



APRM COUNTRY REVIEW REPORT NO.16 | REPUBLIC OF ZAMBIA | JANUARY 2013



# AFRICAN PEER REVIEW MECHANISM



## APRM COUNTRY REVIEW REPORT NO. 16 REPUBLIC OF ZAMBIA

JANUARY 2013



## Foreword

It gives me great pleasure to present the APRM Country Review Report together with the National Programme of Action (NPoA) of the Republic of Zambia. This is the sixteenth report in the series and the first one to have been completed under my stewardship as Chairperson of the African Peer Review Forum (APR Forum).

The Report highlights commendable practices, among which is the consolidation of democracy which is reflected in Zambia's entrenchment of peaceful and credible electoral processes which have repeatedly and successfully yielded democratic alternation. Zambia's steadfast support for the liberation movements in southern Africa and the struggle against Apartheid remain today highly commendable practices, especially when considered against the high toll taken on its development initiatives. There are other commendable practices of which Zambia can be justly proud. In the area of social services, for example, its practice of transparency addressing breaches of children's rights is gaining strength and its cash transfer scheme for catering for widows, the aged and disabled is growing in the effective provision of basic social protection.

The task ahead now involves the implementation of the National Programme of Action (NPoA). I, therefore, call upon the APRM stakeholders to carefully study this Report and the accompanying NPoA, and collaborate with the Government and people of the Republic of Zambia in the implementation of the NPoA.

I would like to thank the Government and people of the Republic of Zambia for this remarkable achievement. I extend my appreciation to my peers in the APR Forum for demonstrating their determination to propel the APRM enterprise from success to success.

I am also grateful to the APR Panel of Eminent Persons and the APRM Secretariat, as well as the team that reviewed Zambia, for producing this quality Country Review Report.

**Ellen Johnson Sirleaf**  
**President of Liberia & Chairperson of the APR Forum**



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## ACKNOWLEDGEMENTS

The APRM Panel of Eminent Persons is proud to produce the Republic of Zambia Country Review Report, the 16<sup>th</sup> in the series.

The Panel wishes to thank His Excellency Mr. Michael Sata, President of the Republic of Zambia and his predecessor, Mr. Rupiah Banda, for their commitment to the APRM process, and for giving the necessary support to the Country Review Mission to undertake an independent assessment of the Country Self Assessment Report and the National Plan of Action.

The Panel would also like to thank the 30-member APRM National Governing Council led by Ms. Lucy Muyoyeta, which undertook the country self-assessment process. Our gratitude goes to Mr. George Kunda, the former APR Focal Point for Zambia and his staff, namely Mrs. Gertrude Imbwae (former Permanent Secretary), Mrs. Maria Kawimbe, Mr. Morgan Mukwasa, Mr. Vanny Hampondela and other members of the Secretariat, for facilitating both the Support and Country Review Missions. The current Focal Point, His Honour, Mr. Wynter M. Kabimba ODS, SC, and Permanent Secretary in the Ministry of Justice, Mr. Josephs R. Akafumba are greatly thanked for committing themselves for the final review of Zambia. The former Focal Point, Mr. Sebastian Zulu and former the Permanent Secretary in the Ministry of Justice, Mrs. Mbololwa W. Muyaba all equally deserve special thanks for their commitment to the APRM process in Zambia.

The APR Panel extends its gratitude to all the stakeholders with whom they interacted during the Country Review Mission (CRM). These included representatives and officials of various institutions that deal with governance, including the Cabinet, the Judiciary and the Attorney General, the National Assembly, Internal Revenue Authority, Auditor General, the Central Bank, and the Anti-Corruption Commission. We further thank the non-state stakeholder groups, including private sector representatives, academia, civil society organisations, the trade unions, women's groups, community leaders, and political parties whose representatives met with the CRM. Additionally, the Panel thanks all the people of Zambia for their effective participation in the review exercise.

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Source: United Nations, July 2000.







## ZAMBIA FACT SHEET

Location	A Southern Africa land-locked country, Zambia is bordered by Angola to the West, Democratic Republic of the Congo and Tanzania to the North, Malawi and Mozambique to the East, Zimbabwe, Botswana to the South, and Namibia to the South West.
Total Area	Total:752,618sqkm Land:743,398sqkm Water: 9,220 sq km
Independence:	Zambia gained her independence from Britain on 24th October 1964
Constitution	Zambia has had four Constitutions: The Independence Constitution of 1964, the One-Party Constitution of 1973, the Reintroduction of Multiparty System Constitution of 1991; the 1996 Constitution. The 2010 Constitution Bill was being debated at the time of the CRM in Zambia.
Executive	Chief of State: President Michael Sata (since 23 September 2011); Vice President Dr. Guy Scott (since 29 September 2011); the president is both Chief of State and Head of Government Head of Government: President Michael Sata (since 23 September 2011); Vice President Dr. Guy Scott (since 29 September 2011) Cabinet: The Cabinet is appointed by the President from among the members of the National Assembly
Parliament	A unicameral legislative body, the National Assembly comprises 158 seats; 150 members elected by popular vote and 8 members appointed by the president, to serve five-year terms). The last elections were held on 20th September 2011.
Judiciary	Supreme Court (the final court of appeal); justices are appointed by the President on the recommendation of the Judicial Service Commission subject to ratification by the National Assembly. High Court (has unlimited jurisdiction to hear civil and criminal cases).
Elections	President elected by popular vote for a five-year term (eligible for a second term); election last held on 20 September 2011.





Administration	Zambia has 10 provinces; Central, Copperbelt, Eastern, Luapula, Lusaka, Northern, North-Western, Southern, Western and Muchinga. Zambia has a centralised administrative structure from the colonial era and is divided into provinces and districts. The President is the Head of Government and State.
Ethnic groups	99.5% African which includes Bemba, Tonga, Chewa, Lozi, Nsenga, Tumbuka, Ngoni, Lala, Kaonde, Lunda, and other African groups, The other 0.5% includes Europeans, Asians, and Americans.
Religions	Christian 50%-75%, Muslim and Hindu 24%-49%, indigenous beliefs 1%
Languages	Bemba 30.1% (official), Nyanja 10.7% (official), Tonga 10.6% (official), Lozi 5.7% (official), Chewa 4.9%, Nsenga 3.4%, Tumbuka 2.5%, Lunda 2.2% (official), Kaonde 2% (official), Lala 2%, Luvale 1.7% (official), English 1.7% (official), other 22.5%
Literacy	Age 15 and over that can read and write English Total population: 80.6% Male: 86.8% Youth female (% of female ages 15-24) 67.5%
Natural Resources:	Copper, cobalt, zinc, lead, coal, emeralds, gold, silver, uranium, hydropower
Exports and Export partners	Exports: Copper/cobalt 64%, cobalt, electricity, tobacco, flowers and cotton. Export partners: China 21.37%, Saudi Arabia 8.93%, Democratic Republic of the Congo 8.55%, South Korea 8.32%, Egypt 8.08%, South Africa 6.96%, India 5% (2009)
Imports and Import partners	Imports: Machinery, transport equipment, petroleum products, fertilisers, foodstuffs, clothing. Import partners: South Africa 51.78%, UAE 7.7%, China 5.85%, Democratic Republic of the Congo 4.22% (2009)
Industry	Copper mining and processing, construction, foodstuffs, beverages, chemicals, textiles, fertiliser, horticulture





Agricultural products	Corn, sorghum, rice, peanuts, sunflower seed, vegetables, flowers, tobacco, cotton, sugarcane, cassava (tapioca), coffee; cattle, goats, pigs, poultry, milk, eggs, hides
Land use	Arable land: 6.99% Permanent crops: 0.04% Other: 92.97% (2005) Irrigated land: 1,560 sq km
Exchange Rate 2011	1 USD = 4 785 Kwacha

Sources: Central Statistical Office, United Nations Development Programme, World Development Indicators (2009), CIA World Fact Book available at <https://www.cia.gov/library/publications/the-world-factbook/geos/za.html>

**Table 1: Socio-Economic Indicators**

GDP (purchasing power parity):	USD20.03 billion (2010 est.)
GDP (official exchange rate):	USD15.69 billion (2010 est.)
GDP - real growth rate:	7% (2010 est.)
GDP - per capita (PPP)	USD1, 500 (2010 est.)
GDP - composition by sector:	Agriculture: 19.7% Industry: 33.7% Services: 46.6% (2010 est.)
Labour force:	5.524 million (2010 est.)
Labour force - by occupation:	Agriculture: 85% Industry: 6% Services: 9% (2004)
Unemployment rate:	7.9 (2008 Labour survey)
Population below poverty line:	60.5% (2010)
Household income or consumption by percentage share:	Lowest 10%: 1.2% Highest 10%: 38.8% (2004)
Distribution of family income - Gini index:	50.8 (2004)
Investment (gross fixed):	20.5% of GDP (2010 est.)
Budget:	Revenues: USD3.2 billion Expenditures: USD3.743 billion (2010 est.)





Public debt:	24.1% of GDP (2010 est.)
Inflation rate (consumer prices):	8.5% (2010 est.)
Central bank Discount rate	8.39% (31 December 2009)
Commercial bank prime lending rate:	22.06% (31 December 2009 est.)
Stock of narrow money:	USD1.234 billion (31 December 2010 est.)
Stock of broad money:	USD3.573 billion (31 December 2010 est.)
Stock of domestic credit:	USD2.992 billion (31 December 2010 est.)
Population	Total population (millions): 12.9 (2009) Life expectancy at birth: 45.4 years. Population growth rate: 2.5% Mortality rate, infant (per 1,00 live births) 86.3
Urbanisation:	Urban population: 35% of total population.

Sources: Bank of Zambia and CIA World Fact Book

**Table 2: Gross Domestic Product, 2005-2010**

KIND OF ECONOMIC ACTIVITY	2005	2006	2007	2008	2009	2010
Gross Domestic Product at Current Prices, 2005 2010 (K' Billion)	32,041.510	38,560.8	46,194.8	54,839.4	64,615.6	77,666.6
Gross Domestic Product at Constant Prices, 2005 2010 (K' Billion)	3,159.5	3,356.1	3,564.0	3,766.5	4,007.7	4,313.0
Per Capita GDP at Current Prices	2,800,474	3,268,231	3,798,753	4,378,122	5,010,191	5,953,056
Per Capita GDP at Current Prices	276,141	284,450	293,079	300,699	310,748	330,590





Real GDP Growth Rate (%)	5.3	6.2	6.2	5.7	6.4	7.6
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SECTORAL CONTRIBUTION TO GDP AT CONSTANT 1994 PRICES

SECTOR	2005	2006	2007	2008	2009	2010
Agriculture, Forestry And Fishing (K'billion)	448.3	458.2	460.2	472.0	506.1	539.5
Percentage	14.2	13.7	12.9	12.5	12.6	12.5
Mining And Quarrying (K'billion)	270.8	290.6	301.2	308.7	371.3	427.7
Percentage	8.6	8.7	8.5	8.2	9.3	9.9
Manufacturing (K'billion)	335.3	354.6	365.2	371.7	380.1	396.0
Percentage	10.6	10.6	10.2	9.9	9.5	9.2
Construction (K'billion)	287.3	328.7	394.4	428.5	469.4	507.4
Percentage	9.1	9.8	11.1	11.4	11.7	11.8
Wholesale And Retail Trade (K'billion)	576.7	588.1	602.4	618.5	632.9	659.6
Percentage	18.3	17.5	16.9	16.4	15.8	15.3

Source: Central Statistical Office, 2010

**Table 3: Progress in Attainment of the Millennium Development Goals**

	1990	1995	2000	2009
<b>Goal 1: Eradicate extreme poverty and hunger</b>				
Employment to population ratio, 15+, total (%)	57	58	61	61
Employment to population ratio, ages 15-24, total (%)	40	42	46	46
Income share held by lowest 20%	0.7	4.2	3.3	..
Malnutrition prevalence, weight for age (% of children under 5)	21.2	19.6	19.6	14.9
Poverty gap at USD1.25 a day (PPP) (%)	40	29	27	..



	1990	1995	2000	2009
Poverty headcount ratio at USD1.25 a day (PPP) (% of population)	63	62	55	..
Prevalence of undernourishment (% of population)	35	38	43	43
Vulnerable employment, total (% of total employment)	65	78	81	..
<b>Goal 2: Achieve universal primary education</b>				
Literacy rate, youth female (% of females ages 15-24)	..	..	66	68
Literacy rate, youth male (% of males ages 15-24)	..	..	73	82
Persistence to last grade of primary, total (% of cohort)	..	..	87	79
Primary completion rate, total (% of relevant age group)	..	..	61	93
Total enrolment, primary (% net)	..	75	69	97
<b>Goal 3: Promote gender equality and empower women</b>				
Proportion of seats held by women in national parliaments (%)	7	10	10	15
Ratio of female to male primary enrolment (%)	..	92	93	98
Ratio of female to male secondary enrolment (%)	..	..	81	83
Ratio of female to male tertiary enrolment (%)	..	..	46	..
Share of women employed in the non-agricultural sector (% of total non-agricultural employment)	16.6	..	33.7	..
<b>Goal 4: Reduce child mortality</b>				
Immunisation, measles (% of children ages 12-23 months)	90	86	85	85
Mortality rate, infant (per 1,000 live births)	108	105	99	86
Mortality rate, under-5 (per 1,000)	179	176	166	141







	1990	1995	2000	2009
<b>Goal 5: Improve maternal health</b>				
Adolescent fertility rate (births per 1,000 women ages 15-19)	..	..	152	139
Births attended by skilled health staff (% of total)	51	47	47	47
Contraceptive prevalence (% of women ages 15-49)	15	26	22	41
Maternal mortality ratio (modelled estimate, per 100,000 live births)	390	490	600	470
Pregnant women receiving prenatal care (%)	92	96	93	94
Unmet need for contraception (% of married women ages 15-49)	31	27	13	27
<b>Goal 6: Combat HIV/AIDS, malaria, and other diseases</b>				
Children with fever receiving anti-malaria drugs (% of children under age 5 with fever)	..	..	58	43
Condom use, population ages 15-24, female (% of females ages 15-24)	..	11	17	17
Condom use, population ages 15-24, male (% of males ages 15-24)	..	34	36	39
Incidence of tuberculosis (per 100,000 people)	300	540	600	470
Prevalence of HIV, female (% ages 15-24)	..	..	..	11.3
Prevalence of HIV, male (% ages 15-24)	..	..	..	4
Prevalence of HIV, total (% of population ages 15-49)	8.9	16.3	15.5	15.2
Tuberculosis case detection rate (all forms)	72	74	79	74



	1990	1995	2000	2009
<b>Goal 7: Ensure environmental sustainability</b>				
CO2 emissions (kg per PPP USD of GDP)	0.4	0.3	0.2	0.2
CO2 emissions (metric tons per capita)	0.3	0.2	0.2	0.2
Forest area (% of land area)	66	63	60	56
Improved sanitation facilities (% of population with access)	46	47	47	49
Improved water source (% of population with access)	49	51	54	60
Marine protected areas (% of total surface area)	..	..	..	0
Terrestrial protected areas (% of total surface area)	..	..	..	41.1
<b>Goal 8: Develop a global partnership for development</b>				
Debt service (PPG and IMF only, % of exports, excluding workers' remittances)	15	18	16	1
Internet users (per 100 people)	0.0	0.0	0.2	5.5
Mobile cellular subscriptions (per 100 people)	0	0	1	28
Net ODA received per capita (current USD)	60	223	76	86
Telephone lines (per 100 people)	1	1	1	1
<b>Other</b>				
Fertility rate, total (births per woman)	6.5	6.2	6.2	5.8
GNI per capita, Atlas method (current USD)	440	340	300	970
GNI, Atlas method (current USD) (billions)	3.5	3.1	3.1	12.6
Gross capital formation (% of GDP)	17.3	15.9	17.4	19.7
Life expectancy at birth, total (years)	51	47	42	45
Literacy rate, adult total (% of people ages 15 and above)	65	..	68	71
Population, total (millions)	7.9	9.1	10.5	12.9





	1990	1995	2000	2009
Trade (% of GDP)	72	75.8	68.6	60.9

Source: World Development Indicators database, 2010.

**Table 4: Proportion of Men and Women in Decision-making Positions in the Public Sector (2008)**

Decision Making Position	Women	Men	Percentage of Women	Total
1. President of the Republic of Zambia	0	1	0	1
2. Vice President of the Republic of Zambia	0	1	0	1
3. Cabinet Ministers	5	21	19.23	26
4. Deputy Ministers	6	38	13.6	44
5. Members of Parliament	24	134	15.1	158
6. Chief Justice	0	1	0	1
7. Deputy Chief Justice	1	0	100	
8. Secretary to the Cabinet	0	1	0	1
9. Speaker of the National Assembly	0	1	0	1
10. Deputy Speaker of the National Assembly	1	0	100	1
11. Auditor-General	1	0	100	1
12. Clerk of National Assembly	1	0	100	1
13. Deputy Secretary to the Cabinet	0	2	0	2
14. Secretary to the Treasury	0	1	0	1
15. Permanent Secretaries	7	36	16.2	43
16. Special Assistants to the President	1	3	25	4
17. Deputy Permanent Secretaries	2	22	8.33	24
18. Directors	23	77	23	100
19. Deputy Directors	13	58	18	71
20. Assistant Directors	37	140	20	177
21. Assistant Secretaries	11	24	31.4	35
22. District Commissioners	11	57	16.17	68





23. Human Rights Commission	2	5	28.57	7
24. Anti-Corruption	2	3	40	5
25. Public Service Commission	1	5	20	6
26. Teaching Service Commission	0	4	0	4
27. Police and Prisons Commission	1	6	16.5	7
28. Electoral Commission of Zambia	2	6	33	8
29. Commission for Investigation	1	0	100	1

Source: Cabinet Office, 2008.

## ABBREVIATIONS AND ACRONYMS

<b>ACC</b>	Anti-Corruption Commission
<b>AHF</b>	Africa Housing Fund
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>APRM</b>	African Peer Review Mechanism
<b>AU</b>	African Union
<b>BOD</b>	Board of Directors
<b>BOZ</b>	Bank of Zambia
<b>CAZ</b>	Communications Authority of Zambia
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination Against Women
<b>CEEC</b>	Citizens Economic Empowerment Commission
<b>CG</b>	Corporate Governance
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CRM</b>	Country Review Mission
<b>CRT</b>	Country Review Team
<b>CSAR</b>	Country Self Assessment Report
<b>CSEN</b>	Children with Special Needs
<b>CUTS – ZRC</b>	Consumer Unity Trust Society – Zambia Resource Centre
<b>CWDs</b>	Children With Disabilities





<b>DDCCs</b>	District Development Coordination Committees
<b>DEMCs</b>	District Educational Management Committees
<b>DIP</b>	Decentralisation Implementation Plan
<b>DPG</b>	Democracy and Political Governance
<b>DPP</b>	Director of Public Prosecutions
<b>DRC</b>	Democratic Republic of Congo
<b>EAC</b>	East African Community
<b>ECZ</b>	Environmental Council of Zambia
<b>EGM</b>	Economic Governance and Management
<b>ESAAMLG</b>	Eastern and Southern African Anti Money Laundering Group
<b>ESSP</b>	Education Sector Strategic Plan
<b>FATF</b>	Financial Action Task Force
<b>FNDP</b>	Fifth National Development Plan
<b>FTA</b>	Free Trade Area
<b>GBV</b>	Gender Based Violence
<b>GDP</b>	Gross National Product
<b>GIDD</b>	Gender in Development Division
<b>GIDD</b>	Gender in Development Division
<b>GPI</b>	Gender Parity Index
<b>GRZ</b>	Government of the Republic of Zambia
<b>HIPC</b>	Heavily Indebted Poor Countries
<b>HIV</b>	Human Immunodeficiency Virus
<b>HRC</b>	Human Rights Commission
<b>IAS</b>	International Accounting Standards
<b>ICs</b>	Integrity Committees
<b>IFMS</b>	Integrated Financial Management Systems
<b>ILO</b>	International Labour Office
<b>IMF</b>	International Monetary Fund
<b>IOD</b>	Institute of Directors
<b>ISA</b>	International Standards on Auditing
<b>ISL</b>	“in situ leaching”
<b>ISP</b>	Internet Service Provider





<b>ITN</b>	Insecticide-treated net
<b>KCM</b>	Konkola Copper Mines
<b>Las</b>	Local Authorities
<b>LuSE</b>	Lusaka Stock Exchange
<b>MDGs</b>	Millennium Development Goals
<b>MDRI</b>	Multilateral Debt Relief Initiative
<b>MMD</b>	Movement for Multiparty Democracy
<b>MoE</b>	Ministry of Education
<b>MOFNP</b>	Ministry of Finance and National Planning
<b>MOU</b>	Memorandum of Understanding
<b>MPSAs</b>	Ministries, Provinces and Spending Agencies
<b>MSMEs</b>	Micro, Small and Medium Enterprises
<b>MSTVT</b>	Ministry of Science, Technology and Vocational Training
<b>MSYCD</b>	Ministry of Sport, Youth and Child Development
<b>MTEF</b>	Medium-Term Expenditure Framework
<b>NAM</b>	Non-Aligned movement
<b>NBF</b>	National Banking Financial Institutions
<b>NBS</b>	National Bureau of Standards
<b>NDP</b>	National Decentralisation Policy
<b>NEPAD</b>	New Partnership for African Development
<b>NER</b>	Net Enrolment Ratio
<b>NGOs</b>	Non Governmental Organisations
<b>NPOA</b>	National Programme of Action
<b>NWP</b>	North Western Province
<b>OAG</b>	Office of the Auditor General
<b>ODA</b>	Official Development Aid
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OSBP</b>	One Stop Border Post
<b>PACRO</b>	Patents and Companies Registration office
<b>PEMCCs</b>	Provincial Education Management Committees
<b>PEMFA</b>	Public Expenditure Management and Financial Accountability
<b>PEPFAR</b>	President's Emergency Plan for AIDS Relief







<b>PF</b>	Patriotic Front
<b>PPP</b>	Private-Public Partnership
<b>PRSP</b>	Poverty Reduction Strategy Paper
<b>PSRP</b>	Public Sector Reform Programme
<b>PTC</b>	Posts and Telecommunications Corporation
<b>PWDs</b>	Persons with Disabilities
<b>RECs</b>	Regional Economic Communities
<b>RED</b>	Reaching Every District
<b>SADC</b>	Southern African Development Community
<b>SAGs</b>	Sector Advisory Groups
<b>SAP</b>	Structural Adjustment Programme
<b>SCTS</b>	Social Cash Transfer Scheme
<b>SEC</b>	Securities and Exchange Commission
<b>SGBV</b>	Sexual and Gender Based Violence
<b>SMEs</b>	Small to Medium Enterprises
<b>SNDP</b>	Sixth National Development Plan
<b>TEVETA</b>	Technical Educational, Vocational and Entrepreneurship Training Authority
<b>TNDP</b>	Transitional National Development Plan
<b>UN</b>	United Nations
<b>UNCAC</b>	UN Convention against Corruption
<b>UNICEF</b>	United Nations Children Fund
<b>UPND</b>	United Party for National Development
<b>WRAP</b>	Water Resources Action Programme
<b>WTO</b>	World Trade Organisation
<b>YCFS</b>	Youth Constituency Fund Scheme
<b>YEPF</b>	Youth Enterprise Promotion Fund
<b>ZACA</b>	Zambia Consumers Association
<b>ZAMPOST</b>	Zambia Postal Services Corporation
<b>ZAMTEL</b>	Zambia Telecommunications Company Limited
<b>ZANARA</b>	Zambia National Response to AIDS





<b>ZAPWD</b>	Zambian Agency for PWD
<b>ZCC</b>	Zambia Competition Commission
<b>ZFE</b>	Zambia Federation of Employers
<b>ZRA</b>	The Zambia Revenue Authority





# EXECUTIVE SUMMARY

## 1. Origins and Objectives of the African Peer Review Mechanism

1.1 The African Peer Review Mechanism (APRM) is an aspect of the New Partnership for Africa's Development (NEPAD). It is a voluntary instrument for the self-assessment and monitoring of governance by member countries of the African Union (AU) that have acceded to the process. Each country conducts its own assessments of the political, economic, and corporate governance policies, the institutions, and practices, as well as the attainment of social and economic development imperatives. The self-assessment forms the basis for peer review by participating countries. The peer review is meant to ascertain improvements and progress made by the country towards achieving mutually-agreed goals and values, and standards and codes that are outlined in the Declaration on Democracy, Political, Economic and Corporate Governance.

1.2 The APRM was adopted through a memorandum of understanding signed at the Sixth Summit of the Heads of State and Government Implementing Committee (HSGIC) of NEPAD held in March 2003 in Abuja, Nigeria. Its functioning is facilitated by a Panel of Eminent Persons (APR Panel), consisting of representatives from the five sub-regions of Africa. The purpose of the APR Panel is to ensure the integrity and professionalism of the review process. The Panel is assisted by the APRM Continental Secretariat, an executive agency that coordinates the entire process.

1.3 There are currently 30 countries that have signed up for the APRM. The current report is the fifteenth in the series.

## 2. Implementation of the APRM in Zambia

2.1 Zambia acceded to the African Peer Review Mechanism (APRM) on 22 January, 2006 at the African Union (AU) Summit held in Khartoum, Sudan. The untimely death of the President, and the holding of presidential by-elections somewhat delayed the country's self-assessment. However, Zambia's commitment was steadfast with the confirmation of the Ministry of Justice (MoJ) as the Focal Point Institution. Zambia received and hosted the APRM Country Support Mission which was led by Dr. Graca Machel, the member of the Panel of Eminent Persons, from the 23<sup>rd</sup> to the 25<sup>th</sup> of February 2009. During this mission, a Memorandum of Understanding on Technical Assessment and the Country Review Process was signed by the Government and the APR Panel. The Minister of Justice, Honourable George Kunda launched the APRM process in Zambia on 8 July 2007.

2.2 A 47-member National Governing Council (NGC) was appointed but this was later reduced to 30 members following the recommendations of the Country Support Mission. The NGC developed a communication strategy and carried out country-wide sensitisation and awareness campaigns in 2009. The NGC contracted three Technical Research Institutions (TRIs) and an individual consultant to collect material for the Country Self-Assessment Report (CSAR) and National Plan Action (NPOA). However, the completion of the CSAR was delayed due to resource constraints, and other implementation challenges such as the translation of technical concepts like money laundering and corporate governance into local





languages, and the fact that the surveys and preparation of thematic reports took a much longer period than expected. Both the CSAR and NPOA were validated in most provinces and the two documents were submitted to the APRM Secretariat in October 2010.

- 2.3 The Country Review Mission (CRM) was from 7th to 25th February 2011. It was led by Prof. Amos Sawyer, and comprised individual African experts in the four thematic areas of APRM and others from strategic partners, namely, the United Nations Development Programme (UNDP), United Nations Economic for Africa (UNECA) and African Development Bank, under the coordination of officers from the APRM Continental Secretariat.
- 2.4 The main objective of the CRM was to consult with all stakeholders; review the CSAR and draft NPOA; ascertain that the assessment process was technically competent and credible; establish consensus with stakeholders on the issues and challenges; and make appropriate recommendations that could improve governance in the country.
- 2.5 The launch of CRM involved an audience of the country review team with His Excellency, President Rupiah Banda. The President welcomed the CRM and pledged commitment to the APRM Principles of Governance. Prof Amos Sawyer appreciated the hospitality accorded to the team, and promised to carry out the review with professionalism and objectivity. During visits, the team employed its expertise for, and interacted with, all groups of stakeholders, including the members of the government, Parliament, political parties, the private sector, civil society organisations, trade unions, women's groups, youth groups, community leaders, and academia, among others.
- 2.6 The CRM consultations started in the capital, Lusaka, after which the team was divided into two groups. One group visited the following provinces: North-western (Kolwezi), Copperbelt (Ndola), Western (Mongu), and Southern (Livingstone). The other covered the provinces of Laupula (Kasama), Northern (Mansa), Central (Kabwe), and Eastern (Chipata).
- 2.7 The participation in the stakeholder consultations was generally inclusive, even though the representatives of the government were numerically dominant, and the private sector tended to be under-represented. Knowledge of the APRM process and appreciation of its value were uneven. Nevertheless, the CRM was able to discuss the critical issues in the CSAR and gained additional insights that inform the current report. The CRM also had access to other reports and documents provided by stakeholders.

### **3. Country Background**

#### **3.1 Political History**

- 3.1.1 Zambia's modern history may be traced to the establishment in 1891 of Cecil Rhodes' British South African Company (BSA), which was attracted to the region by mineral prospects and cheap labour for the mines and factories it had established in South Africa and Southern Rhodesia (now Zimbabwe). The territory became a protectorate of the United Kingdom in 1924. Mining





and associated activities promoted economic growth that led to significant urbanisation fuelled by the migration of workers from both within and outside the territory, especially to the Copperbelt province. From 1953 to 1963 Northern Rhodesia, together with Southern Rhodesia and Nyasaland constituted the Central African Federation. The Federation was dissolved in 1963 and Zambia gained political independence on 24th of October 1964.

- 3.1.2 The political history of Zambia was significantly influenced by the urbanisation that accompanied mining. The nationalist movement that agitated for independence was urbanised and started around the mid-1930s when African workers started strikes against unfair taxes. The first African Mineworkers Union was formed in 1948. By the end of the 1940s, the Northern Rhodesia African Nationalist Congress, led by Harry Nkumbula, had been formed out of various Welfare Associations initiated by the 'mission graduates' of the pre-war decades. The Federation of Rhodesia and Nyasaland was a further catalyst for political activism. The relative marginalisation of Northern Rhodesia during the federation encouraged the emergence of young dynamic nationalists, leading to the formation of the Zambia African National Congress (ZANC), and the African National Independence Party (ANIP), which was later renamed the United National Independence Party (UNIP). Dr. Kenneth David Kaunda led the new party UNIP that campaigned for independence.
- 3.13 Soon after independence there were signs of political unrest especially from the religious sect led by Alice Lenshina, who did not recognise the secular state. Kaunda was re-elected unopposed as President in the 1968 multi-party elections. However, the political situation was tense due to deep divisions between the ruling party, UNIP, and the ANC of Harry Mwaanga Nkumbula who had huge support in the Southern and Western provinces. Another source of internal political conflict was the government's abrogation in 1969 of the 1964 Barotseland Agreement. This was ostensibly because of the imperative of national unity and because government wanted to ensure the nationwide application of uniform and harmonised local government policies. The agreement had secured preferential powers for the Litunga of Barotseland in the administration of land in the Western province. Zambia was surrounded by hostile colonial and minority regimes that opposed African nationalism, which Zambia supported, and that posed serious security threats to the newly independent country. Notably, Zambia was significantly dependent on Southern Rhodesia for energy and trade.
- 3.14 President Kaunda abolished multiparty democracy and opted for a one-party state in 1973. This was justified as a necessity to fight tribalism, regionalism, religious differences and factionalism, and promote national unity. The one-party state, with UNIP being the ruling party, established a centralised presidential system with a unicameral National Assembly. Dr. Kaunda was re-elected unopposed in 1973, 1978, 1983 and 1988. However, internal political tensions escalated when a group of Zambian businessmen, lawyers, military officers and a High Court judge, with the assistance of Congolese nationals, plotted to overthrow Kaunda by unlawful means in 1980. The coup attempt was thwarted by the government.





- 3.15 Deepening political crisis and accelerated economic decline during the decade from 1980 made for a fertile ground for political changes. Kaunda had to concede to the demands for political change and the multi-party democracy was reintroduced in 1991. The Movement for Multiparty Democracy (MMD) led by Dr. Frederick Chiluba defeated Kaunda's UNIP at the polls. It is noteworthy that Zambia provided a pioneering African model for a peaceful transition from one-party to multi-party electoral democracy. Even more impressive was the fact that this was more than two years before the end of UNIP's legitimate term of office. The election had also been transparent, free and fair.
- 3.16 However, the economy was in a very bad state. The new government of Dr. Frederick Chiluba inherited an empty treasury, with foreign debt of seven billion US dollars, and an inefficient and unproductive economy. Chiluba promised a democratic, transparent and accountable style of governance. The role of civil society became more pronounced and political parties proliferated; there are currently 33 registered political parties. Nevertheless, only two of these, the Patriotic Front (PF) and the United Party for National Development (UPND), appear to be strong enough to actually challenge the status quo. Thus, despite political liberalisation, the MMD has continued to be Zambia's ruling and dominant political party for two decades. Indeed, it is alleged that electoral manipulation and political patronage by the ruling party are the reasons behind the MMD's long reign since 1991.
- 3.17 The last elections were held on 20<sup>th</sup> September 2011, and Mr. Michael Sata, leader Zambia's opposition party, the Patriotic Front (PF) won Zambia's presidential elections with 1,150,045 votes (representing 43%) while the incumbent Rupiah Banda of the Movement for Multiparty Democracy (MMD) polled 961,796 votes, (representing 36% of the votes).

## **3.2 Economic Context**

- 3.2.1 When Zambia became independent in 1964, it inherited a 'lopsided economy' which was highly dependent on one export commodity, copper. There was a very small indigenous body of staff to manage the economy, which had only two other significant industries, tobacco farming and beverage production. State-led development was championed by the UNIP government in an attempt to address the economic imbalance. During the 1960s and 1970s, the government implemented a policy of import-substitution industrialisation (ISI) in which the state entered into joint ventures with foreign corporations to establish new industries. The government utilised the high mineral revenues to make heavy investments in social and economic infrastructure, especially in roads, schools, hospitals, electricity, and telecommunications.
- 3.2.2 However, the onset of the 1973 oil crisis and the collapse of the copper price adversely affected the fiscal position of the government. In response, the government resorted to external borrowing in order to maintain consumption levels. Zambia's economic problems assumed crisis proportions in 1982 when trade credits to the country were suspended. Between 1973 and 1984, GDP in real terms declined at an average rate of 1.5 per cent per year. During the same period, GDP per capita in real terms declined by a total of 35 per cent.







- 3.2.3 Despite the economic decline, the government did not commit to economic reform, instead it opted for further administrative controls. There was, however, a gradual return to pro-market economic policies and reforms dictated by the IMF and World Bank. A more vigorous market-orientation only started in 1992 after the Chiluba's MMD took power from Kaunda's UNIP following the 1991 elections.
- 3.2.4 Sweeping and painful free-market reforms have led to a re-oriented economy, with improved economic growth during the 2000s. Real annual GDP growth averaged 4.6 per cent in the five years from 2002 to 2007 reversing the negative trend in previous years. Annual GDP growth has now exceeded 6.3 per cent. The main drivers of this growth are increased agricultural production and significant new investments in key economic sectors, especially mining. Zambia's growth has been further boosted by improved economic management, especially with respect to the budgeting process, expenditure management and financial accountability.
- 3.2.5 However, since 2008, the state of the national economy has been largely influenced by the impact of the global economic crisis. The sharp increases in food and oil prices, the collapse in the price of copper and other commodities, compounded by the global financial crisis, placed enormous pressure on state revenues and general economic performance. Households, especially the low-income groups, have been very badly affected too. This is due to, among others factors, the closure of some mines and the scaling back of economic operations and investments. The economic downturn has therefore reversed some of the gains of rapid economic growth and Zambia remains a relatively poor developing country.

### **3.3 Corporate Governance**

- 3.3.1 The concept of good corporate governance appears to be in its infancy, although both public and private enterprises are showing keen interest in advancing it. Zambia has signed a number of international instruments relating to the promotion of good corporate governance, including those dealing with financial sector supervision, human rights, labour, and environment, etc. The country has also committed to the corporate governance principles of the Organisation for Economic Corporation and Development (OECD) and of the Commonwealth. In addition, the International Accounting Standards (IAS), International Standards on Auditing (ISA), Core Principles of Effective Banking Supervision, Principles for Securities and Insurance Supervision and Regulation, Securities and Exchange Commission, the Pension and Insurance Authority and the NEPAD Framework documents have all been adopted. Furthermore, Zambia has adopted and is applying the International Financial Reporting Standards. In the environment sector, the country has adopted and is applying the Codes on Industrial and Environmental Safety.
- 3.3.2 However, the signing of the various standards and codes does not necessarily mean that many Zambians are aware of them or that they have actually been implemented. For example, recognition of human rights appears to be lacking in the corporate sector, especially with regard to the protection and promotion of labour rights; the relationships between workers and their employees





(dismissals and non-payment of pensions and gratuities); occupational safety in the mining industry; use of child labour; and environmental protection (the exemption of mining companies from following environmental protection guidelines). Consequently, the level of corporate social responsibility is also very low.

- 3.3.3 The existence of the National Bureau of Standards (NBS) and the Zambia Competition Commission (ZCC) indicates that the government desires to protect consumers. However, as with other legal measures and institutions, these are present only in form rather than in function; the existing frameworks and structures are not effective in performing their functions due to financial and human capacity constraints. It seems, therefore, that the government has a lot to do to create awareness of consumers' rights as they relate to UN standards. That would help to better inform consumers of their rights with respect to unsafe products, unsafe foodstuffs, and defective and expired pharmaceutical products. Consumer protection, though, is one area where NGOs are relatively strong.
- 3.3.4 Although the Anti-Corruption Commission was established following the adoption of the Anti Corruption Policy, critical public entities do not necessarily have functional Integrity Committees (ICs). They also do not necessarily commit to the implementation of the Codes of Ethics. Zambia therefore has significant work to do to promote good corporate governance.

#### **3.4 Social and Economic Development**

- 3.4.1 Despite recent positive economic growth, Zambia is one of the poorest countries in the world. In 2007, it had a Human Development Index (HDI) of 0.434; currently, it ranks 165 out of 177 countries. Poverty remains entrenched in Zambia and although urban poverty levels have dropped somewhat, rural poverty levels rose from 58 per cent in 2004 to 64 per cent in 2006. The sectoral characteristics of social economic development are varied and uneven.
- 3.4.2 Zambia is performing relatively well in the education sector. As of 2005, the adult literacy rate was 68 per cent compared to 42 per cent in 2004. Primary education is the area in which Zambia is most likely to meet the MDGs with a net enrolment in primary education of more than 90 per cent and with gender parity being achieved.
- 3.4.3 The health sector is also viewed as performing relatively well. However, there is a need to reduce maternal and infant mortality, which is one of the highest in the world. Performance in outcomes for malaria and tuberculosis also lags behind set Fifth National Development Plan (FNDP) targets. Despite the increase in the Ministry of Health (MoH) budget over the years, infant mortality has worsened from 95/1000 births in 2002 to 103/1000 births in 2007.
- 3.4.4 HIV prevalence rate, though declining, is still high. According to the UNAIDS *Zambia 2008 Country Progress Report*, the HIV prevalence rate among the 15-49 age group has declined to the current 14.3 per cent from 24 per cent ten years ago. The prevalence rate is higher among females than males, at 17.8 per cent and 12.6 per cent, respectively.





- 3.4.5 Donor dependence is another challenge facing Zambia. Given the country's current socio-economic challenges, the need for support from external partners cannot be over emphasised. Comparatively, the country has a relatively large number of Cooperating Partners (donors). In recent years, however, official development aid (ODA) to Zambia has shown significant fluctuations in commitments with bilateral donors assuming dominance.
- 3.4.6 Zambia progressed steadily away from nearly three decades of authoritarian one-party rule between 1973 and 1991. One consequence of democratisation has been the formulation of numerous policies and guidelines and the establishment of institutions to improve development and governance processes. Notably, civil society and non-government organisations also participate in various initiatives for social economic development.
- 3.4.7 One of the major challenges, however, is how to harmonise these progressive policies and ensure smooth coordination among the various institutions in place. The recurrent problem is that despite its many progressive policies and institutional frameworks Zambia lacks the human capacity and material resources for effective implementation and delivery and their impact on social and economic development is therefore not fully realised. Zambia therefore needs to energise and implement these progressive policies to achieve the required development levels.

#### **4. Summary of Findings in the Key Thematic Areas**

##### **4.1 Standards and Codes**

- 4.1.1 The CRM noted, crucially, that Zambia does not have a central register and depository for all the international and regional agreements that the country has committed to; details of the dates of signing, ratification, accession, and implementation were inadequate. Also lacking was a system for monitoring and evaluating implementation. There was little general knowledge amongst various stakeholders, especially non-state representatives, of the various international commitments, which was perhaps partly due to uneven and inadequate levels of domestication and public education. Reporting of the implementation of the agreements was also dismal. Zambia should, therefore, increase efforts to fulfil the country's international, regional, and national commitments and obligations by domesticating them, and by facilitating implementation through the various institutions that are available for such. It is also important to increase ordinary people's awareness of their rights and the need to hold the government accountable for its policies and their implementation. The capacity for implementation needs to be strengthened and a system established for monitoring, assessing and reporting progress. These processes should be enforced through the imposition of sanctions on institutions and individuals who refuse to comply with the standards and codes that Zambia has committed to.

##### **4.2 Democracy and Political Governance**

- 4.2.1 Zambia has been a Republic since it gained its independence in 1964. The current Constitution is the fourth and was adopted in 1996. The fifth set of major constitutional changes were being debated in the National Assembly during the time of the CRM.





- 4.2.2 The country's Chief Executive is the President, who is the Head of State and Government. The President is assisted by a Vice President and a Cabinet that he appoints from the pool of elected Members of Parliament. The President appoints the principal officers of state, including the judges, state commissioners, permanent secretaries, provincial and district commissioners, and the heads of major state agencies. As the Head of State and Government as well as the President of the ruling party, the President is pre-eminent in the governance of the entire political system. This pre-eminence is characteristic of an excessively centralised political system, in which the legislature and the judiciary appear to be subordinated to the executive. There is an entrenched system of political patronage, which is manifested in the fact that the President appoints all principal state officials, in the executive's control over the national budget, and in a general blurring of the boundaries between the state and the ruling party. The constitutional separation of powers and checks and balances are difficult to discern, and adherence to the rule of law appears to be problematic because of the absence of effective countervailing powers of the other state institutions and effective accountability mechanisms. This is due to the apparent supremacy of the executive and the concentration of powers in the office of the President.
- 4.2.3 The National Assembly consists of 150 elected Members of Parliament. The President may nominate up to eight additional members. Regular elections since independence have been held concurrently for the President, members of Parliament and the local government councils. The National Assembly performs legislative functions, and is headed by the Speaker of Parliament, who is selected by the sitting members but whose candidacy is influenced by the President. The Legislature does not have sufficient capacity and power to check the accountability of the executive branch and is largely considered to be the junior partner to the executive.
- 4.2.4 The Judiciary is headed by the Chief Justice and consists of judges who are constitutional officers and magistrates and support staff who are civil servants. The Judiciary has insufficient human capacity and inadequate budgets and is usually unable to accomplish all its planned activities or to perform as effectively as expected. The President appoints judges and determines their conditions of service. The Judicial Service Commission appears to be subordinate to the executive. The judiciary is therefore weak; it is neither independent nor capable of fully performing its functions.
- 4.2.5 Other principal state institutions, such as the various commissions and parastatal bodies, do not seem to have adequate budgets or human capacity to fully perform their stated functions. Budget uncertainties affect all state institutions making them unable to plan with certainty, fulfil their planned activities and operate efficiently and effectively. Public service delivery is therefore severely constrained. Added to this is a system of patronage appointments that seems to advance the deployment of party cadres, but misallocates human resources by disregarding qualifications, skills, experience, and competencies. This does not only lead to inappropriate placements but engenders low morale and low productivity. It also encourages a lack of accountability among public service employees and inappropriate placement of development priorities. All this contributes to public service inefficiency and ineffectiveness as well as to corruption.





- 4.2.6 Zambia has committed to a number of international and regional agreements, including those of the United Nations (UN) system, the African Union (AU), Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), etc. The country has also established various national institutions for the implementation of its international, regional, and national commitments. The treaties, conventions, protocols, etc., to which Zambia has committed cover all other areas of macroeconomic and corporate governance, and the promotion of social and economic development. However, the CRM found that even though Zambia has made these numerous commitments, which if implemented would enhance democracy, human rights and development in the country, Zambia is deficient in the domestication, implementation, monitoring and reporting of the various instruments and in notifying the public about them. The State representatives say that the various processes are limited by capacity and financial constraints whereas civil society representatives claim there is insufficient political will to comply.
- 4.2.7 The country has an impressive history of supporting political liberation in Southern Africa. It has also served as a chosen refuge for freedom fighters from the sub-region and East Africa. Zambia has been an international good citizen and does not have serious political conflicts with neighbouring countries.
- 4.2.8 Internally, Zambia is generally peaceful although, like any other country, there are internal disagreements and tensions that require attention lest they develop into serious conflicts. A major issue is the problem of the Barotseland, which has constitutional, economic and socio-cultural dimensions. The Barotseland agreement of 1964 was a cornerstone of the establishment of a unitary independent state in 1964. It guaranteed certain powers and privileges of the paramount chief, the Litunga, over land allocation, use of economic resources, and the administration of customary law over most of the Western province. The government's decision to terminate the agreement in 1969 led to a yet-unresolved disagreement between it and the Barotse Royal Establishment. Presently, the government will not renegotiate the agreement while the Barotse claim the government does not want to consult with them, acknowledge their genuine political needs and demands, or address their economic marginalisation. There are other chieftainship problems within the Barotse royal family as well as between the Litunga of Barotseland and other subordinate chiefs in the Western Province. Other chieftainship disputes involving the Lunda and Luvala in the North-western Province also are unresolved. There are additional simmering chieftainship disputes over land and succession all over Zambia that require resolution.
- 4.2.9 Other internal tensions arise from the influx of foreign investors in the mines and farms, who do not seem to respect workers' rights and who abuse those rights. Employment conflicts in the mines and commercial farms are thus sources of potential conflict in Zambia. Political elections are reported to have of late become quite acrimonious and violent. Thus, accusations of political patronage, corruption, and vote-buying fly across political party fences. Additionally, the relative peace that exists among Zambians is threatened by the fact that there is no regulation to guide political conduct. Although there are official conflict resolution mechanisms, these appear to be ineffective and require greater support in terms of both human and financial resources.





- 4.2.10 Another area of political tension and potential conflict relates to the absence of constitutional stability. The Zambian Constitution has frequently been changed; the current one is the fourth after independence and is subject to further change that will herald a fifth dispensation. As a consequence of such constitutional changes, it has not been possible to consolidate any constitutional order. The average life of each version of the Constitution has been about a decade, which is hardly adequate for any constitutional order to take root or be institutionalised.
- 4.2.11 The separation of powers, establishment of checks and balances, and entrenchment of constitutional rule are compromised in the current political and institutional order. The fact is that despite the many constitutional changes, the dominance of the executive arm and the pre-eminence of the office of the President have been a central feature of the country's political system. The CRM observes that constitutionalism is neither upheld nor protected; there is no real separation of powers between the principal branches of government and the executive is overly dominant, relatively unchecked and lacking in accountability. The legislature is too weak and dominated by the executive for it to exercise effective oversight. The judiciary too, emaciated by financial and human capacity deficiencies, is similarly ineffective. The system of political patronage that permeates the entire organisation of government institutions renders all state institutions virtually beholden to the President, to the extent that the rule of law is observed more on paper than in actual political practice. Constitutionalism, the separation of powers, the institution of checks and balances and the rule of law are therefore questionable in Zambia. These are areas where future constitutional amendments should be focused.
- 4.2.12 The prevalence of corruption across the entire system, that is, in the political, economic, social and other spheres, means that it has become endemic, or even systemic. Corruption appears to have historical roots, having evolved throughout the different regime types since independence and seems to be closely linked to the system of tight centralised political power, the system of patronage, and the lack of official accountability. The CRM often heard that there is no political will to fight corruption. This appears to be a consequence of the fact that patronage is accepted as a basis of appointments and rewards; this practice tends to distort the national development agenda and promotes particular political agendas that serve the ruling party rather than broader national interests.
- 4.2.13 Through its commitment to various international and regional agreements on the protection and promotion of human rights and freedoms, Zambia has shown political will to be an international good citizen. However, the shortcomings in the processes of domestication, implementation, monitoring, and reporting are worrying. They imply that people may not fully enjoy social and economic rights: women, children, the vulnerable, marginalised, disadvantaged, weak, and all other such groups may not enjoy the rights that are supposed to be guaranteed by, or embodied in those agreements. It is therefore a disappointing fact that these rights and freedoms to which the country has committed may not be fully enjoyed by the supposed beneficiaries because the State's institutional incapacities and budget constraints prevent it from ensuring the promotion and protection of human rights and liberties.





- 4.2.14 Zambia has major challenges in enhancing its democratic credentials. However, the maturing of Zambian democracy and the country's progressive stance towards reforms places it in good stead to strengthen its democracy. The major challenges facing Zambia's democracy and good governance may be summarised into three broad categories: state centralisation and executive dominance; constitutional instability; and apparent reluctance to quickly resolve internal disagreements and tensions that could blow up into major sources of conflict and destabilisation.
- 4.2.15 The first challenge, that of an excessively centralised state system and presidential pre-eminence, has historical roots. Whereas the colonial state was centralised, the independent one-party regime consolidated that centralisation and subsequent constitutional amendments have served to institutionalise both state centralisation and presidential pre-eminence. The executive has at its disposal extensive powers of appointment, official patronage and control of state resources. The National Assembly, which performs the legislative functions, and the judiciary, which is supposed to interpret the law, both appear to be junior partners in their interactions with the executive branch. Zambia should consider dismantling the system of state centralisation and excessive concentration of power in the presidency which, accompanied by a system of political patronage, seems to fuel corruption and appears to work for particular interests. This distorts the priorities of broad-based national development.
- 4.2.16 The second challenge is constitutional instability. The frequent constitutional changes point to an absence of an institutionalised long-term constitutional order, and this has the potential of eroding the democratic gains Zambia has made since independence. There have been significant differences between the government and non-state stakeholders regarding the form and content of the new constitutional order. It is imperative that constitutional changes should aim at fundamental transformation of the overly centralised state system and promoting decentralisation, in order that constitutional rule, separation of powers, checks and balances and official accountability are enhanced. Zambia should establish systems to enhance both the human and financial capacity of critical national institutions such as the Judiciary, National Assembly, and other agencies that work to promote and protect a democratic order, demonstrated by institutions such as the Human Rights Commission, Anti-Corruption Bureau, provincial government, local government councils, etc.
- 4.2.17 The third challenge is Government's seeming reluctance to resolve, or its postponement of proposals to deal with long-standing internal disagreements. That the long-standing disagreement over Barotseland, the simmering political party tensions, and the labour conflicts have not been urgently resolved to the satisfaction of Zambian people is problematic because such issues could evolve into intractable conflicts that would pose greater threats to the peace and stability of the country.
- 4.2.18 Internal constitutional disagreements require urgent attention if they are not to become intractable problems and the sources of (greater) conflict and national destabilisation. These disagreements include the one between the government and the Barotseland Royal Establishment, chieftainship squabbles, labour disputes especially in the mining, farming, and tourism sectors, and other disputes amongst political parties (especially concerning elections).





