is largely, due to the persistent inequalities that they face in status and opportunity.

Human trafficking also embraces a hub of human rights violations. Victims of human traffickers are forced to work and live under inhuman and degrading conditions. In many countries including Zambia, constitutions provide for the protection against slavery and forced labour. However, legislation on human trafficking is weak making it difficult to prosecute offenders.

Zambia is reported to be a source and transit country for women and children trafficked for the purpose of sexual exploitation. Child prostitution also exists in most urban centres and constitutes the country's most serious trafficking problem.

There are increasing reports in Zambia of women and children being trafficked into situations that cause psychological and physical damage. There are no specific laws that prohibit trafficking in persons. However, the Penal Code provides penalties for several trafficking – related offences such as the procurement of women for prostitution and engaging in sex with girls under sixteen years. In the absence of an applicable law, therefore, it has been difficult to identify trafficking victims and also, cases of trafficking have not been actively investigated or prosecuted.

Objective of Study

In view of the psychological, physical damage and the violation of human rights suffered by the victims and also of the complexity of dealing with human trafficking, it was found prudent for your Committee to undertake the study with the ultimate objective of:-

- (i) raising awareness of the problem of human trafficking;
- (ii) developing legislation specifically prohibiting human trafficking so as to protect victims.

The stakeholders who made submissions to your Committee are;

- (i) the Permanent Secretary-Ministry of Community Development and Social welfare;
- (ii) the Permanent Secretary-Gender in Development Division;
- (iii) the Permanent Secretary-Ministry of Labour and Social Security;
- (iv) the Permanent Secretary- Ministry of Home Affairs;
- (v) the Director-Human Rights Commission;
- (vi) the Executive Director-MAPODE;
- (vii) the Executive Director-Law Development Commission;
- (viii) the Executive Director-Children In Need Network (CHINN);
- (ix) the Chief Immigrations Officer-Ministry of Home Affairs; and
- (x) the Chief of Mission-International Organization for Migration.

CONSOLIDATED SUMMARY OF SUBMISSIONS

Definition of Human Trafficking

6.0 Your Committee learnt that the internationally recognized definition of trafficking in human beings is contained in the UN Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, which supplements the United Nations Convention against Transnational Organized Crime. Under Article three of the Protocol, "*Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*"

Effective Strategies To Combat Human Trafficking

7.0 Your Committee were informed that a national strategy to counter human trafficking would only be considered effective if it is supported by, and organised around, the "three Ps" of counter-trafficking, i.e. Prevention, Protection and Prosecution. The aim is to ensure just and effective punishment of traffickers, to protect their victims, and to prevent trafficking. These three pillars provide a framework for a national response to human trafficking made up of 10 key interventions that together address both the demand and supply sides of trafficking. A national strategy to address human trafficking ought to be implemented by the relevant government ministries, law enforcement agencies, state and non-governmental social assistance providers, and inter-governmental organisations, such as the International Organization for Migration (IOM). They should be coordinated nationally, with a *focus* on individual cases, and regularly monitored and evaluated. The 10 key interventions include:

- (i) data-collection and information-sharing;
- (ii) capacity-building;
- (iii) public awareness-raising;
- (iv) identification of trafficking victims;
- (v) protection and direct assistance to trafficking victims;
- (vi) special measures for the protection and support of child trafficking victims;
- (vii) adequate anti-trafficking legal framework;
- (viii) investigation, identification and prosecution of traffickers;
- (ix) coordination of national counter-trafficking strategy and international cooperation; and
- (x) monitoring and evaluation of the national counter-trafficking strategy.

Prevention

7.1 Further, your Committee heard that while primarily supporting the strategic objectives of protection and prosecution, each of the interventions, contribute, to a certain extent, to the first pillar of counter-trafficking prevention. For example, the identification and assistance of victims makes it more likely that they will provide useful information to police officials, which can be used to identify and prosecute the traffickers, preventing more persons from being recruited. When these measures are implemented in parallel with a set of three interventions specific to the prevention of trafficking; the interventions working together can deliver a strong national prevention and counter-trafficking influence. This prevention effect is strengthened when all the interventions are strongly coordinated at both the national and local levels and monitored and evaluated on an on-going basis.

