

REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS AND GENDER MATTERS ON THE ANTI-CORRUPTION BILL, N.A.B. NO. 41 OF 2010 FOR THE FIFTH SESSION OF THE TENTH NATIONAL ASSEMBLY APPOINTED ON 23 SEPTEMBER, 2010

Consisting of:

Mr J J Mwiimbu, MP (Chairperson); Mr B E Chimbaka, MP; Mr B Sikazwe, MP; Mr K Kakusa, MP; Mr L H Chota, MP; Mrs S T Masebo, MP; Rev V M Sampa-Bredt, MP; and Mr L P M'sichili, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee have the honour to present their Report on the Anti-Corruption Bill, N.A.B. NO. 41 of 2010 referred to them by the House on 24 September, 2010.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any order of the House, your Committee may consider any Bills referred to it by the House.

Meetings of the Committee

3. Your Committee held eleven (11) meetings to consider the Anti-Corruption Bill, N.A.B. NO. 41 of 2010.

Procedure Adopted by the Committee

4. Your Committee, in considering the Bill, requested written submissions from various stakeholders who also appeared before it and made oral submissions.

Objects of the Bill

5. The objects of the Anti-Corruption Bill are to:
- (a) continue the existence of the Anti-Corruption Commission and provide for its powers and functions;
 - (b) provide for the prevention, detection, investigation, prosecution and punishment of corrupt practices and related offences; and
 - (c) bring the law into conformity with the provisions of the regional and international conventions to which Zambia is a State party;
 - (d) repeal and replace the Anti-Corruption Commission Act, 1996; and
 - (e) provide for matters connected with, or incidental to, the foregoing.

CONSIDERATION OF THE ANTI-CORRUPTION BILL, N.A.B. NO. 41 OF 2010

Background

6. It is an internationally recognised fact that corruption increases the cost of doing business in any economy and takes resources away from development activities. In this vein, there is considerable interest and cooperation among members of the international community aimed at ensuring that corruption and its offshoots are apprehended. Zambia is a state party to the United Nations Convention Against Corruption (UNCAC), the Southern African Development Community (SADC) Protocol Against Corruption and the African Union (AU) Convention on the Prevention and Combating Corruption. These conventions establish international frameworks of agreed rules and standards for countering corruption, in addition to serving as an expression of high level political commitment. They are further intended to produce better policies and practices in and among member states in the prevention, detection, investigation and sanctioning of acts of corruption. Zambia's efforts at combating corruption are guided by the Anti-Corruption Commission Act No 42 of 1996. In 2009, the Government launched the National Anti-Corruption Policy which is expected to provide direction on measures to be embarked on in the fight against corruption in both civil and criminal proceedings. The Anti-Corruption Bill, N.A.B. No. 41 of 2010 seeks to, inter alia, enhance the prevention, detection, investigation, prosecution and punishment of corrupt practices and related offences and to bring the law into conformity with the provisions of the regional and international conventions to which Zambia is a State party. The Bill also seeks to implement the National Anti-Corruption Policy, 2009.

7. SPECIFIC PARTS OF THE BILL

PART I: PRELIMINARY

Clause 2 - Application

This clause provides that all offences in the Act will be dealt with in accordance with the Criminal Procedure Code and any other written law.

Clause 3- Interpretation

This clause defines key terms in the Bill such as-

"casual gift" means any conventional hospitality, on a modest scale or unsolicited gift of modest value, offered to a person in recognition or appreciation of that person's services, or as a gesture of goodwill towards that person, and includes any inexpensive seasonal gift offered to staff or associates by a public or private body or a private individual on festive or other special occasions, which is not in any way connected with the performance of a person's official duty so as to constitute an offence under part III;

"foreign public official" means a person holding any legislative, administrative or judicial office at any level of the government of a foreign State, any person performing public functions for a foreign State, or any board, commission, corporation or other body or authority performing a duty or function on behalf of the foreign State or an official or agent of a public international organisation formed by two or more States or two or more public international organisations;

"private body" means any person or organisation not being a public body, a voluntary organisation, non-governmental organisations, charitable institution, company, partnership or a club;

"public officer" means any person who is a member of, or holds office in, or is employed in the service of, a public body, whether such membership, office or employment is permanent or temporary, whole or part-time, paid or unpaid; and

"relative" in relation to a person, means a spouse of that person and a brother, sister, nephew, niece, uncle, aunt, grand parent or cousin of that person or that person's spouse; and

"repealed Act" means the Anti-Corruption Commission Act.

