

**REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE,  
HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS FOR THE  
SECOND SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED  
ON 27<sup>TH</sup> SEPTEMBER, 2012**

Consisting of:

Mr J J Mwiimbu, MP (Chairperson); Mr S Chisanga, MP; Ms C Namugala, MP;  
Mr M A Malama, MP; Dr L M Kaingu, MP; Mr S Mushanga, MP; Mr J M  
Kapyanga, MP; and Mr K K Hamudulu, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
P O Box 31299  
**LUSAKA**

Sir,

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

**Functions of the Committee**

2. In addition to any other duties placed 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 ten meetings.

In line with its programme of work, your Committee considered the topic: “Operations of the Zambia Institute of Advanced Legal Education (ZIALE) and Administration of the Legal Practitioners Qualifying Examination (LPQE)”.

### **Procedure Adopted by the Committee**

4. As stated above, your Committee considered the topic: “Operations of the Zambia Institute of Advanced Legal Education (ZIALE) and Administration of the Legal Practitioners Qualifying Examination (LPQE).” In order to fully appreciate the subject under consideration, your Committee invited the following stakeholders to provide both written and oral submissions:

- (a) the Zambia Institute of Advanced Legal Education (ZIALE);
- (b) the Ministry of Justice;
- (c) the Judiciary;
- (d) the Magistrates and Judges Association of Zambia, (MAJAZ);
- (e) the Law Association of Zambia, (LAZ);
- (f) University of Zambia, School of Law;
- (g) Zambia Open University, School of Law; and
- (h) Cavendish University, School of Law.

### **Objectives**

The purpose of this study was to:

- (a) appreciate the general operations of ZIALE;
- (b) understand the admission criteria to ZIALE;
- (c) assess the rate of admission of students to the Bar in the last six years;
- (d) appreciate the students' examination rules and how they are applied;
- (e) understand the challenges, if any, encountered in the operations of ZIALE; and administration of the LPQE;
- (f) assess ZIALE's plans for expansion to the rest of the Country's provincial capitals; and
- (g) make appropriate recommendations to the challenges observed.

### **COMMITTEE'S PROGRAMME OF WORK**

5. Your Committee considered and adopted the programme of work set out below.

## **Consideration of the Action-Taken Report on the Committee’s Report for the First Session of the Eleventh National Assembly**

6. The Committee considered the Action-Taken Report on the Report of the Committee for the First 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.

### **Consideration of Topical Issue**

Your Committee considered the topic:

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

### **Background**

7. The Zambia Institute of Advanced Legal Education is the only institute mandated to offer the Legal Practitioners Qualifying Examinations (LPQE) in Zambia, to Law graduates from various recognised Universities. The LPQE subsequently leads to the admission of Advocates to the Zambian Bar.

In the recent past, there had been general complaints within the legal fraternity and the public at large on the low passing rate of students who attempted the LPQE. Some quarters attributed this to the increased demand of legal training, which had inevitably led to an increase in the number of universities offering training in law, which, until recently, was only being offered by UNZA. It was argued that some of the students from the new universities were inadequately prepared to cope with the demands of ZIALE and its LPQE.

Other quarters asserted however, that ZIALE was generally not student-friendly and had stringent student rules, some of which led to students being barred for five long years after unsuccessfully attempting the LPQE a third time, without taking into consideration the students' expensive training at both undergraduate level and at ZIALE, itself.

## **PART I**

### **SUMMARY OF SUBMISSIONS BY WITNESSES**

8. The stakeholders who appeared before your Committee raised a number of concerns as set out below.

- (a) The number of universities that had been established following the liberalisation of university education in Zambia was a cause for concern. Most, if not all universities in Zambia, fell below the international standards of university education. Even the once renowned University of Zambia, was not ranked in the top 100 universities in Africa. The lack of regulation of private universities was a source of concern as some were operating from residential back yards. Such universities were merely extorting money from an unsuspecting public.

- (b) Some Private Universities offering legal education/studies did not have qualified teachers or lecturers on their law faculties. The minimum qualification for a university lecturer was a masters degree, but in some universities, lecturers and tutors only possessed first degrees. The teaching of Law required a certain number of contact hours between a lecturer and student because the nature of the subject was practical, as it required students to be taught, among other things; how to use precedents, citation of cases, application of legal principles, etc. Therefore, the system where some private universities were teaching law by way of correspondence or distance learning was wrong as it inevitably compromised the quality of their students.
- (c) The low caliber of law graduates from various universities that were admitted to ZIALE were responsible for the poor examination results at the institution. Most of the students who failed at ZIALE were from private universities simply because the admission criteria of these universities were not as stringent as the one at UNZA. At UNZA, before one was admitted to the School of Law, one was required to complete a year in the School of Humanities and then compete for admittance to the School of law.

The rationale behind this practice is to train and distinguish the would-be lawyer in skills such as research and writing assignments as well as acquaint the student with the social sciences. This training is vital because the nature of the law is such that the student will be faced with bulky texts, numerous cases and statutes throughout their training and practice of the law.

- (d) The internal problems of ZIALE could not be blamed on the students because the huge numbers of students being enrolled by ZIALE had put undue pressure on the lecturers to adequately teach the students. Furthermore, the duration of the Bar Course of nine months was not adequate enough to teach such a large number of students, (about 200 per intake). In addition to the limited number of contact hours, students were also required to dedicate their mornings and part of the afternoons at their places of attachment or apprenticeship.
- (e) The lack of accommodation and Government sponsorship negatively affected the students' performance in class because they spent a significant time looking for accommodation and funds to pay for the tuition. There was therefore, need for the roll out of the Institution to other provinces where students could easily find places to be attached as well as rent reasonable accommodation for themselves.
- (f) Some student rules governing the LPQE, like the requirement that a student who failed one out of two heads needed to rewrite both heads and the rule on the five year ban after failing the LPQE at third attempt, should be abolished because they were punitive, grossly unfair and archaic.
- (g) There was need to urgently iron out the encumbrances which had inhibited operationalisation of the Accreditation Committee established by the *ZIALE Act*. If this body was fully operational, it would help in scrutinizing the qualifications of students intending to enroll at ZIALE, and bar those who did not qualify in terms of what the *ZIALE Act* prescribes.

