



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON YOUTH, SPORT AND CHILD MATTERS

ON THE REPORT OF THE AUDITOR GENERAL

ON THE PERFORMANCE AUDIT

ON THE JUVENILE JUSTICE SYSTEM IN ZAMBIA

FOR THE PERIOD 2014 TO 2017 FOR THE FOURTH SESSION OF THE

TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON YOUTH, SPORT AND CHILD MATTERS ON THE REPORT OF THE AUDITOR GENERAL ON THE PERFORMANCE AUDIT ON THE JUVENILE JUSTICE SYSTEM IN ZAMBIA FOR THE PERIOD 2014 TO 2017 FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

1. Membership of the Committee

The Committee consisted of Mr C Miyutu, MP, (Chairperson); Mrs E Kabanshi, MP (Vice Chairperson); Mr M Mutelo, MP; Mr E Sing'ombe, MP; Mr P Kalobo, MP; Mr L N Tembo, MP; Mr Y Siwanzi, MP; Mr W Banda, MP; Mr R Bulaya, MP; and Mr C K, Mwiinga, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

The Committee has the honour to present its Report on the Report of the Auditor General on the Performance Audit on the Juvenile Justice System in Zambia for the period 2014 to 2017 for the Fourth Session of the Twelfth National Assembly.

2. Functions of the Committee

Pursuant to the functions of the Committee set out under Standing Order No. 157(2), the Committee is mandated to consider special audit reports that may be referred to it by the House.

3. Meetings of the Committee

The Committee held thirteen meetings to consider the Performance Audit Report of the Auditor General on the Juvenile Justice System in Zambia for the period 2014 to 2017.

4. Procedure adopted by the Committee

In order to familiarise itself with the issues under its consideration, the Committee requested written and oral submissions from the stakeholders listed at Appendix II.

5. Auditor General's Comments

The Auditor General reported that the Report of the Auditor General on the Performance Audit on the Juvenile Justice System in Zambia for the

Period 2014 to 2017, was submitted for tabling in the National Assembly in accordance with the provisions of Article 250(1)(c) of the Constitution of Zambia.

5.1 Background to the Audit

It was stated in the Report of the Auditor General that Zambia was a signatory to international conventions that dictated how children that found themselves in conflict with the law should be handled. As a member of the United Nations (UN), Zambia adopted the 2030 Agenda and its Sustainable Development Goals (SDGs) of 2015. Most importantly, SDG 16 sought to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. The SDGs were also premised on various principles; one of which was the principle of leaving no one behind. This principle aimed at ensuring the inclusion of the marginalised, excluded and disempowered groups. Juveniles who came in conflict with the law was an example.

In this regard, the audit on the juvenile justice system was conducted in 2017 and 2018. The objective of the audit was to assess whether the Ministry of Community Development and Social Services (MCDSS); the Zambia Police Service (ZPS); the Zambia Correctional Services (ZCS); and the Judiciary had put in place measures that supported the welfare and rehabilitation of juveniles that came into conflict with the law were an example of such a group.

5.2 Motivation for the Audit

The Auditor General stated that the audit on the juvenile justice system was motivated by a number of factors as set out below.

- (a) Previous reports published by the Auditor General highlighted weaknesses in the treatment of juveniles in conflict with the law. The report of the Auditor General on the Rehabilitation and Reintegration of Prisoners indicated that juveniles were detained for long periods at the correctional facilities without being transferred to a reformatory school.
- (b) Parliamentary reports and debates brought to light the importance of the juvenile justice system and the fact that the system in the country had a significant influence on the future behaviour of the children and young offenders who interacted with it noting that the high level of juvenile delinquency was clear evidence of the failure to provide a protective environment for children in the juvenile justice system.

- (c) Reports from international organisations and the Media – According to the report by the United Nations Children’s Emergency Fund (UNICEF) Zambia on the State of Zambian Children – Child Protection, the existing laws and judicial systems were largely inadequate to give a fair trial to children in conflict with the law. The Human Rights Commission (HRC) also indicated that there was a developing trend of youth gangsterism and a number of causes such as peer pressure, lack of parental supervision or love, lack of recreational facilities, drug and alcohol abuse had contributed to the rise of this worrying trend.

Due to the significant social impact of juvenile delinquency on the public, a performance audit on the juvenile justice system was conducted focusing on the welfare and rehabilitation of juveniles that came into conflict with the law so as to recommend for improvements.

5.3 Objectives of the Performance Audit

The general objective of the performance audit was to assess whether the MCDS, ZPS, ZCS and the Judiciary had put in place measures that supported the welfare and rehabilitation of juvenile that came in conflict with the law. Specifically, the objectives were to assess:

- (i) the extent to which the ZPS had implemented arrests, reception and referral procedures that ensured the welfare and rehabilitation of juveniles that came into conflict with the law;
- (ii) whether the juvenile offenders were being processed through the courts in a timely manner by the judiciary to ensure the juvenile’s welfare and rehabilitation;
- (iii) whether the ZCS had implemented custodial measures that ensured the welfare and rehabilitation of juvenile offenders;
- (iv) whether the MCDSS’s rehabilitation and welfare mechanisms for juvenile offenders had been effective throughout the juvenile justice system; and
- (v) whether there was coordination among the ZPS, Judiciary, ZCS and MCDSS in ensuring the welfare and rehabilitation of juveniles that came into conflict with the law.

5.4 Audit Design

The Committee was informed that the audit examined measures put in place to promote the welfare and rehabilitation of juveniles in conflict with the law from the point they were arrested up to the point of reintegration into society. It further examined the coordination of key players, namely:

the ZPS, the Judiciary, the ZCS and the MCDSS. The auditors also obtained data from the National Prosecution Authority (NPA) in order to corroborate information obtained from the audited entities. The audit covered a period of four years from 2014 to 2017. This provided a wide span and encompassed the process from start to finish in determining the time it took to conclude the juvenile cases through the system.

The Members were informed that selected police stations, remand/correctional facilities, magistrate courts, High Courts, Department of Social Welfare at district and provincial offices were visited in the thirteen districts. Additionally, two approved schools, namely: Nakambala and Insakwe and Katombora Reformatory School were also visited. The audit was conducted during the period July, 2017 to September, 2018.

5.5 Audit Questions

Based on the audit objective, the audit was designed to answer the questions as set out below.

- (a) What measures the ZPS had put in place to ensure the welfare and rehabilitation of juveniles that came into conflict with the law during arrest, reception and referral?
 - (i) Whether the ZPS ensured that juveniles arrested were accompanied by their parents, guardians or social welfare officers during recording of statements.
 - (ii) Whether the ZPS had appropriate juvenile facilities to ensure proper custody of juveniles in conflict with the law.
 - (iii) Whether there was a system in place to ensure that juvenile offenders were referred to courts of law at the appropriate time.
 - (iv) Whether the officers who came in contact with juveniles offenders received relevant training on the treatment of juveniles in conflict with the law.
- (b) What measures the Judiciary had put in place to process juveniles through the courts in a timely manner and child friendly environment?
 - (i) What measures the Judiciary had put in place to conclude cases involving juveniles within reasonable time?
 - (ii) What measures the Judiciary had put in place to ensure that the courts of law were child friendly?

