

REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY, APPOINTED ON THURSDAY, 26TH SEPTEMBER, 2013

Consisting of:

Mr J J Mwiimbu, MP, Chairperson; Mrs A M Chungu, MP; Mr M A Malama, MP; Mr J M Kapyanga, MP; Dr M L Kaingu, MP; Mr S Mushanga, MP; Mr M J B Ng'onga, MP; and Mr B M Ntundu, MP

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

Your Committee has the honour to present its report for the Third Session of the Eleventh National Assembly.

FUNCTIONS OF THE COMMITTEE

2. In addition to any other duties conferred upon it by Mr Speaker or any Standing Order or any other order of the Assembly, the duties of the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs are as follows:

(a) to study, report and make appropriate recommendations to the Government through the House on the mandate, management and operations of the Government ministries, departments and/or agencies under its portfolio;

(b) to carry out detailed scrutiny of certain activities being undertaken by the Government ministries, departments and/or agencies under its portfolio and make appropriate recommendations to the House for ultimate consideration by the Government;

(c) to make, if considered necessary, recommendations to the Government on the need to review certain policies and certain existing legislation; and

(d) to consider any Bills that may be referred to it by the House.

Meetings of the Committee

3. During the year under review, your Committee held twelve meetings. In line with its programme of work, your Committee considered the following topical issues:

- A. Judicial Reforms in the Justice System in Zambia; and
- B. Enforcement of the Law Relating to Violence and Harassment against Women and Girls in Zambia.

Arrangement of the Report

4. Your Committee's Report is organised in three Parts: Part I deals with the deliberations of your Committee in relation to the topical issues identified in its Programme of Work; Part II presents the findings, observations and recommendations of your Committee during its local tours; and Part III deals with the your Committee's consideration of the Action Taken Report on the Report of your previous Committee for the Second Session of the Eleventh National Assembly.

Procedure Adopted by the Committee

5. During the period under review, your Committee considered two topical issues. In order to fully appreciate the two topical issues under its consideration, your Committee invited various stakeholders relevant to each of the topics under your Committee's deliberation, to provide both written and oral submissions. Below is a brief background to each of the topics discussed by your Committee, a list of witnesses who made submissions on each topic and a synopsis of the submissions made by the witnesses relating to each topic. Immediately following the summary of the submissions in each case are the observations and recommendations made by your Committee on each topic.

PART I

CONSIDERATION OF TOPICAL ISSUES

A. *Judicial Reforms in the Justice System in Zambia*

Background

6. In any democratic society, the Judiciary, as one of the three Arms of the State, is at the centre of ensuring that the rule of law, constitutionalism and protection of human rights prevail by providing checks and balances to the exercise of power by the other two Arms of State (the Legislature and the Executive). It was, therefore, critical

for the Judiciary to remain independent in the context of the separation of powers if it was to effectively discharge its functions.

In the recent past, there had been growing calls for the reform of the Judiciary in Zambia by civil society, political parties, the church and individuals of varied professional and social backgrounds. One prominent Zambian jurist observes thus:

“In Zambia, it is generally agreed by all stakeholders that the judicial system needs reform to make it more accountable, independent, and able to deliver justice efficiently and effectively.”

It was in light of the foregoing that your Committee resolved to undertake this study in order to try to understand the reasons behind these increasing calls for reform of the judicial system, contribute to the on-going debate and generate some recommendations on the possible way forward.

Objectives

The purpose of this study was:

- i. to ascertain the policy and legal objectives underpinning judicial reforms in Zambia;
- ii. to appreciate the status of on-going judicial reforms, if any ;
- iii. to understand the administration and management of the Judiciary;
- iv. to understand the process of appointment, recruitment and training of judicial officers and their tenure;
- v. to assess the extent of judicial independence in Zambia *vis-a-vis* institutional and financial autonomy;
- vi. to understand the administration of justice in Zambia and challenges thereof, if any;
- vii. to assess the levels of public confidence in the judicial system;
- viii. to appreciate the challenges being faced by the Judiciary in the dispensation of justice, if any; and
- ix. to make appropriate recommendations as regards possible solutions to the challenges identified.

Witnesses

The witnesses who appeared before your Committee for this study were the following:

- (a) the Chief Administrator (Judiciary);
- (b) the Judicial Service Commission;
- (c) the Judicial Complaints Authority
- (d) the Magistrates and Judges Association of Zambia(MAJAZ);
- (e) the Ministry of Justice;
- (f) the Zambia Law Development Commission;

- (g) the Law Association of Zambia;
- (h) the Human Rights Commission;
- (i) the Council of Churches in Zambia;
- (j) CARITAS Zambia;
- (k) Transparency International Zambia;
- (l) the Southern Africa Centre for the Constructive Resolution of Disputes (SACCORD);
- (m) the University of Zambia School of Law; and
- (n) the Zambia Police Force.

Summary of Submissions by Witnesses

7. The witnesses who appeared before your Committee raised some concerns and made some observations as set out below.

a) *Policy and/or Legislative Framework Underlying current Judicial Reforms*

Most stakeholders were not aware of reforms being undertaken or implemented by the Judiciary in line with any specific policy or legal objectives. Some stakeholders were, however, aware that the Judiciary was implementing some regulatory reforms aimed at streamlining the justice delivery procedures. These include the recruitment of Research Advocates, the review of the civil procedure rules and the training of some judicial officers, especially at the lower levels, among others. All stakeholders were of the view that the regulatory reforms, while welcome, fell far short of resolving the serious challenges that the country's judicial system was facing, and comprehensive reforms ought to be undertaken without delay. Further, following various pronouncements regarding its intentions to carry out reforms in the Judiciary, the Government has constituted a Committee on Judicial Reforms at the Ministry of Justice.

b) *Appointment and Recruitment of Judicial Officers*

It was submitted to your Committee that the recruitment and appointment procedures for holders of judicial office must be reviewed to make them more open and transparent. With particular regard to the holders of judicial office at High Court and Supreme Court level, it was argued that there was need to make the procedure for appointment and promotion very clear in order to ensure that those who excelled were allowed to rise above those who did not meet the mark. Further, the procedures and the tenure of office should be designed in such a manner as to attract the best among the legal fraternity in the country to ascend to the bench. It was also proposed that rather than these senior judicial officers being appointed by the President, an independent appointments body should be set up. Needless to say, this requires constitutional amendments to be effected.

c) *Vetting of Judges*

One key stakeholder was of the strong view that in light of the loss of confidence in the Judiciary, and especially in judicial officers, there was need to subject serving Judges to a process of vetting for purposes of ascertaining suitability to continue to hold office as a matter of urgency. This screening process should amongst other things test:

- i) whether the judge met the constitutional criteria for appointment as a judge;
- ii) the past work record of the judge, including prior judicial pronouncements, competence and diligence;
- iii) any pending judgments and/or rulings yet to be delivered by the judge; and
- iv) pending complaints or other relevant information received from any person or body, including the Law Association of Zambia; the Anti-Corruption Commission; the Judicial Complaints Authority; the Police; or the Judicial Service Commission.

It was anticipated that this process would require a constitutional amendment to allow for such scrutiny and vetting. Therefore, it was recommended that the relevant Articles of the Constitution be amended as part of the on-going Constitution Review process to permit for the establishment of a Vetting Tribunal to undertake the task of testing the suitability of sitting Judges to continue to hold high judicial office. In this vein, a Commission of Inquiry should be immediately established to get submissions from members of the public and aggrieved parties in relation to the administration of justice in order to facilitate the establishment of the Vetting Tribunal. This proposal should be attended to in the immediate term rather than waiting for the finalisation of the current Constitution Review process so that public confidence could be restored in the Zambian justice system. This initiative should be undertaken because it presented the best opportunity to exonerate the innocent and should be instrumental in isolating the officers that were attracting bad publicity and loss of confidence in the Judiciary.

d) *Composition of the Judicial Service Commission*

There was urgent need to enhance the independence and representative character of the Judicial Service Commission. In this regard, the membership of the Commission should be revised as a matter of urgency in order to ensure that various interest groups were adequately represented thereon.

e) *Institutional and Financial Autonomy*

All stakeholders who made submissions to your Committee noted that currently, the Judiciary was not institutionally and financially autonomous because of the institutional arrangements in which it existed and operated: the Judicial Service Commission was linked to the Public Service Commission and could hardly be said to be an autonomous institution. More importantly, the budget of the Judiciary was subjected to ceilings and arbitrary reductions by the Ministry of Finance just like any other Government ministry. In these circumstances, it would be folly to expect that meaningful reform could be undertaken without addressing the financial aspects that impacted heavily on the efficiency of the system. Witnesses to your Committee appreciated that the Judiciary had neither enjoyed fiscal independence nor determined and controlled the budgetary and expensing aspects of its operations. This was not desirable and ought not be the case as it meant that the Judiciary's programmes and activities, which should be determined independently by the Judiciary itself, were subjected to vetting by another institution. Further, the disbursement of funds to the Judiciary was erratic and the funds were not released in accordance with the approved budget; in fact one estimate was that only about 70% of the approved budget was released to the Judiciary annually, and in some cases even much less was released.

f) *Operational Independence of the Judiciary*

Some stakeholders argued that despite the fact that the Judiciary was one of the three Arms of Government and the provisions in the Constitution regarding its independence, in practice the Judiciary was treated as if it were just another department of the Executive without any real independence. In particular, some witnesses submitted that there were common public perceptions that judicial independence was severely compromised whenever the Judiciary handled cases in which politicians, especially those from the ruling party, had interests, such as election petitions.

g) *Backlog of Cases*

The Judiciary was facing a critical problem of a huge backlog of cases pending before the Courts, which must be expeditiously tackled with tenacity and innovativeness. In some cases, pending judgments and rulings before a number of judicial officers had remained as such for long periods of time, resulting in the denial of justice to a segment of litigants and accused persons. Issues had, therefore, been raised relating to the accountability of the Judiciary to the public, the quality of decisions passed by the Zambian Courts and generally about the integrity of those that were entrusted with the responsibility of administering justice in the country.

h) *Delayed Delivery of Judgments*

Most stakeholders stated that another major challenge faced by the Judiciary in the administration of justice was delayed delivery of judgments. This had been the main cause of loss of confidence by the general public in the justice system. An examination of the causes for delayed justice showed that this arose on account of various reasons. The courts were not well staffed both in terms of judicial officers and support staff. The country also had shortages of court infrastructure coupled with lack of readily available reference materials for use by Judges and Magistrates. Sadly, the Judiciary's funding problems sometimes went to such extremes that in some cases, there was no stationery to be used in finalising cases which were already tried by the courts. Some witnesses informed your Committee that the situation sometimes got so bad that some judicial officers had attested to the use of personal funds to procure stationery for use in writing judgments.

i) *Public Perceptions of Incompetence, Political Interference and Corruption in the Judiciary*

There were continuing and persistent perceptions among the members of the general public that incompetence and corruption had permeated the judicial system. Further concerns were expressed about political interference in the performance of duty by judicial officers in certain instances.

j) *Need for Comprehensive Reform of the Whole Legal System*

Some stakeholders submitted that some of the shortcomings or failures did not arise solely from the Judiciary, but were symptomatic of a legal system in need of reform and transformation. The problem transcended the Judiciary and encompassed the whole legal system, ranging from the lawyers that plied their profession in the courts, the police and security agencies whose functions fed into the system, the prisons service which resulted from the judicial process at the tail-end, the National Prosecutions Authority and Legal Aid Board and such other related agencies. However, it was recognised that the Judiciary was at the centre of these concerns and any meaningful reform should start from and be focused on the Judiciary.

k) *Enhancing the Role and Functions of the Judicial Complaints Authority*

Concerns were expressed by some witnesses that the Judicial Complaints Authority did not appear to be performing a positive role of processing and addressing complaints against the holders of judicial office. It was stated that one of the weaknesses that the Authority suffered from was that it merely made recommendations in relation to punitive measures against erring judicial officers to

the appropriate authorities, but did not impose sanctions against erring officers as it had no powers to discipline such officers. The appropriate authorities could then either implement the Authority's recommendations or simply ignore them. Further, it was argued that the Judiciary itself was not responsive to the inquiries by the Authority which rendered the Authority moribund and useless because its role had been undermined by the structure within which it ought to be operating.

l) *Inventory/ State of the Administration of Justice Reports*

It was observed by some stakeholders that even though there had been repeated complaints and calls for the delivery of justice to be expedited from the legal fraternity and the public at large, the true extent of the delays, if any, was not known. In this regard, an inventory should be carried out to ascertain the actual state of the justice delivery system. In fact, the state of the administration of justice was a matter that should be audited annually and the information in that regard be disclosed to the relevant stakeholders and the public generally. This was necessary to inculcate a culture of accountability on the part of holders of judicial office. The inventory would disclose the nature and extent of any delays in the delivery of justice and possibly outline the causes of such delays. The outcome of such an inventory would inform the recurrent debate and never ending criticisms that had been leveled at the judicial system and assist in framing possible solutions.

m) *Peer Review Annual Accountability Reports*

Some stakeholders submitted that there were presently no mechanisms within the fabric of the Judiciary to address performance management in a manner that dealt effectively with cases of inefficiency and lack of capacity. This ought to be addressed effectively through a peer review mechanism.

n) *Creation of an Additional Appellate Court*

Some stakeholders submitted that there was need for another autonomous body apart from the Supreme Court to deal with appeals as international standards required two superior courts, which meant two tiers of appeal. However, this would only be possible with a constitutional amendment.

o) *Physical Conditions and Facilities of Courts*

It was submitted by all stakeholders that the Judiciary had continued to operate in pre-independence court buildings which were too small and not conducive for the dispensation of justice in the modern era. The number of High Court buildings was also limited. The High Court had permanent buildings only in Livingstone, Lusaka, Kabwe, Ndola and Kitwe. In places where the High Court

had no permanent presence, the court only sat as a circuit court, which happened about once every month, often for criminal matters. This had negative implications for cases where convictions by the Subordinate Court had to be confirmed by the High Court. It was reported that confirmation sometimes took as long as six months, which contributed not only to the backlog of cases in the High Court, but also to the increase in the prison population.