## **PART II**

### **LOCAL TOUR REPORT**

9. In accordance with its programme of work, your Committee undertook a local tour to Ndola, Kitwe, Livingstone and Lusaka. Your Committee held public hearings, where students, lawyers and members of the public in general, gave submissions on the operations of the Zambia Institute of Advanced Legal Education and the Administration of the Legal Practitioners Qualifying Examination.

### **CONCERNS RAISED BY MEMBERS OF THE PUBLIC**

Matters raised by stakeholders during the public hearings were generally similar in all the places visited. They are outlined hereunder:

- (a) Following the liberalisation of university education in Zambia, a number of private universities had started offering the law degree to cater for those who could not previously make it to UNZA. As a result, the number of enrolled students at ZIALE had drastically increased in the last three years. However, ZIALE had generally remained the same structurally, thereby putting pressure on the facilities and the lecturers who had to teach classes of more than 150 students. As a consequence of this over-enrolment, student/teacher interaction was impossible hence resulting in low pass rates;
- (b) unlike in the past where the Government would provide bursaries and accommodation to students, it was not the case today. Students, apart from meeting their own fees, had to look for accommodation in Lusaka where the institute is located. ZIALE should open another

campus on the Copperbelt to cater for students from the northern region of the country, because rentals in Lusaka were very high for students to afford;

- (c) ZIALE was deliberately failing students in order to regulate the number of lawyers on the market. It was grossly unfair for the Institute to collect huge sums of money from students, and then fail them and condemn them to a five year ban. Students especially from private universities, were failed en masse, and thus felt unfairly treated in comparison to their colleagues from UNZA;
- (d) with regard to the students' rules, the following rules should be abolished: rule 20 which restricts students' access to result transcripts, rule 23(4) which requires students who have failed one out of two heads to rewrite both heads at the next sitting and the proviso to rule 23(4) which imposes the five year ban after failing the examination thrice. These rules, especially the latter, were punitive and draconian and it was difficult to perceive the rationale behind their inclusion in the students' rules;
- (e) after serving the five year ban, students who wished to re-sit the examination were asked by ZIALE to petition the Council to begin the course afresh. This requirement was not provided for in the students' rules and should be stopped forthwith;
- (f) with regard to the mid-year examinations, there was need to review the manner in which they were administered. It was difficult to perceive the rationale behind writing eleven subjects in a space of two weeks;
- (g) there was need for lecturers to be assessed so as to determine their suitability to deliver material to students. Those who would be found

- wanting should be relieved of their duties. In addition, the hiring of lecturers should be transparent, unlike the current situation where vacancies were never advertised;
- (h) lecturers should be employed on a full time basis so that they could dedicate their time to ZIALE. There was also need to employ lecturers who were trained to teach and not merely senior lawyers in the profession;
  - (i) despite ZIALE having a fairly well stocked library, it operated during the period when students were attending class and closed after they had knocked off, rendering its accessibility limited;
  - (j) the nine months dedicated to the course was too short for a Bar Course which was practical in nature. A longer period was suggested so that students could be adequately prepared; and
  - (k) the *ZIALE Act* should be reviewed with regard to admission of advocates to the Bar *vis-a-vis* magistrates who practiced on the Bench. It did not make sense to subject magistrates to the same training as those wishing to become advocates, as the two performed totally different roles in the dispensing of justice.

Other stakeholders further submitted that the legal profession was unique from other professions in that its practice entailed the lawyer coming into contact with clients' confidential information, money and being custodian of certain clients' legal rights in property such as shares, land and such other interests that required the undivided attention of a properly trained lawyer.

They argued that the profession needed to be protected because of the duty or responsibility that is placed on the lawyer with respect to interests and rights that affect their clients. ZIALE, as the Institute with the mandate to train lawyers needed to make sure that only quality lawyers were availed to the public, even if it meant only a few students graduating from the institute.

They contended that with the mushrooming of private universities, the only way the profession could be protected from ill-trained lawyers, was through a stringent training process at ZIALE.

## **FOREIGN TOUR REPORT**

10. Your Committee undertook a foreign visit to the Republic of Uganda with a view to understudy post graduate legal training in that jurisdiction and make comparisons and appropriate recommendations with regard to the operations of ZIALE and administration of the LPQE.

### **(a) COURTESY CALL ON THE DEPUTY SPEAKER**

Your Committee was hosted by the Parliament of Uganda throughout its stay and accordingly, its first stop was a courtesy call on the Deputy Speaker of the National Assembly of Uganda, the Right Honourable Jacob Oulayah, MP.

### **(b) MEETING WITH THE COMMITTEE ON EQUAL OPPORTUNITY, GENDER, LABOUR AND SOCIAL DEVELOPMENT**

Your Committee interacted with the aforementioned Committee of the Ugandan Parliament which oversees matters of gender, among others. Your Committee learnt that this Committee focused on matters which affected vulnerable groups such as the women, children, people with disabilities and workers.

**(c) MEETING WITH THE COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS**

Your Committee was also privileged to interact with the above stated Committee and was informed about the role it played. The Committee was a sectoral Committee established in accordance with article 90 of the Ugandan Constitution and the rules of procedure of Parliament. It had tenure of one session or one year.

The Committee had the mandate to oversee the Ministry of Legal Affairs as well as the mandate to examine and comment on policy matters affecting other Ministries and institutions covered by it including the Parliamentary Service Commission. The Committee also initiated or evaluated action programmes of these Ministries and made appropriate recommendations on them. The Committee also examined Bills brought before it, examined Government recurrent and capital budget estimates for the sector and made recommendations on them for general debate in the House. Additionally, the Committee monitored the performance of the Parliamentary Service Commission and other Government bodies in the sector and ensured Government compliance with approved plans and programmes in relation to the Ministries.

Your Committee learnt that in Uganda, the institution which offered post graduate legal training, called the Law Development Centre (LDC), was overseen by this Committee. This meant that the LDC was answerable to Parliament through this Committee. The LDC was mandated to give annual reports of its activities to Parliament, including how many students were enrolled, how many had passed the Bar course or failed and why they had failed.

**(d) MEETING WITH THE UGANDA LAW REFORM COMMISSION**

Your Committee also had a meeting with the body responsible for Law reform in the Country, which is the equivalent of the Zambia Law Development Commission.