- (c) Whether the ZCS implemented custodial measures that ensured the welfare and rehabilitation of juvenile offenders.
 - (i) Whether the correctional service ensured separation of juveniles from adults while in custody.
 - (ii) Whether there was timely transfer of juveniles to reformatory schools once Confirmation of Orders had been received from the High Court.
- (d) Whether the MCDSS through the Department of Social Welfare was present throughout the process of the justice system to assess the juvenile's welfare in the system.
 - (i) Whether the MCDSS monitored juveniles, detention facilities and approved or reformatory schools to ensure that the welfare and minimum standards of care were adhered to.
- (e) Whether the reformatory schools ensured that rehabilitation of juveniles was effectively implemented.
 - (i) Whether the reformatory or approved schools had adequate infrastructure and tools to provide rehabilitation programmes to juveniles in conflict with the law.
 - (ii) Whether the reformatory or approved schools provided after-care services to juveniles after discharge to ensure that juveniles who left the schools were supervised.
- (f) Whether there was coordination among ZPS, Judiciary, ZCS and MCDSS in ensuring the welfare and rehabilitation of juveniles that come into conflict with the law.
 - (i) Whether the roles and responsibilities of stakeholders in the juvenile justice system were well defined for coordination.

5.6 Methodology

The audit techniques used in gathering the evidence were as set out below.

5.7 Research Design

The Auditor General indicated that the existence of an effective and efficient juvenile justice system was essential in ensuring that the justice system for juveniles was provided in an environment that considered their vulnerability and developmental stages of reintegration back into society.

In this regard, as part of the research design, various tools were used in order to assess the audit objective as outlined below.

5.8 Sample Size and Sampling Method

The sample was drawn from the ZPS, ZCS, Judiciary and MCDSS. The study used purposive sampling to select eleven districts which included: Lusaka, Kabwe, Ndola, Kitwe, Chingola, Kasama, Mpika, Chipata, Petauke, Choma and Livingstone because they indicated a high incidence of juvenile delinquency. The selected districts also indicated a high quantity of processing juvenile cases at the police, court, and remand level. In addition, Mazabuka and Kazungula districts were chosen because they were home to the two approved reformatory schools, namely: Nakambala and Katombora in Southern Province. Of the fifty-eight remand/correctional facilities dotted around the country, thirteen were selected and visited. Further, to ensure that juveniles at various stages in the system were captured, juveniles from selected seventeen institutions were monitored.

5.9 Facilities Visited and Juvenile Respondents

The Committee learnt that 251 juvenile offenders out of the 482 found at the visited facilities representing 52 per cent formed the sample of the audit.

5.10 Data Collection

The main techniques of data collection were as outlined below.

5.11 Document Review

The Members were informed that documents from the audited institutions were collected and reviewed in order to appreciate the performance of the juvenile justice system. In addition, case records of juveniles were also reviewed to obtain information on the type of offence and circumstances of adjournment, if there were any. The documents reviewed at the correctional facilities included reports that indicated the number of juveniles in remand and when they were remanded, among others. The dates were used to establish the duration of the remand period and how long juveniles stayed in remand after the Order had been passed by the Subordinate Court or Confirmation made by the High Court.

At the MCDSS, annual reports as well as registers of juvenile offenders were reviewed in order to obtain detailed information regarding the juveniles that were handled during the period under review. Reports were reviewed to determine the adequacy of infrastructure in respect of the capacity of the cells where juveniles were remanded and the number of juveniles remanded so as to determine the under- or over-utilisation of the facilities. Aftercare monitoring reports were reviewed to assess

whether juveniles discharged had been visited and what progress they were making towards rehabilitation and reintegration into society.

5.12 Interviews

The Committee was informed that interviews were held to supplement evidence collected through document reviews and physical inspections. The members of staff who were interviewed were drawn from the four institutions involved in handling matters of juvenile offenders. The interviews revealed the challenges the system faced to successfully achieve the welfare and rehabilitation of juvenile offenders. Interviews also revealed the status of the system with regard to adherence to the *Juveniles Act Chapter 53 of 1956*, among others.

Interviews were also conducted to establish how well social welfare officers and offender management officers had been trained in handling juvenile cases. As such, training needs were also obtained through interviews so as to determine any gaps that might exist in the handling of juvenile offenders.

Further, Magistrates and Court clerks were also interviewed to establish the challenges that they were facing in handling juvenile court proceedings, especially on recording of juvenile cases and Confirmation of Orders. In addition, officers from the Judiciary, ZPS and MCDSS were interviewed to determine the extent to which the juvenile justice system allowed for early interventions such as diversion for juvenile offenders to avoid the progression to more intensive and costly levels. This assisted in determining what early interventions the system had and at which point juveniles could access them. Further, interviews were conducted to determine whether the reformatory school had a board in place which was active. Interviews were also conducted to verify whether the social welfare officers checked on the welfare of the juveniles in the judicial process.

5.13 Physical Inspections

The Committee was informed that physical inspections were also conducted to determine whether the police stations had appropriate juvenile facilities to ensure the humane custody of juveniles. In this regard, physical inspections of police cells for juveniles at police stations were conducted to ascertain whether they were separate from adult cells. In addition, court rooms and holding cells at the courts were inspected to assess their child friendliness and separation from adult offenders. Juvenile cells were inspected at the remand facilities to ascertain whether there was complete separation of juveniles from adult offenders. To determine whether the juvenile suspects were separated from juveniles

that had received their Orders, the detention cells at the remand facilities were inspected. The conditions of the dormitories at the reformatory school were also inspected to assess whether they adhered to the requirements set out by the law. Further, physical inspections of the schools were done to determine whether the approved schools had adequate infrastructure and tools to rehabilitate the juveniles.

5.14 Interview Assisted Questionnaires

The Committee was informed that questionnaires were given to 251 juveniles who were found at the police stations, remand and correctional facilities and at approved reformatory schools. The questionnaires were given to the juveniles in the presence of Juvenile Inspectors or District Social Welfare Officers (DSWO) in the districts visited. Data on demographics, nature of crime committed, the police station where the juvenile was arrested, the Magistrate Court that heard the case, where the juvenile was remanded and type of Order and conditions of the facilities where the juvenile was held were collected. Dates and duration of police custody, duration of remand, period of trial, dates of Order, Confirmation, conveyance and admission into school were obtained through the questionnaire. The data obtained through the questionnaires was also corroborated through the respective institutions.

6.0 CONSIDERATION OF SUBMISSIONS ON THE AUDIT FINDINGS AND OBSERVATIONS

The Committee considered submissions from various stakeholders who included Civil Society Organisations and permanent secretaries from the Ministry Home Affairs, Ministry of Finance, Ministry of Justice, Ministry of Community Development and Social Services and Ministry of Youth Sport and Child Development. The submissions from the stakeholders and the Permanent Secretaries as well as the observations and recommendations made by the Committee are as set out hereunder.

6.1 ZAMBIA POLICE SERVICE

The Performance Audit Report noted that the ZPS was responsible for the welfare and rehabilitation of juveniles who came into conflict with the law during arrest, reception and referral. However, the Report, among other things, revealed the following:

- (a) non-separation of juvenile suspects from adult suspects at police stations;
- (b) over detention of juveniles in police custody ranging from three to sixty days;

- (c) inadequate capacity to handle juvenile cases; and
- (d) non separation of juveniles from adults during conveyance to court.