Further, some delays in the disposal of cases occurred because of the low number of Judges as compared to the increased case load, especially in Lusaka and the Copperbelt. There was also an inadequate number of adjudicators at the lower ranks and inadequate support staff due to recruitment constraints. Additionally, the Industrial Relations Court (IRC) was only operating in Ndola and Lusaka. This had posed a big challenge to indigent litigants who may have to travel from far-flung areas to Lusaka to have their matters heard. There was a proposal within the Judiciary to introduce circuiting of Industrial Relations Court Judges. While a circuiting IRC was welcome, it would entail more funding to the IRC for the Judges to be circuiting. It would also entail construction of Industrial Relations Court facilities in the places identified as Industrial Relations Court circuiting points.

p) *Limited Access to Information and Literature*

While the complete volume of the Laws of Zambia may be available in all courts, there was a challenge of availability of amendments to the laws. Research indicated that although the Judiciary had been making deliberate efforts to ensure that the Supreme Court, High Court, and Subordinate Courts in urban areas were updated with the latest amendments to the law, these were not readily available to courts in far-flung areas. There was also a dearth of expert commentaries and other literature. The recruitment of Research Advocates at High Court and Supreme Court levels was aimed at helping to resolve this problem, but it was doubtful if this objective would be achieved without the courts being equipped with necessary library facilities and materials. At the lower levels, Research Advocates were not available, leaving the Magistrates at the Subordinate and Local Courts to their own devices.

q) *Limiting Legal Provisions*

It was submitted that another major challenge was that the Subordinate Courts had limited sentencing jurisdiction in criminal matters and where the stipulated sentence was in excess of the limit of a specific court, the record would be sent to the High Court for confirmation and sentencing after conviction. This tended to cause delays and clog the High Court, especially with the currently

increasing levels of sexual offences whose minimum sentences were in excess of the jurisdiction of the Subordinate Courts.

r) *Record Keeping/Computerisation*

Your Committee was informed that although an electronic record and case management system had been introduced through the Zambia Justice Information System (ZAJIS), there was still a lot to be done as only ten courts and thirteen registries along the line of rail had benefited from this reform so far. Your Committee learnt that this project was donor funded. Further, most court registries did not comply with regulations stipulated in the National Archives Act of Zambia as regards storage of records, which had contributed to bad records management in the court registries. The court registries also lacked guidance on how to manage records due to lack of a records management policy and the failure to apply internationally recognised records management standards. Storage space in the registries was, therefore, a major challenge.

s) *The Case of Magistrates*

Some witnesses noted that in the discourse on judicial independence and judicial reform, Magistrates were often forgotten, with the focus being only on judicial officers serving on the higher bench. The stakeholders noted that Magistrates played a crucial role in the entire judicial system, given that they handled the vast majority of criminal cases and made key decisions in these matters. Subordinate courts were also the places where the most impoverished, the powerless and the defenceless in society could access justice. If citizens had no confidence in Magistrates and their court officials, perceiving them to be biased, this could have a significant detrimental effect on society. Not only would it impact adversely on the administration of justice, but it also carried with it significant social and economic consequences, including the potential for frustrated members of the public to resort to the unfortunate and unlawful practice of instant justice.

Committee's Observations and Recommendations

8. Noting the multiplicity of submissions by various stakeholders, your Committee wishes to make the observations and recommendations set out hereunder.

- a) Your Committee wishes to applaud the efforts being made by the Judiciary towards regulatory reforms despite working under very difficult conditions. In this light, your Committee implores the Government to financially support the efforts aimed at providing research assistance to

all adjudicators, computerisation of the records of the Judiciary, training of judicial officers and review of the civil procedure rules, among others. Nevertheless, your Committee agrees that there is need for serious and fundamental reforms in the Zambian judicial system in order for it to truly be the beacon of justice that it is meant to be.

- b) Your Committee notes that most of the recommendations for judicial reform hinge on constitutional reform. This means that most of the key proposals on judicial and legal reforms cannot be undertaken if the constitutional reform process is not successfully concluded. Your Committee, therefore, calls upon the Government to expeditiously lead and facilitate the conclusion of the constitution review process and, by implication, the judicial reform process. The judicial reform process, like the constitution review process, should be transparent and take account of the views of all stakeholders, especially with regard to critical issues such as transparent appointment procedures, security of tenure and remuneration of judicial officers.
- c) Your Committee, cognisant of the fact that the backlog of pending cases is so huge that it cannot be effectively dealt with even if the current establishment of High Court Judges were to be filled, recommends that, as a matter of urgency, there should be an amendment of the law to provide for the appointment of High Court Commissioners for a period of no more than three years, for the purpose only of addressing this problem of case backlog. In a similar vein, the jurisdiction of the subordinate Courts should be revised expeditiously so that the delays of cases tried by the Subordinate Courts on account of the requirement for the High Court to confirm the convictions and sentence the convicts could be eliminated.

Your Committee also strongly recommends that deliberate efforts should be made to scale up the utilisation of alternative dispute resolution (ADR), such as mediation and arbitration, as opposed to litigation which tends to clog the system unnecessarily.

- d) The Judicial Complaints Authority should be redesigned and realigned so that it can perform an independent and effective policing role. The jurisdiction to discipline judicial officers should be moved from the Judicial Service Commission to the Judicial Complaints Authority, and the Authority should be given the mandate to deal fully with complaints without subordinating that function to any body, person or entity. Sanctions against erring judicial officers must be clearly stipulated and implemented. In this regard, relevant legislation should be amended, within the subsisting constitutional arrangements, to enhance the roles and

powers of the Authority. Additionally, the Authority should be vested with powers to publish its findings and decisions in the media. This would act as a deterrent against breaches of the code of conduct by judicial officers who would fear exposure. Currently, there is no such exposure of erring judicial officers.

- e) Your Committee recommends that in order to enhance the institutional independence of the Judiciary, the Judicial Service Commission should urgently be delinked from the Public Service Commission and be recreated as an autonomous Service Commission.
- f) Your Committee is of the view that judicial officers must be encouraged, through continued awareness of the importance of abiding by the Code of Conduct, to ensure that they conduct themselves independently, impartially and with integrity. In this vein, judicial officers should ensure that they exercise professionalism while matters are before them, to avoid unnecessary adjournments and delays. In particular, your Committee notes that courts located in remote areas are more prone to unprofessionalism and failure by officers to abide by the Code of Conduct; therefore, such courts must be placed under stricter supervision by senior officers in charge.
- g) An immediate inventory exercise should be launched and a deliberate policy should be put in place to require that an annual and periodic State of the Administration of Justice Report be compiled and published for public consumption in order to enhance transparency and accountability among judicial officers and the Judiciary as a whole. Similarly, a system should be introduced where the performance of judicial officers would be assessed on a frequent basis through peer reviews or the compiling of accountability reports of such types as other jurisdictions had implemented. Such a system should be designed with targeted consequences for erring officers. Your Committee also agrees that vetting of serving judicial officers should be undertaken without delay in the quest to rebuild public confidence in the Judiciary and in order to assist in achieving the intended goal of speedy delivery of justice.
- h) Your Committee recognises the inadequacy of the funding to the Judiciary over the years, which has practically crippled the Institution's operations. In this regard, your Committee recommends that the fiscal autonomy of the Judiciary should be firmly established to allow for enhanced independence of the institution and in order to remove the perception and possibility that the Executive can influence the judicial process by the hold they may have on the availability and disbursement of funds to the Judiciary. In short, the

financial arrangements relating to the Judiciary should be revised expeditiously to enable the Judiciary enjoy some autonomy with regard to its budget and take its rightful place as an independent Arm of the State. In this light, your Committee implores the Government to seriously consider this matter with due dispatch. Related to the issue of funding for the Judiciary, your Committee recommends that the Government must prioritise the improvement of Judiciary infrastructure countrywide without further delay.

- i) Your Committee observes with concern that there is no dedicated judicial college for Judges or Magistrates to train them in various aspects of the performance of their functions. This is anomalous and should be urgently rectified through the design and implementation of training modules and related training materials for lawyers and judicial officers as a follow up to and taking into account the work already done by experts on Legal and Judicial Education, Situational and Gap Analysis engaged by the Access to Justice Programme under the Ministry of Justice.
- j) Your Committee, while applauding the initiative of computerising records in the Judiciary, is disappointed that the computerisation project (ZAJIS) has been donor funded. Your Committee notes that this project is too important to be left to donor funding. Your Committee, therefore, recommends that in order to promote the independence of the Judiciary and ensure the roll out and sustainability of the computerisation project, the Government should take over funding of this project with immediate effect.
- k) Your Committee is in complete agreement with the assertion that Magistrates tend to be forgotten in the discourse relating to judicial independence and judicial reform. In this regard, your Committee strongly recommends that the role played by Magistrates be given due recognition as it is critical to the proper dispensation of justice. In this regard, your Committee recommends that the legal provisions relating to security of tenure, conditions of service, career progression, among others, for the Judges of High Court and Supreme Court must also apply, *mutatis mutandis*, to Magistrates. Your Committee reiterates that it is neither reasonable nor acceptable for the law to discriminate against Magistrates in the manner that it currently does.

B. Enforcement of the Law Relating to Violence and Harassment Against Women and Girls in Zambia

Background

9. Violence against women is global human rights issue that transcends geography, class, culture, age, race and religion. The United Nations Declaration on the Elimination of Violence Against Women had defined violence against women as any act of violence that resulted in, or was likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. According to the National Action Plan on Gender Based Violence (2008–2013), the links between violence against women and increased risk of violence for girls was straight forward: girls, like their sisters, mothers, grandmothers, and aunts, were at direct risk of gender based violence resulting from discrimination. Girls were identified as one of the sub-groups of females most prone to being targeted for violence because of the double vulnerability of gender and young age.

In Zambia, acts of violence and harassment against women and girls were proscribed in the *Penal Code* and the *Anti-Gender Based Violence Act*, amongst other pieces of legislation, which contained a litany of offences related to violence and harassment against women and girls. These offences had been on the statute books for a long time, even though the *Anti-Gender Based Violence Act* was only enacted in 2011. Despite these laws being in place, evidence suggested that violence and harassment against women and girls was on the increase in Zambia.

In light of the above, your Committee was of the view that it was expedient to delve into this matter in order to identify the forms that this violence and harassment took, some of the possible causes of this apparently growing problem and identify the challenges associated with enforcement of the law relating to violence and harassment against women and girls with a view to suggesting possible solutions thereto. Therefore, the purpose of the study was:

- (i) to ascertain the legal framework relating to acts of violence and harassment against women in Zambia;
- (ii) to understand the forms of violence and harassment against women and girls (aggregated according to age and locality);
- (iii) to understand the main causes of violence and harassment against women and girls;
- (iv) to appreciate the role played by various law enforcement agencies and traditional authorities in enforcing the law against violence and harassment against women and girls;

- (v) to ascertain challenges, if any, in the enforcement of the law against violence and harassment against women; and
- (vi) to make appropriate recommendations as regards the possible solutions to the challenges observed.

Witnesses

The witnesses identified by your Committee for this study were:

- (a) the Ministry of Gender and Child Affairs;
- (b) the Ministry of Justice;
- (c) the Ministry of Chiefs and Traditional Affairs;
- (d) the Ministry of Community Development, Mother and Child Health;
- (e) the Ministry of Education, Science, Vocational Training and Early Education;
- (f) the Zambia Police Victim Support Unit;
- (g) the Director of Public Prosecutions;
- (h) the Law Association of Zambia (Legal Aid Clinic for Women);
- (i) the Young Women's Christian Association (YWCA);
- (j) the Women in Law in Southern Africa;
- (k) the Human Rights Commission; and
- (l) UNICEF.

Summary of Submissions by Witnesses

10. The witnesses who appeared before your Committee raised some concerns and made some observations as set out below.

- a) *The legal framework governing issues of violence and harassment of women and girls*

Various stakeholders submitted that the legal framework which dealt with acts of violence and harassment towards women and girls in Zambia included the following:

- the Constitution of Zambia, Chapter 1 of the Laws of Zambia;
- the Penal Code Act, Chapter 87 Laws of Zambia;
- the Criminal Procedure Code, Chapter 88 Laws of Zambia;
- the Matrimonial Causes Act, No 20 of 2007;
- the Intestate Succession Act, Chapter 59 Laws of Zambia;
- the Wills and Administration of Testate Estates Act, Chapter 60 Laws of Zambia;
- the Juveniles Act, Chapter 53 Laws of Zambia; and
- the Anti-Human Trafficking Act, No 11 of 2008.