PART II

THE ANTI-CORRUPTION COMMISSION

This Part deals with the continuation of the existence of the Anti-Corruption Commission and, in so doing, addressing the problem of corruption in a comprehensive, coordinated, inclusive and sustainable manner for enhancement of good governance. This part also provides for the autonomy of the Commission, functions of the Commission, instructions of the Commission and reports and recommendations of the Commission.

In addition, this part provides for the appointment of the Director-General, Deputy Director-General and investigative officers as set out below

Clause 9- Director-General

This clause creates the office of Director-General of the Commission who shall be appointed by the President and subject to ratification by the National Assembly. The Director-General shall be the chief executive officer of the Commission. This clause further provides that the functions of the Director-General will be to manage the administration of the Commission, implement policies referred to the Director-General by the Board, and also make standing orders concerning the administration of the Commission subject to the direction of the Board.

Clause 10- Tenure of office of Director-General

This clause provides for the tenure of office of the Director-General. A person appointed Director-General shall retire upon attaining the age of sixty-five years. However, the President may allow a person to continue in office for a period that may be necessary to enable that person to do anything in relation to proceedings that were commenced before the person attained that age. The clause also provides instances when the Director-General may be removed from office. The clause further provides for the procedure to be followed when the removal of the Director-General from office ought to be investigated.

Clause 11- Powers of Director-General

This clause empowers the Director-General, among other things, to authorise an officer of the Commission to conduct an inquiry or investigation, require the person in charge of a public body to produce documents that the Director-General may consider necessary for the conduct of an investigation into an alleged or suspected offence, if it is a classified document falling under the State Security Act, Cap III, of the Laws of Zambia, the Commission is required to apply to a judge in Chambers. The Director-General also has power to ask a person to surrender their passport if reasonable grounds exist that the person is likely to leave Zambia.

Clause 12- Deputy Director-General

This clause provides that the President will appoint the Deputy Director-General of the Commission. It also provides that the Deputy Director-General will perform the functions of the

Director-General when the Director-General is unable to perform the functions of the office. It further provides that where both the Director-General and Deputy Director-General are unable to perform the functions of their office, the President will appoint another person to act as Director-General.

Clause 13 - Investigating officers, Secretary and other staff of Commission

This clause provides that the Commission may appoint investigating officers, the Secretary and other staff of the Commission to assist the Director-General in the performance of the Director-General's functions. The clause also provides that the Secretary will be in charge of general administration and also keep the records of the Commission. It further empowers the Director-General to terminate the appointment of any officer of the Commission.

Clause 14 - Declaration of Assets

This clause provides that the Director-General, Deputy Director-General and Secretary shall, before taking office, declare their assets by submitting a written declaration in a prescribed form to the Chief Justice and the other staff shall submit a written declaration to a Magistrate.

PART III

CORRUPT PRACTICES

This Part generally deals with the various forms of corrupt practices as set out below.

Clause 19 - Corrupt Practices by, or with, Public Officers

This clause creates an offence for a public officer who corruptly solicits, accepts or obtains or attempts to receive or obtain, from any person any gratification as an inducement or reward for a transaction done. It also creates an offence for a person who promises or offers any gratification to a public officer.

Clause 20- Corrupt transactions by, or with, private bodies

This clause creates an offence for any person who corruptly solicits, accepts or obtains or attempts to receive or obtain, from any person any gratification as an inducement or reward for a transaction done with any private body.

Clause 21 - Corrupt use of Official Power

This clause creates an offence for a public officer who being concerned with any matter or transaction falling within, or connected with, that public officer's jurisdiction or powers solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain any gratification.

Clause 22- Corrupt transactions by, or with, agents

This clause creates an agent who corruptly solicits, accepts or obtains or agrees to accept or receive from any person for oneself or for any other person, any gratification as an inducement or reward for doing an act in relation to the principal's affairs or business or for showing or having shown favour or disfavour to any person in relation to the principals affairs or business.