Data-collection and information sharing

Effective and realistic counter-trafficking strategies must be based on accurate and current information, experience and analysis. It is essential that all parties involved in developing and implementing these strategies have to maintain a clear understanding of the key issues pertaining to trafficking and best practices for combating the trade. The more information is known about the specific trends of trafficking in Zambia, and the profiles both of victims and traffickers, the greater Zambia's capacity to reduce trafficking and investigate cases.

Measures to collect and organise data on trafficking may include:

- i. standardizing the collection of statistical information and field data on trafficking, and related movements such as migrant smuggling which may include a trafficking element;
- ii. ensure the desegregation of official migration data on the basis of age, sex, nationality,

- iii. date and place of entry and departure, place of visa renewal, overstay and deportation; facilitate access to trafficking victims for intergovernmental agencies and NGOs for interview and assistance purposes;
- iv. develop and disseminate information materials on human trafficking that focus on raising public awareness; and
- v. establish direct channels of communication within and between countries linking investigators, law enforcement agencies, and regional and intergovernmental agencies concerned with human trafficking.

Capacity-building

Since human trafficking is a relatively new and highly complex crime, it remains undetected by law enforcement agencies or is mistaken for other, lesser offences which form part of the extended process of transporting human beings for purposes of exploitation. In some instances, law enforcement agencies in countries affected by trafficking are unfamiliar with traffickers' *modus operandi*, and mistakenly criminalize victims. State and non-governmental social service providers, too, may fail to identify cases of trafficking as such, or may even deny assistance to foreign persons.

Similar failures to identify and act against traffickers, or to provide humane treatment to victims because of lack of knowledge could conflict with the central objectives of prosecution, protection and prevention underpinning any national counter-trafficking strategy. Capacity-building measures, therefore, should form a part of any national plan to combat trafficking as a means of communicating information about the scale of the trafficking problem, appropriate investigative and prosecutorial approaches, and correct treatment and care for victims. As a long-term measure, country-specific counter-trafficking training curricula can be developed and used during the formative education of teachers, social workers, nurses, lawyers, judges, police officers and immigration authorities as a matter of priority.

Public awareness-raising

It was submitted to your Committee that, as a measure to counter the supply-side of trafficking, public awareness on the dangers of trafficking is an essential element of a national strategy. By drawing public attention to the problem, the Government can elicit the support of the public in the fight against trafficking, and discourage the demand that leads to trafficking. The targets of such campaigns should be children, teenagers, and young women vulnerable to recruitment by traffickers in rural or peri-urban areas due to lack of access to schooling or employment opportunities, to the general public for the purpose of protecting those in their care from traffickers, and reporting suspected or known cases to law enforcement officials.

From a strategic point of view, information campaigns must be adapted to known trafficking trends within the country and across its borders, especially to the primary role the country plays in regional or international trafficking 'streams', i.e. as a source, transit or destination. For example, countries of origin are best suited to public campaigns warning persons of the dangers of trafficking, while those of transit or destination should inform trafficking victims in a number of languages where assistance can be sought.

A variety of media can be used for the purpose of awareness-raising, including print, radio and television advertisements; billboards, posters, T-shirts and stickers; television and radio dramas, and community theatres; and a national toll-free help line to answer potential migrants' questions about travelling abroad or for the purpose of referring persons who have already been trafficked to social assistance providers in the region or country of destination.

Protection

7.2 Your Committee heard that interventions adopted to combat human trafficking should be victim-centered and address the rescue, rehabilitation and reintegration with respect to three key responses falling under the second identification of victims, protection and direct assistance, and special measures for the protection and support of child trafficking victims.

Combating human trafficking rests on the ability of law enforcement officials and social assistance providers to identify victims of trafficking. If this occurs accurately and rapidly, victims can be accorded protection and given support, while their experiences and testimonies can be used to inform trafficking investigations and prosecutions.

Conversely, if police officers, immigration officials or social workers are not offered specialized training in the identification of victims, they will have little or no evidence to suggest that the crime of human trafficking has been committed, and so may fail to act against it or support its victims, confirming its reputation as a 'low-risk/high profit' activity.