Furthermore, the fight against violence and harassment of women and girls received a shot in the arm when the Zambian Parliament enacted the *Anti-Gender Based Violence Act, No 1 of 2011*. This piece of legislation is aimed at providing protection for victims of GBV by removing them from abusive situations; counselling and rehabilitating such victims; and ensuring that the victims do not return to the abusive situation. This law also provides for the creation of an Anti-Gender Based Violence Committee and an Anti-Gender Based Violence Trust Fund.

b) *Regional and International Human Rights Instruments*

In addition to the domestic law enumerated above, your Committee was informed that Zambia was a signatory to various regional and international human rights instruments aimed at safeguarding the rights and welfare of women and children. These instruments include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child (CRC); the SADC Protocol on Gender and Development; the Protocol to the African Charter on Human and Peoples Right on the Rights of Women in Africa; and the African Charter on the Welfare and Rights of the Child. In ratifying these regional and international instruments, Zambia, as a state party thereto, had undertaken to address violence against women and girls through measures at domestic level. For example, in Article 1 of the CEDAW, States Parties condemn discrimination against women in all its forms, undertake to adopt appropriate legislative and other measures, including sanctions where appropriate, and the prohibition all forms of discrimination against women. Further in Article 16 (2), it is stated that the betrothal and marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriage in an official registry compulsory.

Similarly, the SADC Protocol on Gender and Development in Articles 20 and 22 provides for the enactment and enforcement of legislation prohibiting all forms of gender based violence (GBV) and the adoption and implementation of policies, strategies and programmes which define and prohibited sexual harassment in all spheres. In addition, Article 4(2) (a) of the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa provides that states parties shall take appropriate and effective measures to enact and enforce laws to prohibit all forms of violence against women, including unwanted or forced sex, whether the violence took place in private or public. Further, Article 16 (1) African Charter on the Welfare and Rights of the Child provides that states parties to the Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment, including sexual abuse.

c) *Zambia's Commitment to Zero tolerance against Violence and Harassment against Women and Girls*

Stakeholders submitted to your Committee that Zambia had also shown commitment to achieving zero tolerance against violence and harassment by embarking on the process of domesticating CEDAW which was on-going; the development of the National Action Plan on GBV (NAP-GBV) 2008-2013; and setting up a Child Labour Unit under the Ministry of Labour and Social Services which coordinated efforts to eliminate child labour and sexual exploitation. Other measures for which Zambia was applauded as being committed to achieving zero tolerance to violence and harassment were the setting up, in 1994, of the Victim Support Unit of the Zambia Police to deal with property grabbing, spouse battering and sexual abuse. Further, the Sex Crimes Unit was established in 2006, within the Victim Support Unit to deal with cases of sexual assault, defilement and rape. In addition, the Police Public Complaints Authority was established with the mandate to address complaints of abuse of authority, unlawful detentions, brutality or torture, unprofessional conduct, death in custody and debt collection by police officers. Zambia has also set up the Inter-ministerial Committee on Trafficking under the Ministry of Home Affairs, whose mandate was to respond to the problem of human trafficking and sensitise the public against engaging in human trafficking. Further, the Zambian Human Rights Commission was established with the mandate to promote and protect human rights.

d) *Adequacy of the Legislative Framework to Address Acts of Violence and Harassment Against Women and Girls*

Stakeholders submitted that, while Zambia had enacted progressive laws to address violence and harassment against women and girls there were still some gaps in the legal framework, some of which were enumerated as follows:

- i) the Constitution contains a claw back clause which allows for implementation of customary law with regard to marriage and inheritance; Article 23 (4) (c, d) provides for the application of customary law with respect to marriage, divorce, inheritance, among others; there are areas under customary law which are permissive to acts of violence and harassment against women and girls;
- ii) although Section 137A(1) of the *Penal Code (Amendment) Act, No 15 of 2005*, provides for the offence of sexual harassment, this offence is only against children and, therefore, does not apply to sexual harassment against women, thereby making this law ineffective because the majority of people found in the workplace were adults, not children;
- iii) the regional and international human rights instruments that Zambia has signed and ratified have not yet been domesticated into national laws; this

meant that the progressive provisions they contained could not be applied and, therefore, did not actually offer the protection that they contained to women and girls; and

iv) the process of amending the *Penal Code* after the enactment of the *Anti-Gender Based Violence Act, No 1 of 2011* was still ongoing. This means that there are some provisions in the Act which do not have offences in the Penal Code.

e) *Forms of Violence*

Witnesses informed your Committee that there were various causes of violence and harassment against women and girls. These included physical violence, economic violence, sexual violence, psychological violence and social cultural violence, among others.

f) *Causes of Violence and Harassment Against Women and Girls*

The witnesses identified key causes of violence and harassment against women and girls as including unequal power relations between men and women as well as control of women by men. These were the core causes of GBV; and others were the socialisation process and cultural norms which encourage abuse of women by men and considered it as acceptable behaviour; lack of awareness on the prevailing legal framework; high poverty and unemployment levels; alcohol and substance abuse; failure to manage anger; lack of effective communication between spouses. Additionally, people that had been exposed to violence were more likely to be violent than those who had not; infidelity; petty jealousy; abuse of technology such as misuse of phones; ignorance of law; and myths and misconceptions such as the belief that if the husband did not beat his wife then he did not love her.

Stakeholders informed your Committee that the question of under-representation of women in political structures was also a causative factor to the high levels of violence and harassment against women and girls. It was noted that although women made up more than half of the voting population, they had been consistently under-represented in political institutions and had limited say in the formulation of public policy choices and priorities. Gender-blind policies in many spheres had directly or indirectly discriminated against women. Socio-cultural attitudes held by the voting public stereotyped women as being incapable of undertaking challenging leadership roles. Technical and financial constraints usually placed women at a greater disadvantage than men during election time. The masculinised nature of the political environment, often characterised by corruption, violence and intimidation, also worked to discourage the greater participation of women in the political arena.

g) *The Role of Traditional Authorities in Enforcing the Law on GBV*

Stakeholders stated that customary law in Zambia was unwritten and varied from tribe to tribe and had a huge influence on the lives of the majority of Zambians, especially in the areas of marriage, divorce and inheritance. Traditional authorities, who included chiefs, headmen and traditional court officers, were considered to be custodians of customary law and played a significant role in the administration of justice, especially in rural areas where the only courts that existed were traditional courts and local courts, both of which administered customary law. Therefore, traditional leaders still wielded a lot of power and authority.

In the traditional courts, traditional and customary values were upheld and enforced. Traditional leaders such as chiefs, sub-chiefs and headmen were regarded as custodians of traditional and customary belief systems which in most cases emphasised male supremacy and the subordination of women and children. In many instances, there was resistance to change from traditional leaders, especially when traditional practices came into conflict with statutory and human rights law. On the other hand, it was stated that while traditional practices often were used to justify violence, culture was dynamic and could change through training, public education, and access to new information. Some traditional leaders were willing to change their way of handling cases if they were equipped with legal and human rights knowledge. Having trained and informed traditional leaders would be a huge milestone for attaining access to justice for women and children.

Stakeholders identified traditional authorities as a very critical resource in combating violence and harassment against women and girls in Zambia as they were close to the people and could, therefore, play a pivotal role in mobilising and sensitising the communities on violence against women and children. Traditional leaders could also discourage negative traditional practices through their handling of matters in the traditional courts. Further, through the traditional authorities, men could be targeted to be agents of change among fellow men.

h) *The Role of Law Enforcement Agencies in Enforcing the Law on Violence and Harassment against Women and Girls*

It was submitted that the law enforcement agencies, such as the Police, could encourage members of the public to report violence against women and children and make the subject of violence against women and children more public through the media. Further, the Police had a duty to effectively investigate all

alleged incidents of violence against women; to conduct all investigations in a manner that respected the rights and needs of each woman without needlessly adding to the existing burden experienced by the victim; to take action to support and protect all victims of crime; and to prevent crime, maintain public order and enforce laws. In addition, as part of the law enforcement process, the courts also had a duty to ensure the quick dispensation of justice when cases of GBV were taken before them.

i) *Challenges in the Enforcement of the Law Relating to Violence and Harassment Against Women and Girls*

Numerous and serious challenges plagued the process of enforcement of the law relating to violence and harassment against women and girls. Firstly, Zambia has a dual legal system comprising statutory and customary laws. Article 23 (1) (4) (d) of the Constitution allows the application of customary law in cases of personal law which include marriage, divorce and devolution of property after death. This means that such cases could be decided according to state law or according to customary law. Although not all customary practices and customs were harmful and discriminatory, there were certain practices and norms that were discriminatory and exacerbated violence against women and children. This poses a challenge and created confusion in terms of ensuring the protection of the rights of women and girls.

Secondly, although the *Anti-Gender Based Violence Act* came into effect in 2011, its operationalisation had been very slow, thus rendering the Act almost unenforceable in its current state. Currently, there were efforts by the Ministry of Gender and Child Development to cost the operationalisation of the Act. Some of the specific difficulties in the enforcement of the Act include the need to establish victims' shelters (of which only two had been established countrywide since the Act came into force); the development of rules of court as provided in Section 40 of the Act (these rules were to provide for the procedures and form of commencement of actions under the Act); the need to establish Anti-GBV Fund to provide economic empowerment to victims of GBV as usually, women who were victims of GBV were economically dependent on the perpetrators who, in most cases, were their husbands or guardians. This was also one of the reasons why cases were not reported to the police or were withdrawn from the courts.

In addition, there was generally a lack of awareness of GBV laws although the Ministry of Gender and Child Development and other NGOs had embarked on the printing and distribution of the *Anti-Gender Based Violence Act* and other related laws in both English and vernacular languages. Other challenges included the lack of fast track courts to deal specifically with cases of GBV as well as the inadequate number of Magistrates dealing with the caseload. All these factors contributed to

the delayed disposal of cases and withdrawal of cases from courts. The lack of a forensic laboratory and other related facilities in the country when the law required the corroboration of evidence relating to sexual violence cases as well as the evidence of a child contributed to the poor conviction rates in cases of sexual violence as, in most cases, the victims were young children whose evidence required corroboration. There was also a challenge in Zambia relating to the definition of a child since there was no uniformity in the laws as regards the definition of a child. Consequently, this resulted in disparities in interpretation and enforcement of laws relating to violence against children.

Other challenges were inadequate suitable office space that could provide privacy and confidentiality; lack of adequate transport for law enforcement agencies to perform their functions; inadequate officers trained in issues of violence against women and girls; negative attitude by some officers towards issues of GBV; and long distances from the scenes of crime and victims' residential areas to service providers.

Committee's Observations and Recommendations

11. Following its interactions with various witnesses, your Committee makes the observations and recommendations set out below.

- a) The Government should step up the training of law enforcement officers on how to deal effectively with violence against women and girls. In this regard, your Committee strongly recommends that the syllabus for training of law enforcement officers, especially the Police, should, forthwith, include a component on this subject. In the same vein, state prosecutors and other service providers involved in GBV case management should also be adequately trained. These would include the health personnel, court staff, community services and social welfare officers and Magistrates.
- b) Adequate transport and other necessary equipment for follow-up and effective prosecution of cases of violence against women and girls should urgently be acquired by the Government. In the same vein, the establishment of the Forensic Science Laboratory should be speeded up.
- c) Stakeholders in the fight against gender based violence must develop closer networks so that they share information and complement one another in the quest to achieve the common goal of eliminating violence and harassment against women and girls. There should also be linkages and channels developed through which information could flow between the customary and formal justice sectors to ensure better monitoring of cases of violence against women and children. Your Committee calls upon the

Government, through the relevant ministries and departments, to spearhead this effort.

- d) The Government must take urgent measures to establish safety centres countrywide in order to prevent further suffering and trauma by the victims of GBV.
- e) The Government should take all necessary measures to improve accessibility of various service providers around the country such as the Legal Aid Board and Victim Support Unit.
- f) Since traditional leaders have clearly been identified as a critical resource in the fight against GBV, your Committee is of the view that the Government should provide the necessary financial and material resources for the training of customary and traditional leaders on the negative impact of violence against women and children as well as on inheritance and succession practices that protect women's and girls' rights. Traditional and local court leaders should also be trained in human rights and the law to ensure that their adjudication conforms to statutory and international human rights standards.
- g) The Government should develop legislation that can support the development of paralegal systems that can bridge the gap between formal laws and justice systems and the customary governance systems that control many women's daily lives.
- h) Your Committee strongly recommends that, through relevant ministries such as the Ministry of Gender and Child Development (MGCD), the Government should urgently engage both print and electronic media to raise awareness of GBV not only as a public health issue, but a human rights issue as well. The messages would inform citizens on what constitutes sexual harassment; measures to take if one is a victim, punishment to perpetrators and available remedial options to victims.
- i) The Government should ensure the development of Rules of Court on the procedure and form of commencement of actions under the *Anti GBV Act, No 1 of 2011* to make it fully operational.
- j) Your Committee calls upon the Government to operationalise the Anti-GBV Fund so that victims of GBV can start benefiting from the provisions of the Act. In the same vein, your Committee reiterates that the relevant ministries must move expeditiously to establish shelters across the country for GBV survivors so that they can be removed from abusive environments, facilitated

- to undergo psychosocial counselling and have access to life skills.
- k) Your Committee recommends that the Government should engage the Judiciary to speed up the establishment of special fast track courts, particularly to deal with cases of gender based violence on selected days of the week so that such cases can be disposed of quickly.
 - l) Your Committee strongly recommends that the review of the Penal Code should take on board all the provisions of the *Anti- Gender Based Violence Act* and also provide for the offence of sexual harassment against persons (not only children) should be expedited.
 - m) International and regional human rights instruments that Zambia has signed and ratified should be domesticated into national law and a time frame for domestication of such instruments once signed and ratified should be set.
 - n) Your Committee calls upon the Government to conscientiously implement empowerment programmes for women through its various institutions such as the Citizens' Economic Empowerment Commission in order to lift more women out of poverty.
 - o) Your Committee recommends that the process of adoption of the draft Constitution which contains progressive provisions which promote social, economic and cultural rights, especially for women, and which has proposed to drop the controversial Articles 23(4) (b and c) which are discriminatory against women be expedited.

