



REPUBLIC OF ZAMBIA

REPORT

OF THE

**COMMITTEE ON NATIONAL GUIDANCE AND GENDER MATTERS ON THE
PERFORMANCE AUDIT REPORT OF THE AUDITOR GENERAL ON THE
MANAGEMENT AND DISPOSAL OF GENDER BASED VIOLENCE CASES IN
ZAMBIA FROM 2017 TO 2022**

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

REPORT

OF THE

**COMMITTEE ON NATIONAL GUIDANCE AND GENDER MATTERS ON THE
PERFORMANCE AUDIT REPORT OF THE AUDITOR GENERAL ON THE
MANAGEMENT AND DISPOSAL OF GENDER BASED VIOLENCE CASES IN
ZAMBIA FROM 2017 TO 2022**

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

Table of Contents

Items	Page No
1.0 Membership of the Committee	1
2.0 Functions of the Committee	1
3.0 Meetings of the Committee	1
4.0 Procedure adopted by the Committee	1
5.0 Auditor General's Comments	2
5.1 Background to the Audit	2
5.2 Motivation of the Audit	3
5.3 General Audit Objective	4
5.4 Specific Audit Objectives	4
5.5 Audit Questions	4
5.6 Audit Criteria	5
5.7 Audit Methodology	5
6.0 Key Audit Findings	7
6.1 Zambia Police Service	7
6.2 Ministry of Health	7
6.3 National Prosecution Authority	7
6.4 Judiciary	8
7.0 Stakeholders' Comments on the Audit Findings	8
7.1 Zambia Police Service	9
7.2 Ministry of Health	12
7.3 National Prosecution Authority	13
7.4 Judiciary	14
8.0 Committee's Observations and Recommendations	16
9.0 Conclusion	20
Appendix I	22
Appendix II	23

REPORT OF THE COMMITTEE ON NATIONAL GUIDANCE AND GENDER MATTERS ON THE PERFORMANCE AUDIT REPORT OF THE AUDITOR GENERAL ON THE MANAGEMENT AND DISPOSAL OF GENDER BASED VIOLENCE CASES IN ZAMBIA FROM 2017 TO 2022, FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

1.0 Membership of the Committee

The Committee consisted of Mr Harry S K Kamboni, MP (Chairperson); Ms Brenda Nyirenda, MP (Vice Chairperson); Mrs Chrizoster P Halwiindi, MP; Mr Saiti K Michelo, MP; Mr Jeffrey Mulebwa, MP; Mr Simon Mwale, MP; Mr Emmanuel Banda, MP; Mr Lackson M Lungu, MP; Dr Alex Katakwe, MP; and Mr Bowman Lusambo, MP.

The Honourable Madam Speaker
National Assembly
Parliament Buildings
LUSAKA

Madam

The Committee has the honour to present its Report on the Performance Audit Report of the Auditor General on the Management and Disposal of Gender Based Violence Cases in Zambia from 2017 to 2020 for the First Session of the Thirteenth National Assembly.

2.0 Functions of the Committee

The functions of the Committee are set out in Standing Orders No. 197(g) and 198 of the National Assembly of Zambia Standing Orders, 2021.

3.0 Meetings of the Committee

The Committee held nine meetings to consider submissions on the Performance Audit Report of the Auditor General on the Management and Disposal of Gender Based Violence Cases in Zambia from 2017 to 2020.

4.0 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.

5.0 Auditor General's Comments

The Committee was informed that in accordance with the provisions of Article 250 of the *Constitution of Zambia (Amendment) Act, No. 2 of 2016*, the *Public Audit Act, No. 13 of 1994* and the *Public Finance Management Act, No. 1 of 2018*, the Office of the Auditor General was mandated to carry out performance audits in Ministries, Provinces, and Agencies (MPAs) and to report the results to the President and Parliament for debate.

5.1 Background to the Audit

The United Nations (UN) Women, a global champion for gender equality, working to develop and uphold standards of women and girls states that Zambia had one of the highest rates of sexual and gender-based violence in the world, with 43 percent of girls and women between the ages of fifteen and forty-nine having experienced some form of sexual violence. Cases of gender-based violence in Zambia had been on the rise. In 2019, a total of 25,121 cases of gender-based violence were reported compared to the 22,073 cases reported in 2018. The reported cases showed an increase of 3,048 cases, representing 14 percent. In 2020, a total of 26,370 cases were reported from 1st January to 31st December, 2020, representing a percentage increase of 5 percent.

Pursuant to the *Anti-Gender Based Violence Act, No. 1 of 2011*, gender-based violence was any act that resulted in or was likely to result in physical, sexual or psychological harm or suffering to a person, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life. Gender-based violence had multi-dimensional definitions that were used to capture violence that transpired due to the role expectations related to each gender and unequal power relationships. The vice had continued to be a social ill with far-reaching repercussions.

It was against this background that the Office of the Auditor General conducted a performance audit on the management and disposal of selected gender-based violence cases including femicide, rape and intimate partner violence given the spike in recent years of reported cases. According to the fundamental principles of performance auditing as stated in International Standards for Supreme Audit Institutions (ISSAI) 300, the performance audit carried out by the Office of the Auditor General was an independent, objective and reliable examination of whether Government programmes and operations were conducted in accordance with the economy, efficiency and effectiveness.

5.2 Motivation of the Audit

The audit was motivated by factors set out below.

5.2.1 Social Impact of Gender Based Violence

Gender-based violence resonates in all areas of health and social programming as the survivors experienced increased rates of morbidity and mortality, and transmission of HIV/AIDS among other health conditions. Gender-based violence degraded the moral fibre of the citizens and was detrimental to the well-being of society.