Your Committee learnt that the main function of the Uganda Law Reform Commission (ULRC) was to study and keep under constant review all the laws of Uganda and propose reform to make them responsive to the needs of society. With regard to the LDC, your Committee learnt that there had been no legal reform nor a request to do so. However, the LDC was being faced with a lot of challenges most of which were similar to those being experienced in Zambia. For example, when the LDC was established, only the University of Makerere was sending law graduates there. Now there were 6 other universities doing the same following the liberalisation of university education in Uganda. Your Committee was informed that this state of affairs had posed a great challenge for the LDC and that it had started its own internal reforms, which would culminate into a probable change in the law and an inevitable engagement of the ULRC as a key stakeholder.

**(e) MEETING WITH THE UGANDA HUMAN RIGHTS COMMISSION**

Your Committee met with the Uganda Human Rights Commission (HRC).

Your Committee learnt that the HRC of Uganda was established pursuant to the Ugandan Constitution albeit its operations were governed under the Human Rights Act of 1997. It was composed of the chairperson plus 7 other members. The Commission was a complete independent body with no control whatsoever, from the state. It was funded from the consolidated fund as well as by some international donors.

The Human Rights Commission had the overall responsibility of observing the human rights situation in the country and enforcement of the same, including the rights of interest groups such as women, children and the disabled. The Commission had the power to receive complaints of abuses of human rights and could summon any person or authority alleged to have infringed on an individual's rights. The Commission had powers of a court where those who had allegedly infringed on the rights of others were summoned to answer to charges. Those who undermined the authority of the HRC risked being committed to prison or being strongly cautioned.

Your Committee also learnt the HRC's mandate extended to carrying out human rights research, create human rights awareness among the people of Uganda and to document all the programmes and activities. Among some achievements in this regard were; the development of a human rights training manual for the Police and Defence forces, integrating human rights education into the curricula for primary and secondary schools, establishment of human rights desks in the Police, Prisons and Defence forces, and establishment of human rights and peace clubs in schools.

Your Committee was informed that the HRC also had the mandate to monitor Government's obligations in relation to international human rights instruments. It also had the responsibility to inspect places of detention including military bases and would make appropriate recommendations to Parliament as to the state of these facilities.

**(f) MEETING WITH THE UGANDA LAW SOCIETY**

Your Committee was welcomed to the Law Society by the President and the secretarial staff. Your Committee was informed that the main role of the society was to promote the legal profession and the rule of law in the whole of Uganda.

The Society was also the custodian of the legal practitioners roll or register of qualified lawyers.

Your Committee learnt that, just like in Zambia, following the liberalisation of university education, there was a proliferation of private universities offering law in Uganda. Previously, only Makerere University was offering training in law. As a natural consequence to the increased number of law graduates, the Law Development Centre had to take on more students than it previously did. There was a lot of impact on the institution but, chief amongst, these was the drastic reduction in the pass rate of students. This, according to the President of the Law Society, was primarily attributed to the low calibre of graduates coming from private universities and secondarily to the inadequate space and pressure on the learning facilities.

The Law Society informed your Committee that, as a professional body it was concerned with the quality of advocates who were being churned out of the LDC because the legal profession had a duty to its clients or the public at large to whom legal services were offered at a premium. The LDC, in response to these concerns, put in measures such as introduction of pre entry examinations which were set by the Law Council in the Ministry of Legal Affairs. As a result of this intervention, there was a remarkable improvement in the results.

With regard to the involvement of the Law Society in the Law Development Centre, your Committee learnt that the Society had representation on the Board of the Law Development Centre. The rationale behind having a Law Society member on the board was to ensure that the standards set by the profession regarding the quality and conduct of its members were upheld. This was also an avenue through which the Law Society inputted into the activities of the LDC.

**(g) MEETING WITH THE LAW DEVELOPMENT CENTRE (LDC)**

Your Committee completed its round of meetings with a visit to the Law Development Centre, which is the equivalent of ZIALE. Your Committee was received by the Deputy Director of the Institute and several academic and administrative staff.

Your Committee learnt that the LDC was established in 1970 by an Act of Parliament, as an educational institution for higher learning that offers a Post Graduate Diploma in Legal Practice, Diploma in Law Course and other short courses. The Centre also performed non-teaching functions namely research, law reform, publication, law reporting and community legal services.

With regard to the academic staff, your Committee learnt that most of the lecturers at the Centre were full time and had served for many years ranging from 10 – 28 years. There were a few part-time lecturers whose engagement was competitively done.

With respect to eligibility for admission to the Bar Course, your Committee learnt that an applicant needed to be a holder of a degree in law granted by a university in Uganda whose programme had been accredited by the Law Council. This applied to both Ugandan and non-Ugandan citizens. Ugandans who obtained a law degree from a University or Institution in a country operating the common law system and recognised by the Law Council were also eligible.

For a degree obtained in Uganda, the degree must have been obtained from a university or institution of higher education duly licensed or chartered under the laws of Uganda; and the university or institution must comply with the standards and requirements for the establishment and operation of a university as prescribed by the National Council for Higher Education.

For qualifications obtained outside Uganda, the degree must have been obtained from a university or institution which complies with standards and requirements equivalent to those prescribed for a university in Uganda as prescribed by law.

Your Committee also learnt that in addition to the above admission requirements, applicants who wished to be admitted to the Bar Course had to sit and pass a pre-entry examination whether written or oral (or both) approved by and conducted under the supervision of the Law Council. This requirement came into effect commencing with applicants for the 2010/2011 academic year.

Your Committee learnt that the duration of the Bar Course was one year from September to mid August of the following year. It was a full time course divided into four terms. In order to enhance student/lecturer interaction, teaching of the Bar Course was done by dividing students into “firms” which were a simulation of actual law firms in practice. Facilitation at the discussions was done by a professional advisor (lecturer) for the problem/questions discussed on Tuesday and Wednesday morning. For the moot discussions, the external Associates and professional advisors facilitated the discussion on Tuesday afternoons. Each firm had to choose its own firm leader at the beginning of the first term.

The centre organises mock trials or moots every Friday to give the students practical court room experience. The students work in their “firms” and prepare court documents, list of authorities, written submissions, etc. Court papers are served and replied to prior to the moot. On the appointed Friday, the students sit in the court rooms at the centre and the courts are presided over by practicing lawyers, state attorneys, magistrates or the lecturers. The centre also prepares annual moot competitions that begin during the second term and end in the fourth term.

In order to adequately equip its students, the LDC subjects them to four types of assessments during the duration of the entire Bar course. These include; individual continuous assessment, practical exercises, clerkship, and final examinations.