Developing victim identification guidelines and procedures for relevant state authorities and officials such as police, immigration officials and others involved in the detection, detention, reception and processing of migrants' documents can play a valuable role in combating trafficking. The identification of trafficking victims according to established guidelines is necessary:

- (i) in order to distinguish trafficking victims from other categories of exploited persons and migrants, especially as distinct from smuggled migrants, and thus accord them temporary legal status in Zambia (if foreign) and prevent their revictimisation through detention, fines, summary deportation, and other legal sanctions;
- (ii) in order to accord trafficking victims the appropriate psychosocial, rehabilitation, return and reintegration assistance following their experience of exploitation;
- (iii) for counter-trafficking investigations, which rely on statements from trafficking victims, to be launched with the involvement and cooperation of victims, and for suspected traffickers to be prosecuted under any existing Zambian laws or future anti-trafficking legislation, and;
- (iv) to collect data on the profile of persons trafficked to, through and from, Zambia as a basis for understanding the scale of the problem of human trafficking in the country and the development of appropriate legal and social policies to combat the phenomenon.

Protection and direct assistance to victims

The trafficking cycle cannot be broken without enhancing the rights and needs of those who have been trafficked. As a counter-trafficking measure, therefore, appropriate protection of and support to trafficking victims should be a central element of a national strategy and be extended to persons identified as trafficked without discrimination so as to minimize further marginalisation, criminalisation, stigmatization or isolation. Placing the protection of the human rights of trafficking victims at the centre of any measures taken to prevent and end trafficking, not only addresses their legitimate psychosocial, medical, material and legal needs, but also makes it more

likely that they (victims) will agree to cooperate in police counter-trafficking investigations and participate as witnesses in judicial procedures to prosecute traffickers. Thus it is important that, a national strategy to combat trafficking should prioritise the development of national guidelines for the treatment of trafficked persons, from the moment they are referred for identification to the successful and sustainable return and reintegration of such persons to their regions or countries of origin, or whatever other solutions are found.

Special measures for the protection and support of child trafficking victims

Although the definition of human trafficking must be the same for both adults and children, the peculiar physical and psychological harm suffered by trafficked children and their high vulnerability to exploitation require that they be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. In all these the best interests of the child must be a primary consideration in all actions concerning trafficked children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. Child victims of trafficking should be provided with appropriate assistance and protection, and full account should be taken of their special rights and needs.

The following measures may be adopted in relation to special cases of trafficking involving child victims;

- (i) ensuring that measures taken to protect child victims of trafficking in both law and policy reflect their need for special safeguards and care, including appropriate legal protection at all stages of criminal proceedings against alleged offenders;
- (ii) ensuring that procedures are in place for the rapid identification of child trafficking victims so that they are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons;
- (iii) adopting special policies and programmes to protect and support children who have been victims of trafficking; children should be provided with appropriate physical, psychosocial, legal, educational, housing and health-care assistance; and
- (iv) in cases where children are not accompanied by relatives or guardians, taking steps to identify and locate family members, and facilitating reunification following a risk assessment.

Prosecution

7.3 Your committee heard that the lack of specific and/or adequate legislation on trafficking at the national level has been one of the major obstacles in the fight against trafficking. It poses the danger that the human trafficking process will not be defined as a distinct crime in the national law and, therefore, remain underreported and not adequately investigated; that its victims (whether Zambian or foreign) will not be properly identified, protected and assisted, especially women and children; and that traffickers will continue to operate within Zambia and across its borders with relative impunity, and only occasionally subjected to small fines for immigration violations. Therefore, the development of comprehensive anti-trafficking legislation that is consistent with relevant international standards and instruments, particularly the UN Trafficking Protocol, plays an important role in the prevention of trafficking and related exploitation by acting as a deterrent, according protection and assistance to victims, and enabling the prosecution of traffickers.

Prior to the adoption of comprehensive anti-trafficking legislation, existing laws may be invoked

where possible to prosecute traffickers and offer humane treatment to victims. In cases of existing laws that may seek to punish persons who have been trafficked (especially immigration and prostitution laws), a victim-centered approach should be considered, so that victims are not punished for offenses related to their having been trafficked.

The UN Trafficking Protocol provides a strong basis for the development of a national anti-trafficking law. In line with the Protocol, national legislation should aim at, *inter alia*:

- (i) defining precisely the crime of human trafficking in accordance with international standards;
- (ii) preventing and combating trafficking in persons, paying particular attention to women and children;
- (iii) protecting and assisting victims of such trafficking, with full respect to their human rights; and
- (iv) promoting co-operation among state parties in order to meet these objectives.