### 4.3 Economic Governance and Management

- 4.3.1 Zambia has signed, ratified and made progress in domesticating international, regional and sub-regional standards and codes on economic governance and management. This is particularly noteworthy with respect to standards and codes aimed at strengthening the financial sector; most of such codes have been mainstreamed through legislation and various policies and programs. However, the signing of, and commitment to such documents, have not necessarily led to (quick) implementation. Furthermore, regional standards and codes are more quickly implemented than international ones. The major obstacle to effective implementation cited by official representatives is the lack of human and financial resources in most government departments.
- 4.3.2 Zambia has been trying to promote sound macroeconomic policies since the 1990s, in order to reverse the trend towards economic stagnation and regression experienced in the previous two decades, and has been striving to launch the country towards sustainable growth and development. The results are uneven and the gains could easily be reversed. The country is facing a number of challenges in the management of the economy, including high inflation; negative savings rates; debt management; dependence on a narrow economic base and lack of diversification; policy inflexibilities and ineffective policy and regulatory frameworks.
- 4.3.3 Effective economic management is also hindered by the high prevalence of corruption. Although anti-corruption laws and institutions are in place in Zambia, there is widespread criticism across the country of their effectiveness.
- 4.3.4 Zambia has had a progressive approach to economic governance and management but it has to resolve several challenges. One major challenge is to implement the international and regional commitments to which the country has bound itself. The second is to make institutions implement the economic policies that have been formulated as efficiently as possible.
- 4.3.5 Zambia should continue to encourage greater transparency, accountability and democratic control over economic policies and implementation. To this end, the legislature should have greater oversight of the executive agencies of the state so that policies, budget allocations and project implementation can be carried out in the national interests.
- 4.3.6 The country also needs to establish systems that would guarantee budget allocations for state functions, especially those of critical national institutions such as the judiciary, National Assembly; state commissions and parastatal organisations; provincial and district administrations and councils.
- 4.3.7 Zambia should ensure the implementation of reforms aimed at sound public financial management, including: tax collection and administration; institutionalisation of the MTEF; the Office of the Auditor General, and fiscal decentralisation. It should also strengthen the Anti-Corruption Commission.
- 4.3.8 Government should increasingly make efforts to reposition Zambia as a "developmental state", while selectively intervening in determining the critical







economic variables that affect growth and development, providing more state assistance to, and regulation of, domestic entrepreneurship; and cultivating a new partnership involving the state, private enterprise and labour.

- 4.3.9 Lastly, given that regional integration is important for Zambia's development, the country should harmonise the regional integration schemes and find the best forms of regional interactions to maximise national benefits.

#### **4.4 Corporate Governance**

4.4.1 The concept of corporate governance is relatively new in Zambia but there is keen interest in good corporate governance in both public and private enterprises. Zambia has ratified the African Charter on Human and People's Rights (on 10 January 1984), and its principles have been enshrined in the Constitution of Zambia. The country has also ratified 39 Labour Codes of the International Labour Organisation (ILO). In addition to these are other international treaties relating to human rights, financial sector supervision, labour and environment: the Organisation for Economic Corporation and Development' (OECD) principles and the Commonwealth Corporate Governance principles have influenced the general legal and policy regulatory framework.

4.4.2 Zambia has adopted the International Accounting Standards (IAS), International Standards on Auditing (ISA), Core Principles of Effective Banking Supervision which are being used by the Bank of Zambia; the Core Principles for Securities, and the Insurance Supervision and Regulation, which are being utilised by the Securities and Exchange Commission and the Pension and Insurance Authority. The country has also adopted the NEPAD Framework Document. Additionally, in the area of finance, Zambia has adopted and is applying the International Financial Reporting Standards. In the environment sector, the country has adopted and is applying the Codes on Industrial and Environmental Safety.

4.4.3 CRM observed that although several standards and codes have been ratified, many Zambians are not aware of this and therefore were unable to give valid information on the process of domesticating the standards and codes. In fact, there seems to be a general lack of awareness among the public about standards and codes.

4.4.4 Zambia has not performed well in implementing some ILO labour standards. The issue of environmental pollution has not been given serious attention that it deserves in terms of ILO standards. In both urban and rural areas, pollution is increasing at a fast rate and although the Zambian government established an environmental council, its effectiveness in controlling pollution has been minimal.

4.4.5 Although Zambia has reasonably adequate legal, regulatory and institutional frameworks for businesses which if judiciously implemented would ensure good corporate governance in public and private sectors the country faces many corporate governance challenges, including the fact that the government favours big foreign business to the detriment of local enterprises. Government awards of contracts also appear to favour larger, foreign companies at the expense of local smaller enterprises. Foreign investors allegedly disregard labour rights and excessively pollute the environment without being sanctioned. The CRM also found that the level of corporate social responsibility in the country is very low.





- 4.4.6 The Institute of Directors (IOD) has played a leading role in promoting ethical business practices, especially in the private sector. However, corporate governance standards and codes are not effectively followed and there appear to be no functional avenues for enforcement. Regarding the disclosure of company information, Zambia does poorly in the Doing Business “extent of disclosure” index. The sub-indices of this index show that Zambia performs particularly poorly in respect of the law compelling companies to: immediately disclose an event to the public and/or shareholders (zero out of a total possible two points); periodically publish files of transactions (zero out of a possible two points); and provide an external body to review transactions before they take place (zero points, as Zambia does not require an external review).
- 4.4.7 Zambia has established various legal measures and institutions to protect consumers, such as the National Bureau of Standards (NBS) and the Zambia Competition Commission (ZCC) which is an agency in charge of consumer protection. In addition, a number of prominent NGOs are also involved in consumer protection. However, there is little general awareness of consumer rights.
- 4.4.8 There are a number of corporate governance challenges that Zambia has to contend with, including: low observance of standards and codes; disrespect for human (labour) rights in the workplace; low enforcement of environmental protection regulations; low corporate social responsibility; low protection of consumers; and discriminatory awards of government contracts. There appears to be considerable enthusiasm to improve corporate governance but this requires commensurate actions.
- 4.4.9 Zambia should endeavour to make the regulatory framework functional by strengthening the regulatory authorities such as the Central Bank, Zambia Development Agency, and the Bureau of Standards. The monitoring of observance should also be strengthened such that all enterprises should be compelled to observe human (workers’) rights at the workplace and commit to a minimum of social responsibility obligations. This implies that, together with the Ministry of Labour, the Human Rights Commission should be empowered to monitor and sanction enterprises when they breach standards and codes, including those relating to human rights. Therefore, regulatory institutions, the Industrial Relations Court, and Anti-Corruption Commission ought to be strengthened in terms of human capacities and guaranteed public budget support, and they should be given sanctioning and enforcement powers, so that their effectiveness is enhanced.
- 4.4.10 Various laws, including the Companies Act; Employment Act; Labour Relations Act; Factory Act; Occupational and Safety Act, etc, require review and amendment to ensure that they keep up with developments in good corporate governance practice.

#### **4.5 Social and Economic Development.**

- 4.5.1 Since independence in 1964, successive governments have pursued a sustained effort to achieve the objective of enhancing the socio-economic development of Zambia by implementing a number of development plans, strategies and





programmes. To that end, Zambia signed and ratified a number of standards and codes within the APRM framework for socio-economic development. However, most of these international agreements have not yet been domesticated and there is limited awareness of the agreements among citizens. Furthermore, although Zambia has a remarkable educational tradition of citizens pursuing degree courses in local languages, none of the Standards and Codes has been translated into any of these languages.

- 4.5.2 With its relatively well endowed natural resources and large tracks of fertile land for agriculture, Zambia has the potential for self-reliant socio-economic development. Over the years Zambia has established macroeconomic stability and continued economic growth. However, dependence on external funding has sometimes constrained the rapid implementation of development programmes. Nevertheless, it is noteworthy that the country's aid dependence has reduced significantly in recent years. The authorities hope to minimise the dependence on external funding by broadening the tax base through high economic growth and by diversifying the economy into other sectors, such as tourism, agriculture, livestock and fisheries, mining, tourism, manufacturing, and trade and commerce, including trade in non-traditional exports.
- 4.5.3 While the above discussion focuses on financial autonomy, self reliance and ownership of development programmes it encompasses more than financial self reliance. It also incorporates a function of leadership and management of socio-economic development. Self-reliance, in this regard, measures institutional and technological capacity in programme formulation, implementation, ownership of the entire process by the state and the other national administrative structures, as well as consensus around a social vision and project. The CRM was informed of gaps in the leadership aspects of self reliance. It was reported that although districts have consultative processes in place that facilitate participation in local government, districts that are politically in opposition to the government are often denied access to national budgetary resources. Also, lack of capacity poses another challenge to self reliance and ownership of development programmes in Zambia. According to experts and analysts, lack of capacity has led to design gaps in both the Fifth National Development Plan (FNDP) and Vision 2030, two of Zambia's key development plans.
- 4.5.4 Zambia has articulated well a national social vision in the Vision 2030 Plan and in other subsequent documents. This vision is "to become a prosperous middle income country by the year 2030" with a per capita income of USD4, 000. The Vision 2030 identifies two other complementary development goals to properly situate the national social vision within the context of its middle income aspirations. These are: to significantly reduce hunger and poverty and to foster a competitive and outward-oriented economy. The national social vision is being promoted at the national, sub-national and project levels. This is building a strong support around the vision.
- 4.5.5 Available evidence shows that poverty is both an evident fact and a serious concern in Zambia. Poverty levels have remained high and the incidence of poverty among the rural population has increased, with levels rising from 78 per cent in 2004 to 80 per cent in 2006. On a provincial basis, poverty is most prevalent in the Western Province where the proportion of the population in the





“total poor” category increased from 69 per cent in 1998 to 84 per cent in 2006. Conversely, there was a reduction in poverty in the Copperbelt within the period due, in large measure, to improved employment opportunities.

- 4.5.6 Despite having a well known record of peace and political stability, the country appears to have a low Human Development Index, having fallen from 136 in 1996 to 142 in 1998 and then to 150 in 2010. The 2010 index was only better than those of 19 countries on the list. Though Zambia’s 2008 life expectancy figure of 51.3 years was higher than it was in 2008 (49.7 years), life expectancy in the country has been on a declining trend since 2005 when the country attained its highest level at 52.6 years. Inequality is also high within and across the regions and between urban and rural areas.
- 4.5.7 The high levels of poverty in Zambia have been compounded by high levels of unemployment and low wages. Unemployment is more an urban than a rural problem. The 28 per cent rate of unemployment in urban centres is about 2.8 times that of rural unemployment rate. This high level of unemployment suggests that the high per capita growth rates and impressive rising trend of economic growth have not filtered down adequately to job creation and poverty alleviation.
- 4.5.8 However, the country has made commendable efforts to put in place a set of policies and institutions to guide the country out of this situation. Since assuming office in 1991, the Movement for Multi-Party Democracy (MMD) Government has developed and implemented a series of national development plans for improving the status of all Zambians. From the Fifth National Development Plan (FNDP) for the period 2006 to 2011 to the Transitional National Development Plan (TNDP) of 2002 to 2005, it can be seen that Zambia has a well crafted development planning experience with regard to government leadership that addresses the challenges of socio-economic development.
- 4.5.9 The current national plan, the Sixth National Development Plan, further addresses the challenges of socio-economic development. It aims at diversifying the economy by introducing non-traditional sectors such as tourism because of its huge potential to contribute to the socio-economic development of the country.
- 4.5.10 With regard to the Millennium Development Goals, Zambia is on course to achieve the targets set for a number of them. There is a high possibility that the goals of eradicating extreme poverty in urban areas and reducing the proportion of people who suffer from hunger will be met. There has been remarkable progress in the areas of education, gender equality and women empowerment. Also, there are indications that Zambia has achieved the target for net enrolment ratio (NER) in primary education for both girls and boys. Net enrolment for secondary schools is equally remarkable. Furthermore, there is the potential for meeting the targets for reducing child mortality rate, tuberculosis and HIV/AIDS. In fact, with the current HIV/AIDS prevalence rate at 14.3 per cent, the set target of 16 per cent or less has been achieved. However, the 14.3 HIV/AIDS prevalence rate is still too high and is one of the highest in the world. It appears that the 16 per cent or less prevalence target was too modest.





- 4.5.11 Compared to other countries, Zambia is well endowed with abundant water resources; slightly more than half the population has access to clean water. But there are still problems with access to water and sanitation in the country, particularly in rural areas where the population relies on unclean and unsafe sources of water. Though efforts have been made to provide water in the form of boreholes, especially in the rural areas, as high as 83 per cent of the inhabitants of Luapula Province, 78 per cent of the population of Northern Province and 63 per cent of inhabitants of North Western Province depend mainly on lakes, rivers and unprotected wells for their water supply.
- 4.5.12 Zambia also has sources of hydro electricity, the Kariba dam being a major example. Petroleum is the only energy form which is wholly imported into the country. However, electricity as a source of cooking fuel is prevalent more in urban centres than in rural settings where only 1.7 per cent of the population uses electricity for cooking as compared to 39 per cent of their urban counterparts. Consequently, there is a high degree of deforestation to meet energy needs.
- 4.5.13 Though land laws do not discriminate against women, the government has recognised that women, because of customary practices, still lack access to land in comparison to their male counterparts. Therefore, 30 per cent of land has been set aside for women and other vulnerable groups. Though this is a commendable policy, some Zambians believe that it will be ineffective because of strong traditional land customs and an opaque land allocation system which benefits social elites and urban groups.
- 4.5.14 Some noticeable steps have been taken towards gender equality in the country. The establishment of a Gender in Development Division (GIDD) and its positioning at the Cabinet level has been an important step in the right direction. Government has also employed judicious policies to achieve gender parity in primary education. However, gender-based violence (GBV) continues to be a critical concern in Zambian society despite continuous awareness creation efforts being made through radio and the print media.
- 4.5.15 Attention has been given in the Sixth National Development Plan (SNDP) to the country's chronic housing shortage. The SNDP will focus on increasing housing stock and improving living environment in both rural and urban settings by creating 150,000 housing units annually in 10 districts during the implementation period of the Plan.
- 4.5.16 A serious factor inhibiting socio-economic development in Zambia is access to markets due to the poor state of feeder roads. As a result, access to farm inputs and other social amenities and the marketing of farm produce are very difficult and, thus, worsen poverty in rural areas where the only form of access is by road. It is gratifying to note that the government will embark on the development of rural infrastructure through the Sixth National Development Plan to create an efficient transport and communication system that would promote economic growth and poverty reduction.
- 4.5.17 The CRM notes with interest that Zambia has put in place several broad-based participatory flex points from the national level to the local government levels. However, stakeholders noted that these mechanisms lack legal framework





within which to implement them successfully and that most of them comprise only representatives of associations. This strongly suggests challenges to fair and equitable representation on these platforms.

- 4.5.18 Zambia has made major strides in the social and economic development of its people. The challenge is to sustain the momentum and avoid slipping backwards. The national vision is a crucial rallying point for national unity and development and should be publicised further. Zambia also needs to implement complementary policies such as public sector reforms, decentralisation, and timely budgetary allocations for the implementation of development programmes.
- 4.5.19 Zambia should strengthen efforts aimed at building human and institutional capacities to implement development policies and programmes. This should ideally include coordinated efforts in capacity building, including education, training, and health; in building partnerships with non-state actors, specifically private sector entities, civil society organisations, and community leaders; and institutionalising the participation of beneficiaries in the development process. It is crucial that most of these ideals of development be assisted by the full implementation of decentralisation, and the creation of inclusive partnerships among government, civil society, private sector, and community leaders.

#### 4.6 Commendable Practices

- 4.6.1 Zambia has a number of commendable practices that are worthy of emulation. These show the progressive nature of Zambian leadership over the decades since independence. Political changes and the defeat of incumbent presidents have been followed by peaceful changes of governments. Particularly unique is the solidarity support the country provided to liberation movements in southern Africa; the maturing of democratic practice; the Social Cash Transfer Scheme; and the Public Hearings on Breach of Children's Rights.

#### 4.7 Crosscutting Issues

- 4.7.1 A number of issues cut across all the areas of governance and the challenges they pose, as well as the solutions they demand, call for complex and multi-dimensional interventions. These include the implementation of international and regional agreements, standards, and codes; frequent constitutional changes; state centralisation, patronage, and corruption; capacity building; environmental degradation; and the Barotseland problem.

#### 4.8 The National Plan of Action

- 4.8.1 The National Plan of Action (NPOA) accompanies the CSAR. The plan is fairly detailed and has identified key priority areas the country seeks to address in both the CSAR and the Country Review Report. The total cost for the NPOA is US\$ 80,211,973,432 for a period of three years (2012-2014). The breakdown indicates that US\$ 80,180 will be allocated to Democracy and Political Governance will be **allocated,742,000**; Economic Governance and Management will get US \$ 540,000; Corporate Governance will be allocated US \$ 231,500 while US \$30,459,932 will be committed to Socio-Economic Development. The





NPOA demonstrates that Zambians are committed to addressing the country's challenges. It is therefore essential that this NPOA is fully implemented in order to promote the country's political governance and development.





# CHAPTER ONE: THE AFRICA PEER REVIEW MECHANISM PROCESS IN ZAMBIA

## 1. Introduction

1.1 The African Peer Review Mechanism (APRM), which is widely heralded as the jewel in the crown of the New Partnership for Africa's Development (NEPAD), is an innovative initiative on governance in Africa. Member states of the African Union (AU) voluntarily accede to the instrument for self-evaluation. Assessment under the APRM is conducted within the framework of commonly agreed values, codes and standards, as contained in the Declaration on Democracy, Political, Economic and Corporate Governance. At the core of the APRM is the deepening of democratic practices, the strengthening of achievements, the dissemination of best practices and the rectification of underlying deficiencies in governance and socio-economic development processes, among AU member states. This chapter gives a background to the genesis and evolution of the APRM process and to its structure and organisation. It concludes with a brief presentation of what has happened in Zambia following the country's accession to the APRM.

## 2. Origins and Objectives of the APRM

2.1 In an effort to put Africa back on the path of self-sustaining development, the plan for renewal was encapsulated in NEPAD, which the AU adopted at its Summit in Abuja, Nigeria in October 2001. As the development framework of the AU, NEPAD is a synthesis of two proposed development frameworks, the Millennium Partnership for the African Recovery Programme (MAP) and the OMEGA Plan for Africa.

2.2 The primary objectives of NEPAD are to accelerate the eradication of poverty in Africa and inequality between Africa and the developed world; to place African countries, both individually and collectively, on a path of sustainable growth and development; to halt the marginalisation of Africa in the globalisation process; and to accelerate the empowerment of women.

2.3 At the core of these objectives is the need for good governance on the African continent as a pre-requisite for human security and political stability, high economic growth, sustainable development, and accelerated sub-regional and continental economic integration. In recognition of this, the Heads of State and Government Implementation Committee (HSGIC) of the AU also proposed that NEPAD countries should subject themselves to a voluntary self-assessment process intended to review progress in the achievement of mutually agreed targets and compliance with mutually agreed standards. The creation of the institutional framework for the review process was taken a step further at the inaugural Assembly of the AU in Durban South Africa, in June 2002, when the Heads of State and Government of AU countries issued a Base Document on the African Peer Review Mechanism (APRM) to provide for the appointment of the Panel of Eminent Persons, the setting up of an APRM Secretariat and supporting services from NEPAD, strategic partners and special consultants and advisors.







- 2.4 The Sixth Summit of the Heads of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development (NEPAD), held in March 2003 in Abuja, Nigeria, adopted the Memorandum of Understanding (MoU) on the African Peer Review Mechanism (APRM). Members of the Panel were appointed in May 2003 and commenced work after an inaugural meeting in Cape Town in June 2003.
- 2.5 The APRM is unique both in its scope and breadth, with the review process extending to all levels of government, parliament and the judiciary as well as the private sector and civil society organisations. The APRM also covers simultaneous evaluation in four distinct pillars: Democracy and Good Political Governance, Economic Governance and Management, Corporate Governance and Socio-Economic Development. Given the wide scope earmarked for the review process, it undoubtedly marks a paradigm shift in Africa and a watershed and sea change in attitude towards governance by prompting and instilling a culture of sustainable democracy, revitalising institutions for political, economic and corporate governance and subscribing to the revalidation of Africa and international values for good governance. It put on the international agenda a new way of conducting peer review, promoting the internalisation of the basic values of democratisation and good governance and extending to all layers of society.
- 2.6 To date, 30 African countries, all AU member countries have voluntarily acceded to the APRM. Accession signifies total commitment of the signatory state to submit to regular reviews by its peers and to be guided by agreed instruments in the application of good political, economic and corporate and socio-economic development.
- 2.7 The APRM process comprises **five stages** as defined in its Base Document. They are briefly described below.
- 2.8 **Stage One** entails countries establishing structures to manage the process at the national level. These include the designation of a Focal Point and the establishment of a National Governing Council or National Commission. Countries are then required to undertake a comprehensive national self-assessment exercise involving all key stakeholders and grass root constituencies. The findings of the assessment have to be validated nationally and a Country Self Assessment Report (CSAR) submitted to the APR Panel.
- 2.9 On the basis of such findings, the country prepares a draft National Plan of Action (NPOA), which must reflect broad civil society input and is submitted to the Panel as an integral part of the CSAR.
- 2.10 According to the APRM Base Documents, "The primary purpose of the NPOA is to guide and mobilise the country's effort in implementing the necessary changes to improve its state of governance and socio-economic development. In addition, the National Programme of Action is the key input delivered by the country into the peer review. It serves to present and clarify the country's priorities; the activities undertaken to prepare and participate in the APRM; the nature of the national consultations; as well as to explicitly explain the responsibility of various stakeholders in government, civil society and private sector in implementing the programme."





- 2.11 As the country prepares its CSAR including the NPOA, the APR Secretariat also prepares a comprehensive background document on the country. The preparation of the document draws on up-to-date information from national, sub-regional, regional and international sources.
- 2.12 Based on the CSAR, the NPOA and the background document, the APR Secretariat develops an Issues Paper outlining the key issues on which the review process will be focused. The Issues Paper is informed by five main considerations, namely: critical issues addressed in the CSAR but needing reinforcement, issues that have been understated or inadequately addressed, issues that have been identified in the past but continue to have serious implementation problems, issues missed completely by the CSAR, and areas of discrepancy or divergence.
- 2.13 **Stage Two** is the fielding of the Country Review Mission (CRM) under the leadership of the APR Panel. The CRM is required to carry out the widest possible consultations with all stakeholders; the government, the judiciary, political parties, national assemblies, civil society organisations including the media, women, youth, physically challenged people, trade unions, religious and professional bodies, corporate entities, private, public and informal organisations, and academia and research institutions.
- 2.14 The main objectives are to learn about the different stakeholders' perspectives on governance in the country, clarify the issues identified in the 'Issues Paper' and build consensus on how different issues should be tackled.
- 2.15 **Stage Three:** During this stage the CRM's report is drafted. It is informed by the CSAR and NPOA, the background document and Issues Paper prepared by the APR Secretariat, as well as by the information made available to the CRM during the wide-ranging consultations with all stakeholders in the course of the country review visit. The draft reports also consider the applicable political, economic and corporate governance and socio-economic development commitments made in the preliminary NPOA identify any remaining weaknesses, as well as recommending further actions to be included in the final NPOA.
- 2.16 The draft report has to be clear on the specific actions required in instances where outstanding issues are identified. It is first discussed with the government concerned to ensure the accuracy of the information. The government is given an opportunity to react to the CRM's findings and put forward its own view on how the shortcomings can be rectified. These responses by the government are appended to the CRM's report. At this stage, the country finalises its NPOA, taking into account the conclusions and recommendations of the draft report.





- 2.17 **Stage Four** begins when the APR Panel Member leading the country's peer review process submits the final report with the country's final NPA to the APR Panel. On its approval by the APR Panel, the Report is submitted to the APR Forum for presentation and peer review and subsequently for implementation in accordance with the Forum's mandate. If the country shows a demonstrable will to rectify identified shortcomings, it will be incumbent upon participating governments to provide assistance to the extent they can, as well as to urge development partners and agencies to come to the assistance of that country.
- 2.18 **Stage Five** is the final stage of the APR process. It entails the formal publication and tabling of the Country Review Report after it has been considered by the APR Forum. Key regional and sub-regional structures such as the Regional Economic Community to which the country belongs, the Pan-African Parliament, the African Commission on Human and Peoples' Rights, the Peace and Security Council, and the Economic, Social and Cultural Council (ECOSOCC) of the AU should have the report tabled before them.
- 2.19 The timeline for the process is expected to vary considerably among countries, depending on each country's specificities. The anticipated duration of each peer review from the start of Stage One to the end of Stage Four is between nine and twelve months.

### 3. Implementation of the APRM Process in Zambia

- 3.1 Zambia acceded to the African Peer Review Mechanism (APRM) on 22<sup>nd</sup> of January, 2006, through the late Republican President H.E. Dr Levy Patrick Mwanawasa, SC at the African Union (AU) Summit held in Khartoum, Sudan.
- 3.2 However, Zambia did not immediately begin to implement the APRM in the country due to a number of unavoidable circumstances, which included the death of H.E President Levi Mwanawasa and the holding of the presidential bye-elections. Despite the challenges, once begun in Zambia, the APRM process has remained steadfast and on course.
- 3.3 When Zambia acceded to the APRM, the Ministry of Foreign Affairs (MoFA) was designated as the Focal Point Institution, with Ambassador Patrick Sinyinza designated as the Focal Point Person. In March, 2007, following a visit from the continental APRM Secretariat in South Africa, the Focal Point was transferred to the Ministry of Justice (MoJ) as the Focal Point Institution, with the Minister of Justice, Hon. George Kunda, SC, as the new the APRM Focal Point Person to date. The first task of the Ministry of Justice was to obtain Cabinet approval for the launch and implementation of the APRM process in Zambia. The Minister of Justice, Honourable George Kunda launched the APRM process in Zambia on 8 July, 2007. Thereafter, national APRM consultations took place and the APRM process was rolled out.





#### **4. Country Support Mission (CSM)**

- 4.1 From the 23<sup>rd</sup> to the 25<sup>th</sup> of February 2009, Zambia received the APRM Country Support Mission which was led by Dr. Graca Machel, the member of the Panel of Eminent Persons leading the Zambia review process. With the approval of the President of Zambia, the Government and the APR Panel signed the Memorandum of Understanding on Technical Assessment and the Country Review Process during this Support Mission, to kick-start the APRM process in Zambia. The MoU spells out the commitments, undertakings and obligations to participating Member States.

#### **5. Memorandum of Understanding**

- 2.1 The CSM ended on 25<sup>th</sup> February, 2009 with the signing of the Memorandum of Understanding between the APR Continental Secretariat and the Government of Zambia kick-starting the process in Zambia. The Outline of the MoU on Technical Assessments and the Country Review Visit provides a template for the drafting of the MoU and the finalisation of the specific rights, commitments and obligations a participating country will make to the APRM and vice versa.

#### **6. The National Governing Council**

- 6.1 The CSAR reports that, following the launch of the APRM, a 47-member NGC was appointed but was later reduced to the current 30 members following the observation of the Country Support Mission that the NGC was too large. The NGC is charged with implementing the APRM process in the country through the following activities, among others: conducting broad-based and all-inclusive consultation with key stakeholders in the public and private sectors, engaging Technical Research Institutes; preparing the Country Self-Assessment Report and the Programme of Action; carrying out awareness campaigns on the APRM process; and together with the Focal Point, hosting the Country Review Team.

#### **7. The National APRM Secretariat.**

- 7.1 The appointment of the NGC led to the formation of the National APRM Secretariat. The Governance Unit in the Ministry of Justice was transformed into the National APRM Secretariat. The Secretariat is headed by a National Coordinator, Mrs. Maria Kawaimbe, and comprises seven staff specialised in various aspects of governance. It assists the NGC in carrying out its work.

#### **8. The Technical Research Institutions**

- 8.1 In common with all countries that accede to the APRM, Zambia was required to prepare a Country Self-Assessment Report and a National Plan/Programme of Action on Governance. To facilitate the process, the National Governing Council contracted three Technical Research Institutions (TRIs) and an individual consultant to collect material for the Country Self-Assessment Report. Abdon Yezi who was given the Democracy and Good Political Governance (DPG) thematic area; the Institute for Economic and Social Research (INESOR) was assigned the Economic Governance and Management (EGM) theme; the Corporate Governance thematic area was entrusted to PMDC Consultancy Services; and the Steadman Group handled the Socio-economic Development theme.





## **9. Country-wide Sensitisation**

- 9.1 To raise awareness about the APRM, the NGC prepared a Communication Strategy and launched a country-wide sensitisation campaign in 2009.

## **10. Communication Strategy**

- 10.1 The CSAR notes that the theme of the Communication Strategy was “Making the APRM Process Visible.” This is a multi-media campaign plan to sensitise the nation on the APRM initiative and the steps involved in the self-assessment process. The strategy utilises a variety of tools and means of engagement to create the necessary mass awareness suitable for the APRM process in Zambia. It is designed to empower Zambians with information that they can use to engage in the APRM process. In December, 2009, Media 365 was engaged to implement the NGC’s sensitisation strategy.

## **11. Sensitisation Campaign**

- 11.1 Within the communication strategy, several activities were undertaken as part of the sensitisation campaign. The campaign, together with TV and radio programmes, addressed the four focus areas of Democracy and Political Governance, Economic Governance and Management, Corporate Governance, and Socio-Economic Development even though there was not enough public awareness creation due to resource constraints. Provincial awareness workshops were conducted for the general public in Kitwe, Mansa, Solwezi, Kasama, Livingstone, Kabwe, and Chipata from 9<sup>th</sup> to 18<sup>th</sup> March, 2009. The NGC also held two media working breakfast workshops in Livingstone on 25<sup>th</sup> April, 2009 and in Lusaka on 30<sup>th</sup> April, 2009. Participants included news editors and journalists as they are instrumental in spearheading media awareness programmes. Workshops were also held to sensitise the members of Defence Forces on the APRM, given their critical role in upholding peace in the country. The workshop was attended by 60 senior and middle ranking officers. Similar workshops were held for church leaders, youth leaders, and the Economic Association of Zambia in Lusaka, Kitwe and Livingstone.
- 11.2 In addition to workshops, the NGC published a number of articles in the local print media. The NGC also carried out phone-in discussions on radio and television programmes to engage the general public on the APRM process.

## **12. Methodology of the APRM Process in Zambia.**

- 12.1 The NGC steered the Country Self-Assessment (CSA) process by engaging the public sector, civil society, private sector entities and the public at large as stipulated in the APRM Guidelines. The CSA process went through a pre-assessment of awareness promotion and domestication of the questionnaire.
- 12.2 The process later went through a self-assessment stage, which focused on the four APRM themes, namely, Democracy and Political Governance; Economic Governance and Management; Corporate Governance; and Socio-economic Development, using various methods of sampling, research instruments, desk research, qualitative research, expert interviews, focus group discussions, as well as sample surveys, which together culminated in the writing of the CSAR.





- 12.3 In its post-assessment phase, the CSAR and POA were validated by national stakeholders. A summary of the issues arising in the CSAR for validation was produced and advertised in both print and electronic media and also sent to participants to enhance participation. The National Governing Council held five one-day workshops, one at the national level and four in the regions, each with four thematic area breakaway sessions to ensure adequate feedback. In these workshops, a cross-section of stakeholders, including CSOs, Government and Private-Sector, were involved to ensure broad ownership of the CSAR.

### **13. Challenges Faced in Implementing the APRM Process**

- 13.1 The APRM process in Zambia has not been a straightforward one as the country faced challenges in establishing and implementing the process. Delays in mobilising resources impacted the timeframe for sensitising and contracting TRIs. The national elections in 2006, coupled with the death of President Levy Mwanawasa, also slowed down the momentum. Also, there was limited interest in the APRM process in the beginning due to its novelty.
- 13.2 Other challenges included translating technical terms such as 'money laundering' into local languages, which was a cumbersome exercise. Some Zambians lacked knowledge about some governance issues, especially in corporate governance. Surveys and preparation of thematic reports took a much longer time than was expected, thus delaying the completion of the whole CSAR.

### **14. Submission of Country Self Assessment Report (CSAR)**

- 14.1 In spite of these challenges, Zambia engaged well in the APRM activities: the Country Self-Assessment Report and the National Programme of Action were written and validated in most provinces. The report was eventually submitted to the APRM Continental Secretariat in October 2010. This was a big achievement.

### **15. Country Review Mission (CRM)**

- 15.1 From 7<sup>th</sup> to 25<sup>th</sup> February 2011, a Country Review Mission, led by the Lead Panel Member for Zambia, Prof. Amos Sawyer, was launched. The Country Review Team comprised 12 African Experts in the four thematic areas of APRM, six experts from strategic partners, namely United Nations Development Programme (UNDP), United Nations Economic Commission for Africa (UNECA) and African Development Bank as well as two officials from the APRM Continental Secretariat.
- 15.2 In accordance with the mandate of the Country Self Assessment Report (CSAR), the main objective of the CRM was to hold wide consultations with all stakeholders, to review the draft Programme of Action prepared by the country and make appropriate recommendations, to ascertain that the assessment process was technically competent and credible, and to establish consensus with stakeholders on the issues, challenges and recommendations that could improve governance in the country.





- 15.3 During the launch of CRM, the CRT met with His Excellency, President Rupiah Banda, who welcomed the Team and launched the CRM. The President pledged total commitment to the APRM principles of Governance and requested the team to visit and interact with stakeholders in all the provinces and to come up with an objective report.
- 15.4 On his part, the APR Panel member, Prof Amos Sawyer appreciated the hospitality accorded to the team, and promised to carry out the review with the required expertise and professionalism. Indeed, during visits, the team employed its expertise and interacted with all groups of stakeholders, including members of the government, Parliament, political parties, the private sector, civil society organisations, trade unions, women's groups, youth groups, and academia, among others. The CRM discussed with these stakeholders and, as much as they could, gathered available information and views. The team also received various documents to assist in the verification of the CSAR.
- 15.5 The Country Review Team visited the North-western, Copperbelt, Western and Southern provinces and held all-inclusive consultations in Solwezi, Ndola, Mongu and Livingstone, respectively. The other team visited Laupula, Northern, Central and Eastern provinces holding all-inclusive consultations in Mansa, Kasama, Kabwe and Chipata, respectively, and gaining an understanding of Zambia's performance in the four thematic areas of the APRM assessment. The views and proposals of all stakeholders regarding the challenges and possibilities for Zambia were gathered by the Country Review Team during the visits.
- 15.6 The consultations held around the country were open, free, candid and productive overall. Participation was largely inclusive although the private sector was under-represented. The public's general level of information about the APRM process was uneven—as was to be expected in view of the financial and communication constraints. However, the CRM was able to discuss all of the critical issues contained in the Self-Assessment Report and gained additional insights from the discussions held with various stakeholders. It was also able to source the most relevant reports and other documents needed for the work. The CRM undertook the work of reviewing Zambia systematically and with the highest level of professionalism and integrity.

## **16. Structure of the Report**

- 16.1 The report is structured as follows: the first part, which starts by providing the list of countries currently participating in the APRM, includes relevant socio-economic indicators, a summary of the report, general introduction and a chapter on the historic context of Zambia as well as challenges facing the country.
- 16.2 The second part, Chapters Three to Six, assess four APRM thematic areas of Democracy and Political Governance, Economic Governance and Management, Corporate governance and Socio-Economic Development. In each thematic area, there is a summary of the CSAR, followed by the CRM findings and finally recommendations to Zambia on its governance policies and practices.





- 16.3 Chapter Seven, which forms the third part of the report, examines broad issues, special issues and best practices identified in Zambia, while Chapter Eight is the conclusion of the report. The chapter synthesises the challenges that may confront the NPOA and available resources for Zambia to achieve its progress goals in governance.



*His Excellency, President Rupia Banda with the members of the Country Review Mission, during the launching of the Mission at State House, Lusaka*







## CHAPTER TWO

# COUNTRY BACKGROUND AND CONTEXT

### Overview

*Zambia is making serious efforts to put in place institutional mechanisms to deepen the democratisation process and advance the good governance agenda, especially since 1991 when multi-party politics was re-introduced. The historical context within which these efforts are being made has to be understood and appreciated. This is important for purposes of highlighting the main factors and processes that have shaped the evolution of the democratisation process and the good governance agenda in contemporary Zambia.*

### 17. Early History

- 17.1 Until the late nineteenth century, the territory that is now known as 'Zambia' was economically characterised by small-scale, traditional farming and, to a lesser extent, cattle herding. Historical accounts suggest that local and long-distance trade networks linked neighbouring ethnic groups to each other, to the East African coast, and from there to other continents (Seleti, 1992). Todd and Shaw (1980) suggest that there was no tradition of urban dwelling, such as existed in West Africa.
- 17.2 The region was then penetrated and administered by Cecil Rhodes' British South African Company (BSA) from 1891 until its take over as a 'protectorate' by the United Kingdom in 1924. The BSA Company sought minerals and cheap labour for the mines and factories it had established in South Africa and Southern Rhodesia (now Zimbabwe). In 1902, the company discovered lead and zinc deposits at Broken Hill (now Kabwe) which provided the commercial incentive to construct a railway connecting the Katanga copper mines in the then Belgian Congo, through Broken Hill, to the existing line from Salisbury (now Harare) to South Africa. During the 1920s and 1930s, advances in mining promoted economic development and, as mining activities increased, workers for the first time began to congregate in urban areas.<sup>1</sup> There was also immigration of people from different parts of Europe and Asia. Commercial farming by expatriates was encouraged in order to ensure a regular supply of food for the expanding mining towns (Seleti, 1992).
- 17.3 The dramatic expansion of the mining industry during the colonial period was accompanied by the development of industrial projects designed to service the mines, especially hydro-electric power, construction, transport, steel and metal products, and cement (Todd and Shaw, 1980; Mulenga, 2000). However, the general manufacturing sector was inadequately developed, since both the colonial regime and private companies preferred to operate in Southern Rhodesia (Seidman, 1974; Fincham, 1980). This bias towards Southern Rhodesia increased after the establishment of the Central African Federation in 1953.<sup>2</sup> As the struggle for political independence intensified, the Federation ended in 1963 and, the following year on 24<sup>th</sup> October 1964, Zambia gained political independence.

<sup>1</sup>This means that in Zambia, **towns (as structurally and functionally complex and heterogeneous large-scale concentrations of human habitation) only came into being during the colonial period.**

<sup>2</sup>During the federation period, Northern Rhodesia annually lost 10 million pounds from copper mining (see Todd and Shaw, 1980).





## 18. Political History

- 18.1 There is a strong correlation between the development of the copper mining industry and the political history of the territory that later became known as 'Northern Rhodesia'. As previously noted, the discovery of mineral deposits by Cecil Rhodes' BSA Company is what led to the colonisation of this territory.
- 18.2 The exploitation of the mineral reserves required a large labour force and the 'natives' from all over the territory were drawn to the Copperbelt region. While the migratory system of the past tended to disperse people, the Copperbelt concentrated them so that a permanent population of African miners, working in a modern, technically advanced industry soon took root.
- 18.3 As much as colonial authorities promoted 'tribalism' in their system of direct rule through the chiefs, the Copperbelt broke it down, creating a unity of interest that was eventually to be expressed in the emergence of pre-independence nationalist politics. The racist policies of the mining companies were therefore critical to the emergence of nationalism among African workers. The management of the mines and all skilled jobs were in the hands of Whites, many of them from South Africa and imbued with racism. An occupational colour bar prevented Africans from rising above manual or menial labour, but it strengthened their unity of purpose. This led to the formation of welfare societies by Africans.
- 18.4 In 1935, the African workers staged a strike against unfair taxes. This was followed by a pay strike in 1940 which resulted in the deaths of 13 miners. In 1948, the first African Mineworkers Union was formed. In 1955, there was a work stoppage over pay conditions that lasted 58 days - ending with victory for the miners. The mining companies now started seriously, if slowly, to move Africans into management.
- 18.5 On the broadly political front, African nationalist feeling had been growing since the Second World War (1939-45), in which many Africans fought for the Allies in Burma. By the end of the 1940's, the Northern Rhodesia African Nationalist Congress, led by Harry Nkumbula, had been formed out of various Welfare Associations initiated by the 'mission graduates' of the pre-war decades (Macola, 2009).

## 19. The Federation of Rhodesia and Nyasaland

- 19.1 The nationalist movement was given impetus in the early 1950's when the Colonial Office agreed to have Northern Rhodesia joined in a federation with Nyasaland (Malawi), a British 'protectorate', and Southern Rhodesia (Zimbabwe). Southern Rhodesia, under White settler rule, was bankrupt, and saw Northern Rhodesia, with its copper wealth as, to quote one of its political figures, a 'milch cow'.
- 19.2 Opposition to the Federation in Northern Rhodesia, in which few Whites and Asians were prominent, was not strong enough to prevent its imposition in 1953. During its ten years of existence, as Northern Rhodesians had anticipated, hundreds of millions of pounds were siphoned off to Southern Rhodesia. The White settlers there built up an impressive economic structure, while the 'milch cow' remained without a single decent tarred highway, let alone a university or even an adequate school system or health service.





- 19.3 In the mid-fifties, the failed campaign against the Federation became a struggle for full independence and when battle-weary Nkumbula seemed unable to rise to the task, his ANC party split up. Younger and more dynamic nationalists formed, first, the Zambia **African National Congress** (which was banned and its leaders banned) and, then in 1958, the African National Independence Party (ANIP) before it was renamed the United National Independence Party (UNIP). When Kenneth David Kaunda, a charismatic activist who had been a school teacher, came out of detention, he was given the leadership of the new party. UNIP engaged in a continuous and largely peaceful campaign called Cha Cha Cha for independence. However, there was a violent uprising in the north of the country which was put down by the Federal Army.
- 19.4 By 1960 the British Government, in the famous 'There is a wind of change blowing through Africa' speech by the Prime Minister Harold Macmillan, had acknowledged that the days of colonial (or minority) rule on the continent were coming to an end. Northern Rhodesia was the centre of much of the turmoil and crisis that characterised the federation in its last years. At the core of the controversy were insistent African demands for greater participation in government and European fears of losing political control.
- 19.5 The premier of the white-dominated Federation, Roy Welensky, threatened to declare unilateral independence from Britain but eventually baulked. When Zambia trade unions that now included powerful miners threw their weight behind UNIP, the nationalist momentum became unstoppable. Intense and often violent rivalry between Kaunda's UNIP and Nkumbula's ANC was eventually neutralised in a transitional coalition government.

## 20. Independence

- 20.1 A two-stage election held in October and December 1962 resulted in an African majority in the legislative council and an uneasy coalition between the two African nationalist parties. The council passed resolutions calling for Northern Rhodesia to secede from the federation and demanding full internal self-government under a new Constitution and a new national assembly based on a broader, more democratic franchise. On 31 December 1963, the federation was dissolved.
- 20.2 In January the following year, Zambia's first universal adult suffrage elections were held and though the ANC performed well in a few substantial areas, UNIP won convincingly with Kaunda becoming Prime Minister. Then, at midnight on **24th October 1964**, Zambia became an independent republic with Kenneth Kaunda as President.
- 20.3 For a short period, the country enjoyed plural politics under conditions of a multi-party political system between 1964 and 1972. Kaunda adopted an ideology of African socialism, close to that of Julius Nyerere in Tanzania, called 'Humanism'. As discussed later, economic policies focused on central planning and nationalisation, and a system of one party rule was put in place.





- 20.4 However, the attainment of independence was not without problems as the country was beset with internal and external problems. Internally, from January to September, 1964, a religious sect headed by Alice Lenshina led an uprising against the new government and ordered its followers not to recognise the National Flag, National Anthem or give respect to government authorities who were not infallible (Gordon, 2009). There was also interplay of inter-party and intra-party conflicts that characterised the political leadership (Macola, 2009).
- 20.5 In the 1968 multi-party elections, Kaunda was re-elected as President, running unopposed. But the political situation in the country was tense. The 1968 elections were characterised by regional violence. The country was ravaged by deep divisions with the ANC under Harry Mwaanga Nkumbula winning Southern and Western provinces. In 1971, Simon Kapwepwe, a former Republican Vice President, broke away from UNIP and formed the United Progressive Party (UPP) and went on to win a parliamentary by-election (Larmer, 2009). This threatened the support UNIP enjoyed in the Northern and Copperbelt regions.
- 20.6 Externally, Zambia was surrounded by hostile colonial racist states. Military incursions by these states across the country's borders were common (DeRoche, 2009). This posed a serious security threat to the newly independent country which was completely dependent on the then Rhodesia for energy and trade.
- 20.7 The UNIP Government, taking the internal and external threats seriously, tabled laws related to emergency powers before Parliament, which accordingly passed Emergency Powers Act 108 no. 43 of 1964 and the Public Security Act 112 respectively. This new legislation was intended to empower the President to declare a state of emergency without consulting Parliament.
- 20.8 Drawing inspiration from Tanzania, Kaunda opted to go the same way as President Mwalimu Julius Nyerere who, in an attempt to fight tribalism, regionalism, religious differences and factionalism, had abolished chiefdoms, multiparty democracy and had formed a one-party State.
- 20.9 On 3<sup>rd</sup> March 1972, President Kaunda, using the Inquiries Act, set up a Constitution Review Commission (CRC). He appointed his Vice-President, Mainza Chona, to lead the commission as Chairman. This followed the banning on 4<sup>th</sup> February, 1972, of the UPP under the pretext that the party was an instrument of Rhodesia, South Africa and Portuguese governments. The ANC leader, Harry Mwaanga Nkumbula and his party fiercely opposed the CRC but in vain.
- 20.10 After four months of public hearings, Chona submitted his report to Kaunda in October 1972. On 1<sup>st</sup> January 1973, the one party state was inaugurated and the Constitution enacted into law later that year. Kaunda also promoted reconciliation talks that resulted in the Choma Declaration in June 1973. The declaration helped abolish the ANC and some of its senior members (except Nkumbula) joined Kaunda's government. The one-party-state Constitution outlawed all political parties except UNIP and banned any formation or attempts to form any other political party(s) and political organisations.





- 20.11 The Constitution framed a system called 'one-party participatory democracy', which, in practice, meant that UNIP became the sole political factor in the country. It provided for a strong president and a unicameral National Assembly. National policy was formulated by the Central Committee of UNIP. The Cabinet executed the central committee's policy. In legislative elections, only candidates running for UNIP were allowed to participate and even though inter-party competition was out of the question, the contest for seats within UNIP was energetic. In the presidential elections, the only candidate allowed to run was the one elected as president of UNIP at the party's general conference. In this way, Kaunda was re-elected unopposed with a yes or no vote in 1973, 1978, 1983 and 1988.
- 20.12 Proponents of Kaunda's policies indicate that the "difficult" steps taken to ban political parties and remove political competition were "necessary" to discourage tribalism, promote peace in the country and concentrate on "fighting" the external threats and Africa's enemies in South Africa, Rhodesia, Angola and Mozambique. However, the 'one party participatory democracy' which gave UNIP sole power, soon fossilised into an autocracy maintained by police-state methods.
- 20.13 Despite the powers he drew from the state of emergency declared in 1964 which banned assemblies and allowed him to declare curfews and detain persons without trial, President Kaunda still ruled with heightened insecurity in the 27 years that UNIP led Zambia. In 1980, a group of Zambian businessmen, lawyers, military officers and a High Court judge, with the assistance of Congolese nationals, plotted to overthrow Kaunda by unlawful means. However, the Government thwarted the coup attempt.
- 20.14 Although during Kaunda's early years, great strides were made in the areas of education, health and infrastructure, his attempts to 'decolonise the economy by nationalising it completely', produced only inefficiency, corruption and a disastrous decline. In 1990, an obviously collapsing economy, together with political frustration, led to serious food riots and an attempted military coup d'état that had people dancing in the streets. When the disorders could be halted only with firearms, opposition to the regime became so deep and widespread, and the demand for change so urgent, that Kaunda had to concede to political change.

## **21. The Re-introduction of Multi-party Democracy**

- 21.1 Zambia is famous for having set the pace that provided a model for a peaceful transition from one-party to multi-party electoral democracy in Africa when, in 1991, the incumbent government was peacefully replaced by a new one led by the Movement for Multi-party Democracy (MMD) more than two years ahead of its legitimate term of office, through a transparent, free and fair election. This followed the abolishment of the one-party state. Kaunda and UNIP were defeated eighty per cent to twenty per cent by the newly formed MMD - a broad coalition of different interest groups.
- 21.2 The MMD's Frederick Chiluba, a trade unionist who had been locked up by Kaunda, became Zambia's second president. He promised democratic,





transparent and accountable governance, but inherited an empty treasury, a foreign debt of seven billion US dollars and a country in a worse state than it had been when it won its independence in 1964.

- 21.3 The return to multiparty politics following the constitutional amendment of 1990 that ended UNIP's monopoly of political power greatly liberalised the political system. Although the political liberalisation led to the formation of a large number of political parties, only a few parties have contested elections and participated in Parliament. There are presently over 33 registered political parties in the country but only a few can be said to be serious contenders for power, namely: the MMD, PF, UPND, UNIP and FDD. In general, the atmosphere for forming political parties is liberal and all that is required of any group of people that wishes to form a political party is to meet the basic requirements of the Societies Act regarding the formation of a society.
- 21.4 In terms of the organisation of state institutions, Zambia has a republican form of government where the President is both the Head of State and Head of Government. A unicameral legislative body, the National Assembly, performs the legislative functions. Although Zambia has some elements of both presidential and parliamentary systems, it is predominantly a presidential in nature, with the President enjoying an enormous amount of power in relation to the legislative body and the judiciary. He is directly elected and his tenure of office is not dependent on his party winning a majority in the National Assembly, as is the case with parliamentary systems.
- 21.5 The political liberalisation that resulted from a return to a multi-party system has greatly increased the role of civil society in Zambian politics and, since 1990, civil society has played a significant part in promoting democratic governance in the country. A number of local civil society organisations (CSOs) have been involved in monitoring the elections. Among these are organisations such as the Forum for Democracy and Development (FODEP).
- 21.6 Some CSOs have also been involved in promoting democratic governance and culture between elections. One important organisation in this respect was the Oasis Forum which played a pivotal role in democracy advocacy and was the main opposition voice against attempts by the ruling MMD and former President Chiluba to amend Constitution to allow him to run for a third term of office. The labour movement, in its own right, and the ZCTU in particular, has played a critical and influential role in Zambian politics, dating back to the days of the nationalist struggle.
- 21.7 Despite political liberalisation, the MMD continued to be Zambia's ruling and dominant political party for close to two decades. The first MMD administration lasted up to January 2002, under the leadership of President Frederick J.T. Chiluba. In the October 31 elections held in 1991, as noted above, Chiluba resoundingly beat then sitting President, Kenneth Kaunda, with 81% of the vote. Chiluba was re-elected in 1996.
- 21.8 In the 2001 elections, the MMD's candidate for the presidential elections, Levy Mwanawasa, received 29.1 % of the votes and was declared the victor by a narrow margin. In 2006, Mwanawasa was re-elected with 43.0% of the votes.