6.1.1 Stakeholders' Submission

Stakeholders who appeared before the Committee affirmed the findings of the audit report were true. This was coupled with lack of pre-trial diversion, inadequate training of police officers to manage child justice and fast track models of dealing with child offences.

6.1.2 Response by the Inspector General of Police

In response to the audit findings, the Inspector General of Police acknowledged the findings in the report and revealed that measures put in place by the ZPS were not adequate to ensure the welfare and rehabilitation of juveniles that came into conflict with the law at the time of arrest, reception and referral.

The Inspector General of Police stated that in an effort to address the weaknesses and challenges highlighted in the report, the ZPS had come up with appropriate measures as highlighted below.

6.1. 2.1 Non-separation of Juvenile Suspects from Adult suspects at Police Stations

The Committee was informed that all the newly constructed police stations and those under construction across the country had provisions for separation of juvenile suspects from adults. The Committee also learnt that the ZPS had been training and continued to train officers in child protection, human rights and psychosocial counselling, among other skills. This was aimed at ensuring that juveniles were separated from adult suspects during both detention and conveyance to the courts of law. Where separate cells for juvenile suspects were non-existent, efforts were made to bond juvenile suspects if the offence was bondable. In instances where offences were not bondable, arrangements were made to transfer the juvenile suspects to the nearest police station or police post which was equipped with separate juvenile facilities. Where juvenile suspects were mixed with adult suspects in police custody, the matter should be reported to the officer-in-charge at that particular police station or police post in order to ensure that juveniles were separated from adult suspects. The objective of this arrangement was to prevent interaction between juvenile and adult suspects while in custody. As a lasting solution, all old police

stations without juvenile cells were earmarked for rehabilitation once funds were available.

6.1.2.2 Recording of Statement of Juvenile at Arrest

The Members were informed that through, the Legal Office and Victim Support Unit (VSU), the ZPS had embarked on training and sensitisation programmes for police officers to ensure that the provisions of the law were adhered to, particularly when recording statements at the time of arrest of juvenile offenders.

The Inspector General of Police emphasised that in order to improve the efficacy of the juvenile justice system, currently, most police stations and police posts had trained officers with knowledge and skills in handling cases involving juveniles. This was aimed at ensuring that every time a juvenile was alleged to have committed an offence, either parents, guardians or in their absence, a representative from the Social Welfare Department was present when recording a statement from a juvenile suspect. The Ministry of Home Affairs through the ZPS had well established linkages with the Social Welfare Department under the MCDSS in nearly all districts. Through these linkages, the ZPS coordinated with the Department of Social Welfare in handling cases involving juveniles. This collaboration worked very well and effectively.

6.1.2.3 Over detention of Juvenile in Police Custody

The Inspector General of Police admitted that according to the Penal Code, no suspect should be detained for longer than 48 hours before being presented before the court of law. It was stressed that juvenile suspects were not exempted from this requirement. Where the juvenile suspect was deemed to be a threat to public safety, the Penal Code provided that the ZPS should obtain a court warrant to detain such a suspect longer than 48 hours while investigations were still being carried out. Other than that, no suspect should be detained in police custody longer than 48 hours. Therefore, any detention exceeding 48 hours of any juvenile suspect was unlawful and should be reported to the officers-in-charge at a particular police station or post or to the Police Public Complaints Commission (PPCC).

The Committee was informed that, as a mitigation measure, the ZPS, through the Victim Support Unit (VSU), was in the process of rolling out the diversion policy which would give the police a mandate to divert juvenile cases in order to address the vice of over detention. The Communication Cooperation Coordination (CCC) initiative had also been adopted by the institution as a platform for

interaction with other institutions such as the Ministry of Justice and the National Prosecutions Authority (NPA).

6.1.2.4 Inadequate Capacity in Handling Juvenile Cases

The Committee learnt that ZPS had inadequate capacity in handling cases involving juvenile because from inception, it operated as Zambia Police Force. Accordingly, at that time, the training curriculum for police officers did not include topics relating to handling of cases involving juveniles, child protection, human rights and psychosocial counselling, among others.

These topics had since been integrated into the Zambia Police Training Curriculum because of the stakeholder consultative meetings on the plight of citizens and juveniles who came into conflict with the law. It was also due to the need to uphold the rights of suspects until proven guilty. This contributed to the transformation of the Zambia Police Force to the Zambia Police Service in 2016 through a constitutional amendment. The curriculum was designed to equip police officers with knowledge and skills to handle any type of offence, including those involving juveniles.

During the period 2014 to 2018, the ZPS, through the in-service training programme trained over 1,790 police officers countrywide in various skills among them child protection, human rights, juvenile delinquency, psychosocial counselling and law enforcement. The trained officers had the knowledge and skill to handle any juvenile case. The in-service training programme was on-going and the ZPS would continue to build capacity by training more officers.

6.1.2.5 Non-separation of Juveniles from Adults during Conveyance to Court

The Committee was informed that the ZPS Motor Transport Unit had so far procured two motor vehicles with distinct compartments meant for separation of juveniles from adults during conveyance to court. Once funds were available, motor vehicles with similar facilities would be provided as well.

6.2 JUDICIARY

The Report of the Auditor General revealed weaknesses in the handling of juvenile cases by the Judiciary. Some of the weaknesses highlighted in the report are set out hereunder.

- (a) Prolonged processing of juvenile cases through the courts which was attributed to:
 - (i) adjournments of juvenile cases;
 - (ii) no proper system in making juvenile cases a priority; and
 - (iii) delays in confirming juveniles ordered to be admitted to approved schools; and
 - (iv) use of diversion by the courts.

- (b) Court facilities were not child friendly because they lacked the necessary facilities to provide the required child friendly environment for juvenile offenders as stipulated in the *Juveniles Act Chapter 53 of 1956 of the Laws of Zambia* and the *Convention on the Rights of the Child, 1989*.

6.2.1 Stakeholders Submission

Most stakeholders who appeared before the Committee were in agreement with the audit findings. They acknowledged that there had been incidences where juveniles cases had taken longer periods to conclude because of several adjournments. They submitted that among the causes of adjournments included:

- (i) the absence of parents or guardians who could not be traced for various reasons and because of that, juvenile matters could not proceed as required under Section 127 of the *Juveniles Act, Chapter 53 of the Laws of Zambia*;

- (ii) inadequate courtroom space resulted in magistrates sharing court rooms;

- (iii) the police and prison authorities being unable to bring the juveniles to court on the date of trial; and

- (iv) delayed social welfare reports.

6.2.2 Submission by the Judiciary Chief Administrator

The Chief Administrator acknowledged that the findings of the Report of the Auditor General were correct and outlined the reasons as set out below.

6.2.2.1 Prolonged Processing of Juvenile cases

The Committee was informed that the finding on the prolonged processing of juvenile cases through the courts was correct. The proposition that the accused be tried within 90 days was made in

reference to the Constitution of Zambia (Amendment) Bill of 2016 which sought to amend the Bill of Rights. However, this was currently not the position as the said Bill did not pass during the 2016 Referendum and consequently was not enacted.

The current legislation did not provide for the ninety-day duration within which a person should be tried from the date of arrest, but Article 18 of the Constitution provided that an accused person should be tried within reasonable time. Further, the *Juveniles Act, Chapter 53 of the Laws of Zambia* provided that a juvenile jointly charged with an adult should be tried by a Subordinate Court not sitting as a Juvenile Court, but the juvenile did not forfeit his or her right to be treated as a juvenile.