Clause 23 - Corruption of Members of Public or Private Bodies with regard to Meetings

This clause creates an offence for a person who being a member of any public or private body by oneself or in conjunction with another person corruptly solicits, accepts or obtains any gratification as an inducement or reward for that person's voting or abstaining from voting at any meeting, for that person's performing or abstaining from performing and for that person's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in

favour of any person.

Clause 24 - Corruption of Witness

This clause prohibits a person from directly or indirectly corrupting a witness so as to persuade the witness to give false testimony in legal proceedings.

Clause 25 - Corrupt Practices by, or with, Foreign Public Official

This clause creates an offence for a person who corruptly promises, offers or gives any gratification to any foreign public official whether for the benefit of that foreign public official or any other person as an inducement or reward to do anything in relation to any matter or transaction. It further creates an offence for a foreign public officer that solicits or obtains any gratification as inducement or reward for doing anything in relation to any matter or transaction.

Clause 26- Corruption in relation to Sporting Events

This clause creates an offence for a person that corruptly solicits or accepts any gratification whether for the benefit of that person or any other person as an inducement for a person influencing the running of play or the outcome of any sporting event.

Clause 27 - Conflict of Interest

This clause provides that where a public body in which a public officer is a member, director or employee deals with another company in which that public officer has a direct or indirect private personal interest, the public officer shall be required to disclose, in writing, to that public body indicating the nature of such interest. It further prohibits a person with a personal interest in a decision to be taken by a public body to vote in the proceeding of that public body.

Clause 28 - Gratification for giving assistance, etc, with regard to Contracts

This clause prohibits a public officer who gives assistance or influences the promotion, execution or procurement of any contract with a public or private body, sub-contracting to perform any work, providing any service or paying the price, consideration or other moneys stipulated in any contract or subcontract.

Clause 29 - Gratification for procuring withdrawal of tender

This clause prohibits any person to solicit, attempt or obtain any gratification from a person as inducement or reward for the withdrawal of a tender or refraining from making of a tender for any contract with a public or private body for the performance of any work or provision of any service. The clause further prohibits a person to promise or offer any gratification for a withdrawal of a tender or refraining from making of a tender.

Clause 30 - Obstruction of justice

This clause prohibits a person who by the use of corrupt means interferes with the exercise of official duties by a judge, magistrate, judicial officer or any other arbiter or law enforcement officer. It further provides prohibits a person who accepts or obtains or offers or gives a gratification for oneself or for any person in consideration of that person concealing an offence, shielding any other person from legal proceedings or abandoning or withdrawing of a prosecution against any other person.

Clause 31 - Gratification with regard to Bidding at Auction Sale

This clause creates an offence for a person who corruptly solicits, accepts or receives gratification as an inducement or reward for that person to refrain or having refrained from bidding at any sale by auction conducted by, or on behalf of, any public or private body. It further creates an offence for a person that corruptly gives, promises any gratification with regard to bidding at an auction

sale.

Clause 32 - Coercion of Investor

This clause creates an offence for a public officer that coerces, compels, or induces an investor or potential investor to abandon the investment to the advantage of another person.

Clause 3 - Corrupt Acquisition of Public Property and Revenue

This clause creates an offence for a person that fraudulently or unlawfully acquires public property or a public service benefit, mortgages, charges or disposes of any public property. It further creates an offence for a person whose functions concern the administration, custody, management, receipt or use of any part of public revenue or property to fraudulently making payments from public revenue for goods not supplied or not supplied in full or services not rendered or not adequately rendered.

Clause 34 - Electoral Corruption

This clause provides that the Anti-Corruption Commission shall have jurisdiction to investigate and prosecute any offence of bribery prescribed under the Electoral Act No.12 of 2006.

Clause 35 - Concealment of Property

This clause creates an offence for a person that converts, transfers or disposes of property, knowing that such property is as a result of corruption, or conceals or disguises the true nature, source, location, movement or ownership of rights with respect to property which is from the proceeds of corruption or related offences.

Clause 36 - Dealing with, using and Concealing Gratification

This clause creates an offence for a person who knowingly uses or causes to be used, or receives, holds, controls or conceals any property which was obtained as gratification.