PART II

LOCAL TOUR REPORT

12. In accordance with its programme of work, your Committee undertook a local tour to Kabwe, Ndola, Kitwe, Solwezi, Mwinilunga and Lusaka. The purpose of the local tours was to better understand the current operations of the courts and obtain first hand information on the challenges they face with a view to making recommendations as to how best the courts' operations can be improved upon in order to help improve justice delivery. In this light, your Committee visited facilities and interacted with the Chief Administrator of the Judiciary, Judges in Charge, Court Registrars, Magistrates in Charge and Clerks of Court at the Supreme Court, the High Court, the Magistrates Court complex in Lusaka; Kabwe High Court and Subordinate Court; Ndola High Court and Subordinate Court; Kitwe High Court and Subordinate Court; Solwezi Subordinate Court; and Mwinilunga Subordinate Court. Further, your Committee interacted with their Royal Highnesses Senior Chief Chipepo, Senior Chief Kanong'asha and Chief Mumena. The purpose of these interactions was to find out

the main cause of violence and harassment against women and girls, and how the traditional leaders are handling the issue in their localities.

Your Committee also held public hearings at the Kabwe Council Chamber, Chief Mumena's palace, Mwinilunga Civic Centre and Senior Chief Kanong'esha's village. During the public hearings, members of the public from all walks of life were afforded an opportunity to air their views on the two topics under consideration by your Committee.

CONCERNS RAISED BY MEMBERS OF THE PUBLIC

13. The findings of your Committee, concerns raised by stakeholders during the meetings with your Committee and concerns raised during the public hearings were similar in all the places visited. A synopsis of the findings of your Committee and the issues raised during these interactions is presented hereunder and is followed by the observations and recommendations made by your Committee in relation to those findings and concerns.

14. Judicial Reforms in the Justice System in Zambia

a) Lack of Resident Judges in the Provinces

Your Committee was informed that the High Court was only present in four out of the ten provinces countrywide. This meant that the other provinces were served by the High Court on circuit basis. In this regard, and because of lack of infrastructure, Judges on circuit duties displaced the Magistrates as they took up the court rooms during the period of the sitting of the circuit court. This contributed to further delays in disposal of cases by the Magistrates.

b) Inadequate Support Staff

Your Committee learnt that the Judiciary had been negatively affected by the current Government recruitment freeze as the institution was not able to recruit support staff such as Research Advocates, Marshals and secretarial staff to service newly appointed Judges. Your Committee was informed that currently, only 50% of the Judges had Research Advocates and in order to fully service the existing establishment of Judges, about twenty-one more Research Advocates were required. With the recruitment freeze, the Judiciary was incapacitated in terms of providing the necessary research support to the Judges. The situation was compounded by the fact that there was no budgetary allocation in the 2014 budget for recruitment of support staff. Your Committee further noted that Magistrates countrywide had completely no research support and had to handle this aspect individually. Your Committee noted that because of the shortage of support staff, the Judiciary had applied for supplementary

funding to enable the Institution carry out some recruitment during the current financial year.

c) *Personal Security for Judicial Officers*

Your Committee was informed that in terms of the *Judges (Conditions of Service) Act*, Chapter 277 of the Laws of Zambia and subsidiary legislation made thereunder, every Judge was entitled to be provided with an armed guard on a 24 hour basis, to be based at the Judge's residence. Your Committee learnt that there were challenges in terms of actualisation of this entitlement in that the Zambia Police did not always provide the manpower to meet the entitlement. In this regard, a case was reported to your Committee of one such armed guard, who was a Zambia Police officer, reporting for duty in such a state of intoxication that he was disarmed by the concerned Judge without his knowledge as he was in a drunken stupor. Your Committee further noted that in cases where Judges were circuiting, the security arrangements were either inadequate or completely absent despite them travelling long distances to their duty stations. In addition, there was no mention of any provision for security in the conditions of service for Magistrates despite the fact that they needed such a facility for the same reasons that Judges did.

d) *Conditions of Service for Magistrates*

Your Committee found that there was an entrenched form of discrimination in the *Judges (Conditions of Service) Act* in that Magistrates were omitted from its provisions. Your Committee was alive to the fact that Magistrates were not unionised officers and as such, could not negotiate for their salaries. Your Committee further noted that although Magistrates were not Judges, they performed similar functions as Judges and in many cases they even held the same or similar qualifications and experience as Judges did.

e) *Accommodation for Magistrates*

Your Committee learnt that currently, the arrangements were that Magistrates were entitled to a housing allowance on a graduated basis, depending on rank. However, your Committee learnt that the Judiciary had made a decision to pay rentals for Magistrates rather than pay them housing allowances. Your Committee was informed that this decision had been taken ostensibly to avert a situation where Magistrates were paid housing allowances, but went to live in shanty compounds as this would be embarrassing to the Judiciary. However, this decision had resulted into problems for the Magistrates because of the erratic and inadequate funding, the Judiciary was not able to pay rentals for Magistrates in a timely manner. This resulted into evictions or threats thereof by landlords.

For Lusaka-based Magistrates, they were accommodated at the Magistrates' Residential Complex located in Thornpark area. A visit to the Magistrates' residential complex was disappointing and shocking. The surroundings were unkempt, there was completely no security provided at the premises and the sewer system was blocked. The houses themselves were too small and not well designed as the ventilation was poor. In one case, the design of the house was such that it did not allow some of the occupants' belongings, such as beds, to be brought into the house. In the circumstances, the occupants of the house had, therefore, resorted to sleeping on the floor on mattresses. To make the houses more habitable, some of the occupants had had to break some of the walls in the houses.

(f) *Fees and Fines Collected by the Judiciary*

Your Committee was informed that the Judiciary collected fees for various services rendered to members of the public and fines arising out of court process. The Judiciary was allowed to retain and appropriate 100% of the fees for services rendered but the fines were remitted to the Treasury in full. It was suggested that Government should consider allowing the Judiciary to retain at least a portion of the fines to cushion its dire financial position.

(g) *Lack of or Inadequate Reference Materials and Library Facilities*

Your Committee noted that all the court facilities visited had either inadequate or no reference materials and library facilities. Where library facilities existed, they were small, uncomfortable rooms characterised by old and outdated reference materials and inappropriate furniture. This posed a challenge in relation to judgment writing. At the Supreme Court building, your Committee was alarmed at the fact that the Research Advocates occupied the library as there was no office space for them. Your Committee was informed that the Judiciary envisaged that once funds were available, the institution could set up an e-library so that adjudicators could have access to the latest legal reference materials.

(h) *Career Progression for Magistrates*

Your Committee was informed that the career progression of a Magistrate who was not a qualified advocate of the High Court for Zambia was very limited. It appeared that regardless of what other qualifications they may have, including a Bachelor of Laws degree, a Magistrate could not progress beyond Magistrate Class I as long as they did not qualify as an advocate. There were also no other positions, even in the administrative structure, to which they could be appointed. This was quite frustrating, especially for Magistrates who had served the institution diligently for many years.

In a similar vein, there was also a concern that the Judicial Service Commission appeared to have forgotten about some Magistrates in terms of their career progression even though they were qualified advocates. The concern arose from the fact that some Magistrates had been serving as Magistrates at very senior level for many years without being considered for elevation. What was even worse was that when opportunities for promotions came, the Judicial Service Commission tended to recommend advocates from the private sector to the exclusion of those already serving on the lower bench. This was very frustrating for these officers.

Your Committee also was informed that there was no comprehensive training and development programme in the Judicial and non-judicial offices.

(i) *Computerisation Project*

Your Committee was informed that this project had the potential to improve the operations of the Judiciary tremendously by promoting easy access to information by all stakeholders. However, the project had run into problems on account of lack of funds. Your Committee was informed that in any case, under the Judiciary's computerisation project, ten court rooms had been computerised on pilot basis and some training and sensitisation of Judiciary staff had also been undertaken under this project. Further, the system depended on the availability of real time court reporters, of which there were not enough in the Institution. Therefore, the roll out of the programme to all courts countrywide required huge financial outlays which the Judiciary could ill-afford at the moment. Without financial support from the Government, therefore, the project could not be sustained.

(j) *Inadequate and Poor Infrastructure*

Your Committee was shocked at the state of the infrastructure in the Judiciary. Most of the buildings were built in the pre-independence era and were, therefore, in a dilapidated state, which meant that the maintenance costs were very high. Further, because there had been no maintenance work undertaken on most of the buildings for many years, the physical state of the buildings was extremely poor. The poor state of infrastructure also affected relatively new facilities such as the Lusaka Magistrates Court complex on account of lack of maintenance. Additionally, the infrastructure had remained the same despite the huge increase in population, and the concomitant increase in litigation activities, over the years, so the pressure on the infrastructure was quite significant.

Your Committee found that Judges' and Magistrates' chambers were practically non-existent. It was disheartening to note that the offices occupied by the Judges and Magistrates were, in most cases, too small and did not even afford their occupants the privacy which was necessary in line with the nature of their work. The offices

occupied by the adjudicators also doubled as storage space for the case records, which was unacceptable. In a number of cases, the Judiciary had improvised by displacing clerical and secretarial staff to make way for the Judges and Magistrates to occupy those offices. In most cases, the clerical and secretarial staff were crammed into small spaces not fit to be called offices, and this compromised not only their health but also the confidentiality and quality of their work. More importantly, your Committee noted that there was a critical shortage of court rooms at all the facilities visited both at High Court and Subordinate Court levels. In this regard, judicial officers were forced to share court rooms, which contributed to delays in disposing of cases. Your Committee also noted that the Judiciary had serious challenges in terms of storage space or archives for old records, resulting in unnecessary loss of information. Although the computerisation of the Judiciary's operations would help improve case record management, your Committee's visit to the Civil Registry at the Supreme Court left your Committee convinced that the objectives of the computerisation project were far from being achieved.

Notwithstanding the above, your Committee was elated to learn that the Judiciary had recently purchased the former National Housing Authority building located adjacent to the Lusaka High Court Building at a cost of K30 million. It was hoped that the new building would house the offices for support staff of the Supreme Court and Lusaka High Court and release the old buildings to be used as court rooms and chambers for adjudicators. Sadly, however, this acquisition had come at the expense of other equally important infrastructure developments countrywide since the condition for the Judiciary being given this funding was that the Institution would suspend all other infrastructure projects for the current financial year. Further, your Committee learnt that the Judiciary in Kabwe, Kitwe and Ndola had adequate land for construction of new court infrastructure, should funds be made available.

In addition to the foregoing, your Committee was very disappointed to note that the court facilities visited did not have provisions for accessibility by persons with disabilities. Other facilities which were non-existent in the Judiciary were exhibit rooms, and facilities relating to juvenile offenders and child witnesses.

(k) Erratic Funding and Lack of Financial Autonomy

Your Committee was informed that currently, the Judiciary was not financially autonomous. The financing arrangements for the Judiciary were such that the Institution was funded, like any other Government Ministry or Department, by the Ministry of Finance. In terms of budgeting for its activities, the Judiciary's budget was subject to ceilings set by the Ministry of Finance. Further, even after approval of the budget by Parliament, the funds were not released in full. By way of example, your Committee was informed that in 2014, the Judiciary had estimated its operating costs at K600 million per annum but the budgetary allocation to the institution was K260

million. Additionally, if previous trends were anything to go by, only about 50% of this money would be released during the financial year and that erratically, which made planning very difficult.

As a result of the above financial challenges, the Judiciary had difficulties in meeting critical expenditures such as procurement of various types of equipment and consumables for court operations (such as real time court reporting equipment), training of critical judiciary staff such as court reporters, transport facilities, fuel, licences for the software that had been installed in the court rooms, payments towards rentals of Magistrates' residential accommodation, separation packages for its employees such as Local Court Magistrates, among others. As a result, important activities such as deployment of court reporters, who had been trained at great cost to the Institution, to their various duty stations could not be undertaken as there was no equipment for them to perform their duties. Similarly, a lot of local court buildings had been constructed over the past few years but they were non-operational because the Judiciary did not have the requisite funding to deploy the necessary staff to operationalise these courts. It was for this reason, for example, that there were 100 local court buildings in Western Province, but only twenty four were operational.