Individual continuous assessments were done weekly for a total of 28 weeks spread over four terms. Individual assessment comprised; attendance, participation in class, participation in moots, dress code, conduct and demeanor, and weekly written individual assessments.

Practical exercises were done at the end of the first and second term. These were examinable in the five core subjects identified by the institution. Practical exercises in each subject took two forms: a written practical exercise done at the end of the first term and marked out of 50%, and an oral practical exercise at the end of the second term, equally marked out of 50%. The students total was obtained by adding up the two practical exercises. The pass mark was therefore 50%.

The written practical exercise in each subject was divided into two parts; four hours were given to students to do individual research on the examination question and no discussion or exchange of notes was allowed. After a break the students reconvened in the examination room and were subjected to a three hour examination. With regard to the practical oral exercise, students sat before a panel of three or more examiners for each of the five core subjects. The examiners comprised internal examiners (Lecturers) and external examiners who were advocates or legal practitioners. The students were tested on their competence to apply the law, presentation, composure and dress.

The other aspect of assessment is clerkship. This was conducted during the third term of each academic year and it lasted for ten weeks. During the clerkship period, a student was attached to a private law firm, court, Legal Aid Clinic, Government department in the Ministry of Justice or legal department in other bodies. Clerkship was done under the supervision of a senior lawyer of not less than 5 years at the Bar.

At the end of the attachment or clerkship, both internal and external examiners interviewed the students as well as scrutinise the documents they drafted during clerkship, to ascertain their levels of competency in legal drafting and other practical work. Any student who did not satisfy the requirements of clerkship training was deemed to have failed and would repeat the exercise in the next academic year.

At the end of the fourth and final term, students were required to sit for final examinations, which comprised 9 papers, 5 of which were core subjects and one general subject consisting of 4 components. The general subject which consisted of the 4 components was not part of the continuous assessment and to pass it a student needed to obtain an average mark of 50%. If a student failed to score the pass mark, they would be required to sit a supplementary examination in the component failed.

A student was considered to have passed the Bar Course if he/she passed the individual continuous assessment, written and oral practical exercises, clerkship and final examinations. If a student failed any supplementary examinations or clerkship or indeed the practical exercises, they were deemed to have failed the course.

A student was considered to have passed the final examination if he/she passed all the 6 subjects at a mark of at least 50% in each subject. If a student failed in 3 subjects of the final examinations, the Board could allow such a

student to sit supplementary examinations in those subjects or components of the subject so failed at a time convenient to the LDC. If the student failed in four or more subjects of the final examinations, the student would be deemed to have failed the Bar Course and would not be allowed to take supplementary examinations in the subjects failed. Such a student however, was entitled to start the course afresh without being banned for a certain number of years as was the case in Zambia.

Where a student failed one subject in the practical exercises or final examinations, such a student would be entitled to be compensated with some marks. The marks for the subject in which compensation may be made shall not be below 45%. The compensation marks are taken from another subject without lowering the marks in that subject below 50%.

Your Committee learnt that material delivered to the student firms, was the subject of scrutiny by a Bar Course Advisory board. This body was chaired by a Judge of a court of appeal. Other members included; the professional advisor, director and deputy director of LDC, registrar of court, representative from the Attorney General's office, representative from the D.P.Ps office, a representative from the Law Society, and 2 representatives from the High Court. The Professional advisor presents his/her work to the board, which looks at the questions, moots and other issues to be covered by the students on a weekly basis. In short the board scrutinised the type of data to be delivered to the students.

With regard to preparation and marking of examinations, your committee learnt that the examinations were prepared by internal examiners but checked by external examiners. Marking was done by a panel of lecturers so as to promote transparency and reduce on the number of appeals from students.

## COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

11. Having received written and oral submissions from stakeholders and members of the public during the public hearings, and having undertaken a foreign study visit to Uganda, your Committee makes the observations and recommendations set out hereunder.

- (a) the standard of university education in Zambia has drastically fallen over the years to the extent that none of Zambia's public universities are ranked in the top 100 universities in Africa. Your Committee recommends that the Government through the Ministry of Education should as a matter of urgency undertake physical inspection of all universities in the country, especially private universities, with the view to assessing whether or not they meet the minimum universal standards expected of a university, and to bring them into conformity with the *High Education Act of 2013*, which was recently passed by Parliament.
  
- (b) your Committee observes that the admission criteria into University of Zambia School of Law is different from that obtaining in most private universities, in the sense that at private universities students are admitted straight from grade 12 without passing through the Humanities as the case is at UNZA. As a result of this the general quality of law graduates from the private universities is poor hence their inability to perform at ZIALE. Your Committee recommends that enrollment into the various Schools of law should be done as per Universal Standards whereby students first go through the humanities or already have a first degree.

- (c) in addition, your Committee is of the view that some lecturers in some of the private universities are not fully qualified to teach in a university as they do not possess a minimum of a Masters Degree as per universal standards. As a consequence, the students they churn out are ill equipped to handle the pressure at ZIALE. Your Committee recommends that as a matter of urgency the Government should punish such universities as they are extorting millions of kwacha from students who genuinely want to be educated, but cannot afterwards put their qualification to use for want of sound qualifications.
- (d) your Committee observes that a number of private universities have started offering law at undergraduate level, following liberalisation of university education in Zambia. Consequently the number of law graduates being admitted at ZIALE has also increased putting a strain on the facilities at the institution. Your Committee recommends 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 will ease the students' pressure and time spent looking for accommodation and places of attachments.
- (e) your Committee observes that currently the student/lecturer interaction is inhibited due to the high number of students. In this regard your Committee recommends the system being used in Uganda, where students are divided into groups called 'firms' with a lecturer as overseer of the group. Each firm will 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.

- (f) your Committee notes that the Accreditation Committee established under the *ZIALE Act* has not started operating. It is recommended that ZIALE should urgently iron out all the administrative challenges that are encumbering the operation of this Committee so that it can commence its work including scrutinising the applicants' degree certificates. In addition, your committee recommends 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.
- (g) your Committee observes that there is no bursary or student loan facility for ZIALE students despite some students having been sponsored by the Government at University level. Your Committee recommends 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-LAZ.
- (h) your Committee observes that rule 23(4) which requires a student who has failed one out of two subjects to re-write both at the next sitting is retrogressive. Your Committee, therefore, recommends that the said rule should be amended so that students are credited with the subjects they have passed and only made to repeat the ones they fail.
- (i) your Committee observes that there is no proper or structured continuous assessment at ZIALE as the case is in Uganda. At ZIALE the only form of assessments are the mid-year Examinations where students are subjected to sit for eleven papers in two weeks. Your Committee recommends 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 have passed the continuous assessment.

