



REPUBLIC OF ZAMBIA

REPORT

OF THE

**PARLIAMENTARY SELECT COMMITTEE APPOINTED TO
SCRUTINISE THE PRESIDENTIAL APPOINTMENT OF REVEREND
AGNESS CHONGO TO SERVE AS A COMMISSIONER OF THE HUMAN
RIGHTS COMMISSION**

PRINTED BY THE NATIONAL ASSEMBLY OF ZAMBIA

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REPORT OF THE PARLIAMENTARY SELECT COMMITTEE APPOINTED TO SCRUTINISE THE PRESIDENTIAL APPOINTMENT OF REVEREND AGNESS CHONGO TO SERVE AS A COMMISSIONER OF THE HUMAN RIGHTS COMMISSION

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

Sir,

The Parliamentary Select Committee was appointed on 8th June, 2020, to scrutinise the Presidential appointment of Reverend Agness Chongo to serve as a Commissioner of the Human Rights Commission.

The Presidential appointment of the nominee to the Human Rights Commission was made pursuant to section 5 of the Human Rights Commission Act No. 39 of 1996 which provides as follows:

“5. (1) The Commission shall consist of the following Commissioners:

(a) the Chairperson;

(b) the Vice-Chairperson; and

(c) not more than five other Commissioners.

(2) The Commissioners shall be appointed by the President, subject to ratification by the National Assembly.

(3) The Chairperson and Vice-Chairperson shall be persons who have held, or are qualified to hold, high judicial office.”

TERM OF REFERENCE

2. The Term of Reference of the Committee was to scrutinise the Presidential appointment of Reverend Agness Chongo to serve as a Commissioner of the Human Rights Commission.

MEMBERSHIP

3. The Committee comprised the following Members:

Mr K Mukosa, MP, Chairperson;

Ms G Katuta, MP, Vice-Chairperson;

Mr L Kaziya, MP;

Mr S Banda, MP;

Ms M Miti, MP;

Mr C Mweetwa, MP;

Ms A M Chisangano, MP;
Mr M Kundoti, MP;
Mr P Phiri, MP; and
Mr E M Mwila, MP.

MEETINGS OF THE COMMITTEE

4. The Committee held a total of five (5) meetings during the period 9th June to 23rd June, 2020. At its First Meeting held on Tuesday, 9th June, 2020, the Committee elected Mr K Mukosa, MP, as Chairperson and Ms G Katuta, MP, as Vice-Chairperson.

PROCEDURE ADOPTED

5. The Human Rights Commission (HRC) is established under Article 230 (1) of the Constitution of Zambia, Cap. 1 of the Laws of Zambia. It is an integral part of Zambia's democratic dispensation with the key mandate to protect and promote human rights in Zambia in line with the Constitution, the Human Rights Commission Act No 39 of 1996, and regional and international human rights conventions and protocols that Zambia has acceded to. In view of this, the Committee resolved that only a competent person with unquestionable integrity, diligence, eminence, sound character should be appointed as Commissioner of the HRC. The Committee further resolved that the person should have good knowledge and experience in human rights issues. Therefore, the Committee carefully selected the witnesses to assist it scrutinise the suitability of the nominee. The Committee also requested memoranda from relevant State security agencies, professional bodies and other stakeholders and the Appointing Authority. The witnesses also appeared before the Committee to make their oral submissions. Further, the Committee interviewed the nominee and carefully scrutinised her *curriculum vitae*.

SUBMISSIONS BY STATE SECURITY AGENCIES

ZAMBIA POLICE SERVICE (ZP)

6. The Deputy Inspector-General in charge of operations submitted on the personal, educational and professional background of the nominee as stated in her *curriculum vitae*.

He informed the Committee that investigations conducted by ZP revealed no adverse record or report against the nominee. In that regard, ZP had no objection to the appointment of the nominee to serve as Commissioner of the HRC. He concluded his submission by stating that he was confident that the nominee would greatly contribute to the enhancement of human rights in the country.

The Committee inquired whether the nominee had at any point aided or abetted the infringement of human rights. In response, the Deputy Inspector-General stated that investigations that were conducted by ZP had not revealed any information of that nature.

The Committee further asked whether ZP had visited Ishuko Primary School in Chimwemwe, Kitwe, to confirm whether the nominee had attended school there. In response, the Deputy

Inspector-General informed the Committee that ZP officers had physically visited the school and verified her attendance.

When asked whether ZP was satisfied that the nominee was the right person for the job, the Deputy Inspector-General responded in the affirmative. On whether persons within her care had been interviewed to ascertain any human rights violations, the Deputy Inspector-General reiterated that according to their investigations, there were no adverse reports on the nominee.

The Committee further inquired whether ZP had investigated how the nominee had conducted herself during the time she worked as an Assistant Registry Clerk at the Ministry of Local Government from 1988 to 1997. In response, the Deputy Inspector-General informed the Committee that although not every contact was spoken to, information that was obtained from the Ministry of Local Government did not, in any way, compromise her integrity.