Investigation, identification and prosecution of traffickers

Your Committee learnt that based on global and regional information, human trafficking poses a significant threat to countries in Southern Africa, yet nowhere in the region has it been criminalized. It remains a frequently undetected low-risk/high profit endeavour for criminals. An essential part of a national strategy to address and combat human trafficking, therefore, is the investigation of trafficking as an organised criminal activity, and the identification and prosecution of traffickers. Since it is a complex phenomenon involving a wide range of crimes in the form of immigration violations and financial crimes, the response by law enforcement to human trafficking should be specialized, inter-agency and coordinated between national government ministries and other stakeholders, as well as between countries in the region. At the same time, because traffickers profit from human 'commodities', the law enforcement approach to combating the crime should be one that focus on investigations of traffickers while being sensitive to the safety of trafficked persons.

Strategically, the investigation, identification and prosecution of human traffickers within the framework of a national counter-trafficking plan of action should be seen in light of the human and strategic costs of the crime as set out below.

- (i) Trafficking violates the universal human right to life, liberty and freedom from slavery in all its forms. It contributes to the breakdown of social structures by taking children and young adults away from their parents, extended families, and home communities, and exposing them to exploitative and often brutal working conditions that lead to physical, sexual and psychological trauma. The consequence is a loss of human resources, especially when forced or bonded labour involves a significant part of a country's population who are thereby denied access to education.
- (ii) Across the world, human trafficking is a highly profitable criminal industry said to earn criminal groups between \$7-billion and \$12-billion in profits annually from the cross-border trafficking of some 600 000 to 800 000 people. Trafficking in Southern Africa is made possible by public sector corruption at all levels of the state, including within law enforcement agencies and immigration services, and frequently complements other forms of organised criminal activity conducted in the region, among them money laundering, drug trafficking, document forgery, and human smuggling.

CO-ORDINATION AND EVALUATION INTERVENTIONS

8.0 The coordination and harmonization of all the elements of regional and national counter-trafficking strategies are necessary to ensure that the entire process of combating the crime is done, so that there is no conflict in law between the regional, national and inter- government ministries, and other stakeholders. When such conflicts are not identified and addressed, victims will not be properly assisted and traffickers will continue to operate at large. The establishment of a national consultative forum and national task team on human trafficking, as well as the development of a national strategy to combat the crime are two proven instruments for effective, inter-sectoral coordination.

COMMITTEES' OBSERVATIONS AND RECOMMENDATIONS

9.0 From the submissions received from various witnesses, your Committee observe that:

- (i) Government departments have little or no information about who is responsible for tackling the issue and hence no budgetary allocation is requested for;
- (ii) Zambia does not yet have a distinct offence of human trafficking in its Penal Code and this poses a significant obstacle to successful investigation and prosecution of cases of suspected human trafficking;
- (iii) the non-existence of a specific law on human trafficking has made it difficult for law enforcement officers to obtain evidence necessary to successfully prosecute suspected human traffickers;
- (iv) despite Zambia having ratified the United Nations Optional Protocol to Prevent, Suppress and Punish those Trafficking in Persons, especially women and children (The Palermo Protocol), there has been little attention given to strengthening the country's legal framework with respect to human trafficking, the Inter-Ministerial grouping set up in 2004, to focus attention, strategies and resources to combat the practice has moved at a very slow rate;
- (v) the composition of the Inter-ministerial grouping leaves out important stakeholders such as non-governmental organizations;
- (vi) the form and magnitude of the human trafficking remains unclear due to the absence of comprehensive data and research findings on the matter; and
- (vii) the lack of policy direction on human trafficking has resulted in lack of capacity of relevant law enforcement authorities to detect suspected traffickers. Had it not been for the training provided by the International Organization for Migration (IOM) to immigration officials manning borders, the case of the Congolese woman who attempted to cross the Chirundu border with fourteen children in 2004, most likely, would not have been detected; and
- (viii) coordination and harmonization of the elements of counter-trafficking strategies at regional and national levels do not exist.