In that regard, the Judiciary was committed to promoting the dignity and best interest of juveniles, despite the right to being heard in camera pursuant to the *Juveniles Act, Chapter 53 of 1956* being waived, the rights of the juvenile during trial were observed by the Courts through ensuring that a guardian or parent was present during trial.

6.2.2.2 Causes to the Prolonged Processing of Juvenile Cases

The Chief Administrator submitted the causes of adjournments were as set out below.

- (a) **Absence of parents or guardians in court:** In some instances, there had been a challenge of tracing parents/guardians or Social Welfare Officers had been unavailable before Court because of lack of awareness of juvenile cases emanating from poor communication between the police and the Department of Social Welfare. As such, Courts were unable to proceed to hear juvenile cases in compliance with Section 127 of the *Juveniles Act*.
- (b) **Absence of witnesses in Courts:** The witness' failure to attend court had been due to lack of transport from distant locations. It was the responsibility of the National Prosecution Authority to ensure that witnesses were availed to court.
- (c) **Inadequate Court infrastructure:** There were more magistrates at Subordinate Courts than the available courtrooms. This entailed that magistrates had to share the courtrooms, thereby contributing to delays in disposing of cases.

- (d) **Absence of Juveniles in Court:** This could arise due to failure to avail juveniles before the Court by the Police Service or Correctional Service.

The Chief Administrator stated, additionally, that the absence of Legal Counsel in matters where litigants were represented had been a major factor in the adjournment of cases, where satisfactory reasons were advanced to the Court. For instance, the Legal Aid Board in provinces may have inadequate number of Legal Aid Counsel servicing the entire province. The requirement to have a language interpreter for a rare language, where there may be not available within the district was also a factor in the adjournment of cases.

6.2.2.3 Lack of Proper System to ensure Juveniles Cases were Prioritised

The Members were informed that there was no documented system in place to prioritise juvenile cases, suffice to state that there existed a practice to prioritise juvenile cases. Additionally, courts did not have guidelines and written procedures to operationalise and prioritise Juvenile cases. This meant that magistrates used their discretion to prioritise juvenile cases.

The Judiciary had since put in place measures currently obtaining at Lusaka Subordinate Courts and other Subordinate Courts, whereby specific magistrates were designated to hear juvenile matters and specific days were designated for juvenile cases. Subordinate Courts with more than one magistrate had been advised to adopt this model of prioritising juvenile cases to expedite their disposal. This meant that on each day or most of the week depending on the number of designated Juvenile Courts, there were juvenile cases heard. Further, the Advisory Committee on Court Operations would develop guidelines to provide a documented system on the aforementioned practice of prioritisation.

The Judiciary had put in measures in place by creating separate Juvenile Registers at all Subordinate Courts, and also created a mechanism for separate case returns for juveniles. Once fully implemented, this system would provide a monitoring mechanism which would facilitate expeditious processing of juvenile matters.

The Judiciary intended to develop its ICT infrastructure to create an electronic tracking system linking the courts countrywide. This would facilitate for adequate monitoring of juvenile matters. In that regard, the Judiciary was hopeful that the Treasury should increase funding to the Judiciary to undertake this plan.

The Judiciary had also established Provincial and District - Cooperation, Communication and Coordination Initiative Chapters (CCCI) which were mandatory under the Judiciary Strategic Plan (2019-2023). The CCCI's were composed of criminal justice institutions and chaired by the Judiciary. The aim of this initiative was to enhance cooperation and coordination among criminal justice stakeholders. One of the issues that the Chapters were expected to consider was ensuring that the welfare of children who came into conflict with the law was given priority with the aim of addressing delays in disposal of cases involving juveniles offenders.

The Judiciary had also established the office of the Programme Coordinator of the Child Justice Forum whose role was to facilitate and coordinate collaboration amongst juvenile justice role players for the transformation of the juvenile justice system.

6.2.2.4 Delays in Confirming Juveniles Ordered to Schools

The Members were informed that Section 79 of the *Juveniles Act, Chapter 53 of Laws of Zambia* provided that no Reformatory Order or Approved school Order made by a Juvenile Court shall be carried into effect until the record of the case had been transmitted to, and the Order confirmed by the High Court.

The Chief Administrator, however, recommended that Section 79 of the *Juveniles Act* should be amended through the Child Code Bill to provide that the High Court Confirmation Order should take effect from the date of the Order by the Subordinate Court. The Chief Administrator also recommended that the Correctional Facilities should begin to comply with Section 94(2) of the *Juveniles Act* and convey juveniles upon the Order of the trial court, without awaiting confirmation by the High Court.

Currently, the Judiciary had adopted a system at the High Court in Lusaka whereby juvenile cases from Mongu and Chipata Subordinate courts no longer waited for the circuiting but were transmitted to Lusaka and brought before the Judge allocated on the roster to hear sentences, appeals and confirmations for that particular month. Subordinate Courts in other districts had been advised to replicate this system by transmitting records to the nearest permanent High Courts and the Judges-in-charge needed not wait for the circuiting sessions in the districts in order to confirm the Orders.

6.2.2.5 Delays in Transmitting cases to the High Court for Confirmation

The Chief Administrator highlighted the challenges that caused the delays as set out below.

- (a) Case records needed to be typed and prepared before being transmitted to the High court.
- (b) The typists responsible for preparation of records typed them on first-in first-out basis.
- (c) The number of typists was inadequate to meet the workload of case records.

In order to overcome the highlighted problems, the Judiciary had put in place measures at the Lusaka Subordinate Court whereby a typist was designated to specifically process records for juvenile cases. This meant that juvenile cases were not subjected to the first-in-first out rule. The Chief Administrator recommended that this system be rolled out at all Subordinate Courts. The rolling out of this system required Treasury authority for the recruitment of additional typists in Subordinate Courts in other provinces which mostly had one or two typists. Therefore, more typists needed to be recruited countrywide.

Further, as a long term intervention, it was necessary to recruitment of Real-Time Court Reporters as opposed to typists in Subordinate Courts be ensure that the record could be typed during proceedings and be ready for transmission to the High Court on disposal of the case at trial. In order to actualise this, there was need for increased funding to facilitate procurement of the necessary equipment and train Court Reporters.

6.2.2.6 Absence of Permanent High Courts

The Members were informed that there were prolonged periods of waiting for confirmations in provinces with High Court circuits as compared to provinces where the High Court was present permanently. In addition, there were delays in cause listing of juvenile cases transmitted to the High Court for High Court sessions.

The Chief Administrator assured the Committee that the Judiciary had acquired plots from the Council for the construction of High Court infrastructure in provinces without permanent High Courts and the Engineering Department had since developed plans for the said court infrastructure. However, there was inadequate funding in the budget to execute the construction project and called for advocated for increased funding to the Judiciary to facilitate the construction of High Court infrastructure.

The Chief Administrator also informed the Committee that a practice must be adopted by circuiting Judges to attend to confirmation of Juvenile Orders despite the cases not being cause listed prior to the scheduled sitting. Additionally, Subordinate Courts should not wait for scheduled High Court circuit sessions but transmit records to the nearest High Court, as was the practice at Mongu and Chipata, for confirmations to be handled by the Judge-in-charge expeditiously.

In this regard, the Members were informed that a directive was issued out of the Family and Children's Division of the High Court, giving a seven-day deadline from the date of the Trial Court Order within which a record should be transmitted from the Subordinate Court to the High Court.