Committee's Observations and Recommendations

15. Following the local tours, your Committee wishes to make the observations and recommendations set out below.

- a) Your Committee finds that the biggest problem facing the Judiciary at the moment is inadequate funding. This arises out of the Institution's lack of financial autonomy. Your Committee is of the view that with financial autonomy, the Judiciary would be able to resolve most of the bottlenecks in its operations and improve access to Justice. In this regard, your Committee strongly recommends that the Government should revisit the current financing arrangements for the Judiciary in order to make it truly autonomous and vibrant.
- b) Your Committee observes that generally, there has been lack of long term planning in many infrastructure projects undertaken by the Government. Your Committee takes the view that it is necessary in planning for institutions such as the Judiciary to take a long term view and plan for big population increases to avoid crises such as is being faced by the Judiciary.
- c) Your Committee observes that the question of personal security of the judicial officers while at work has not been adequately addressed. In this light, your Committee calls upon the Government to provide adequate personal security to all judicial officers during their performance of duties.

- d) Your Committee recommends that the Judiciary must take deliberate measures to make court facilities countrywide accessible to persons with disabilities without delay and further, the Judiciary must establish appropriate facilities for juvenile offenders, child witnesses and victims of gender based violence.
- e) Your Committee observes that the state of judicial infrastructure is not only shocking, but also unacceptable. Your Committee, therefore, implores the Government to urgently embark on a special infrastructure development programme for the Judiciary to enable the institution construct appropriate juvenile justice facilities, facilities for child witnesses, exhibit rooms, court rooms, Judges and Magistrates' chambers and office accommodation for support staff. Ideally, the programme should be aimed at, among other things, ensuring that the institution is represented at least at provincial level by Resident Judges and generally bringing judicial services closer to the public.
- f) Your Committee agrees that there is need to reconsider the career progression of Magistrates in general. In particular, the issue of long-serving Magistrates who are not qualified advocates should be revisited with a view to opening up a route for them to progress beyond the level of Magistrate Class I in their careers.

Further, your Committee calls upon the Judicial Service Commission (JSC) to consider serving Magistrates for elevation to the higher bench in order to avoid frustrating these officers since they have a legitimate expectation to progress in their chosen career. This is not to say that advocates from the private sector should not be considered, but normal career progression for officers in the Judiciary should be taken seriously as it is part of the mandate of the JSC. Nevertheless, your Committee reiterates that all recommendations for promotion to the higher bench must remain merit-based.

Related to the issue of career development your Committee calls upon the JSC to seriously look into the issue of training and development for both judicial and non-judicial officers in its employ.

- g) Your Committee observes that the decision to pay rent for the Magistrates is itself embarrassing not only because it implies a lack of honour and integrity on the part of the Magistrates, but also because it results in the harassment, and in some cases eviction, of the Magistrates whenever their rentals are not paid timely. Your Committee also notes that in a number of cases, the rentals paid are below the entitlements of the individuals concerned, and wishes to find out how the Judiciary treats the difference between the entitlement and the rentals actually paid. In light of the above, your Committee calls upon the Judiciary to, henceforth, pay the housing allowances due to Magistrates in accordance with

their conditions of service and allow them to rent houses befitting their status and avoid the embarrassment of being evicted from rented houses on account of non-payment by the Judiciary. As regards the Magistrates' Residential complex in Lusaka, your Committee observes with concern that the location of the Complex is not conducive for adjudicators. In this regard, your Committee strongly reiterates that the Judiciary should facilitate the immediate relocation of the Lusaka based Magistrates from the area.

- h) Your Committee observes that Magistrates play a critical role in the dispensation of justice in Zambia. It is, therefore, worrying that Magistrates do not enjoy security of tenure, they are not provided for in terms of personal security and their conditions of service are not secured. This is a recipe for compromise in terms of their adjudicative role. Therefore, your Committee calls upon the Government to urgently revise the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia so as to include provisions for Magistrates' conditions of services. This is not to say that the conditions must be an exact replication of the Judges conditions, but they must be commensurate with the qualifications and level of responsibility carried by a particular Magistrate.

16. Enforcement of the Law Relating to Violence and Harassment Against Women and Girls in Zambia

During its local tour, your Committee made certain findings, observations and recommendations with regard to the enforcement of the law relating to violence and harassment against women and girls. A synopsis of these is set out below.

- a) Your Committee was informed that there was an alarming rise in cases of violence and harassment against women and girls in Zambia. Various forms of abuse were reported on daily basis despite the stiff penalties being imposed by the courts against persons convicted of gender based violence.
- b) In most of the rural areas, particularly the chiefdoms visited by your Committee, there was no police presence for long distances, hence such cases could not be reported to the police in a timely manner and this negatively impacted on the quality of evidence, resulting in low conviction rates.
- c) Your Committee found that because of the distances from the police and court facilities, most victims of gender based violence did not report the cases at all, withdrew the cases or simply failed to attend court if the matters made it into the judicial system as it was too expensive to repeatedly travel to the police and/or the court.
- d) Your Committee was informed that women were vulnerable to violence and abuse because of the prevailing high levels of poverty, especially among females.

In the same vein, most cases of gender based violence were not reported to the police because of fear of incarceration of the breadwinners in the family, who were often the perpetrators of these acts.

- e) Your Committee noted that traditional courts were the only source of justice for most rural people. The traditional leaders visited by your Committee called for Government intervention to train the traditional authorities (not only chiefs, but also headmen and other traditional leaders) in human rights, basic law and other relevant subjects to enable them handle the high incidences of gender based violence.
- f) Awareness programmes should also be stepped up, through appropriate means so that people in the rural areas were not left out of the dissemination of such information.

Committee's Observations and Recommendations

- 17. In light of the above findings, your Committee recommends as outlined below.
 - a) Your Committee calls upon the Government, in collaboration with various stakeholders, to undertake a comprehensive study to determine the reasons why the levels of gender based violence have not been reducing despite various measures taken to tackle the vice.
 - b) The Government should urgently decentralise the operations of the police so that they provide a service closer to where the people live so that police services are accessible, especially in the rural areas.
 - c) The Government should consider strengthening and integrating the traditional courts in the formal justice structure so that these can be supervised to ensure that they implement the law correctly.
 - d) Public awareness activities about gender based violence, and the law relating to it should be enhanced so that citizens, especially rural women, have the necessary knowledge and can claim their rights under the law.

PART III

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE COMMITTEE'S REPORT FOR THE SECOND SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

18. Your Committee considered the Action-Taken Report on the Report of the Committee for the Second Session of the Eleventh National Assembly.

Objective

The purpose of this activity was to review the responses of the Executive to your previous Committee's report with a view to closing those matters that would have been dealt with or responded to satisfactorily. In cases where your Committee was not satisfied with the responses or action taken, your Committee would have an opportunity to make further recommendations for action by the Executive. A summary of the deliberations of your Committee in this regard is presented below.

Operations of the Zambia Institute of Advanced Legal Education (ZIALE) and Administration of the Legal Practitioners Qualifying Examination (LPQE)

Your previous Committee had made observations and recommendations as set out hereunder.

Para 11.0 Page 14

18.1 Q Your previous Committee had recommended that the Government, through the Ministry of Education, should as a matter of urgency undertake physical inspections of all universities in the country, especially private universities, with the view to assessing whether or not they met the minimum universal standards expected of a university, and to bring them into conformity with the provisions of the *Higher Education Act* of 2013.

A. It was reported in the Action-Taken Report that the Government, through the Ministry of Education, Science, Vocational Training and Early Education, would undertake physical inspections of all public and private universities to assess whether or not they met the minimum universal standards expected of a university and to bring them into conformity with the *Higher Education Act* of 2013.

Committee's Observations and Recommendations

Your Committee resolves to await an update on whether the physical inspection of all public and private universities has been done.

18.2 Q. Your previous Committee had recommended that enrolment into the various schools of law should be done as per universal standards whereby students first went through the humanities or already had a first degree.

A. In response, it was reported in the Action-Taken Report that ZIALE agreed with your previous Committee that the standards of tertiary education had been compromised over the years. This had also particularly affected the standards of legal education, especially with the unchecked establishment of law schools in private universities following the liberalisation of the university education. ZIALE was in full agreement with your previous Committee's recommendations in (a), (b) and (c) at pages 14 to 15 of the Report. ZIALE welcomed the enactment of the *Higher Education Act* of 2013 and looked forward to playing its role in enhancing university education in general and legal education in particular.

Committee's Observations and Recommendations

Your Committee resolves to await an update on efforts being made to ensure admission criteria into various law schools are in accordance with universal standards.

18.3 Q. Your previous Committee had recommended that as a matter of urgency the Government should punish universities which were violating universal standards as they were extorting millions of kwacha from students who genuinely wanted to be educated, but could not afterwards put their qualification to use for want of sound qualifications.

A. In response, it was reported in the Action-Taken Report that the Government would apply the provisions of the law against public and private universities which did not meet the required standards. However, the monitoring of universities would be further enhanced by the establishment of the Higher Education Authority.

Committee's Observations and Recommendations

Your Committee will await a detailed report on the punitive measures that have been taken by the Higher Education Authority against universities that have not met the required standards.

18.4 Q. Your previous Committee had recommended that in addition to the current expansion works being undertaken by ZIALE, a new campus should be set up on the Copperbelt to cater for the northern region. This would ease the students' pressure and time spent looking for accommodation and places of attachments.

A. According to the response in the Action-Taken Report, ZIALE duly noted the observation and recommendation of your previous Committee in its Report. Although in time, as the Institute grew, there would be need to expand and develop other campuses outside Lusaka, ZIALE was of the view that current focus and priority should be placed on the development of the twenty-eight acre piece of land located on the Great East Road which would constitute the Silverest Campus. Strategic Objective 4 of ZIALE Strategic Plan for 2012 to 2016, addressed the establishment of a new campus at Silverest. The development of Silverest Campus commenced in 2010 and so far, the boundary wall and guard houses had been completed. The next stage was the building of a caretaker's house which should commence anytime soon. However, two major factors had seriously hampered progress on the project:

- (i) lack of adequate funding; and
- (ii) the rigorous requirements of the tender and procurement processes involved in capital projects.

The need to develop Silverest Campus was of the utmost urgency as the challenges ZIALE was facing with the increased number of students had been compounded with the passage of time. The plan was to construct a modern multi-purpose legal training facility, complete with an administration block, lecture theatres and rooms, conference facilities, modern library and information centre and students' hostels. The proposed campus would significantly improve the infrastructural facilities of the Institute and the ability of the Institute to provide student accommodation, modern and expanded lecture theatres and generally improve the learning environment for students. In addition to the foregoing, the new multi-purpose facility was expected to enhance ZIALE's ability to generate resources internally through an enhanced ability to introduce more short term training programmes and hire of conference facilities.

ZIALE management, with authority from the ZIALE Council, was in the process of engaging the expert services of the Buildings Department in the Ministry of Works and Supply to develop the plan for the new facility. ZIALE would also require support from Government and possibly cooperating partners to make the construction of the Silverest Campus a reality.

In view of the foregoing, it was imperative that the Institute be afforded the necessary support to develop a modern centre of international standards on its twenty-eight acre plot on Great East Road.

The development of the Silverest Campus was a long term measure. In the short term, the Institute, in accordance with Strategic Objective five of its Strategic Plan, planned to expand the infrastructure at the Main Campus on Andrew Mwenya Road in Rhodes Park. The new development would include building a new block of lecture theatres, conference rooms and a trial advocacy court room. Management had already commenced

discussions with the Buildings Department for the design of these facilities. Further, developments at the Main Campus would also include the partitioning of the old lecture theatre into staff offices to improve office space for staff. Work on this project, in conjunction with the Buildings Department, was progressing well.

Committee's Observations and Recommendations

Your Committee reiterates the urgent need for the establishment of the Copperbelt campus to ease accommodation problems being faced by the increasing number of students based outside Lusaka.

18.5 Q. Your previous Committee had recommended that the system being used in Uganda, where students were divided into groups called 'firms' with a lecturer as overseer of the group, be adopted in Zambia. Each firm would then be given or subjected to the same exercises, tests, moots and any other material considered relevant to their training, upon which they shall be examined throughout the course and at the end of the course.

A. In the Action-Taken Report, it was reported that your previous Committee's recommendations (i) and (k) on page 16 called for changes to the LPQE course with regard to revision of the syllabus and duration of the course. Strategic Objectives 1 and 2 of the Strategic Plan (2012 to 2016) specifically addressed the requirement to review the structure of the LPQE and ZIALE had already begun the process. For the exercise, the Institute had engaged the expertise of the TEVETA.

Taken together, the tasks under Strategic Objective 1 and 2 would ensure, inter alia:

- (i) revision of the duration, curriculum and structure of the LPQE;
- (ii) provision of training to lecturers in teaching methodologies; and
- (iii) introduction of an improved assessment criteria.

It was expected that the measures outlined above should not only address your the previous Committee's concerns as stated in recommendations (i) and (k) but also address the possible implementation of your previous Committee's recommendation in, (o) and (p) at page 17 of the Report.

Committee's Observations and Recommendations

Your Committee takes note of the response, and will await a progress report on the implementation of the ZIALE Strategic Plan with regard to review of duration, syllabus and structure of the LPQE course.

18.6 Q. Your previous Committee had recommended that ZIALE should urgently iron out all the administrative challenges that were encumbering the operations of the Accreditation Committee so that it could commence its work, including scrutinising the applicants' degree certificates.

A. According to the Action-Taken Report, the Ministry of Justice had commenced the drafting of the Accreditation Regulations which should help actualise the functioning of the Accreditation Committee. A draft had been presented to ZIALE for comment. The development of the Accreditation Regulations was addressed in Strategic Objective 6 of the ZIALE Strategic Plan. Other related issues to be considered under this objective included the development of Student Examination Rules and Students Disciplinary Code.