ANTI-CORRUPTION COMMISSION (ACC)

7. The Acting Director-General submitted on the personal, educational and professional background of the nominee as contained in her *curriculum vitae*.

The Acting Director-General informed the Committee that the information provided by the ACC related only to allegations of corruption in line with the mandate of the institution under the Anti-Corruption Act No, 3 of 2012. She explained that the ACC had a computerised database which stored information relating to all investigations or cases that the ACC had handled. She added that a search conducted on the ACC's database on the nominee had yielded no adverse information against her.

The Committee inquired whether the ACC had ever interacted with the nominee. The Acting Director-General stated that the ACC had never interacted with the nominee either at a personal or official level.

The Committee further asked if the ACC was satisfied with relying solely on its database and what would happen if it was later discovered that there was information on the nominee's corrupt activities which had not been reported to the ACC. In response, the Acting Director-General submitted that the database contained information on every person who had been reported to the ACC for corruption-related activities. She explained that if there was information of the nominee's corrupt activities, such information would not be treated as official because the ACC would not have received a report on it.

The Committee asked whether the ACC supported the nominee's appointment. In response, the Acting Director-General stated that since there were no adverse reports on the nominee, the ACC supported the appointment.

DRUG ENFORCEMENT COMMISSION (DEC)

8. The Commissioner submitted on the personal, educational and professional background of the nominee as stated in her *curriculum vitae*.

The Commissioner further submitted that the focus of DEC was to ascertain whether the nominee had contravened the Narcotic Drugs and Psychotropic Substances Act, Cap. 96 of the Laws of Zambia, or the Prohibition and Prevention of Money Laundering Act No. 14 of 2001. She informed the Committee that a record search was conducted by DEC on the nominee and that the search had not yielded any adverse record against the nominee. As a result, DEC supported her appointment.

The Committee enquired on the procedure used by DEC to vet the nominee. In response, the Commissioner stated that officers were sent out and that people that were spoken to testified that the nominee was a fast learner and also had the ability to teach.

The Committee further enquired whether the DEC had received any reports of money laundering against the nominee since she had previously sourced funds to support the orphans under her care. In response, the Commissioner stated that DEC had not received any reports of money laundering against the nominee.

Finally, the Committee asked whether DEC's recommendation of the nominee for appointment was based on the fact that she was an ordained Minister of the Word of God. In response, the Commissioner stated that the recommendation by DEC was based on her background, qualifications, the work that she had been involved in, and information from people that had interacted with the nominee.

SUBMISSIONS BY PROFESSIONAL BODIES/STAKEHOLDER INSTITUTIONS

HUMAN RIGHTS COMMISSION (HRC)

9. The Director submitted from the outset that the appointment of the seventh Commissioner was long overdue. She indicated that the HRC had, on several occasions, failed to transact business because of the failure to form quorum and, as a result, the Institution did not function effectively.

The Director submitted that in terms of qualifications, the HRC relied on a threefold criteria in that it considered the provisions of the Constitution, the HRC Act and the Paris Principles (United Nations Principles that govern the operations of the National Human Rights Institutions) adopted by General Assembly Resolution 48/134 of 20TH December, 1993.

She explained that apart from the Chairperson and Vice-Chairperson, the Constitution did not provide for the qualifications for a person to be appointed as a Commissioner. The Director stated that the HRC had four (4) male and two (2) female Commissioner. In that regard, the Director submitted that the appointment of a female was progressive because it would balance the gender on the Commission.

The Director further referred the Committee to Article 240 of the Constitution, which provides qualifications for appointment as a member of a commission as follows:

“240. A person qualifies to be appointed as a member of a commission if that person—

- (a) is a citizen;*
- (b) is permanently resident in Zambia;*
- (c) has not, in the immediate preceding five years, served a term of imprisonment of at least three years;*
- (d) declares that person's assets and liabilities, as prescribed;*
- (e) has paid that person's taxes or has made arrangements satisfactory to the appropriate tax authority for the payment of the taxes;*
- (f) does not have a mental or physical disability that would make the person incapable of performing the functions of office;*
- (g) is not serving a sentence of imprisonment for an offence under a law; and*
- (h) has other qualifications, as prescribed."*

Additionally, the Director submitted that there was no law enacted to support Article 240 (d) of the Constitution on the declaration of assets. She explained that that the HRC could not obtain information on the provisions of Article 240(e) due to time constraints, as the relevant institutions did not respond on time.

The Director further stated that the nominee was a founder of Heart of Mercy, a Christian non-governmental organisation that focused on empowering rights holders. In that regard, the Director pointed out that role of the nominee transcended from empowerment to ensuring that the State was held accountable under its obligations to protect, respect and fulfil human rights.