Following the death of President Mwanawasa in August 2008, a presidential by-election was held in October of the same year in which the ruling party's candidate, Mr. Rupiah Banda, narrowly beat the Patriotic Front (PF)'s Michael Sata.

- 21.9 The last elections were held on 20<sup>th</sup> September 2011 and Mr. Michael Sata, leader of Zambia's opposition party, the Patriotic Front (PF), won Zambia's presidential elections with 1,150,045 votes (43%) while the incumbent Rupiah Banda of the Movement for Multiparty Democracy (MMD) polled 961,796 votes (36%). The victory of PF ended the twenty-year rule of the Movement for Multiparty Democracy (MMD), which had been in power since 1991 when one-party rule came to an end after its founder President Fredrick Chiluba defeated then President Kenneth Kaunda.
- 21.10 Although the 1996 and 2001 elections were generally free there was a widespread feeling that the elections in Zambia were unfair. Evidence of this general perception is that the results of both the 1996 and 2001 presidential elections were challenged. The 2011 elections, on the other hand, were declared free and fair and the incumbent, Mr. Rupiah Banda, conceded defeat and wished the new government well.
- 21.11 In 2001, the results of 39 parliamentary seats were challenged in court, most of them against the candidates of the ruling party. Reports from the international observer groups and local monitoring groups on both the 1996 and 2001 elections raised serious concerns about the fairness of those elections. This has raised concerns about the country's electoral system and the need for a good constitution.

## 22. The Electoral System and Process

- 22.1 Much of the central attention in discussions on democracy on Zambia has revolved around process-related issues of the "*freeness*" and "*fairness*" of the elections. Formative factors of a 'structural' or 'methodological' nature, such as the electoral system, have received little attention.
- 22.2 Through all the years of its colonial and independence period, Zambia has been using the plurality First-Past-The-Post" (FPTP) system in all elections. In the FPTP system the candidate with the largest number of votes in an election wins irrespective of whether the number of votes received constitutes less than 50% (majority) of all votes cast.
- 22.3 This system was first used for colonial and native elections in Northern Rhodesia and the Federation of Rhodesia. It was also used for the 1964 and 1968 multi-party elections held under Zambia's First-Republic and continued through the one-party system of the Second-Republic from 1972 to 1991.
- 22.4 The system was carried over to Zambia's Third Republic of 1991. Throughout the 1991 negotiations between the MMD government and international mediators, the issue of the electoral system was hardly touched upon and no proposal was offered to change to a different electoral system. Even during the run-up to the 1996 elections, the question of the electoral system remained dormant,





with many political parties concentrating their efforts on constitutional amendments regarding eligibility to stand for presidency and the inadequacies of the voters' registration process.

- 22.5 The principal problem in Zambia is seen as the unrepresentative nature of elections organised on a First-Past-The-Post (FPTP) electoral system. The problem is compounded by five main elements that typify FPTP, namely: low voter turnout; vote wastage; level of political competition; electoral malpractices; and electoral disputes/conflicts.
- 22.6 It has been observed that many political parties fail to receive parliamentary composition commensurate with their popularity. This feature has raised questions about the representative nature of Zambia's 'multi-party' politics. Thus, for the most part of the Third Republic, Zambia's Parliament has remained more like a one-party parliament as a result of ruling-party dominance.
- 22.7 The other feature of the problem is low voter participation. The problem is aggravated by the incidence of *missing voters* - (i.e. eligible voters not included on the voters' roll). And yet another problem is electoral bribery and corruption. Under the FPTP system, election outcomes are categorical: *one either wins or loses everything*. As such, politicians and candidates easily resort to electoral malpractices such as corruption, bribery and other undue means of wooing voters as a way of exploiting every possible means to secure election victory at all costs.
- 22.8 Until now, the issue of the electoral system has not received the attention of key stakeholders. As discussed in Chapter Three, it is only recently that Zambia has started to take stock and raise questions about the suitability of the electoral system to the current political environment and how it affects the quality of representative democracy.

### **23. The Quest for a Good Constitution**

- 23.1 Zambia, like many African countries, has experienced constitutional instability since independence. This instability is primarily reflected in the many Constitutions (four) that the country has had in the last 44 years of independence. The four constitutions so far are the : Independence Constitution of 1964, the One-Party Constitution of 1973, the Reintroduction of Multiparty System Constitution of 1991; the 1996 Constitution; and, the 2006 Mung'omba Commission Constitution. The country is currently going through yet another constitutional review process.

### **24. Economic Context**

- 24.1 At independence in 1964, Zambia inherited what is generally described as a "lop - sided economy" highly dependent on one export commodity - copper (see Seidman, 1974; Mandela, 1991; Mwanza, 1972; Mulenga, 2000). At the time, the foreign-dominated copper industry accounted for about 40% of GDP, 71% of government revenue and 92% of foreign exchange earnings while employing about 18% of the labour force (Todd and Shaw, 1980). Manufacturing contributed less than 7.0% of GDP, about half as much as in other countries with







comparable income per capita (Seidman, 1974). Tobacco and beverages were the dominant industries. In addition, Zambia found itself with very few indigenous staff to run enterprises and government, and with an inadequate education system (Fincham, 1980; Todd and Shaw, 1980; Mandela, 1991; Mulenga, 2000).

## 25. Economic Policy

25.1 In an attempt to redress these imbalances, the former UNIP government adopted a strategy of state-led development that was the norm in much of Africa during the 1960s and 1970s. During this period, the government implemented a policy of import-substitution industrialisation (ISI) in which the State entered into joint ventures with foreign corporations to establish new industries (Fundanga and Mwaba, 1997; Chiwele, 2000; Craig, 2000; Kani, 2000; Mulenga, 2000).<sup>3</sup> By the end of the 1970s, the State had virtually complete control of the economy under a hierarchy of state holding companies, at the apex of which was the Zambia Industrial and Mining Corporation (ZIMCO). The economy's real Gross Domestic Product (GDP) growth rate averaged 4.4 per cent between 1965 and 1974, with a GDP per capita close to US 1200. As a result, in the 1960s and early 1970s, Zambia was regarded as one of the richest countries in Tropical Africa (Seidman, 1974; Wulf, 1988; Mulenga, 2000; Muuka, 1997). In 1975, the World Bank classified Zambia as a 'middle income' country with a per capita income of USD900 – much richer than South Korea.

25.2 The strong economic performance in Zambia coincided with a favourable external environment characterised by high mineral rents. The government utilised the high mineral revenues to make heavy investment in social and economic infrastructure, especially in roads, schools, hospitals, electricity, and telecommunications (Todd and Shaw, 1980; Chiwele, 2000; Kani, 2000; Mulenga, 2000). Although this investment was important, it bred aspects which were to make the economy vulnerable, especially to external shocks (see Seidman, 1974; White, 1997; Chiwele, 2000; Kani, 2000).

## 26. Economic Decline

26.1 However, by the mid-1970s, the flaws in Zambia's strategy of state ownership had started to show (Mandela, 1991; Fundanga and Mwaba, 1997; Chiwele, 2000; Craig, 2000; Kani, 2000; Mulenga, 2000). The onset of the 1973 oil crisis, coupled with the collapse of the copper price, adversely affected the fiscal position of the government. In response, the government resorted to external borrowing in order to maintain current consumption levels (Mandela, 1991; Mulenga, 2000). This was based on the erroneous assumption that copper prices would rise again (Mwanza, 1992).

26.2 Amidst the growing debt crisis (which rose from USD0.8 billion in the early 1970s to over USD7.2 billion by 1991) and worsening fiscal performance, capacity utilisation in the state-owned enterprises (SOEs), which were mainly dependent on government subsidies and imported inputs, declined to around or less than 30 per cent (Craig, 2000; Mulenga, 2000; Hamasaka, 2002). Seidman (1974) provides a detailed account of the pitfalls of Zambia's distorted growth of import-substitution industrialisation which did not stimulate local production.

<sup>3</sup> Between 1968 and 1972, the government, through the Mulungushi and Matero Reforms, enacted a programme of nationalisation which saw the state acquire a controlling interest in many of the most important private sector businesses, including the mines.





26.3 Zambia's economic problems assumed crisis proportions in 1982 when trade credits to the country were suspended (Moser and Holland, 1997). Between 1973 and 1984, GDP in real terms declined at an average rate of 1.5 per cent per year. During the same period, GDP per capita in real terms declined by a total of 35 per cent (Imboela, 1997).<sup>4</sup> As a consequence, post-independence gains in per capita income, life expectancy, education, and health were stalled or reversed between 1975 and 1990 (Moser and Holland, 1997). This is reflected in Zambia's continued decline on the Human Development Index (HDI) ranking since 1990.<sup>5</sup>

## 27. Economic Liberalisation

27.1 Despite the economic decline, the government only took half-hearted measures to reform the economy. The initial government response to the deterioration in a range of economic indicators<sup>6</sup> was to move further towards administrative controls. Although this period saw a gradual return to IMF and World Bank-inspired pro-market economic policies and reforms, it was not until 1992, following a change of government in which UNIP was defeated by the reformist MMD in the 1991 elections, that a more consistent market-oriented economic policy was introduced.<sup>7</sup>

## 28. Formal Employment

28.1 Assessment of the impact of the deteriorating economic trends on the urban employment situation in Zambia is, however, difficult because of a variety of conceptual and definitional problems which reduce the usefulness of the limited data available.<sup>8</sup> Due to these problems, it is not possible to work out the average growth rate of the labour force for the 1980-90 period. It is also difficult to assess rural and urban labour market trends even though the macro-economic reforms, which were intensified after 1990, have had different impacts on rural and urban households. Nevertheless, all the available estimates (with slight variations) show that formal employment in Zambia has since 1964 contracted to just about 10 per cent of the labour force. The generation of jobs in the formal economy did not keep pace with growth in the labour force from 1992 to 1999. Although there was a slight increase in formal employment in 1999, it was still insignificant compared to the growth in the labour force. In recent years, the decline in formal employment in Zambia has been mainly attributed to economic restructuring, especially privatisation.

<sup>4</sup> This decline was characterised by severe shortages of goods, shortages of foreign currency, a high inflation rate, a deterioration in the balance of payments position, mounting external debt, an uncompetitive industry in the export markets, under-capitalisation of the copper mining industry and high population growth rates. In addition, the government failed to develop a strong and dynamic industrial base supported in a complementary way by the agricultural sector.

<sup>5</sup> Zambia's performance on the HDI ranking has continued to fall as reflected in the following trends: 1975 (0.468); 1980 (0.475); 1985 (0.484); 1990 (0.462); 1995 (0.424); 2000 (0.409); and, 2003 (0.394).

<sup>6</sup> Such as the current account, public finance, foreign reserves, and inflation.

<sup>7</sup> Since 1992, the MMD government has undertaken what many observers describe as a 'radical' economic reform programme (Fundanga and Mwaba, 1997; White, 1997; Chiwele, 2000; Kani, 2000; Kenny 2000; Pangaea, 2000; Kayizzi - Mugerwa, 2001). A critical element of these reforms was to roll-back the role of the state in economic management. The government's main tool for enhancing private sector participation in the economy has involved economic liberalisation, deregulation, and privatisation. It was hoped that the promotion of a private sector-driven economy would lead to an increase in investments, job creation and poverty reduction.

<sup>8</sup> First, there is no rural-urban breakdown of the labour force statistics. Secondly, the definition of 'labour force' changed several times between 1980 and 1990. Thirdly, there are, as noted in Chapter One, conceptual and measurement problems associated with 'employment' and 'unemployment'. Fourthly, employment statistics are based on infrequent census data, which are not supported by regular labour force surveys to improve the accuracy of projections for the ten-year inter-census periods. For example, a labour force survey was only undertaken in 1986. Finally, employment statistics are not disaggregated by age.





## 29. Privatisation

- 29.1 In the early 1990s, the Zambian Government embarked on one of the fastest rates of privatisation in Africa, winning donor community praise (Craig, 2000; 2001; Kayizzi-Mugerwa, 2001). However, the privatisation programme has been subject to a number of conflicting evaluations. For some analysts, it is a 'model' of success which stands out as an example to other developing countries (World Bank, 1996; 2000b; Bennell, 1997; Fundanga and Mwaba, 1997; Campbell-White and Bhatia, 1998; Pangaea, 2000). For others, it is a 'deeply flawed' experience which allowed the corrupt acquisition of assets by those linked to the ruling party (Craig, 2000; 2001; Kenny, 2000; Kayizzi-Mugerwa, 2001; Posthumus, 2000; van de Walle, 2001; SARP, 2000).
- 29.2 There has also been a lack of consensus on the impact of privatisation on employment. Supporters of privatisation argue that there is a tendency to confuse the impact of SOE reform and broader economic liberalisation with the 'real' effects of privatisation. They claim that the direct impact of privatisation on job losses has been minimal (Fundanga and Mwaba, 1997; ZPA, 2000; 2001; Hamasaka, 2002). Indeed, Fundanga and Mwaba (1997) assert that some job losses reflect the transitory costs of moving on to a more efficient system.
- 29.3 However, critics argue that the impact of privatisation cannot be separated from that of economic liberalisation in general (Bayliss, 1997; 2000). It is estimated that 60 thousand jobs have been lost since 1991 as a result of liberalisation and privatisation policies. The available data show that between 1992 and 1994, employment in Zambia declined by a massive figure of 47,900, while the number of registered redundancies was 18,712. In total, 70,000 formal sector jobs were lost between 1992 and 2001. The decline in employment varies according to sectors with services and retail showing some growth. However, it is argued that the growth in retail and service sector jobs has not been enough to compensate for the job losses in other sectors of the economy (Seshamani and Kaunga, 1999; Mulenga, 2000). Moreover, foreign investment in Zambia is too low to compensate for job losses (Kenny, 2000).<sup>9</sup>
- 29.4 The failure to create many formal employment opportunities in Zambia has been accompanied by a decline in the quality of employment in this sector. The Zambia Congress of Trade Unions (ZCTU) (2001) reports that, although nominal wages have increased over the years, corresponding real wage levels have actually declined during the same period. This has led the critics to argue that, despite economic reforms, the economy remained virtually stagnant during the 1990s. Between 1991 and 1998, average growth was negative, with annual growth rates being positive in only three out of the eight years. Per capita income declined from USD 405 in 1990 to USD358 in 1993 and USD250 in 1996 (in 1987 USD). The government's revenue base also fell from 30 per cent of GDP in the 1960's to less than 20 per cent in the 1990s, resulting in cuts in public expenditure on education, health and other services (Moser and Holland, 1997). In 1992, the World Bank re-classified Zambia as a low-income economy.

<sup>9</sup> Critics argue that privatisation has mainly benefited foreigners at the expense of local people (Bennell, 1997; Craig, 2001).





### 30. The Poverty Situation

- 30.1 The economic decline in Zambia before 2000 was reflected in the widespread poverty situation in the country. Although there is no official poverty line in Zambia, the Central Statistical Office (CSO) defines 'poverty' as the amount of monthly income required to purchase basic food to meet the minimum caloric requirement for a family of six. Based on this measure, the percentage of the population living in poverty in 1991 stood at 69.7 per cent.<sup>10</sup>

A series of national surveys under the Social Dimension of Adjustment (SDA) Priority Surveys of 1991 (PS I) and 1993 (PS II), and the Living Conditions Monitoring Surveys of 1996 (LCMS I) and 1998 (LCMS II) in particular, reveal that poverty levels in most of the critical dimensions increased in the 1990s. Between 1991 and 1998, there was an increase in overall poverty and a very marginal decline in extreme poverty. Although rural poverty continued to be more prevalent, deeper and more severe, urban poverty was rising fast and had reached 56 percent by 1998, up from 46 per cent in 1996 and 4 per cent in 1975.<sup>11</sup> Significantly, poverty levels in Lusaka province doubled to 52 per cent from their 1991 levels (World Bank, 1994). In recent years, however, urban poverty has declined significantly to about 33 per cent.

- 30.2 The current MMD government has adopted the Millennium Development Goals (MDGs) in an effort to halve poverty by 2015.<sup>12</sup> Although recent years have seen a significant decline in urban poverty, rural poverty in Zambia still remains high. The high and growing poverty levels in Zambia have influenced the tendency towards survivalist economic activities in the country, especially in the informal sector in urban areas (Bardouille, 1991; Imboela, 1997; Mulenga, 2000).

### 31. Recent Economic Performance

- 31.1 After decades of socialist experimentation and economic decay, Zambia has turned the corner post-2000. Following sweeping and painful free-market reforms during the 1990s, the economy has been re-oriented. As a result, Zambia's economic performance improved considerably in the 2000s. Real annual GDP averaged 4.6% in the five years from 2002 to 2007, reversing the negative trend in previous years.<sup>13</sup> Annual GDP growth has now exceeded 6.3%. The main drivers of this growth are increased agricultural production and significant new investments in key economic sectors, especially mining. Zambia's growth has further been boosted by improved economic management, especially with respect to the budgeting process, expenditure management and financial accountability.

<sup>10</sup> But the poverty situation in Zambia may, in reality, have been worse than this figure depicts. This is due to weaknesses in the caloric measure of poverty. The food basket used to arrive at the poverty line is very modest and based on a predominantly minimal caloric requirement that is vegetarian and excludes meat, chicken, and fish. Moreover, the caloric measurement does not fully factor in such basic needs as shelter, education, health care, lighting, clothing, footwear, and transport. Human freedoms are also remotely linked to the current definition of poverty.

<sup>11</sup> Urban areas display peculiar characteristics in the nature of their poverty and show strong linkages to employment access, both formal and informal. As a result, they have borne the brunt of the deteriorating employment situation (Muuka and Kalyalya, 1997).

<sup>12</sup> In July 2002, Government officially launched its first Poverty Reduction Strategy Paper (PRSP) for the period 2002-2004. In October 2002, the government adopted the Transitional National Development Plan (TNDP) for the period 2002-2005 incorporating and expanding the scope of the PRSP. The TNDP encompasses all the areas in the PRSP and includes other areas such as the Judiciary, Law and Order, and Defence and Security.

<sup>13</sup> Lennart Wohlgemuth and Oliver Saasa (2008), "Changing Aid Relations in Zambia". Discussion paper No. 83, European Centre for Development Policy Management.





- 31.2 However, since 2008, the state of the national economy has been largely influenced by the impact of the global economic crisis. The sharp increases in food and oil prices, the collapse in the price of copper and other commodities, compounded by the global financial crisis, placed enormous pressure on many households, especially the low-income groups. This has resulted in, among others, the closure of some mines and the scaling back of operations and investments.
- 31.3 As a consequence, it was initially projected that Zambia's growth prospects for 2009 had diminished and the outlook for gross domestic product was revised downwards to 4.0 per cent or below. Additionally, there was volatility in the exchange rate in the early part of 2009 and an increase in inflation, although this stabilised somewhat over the next few months.
- 31.4 Government's initial response to these developments has been to stabilise fuel and food prices in order to cushion the negative impact of the crisis, especially for those who are most vulnerable. Further, to mitigate the effects of the global economic meltdown which has drawn the world economy into a recession, GRZ is implementing the following measures:
- Consolidating the macroeconomic stability gains through minimising exchange rate volatility and moderating inflation;
  - Realigning resource allocation towards infrastructure development in energy, agriculture and tourism;
  - Intensifying efforts to attract foreign and domestic investment, which has significantly reduced globally;
  - Enhancing budget implementation;
  - Monitoring budget implementation through the Cabinet; and,
  - Stepping up the implementation of the public expenditure management and financial accountability programme, including the integrated financial management information system.
- 31.5 In response to these measures and to the rebound in the international price of copper, Zambia has done remarkably well in mitigating the adverse impact of the global economic crisis. With the measures put in place, the country has been able to weather the global economic crisis and, over the course of the year, strong recovery and growth have been registered in strategic economic sectors.
- 31.6 Contrary to the projected growth of 4.3 per cent for 2009 announced in the 2009 budget, the Central Statistical Office (CSO) estimates that Zambia's economy grew by 6.3 per cent during the period under review. This is due to strong growth in the mining and quarrying, agriculture, forestry, fishing and construction sectors. As a result, new jobs are being created and the food supply situation in the country has improved greatly while prices of goods and services have generally remained stable. Overall, the estimated growth of 6.3 per cent (or even the earlier adjusted projected figure of 4.3 per cent) is much higher than the projected global average of negative 1.1 per cent and the SSA growth projection of 1.3 per cent. A recent IMF assessment confirms this.





- 31.7 The prospects for the Zambian economy in the short to medium term look positive. Zambia is likely to register a growth rate of 7.0 per cent in 2010 with an anticipated rebound in the tertiary sector, in addition to positive performances in the copper and agriculture sectors. A report 'Zambia – 2010 Outlook: Demonstrating Resilience' by Renaissance Capital – a Russian investment bank that focuses on emerging markets – has projected that Zambia's GDP would reach USD18.6 billion and GDP per capita USD1,422 by 2012.
- 31.8 Although the Zambian economy is poised to grow, it remains vulnerable to external factors. In 2008, the country's external environment became progressively more hostile. Rising world food and fuel prices in 2008 pushed inflation up steeply. Annual inflation reached 16.6% in December 2008, up from 8.9% in 2007. It has since declined to 10.2 % by March 2010. Owing to tight supply and strong global demand combined with threats of industrial action and speculative pressure, global prices for copper, Zambia's main export commodity has surged over the past two years.<sup>14</sup> But the rising price of oil is a threat to stable macroeconomic stability.
- 31.9 Other downside risks to sustained growth include a decrease in productivity due to the high prevalence of HIV and AIDS, shortage of energy especially electricity, and further appreciation of the Zambian Kwacha to about 40% against the US dollar in October 2008. Zambia's continued dependency on copper creates risks and is unlikely to generate the growth needed for Zambia to achieve its growth targets (World Bank Country Strategy, 2008).
- 31.10 There is growing need for diversifying the Zambian economy through effectively addressing policy and institutional capacity building and infrastructure-related barriers in order to unlock agriculture, manufacturing and tourism to private sector expansion. Increasing competitiveness of "Doing Business" in Zambia is critical. Both the government and private sectors see inadequate infrastructure as one of the main obstacles to increasing growth and development. Road density remains very low and the main export corridors suffer from the presence of overloaded trucks and heavy traffic. Fuel prices are the highest in the region. Environmental issues are prioritised in the FNDP but, in practice, they have not received much attention. Less than 1% of government expenditure is allocated for environmental protection.

## 32. Socio-economic Challenges

- 32.1 Despite positive growth in recent years, Zambia remains one of the poorest countries in the world. In 2007, it had a Human Development Index (HDI) of 0.434 in 2007 and currently ranks 165 out of 177 countries.<sup>15</sup> The low ranking is believed to be predominantly due to low life expectancy at birth as a result of High HIV prevalence. However, there has been an improvement in Zambia's HDI in the 2009 Human Development Report (0.481), which gives the country a ranking of 164 out of 182 countries.

<sup>14</sup> Economist Intelligence Unit, (May 2008) Country Report Zambia.

<sup>15</sup> UNDP (2008) The Human Development Report, Zambia, 2008 Statistical Update. HDI provides a composite measure of three dimensions of human development: living a long and healthy life (measured by life expectancy), being educated (measured by adult literacy and enrolment at the primary secondary and tertiary levels) and having a decent standard of living (measured by purchasing power parity-PPP- and income)





- 32.2 **Poverty** remains entrenched in Zambia. Although there have been some reductions in urban poverty in recent years, rural poverty levels have risen from 58 per cent in 2004 to 64 per cent in 2006. About 10 per cent of the population have very little or no productive capacity and an estimated 75,000 children are living on the streets.<sup>16</sup> Poverty has rural dimensions affecting as much as 81 per cent of the rural population.
- 32.3 In the **Education sector**, Zambia is performing relatively well. As of 2005, the adult literacy rate was 68 per cent compared to 42 per cent in 2004.<sup>17</sup> Primary Education is the area in which Zambia is most likely to meet the MDGs with net primary school enrolment of more than 90 per cent and gender parity achieved.<sup>18</sup> According to the Annual Progress Report of the FNDP for 2007, the net enrolment rate for Grades 1-7 increased by 3.9 per cent between 2006 and 2007. During the same period, 7100 teachers were recruited and deployed.
- 32.4 **The Health sector** is also viewed as performing relatively well. However, there is a need to improve in outcomes around maternal and infant mortality, which is one of the highest in the world. Performance in outcomes for malaria and tuberculosis also lags behind set Fifth National Development Plan (FNDP) targets. Despite the increase in the Ministry of Health (MoH) budget over the years, the infant mortality ratio has worsened from 95/1000 births in 2002 to 103/1000 births in 2007. Under-five mortality has remained almost the same with 168/1000 births in 2002 to 170/1000 births in 2007. The maternal mortality ratio (MMR) has not improved much between 2002 (729/100 000 live births) and 2007 (730/100 000 live births). Life expectancy continues to deteriorate; from 51.9 years in 2002, it had dropped to 42 years in 2007. Sanitation is a huge challenge in both urban and rural areas with only 43 per cent of the population in urban areas and 13.5 in rural areas having adequate access to sanitation.
- 32.5 **HIV** prevalence is still high in Zambia although it is on the decline. According to the UNAIDS Zambia 2008 *Country Progress Report*, the HIV prevalence rate among the 15-49 age group has declined from 24 per cent ten years ago to the current 14.3%. The prevalence rate is higher among women than males, at 17.8 per cent and 12.6 per cent, respectively. Further, women are 1.4 times more likely to be HIV positive than men. In particular, the HIV infection rates among women aged 15-24 are five times higher than those for young men in the same age group. Approximately one million Zambians are HIV positive, of whom over 295 240 are in need of anti-retroviral therapy.<sup>19</sup> The Fifth National Development Plan (2006-2010) rightly notes that HIV and AIDS limits the realisation of economic development and has the potential to continue diminishing the chances of alleviating poverty and hunger, achieving universal primary education, promotion of gender equality, and reducing child maternal mortality.

<sup>16</sup> AfDB/OECD. Ibid

<sup>17</sup> Human Development Report Zambia (2008).

<sup>18</sup> AfDB/OECD, Ibid.

<sup>19</sup> Ministry of Health and National AIDS Council Zambia (2008) Zambia Country Report: Multi-Sectoral AIDS Response, Monitoring and Evaluation Biennial Report 2006-2007. (Updated version).





- 32.5.1 Donor dependence is another challenge facing Zambia. Given the country's current socio-economic challenges, the need for support from external partners cannot be overemphasised. Comparatively, the country has a relatively large number of Cooperating Partners (donors). In recent years, however, official development aid (ODA) to Zambia has shown significant fluctuations with respect to commitments, with bilateral donors assuming dominance. The country's main development partners are Germany, the UK, the US, Japan, and, increasingly, the European Commission (EC). Over the past four years, European Union (EU) Member States provided almost half (59.5 per cent) of ODA to Zambia, and the EC added another 10.5 per cent.
- 32.7 The importance of aid to Zambia is illustrated by its contribution to the Government Budget. Between 2000 and 2005, aid accounted for an average of 43 per cent of the total state budget, having peaked at 53 per cent in 2001.<sup>20</sup> However, between 2006 and 2007, the proportion of aid dropped below 30 per cent. In the 2008 Budget Speech, foreign aid was said to have fallen to 24 per cent from 28 per cent the previous year and in 2009 to about 20 per cent, suggesting enhanced government ownership of the development process. The relative fall in the contribution of aid to the government budget is mainly due to debt relief, rising copper prices and strong economic growth. It should be noted, however, that not all aid is captured in the budget.
- 32.8 In recent years, the Government of the Republic of Zambia (GRZ) has taken measures to improve aid coordination in order to improve development effectiveness. In June, 2005, the Ministry of Finance and National Planning published a document on its relationship with donors called *Aid Policy and Strategy*. In this document, GRZ observed that the impact of development aid could be improved and that the government was aiming for well articulated aid policies and strategies which would provide sufficient direction during dialogue between Government and its cooperating partners. The publication of the aid policy followed initial attempts by Cooperating Partners to harmonise their bilateral support to Zambia through what became known as the Harmonisation-in-Practice (HIP) and the Wider Harmonisation-in-Practice (WHIP) initiatives.
- 32.9 In conclusion, the governance in Zambia has progressed steadily to move away from nearly three decades of authoritarian one-party rule between 1973 and 1991. Consequently, the eagerness to democratise has been so overwhelming that a plethora of policies, procedures, guidelines and institutions have been put in place to govern development and governance processes. One of the major challenges, however, is how to harmonise Zambia's many progressive policies and institutional frameworks to ensure smooth coordination among the various institutions in place and remedy the severe lack of resources and effective machinery for implementation. This is the heart of the problem.

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<sup>20</sup> GRZ 2005b.







## CHAPTER THREE

# DEMOCRACY AND POLITICAL GOVERNANCE

### 33. Overview

#### 33.1 Introduction

33.1.1 The central principle of the APRM framework is that democracy; good governance; peace and security are essential for poverty reduction and sustained social and economic development. The APRM also acknowledges that although the State is a central element in governance, there needs to be strong and enduring partnerships between the government, the private sector, and other non-state actors such as civil society organisations and communities. Good political governance would ensure that conditions are suitable for enhancing the development of humankind, politically, economically, and socially.

33.1.2 The APRM pillar of Democracy and Good Political Governance is a reaffirmation of the commitment to promote democracy and its core values. The APRM therefore is aimed at examining the progress of a country in enforcing the agreed-upon core democratic values, which are:

- The rule of law.
- Equality of all citizens before the law and the liberty of the individual.
- Individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution.
- Equality of opportunity for all.
- The inalienable right of the individual to participate by means of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office.
- Adherence to the separation of powers, including the protection of the independence of the judiciary and of effective parliaments.<sup>1</sup>

#### 33.2 The People of Zambia

33.2.1 The country has a diversity of 72 ethnic groups that are classified into 13 linguistic clusters, namely: the Nyanja-Chewa; Tonga-Ila; Lunda-Luvale; Bemba-Lala-Lamba; Lozi (Kololo); Tumbuka; Nkoya; Mambwe-Inamwanga; Swahili; Simaa-Totela; Kaonde; Old Pre-Makololo; and Goba (Korekore) groups.

#### 33.3 The Constitution, Executive, Legislature and Judiciary

33.3.1 Zambia is a republic, which became independent on 24 October 1964, after 70 years of colonisation by the United Kingdom. The country has had frequent constitutional changes; the current Constitution is the fourth after independence. The first was the Independence Constitution of 1964, which created the unitary state by integrating Barotseland protectorate and Northern Rhodesia into the new Republic of Zambia. The second was the 1973 Constitution that introduced a

<sup>1</sup> AU, 2002. NEPAD Declaration on Democracy, Political, Economic and Corporate Governance (AHG/235 (XXXVIII))





one party state. The one-party system gave way to a multi-party dispensation through the Third Constitution of 1991. The current, fourth constitution was adopted in 1996. The Zambia Constitution Bill 2010, which was tabled in the legislature in February 2011, seeks to revise the fourth constitution.

33.3.2 The system of government is unitary and consists of the executive headed by the President; a unicameral Parliament; and a Judiciary. The President is assisted by a Vice President. There are ten provinces, which are : the Central, Southern, Eastern, Western, Northern, Luapula, North Western, Copperbelt, Lusaka and Muchinga. The provinces and districts are deconcentrated offices representing the Presidency. Each province is headed by a Minister who is appointed by the President but is not a member of the national Cabinet. There is also a Permanent Secretary for each province, who is also appointed by the President. The Deputy Permanent Secretary is a career civil servant. The nine provinces are further subdivided into 72 administrative districts that are headed by District Commissioners who are also appointed by the President. The districts incorporate 286 traditional chiefs that assist the state in the administration of the land and exercise powers over customary law and cultural and community matters.

33.3.3 The legislature has 150 elected Members of Parliament representing constituencies, but the President may nominate up to eight additional members. The parliamentary elections are conducted using the first-past-the-post system. Although the Speaker of Parliament is selected and endorsed by Parliament, the President has some influence in determining who will stand for that post by virtue of the fact that he is head of the ruling party, appoints some Members of Parliament and selects his Cabinet from among the Members of Parliament.

33.3.4 The Judiciary is divided into the Upper Bench, consisting of the Supreme Court, High Court, and the Industrial Relations Court, which consist of judges who are constitutional office holders. The Lower Bench is composed of the Magistrates Courts and Local Courts. The President appoints the members of the Supreme Court and the High Court, who have to be ratified by the legislature. The magistrates and the chief administrator and staffs of the judiciary are civil servants. The executive exercises undue influence over the judiciary, inter alia through the control of judicial budget allocation and allotment as well as the subjugation of many judicial officials to tenures determined by contracts of limited duration which require periodic renewal.

#### **33.4 Political Dynamics, Parties, and Elections**

33.4.1 The political system is characterised by two main influences: the Westminster system of government inherited from the former colonial master and a reformist form of republican system with presidential features. The uneasy hybrid exhibits strong characteristics of state centralisation, manifested through presidential pre-eminence and the relative subordination of the legislature and judiciary to the executive. This executive dominance has historical roots, and has evolved throughout the different constitutional dispensations. However,





the introduction of the one party state system appears to have consolidated presidential dominance, which was further entrenched when the multiparty system was re-introduced in 1991. However, while the re-introduction of a multiparty system marked the liberalisation of the political system, it did not change the fundamental relationships and interactions between the three branches of government that had evolved since independence. This development effectively perpetuated executive dominance over the legislature and the judiciary.

- 33.4.2 Although there is a plural political system with 39 recognised parties, there are only three dominant ones. These are the ruling Movement for Multiparty Democracy (MMD), the United Party for National Development (UPND) and the Patriotic Front (PF). The latter two have been in an uneasy alliance against the MMD, but their frequent squabbling renders them too weak to effectively serve as a strong opposition. There have been, therefore, contested elections ever since 1991. The 1991 elections were considered by all parties to have been the freest and fairest; overall, though, the political party interactions have been characteristically acrimonious and uncooperative since then. The general elections of 2001 and 2006 were generally considered free but the opposition perceived them to be unfair. In 2001, the ruling MMD party's candidate, Levy Mwanawasa, received only 29.1 per cent the vote and was re-elected in 2006 after winning 43.0 per cent. Both the 2001 and 2006 election results were challenged.

Notably, the 2001 presidential elections were challenged on the basis that there had been fraud and corruption.<sup>2</sup> Some senior state officers in President Chiluba's administration, including a former senior Cabinet minister and former Chief of Intelligence testified that there had been a plan to influence the election which was 'won' by the respondent by the narrowest of margins. Even so, the petition was thrown out of court for lack of evidence. As for the National Assembly, 39 (26 per cent) of the 150 parliamentary seats that had been won by the MMD in the same year were contested in court.

International and local monitors and observers also expressed concerns about the fairness of the First-Past-The-Post (FPTP) electoral system, and particularly the results of the elections. As acknowledged in the CSAR, the FPTP system appears to lead to an "unrepresentative nature of elections...whereby many political parties fail to receive parliamentary [representation] commensurate with their popularity...[which is] compounded by low voter turnout; vote wastage; low level of political competition; electoral malpractices; and electoral disputes/conflicts". The CSAR also notes that due to the FPTP electoral system, the composition of the Zambian Parliament has been characterised by one-party dominance even though, formally, the political system is a multi-party one. The CSAR further states that the incidences of low voter participation and eligible voters' names missing from the electoral rolls prompts many political contestants to "resort to electoral malpractices such as corruption, bribery and other undue means of wooing voters as a way of exploiting every possible means to secure election victory at all costs".

<sup>2</sup> Anderson Kambela Mazoka & 2 others v. Levy Patrick Mwanawasa & 2 others, SCZ/EP/01/02/03/2002





The electoral disputes have been based on various points of contention, such as the entrenchment of political patronage and cronyism, and the alleged political interference in the functioning of state institutions including the legislature, the judiciary, the various commissions, the directorate of public prosecutions, the anti-corruption bureau, parastatal entities, etc. Stakeholders in their consultations with the CRM confirmed the CSAR's assertions of a widespread perception that recent elections have also seen an increase in vote-buying and politically-motivated violence. Political party contestation does not appear to be driven by issues, but rather by patronage, personal gain and the desire to capture the levers of power that seem to be the gateway to wealth accumulation.

- 33.4.3 Zambia has a number of internal conflicts. As pointed out above, electoral contests between political parties have recently been characterised by acrimony and rising levels of election-related violence. There are also labour-related disputes mainly with foreign investors in the mines and the farms, and to a lesser extent, in the tourism industry. Traditional leaders in various provinces have disputes amongst themselves too, for example the Lunda vs. Luvale in the North-Western province and the Lozi vs. Kaonde in the Western province. There are also significant disputes within the Barotseland Royal Establishment in the Western province. Even more significant is the disagreement between the government and the Barotseland Royal Establishment over the Barotseland Agreement of 1964, which the government abrogated in 1969 and the Barotse wish to be reinstated. The Barotse people consider that the government has betrayed them and wish for the constitutional recognition that prevailed at independence in 1964 when Barotseland had a privileged standing amongst traditional chiefdoms. The severity of the dispute is such that the Barotseland Royal Establishment has had to re-assure the government that contrary to pronouncements from certain sections of the population, the Western province does not seek to secede from the (United) Republic of Zambia.

### 33.5 International Relations

- 33.5.1 Zambia is an active member of the international community. The country is a member of the United Nations (UN), World Trade Organisation (WTO), Non-Aligned Movement (NAM), African Union (AU), Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC). It is also a member of the Commonwealth by virtue of having been a British colony. Zambia has signed a number of regional and international agreements that bind the country to uphold various standards and codes. However, there has been dismal performance when it comes to ratifying, domesticating, and reporting on the progress of implementation. Civil society representatives lamented this state of affairs.<sup>3</sup> Of concern is the fact that information requested by the CRM concerning signature, ratification, actions taken, and notification was not forthcoming from the Zambian authorities. Additionally, the UNHCHR record of Zambia's reporting status reveals that some reports are submitted as late as seven years after they were due, or not at all (See Table 7). The problems of implementation have officially been attributed to the lack of capacity. Civic society consultation blamed the political leadership's lack of will to ensure compliance.

<sup>3</sup> CSO APRM Secretariat, 2010. Civil Society Position Paper on the African Peer Review Mechanism (APRM) in Zambia (Lusaka).





- 33.5.2 The country shares borders with eight countries: Angola, Democratic Republic of Congo (DRC), Tanzania, Malawi, Mozambique, Zimbabwe, Botswana and Namibia. It is a land-locked country but it has outlets to the sea through Dar es Salaam in Tanzania and Durban in South Africa. Zambia is at present not engaged in any serious political conflict with any of its numerous neighbouring countries. However, it has had conflicts with some of them in the past because of its support for liberation movements in neighbouring countries that were still under colonial rule or minority domination after Zambia's own independence. Notably, Zimbabwe (Southern Rhodesia), Namibia, Angola, Mozambique, and South Africa all had political movements that were agitating for an end to colonial and minority domination, which Zambia supported in one way or the other. This support exposed Zambia to external political and economic pressures that were costly to the country's own economic development and had significant effects on its political dynamics. The land-locked territory faced a number of constraints caused by dependence on the external routes, which made Zambia vulnerable to economic sabotage, especially by the apartheid regime of South Africa.

### **Commendable Practice 1: Zambia's Support for Liberation Movements**

Zambia had a high level of commitment to the liberation of Southern Africa and showed solidarity with political movements that were fighting the minority regimes of South Africa, Southern Rhodesia (Zimbabwe), South West Africa (Namibia), Mozambique and Angola. As a result, the country suffered economically through subversion, mostly by South Africa and Rhodesia, and socially, through hosting refugees from all the above-named countries. Later, in the same spirit of support and solidarity with liberation movements, Zambia would also host refugees from other areas of political unrest and repression such as Angola, the Democratic Republic of Congo, Uganda, Rwanda, and Burundi.

### **33.6 Human Rights**

- 33.6.1 Zambia has used various means to protect and promote human rights through constitutional, legal, policy and programmatic measures. There is generally respect for the rights of people, and most people enjoy basic freedoms. However, there are a few areas of concern that require attention. The most obvious is the non-domestication of international and regional agreements, the limited implementation and lack of monitoring of progress, and the poor record of reporting on the implementation of human rights commitments. There are specific groups in society that need special protection so they can realise their rights. For example, education is not guaranteed, and the disabled are inadequately catered for, not only in education but also in health outreach and in the electoral process. Another example is the media, which faces potentially restrictive and oppressive statutory regulation. Yet another is the plight of some refugees whose status has remained undetermined for up to five decades because they have not been naturalised, and their children would appear to be stateless even when they were born in Zambia. These examples are symptomatic of a country that commits to international and regional standards and codes, has constitutional and legal provisions as well





as institutions in place but does not appear to have the capacity and political will to implement, enforce, and promote the realisation of human rights. This situation tarnishes the good image of the country.

### **33.7 Strengthening Democracy and Good Governance**

- 33.7.1 The strengthening of democracy is somewhat problematic for several reasons. The first is the frequency of constitutional changes, which makes it difficult for any constitutional order to take root and become institutionalised. Five major constitutional changes in as many decades may be considered extraordinary even when considering the need to adapt to altered political and economic dynamics. What these frequent constitutional revisions indicate is a system where the whims and caprices of incumbent regimes wishing to tailor governance to their self-interests dominate rather than genuine attempts being made to advance democratic practice to better serve the nation.
- 33.7.2 The second problematic issue in strengthening democracy is the fact that state centralisation has become entrenched and is manifested in executive dominance. The legislature and judiciary are subordinated to the executive; presidential appointments of principal state officers are politicised, and there is a patronage system that favours the incumbent party and its cadre at the expense of national priorities. In reality, the separation of powers is not being practised; there is presidential interference in all aspects of the composition, funding, and operations of all the various State branches and agencies. Constitutional rule and the separation of powers are therefore significantly undermined.
- 33.7.3 The third factor undermining democratic progress is the interface of presidential dominance, patronage, and corruption. The President, as chief executive of the State, has very broad discretionary powers such that he is at liberty to use those powers to serve partisan purposes and indulge in cronyism. Moreover, the President of the country is also the president of the ruling party. The combination of centralised executive decision-making, control of the State budget, appointment and disciplining of state officers, and the dispensing of official patronage to members of the ruling party (also headed by the President), translates into decisions and practices that are not necessarily based on universally agreed principles but are motivated by the demands and requirements of a party seeking to perpetuate its hold on power and use public resources for its own interests.
- 33.7.4 The state centralisation-patronage-corruption nexus is so firmly rooted that there appears to be no genuine political will to entrench participatory and genuinely constitutional democracy. The CRM often heard that the lack of political will is not only responsible for the widespread corruption but that major potential drivers of democratic practices are undermined too. For example, the failed implementation of the decentralisation policy, which seeks to introduce devolution and fiscal decentralisation to local government, was blamed on official unwillingness to genuinely allocate power to the lower





levels of government. The problems of inadequate state human and financial capacity was also blamed on the over-centralisation of the state machinery and lack of political will to empower people, especially those not in support of the ruling party that controls government. The CRM was told further that the fight against corruption, official lack of accountability, state inefficiency, and ineffectiveness of public institutions is due to deficient political will to tackle those problems.

- 33.7.5 Lastly, the CRM heard complaints that the promotion and protection of rights is undermined by systematic restrictions on free access to official information, that restrictions are placed on the freedom of association through recourse to “state security” legislation, and that government simply turns a deaf ear to genuine demands and requirements of the people. This last complaint was particularly applicable during the constitutional review process and with regard to the demands of the Barotse people, which the government appears to ignore as it continues on its own different decisions and courses of action. These examples were given in the consultations as concrete examples of the manner in which current governance tends to disregard the expressions of various sections of the society thereby undermining the progress of democratic governance in Zambia.

### **33.8 Challenges to Democracy and Good Governance**

- 33.8.1 From the above, it can be deduced that there are several major challenges to democracy and good political governance. The first challenge is for Zambia to domesticate, implement, and report on the international standards and codes to which the country has committed. Secondly, internal conflicts need to be addressed, such as (a) the constitutional issue between the government and the Barotseland Royal Establishment; (b) other internal chieftainship disputes; (c) labour-employee relations; (d) increasingly violent electoral disputes; and (e) potential disputes following the discovery and exploitation of economically valuable natural resources like diamonds and oil. The third challenge is to reform the overly centralised state system by reducing presidential pre-eminence in favour of a more effective functioning of the legislature and the judiciary ensuring genuine separation of powers and checks and balances to ensure official accountability; (b) promote decentralisation; and (c) a dismantle the system of political patronage that fuels official corruption and distorts broad-based development. The fourth challenge is to build or rebuild national institutions, human capacity, and financial capacity, in order to re-set the course of national development. This cannot be done unless the excessively centralised state system that is characterised by patronage and unaccountability is itself transformed.





## Commendable Practice 2: Maturing of Democratic Practice

There appears to be wide support for the ideals of constitutionalism in Zambia. Since attaining independence in 1964, Zambia has traversed forms of governance ranging from its initial Lancaster House type Constitution to a period of one-party statehood before embracing the multi-party “Christian” state of the 1991 Constitution that is presently in force. The Constitution of Zambia Bill 2010, which was being debated in the National Assembly from 11 February, did not pass the vote of 29 March 2011.

The proposed constitutional changes had been criticised by societal representatives, especially with regard to the process and the contents. Amongst the procedural shortcomings was the concern that the constitutional changes were not well synchronised with the timetable of the upcoming (September or October 2011) general elections. As the Bill proposed proportional representation and a party list system in mixed member councils and the National Assembly, this would have posed practical challenges as Zambia had not hitherto embraced proportional representation. Meanwhile, the Electoral Commission of Zambia was conducting voter education on the assumption that the law would not change before the elections. There were also civil society concerns that the new constitution should first be subjected to a national referendum, which, in this case, was unlikely before the scheduled elections. The referendum would serve as a test of the popular legitimacy of the Bill or the amended Constitution it foreshadowed and the new ideas that were contained therein.

The contents of the Constitution of Zambia Bill 2010 had also been criticised, especially by civil society organisations. The crux of the criticism was that the constitutional changes did not go far enough to promote and guarantee constitutionalism. The proposed changes did not address the issue of state centralisation, executive dominance, and the subordination of the National Assembly and the Judiciary to the executive branch. It also did not adequately address earlier proposals for constitutional changes from 2005, which would have enhanced the democratic system.

Additionally, the proposed constitutional changes were deficient because they did not include a comprehensive Bill of Rights, which is necessary to promote and protect human rights. It was observed that such a Bill of Rights should ideally encapsulate all of the human rights and responsibilities for which Zambians have struggled for, especially economic, social and cultural rights; including the rights to employment, food, water and sanitation, and a clean environment. Other concerns were that the proposed changes were inadequate to counter the potentially discriminatory and divisive emphasis on Zambia being a “Christian nation”. Last, but not least, was the criticism that the constitution would not ensure legislative oversight over public finance management that was over-centralised in the executive, but does not necessarily guarantee optimum allocations and utilisation of public resources. In summary, the contents of the proposed changes did not warrant a new Constitution that would enhance constitutionalism and democratic practices.

The National Assembly’s rejection of the Constitution Amendment Act and the Constitution of Zambia Bill 2010 on Tuesday 29 March 2011 is a reassuring sign of the maturity of Zambian democracy. There is no doubt that several Members of Parliament from the ruling party voted together with the opposition to defeat the passage of the bills. That is confirmation that the MPs were being driven by the desire to respond







to the voices of their constituents, community leaders, and civil society representatives, in a political system in which it is generally believed that the ruling party, through its patronage and overarching influence, dictates the decisions of the legislature. It is also notable that Government appears to have accepted the National Assembly's verdict.

Therefore, the rejection of the constitutional change showed the MPs standing up united in their representation of society, to deny a government-engineered but fundamentally flawed constitution change process. This also showed their willingness to respond positively to the aspirations of the people with regard to the Constitution. This breaks the myth that the National Assembly will always bend to the whims and caprices of the executive.

### **33.9 Standards and Codes**

#### **33.9.1 Summary of the CSAR**

33.9.1.1 The CSAR states that Zambia signed a total of 169 Agreements, Conventions, Treaties and Protocols between 1964 and 2002. The Ministry of Justice explained in 2009 that of these, 79 had been ratified, 24 acceded to with 17 successions and 13 participations.<sup>4</sup> The report admits that there is inadequate capacity of the Government to apply, implement and enforce the many international protocols, conventions and standards to which the country has committed. Institutional capacity challenges range from the lack of experienced and qualified human resources, financial resources and technical knowledge for the implementation of these standards. Additionally, current antiquated legislative frameworks complicate the task of addressing specific issues raised in the newly adopted standards. The pace of domestication of these standards is very slow and, again, capacity constraints are blamed. The CSAR also mentions the lack of political will amongst the leadership as another limiting factor.

33.9.1.2 The CSAR mentions that there are a number of legislative, policy and institutional frameworks that address the issues covered by many of the standards and codes. Attempts to improve domestication and compliance have compelled the government to increase consultation between government and other non-state actors, to train staffs, sensitise stakeholders, review legislation, and formulate policy measures to address issues raised in the full implementation of standards and codes, such as the Gender Policy, Anti-Corruption Policy and Decentralisation Policy. The Ministry of Justice is reported to be conducting an exercise to collect requisite information that will enable the Government to fulfil its obligations to the various agreements.

### **33.10 Findings of the CRM**

33.10.1 The building blocks of African integration are the international conventions, treaties and customary international law that are embodied in the AU declarations, the Regional Economic Communities (RECs) and the UN. Upholding these commitments contributes tremendously to the tackling of

<sup>4</sup> It should be noted at the outset that additional information that the CRM requested concerning signature, ratification, actions taken, and notification was not received from the Zambian authorities. The tables in this section are, therefore, incomplete.





Africa's governance, democracy and human rights challenges which all require a concerted and comprehensive approach at all levels: national, regional, continental and international.