- (j) your Committee also observes that the proviso to rule 23(4) which subjects students to a five year ban after failing the Bar Course thrice is grossly unfair, especially that in most instances the students so banned would have remained with just one subject, or would have been victims of rule 23(4). Your Committee recommends that once ZIALE has revised the course as proposed above, there will be no need for the five year ban, as students will be made to repeat at the continuous assessment stage. Your Committee further recommends that those students who pass their assessments should duly attempt the examination. Those who fail 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.
  
- (k) your Committee observes that the duration of the course is nine months in which students are supposed to cover ten intense subjects. Students are also supposed to be attached to a law firm or legal department in a corporation or Government where they work from morning to midday, after which they report for classes at ZIALE. Your Committee is of the view that the duration of the course is too short for students to adequately grasp the material being taught in class as well as the practical experience being learnt under attachment. Your Committee, therefore, recommends that the duration of the course should be extended in such a way that

sufficient time will be spent on practical exercises, moots, attachments and examinations.

- (l) your Committee observes that the opening and closing hours of the Library at ZIALE do not favour the students. Your Committee urges 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.
  
- (m) your Committee observes that each subject at ZIALE has an examiner as well as an assessor. The examiner prepares the examination paper while the assessor assesses the questions set. The examinations are marked by the examiner alone. Your Committee recommends that since these are professional examinations, there should be transparency in the marking to allay any fears of bias by the students. Your Committee proposes a panel of at least three lecturers to be part of the marking as the case is in Uganda.
  
- (n) your Committee observes that all the lecturers at ZIALE are on part time basis and are paid on the amount of hours put in. Your Committee is alive to the fact that due to financial constraints ZIALE is unable to employ lecturers on full time basis. In this regard your Committee proposes that the Government should seriously consider employing full time lecturers in the long run. At the moment the lecturers teaching at ZIALE are hired privately without advertising the positions publicly. Your Committee recommends that since ZIALE is a public institution, lecturers should be hired in a transparent manner so that they are accountable to the public.

- (o) your Committee notes that there is no system of assessment or evaluation of the Lecturers by the students. In Uganda students have 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 Committee recommends 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.
- (p) your Committee observes that some lecturers may not be qualified to teach despite being qualified lawyers; your committee recommends that all lecturers at ZIALE should be trained in teaching methodology so as to fully equip them to train the students.

### **PART III**

#### **CONSIDERATION OF THE ACTION TAKEN REPORT ON THE REPORT FOR THE FIRST SESSION OF THE ELEVENTH NATIONAL ASSEMBLY**

12. Your previous Committee had considered the topic: "Public Sector Corruption". The Procurement Process of Goods and Services in Zambia", your previous Committee had recommended that funds should be set aside for training and development of procurement staff, to ensure that all procurement units in ministries, provinces and spending agencies were staffed by qualified personnel.

Your Committee had also urged that the ZPPA inspectorate needed to be strengthened to ensure effective and timely monitoring of procurement activities. In this respect, there was need to step up training of inspectorate staff

and ensure availability of support equipment, enhance professional ethics among procurement staff and leave procurement functions to the experts.

In response, the Executive stated that some funds had been provided under the Public Expenditure Management and Accountability Programme for training of a number of the procurement staff in ministries, provinces and other spending Agencies. One Hundred (100) members of staff from various public institutions would be trained in procurement and capacity building would be one of the key functions of the ZPPA once the institution fully assumed its oversight role as a regulatory body. The Institution also planned to dedicate some resources in its 2013 budget for capacity building and would engage the Ministry of Finance for continued support in this area.

### **Recommendation**

Your Committee resolves to request for a progress report as well as the actual amount of money that has been provided under the Public Expenditure Management and Accountability Programme for training of procurement staff.

13. Your previous Committee had recommended that the Government should as a matter of urgency, improve the conditions of service for public workers particularly those procurement staff and staff engaged in law enforcement agencies. This cadre was especially susceptible to being corrupted due to the critical role they played in both the procurement cycle and the fight against corruption.

It was explained in the Action-Taken Report that the Government had improved the Salaries and Conditions of Service for Public Service employees, including Procurement Personnel, as follows:

- (a) fifteen percent salary increase;

- (b) introduced housing allowance at twenty percent of basic salary;
- (c) introduced fuel allowance at thirty percent of basic salary for officers in salary scales GSSOI - GSSO3 and equivalent; and
- (d) introduced transport allowance at ten percent of basic salary for officers in salary scales GSSO4 and below and equivalent.

For the Law Enforcement Agencies, Government increased the salaries by fifteen percent and Government had embarked on the rationalisation and harmonisation of salaries and conditions of service across the institutions.

### **Recommendation**

Your Committee will await a progress Report on the harmonization of salaries and conditions of service for Law enforcement agencies.

14. Your previous Committee had observed that despite the Internal Audit Department having presence in all Ministries, Departments and other Spending Agencies year after year, the Auditor-General's reports highlighted serious financial irregularities and non-adherence to accounting and procurement procedures on the part of internal auditors in various Government institutions.

Your Committee had urged that the Government should equally remunerate this cadre well, and adequately train the audit committees so that they could carry out their functions effectively, and help in curbing corruption in their institutions of operation.

It was reported in the Action-Taken Report that funding had been sourced from the Public Expenditure Management and Accountability Programme to hold workshops for all members of the Audit Committees so that they were

enlightened on the importance of good governance and help in providing checks and balances in the management of public resources.

### **Recommendation**

Your Committee resolves to await a progress report on how many officers will be trained.

15. Your previous Committee had observed that as corruption had become entrenched in society, morals and values had been eroded to the extent that citizens generally no longer showed concern for integrity and common good. To reverse this trend, your Committee had recommended that the Government should consider introducing into the school curriculum the subject of corruption and its evils. This should start at primary school level so that children could grow up abhorring the vice.

It was reported in the Action-Taken Report that the Government through the Anti-Corruption Commission, had commenced the process of integrating the subject of Anti-Corruption into the education curriculum (Grades 1-12), in conjunction with the Curriculum Development Centre in the Ministry of Education.

It was envisaged that this process would be completed by the end of 2012 and approved accordingly. The integration of Anti-Corruption issues at tertiary level was envisaged to be initiated in 2013 once the process was completed at primary and secondary school level.