6.2.2.7 Lost Documentation on Case Files

The Chief Administrator confirmed that there was sometimes loss of documents between the Subordinate Court and High Court which included Social Welfare reports. As a result, juveniles could not be confirmed without Social Welfare Reports. Storage facilities were also a challenge in some Courts which contributed to poor storage of case records.

The Chief Administrator, therefore, recommended for increased funding from the Treasury to enable the procurement of equipment to facilitate the scanning of documents and subsequently the electronic storage and filing of documents as was the practice in jurisdictions such as Rwanda and the United Kingdom.

Furthermore, there was need to provide adequate resources to enable Social Welfare officers conduct home assessments as a major contributor to lack of preparation of the Social Welfare Reports by the Department of Social Welfare which translated to delayed confirmations.

6.2.2.8 Use of Diversion by Courts

With regard to diversions, the Chief Administrator informed the Committee that the Courts had been hitherto relying on Section 73 of the *Juveniles Act* which provided for alternative modes of dealing with, juveniles. In essence, this took the form of post-trial diversion.

It was recommended that the Child Code Bill which had incorporated pre-trial diversion and thus gives legal backing to the National Diversion Framework launched in December 2018, be expediently presented before Parliament for enactment.

The Chief Administrator also recommended that at the conclusion of the pilot project in the four districts (Kitwe, Ndola, Lusaka and Kapiri Mposhi); the National Diversion Framework Policy be rolled out to all districts countrywide.

6.2.2.9 Child Unfriendliness of the Court Facilities

The Chief Administrator submitted that the courts generally lacked necessary facilities to provide the required child friendly environment for juvenile offenders.

6.2.2.10 Mixing of Juveniles with Adult Offenders

The Chief Administrator informed the Committee that lack of holding cells at the courts specifically designed for juveniles was a major cause of this state of affairs. As a result, there was dire need for increased funding to the Judiciary to facilitate the expansion of Court infrastructure to include holding cells specifically for juveniles.

6.2.2.11 Unsuitable Court Facilities for Juveniles

The Members were informed that there was a lack of court infrastructure designed specifically for hearing juvenile cases.

The Chief Administrator indicated that in the long term and upon construction of additional court facilities, the requirements of Section 119(1) of the *Juveniles Act* which prescribed that a juvenile court must sit in a room other than that in which any court other than ordinarily sits would be implemented.

6.3 ZAMBIA CORRECTIONAL SERVICES

The Report of the Auditor General indicated that there were inadequate custodial measures put in place by the ZCS to ensure the welfare and rehabilitation of juvenile offenders while in their custody due to the following weaknesses:

- (a) non-separation of juveniles from adult offenders due to absence of juvenile facilities and over-crowding at correctional facilities;
- (b) poor condition of available juvenile facilities because some juvenile cells had poor ventilation, no running water and toilet facilities in the cells and beddings were a challenge as some cells did not have adequate beddings for juveniles in custody; and

- (c) juveniles were detained in remand after Order and Confirmation from High Court had been received.

6.3.1 Stakeholders' Concern

Stakeholders were extremely concerned that juvenile offenders were not separated from adults during transportation to the courts, were kept in the same cells at police stations with adult offenders and also during remand. They were also concerned that juveniles were detained for as long as three years even after an Order and Confirmation had been made by the High Court without being taken to Reformatory Schools.

6.3.2 Deputy Commissioner General's Response

The Deputy Commissioner General stated that he agreed with the findings in the Report of the Auditor General submitted as set out hereunder.

6.3.2.1 Non Separation of Juvenile Offenders from Adult Offenders

The Deputy Commissioner General agreed with the audit findings and submitted that most of ZCS infrastructure was built either before independence or after independence. Therefore, they had no provision for separate confinement for juvenile offenders. However, most correctional centres such as Kabwe Medium and Ndola Remand had improvised juvenile sections within the facilities aimed at separating the juvenile offenders from adult offenders.

6.3.2.2 Implementation of the Recommendation

The Members were informed that the ZCS had a long and short term agenda to enhance the welfare of juvenile offenders in line with the recommendation in the Report of the Auditor General by ensuring that all provinces or regions had appropriate juvenile correctional centres. In the short term, the ZCS was trying to ensure that juvenile offenders were separated from the adult offenders by either building new cells or improvising cells for juveniles within the existing correctional centres. For instance, Kabwe Medium Correctional Centre had a juvenile cell built within the centre. However, most correctional centres had improvised juvenile sections, mostly penal blocks at Kamfinsa and Mazabuka Correctional Centres. In the long term, the ZCS had developed a mechanism of separating juvenile section at every new correctional centre under construction such as one ultra-modern correctional facility under construction in Mwembeshi through the Public-Private Partnership (PPP) which would provide for a juvenile section.

6.3.2.3 Poor State of Juvenile Cells

The Committee was informed that most correctional infrastructure was in a deplorable state and the Government, through the Ministry of Home Affairs, had embarked on a programme to rehabilitate most correctional centres as set out hereunder.

(a) Running water

The Members were informed that all correctional centres had good water reticulation systems. This was being sustained through boreholes in centres with erratic water supply to ensure that all the centres had running water throughout the day. However, some centres such as Chingola, Milima, Petauke, Chipata and Mazabuka still had no running water in the juvenile cells because most of these cells were not designed to be used as juvenile cells but as penal blocks.

(b) Shower and Toilets

The Committee was informed that all the centres had showers and toilets for juveniles although in most correctional centres, showers and toilets for juveniles were outside the cells because most of these juvenile cells were not designed for such purpose. However, through the Infrastructure Directorate, plans to ensure that appropriate juvenile cells had showers and toilets inside were constructed were underway.

(c) Ventilation

The Deputy Commissioner General submitted that most juvenile cells had poor ventilation. However, the ZCS embarked on a programme to improve ventilation in the juvenile cells.

(d) Provision of Meals

The Committee was informed that all the centres provided meals to the juveniles. However, the non-availability of balanced and nourishing meals was as a result of inadequate budgetary allocation for the procurement of enough nourishing food rations for the juveniles. In addition, the *Prisons Act, Chapter 97 of the Laws of Zambia* provides for the dietary scale which is being utilised in the feeding of juveniles.

(e) Beddings

The Committee was informed that most correctional centres had inadequate beddings and mattresses due to inadequate budgetary allocation to procure beddings.

6.3.2.4 Detention of Juveniles at Remand after Order and Confirmation by the High Court/Delay to Convey Juveniles

The Deputy Commissioner General submitted that the delay to convey juveniles to Katombora Reformatory School after Order and Confirmation from the High Court was because of inadequate transport and other logistics. Therefore, conveyances were undertaken as and when transport and other logistics were available.

6.3.2.5 Implementation of the Recommendation

The ZCS had devised mechanisms to enhance conveyance of juveniles on time from correctional or remand centres to Katombora Reformatory School. The mechanisms included the following:

- (i) setting up a core committee to oversee the conveyance of juveniles to reformatory schools;
- (ii) all regional commanding officers had been directed to ensure conveyance of juveniles from their respective regions to Katombora Reformatory School within a month after confirmation;
- (iii) officers-in-charge had been directed to ensure that they liaised with their regional commanding officers on matters of conveyance of juveniles within a month after confirmation; and
- (iv) the ZCS was collaborating with stakeholders such as the Centre for Infectious Disease Research in Zambia (CIDRZ), Voluntary Service Organisations (VSO) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) in enhancing the welfare of juveniles. To this effect, GIZ donated a mini-bus to the ZCS for the purpose of conveyance of juveniles.