Clause 37 - Concealment of Offence

This clause creates an offence for a person who with intent to defraud or to conceal the commission of an offence with regard to the various offences of corrupt practices destroys, alters, mutilates or falsifies any book, document, disk, computer printout, among others.

Clause 38 - Public Officer's duty to Report

This clause provides that a public officer to whom gratification is corruptly given or promised needs to make a full report of the circumstances of the case to an officer of the Commission or a police officer within twenty-four (24) hours otherwise the public officer commits an offence.

Clause 39 - Attempts and Conspiracies

This clause creates an offence for person who aids, abets or counsels or conspires with any person to commit an offence in relation to corrupt practices.

Clause 40 - General Penalty

This clause creates a general penalty for which no penalty is provided for any offence under the Act.

Clause 41 - Restitution

This clause provides that a person that is convicted of an offence may in addition to the sentence that is imposed order the convicted person to pay to the rightful owner the amount or value, as determined by the court, of any gratification received by that person.

Clause 42 - Recovery of Gratification by Distress

This clause provides that a fine imposed and the amount or value of any gratification ordered to be paid may be recovered in accordance with the provisions of the Criminal Procedure Code, Cap 88, of the Laws of Zambia by distress and sale of the movable and immovable property of the person sentenced.

Clause 43 - Recovery of Gratification Corruptly received by Agent

This clause provides that where an agent receives gratification, the principal may recover, as a civil debt, the amount or value of such gratification from the agent, and an acquittal of the agent shall not operate as a bar to any proceedings for such recovery.

Clause 44 - Certificate of Government Valuation Officer or other Specialist Valuer

This clause provides that a certificate issued by a Government Valuation officer or other specialist valuer with respect to the value of any gratification or of any movable or immovable property shall be sufficient proof of such value, unless the contrary is proved.

Clause 45 - Effect of Conviction

This clause provides that a person convicted of an offence under the Act shall be disqualified for a period of ten (10) years from the date of conviction, from holding or continuing to hold, any office or position in any public body.

Clause 46 - Offences by Body Corporate or Unincorporated Body

This clause provides that where an offence is committed by a body corporate or unincorporated body, every director or manager of the body corporate or unincorporated body shall be liable as if the director or manager had personally committed the offence unless the director or manager satisfy the court that reasonable steps were taken to prevent the commission of the offence.

PART IV

INVESTIGATION OF CORRUPT PRACTICES

This part generally deals with the investigation of corrupt practices by the Anti- Corruption Commission, in particular, the lodging and consideration of complaints, attendance before Director-General, power to search with or without a warrant, inspection of bankers' books, power of arrest, seizure of property and general offences.

PART V

POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

This part generally deals with the powers of the Director of Public Prosecutions. This part provides that an offence shall not be instituted unless with the consent of the Director of Public Prosecutions. The clause further provides that a person may be charged with an offence notwithstanding that the written consent of the Director of Public Prosecutions to institute proceedings has not been obtained.

Clause 60 - Bail where Suspect or Accused Person about to leave Zambia.

This clause provides that where a person against whom investigations or proceedings for an offence are pending, the Director of Public Prosecutions may apply to court for an order requiring such person to furnish bail in any sum in such greater sum and on such additional conditions and in any such application the court may make such order as it considers appropriate.

PART VI

EVIDENCE, PRESUMPTIONS AND OTHER MATTERS

This part deals with evidence, presumption of corrupt intention, grant of indemnity by Director of Public Prosecutions, protection of whistle blowers, forfeiture of proceeds of property corruptly acquired and for alternative conviction of accused persons.

Clause 61 - Presumption of Corrupt Intention

This clause provides that where the court is satisfied that gratification has been received by any person with the knowledge or consent of the accused person and in the absence of a satisfactory explanation, it shall be presumed that the gratification had been received by the accused person. The clause further provides that any payment that is obtained or solicited by a person and in the absence of a satisfactory explanation, it shall be presumed that the payment had been solicited, accepted or obtained.

Clause 62 - Grant of Indemnity by Director of Public Prosecutions

This clause provides that the Director of Public Prosecutions may grant indemnity to a person with the view to obtaining at trial the evidence of any person directly or indirectly concerned with or privy to an offence but this will be on condition that the person makes a full and true disclosure of all the facts. The clause further provides that a person accepting indemnity shall be examined as a witness at the trial and if the court is satisfied that the person has made a full disclosure, the person shall be entitled to receive a certificate of indemnity and such certificate shall be a bar to all legal proceedings against that person.