Parallel to the integration of the subject of Anti-Corruption in the education curriculum, training for Civic Education Teachers would also commence at the University of Zambia and other colleges of education to take into account the revised syllabi.

## **Recommendation**

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

16. Your previous Committee had urged the Government to vigorously sensitise public officials and promote the *Public Interest Disclosure (Protection of Whistle Blowers) Act No. 4 of 2010*, so as to encourage them to disclose freely, to law enforcement agencies, acts of corruption, without fear of victimization.

It was explained in the Action-Taken Report that through the Anti Corruption Commission, the Government had embarked on sensitizing members of the public on the provisions of the *Public Interest Disclosure Act* during lectures to targeted audiences and during community sensitisation activities.

An information leaflet on the provisions of the Act to be translated in seven major languages was also currently being developed by the Commission for distribution to members of the public.

## **Recommendation**

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

17. Your previous Committee had observed that according to the *Public Procurement Act No. 12 of 2008*, the ZPPA board comprised several ministers who were Presidential appointees. Similarly, part of the Central Tender Committee, which was the highest approvals authority, was predominantly composed of Permanent Secretaries who were equally Presidential appointees.

Your Committee had observed that in their current state, these bodies, lacked both functional and financial autonomy as they were both chaired by the

Minister of Finance and National Planning and the Finance Permanent Secretary, respectively.

Your Committee had, therefore, urged that the Act should be amended to allow for more participation by stakeholders such as civil society and the private sector so as to enhance transparency and independence.

It was reported in the Action-Taken Report that the reconstitution of the Central Tender Committee was done in line with the *Public Procurement Act* under the Second Schedule (Transitional Provisions) in paragraph 2. As the public procurement was to become fully decentralised by December 2012, the role of the CTC would come to an end and the CTC would be dissolved.

Regarding the proposed amendment to the Act to allow for broad participation of various stakeholders, the point had been noted and would be brought to the attention of the Government so that future amendments to the Act would take into account the proposition.

### **Recommendation**

Your Committee resolves to await a progress report on the Amendment to the Act.

18. Your previous Committee had urged the Government to invest in training and building capacity in law enforcement officials in ICTs. This would enable the officers so trained, to detect complex and questionable procurement transactions.

It was explained in the Action-Taken Report that Ministries, Provinces and other spending agencies had been urged to make budget provisions in the 2013 budget for Capacity Building in ICTs. This training would mainly focus on law

enforcement officials and audit staff.

### **Recommendation**

Your Committee resolves to request for a progress report on the matter.

19. Your previous Committee had observed that there was need to align the *Procurement Act* with the 2011 UNCITRAL Model Law on procurement, which allowed Government purchasers to take advantage of modern commercial techniques such as electronic procurement (e-procurement), which was done with a software application that could not easily be manipulated.

The 2011 UNICITRAL Model Law on public procurement contained procedures and principles aimed at achieving value for money and avoiding abuses in the procurement process.

It was reported in the Action-Taken Report that the *Public Procurement Act* in Section 39 (3) allowed for use of electronic procurement. The Authority would provide appropriate guidelines for its use at the right time. Because e-procurement also required the existence of the right information and communication technology platform for it to operate effectively, the Zambia Public Procurement Authority was in the process of modernizing its ICT infrastructure by investing in both hardware and software. With such positive improvements, it would be easier for the Authority to implement e-procurement.

### **Recommendation**

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

20. Your previous Committee had noted that in order to enhance or build capacity in local suppliers or contractors, the Government through the ZPPA

should enforce the provisions of Section 26(b) of the *Public Procurement Act* No. 12 of 2008 which provides that "where open international bidding is used, a foreign bidder shall partner with a citizen or local supplier or bidder."

Your Committee was of the view that once the above provision was strictly enforced, more local suppliers would be empowered and the incidences of corruption in the procurement cycle would be reduced because capacity would have been built in the locals to competitively participate in procurements.

It was reported in the Action-Taken Report that this provision was currently being enforced in public procurement and this requirement would also be highlighted in the procurement guidelines to be developed by the Zambia Public Procurement Authority. Standard Solicitation Documents for International Competitive Bidding, currently being developed, would also contain this requirement and all public institutions would be required to use such documents.

### **Recommendation**

Your Committee resolves to await progress report on the matter.

## **LOCAL TOUR REPORT**

### **Petauke District**

21. After the tour of Petauke, your previous Committee had observed that there was lack of trained procurement staff in the District and recommended that the Government should, as a matter of urgency, embark on training this cadre.

It was reported in the Action-Taken Report that a team of inspectors had just been in Petauke to make an initial assessment of the capacity of the Procurement Committee of the District. The report of the team was being finalised and its finding would assist in determining the type of assistance that would be rendered to the District.

### **Recommendation**

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

22. Your previous Committee had recommended that the Zambia Public Procurement Authority, should in line with its mandate, organise an in-house workshop for the Petauke District Procurement Committee so as to train them in the current trends in procurement processes.

It was reported that the Government would endeavour to mobilise funds for the Authority so that a capacity building workshop could be conducted in the District.

### **Recommendation**

Your Committee resolves to await a progress report.

23. Your previous Committee had recommended that as a long-term goal, the ZPPA should decentralise its operations to districts for easy accessibility and efficiency in granting approvals to procurement entities procuring above their authorised thresholds.

It was reported in the Action-Taken Report that Government had taken note of the recommendation by the Committee and that it was already implementing the Decentralisation Policy of public procurement.

This meant that the ZPPA would no longer be approving procurement applications from Provincial Entities but would assume the role of a regulator. All procurement matters including approvals would now be done by Provincial Entities. Given this development, the need for ZPPA to decentralise to districts did not arise.

### **Recommendation**

Your Committee resolves to await a progress report since the decentralisation of Public procurement to Provincial Entities is in progress.

24. Your previous Committee had observed that big capital projects for the District were tendered in Lusaka. As a result, the District Departments were completely precluded from supervising or monitoring such projects. Your Committee recommended that despite big projects being contracted from respective Government Ministries', Headquarters, for the purpose of curbing corruption and achieving value for money, the District should be involved in the procurements so as to empower them to carry out routine monitoring as beneficiaries of such projects.

It was reported in the Action-Taken Report that the Government would put a mechanism in place to ensure that there was sharing of information on procurement between Ministries and the Provincial Administrations.