5.2.2 Low Number of Cases being addressed through the Court System

It was reported that despite the increase in reporting of gender-based violence cases, the low number of gender-based violence cases addressed through the court system was a source of concern. For example, out of the reported 26,370 reported cases in 2020, only 3,327, representing 12.6 percent, were taken to court. This had been attributed to limited capacity in managing gender-based violence cases by the police, prosecutors, and other criminal justice officials. It was also reported that there was inadequate capacity building of prosecutors in investigative and prosecutorial skills for gender-based violence cases, including handling child survivors, provision of forensic equipment for effective investigation of gender-based cases; and capacity building of judges, magistrates and customary court adjudicators.

5.2.3 Attainment of the Agenda 2030 and Reducing Developmental Inequalities

In order to effectively implement and attain the Sustainable Developmental Goal (SDG) No. 5 on Achieving Gender Equality and Empower all Women and Girls, which sought *inter alia* to end all forms of discrimination against all women and girls everywhere; eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation; and eliminate all harmful practices such as child, early and forced marriage and female genital mutilation.

It was cardinal that the management and processing of reported gender-based violence cases was handled effectively to implement the Seventh National Development Plan (7NDP), whose Pillar 3 on Reducing Developmental Inequalities, emphasised reducing gender inequality.

5.3 General Audit Objective

The general objective of the audit was to assess the efficiency and effectiveness with which the multi-disciplinary functions of the Zambia Police Service, Ministry of Health, National Prosecution Authority and the Judiciary were collectively managing and disposing of reported gender-based violence cases.

5.4 Specific Audit Objectives

Specifically, the audit objectives were to:

- (a) assess the extent to which the Zambia Police Service had ensured the establishment of Victim Support Units (VSUs), provided professional counselling and timely investigation of reported cases of gender-based violence at police stations and posts;
- (b) establish whether the hospital based One-Stop-Centres efficiently provided prompt and comprehensive multi-disciplinary services to victims of gender-based violence;
- (c) ascertain whether the National Prosecution Authority had put in place measures to ensure that gender-based violence cases were prioritised and victims of gender-based familiarised with the court procedures; and
- (d) determine whether the Judiciary had put in place effective measures to ensure that there was timely disposal of reported gender-based violence cases and ensure the welfare of victims during court proceedings.

5.5 Audit Questions

Anchoring on the audit objectives, the audit was designed to answer the questions outlined below.

- (i) Had the Zambia Police Service ensured that Victim Support Units were established at stations and posts to manage reported gender-based violence cases?;
- (ii) Had the Victim Support Units ensured that professional counselling was provided to victims of gender-based violence?;
- (iii) Had the Zambia Police Service reported gender-based violence cases were investigated in a timely manner?;
- (iv) Had the One-Stop-Centres ensured that the medical practitioner, paralegal, counsellor and Victim Support Unit officers were readily available to manage reported gender-based violence cases?;
- (v) Had the One-Stop-Centres ensured the provisions of prompt and comprehensive medical services to victims of gender-based violence?;

- (vi) Had the One-Stop-Centres provided a conducive environment to provide comprehensive management and care to victims of gender-based violence?
- (vii) Had the National Prosecution Authority ensured that victims of gender-based violence were familiarised with the court procedure to ensure timely processing of gender-based violence cases?;
- (viii) Had the National Prosecution Authority ensured effective coordination with other stakeholders such as the Judiciary and the Zambia Police Service in managing reported gender-based violence cases?;
- (ix) Had the Judiciary ensured that fast track courts were established to dispose of gender-based violence cases in all the provinces?;
- (x) Had the fast track court courts ensured that all reported gender-based violence cases were disposed of in a timely manner?;
- (xi) Had the Judiciary ensured the availability of magistrates who had undergone specialised training to manage reported gender-based violence cases?

5.6 Audit Criteria

The assessment criteria for the audit were drawn from the following key documents:

- (a) *Anti-Gender Based Violence Act, No. 1 of 2011;*
- (b) *Zambia Police Act (Amendment) Act, No. 14 of 1999;*
- (c) *National Prosecution Authority Act, No. 34 of 2010;*
- (d) *Health Care for Women Subjected to Intimate Partner Violence or Sexual Violence: A Clinical Handbook, 2017;*
- (e) *Ministry of Gender and Child Development National Referral Mechanism on Gender Based Violence and Violence against Children – For Survivors and Service Providers: A Practical Handbook, 2013;*
- (f) *Minimum Standards for Prevention and Response to Gender Based Violence in Emergencies;*
- (g) *Concept Note on establishing a Fast Track Court and User-Friendly Court to deal with Gender Based Violence Cases in Zambia, 2012 – 2017; and*
- (h) *Agenda 2030 – Sustainable Development Goal No.5 on Gender Equality.*

5.7 Audit Methodology

In carrying out the audit, a combination of data collection techniques were used including interviews, physical inspections and document reviews.

(a) Document Review

Document review was conducted to inter alia gain a better understanding of the challenges faced and successes scored in relation to dealing with instances of gender-based violence during the period under review; understand the role and responsibilities of the officers tasked to implement gender-based violence programmes; assess whether anti gender-based violence activities were adequately funded; and whether the available resources allocated for this cause were spent in an economic, efficient and effective manner during the period under review. Some of the documents reviewed included the 7NDP; Ministry of Gender budgets and Annual Work Plans; Police reports in relation to gender-based violence cases for 2017 to 2020; Ministry of Health Gender-Based Violence Annual Reports, 2017 -2020; and National Prosecution Authority Annual Reports, 2017 – 2020.