The Accreditation Regulations and the eventual functioning of the Accreditation Committee should , in addition to recommendation (f) in your previous Committee's report, help address the concerns in recommendations (a), (b), (c), (e) and (p).

Committee's Observations and Recommendations

Your Committee will await a progress report on the finalisation of the Accreditation Regulations to facilitate the commencement of operations of the Accreditation Committee.

18.7 Q. Your previous Committee had recommended the introduction of a pre-entry examination for all applicants to the Bar course, to be prepared and administered by the Ministry of Justice in conjunction with LAZ.

A. According to the Action-Taken Report, ZIALE was of the view that the function of preparing and administering pre-entry examinations should properly lie with ZIALE and not the Ministry of Justice and the Law Association of Zambia (LAZ) as recommended by your Committee. Although the Ministry of Justice and LAZ were clearly key stakeholders in the training of lawyers in Zambia, ZIALE should continue to exercise a full mandate on the administration of all aspects of the LPQE.

Committee's Observations and Recommendations

While noting the submission, your Committee wishes to get an update on the introduction of the pre-entry examination for all applicants to the Bar Course.

18.8 Q. Your previous Committee had recommended that the Government should consider introducing student loans for ZIALE students which could be recovered after completion of the course. Those who defaulted could easily be sanctioned through their professional body, the Law Association of Zambia.

A. It was reported in the Action-Taken Report that the introduction of a student loan scheme was provided for in the general legal framework under the Ministry of Education, Science and Vocational Training and Early Education and the only issues that would fail to be resolved related to extending a loan facility to students of ZIALE and the challenges of general resource constraints on the part of Government.

Committee's Observations and Recommendations

Your Committee resolves to await an update on the introduction of a student loan scheme for ZIALE students.

18.9 Q. Your previous Committee had recommended that the Rules should be amended so that students could be credited with the subjects they had passed and only be made to repeat the ones they failed.

A. In the Action-Taken Report, it was indicated that ZIALE noted your Committee's observations at (h) and (j) on page 16 in the Report. ZIALE agreed that the students Rules were due for review. Revision of the Student Rules, inter alia, was addressed in Strategic Objective 6 of the Strategic Plan: "To review and enhance the ZIALE legal framework". Under this objective, it was intended to review the Student Rules under the Legal Practitioners Act, Chapter 30 of the Laws of Zambia. The process of review had already started with ZIALE management having done a preliminary review of the Student Rules. It was expected that management would as soon as possible recommend areas of possible change in the Rules to the ZIALE Council for further consideration.

As to whether or not the five-year ban under Rule 23(4) should be abolished or reduced to a shorter period, it was ZIALE's view that currently, key stakeholders held varied views on the matter. In this regard, it needed to be subjected to sufficient debate as the rules were being reviewed. It was a matter that required careful and sober consideration.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the revision of the Student Rules with particular regard to students being credited with subjects that they have passed and only being made to repeat those they have failed.

18.10 Q. Your previous Committee had recommended that ZIALE should revise the entire course by identifying core subjects in which students should be assessed throughout the duration of the course. Those who would fail to get a given threshold in the continuous assessment should be made to repeat that particular subject. Students should only sit for the core subject or subjects if they had passed the

continuous assessment.

A. According to the Action-Taken Report, Strategic Objectives 1 and 2 of the Strategic Plan (2012 to 2016) aforementioned specifically addressed the requirement to review the structure of the LPQE and ZIALE had already begun the process. For the exercise, the Institute had engaged the expertise of the TEVETA.

Committee's Observations and Recommendations

18.11 Your Committee resolves to await a progress report on the matter.

Q. Your previous Committee had recommended that once ZIALE had revised the course as proposed above, there would be no need for the five year ban, as students would be made to repeat at the continuous assessment stage.

A. It was stated in the Action-Taken Report that as already stated in relation to whether or not the five-year ban under Rule 23(4) should be abolished or reduced to a shorter period, it was ZIALE's view that currently, key stakeholders held varied views on the matter. In this regard, it needs to be subjected to sufficient debate as the Rules are being reviewed. It was a matter that required careful and sober consideration.

Committee's Observations and Recommendations

18.12 Your Committee resolves to await an update on the matter of the five year ban.

Q. Your previous Committee had recommended that only those students who passed their assessments should duly attempt the examination. Those who failed at the third attempt may be subjected to a three year ban subject to the discretion of the Council, taking into consideration their overall performance in the entire course. After serving the ban, such students can re-apply and start afresh.

A. It was stated in the Action-Taken Report that in relation to whether or not the five-year ban under Rule (23) should be abolished or reduced to the shorter period, it was ZIALE's view that currently, key stakeholders held varied views on the matter. In this regard, the matter needed to be subjected to sufficient debate as the Rules were being reviewed. It was a matter that required careful and sober consideration. Additionally, Strategic Objectives 1 and 2 of the Strategic Plan (2012 to 2016) specifically addressed the requirement to review the structure of the LPQE and ZIALE was already moving to implement. With regard to reviewing the syllabus, ZIALE had engaged the expertise of the TEVETA.

Committee's Observations and Recommendations

18.13 Your Committee resolves to await an update on the matter.

Q. Your previous Committee had recommended that the duration of the course should be extended in such a way that sufficient time would be spent on practical exercises, moots, attachments and examinations.

A. It was stated in the Action-Taken Report that Strategic Objectives 1 and 2 of the Institute's Strategic Plan specifically addressed the requirement to review the structure of the LPQE and ZIALE was already moving to implement this. With regard to reviewing the syllabus, ZIALE had engaged the expertise of the TEVETA. The review would cover all aspects of the course, including its duration.

Committee's Observations and Recommendations

Your Committee notes the submission and will await a progress report on the revision of the duration of the LPQE.

18.14 Q. Your previous Committee had urged ZIALE to adjust the operating time of the Library to accommodate the students' schedule of attachment in the morning and classes in the afternoon. A late closing time would be ideal.

A. In the Action-Taken Report, it was stated that the observation of your Committee was noted and this situation would be resolved once the measures earlier highlighted relating to the improvement of the existing infrastructure at ZIALE were implemented.

Committee's Observations and Recommendations

Your Committee reiterates the need to adjust the operating hours of the Library at ZIALE as a matter of utmost urgency. Your Committee further calls upon the management of ZIALE to ensure that this is done without further delay. Your Committee emphasises that there is no need to wait for the long term measures, such as the proposed improvement of the infrastructure at the Institute, before adjusting the opening hours of the library. This measure should be implemented immediately.

18.15 Q. Your Committee had recommended that since these were professional examinations, there should be transparency in the marking arrangements to allay any fears of bias by the students. Your Committee had proposed a panel of at least three lecturers to be part of the marking panel as the case was in Uganda.

A. In the Action-Taken Report, it was stated that the current system of administering examinations at ZIALE was such that a paper was marked by a lecturer and reviewed by an assessor and later by the Board of Examiners. The system was transparent in its current form. However, in line with the review of the entire LPQE course, the administration of examinations would also be considered.

Committee's Observations and Recommendations

Your Committee resolves to seek an update on improvements in the administration of the LPQE at ZIALE.

18.16 Q. Your previous Committee had proposed that, in the long run, the Government should seriously consider employing full time lecturers at the Institute. At the moment, the lecturers teaching at ZIALE were hired privately without advertising the positions publicly.

A. It was reported in the Action-Taken Report in line with Institute's Strategic Objectives 1 and 2 of the Strategic Plan (2012 to 2016), this matter would be considered as it was part of the strategic objectives of the institution.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the engagement of full time lecturers at ZIALE.

18.17 Q. Your previous Committee had noted that there was no system of assessment or evaluation of the lecturers by the students. On the contrary, in Uganda students had an opportunity to fill out a questionnaire to evaluate a lecturer's strengths and weaknesses. The institution would use such evaluation as a basis to communicate to the lecturer on his performance, to either improve or maintain it. Your previous Committee had recommended that this system should be put in place at ZIALE especially that a number of students had complained about the teaching style of some lecturers.

A. In the Action-Taken Report, it was stated that in line with Strategic Objectives 1 and 2 of the Strategic Plan (2012 to 2016), this matter would be considered as it was part of the strategic objectives of the institution.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on this matter.

CONSIDERATION OF THE OUTSTANDING ISSUES IN THE ACTION-TAKEN REPORT ON THE COMMITTEE'S REPORT FOR THE FIRST SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

Para 15, Page 19

19. Q. Your previous Committee had resolved to await a progress report on the matter.

A. According to the Action-Taken Report, the teacher education curriculum was currently under review and as such Anti-corruption issues would be integrated into the curriculum at tertiary level and would be in conformity with anti-corruption issues in the new curriculum for primary and secondary schools.

Committee's Observations and Recommendations

Your previous Committee resolves to await a progress report on the completion of the revision of the teacher education curriculum to integrate anti-corruption issues.

Para 16, Page 20

19.1 Q. Your previous Committee had resolved to await a progress report on the translation of the Act into the seven major languages before closing the matter.

A. It was stated in the Action-Taken Report that a progress report on this matter would be provided once appropriate steps had been taken to facilitate this process.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the translation of the Act into the seven major languages.

Para 17, Page 20

19.2 Q. Your previous Committee had resolved to await a progress report on the Amendment to the Act.

A. According to the Action-Taken Report, from the time the Public Procurement Act was enacted, it has not been implemented to the full. Following the full decentralisation of public procurement, the Act would be left to operate for some time before any amendments could be effected. Currently, the institution was taking

note of the few areas where changes may be necessary; and at an appropriate time, all the changes would be effected through one amendment to the Act and this would include the proposition from your Committee. It should be noted that ZPPA had included a component in the Public Finance Management Strategy that would look at policy reforms, including review of the Act.

Committee's Observations and Recommendations

Your Committee resolves to await an update on the review of the Act.

Para 19, Page 21

19.3 Q. Your previous Committee had resolved to await a progress report on the matter.

A. According to the Action-Taken Report, the ZPPA had invested substantially in hardware and this programme of investment in ICT would continue in the medium-term. Computers, laptops, servers and other equipment worth about K755,219.00 had been procured so far to modernise the institution and replace the obsolete equipment. The investment in ICT was also meant to prepare the institution for its mandate of managing all public procurement information.

In addition, ZPPA had included the implementation of e-procurement in the medium term as one of the major activities under the Public Finance Management (PFM) strategy. The e-procurement system would be implemented in phases and the project was expected to cover a period of about four years. As rightly observed by the Committee, the investment in ICT infrastructure was not only a priority for ZPPA but also a prerequisite for the implementation of the e-procurement system.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the full computerisation of the operations of ZPPA.

LOCAL TOUR REPORT

MEETING WITH CHIPATA MUNICIPAL COUNCIL

Para 27, Page 25

19.4 Your previous Committee had observed that the contract for the construction of Chipata township roads was procured from Lusaka but there were no consultants to supervise the works. As a result, the Council Director of Engineering and the Regional

Engineer stepped in to supervise the project. Your previous Committee had also observed that despite the engineers asserting that the quality of the township roads was poor, the works so far done were certified by the same engineers and payment of up to eighty per cent of the contract had been made to the contractor.

Your Committee had recommended to the Government that urgent intervention and investigation in this contract was required to ascertain where the problems lay, otherwise, public funds would continue going to waste.

A. It was stated in the Action Taken Report that the under the Project for the Upgrading of Selected Chipata Urban Roads Phase II, Lot 1 and 2 the works were supervised by both the Chipata Municipal Council (CMC) and the Road Development Agency (RDA) Eastern Province. The works did not have a supervision consultant to do the design and supervision of the works and so CMC and RDA took on the task. The works had since been completed. However, there were a number of defects such as potholes, silted drains, among others, that had appeared on the roads. The snag list was drawn up for the defective works as was the practice and the contractor had been instructed to rectify them and the following works were being done:-

- Pothole patching;
Protection of the drainage structures;
- Installation of additional speed humps;
- Slurry sealing of some sections, particularly on road sections over the drainage structures; and
- Stone pitching on some defective sections.

In addition, an inspection of the whole of the works would be conducted at the end of the defects liability period (365 days after completion) prior to the release of the retention (5% of the certified works) to avert defective and poorly done works.

THE PROJECT ROADS WERE:-

LOT 1

LOT 2

Road	Length (KM)	Road (KM)	Length
Nabvutika Road	2.70	Kanjala Drive Road	2.2
Kafula Road	0.40	Msipazi Road	0.2
St. Anne's Road	2.30	College-Chadiza Road	2.7
Kalongwezi Road	1.70	Annoya Road	0.6
Beit/Annoya Road	2.00	Obote Road	0.4
Omelo Mumba Road	0.70	Nkhruma Road	0.3
Lunkhwakwa Road	0.48	Natsave Road	0.12
Ghandi Road	0.60	Ufulu Road	0.7
Mphoya Road	0.40	Independence Road	0.6
DK Road	2.20	Chipata day Road	0.7
Katopola Road	4.30		

Other roads done through savings were:-

- Nsingo - 0.3 Km
- Obote extension - 1.4 Km
- Chilongozi roads - 0.3 Km

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the rectification of the defects.

MEETING WITH THE MINISTER OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATIONS, OVER THE CHIPATA MFUWE ROAD

Para 28, Page 26

19.5 Q. Your previous Committee had resolved to await a progress report on the proposed interventions by Government to speed up completion of the works on the Chipata-Mfuwe Road.