6.3.2.6 Inadequate Provision of Counselling to Juveniles

The Committee was informed that the paradigm shift from the punitive approach to the correctional approach entailed that the ZCS had a new mandate of providing holistic rehabilitation programmes to inmates. However, the provision of counselling services to inmates had been hampered by the inadequacy of skilled human resource in counselling.

6.3.3 Implementation of the Recommendation

To mitigate this challenge, the ZCS recruited counsellors and teachers in the 2018 intake and organised an in-service training for officers in psycho-social counselling to enhance counselling services to inmates. Further, chaplaincy units had been involved in offering counselling services to inmates. These measures would enhance counselling services to inmates and ultimately improve the welfare of juveniles in the rehabilitation process. In order to expose juveniles to rehabilitation programmes on time, the ZCS had developed mechanisms to expedite the conveyance of juveniles to Katombora Reformatory School within a month of confirmation.

6.4 MINISTRY OF COMMUNITY DEVELOPMENT AND SOCIAL SERVICES

The audit report revealed ineffective management of the welfare of juvenile offenders throughout the process by the Ministry of Community Development and Social Services. Some of the weaknesses observed included the following:

- (a) absence of District Social Welfare Officers (DSWOs) during recording of statements at police stations;
- (b) no home assessments were carried out when preparing social welfare reports. As a result, social welfare reports that were prepared by officers during the period under review did not contain key information such as home surroundings, school record and medical history;
- (c) default of probationers was high as there were 638 juveniles from the sampled districts who were placed on probation, out of which 305 juveniles defaulted representing a default percentage of 48%;
- (d) poor supervision of licensees; and
- (e) non-monitoring of facilities where juveniles were kept in detention because there was no budget line for the inspection of the facilities.

6.4.1 Stakeholders' Concerns

Stakeholders raised concerns over the absence of the District Social Welfare Officers during the time when statements were being recorded at police stations. They were also concerned that officers were unable to

produce reports on juvenile offenders to enable their trials to commence, which resulted in unnecessary adjournments of juvenile cases by the courts.

Further, stakeholders highlighted that Zambia's ranking of 51st out of 52 on child friendliness in the African Report on Child Wellbeing of 2018 by the African Child Policy Forum (ACPF) released on the 2nd of November 2018 was worrisome. The 2018 Child-friendliness Index covered all African countries except Libya, Somalia and Sahrawi Arab Democratic Republic. The report indicated that 'the "least child-friendly" Governments at the bottom of the 2018 table comprised South Sudan, Central African Republic, Chad, Cameroon, Zambia, Liberia, the Democratic Republic of Congo, Guinea and Eritrea. The legal and policy framework and the enforcement mechanisms in most of these countries remained inadequate and weak. For Zambia, what came out prominently was the age of criminal responsibility which stands at 8 years. The internationally accepted age was 14 years although most countries in Africa were between 12 and 16. Stakeholders were of the view that Government must consider reviewing this age given the scenario above in conformity with international standards.

6.4.2 Submission by the Permanent Secretary

The Permanent Secretary acknowledged that the findings in the report were correct and submitted as set out below.

6.4.2.1 Presence of MCDSS Officers when Assessing Juveniles

The Committee was informed that the Social Welfare Officers also known as Probation Officers or Juvenile Inspectors had the mandate and responsibility as provided in the *Juvenile Act, Chapter 53 of the Laws of Zambia* and the *Probation and Offenders Act, Chapter 93 of the Laws of Zambia* to ensure adequate representation, care and rehabilitation for the juveniles in conflict with the law through all the stages of judicial proceedings.

The Permanent Secretary stated that Juvenile Inspectors or Probation Officers might not have total control at certain stages of the judicial proceedings which were outside their jurisdiction other than make the necessary recommendations such as separation of juveniles from adults at remand, police or court holding cells. It was explained that the first contact point between a juvenile in conflict with the law and the Juvenile Inspector or Probation Officer was at the point of arrest or when collecting a statement on the offence alleged to have been committed by the juvenile. The Juvenile Inspector or Probation Officer was also expected under the *Juvenile*

Act Chapter 53, Section 15(6) to investigate on behalf of the court pertaining all the information about the juvenile which was likely to assist the court in making an Order.

The Permanent Secretary stated that the Ministry was also mandated by law to undertake inspections or monitor all childcare facilities or institutions, which also included the Juvenile Approved and Reformatory Schools, to ensure compliance to the provisions of the law and the minimum standards of care. However, due to inadequate or untimely release of resources, the Ministry had been unable to comprehensively monitor all childcare facilities to promote compliance and ensure that the requirements of the law were adhered to. Through the newly introduced output based planning and budgeting, it was hoped that this approach would enhance service delivery in the inspection of the facilities and recommendations for appropriate interventions.

6.4.2.2 Effective Rehabilitation of Juveniles at Reformatory and Approved Schools

The Permanent Secretary submitted that the Ministry had full responsibility of running the Nakambala Approved School for boys and Insakwe Approved School for girls as established under Section 75 of the *Juvenile Act Chapter 53*. The Katombora Reformatory School was being run by the ZCS under Ministry of Home Affairs.

The Permanent Secretary indicated that, as observed in the findings, the institutions did not have adequate tools for training and the Ministry had since engaged partners such as Development Aid from People to People (DAPP) who had moved on site to provide the much needed support focusing on four thematic areas as set out below.

- (a) **Reformation of Juveniles:** this programme focused on supporting the system in counselling and capacity building of facility staff.
- (b) **Health and Wellbeing of Juveniles:** it focused on sensitising juveniles on HIV/AIDS, hygiene, water and sanitation, and nutrition.
- (c) **Rehabilitation through Skills Empowerment:** this programme provided vocational skills training and facilitation of academic education.
- (d) **Child Reintegration Support Systems:** the programme rendered support during the family and community reintegration process.

6.4.2.3 Adequacy of infrastructure and tools for rehabilitation programmes

The Committee was informed that the Government in partnership with DAPP had commenced renovation works on the hostels, dining and classrooms. Necessary tools and equipment had since been procured and provided to the institutions. New mattresses, beds, sports or recreation facilities and clothing had also been procured for Nakambala with the support by the DAPP. The Government, through the Ministry, intended to replicate the set standard for all childcare facilities countrywide.

6.4.2.4 Provision of After-care services to Juveniles After Discharge

The Committee learnt that following the plans that were underway for the face-lift and revitalisation of the rehabilitation programmes at Nakambala and Insakwe Approved Schools, the Ministry was also working on putting in place visiting committees for the institutions as required in the Section 75 of the *Juvenile Act, Chapter 53 of the Laws of Zambia*. In addition, the after-care services were a requirement for all juveniles released on license to be supervised by the Juvenile Inspectors or Probation Officers from the area of their residence and provide an update on their rehabilitation or reformation to desired behavior in line with the provision under the of Section 90 (14) (1,2,3) of the *Juvenile Act Chapter 53 of the Laws of Zambia*.