### **Recommendation**

Your Committee resolves to await a progress report, on the mechanism to be put in place.

## **Chipata District**

25. Your previous Committee had recommended that there was urgent need for the Government to train District Commissioners in procurement processes and orient them on the operations of the civil service so that they could assist in supervision and monitoring of projects within their jurisdiction.

It was reported in the Action-Taken Report that the Government through the Zambia Public Procurement Authority would sensitise District Commissioners in procurement issues or processes. Since the Authority already planned to conduct workshops in Chipata District and other parts of Eastern Province, the District Commissioners would be invited to take part in the workshop.

## **Recommendation**

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

26. Your Previous Committee recommended that as a matter of urgency, the ZPPA should help the Province to establish a fully-fledged Procurement Unit as required by the Public Procurement Act.

It was reported in the Action-Taken that a capacity assessment mission was undertaken at the Provincial Administration from 16<sup>th</sup> to 27<sup>th</sup> July, 2012 for purposes of taking the necessary remedial measures, a report was being finalized that would highlight a number of recommendations to be implemented by the Provincial Administration including strengthening the Provincial Procurement Unit. The Authority would also conduct a workshop in procurement for the Provincial staff as part of its capacity building programme.

## **Recommendation**

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

### ***Meeting with Chipata Municipal Council***

27. 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.

It was reported in the Action-Taken Report that the Government had recognized the fact that the rehabilitation of the Chipata Township Roads contract had been faced with a number of challenges considering that there was no Supervision consultant to supervise the works. The works were largely supervised by the Chipata District Council with the involvement of the RDA Regional Office. There was generally a lack of capacity by councils to adequately supervise works of such nature.

In addition, Government advised that for all defects and poor workmanship observed on this contract, the Contractor would be required to make good of the works as the contract had not yet reached final completion. Through RDA, Government would also ensure that a snag list is done for all defective work which the contractor would be expected to rectify. The Government would therefore, not issue any final payments nor release the retention monies until all defects had been attended to.

### **Recommendation**

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

### ***Meeting with the Minister of Transport, Works, Supply and Communications, over the Chipata Mfuwe Road***

28. Your previous Committee had observed that the thirty-five kilometre so far surfaced on the Chipata/Mfuwe road had been done in the last two years. It was therefore difficult to envisage how the Contractor would complete the remainder of the road under one year, given that from about kilometre eighty (80) to the end of the road, the state of the road was deplorable.

Your previous Committee had recommended that the Government through the Road Development Agency should step up supervision of the Consultant of the project so that there was value for money.

It was reported in the Action-Taken Report that the Chipata-Mfuwe road project was behind schedule by approximately 13 months. This could be attributed to various time-dependant aspects such as:

- (a) political expediency at Procurement stage;

- (b) rigorous approval process for the resultant variation orders;
- (c) lack of proactivity by Consulting Engineer on supervision and quality control; and
- (d) poor turn-around programmes by the Contractor.

In view of the above, the Government through the Road Development Agency had requested, as a matter of urgency, the Consultant and the Contractor to provide a workable turn around programme of works, to specifically recover the lost time and be able to achieve completion as scheduled.

### **Recommendation**

Your Committee resolves to await a progress report on the proposed interventions by Government to speed completion of the works on the Chipata Mfuwe Road.

29. Your previous Committee had expressed its disappointment with the Consultants as well as the Regional Engineers from RDA, for certifying and paying for works of poor quality. Your Committee urged the Government to ensure that experts given the responsibility to supervise big capital projects adhered to the procurement regulations as well as their professional ethics for the good of the citizens' safety who would use the road after it was commissioned.

It was reported in the Action-Taken Report that Government had noted the lapses on the part of supervising the Consultant and was looking at ways of building capacity in the Local Authority. The Ministry of Transport, Works, Supply and Communications through the Road Development Agency had noted the absence of the full complement of key personnel by the Consulting Engineer such as the Materials Engineer who had never been to site for one year.

## **Recommendation**

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

30. Your previous Committee had noted that similar to the case of the Chipata Township roads, there were complaints on the Contractor's quality of work as well as the delay in completing the projects. Your Committee, therefore, had recommended that the Ministry should ensure that pressure was applied on the contractor to complete the project as agreed, without compromising on quality.

In response, the Government explained that the Road Development Agency in collaboration with the Ministry of Transport, Works, Supply and Communications would carry-out an inspection of the roads before the end of October, 2012 and make final recommendations on the way forward with the contracts.

## **Recommendation**

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

31. Your previous Committee had observed that the procurement process of big capital projects such as roads was very long and cumbersome and as a result, it was subject to manipulation and corruption by various players involved. In this regard, your Committee had recommended that the procurement processes should be made shorter and more user friendly, but without compromising on the quality of works to be procured.

It was reported in the Action-Taken Report that the Government was currently working at shortening the procurement process. The RDA together with other stakeholders (Zambia Public Procurement Authority, Ministry of

Finance, Attorney General, and National Road Fund Agency had held a number of meetings to see how the turn-around time for decision making could be improved. This had yielded positive results as there were some notable improvements in the turn-around time for ZPPA. In addition, the following would be undertaken:

- (a) the Attorney General would allocate at least two dedicated lawyers to clear RDA contracts;
- (b) ZPPA would grant RDA unlimited procurement thresholds, eliminating the need for seeking approval from ZPPA; and
- (c) standard bidding documents would be developed by ZPPA and issued to procuring entities, doing away with the need for prior review and approval of solicitation documents by ZPPA.

### **Recommendation**

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

### **Mambwe District**

32. Having interacted with the Mambwe District Procurement Committee, your previous Committee observed that there was a serious lack of knowledge by the Procurement Committee generally, on the laws governing public procurement.

Your Committee, therefore, recommended that ZPPA should organise some training for the officials who were keen on learning, so that they could be abreast with current trends in procurements, as well as the rules and regulations of public procurements as stipulated in the *Public Procurement Act*.

It was reported in the Action-Taken Report that the Government was committed to supporting officials who were keen on learning and would strive to provide

resources for training its employees so as to keep them abreast with current trends.

### **Recommendation**

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

33. Your previous Committee had recommended that the relevant Ministry should intervene in locating the whereabouts of the Contractor who sunk dry boreholes in the District, so that he could account for the money.

It was reported in the Action-Taken Report that the borehole construction in Mambwe District had been ongoing; however, some boreholes had been unsuccessful due to the geological formation in Mambwe (presence of rocks in the area). Dry boreholes sunk in Mambwe were as set out below.