(b) Interviews

Interviews were conducted with key personnel that were charged with the task of managing and disposing of reported gender-based violence cases in order to gain further insights on how the multi-disciplinary functions were managing and disposing of reported gender-based violence cases. Interviews were also used to corroborate data obtained from the document reviews as well as obtain the challenges faced by the institutions in executing their duties.

(c) Physical Inspections

Physical inspections were conducted at the facilities providing gender-based violence services in Zambia. The sample size consisted of twenty-eight out of the 116 districts in the country and also twenty-eight out of thirty-four One-stop-Centres. The selection was purposively made based on the presence of all the institutions which were key in managing and disposing of reported gender-based violence cases.

Some of the facilities visited included the University Teaching Hospitals; Kanyama and Chawama First Level Hospitals; Mtendere One-Stop-Centre; Judiciary Headquarters; Lusaka Subordinate Court; Zambia Police Victim Support Unit Headquarters; Woodlands Police Station; Monze One-Stop-Centre; Choma General Hospital; Kalomo General Hospital One-Stop-Centre; National Prosecution Authority, Livingstone; Zambia Police Victim Support Unit, Muchinga, Mpika Urban Clinic One-Stop-Centre, National Prosecution Authority, Kasama; Chikobo Rural Health Centre, Chibombo; Mumba District Hospital One-Stop-Centre; Kapiri Mposhi Urban Health Centre One-Stop-Centre; Kabwe Central Hospital One-Stop-Centre; National Prosecution Authority, Kabwe; Chipata Central Hospital One-Stop-Centre;

Zambia Police Victims Support Unit, Chipata; St Francis Hospital One-Stop-Centre in Katete; and Ndola Teaching Hospital One-Stop Centre, among others.

6.0 KEY AUDIT FINDINGS AND RECOMMENDATIONS

6.1 Zambia Police Service

The Committee took note that investigations by the Zambia Police Service were not conducted promptly as a high number of cases were carried forward for investigation. Additionally, follow-ups on cases reported were not carried out due to lack of transport, which resulted in cases being withdrawn at the police stations. The Committee also noted that counselling was not adequately provided to victims of gender-based violence to assist with recovery from the trauma due to factors such as non-availability of dedicated counselling rooms, inadequate Victim Support Unit (VSU) officers and lack of specialised training for Victim Support Unit officers.

The Auditor General submitted that the Zambia Police Service should prioritise available resources to secure forensic equipment and tools required for evidence collection to ensure the prompt investigation of cases and reduction in the number of cases carried forward.

6.2 Ministry of Health

The Committee noted that One-Stop-Centres did not have the required personnel to complement the full set of multi-disciplinary personnel, such as medical practitioners, psychosocial counsellors, paralegals and Victim Support Unit police officers. Further, the One-Stop-Centres did not have the required equipment and supplies to promptly and comprehensively attend to victims of gender based violence such as examination couch, examination gloves, Computed Tomography (CT) scans and colposcopy. Victims of gender-based violence were not administered on Post-Exposure Prophylaxis (PEP) due to late reporting. In addition, the follow-up mechanism was not effective as some of the victims did not report back for a retest.

The Auditor General submitted that there was need for the Ministry of Health to enhance coordination with other institutions such as the Zambia Police Service to ensure that required multi-disciplinary personnel such as Victim Support Unit officers were made available at the One-Stop-Centres.

6.3 National Prosecution Authority

The Committee took note that the prosecution of cases involving child victims was a challenge due to there being no child-friendly courts. Victims were affected psychologically during court sessions resulting in either withdrawal of cases or non-

appearance in court cases. It was also revealed that funds for ferrying witnesses to and from the court were not available at the required time to ensure their presence during court cases.

The Committee also noted that the National Prosecution Authority should put in place mechanisms such as the provision of child-friendly and counselling facilities to ensure that needs of child victims were prioritised during prosecution of gender based violence cases.

6.4 The Judiciary

The Committee took note that 1,500 out of 2,396 cases, representing 63 percent, were not fast-tracked. This led to delays in the disposal of gender-based violence reported cases. Fast-track courts were only established in six out of the ten provinces, which meant that gender -based violence cases in provinces that did not have fast-track courts were heard in the conventional court environment with no user-friendly facilities to hear cases in-camera. Further, staffing was a challenge in the fast-track courts with some courts having only one magistrate to hear all cases that were brought to the court, including gender-based violence cases. Further, magistrates had not received specialised training to effectively manage reported gender based violence cases.

The Auditor General informed the Committee that the Judiciary should put measures in place which would expedite the establishment of conventional, fast-track and user-friendly courts in places where there were no courts to ensure access to justice for all in a timely manner.

7.0 STAKEHOLDERS' COMMENTS ON THE KEY AUDIT FINDINGS

The Committee received submissions from identified stakeholders. The submissions of these stakeholders are set out below.

Stakeholders submitted that globally, gender-based violence had been recognised as a problem that posed significant risks to the health and well-being of persons with far-reaching consequences at social, political and economic levels. It was submitted that gender-based violence was a global pandemic, deeply rooted in gender inequality, and was fundamentally a human rights violation. Gender-based violence had no social or economic boundaries, and was present in all countries, rich or poor, and affected all socio-economic groups. Gender-based violence presented itself in many shapes and forms, of which sexual violence was one of the worst, pervasive and traumatic. Sexual violence was one of the most merciless violations of human rights in the world, and yet one of the least prosecuted crimes.