The District Social Welfare Officers located in areas where juvenile on license resided, had the responsibility of ensuring that follow up of after-care services and update reports were provided periodically. This was one of the areas that the Ministry, in partnership with other stakeholders, intended to strengthen and ensure that resources for the after-care activities were provided to the districts in need with juveniles on license.

6.4.2.5 Coordination among ZPS, Judiciary, ZCS and MCDSS in the administration of juvenile justice

The Permanent Secretary informed the Committee that, currently, the coordination platform that drew all the above mentioned stakeholders was the Child Justice Forum which was chaired by the Judiciary and the Department of Social Welfare was the secretariat.

The Permanent Secretary emphasised that the Ministry had taken note of the recommendations made in the Performance Audit Report

regarding the provision and would take all the necessary measures to strengthen the service linkages to the benefit of the juveniles' rehabilitation or reformatory process.

7.0 COMMITTEES' OBSERVATIONS AND RECOMMENDATIONS

7.1 Child Code Bill

The Committee notes with concern that the laws governing child justice are archaic and need to be reformed to bring them in tandem with the current international standards regarding juvenile justice.

The Committee, therefore, recommends that, as a matter of urgency, the Government should expedite the enactment of the Child Code Bill which will incorporate all the laws governing child justice under one umbrella and bring them in line with applicable international standards.

7.2 Absence of parents or guardians

The Committee observes with concern that some cases involving juveniles take longer to conclude because parents or guardians are not traced in good time. This is because juvenile matters cannot proceed in the absence of parents or guardians as the case may be pursuant to Section 127 of the *Juveniles Act, Chapter 53 of the Laws of Zambia*.

In this regard, the Committee recommends that the Child Protection Unit of the ZPS assists the Criminal Investigations Department in ensuring that parents or guardians of arrested juveniles are present in court because at the time the juvenile is being arrested and charged, they are present. Therefore, the police should know where these parents or guardians live. In the event where a juvenile offender has no known parent or guardian, the court should, as a matter of urgency, appoint a guardian.

7.3 Inadequate courtroom space

The Committee is concerned that there is inadequate court infrastructure to accommodate magistrates at Subordinate Courts. As a result, magistrates have to rotate the use of courtrooms, which contributes to the delay in disposing of juvenile cases since magistrates are forced to adjourn cases prematurely to allow other magistrate to use the courtrooms.

In this regard, the Committee recommends that the Government should increase funding to the Judiciary to enable it construct more court infrastructure with requisite juvenile facilities at subordinate court level and especially to construct courtrooms in districts where court infrastructure does not exist. It is the Committee's view that once the

number of courtroom increases, magistrates will attend to matters involving juveniles expeditiously because they will no longer compete for courtroom space with ordinary criminal matters.

7.4 Failure to bring juveniles to Court

The Committee notes that failure to avail juveniles before the courts is partly caused by the police and correctional officers who fail to transport the juvenile offenders to court on the dates as required.

In view of the foregoing, the Committee strongly urges the Office of the Secretary to the Treasury to consider that, apart from improving funding and purchasing vehicles for the police and prison authorities to transport juveniles to court, adequate resources should be provided to facilitate the construction of places of safety for juveniles. This will enable juveniles in conflict with the law to be detained at appropriate designated places as they wait for their appearances in the courts unlike being detained at various police stations and correctional facilities. This will also improve the transportation of juveniles to courts as those responsible will not have to drive to several police stations to collect those due to appear in court. Further, provision of dedicated vehicles for juveniles will address the challenge of mixing juveniles with adult inmates during transportation.

7.5 Delayed social welfare reports

The Committee notes that once the court proves beyond reasonable doubt that the juvenile is in conflict with the law, it cannot make an order until it receives a report. As such, it is compelled to adjourn the matter because Section 64(7) of *Juveniles Act, Chapter 53 of the Laws of Zambia* requires the court to consider the juvenile's antecedents before it makes an Order against him. This information is presented in form of a social welfare report by a probation officer. However, this report is usually delayed by several factors such as the absence of parents, guardians and at times limited numbers of social welfare officers or probation officers and this results into delays in disposing of juvenile cases at courts.

The Committee, therefore, recommends that, as a matter of urgency, the Government should consider employing more probation or social welfare officers to avoid unnecessary adjournments of juvenile cases on account of delayed social welfare reports.

7.6 No proper system in making juvenile cases a priority

The Committee notes that there are no guidelines or written procedure to be followed when dealing with juvenile cases except that magistrates use their discretion by allocating specific days on which to hear juvenile cases on account of delayed social welfare reports.

In this regard, the Committee recommends that this model of prioritising juvenile cases be rolled out to other districts as this will expedite the disposal of juvenile cases. The Judiciary should also improve on its information and communication technology system so as to create an electronic tracking system to link all courts countrywide. This system will facilitate prudent monitoring of juvenile cases.

7.7 Delays in confirming committal orders

The Committee notes with great concern that when an Order of the lower court is made, confirmation of the said Order by the High Court takes inordinately long, in some cases as long as three years. The Committee is cognisant of the fact that Section 79 of the *Juveniles Act, Chapter 53 of the Laws of Zambia* provides that no Reformatory Order or Approved School order made by a Juvenile Court shall be carried into effect until the record of case has been transmitted to and the Order is confirmed by the High court.

In this vein, the Committee recommends that Section 79 of the *Juveniles Act, Chapter 53 of the Laws of Zambia* be amended through the proposed Child Code Bill to provide that the High Court Confirmation Order shall take effect from the date of the Order by the subordinate court. Further, the correctional facilities should also convey juveniles upon the Order of the trial court without awaiting the confirmation by the High Court.

7.8 Lost Documentation on Case Files

The Committee observes with concern that in some stances, delays in disposing of juvenile cases has been exacerbated by loss of documentation on case files.

In this regard, the Committee recommends that the Government must ensure that it invests in electronic filing systems by improving funding to the Judiciary. The Committee urges the Government to benchmark with other counties like Rwanda and the United Kingdom who are will advanced in the use of electronic filling to reduce on costs associated with physical documentation and promote environmental conservation.

7.9 Use of diversion by the courts

The Committee observes that Article 40(3)(b) of the United Nations Convention on the Rights of the Child (UNCRC) provides for diversion. However, the *Juveniles Act* does not have distinct and clear provision for diversion. Juvenile Courts have been relying on Section 73(1) (j) of the *Juveniles Act* to make Diversion Orders, but this provision is somewhat ambiguous as it provides for alternative sentencing which in essence is post-trial diversion and not pre-trial diversion.

In this vein, the Committee recommends that the provisions of the UNCRC on diversion be domesticated, expeditiously, through appropriate provisions in the Child Code Bill. This piece of legislation could particularly provide for enactment of provisions on pre-trial diversion.

7.10 Court facilities not child-friendly

The Committee observes that most courts lack the necessary facilities to create a child-friendly environment for juvenile offenders.

The Committee, therefore, recommends that measures be put in place to create child-friendly environments in the courts through construction of modern court infrastructure. The Government, through the Judiciary, should develop a standardised architectural design for Subordinate Courts that provide for child-friendly courtrooms. The Government should also fund the Judiciary adequately to enable it construct purpose built holding cells to avoid juveniles being exposed to adult inmates.

7.11 Inadequate Reformatory schools

The Committee notes with concern that the country has only one Reformatory School for rehabilitation of juvenile offenders while the other two are just approved schools.