PART VII

GENERAL PROVISIONS

This Part deals with procedure for commencement of an application, Register of gifts, offences committed outside Zambia and Extraditable offences.

SCHEDULE

The Schedule generally provides for the administration of the Commission.

PART I

THE BOARD OF THE COMMISSION

This Part deals with the Board of the Commission and specifically, it provides for the seal of the Commission, which shall such device be as may be determined by the Board and shall be kept by the Secretary. It also provides for the composition of the Board, tenure of office of a commissioner which shall be for a term of three years, the proceedings of the Board and remuneration and allowances of commissioners.

PART II

FINANCIAL PROVISIONS

This part generally deals with the financial provisions and specifically, it provides for funds of the

Commission, the financial year which shall be a period of twelve months ending on 31st December in each year, Accounts and Annual report of the Commission.

ISSUES AND CONCERNS RAISED BY STAKEHOLDERS

8. Your Committee noted that almost all stakeholders who appeared before them commended the Government for including some very progressive provisions in the Anti-Corruption Bill. However, they raised the following major concerns:

- (a) They expressed concern that the definition of corruption in the Bill was not consistent with the definition used in the UNCAC, the SADC Protocol against Corruption, the AU Convention Against Corruption and even the Zambia National Anti-Corruption Policy which was launched by the Government in 2009. Specifically, it was worrisome that the Bill proposed to omit the element of “abuse of public office” from the definition of corruption.
- (b) Some concern was also expressed over the fact that the Bill sought to amend the definition of “public officer” merely by adding the words “includes a Member of Parliament”. It was felt that the definition was too restrictive and left out other public officers. There was also need to further define the terms “conventional hospitality” and “modest”.
- (c) Many stakeholders expressed concern that the Bill, while declaring that the Anti-Corruption Commission would be an independent and autonomous institution, actually made provisions that seriously undermined the very independence it sought to provide for. Of particular concern were provisions in Clause 10 of the Bill vesting in the President, rather than the National Assembly, the power to initiate the removal from office of the Director-General of the Commission and the appointment of a Tribunal to look into the matter. Further, Clause 12 of the Bill also proposed to vest power in the President to appoint the Deputy Director General and Acting Director General. In the current Act, this power lay with the Commission. In addition, in Clause 79, the Bill sought to empower the President to make regulations for the Commission, while paragraph 11 of the schedule required that the President approve the Commission’s moneys by way of grants, donations and raising of loans. Related to the issue of independence of the Commission, there was concern over the provisions of Clause 5 of the Bill which implied that the Commission would be subject to the direction and control of another person or authority as long as this was provided for in the Act.

Additionally, the provision in Clause 10 (1) of the Bill confers power on the President to allow the Director-General to continue in office after attaining the retirement age of sixty five. In the current Act, this power was vested in the Commission.

- (d) With regard to the provisions at Clause 14 on declaration of assets, some stakeholders were of the view that this requirement should cover all public officers, and such declarations should be done upon taking office, annually and at termination of employment and, the Commission should be given power to check the veracity of the declarations so made. This would ensure accountability of public officers.
- (e) Some stakeholders who appeared before your Committee strongly opposed the proposal in the Bill to remove or modify section 37 of the repealed Act as they felt that the offence of corruption hinged on abuse of office. They contended that if anything the provisions

needed to be tightened further, for example by the inclusion of abuse of office by private officials as well as public officials. They were of the view that as much as the offence of abuse of authority of office was provided for in the Penal Code, the provision under the Anti Corruption Commission Act was more comprehensive as it covered circumstances where a public official was found to be in possession of unexplained property, thus it gave powers to the prosecution authority to effect an arrest if a public official failed to account for what he or she possessed. Further, they argued that the provision in the Penal Code was inadequate as it made the offence a misdemeanour which attracted weak sanctions and penalties. They also contended that the offence under the Penal Code was enforceable by the Zambia Police Force as provided for under the Criminal procedure Code, Chapter 88, of the Laws of Zambia. The stakeholders felt that the Zambia Police Force suffered from inadequate capacity and should not be charged with the onerous task of enforcing such an important piece of legislation; on the contrary, this power should be deposited in a specialised entity, the Anti-Corruption Commission.