- 33.10.2 The CRM found that even though Zambia has signed a significant number of protocols that are essential for enhancing democracy and development, the country appears to have lagged significantly in applying, implementing and enforcing the various instruments. Further action is needed to complete the processes that would lead to the domestication of many of the instruments, as indicated in the CSAR. However, the CRM was not provided with information on the domestication status of those treaties that were ratified. Fragmented responsibility for archiving this information is largely to blame for the apparent poor record keeping and for tracking progress regarding adherence to these commitments. The Ministry of Foreign Affairs is responsible for the initial stages while the Ministry of Justice takes over at the level of domestication. However, the CRM observed that there did not appear to be a coordinated attempt to comprehensively address the problem.
- 33.10.3 The CRM also found that a significant amount of time elapses between accession and ratification. A good example is the African Charter on the Rights and Welfare of the Child which was signed on 28 February 1998 but was only ratified in January 2008. This kind of delay may be due to the alleged lack of political will or, alternatively, to lack of diligence by the concerned officials.
- 33.10.4 The CRM observed that some of the key instruments that would enhance human security for the citizens have not been ratified, amongst which are the African Charter for Popular Participation in Development; the World Summit on Sustainable Development; the Convention on Protection of Migrant Workers; and the OECD Convention on Combating Bribery of Public Officials. The above are critical in the light of the problems and challenges the country faces in combating corruption, promoting development and managing labour conflicts. There is also a disturbing trend in the piecemeal domestication of international protocols such as CEDAW that has taken a long time, and is still going on.
- 33.10.5 The Zambian Constitution provides for most economic, social and political rights. Directive Principles of State Policy in Article 110-112 of the National Constitution deal with economic and social issues while political rights are protected under Part 111 of the Constitution (Bill of Rights). Zambia has an institutionalised national system for domesticating international protocols and conventions. However, the process is far from perfect. For example, once the Head of State has signed or ratified an instrument, it often becomes difficult for the line Ministry responsible for implementation to raise awareness and work on its domestication with other relevant stakeholders. The dominance of technocrats in domestication attempts leaves out public and CSO concerns. Thus, though Zambia's Constitution provides for the social, economic and political rights, awareness, domestication and enforcement of these rights through national legislation processes is still a challenge.
- 33.10.6 The new African Governance Architecture that the AU is currently putting into effect will bring further instruments that will require improved government capacity to domesticate. These are the African Public Services Charter (adopted by the AU in Jan 2011); African Human Rights Strategy (also adopted by the





AU in Jan 2011); and the 2007 African Charter on Democracy, Governance and Elections. Whilst domestication poses challenges to the Government of Zambia, implementation of these treaties and protocols poses an equally serious challenge as capacity constraints continue to deter development of national blueprints and their translation into action at the various government levels. All these are central to enhancing democratic governance and improving public services on the continent and the last one, in particular, is designed to deal with electoral violence that often leads to unconstitutional power alternation practices.

- 33.10.7 Considering the fact that the Government of Zambia faces challenges of arms trafficking, it is essential that the country also signs the following regional instruments: The Nairobi Declaration on Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (2000); the Declaration and Plan of Action on Control of Illicit Drugs Trafficking and Abuse in Africa (2002); the Kampala Declaration on Prison Conditions in Africa (1996); and the AU Non-aggression and Common Defence Pact.

**Table 5: Regional Instruments signed by Zambia**

Treaty/Protocol/Convention	Signed	Ratified
Protocol on Combating Illicit Drugs	24/08/1998	30/10/1998
Protocol on Politics Defence and Security Cooperation	14/08/2001	
Protocol on the Control of Firearms, Ammunition and Other Related Materials in SADC	14/08/2001	16/01/2001
SADC Protocol Against Corruption	14/08/2001	08/07/2003
Protocol on Extradition	24/08/2003	20/08/2004
SADC Protocol on Mutual Legal Assistance in Criminal Matters	24/08/2003	
Mutual Defence Pact	26/08/2003	
Charter of Fundamental Social Rights	26/08/2003	
African Charter on the Rights and Welfare of the Child	28/02/1992	
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	09/06/1998	
Protocol Relating to the Establishment of the Peace and Security Council of the African Union	09/07/2002	04/07/2003
African Convention on Preventing and Combating Corruption	03/08/2005	





OU Convention on the Prevention and Combating of Terrorism	03/08/2005	
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	03/08/2005	
Protocol to the OAU Convention on the Prevention and Combating of Terrorism	03/08/2005	
Constitutive Act of the African Union	12/07/2000	
OAU Convention Governing The Specific Aspects of Refugee Problems In Africa	10/09/1969	
Protocol Relating to the Establishment of the Peace and Security Council of the African Union	09/07/2002	
Protocol on the Amendments to the Constitutive Act of The African Union	03/08/2005	
African Youth Charter	07/2002	

Source: CSAR.

33.10.8 Zambia has also signed and acceded to a number of other international agreements, which are listed in the table below. However, the country's record as regards notification is unimpressive. For example, the CRM observes that there are no records of any notification for the past six years!

**Table 6: International Treaties, Protocols and Conventions Ratified by Zambia**

Treaty/Protocol/Convention	Action	Notification
Convention on the Political Rights of Women	Acceded to	04/02/1972
International Opium Convention	Acceded to	09/04/1973
Protocol bringing under International Control Drugs outside the Scope of the Convention of 13/07/1931 for Limiting Manufacture and Regulating the Distribution of Narcotic Drugs, as amended by the Protocol signed at Lake Success, New York on 11/12/1946	Acceded to	09/04/1973
International Convention on the Suppression and Punishment of the Crime of Apartheid	Acceded to	14/02/1983
International Covenant on Civil and Political Rights	Acceded to	10/04/1984
Optional Protocol on the International Covenant on Civil and Political Rights	Acceded to	10/04/1984





Convention on the Rights of the Child	Signed	06/12/1991
Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961	Participated*	13/05/1998
Protocol Amending the Single Convention on Narcotic Drugs, 1961	Acceded to	13/05/1998
Amendment to article 43(2) of the Convention on the Rights of the Child	Accepted	09/08/2000
United Nations Convention against Corruption	Signed	11/12/2003
Protocol against Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, Supplementing the United Nations against Transnational Organised Crime	Acceded to	24/04/2005
United Nations Convention against Transnational Organised Crime	Acceded to	24/04/2005
UN Convention on the Prevention and Combating of Crime	Signed	03/08/2005
United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Signed	
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts		
Optional protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography		
The Convention on the Protection of Migrant Workers		
Convention on Persons with Disabilities	Ratified on 1st February 2010	
UN Standard Minimum Rules for the Administration of Juvenile Justice (A/RES/40/33) – Beijing Rules, 1985)		
Protocol to Prevent, and Suppress and Punish Trafficking in Persons, especially Women and Children (A/RES/55/25 annex 11, 2000)		
Conference on Security, Stability, Development and Cooperation		
Universal Declaration on Human Rights (A/RES/217 A (III), 1948)		

Source: CSAR.





33.10.9 According to the UNHCHR, the following is Zambia's reporting status.

**Table 3: Zambia's Reporting Status**

Convention	Report due	Submitted
CAT-Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	06/30/2012 11/06/2003 11/06/1999	12/15/2005 12/01/2000
CCPR-International Covenant on Civil and Political Rights	07/20/2011 06/30/1998 07/09/1990 07/09/1985	12/16/2005 01/27/1995 06/24/1987
CEDAW-Convention on the Elimination of All Forms of Discrimination against Women	07/21/2007 07/21/1998 07/21/1986	01/05/2010 08/12/1999 03/06/1991
CERD-International Convention on the Elimination of All Forms of Racial Discrimination		

Source: <http://www.unhcr.ch/TBS/doc.nsf/NewhvVAlISPRByCountry?OpenView&Start=194&Count=15&ExpandView>

33.10.10 In summary, there are a number of shortcomings with regard to domestication, implementation, monitoring, and reporting on Zambia's international and regional commitments. The CRM has some recommendations.

### 33.11 Recommendations

#### The CRM recommends that Zambia:

- Seriously consider signing additional regional instruments such as the Nairobi Declaration on Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (2000); the Declaration and Plan of Action on Control of Illicit Drugs Trafficking and Abuse in Africa (2002); the Kampala Declaration on Prison Conditions in Africa (1996); and the AU Non-aggression and Common Defence Pact.
- Make the domestication process more inclusive by involving as much public input as possible. Ministries directly responsible for implementing the provisions can take the lead in this exercise. Publicising the non-domesticated agreements and inviting submissions from all stakeholders will help to quicken the process.
- Improve the implementation of all commitments, including setting up a monitoring mechanism that tracks the signing, ratification and domestication processes of the various instruments, and that monitors actual compliance. This is a responsibility that can be conducted in conjunction with CSOs, especially since the government lacks capacity.
- Provide frequent public information on the implementation status, which would go a long way in assisting the government to stay on top of its





work. Only by receiving public feedback can Government monitor how it is faring with its programmes.

### Objective 1: Reduce Intra-state and Inter-state Conflicts

#### 34. Summary of the CSAR

- 34.1 The Zambia CSAR defines conflict as “a struggle to resist or overcome; contest of opposing forces or powers; strife; battle; a state or condition of opposition; antagonism; discord; or a painful tension by a clash between two parties.” The report also states that there are no recent or on-going conflicts in the country.
- 34.2 It identifies the following as potential conflict triggers: organised crime, economic inequality and wealth distribution, ethnic, religious and other diversities, and refugees and internally displaced persons. The report says that the Drug Enforcement Commission and the Anti-Money Laundering Investigating Unit have been quite diligent in monitoring the problems and that the Ministry of Home Affairs is also looking into human trafficking issues. The widening of the wealth gap between the “haves” and the “have-nots” is also acknowledged. In 2006, 59.3 per cent of the population in Zambia was reported as being poor with 36.5 per cent - just over a third of the population - in the extremely poor category. Rural poverty is extremely high at 77 per cent and over a quarter of urban inhabitants, at 27.2 per cent, are poor (LCMS, 2006).
- 34.3 Government efforts at addressing the socio-economic inequalities include the introduction of programmes that create jobs/income, such as the Gender Policy aimed at strengthening the capacity to mainstream gender in legal, political, economic, social and cultural spheres so that women and men can benefit equally in the development process; Social Cash Transfer Schemes; the Farmers Input Support Programme and the Citizenship Economic Empowerment Commission to financially empower the youth, women, the disabled and citizens living with HIV/AIDS in order to encourage their participation in economic opportunities without discrimination.
- 34.4 Zambia has been a host to refugees from many countries and there have been isolated incidences of xenophobic violence against them. A key challenge is that the legal framework in Zambia does not allow integration of refugees as a result of which some refugees have been in the country for decades without regularising their stay.
- 34.5 Access to land is also identified as a potential source of conflict with disputes regarding chieftdom boundaries being central. Some of the problems date back to the colonial boundaries that continue to haunt current generations.
- 34.6 The CSAR states that one ongoing conflict was the constitutional review process. [Note that this is in contradiction to the statement that “there are no recent or ongoing conflicts in the country”]. The process had stirred up hostilities and a number of issues remained unresolved. Key stakeholders felt that the





process was not fully inclusive and did not involve widespread participation. The process was perceived to have favoured an elite group, mainly the ruling party that aimed to maintain the status quo. The management of diversity was thus seen as a continuing issue of contention, especially with regard to the membership of the National Constitution Commission.

- 34.7 The CSAR observes that the prevalence of corruption remains high despite the government's stance that it pursued a policy of Zero Tolerance to fighting it. It also notes that there have not been major improvements in this problem area. Data collected by ACC in 2006 indicated that corruption has remained most prevalent in Government institutions.
- 34.8 Political violence was not a significant concern in Zambia though there were occasions during the conduct of the general and by-elections when violence occurred in certain parts of the country in the pre- and post-election periods.
- 34.9 The CSAR identifies the principal actors in preventing, reducing and managing conflict in Zambia as the Judiciary, the Zambia Defence Force, Ministry of Home Affairs and the Zambia Security Intelligence Service (ZSIS). These institutions are said to be effective although they face operational challenges relating to inadequate funding and skilled human resources.

### **35. Findings of the CRM**

- 35.1 As in many other African countries, all types of conflict are present in Zambia: violent and non-violent, intermittent, endemic and intractable. This is because most triggers of conflict, whether structural, political, economic, social or cultural, are all at play in the country. These conflicts challenge the legitimacy and capacity of the country especially in providing human security. This report focuses on conflicts that usually deter citizens from maximising their full development potential and can erupt into violence.
- 35.2 If good government is about the protection of life and property, the enforcement of law and order, the administration and dispensation of justice, the settlement of disputes and the defence of the polity against external aggression, how then do we rank the performance of Zambia? The country has joined the New Economic Partnership for Africa's Development and the Africa Peer Review Mechanism indicating that there is hope for building local and regional networks that work towards building and maintaining peace and providing a secure environment in which all citizens can flourish.

### **36.1 Foreign Investors and Zambian Labour**

- 36.1.1 The CRM found that locals are increasingly expressing frustration and anger born of the failure to benefit from foreign investments that exploit resources from their communities. Although the CRM did not come across specific documented cases, non-state actors in the consultative meetings had strong perceptions that foreigners were benefiting more from local resources compared to what they actually brought into the country. Foreign investors were alleged to have developed the practice of perpetually changing ownership so they can benefit







from the 10-year tax breaks that are granted to new investors. The net result is that the same company rotates ownership and re-registers under a new name when its tax break is exhausted, yet allegations are that the ownership remains foreign. This tendency was perceived to permanently deprive the locals and the government of revenue for development. Small local traders and indigenous businesses end up subsidising the services enjoyed by these foreign investors as they have to pay for annual trading licences that do not match the needs of the rural communities in particular. Foreign investors are thus perceived to be denying the locals of the chance to improve their living standards by benefitting from the use of tax revenues on their natural resources. The extraction of resources, such as manganese in Luapula province that is ferried to Tanzania for eventual processing also leaves the local communities further impoverished as they have to deal with the environmental consequences of mining activities. The participants in the CRM consultations mentioned examples that included Zambia's mining companies which have frequently polluted drinking water sources in the Copperbelt province. One such company is the Canadian/Swiss-owned Mopani Copper Mine, which discharged polluted water that resulted in 1000 residents of Mufulira suffering from abdominal pains, diarrhoea, and vomiting although no fatalities were observed. Another is the London-listed Konkola Copper Mine that also released acidic effluent into the Kafue River, which is the source of water for about two million people. Even earlier incidences were cited, such as the 2003 closure of Chat Breweries of Lusaka for operating a boiler that emitted harmful outputs.

- 36.1.2 Large scale investments are a real cause for unrest as they often displace residents of those areas. In the absence of a resettlement policy and without any compensation scheme in place, many citizens inhabiting areas targeted for investments will swell the ranks of the urban poor.
- 36.1.3 Whilst foreign investment is transforming Zambia's infrastructure and contributing to the country's mineral extractive capacity, the negative consequences on the labour force are deplorable. There is alleged widespread abuse of workers by foreign investors in general. In particular, the Chinese are accused of being the worst perpetrators and of openly violating labour laws. There are reports of employees being overworked, underpaid and being forced to work without protective clothing where it is deemed necessary. An extreme example is when a Chinese manager demonstrated the utmost disrespect for the rule of law by shooting at striking workers at the Collum mine in Sinazeze in the Southern Province in mid-October 2010. The Chinese managers' court case was subsequently dropped because the state prosecutors could not proceed with it! According to non-state stakeholders that were consulted by the CRM, this type of conduct would illustrate the absence of government's political will to enforce existing laws and regulations that are supposed to regulate the foreign investors' relations with their Zambian employees.
- 36.1.4 However, recourse to justice is very difficult for workers as the Ministry of Labour does not seem able to cope with the problems. The Labour Officers in the districts do not seem to have any solutions for the grievances of workers. This low capacity is exacerbated by the fragmented manner in which these labour disputes are resolved. Some are handled by the Human Rights Commission and some by the labour officers as it is the nature of the dispute that determines





the agency that will resolve it. The Industrial Relations Courts are only based at Ndola and Lusaka, which means the vast majority of workers in the country do not have ready access to them. The movement of the Industrial Relations Courts from the Ministry of Labour to Judiciary also disrupted conflict resolution processes as the latter still remains the first port of call in the event of a dispute. Unfortunately, the unions too appear not to be interested in taking up the mine workers' cases. The Zambia Centre for Arbitration deals with commercial disputes but workers are left stranded. It is important to note that statistics of labour disputes were not made available.

- 36.1.5 Another source of resentment is the fact that certain investors import foreign labour into top management positions. This is likely to trigger conflict in the long run since many locals hold the same qualifications as these foreigners. Examples were given of companies in the Eastern Province that bring in managers from Malawi to supervise the locals. On a larger scale, the influx of foreigners into the Copperbelt also has the potential to worsen labour conflicts.
- 36.1.6 The CRM found that there have been a number of industrial unrests since 2002 due to poor salaries which are aggravated by high cost of living; increments in salary are usually overtaken by rising costs of living causing dissatisfaction. Labour disputes are a significantly high source of conflict, and in particular, by workers employed by foreign-owned or managed corporations. The CRM was informed of high incidences of abuse of labour rights with Indian, Zambian and Chinese investors, as well as Zimbabwean farmers being identified as violators. Workers in the private sector lack viable employment conditions despite clear guidelines issued by the Zambian Development Agency. The CRM was informed that most foreign employers do not recognise the rights of workers to form trade unions and those who seek to set up trade unions are not protected and end up being dismissed.
- 36.1.7 Mechanisms to prevent and address labour disputes exist, including inspection offices in the Labour Ministry and related departments which are based in Lusaka and in the provinces. However, while many industrial and economic activities are concentrated in the rural areas, most Labour Officers are in the central business district and are quite few in number and therefore fail to follow up complaints effectively. In other words, the legal framework exists but enforcement and implementation are problematic. Allegations also point at corrupt union leaders who end up selling out to management and weakening trade unionism. Furthermore, because the Industrial Relations Court is based only in Lusaka and Ndola, it is harder for complainants in other areas to access the channels for justice. The High Courts and Magistrates Courts which have a wider presence do not have the mandate to handle such disputes.
- 36.1.8 Lastly, the tourism industry was reported to underpay employees with the result that the employees are often at odds with management. This was perceived to be another potential source of labour conflict.





### **37. Political (electoral) Conflicts**

37.1 Many of the political conflicts in the country appear to be the result of failure to manage the transition from a one-party state to a multi-party system that started in 1990. The CRM learnt that at present there is no framework for regulating political party conduct and fund-raising. The political playing field was not considered to be level with the ruling party enjoying undue privilege and state patronage.

37.2 In addition, political interference in the key security institutions such as Home Affairs, the Judiciary and the intelligence services also has the potential to trigger conflict. Politicians were accused of “deliberately doing the wrong things for political expediency”. And this has had a very negative impact on the way elections have been managed by the Electoral Commission of Zambia. There has been a noticeable increase in election-related violence since 1991 and all kinds of electoral violence have occurred in the country. There were reports of violence in the following by-elections: Chawama in 2001, Mkaika in 2000, and Mufumbwe in 2010. All presidential election outcomes from 1996, 2001, and 2008 were contested through petitions in court and some post-election violence was reported. In 2006, three by-elections were cancelled due to interference by chiefs; this points to the fact that the cooperation of the latter is essential for peaceful elections.

37.3 Electoral conflicts have been triggered by a number of issues: (a) the failure to enforce the 15 year old Electoral Code of Conduct’ (b) the nature of campaigning in the country, which does not focus on development issues but instead on insults and personal attacks; (c) a partisan political force that applies the law selectively; (d) curtailment of the public’s rights to political participation; (e) unfair media coverage for opposition parties; and (f) the abusive use of state resources by the ruling party during elections. This last grievance has caused the burning of government cars that are alleged to bear private number plates during elections. The entire election regime is being challenged: the election laws, voter registration, campaigning strategies, the application of the Public Order Act, and the Electoral Commission of Zambia. The Electoral Code of Conduct was translated into 7 local languages and there are plans to incorporate chiefs into the resolution of electoral disputes as they play a key role in mobilising voters.

37.4 The CRM learnt that the petitioners of electoral outcomes accuse the justice system of using Clause 96 sub section 3 of the Electoral Act of Zambia to cheat “the real winners” who do not get justice from the Election Management Committees. These ad-hoc conflict resolution committees are usually set up to deal with electoral disputes, especially during by-elections. A major problem is that the committees tend to turn up during elections only and as they have no legal standing, their decisions are not respected by the courts.

### **38. Land**

38.1 The Town Planning Act encourages chiefs to “offload” land for development projects. However, blurred or unclear ownership of land by the state and the chiefs is a major stumbling block for local authorities who often use such land without authorisation since they sometimes do not know who to approach.





Chiefs, who are the custodians of customary land, do safeguard the land against foreign investors but they are reported to sometimes threaten the local councils over their land needs. Public servants fear being victimised and marginalised and so give in to the demands of the chiefs resulting in unplanned developments. Many land disputes between ordinary citizens are resolved by chiefs and those relating to titled land, which falls under State control, are settled in the formal courts of law. The CRM heard that ordinary people trust the chiefs' administration of land while they mistrust government because they claim that it sells land to foreigners in complete disregard of the citizens' needs.

- 38.2 Though customary land can be converted into titled land, the process is difficult as this can only be done in Lusaka. Although government planners claim otherwise, it appears that there is no accurate information on the actual distribution of the land between the chiefs and the government. It was alleged that even if land is surveyed and demarcated, there are no physical markings (beacons) to actually verify boundaries. The absence of clear demarcations also leads to land disputes amongst different chiefs.
- 38.3 The system of political patronage was regarded a major hindrance to resolving the problems over land management. The CRM heard allegations of political interference in the management of land and was told that this was a recurrent source of local conflicts. It was said that because of state centralisation, all land management functions are vested in the President; the chiefs and the councils were actually only exercising delegated functions. National patronage networks were thus at play alongside whatever happened at the lower levels. Local government councillors were reported to engage in fraudulent land allocations, usurping the customary land administration functions of the traditional chiefs. The dubious land allocations were also said to be connected with corrupt practices and a system of political patronage that benefitted a few rather than the general populace.

### **39. Sexual and Gender-based Violence (SGBV)**

- 39.1 The conflict between tradition and modernity compels women to remain silent on incidences of SGBV. And though there are Victim Support Units at police stations, women still feel they cannot report such cases because of the great pressure from the community not to do so. Sometimes the police accuse the victims of not according their husbands enough respect. The government and some CSOs have carried out sensitisation programmes to raise awareness of crimes of this nature but still, incidences of abuse remain high largely because the programmes target only women as they are usually the victims. The YWCA in some provinces has been running dialogues (called 'Insaka' in the Eastern province) with men only to spread awareness of the need to curb SGBV. This has significantly reduced the scale of the problem. In addition, Parliament has enacted the Anti-Gender Based Violence Act No 1 of 2011, and will greatly and legally address issues relating to gender-based violence.





#### **40. Chieftainship Disputes**

- 40.1 Apart from boundary disputes referred to above, chieftainship disputes were also noted during the CRM visits to the provinces. Perhaps the ones most likely to disturb the peace are the disputes in the Western and the North-western provinces. The CRM was told of subordinate chiefs in the Western province, some of whom had historical agreements with the paramount chief, the Litunga, being restless and unwilling to continue with those agreements. This was so with the chief in the Kaoma area, where the Kaonde people live. It was also reported that there were members of the royal family of the Litunga who were challenging the legitimacy of the current Litunga and wanted him removed.
- 40.2 Additionally, the CRM heard of the Lunda-Luvale Dispute in North Western Province, which was unlike the dispute in the western province, but which had also been subject to earlier government intervention. However the dispute still simmers, involving land boundaries and the division of powers among the respective chiefdoms. There are other succession disputes, such as the Mphamba, that was referred to in a government report in 2006.

#### **41. The Barotseland Agreement of 1964**

- 41.1 The most prominent intrastate conflict in Zambia relates to the Barotseland Agreement of 1964. This agreement created a unitary state by making Barotseland an integral part of Northern Rhodesia, re-named Zambia at independence on 24 October 1964. The agreement was signed on 18 May 1964 by the prime minister, Dr Kenneth Kaunda, the Litunga of Barotseland, Sir Mwanawina Lewanika III, and the United Kingdom Secretary of State for Commonwealth relations, the Rt. Hon Duncan Sandys. The Prime Minister undertook to re-affirm the agreement once independence had been attained later in the same year.
- 41.2 The previously autonomous Barotse Native Administration and the colony of Northern Rhodesia were to proceed to independence “as one country and that all its peoples should be one nation”, as the independent Republic of Zambia.<sup>5</sup> All Zambians, including the people of Barotseland, were to be accorded the same rights: the protection of human rights and fundamental freedoms and access to the judicial system. In addition, the government of the new republic would provide financial support for the administration and economic development of Barotseland as well as all the other provinces.
- 41.3 An annex to the agreement reaffirmed the Litunga’s powers over customary matters, including “the administration of Barotse customary land law within Barotseland”, and stated that “full consultation should take place with the Litunga and Council before any land in Barotseland is used for public purposes or in the general interests of economic development.”<sup>6</sup>
- 41.4 The Government of the Republic of Zambia re-affirmed the agreement soon after independence. However, the Cabinet questioned the clarity of the Barotseland Agreement, particularly with regard to the need to “remove any ambiguity which might arise in the future concerning the intention of the

<sup>5</sup> Appendix, The Barotseland Agreement, 1964 (London: HM Stationery Office, Cmnd. 2366).

<sup>6</sup> Annex to the Agreement.





Agreement and would underline the position of the Litunga as a subordinate law-making authority only". The Cabinet Minutes point out that the Agreement "would conflict with the comprehensive local government legislation...which would apply to the whole country..."<sup>7</sup>

41.5 In 1969, the government amended the Zambia Independence Order, through the Constitution (Amendment) (No. 5) Act, which effectively terminated the Barotseland Agreement of 1964.

41.6 In response to the request from the Barotse Royal Establishment regarding the 1964 agreement, the government in 1993 stated categorically that it would not negotiate that agreement on the following bases:

- That the terms and clauses of the Agreement were incorporated into the Laws of Zambia in 1964, when they became subject to amendment and alteration just as any other laws.
- That the procedure for amending the law of the land was followed, the said amendments having been tabulated and presented before parliament and subsequently assented to by the President.
- [...] further inquiries show that no judicial process was commenced by the Royal establishment or any other party aggrieved by the proposed amendments in reasonable time...<sup>8</sup>

41.7 However, the government was willing to discuss and resolve politically "other issues" that had been raised, without referring them to the Agreement.

41.8 The CRM gathered from the provincial consultations that the basis of the Barotseland problem is widespread underdevelopment and poverty, caused by economic marginalisation. The Barotse people perceived the government to have betrayed their trust by abrogating the Barotseland Agreement of 1964. By refusing to listen to the genuine concerns and requirements of the Barotse people, and "punishing" them by denying developmental resources to the province, the government was causing public anger and frustration.

41.9 The CRM heard that the Barotse people do not wish to secede from Zambia but to have their institutions, which preceded the colonial state, recognised and respected. The CRM was told that by refusing to discuss the agreement, Government is suppressing the will of the Barotse. Their principal demand is that the 1964 agreement should be re-instated in the Constitution, and the Litunga and the Royal establishment be recognized similarly as they were in the independence constitution. The perception of the people of the Western province was that the politicians with their hands on the levers of power in Lusaka do not have the will to openly and transparently discuss the issues that form the basis of the grievances of the people of Barotseland, who feel betrayed, neglected and even marginalised from mainstream development in Zambia.

<sup>7</sup> Government of the Republic of Zambia, Extract from Cabinet Minutes, Item 3: Constitution: Re-affirmation of the Barotseland agreement, 1964 (CAB (64) RZ.5).

<sup>8</sup> Correspondence from the Minister Without Portfolio, Godfrey Miyanda, to the Ngambela of the Barotseland royal Establishment, Mr Mukande, dated 18 August 1993.





## **42. Interstate Disputes**

- 42.1 Zambia does not have serious state disputes with its neighbours. However, there are recurrent problems associated with the movement of people that may become more critical if not addressed. The inhabitants of areas next to neighbouring countries, such as Luapula province which has a border with the DRC, move freely and informally a lot of the time to attend to family business. However, when they use the official border points, there is some discontent that officials on both sides of the countries do not always respect the agreements signed by their governments on free movements of the citizens in the border area. Zambians (illegally) caught in the DRC often complain of the harsh treatment they get at the hands of the security agents in that country. The main problem is that the discretion exercised by the officials is not always conducive for facilitating movement between the countries.
- 42.2 There is good reciprocity in terms of the provision of services (especially health) to immigrants on both sides in the DRC and in Zambia but problems arise when immigrants overstay and inter-marry without legalising their stay. Since these immigrants become part of the local communities, politicians often insist on their being issued with voter cards so they can mobilise the foreign communities to vote for them. Some of these migrants also hold voting cards in their country of origin and they end up with the means to vote in two countries, yet they are not recognised as citizens in this country. The children of such people have even bigger problems as they often end up stateless since they are neither registered in Zambia or in the other country where one of the parents originated from. Even when they relocate to the place of their birth they do not get recognition there.
- 42.3 Trans-boundary resources such as fisheries and wildlife have the potential to cause conflicts if they are not mutually managed and shared. Sporadic incidences of claims to wildlife between Malawi and the Eastern province were raised as a concern that could escalate into a conflict. For instance, the breeding ban imposed on fishing in the Luapula River by the Zambians is often disrespected by the DRC yet replenishment of the fish stock is beneficial to both States. Though the conflict is contained through cross border arrangements, it requires more stringent measures to keep the issue under control. The Joint Permanent Commission between Zambia and DRC dealing with cross border issues, the Ministry of Livestock and Fisheries and its sister Ministry in the DRC agreed to reinforce common laws drafted by the sub-committee of the Joint Commission and they agreed that justice would be meted out on the side a violator is caught. Unfortunately, standards and quality of justice are very different in the two countries hence Zambians express a desire for some conformity with more acceptable forms of punishment by the DRC.

## **43. Conflict Resolution Mechanisms**

- 43.1 The CRM noted the existence of several conflict resolution bodies that have different mandates. These include the Human Rights Commission, which sometimes partners with NGOs that have vast grassroots networks and





capacity for local conflict resolution; the Industrial Relations Courts for labour related disputes; the Zambia Centre for Arbitration for commercial disputes; the Ministry of Labour with powers to delegate down to the district level where district labour officers handle local disputes and refer serious cases to the IRC; the Election Management Committees, established by the Electoral Commission of Zambia to manage election related conflicts; and trans-border Joint Permanent Commissions such as between Zambia and DRC, which deal with cross border management of resources under the Ministry of Livestock and Fisheries.

- 43.2 Amongst the NGOs are the Young Women's Christian Association (working on SGBV), the Catholic Commission for Justice and Peace, and the Southern African Centre for the Constructive Resolution of Disputes that are also approached by disgruntled citizens. Lastly, community level institutions, mainly the traditional leaders, who are the Chiefs at various levels beginning from village headman, chief, senior chief, up to paramount chief, who preside over land, inheritance and domestic disputes (civil cases).
- 43.3 Traditional institutions remain popular conflict resolution alternatives especially in land disputes, inheritance contestations and other domestic and communal issues. However, there is concern over the democratic conduct of these institutions and there seems to be a real fear of the power of the chiefs. There is a general consensus that citizens give up as they cannot oppose or sue the chief as this would result in their being victimized. Public officials fear dismissal from work or transfers to other areas if they contradict a chief's ideas or suggestions. Other people fear being denied access to customary land that the chiefs preside over. The chiefs, however, claim that the judicial system tends to undermine their authority by encroaching on their traditional areas of jurisdiction, such as the resolution of chieftaincy succession disputes.

#### **44. Recommendations**

##### **The Panel recommends that Zambia:**

- Sign agreements with foreign investors and ensure that are more transparent and open for public scrutiny so that citizens can be assured that Government is safeguarding their rights and interests. This would help workers to know that their rights are protected.
- Extend tax holidays to both foreign and local investors so they can all benefit from the investment incentives as provided for in the Zambia Development Agency Act 2006.
- Strengthen the laws for casual workers so that their rights are not violated e.g. establish a maximum period for which one can be a casual worker.
- Decentralise the Industrial Relations Court further to cover all the provinces rather than being situated only at Lusaka and Ndola; this will broaden access to justice by employees







- Adopt a nationally accepted agreement on campaigning strategies so that the country's political culture can move towards tolerance for diversity; this is essential for preventing electoral violence.
- Include the traditional chiefs in mediating electoral disputes since they are critical actors in society. Given that they are crucial to societal mobilisation, part of the solution to lessen polarisation of the electorate lies with them.
- Update the Electoral Code of Conduct to institute enforcement measures that are recognised by the courts.
- Set up a mechanism that handles documentation of people inhabiting border areas who may require dual citizenship or need to have their immigration status regularised so that their offspring are not deprived of Zambian citizenship.
- Standardise the justice systems for cross-border violations; this is necessary to protect locals especially against the DRC as it is a regime still torn by violent conflict. Clearly stipulating how offenders will be punished is a must if the rights of Zambians are to be safeguarded.
- Ascertain, crucially, how much land is owned by whom -- the state and the chiefs-- and reform the land distribution system so that individuals can convert their land to statutory land and can use the title deeds to access funds for developing the land or engaging in other productive ventures that can move people out of the hard core poverty group.

## Objective 2: Promote Constitutional Democracy and the Rule of Law

*Zambia has been striving for ways in which it can enhance constitutionalism through various reviews undertaken since independence. However, the process has been fraught with obstacles and challenges, the main one being that there has not been consensus on issues of content and process. This was pointed out especially by non-state representatives in the CRM's stakeholder consultations, and was also evident in civil society presentations to the APRM and to the National Constitutional Conference. Differences on content issues include the powers and functions of major state institutions; the death penalty; Zambia as a "Christian nation"; and the inclusion as justiciable in the Bill of Rights of the Economic, Social, and Cultural Rights. Process issues have mainly revolved around differences amongst stakeholders in their understanding of the nature of the process of "consultation" and aggregation of the demands and requirements of the different constituencies.<sup>9</sup>*

*These concerns indicate that there is need to devise means of making the existing constitutional order more robust, by strengthening both the constitutional text and enhancing constitutional practices. This would include implementing measures to ensure checks and balances in the functions of the executive, especially by strengthening and protecting the operations of the other arms of government (National Assembly and Judiciary) in accordance with the doctrine of the separation of powers. However, the allocation of different functions and*

<sup>9</sup> See: CSO APRM Secretariat, 2010. Civil Society Position Paper on the African Peer Review Mechanism (APRM) in Zambia (Lusaka); Submission by the Jesuit Centre for Theological Reflection to the Human Rights Committee of the National Constitutional Conference, 03 February 2009 (By Dominic Liche).





*responsibilities to separate and different institutions in the three branches of government ought, furthermore, to be accompanied by constitutional guarantees that will prevent encroachment, and also ensure the operational independence of the legislature and the judiciary.*

*Essentially, this would mean that constitutional amendments should aim at ensuring the institutional independence of both the National Assembly and the Judiciary from the Executive. Constitutional reforms could go further by curtailing the powers of the Presidency, particularly with regard to the appointments of the heads of the state institutions, and by limiting political interference in operations of the legislature by curtailing the presence of members of the executive in the legislature. It is envisaged that when a proper balance is reached, transparency, accountability and responsiveness would replace opacity, cronyism, and recent disconnect between government and civil society.*

#### **45. Summary of CSAR**

- 45.1 The CSAR states that Zambia is a multi-party constitutional democracy under the rule of law. Its 1991 constitution is under review and a bill in respect of a new constitution was presented to Parliament on 22 February 2011. It is accordingly necessary to consider both the existing constitution and the bill. [See box after the recommendations]. The CSAR was apparently prepared before the bill was published.
- 45.2 Under the 1991 Constitution, as amended from time to time, civil and political rights are laid out and include freedom of expression, association and political choice. The institutions that protect human rights include the High Court, the Human Rights Commission, the Electoral Commission, and the Commission for Investigations, the Anti Corruption Commission, the Police, the Police Public Complaints Authority and the Directorate of Legal Aid.
- 45.3 Areas of concern include harassment of the press and compulsory media regulation, limitation of freedom of assembly in legislation, ineffectiveness of commissions, the need for an Ombudsman with enforcement powers and public awareness of human rights.
- 45.4 The Zambia CSAR recommends a review of legislative provisions which hamper human rights, the strengthening of institutions that protect them and the provision of resources to ensure their autonomy.
- 45.5 As regards political association, the Zambia CSAR notes the absence of legal provisions that regulate political associations and parties. In addition, there has been continual failure on the part of political parties to commit to and abide by a commonly-agreed code of conduct.
- 45.6 Multi-party system has been embraced by Zambians now with 39 registered political parties. The most active of these are the governing MMD, the PF and the UPND. On 20<sup>th</sup> September 2011, presidential, parliamentary and local elections were held under multi-party system; the Patriotic Front, led by Mr. Michael Sata, won the elections, defeating the incumbent leader of the MMD, Mr Rupiah Banda.





- 45.7 Disorganisation and the leader-driven nature of active parties is reported. All parties rely on their members and donors for funding. The Zambia CSAR recommends that the operation of political parties be regulated and a forum established to discuss the merits of state funding for political parties.
- 45.8 The credibility of the electoral system is affected by public perceptions that the Electoral Commission lacks autonomy, especially as regards finances. Measures to enhance credibility via the 2006 Electoral Act have been taken and international observers reportedly found the 2006 and 2008 elections free and fair although there has been some electoral litigation and an acknowledgement that the mandate and modalities for financing the Electoral Commission need to be reviewed.
- 45.9 As regards the rule of law and supremacy of the constitution, the Zambia CSAR points to the courts, the Auditor General and the Anti-Corruption Commission as the custodians. Successful prosecutions of corrupt leaders and the wife of the second President of Zambia are highlighted but the statistics show that only 58 per cent of human rights cases reported were investigated by the Anti-Corruption Commission, which fared second best after the Judicial Complaints Authority.
- 45.10 The issues around decentralisation discussed in the Zambia CSAR have perhaps been overtaken by the publication of the Sixth National Development Plan during February 2011. As the Mung'omba Commission noted that most of the councils are providing some 30 per cent of the services they are supposed to be providing, the need for effective reform is evident. The more recent 2008 State of Governance report found that only 39.2 per cent of respondents felt that local authorities were effective in discharging their responsibilities.
- 45.11 On civil and military relations, the Zambia CSAR noted that there is insufficient oversight of the military, which considers itself above the law and not obliged to adhere to financial regulations. The spectre of "national security" is raised and the recommendation is that there should be expressed provision for parliamentary oversight and scrutiny.

#### **46. Findings of the CRM**

- 46.1 In simple terms, constitutionalism is a system of government based on a constitution, a system where the principles of the constitution are adhered to. The rule of law implies that there is an agreed set of laws that determine how a government and the governed relate and interact, that the laws are a framework for regulating these interactions, and no one individual or institution is above the said set of laws. Democratic governance is normally enhanced by constitutionalism and the rule of law. The Country Review Mission's findings on constitutional democracy and the rule of law notes several shortcomings that constrain constitutional democratic practice and undermine the rule of law in Zambia.





## 47. Constitutionalism

- 47.1 Zambia is gradually moving toward full constitutional democracy, having cast off the shackles of colonialism with a Lancaster House constitution and having turned its back on the one party state it experimented with from 1973 until 1991 when the present form of multiparty democracy emerged.
- 47.2 A Constitution Bill was read for the first time in the National Assembly on 22 February 2011. Its provisions have, for present purposes, been separately assessed in response to the request on page three of the "Issues Paper" published in 2010 (see box). Although the Bill contains many improvements upon the current constitutional dispensation, there is still much scope for broadening and deepening democracy in Zambia. The CRM found that Zambians desire further deepening of democracy. This was repeatedly emphasised during the Mission's tour through the often expressed desire of the Zambian people, including government officials, politicians, non-state organisation representatives, and traditional leaders with whom the Mission interacted, to make their nation's hard-won liberty more tangible to all and the State more responsive to the needs of ordinary people. The participants informed the CRM that many good policies are in place and many reforms are contemplated that will enhance good governance in Zambia once they are fully implemented.
- 47.3 There was a general perception during the CRM consultations that the presidential system of government, which has evolved to be omnipotent over the decades, undermines progress of democracy. There was, therefore, the need to improve constitutional democracy and the rule of law in Zambia by converting the current "presidential democracy" into a constitutional democracy under the rule of law. It was often asserted that at present, there is too much power concentrated in the hands of the executive arm of government. In fact, the perception was that the President, and not the Constitution, is supreme. Likewise, the rule of law did not appear to be practised since the dominance of the executive at times appeared to place it and its decisions above the law. In addition, the CRM heard representations, especially from non-state organisation representatives, that the doctrine of the separation of powers is too often honoured in the breach in institutional arrangements - both those currently in place and those contemplated in the Constitution Bill.
- 47.4 Whilst the Bill does take some steps in the right direction, it appears that much needs to be done to place Zambia at the forefront of best practice, both in the region and in Africa as a whole. As one of the most mature democracies in the region, Zambia is well placed to lead the way toward a more complete and structurally fully functional institutional framework that completely embraces the best practices of constitutional democracy. It is the view of the CRM that this is pertinently so because Zambia is a peace loving nation which has shed the liberation movement phase of politics and is ready to move beyond the "big man" syndrome that has in the past so bedevilled both politics and constitutionalism in Africa.





## 48. Executive Dominance in the Political System

- 48.1 The initial finding of the CRM was that the excessive concentration of power in the executive renders the legislature a mere “rubber stamp” for the wishes and commands of the executive and makes the judiciary subservient instead of autonomous, impartial and independent. The Republican President chooses his Cabinet from the legislature. Currently, 63 out of 150 Members of Parliament are in the executive branch as well. The President also appoints eight Members of Parliament. The CRM heard that these appointments are not necessarily on merit, but to dispense patronage to loyal party cadres. The President’s powers to hire and fire Cabinet members and to appoint additional Members of Parliament elevate the executive’s office above the legislature, which is consequently subordinated. However, as the subsequent debates and voting on the proposed constitutional amendments would reveal, the legislature is starting to re-assert its rightful role of oversight of the executive. This was manifest in the principled rejection of the amendments in March 2011, which had been perceived to be hurried and incomplete. Their rejection showed that the members of Parliament were more interested in genuinely representing the concerns of their constituents rather than merely dancing to the incumbent government’s tune (See Commendable Practice No. 2).
- 48.2 Executive dominance of the judiciary is manifested in the President’s appointment of judges and the determination of their conditions of service. The President also appoints the principal officers of commissions, state agencies, statutory boards, etc. The executive is therefore in an unparalleled position to dispense state patronage through such appointments, which render the appointees subordinate to the executive and subservient to the President.
- 48.3 The executive’s control of the national public budget is manifested through the budget formulation process. Although budgets are based on the requirements of the operating Ministries, departments, and other state institutions, the Ministry of Finance controls the actual disbursements after the allocations have been agreed, through the imposition of budget ceilings that are not negotiable. This means that the Treasury does not provide the full allocations that had been agreed and approved by the legislature in the annual budget. As stated elsewhere (cf. Separation of powers), disbursements are subject to such uncertainties that some state institutions cannot even guarantee they will be able to carry out their planned operations.
- 48.4 The CRM thus observes that a situation where the executive subordinates the legislature, the judiciary, and the other state institutions through appointments, dismissals, and budget controls etc., does not augur well for constitutional democracy. The CRM also observed that there is no constitutional basis for excluding security organisations from proper parliamentary oversight, which can be confidentially exercised when genuine considerations of national security come into play. There is a perception that, in the absence of appropriate parliamentary oversight, the security organs (which are a part of the executive arm of government) appear to lack accountability and could easily function outside the scope of the rule of law.





## 49. Government, Civil Society and the Media

49.1 The Issues Paper raises tension between government and civil society as a problem. The CRM confirmed this tension during the consultation meetings, which invariably consisted of a combination of representatives from state institutions and non-state representatives. The CRM observed that the tensions occur due to the lack of responsiveness inherent in a system in which the executive is unnecessarily dominant and stifles both civil society and the media. Typically, civil society representatives in the CRM stakeholder consultations lamented the fact that the government often considers CSOs as “opposition” rather than partners. This was especially so when they criticised the abuse of human rights and the state of corruption.<sup>10</sup> Civil society participants in the CRM consultation meetings also pointed out that the proposed NGO Bill would curtail the freedom of association and participation since it calls for the State to register and regulate NGOs.

49.2 The chief government spokesperson is quoted as stating that the Constitution also gives the President powers to close media firms, as was done with Radio Lyambai in the Western province (Barotseland).<sup>11</sup> If the quotation is true, it confirms a rather condescending attitude towards the freedom of expression, which is a key aspect of democracy. During the period of the CRM, the then opposition Member of Parliament Guy Scott (now Vice President of Zambia) was also hauled before the Parliamentary Committee on Privileges by the Speaker of Parliament for writing an article in a newspaper that usually criticises the government. However, since the election of the Patriotic Front government in September 2011, the media relationship with government has changed. The media has been asked to come up with modalities of self-regulation. Public media houses have been encouraged to float their shares on the Lusaka Stock Exchange in order to recapitalise their operations.

49.3 The tension between the media and the government, to which the Issues Paper alludes, is due to a lack of appreciation of the centrality of freedom of expression to constitutionalism. The CRM has found that the report in state-owned media is in stark contrast to that of the independent press. Self-regulation of the media is a sine qua non for the upholding of this basic human right. On the other hand, the regulation of NGOs can hardly be **cavilled at** if their regulation is designed to render them accountable to stakeholders. The absence of a framework for regulating political parties and their funding is a matter for urgent legislation. However, this is already being contemplated in the National Plan of Action and should help to level the political playing field and remove undue advantages which incumbent parties currently enjoy.

## 50. Decentralisation of State Institutions

50.1 The system of State administration is highly centralised. It is also much politicised. At the apex is the President, who appoints the provincial commissioners and the district commissioners below them. There are nine provinces, each politically headed by a provincial Minister (at the level of

<sup>10</sup> CSO APRM Secretariat, 2010 (Ibid.).

<sup>11</sup> Saturday Post, 09 February 2011. “President has power to close media firms, says Ronnie (Shikapwasha)” (the chief government spokesperson).





a Deputy Minister, but without cabinet status). The Provincial Permanent Secretary, who is the accounting officer, is also appointed by the President and is responsible for implementing the ruling party's programmes as defined in the election manifesto. The Deputy Permanent Secretary is a civil servant who is not politically appointed but is meant to implement the incumbent government's policies. The various ministries delegate line functions to the provinces and districts, and they are coordinated at each level by either the Provincial or District Commissioner.

50.2 The CRM found that presidential pre-eminence and state centralisation are reinforced because the country's chief executive officer has extensive powers to appoint all the pivotal officers of State administration. At the same time, the President in his capacity as the leader of the ruling party also appoints and controls the operations of political officials. Therefore, it seems there is a blurring of the President's roles as Head of State and Government, and head of his party. The combination of these two roles serves to consolidate both the executive and political dominance of the President in the entire state system. As stated above, the provincial commissioners and the district commissioners are appointed by the President in his exercise of executive presidential prerogative. The President, as the president of the ruling party, also appoints the Provincial Minister and the Provincial Permanent Secretary. These presidential appointments thus show that office's dominance of both the state administration and the ruling political party. This is an instance of unparalleled patronage, which renders all public officers (both state officers and political officials) subordinate to the President. Political patronage therefore permeates the system of appointments at all levels, with ruling party cadre occupying all the crucial positions that would otherwise be held by career administrators and managers.

50.3 Similarly, the President has the power to appoint senior civil servants, including the DPP and those who serve on the various commissions established in Zambia. This is a further manifestation of excessive centralisation of power in the executive.

## 51. Opportunities and Choice in Politics

51.1 The CRM found that there is considerable political choice, if choice is measured through the multiplicity of political parties. There were 39 registered political parties at the time of the CRM. However, the Public Order Act appears to curtail the freedoms of association and expression because it has been used in some circumstances to criminalise political activism. This was evident in the arrest of 25 people in 2011 on charges of agitating for secession of Barotseland from Zambia, which is a treasonable offense. The CRM was informed that although organisers of public gatherings are merely requested to *inform* the police that they wish to hold a public meeting, in practice the police use this to deny permission to organise meetings that they deem to be inspired by the opposition or not in the interest of the incumbent government, as was the case in Barotseland. The CRM also heard that the lack of state funding for political parties makes for a non-level playing field, especially because of the perception that the incumbent party has preferential access to state resources.





- 51.2 However, the changes under consideration in the Constitution Bill would appear to enhance multi-party democracy, especially the introduction of proportional representation, which could boost representation of the smaller parties. The CRM also found that there was a general desire amongst participants that political parties be regulated, which would include implementing and enforcing codes of ethics and of conduct.
- 51.3 It therefore appears necessary to find a means of enhancing constitutionalism. These would include checks and balances to the functions of the executive that would strengthen and protect the other arms of government in accordance with the doctrine of the separation of powers [See Objective 4, below]. When a proper balance is reached, transparency, accountability and responsiveness replace opacity, cronyism and the present disconnect between government and civil society. It is not sufficient merely to allocate different functions to different institutions in the three branches of government. A constitutionally sound method of preventing encroachments and enhancing independence is required. This can be put in place via constitutional amendments which take the changes at present under consideration a little further than is seen in the draft bill already published. Ensuring the institutional independence of the legislature and the judiciary is not beyond the wit of Zambians. Constitutional reforms could go further by curtailing the powers of the presidency, particularly as regards the appointment of the heads of state institutions, and political interference in the operations of the legislature by limiting the presence of members of the executive in the legislature.

## 52. Recommendations

The Panel recommends that Zambia:

- Entrench the functional, financial and structural independence of the legislature and the judiciary in the Constitution.
- Depoliticise the appointment of the principal officers of state institutions.
- Show more evidence that the people can exercise and enjoy the freedoms of association, participation and expression guaranteed as rights in the Constitution.
- Subject the security organisations to parliamentary oversight.
- Accelerate structural and fiscal decentralisation.
- Regulate political parties and their funding.







### Objective 3: Ensuring Promotion and Protection of Economic, Social, Cultural and Political Rights

#### 53. Summary of the CSAR

- 53.1 The CSAR states that the legal frame framework of Zambia protects the civil and political rights of citizens while recognising that limitations are necessary to maintain public order, security, safety, health or morality and to ensure that the rights and freedoms of others are protected. Civil and political rights are thus recognised and are accommodated within the justice system. The Constitution of 1996 prohibits discriminatory laws. Institutional mechanisms to promote and protect human rights include the Human Rights Commission, the Judicial Complaints Authority, the Police Public Complaints Authority, and the Law Association of Zambia. Non-state actors that promote human rights include the Media and Civil society. Zambia implements some of the economic, social and cultural rights (ESCRs) mainly through the Directive Principles of State Policy (Part IX of the Constitution), which may be observed only in so far as State resources permit, or if the general welfare of the public so unavoidably demands as may be determined by Cabinet. These directive principles are not accommodated within the justice system and are not by themselves legally enforceable despite being referred to as rights in certain instances.
- 53.2 The CSAR reports that the government initiated the Access to Justice Programme (A to J) in 2007 with the aim of improving vulnerable people's access to justice in Zambia by strengthening coordination and cooperation between justice sector institutions, so as to deliver improved and decentralised justice for all, with particular emphasis on women and children in rural areas. Alternative dispute resolution mechanisms have also been resolved in Zambia.
- 53.3 There is no expressed national legislation that recognises the right to work and the right to equal opportunity to work although the Employment Act Chapter 268 provides for conditions of work and certain rights of workers. Challenges in implementation have been noted in some employment contracts that do not respect fundamental obligations including maternity leave. Most graduates from tertiary institutions do not find employment because of their lack of experience and limited job opportunities. Despite relevant laws, the minimum wage of K268, 000.00 does not meet the basic amount required for a person's survival according to the Central Statistical Office (CSO) January 2010 bulletin that places the basic food basket at around K600, 000.00.
- 53.4 The National Pension Scheme Act, No. 40 of 1996 provides for benefits such as invalidity pension, invalidity lump sum payment and survivors benefit. Under NAPSA, some employers do not contribute on behalf of their employees to NAPSA. Because of this, workers are disadvantaged. The Workers Compensation Act, Chapter 271 provides for workers' rights to compensation. The reality is that some foreign investors do not comply with the employment laws of the country and workers continue to be affected by poor working conditions.
- 53.5 Education is not guaranteed by law. However, under the 1996 Constitution, Article 110 (e) aims to ensure the provision of equal and adequate educational opportunities in all fields at all levels. The private sector and religious institutions are free to establish schools in the country but these are regulated by the Ministry of Education.