Zambia had not been spared from this scourge. Statistics showed that reported cases of sexual gender-based violence had been steadily increasing. Children especially bore the brunt of this vice by directly being victims of sexual violence by those who were supposed to protect them. The primary mode of holding perpetrators accountable for committing sexual violence was via the criminal justice system, through arrest and prosecution. This entailed the involvement of the Police, prosecution authorities and the Judiciary.

7.1 Zambia Police Service

The Committee was informed that the major findings of the audit in the Zambia Police Service were reflective of the reality on the ground. The Victim Support Unit (VSU) and indeed the institution lacked adequate forensic equipment and tools, Sexual Crime Kits, Deoxyribonucleic Acid (DNA) reagents, skilled manpower and transport.

The Committee heard that this year, the Zambia Police Service had bought 900 evidence collection kits that had been distributed to all the ten provinces, and trained 186 Crime Scene technicians across the country. However, the VSUs across the country had the challenge of transport and cameras. The Committee heard that the Auditor's recommendation to prioritise available resources to secure forensic equipment and tools required for evidence collection was welcome.

The Committee was informed that the procurement of DNA reagents for the Police laboratories was no longer feasible as the DNA machine namely; the Rapid-Hit™ 200 had become obsolete, as the manufacturer had stopped making reagents. In this regard, it was proposed that the AB 3500 PCR DNA machine should be procured and a budget line for its reagents put in place. This would resolve the challenge of unsolved sexual cases due to lack of DNA analysis. The advantage of the AB 3500 PCR DNA machine was that it was cost-effective as reagents costed about K800 per test, and could be used on multiple donor DNA tests. Further, the machine was highly sensitive to DNA, as it could detect low quality and quantity DNA samples, at a precision of 1 percent error and could analyse other forms of DNA other than human DNA.

The Committee was informed that the absence of forensic tools and/or reagents for DNA affected not only the timely investigation of cases but the quality of investigation and outcome of the prosecution. The absence of specialised equipment to investigate cases of sexual violence such as defilement and rape not only affected the timely investigation of gender-based violence cases but also led to the acquittal of accused persons. Furthermore, the fact that the forensic tools and DNA laboratories were located in Lusaka made it difficult to preserve and transport evidence from other stations and Police posts across the country.

Other stakeholders submitted that the Zambia Police Service was one of the main institutions in combating gender-based violence crime. However, the fact that only twenty-six out of 155 police posts had established Victim Support Units, and that only 137 out of 305 VSU positions were filled, spoke volumes about how much work still needed to be done to optimise responses to gender-based violence. Stakeholders agreed that these deficiencies needed urgent attention as the effective policing of gender-based violence required technical support through capacity building, trauma response, equipment, transport and offices. The stakeholders agreed that Treasury Authority should be sought to ensure that VSU positions were filled in accordance with the approved staff establishment to curb the shortage of manpower at the Police stations and posts.

Stakeholders submitted that psycho-social and trauma counselling to victims were critical services required by gender-based violence victims. In that regard, there was need to create more private rooms specifically dedicated for gender-based violence counselling. Provision of counselling services to GBV victims in a conducive environment was critical in encouraging victims to report cases as they would be assured of privacy. Stakeholders were of the view that due to lack of funding and adequate infrastructure for provision of counselling services, the Zambia Police Service should develop a directory of other service providers offering counselling services in the communities where the police stations and police posts were located. This should enable the Victim Support Unit to refer victims to other service providers such as civil society organisations (CSOs).

Stakeholders also emphasised the need for office space for counselling of children that had been sexually abused to guarantee confidentiality and provide a safe environment for them. Stakeholders were of the view that these should be created in existing structures as well as in all structures yet to built.

The Committee was informed that Victim Support Unit officers should undergo training in gender-based violence related cases as some did not understand the dynamics present in cases, especially where the victim had to re-live the trauma. Police training institutions should incorporate information on gender-based violence and investigative and prosecutorial techniques of gender-based violence and intimate partner violence and interviewing of witnesses. The development of the training manuals would inform a Training of Trainers (ToT). If this was done, information and knowledge on gender-based violence case management would become institutionalised, and therefore, contribute to sustainability.

Stakeholders submitted that the training curriculum should include aspects of gender-based violence such as the multi-disciplinary approach to managing the cases as well as comprehensive counselling skills to enable officers to manage the reported cases comprehensively and effectively. The Committee heard that the

Zambia Police Service with support from the Government of the Republic of Zambia (GRZ) - UN Joint Programme on Gender Based Violence was developing a Training Module on Gender Based Violence. The manual should be ready for use in the next recruitment. This was a more sustainable approach to building the capacity of officers in the Service. Stakeholders further proposed that the VSU trainings should be included in the in-service training plan through the Ministry of Home Affairs and Internal Security, the Zambia Police Service, and the Ministerial Training and Development Plan on an annual basis.

The Committee heard that in Zimbabwe's legal framework, every police station shall have a section staffed by at least one police officer with relevant expertise in domestic violence, victim-friendly or other family-related matters. On the contrary, the Zambian law did not make provision for every police station to have an officer with expertise in domestic violence related issues. It would be good practice to incorporate such provisions in the Zambian law to ensure that victims of gender-based violence were attended to by professionals.