The Director added that the appointment of the nominee was in line with Paris Principle 1 which provided as follows:

" 1 The composition of the National Institution and the appointment of its members ,whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of the human rights, particularly by powers which will enable effective cooperation to be established with , or through the presence of , representatives of:

- (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;*
- (b) Trends in philosophical or religious thought;*
- (c) Universities and qualified experts;*
- (d) Parliament*
- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity)."*

The Director further informed the Committee that under the Paris Principles, the appointment of the nominee would be in line with principle 1 (b) because the nominee had a religious background. She, however, submitted that among the serving Commissioners, there was already a member with a religious background. The Director, however, explained that the appointment of the nominee, who was Pentecostal, would complement the other Commissioner who was a member of the Seventh Day Adventist Church.

The Committee asked whether it was necessary to have two people with the same background as Commissioners. In response, the Director stated that while it was necessary to have people of diverse professions as Commissioners, there was no harm in appointing another reverend to the HRC. The Director explained that, currently, the HRC had two lawyers who, despite belonging to the same profession, had diverse experience, which added value to the HRC.

The Committee asked whether it was necessary to have a full complement of Commissioners in view of the current economic hardships that the nation was faced with. In response, the Director stated that it was a legal requirement to have seven (7) Commissioners at the HRC. She added that five commissioners were required to constitute a quorum at a meeting. In that regard, she pointed out that meetings of the Commissioners had failed to proceed, on numerous occasions, due to failure to form a quorum. With the appointment of the nominee, the Director was hopeful that the failure by Commissioners to hold meetings due to lack of quorum would not arise.

FINANCIAL INTELLIGENCE CENTRE (FIC)

10. The Director - Legal and Policy informed the Committee that FIC considered the legal framework of the operations of the HRC, generally, and section 5, in particular, which provided for the composition of the HRC. She indicated that FIC observed that the law did not specify the qualifications of Commissioners except the Chairperson and Vice-Chairperson of the Commission.

In addition, FIC submitted that it had checked its institutional database, and consulted with its counterpart institutions within the country and the region, and found no adverse record against the nominee. However, FIC pointed out that it had limited access to other databases due to funding constraints. In that regard, FIC informed the Committee that the information it submitted was limited in scope. FIC concluded its submission by stating that the institution supported the appointment of the nominee.

The Committee asked whether FIC had interacted with the nominee to find out the financial dealings of the organisation that she headed. In response, FIC stated that it did not have a one-on-one interaction with the nominee. FIC explained that the Institution only considered the information obtained from reports of the private sector and other Counter Financial Intelligence Units. FIC added that it did not find any adverse record relating to the operation of the orphanage that was headed by the nominee.

The Committee also inquired which other database FIC needed to check in order to produce a comprehensive record of the nominee. In response, FIC stated that there were databases that were commercially run, but FIC's access to them was limited due to financial constraints faced by the Institution. FIC pointed out that as a result of financial constraints, certain information was not accessible to the Institution as it had not subscribed to some of the databases.

When further asked what FIC would recommend on the qualifications for the position of HRC Commissioner, FIC submitted that there was need for the law to specify the qualifications.

SOUTHERN AFRICAN CENTRE FOR CONSTRUCTIVE RESOLUTION OF DISPUTES (SACCORD)

11. The Executive Director submitted that SACCORD had scrutinised the nominee's *curriculum vitae* and had undertaken its own research on the nominee. He also submitted that the law did not provide qualifications for Commissioners. In that regard, SACCORD submitted that the nominee was qualified for the appointment. SACCORD added that most of the assignments the nominee undertook consisted of human rights and for that reason, it did not find anything that would preclude her from serving as a Commissioner. The Executive Director explained that although the HRC already had a reverend serving as a Commissioner, there was no harm in appointing another reverend.

The Committee asked whether the nominee was qualified for the appointment. In response, the Executive Director stated that the nominee was suitably qualified for the appointment. He also submitted that SACCORD used the objective criteria on what the law provided on qualification for appointment. The Executive Director explained that there was nothing that legally precluded the nominee from being appointed. He also indicated that because of the nominee's experience, she was qualified for the appointment. The Executive Director, however, recommended that the law should be amended to specify qualifications for Commissioners.

TRANSPARENCY INTERNATIONAL ZAMBIA (TIZ)

12. The Head of Democracy and Governance began his submission by stating that the position which the nominee was being scrutinised for was cardinal because the HRC was entrusted with upholding the human rights of the people. In that regard, he stated that in line with the standard procedure, TIZ assessed the nominee using the following methodology in hierarchical order:

1. Background Check

TIZ submitted that a person appointed to serve as a Commissioner of the HRC should have a clean background and be authentic in terms of the claims that they made about their background, which included their academic qualifications and work experience. The Committee was informed that TIZ, therefore, undertook, where it could, a verification of the academic qualifications of the nominee. TIZ further submitted that the institution also engaged persons that knew the nominee or had worked with her. TIZ explained that the purpose of undertaking such an exercise was to learn more about the character of the nominee.