A. According to the Action-Taken Report, the RDA was committed to ensuring that the contractor recovered on the lost time and completed the works within the shortest possible time. The RDA in the recent past sent a warning on possible termination of

contract to the contractor following continued delay of completion of the works. The contractor had since made headway in terms of progress and had acquired enough material like bitumen and cement. The overall progress stood at 72.1% and the contractor had completed 75 Km.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the completion of the construction works on the Chipata-Mfuwe Road.

Para 30, Page 27

19.6 Q. Your previous Committee had resolved to await a progress report on the matter.

A. In the Action-Taken Report, it was reported that the RDA had been carrying out inspection of the works on monthly basis through the Head Office and the Regional Office. One such inspection was carried out prior to issuance of a warning letter on termination of contract on recommendation by the inspection team in May, 2013. The contractor gave assurances to the Agency and provided proposed interventions to catch up on lost time, which included consistent supply of material to the site. The works were now progressing well despite the loss of time and were expected to be completed in November, 2013.

Committee's Observations and Recommendation

Your Committee resolves to await a progress report on the completion of the works.

Para 31, Page 27

19.7 Q Your previous Committee had resolved to await a progress report on the matter.

A. According to the Action-Taken Report, the Road Development Agency had now been given an unlimited procurement threshold and ZPPA had developed standard bidding documents. The Attorney General, however, had not responded to the call to allocate lawyers as per commitment. The issue on the clearance of contracts by Attorney General was still under discussion.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the proposed allocation of at least two dedicated lawyers to clear RDA contracts.

MAMBWE DISTRICT

Para 32, Page 28

19.8 Q. Your previous Committee had resolved to await a progress report on the matter.

A. According to the Action-Taken Report, the ZPPA in its 2013 Work Plan had already allocated some funds for capacity building and the institution had planned to undertake a training session for staff and the members of the Procurement Committee at Mambwe District Council in public procurement before the end of the year.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the whether a training session has since been held for staff and members of the Procurement Committee in the district.

Para 33, Page 28

19.9 Q. Your previous Committee had noted that there was equipment to site the presence of water underground which the contractor could have used. Your Committee resolved to request for a progress report on the matter.

A. In the Action-Taken Report, it was stated that the Ministry acknowledged that the contractor used equipment to site the presence of water underground before drilling the borehole. The machine used for water survey simply measured the potential rather than the amount of water that could be struck. However, drilling did not necessarily guarantee that an estimated amount of water would be abstracted. When results for sitting were analysed, it was found that the area indicated high potential of groundwater which also influenced the recommendation that was made that drilling should take place.

Judging from the geological and soil formation that came out during the drilling process, it was discovered that though high potential of groundwater was observed during the interpretation of the results; the groundwater that was apparently discovered was on account of the clay type of soil formation which ordinarily held water and did not influence the free movement of water.

It would be important to note that drilling was the last stage of groundwater investigation because it confirmed the amount of water to be intersected and that was why it was called exploratory (searching). In this case, the results from

sitting could not guarantee the amount of water that was to be abstracted.

As a way forward, the Ministry would drill a borehole at Pendwe Basic School before the end of 2013. The borehole could not be drilled earlier because the Provincial Water Office in Eastern Province only had a Blue Rig. However, the type of rig that was needed to drill in the type of geological formation found in Mambwe was a Koken Rig. The Ministry was therefore making arrangements to take an appropriate rig to the province.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the drilling of the borehole at Pendwe Basic School.

CONSIDERATION OF THE OUTSTANDING ISSUES IN THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE FIFTH SESSION OF THE TENTH NATIONAL ASSEMBLY

CONSIDERATION OF THE REPORT OF THE HUMAN RIGHTS COMMISSION ON ITS FINDINGS FROM THE INSPECTION TOUR OF PRISONS, POLICE STATIONS AND POLICE POSTS UNDERTAKEN IN 2008, 2009 AND 2010

Para 34, Page 30

20. Q. Your previous Committee had resolved to await a progress report in view of Government's intention to increase the budgetary allocation to the Prisons Department for social programmes.

A. In response, the Government stated that funding to the Zambia Prisons Service had not been significantly increased. However, the budgetary allocation for the Juvenile Justice activities at the Katombora Reformatory School increased to K 1,976,815.00 for the financial year 2013 from K 91, 581, 435.85 in the financial year 2012. The Department was further allocated K 14, 621, 505.00 to recruit 600 officers in 2012 in order to increase the staff establishment. The Department was hopeful that the funding would be increased in the 2014 budget.

Committee's Observations and Recommendations

Your Committee resolves to await a report on whether there has been an increase in funding to the Department in the 2014 budget.

Para 35, Page 30

20.1 Q. Your previous Committee had resolved to await a progress report on the matter.

A. It was reported in the Action-Taken Report that the Government had since engaged stakeholders in the matter. However, major work in the domestication of the SADC Protocol on Gender and Development would be done in 2014, because the activity was large; hence, it needed its own budget line.

Committee's Observations and Recommendations

Your Committee resolves to await an update on the domestication of the SADC Protocol on Gender and Development.

LOCAL TOUR REPORT

Sesheke Prison

Para 36, Page 30

20.2 Q. Your previous Committee had resolved to await a progress report on the matter.

A. According to the response in the Action-Taken Report, due to the failure by the contractor Messrs Mabkap Enterprises to drill and equip a borehole at the Sesheke Prisons, the Western Province Administration Tender Committee was, therefore, advised to re-advertise the works in order for other bidders to compete for them.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the completion of the drilling and equipping of the borehole at Sesheke Prison.

CONSIDERATION OF THE OUTSTANDING ISSUES IN THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE THIRD SESSION OF THE TENTH NATIONAL ASSEMBLY

Corporate Governance and Corporate Social Responsibility in Zambia Para 38, Page 31

21. Your previous Committee had noted that two pieces of legislation had been reviewed and re-enacted. Your Committee had resolved to close the matter with regard

to the *Companies Act* and the *Environmental Management Act*. As regards the other pieces of legislation which were yet to be reviewed, your Committee had resolved to await a progress report.

The Government had stated that the current state of affairs was as follows:

- (i) Q. The Companies Act was currently being reviewed with the intention to repeal and replace the entire Act. The proposed legislation would incorporate issues of corporate governance.
- A. According to the Action-Taken Report, the Ministry of Justice had not yet received instructions for the drafting of the Companies Act as it was still undergoing final consultative processes with stakeholders before it could be submitted to the Ministry of Justice for drafting. The consultations were at an advanced stage and were anticipated to be concluded soon.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the completion of the review of the Companies Act.

- (ii) *Review of the Banking and Financial Services Act, Cap. 387*

- Q. The Ministry of Justice had not yet received instructions from the Ministry of Finance for the amendment of the *Banking and Financial Services Act, Chapter 387 of the Laws of Zambia*. However, the draft Bill had been finalised for onward transmission to Cabinet for approval in principle and eventually the Ministry of Justice for drafting.
- A. The response in the Action-Taken Report was that the Ministry of Justice was yet to receive instructions for the drafting of the Bill, which was still undergoing stakeholder consultation before re-alignment with the PF Manifesto.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the review of the *Banking and Financial Services Act, Chapter 387 of the Laws of Zambia*.

(iii) Review of the Public Finance Act, No 15 of the 2004

- Q. The Ministry of Justice had not yet received instructions from the Ministry of Finance for the amendment of the *Public Finance Act of 2004*.
- A. It was indicated in the Action-Taken Report that the Ministry of Justice was yet to receive instructions for the drafting of the Bill which was in the process of being revised. The Bill, once drafted, would be subjected to stakeholder consultations.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the review of the *Public Finance Act, No 15 of 2004*.

(iv) Review of the Legal Aid Act, Chapter 34 of the Laws of Zambia

- Q. The Ministry of Justice had not received instructions for the amendment of the *Legal Aid Act, Chapter 34 of the Laws of Zambia*. However, a new Legal Aid Policy was currently being developed. The development of that Policy was important because it would form the basis of legislative review.
- A. It was reported in the Action-Taken Report that the development of the Legal Aid Policy was ongoing. Once completed, instructions would be sent to the Ministry of Justice for drafting the necessary legislation.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the Completion of the development of the Legal Aid Policy and subsequent revision of the Legal Aid Act.

(v) Review of the Employment Act, Chapter 268 of the Laws of Zambia

- Q. The Ministry of Justice had not received instructions from the Ministry of Labour and Social Security for the amendment of the *Employment Act, Chapter 268 of the Laws of Zambia*.
- A. According to the Action-Taken Report, the Ministry of Labour presented instructions to the Ministry of Justice, which were

later withdrawn in order to facilitate further consultations with stakeholders.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the revision of the *Employment Act, Chapter 268 of the Laws of Zambia*.

(vi) *Review of the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia*

Q. The Ministry had not yet received instructions from the Ministry of Labour and Social Security for the amendment of the *Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia*.

A. According to the Action Taken Report, the Ministry of Labour and Social Security had provided instructions to the Ministry of Justice for the amendment of the *Employment Act*. With regard to the *Industrial and Labour Relations Act*, the Ministry was in the process of preparing instructions on the proposed amendments.

Committee's Observations and Recommendations

Your Committee resolves to await a progress report on the revision of the *Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia*.

PART IV

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS ON THE REPORT OF THE AUDITOR-GENERAL ON THE IMPLEMENTATION OF GENDER MAINSTREAMING ACTIVITIES IN ZAMBIA

22. Your Committee considered the Action-Taken Report on the Report of the previous Committee on the Report of the Auditor General on the Implementation of Gender Mainstreaming Activities in Zambia and made recommendations thereon as outlined below.

The Government Development Goal of Attaining Equity and Equality between Males and Females had not been Achieved

22.1 Q. a) Your previous Committee had observed that due to the deep rooted nature of the perception of issues around women in decision making, it is necessary, in line with the international protocols and treaties that Zambia has signed, through affirmative action, to propel the nation towards equality in this area. It was recommended that Zambia should expedite the process of domesticating the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Southern African Development Community Protocol on Gender and Development (2008), so as to attain equity in all elective political decision-making positions.

Your previous Committee had also recommended that the imbalance between the genders in decision making positions could be redressed through affirmative action in all appointments and nominations. This must begin with the presidential appointments, if any tangible change is to be achieved, particularly the eight nominated MPs.

A. It was reported in the Action-Taken Report that the Government agreed with the observations and recommendations of your previous Committee. The Government had initiated the process of domesticating the Convention on the Elimination of all Forms of Discrimination Against Women and the Southern African Development Community Protocol on Gender and Development through the drafting of the layman's bill on the Convention on the Elimination of all forms of Discrimination Against Women. The process of drafting the layman's bill had commenced with the appointment of an inter-Ministerial Committee involving the Ministry of Gender and Child Development and the Ministry of Justice to spearhead the process.

Committee's Observations and Recommendations

Your Committee resolves to await an update on the extent to which the Zambia has met the targets set out in the National Gender Policy as regards women representation in decision making positions.

22.2 Q. b) Your previous Committee had recommended that the bursary fund should be made more accessible to vulnerable girls to help them pay for their school fees at secondary school and tertiary levels, to prevent them from dropping out due to lack of funds to meet these costs. Further, the Re-entry Policy must be scaled up and implemented so that girls who had dropped out of school due to pregnancies could re-enter the education system.

A. According to the Action-Taken Report, the Ministry of Gender and Child Development would engage the Ministry of Education, Science, Vocational Training and Early Education to ensure that vulnerable girls at secondary school and tertiary levels had more access to the bursary fund to help them pay for their school fees and prevent them from dropping out. The Ministry would further engage and monitor the Ministry of Education, Science, Vocational Training and Early Education to ensure that the re-entry policy for girls who fell pregnant was scaled up and fully implemented so that girls who dropped out of school could be re-admitted.

Committee's Observations and Recommendations

Your Committee notes the response and will await an update on whether there is improved access to the bursary by vulnerable girls and on scaling up implementation of the Re-entry Policy.

22.3 Q. c) The Requirement of At Least 30% of Land owned by Women was not Achieved

Q. Your previous Committee had noted the Government's response and recommended that there was need to ensure that the instruction given under Circular Minute Number ML/ 101/1 issued in 2009, by the Commissioner of Lands was enshrined in the Land Policy and the Lands Act, which should clearly stipulate measures to be taken against those that would be found to be in breach of the requirement of allocating 30% land to women.

A. According to the Action-Taken Report, Zambia had signed and ratified some international treaties which provided for the need for women to have access to economic resources such as land. A review of the situation revealed that the Ministry of Lands, Natural Resources and Environmental Protection had adhered to the requirements of at least 30% land ownership by women.

Committee's Observations and Recommendations

Your Committee reiterates that the Government must ensure that the requirement that 30% of all land allocated should go to women is enshrined in the appropriate legislation such as the Lands Act without undue delay.

22.4 Q. d) Your previous Committee had observed that in order to address the challenge faced by women in the various categories, it was important to create gender awareness at all levels in the Ministry of Lands, Natural Resources and Environment and the Ministry of Agriculture and Livestock. The same sensitisation should be provided for the chiefs and village headmen to administer land in a gender sensitive and equitable manner.

A. It was stated in the Action-Taken Report that a review of the international instruments and protocols that Zambia had signed and ratified and the National Gender Policy (2000) revealed that the Ministry of Lands, Natural Resources and Environmental Protection was obligated to ensure that 30% of land allocated went to women. The Commissioner of Lands issued a circular minute No ML/101/1, 2009 instructing all district councils to ensure 30% of plots available were set aside and recommended for allocation to women and that 70% of the remaining plots are competed for by both women and men.