Other stakeholders were of the view that the Zambia Police Service should collaborate with the Ministry of Community Development and Social Services in the identification of places of safety and/or shelters for gender-based violence victims. The provision of shelters and places of safety was key in ensuring the safety of victims especially in cases involving intimate partner crimes where the victims occupied the same residence with the perpetrator. There was need to ensure that the existing shelters for victims of gender-based violence complied with the provisions of the *Anti-Gender Based Violence Act, No. 1 of 2011* in terms of services to be provided. In that regard, the Minister of Community Development and Social Services needed to establish regulations for the establishment and operations of shelters in line with the Act. The shelters should not only provide for the safety of victims of gender-based violence but also provide for their temporary basic requirements, counselling, educational needs, reintegration and rehabilitation.

Stakeholders submitted that where there were no existing shelters, the Zambia Police should develop a directory of legal aid service providers who could assist in the application for Protection or Occupational Orders to remove the perpetrator from the dwelling house where the victim and the perpetrator lived in the same house.

Some stakeholders indicated that there was need to enhance public sensitisation on gender-based violence to encourage prompt reporting of cases. Access to information on gender-based violence and legal remedies available to victims would promote timely reporting of sexual gender-based violence cases. The Zambia Police Service should develop a robust communication strategy including radio and television programmes, and information, educational and communication material

(IEC) in English and vernacular. Materials should also be developed in braille for persons with visual impairment. By partnering with other stakeholders, especially CSOs, where funding was not available, the Zambia Police Service could conduct community awareness on gender-based violence.

7.2 Ministry of Health

Stakeholders informed the Committee that the development of the One-Stop-Centres was in line with the 7NDP, which emphasised an integrated and multi-sectoral approach in all areas of social and economic development, on the principle of “*leaving no one behind*”.

The Committee heard that One-Stop-Centres were a response to numerous issues identified by survivors when seeking services in traditional healthcare, police and legal systems. Survivors often needed several multidisciplinary services that were scattered in different locations. Survivors frequently needed to retell their stories of trauma each time they engaged with a different service/sector which contributed to secondary victimisation. The establishment of One-Stop-Centres reduced the trauma that survivors underwent. One-Stop-Centres, therefore, increased accessibility, acceptability, quality and multi-sectoral coordination of care in order to reach the ultimate goal of reducing survivor re-traumatisation when seeking care.

Stakeholders added that in order to improve the services of the One-Stop-Centres, there was need for specific inputs such as multidisciplinary staff and private consultation rooms, which contributed to One-Stop-Centres outputs such as more services provided at one location and at all hours, and reduced survivor interviews. These contributed to outcomes such as improved multi-sectoral coordination. The outcomes contributed to the ultimate goal of the One-Stop-Centres to reduce survivor re-victimisation when seeking care. Stakeholders submitted that there was need to review the *Anti-Gender Based Violence Act, No. 1 of 2011* to enable it provide for the provision of comprehensive testing, treatment and care of survivors of sexual offences, including emergency contraception; ready access to PEP; preventing the onset of sexually transmitted infections, and such services should be provided at a One-Stop-Centre to make the process less tedious.

Some stakeholders submitted that in practice, most; if not all of the One-Stop-Centres were understaffed and could not effectively assist victims of gender-based violence. Stakeholders submitted that they fully supported the One-Stop-Centre model as it reduced the risk of re-traumatisation due to the fact that the victim was attended to in one location. However, most One-Stop-Centres did not have adequate facilities to conduct counselling sessions. Due to the sheer volume of victims, some facilities had had to be repurposed so that counselling rooms, for instance, became treatment rooms.

With regard to the weak monitoring mechanisms for gender-based violence survivors placed on PEP due partly to lack of transport and victims not coming back for follow ups, stakeholders were of the view that the Ministry of Health and the Zambia Police Service should form partnerships with CSOs that were on the ground, especially those that had the Community Health Worker Model, to combine follow-up efforts. Stakeholders felt that the Ministry of Health should replicate the Community Health Worker model across communities. Examples of this model were available in Linda Compound under the Neri-Clinics model. The Gender Division and Ministry of Health should consider engaging the private sector to provide financial support for the construction and maintenance of One-Stop-Centres as part of their corporate social responsibility.

7.3 National Prosecution Authority

Stakeholders informed the Committee that the *National Prosecution Authority Act, No.34 of 2010* provided for the establishment of the Witness Management Fund which was supposed to assist in ferrying witnesses to and from the court. However, funds had not been available when required to ensure the presence of witnesses during court cases. The non-availability of witnesses, as per the audit findings, caused delays in the delivery of justice which in turn discouraged other members of the public from reporting any incidences of gender-based violence. Stakeholders urged the Government to prioritise disbursements of these funds as the absence of funds prevented when witnesses were absent from court.

The Committee was informed that although the National Prosecution Authority had established the Gender-Based Violence Crime Department at headquarters, there was need to decentralise the Department to other provinces and districts in order to improve the prosecution of cases, countrywide. The Department had only been established at headquarters whilst gender-based violence focal point persons had been established in some of the districts. Furthermore, not all the focal point persons had been trained in gender-based violence case management.

Further, stakeholders submitted that there was need for the National Prosecutions Authority to collaborate with the Ministry of Community Development and Social Services to link gender-based violence services to the Anti Gender-Based Violence Fund to avert withdrawal of cases on the basis of possible imprisonment of a perpetrator who was a breadwinner.

With regard to the withdrawal of cases, stakeholders submitted that withdrawal was more prevalent where the perpetrator was a breadwinner. There was, therefore, need to have a law in place that restricted the withdrawal of gender based violence cases by victims. In Zambia, *Anti-Gender Based Violence Act, No. 1 of 2011* did not proscribe the withdrawal of cases by victims. The *Domestic Violence Act* of Ghana

encouraged reconciliation in a criminal trial in respect of domestic violence which was not aggravated or did not require a sentence that was more than two years.