- 53.6 The Technical Education, Vocational and Entrepreneurship Training Act No. 13 of 1998 makes provisions for technical, vocational guidance and training programmes in recognition of the right to work. However, most of the TEVET accredited institutions are limited to provincial centres, thereby denying persons in rural areas the opportunity to access further education. Some continue to operate without meeting those standards. Some institutions operate with poor-trained instructors. Learning infrastructure and achievements are also low. Furthermore, the student -lecturer ratios are very high in some institutions.
- 53.7 The country has a decentralised approach to planning and providing health services which broadens the scope for all individuals to access health services. In 2008, the priority areas of focus were Disease Control Programme: HIV/AIDS, Tuberculosis, Malaria and Child health.
- 53.8 Zambia has been facing a very critical shortage of housing since independence. The lopsided pattern of development between rural and urban areas has resulted in very high rural-urban migration, without a corresponding effort to provide appropriate housing. Consequently the proliferation of unplanned settlements in almost all urban centres continues with inadequate social amenities such as water, roads and sanitation facilities. The National Council for Construction (NCC) is not effective in regulating contractors while procuring entities are not effective in supervising them. As a result of this, some of the standards in the construction industry are undesirable and contribute to the poor state of housing in the country. The other problem in the housing sector is that of inadequate finance, coupled with high rents. In most cases, houses are very expensive and out of reach to the ordinary Zambian. It is also difficult to secure a mortgage because of the high interest rates.

## **54. Findings of the CRM**

### **54.1 Civil and Political Rights**

The 1996 Constitution of Zambia sets out a wide range of rights and fundamental freedoms in the civil and political arena. The CRM heard from several quarters that Zambians are fairly free to enjoy their civil and political rights since the introduction of multiparty politics and particularly in the past decade, government, to some extent, has given individuals the space to enjoy their rights. The labour movement and civil society organisations have flourished in the country and are free to promote human rights awareness and to monitor how these rights are guaranteed. Civil society, including the Law Association of Zambia, has engaged in judicial activism to get the courts to make important pronouncements on violations of civil and political rights. The CRM learnt that government agencies criticise certain activities of CSOs involved in promoting political rights as being political, particularly those that critique government policies or actions. The CRM heard from civil society organisations of their concern that the recently enacted Non-Governmental Organisation Act No. 16 of 2009 (NGO Act) will severely erode the freedom of assembly as guaranteed by the Constitution. The NGO Act was enacted to enable the coordination and registration of NGOs, to enhance transparency, accountability and performance of NGOs and to establish an NGO Registration Board. The Non-Governmental





Organisation Act No. 16 of 2009 is therefore regarded as retrogressive, a threat to the enjoyment of freedom of assembly and the ability of NGOs to organise and mobilise citizens to towards common action.

## **54.2 Freedom of Information**

54.2.1 While the media is relatively free to publish and disseminate information and opinions on general issues, state and privately owned media adopt a markedly polarised approach to coverage of the ruling party's activities being dominant in public media. There have also been attempts to curb freedom of expression in the media, particularly in past regimes. For example in 2001, the two government radio and television stations were banned from covering the opposition's activities, ultimately ending in litigation.<sup>12</sup> As highlighted in the CSAR and to the Mung'omba Constitutional Review Commission, a pattern and culture of harassing journalists has been noted in the country. The Penal Code Act (Chapter 87 of the Laws of Zambia) still contains prohibitive laws, such as the law on sedition and seditious publication, as well as the law on criminal defamation, including defamation against the person of the President that have been commonly used, as noted in the CSAR. For instance, in February 2011 it was reported that Radio Lyambai in Mongu had been closed pending investigations of allegations about it broadcast information on the Barotseland controversy that was deemed seditious.

## **54.3 Right to Life and Physical/Bodily Integrity**

54.3.1 The courts in Zambia still impose the death penalty although there has not been an execution since 1987, a fact that is attributed to political unwillingness to perform executions despite the prevailing laws. Various activists are currently advocating the abolition of the death penalty. The Criminal Procedure Code (Amendment) Act No 9 of 2003, the Penal Code (Amendment) Act No. 10 of 2003, the Education Act No 11 of 2003 and the Prisons and Juveniles Acts respectively have been reformed with regard to corporal punishment, which was abolished following a court ruling that squarely identified the practice as amounting to cruel, inhuman and degrading treatment.<sup>13</sup> In actual practice, the administration of caning as a form of punishment is still prevalent in schools and in prisons and the HRC often receives complaints of children receiving corporal punishment at the hands of teachers. There is a lot of resistance from parents, teachers and the Police to doing away with corporal punishment.

## **54.4 Access to Information**

54.4.1 The CRM notes that there has been some progress in increasing the flow of information through newspapers, radio and television. For example, the CRM was informed that currently there are about 26 radio stations, 14 of which are community radio stations. The community radio stations located in the various provinces have facilitated the dissemination of opinions and information. By 2008, the number of districts receiving ZNBC TV and radio signals had risen to sixty-three and seven media organisations were operational, but only one

<sup>12</sup> Arthur Lubinda Wina & 6 others vs. The Attorney General HP/187B/1990

<sup>13</sup> John Banda v The People HPA/6/1998





provincial centre has been able to publish newspapers locally.<sup>14</sup> The CRM also heard that the government has an impressive record of regularly conducting in-depth national surveys and reviews. Some of these surveys are posted and offered for free online via the Central Statistical Office website. Government has used several diverse media to explain key government policies and in some instances, has even undertaken simplification and translation of information and communication materials. Government agencies such as the Ministry of Health have made demonstrable efforts to generate information through several surveys in a consultative and participatory manner both vertically and horizontally. The media has been a useful actor in disseminating information to and simplifying it for the public.

- 54.4.2 Despite the progress noted above, the CRM found that access to public information is problematic for almost all sectors of society, which hampers the public's ability to proactively follow up important governance issues, programmes and processes, and to demand accountability. The CRM heard reports that, in some instances, even government workers themselves sometimes fail to get vital policy information to ensure timely, informed planning and programming. Civil society and the public in general find it harder to obtain information on public processes, an example being the difficulty in obtaining a budget at the district level. The CRM received anecdotal information about requests for public information being countered with demands that such requests be submitted as written applications, and that requests to access public financial information are often met with suspicion and in many cases the person seeking it is subjected to thorough questioning.

Access to information in languages other than English is even much harder, although there are attempts by CSOs and government agencies to undertake translation. In the urban areas the electronic and print media help to buttress information flow but in the rural areas, it is difficult to access publications, and radio and TV media are only for those who can afford them. Internet access is difficult and expensive particularly in the rural areas.

- 54.4.3 Parliament has taken an inordinately long time to pass the Freedom of Information Bill that is meant to empower the citizenry, civil society and various sectors of the public to seek and receive information. This law is also very important in facilitating the media's access to and publication of information as a matter of right, in order to eliminate the frictions and intimidations that media houses sometimes face over sensitive publications. However, the government has generated controversy over its insistence that the media fraternity develop a self-regulatory mechanism in lieu of statutory regulation. This runs the risk of being seen- and is indeed viewed by the majority of media practitioners- as an attempt to limit a fundamental freedom vital for the discourses and research necessary in a pluralistic and democratic society.

## **54.5 Freedom of Association and Assembly**

- 54.5.1 The right to form and join trade unions, to strike and demonstrate are all guaranteed in Zambia and have been regularly exercised by citizens although

<sup>14</sup> 2008 Annual Progress Report of the Fifth National Development Plan, Ministry of Finance and National Planning





not without some restrictions. Previously, those wishing to demonstrate were obliged to seek permission from the Police under the Public Order Act, but judicial pronouncements<sup>15</sup> in 1995 led to reforms and currently those wishing to demonstrate or associate publicly are only required to notify relevant authorities. The Public Order Act Chapter 113 of the Laws of Zambia requires those wanting to hold a public meeting, procession or demonstration to give at least 14 days prior notice to the police but the application of this law is sometimes viewed as arbitrary. For example, the CRM was told of an occasion when executives of a provincial political party held an informal meeting at Avon Guest house in Kabwe and were dispersed by the Police, while in the same locale instances of spontaneous demonstrations have occurred without the requisite notice and yet receive police protection.

## **54.6 Knowledge of Rights**

54.6.1 The CRM found that most people in Zambia, particularly in the rural areas, are not sufficiently aware of their human rights and that this affects their ability to demand and enforce them. Legal literacy is low, despite educational interventions by the HRC and efforts by the Ministry of Justice which has two radio stations that carry out mass civil education programmes pertaining to good governance, rights and laws. The HRC was instrumental in inculcating human rights education in the National Education Curriculum and undertook community radio training projects round the country. Various CSOs have educated communities particularly those in urban areas on their rights. Human rights information is also disseminated through school clubs and civil society's community outreach programmes.

## **54.7 Access to Justice**

54.7.1 Access to justice is still problematic for the majority, in particular, those who seek adjudicatory means to settle disputes are constrained by structural bottlenecks in the justice administration system. The country faces the challenge of having few but large expanses of magisterial areas with some districts lacking adequate numbers of magistrates to dispose of cases expeditiously. Local courts exist but are constrained by issues of capacity and shortage of personnel. These problems have led to backlogs of cases and in several instances remand periods of over two weeks.

54.7.2 The high rates of poverty and legal illiteracy have impacted the ability of the majority, particularly in rural areas, to enforce their rights in courts of law. At provincial level, legal representation is costly, and there are few law firms or none at all. While the Legal Aid Board is a welcome innovation, it is overwhelmed by the large number of cases and limited resources. Due to these gaps, most people in the rural areas refer most civil cases to traditional authorities as the traditional dispute mechanisms are deemed to be swifter and the punishments are community based. However there are instances where the traditional courts act unfairly and outside their jurisdiction, particularly with regards to defilement where such matters are settled out of court.

<sup>15</sup> In the case of Christine Mulundika and 7 others v the People SCZ Appeal no 95/1995





## 54.8 Human Rights Violations

- 54.8.1 The Human Rights Commission (HRC) is mandated to receive and investigate individual complaints of human rights violations and to make recommendations on remedial measures in the form of sanctions or compensations to the appropriate authorities, including the DPP and the Attorney General. Recommendations must be responded to within 30 days and it is an offence not to do so. While the HRC emphasises that in the main, its recommendations are complied with, there is a concern that the absence of political will to comply with recommendations or referrals may serve to disempower the Commission. Moreover, the statutory timelines for compliance with its recommendations are often not adhered to, delaying the right to attain an effective remedy for human rights violations for victims.
- 54.8.2 Since 1997, the bulk of complaints that the Human Rights Commission (HRC) has been handling have related to employment and labour disputes, that is, ill treatment and delay in payment of benefits. Some of the disputes are resolved amicably and others are referred to the Industrial Relations Court. The HRC's inspection of prisons in some regions reveals that the majority of the prisons in Zambia are characterised by overcrowding, poor sanitary conditions, and inadequate medical and food supplies.<sup>16</sup> Other violations handled by the HRC to a lesser degree include police brutality such as torture, and unlawful detentions that extend beyond constitutional time lines. There is currently a gap in the law on torture, which relies on certain provisions of the Penal Code Act, Chapter 87 of the Laws of Zambia which do not address the core concept of torture, that is, the abuse of private citizens by state agents.
- 54.8.3 There are instances where the monitoring activities of the HRC have succeeded in protecting the rights of citizens and led to reforms. In 1997 there was a coup attempt in Zambia and the HRC determined that the detained suspects had suffered torture at the hands of the police. Government complied with the HRC's recommendation to address the issue of torture and instituted the Japheth Banda Commission to publicly investigate the allegations.
- 54.8.4 Funding of the HRC is a challenge to its effective operations and autonomy, mostly because the budget is determined by Ministry of Finance and allocations have been inadequate. This had led to operational constraints such as inadequate staffing levels of only 54 out of 130 staff, not all of whom deal with its direct mandate.

## 55. Economic, Social and Cultural Rights

- 55.1 Economic, social and cultural rights are not specifically provided for as fundamental human rights and entitlements in the 1996 Constitution. The framing of the Constitutional provisions of Part IX 'Directive Principles of State Policy' in Article 111 effectively puts economic, social and cultural rights outside the jurisdiction of the courts. According to Article 112, the State shall endeavour to promote conditions for the means to earn a livelihood and the

<sup>16</sup> Prison and Police Cells Inspection, North Western Province Report, Zambia Human Rights Commission 2008





opportunity to obtain employment, to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons. The State shall also promote educational opportunities and provide social benefits for persons with disabilities, the aged and other disadvantaged persons, and foster the enjoyment of culture and a clean and healthy environment by all. Nonetheless, Zambia has undertaken to provide important services that relate to socio-economic rights.

## **56. The Right to Education**

- 56.1 From March 2002 when the implementation of the Free Basic Education Policy commenced, Zambia has been providing free and universal primary education from Grade 1 through to 7, although it is not a right by law or the Constitution and neither is it compulsory. To facilitate education, and in recognition of the constraints that school-going children face, examination fees have been scrapped for Grades 1 to 7 and school uniforms are not compulsory; however, this policy is not adhered to in urban areas.
- 56.2 Government has undertaken several construction projects in a bid to build more schools. A third University, Mulungushi, was opened to increase available places at tertiary level. The government has instituted parallel initiatives based on the need to recruit new teachers and build new schools. The 2008 Annual Progress Report on the Implementation of the Fifth National Development Plan (FNDP) shows an increase in the number of classrooms constructed, and teachers recruited as well as enhanced allocations to the sector in the preceding four years. The same report indicates a rise in enrolment levels, for example enrolment rates for graded 1-7 increased in 2007-8 to 94.71.
- 56.3 High pupil/student-to-teacher ratios compromise the ability of instructors to employ good pedagogical methodologies. To mitigate this, the Ministry has undertaken since 2008 a policy of recruiting more teachers. For example, in 2010, 3537 teachers were recruited and deployed, and the projections for teacher recruitment for 2011 were 7000 teachers. Government is accepting teachers who were trained in private institutions in order to increase the recruitment of teachers, and there is an effort to deploy teachers soon after training rather than wait for 2 years as was usual in the past.
- 56.4 The Minister of Education has put in place plans to upgrade basic school teachers to diploma level and high school teachers to degree level; to this end it has designed special programmes with the University of Zambia to train teachers at degree level. The Ministry has also upgraded Nkrumah TTC and COCECO/ Copperbelt Secondary Training College to university colleges to offer degree programmes with a bias towards Science and Maths. Mulakupikwa University aims at producing teachers specialising in science and maths since these are areas of huge deficiency at high school level. It is projected that from 2013, teachers' minimum qualifications will be diplomas as opposed to certificates. Currently, four TTCs have moved from issuing certificates to diplomas, and teachers are being encouraged to share experiences and influence peers.
- 56.5 Community schools too have evolved as an innovation for children who are disadvantaged mainly in the urban areas. The 2000 Census report noted that in 1996-2000, enrolment levels in these schools increased from 10,000





learners to 50,000. These schools are advantageous in that they are closer to the communities where children come from and are flexible in their academic requirements.

- 56.6 The CRM however notes several challenges in implementing the right to education that relate mostly to the quality of education. While resource allocations to the education sector have increased in the last few years as was pointed out in the 2008 FNDP Annual progress report, several implementation challenges remain. Parent/Teachers Associations have been set up to fill some of the gaps, although they sometimes charge high fees that prevent children from poor households from attending. From grade 8-12 there is a cost sharing programme for learners under the Cost Sharing Education Policy that was introduced in 1995; it involves parents bearing some of the costs of education. User fees have had negative effects on enrolment and retention, and children from poor or vulnerable families tend to be the most affected. For example where primary schools in high poverty areas charge fees for development projects (e.g. construction), vulnerable children who lack even the most basic scholastic materials are the first to drop out.
- 56.7 The extension of basic schools from Grade 1-7 to Grade 8-9 without commensurate structures and resources has also caused problems in the education system. Most schools were not equipped with teachers for Grade 8 and 9, and the best high school teachers were deployed to secondary schools.
- 56.8 Standards Officers in the Ministry of Education are mandated to monitor public, community and private schools' adherence to government standards. In principle only those schools that are compliant with set standards are given licences, but this important monitoring mechanism is constrained by lack of funds. School inspectors reported to the CRM that it was particularly challenging monitoring schools in remote areas as those duties could take as long as one year due to the bad roads and long distances.
- 56.9 School dropout rates are still high due to high levels of poverty, early marriages and patriarchal norms that privilege the education of boys at the expense of that of girls. The rising levels of unemployment are also considered to de-motivate children from seeing academic scholarship as a viable option for gaining formal employment while the scarcity of high schools in some districts has contributed to school dropout rates. The CRM was informed that in the Northern Province in Kaputa there is only one high school, and some learners travel long distances when they are in the higher grades.
- 56.10 Affirmative action for vulnerable categories of school-going children is being attempted, and those who pass with full certificates are allowed to study without paying fees. However, this is problematic in Lusaka and urban areas where the numbers of school going children are higher. Affirmative action for children with disabilities is also promoted by government.







## 57. Employment

- 57.1 The right to employment is not guaranteed by law or by the Constitution. The 2000 Census report noted the massive loss of jobs caused by the liberalisation of the economy from the early 1990s, from 324,386 in 1990 to 409,772 in 2000. The Living Conditions Monitoring Survey (LCMS) 2003 revealed that, by 2003, the majority of employed persons (72 per cent) were engaged in the agricultural sector and 83 per cent of all employed persons were engaged in the informal sector. As noted in the CSAR, most graduates face problems in finding work in the formal sector, and the minimum wage for workers remains low.
- 57.2 Following privatisation of state owned companies, the government policy sought to bring in direct foreign investment, particularly in the area of mining. While the expectation had been that this would result in job creation, returns have been low because most investors target tax refunds and deductions and invest more in capital equipment rather than labour.
- 57.3 The rights of workers in the informal sector are not adequately protected. Workers in the public sector have basic protection provided, for example, through minimum wage and social security benefits. Government workers are privileged by law and protected in their right to form and join trade unions and they enjoy labour law immunities and protection. Ministries have representative unions for workers. On the contrary, most workers in the private sector are ill-protected and left to the caprices of the companies that employ them.

## 58. Right to Health

- 58.1 Since 1991, Zambia has moved away from a heavily centralised health system and adopted the model of the Primary Health Care (PHC) programme, with a view to bringing all levels of health care services close to the people through the Basic Health Care Package (BHCP)<sup>17</sup>. Government undertook several public health programmes, most notable of which is the provision of free antiretroviral drugs since 2005, particularly given the HIV pandemic that the country struggled to eradicate. The 2008 Annual Progress report on the Implementation of the FNDP notes that the maternal mortality rate dropped from 729 per 100,000 live births in 2002 to 591 per 100 000 live births in 2007. Despite this improvement, the incidence of maternal mortality remains one of the highest globally. Child mortality was estimated to be 119 per 1000 in 2007 and infant mortality put at 70 deaths per 1000. The mortality ratio for the under-five group dropped from 191 in 1992 to 119 deaths per 1000 live births in 2007.
- 58.2 Women's access to maternal health has improved with 94 per cent of women having received professional antenatal care as at 2007, according to the 2007 Demographic and Health Survey. This survey found that overall, 45 per cent of children in Zambia are stunted. Government reacted by putting in place immunisation programmes, which reached 90 per cent of the children in Zambia in 2008.

<sup>17</sup> Zambia Demographic and Health Survey 2007, Central Statistical Offices March 2009





- 58.3 The Health Care system in Zambia is challenged by the high incidence and frequency of disease. The National Disaster Management Policy observes that major epidemics occur frequently in many parts of the country and cited cholera, dysentery, malaria, meningitis, tuberculosis and HIV/AIDS pandemic. The Policy also notes that outbreaks of water-borne diseases such as cholera and dysentery are a common, almost every day, occurrence in most of the crowded urban areas in the rainy season with high levels of fatality.
- 58.4 Government faces challenges in providing adequate medical care, particularly given the poor staffing levels noted in the 2008 Annual Progress Report on the Implementation of the FNDR. In the rural districts, health centres are inadequately staffed and patients have to walk long distances to reach them. Studies show that while about 93.0 per cent of urban households are within a 5 km radius of a health facility, only 54.5 per cent of those in rural areas are located within a 5 km radius.
- 58.5 Government has undertaken to provide mobile hospitals to bring health services closer to the people but this has generated a lot of controversy and confusion as to who the recipients will be and how the services will be provided, particularly given the bad condition of the roads which were damaged during the rains. The payment of user fees was a deterrent to the poor but a User Fees Removal Policy was adopted in 2006 and this alleviated this problem.

## 59. Recommendations of the CRM

- 59.1 The CRM recommends that Zambia:
- Pass a law against torture and ensure that corporal punishment is completely eradicated in schools, prisons and within the Police.
  - Pass the Freedom of Information Act as expeditiously as possible. The media are also encouraged to voluntarily regulate their activities through a designated body.
  - Strengthen the capacity of the Human Rights Commission to promote human rights education to all Zambians and endow it with the mandate to enforce its recommendations where violations have occurred.
  - Introduce incentives to help recruit and retain more teachers particularly in the rural areas.
  - Ensure that education is a human right for all children and allocate human and financial resources towards building more high schools to absorb children moving on to high school.
  - Strengthen the monitoring mechanisms to ensure that community and private schools adhere to set standards so as to enforce qualitative service delivery.
  - Extend the jurisdiction of the Magistrates Courts and High Courts to handle functions of the Industrial Relations Court. At least each Province should have an Industrial Relations Court.
  - Strengthen the capacity of the Ministry of Labour to access and monitor all agreements between workers and employers and to develop stronger and more effective surveillance mechanisms.





#### **Objective 4: Uphold the Separation of Powers, including the Protection and Independence of the Judiciary**

##### **60. Summary of the CSAR**

- 60.1 The Zambia CSAR states that the doctrine of the separation of powers is not specifically recognised in the 1991 Constitution but is nevertheless given effect through the creation of the executive, legislature and judiciary. There is no mechanism to resolve inter-governmental conflict but there is a proposal for a Constitutional Court to do so. Zambia acknowledges the centrality of the separation of powers to ensuring an equitable distribution of power and effective checks and balances on the exercise of power so as to enhance good governance and accountability.
- 60.2 However, the CSAR notes that both the judiciary and the National Assembly have bemoaned their lack of financial independence. The national assembly has the power to initiate legislation and exercises oversight over the executive. These powers can become illusory when the president is the leader of the majority party in the National Assembly. The appointment of the Cabinet from the ranks of the National Assembly involves compromises and conflicts that are best addressed by outside appointments. The 2005 parliamentary reform programme aimed at ensuring that Parliament is representative and responsive, efficient and effective, accountable and accessible as well as legitimate and linked (REAL).
- 60.3 Article 91 of the Constitution entrenches the independence of the judiciary, which is staffed by judges appointed by the president subject to ratification by the National Assembly. Public confidence in the judiciary was high in 2008: 68 per cent of the population regarded it as an impartial upholder of the rule of law. Another study conducted for the APRM in 2009 found that 68 per cent regard judges as subject to interference. Nevertheless, there is a perception of executive interference in the judiciary. The judiciary has asked to be regarded as a separate arm of government and to have its budget allocated accordingly.
- 60.4 The Zambia CSAR recommends that the budgets of the judiciary and National Assembly be paid in such a way as to distinguish them as separate arms of government. Other recommendations include the elimination of the role of the executive in the workings of the Judicial Service Commission and the remuneration of the judiciary; the creation of conflict resolution mechanisms to deal with disputes between different arms of government; the implementation of the REAL parliamentary reforms to strengthen its effectiveness and oversight role and, finally, the sensitisation of the public to the role of Members of Parliament.

##### **61. Findings of the CRM**

The CRM findings on Objective Four: Separation of powers, Independence of the Judiciary and an effective Parliament are outlined below.





## 6.1.1 Separation of Powers: the Executive in Relation to the Legislature

61.1.1 The doctrine of the separation of powers is fundamental to the value system adopted by NEPAD and, accordingly, ought to be expressly recognised and implemented in any new constitutional dispensation that is put in place in Zambia. The separation of powers is central to effective constitutionalism and would address the root causes of many of the current challenges. At present, the Constitution does not expressly recognise the doctrine and the CRM found that there are worrying overlaps between the three branches of government whose powers ought to be kept separate so that checks and balances in the exercise of power are properly and effectively in place.

61.1.2 Presidential pre-eminence, characterised by excessive concentration of power in the presidency, includes the blurring of the line between the executive and legislature by the continuation of the use of a Westminster type parliamentary feature where the Cabinet (a part of the executive) is drawn from the ranks of the National Assembly (a part of the legislature). The CRM considers it inappropriate that the Cabinet should be drawn from the membership of Parliament. This hangover of the Westminster system is based on the assumption that Parliament is sovereign. However, in any proper constitutional democracy, it is the Constitution that is supreme.

61.1.3 This state of affairs is exacerbated by the numbers game, in terms of which an overly large Cabinet dominates a relatively small national assembly. In practice in Zambia, the legislature is dominated by the Cabinet by force of the seniority of its members and their sheer weight of numbers (63 out of 150 MPs, or 42 percent). The junior status of back-benchers who are not in the cabinet does not equip them with the necessary countervailing authority to hold the executive to account. Time and again, the perception of the people that Parliament is a rubber stamp for the executive was relayed to the APRM by the public representatives it met. This perception would best be addressed by ensuring the independent existence of the National Assembly. Any legislature worth its salt ought to be institutionally in a position to exercise effective oversight of the executive. This does not happen effectively in Zambia and the country is the poorer for it.

61.1.4 The meeting of the CRM with the Speaker and some parliamentarians was illustrative of the disparities that exist. Senior parliamentarians were seated opposite the team and were invited by the Speaker to participate in the discussions which were conducted in good spirit with bonhomie and banter between party political adversaries. Junior parliamentarians were seated separately and to one side. They merely observed that the idea of them exercising oversight over the executive had probably never crossed their collective minds because of the nature and structure of the system in which they are made to function. A legislature dominated by the executive and populated with his appointees (both cabinet and nominated) is not able to hold the presidency to account as it should. The later dismissal of Mike Mulongoti as a Cabinet minister and nominated Member of Parliament after he fell out with the President is a further illustration of the dominance of the presidency. Too much power is concentrated in too few hands. This makes the stakes in presidential elections extremely high and the campaigning very fraught.





## 62. The Executive in Relation to the Judiciary

- 62.1 The CRM found that similar to the legislature, the judiciary is weak in relation to the executive branch. It is under-resourced in terms of the budget allocations and human capacity. The omnipotence of the President is fuelled further by his powers of appointment in respect of the judiciary where the CRM heard that there is the preference for contract appointments rather than security of tenure - thus undermining institutional independence and cultivating executive-mindedness in judges desirous of having their contracts renewed.
- 62.2 The judiciary's submission to the Commission on Reviews of Salaries and Conditions of Service in the Public Service points out that the appointing officer for the Upper Bench (Supreme Court, High Court, and Industrial Relations Court) is the Republican President. The conditions of service, salaries, and salary structures for these constitutional office holders are, therefore, approved by the president. The Judicial Service Commission does the same for all the other members of the judiciary in the Lower Bench (magistrates of the magistrates courts and local courts), and for management and support staff. However, the Budget office dictates the ceilings; Treasury determines what financial resources to actually release for the operations of the judiciary. The following figures illustrate the extent of financial constraints imposed by the executive branch.

**Table 8: Judiciary Budgets 2007-2011**

Judiciary	2007	2008	2009	2010	2011
Total budget required (Kwacha 000 million)	350	400	500	600	700
Actual budget estimates presented	200	250	300	305	326
Approved budget as per circular	92	129	127	162	189
percentage actually approved	71%	74%	68%	67%	
National Assembly					
Percentage actually approved	77%	87%	91%	93%	

Source: *The Judiciary of Zambia*.

- 62.3 The table above shows that even though the actual budget estimates presented for funding is always less than the total required for operations and the approved budget as per circular is way below that, the percentage of the budget actually approved was even lower (and declining) from 2007 to 2011. In 2010, the judiciary received only 67 percent of the approved budget. In comparison, the National Assembly's actual approvals increased from 77 to 93 percent from 2007 to 2010.



- 62.4 The CRM was told that this decline in the funding of the judiciary actually undermines its efficiency and effectiveness. In addition, the judiciary does not manage its own payroll but has to seek the authority of the Public Service Management Division (PSMD) of the executive branch in order to employ staff.
- 62.5 The foregoing reveals that the judiciary does not have guaranteed institutional autonomy. The appointing authority is the President; the President also approves salaries and conditions of service. The Budget Office determines budget ceilings. Employment is controlled by the PSMD. Thus, the judiciary lacks both administrative and financial autonomy. It is not protected from external influence, which undermines individual judges' independence and the overall independence of the judiciary. This clearly also undermines the principle of the separation of powers because the executive quite clearly interferes with the operations of the judiciary.
- 62.6 Moreover, having the Chief Justice serve as the Returning Officer in presidential elections is a clear breach of the separation of powers and puts the judiciary in an awkward position when disputes arise. This has been addressed in the draft Bill and is more properly the business of a truly independent electoral commission.
- 62.7 An autonomous, independent and impartial judiciary is essential. However, the CRM found that there was no guaranteed funding for both the legislature and the judiciary; the Treasury budget ceilings are arbitrary and this causes uncertainty of operations. Actually, the legislature and judiciary draw up what they consider adequate and appropriate budgets but they are often not allocated those amounts. Even if the budgets are formally approved, there is no guarantee that Treasury will release all the budgeted funds for any particular year's activities.
- 62.8 The CRM suggests that means of devising a reasonable budget for both the judiciary and the legislature should be put in place, either via independent assessment by accountants or as a percentage of the national budget. Both need to be independently administered; they are not simply further departments of the executive, they are separate branches of government and should be treated as such. The meeting with the judiciary revealed that suggestions for reform were not given serious attention by the executive, and the judges complained about the low percentage of their budget (a mere 67 percent) actually disbursed, a figure which compares most unfavourably with the 93 percent spent on Parliament. If affordability poses problems, then the expansion of the National Assembly should be reconsidered as it is clearly a lower priority than a fully functioning, properly staffed and punctually paid judiciary. Access to justice for the Zambian nation is not possible without these in place. The judiciary has been proactive in pleading its cause. In its presentation to the Commission on Review of Conditions of Service in the Public Service (pages 26 to 33 under the heading "Autonomy and Inadequate Funding") it pleads for its financial independence. In a letter dated 29 July 2010 written on behalf of the judiciary by the Deputy Chief Justice to the secretary of the national constitutional conference (paragraph 7 (b)) the plea for the allocation of "at least 5 percent of the [national] budget to the Judicature" is renewed – apparently to no avail.





- 62.9 Operationally, the President has power to give directives to the Judicial Service Commission that he also appoints. This serves to further increase the over-concentration of power in presidential hands. The CRM heard that there are moves afoot to terminate this particular power, but none of the others. CRM found that it is very inappropriate for the President to give instructions or “general directions” to the Judicial Service Commission; this directly undermines the principle of the separation of powers. The latter body should be independent in every way. In addition, the independence of judges can and should be put in place. Security of tenure for judges and their appointment via the recommendations of a truly independent Judicial Service Commission are needed.
- 62.10 There are several ways to dilute the overconcentration of power in the hands of the executive. A strong and independent judiciary and a parliament institutionally equipped to exercise its oversight functions are required. Both existing institutions lack the attributes required to function as effectively as they should. The Cabinet should not consist of parliamentarians and the President should not be allowed to nominate Members of Parliament. Curtailing presidential powers of appointment will limit dispensation of patronage and help build up professionalism and objectively ethical standards of public service.

### 63. Recommendations

The APR Panel recommends that the following actions be taken:

- Amend the Constitution to guarantee the separation of powers amongst the three organs of the state: the executive, legislature and judiciary, and to safeguard the operational independence of each. This should include:
- Ensuring the institutional, financial and personal independence of the legislature.
- Ensuring the institutional, financial and personal independence of the judiciary including the magistracy.
- Abolish the presidential nomination of Members of Parliament.
- Select the Cabinet from outside of Parliament.
- Curtail the powers of appointment accorded to the president by creating a constitutionally-backed body to appoint the principal state officers such as judges, commissioners, director of public prosecutions, auditor general, attorney general, permanent secretaries, etc.

**Objective 5: Ensure the Accountability, Efficiency and Effectiveness of Civil Servants and other Public Office Holders**

### 64. Summary of CSAR

- 64.1 The Zambia CSAR lists a number of programmes and administrative reforms that are designed to strengthen public institutions so that they are accountable, efficient, and effective. Specifically, these include the Public Expenditure





Management and Financial Accountability Programme (PEMFA), the Public Service Reform Programme (PSRP) and Decentralisation. The CSAR also notes that Zambia was lauded by the UN Economic and Social Affairs Division for its efforts in improving public service delivery.

- 64.2 However, the CSAR does not adequately assess the performance of the public service. Neither does the issues paper address issues of accountability, efficiency and effectiveness of the public service in any detail. The recommendations of the CSAR and the NPOA, nevertheless, reveal the challenges faced by Zambia. Amongst the CSAR recommendations are that there should be more investment in training for public servants; introduction of entrance examinations; formulation of orientation programmes; and monitoring and evaluation of public servants' performance. In addition, the NPOA urges that there should be an acceleration of the implementation of public sector reform programmes; development of a human resource development plan; and enhancement of the implementation of both local government and fiscal decentralisation.

## **65. Findings of the CRM**

- 65.1 The CRM confirms that the public service suffers from inadequate performance. This was noted at all levels, from headquarters to the provinces and down to the districts. At the national level, the poor performance was largely attributed to the effects of political patronage, inadequate funding of institutions; inadequate and inappropriate human capacities; and inefficiency and unaccountability.

## **66. Public Service at the National Level**

- 66.1 The CRM found that many of the stakeholders consulted in the provinces believed that the prevalence of political appointments showed that certain people were favoured at the expense of those that might be more appropriate due to their qualifications, skills, competence and experience. The CRM heard anecdotal evidence of questionable employment of some high-ranking public servants. The general perception amongst stakeholders was that in order to qualify for high public office, one had to have political connections. In other words, education, skill, and experience were not regarded crucial to filling public officers, some of which demanded high levels of expertise and competence. What appeared most pertinent was belonging to the ruling party, which was the basis for recruitment into these professional public service posts. The prevalence of political patronage therefore meant that a number of high ranking public servants were unsuitable for the functions and offices assigned to them. They were, therefore, inefficient and ineffective in the performance of their functions. Additionally, these officers did not appear to be accountable for their actions as well as their spending of public monies.
- 66.2 The CRM also heard that matters were made worse because the findings of malfeasance and inappropriate expenditure made by the Auditor General were







never followed up by police investigations, the Anti-Corruption Commission, or other official sanctions. Therefore, politically appointed public servants at all levels and in various state institutions were not accountable to anyone but their appointing authority.

- 66.3 The CRM was told in the various consultations that state institutions, such as the judiciary, the legislature, the prosecutions service, the Police, and various commissions, etc., were not adequately funded to perform the functions for which they were set up. There was strong control over public funds by the executive, especially through budget allocations. The Treasury in the Ministry of Finance determined spending ceilings and arbitrarily allocated the national budget. Thus ministerial and institutional budgets would be formulated and officially approved (within the ceilings set by the Treasury), but there was no guarantee about actual disbursements to the different institutions. As shown in the discussion of the judiciary above (Section 3.5), there tend to be wide divergences between what funds are required for efficient and effective performance, what is officially approved, and the actual or final disbursement. The uncertainty caused by the financial shortfalls means that a number of public institutions simply do not have the resources to do the basic functions for which they were set up. This is a major contributor source of inefficiency and ineffectiveness.
- 66.4 Another universal problem with efficient and effective public service performance at national level is the inadequacy of human capacity. This is compounded by the other problems noted above, namely misallocation of the relevant skills and qualifications, patronage appointments, and the inadequate financing for capacity building.

## **67. Public Service at Provincial, District and Local Council Levels**

- 67.1 The CRM found the situation to be even more serious at the lower levels of the country's state administration. The provision of services in the provinces, districts and local councils by both the ministerial departments and local government councils is very inadequate and ineffective in a number of cases. Although actual performance figures are not available, the perceptions of the participants in the CRM consultations were that the public service performs way below expectations.
- 67.2 The commonest mentioned cause of under-performance was the inadequate capacity of the institutions in terms of organisational arrangements and unqualified and unskilled human resources, and the problems of political appointments. It was stated that political appointments tended to favour ruling party cadres at the expense of qualified and skilled people. As a result, patronage appointments undermined efficient allocation of scarce human capacity. It also meant that incumbent officers who were unqualified and unskilled failed to fulfil their functions and perform to expectations. In addition to that, these officers were not accountable to the populace at large but to their political party masters. Development priorities and needs of the local districts and councils were thus distorted because the political party bosses and their ministerial and council functionaries were more interested in serving the interests of the party in power than in addressing local needs and requirements. This state of affairs meant that the overall effectiveness of both ministerial units and local councils were grossly inadequate.





- 67.3 In summary, the CRM observed that Zambia has an acute problem of human resource shortages and misallocation. This was manifested in the prevalence of inadequate human and material capacities for the implementation of public service delivery obligations. The National Programme of Action lists a number of “challenges” that arise directly from this constraint. It is stated that crucial institutions for state administration (Judiciary, National Assembly, Ministries and departments, provincial and district administrations; local government councils; public authorities, commissions, and state agencies, etc.) all operate with inadequate human capacities and often face a shortfall in operational funding. Under-funding and unfulfilled capacities undermine the efficiency and effectiveness of the various institutions in the performance of assigned functions.
- 67.4 The CRM observed that most public institutions are constrained in their operations due to the inadequacy of human capacity and financial resources. While the inadequacies could be due to the limitations imposed by the structural imbalances within the economy, a contributing factor may also be the inability of the state executive to effectively allocate resources and monitor and evaluate the effectiveness of implementation of public service programmes. The CSAR acknowledges that there are no systems for monitoring revenues and tracking expenditures. In addition, the legislature does not have sufficient oversight of the executive and the budgeting mechanisms. The system of political patronage exacerbates these problems because political officials (such as provincial Ministers and their Permanent Secretaries) and state officers do not feel obliged to be accountable.
- 67.5 It would appear that the combined effects of capacity constraints at national, provincial, and district levels and a system of appointments that places political connections above education, skills, and competences compromises the efficiency and effectiveness of the public service, which manifests in the faltering delivery of public services.

## **68. Decentralisation Policy**

- 68.1 The overall objective of the decentralisation policy is to achieve a fully devolved and democratically elected system of governance characterised by an open, predictable and transparent decision-making process as enshrined in Article 109 of Part VII of the Constitution. The emphasis is on strengthening the local government system, to improve public service delivery at both central and local government levels. To realise the objectives, there would also be fiscal decentralisation which would better align the expenditure needs and the revenue base of local authorities.
- 68.2 The CRM received feedback, mainly from the provinces, that although it is a much desired policy that arrived on paper in 2004, decentralisation has “not yet arrived on the ground” in the provinces and districts. Whereas the NPOA referred to “slow implementation” of decentralisation, some participants from the provinces lamented that there actually was “non-implementation” of the policy. The reality on the ground is that decentralisation has been uneven and its progress patchy. Whereas national institutions such as the Office of





the President (provincial and district administrations), the various central government ministries and departments, and, lately, the office of Auditor General (provincial) and the Industrial Relations Court (Ndola only) had de-concentrated or delegated their functions, the devolution of local government was not advancing.

- 68.3 The CRM heard that the delay in the appointment of the Local Government Service Commission was partly responsible for the slow pace of devolution. Council officials could not be appointed under the amended Local Government Act of 2010 in the absence of the commission.
- 68.4 In addition, the CRM gathered that local government decentralisation was stifled by state centralisation and the local councils' financial dependence on central government. The Treasury determined budget ceilings and allocated funding that was usually inadequate to efficiently and effectively provide local government services. Moreover, the councils had limited sources of revenue, low human capacities, absence of service delivery targets and benchmarks, and inadequate knowledge of the policy itself.
- 68.5 The CRM was told that even if there were accelerated implementation of the decentralisation policy, town clerks and council secretaries would most likely still fail to effectively manage decentralised councils because of their capacity weaknesses, including low educational qualifications and deficient skills and competencies. These weaknesses were attributed to the excessive centralisation of political power and the accompanying political patronage that saw party cadres deployed into management positions for which they were ill-suited. The CRM often heard of political patronage having undermined the requisite professionalism that could enhance public service delivery.
- 68.6 Participants also stated that the patronage from the capital also tended to distort development priorities and projects that would otherwise be beneficial to the localities. Local councillors and the managers were not accountable to the constituents in their localities but served the interests of their party bosses in the capital.
- 68.7 The CRM considers that steps to accelerate implementation of the decentralisation policy are urgently needed and should include inducements to properly qualified public servants to do duty in the provinces and remote areas.

## **69. Recommendations**

The Panel recommends that Zambia :

- Make a concerted effort to develop human capacity, including the development of a national capacity development plan.
- Base the system of appointment of public servants on merit, that is, qualifications, skills, and competence, in order to enhance professionalism.
- Cease patronage appointments to both central government and local government institutions.
- Undertake genuine decentralisation of functions, responsibilities, and decision-making powers to local authorities.





- Empower local councils to seek own sources of revenue and use locally, in order to reduce dependence on central government funding.

## Objective 6: Fight Corruption in the Political Sphere

### 70. Summary of CSAR

- 70.1 The CSAR quotes the Anti-Corruption Commission's definition of corruption as "soliciting, accepting, obtaining, giving, promising or offering of gratification by way of bribe or other personal temptation or inducement or the misuse or abuse of a public office or authority for private advantage or benefit through bribery, extortion, influence peddling, nepotism, fraud, rushed trials and electoral malpractices." Corruption is classified as petty, grand or political.
- 70.2 The CSAR states that there is good public understanding of corruption, which is among the public's top three concerns, according to Transparency International. Fifty four percent of respondents in the 2009 APRM field survey admitted to paying a bribe. Zambia is ranked by TI as between the ninth and eleventh most corrupt country in the world. This indicates that the country's "zero tolerance" policy on corruption has challenges.
- 70.3 Policy is being reviewed to provide for internationally accepted best practice. The ACC is the lead institution in the fight against corruption and there are nine other institutions in Zambia tackling corruption in elections. The DEC is concerned with money laundering around the trade in illicit drugs. Zambia has acceded to the UN Convention against Corruption and there are laws, institutions and systems at domestic level intended to complement the fight against corruption.
- 70.4 The CSAR identifies the following challenges: defining corruption, funding of political parties, limitations in the Parliamentary and Ministerial (code of conduct) Act, the pre-occupation with grand corruption, vested interests and conflict of interests, inconsistencies in application of accountability standards, and limitations within regulatory institutions. The report makes a number of recommendations: (a) offences to be categorised, with minimum and maximum sentences for the guilty; (b) transparency in respect of political party funding; (c) widening the scope and applicability of the code of conduct in various ways; (d) concentrating on administrative corruption; and (e) implementing uniform standards for non-state actors and strengthening regulatory institutions to make them more effective in the fight against corruption.

### 71. Findings of the CRM

- 71.1 Zambia has signed a number of international and regional agreements, enacted some laws, and established institutions to fight corruption. Examples of the local provisions are the Anti-Corruption Commission Act of 1990 that created the Anti-Corruption Commission, the Anti-Money Laundering Authority of 2001, and the Independent Financial Intelligence Unit established at the Bank of Zambia in 2009.





- 71.2 The CRM confirmed most of the *Zambian CSAR* statements on Objective Six: Fighting Political Corruption that despite efforts such as the “zero tolerance” campaign, there is widespread corruption in the country. Even the National Governance Baseline Survey of 2009 and the Transparency International Corruption Perception Index for 2009 confirm the enormity of the problem.
- 71.3 The CRM findings, which are summarised below, are based on the realisation that corruption permeates the entire system of government and public service. The issues paper succinctly states that CSAR “acknowledges corruption is systemic and has become one of the major governance and development concerns for the citizens.” That is all it says. Indeed, the CRM consultations revealed that corruption is widespread, if not systemic. On the mission’s tour of the provinces, corruption was repeatedly singled out as a high priority and source of much anger among the people who participated. A widespread impression exists that politicians are lacking in integrity and probity – the word “slippery” was used to characterise politicians as a class.
- 71.4 In the NPOA, fighting political corruption is regarded as a matter of accelerating policy and laws to combat corruption in the various institutions identified as being corrupt. However, the CRM found that there is no shortage of policies and laws for fighting corruption; the problem is the ineffectiveness of the institutions - partly due to the inadequacy of financial and human capacity - and also due to the apparent lack of political will to fight it. The Mission concluded that even in the presence of policies, laws and adequate capacity, none of the measures to combat corruption will work unless there is an independent anti-corruption entity, a requirement that has been stated even by the UNCAC.
- 71.5 This would entail treating the Anti-Corruption Commission (or a replacement institution) as a wholly independent body, in accordance with the internationally accepted criteria for independence. There are certain fundamental characteristics that must be vested in any body tasked with combating corruption and organised crime. The body must: (i) have the powers to initiate its own investigation; (ii) allow investigators and prosecutors autonomous decision-making powers in handling cases; (iii) not be subject to undue influence; and (iv) have structural and operational autonomy. All of these are currently deficient. Essentially, a corruption fighting agency should possess the same level of independence as the judiciary, in order to effectively combat corruption and organised crime. It is also key that there should be strictly defined independence, especially in circumstances where there is systemic corruption.
- 71.6 The Office of the Auditor General was lauded throughout the country in the CRM’s consultations. The AG was described as efficient and principled. The AG was perceived to be having some effect on fighting corruption. However, the adverse findings of the AG were not followed up by prosecution and trial of public servants who had misused or misappropriated public resources.
- 71.7 The public prosecution service was considered to lack independence from political interference and, as a result, was unable to advance the fight against corruption. Whenever corruption cases managed to reach the courts, their disposal was generally perceived to be slow and inefficient, therefore, not really contributing to the effective combat against corruption. The participants in the consultation sessions attributed the judges’ inability to effectively fight corruption to their lack of independence, mainly as a result of their being appointed in a system that placed patronage above professionalism.





- 71.8 The CRM consultations also revealed a general perception that the government condoned corruption by being lenient to accused persons who had high social economic standing or were connected to the ruling party. Thus, the DPP was perceived to be in the service of “State House”. The ACC was also perceived to be selective in its investigations, and largely subservient to the incumbent government.
- 71.9 Although the Auditor General was acknowledged to be effective in performance of its functions, there was a perception that the office was continually undermined by the lack of support from, and absence of coordination with, other executive state institutions that are crucial in fighting corruption, such as the DPP and the Police. In general, the CRM consultation meetings were told that there is “no political will” to fight systemic corruption in Zambia.
- 71.10 As the CSAR has candidly admitted to systemic corruption, the need for a truly independent corruption fighting body is apparent. None of the current arrangements, or those contemplated, measure up to the criteria set out above. A properly independent body is needed to rid the system of political governance in Zambia of corruption.

## **72. Recommendations**

The Panel recommends as follows:

- Take steps to create an independent corruption fighting unit as defined and prescribed by internationally accepted frameworks, such as the UNCAC.
- Enlist the Office of the Ombudsman to help in the fight against corruption.
- Eliminate executive control over the ACC and any other corruption fighting unit.

## **Objective 7: Promote and Protect the Rights of Women**

### **73. Summary of CSAR**

- 73.1 The country has signed and ratified a number of international and regional instruments that protect and promote the rights of women. These include: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The African Charter on Human and People’s Rights and the optional Protocol to the African Charter on Human and People’s Rights on the Rights of Women; Vienna Declaration on Women’s Human Rights (1993); Beijing Platform for Action, adopted at the 4<sup>th</sup> World Conference on Women in Beijing (1995); SADC Declaration on Gender and Development, and its addendum on the Prevention and Eradication of Violence Against Women and Children. The Protocol on the Prevention and Suppression of Sexual Violence against





Women and Children adopted by the International Conference on the Great Lakes Region, UN Security Council Resolution 1325 on Women, Peace and Security; Dakar Declaration, adopted by the African Platform for Action at the 5<sup>th</sup> Regional Conference on Women in Dakar; as well as the SADC Protocol on Gender and Development. The report acknowledges that while the country has shown tremendous political will in signing the above instruments, not much progress has been achieved in domesticating the international and regional standards into local law.

- 73.2 Concrete steps have been taken to protect and promote the rights of women through constitutional, legal, policy and programmatic measures. Numerous and simultaneous efforts to review the Constitution, amending the penal code and review of policies to integrate emerging issues posing a threat to protection of human rights of women have been noted. The constitutional review process has proposed the setting up of the Gender Equality Commission as an apex body that will police and provide oversight of all gender equality matters in the country. The Law Development Commission had consolidated and facilitated awareness and dissemination of the historic Anti-Gender Violence Bill before it was tabled in the National Assembly for debate and enactment into law. Notwithstanding, the Country Assessment Report has pointed to a number of challenges that the country still faces and would need to address in order for women and girls to fully enjoy their rights.
- 73.3 Institutional mechanisms and frameworks have been put in place to mainstream gender into development. In particular, the Gender in Development Division (GIDD) has been established in the Office of the President to oversee and coordinate the integration of gender and empowerment of women into all sectors of development. The GIDD has a mandate to guide implementation of the gender policy, coordinate implementation of the strategic plan as well as providing leadership to the country's gender and development vision. In addition to GIDD, there are other statutory entities established to promote and protect women's rights. These are the Zambia Women Parliamentary Caucus, the Gender Forum, the Human Rights Commission, and the Victim Support Unit under the Zambia Police Service.
- 73.4 The Constitution guarantees equality between men and women in Zambia; Article 23 of the constitution prohibits discrimination and enactment of laws that are contrary to this principle. However, discrimination on matters of personal law, customary law, inheritance and devolution of property has been allowed under Article 23 (4). Various pieces of legislation have been enacted to promote gender equality and protection of the rights of women. To this end, The Citizens Economic Empowerment Act No 9 of 2006 has been enacted; its functions include ensuring gender equality and promotion of employment equity in access, control and ownership of economic resources. Other laws passed include: the National Constitutional Conference Act of 2007, which provides for nomination of a minimum of thirty percent representation of women where institutions are called upon to submit representatives. The government has developed a comprehensive Anti-Gender Based Violence Bill, which is aimed at protecting men and women against the scourge of gender based violence.