2. Legal Requirements

TIZ submitted that Presidential and ministerial appointments were provided for under various pieces of legislation which prescribed the requirements for appointment to those positions. It stated that the institution considered and analysed the legal provisions and that the above criterion made the hallmark of its final recommendations and conclusions.

3. Security Vetting

TIZ submitted that, using various records and sources, it had assessed the security standing of the nominee and that its primary interest was to identify public positions that

the nominee had previously taken, if any, on matters to do with public security. It was also submitted that the question TIZ addressed was whether the nominee would pose a security risk to the country if appointed to the position she was being considered for.

4. Independence /Objectivity Test

TIZ submitted that the objectivity test was in most cases an in-house analysis of data obtained and that the focus was to establish how independent or objective the nominee would be if appointed to the position he or she was being considered for.

5. Public Integrity and Standing test

TIZ also submitted that using public and private records it assessed whether the nominee was a person of integrity and good standing in society.

6. Skills Matching

It was TIZ's additional submission that Commissioners appointed to serve on the HRC should add value to the institution. TIZ explained that the value addition comprised work experience, specialised skills or leadership qualities that could be harnessed for the good of the institution. In that regard, TIZ submitted that it had carefully considered the *curriculum vitae* of the nominee to assess the type of contribution she would make to the HRC if ratified by the National Assembly.

TIZ informed the Committee that in scrutinising the nominee, it undertook a critical analysis of her academic and professional qualifications. TIZ also considered the legal qualifications for the position of Commissioner of the HRC. In that regard, TIZ submitted that the institution had recourse to sections 5 and 9 of the Human Rights Commission Act, No 39 of 1996, which provided for the composition, qualifications of the Chairperson and Vice-Chairperson and functions of the Commission. TIZ further stated that it was clear from the functions of the HRC that its members ought to be persons of high integrity, with vast experience in human rights and governance related issues.

Further, TIZ explained that that while the Act did not expressly provide for the academic qualification and requisite experience for the position of Commissioner, both the academic and professional qualifications in the field of human rights were cardinal. TIZ pointed out that it would be difficult for the nominee to provide strategic leadership towards the operations of the HRC if that person lacked the necessary skills.

TIZ concluded its submission by stating that while the institution had not come across any information that undermined the integrity of the nominee, having perused her *curriculum vitae*, it was clear that the nominee had insufficient experience in human rights and governance related engagements. TIZ further submitted that there was no information to show that the nominee had served on any boards or governing councils. In view of this, TIZ informed the Committee that the institution's position was that the nominee would add very little value towards the strategic direction of the operations of the HRC.

The Committee asked TIZ why it was of the view that the nominee would add very little value to the HRC when there were no qualifications required for the position of Commissioner of HRC. TIZ responded that although both the Constitution and the HRC Act were silent on the qualifications for commissioners, a person as a Commissioner of the HRC was expected to provide strategic leadership to the institution. TIZ further explained that in order to provide that kind of leadership, a person needed to possess a particular set of skills, which may not be embedded in legislation, but were necessary for a person to add value to the functions of the institution. TIZ reiterated that the nominee's *curriculum vitae* showed that she had not served on any board and that she also lacked experience in the defence or promotion of human rights. TIZ added that there were many qualified Zambians with vast experience in the field of human rights who could have been nominated to fill the position.

LAW ASSOCIATION OF ZAMBIA (LAZ)

13. The President of LAZ submitted on the personal, educational and professional background of the nominee as stated in her *curriculum vitae*.

LAZ submitted that it considered the suitability of the nominee for appointment in light of the provisions of Article 230 of the Constitution of Zambia and the Human Rights Commission Act. LAZ stated that it had taken note of the mandate of the HRC which was to investigate human rights abuses and protect human rights in line with Article 230 (2) and (3) of the Constitution which provided as follows:

“230. (2) The Human Rights Commission shall ensure that the Bill of Rights is upheld and protected.

(3) The Human Rights Commission shall—

(a) investigate and report on the observance of rights and freedoms;

(b) take necessary steps to secure appropriate redress where rights and freedoms are violated;

(c) endeavour to resolve a dispute through negotiation, mediation or conciliation;

(d) carry out research on rights and freedoms and related matters;

(e) conduct civic education on rights and freedoms; and

(f) perform such other functions as prescribed.”

LAZ informed the Committee that the power to appoint Commissioners of the HRC was vested in the Republican President, subject to ratification by the National Assembly, as provided for under section 5 of the Act. The President further informed the Committee that LAZ took cognisance of the fact that the Act did not stipulate the qualifications for Commissioners except for the Chairperson and the Vice-Chairperson. Despite that fact, the LAZ President submitted that LAZ was of the considered view that in light of the constitutional mandate of the HRC, a person nominated for appointment to serve as Commissioner ought to be one who had demonstrable knowledge of human rights, law or law enforcement, whether formally or informally.