Committee's Observations and Recommendations

Your Committee notes the submission and resolves to await a progress report on whether any sensitisation has been undertaken among staff of the Ministry of Lands, Natural Resources and Environment and the Ministry of Agriculture and Livestock as well as among traditional leaders with regard to the requirement to allocate at least 30% of all land to women.

22.5 Reported Cases of Rape and Defilement had not been Sustainably Reduced by 2%

Q Your previous Committee had observed that the reduction in the number of reported cases did not necessarily signify a reduction in rape and defilement cases because the reduction could be as a result of non-reporting of cases. Your previous Committee had, therefore, recommended that the Government should ensure that studies that captured the prevalence rates of sexual abuse should be conducted on an annual basis in order to have up-to-date statistics that could be used to compare what is prevailing on the ground with the number of cases being reported.

Your previous Committee also recommended that the Government needed to conduct awareness campaigns on the *Anti-Gender Based Violence Act* for the general public to understand it and know how they could seek redress. The Government should also accelerate the full implementation of the Act.

In response, it was stated in the Action-Taken Report that the Government took note of your Committee's observations and recommendations and would work closely with the Victim Support Unit to ensure that annual statistics were collected and up to date data was readily available.

Committee's Observations and Recommendations

Your Committee wishes to be availed a progress report on the operationalisation of the Anti-Gender Based Violence Fund.

22.6 Failure to put in place Shelters for Victims

Q. Your previous Committee had noted the submission and recommended that adequate resources should be allocated in the national budget for the purpose of establishing more shelters for victims of gender based violence. Your previous Committee also urged the Government to recognise other actors in this area such as NGOs who already had places of safety for gender based violence survivors and provide support to them through regular grants to enable them continue complementing the efforts of Government.

A. In the Action-Taken Report, it was stated that the Ministry of Gender and Child Development would ensure that adequate resources for establishing more shelters for victims of gender based violence were budgeted for in the 2014 national budget through the Ministry of Community Development, Mother and Child Health.

Committee's Observations and Recommendations

Your Committee wishes to be availed an update on whether adequate resources have since been allocated for the establishment of more shelters for victims of gender based violence in the 2014 national budget.

MAINSTREAMING OF GENDER IN MACRO AND SECTORAL POLICIES, NATIONAL LAWS, AND MINISTRIES, PROVINCES AND SPENDING AGENCIES

Para 8, Page 12

22.7. (a) Mainstreaming of Gender into Macro Policies

Q. Your previous Committee had noticed that the inclusion of International Women's Day budget line in most ministries had been equated to budgeting for gender activities. This, however, should not be the case as there are other gender related activities, such as budget analysis to include gender and collecting gender disaggregated data.

A. In the Action-Taken Report, it was indicated that the Ministry of Gender and Child Development had taken note of the observations and recommendations of your previous Committee and would ensure that clear guidelines on how and what Ministries and other spending agencies should include in their budgets regarding gender related activities were prepared and circulated to Ministries and other Spending Agencies.

Committee's Observations and Recommendations

Your Committee will await an update on what efforts have been made to mainstream gender in the macro and sectoral policies of various ministries and other spending agencies.

22.8 Q. With regard to the Budget Call Circular, your previous Committee had recommended that there was need to enforce its implementation by all Government Ministries. Budgets that had not followed the engendered Call Circular should not be approved.

A. In the Action-Taken Report, it was indicated that the Ministry of Gender and Child Development would, in collaboration with the Ministry of Finance (Budget Office), ensure the enforcement of the provisions of the Budget Call Circular in order to have a gender responsive national budget. Further, the Ministry of Gender and Child Development would provide training in gender responsive budgeting to Budget Office staff and Gender Focal Point Persons in all Government Ministries and other Spending Agencies. Against this background, the Budget Office would not approve budgets that were not gender responsive.

Committee's Observations and Recommendations

Your Committee wishes to be informed if guidelines have since been issued to all ministries and spending agencies as regards what gender related activities should be included in their budgets.

22.9 (b) Inadequacies in the National Gender Policy

Q. Your previous Committee had also recommended that the policy review process had taken too long; it should therefore, be speedily concluded.

A. According to the Action-Taken Report, a Cabinet Memorandum had since been circulated to line ministries for their comments. It was hoped that once all comments from line ministries were received and taken into account, Cabinet would approve the revised National Gender Policy.

Committee's Observations and Recommendations

Your Committee notes the response and resolves to await a progress report on the conclusion of the National Gender Policy Review process.

22.10 **Mainstreaming of Gender into the National Laws**

Failure to Undertake a Study to Establish the Laws that were not Gender Sensitive

Q. The previous Committee had observed with concern that there had been no effort to mainstream gender into the national laws.

A In the Action-Taken Report, it was stated that the Ministry had initiated the process of domesticating the CEDAW and the SADC Protocol on Gender and Development through the drafting of the layman's Bill on the Elimination of all Forms of Discrimination Against Women. The process of drafting the layman's Bill had commenced with the appointment of a committee to spearhead the process.

Although the Human Rights, Constitutionalism and Democratisation Committee of the Zambia Law Development Commission had engaged consultants to carry out audits of Zambian legislation with a view of determining how far Zambia had domesticated the major international instruments to which Zambia was a party, no comprehensive study had been undertaken to determine whether laws were gender responsive.

Committee's Observations and Recommendations

Your Committee will await an update on the audit of the Zambian legal landscape with a view to determining the extent to which Zambia had domesticated major international instruments to which she was a party, particularly those relating to gender equality.

Failure to Translate the Relevant Laws into Local Languages

22.11 Q. Your previous Committee had observed that only the *Anti-Gender Based Violence Act* was receiving attention in terms of simplification and translation into local languages. Your previous Committee recommended that all the other relevant laws should be simplified.

A. In response, it was reported in the Action-Taken Report that the Ministry had translated and simplified the *Anti-Gender Based Violence Act, No 1 of 2011* into all the major languages and would ensure that all relevant laws pertaining to gender were simplified and widely disseminated to the general public.

Committee's Observations and Recommendations

Your Committee resolves to await an update on progress made so far in simplifying

and translating all relevant laws into local languages.

22.12 **Gender Mainstreaming of Activities and Programmes**

(i) **Ministry of Agriculture and Cooperatives**

Q. Your previous Committee had recommended that the two ministries should ensure that there was gender mainstreaming of their activities and programmes as highlighted by the Auditor General's Report.

A. In response, it was stated in the Action-Taken Report that the Ministry had taken note of the recommendation by your Committee and would, to this end, monitor the two Ministries to ensure that gender was mainstreamed in their activities and programmes.

Committee's Observations and Recommendations

Your Committee wishes to be availed an update on whether mainstreaming of gender in the activities and programmes of the Ministry of Agriculture and Cooperatives and the Ministry of Education has now been done.

INADEQUACIES IN THE GUIDELINES FOR MAINSTREAMING GENDER IN PUBLIC SERVICE

Para 9, Page 21

(b) **Mainstreaming Guidelines and Checklists**

22.13 Q. Your previous Committee had urged all line ministries to initiate the review of the guidelines in conjunction with the Ministry of Gender and Child Development. Your previous Committee also recommended that training of Gender Sub-Committee members be undertaken by the Ministry of Gender and Child Development.

A. It was reported in the Action-Taken Report that the Ministry would continue training members of the Gender Sub-Committees in line ministries and provincial administrators in gender concepts and analytical skills.

Committee's Observations and Recommendations

Your Committee notes the response and reiterates its earlier recommendation that all line ministries should initiate the review of the mainstreaming guidelines in conjunction with the Ministry of Gender and Child Development. Your Committee will

await a progress report on *this matter*.

INSTITUTIONAL FRAMEWORKS NOT WORKING EFFECTIVELY

Para 10, Page 22

22.14 Q. Your previous Committee had recommended that the Gender Focal Point Persons should be employed by the Ministry of Gender, but working in the line ministries. Engendering the line ministries and participation in gender responsive planning and budgeting should be the core functions of the Gender Focal Point Persons. These roles and responsibilities should be reflected in their job descriptions.

A. In response, it was stated in the Action-Taken Report that the Ministry had taken note of your previous Committee's observations and recommendations but, due to budgetary constraints, the Ministry was not in a position to employ Gender Focal Point Persons in all line ministries. In the interim, the Ministry would engage the Secretary to the Cabinet to ensure that all line ministries complied with the provisions of the "Strategy for Engendering the Public Sector" which placed responsibility for mainstreaming gender in the public sector in the directorate of planning.

Committee's Observations and Recommendations

Your Committee notes the response and will await a progress report on the outcome of the Ministry's engagement with the Secretary to the Cabinet in a bid to ensure that all line ministries comply with the provision of the Strategy for Engendering the Public Sector.

(b) PROVINCIAL AND DISTRICT DEVELOPMENT COORDINATING COMMITTEE (PROVINCIAL AND DISTRICT DEVELOPMENT COORDINATING COMMITTEE AND DISTRICT DEVELOPMENT COORDINATING COMMITTEE) GENDER SUB-COMMITTEES

Para 10, page 29

22.15 Q. Your previous Committee had observed that not all District Commissioners had capacity to effectively oversee gender issues. Therefore, it was recommended that the Ministry of Gender should extend its training to District Commissioners as well.

A. In response, it was reported in the Action-Taken Report that the Ministry would extend its training programmes to include the Office of the District Commissioner as the Focal Point for Gender issues in the district.

Committee's Observations and Recommendations

Your Committee will await a progress report on whether the training of District Commissioners as Gender Focal Points at district level has commenced.

Failure by Provincial District Coordinating Committee and District Development Coordinating Committee Gender Sub-Committees to utilize guidelines and Checklist for mainstreaming Gender in the Public Service

Para 10, page 29

22.16 Q. Your previous Committee had recommended that the Ministry of Gender should carry out an assessment of training of Provincial and District Development Coordinating Committees and District Development Coordinating Committees, with a view to bridging the gap in cases where there would have been no training.

A. It was reported in the Action-Taken Report that the Ministry had taken note of the observation and would carry out assessment of training of Provincial and District Development Coordinating Committees and District Development Coordinating Committees with a view to bridging the gaps where they existed.

Committee's Observations and Recommendations

Your Committee will await an update on the assessment of training of Provincial and District Development Coordinating Committees and bridging of existing gaps.

Lack of Training in Gender Analytical Tools

Para 10, page 29

22.17 Q. Your previous Committee had recommended that all MPSAs should ensure that Gender Focal Point Persons working in their rank and file were incorporated in the formulation of their work plans to ensure that they could use their gender analytical skills in mainstreaming gender based activities in their respective ministries.

A. It was reported in the Action-Taken Report that the Ministry of Gender and Child Development would guide and monitor all MPSAs to ensure that Gender Focal Point Persons were involved in all planning processes of their institutions and that gender was mainstreamed in all the activities and programmes.

Committee's Observations and Recommendations

Your Committee will await an update on whether Gender Focal Point Persons are currently involved in the planning processes of their respective institutions and whether gender has been mainstreamed in all activities and programmes of these institutions.

Appointment of Members for Gender Mainstreaming Activities

Para 10 page 30

22.18 Q. Your previous Committee had urged the Government to prioritise matters of gender mainstreaming in the budgets of the various, MPSAs at national, provincial and district levels.

A. According to the Action-Taken Report, the Ministry of Gender and Child Development would prioritise gender mainstreaming as observed and recommended by your previous Committee. In this regard, the Ministry would ensure that MPSAs at national, provincial and district levels prioritised matters of gender mainstreaming in their 2014 budget and beyond.

Committee's Observations and Recommendations

Your Committee notes the response and will await an update on whether gender mainstreaming has been prioritised in the 2014 budget by MPSAs at national provincial and district levels.

22.19 Q. Your previous Committee also recommended that there should be monitoring of activities by the Ministry of Gender to ensure implementation of gender mainstreaming activities at the grassroots.

A. According to the Action-Taken Report, the Ministry would intensify monitoring of activities to ensure implementation of gender mainstreaming activities at the grassroots.

Committee's Observations and Recommendations

Your Committee wishes to be availed an update on what activities the Ministry of Gender and Child Affairs has undertaken by way of monitoring the implementation of gender mainstreaming activities at the grassroot level.

CONCLUSION

23. Your Committee wishes to pay tribute to all the stakeholders who appeared before it and tendered both oral and written submissions. Your Committee also wishes to thank you, Mr Speaker, for the guidance rendered to it throughout the Session. Your Committee also appreciates the services rendered to it by the office of the Clerk of the National Assembly.

Your Committee is hopeful that the observations and recommendations contained in this Report will be favourably considered by the Government for implementation by the concerned Ministries and Departments in the interest of the development of Zambia.

J J Mwiimbu, MP
CHAIRPERSON

June, 2014
LUSAKA

APPENDIX I
LIST OF OFFICIALS
National Assembly

Mr S C Kawimbe, Acting Principal Clerk of Committees

Ms M K Sampa, Acting Deputy Principal Clerk of Committees

Mr F Nabulyato, Committee Clerk (FC)

Ms C Musonda, Assistant Committee Clerk

Ms S E Mwale, Stenographer

Mr R Mumba, Committee Assistant

Mr C Bulaya, Committee Assistant