Arising from the above observations, your committee urge the Government to:

1. formulate and implement an anti-human trafficking policy in partnership with all relevant stakeholders taking a three-pronged approach of prevention, protection and prosecution; the policy should inter alia:
 - (i) provide the objectives and strategies vis a vis the identification, investigation and prosecution of traffickers;
 - (ii) create a specialised authority, rather than local police force, to deal with trafficking cases, including both trafficking investigations and the protection of victims from reprisals;
 - (iii) initiate and strengthen training for law enforcement personnel, immigration and customs officials, prosecutors and judges, and other relevant officials on the prevention of trafficking, prosecution of the traffickers, and protection of the rights of victims, including child victims;
 - (iv) develop a reliable system of data collection and information sharing;
 - (v) standardize the collection of statistical information and field data on trafficking, and related movements, such as irregular migration and migrant smuggling, which may include a trafficking element;
 - (vi) ensure the desegregation of migration data on the basis of age, gender, nationality, date and place of entry and departure, place of visa renewal, overstay, and deportation;
 - (vii) facilitate access to victims of trafficking for intergovernmental agencies and non-governmental agencies for interview and assistance purposes;
 - (viii) establish direct channels of communication within and between countries linking investigators, law enforcement agencies, regional and intergovernmental agencies; and
 - (ix) develop and disseminate information materials on trafficking in persons that focus on raising public awareness.

2. enact specific legislation that will ensure that all manifestations of human trafficking are prevented and in addition that victims and witnesses are protected; this new law must be in harmony with other pieces of legislation currently in existence and should be able to also protect whistle blowers; the legislation should provide adequate penalties for specific trafficking crimes and related offences, such as offences related to living off the earnings of prostitution, and assets and proceeds earned from trafficking; the legislation should include a legal duty on financial institutions to disclose suspect money laundering transactions to law enforcement agencies and should impose a strict legal duty on financial institutions not to disclose the existence of police enquires into a suspect's financial affairs.

Other governments in the region should be encouraged to put in place mechanisms to enhance regional cooperation and exchange of information on the scourge of human trafficking through:

- a) adoption of regional and bi-lateral agreements aimed at preventing trafficking, and protecting the rights and dignity of trafficked persons;
- b) development of procedures and protocols for judicial cooperation and the conduct of joint investigations by law enforcement authorities of concerned states within the region;
- c) introduction of standard procedures within the region for the voluntary return, and reintegration of victims of trafficking in their countries of origin, and the extradition of traffickers for prosecution; and
- d) establishment and maintenance of regular contact with national focal points in the region on all issues pertaining to trafficking operations and victim assistance.

A toll free line which victims of trafficking can use to seek assistance should be initiated.

PART II

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE FOURTH SESSION OF THE NINTH NATIONAL ASSEMBLY

10.0 Your Committee closed all outstanding matters in the Action-taken Report except for the following:

OFFICE OF THE VICE-PRESIDENT (DISASTER MANAGEMENT AND MITIGATION UNIT)

Your previous Committee had observed that there is need for strategies to be put in place in order to address the problem of internally displaced persons in Zambia; and therefore, recommended that:

- (i) there should be proper co-ordination of all stakeholders in dealing with internally displaced persons to deal with the problem in a holistic manner;
- (ii) there should be operational guidelines in place to effectively deal with the problem of internally displaced persons in Zambia; and
- (iii) the Government should strengthen early warning systems for disaster prevention and management.

In response, the Permanent Secretary submitted that the Government appreciated your Committee's recommendation that there should be proper coordination in dealing with internally displaced persons. Your Committee were informed that the coordination role of all stakeholders with regard to internally displaced persons was done through Disaster Management and Mitigation Unit, Office of the Vice President and involved all stakeholders. An example was given in which the Chinsali repatriation of the New Jerusalem Church members had been handled.

Further, your Committee were informed that all relevant stakeholder institutions including those that dealt directly with IDPs were members of the National Disaster Management structure at various levels. In order to strengthen Disaster Management and Mitigation Unit's coordination role, there were provisions within Disaster Management and Mitigation Unit Policy of 2005 to:

- (a) have a direct link with the Vice President when need arises;
- (b) establish and manage the Provincial DMMU offices in all Provinces;
- (c) build effective networks and interfacing with stakeholders at all levels of;
- (d) develop disaster risk reduction strategies;
- (e) build capacity of stakeholders at all levels; and
- (f) maintain permanent focal persons in all line ministries that are members of the technical sub-committee.

As regards the recommendation that there should be guidelines in place, your Committee were informed that operational guidelines were being defined in line with the provisions of the operation manual of the Disaster Management Policy of 2005. These guidelines seek to define the activities before, during and after dealing with a particular hazard (including IDPs).