As regards the argument that section 37 in the current Act shifted the burden of proof from the prosecution and placed it on the accused, it was argued that the provision merely required a public officer to explain how he or she utilised his or her office or acquired wealth. They contended that those who aspired for public office must be ready to explain any suspicion of corruption, and that in any event, such a provision was acceptable in terms of Article 18(12) of the Constitution of Zambia which provided, inter alia, that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Article (18) (2) (a) on the presumption of innocence to the extent that, it was shown that the law in question imposed upon any person charged with a criminal offence the burden of proving particular facts. Therefore, the provisions of section 37 did not constitute a shift in the burden of proof, but merely a constitutionally accepted qualification of it.

The stakeholders also stated that the abuse of authority clause had proved its efficacy as evidenced by the fact that a number of prosecutions based on the provision had been sustained in the courts of law. They argued that it was not the number of convictions that determined the efficacy of provisions, but the fact that an action could successfully go through the judicial system. Besides, it was argued that the provision had acted as a deterrent to would-be offenders since public officers were aware that they could be questioned if they accumulated wealth not commensurate with their official earnings. It was stressed that corruption was a clandestine activity whose direct evidence of commission was difficult to obtain if not through examination of the property accumulated by those involved in it.

In contrast, other stakeholders who appeared before your Committee submitted that it was necessary to repeal section 37 of the Act as its provisions at subsection (2) were at variance with Article 18 (7) of the Constitution which provided that a person who is tried for a criminal offence shall not be compelled to give evidence at the trial. They argued that there was no exception made to the right of an accused person to remain silent, and therefore, no law could make a provision that would have the effect of compelling an accused person in a criminal trial to give evidence during such trial as is the case in section 37 (2) of the Anti Corruption Commission Act.

It was also pointed out that the provisions of Article 20 of the Convention Against Corruption were that subject to its constitution and the fundamental principles of its legal system, each state party shall consider adopting such legislative and other measures as

may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income. In this regard, it was posited that in reviewing the Anti Corruption Commission Act, the Government had a duty to ensure that this provision was removed in order to make it consistent with the Zambian constitution and the fundamental principle of the Zambian legal system.

Additionally, it was submitted that the provisions of section 37 of the Anti Corruption Commission Act had their genesis in the Leadership Code in the First Republic under the One Party State which was premised on socialism, and where public officers were prohibited from engaging in any other type of activity to earn supplementary income. In the context of the socialism under the One Party State, the provision was logical, but it had since become redundant in the advent of the liberalisation of the economy which permitted entrepreneurship and economic initiative. There were also practical difficulties in applying the provision as it effectively required the state to scrutinise present and past emoluments and required a citizen to provide records of all their income, both official and otherwise, which could not be reasonably expected to be kept by a citizen. Further, it was contended that the provision was discriminatory as it ignored private sector corruption, which was also a reality. It was stated further that the provisions in the Bill adequately covered all the corruption related offences that were in the Anti Corruption Commission Act of 1996 and even introduced new offences.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

9. Having seriously considered the various submissions made before them, as well as the issues and concerns raised by stakeholders, your Committee make the following observations and recommendations:

- (a) Your Committee recommend that the definition of corruption be reviewed to make it consistent with internationally accepted definitions as contained in the regional and international anti corruption conventions to which Zambia is a party and also the National Anti Corruption Policy. Your Committee are happy with the assurance they received from the Attorney General that the definition will be reviewed with a view of harmonising it with other instruments to which Zambia is a party.
- (b) Your Committee recommend that the definition of "public officer" be broadened along the lines of the definition in the AU and SADC Protocols Against Corruption. No specific office (such as Member of Parliament) should be singled out as this would give an impression of exclusion of other public officials. To promote a common understanding of their meanings, the words "conventional hospitality" and "modest" should be clearly defined in the Bill.
- (c) Your Committee recommend that the provisions in the current Act relating to initiation of the process of removal of the Director General from office by the National Assembly with a tribunal appointed by the Chief Justice be maintained. They also recommend that current provisions relating to the procedure for appointment of the Deputy Director General should also be maintained. Further, matters relating to the regulations of the Commission should be left to the Commission while the approval of moneys for the Commission should be done by Parliament. Your Committee strongly feel that these provisions will go a long way in promoting the independence and autonomy of the Commission. Your Committee further recommend that the Commission retain the power

to allow the Director General to remain in office after attaining the age of sixty five as is the provision in the current Act.