#### **(a) Dry Borehole Sunk in 2008**

Mambwe District Council through the Constituency Development Committee on 12th May, 2005 approved a Constituency Development Fund project to sink a borehole at Pendwe Basic School in Mdimba Ward, Malambo Constituency. The approval followed an application for a borehole which was made by ZAMSIF Committee from Pendwe Community.

China Gansu was the Contractor initially engaged to sink the borehole in Mambwe District. However, China Gansu declined to accept payment because they were out of season and that it was difficult to access Pendwe at that time.

The CDF Committee meeting of 6<sup>th</sup> January, 2006 resolved that a different contractor be engaged to sink the borehole. Therefore, the Department of Water Affairs through the provincial office in Chipata, Eastern Province was contracted to sink the borehole in Pendwe.

The Provincial Water Affairs Office sunk a borehole for Pendwe Basic School between 2nd -5th August, 2008 and the borehole was successful. The borehole became dry in the third quarter of 2009.

**(b) Dry Borehole Sunk in 2012**

The Council contracted China Gansu to drill a borehole in Mambwe in, 2012 for the Disaster Victims (Chikowa people who were relocated due to floods). The Constituency Development Committee budgeted for thirty five million kwacha from the CDF funds to construct this borehole.

The Contractor made two attempts and all the boreholes were dry due to the presence of rocks. The Council did not pay any money to the Contractor.

After the failed attempts, the Council contracted another contractor Manzi Drilling at a cost of thirty five million Kwacha (K35,000,000.00) to drill a borehole but the Contractor has not yet been to the site and no money has been paid to the Contractor.

**Recommendation**

Your Committee notes that there is equipment to site the presence of water underground, which the contractor could have used. The Committee resolves to request for a progress report on the matter.

## **CONSIDERATION OF 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*

34. Your previous Committee had requested for a progress report on the matter.

In response, Government explained that like any other Government Department, the Prisons Department had inadequate financial and human resource to enable it meet the high demand for social services that juveniles and inmates required in detention centres. Government intended to increase the budgetary allocation of the Prisons Department for social programmes including Juvenile Justice activities.

### **Recommendations**

Your Committee resolves to await a progress report in view of Governments intention to increase the budgetary allocation to prisons Department for social programmes.

35. Your previous Committee had urged the Government to expedite the implementation of the strategy for engendering the public service and also extend it to the private sector and ensure that this strategy was disseminated to all Line Ministries and the various Unions representing the workers.

In response, Government informed your Committee that it had consulted all the line Ministries on the ratification of the SADC Protocol on Gender and Development and had submitted recommendations to Cabinet for Consideration. Cabinet was actively considering the domestication of the instrument.

Further, Government informed your Committee that the Strategy for Engendering the Public Service was disseminated to all the District Commissioners or their representatives at an orientation meeting held from 11<sup>th</sup> to 14<sup>th</sup> July 2011. The District Commissioners were in turn instructed to disseminate and facilitate the implementation of the Strategy at district level.

### **Recommendation**

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

### **Local Tour Report**

#### *Sesheke Prison*

36. Your Previous Committee had requested for a progress report on the sinking of the borehole since the contractor had not yet moved to the site.

In response, the Government stated that it regretted to inform your Committee that the contractor, Mabkaps Enterprises, who was supposed to drill and equip the bore hole at Sesheke Prison, had failed to do the works and the contract had since been terminated. The Ministry of Home Affairs was in the process of engaging another contractor to commence works at Sesheke Prison.

## **Recommendation**

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

### *Senanga Prison*

37. Your previous Committee, had noted that the response had not changed from the previous Action-Taken Report. They resolved to await a further progress report on the matter.

In response, the Government stated that it was in the process of releasing funds for the purchase and installation of water pipes at Senanga Prison. It was planned that the works would be completed before the end of December, 2012.

## **Recommendation**

Your Committee resolves to await a progress report, hoping that this will be the last one on this matter.

## **PART IV**

### **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*

38. 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.

In response, the government stated that your Committee was seeking an update on the following outstanding issues in the Action-Taken Report on the Report of the Committee for the Fifth Session of the Tenth National Assembly:

- review of the *Companies Act*, Cap.388;
- review of the *Banking and Financial Services Act*, Cap. 387;
- review of the *Public Finance Act*, No. 15 of the 2004;
- review of the Legal Aid Act, Cap 34;
- review of the Employment Act, Cap 268; and
- review of the Industrial and Labour Relations Act, 269

The Current state of affairs was as set out hereunder:

(i) The Companies Act is currently being reviewed with the intention to repeal and replace the entire Act. The proposed legislation will incorporate issues of corporate governance.

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

The Ministry of Justice has not yet received instructions from the Ministry of Finance for the amendment of the *Banking and Financial Services Act*, Cap. 387. However, the draft Bill has been finalised for onward transmission to Cabinet for approval in principle and eventually the Ministry of Justice for drafting.

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

The Ministry of Justice has not yet received instructions from the Ministry of Finance for the amendment of the *Public Finance Act*,

2004.

(iv) *Review of the Legal Aid Act, Cap. 34*

The Ministry of Justice has not received instructions for the amendment of the *Legal Aid Act*, Cap. 34. However, a new Legal Aid Policy is currently being developed. The development of that Policy is important because it will form the basis of legislative review.

(v) *Review of the Employment Act, Cap. 268*

The Ministry of Justice has not received instructions from the Ministry of Labour and Social Security for the amendment of the *Employment Act*, Cap. 268.

(vi) *Review of the Industrial and Labour Relations Act, Cap. 269*

The Ministry has not yet received instructions from the Ministry of Labour and Social Security for the amendment of the *Industrial and Labour Relations Act*, Cap. 269.

### ***Recommendation***

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

## **PART V**

### **CONCLUSION**

39. Your Committee wishes to pay tribute to all the stakeholders who appeared before it and tendered both oral and written submissions. It also

wishes to thank you, Mr Speaker, for the guidance through-out the Session. Your Committee also appreciates the services rendered by the office of the Clerk of the National Assembly.

Your Committee is very hopeful that the observations and recommendations contained in this Report will find favour with the relevant Government, Ministries or Departments.

J J Mwiimbu, MP

**CHAIRPERSON**

June, 2013

**LUSAKA**

## **APPENDIX I**

### **LIST OF OFFICIALS**

**National Assembly**