As regards the recommendation that Government should strengthen early warning systems for disaster prevention your Committee were informed that Government had continued to take steps to strengthen the early warning system for disaster prevention and management through the construction and planned operationalisation of the Emergency Operations Centre (EOC). There would be an expert group to form the core team of the Early Warning System Sub-Committee of the National disaster Management Committee to coordinate Early Warning activities from different institutions to feed into the EOC.

The Early Warning System was broad based covering all sectors and hazard sources. Disaster Management and Mitigation Unit, therefore, maintained close links with the different institutions that provided early warning services.

OBSERVATIONS AND RECOMMENDATIONS

In noting the submission, your Committee are not convinced that the manuals are sufficient to operationalise the Emergency Operations Centre (EOC). They request for an update on the formation of an expert group.

HUMAN RIGHTS COMMISSION

11.0 Your previous Committee had observed that there were incidents of persons displaced in some chiefdoms which were a matter of concern and recommended that the Human Rights Commission should be proactive in undertaking research on internally displaced persons in the country. This will assist the nation in understanding the problem of internal displacement, which will consequently assist in finding lasting solutions to the problem. They observed too that the Human Rights Commission, which is charged with the responsibility of promoting human rights in the nation, did not seem to be playing a leading role in matters relating to internal displacement and urged the Human Rights Commission to revisit their mandate of promoting human rights in the nation in order to promote the dignity of, and protect the rights of, internally displaced persons.

In response the Permanent Secretary stated that the Government agrees with your Committee and

that the Human Rights Commission had developed the 2006 Action Plan which included under research items, the issue of internally displaced persons. The Research Department of the Human Rights Commission had been directed to come up with a proposal and budget, which the Commission would discuss with potential cooperating partners in 2006.

It was hoped that during the first quarter of 2006, the Research Department would spearhead discussions with cooperating partners to try to win their support for the project. If successful, implementation of the research should commence in the second quarter of 2006. Further, during 2005, the Human Rights Commission embarked on a Community Radio Station Human Rights Training programme. The objective was to train community radio personnel in issues of human rights to help them develop radio programmes on human rights in partnership with the Human Rights Commission as part of its information and education mandate. The Commission intended to use this media as a research tool and to get information on issues like internal displacement. So far the Commission has undertaken baseline surveys in Lusaka, Central, Copperbelt, Western and Northern provinces. The project was being supported by the United Nations Development Programme (UNDP).

The Commission obtained Treasury authority for its full establishment and placed job advertisements in the press, of which it has received a lot of applications. It was also decentralising to provinces with Regional Offices in Chipata, Kasama, Mongu and Ndola, which were opened with the Norwegian Embassy and UNDP help. In its quest to serve the people of Zambia, it had increased its budget allocation for 2006.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee request to be availed with a progress report on the Human Rights Commission establishment and decentralization.

POLICE PUBLIC COMPLAINTS AUTHORITY

12.0 Your previous Committee had observed that the Authority lacked adequate funding. This has a negative effect, on among others, its operations and staffing positions and therefore recommended that the Police Public Complaints Authority should be adequately funded to enable it undertake its mandate effectively.

In response, the Permanent Secretary informed your Committee that funding had since been increased from the monthly release of K26m to K100m as its budget allocation rose to K 1.2 billion in the 2006 budget.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee request the Permanent Secretary to avail them with a progress report on its operations after the increase of funding to the Authority.

ANTI-CORRUPTION COMMISSION

13.0 Your previous Committee had observed that the dispensation of justice was undermined

by corruption and recommended that conditions of service for the police as well as the judiciary should be improved as a way of addressing corruption and that there was need for intensive public awareness campaign in the nation in order for people to understand its devastating effects, and that, for effective public awareness, Members of Parliament should be involved as they were closer to the people. They noted too that cases of corruption were mostly in the area of procurement and therefore recommended that Government Ministries and institutions should put in place stringent measures to strengthen the procurement processes to address the problem.

Your Committee were informed that, the Anti- Corruption Commissions concurred with the recommendations made by your Committee in respect of the observations that the dispensation of justice was undermined by corruption and further concurred with the recommendations made by the Committee in respect of the observation that there was need for intensive public awareness of corruption in the nation in order for people to understand its devastating effects.

The Establishment of the African Parliamentarians Network Against Corruption (APNAC) in March 2005 was a welcome development. Programmes on tackling corruption could thus be jointly executed with APNAC and the Commission. As such a liaison desk would be established between APNAC and the Anti-Corruption Commission in furtherance of such joint activities.