LAZ stated that a perusal of the nominee's *curriculum vitae* did not reveal that she had participated in any human rights related activities. Based on that fact, LAZ submitted that it was of the considered view that the nominee did not have the requisite qualifications or experience to serve as a Commissioner of the HRC. LAZ, therefore, did not find the nominee suitable for the appointment.

In conclusion, LAZ submitted that it had also noted the fact that the HRC already had a person with a religious background serving as a Commissioner and wondered why, against the spirit of pluralism, another person with a similar background was being considered for the appointment.

The Committee inquired from LAZ whether the nominee being a religious person was sufficient qualification for appointment. LAZ stated that a critical analysis of the nominee's *curriculum vitae* showed that she had not placed emphasis on her religious activities as part of her qualifications and, as such, it was difficult to consider that as an aspect of championing human rights. LAZ, however, conceded that there were some preachers who actively advocated for human rights and those ones would be qualified to serve as Commissioners of the HRC.

The Committee asked whether the activities that the nominee had engaged in were within the thematic area of human rights. In response, LAZ stated that while the nominee's activities did fall within the realm of human rights, a person was required to be aware of the fact that what he or she was doing fell in the realm of human rights. LAZ further explained that in terms of qualifying to serve as a Commissioner, it was important for one to be conscious of the fact that his or her activities were human rights-related.

EVANGELICAL FELLOWSHIP OF ZAMBIA (EFZ)

14. The Chairperson began his submission by stating that the nominee was no longer a member of EFZ and that EFZ was not obliged to make any comments. He added that the Committee was at liberty to disregard EFZ's comments on the matter if considered necessary.

The Chairperson submitted that in the spirit of patriotism to the country and knowing that the nominee was being considered for a public office, EFZ would be failing in its duty if it did not state that it found the nominee unsuitable for the appointment. EFZ added that the nominee could be considered for any other government office other than that of Commissioner as she did not have the requisite qualifications and experience.

The Committee asked EFZ whether its lack of support for the nominee was due to the fact that she had defied the Organisation by attending the National Dialogue Forum (NDF) when EFZ had decided not to. In response, EFZ stated that in as much as the Organisation did not attend the NDF, the nominee was at liberty to attend as a matter of right. EFZ further stated that, however, during her attendance of the NDF, the nominee was not supposed to make statements on behalf of EFZ as she was not there in that capacity. The Chairperson explained that the nominee had defied that directive and was censured. EFZ added that the nominee was a person with a sober character and that she still had a cordial relationship with the Chairperson of EFZ.

When asked whether EFZ was aware that the law did not prescribe academic qualifications for the position of Commissioner of the HRC, EFZ conceded that it was not aware and had not read the law in that regard. EFZ further stated that although the nominee ran Heart of Mercy Orphanage and had acquired some experience in working with underprivileged children, it could not be said that she was an advocate of human rights. The Chairperson explained that the nominee needed to have some experience and a bias towards human rights.

NON-GOVERNMENTAL GENDER ORGANISATIONS' COORDINATING COUNCIL (NGOCC)

15. The Executive Director submitted on the personal, academic and professional background of the nominee as stated in her *curriculum vitae*.

NGOCC stated that its submission was intended to furnish the Committee with background information on the suitability of the nominee to serve as a Commissioner of the HRC. NGOCC explained that its recommendation was based on the information it had gathered through its interaction with the nominee. NGOCC also considered the nominee's professional and public conduct and engagement exhibited throughout her career.

Further, NGOCC submitted that it had noted the participation of women in decision-making had remained low over the last fifty (50) years of Zambia's independence. NGOCC informed the Committee that there were a number of factors that had disadvantaged women over the years, including the partial-domestication of international, continental and regional instruments on gender equality. The Organisation, however, wished to acknowledge the government's efforts in domesticating international instruments through the enactment of the Gender Equity and Equality Act, No. 22 of 2015.

Furthermore, NGOCC commended the Appointing Authority for adhering to Article 259 of the Constitution of Zambia in striving to attain gender parity in the appointment of Commissioners. NGOCC also noted that there was an effort by the Appointing Authority to follow the provisions of the United Nations Paris Principles (1992) Adopted by the General Assembly Resolution 48/134 of 20 December 1993 on the composition of the commissions. NGOCC proceed to cite the Paris principles on the composition and guarantees of independence and pluralism.

NGOCC also referred the Committee to Section 5 (2) of the Human Rights Commission Act, which gave powers to the Republican President to appoint Commissioners of the HRC.

NGOCC apprised the Committee that after perusing her *curriculum vitae*, it had noted that the nominee had the requisite qualifications for the appointment. However, it noted that the nominee did not have vast experience in human rights but that her work as a religious Minister qualified her to hold that position.