- (d) Your Committee recommend that the requirement for declaration of assets ought to apply to all public officials and the process needed to be undertaken more regularly. There was also need for the Commission to have powers to verify all declarations.
- (e) Your Committee recommend that section 37 of the current Act be retained in its entirety and, if anything, be strengthened to cover acquisition of wealth by private operators, officials in non-governmental organisations and churches, among others, provided it is not inconsistent with the constitution. Further, your Committee recommend that section 50 of the Anti-Corruption Commission Act also be retained in its entirety.

CONCLUSION

10. Your Committee wish to place on record their gratitude to you, Mr Speaker, for appointing them to serve on your Committee, and for affording them an opportunity to scrutinise the Anti-Corruption Bill, NAB 41 of 2010. Your Committee also wish to thank the Office of the Clerk of the National Assembly for the support and advice rendered to them throughout their deliberations. They are indebted to all the witnesses who appeared before them for their cooperation in providing the necessary submissions despite the short notice given to them.

We have the honour to be, Sir, your Committee on Legal Affairs, Governance, Human Rights and Gender Matters mandated to scrutinise the Anti Corruption Bill, NAB 41 of 2010.

Mr J J Mwiimbu, MP
(Chairperson);

Mr B E Chimbaka, MP
(Member);

Mr B Sikazwe, MP
(Member);

Mr L H Chota, MP
(Member);

Mr K Kakusa, MP
(Member);

Mrs S T Masebo, MP
(Member);

Rev V M Sampa-Bredt, MP
(Member); and

Mr L P M'sichili, MP
(Member).

October, 2010
LUSAKA

J J Mwiimbu, MP
CHAIRPERSON

LIST OF OFFICIALS

Mr S M Kateule, Principal Clerk of Committees
Mr G Lungu, Deputy Principal Clerk of Committees
Mr S C Kawimbe, Committee Clerk (SC)
Ms C Musonda, Assistant Committee Clerk
Mrs C K Mumba, Assistant Committee Clerk
Mrs F M Mwanza, Senior Personal Secretary
Ms C Mtonga, Typist
Mr R Mumba, Committee Assistant
Mr C Bulaya, Committee Assistant
Mr S M Likunyendo, Parliamentary Messenger

WITNESSES

Ministry of Justice

Mr A J Shonga, SC, Attorney-General
Mr C F R Mchenga, SC, Director of Public Prosecutions
Mrs P D Jere, Chief Parliamentary Counsel
Mr A Nkunika, Senior Parliamentary Counsel

Bank of Zambia

Dr T Kankasa-Mabula, Deputy Governor
J Munyoro, Senior Inspector

Ministry of Finance and National Planning

A Undi, Permanent Secretary
M Siamoongwa, Head
D S Bowasi, Director (Human Resources and Administration)

Anti-Corruption Commission

G R Kayukwa, Director-General
J C Kaumba, Deputy Director-General
E Sakala, Director
E Mwenda-Zimba, Acting Senior Legal Officer
D Simwiinga, Acting Director – Legal

Council of Churches in Zambia

Rev M Gondwe, Programme Chairman (SEJ)
J Ilunga, Programme Officer (SEJ)
Rev S Matala, General Secretary
E M Banda, Communications Officer
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G Chibwana, Emergency Officer
E Siangompa, Administration Assistant

Transparency International Zambia

R Lifuka, President
F Mwale, Programme Officer/Legal Officer

Drug Enforcement Commission

A Zulu, Commissioner
M C Sikazwe, Senior Assistant Commissioner
G K Chipulu, Senior State Advocate

Citizens Democratic Party

S Sampa, Publicity Secretary
R Mwanza, Chairman

Law Association of Zambia

S Lungu, President
A Hamwele, Member

G Samui, Member
C Chanda, Member

Zambia Business Forum

S Habeenzu, Chief Executive Officer
D Chanda, Analyst