Stakeholders submitted that the South Africa *Domestic Violence Act* of 1998 sought to afford the victims of domestic violence the maximum protection from domestic abuse. The Act placed an obligation on police officers to ensure that complaints of gender based violence were promptly attended to. Failure to comply with these obligations constituted misconduct and the National Commission of the South African Police Service (SAPS) was required to submit six-monthly reports to Parliament detailing the number and nurture of complaints against the police for failing to adhere to this statutory obligation. Further, the SAPS was required to institute disciplinary proceedings against a police officer who allegedly failed to comply with the said obligation.

In Zimbabwe, the *Domestic Violence Act, Chapter 24 of 2006* dealt with gender-based violence matters. It equally placed an obligation on police officers to assist victims of gender-based violence. A complainant who was not satisfied with the services of a police officer to whom he or she had reported a case of domestic violence to had the right to register a complaint. The Zambian law had a similar provision although it did not provide for recourse for failure by a police officer to discharge their obligation. The South African and the Zimbabwean laws appeared to be good practice from which the Zambian law could adopt. This would ensure that gender-based violence cases were promptly investigated and prosecuted without delay. Subsequently, this would inspire confidence in the public resulting in reduction in case withdraw.

7.4 Judiciary

The Committee was informed that gender-based violence cases were not fast-tracked because the courts were not present in some provinces. Further, gender-based violence matters that were criminal in nature tended to take long. In respect of criminal cases, the procedure followed was as provided for in section 3(1) and (2) of the *Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia* which stated that:

- (1) "all offences under the Penal Code shall be inquired into, tried and otherwise dealt with in accordance with the provisions herein contained.
- (2) all offences under any written law shall be inquired into, tried and otherwise dealt with in accordance with the same provisions, subject however to any enactment for the time being in force regulating the manner or place of inquiring into trying or otherwise dealing with such offences."

Stakeholders submitted that the *Anti-Gender Based Violence Act, No. 1 of 2011* did not provide for offences. This implied that offences of a criminal nature were prosecuted in accordance with the *Penal Code Act, Chapter 87 of the Laws of Zambia* and the *Criminal Procedure Code Act, No. 88 of the Laws of Zambia*. The said Acts did not provide for a fixed period within which cases should be disposed of. The stakeholders were of the view that this could be one of the reasons why some gender-based violence cases were not disposed of in good time.

A comparative study was carried out on how gender-based violence cases were handled in Ghana and Namibia. It was discovered that in Ghana, punishment provided for in the *Domestic Violence Act* applied only to offences which under the Criminal Code were misdemeanors and did not apply to any offence that was aggravated. Further, the *Domestic Violence Act* of Namibia separated acts of domestic violence that amounted to criminal offences and those that fell under civil matters. Minor offences were prosecuted under the said Act. However, domestic violence acts that were aggravated in nature and which attracted a higher sentence were prosecuted under the Namibian Criminal Code.

The Committee was informed that in the on-going review of the *Anti-Gender Based Violence Act*, stakeholders had observed that the Act provided for acts that amounted to gender-based violence but did not create any offences. Therefore, there should be a link between acts of gender-based violence to offences in the Penal Code Act and the Criminal Procedure Code Act. Further, stakeholders had observed that the Anti-Gender Based Violence Act did not provide for the establishment of fast-track courts. In this regard, there was need for the Act to provide for the establishment of the fast-track courts because in practice they were already in existence.

The Committee heard that infrastructure was one of the greatest challenges confounding the administration of justice. Only six courtrooms in six districts in Zambia had been provided to be used to fast-track gender-based violence cases. This represented 6.96 percent of districts that had these dedicated facilities. By way of example, Lusaka district only had one courtroom dedicated to gender-based violence cases. This was one courtroom against all cases that were filed at the subordinate courts. It was worth noting that Lusaka only had twelve courtrooms that were being shared among approximately twenty-four magistrates who equally used these courtrooms to handle other important matters some which also required fast-tracking.

The Committee was informed that although all magistrates were qualified to handle gender-based violence cases, there was need for the magistrates to undergo specialised training to mainly understand the psychological effects that the offence had on the victim and the intrusive nature of the investigations that might

discourage victims and/or survivors from freely testifying in open court or in the presence of certain personnel including their own family members. To this end, training was indeed needed in order to enlighten adjudicators of the many challenges other players, and the victims encountered in the reporting, investigations and prosecutions of these cases.

It was heard that fast-track courts were most accessible in Zambia's urban areas, where statutory law was dominant. For Zambians living in peri-urban areas or villages, matters were more frequently settled in local or customary courts. There was need, therefore, to continue sensitising traditional leaders and training adjudicators on issues of gender-based violence.

The Committee was informed that in cosmopolitan cities like Lusaka, there was urgent need to take justice to the people by constructing subordinate court houses within their localities such as Chawama, Matero, Mandevu, Chelstone, Kalingalinga and Mtendere, among others. Doing so would not only take justice closer to the people, but would have a deterrent effect on the local people as they would be able to follow proceedings and see justice being administered and offenders being punished in real time. The stakeholder made an earnest appeal to the Committee to consider building court houses from the Constituency Development Fund. The stakeholder also beseeched the Executive to unfreeze positions that had been frozen for various reasons and grant authority to upgrade certain stations to levels where there would be Senior Resident Magistrates to run the stations; and also appealed for improved funding so as to meet the challenges noted in the report.

8.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Taking into account both the written and oral submissions from stakeholders, the Committee makes the observations and recommendations as set out hereunder.