- 73.5 Zambia has put in place a number of policies and initiatives in order to promote gender equality and advancement of women. The government has developed, and continues to strengthen, a gender management system which is an institutional framework to guide, monitor and evaluate gender mainstreaming initiatives. The National Gender Policy provides a framework for ensuring that all sectoral policies, programmes, plans, projects and the national budget are gender responsive. This policy provides a basis for coordination and management of protection and promotion of women's rights at all levels. The government's vision, through the gender policy, is to achieve full participation of men and women in the development process at all levels in order to ensure sustainable development and attainment of equality between the sexes. The policy implementation is guided by the Strategic Plan of Action, which outlines institutional frameworks, processes and actions to be undertaken to advance gender equality, empower women and promote and protect their rights. At the provincial and district levels, gender sub committees have been set up as part of the process of strengthening the institutional framework for implementation of the National Gender Strategic Plan of Action.
- 73.6 In 2003, Government constituted the Gender Consultative Forum comprising a broad representation of stakeholders with a mandate to provide guidance to government, particularly GIDD, on the implementation of gender and development initiatives in the country. Government has also adopted a National Cultural Policy, which is a framework that encourages cultural practices that are not discriminatory or harmful to women and girls. The land policy was amended and has been made to address challenges to women's access, control, ownership and tenure over statutory land. The land policy provides for affirmative action in favour of women and outlines measures for allocation of 30 percent of all available land to women.
- 73.7 The CSAR reports that attaining gender parity and increasing levels of representation of women in politics and decision making remains a challenge. Levels of representation, especially in the National Assembly, have fluctuated from 10 percent in 1997, 18 percent in 2003, and 14 percent in 2006 to 15 percent in 2008, and for Cabinet Ministers, 19.23 percent, and Deputy Ministers 13.6 percent. These figures fall below the 50 percent target provided by the SADC Gender and Development Protocol and the AU Maputo undertaking. Zambia has however made progressive appointments of women to the senior positions of Deputy Speaker, Deputy Chief Justice, Auditor General and Clerk of the National Assembly. In addition, the presence of women in other decision making bodies is as follows; Anti Corruption Commission, 40 percent, Electoral Commission of Zambia, 33 percent, and Human Rights Commission, 28.57 percent. In the Public Service Commission, 23 percent are women.
- 73.8 Government has collaborated with NGOs to run programmes that support empowerment of women and their participation in governance and decision making. The programmes have included sensitisation of political parties and other structures to promote and implement the 50/50 parity in order to achieve the SADC target of 50 percent representation of women in all decision making bodies by 2015.







## 74. Findings of the CRM

- 74.1 The CSAR points out major strides that have been made by Zambia to promote and protect the rights of women. Gender equality, equity and empowerment of women are principles at the heart of Zambia's development. The government affirms equal participation of women and men at all levels of economic, social, cultural, judicial, and political spheres. Zambia has aligned its national gender policy and strategic plan of action with international and regional codes and standards, especially the Beijing Platform for Action, the 1997 SADC Gender and Development Declaration as well as the SADC Protocol on Gender and Development. These instruments have provided a framework for Zambia to carry out extensive constitutional, legislative and policy reforms as well as scaling up of programmes and actions to advance gender equality and women empowerment.
- 74.2 However, the CRM consultations revealed that the majority of the populace are not aware of the existence of these instruments, especially at provincial, district and village levels. Ordinary people remain oblivious to the substance and principles contained in these documents and are therefore unaware of the state's responsibility for implementation, reporting and follow up actions required. Lack of awareness creates a missed opportunity for citizens to use these instruments to call for speedy domestication and integration into domestic laws and policies. By law, the mandate to ratify instruments lies with the executive while that of domestication lies with the National Assembly. The processes of acceding to international conventions and protocols remain centralised, exclusive and non participatory and are said to be largely the domain of the Ministry of Foreign Affairs and those of the line ministries concerned.
- 74.3 The CRM observed that the promotion and protection of the rights of women remains a challenge in Zambia due to widening gaps in inequalities as a result of rising poverty, HIV and AIDS vulnerability, and perception of the low status of women in society. Further, the slow pace at which the constitution, legislative and policy landscape are addressing transformational needs of women and girls also poses threats. There is uneven progress being made in attaining gender parity, especially as regards politics and decision-making positions, and in the access and control over productive resources by women. Meanwhile, increasing challenges are manifested in several major areas of concern, such as an increase in violence against women, early marriages, and defilement of girl children.
- 74.4 At the centre of securing the rights of women should be coordination, advocacy, monitoring and evaluation of efforts towards their advancement. The CRM noted the need for the country to strengthen its coordination efforts as well as the overall institutional mechanisms for gender mainstreaming in order to ensure free flow of programmes intended to transform gender roles and gender relations (which are at the core of gender inequality). This would go a long way in securing equal opportunities and the protection of women's rights.
- 74.5 The CRM observed that the GIDD faces challenges of staffing and resource constraints to effectively carry out its mandate. In addition, there is still lack of clarity from stakeholders on what its role was intended to be, the general **view being that the national gender machinery was the implementation engine of**





**government** on gender and women's empowerment programmes. There is a general public perception and expectation that GIDD should be spearheading programmes and policy implementation. The coordinating role has therefore rendered this division generally unknown.

## **75. The Role of Civil Society**

- 75.1 The role of civil society organisations, especially women's rights groups, has been instrumental in the different areas, including research, advocacy, education, capacity building, awareness creation and providing legal and counselling services in the broad human rights discourse in Zambia. Stakeholders acknowledged the part played by civil society in the constitution review process. Zambia has finalised the constitutional review process, however, no attempt has been made to address the effect of Article 23 (4) (c) and (d) which waive the non-discrimination, clause, thereby allowing discrimination on matters relating to marriage, property and inheritance rights and the application of customary law.
- 75.2 The dual legal system seems to be presenting particular challenges of disharmony in this instance and places women in positions of disadvantage. This is particularly the case for the majority of women, especially in rural areas who are married in accordance with customary law regimes and therefore regulate their matters in accordance with custom. Efforts should be expedited to reform this constitutional clause especially as Zambia has ratified CEDAW without reservations.

## **76. Women's Access to Resources**

- 76.1 Women's access to productive resources remains a challenge. The CSAR report shows that the Citizens Economic Empowerment Commission (CEEC) was set up to facilitate equality and promotion of employment equity in access, control and ownership of economic resources. After the Commission was set up, Government initially transferred all the empowerment resources from different ministries to be centrally managed by CEEC but the initiative proved to be too hasty and logistically cumbersome for the newly created body. Subsequently, the empowerment fund which was initially earmarked for women was handed back to be administered by GIDD. The fund is allocated annually as grants to women's clubs to help initiate or strengthen economic empowerment projects like hammer mills, purchasing of agro processing equipment, etc. Regarding access to land, affirmative action strategies have been employed to ensure that a minimum of 30 percent of available statutory land is allocated to women in order to address the barriers and difficulties that confront women in their efforts to acquire land. This development has helped a lot of women who would have previously struggled to acquire land. This is a positive step in the realisation of the aspirations to promote and safeguard the rights of women.

## **77. Women in Politics**

- 77.1 The CSAR identifies attainment of gender parity in politics and decision making as an area where political will is required from government, opposition parties and the country at large. The CRM concurs that more government political





commitment is required to ensure that promises and hopes are fulfilled. Advocacy for an increase of appointments of women as well as affirmative action measures are called for to truly place Zambia in a position of inclusive and participatory gender-aware democracy. Currently programmes in support of 50-50 parity in decision-making are being undertaken by civil society organisations with support from the National Gender machinery.

## **78. Gender Violence**

78.1 Zambia enacted the Anti Gender Based Violence Act, 2011 which is intended to decrease gender-based violence and offer protection to all victims. During the course of the country-wide consultations on the Bill, the CRM was informed that the Law Development Commission and civil society organisations gave wide publicity to the issue. Advocacy on this Bill was a joint effort of the Women's Parliamentary Caucus, the women's movement and Government. Enactment of this law will greatly complement the Penal Code and also offer protection to women who form the majority of victims of gender-based violence.

79 The CRM also noted progress in the provision of special services to victims of violence. The Victims Support Unit under the Zambia Police Service has been decentralised to all police stations in the country. This unit was said to be generally well known throughout the country although there were concerns about its location. Stakeholders pointed out that the unit needs to be relocated to a neutral place to lessen unnecessary intimidation and discomfort associated with police stations.

## **80. Recommendations**

The APR Panel recommends that the following measures be taken:

- Constitutional reforms to address the discrimination clause (Article 23 (4) (c) and (d) which undermine the principles of CEDAW.
- Rationalisation of institutions to provide an effective mechanism for coordination, advocacy, monitoring and evaluation, and reporting on activities aimed at the advancement of women.
- Advocacy on the 50/50 campaign needs to target political parties to amend their constitutions and manifestos in order to embrace inclusion of women in the party structures.
- Inclusion of stakeholders (Parliament, civil society and the general public in the process of acceding to international instruments. Awareness creation should start at the beginning of the process to alert the public to the responsibility of the State and hold them accountable for necessary actions.





## Objective 8: Promote and Protect the Rights of Children and Young Persons

### 81. Summary of CSAR

- 81.1 Zambia has acceded to, ratified and is party to major international instruments protecting and promoting the rights of children and young people. These include the United Nations Convention on the Rights of the Child, (CRC), the Convention on the Worst forms of Child Labour, the ILO Convention on the Elimination of All forms of Child Abuse, the Convention Concerning Minimum Age for Admission to Employment and the African Charter on the Rights and Welfare of the Child.
- 81.2 The rights of children and young persons are enshrined in Part III of the Zambian Constitution, which provides for upholding the need to preserve a child's nationality and identity and protect young persons against exploitation. Article 125 of the constitution establishes the Human Rights Commission, whose functions include investigation of human rights abuses against children. Zambia has enacted legislation to protect children against abuse and exploitation and has also developed policies and national plans of action to guide implementation of the laws, uphold standards and codes; secure and enhance the protection and promotion of the rights of children and young people.
- 81.3 The CSAR points to an increasing number of orphans and vulnerable children as a consequence of HIV and AIDS. Vulnerability of children and young people as a result of abuse, child labour, early marriage, defilement as well as growing numbers of street children pose a threat to protection and promotion of the rights of children and young people.
- 81.4 Laws that protect children and young people include the Juvenile Act, the Penal Code, which prohibits brothel owners from allowing adult men to have sexual relations with girls under the age of sixteen; the Employment of Young Persons and Children's Act and its 2004 Amendment that prohibit children from being employed in any type of work. The Amendment Act was an attempt by Zambia to domesticate the ILO Convention on the Minimum Age and on the Worst Form of Child Labour. Zambia has also ratified the Palermo Protocol that prevents, suppresses and punishes trafficking in persons, especially women and children.
- 81.5 Implementation of the laws and regulations protecting the rights of children is guided by the National Youth Policy as well as by the National Child Policy. The Youth Policy underscores an adherence to the principles of equal opportunities and equitable distribution of resources, and programmes and services aimed at empowering the young population. The National Child Policy sets out core guidelines for improving children's welfare and quality of life and for protecting their survival and development rights. This policy provides a framework for reduction of malnutrition in children and for expanding early childhood care and development programmes and guaranteeing access to basic needs that are necessary for children's growth and wellbeing. Implementation of both policies is guided by the respective national plans of action, which provide guidelines for achieving critical an integrated and holistic approach to the development of children and young people through promotion and protection of their rights.





## 81. Findings of the CRM

- 82.1 The Ministry of Sports, Youth and Child Development has responsibility for policy coordination and implementation of programmes to promote the rights of children and young people. In addition, the Human Rights Commission has set up a thematic committee on the rights of children. At district level, there are child labour committees comprising of broad-based stakeholders. The guiding policies for implementation of programmes are the National Child Policy and the National Youth Policy and their respective strategic implementation plans. These policies were developed to guide domestication of CRC and other international codes and standards. Other institutions set up to protect children and promote the aspirations of young people include: the National Steering Committee on Orphans and Vulnerable Children, with a mandate to address the situation of vulnerabilities confronting children with special needs, the Interministerial Committee on Human Rights, another body with a mandate to oversee CRC reporting. Youth development is facilitated by bodies such as the Youth Media and Child and Youth Parliament, which provide a platform for children and young people to articulate their developmental needs. Inadequate resources and channelling of child programme funds to administrative and infrastructural programmes have been cited as challenges frustrating progress in child and youth development.
- 82.2 The CRM acknowledges what the CSAR and the National Programme of Action regard as challenges and the requisite actions that need to be carried out in order to fully promote and protect the rights of children and young people. These are challenges of fragmentation of legislation, uncoordinated institutional support and poor monitoring of child labour and trafficking activities. High levels of poverty, increasing unemployment, poor access to services and weakening of family support systems have been pointed out as some of the threats to the survival and development of children and young people.
- 82.3 The CRM notes that significant progress has been made in putting in place child protection and youth development legislation, policies and programmes. There are currently various ongoing sector-specific policy review initiatives in different areas of child and youth development which point to a strengthening of protection for children and young people against emerging challenges. Zambia claimed to have made strides towards implementation of the international instruments and standards guiding the promotion and protection of the rights of children and young people. This is with particular reference to the Convention on the Rights of the Child (CRC), which provides standards for child protection in the public and private spheres. The ILO codes and standards offer protection for children against child labour and exploitation. Similarly, Article 24 of the Zambian Constitution offers protection from exploitation, physical and mental abuse, neglect, cruelty, exploitation and trafficking of any child under the age of 15. On the legislative landscape, the Juveniles Act, the Penal Code and the Employment of Young Persons Act offer protection to children and young people.





### **83. Child Labour**

83.1 However, the CRM has observed that the use of child labour is still problematic and widespread in Zambia. UNICEF Zambia figures show that nearly half of all children under the age of seventeen are involved in child labour. A distinction was made between work that children do as members of the households, work that prevents a child from going to school, and work that is mentally, physically, socially dangerous and in appropriate in terms of location and time spent on the work. Some of the places where children were said to work were granite quarries, domestic spaces, and farms. This is an issue of concern, given the fact that some of the work the children do is extremely hazardous and also keeps them from going to school. Sensitisation on the risks of child labour and its negative consequences as well as targeted relief programs are urgently needed to change the mindset of adults and enhance the protection of children.

### **84. Children, Diseases, and Vulnerability**

84.1 Consultations of the CRM with stakeholders pointed to a need for strengthened programmes and actions to address rising levels of childhood diseases that threaten the health, survival and wellbeing of children, particularly those from poor families. The HIV and AIDS pandemic has added challenges of increasing numbers of orphans and vulnerable children especially street children and child headed households. Children are increasingly facing challenges of property dispossession, displacements, being withdrawn from schools, and being exposed to an array of risks and abuses. Malnutrition is also on the rise, compounding other childhood illnesses and also accounting to up to 52 percent of mortality figures for those under the age of five.

84.2 In spite of the numerous positive efforts, the CRM has noted that there still is considerable child abuse that requires a solution. Child abuse, especially among the vulnerable children, is an area where protection needs to be strengthened. The work of the Human Rights Commission in Zambia has unearthed particular forms of abuse directed at children in detention and juvenile centres. The diversity of abuse directed at children includes sexual, violence, physical injuries and psychological tortures. Child abuse is detrimental to the survival and development of children and was said to account for the increase in the numbers of street children, teenage mothers and school dropouts, and children engaging in commercial sex work at a very young age.

84.3 The Human Rights Commission with support from civil society organisations remains alert to any breach of the rights of children and has organised public hearings on violence against children. These hearings have provided a platform for children, organisations that work with children and the general public to express their concerns. The submissions revealed that child abuse and violence against children occurs in all settings including homes, schools, institutions of care and correctional services, and within the general community. The hearings also revealed that there is very low reporting and most cases therefore remain un-investigated and are not prosecuted.

### **85 Tradition, Culture and Children**

85.1 The CRM found that there is a general lack of clarity and inadequate understanding of human rights concepts, especially amongst the traditional





authorities. Often, culture and tradition clash with promotion and protection of human rights and the Human Rights Commission must take steps to redress the situation. There seems to be some confusion about and hostility to accepting the common understanding of rights, especially as they apply to children and young people. Heightened advocacy and targeted action to discourage child abuse, child labour and corporal punishment in schools need to be undertaken in consultation with the chiefs and local authorities. The advocacy work of civil society organisations on popularising CRC, youth empowerment and creating awareness on child rights has been extensively acknowledged.

- 85.2 There are problems relating to Zambia's harmonisation of legislation (Penal Code and customary law) and consistency in the definition of the age of a child, which hinders effective protection of children and young people since different minimum ages apply in different sectors. This was particularly the case for lack of protection of girl children against early marriage and defilement. These inconsistencies need to be addressed and the different ages stipulated in the Penal Code and other sectors should be aligned with the provisions of the CRC.
- 85.3 It is critical, in this regard, to hold consultations with community leaders to create awareness of the principle of the best interests of the child in order to encourage restrictions on the application of customary law to cases of child sexual abuse, child labour and early marriage. In order to minimise the hostility and misconceptions currently prevailing on the subject, it is important to design programmes that target the chiefs and educate them about child rights specifically and about human rights in general.
- 85.4 Regarding the specific rights of young people, the youth policy provides for equal opportunities and equitable distribution of resources, programmes and services aimed at empowering the youth.
- 85.5 The policy promotes an environment of equal access to socio-economic and employment opportunities commensurate with the ability, potential and needs of all youth groups. Civil society youth organisations have compiled their demands in advocacy materials especially targeted at political parties campaigning for elections. Young people have categorically placed their demands for open, inclusive and participatory democracy that includes them as the majority of the electorate. Economic empowerment, access to technology and infrastructure development that addresses the needs of young people have been flagged as important and precursors to addressing deepening poverty and high levels of youth unemployment.
- 85.6 The CRM was told that there needs to be improved partnerships involving the government, civil society, traditional leadership and other stakeholders such as the faith-based organisations, to better coordinate the promotion and protection of the rights of children and the youth.

## **86. Recommendations**

The APR Panel recommends to:

- Intensify efforts to create awareness of children's rights and the contents





and rationale of CRC. These efforts need to be targeted, issue-specific, and sustained. They should ultimately encompass building of a human rights culture, especially in the districts, remote areas, and villages. Chiefs and broad-based traditional leadership need to be brought on board; gaps in the knowledge and/or awareness levels between parents and children have to be bridged in order to ease tensions caused by misunderstandings and misconceptions.

- Ensure that rights education also encompass holistic rights discourse that includes sensitisation to the fact that rights are accompanied by responsibilities and duties of the rights bearer.
- Strengthen institutions entrusted with promotion and protection of children's rights.
- Reconsider rights to health, education and shelter (currently under the directive of state principles) to be part of the justiciable bill of rights in order to offer optimal protection to children and young people.

### Commendable Practice 3: Public Hearings on Breach of Children's Rights

The Human Rights Commission organises public hearings on issues that undermine the rights of children, including violence against women. Submissions are made by all stakeholders from all quarters, including children themselves. The hearings create awareness on the rights of children and measures to be taken in safeguarding them.

### Objective 9: Promotion and Protection of the Rights of Vulnerable Groups, including the Disabled and the Poor, Internally Displaced Persons and Refugees

#### 87. Summary of the CSAR

87.1 The CSAR states that the Ministry of Community Development and Social Services has developed the National Welfare Policy, National Ageing Policy and the National Disability Policy, which are awaiting approval by Cabinet. The Social Welfare Policy is intended to provide a framework through which Government will enhance the coordination of all players in the provision of social welfare services, as it is its mandate to guide programmes in all sectors. The Department of Community Development and the Public Welfare Assistance Scheme (PWAS) are central to providing and facilitating social services to vulnerable members of society. The PWAS targets 10 percent of the total national population which is vulnerable and destitute, including orphans and disadvantaged children, households affected by HIV and AIDS, the aged, the disabled, the chronically ill, and female-headed households. The PWAS provides social education, health support, and other basic needs such as shelter, food, clothing, utensils or blankets.

87.2 The Government commenced implementation of a Social Cash Transfer Scheme in 2003 as a pilot in Kalomo district with support from the MCDSS/GTZ Social Safety Net Project. The scheme is currently operational in five districts in the Southern province of Zambia, and in Chipata and Katete districts in the Eastern province of Zambia. It is administered and implemented by the Ministry







of Community Development and Social Services through Public Welfare Assistance committee structures which exist at national, provincial, district, area and community levels.

- 87.3 Support to vulnerable persons aged 60 years and above is given through community or institutional care. The Ministry runs several old peoples' homes and/or provides support to them as well as to community and faith-based organisations (FBOs) that look after elderly persons.
- 87.4 Article 23 of the Constitution prohibits discrimination and the enactment of discriminatory laws. The Persons with Disability Act no. 33 of 1996 has created the Zambia Agency of Persons with Disabilities, which coordinates the implementation of the National Policy in Disability and acts as an advisory body to the Ministry of Community Development and Social Services. The 2007 Educational Statistical Bulletin released by the Zambian Ministry of Education reveals that the dropout rate among the hearing impaired in school is 97 percent. Of the three percent who complete school, none progress to tertiary levels as their high school results do not meet the requirements. The bulletin further reveals that in 2007 the total hearing-impaired enrolment population (Grades 1 to 12) was 29 748, followed by the visually impaired (20,309), and the physically disabled (13 797).
- 87.5 Zambia has refugees and internally displaced persons. The country has been hosting refugees from neighbouring countries since just two years after independence in 1964. At its peak in 2001, Zambia hosted over 280,000 refugees, mainly from the Democratic Republic of Congo and Angola. With improved political stability and security in many of the refugee-generating countries, UN High Commissioner for Refugees (UNHCR)'s voluntary repatriation operation in recent years has helped refugees to return home to Rwanda, Burundi, Uganda, Angola and the DRC. As of August 2008, the number of refugees in Zambia had fallen significantly to around 88,000.
- 87.6 Issues relating to internally displaced persons are handled by the Disaster Management and Mitigation Unit under the Office of the Vice President. Although cases of internally displaced persons are few, national structures are in place at all levels, from ministerial to the grassroots, to deal with the protection of the rights of internally displaced persons whenever such cases occur. Zambia has also established a Vulnerability Assessment Committee whose responsibilities include assessing disasters and recommending appropriate action.

## **88. Findings of the CRM**

### **88.1 Social Protection for the Poor and Vulnerable**

- 88.1.1 The high levels of poverty in the country have led to high numbers of vulnerable groups, affecting their human rights and dignity. The Living Conditions Monitoring Survey 2006 revealed that the incidence of poverty had declined from 70 percent in 1991 to 64 in 2006, which was still high. In 2006, the incidence of poverty in the rural areas was 78 percent and 53 percent in urban areas. The Social Protection Strategy estimates that 20 percent of all households in





Zambia are low-capacity households; incapacitated households account for 10 percent, and child headed households constitute one percent of the total households. In addition to the other interventions spearheaded by the Ministry, the Social Cash Transfer Schemes have evolved as a laudable practice to lessen the hardships of some of the most affected at-risk populations in Zambia and particularly stand out as an achievement of the line Ministry.

- 88.1.2 The CRM found that the PWAS and Social Cash Transfer (SCT) schemes have assisted the vulnerable. School enrolment increased significantly in the areas where these interventions were implemented and there were reduced cases of absenteeism of school-going children. The mobility of households declined and ownership of assets increased. More diversity was also noted in the diet and the number of intake of meals increased. There are improved shelters and sanitation conditions as a result of social pensions and the scheme has also had the invaluable contribution of rebuilding lost confidence, esteem and dignity in the vulnerable groups.
- 88.1.3 However, even with all the achievements noted, it is clear that only a small number of the vulnerable are benefitting from these schemes. The main challenges to the effective implementation of the SCT relate to the inability to scale it up to a national campaign due to the scarcity of financial resources. District officers require training in financial management, targeting mechanisms, monitoring and evaluation, project management and information technology (IT). There is also need for development and automation of systems and processes and, crucially, management information systems should be created to inform policymakers on monitoring and assist them in this task. The scheme is meant for areas that are hard to reach, such as flooded agencies, but in terms of physical access, this has been the biggest challenge.

## **89. The Ageing**

- 89.1 The ageing constitute about 4 percent of the population, and start from the age of 60. The 2003 Living Conditions Monitoring Survey estimated that 80 percent of the households headed by the ageing are poor. The draft National Policy on the Ageing highlights the major difficulties like poverty which older people face, particularly as a large proportion of the current Older Persons who were in formal employment were affected by retrenchments due to the 1991 Structural Adjustment Programme. Health, food and nutrition, poor housing, transport and living environments all pose serious problems to the wellbeing of the ageing as outlined in the draft National Policy on the Ageing.
- 89.2 In addition to the government-run homes for the elderly, Government gives financial support to charity homes that care for the ageing and plans to provide technical support in terms of guidelines for the running of these homes. The guidelines will cover the minimum standards of care that are to be monitored by government, that is, food, physical and psychological wellbeing, and medical care that an old peoples' home is supposed to provide. In the absence of these guidelines, communities and NGOs care for the elderly according to their means and discretion.
- 89.3 The CRM learnt from the Community Development Department that the grants to the homes of the elderly are very modest. In February 2011, for example,





15m kwacha was allocated towards government institutions, and 15m kwacha was shared between the four NGOs. It is the preferred policy that the ageing be re-integrated within their communities wherever possible, particularly those who do not need institutionalised care. In such instances, the material and financial support is given to the caretaker. Those re-integrated receive support from this same fund linked to the Government homes. The community welfare assistance committees under the PWS link the Ministry to the vulnerable in the district. However, given the scarcity of resources, caring for the ageing still faces severe challenges and can be extended to only a minority of the ageing population.

## 90. Refugees and Internally Displaced Persons (IPDs)

90.1 Zambia has shown immense solidarity with fellow Africans and commitment to its obligations under the Convention by hosting refugees from several African states. Most of the refugees were victims of colonialism, political conflict and apartheid. They came from Angola, Mozambique, Namibia, South Africa and Zimbabwe and some returned to their countries of origin after their countries attained independence. Later, more refugees came in from Democratic Republic of Congo and from Angola, Uganda, Rwanda, Burundi following civil uprisings and unrest in those countries. From a peak of 280,000 refugees in 2001, there were an estimated 55,800 refugees and 115 asylum-seekers in July 2010. The UNHCR identified 44,520 refugees in Zambia in January 2011. The following is a breakdown of their origins:

**Table 9: Refugees in Zambia, 2011**

Refugee/Country Of Origin	Numbers
Angola	21,300
Dem. Rep. of the Congo	14,100
Rwanda	4,500
Various	4,100
TOTAL	44520

Source: <http://www.unhcr.org/pages/49e485ba6.html>

90.2 Government agencies involved in promoting the rights of refugees include the Ministry of Agriculture, Ministry of Community Development, Ministry of Education, Ministry of Health, Ministry of Home Affairs, and Ministry of Water Affairs. The Commission for Refugees in the Ministry of Home Affairs handles refugee issues. The Refugee Control Act of 1970 regulates important rights such as freedom of movement and employment, restricting them in many instances. There are outstanding issues with the integration and protection standards of refugees, particularly as some of them have been in the country for over four decades; a draft law is currently being enacted to address some of these issues.





- 90.3 Basic schools were set up in the Eastern refugee settlement of Ukwimi, Mwange and Kara in Luapula and Mayukwayukwa in the Western province, facilitating their right to education. The right to work is regulated for refugees; they require work permits for gainful or self employment. UNHCR data points to about 500 Rwandan refugees who attained work permits and also enjoy high levels of socio-economic integration.
- 90.4 Zambia as a refugee host country has been faced with several challenges. There has been an issue as to the nationality of children of refugees born in Zambia who have lived in Zambia over the years. In Kawangwa, the refugee camp was closed and refugees who sought to leave with their Zambian spouses and children faced the challenge of proper documentation regarding their nationality. The Commission for Refugees that handles refugee issues is constrained by resources given the magnitude of the problem.
- 90.5 The CRM also noted the incidence of internally displaced persons (IDPs). The official IDP policy documents acknowledge that major hazards such as droughts, floods, epidemics, pest infestation and environmental degradation cause vulnerability. Government has set up several disaster management structures and multi-layered warning mechanisms under the responsibility of Satellite Disaster Management Committee (SDMC), District Disaster Management Committee, Provincial Disaster Management Committee and National Disaster Management Committee. Zambia experienced excessive rainfall in 2008-2010 that had a severe impact on the livelihoods and wellbeing of Zambians in various regions, most particularly the vulnerable. A multisectoral flood impact assessment was conducted in 2008 when, owing to floods, 5,851 houses collapsed displacing 1,693 households.<sup>18</sup> In 2009, a situational analysis conducted by the Vulnerability Assessment Committee on the 2008/9 floods indicated that the floods displaced about 280 households or 680 people,<sup>19</sup> with all the displaced communities being based in the rural areas.
- 90.6 Flooding occurred again in 2009/10 in the low-lying areas and in areas prone to waterlogging, affecting the inhabitants. This problem is aggravated by the failure of the inhabitants to build with permanent and durable materials. According to an in-depth assessment that was conducted,<sup>20</sup> 176 households were affected, about 1,056 people in all. The assessments, conducted by the Vulnerable Assessment Committee, indicated that those usually displaced live in traditional huts made of mud and grass and since some of the farming and fishing communities inhabit low lying areas, they are the most affected by the floods.
- 90.7 IDPs in affected areas face several socio-economic challenges, including damaged infrastructure and homes and schools, contamination of water sources, increase in malaria and other chronic diseases, and food insecurity. The Disaster Management Unit provides and coordinates emergency relief to displaced persons, including tents, mattresses and food. Measures to curtail the negative effects of displacement have been utilised, such as integrating those who are displaced within the highland communities, providing services like health, water and sanitation, as well as community sensitisation. Government undertook to identify land for resettlement of the displaced persons and provide necessary services for IDPs. The intention and logic behind such interventions was to resettle communities within their localities in a

<sup>18</sup> Multi-sectoral Rapid Flood Impact Assessment , Vulnerability Assessment Committee 2008

<sup>19</sup> 2009 In depth Report, Zambia Vulnerability Assessment Committee, 2009

<sup>20</sup> 2010 In-depth Assessment Report Zambia, Vulnerability Assessment Committee 2010.





sustainable manner. Official reports indicate that as a result of government interventions, about 70 percent of the IDPs have been integrated within the community since 2009, while 1,317 of the displaced households were rendered homeless and stayed either in camps or squatted in classrooms and church buildings in the highlands. These were mostly in Mumbwa (215), Monze (274), Kazungula (166), Namwala (160) and Mazabuka (118).<sup>21</sup>

## 90. People with Disabilities (PWDs)

- 91.1 The Government of the Republic of Zambia ratified the United Nations Convention on the Rights of Persons with Disabilities in May 2008 but it is yet to be domesticated. The 2000 Census of Population and Housing conducted by the government notes that, in 2000 when the total population was 9.3 million, PWDs constituted 256,690 of Zambians, approximately 2.7 percent of the total population. This points to an increase in the prevalence of disability given that the incidence of disability evidenced in the 1990 census was only 0.9 percent. The census also revealed that almost 39 percent of the disabled population cited disease as a cause of their disability. According to the Ministry of Community Development and Social Services,<sup>22</sup> poor people who lack adequate maternal health and cannot access preventive or curative health services are the most affected, and the vicious cycle of disability and poverty prevails.
- 91.2 At policy level, the Constitution, the Persons with Disabilities Act, the National Development Plan and various other government policies recognise the need to provide support services for PWDs. However, this has not translated into inclusion and equalisation of opportunities for PWDs who continue to face structural, cultural and attitudinal barriers to the enjoyment of their rights. The inability of government to ensure equal opportunities for PWDs has had an impact on both their socio-economic and political rights. Persons with Disabilities are systemically discriminated against in the socio-economic, political and cultural arena in Zambia.
- 91.3 Most children with disabilities (CWDs) face discrimination and stigma; the more severely disabled children are concealed from society, making detection and treatment by appropriate government agencies harder. The Living Conditions Monitoring Survey 2002/3 indicates that 47 percent of PWDs had never been married. Those who are severely disabled receive food, clothing, blankets, educational support, for example, materials and scholarships from the Ministry of Community Development and Social Welfare once or twice a year; this assistance is ad hoc, short term and applies to very few. The Ministry is overwhelmed with issues of vulnerable persons since it targets the old, the disabled and other vulnerable groups and orphans.
- 91.4 Learners with disabilities face the challenge of inaccessibility as most physical structures and information formats are not accessible to them. Learning and examination for blind children is problematic as they lack scholastic Braille materials and adequate teachers equipped with special needs educational skills. Inclusive educational practices within mainstream schools have not been successful due to lack of relevant facilities and human and financial resources, and this is particularly so at high school level. The 2000 Census shows that

<sup>21</sup> Multi-sectoral Rapid Flood Impact Assessment, Vulnerability Assessment Committee 2008

<sup>22</sup> Ministry of Community Development and Social Services 'Addressing the needs of the most vulnerable' (undated) handout given to the CRM by the Social Cash Transfer Manager





about two fifths of the disabled have never been to school and another two fifths have completed primary education.

- 91.5 A law was passed in 2008 requiring buildings to be equipped for accessibility as this has hampered the ability of physically challenged children to benefit from attending schools, and adult PWDs from working. Data from the Ministry of Community Development and Social welfare indicates that 86 public buildings were redesigned to provide disabled access and to improve mobility of PWDs.
- 91.6 Learners with disabilities are not as well served because, generally, teachers are not trained to handle learning disabilities. There are attempts to put in place special supportive units even within mainstream schools for specialist teachers. The CRM was informed by the Ministry of Community Development and Social Welfare 464 classrooms were built and rehabilitated for PWDs, resulting in 207,437 students receiving education. With regard to Special Needs Education, Government plans to convert the Zambian Institute of Special Education into a Centre for Excellence for Special Education and to establish a centre of excellence in each province. Currently, only one secondary school for the deaf offers Braille services and the only college for them is a TTC, limiting their career options. After Grade 9, learners with disabilities must go to mainstream high schools, where the appropriate facilities are lacking. Another challenge faced by learners with certain disabilities is that there is no school that has competences for all forms of disabilities and so learners with disabilities may have to travel to another district or province. Some boarding schools exist for those with severe physical challenges but these are few.
- 91.7 PWDs are generally under-educated and as a result, are not highly skilled, making them unable to access profitable jobs. The 2000 Census noted that in all categories of disability, the largest proportions of PWDs are self-employed and the most prevalent form of occupation for PWDs is agriculture, which constitutes about 81 percent. The employment of PWDs is low both in government and in the private sector. There is more discrimination against employing PWDs in the private sector than in the public sector; although figures were not readily available, this was the general perception.
- 91.8 Voter education does not target PWDs particularly, as there are few sign language interpreters and a lack of Brailing materials. There is voter apathy among the PWDs because of lack of accessibility to the polling station as voting centres can be quite far away. PWDs are also largely excluded from public office, including a marked absence from appointive bodies and public institutions and positions. PWDs are not included in the development of key policies and resource allocations for their development, and effective operations of institutions promoting the rights of PWDs are inadequate, affecting even ZAPD. Whereas primary health care is free, most health units lack adequate facilities and equipment for PWDs and most PWDs depend on charity to get necessary equipment such as wheelchairs. Health care for PWD is problematic when it comes to cost sharing as PWDs are generally poor.
- 91.9 The 2003 Living Conditions Monitoring survey points to a limited availability of data on disability, and conceivably, this affects the ability of all stakeholders





and government to plan with specificity for PWDs. The Zambian Agency for PWD (ZAPWD) was set up to promote the concerns and rights of PWDs in Zambia. There are provincial coordinators for ZAPWD with planning roles, to promote issues of disabilities and advocate for their realisation. Most provincial officers of ZAPWD report that they are underfunded and ill equipped with appropriate facilities to support their work. Disability Focal Persons in MPSAs were appointed to facilitate multi-sectoral planning for disability as a cross cutting issue but this initiative failed to effectively impact on planning and resource allocation, neither was it successful in mainstreaming issues of disability into national development efforts.

## **92. Recommendations of the CRM**

92.1 The CRM recommends that Zambia:

- Increase allocations towards social protection and vulnerable groups and improve administrative capacities of the institutions involved in implementation of programmes.
- Adopt the Policy for the Ageing and make appropriate resource allocations for its implementation.
- Emphasise preventative and curative measures in the national health care programmes to eliminate the incidence of PWDs that can be avoided.
- Undertake reforms in order to improve the rights and welfare of PWDs in the socio-economic, political and cultural sphere. Development initiatives should take into account the inclusion and involvement of PWDs in planning, implementation and monitoring processes.





## CHAPTER FOUR ECONOMIC GOVERNANCE AND MANAGEMENT

### 93. Overview

93.1 Zambia has embarked on a process of fostering good economic governance and management since the 1990s. This Chapter looks at the country's progress in this area, past and current challenges, and the instruments, policies and institutions it has put in place to overcome obstacles and realise its objectives. Six areas are addressed: (i) adherence, domestication and implementation of international standards and codes on economic governance and management; (ii) adoption and implementation of macroeconomic policies that facilitate sustainable development; (iii) pursuit of sound, transparent and predictable economic policies; (iv) effective, transparent and accountable public finance management; (v) fight against corruption and money laundering; and (vi) progress in promoting regional integration.

### 94. Standards and Codes

#### 94.1 Summary of the CSAR

94.1.1 The APRM Questionnaire on Economic Governance and Management assesses countries on the basis of at least 15 standards and codes. Zambia's Country Self-Assessment Report (CSAR) notes that the country has ratified and domesticated a number of these standards and codes. Zambia is also a party to several international, regional and sub-regional treaties against corruption, money laundering and narcotic drugs. The following are the standards and codes to which Zambia has subscribed to and, in some cases, domesticated or streamlined into its national legislation:

- Code on Good Practice on Transparency in Monetary and Financial Affairs;
- Best Practices for the Formulation and Reporting of Monetary Policy Decisions
- Best Practice for Public Availability of Information on Monetary Policy
- Core Principle for Effective Banking Supervision
- Code of Good practices on Fiscal Transparency
- Guidelines for Debt Management
- United Nations Convention Against Corruption;
- The UN Convention on Psychotropic Substances (as amended by the 1972 Protocol)
- UN Convention against Transnational Organised Crime and the Protocol thereto;
- UN Convention Against Crime;
- The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
- 1961 UN Convention on Narcotic Drugs as Amended by the 1972 Protocol; and







- Bangalore Principles of Judicial Conduct.
- African Union Convention on Preventing and Combating Corruption;
- Southern African Development Community (SADC) Protocol Against Corruption;
- SADC Protocol on Combating Illicit Drug Trafficking;;
- SADC Protocol Against Corruption; and
- Bilateral Agreement between India and Zambia on Combating Illicit Trafficking in Narcotics Drugs and Psychotropic Substances and Money Laundering.

- 94.1.2 The CSAR notes that the formulation of monetary policy is done in a transparent manner through the Monetary Policy Committee (MPC) that meets weekly and monthly. In the case of banking supervision, the Bank of Zambia, as the main banking supervision authority in Zambia, has conducted four self-assessments on its compliance with the Core Principles for Effective Banking Supervision. The assessments were conducted in 1998, 2001, 2002 and 2008 and formed the basis of the assessments carried out by the Financial Sector Assessment Program (FSAP) joint team of the International Monetary Fund and the World Bank.
- 94.1.3 The 2008 assessment conducted by the Bank of Zambia was aimed at identifying weaknesses in the current system of supervision and regulation with a view to instituting corrective measures to enhance the stability of the financial system in Zambia. The assessments were carried out using the Code of Principles Methodology formulated by the Basel Committee.
- 94.1.4 The CSAR also notes that the public has access to several sources of fiscal information, including annual budget documentation, year-end financial statements and Auditor General Reports. However, only a limited number of these documents are printed and free circulation is targeted to particular institutions and quasi-government institutions. Also, these documents are not readily available at provincial and district centres although a few government offices have copies for their own use. Other fiscal information can be accessed from the Ministry of Finance and National Planning (MOFNP) website.
- 94.1.5 Regarding Open Budget Preparation, Execution and Reporting, the measures taken by the government to ensure fiscal transparency include involving stakeholders at various stages in the preparation of policy instruments such as the Medium Term Expenditure Framework (MTEF) and the annual budgets.
- 94.1.6 Finally, the CSAR notes that information on debt is generally widely available. Government publications, such as the national budget, the mid-year economic reports, as well as the Green Paper, provide details about both domestic and external debt. In the recent past, the annual economic reports have also provided information on new loans contracted, including the terms of the loans.





## **95 Findings of the CRM**

### **95.1 Standards and codes**

95.1.1 The international community has adopted a number of standards and codes with the aim of promoting good economic governance and management that represent “best practices” in economic governance and management, and countries that aspire to this goal have adhered to a number of such standards and codes. Zambia, like many other developing countries, has adopted a number of such standards and codes. The key challenges facing countries such as Zambia are not only to sign such standards and codes, but to proceed further and ratify, domesticate and implement them. This section attempts to evaluate the progress that Zambia has made in living up to these international, regional and sub-regional standards and codes.

95.1.2 The CRM is concerned that although Zambia has actively signed and ratified various international, regional and sub-regional treaties and conventions, as noted above, ratification is more advanced for regional and sub-regional instruments than for the international ones. While the country has done well in signing these international treaties and conventions, the ratification, domestication and implementation processes are slow. This was revealed in the interactive sessions. The main causes of slow ratification and inadequate compliance are inadequate capacity in the institutions charged with compliance, and failure to review and enact laws that will make compliance obligatory. Although steps have been taken to address these challenges, compliance is still low and more needs to be done. Moreover, there is no discussion of the extent of signing ratification and overall ratification.

95.1.3 The CRM acknowledges that weakness in implementing many codes and standards is attributable to the lack of human and financial resources in most government departments. These deficiencies ought to be addressed.

## **96. Recommendations**

The APR Panel recommends that Zambia :

- Direct each Ministry and agency to keep proper records of the standards and codes to which it has subscribed that will serve as a basis for effectively monitoring their status.
- Establish a depository unit at the Ministry of Foreign Affairs for centralised documentation of the standards and codes to which Zambia is a party so as to facilitate monitoring their implementation.
- Improve the overall capacity of the Government to implement international treaties.





## Objective 1: Promote Macroeconomic Policies that Support Sustainable Development

97. Since adopting market-oriented and private sector-led growth in the 1990's, Zambia has committed time and effort to achieving macroeconomic stability as a goal in itself, and as a means of promoting accelerated and sustainable growth and development. The principal objectives have been to curb inflation, reduce the fiscal deficit, reduce both domestic and external debt, stimulate economic growth, and diversify the economy by reducing the dependence on copper. The extent to which these objectives have been, or are in the process of being realised are addressed below.

### 98. Summary of the CSAR

#### 98.1 Inflation

98.1.1 The CSAR states that end-year inflation rates that reached triple digits in the 1990s have been sharply reduced and amounted to 17.5 per cent in 2004 and 15.9 per cent in 2005. There was a major drop in the end-year inflation rate in 2006 to 8.2 per cent, followed by an end-year inflation rate of 8.9 per cent in 2007. However, end-year inflation rate jumped to 16.6 per cent in 2008, followed by a drop to 9.9 per cent in 2009. Average annual inflation rate was 17.5 per cent and 17.1 per cent in 2004 and 2005 respectively, 10.2 per cent and 9.4 per cent respectively in 2006 and 2007, 13.0 per cent in 2008 and 13.5 per cent in 2009. The fluctuations in inflation rates in Zambia have been largely the result of both internal and external shocks to the economy, mainly climatic conditions in the form of droughts and floods that impacted negatively on food production. Food and overall prices, and the fall in the price of copper resulted in led to a depreciation of the exchange rate.

#### 98.2 Interest Rate

98.2.1 Pursuing an interest rate policy that encourages domestic savings and access to credit for investments has been and remains a sore point and a major challenge facing the Zambian economy. The CSAR takes note of the importance of this problem but addresses it in a rather cursory way, focusing only on the problem of savings rate to the neglect of lending rates. It is noted that in the last five years, "in real terms, the savings rate has been negative...providing a disincentive [for] private saving in the economy."

98.2.2 While inflation increased from 8.2 per cent in 2006 to 8.9 per cent in 2007 and 16.8 per cent in 2008, the savings rate decreased from 6.1 per cent in 2006 to 4.8 per cent in 2007 and remained about the same in 2008. Inflation fell sharply to around 10 per cent in 2009, while savings rate again remained essentially the same. The opposite should have been the case, with the trend in savings rate paralleling the trend in inflation. The CSAR concludes that "As a result of a negative real savings rate, there is no incentive for private business and households to save in the domestic economy. This has limited the amount of funds available for lending, thus restricting investments and economic growth."





### **98.3 Fiscal Deficit**

- 98.3.1 The Government of Zambia set itself a target to reduce the fiscal deficit to less than 2 per cent of GDP as from 2008 with domestic borrowing contained at less than 1 per cent of GDP. Fiscal stability would in turn lower interest rates, increase access to credit by investors and reduce debt servicing charges paid by the Government. However, the CSAR reports that the overall deficit, including grants, was above 2 per cent between 2004 and 2009, except in 2004 and 2007. The government's failure to meet its target was attributed to "shortfalls in revenue collection and lower-than-budgeted grant receipts."
- 98.3.2 The problem of effective resource mobilisation is treated in greater detail in Objective Three under "Promoting Sound Public Finance Management". Suffice it to say that according to the CSAR, revenue in 2006 was estimated at 22.9 per cent of GDP but actual revenue collection was less and amounted to 21.0 per cent of GDP.

### **98.4 Public Debt**

- 98.4.1 Government is to reduce domestic debt to sustainable levels by reducing public borrowing, curtailing the accumulation of new debt and reducing outstanding arrears. The Report concludes that *"Despite these policy measures, the stock of domestic debt increased over the period 2005 and 2009. The increase was primarily on account of a rise in the stock of awards, domestic compensations, domestic arrears and government securities. The domestic debt stock increased by 6.7 per cent in 2006, fell by 6.2 per cent in 2007, rose by 2.7 per cent in 2008, and increased by 11 per cent by the end of June 2009.*
- 98.4.2 The CSAR concludes by noting that *"The management of domestic debt has been problematic due to, among others, poor record keeping, and lack of clear dichotomy in the use of Treasury bills as a monetary operation instrument and to finance Government operations. In addition, despite Government's policy to dismantle domestic arrears, funding has not been commensurate with this commitment."*
- 98.4.3 In 2006, Zambia was granted debt relief amounting to 21.4 per cent of GDP. This brought the total external debt down by 60 per cent in 2006. However, since then, the external debt stock has been creeping up, rising by 9 per cent in 2007, 11 per cent in 2008 and 11.4 per cent in 2009.
- 98.4.4 The CSAR recommends, in the light of these negative trends in domestic and external debt, that Government should, as a matter of urgency, implement a domestic debt strategy and put in place measures to ensure debt sustainability.

### **98.5. Economic Growth.**

- 98.5.1 The long-term vision of Zambia is articulated in its Vision 2030. Among other things, it states the government's aspiration to ensure that Zambians, by 2030, *"to live in a strong and dynamic middle-income industrial nation that*





*provides opportunities for improving the well being of all....” To realise this goal, real growth would need to amount to 6 per cent between 2006 and 2010, 8 per cent between 2011 and 2015, 9 per cent between 2016 and 2020, and 10 per cent between 2021 and 2030. These growth rates will raise per capita income to USD1, 639 by 2030, on the assumption that population growth declines from 2.6 per cent in 2006 to 0.8 per cent in 2030. The short-term plans for achieving these goals and targets are to be a series of national development plans, starting with the Fifth National Development Plan 2006-2010 that has just been succeeded by the Sixth National Development Plan 2011-2015.*

- 98.5.2 Zambia has largely succeeded in meeting its real growth target of 6 per cent over the last few years, with real growth rate recorded as 5.0 per cent in 2004, 5.2 per cent in 2005, 6.2 per cent in 2006, 6.2 per cent in 2007, 6.0 per cent in 2008, and 6.3 per cent in 2009. In these same years, real GDP per capita grew by 4.7 per cent, 5.2 per cent, 7.6 per cent, 6.2 per cent, 6.0 per cent, and 6.1 per cent respectively. The CSAR concludes that despite this good performance in stimulating growth in real GDP and in the GDP per capita rate, there has been no significant decline in poverty. The reason given for this is that growth during this period was largely driven by the mining and construction sectors. By contrast, *“Agriculture, which the majority of the poor people depend on, did not on average perform well due to low productivity by small-scale farmers and the overdependence on rain-fed and seasonal production. Inadequate infrastructure and generally poor access to the market further hindered growth for the sector.”*

## **98.6 Economic Diversification**

- 98.6.1 The CSAR identifies the major constraints to the Zambian economy as a small and open economy that is highly dependent on mineral exports, which makes it vulnerable to external shocks. To address this challenge and reduce the dependence on copper, the Government adopted a diversification master plan in 2004 that was incorporated in the Fifth National Development Plan. The diversification programme identified four priority sectors that were to be the drivers of the economy : agriculture, gemstone and non-copper mining, tourism, and manufacturing.
- 98.6.2 The CSAR concludes that the performance in these sectors suggests that the diversification programme has not succeeded in meeting the projected growth rates in most of the selected sectors. While the target for growth in the agricultural sector under the Fifth National Development Plan was 7.2 per cent, actual growth rate between 2002 and 2009 was a meagre 2.2 per cent. Similarly, the manufacturing sector grew by only 2.8 per cent, 4.7 per cent lower than the target set in the Fifth National Development Plan.
- 98.6.3 Several explanations are offered for the failure of the economic diversification programme. The poor performance of the agricultural sector was attributed to the “non-implementation of some of the programmes that were earmarked under the plan, such as the development and extension of irrigation services.” In the case of the manufacturing sector, the explanation advanced was “the narrow concentration on food-processing and the rapid decline in the textile





sector....” The high cost of doing business in Zambia, as manifested in structural rigidities such as a cumbersome licensing and regulatory framework, poor infrastructure, and the high cost of borrowing also impacted negatively on the achievements of the goals and targets of the diversification programme, despite the establishment of the Zambia Development Agency as a one-stop investment office to facilitate foreign and local investment, and the Citizens and Companies Economic Empowerment Commission in 2006 that was intended to substantially increase “the meaningful participation of targeted citizens and companies in the economy....”