The Anti Corruption Commission also supported the recommendations made by the Committee that Government Ministries and institutions to put in place stringent measures to strengthen the procurement processes and curtail the problem of corruption in the area of procurement. The Commission would accordingly liaise with Government institutions on the matter.

Transparency and accountability in this regard should be highly promoted and only men and women of high integrity should serve in the procurement units of the Government Departments. It is envisaged that the National Corruption Prevention Policy and Strategy, which the Commission and Government were working on, would curtail the problem of corruption in various government departments.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee in noting the submission express dissatisfaction with the operation of the Anti Corruption Commission in that corruption cases are taking too long to be disposed off.

The Committee also observe that there are insecurities at the Commission as regards the tenure of office bearers and also the reporting structure at the Commission is not well defined.

DOMESTICATION OF INTERNATIONAL LEGISLATION RELATING TO WOMEN'S AND CHILDREN'S RIGHTS

14.0 Your previous Committee had observed that Zambia had ratified several international conventions relating to women and children such as CEDAW, CRC, and others, which, among other things embodied, standards for their protection against national policies and other practices, which infringed upon their basic and fundamental human rights and recommended that the Ministry should sensitise the public on international legislation that Zambia has ratified.

The Permanent Secretary, in response, informed your Committee that Government would study how best to sensitise the public on international legislation that Zambia had ratified.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee wish to know the time-frame within which the sensitisation of the Zambian Public on international legislation would be done.

Your Committee also wish to be made aware of what is agreed upon at conventions when protocols are ratified.

MINISTRY OF HOME AFFAIRS

15.0 Your previous Committee had recommended that the conditions of service for the Police Force should be improved to address problems such as corruption amongst police officers.

In response, the Permanent Secretary informed your Committee that initiatives to educate law enforcement officers on corruption had been embarked on in the Police Force through the Heritage and Corporate Image Unit of the Force. Meanwhile, the Government awarded a salary increase to the Police effective on February 1, 2004.

Subsequently several allowances were increased and some were incorporated into salaries through the Medium-Term Pay Reform Strategy (MTPRS). Other conditions of service which were improved, included funeral grants from K300,000.00 to K600,000.00 plus coffin, meal allowance, from K35,00.00 to K50,000.00, Subsistence allowance from K95,000.00 to K165,000.00, Tool allowance from K15,000.00 to K20,000, Cycle allowance from K15,000.00 to K25,000.00 and Combat allowance replaced operational allowance and is paid at 50 percent of subsistence allowance. However, the improved Conditions of Service had been made through the Restructuring Report which was awaiting Cabinet approval.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee wish to be availed with a progress report on the Conditions of Service.

Your Committee recommend that salaries of police officers be harmonized with those of other security wings as they are still too low.

HUMAN RIGHTS COMMISSION

16.0 Your previous Committee requested for a progress report on the vacant positions in the establishment of the Human Rights Commission.

In reply, the Government informed your Committee that the Commission Management reiterated the need for recruitment to fill the vacant positions, especially for key professional staff such as lawyers and investigators. The Committee was informed that Treasury Authority for a structure of 131 positions was granted on 21 February, 2002. All positions were advertised in November,

2002 and the recruitment process commenced soon after. By 30 April, 2003, the Commission had only managed to recruit staff in the Finance, and Accounting Unit and the Internal Auditor.

Representations had been made to Government at various times to allow the Commission to recruit. However, budget ceilings that were given to the Commission in 2004, 2005 and 2006 did not cater for recruitment for vacant positions. The staffing level was at 30 percent of the approved establishment.

The Commission's most urgent needs were staff for the provincial offices. A total of four offices at Ndola, Mongu, Kasama and Chipata had been opened. Except for Ndola which had a Senior Investigations Officer" the other, offices were being administered by junior clerical staff.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee wish to know when the other positions would be filled up.

Your Committee recommend that such institutions should not rely on donor funding but have a Government budgetary allocation.

POLICE PUBLIC COMPLAINTS AUTHORITY (PPCA)

17.0 Your previous Committee had recommended that accommodation and staff problems being faced by the Police Public Complaints Authority should be resolved quickly in order to improve the operations of the Authority, and that there should be in place a time frame for the restructuring programme to make it easier to monitor such programmes.