In conclusion, NGOCC submitted that in accordance with the Constitutional provisions and the United Nations Guiding Principles, the nominee was qualified to be appointed as a Commissioner of the HRC as she had the necessary leadership skills and had contributed immensely to the development agenda for vulnerable women and children in the country. NGOCC ended its submission by stating that the nominee had demonstrated her passion for

promoting and protecting the rights of the vulnerable groups and NGOCC supported her appointment.

The Committee asked whether NGOCC was aware of the legal and academic requirements for the position of Commissioner and whether the nominee was qualified. In response, NGOCC stated that the law only provided academic qualifications for the Chairperson and Vice-Chairperson of the HRC and not the other Commissioners.

The Committee also asked whether NGOCC had adequately interacted with the nominee for it to be competent to support her appointment. In response, NGOCC informed the Committee that it had interacted with the nominee on several occasions. NGOCC explained that the Organisation interacted with the nominee during the Organisation of the annual Women's Day of Prayer held just before Women's Day and through her participation at the National Dialogue Forum (NDF). NGOCC further stated that the nominee ran Heart of Mercy Orphanage and that aspect gave her some experience in working with underprivileged children and promoting their rights.

The Committee asked whether NGOCC was aware that there was already representation of religious groups on the membership of the HRC and whether it would not be prudent to appoint a Commissioner from another field in order to enhance diversity. In response, NGOCC stated that there was need to consider gender balance considering that there were already more male Commissioners at the HRC. The Organisation pointed out that there could never be too much guidance from the clergy at the HRC.

SUBMISSION BY THE NOMINEE

Reverend Agness Chongo

16. The nominee informed the Committee about her personal, academic and professional background as contained in her *curriculum vitae*. She further apprised the Committee of her vast experience in managing non-profit organisations and implementation of various activities. She further stated that she had been involved in various capacity-building and human development programmes aimed at generating income for vulnerable groups.

When asked whether she could assure the Committee that she would not hastily resign from her position if ratified as she had done in her previous appointments. In response, the nominee assured the Committee that she would not resign. The nominee pointed out that her past resignations were necessitated by her desire to pursue business opportunities and that the resignation from the church mother body was at an organisational level.

The Committee inquired from the nominee what challenges the HRC was currently facing and what changes she thought would help reduce those challenges. In response, the nominee stated that one of the challenges she had observed was inadequate funding. The nominee explained that if she was ratified in her appointment, she would focus on achieving the mandate of the HRC. She further stated that she would ensure that the HRC provided civic education to the people and that her focus in that regard would be on negotiation and mediation. She added that she would also use the opportunity to be the voice for the voiceless. The nominee further pointed out that

she would take advantage of the expertise of other Commissioners to achieve more for the people of Zambia.

The Committee asked the nominee whether she represented the EFZ at the NDF. The nominee responded in the affirmative. She submitted that although she attended the NDF in her individual capacity, the EFZ Executive wrote a letter to her to represent the organisation at the NDF.

The Committee inquired whether she was an ordained reverend. In response, the nominee stated that she was an ordained reverend and she produced a certificate to prove that fact.

SUBMISSION BY THE APPOINTING AUTHORITY

17. The Hon Minister of Justice appeared before the Committee on behalf of the Appointing Authority. He informed the Committee of the personal details, academic and professional qualifications and work experience of the nominee as provided in her *curriculum vitae*.

The Hon Minister stated that the nominee was born on 11th March, 1968. He further stated that the nominee held various qualifications including a degree in Organisational Leadership and Theology from the Kaniki Bible University College, a certificate in Planning, Monitoring and Evaluation from the University of Zambia and a Certificate in Care for Orphans and Vulnerable Children from Chikankata Health Services Aids Management and Training.

The Hon Minister emphasised that the nominee had at one point served at one of the lowest ranks in the government, when she worked as an Assistant Registry Clerk at the Ministry of Local Government. He pointed out that the fact that the nominee began her career from a lower rank had not hindered her from upgrading herself to eventually become the Executive Director of Heart of Mercy where she carried out various functions.

The Hon Minister explained that in the course of her career, the nominee had also developed, among others, leadership training programmes for the Young Women Christian Association (YWCA) and had, in collaboration with the Ministry of Health, initiated a nutrition support programme for children born with HIV/AIDS.

The Hon Minister concluded his submission by stating that the nominee had demonstrated great attributes in her civic works in the area of non-profit making organisation and management and that she had great dedication and passion for service and the promotion of human rights. He further stated that the nominee was highly qualified and experienced and suitable for appointment as Commissioner of the HRC. In that regard, the Hon Minister submitted that the Government fully supported her appointment.

The Committee asked the Hon Minister to comment on the concern that section 5 of the Act did not provide for qualifications for the position of Commissioner of the HRC. In response, the Hon Minister explained that it was not about what the views of Government, but what the law stated. He suggested that the Act could be amended, in future, to provide for qualifications for Commissioners. With regard to the nominee, the Hon Minister stated that the Appointing Authority considered her expertise in dealing with vulnerable people and the fact that her

experience exposed her to issues of human rights. On that basis, the Appointing Authority found that the nominee suitably qualified.