## **99 Findings of the CRM**

### **99.1 Inflation**

99.1.1 According to the January 2011 figures from the Zambia Central Statistics Office, the annual rate of inflation increased from 7.9 per cent in December 2010 to 9 per cent in January 2011. This increase in inflation rate was across the board and affected both food and non-food items. The annual food inflation rate increased from 4.4 per cent in December 2010 to 5.2 per cent in January 2011 while the annual non-food inflation rate rose from 11.3 per cent in December 2010 to 12.8 per cent in January 2011. Recent increases in the rate of inflation are attributed largely to increased government borrowing. In addition, the recent jump in the price of copper may have triggered the “Dutch Disease”.

99.1.2 It is obvious that while some progress has been recorded in containing inflation, much more needs to be done to achieve stable and low single-digit inflation. This is essential to create a predictable and stable environment that is in turn important for investor confidence and greater private investments. Low and stable inflation rates will also enhance the competitiveness of Zambian goods, especially in the markets of neighbouring countries.

### **99.2 Interest Rates**

99.2.1 The phenomena of low savings rates and high lending rates persist in Zambia and are serious obstacles to savings, investments, and economic growth and development. According to the 2009 Annual Report of the Bank of Zambia, the nominal Commercial Banks' Average Lending Rates were 27.9 per cent in 2007, 26.9 per cent in 2008, and 29.2 per cent in 2009. The real Average Lending Rates during these same years were 15.7 per cent, 10.3 per cent and 19.3 per cent respectively. During these same years, the Nominal Average Savings Rates were 4.8 per cent, 4.8 per cent and 4.7 per cent respectively, with the real Average Savings Rates amounting to -4.1 per cent, -11.8 per cent and -5.2 per cent respectively.

99.2.2 In discussions with various non-state stakeholders throughout the country, the issue of negative savings rate and the overall problem of enormous difficulty in gaining access to credit came up repeatedly and was always a topic of critical discussion. The overwhelming feeling was that savings rates were too low, lending rates too high and access to credit too difficult, except for well





established entrepreneurs who could provide collateral, and salaried individuals whose employers could provide some sort of guarantee for the repayment of the loan and undertake to deduct the monthly payments from the salaries of borrowers and remit the funds collected to the lenders. It was widely alleged that loans were available for the purchase of consumer goods such as houses, cars, and household equipments, with little for productive investments by micro and small entrepreneurs.

99.2.3 For their part, the commercial banks defend their lending policies by pointing to the high risk and cost of lending. In this regard, it should be noted that according to the Annual Report 2009 of the Bank of Zambia, the asset quality of the banking sector has deteriorated, with the level of gross non-performing loans increasing from 7.2 per cent in 2008 to 12.6 per cent in 2009. This trend continued into 2010, with the gross non-performing loans ratio increasing from 12.6 per cent at the end of December 2009 to 15.2 per cent at the end of June 2010. The ratio of net non-performing loans to total regulatory capital also increased from 6.6 per cent at the end of December 2009 to 10.6 per cent at the end of June 2010.

99.2.4 A major beneficiary of limited lending by commercial banks to entrepreneurs has been the Government of Zambia. High levels of liquidity in the commercial banking sector resulted in increased demand for Government securities considered far safer than loans to private entrepreneurs by commercial banks. As a result, bids for government securities have far exceeded invitations to tender. Consequently, the composite weighted average yield rates for Treasury bills and Government bonds fell from 9.5 per cent and 15.9 per cent respectively in December 2009 to 6.0 per cent and 9.5 per cent respectively in June 2010 .

99.2.5 The Government of Zambia is aware of the problem and is taking steps to address the situation and the Bank of Zambia is studying ways and means of influencing interest rates. Thus far, it has played a largely passive role in this area, leaving interest rates to market forces, and it seems hesitant to change this approach. However, the problem of interest rates must be addressed vigorously. Also, such efforts must be coordinated with the Micro, Small and Medium Enterprise Development Policy of 2009 and the Micro, Small and Medium Enterprises Development Policy Implementation Plan 2010-2014 introduced in May 2010. These initiatives, as well as the Economic Empowerment Policy intended to encourage domestic entrepreneurs and the strategy of economic diversification, are unlikely to succeed unless the problem of access to credit is addressed.

### **99.3 Fiscal Deficit**

99.3.1 According to the Economic Report 2009 of the Ministry of Finance and Planning, the budget deficit for 2009 was 2.6 per cent of GDP. Total revenues and grants were 9.2 per cent below target, but expenditures were 3.4 per cent less than planned. The situation during the first half of 2010 mirrors that of 2009 with revenues and grants amounting to 9.6 per cent less than forecast while expenditures fell 12.7 per cent short of projections.





- 99.3.2 The calculations of the International Monetary Fund are somewhat different from those of the Ministry of Finance and National Planning. In the IMF Country Report No. 10/383 of December 2010, the Fund gives the overall central government budget deficit as 1.5 per cent of GDP in 2009. The revised projection for 2010 was 3.3 per cent, with the projection for 2011 dropping slightly to 3.2 per cent in 2011. The overall budget deficit is projected to be 4.0 per cent in 2012 and 3.2 per cent in 2013.
- 99.3.3 Two important observations emerge from this analysis of the trend in the budget deficit of the central government. One is that the Government has not met and is unlikely to meet its target of keeping its budget deficit below 2.0 per cent of GDP in the near future. The second is that efforts at narrowing the budget deficit have taken the form of reducing expenditures in the face of declining revenues. During the first half of 2010, revenues and grants were 9.6 per cent below projections. In contrast, expenditures were 12.7 per cent lower than estimates. This is not likely to promote socio-economic development and overall economic growth and development.
- 99.3.4 The Government has attempted to improve resource mobilisation by broadening the tax base and increasing revenues and payments from foreign companies, especially the mining companies. The sentiment is widespread among non-state stakeholders that the tax incentives given to foreign investors, especially the copper mining companies, are excessive and that these companies do not pay their fair share of taxes. Government officials are sensitive to these charges of inequities in the tax system and are exploring ways to make domestic resource mobilisation more efficient, effective and equitable. They have also pointed out repeatedly that many of the tax incentives that mining companies enjoy will come to an end soon and that revenues from these entities will increase substantially in the near future.

#### **99.4 Public Debt**

- 99.4.1 The latest assessments of the IMF indicate that public debt in Zambia will remain essentially the same in the near future. The revised projection for total central government debt at the end of 2010 as a percentage of GDP is 26.4 per cent compared with 26.0 per cent at the end of 2009. The projections for 2011, 2012 and 2013 are 26.7 per cent, 28.3 per cent and 29.1 per cent respectively. The revised projections are for external debt to amount to 10.6 per cent and 12.1 per cent of GDP in 2010 and 2011 respectively, while the projections for domestic debt, excluding domestic arrears, are 15.1 per cent in 2010 and 14.6 per cent in 2011.
- 99.4.2 The challenge for Zambia is to maintain and even reduce domestic and external public debt, especially public external debt, to sustainable levels. It should be noted that the reduction in the stock of external debt during the first half of 2010 was essentially due to a decrease in the disbursement of loan proceeds and the validation and reconciliation exercise undertaken by the Government of Zambia and its creditors in April 2010. Such developments and the debt relief measures of 2006 should not be counted on should the debt burden continue to rise.







## 99.5. Economic Growth

99.5.1 The Zambian economy continues to grow at a respectable rate.; Zambia was among the seventeen high performing emerging groups of countries in Sub-Saharan Africa, according to a recent study by Steven Radelet.<sup>1</sup> Economic growth in Zambia was positive during the first half of 2010, driven by strong performance in mining, agriculture and construction. Tourism also performed fairly well. Mining production increased by 10.1 per cent during the first half of 2010, with copper production increasing by 10.7 per cent as a result of increased production by most mining companies increased production and reopened previously closed mines. Agricultural production increased significantly with the maize production being the highest recorded in the country's history, a development that led the President of Zambia to publicly proclaim that Zambia had emerged as the bread-basket of the sub-region. Measured by the number of tourists visiting national parks and Victoria Falls, the tourism sector also recorded double digit growth. It is on the basis of these trends that the IMF revised its projection of GDP growth at constant prices from 5.8 per cent in 2010 to 6.6 per cent, and revised 2011 growth projections upwards from 6.0 per cent to 6.4 per cent. The projections for 2012 and 2013 are for GDP at constant prices to grow by 6.7 per cent in 2012 and 6.8 per cent in 2013.

99.5.2 The CRM believes that the downside to the economic growth of Zambia during the period 2005-2009 persists. Although recent figures are not available, there is no evidence that high growth rates have resulted in any noticeable reduction in poverty levels. In fact, the opposite may have been the case, if judged by the comments of both state and non-state stakeholders during consultations with the CRM in the capital Lusaka as in the provinces. The reason for this unfavourable trend is, again, the fact that even though mining is the dominant sector in the economy, it generates less employment than other labour-intensive sectors such as agriculture, and has little linkage with the rest of the economy. Mining therefore does not adequately serve as a catalyst for the development of other sectors of the economy, notably manufacturing. The same could be said for the tourism sector that has very little spread effect on the rest of the economy, except for the few employed in the sector but who still earn low wages that are incapable of significantly improving demand.

99.5.3 The major weakness of economic growth patterns in Zambia therefore is that in contrast to broad-based economic development that embraces wide sections and sectors of the economy, growth occurs largely in small enclaves of the economy with stronger integration to external economies than to the domestic economy. This raises the question as to what efforts the Zambian Government has been making to diversify the economy, a goal to which it is committed. This issue is taken up below.

## 99.6 Economic Diversification and Broad-based Development.

99.6.1 The fact that the structure of the economy has remained virtually unchanged since independence attests to the failure thus far of the economic diversification programme. In 2006, at the start of the Fifth National Development Plan, the primary sector consisting of agriculture, forestry and fishing, and mining and

<sup>1</sup> Radelet, Steven, 2010. Emerging Africa: How 17 Countries Are Leading the Way. Washington, D.C.: (Centre for Global Development, 2010).





quarrying, contributed 22.3 per cent of GDP at constant 1994 prices. In 2009, this sector still accounted for 21.6 per cent of GDP. Agriculture, forestry and fishing alone contributed 13.7 per cent of GDP in 2006 and 12.6 per cent in 2009, with the comparable figures for mining and quarrying being 8.7 per cent and 8.9 per cent respectively. The share of manufacturing in GDP was 10.6 per cent in 2006 and 9.5 per cent in 2009. In terms of contribution to employment, the share of agriculture was 13.9 per cent in 2006 and 11.2 per cent in 2008; for mining and quarrying, the contribution to employment was 6.8 per cent in 2006 and 8.8 per cent in 2008, while those for manufacturing were 11.2 per cent in 2006 and 8.3 per cent in 2008.

- 99.6.2 The CSAR identifies some of the factors that have made it difficult to achieve the goals of economic diversification. However, in the opinion of the CRM, the reasons for this failure are far deeper. It must be acknowledged from the very outset that diversifying an economy is not an easy task amenable to a quick solution. Time, patience, and perseverance are required. In addition, while the government has a crucial role in this area, this is not a task that can be accomplished by the government alone, or even primarily by the government. It requires the concerted effort of all stakeholders, especially the private sector (domestic and foreign), together with the understanding and support of development partners. The economic diversification programme in Zambia has achieved little therefore because all relevant actors have not worked as effective partners to achieve that goal.
- 99.6.3 During the first two decades after independence, Zambia pursued a policy of economic self reliance and self sufficiency, with the Government playing an active role in the production and distribution of goods and services. The immediate post-independence boom lasted until the mid-1970s and was followed by a period of economic decline that lasted roughly from the mid-seventies to the end of the 1980s. By the mid-eighties, pressure was mounting on the Government from the donor community for Zambia to move towards a more open, market oriented and private sector led strategy of growth and development. In 1991, a Structural Adjustment Programme was signed with the IMF and World Bank. The key features of this Programme were (i) macroeconomic stability; (ii) reduced role of the government in producing goods and services and controlling external economic relations, notably trade and currency transaction; and (iii) private-sector led growth. The results of this strategy were highly dubious, with consequences such as job losses from privatisation, destruction of import substitution manufacturing activities such as textiles, and agricultural stagnation and even regression due to the removal of subsidies from maize and fertilisers. Despite these negative economic results, the economic strategy of Zambia has remained much the same as in the 1990s.
- 99.6.4 Essentially, in the drive for economic diversification, the Government of Zambia has limited its role largely to that of creating an “enabling environment” for the private sector to actually do what is necessary to diversify the economy. But in a small economy which, according to the preliminary results of the 2010 census had a population of only 13,046,508, the domestic market and effective demand are simply too small to make the production of a wide range of goods and services viable and profitable. This challenge was to be addressed in part by the country’s membership in the Southern African Development Community





(SADC) and the Common Market for East and Southern Africa (COMESA), but as the analysis in Section 4.7 devoted to Accelerating Regional Integration shows, membership in SADC, in particular, may have hindered economic diversification by opening the Zambian economy to goods from more competitive countries in the sub-region, notably South Africa, which has a larger, more mature and, therefore, more competitive economy.

- 99.6.5 In addition to constraints linked to the size of its domestic market, economic diversification has been stifled by inadequate local entrepreneurship. There are very few domestic entrepreneurs in Zambia, with most of them in micro-enterprises in the informal sector or small-scale agriculture. Very few have the capital and business acumen to significantly enhance and diversify production. Most of the large and successful entrepreneurs are subsidiaries of foreign companies or foreigners, including many from India and South Africa, who tend to go into mining, the financial sector, telecommunications, and trade, while domestic entrepreneurs are found largely in small and medium-size farming, real estate, tourism in the form of small guest houses and tour operators, transport, small-scale trade and the informal sector.
- 99.6.6 Foreign investors are essentially interested in maximising the returns on their investments as quickly as possible, and diversifying the economy for its own sake is least among their priorities. Domestic entrepreneurs who may have an interest in economic diversification as a way of creating a niche for themselves in the economy lack the capital, economic information and intelligence and management skills to do so, except if they are provided with considerable help by the Government.
- 99.6.7 To a certain extent, the Government understands that to achieve its goal of economic diversification it will have to provide more active support and concrete incentives to domestic entrepreneurs.. It is for this reasons that initiatives discussed earlier, such as the Micro, Small and Medium Enterprise Development Policy and the Citizens Economic Empowerment Act, were adopted. But these may have been a case of too little too late. In any event, these are recent initiatives that still have to prove themselves. Additionally, there is the crucial question of whether the Government has the experience and expertise to genuinely assist in the training of economic entrepreneurs who will in turn diversify the economy, given the fact that very few government officials have been successful entrepreneurs.
- 99.6.8 Strengthening the role and contribution of the private sector to the economy and expanding the number of domestic entrepreneurs to accelerate growth and diversify the economy can be realised only if there is genuine and strong partnership between the Government and the private sector, especially the domestic private sector, based on mutual trust and respect. The CRM did not find evidence that this partnership exists in Zambia today, despite the government's pronouncements about the leading role of the private sector in the economy. Evidence of this is that representatives of the private sector were for the most part absent in the consultations on the CSAR that the CRM had both in the capital and in the provinces during its three weeks stay in the country. Only a handful of entrepreneurs attended meetings held to discuss





the CSAR with state and non-state stakeholders, and very few of them seem to have been consulted and actively involved in the process that led to the preparation of the CSAR. In essence, the private sector was essentially absent from the APRM process in Zambia.

- 99.6.9 There are several explanations for the distrust and lack of cooperation between the Government and the domestic private sector. One is that government officials still see policymaking, including economic policymaking, as essentially the prerogative of government. Consultations with the private sector are largely pro forma in nature, with the government being free to decide as it sees fit. Government officials consider themselves the only legitimate authority in the country with more or less a monopoly of information, knowledge and expertise. In sum, not only do they see the private sector as lacking legitimacy and therefore authority but it also, in their view, lacks the capabilities to be effective and genuine partners with the government in economic policy making.
- 99.6.10 It should be acknowledged that there is some truth to the negative image of the private sector held by government officials. Foreign investors evaluate what is good for them globally and do not primarily focus on trends in the domestic economy. When there is a conflict between what is good for their bottom-line and the domestic economy, the choice is obviously the rapid generation of profit rather than some lofty ideals about national development. Associations of entrepreneurs are weak and lack the expertise to analyze trends in the economy and come up with solutions that promote both their interests and that of the economy as a whole. In addition, many entrepreneurs, both domestic and foreign, tend to prefer to deal with government authorities on an individual basis with a view to gaining advantages and concessions for themselves as individuals or for their individual companies, rather than for their areas of activity, the private sector, or the economy as a whole. In summary, the failure to develop a genuine partnership between the Government and the private sector is due to shortcomings on both sides.
- 99.6.11 More generally, the CRM concludes that economic diversification in Zambia will only succeed if the Government reconsiders and modifies the limited role it has assigned itself in promoting economic transformation. It must come to accept that the private sector, especially the domestic private sector, is too weak to do this by itself, especially in light of the structural and historical constraints from which the economy suffers. In other words, without completely abandoning its commitment to an open, market-oriented and private-sector driven economy, it must understand that governments all over the world, including those in the developed world, do in fact play active roles in steering their economies in directions that are considered desirable for economic, political and social goals. The role of the state should be reconsidered, in terms of the extent of interventions and partnerships it can engender. A comprehensive dialogue on this topic is necessary with domestic stakeholders and development partners alike.





## 99.7. Recommendations

The Panel made the following recommendations:

- The Zambian Government should consider taking on more of an interventionist stance, so as to create the conditions prevalent in a “developmental state”. This should include efforts to reduce inflation through a more active monetary policy by the Central Bank, rather than leaving this completely in the hands of “market forces”.
- Government should play a more proactive role in assisting entrepreneurs, especially domestic entrepreneurs, to in fact become the main economic drivers by providing them with access to capital and economic information and analysis, and training in management skills.
- The private sector, especially domestic entrepreneurs, should facilitate cooperation and mutual help among themselves and not rely passively on the Government for assistance.
- Government and the private sector should cultivate genuine partnership starting with eliminating the negative stereotypes each side has of the other.

### Objective 2: Implement Sound, Transparent and Predictable Economic Policies

## 100 Soundness of Policies

100.1 The Country Self-Assessment Report (CSAR) notes that Zambia has been striving to formulate sound, transparent and predictable policies in recent years, with a view to becoming a middle-income country by the year 2030. This is encapsulated in Zambia’s Vision 2030 project. This effort is being anchored within five-year development plans. The first one within this Vision 2030 policy environment was the Fifth National Development Plan (FNDP), 2006-2010. The Sixth National Development Plan (2011-15) has just been completed. These plans, in principle, should be developed via extensive countrywide consultations. The CSAR claims that not only has this been true but also that monitoring and evaluation of the development plans during implementation are benefiting from extensive participation of business and civil society groups and individuals.

100.2 The CSAR notes that current economic policymaking, including via the Medium-Term Expenditure Framework (MTEF) and the annual budgets, is conditioned by certain major objectives. In particular, there is a desire to: (a) diversify the economy away from its concentration on minerals exports; (b) substantially increase agricultural productivity; (c) reduce the vulnerability of the economy to exogenous internal and external shocks (most notably weather and foreign demand and prices for copper); and (d) rapidly transform and develop the private sector as a way to attain the first three objectives. A subsidiary, but still important, fifth objective of the authorities has been to reduce, drastically,





dependence on international aid for funding development and budgetary expenditures, within the foreseeable future; this means finding ways to substantially raise domestic financing for such expenditures.

## **101. Transparency and Predictability of Policies**

101.1 The CSAR, in addressing issues of policy formulation, dissemination of information to the public on the objectives and content of policies, as well policy implementation processes and procedures, emphasises that the authorities increasingly consult and use technical experts and that they seriously consider the desires and preferences of the population at large. The CSAR highlights two structures for the consultative processes in Zambia, namely, the Development Coordination Committees (DCCs) and the Sector Advisory Groups (SAGs). The DCCs operate at the district, provincial and national levels. There are District Development Coordination Committees (DDCCs), Provincial Development Coordination Committees (PDCCs), and National Development Coordination Committees (NDCCs). In the case of the SAGs, in addition to macroeconomic analysis and forecasting, each sector has an advisory group that includes civil society and business persons to advise the authorities in program policy design, monitoring and evaluation.

101.2 The CSAR points out challenges in achieving the above-mentioned five objectives. One is that Zambia is a small, open economy highly dependent on mineral exports where the cost of doing business is high compared to middle-income countries. The CSAR identifies other challenges, including the need for: (a) domestic resource mobilisation; (b) financial sector development through projects such as the Rural Finance Project, aimed at increasing access in rural areas to financial services, and the Citizens Economic Empowerment program targeting underprivileged citizens who cannot access finance on normal commercial terms, and mobile banking and money transfer systems that would attract far greater numbers of active participants in the financial system; (c) infrastructure development; and improvements in public administration by salary reforms to make remuneration more consonant with skills and performance; and (d) implementation of the Decentralisation Policy approved in 2002. There is no explicit legal framework that regulates and constrains the policy formulation and implementation processes for most government economic policies.

## **102. Implementation of Policies**

102.1 A number of failures to achieve policy goals and targets are identified. The annual performance appraisal system (an element of the pay reform process) has not achieved its objectives, while the desired restructuring of the Ministries, Provinces and Spending Agencies (MPSAs) has still not been done. Similarly, there is no indication as to whether the Public Expenditure Management and Financial Accountability (PEMFA) program that was started in January 2005 and is benefiting from substantial donor support and technical assistance has been achieving its objectives.





- 102.2 The Government has initiated reforms that should enable Parliament to perform its oversight role better in the coming years. Constituency offices have been created, support staff provided for Members of Parliament and the parliamentary infrastructure is being modernised.

### **103. Findings of the CRM**

- 103.1 The mission, in its discussions with the public authorities, civil society and the business community tried to gauge the extent to which stakeholders were operating in an environment (however it evolved) that would give Zambian citizens confidence that the economic management policies in place were sound, widely known and understood by the citizens, and were very likely to be fully implemented. This does not rule out flexibility and adjustments during the implementation of any policy, within bounds that did not significantly aggravate uncertainty in the economic environment.

### **104 Promoting Soundness of Policies Formulated**

- 104.1 In order to increase the likelihood that sound economic policies would emerge from an economic decision-making process, the policymakers must, first of all, do their best to bring to the process as much relevant information as could be collated and assimilated at reasonable cost. Second, the process must encourage appropriate consultation, including technical analysis by relevant experts. Such consultation must not underestimate the potential contribution of any set of persons who are significantly affected by the policies even when such persons lack adequate technical expertise in several aspects of the policy design. Third are checks and balances: by giving relevant persons and organisations in the policymaking environment adequate oversight authority to influence the policymaking process. Fourth, there should be continuous monitoring and evaluation of the policymaking process, including assessments of the effectiveness of the process in producing policies that are satisfactorily implemented and that achieve the ultimate objectives of the economic policies.
- 104.2 The CRM found that the Zambian authorities have, for a long time, tried to put together formal structures, in an attempt to create an environment of policymaking, information dissemination on policies, and policy implementation that is consultative in its approach and serious in its attempts at sensitisation. They have done so for gathering information, developing ideas for action and for decision-making. The CRM was left with the impression that many stakeholders nevertheless harboured concerns about the stability of the existing structures, their complexity, their good faith use, and their effectiveness in achieving their ultimate objectives, particularly the goals of structural change, economic diversification and enhanced economic growth. Because of this, there were often deep divisions of views, often along predictable lines (e.g., government versus non-government persons, ruling party versus opposition party members) as to the likelihood of achieving much of the objectives of Vision 2030.
- 104.3 On the whole, the available sample of stakeholders, whether civil society, business, or government, thought that the Government of Zambia had been implementing economic policies which were good for growth. However, that





was inadequate and much had still to be done. The stakeholders also were generally explicit in their assertions that the government could do better than in the past if it found ways to improve policymaking and implementation since Zambia had the necessary human and non-human resources.

- 104.4 There was repeated reference to the unrealised potential of the Development Coordination Committees (DCCs) organised by districts and provinces, and at the national level. In fact, many stakeholders mentioned the lower-level development committees, within each district, which facilitated inputs from residents in smaller local community units operating within each district. The DCCs of districts are chaired by officials from the offices of the District Commissioners and the DCCs of provinces are chaired by the Permanent Secretaries of the provincial ministers. Similarly, many stakeholders knew of and had participated in Sector Advisory Groups (SAGs).
- 104.5 The DCCs at the district levels collect ideas on development projects from their respective districts, and after due consideration by the representatives, they forward them to the provincial DCCs, which then forward the selected project ideas to the national level. This process is, in principle, extremely important in the formulation of the national development plan and the medium-term budgetary framework which is why both macroeconomic and microeconomic or sectoral policies are subjected to the process. But stakeholders outside government departments and offices were somewhat unsure about what happens at the final stages of the decision making process even when their preferences had been duly selected. They wanted to have greater transparency at that stage.
- 104.6 Apart from the above structure which facilitates inclusion of ordinary citizens in the policymaking process, there are other structures through which the authorities incorporate the ideas of civil society and businesses. The authorities maintain continuous contact with the Chamber of Commerce, the confederation of employers, manufacturers' association, bankers association, trade unions, and several nongovernmental organisations and civil society groups, including the Nongovernmental Organisation Coordination Committee.
- 104.7 In an important meeting with parliamentarians which included all the political parties in Parliament, the CRM learned how that body helped to ensure that the views of civil society and business were duly taken into account in their deliberations on policies. One way consisted in making the Development Coordination Committees effective in achieving their objectives. Another way was to invite particular persons and representatives of groups in civil society and business to answer questions posed by parliamentarians when considering policy initiatives for approval or for putting into law. The MPs were also keen to explain that even though private members were limited in their capacity to initiate policies, they still influenced the process of policy initiation via the institution of "private members motions". These normally bring to the attention of the government not only areas where policy measures are needed but also the ways in which policies could be constructed.







- 104.8 The authorities, at their own initiative and as an element of building capacity for policy formulation, are trying to make systematic use of technical assistance from abroad in a way that combines it with the training of local staff. For instance, the Ministry of Finance and National Planning used experts from a Western European country to help with building a model for Zambia, dubbed Zammod, which could be used particularly in the Medium-Term Expenditure Framework and in making macroeconomic projections in general as well as in parts of the development planning exercise. An important element of this technical assistance was that the foreign experts trained staff from the Ministry of Finance and Planning, the Bank of Zambia and the University of Zambia in understanding and using the model. The authorities, of course, also use foreign and local experts in general to address particular technical questions and issues of a policy nature and the results of those studies influence policy formulation. Some of these technical assistance reports end up as publications available in hard copy as well as on the internet. A recent example is the Zambia Business Survey: The profile and productivity of Zambia businesses, which was published in June 2010. Also, “behavioural” and microeconomic models are being developed, with the help of local consultants, to be used with the Zammod model. The overriding consequence of all these efforts is that the analytical foundations of policymaking in Zambia are being strengthened.

#### **105. Facilitating Transparency and Predictability of Policies.**

- 105.1 In Zambia, it appears that all the expected stakeholder groups do engage in activities that can contribute effectively to making government policies transparent, fairly well-understood and predictable by the populace at large, and they do so by using conventional methods. Some of the stakeholders, such as government departments, the Central Bank, politicians and several NGOs engage in what they regard as sensitisation activities, as part of their routine work, mainly to educate the population and elicit their support in favour or against the policies.
- 105.2 Business people, for their part, need the support of the general population in influencing government policy or they need the population to understand how and why government policies are affecting business behaviour both in labour markets and in commodity markets. Assisting the population to understand government policies would greatly advance their cause. Moreover, they themselves, as organisational groups, need to find ways to minimise the costs to their members of acquiring information on government policies. Business groups regularly discuss government economic policies in ways that would facilitate knowledge, understanding and the predictability of those policies, via the Chamber of Commerce and Industry or subgroups such as the Bankers Association of Zambia and the Zambia Association of Manufacturers, and in the media.
- 105.3 As far as the general public is concerned, information on government policies can be obtained in many ways: via websites and through sensitisation programs such as dedicated workshops and public lectures, discussion in newspapers, radio and television, and discussions at the meetings of the Development





Coordination Committees and at the Sector Advisory Groups. For instance, all the central government ministries and important public bodies (such as the Zambia Revenue Authority and the Bank of Zambia) have websites, so that it is possible to find on the web documents, such as the development plans and the 2010 national budget; the commercial, trade and industrial policy document of the Ministry of Commerce, Trade and Industry, prepared in 2009; and the Competition and Consumer Protection Act of 2010.

- 105.4 What was not clear to the CRM was the degree to which the least educated and disadvantaged members of the population were being kept informed about public economic policies and their implementation. Government stakeholders mentioned the availability of the *Yellow Book*, which specifies ongoing or planned projects as well as other documents, some of them published in local languages and on the internet. However, many such publications are only available on sale at prices the poor could not afford. It was clear that, in many cases, the poor would need the help of public officials, friends and relatives to have access to the relevant information.
- 105.5 Government stakeholders sought to assure the CRM that when the DCCs work well, their interactions with their local communities included sensitisation on government policies and programs. But some civil society stakeholders countered that while that was true in principle, and indeed often happens in practice, it was not done consistently enough to be considered satisfactory.

## **106. Ensuring Implementation of Policies.**

- 106.1 The problem of policy implementation is serious; the policies appear to be sound, but they are rarely fully implemented. The CRM was given several examples of implementation capacity constraints: lack of information on the part of officials, departments or organisations responsible for implementation; unexpected developments that are important in ensuring implementation; or mistakes made at the policy making or policy transparency and predictability stages of the policy process. In order to ensure a high degree of implementation, therefore not only must the first two stages elaborated above be done with a high degree of effectiveness, but an environment of cooperation and coordination must also be fostered and made adequate. Typically, the objective is to avert delays and incomplete implementation, or even worse, the abandonment of a program of action with substantial economic growth effects.
- 106.2 There are institutional structures and frameworks for policy implementation. The government ministries, departments, and other state structures have primary responsibility for policy implementation. There are also other structures that are meant to help civil society and business to assist in the monitoring tasks that play essential roles in the implementation process. In particular, the Sector Advisory Groups and the Development Coordination Committees should, in principle, assist the public sector departments and bodies in making sure that programs are implemented as designed or else are modified during the monitoring stages such that a program helps to attain the ultimate objectives of the authorities when it is implemented. This approach is relevant, whether the concern is with the development plan as a whole, short-term to medium-





term budgetary policies, sectoral and microeconomic policies, or addressing focused policy concerns such as domestic resource mobilisation, private sector development, diversification of the economy, or reducing the vulnerability of the economy to internal and external shocks.

106.3 However, the CRM was informed of widespread concerns among Zambians that, despite the authorities' being aware of the importance of implementation and their apparent resolve to address the perceived reasons for implementation shortfalls, serious implementation problems are unresolved. The consequences are that meeting the targets of policies has been way below what the citizens believe Zambia can achieve. In reality, of course, it is often very difficult to allocate clear responsibility between policy design and policy implementation when addressing failures to achieve certain targets and objectives. This is why, in practice, policy formulation and design cannot ignore implementation. Similarly, during implementation, some tinkering with the policy designed is often necessary, particularly as regards sequencing and timing of specific measures and actions. And while it is obvious that the bulk of the Zambian stakeholders are aware of such reasoning, it is not clear that the working of the structures put in place by the authorities made effective interaction between policy design and policy implementation possible in practice. This seems to be implied in the complaints by civil society and business stakeholders that the DCCs were not working well at the national level.

106.4 A serious constraint on effective policy implementation appears to stem from distortions emanating from political manipulation, capture or other forms of corruption. For instance, the CRM was informed that tax incentive schemes, designed to encourage investment and growth of firms and to raise their productivity so that future taxes more than compensate for lost revenues during the short-term to medium-term, are side-stepped by simple devices such as a change of name or ownership so that it appears over and over again that they are new companies and eligible for tax incentives.

106.5 In summary, the CRM observed that, in Zambia, all stakeholders are concerned at the gap between policy pronouncements and actual implementation because goals, objectives and targets of otherwise sound policies are routinely never realised. A frequent explanation for this problem was that the system works in a way that allows distortion of policy implementation because of the prevalence of political manipulation, capture or other forms of corruption. While there may be some merit in such arguments, the laissez-faire approach of the Government may also be limiting prescribing a more pro-active, state-directed transformation of the economy. Meanwhile, the domestic private entrepreneurship is weak, and does not benefit from inclusive partnership and cooperation with the Government.

## 107. Recommendations

The Panel recommends that the Government of Zambia:

- Improve the technical and analytical foundations of policy design to lay emphasis on increasing the level of technical expertise in the government and in research and think-tanks and providing technical assistance and training to the private sector.





- Ensure that the structures established to facilitate transparency, predictability, and policy implementation work more effectively. In this regard, a comprehensive review of the development coordination committees and sector advisory groups should be undertaken regularly, with a view to reforming them.
- Formulate a coherent reform and development program for the financial sector that would facilitate the diversification of exports, increased agricultural production, and private sector development.
- Intensify efforts to strengthen the oversight role of Parliament in monitoring and evaluation.
- Strengthen the regulatory frameworks so that there is adequate enforcement, for example, in cases whereby certain entities abuse the tax incentives granted to them.

### Objective 3: Promote Sound Public Finance Management

#### 108. Summary of the CSAR

##### 108.1 Government Finances

108.1.1 The CASR notes that, in the area of public finance management, the Government of Zambia has undertaken various reforms over the last few years with the aim of ameliorating public expenditure management and financial accountability to improve budgetary discipline. These reforms have included introducing a payroll management control system, a financial management system, and a Medium-Term Expenditure Framework (MTEF). The advantages of the MTEF include improved macroeconomic stability through fiscal discipline, better intra and inter-sectoral resource allocation, effective prioritisation of expenditures on the basis of clearly articulated socio-economic programs, greater budgetary predictability, more efficient use of public finances, and greater credibility for more outcomes of expenditures and in budgetary decision-making.

108.1.2 In addition, the CSAR notes that in the period 2005-2009, fiscal budget performance was satisfactory despite the challenges associated with budget execution. Total revenue, excluding grants, averaged 99.1 per cent of the budget estimates. Tax revenue performance continued to be strong despite the effects of the global economic and financial crisis in 2008. Non-tax revenue also improved over the years.

108.1.3 Total actual expenditures in the 2005-09 period averaged 92.1 per cent, representing an average under-performance of 7.9 per cent from planned expenditures. This was attributable to a large shortfall in releases of capital programs, a short budget implementation period and persistent delays in the procurement processes. Although budget performance has improved on aggregate, variances across individual budget heads have continued to be significant. In addition, supplementary budgets presented to Parliament on annual basis undermine the credibility of the budget process.





- 108.1.4 As a percentage of GDP, domestic revenues have averaged 17.7 per cent, declining from 19.0 per cent in 2008 to 15.7 in 2009. Expenditures have been heavily skewed towards current expenditures. It is envisaged that the liquidation of tax arrears will create fiscal space for capital expenditures to increase.
- 108.1.5 The CSAR further notes that information on Government's fiscal operations is now more readily available. Key documents such as the Auditors General's (AG) Report are more accessible. In addition, due to recent parliamentary reforms, members of the public are allowed to attend the sittings of the Portfolio and General Purposes Committees of Parliament.
- 108.1.6 The CSAR outlines a number of challenges encountered in adopting and implementing a predictable Medium Term Fiscal Framework in Zambia. First, there are several weaknesses in the office of the AG, including the absence of rules or provision for external and independent audit of the AG's office. Other challenges are financial constraints, dependence on the Ministry of Finance and National Planning, and the lack of (effective) links between the AG's office and prosecuting agencies. Second, financial statements do not provide a full picture of Government's financial status. Third, there is no legal provision for the MTEF process. Fourth, in Zambia, the outer year allocations are subject to considerable uncertainty. Fifth, it has been observed that the Integrated Financial Management information System (IFMIS), the key program under the Public Expenditure Management and Financial Accountability (PEMFA), has been delayed. Reasons for this delay range from cultural disputes to capacity constraints. Finally, the government reforms undertaken over the last few years have not resulted in an optimal public financial management and financial system as evidenced by the Auditor General's report.
- 108.1.7 Weaknesses have been observed in most areas of the public financial management cycle from internal controls to budget preparation. The 2008 Public Expenditure and Financial Accountability (PEFA) assessment discovered weaknesses relating to the extent of compliance with internal controls due both to inadequate information flows (including poorly integrated database), and capacity constraints which led to poor budgetary predictability.

## **109. Fiscal Decentralisation**

- 109.1 The CSAR notes that the fiscal decentralisation process commenced in 1993. It is one of the pillars of the Public Sector Reform Program (PRSP) and was officially launched as the National Decentralisation Policy (NDP) in November 2004. Fiscal decentralisation involves reassigning expenditure and revenue functions from the central Government to local authorities in order to improve program implementation and service delivery at the local level. This process aims at ensuring that the financial resources reach the intended targets and also fosters transparent and efficient mobilisation, management and utilisation of resources.
- 109.2 Zambia has undertaken some measures to develop an effective institutional system of fiscal decentralisation. These include moving coordination of the decentralisation process from the Cabinet Office to the Decentralisation Secretariat within the Ministry of Local Government and Housing (MLGH)





in 2003, developing the Decentralisation Implementation Plan (DIP) in 2006, and restructuring grants, both recurrent and capital grants. The policy implementation timeframe as outlined in the DIP was divided into three phases. The first phase was to cover the period 2002 to 2005 during which the following had to be done:

- Establish the Decentralisation Secretariat in November 2003;
- Launch the Decentralisation Policy in August 2004;
- Approve the interim decentralisation implementation plan in November 2004;
- Transfer the Decentralisation Secretariat from Cabinet office to MLGH in January 2005;
- Recruit permanent staff for the Secretariat in February 2005; and
- Prepare the comprehensive decentralisation implementation plan.

**109.3 During Phase Two, which was planned to run from 2006 to 2010, the implementation plan was to:**

- Finalise the preparation of the comprehensive decentralisation implementation plan;
- Put in place the necessary administrative structures, systems and mechanisms;
- Undertake devolution;
- Undertake institutional and human resources capacity building activities; and
- Carry out extensive sensitisation of the population on the legal and administrative aspects of decentralised governance.

109.4 Phase Three was planned to run from 2011 to 2012 during which the gains made during the previous years would be consolidated through the enhancement and strengthening of the institutions of decentralisation.

109.5 The CSAR notes that the key challenges to fiscal decentralisation are : a diminished revenue base, lack of mechanism for effective accountability, imbalance between functions and resources, lack of capacity to attract and retain professionals and experienced staff, decline in the level and predictability of intergovernmental transfers and ineffective coordination.

**110. Findings of the CRM**

**110.1 Government Finances**

110.1.1 A medium-term expenditure framework consists of a top-down estimate of aggregate resources available for public expenditure consistent with macroeconomic stability, and a bottom-up estimates of costs with aggregate resources. It is called "medium-term" because it provides data, on a prospective basis, for the budget year and for the following two years. MTEF is a rolling process repeated every year and aims at reducing the imbalance between what is affordable and what is demanded by ministries. MTEF does this by bringing





together policymaking, planning, and budgeting early in the budgeting cycle, with adjustments taking place through policy changes. An MTEF involves a radical change in the business of budgeting. Consequently, without political commitment, it has little chance of succeeding. Evidence suggests that a comprehensive approach embracing the entire government is preferable to introducing an MTEF incrementally.

- 110.1.2 The CRM observed that the MTEF has, to a certain extent, helped to reduce the variance between allocation and actual spending. Allocation of resources is guided by the macroeconomic framework. At the beginning of the year, spending units are given indicative ceilings. Furthermore, the MTEF has, to a limited extent, introduced transparency. Even before the preparation of the budget, people have an idea about what the government is going to do.
- 110.1.3 In general, Public Finance Management is moving in the right direction in Zambia. In an interactive session, it was also observed that the aim of domestic revenue collection is to reach 20 per cent of GDP. However, the total revenue from external sources is 50 per cent. And while the CSAR reports that domestic revenue performance has substantially improved as already pointed out, the observations of the CRM are somewhat different.
- 110.1.4 As is shown in Table 10, domestic revenue as a percentage of GDP over the period 2001 to 2010 declined from 18.6 per cent in 2001 to 16.1 per cent in 2006. The next two years registered a significant rise in the ratio. However, the ratio suffered a significant decline to 15 per cent in 2009, possibly due to the global economic and financial crisis. The figure for 2010 was 17.3 per cent.



**Table 10: Total Tax Revenue Collection 2000-2010 (in billions of Kwacha)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Tax Revenue	1739.5	2448.6	2848.8	3549.5	4554.3	5521.8	6329.6	8193.8	9665.8	9660.0	13125.6
Income Tax	633.5	945.3	1243.5	1621.3	2037.7	2461.5	2966.6	3841.4	4698.8	5072.6	7326.3
Company Tax	125.2	195.5	279.4	290.7	333.2	454.5	694.6	1222.5	1431.5	1375.8	2421.7
PAYE	433.8	649.7	828.6	1129.3	1483.4	1721.9	1939.2	2199.0	2565.3	2923.9	3866.3
Withholding Tax	70.6	93.5	136.0	193.2	216.7	245.9	274.0	352.4	442.9	538.0	626.3
Extraction Royalty	3.8	6.6	2.5	8.1	4.4	39.2	58.8	67.5	259.1	234.9	412.0
Domestic Goods and Services	513.1	676.7	773.0	858.4	1062.2	1394.6	1385.6	1231.7	993.7	1330.3	1887.4
Excise Duties	280.6	384.7	427.3	480.7	610.1	771.7	827.2	1206.8	1424.4	1023.2	1372.4
Domestic VAT	232.5	292.0	345.7	377.7	452.3	622.9	558.4	24.9	(430.7)	3071	515.0
Trade Taxes	592.9	826.6	829.2	1069.7	1454.2	1665.7	1977.4	3120.7	3973.3	32571	3911.9
VAT on Imports	344.7	488.6	470.9	641.5	909.1	1010.2	1233.1	2204.3	2631.7	2168.4	2644.6
Import Tariffs	248.2	338.0	358.3	428.2	545.1	651.9	742.4	914.1	1159.9	1072.0	1262.6
Export Duty	-	-	-	-	-	3.6	1.9	2.3	181.7	16.7	4.7
Import Declaration Fee	-	-	-	-	-	-	-	-	-	-	-
Total GDP	10,071.9										75914
Revenue as %of GD	17.3	18.6	17.5	17.3	17.6	17.2	16.1	17.9	18	15	17.3

\*The 2001 figures include exceptional revenue of K191 billion or 1.5 per cent of GDP, being debt swap with ZESCO

\* The 2008 excludes medical levy collection of K12.5 billion

Source: Zambia Revenue Authority





## 110.2 Zambia Revenue Authority

- 110.2.1 The CRM was informed that there are a number of ongoing reforms aimed at boosting national revenues. For example, the Zambia Revenue Authority (ZRA) is undertaking various measures to improve revenue collection. These measures include boosting awareness among taxpayers through taxpayer education and improving management of information systems, especially of VAT. The ZRA has also advertised a tender to procure a new management system. It has embarked on tax administration reforms by re-aligning its focus from tax-type to the taxpayer, and has assigned taxpayers to the Large Taxpayer Office (LTO), and the Small and Medium Taxpayer Office (SMTO), each with one tax audit unit to cater for all taxes.
- 110.2.2 Previously, ZRA carried out tax audit for each type of tax, but now, in order to improve revenue collection and facilitate trade, only one team of auditors visits a client once for auditing tax obligations. The ZRA, with help from the Government has embarked on the modernisation of border infrastructure. So far, three border posts have been completed (Chirundu, Kariba and Kasumbalesa). To further improve trade facilitation and revenue collection, the ZRA has entered into an agreement with Zimbabwe to introduce a One Stop Border. In the past, a person exporting goods to Zimbabwe or South Africa (through Zimbabwe) would have to clear the goods with customs on the Zambian side and then also clear the goods with the customs on the Zimbabwean side. However, with the new reorganisation, an exporter does not need to stop on the Zambian side. Instead, all export formalities are completed in Zimbabwe. On the other hand, an importer need not stop in Zimbabwe since all formalities are completed in Zambia. ZRA and Zimbabwe Revenue Authority (ZIMRA) have given offices to each other in their respective jurisdictions for use by officers. In a nutshell, traders will have all customs procedures completed by one customs office instead of two. Further, to curb smuggling, ZRA has set up a Mobile Compliance Unit tasked with detecting all imports leaving the border without paying taxes and duties.





- 110.2.3 In dealing with transit goods, which have been one of the avenues for tax evasion, ZRA has put in place an automated transit clearing system which enables it to determine which goods have not formally cleared customs. Another measure taken by Government was the introduction and implementation of the Advance Income Tax (AIT), which has led to the interfacing of the Customs data system and the Domestic Taxes system. The AIT is a tax levied on all commercial goods imported by imports by people who do not comply with income tax regulations. If the importer stops complying with income tax laws, the information on the Customs Data system is updated so that next time they import goods, they are charged AIT.
- 110.2.4 The other measures that ZRA has taken to enhance compliance include taxpayer education through producing and distributing leaflets, carrying out radio and TV programs, and tax officials holding public meetings with taxpayers and students. In addition, ZRA also holds stakeholder meetings with big taxpayers at least twice every year. A Taxpayer Appreciation Week is held every year in April as a means of encouraging people to pay taxes by recognising compliant taxpayers who are awarded with certificates and medals. Finally, there is a Corporate Social Responsibility (CSR) Program in place which seeks to create a positive image of the Authority and thereby improve voluntary compliance with tax policies. The CSR program involves sharing information, making donations of seized goods to orphanages and, sometimes, making an appearance at traditional ceremonies in order to interact with taxpayers. The CSR program also involves caring about the environment and the Authority's employees through activities such as tree planting and HIV/AIDS awareness.
- 110.2.5 The effects of all these reforms cannot be determined at the moment. However, if they are effectively implemented, they will possibly enhance revenue collection in Zambia.

### **110.3 The Auditor General**

- 110.3.1 The Auditor General's Report is one of the tools of assessing how well public resources are managed. In Zambia, the report has been published on time (not later than 12 months after the end of the financial year) for the past few years. However, even though each report has highlighted serious cases of misuse of resources, there has been an apparent lack of consistent follow up or stringent measures to stop such misuse or misappropriations.
- 110.3.2 The Auditor General appears to be functioning effectively, but there is insufficient follow-up to reports, resulting in incomplete accountability. There are several salient issues raised in the AG's reports, including balances that could not be reconciled. There is an un-reconciled balance of K2.7 trillion with no explanation given. Second, there is an excess expenditure of K87 billion, which is unconstitutional and contrary to the Appropriation Act. Third, there is report of financial irregularities amounting to K318 billion. Fourth, there is misappropriation of funds meant for poverty reduction programs, community self-help, food security pack, street children, school health, and bursaries to orphans and vulnerable children programs. Other issues underscored in the reports are lack of capacity to collect revenue (tax arrears of K7.962 billion in December 2009 up from K4.179 billion at the end of December 2008), and under-expenditure of K2.361 trillion in 2009.





- 110.3.3 All the issues of misappropriations or misused funds highlighted in the reports are serious ones and imply that Zambians who are supposed to benefit from such resources do not do so. Instead, other persons and sectors end up benefiting, leaving the development challenges of the people unaddressed. An issue not effectively covered in the CSAR is the misappropriation of donor funds. This issue was also raised in the interactive sessions. The misappropriation of donor funds at the Ministry of Health in mid-2009 led to an extensive dialogue between the Government and the donor community. Nevertheless, follow-up and corrective actions are rare. An exception was the Auditor General's report on the 2006-2009 audits of the Road Development Agency (sent recently to the National Assembly) details the range of discrepancies from expected protocols. The government dissolved the Boards of the Road Development Agency and the National Road Fund Agency, and discussions are underway on how best to address the issues raised in the Auditor General's report.
- 110.3.4 The CRM was informed in the interactive sessions that, as a consequence of problems of financial accountability, some donors disburse funds to ministries rather than to the Ministry of Finance and National Planning, making it difficult for the latter to account for the disbursed funds. However, the CRM was informed that this problem has now been solved.

#### **110.4 Taxation of Mining Companies**

- 110.4.1 Non-state actors alleged that mining companies do not pay the taxes that are commensurate with their earnings yet they enjoy tax exemptions and tax holidays. However, the Governor of the Bank of Zambia stated in the media on Monday February 22, 2011 that "mining companies will soon start contributing more taxes to the Treasury because they were currently at different levels of development". In responding to journalists, the Governor disputed the assertions that Zambia is collecting as little as two per cent from the mining sector since the government, through Zambia Consolidated Copper Mines (ZCCM-IH), was a shareholder in most mines and benefited from super profits. According to the Governor, the government collected K1.6 trillion (about USD337 million) from mining companies in 2010, an improvement from the K4 billion (about USD850, 000) collected five years ago. Officials of the Ministry of Finance and National Planning informed the CRM that the Government may not be collecting much from these companies presently, but that starting from 2013, they will pay more taxes as they would have recouped their investments and the tax exemptions would have expired. The CRM was also informed that all the mining companies pay royalties. It is the company or profit tax which is currently not paid by all of them. However, there are mining companies that pay company tax.
- 110.4.2 The data provided by the ZRA indicate that in 2005 mining taxes as a percentage of GDP grew from 0.0 per cent in 2005 to 1.6 per cent in 2010. However, non-mineral taxes have grown from 8.2 per cent in 2005 to 9 per cent in 2010 (Table 2). The Government is optimistic that starting from 2013, it will start to collect more taxes from the mining companies.





110.4.3 Loss carryover of these companies is estimated to end in 2012. However, the CRM believes that for the government to effectively collect revenue from the mining companies, it must build high level auditing capacity. Monitoring the accounts of mining companies is a worldwide problem and is not confined to developing countries. Some of the companies may continue to report losses even after 2012. Monitoring their accounts requires technical competence in auditing such companies. Taxation of mining companies is problematic even in developed economies such as the USA. Mining companies employ mining accountants and these are professionals who have also worked in the government sector. .

110.4.4 The ZRA at present does not have a system for independently capturing metal products as a basis for determining taxes on mining companies (i.e., mineral royalty and variable tax). The ZRA appears to accept data provided by the mining companies without independent verification, meaning that the value of sales by the mining companies is not independently verified. However, the CRM was informed that a mining unit has been created at the ZRA and is already operational. Its main function is to audit the production and revenue figures of the mining companies. The unit also consults with the mining companies.

**Table 11: Revenue from Mining Sector (in billions of Kwacha)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Mining Tax	2.0	2.0	1.0	0.0	0.0	1.0	160.0	603.0	464.0	401.0	1244.5
% of Total tax	0.1	0.1	0.0	0.0	0.0	0.0	2.5	7.4	4.8	4.2	9.5
% of GDP	0.0	0.0	0.0	0.0	0.0	0.0	0.4	1.3	0.8	0.6	1.6
Total Revenue (K billions)	1739.5	2448.6	2848.8	3549.5	4554.3	5521.8	6329.6	8193.8	9665.8	9660.1	13124.0

Source ZRA

## 110.5 Domestic Resource Mobilisation

110.5.1 There is great need for Zambia to undertake serious domestic resource mobilisation (DMR) to reduce the country's dependence on foreign resources. In a broad sense, domestic resource mobilisation entails mobilising both human and financial resources. Both the public and the private sector have important roles to play in this. The public sector mobilises domestic resources through taxation and public revenue generation for investment in social services and infrastructure. In contrast, the private sector mobilises the savings of households and firms through financial intermediaries, which allocate resources for investment in productive activities. Accordingly, enhancing domestic resource mobilisation in poor countries such as Zambia entails deepening the fiscal capacity of the country and improving the social rate of return to public investments. It must also involve deepening financial markets to enable them to attract a growing portion of domestic savings and allocate them to economically productive activities.