In this vein, the Committee recommends that the Government should construct at least one Reformatory School in every province in order to keep the juvenile offenders within their provinces and also ease the transport challenges that parents or guardians face as they have to travel from other provinces to visit their children at the Reformatory and Approved Schools.

7.12 Age of Criminal Responsibility

The Committee notes with concern that Zambia is among the bottom nine "least child-friendly" countries and ranked fifty-one out of the fifty-two African countries in accordance with the African Report on Child Wellbeing of 2018 by the African Child Policy Forum (ACPF). In 2013, Zambia ranked thirty-sixth on the Child Friendliness Index and moved down twelve places over the last five years. It saddens the Committee to learn that the major cause of this ranking is the low minimum age of criminal responsibility at which is pegged at 8 years in Zambia's legal framework.

The Committee strongly recommends that the minimum age of responsibility must be revised in line with the international standard age of at least fourteen years. It is the Committee's view that the Child Code Bill must include this provision to reflect the country's commitment to child protection.

7.13 Staffing Levels at Subordinate Courts

The Committee is concerned with the low staff levels at subordinate courts a problem which is contributing to delays in dealing with juvenile cases. The Committee appreciates the innovation employed at Lusaka Subordinate Court whereby key staffs, especially typists and court reporters were specifically assigned to deal with juvenile cases. However, it is worrisome that some rural Subordinate Courts have only a typist and this subjects cases involving juveniles to the general criterion of dealing with cases, that is to say the First-In-First-Out (FIFO) rule is employed.

The Committee strongly urges the Government, particularly the Office of the Secretary to the Treasury to consider, as a matter of urgency, issuing Treasury authority to improve staffing levels in subordinate courts to improve the status quo.

8.0 CONCLUSION

The Committee is pleased to note that the Performance Audit undertaken by the Auditor General on the Justice Juvenile System in Zambia partly emanated from its work during the Fifth Session of the Eleventh National Assembly. In this regard, the Committee is happy that the Auditor General has taken this initiative which is complementary to its work. The Committee firstly calls for implementation of its recommendations in this Report. The Committee, further, hopes that all players within the juvenile justice systems will be strengthened so as to improve the current status quo.

The Committee is grateful to the Office of the Auditor General for providing technical support and wishes to thank you the Hon Mr Speaker and the Clerk for the guidance rendered to it during the deliberations.

Mr C Miyutu, MP

CHAIRPERSON

November, 2019

LUSAKA

APPENDIX I - List of National Assembly Officials

Ms C Musonda, Principal Clerk of Committees

Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)

Mr S Chiwota, Senior Committee Clerk (SC)

Ms C R Mulenga, Committee Clerk

Mr A Chilambwe, Committee Clerk

Mrs D H Manjoni, Personal Secretary II

Mr M Chikome, Committee Assistant

Mr D Lupiya, Committee Assistant

Mr M Kantumoya, Parliamentary Messenger

APPENDIX II – List of Witnesses

1. OFFICE OF THE AUDITOR GENERAL

Mr F Mbewe, Deputy Auditor General
Mr M Banda, Acting Director
Mr G Tembo, Senior Auditor
Ms C Chituta, Senior Auditor
Ms M Munkanta, Assistant Director
Ms E Chikale, Public Relations Officer

2. YOUNG WOMEN CHRISTIAN ASSOCIATION (YWCA)

Ms P Ndhlovu, Executive Director
Mrs M Mwiinga, Programmes Manager

3. PRISONS CARE AND COUNSELING SERVICES (PRISCCA)

Mr G Malembeka, Executive Director
Ms D Kapobe, Senior Juvenile Officer

4. ZAMBIA POLICE SERVICE (ZPS)

Mr K Kanganja, Inspector General of Police
Mr D M Mwanza, Deputy Director – Legal
Mr A Silwamba, Chief Planning Officer
Ms G Mubita, National Coordinator – VSU
Mr G Lungu, Planning Officer
Mr V Nazikuta, Planning Officer
Mr M Suudu, Deputy Special Assistant to the Inspector General

5. HUMAN RIGHTS COMMISSION

Ms F Chibwasha, Director
Mr K Banda, Chief Investigations Officer – Legal

6. JUDICIARY

Ms N Imataa, Chief Administrator
Ms T Musonda, Registrar
Ms A Chulu, Registrar
Ms N Chikopa, Programme Coordinator
Mr B Simukoko, Chief Marshal

7. WOMEN AND LAW IN SOUTHERN AFRICA

Mrs M S Tresha, Executive Director

8. MAGISTRATES AND JUDGES ASSOCIATION OF ZAMBIA

Ms F M Hamaundu, President
Mr E Lubeta, Vice-Chairperson
Ms A N Walusiku, Secretary General
Mr P Simaubi, Vice-Secretary General
Ms A Masoja, Treasurer

9. MINISTRY OF HOME AFFAIRS

Mr R Misapa, Director – Human Resource and Administration
Mr P H Choolwe, Assistant Director
Eng. J Phiri, Acting Director
Mr L J Chilundika, Deputy Commissioner General
Mr C Kajimbala, Deputy Commissioner
Mr J Kamungoma, Assistant Superintendent
Mr E Peteli, Principal Research Officer
Mr R Kasale, Police Secretary

10. ZAMBIA CORRECTIONAL SERVICES (ZCS)

Mr L H Chilundika, Deputy Commissioner General
MS N Mayumbelo, Deputy Commissioner
Mr C Kahimbala, Deputy Commissioner
Ms M Mawa, Assistant Commissioner
Mr J Kamungoma, Assistant Superintendent
Mr A Chibale, Assistant Commissioner
Mr M M Musonda, Senior Assistant Commissioner – Correctional Secretary,

11. COMMON GROUNDS

Mr D Mvula, National Coordinator
Mr I Musokola, Advocate Officer

12. UNITED NATIONS INTERNATIONAL CHILDREN’S EMERGENCY FUND (UNICEF)

Ms B Ketlin, Chief of Child Protection
Ms N Kaloto, Child Protection Specialist
Ms G Mutinta, Media – Child Protection

13. LAW ASSOCIATION OF ZAMBIA

Ms S C Mbulo, Research Advocate
Mr J Matende, Law Reform Committee Secretary

14. NATIONAL PROSECUTION AUTHORITY (NPA)

Mrs A K Mwanza, Acting Principal State Advocate
Mr C C Mukuma, State Advocate

15. MINISTRY OF FINANCE

Dr E M Pamu, Permanent Secretary – BEA
Mr J Monde, Director – Budget Office
Mr E Manunga, Principal Accountant
Ms B B Sinyangwe, Senior Economist
Mr C Musonda, Budget Analyst

16. MINISTRY OF COMMUNITY DEVELOPMENT AND SOCIAL SERVICES (MCDSS)

Ms P C Kabamba, Permanent Secretary
Mr E Sichembe, Acting Director – Planning
Mr M Bwalya, Senior Social Welfare Officer
Mr N Soko, Parliamentary Liaison Officer

17. MINISTRY OF JUSTICE

Mr A Nkunika, Permanent Secretary
Ms N Nchito, Parliamentary Counsel
Ms C Kaisala, Parliamentary Counsel

18. MINISTRY OF YOUTH, SPORT AND CHILD DEVELOPMENT

Mr J Kapembwa, Permanent Secretary
Mr J C Zulu, Director – Child Development
Mr N Nyangu, Director – Planning
Ms K M Mwale, Senior Planner