In response, your Committee were informed that in July 2005, the PPCA was allocated spacious offices in the New Kent Building on the ground floor, which was near the High Court. This was done through the Ministry of Works and Supply. The PPCA had no office accommodation problems.

The Restructuring Programme for PPCA was tied up with the one for the Ministry of Home Affairs, which was now awaiting Cabinet approval. It was envisaged that this would be done by December, 2005.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee wish to be furnished with a progress report on the matter.

THE LEGAL AID SYSTEM IN ZAMBIA

FUNDING OF THE LEGAL AID DEPARTMENT

18.0 Your previous Committee urged the Ministry of Justice to decentralize the services of the Legal Aid Department to other provinces so that they could be easily accessible by the indigent in these areas.

In reply, the Permanent Secretary submitted that the Legal Aid Department, which provides the much-needed legal services to the poor, had been turned into an autonomous body by legislation as demanded by Parliament and the Co-operating Partners. Changing the structure of the Department would make the institution attract the much-needed financial and technical support. In its current form the Department had been unable to provide efficient services to the poor. Moreover, the institution would retain its core function of providing legal services to the indigent and would not be commercialized.

In order to fulfill its statutory mandate in line with its mission statement, the Legal Aid Board would pursue the following laid down programmes in 2006;

1. provide legal services and advice to the indigent citizen;
2. represent indigent litigants in Civil matters in Courts including the (IRC) Industrial Relations Courts and all Tribunals;
3. defend accused persons in criminal proceedings in the Subordinate, High and Supreme Courts in offences whose penalties are death or long custodial sentences; this would entail attending to 20 Supreme Court Criminal Appeal sessions, 73 High Court Criminal sessions as well as to Subordinate Court Criminal trials.
4. operationalise the Legal Aid Board pursuant to Legal Aid (Amendment) Act No. 19 of 2005, which came into being on 7th October, 2005. This should necessitate the following:
 - (i) recruitment of ten qualified Advocates;
 - (ii) recruitment of ten support staff;
 - (iii) recruitment of thirty Paralegals;
 - (iv) procurement of office accommodation in at least 4 provinces; and
 - (v) procurement of motor vehicles and office equipment subject to the availability of funds.

Act No. 19 of 2005 basically establishes the legal Aid Board as an autonomous institution answerable directly to Parliament. This move was a historical milestone designed to expand the Department, make it more efficient and enable it attract donor funding. It was crucial however, that the transitional period be properly handled to avoid obvious pit falls. Finally it should be stressed that the Legal Aid Board and the Legal Aid Fund would not be operationalised without the much needed funding which for a start is substantial.

It was common knowledge that the co-operating partners had extended financial assistance to Non-Government Organisations and Institutions, which provide legal services to the poor such as the Legal Resources Foundation, Legal Aid Clinic for Women and the Law Association of Zambia. It was hoped that similar assistance would be extended to the autonomous Directorate of Legal Aid even as Government continues advancing grants to the Department.

OBSERVATIONS AND RECOMMENDATIONS

Your Committee request 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.

THE RIGHTS OF THE DISABLED: THE ZAMBIA INSTITUTE OF SPECIAL EDUCATION (ZAMISE)

PROCUREMENT OF NEW BRAILLEON PRESS

19.0 Your previous Committee had requested a progress report on the procurement of Brailleon machines for the Institution and for the provincial resource centres.

In reply, the Permanent Secretary said that the Ministry had made a proposal to the Japanese Government through the Ministry of Finance and National Planning to purchase six Brailleon machines and other specialized equipment and materials for learners with various disabilities. The proposal was successful and the Zambian Government was granted 2 Million US Dollars which translated to approximately 6.9 Billion Kwacha to purchase the equipment.

OBSERVATIONS AND RECOMMENDATIONS

The Committee wish to know whether or not the brailleon machines and equipment has been procured.

CONCLUSION

20.0 Your Committee wish to thank you, Mr Speaker, for the guidance provided during the Session. Your Committee also wish to express their gratitude to Permanent Secretaries, Chief Executives and representatives of all organisations that made submissions during the Session.

Finally, Sir, your Committee wish to express their heartfelt appreciation to the Office of the Clerk of the National Assembly for all the services rendered during the Session.

I M Wina, MP
CHAIRPERSON

May, 2006
LUSAKA

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