- (i) The Committee takes note that forensic evidence in sexual gender-based violence is integral in ensuring that the right person is prosecuted. In this regard, the procurement of modern forensic equipment cannot be overemphasised.

The Committee, therefore, recommends that the AB 3500 PCR DNA Machine, as proposed by the Zambia Police Service, be procured, and a budget line for its reagents put in place to resolve the issue of unsolved sexual gender based violence cases due to lack of DNA analysis.

Further, the Committee recommends that forensic and DNA laboratories should be rolled out, progressively, to all the ten provinces for the

preservation of evidence, and prioritise the training of personnel in the use of the equipment.

- (ii) The Committee notes that there is no dedicated toll-free line for gender-based violence, making it difficult for victims to access emergency services. The general line used is 991, which is used for other emergency services as well.

The Committee, therefore, recommends the introduction of accessible hotlines strictly for gender-based violence cases which should operated efficiently.

- (iii) The Committee notes, with great concern that all Victim Support Units in Police stations and Police posts only operate from 08:00 hours to 17:00 hours and do not work on weekends and public holidays. This, like the absence of a dedicated toll-free line for gender-based violence, has exacerbated the problem of timely reporting and investigation of cases.

The Committee recommends that Victim Support Units should operate on 24 hour basis through the incorporation of volunteer reservists for additional manpower.

- (iv) The Committee notes that according to the *Zambia Police (Amendment) Act, No. 14 of 1999*, the Police Service should protect citizens from various forms of abuse and provide professional counselling to victims of crimes and offenders. Additionally, one of the objectives of the Victim Support Unit is to provide counselling to victims of gender-based violence to help them recover from trauma. The Committee is of the view that the provision of counselling services to gender-based violence victims in a conducive environment will encourage them to report cases as they will be assured of privacy.

The Committee, therefore, recommends the creation of more private rooms specifically dedicated for gender-based violence counselling.

The Committee further recommends that a directory of other service providers offering counselling services in the communities where the police stations and police posts are located be developed. This will enable the Victim Support Unit to refer victims to other service providers such as civil society organisations.

- (v) The Committee takes note that the administration of Post-Exposure Prophylaxis (PEP) reduces the risk of contracting HIV after a possible

exposure. The Committee notes with concern, however, that most victims are not put on PEP due to late reporting of cases. Further, majority of the One-Stop-Centres are not able to follow-up survivors and/or victims who are put on PEP to ensure their completion of the twenty-eight day test.

The Committee, therefore, recommends that One-Stop-Centres should be linked to community structures such as village-led One-Stop-Centres and other community-based health centres to follow-up and monitor adherence to guarantee a continuum of care.

The Committee further recommends that the Ministry of Health, Gender Division, civil society organisations should intensify the dissemination of information to members of the public in order to create awareness on the need for timely reporting of penetrative sexual gender-based violence.

- (vi) The Committee is pleased with the on-going process under the Government of the Republic of Zambia (GRZ) - United Nations (UN) Joint Programme for Prevention and Response to GBV Phase II to harmonise the *Penal Code Act, Chapter 87 of the Laws of Zambia* and the *Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia* with the *Anti-Gender Based Violence Act, No. 1 of 2011*, for purposes of creating offences in the latter.

The Committee recommends that this process should be expedited because the lack of penal sanctions in the *Anti-Gender Based Violence Act* is a weakness in protecting victims of gender-based violence, especially children.

- (vii) The Committee is pleased with the development of the Zambia Police Service Training Module on Gender Based Violence with the support of the GRZ – UN Joint Programme.

The Committee recommends that this strategy be considered in the in-service training of legal practitioners, including paralegals, magistrates and judges, and the Ministry of Health Personnel in order for them to understand the general gender concepts and apply them in their work.

- (viii) The Committee notes with concern that only six courtrooms in six districts in Zambia have been provided to be used to fast-track gender-based violence cases, representing 6.96 of districts that have these dedicated facilities. This means that gender-based violence cases in provinces that do not have fast-track courts are heard in the conventional court environment with no user-friendly facilities to hear cases in-camera.

The Committee recommends that where it is not possible to construct the standard courtrooms, the Judiciary should consider using existing Government infrastructure that can be modified into fast-track courtrooms.

In the same vein, the Committee recommends that the Judiciary should ensure that measures are put in place for compliance by magistrates of the provisions of the Anti-Gender Based Violence (Rules) of Court, 2016 which provide for gender-based violence civil proceedings. The Rules provide that applications for protection orders under the *Anti-Gender Based Violence Act* must be heard within fourteen days of filing of the application; an ex-parte application for a Protection Order must be granted within seven days of an application being filed and that judgment must be delivered within thirty days of hearing the matter. This will ensure the fast-tracking of gender-based violence cases.

- (ix) The Committee notes that the *Gender Equity and Equality Act, No. 22 of 2015*, seeks to, *inter alia*, provide for the taking of measures and making of strategic decisions in all spheres of life in order to ensure gender equity, equality and integration of both sexes in society; prohibit harassment, victimisation and harmful social, cultural and religious practices; and provide for the elimination of all forms of discrimination against women, empower women and achieve gender equity and equality.

The Committee, therefore, recommends better implementation of the Act to have a far-reaching effect.

- (x) The Committee observes that the provision of shelters and places of safety was key in ensuring the safety of victims especially in cases involving intimate partner crimes where the victims occupies the same residence with the perpetrator. There is need to ensure that the existing shelters for victims of gender-based violence comply with the provisions of the *Anti-Gender Based Violence Act, No. 1 of 2011*.