The Committee further asked the Minister to comment on the concern by some witnesses that the nominee was not qualified, based on the fact that she had not sat on any boards or governing councils and that she did not have a law degree in human rights. In response, the Hon Minister stated that one did not need to have a legal background in order to be a promoter of human rights or to serve as a Commissioner. He cited the example of Mother Theresa who was a human rights activist, but did not have any formal qualifications in that field.

The Committee also asked whether the appointment of the nominee to serve as a Commissioner of the HRC was as a result of her participation at the NDF. The Hon Minister stated that the Appointing Authority had known the nominee long before her participation at the NDF. He explained that if that had been the reason for the appointment, the Appointing Authority would have stated so in the written submission.

OBSERVATIONS AND RECOMMENDATIONS

18. The Committee notes that Article 259 of the Constitution requires a person making an appointment to a public office to, where possible, ensure, among others, fifty percent representation of each gender and representation of the youth and persons with disabilities. The Committee observes that the HRC already has more male than female Commissioners. In view of the foregoing, the Committee would like to commend the Appointing Authority for complying with Article 259, to the extent possible, and further urges the Appointing Authority to consider the youth and persons with disabilities in future appointments.

The Committee further observes that whereas section 5 of the Human Rights Commission Act sets qualifications for the Chairperson and the Vice Chairperson, there are no qualifications stated for Commissioners. Considering the important role that Commissioners of the HRC play at the HRC, there is need for the law to be amended to provide for qualifications for the position of HRC Commissioner.

The Committee also observes that some witnesses were concerned that the nominee lacked a background in human rights. The Committee, however, notes that human rights emanate from the Law of God (*Lex Divina*) and that the fact that the nominee is a religious minister entails that she is suitably qualified to serve as a Commissioner of the HRC.

The Committee further notes the concern by some stakeholders that there is already a member of the clergy serving as a Commissioner of the HRC. In that regard, the Committee recommends that, in future, nominees should be drawn from various professions and backgrounds, as there is need for diversity among the Commissioners. This will ensure that persons of different qualifications and experience with different skills and mindsets comprise the membership of the HRC.

Furthermore, the Committee notes, with satisfaction, that the nominee possesses appropriate qualifications, skills and experience. The nominee is also of sober character and her integrity is

not questionable. This is exceedingly important for a person appointed to serve in this very important position in the governance of the country. The Committee also notes that the nominee ran Heart of Mercy Orphanage and that aspect gave her some experience in working with underprivileged children and promoting their rights. This exposure is very important for the position the nominee has been appointed to.

The Committee, after due and thorough consideration, analysis and evaluation of the written and oral submissions presented to it by the witnesses and the interview with the nominee, is of the considered view that the nominee is suitably qualified and possess the requisite competences to serve as a Commissioner of the Human Rights Commission.

The Committee, therefore, recommends that the House ratifies the Presidential appointment of Reverend Agness Chongo to serve as a Commissioner of the Human Rights Commission.

CONCLUSION

19. The Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions. The Committee also appreciates your guidance Mr Speaker and the services rendered by the Office of the Clerk of the National Assembly during its deliberations.

We have the honour to be, Sir, the Parliamentary Select Committee appointed to scrutinise the Presidential appointment of Reverend Agness Chongo to serve as a Commissioner of the Human Rights Commission.

Mr K Mukosa, MP,
(Chairperson)

Ms G Katuta, MP,
(Vice-Chairperson)

Mr L Kaziya, MP
(Member)

Mr S Banda, MP
(Member)

Ms M Miti, MP
(Member)

Mr C Mweetwa, MP
(Member)

Ms A M Chisangano, MP
(Member)

Mr M Kundoti, MP
(**Member**)

Mr P Phiri, MP
(**Member**)

Mr E M Mwila, MP
(**Member**)

APPENDIX I – OFFICERS OF THE NATIONAL ASSEMBLY

Mrs D N Kapumba, Parliamentary Legal Counsel
Mr J N Sianyabo, Deputy Parliamentary Legal Counsel
Mr D Mwinamo, Senior Legal Officer
Mrs S C Sakala, Legal Officer
Ms C Mtonga, Personal Secretary II
Mr L Kabwata, Legal Assistant
Mrs N N Chiluba, Legal Assistant

APPENDIX II – THE WITNESSES
ZAMBIA POLICE (ZP)

Mr B Kapeso, Deputy Inspector-General (Operations)

ANTI-CORRUPTION COMMISSION (ACC)

Mrs R N Khuzwayo, Acting Director-General

DRUG ENFORCEMENT COMMISSION (DEC)

Ms A Mbahwe, Commissioner

HUMAN RIGHTS COMMISSION

Ms F Chibwasha, Director

FINANCIAL INTELLIGENCE CENTRE (FIC)