The Committee, therefore, recommend that the Zambia Police Service should collaborate with the Ministry of Community Development and Social Services in the identification of places of safety and/or shelters for gender-based violence victims and provide for the victims' temporary basic requirements, counselling, educational needs, reintegration and rehabilitation.

- (xi) With regard to the withdrawal of cases on the basis of possible imprisonment of a perpetrator who is a bread winner, the Committee

recommends that there is no law in place that restricts the withdrawal of gender-based violence cases by victims.

The Committee recommends that the *Anti-Gender Based Violence Act, No. 1 of 2011* which does not proscribe the withdrawal of cases by victims should be amended to restrict the withdrawal of cases.

Further, the Committee recommends the effective implementation of the National Gender Based Violence Dash Board which is supposed to provide up to date information on referral pathways for each district in Zambia in order to enhance coordination on the prevention and response to gender-based violence, especially with regard to withdrawal of cases.

9.0 CONCLUSION

The Committee noted that the Government had put in place measures to manage and dispose of reported gender-based violence cases as evidenced by the establishment of One-Stop-Centres in health facilities to provide all the multi-disciplinary services required by victims of gender-based violence as well as the establishment of gender-based violence fast-track courts to ensure quick disposal of cases. However, the audit concluded that the interventions had not been effective in the management and disposal of reported gender-based violence cases in a timely manner.

The Committee was of the view that in order to effectively prevent and respond to gender-based violence, there was need for a comprehensive provision of services which was multi-disciplinary. Further, there was need to enhance the social, cultural and economic protection of victims. In particular, there was need to operationalise the Gender Based Violence Committee and strengthen the Gender Division to ensure that it effectively carried out what was the mandate of the Ministry of Gender as outlined in the *Anti-Gender Based Violence Act, No. 1 of 2011*. The Committee was also aware that understanding the causes of gender-based violence and its contributing factors, which often also served as barriers to effective prevention and response, was a starting point to completely combating gender-based violence.

The Committee is grateful to you, Mr Speaker, and to the Clerk of the National Assembly for the guidance and support rendered to it during the consideration of the Report of the Report on the Performance Audit Report of the Auditor Gender on the Management and Disposal of Gender Based Violence Cases in Zambia, for the period 2017 to 2020, for the First Session of the Thirteenth National Assembly.

The Committee is also indebted to all the witnesses who appeared before it for their cooperation in providing the necessary memoranda and briefs.



Harry S K Kamboni, MP
CHAIRPERSON

July, 2022
Lusaka

APPENDIX I - List of National Assembly Officials

Mr Francis Nabulyato, Acting Principal Clerk of Committees (SC)

Mrs Chitalu K Mumba, Acting Deputy Principal Clerk of Committees (SC)

Mr Charles Chishimba, Acting Senior Committee Clerk (FC)

Ms Betty P Zulu, Committee Clerk

Ms Annette Maluwa, Personal Secretary II

Mr Danny Lupiya, Committee Assistant

APPENDIX II – List of Witnesses

OFFICE OF THE AUDITOR GENERAL

Mr E Tembo, Director – Specialised Audits
Ms C Chituta, Principal Auditor
Ms T M Chilongo, Auditor
Mr A Mweemba, Auditor

NATIONAL PROSECUTION AUTHORITY

Ms C M Hambayi, Deputy Chief State Advocate

JUDICIARY

Mr I Eduma, Constitutional Court Registrar
Mr D Makalicha, Chief Resident Magistrate
Ms A N Chisanga, High Court/Commercial Court Registrar
Mr S Nyimbiri, District Registrar – Lusaka High Court

ZAMBIA LAW DEVELOPMENT AGENCY

Ms H M N Chanda, Director
Ms M Chikwanda, Research Officer
Ms N Munalula, Information Officer

NON-GOVERNMENTAL GENDER ORGANISATIONS COORDINATING COUNCIL

Ms A M Anamela, Executive Director
Ms M Imasiku, Coordinator – Institutional Strengthening and Policy Unit
Mr W Mulobela, Coordinator – Communication, Advocacy and Networking Unit
Ms L Mulenga, Legal Assistant (Women and Law in Southern Africa)

NATIONAL LEGAL AID CLINIC FOR WOMEN

Ms Mandy Manda, Executive Director
Ms M Mutupa, Deputy Executive Director
Ms C Jere, Senior Legal Officer

MINISTRY OF JUSTICE

Mr S I Choonga, Parliamentary Council

MINISTRY OF HEALTH

Dr C Sichone, Director – Health Policy

MINISTRY OF COMMUNITY DEVELOPMENT AND SOCIAL SERVICES

Ms A C Kawandami, Permanent Secretary
Mr P H Choolwe, Acting Director – Planning
Mr K Mumba, Director – Social Welfare

Ms S Musonda, Parliamentary Liaison Officer

GENDER DIVISION

Ms M Kabika, Permanent Secretary

Mr A Habweza, Head – Planning and Information Department

Ms M Mondoloka, Senior Planner

ACTION AID ZAMBIA

Mr M Kabinga, Head of Programmes

Ms T Chamunorwa, Programme Manager

Mr H Kambwa, Communications

Mr J C Chisha, Monitoring, Evaluation and Learning Officer

HUMAN RIGHTS COMMISSION

Mrs K K Nkombo, Deputy Director

Mr J Mulemwa, Legal Counsel

ZAMBIA POLICE SERVICE

Mr M Muyambango, Deputy Inspector General – Operations

Mr K Mumbi, Deputy Director – Community Services Directorate

Mr N Nyirongo, Investigations Officer – Victim Support Unit