Mrs L Tembo, Director Legal and Policy

SOUTHERN AFRICAN CENTRE FOR CONSTRUCTIVE RESOLUTION OF DISPUTES
(SACCORD)

Mr B Chembe, Executive Director

TRANSPARENCY INTERNATIONAL ZAMBIA (TIZ)

Mr G Mwanza, Head of Democracy and Governance

LAW ASSOCIATION OF ZAMBIA

Mr E Mwitwa, President

EVANGELICAL FELLOWSHIP OF ZAMBIA (EFZ)

Bishop P Mususu, Chairperson

NON-GOVERNMENTAL GENDER ORGANISATIONS' COORDINATING COUNCIL
(NGOCC)

Mrs E B Mwale, Executive Director

APPOINTING AUTHORITY

Hon G Lubinda, Minister of Justice

APPENDIX III – THE NOMINEE

Reverend Agness Chongo

APPENDIX IV – CURRICULUM VITAE OF THE NOMINEE

CURRICULUM VITAE

Surname : Chongo
First name : Agness
Date of birth : 11th March, 1968
Place of birth : Mporokoso, Zambia
Nationality : Zambian
Marital status : Married with four (4) children
Cell : +260 977 609141/ +260 979 025499
Email : reverendcp@gmail.com

QUALIFICATIONS

ACADEMIC

1991 : Certificate in Records Management, Cabinet Office Management Services Section
2000 : Certificate in Care for Orphans and Vulnerable Children, Chikankata Health Services Aids Management and Training
2002 – 2004 : Diploma and Advanced Diploma in Theology, Barack Bible School
2009 : Certificate in Planning, Monitoring and Evaluation, University of Zambia
2011 – 2013 : Degree in Organisation Leadership and Theology, Kaniki Bible University College
2019 : Certificate in Diplomatic Practice, Protocol and Public Relations

WORK EXPERIENCE

1987 – 1989 : Registry Clerk, Ministry of Local Government

Duties

- Human relations and discipline
- Security Classification and Instruction
- Processing incoming and outgoing mail
- Classification and indexing
- Record Keeping
- Indexing
- Writing cover letters
- Archiving and disposal of records
- Transiting and BU systems

1997 – 2001 : Director, Awesome Designs

Duties

- Supervision of staff

- Exhibitions
 - Training and marketing
- 2002 – 2018 : Executive Director, Heart of Mercy**

Duties

- Management
- Planning meetings
- Supervision of projects
- Proposal writing
- Report writing
- Training
- Drafting letters
- Monitoring and evaluation programmes

SUMMARY EXPERIENCE

Vast experience in managing non-profit organisations, planning, budget preparation, implementation of activities, evaluating and monitoring of programmes, preparing reports for donors, training of beneficiaries and staff and management of referral systems. She has also been involved in capacity building and human development in income generating activities among women groups. Promoting exports of local businesses on international markets through the Zambia Development Agency and Zambia National Agriculture and Commercial Shows. She has successfully managed the implementation of the Bethlehem Mission funding for income generating activities under the children living with AIDs support programme. She also served as a delegate of the National Dialogue Forum 2019 where cardinal Constitutional reforms were proposed to come up with Constitutional Amendment Bill 2010.

Other Skills: Computer Literacy in Windows based applications

Present position: Executive Director

Years of professional experience: Fifteen (15) years

Years in Non-governmental Organisations: Fifteen (15) years

ASSIGNMENTS

- Developed a leadership training programme for YWCA in 2004
- Participated in developing the Ministry of Health HIV & AIDs referral systems
- Sourcing and implementation of Global Fund for orphans and vulnerable children
- Sourced funding from Bethlehem Mission Imensee and implemented income generating activities for Heart of Mercy
- Initiated a Nutrition Support Programme, in collaboration with Ministry of Health, for children born with HIV/AIDs
- Initiated urban and rural income generating activities for women groups in Chongwe, Ndola and Lusaka
- Implemented Churches Health Association of Zambia (CHAZ) Educational Support to orphans and vulnerable children

- Exhibited at the Zambia Agriculture and Commercial Show and was awarded second best
Participated in the Zambia Development Agency trade missions to Congo, Gabon and China
Promoting Local Products produced by women in Zambia
- Secured export market for Moringa Products produced by local women as an income generating activity
- Participated in the UK-Zambia trade investments forum in the UK led by the Vice-President of the Republic of Zambia in 2015
- Was a delegated at the National Dialogue Forum 2019 chairing numerous sessions that eventually came up with the Constitutional Amendment Bill No. 10 of 2019

REFERENCES

Mr Felix Kaitisha
Zambia Development Agency
Cell; +260 977 616740/ +260 965 616740

Email: Felix.Kaitisha@zda.org.zm

Ms Ngabo Nankonde
Zambia Information and Communications Technology Authority (ZICTA)
Cell: +260 977 783411

Dr Liya Mutale
Ministry of Tourism and Arts
Cell: +260 974 677693

Email: lnmutale@yahoo.co.uk