110.5.2 In Zambia, as in most developing countries, the focus has been on domestic resource mobilisation by the public sector relative to the private sector. One way of promoting private sector investment is by making it easier for both small and big investors to have access to credit. If people can have access to credit, they can borrow and invest. Increase in investment implies increase in income and, consequently, increase in the tax base. In a nutshell, increased investment leads to increased tax collection.

110.5.3 However, access to credit was found to be a major problem in the provinces visited. In the interactions with stakeholders, the CRM was informed that commercial banks are not inclined towards rural financing. Furthermore, lack of credit is a major problem particularly inhibiting small entrepreneurs. The current savings deposit rate is 3.6 per cent, whereas the highest lending rate is 26 per cent, which implies a very wide interest rate spread of over 20 per cent. Although lending interest rates have substantially decreased, for all practical purposes they are still high (see Table 12).

**Table 12: Commercial Bank Deposit and Lending Rate, 2000-2008**

	Savings (Less than K100,000)	Savings (More than K100,000)	Weighted Lending Base Rate (%)	Lending Margin	2004
(6) - (4)	Lending rate	2.0	1.0	0.0	0.0
(%)	0.1	0.1	0.0	0.0	0.0
2000	10.2	11.5	39.1	8.8	47.9
2001	4.1	8.7	45.8	8.5	54.3
2002	4.5	8.1	45.3	7.8	53.1
2003	5.5	7.6	40.5	7.8	48.3
2004	3.6	5.6	30.9	7.3	38.2
2005	3.6	6.1	28.2	6.9	35.0
2006	3.6	6.1	23.2	6.2	29.4
2007	3.5	4.8	18.9	6.1	25.0
2008	3.5	4.8	19.1	6.1	25.2

Source: Bank of Zambia

110.5.4 There is need to reduce the spread in interest rate to enable people to save and have access to credit. However, this is very difficult to achieve in Zambia since the financial sector has been liberalised and so interest rates are market-determined. The Bank of Zambia cannot therefore intervene in the market to regulate interest rates. In the interactive session, it was noted that interest



rates are high because of the high risk in the loan market and the bad credit culture. Risk and bad credit culture are not the only causes of high interest rate, however. Other possible causes are high inflation and high Treasury bills rate. When the rate of inflation is high, banks will tend to raise the interest rates to make profits. Similarly when Treasury bills rates are high, the commercial banks will have no incentives to lend money to individuals since they can invest in Treasury bills which are low-risk investment.

- 110.5.5 The sectors which require access to credit are agriculture, small-scale mining, tourism, and retail. The most risky sector is agriculture since it is vulnerable to changing or unpredictable weather conditions. The next is tourism where there is segmentation with big players and small payers. The big players can access credit, which the small players have difficulty accessing. The retail sector also can hardly access credit easily. To deal with the risk and credit culture, the Government established the Credit Reference Bureau (CRB). The main function of the CRB is to act as referee between the potential borrower and the CRB but even the creation of the CRB may not have significant impact on access to credit.
- 110.5.6 Another initiative for promoting the private sector is the enactment of the Citizens Economic Empowerment Commission (CEEC). The CEEC is in place, is fully operational, and encompasses all sectors of the economy. A revolving fund has also been created within the CEEC. Zambians have benefited from this fund, particularly in agriculture. However, the effectiveness of the CEEC has not been felt in other sectors such as small-scale manufacturing and small-scale tourism.
- 110.5.7 The Government has also decided to play a more direct role in promoting small-scale manufacturing by reintroducing the pineapple processing factory that was abandoned as part of the shift to private sector driven economic development and establishing a mango processing plant. It is endeavouring to promote micro and small enterprises for which special policies and institutions have been established. However, the policy to promote micro, small and medium enterprises has not achieved much in terms of generating significant contribution to GDP. This is taken up in Section 4.3 of this Chapter.

## **110.6 Fiscal Decentralisation**

- 110.6.1 The CRM notes that Decentralisation as a policy is very good. However, implementation of the policy has faced a number of impediments. There is apparent reluctance on the side of the Central Government to share power with local councils. The Central Government has not effectively supported the policy. There were attempts to try to implement the policy when it was instituted. However, this was not possible because the local councils did not have qualified planners and accountants. At present, planners and accountants have been deployed to the councils but resources to support the policy have not been provided by the central government. Another problem is that the Government has centralised personnel instead of decentralising them. In addition, even plans for the councils are still designed or formulated by line ministries.





110.6.2 The CRM also noted that a lot has been done at the national or central level, but less at the provincial and district levels. The implementation plan has been put in place but its effective implementation has not occurred. Moreover, councils have not been restructured. In certain councils, even the manpower is not there! In a nutshell, there has been very little or no implementation of the decentralisation policy. Apart from this, many people in the country are not aware of the policy. The CRM also observed that there is lack of Government commitment to implementing the decentralisation policy. This is reflected in the efforts of the Government so far given the time since the policy was instituted.

## 111. Recommendations

The Panel recommends that Zambia:

- Institutionalise the MTEF process through budget legislation and strengthen the Integrated Financial Management and Information System (IFMIS) so that the public and the Government can have a complete picture of the country's financial statement.
- Continue to consolidate and improve the reforms introduced in the tax system and ensure that these reforms are implemented without delay.
- Improve the structure of tax administration and make it more efficient by recruiting and retaining competent and honest staff and improving working facilities.
- Increase efforts to improve small investors' access to credit by the Government working together with the BOZ and commercial banks.
- Widen the audit coverage in a given fiscal year by scaling up the funding of the office of the Auditor General.
- Accelerate the implementation of the Decentralisation Policy by sensitising the public on the legal administrative aspects of the centralised government, building capacity to implement the policy, and strengthening the councils by giving them authority to collect their own revenue, gradually reduce their dependence on the central government, and grant them autonomy in decision making.





## Objective 4: Fight Corruption and Money Laundering

### 112. Summary of the CSAR

#### 112.1 Corruption

- 112.1.1 The CSAR recognises that corruption is systemic in Zambia and that it has become one of the major governance and development concerns in both the public and private sectors, and in the society at large. According to the National Governance Baseline Survey (NGBS) conducted in 2004, corruption, both active and passive, is quite common in the public and private sectors. This is confirmed in the Anti-corruption Commission (ACC) end-of-year briefing (2008), which revealed that out of the 2,008 reports it received, 880 cases were categorised as corruption complaints. In addition, Transparency International Zambia's Bribe Payer's for 2007 and 2008 shows that corruption is still among the top-three concerns of the Zambian citizens.
- 112.1.2 The CSAR classifies corruption into three main types: petty corruption, which involves everyday corruption that occurs at the implementation end of politics when public officials meet with the general public for the provision of services; grand corruption commonly known as high level corruption which takes place at the policy formulation end of politics; and political corruption, considered to be any transaction between political actors through which public goods are converted into private gains and payoffs.
- 112.1.3 According to the CSAR, most Zambians believe that the factors contributing to the prevalence of corruption in the country include weak and ineffective systems of checks and balances, inefficiencies in law enforcement, weak and lack of independence of the judiciary, greed, lack of transparency in the political and administrative processes, low salaries, and poverty.
- 112.1.4 One of the ways through which public resources are lost is through government procurement of goods and services, particularly in the education, health and road sectors for which Government is the major buyer.
- 112.1.5 The CSAR indicates that Government efforts to fight corruption in Zambia began in 1980 with the enactment of the Corrupt Practices Act No. 14 of 1980, which was repealed by the Anti-Corruption Commission Act No. 42 of 1996 that widened and broadened the Anti-Corruption Commission mandate to include responsibility of corruption prevention, community education, and investigation and prosecution of corruption cases, and recommendation of administrative action against any person.<sup>2</sup> Other legislation has been to fight corruption are the Zambia Public Procurement Act; National Code of Conduct of Civil Servants; National Payment System Act; and Computer Crimes Act. Apart from the Anti-Corruption Commission, additional institutions in the fight against corruption are:

<sup>2</sup> See the Anti-corruption Act, 2010, Article 6 (1).







- The Office of the Auditor General (OAG);
- The Directorate of Public Prosecutions (DPP);
- The Public Accounts Committee (PAC) in the Parliament;
- The Zambia Public Procurement Authority (ZPPA); and
- The Zambia Police – Fraud Unit Department.

112.1.6 These are complemented by the National Capacity Building Program for Good Governance (NCBPGG) and the National Movement Against corruption (NMAC). The National Governance Baseline Survey of 2004 recommended that the Government should formulate a National Anti-corruption Policy as a framework for a more inclusive approach to the fight against corruption, using best practices contained in the international instruments that Zambia is a party to, such as the UN Convention against Corruption, the AU Convention on Preventing and Combating Corruption, and the SADC Protocol against Corruption.

112.1.7 Some CSOs function as corruption watchdogs monitoring, reporting and exposing corrupt practices. The non-state actors playing this role are private sector entities and their associations, faith-based organisations, and community-based organisations. Some of these also advocate the implementation of good governance practices in the management of public affairs, particularly the design and implementation of improved anti-corruption policies, laws and strategies. The non-state actors involved in the fight against corruption include:

- Transparency International Zambia's chapter (TIZ);
- The Integrity Foundation;
- The Forum for Democracy and Development (FODEP);
- The Catholic Commission for Justice, Development and Peace (CCJDP);
- The Law Association of Zambia;
- The Jesuit Centre for Theological Reflection (JCTR);
- The Economic Association of Zambia (EAZ);
- The Zambia Institute of Chartered Accountants (ZICA); and
- The Labour Unions.

112.1.8 In terms of cases of corruption assessed, the CSAR indicates that in 2009 2,073 cases were reported, of which 290 were authorised for investigations. Most of these were the result of violation of public procurement procedures that were referred and resolved in the courts of law. In 2009, for example, the following cases were resolved in the courts of law:

112.1.9 A former Zambia Air Force commander was convicted and sentenced to six years imprisonment with hard labour for abuse of office by awarding a business tender for cleaning services worth over K450 million to his company;

112.1.10 A former Lands Minister was convicted and jailed for four years for abusing the authority of his office by corruptly acquiring land at Mass Media without following laid down procedures;

112.1.11 A former Managing Director and an Accountant of ESCO were convicted and jailed for two years for theft of K350 million. A former Mkushi Council Secretary was jailed for two years for corruptly paying himself K12 million as a loan, illegal allocation of plots of land, and forgery; and,





- 112.1.12 A Senior Procurement Officer of the Ndola Provincial Administration was convicted and jailed for three years simple imprisonment for failing to declare a conflict of interest in the evaluation and award of tenders in the company where she had an interest as Director involving K92 million and K105 million.
- 112.1.13 The CSAR highlights a number of challenges that the country faces in the fight against corruption. These include i) definition and interpretation of corruption; ii) limited coverage of codes of conduct; iii) dilemma over corrupt decision-makers; iv) difficulties in measuring the magnitude and depth of corruption; and v) resistance by public servants to governance reform efforts. For example, whereas it is generally accepted that favouritism based on any other criteria than meritocracy or affirmative action policy constitutes bad governance, there are no specific laws or institutions to provide oversight in these grey, difficulties areas. There is no law or institution that handles complaints about tribalism, nepotism or racism where individuals in positions of authority trade-in favours and influence based on these practices that are officially defined as corruption.

## 112.2 Money Laundering

112.2.1 The CSAR reports that Zambia has committed to a number of agreements to combat corruption and money laundering, including the ratification of international instruments such as the UN Convention against Corruption (UNCAC) on 7 December 2007; the AU Convention on Preventing and Combating Corruption in 2007, and the SADC Protocol against Corruption in 2003. Other membership affiliations for Zambia include SARPCO, the Southern African Forum against Corruption, and Interpol. In addition, Zambia has signed, acceded to and ratified a number of UN and other international conventions and protocols related to curbing crime and money laundering. These include the following:

- The 1961 UN Convention on Narcotic Drugs (as amended by the 1972 Protocol);
- The UN Convention on Psychotropic Substances 1971 (as amended by the 1972 protocol);
- The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic substance;
- The Bangalore Principles of Judicial Conduct;
- The UN Convention against Transnational Organised Crime; and
- The UN Declaration against Corruption and Bribery in International Commercial Transactions.

112.2.2 In addition to the ratification of those conventions and protocols, Zambia is a member of the African Heads of Narcotics Law Enforcement Agencies (HONLEA) and is a founder member of ESAAMLG, which is a Financial Action Task Force (FATF) style regional body (FSRB), created in 1999 in Arusha, Tanzania, to take measures to combat money laundering.

112.2.3 The CSAR indicates that Zambia has made significant progress in combating money laundering and financing of terrorism. This is evidenced by the enactment of various legislations on money laundering, the financing of





terrorism, criminalising many predicate offences, and enhancing the integrity of the judicial system and law enforcement. Specifically, the Government has set the tone for the development of an anti-money laundering culture through enactment of the Narcotic Drugs and Psychotropic Substances Act, 1993; Prohibition and Prevention of Money Laundering Act, 2001; Anti-Terrorism Act, 2007; and making the Anti-Money Laundering Statutory Directives by the financial regulatory authorities to financial institutions in 2004.

112.2.4 Zambia has also addressed the issue of integrity in the judiciary and law enforcement agencies by establishing the following: the Office of the Investigator General (the Ombudsman) by Act No. 21 of 1991; the Judicial Code of Conduct Act No. 13 of 1999; the Police Public Complaints Authority by the Zambia Police Amendment Act No. 14 of 1999; the Judicial Complaints Authority by Act No. 13 of 2006; and Integrity Committees within the Judiciary and Law Enforcement Agencies pursuant to the National Corruption Prevention Policy. The government also adopted the Anti-Money Laundering and the Combating of Financing of Terrorism Country Strategy Paper for the period 2009-2011.

112.2.5 The institutional and administrative framework for combating money laundering includes:

- The Drug Enforcement Commission (established in 1989)
- The Anti-Money Laundering Authority (AMLA) (2001).
- The Independent Financial Intelligence Unit (FIU) in the Bank of Zambia (2009).

112.2.6 The CSAR acknowledges that the Government has made some progress in fighting money laundering. The Drug Enforcement Commission, for example, has investigated, prosecuted and convicted a number of money laundering cases from 2005 to 2010. Available statistics indicates that between 2004 and 2009, the number of prosecution cases dealt with increased from 18 in 2004 to 119 in 2007, while the number of investigated cases rose from 88 in 2003 to 192 in 2005. The number of convictions rose from 4 in 2004 to 16 in 2009. Prominent among the conviction cases in 2009 are the conviction of several civil servants from a Government Ministry for theft and money laundering and the conviction of a former Government Minister in 2006 for forgery, uttering false documents and theft.

112.2.7 Despite these achievements there are, however, some challenges. These are basically related to an inadequate implementation of legislation, including weak law enforcement and prosecution capacities. Another major challenge relates to the reliance of the AMLA on the Drug Enforcement Commission for funding measures against money laundering activities and on other law enforcement agencies for the secondment of staff, and the fact that the AMLA is overshadowed by its location in the Drug Enforcement Commission. Other challenges include:

- Criminalisation of money laundering, due to the narrow scope of the term;
- Low level of reporting of suspicious transactions;





- Lack of adequate confiscation of items seized and provisional measures;
- The cash-based economy;
- Absence of anti-money laundering regulation in key professions and businesses; and
- The prevalence of cross-border transportation of cash.

112.2.8 The CSAR concludes that government efforts to combat corruption are slowly yielding fruit. This is manifested in the TI's Corruption Perception Index (CPI) 2009, which awarded Zambia a score of 3.0 compared to a score of 2.8 in 2008. However, corruption still remains a major concern among the private and public sectors. In particular, administrative corruption continues to be common and it is a growing phenomenon in Zambia. This suggests that fighting corruption in Zambia still has a long way to go.

### **113. Findings of the CRM**

#### **113.1 Fighting Corruption**

113.1.1 Judging by the legal and institutional frameworks put in place by the Zambian Government over the years, the country is making efforts to combat corruption. Since attaining independence in 1964, for example, successive governments have instituted legal, institutional, economic, and social reforms, which largely aimed at enhancing good governance for improved public service delivery and contribution to economic and social development. The principal legislation providing for anti-corruption is the Anti-corruption Commission Act No. 42 of 1996. Zambia has an array of legal provisions and institutional frameworks that aid public officials in decision-making pertaining to public finance management, including procurement procedures. Despite these measures, the position of the country in terms of corruption has hardly improved.

113.1.2 Among the populace, for example, there is a general feeling that corruption is still a significant impediment to good governance and socio-economic development in Zambia. This was confirmed in the National Governance Baseline Survey (NGBS) Report of 2004, the National Anti-corruption Policy 2009, as well as in the National Anti-corruption Policy Implementation Plan 2010, among others. The people of Zambia are mindful of the fact that the prevalence of corruption in the country has negative effects on the nation's efforts to enhance socio-economic development, democracy and good governance.

113.1.3 Corruption in Zambia is mostly manifested through abuse of office and individuals diverting public resources for their selfish interests, and "status-seeking." Zambia is classified today as a Least Developed Country (LDC) and most citizens believe that corruption is a major factor that contributes to the country remaining an LDC. They argue that the pervasiveness of corruption, especially at a grand/plunder level, has a direct impact on public service delivery particularly to vulnerable groups and that it interferes with processes that are dependent on integrity, such as law enforcement and judicial independence and processes.

113.1.4 From an international point of view, and during the interaction with stakeholders, it became clear that while Zambia participates in some of the activities under the international instruments that highlight best practice





in preventing and combating corruption, the country has not been actively replicating them. Most aspects of international best practice as contained in the instruments the country has ratified and/or acceded to have not yet been domesticated in the Zambia's current legislation. As a result, Zambia's involvement in the international activities or arrangements that promotes the prevention and reduction of corruption remains low. Indeed, Zambia has yet to start preparing the reports required under these instruments, and the Ministry of Justice has yet to take effective and efficient actions to facilitate and coordinate the process of meeting international obligations, particularly with respect to the UNCAC.

- 113.1.5 In addition, the CRM noted that Zambia has made some efforts at tackling corruption by establishing national anti-corruption institutions and enacting laws to back them up . However, these institutions remain weak, poorly funded, and subject to Government's interference in their operations. In addition, Zambia still ranked as the 19<sup>th</sup> most corrupt country in the world on the Transparency International Corruption Perception Index (CPI) for 2009. According to other reports, corruption remains widespread and systemic in the country, with a growing tendency for officials to demand unofficial payments in return for services rendered (see the 2004 National Government Baseline Survey -NGBS).
- 113.1.6 The magnitude of the required anti-corruption drive is so great that it cannot be undertaken by a single actor, and the pervasiveness and endemic nature of corruption requires an all-embracing strategy to effectively deal with it. There is a growing acceptance that corruption, being a deeply ingrained societal vice, will need to be tackled by both state and non-state actors collectively. The CRM noted, however, that the fight against corruption in Zambia is still not seen as a task that demands the contribution and participation of all. Therefore, Government's efforts to fight corruption do not fully take account of the anti-corruption role of other actors such as CSOs, media and society at large at the local, national and sub-regional levels. .
- 113.1.7 Most citizens are of the opinion that the advent of new political leadership in 2002 brought about high-level political support for the fight against corruption. Indeed, the then Republican President Mwanawasa consistently expressed his support for the anti-corruption effort.. However, this support seems to have been discontinued or slowed down after the 2006 presidential and general Elections. In 2008, for example, the Index of Economic Freedom of Transparency International (TI) confirmed Zambia's poor performance in combating corruption, with a score of 26 per cent for freedom from corruption. In addition, it is widely alleged that the former Director-General of the Anti-Corruption Commission, Mr. Nixon Banda, was forced to retire because he tried to prosecute high-profile people.<sup>3</sup>
- 113.1.8 Furthermore, in almost all the interactive sessions, stakeholders spoke of inertia on the part of the Executive to follow up on obvious cases of corruption and/or abuse of office even after Parliament has made clear and concise recommendations (through the Public Accounts Committee) for individuals

<sup>3</sup> IRIN, Zambia: Anti-Corruption drive misses the point, 30 January 2007.





cited in the Auditor General's reports for corruption in public finance management to be prosecuted. This has been a major challenge to the overall anti-corruption system in the country, which is still under public pressure to show more vigorous political will to prosecute high profile cases of corruption and adopt policies that will ensure anti-corruption bodies function effectively and independently.

- 113.1.9 During the stakeholder consultations, non-state representatives indicated that many Zambians tolerate corruption because it has become an element of doing business and accessing services. It is also believed that the prevalence of corruption in the country is mainly due to the fact that "decision-makers who are supposed to facilitate the implementation of anti-corruption measures are sometimes the same people who engage in corruption activities." This is further confirmed in the ACC Annual Report of 2008 which indicates that "between 60 and 70 per cent of reported complaints were against government officials, while only about 20 per cent were against officials in the private sector." Based on these considerations, the citizenry is consistently calling for a more effective and independent body to lead the fight against corruption in Zambia.
- 113.1.10 Most of the people consulted during the mission indicated that a weak legal system is failing to curb financial misconduct by top government officials. Thus, long delays and drawn-out prosecutions of high profile cases have made a number of people to question the seriousness of the government's "zero tolerance" against corruption. The acquittal in August 2009 of former Republican President Chiluba on charges of theft after a seven-year long landmark case and the Zambian government's refusal to appeal were frequently cited as a clear example that corruption is condoned.
- 113.1.11 It is further noted that the culture of impunity with respect to high profile corruption cases explains the recurrence of corrupt practices in Zambia. During discussions with different stakeholders, it became apparent that constitutional provisions for protection from discrimination<sup>4</sup> and equality of citizens before the law are not respected when it comes to corruption crimes. As a result, the people have little confidence in the integrity and impartiality of the public administration, including the judiciary, law enforcement and anti-corruption institutions.
- 113.1.12 In addition, Government efforts to fight corruption in Zambia are severely hampered by the lack of verification or monitoring mechanisms, the difficulties associated with gaining public access to asset-related information and the general lack of access to information about government officials and spending policies. Thus, while the Government has considered a Freedom of Information (FOI) Bill and placed it before Parliament since late 2006, the CRM has yet to find evidence of progress made since 2006 towards securing the right of the public to access information.
- 113.1.13 The CRM noted that in Zambia there is no clear separation of powers between the executive and the judiciary. This is confirmed by the fact that the Vice-President of the Republic is at the same time the Minister of Justice. One of the direct and critical consequences of this is that the Judiciary does not

<sup>4</sup> Constitution of the Republic of Zambia as amended by Act No.: 18 of 1996, Article 23 (2).





enjoy real independence and its ability to fight corruption is not only weak but compromised. As a result, most grand corruption cases involving high government officials usually end up without convictions.

- 113.1.14 Some regulatory institutions, such as the Judicial Complaints Authority, the Legal Aid Court, and the Office of the Auditor General, are facing difficulties to provide oversight on the conduct of public officials. These institutions do make recommendations to appropriate authorities, who should take action within thirty days, but there is no clear information available indicating what these regulatory institutions can do to enforce compliance with their recommendations or what they can do if the authorities fail to act on their recommendations. For example, in 2009, the ACC received a total of 2,073 reports on corruption cases out of which only 290 were authorised for investigations.
- 113.1.15 Furthermore, the CRM noted that despite the existence of asset declaration, the coverage of this requirement is still very limited. The Parliamentary and Ministerial (Code of Conduct) Act, for instance, is applicable only to 150 (out of the 150,000) people employed in the public service in Zambia, while this requirement should cover all public officials and employees, (except those who serve in an official honorary capacity, without service credit or pay, temporary labourers, and casual or temporary and contractual workers) and their spouses and dependent children.
- 113.1.16 There are no appropriate verification mechanisms for the information provided by officials covered by the asset declaration requirement, through which the Auditor General (or other competent authority) could verify the information as a true account or request the concerned public officer to rectify a defect on the forms and resubmit them. In addition, without public access or oversight, or fair and effective enforcement, the declaration of assets is likely to have limited impact. Who monitors disclosure and how the information gained is kept and communicated are also crucial to ensure robust accountability of an official's interests and professional actions. Thus, while appreciating the initiative, another major challenge to the effectiveness of this Act is the total absence of clarity of the entity responsible for enforcement and penalties in case of non-compliance. For example, the Act lacks adequate monitoring and evaluation mechanisms to monitor and evaluate the assets of affected officials during and after public office. In addition, the assets declaration should establish benchmarks against which to measure illicit enrichment by public officials. This situation defeats the whole purpose of the Act, which is intended to ascertain whether those individuals acquired illegally any wealth beyond their known sources of income. Similarly, the definition of what constitutes misconduct as well as the definition of public officer is also very limited.
- 113.1.17 The ACC Strategic Plan 2004-2008 provided for the development of a national anti-corruption policy. Consequently, a national anti-corruption policy framework has been developed and a National Anti-Corruption Policy is in place. However, during the discussions with stakeholders, it became apparent that while the policy has enjoyed broad support from the public, including the private sector, through wide consultation in all nine provinces, some key groups (i.e. Permanent Secretaries and political parties) whose support is needed for successful implementation were not fully involved in the policy design. This situation might undermine the successful implementation of the policy.





- 113.1.18 Some of the other weaknesses that continue to affect the operations of the ACC include: inadequate legal provisions, particularly the realignment of national laws with the provisions of the international conventions and protocols on corruption, and access to technological capabilities to enable the ACC to fully use ICT facilities in both the public and private sectors.
- 113.1.19 The private sector is not immune to corruption. The drive by private companies to maximise benefits often influences a company's interactions with the government and other companies. In Zambia, like in many other African countries, corruption flourishes in the private sector in several forms: bribing public officials to register firms or to influence contracts from the state; including public officials as board members in private firms in the hope that they will influence government actions and policies in favour of these companies; colluding with government officials to evade or underpay taxes; and committing outright fraud. During the stakeholder discussions, most people confirmed that low pay in the public sector in Zambia<sup>5</sup> exposes public servants to such corrupt acts. Similarly, private sector corruption makes it difficult for the Government to enforce contract laws and compromises corporate integrity.
- 113.1.20 In conclusion, corruption permeates all sections of Zambian society, including government officers, political officials, business people, etc. The general perception of the people is that nearly all government institutions in Zambia are corrupt to varying degrees and that the non-state institutions and the private sector are not insulated from the problem. In Zambia, corruption remains one of the most important challenges to poverty reduction, creation of a more stable, predictable and favourable investment climate, and sustainable socio-economic development. It continues to deepen poverty and impede reaching the Millennium Development Goals. Corruption was therefore considered a major challenge for Zambia's governance and development.

## **113.2. Money Laundering**

- 113.2.1 Apart from acknowledgement from official and non-state actors that money laundering exists, the CRM could not establish concrete manifestations of the practice, due to the fact that it is often difficult to discover. Money laundering, in Zambia as in many other countries, is closely linked to economic crimes, such as fraud, bribery, corruption, exchange control violations and tax evasion, and even to international terrorism. As an activity located within the economic environment, money laundering often has to use mechanisms that are intended to serve the lawful economy.
- 113.2.2 In the area of money laundering and tax evasion, although the CSAR does not refer to any specific cases of considerable magnitude, the Government is however aware of the problem and measures have been taken to fight the phenomenon. The Drug Enforcement Commission (DEC), for example, is the lead institution in the fight against money laundering. According to the DEC, the country has recorded a sharp rise in drug trafficking and abuse with about 4,500 arrests on money laundering activities involving USD21.4 million in 2010, and the Commission seized about USD293 thousand worth of counterfeit US dollar notes.

<sup>5</sup> In January 2011, the Zambian government revised the minimum wage by 56 per cent from K268, 800 to K419, 000 (approximately USD90) per month. When allowances are added, the monthly minimum wage becomes to K767, 100, up from K499, 000. The minimum wage and conditions of employment statutory instruments were last revised in 2006 (see JCTR Press release, 5 February 2011).







- 113.2.3 Measures to combat money laundering include mainly the domestication of Articles 14 and 23 of the UN Convention through the Prohibition and Prevention of Money Laundering Act No. 14, 2001, complemented by the Bank of Zambia's Anti-money Laundering Directives of 2004. However, for the DEC to be more effective, strong political will and leadership is needed in order for it to fight effectively against money laundering.

#### 114. Recommendations

The APR Panel recommends that:

- Zambia should review several statutes to ensure that they conform to international standards and best practices. Among these are The Prohibition and Prevention of Money laundering Act (PPMLA), The Banking and Financial Services Act, and the Anti-Terrorism Act.
- The Anti-Corruption Commission and the Auditor General's Office should be equipped with adequate human and financial resources and full institutional and administrative autonomy so that they can perform their functions more efficiently. Authority for the appointment and removal of the head of either institution should be removed from the President and granted to an independent (constitutional) body.
- Government should make deliberate efforts to treat the recommendations of the ACC and the Auditor-General institutions as having the force of High Court judgment.
- The role of Parliament in addressing problems of corruption be enhanced by setting up a select parliamentary committee to follow up on the implementation of the recommendations made by the ACC and the Auditor General.
- Public procurement activities be decentralised according to the provisions of the Public Procurement Authority Act (2008).
- Asset, liability and income declaration requirements should be extended to include all categories of public servants, with appropriate mechanisms set up for periodic monitoring and verification before and after public functions leave office. Similarly, the Codes of Conduct and Asset declaration acts should have provisions for sanctions for non-compliance with the standards set out.
- Provide adequate protection to whistleblowers, including establishing/ opening internet and/or e-mail lines to report cases of corruption.
- Adopt a robust freedom of information (FOI) legislation to enable citizens to have access to relevant information regarding government activities, particularly those related to provision of public services and public financial management.





- Civil society organisations and the Government should intensify awareness campaigns on Anti-money Laundering and Combating of Financing of Terrorism (AML/CFT) issues.
- The Bank of Zambia should encourage the financial sector to introduce electronic-based payment systems, including the use of credit cards, to reduce the incidence of money laundering.

**Objective 5: Accelerating Regional Integration by Participating in the Harmonisation of Monetary, Trade and Investment Policies**

**115. Summary of the CSAR**

- 115.1 Zambia joined the Southern African Development Community (SADC) in August 1992 and the Common Market for Eastern and Southern Africa (COMESA) in November 1993. Since then, both regional economic communities (RECs) have been making major strides in moving towards greater harmonisation in trade and investment policies, basically through lowering or removing trade and investment barriers. SADC launched its Free Trade Area (FTA) in 2008 and is hoping to become a Customs Union soon (although later than the 2010 originally scheduled). COMESA became an FTA in 2000 and formally became a Customs Union on 8th June 2009.
- 115.2 Trade expansion has been the major benefit for Zambia's membership of SADC, which accounts for about 60 per cent of Zambia's imports. Zambia also exports to other SADC countries commodities like cement, copper cables, agro-processed and agro-ground food, sugar, tobacco, cotton, base metals and cereals. South Africa is Zambia's major trading partner. Intra-COMESA trade has also expanded rapidly since the FTA, more than doubling within the first seven years, and Zambia has benefited immensely from this trade as well.
- 115.3 The CSAR draws particular attention to the benefits derived by Zambia from the COMESA PTA Bank. COMESA was originally formed in 1981 as the Preferential Trading Area for Eastern and Southern Africa (PTA). According to the CSAR, the Zambian private sector has managed to access substantial funds from the PTA Bank to undertake various projects.
- 115.4 Another major benefit from regional integration for Zambia has been infrastructure development, which among other things has facilitated the expansion of trade among the countries. The main initiative, the North-South Corridor Programme, is aimed at reducing the costs of cross-border trade. Among other things, the Programme facilitates regional projects covering roads, railway, border facilities, weigh bridges, and energy generation. The East African Community (EAC) also participates in the programme, which is an element of the SADC-EAC-COMESA Tripartite Framework initiated in 2001 to facilitate harmonisation of policies among the three regional groupings. Indeed, policy harmonisation is now being pursued in the context of this North-South Corridor Programme. Planned are projects like harmonisation of customs procedures, information technology systems and electronic customs management systems, as well as harmonisation of various regulations and charges related to road transportation. Another initiative under this Programme is the One Stop Border Post (OSBP), the first of which was established on 5 December 2009.





- 115.5 COMESA has been aggressive in trying to attract foreign direct investment. In fact, it has created the COMESA Regional Investment Agency to facilitate cooperation and harmonisation in attracting foreign investment. Zambia is hopeful that this initiative would enhance the success of its own policies to attract foreign investment and develop the private sector.
- 115.6 The CSAR notes that Zambia's membership in both COMESA and SADC has cost implications and poses challenges for the country, including possible policy conflicts, budgetary costs of dual membership, and the time spent by public officials in attending meetings. As regards the comparative advantages of the two groupings for Zambia, in terms of tariff preferences and rules of origin restrictiveness, the CSAR states that COMESA is less restrictive than SADC but trade complementarities seems higher with SADC, although the trade balance is skewed in favour of South Africa.
- 115.7 The CSAR points out many challenges faced in boosting intra-regional trade and investment in the African RECs. On the trade side, these include homogeneity of products traded by the countries; a tendency to favour exports destined for outside the region; having to trade in foreign (convertible) currencies; poor trade-related infrastructure; and inadequate export finance. As regards investment, the challenges include inadequate investment capital; prohibitive lending rates of banks; and poor infrastructure.
- 115.8 Zambia is of the view that diversification of exports and private sector development benefit from regional integration. In the late 1990s, Zambia undertook a Diagnostic Trade Integration Study (DTIS) in an attempt to incorporate the trade agenda into its broader development agenda. The CSAR noted that among other things, the DTIS identified the main constraints to increasing exports and developed an action plan to address the constraints. The DTIS argued that given macro stability, the expansion of non-traditional exports and private sector development were the two important pillars for increasing economic growth in Zambia. In this light, the DTIS advocated measures including providing appropriate incentives to exporters; improving trade facilitation, and enhancing capacities to formulate, coordinate and implement trade policy and negotiate trade agreements. Apart from proposing the establishment of a trade policy analysis unit in the Ministry of Commerce, Trade and Industry, the study supported the establishment of the Zambian Institute for Policy Analysis and Research (ZIPAR) which has been implemented.
- 115.9 In 2006, Zambia embarked on a Private Sector Development Reform Programme (PSDRP), whose objective was to reduce the cost of doing business and encourage competitiveness in the private sector. The PSDRP is now in its second phase (2009-2013) and aims especially at increasing business access to markets and finance and reducing the cost of doing business in Zambia. The CSAR claims that many reforms in the business environment are attributable to the PSDRP, such as the establishment of the Zambia Development Agency (ZDA), the Citizens' Empowerment Commission, the Small Claims Court in Ndola and Lusaka; approval of an ICT policy and the MSME Policy; enactment of the Tourism and Hospitality Act and the Zambia Tourist Board Act; and reduction in days taken to register a business, obtain a visa or employment





permit, and in the number of days required to export or import goods. Several other measures (relating to litigation, patents, and property rights) are also designed to reduce the costs of doing business in Zambia and were inspired by the PSDRP.

- 115.10 Zambia has been prompt in its implementation of regional integration decisions, according to the CSAR. But the country has been less timely in making subscriptions to regional bodies. Zambia is also taking steps to build its capacity to be effective in regional and multilateral trade negotiations, including taking advantage of capacity building initiatives offered by donors such as the European Commission.

## **116. Findings of the CRM**

- 116.1 Although COMESA became a Customs Union on 8th June 2009, there are still issues to be worked out for the Customs Union to become a reality, including adoption of a common external tariff and the sensitive list (to be excluded from tax exemption). Also, countries such as the Democratic Republic of Congo (DRC) and Angola are not implementing the FTA, yet the DRC is one of the biggest markets for Zambia in COMESA. In addition, the DRC imports from South Africa under a bilateral FTA. Many Zambians wonder whether they are having a good deal in SADC, in light of the large trade imbalance with South Africa especially, given the bilateral FTA between South Africa and the DRC, which they believe is harmful to Zambia's exports.

- 116.2 Despite some of these troublesome issues, Zambia is an enthusiastic supporter of economic integration and of both SADC and COMESA. Zambia hosts COMESA and was important in the formation of SADC. Thus, politically, Zambia is committed to both integration efforts and Zambian stakeholders of all persuasion are unwilling to open a debate about which one to choose in the interest of rationalisation and avoiding the costs of multiple membership. There is widespread knowledge of the integration initiatives of Zambia, which is most likely related to the fact that Zambia is surrounded and bordered by eight other countries. There is even a COMESA Market in Lusaka. For all these reasons, the authorities do not appear to feel any urgency to have continuous active sensitisation about the work and aspirations of COMESA or SADC.

- 116.3 Zambia's enthusiasm for regional integration is, no doubt, also related to the fact that it is landlocked. It is also fortunate to have a history of excellent ties with its neighbours in both regional economic communities. Still, despite the official intention to achieve monetary union in SADC, including a SADC central bank by 2016, it is hard to find a Zambian who believes that this calendar is likely to be realised.

- 116.4 There is much disagreement among Zambian stakeholders as to whether the DTIS initiatives will yield major results in the near future. The nature of the debate is the same as that over the likelihood of realising *Vision 2030*, since once again it is all about the reality of expecting substantial private sector development and export diversification in the near future. Still, all stakeholders agree that the policy contents in the DTIS and the PSDRP are appropriate and should be supported by Zambians.





## 117. Recommendations

The APR recommends that Zambia:

- Consider re-assessing its dual membership of COMESA and SADC in view of the need to harmonise macroeconomic policies that could maximise the benefits of regional integration for Zambia.
- Initiate a discussion within SADC and COMESA to encourage a shift in emphasis from primarily trade integration to market integration, especially labour mobility, but also including the integration of physical infrastructure, financial markets, capital markets, commodity markets, and standards and codes for regulating markets.
- Develop a comprehensive implementation strategy to ensure that the Diagnostic Trade Integration Study and Private Sector Development Reform Programme make effective contributions to export diversification and private sector development.





## CHAPTER FIVE

# CORPORATE GOVERNANCE

### 118. Overview

- 118.1 The APRM Base Document describes corporate governance as a system whereby corporations are directed, controlled and held accountable, and which embraces all forms of enterprises in the private and public sector. Good corporate governance has seven distinguishing characteristics: discipline, transparency, independence, accountability, fairness, responsibility to stakeholders, and, corporate social responsibility.
- 118.2 The concept of corporate governance is relatively new in Zambia, but there is keen interest in good corporate governance in both public and private enterprises. Zambia has ratified the African Charter on Human and People's Rights (on 10 January 1984), and its principles have been enshrined in the Constitution of Zambia. The country has also ratified 39 Labour Codes of the International Labour Organisation (ILO). In addition to these are other international treaties relating to human rights, financial sector supervision, labour and environment; the Organisation for Economic Corporation and Development (OECD) principles and Commonwealth Corporate Governance principles have influenced the general legal and policy regulatory framework.
- 118.3 Zambia has adopted the International Accounting Standards (IAS), International Standards on Auditing (ISA), Core Principles of Effective Banking Supervision which are being used by the Bank of Zambia, Core Principles for Securities and Insurance Supervision and Regulation, which are being utilised by the Securities and Exchange Commission and the Pension and Insurance Authority. The country has also adopted the NEPAD Framework Document. Additionally, in the area of finance, Zambia has adopted and is applying the International Financial Reporting Standards. In the environment sector, the country has adopted and is applying the Codes on Industrial and Environmental Safety.
- 118.4 In addition to the international treaties relating to human rights, financial sector supervision, labour and the environment, the Organisation for Economic Corporation and Development (OECD) and Commonwealth corporate governance principles have informed the general legal and policy regulatory framework. Zambia has adopted the International Accounting Standards (IAS), International Standards on Auditing (ISA), Core Principles of Effective Banking Supervision, which are being used by the Bank of Zambia, and Core Principles for Securities and Insurance Supervision and Regulation, which are being utilised by the Securities and Exchange Commission and the Pension and Insurance Authority. The country has also adopted the NEPAD Framework Document. Additionally, in the area of finance, Zambia has adopted and is applying the International Financial Reporting Standards. In the environment sector, the country has adopted and is applying the Codes on Industrial and Environmental Safety and Hygiene of the World Health Organisation.





- 118.5 The adoption of the above codes and standards has been a positive development in the Zambian enterprises and the country's sustainable growth over the past years is attributable to its growing and vibrant private sector. However, compliance with both international standards and national legislation is generally low. This is partly due to lack of capacity in the institutions responsible for ensuring compliance. Additionally, there is a need to update the legislation governing corporate behaviour to bring them in line with the liberalised economy and tenets of good corporate governance. Updating of legislation is currently taking place, the Anti-Corruption Act, for example, has been revised, and labour laws are being revised.
- 118.6 Zambia has a reasonably adequate legal, regulatory and institutional framework which, if judiciously implemented, would ensure good corporate governance in the public and private sectors. The Government of Zambia has established a wide range of supervisory and regulatory bodies to oversee the application and enforcement of established laws and regulations. For example, statutory bodies, such as the Institute of Directors, have been active in promoting enhanced business and corporate practices among their members and stakeholders. However, apart from the Bank of Zambia, the critical shortages of human and technical and financial resources within these institutions and weak enforcement capacity have hindered their effectiveness.
- 118.7 The Government however, has put in place processes and measures to ease the set up and conduct of business. To create an enabling business environment for private sector led investment, the Government has initiated reforms such as creating the one-stop shop which has been reorganised through a process reengineering and computerisation. Similarly, the operation of the Zambia Revenue Authority was improved by creating a customer service centre. Zambia has also eased the process of setting up a business by eliminating the minimum capital requirement.
- 118.8 In spite of considerable progress, the Zambian economy still faces many corporate governance challenges, such as: (a) non-implementation of international and regional standards and codes; (b) non-compliance with the requirements of financial transparency; (c) low implementation of accounting and auditing standards; (d) disrespect for human (workers') employment rights; (e) low level of corporate social responsibility; (f) low levels of consumer protection; (g) violation of environment and natural resource protection regulations; and (h) discriminatory contracting.
- 118.9 Corporations need to strengthen their business practices and adopt codes of good business ethics. The government also needs to enhance the governance of state-owned enterprises to improve performance, accountability and public service delivery. Institutions such as the Institute of Directors and private sector organisations will be instrumental in building capacity at leadership, director and managerial levels. They will also play a key role in disseminating best practices among all businesses.
- 118.10 Lastly, to improve accountability of corporations, directors and management, a number of institutions have been created, such as the Institute of Directors., These institutions and structures, however, need facilitation to train their members and increase public awareness on good governance.





## **119. Standards and Codes**

### **119.1 Summary of the CSAR**

119.1.1 Zambia has signed, ratified and adopted a number of international standards and codes so as to promote good corporate governance in respect of both substantive and procedural issues. The Country Self-Assessment Report (CSAR) contains an elaborate assessment of measures taken by government to sign, ratify, comply with and domesticate the following international standards and codes in the corporate governance thematic area of the African Peer Review Mechanism (APRM) process. Some of the international standards and codes ratified are the following:

- New Partnership for Africa's Development Framework Document adopted in 2001;
- Principles of Corporate Governance of the OECD and the Commonwealth;
- International Accounting Standards;
- International Standards on Auditing;
- Core Principles of Effective Banking Supervision;
- Core Principles for Securities and Insurance Supervision and Regulation
- African Charter on Humana and People's Rights, ratified in 1984 by Zambia;
- Thirty Nine (39) Labour Codes of the International Labour Organisation (ILO);
- Codes on Industrial and Environmental Safety and Hygiene of the World Health Organisation
- International Financial Reporting Standards

119.1.2 The CSAR states that Zambia adopted the African Charter on Human and People's Rights in 1984, as well as the labour codes of the ILO and the Codes on Industrial and Environmental Safety and Hygiene of the WHO in 1964. The CSAR underlines the fact that the codes and principles relating to accounting, auditing, effective banking, financial reporting and the OECD and Commonwealth principles of corporate governance are fully complied with while the others are partially complied with.

119.1.3 In addition to this, there are also a large number of local legislative, policy and institutional framework to promote corporate governance in both the public and private sector. The CSAR points out that the relevant government organisations have not kept a proper record of dates of ratification of the above standards and codes. In the same vein, there is no follow-up mechanism dedicated to ensuring the ratification of, and compliance with, international stands and codes. The CSAR argues further that Zambia has an adequate legal, regulatory and institutional framework which, if well implemented, will promote good corporate governance in all sectors of the economy.

119.1.4 However, the CSAR is of the opinion that compliance with both international standards and codes and local legislation is low. This is attributed to weak capacity of the institutions responsible for ensuring compliance and also due to lack of full appreciation of these instruments among all the players. Another factor is the poor service delivery of the civil service who are expected to monitor compliance.







119.1.5 According to CSAR, the Zambian Government has taken some measures to overcome the above challenges or problems. It has set about updating many of the laws governing corporate behaviour to bring them in conformity with the liberalised economy and the rules of good corporate governance.

## 120. Findings of CRM

120.1 The CRM found that, since the CSAR was prepared, more instruments have been enacted during the 2009-2010 period to implement some of the standards and codes and to drive corporate governance initiatives. Below is a list of Acts adopted in 2009 and 2010 through the private sector development reform programme. This was after the preparation of the CSAR.

**Table 13: Private Sector Development Acts Enacted in 2009 and 2010**

Public Private Partnership (PPP) Act, No 14 of 2009
Postal Services Act, 2009
Electronic Communication Transaction Act, 2009
The Information and Communications Technology (ICT) Act, No. 15 of 2009
The Zambia Development Agency (Amendment) Act, No. 1 of 2010
The Trademarks (Amendment) Act, No. 2 of 2010
The Zambia National Broadcasting Corporation (Amendment) Act, No. 16 of 2010
The Competition and Consumer Protection Act, No. 24 of 2010
The Registration of Business Names (Amendment) Act, No. 7 of 2010
The Registered Designs (Amendment) Act, No. 8 of 2010
The Dairy Produce Board (Establishment) (Repeal) Act, No. 9 of 2010
The Dairy Produce Marketing Levy (Repeal) Act, No. 10 of 2010
The Companies (Amendment) Act, No. 12 of 2010
The Engineering Institution of Zambia Act, No. 17 of 2010
The Patents and Companies Registration Agency Act, No. 14 of 2010
The Companies (Certificates Validation) (Amendment) Act, No. 21 of 2010
The Dairy Industry Development Act, No. 22 of 2010
The Immigration and Deportation Act, No. 18 of 2010
The Independent Broadcasting Authority (Amendment) Act, No.16 of 2010
The Animal Health Act, No. 27 of 2010
The Animal Identification Act, No. 28 of 2010





The Cattle Cleansing (Repeal) Act, No. 29 of 2010
The Tsetse Control (Repeal) Act, No. 30 of 2010
The Cattle Slaughter Control (Repeal) Act, No. 31 of 2010
The Agriculture (Fertilisers and Feed) (Amendment) Act, No. 32 of 2010
The Agricultural Credit Bill, 2010
The Citizens Economic Empowerment (Amendment) Bill, 2010
The Customs and Excise (Amendment) Bill, 2010

- 120.2 The CRM observed that although the above standards and codes have been ratified many Zambians are not aware of this and so could not give valid information on their domestication. In fact, there seems to be lack of awareness among the public about standards and codes.
- 120.3 In respect of labour issues, Zambia has not performed well in the implementation of ILO labour standards. For example, many of the employees informed the CRM that there are many cases of unfair dismissal and unfair labour practice in the workplace environment. In the mining sectors, employees are not treated with human dignity in accordance with ILO standards. There was a recent case where an employee was killed by a Chinese simply because the Zambian employee was demanding his right in the work place environment. Unfortunately, the CSAR did not report on the domestication process of ILO Labour standards and about this particular incident.
- 120.4 The present Factory Act does not protect workers in respect of ILO standards. Employees still work in the factories without being given the necessary and protective tools. This is very common in the mining and chemical industry where employees still work with some hazardous substances without any protective tools needed to handle dangerous substances or chemicals. Employees have very limited avenues to seek redress in cases of unfair labour practice but also expensive in the Industrial Relations Court.
- 120.5 In respect of the agricultural sector, there is still an element of child labour. Those children who ought to be in school or learning trades are forced by their parents to go to farm.
- 120.6 The issue of environmental pollution has not been given the serious attention that it deserves in terms of ILO standards. In both the urban and rural areas, pollution is going on at a fast rate. Although the Zambia government had established an environmental council, the public is yet to see its effectiveness in controlling pollution on a large scale.





## 121. Recommendations

The APR Panel recommends that Zambia:

- Publish and disseminate the adopted standards and codes at the national, provincial, and district levels. It is also advisable for the government to publish the standards and codes in the local languages of the people. Of course, they should also be included in the school curriculum, if possible.
- Establish a special government institution to monitor compliance with the standards and code in all organisations.
- Give national awards to organisations in both public and private sectors who fully implemented the standards and code.
- Apply serious sanctions against institutions and individuals who intentionally refuse to implement the standards and codes.

### Objective 1: Promoting an Enabling Environment and Effective Regulatory Framework for Economic Activities

## 122. Summary of the CSAR

122.1 According to the CSAR, good corporate governance has eight distinguishing characteristics or principles: discipline, transparency, independence, accountability, integrity, fairness, social responsibility, accountability, efficiency and effectiveness. These principles are prerequisites for the integrity and credibility of market institutions. Therefore, in the Zambian context, corporate governance will be understood to refer to the system and practices through which an organisation directs and controls itself and the people associated with it, i.e. a system by which corporations are directed and controlled, and held accountable.

122.2 The CSAR reveals that a company may be established as a private company limited by shares. However, to become a public limited company, a company must register its shares with the Securities and Exchange Commission (SEC) before it can be listed on the Lusaka Stock Exchange. The CSAR also states that before a company can apply for listing, it must first apply to the SEC for the registration of its securities under Section 32 of the Securities Act. In doing so, it is required to file a registration statement that complies with Part II of the Registration Rules 1993 (S no. 164). The registration statement is a disclosure document that must disclose various information, including the following: details of the issuer's (company applying) professional advisors such as bankers, lawyers and auditors. In the case of public offers, a prospectus must be prepared and filed. In support of the registration statement, certified copies of the following documents must be submitted: copies of certificate of incorporation and annual return for the past three years. Details of any other important corporate actions including amalgamations, alteration of capital and alteration of the company's articles must also be disclosed.





- 122.3 The Securities and Exchange Commission, established as a statutory body pursuant to Section 3 Cap 354 of the Law of Zambia, is responsible for the regulation and supervision of securities and capital markets in Zambia. Securities and capital markets, a subsector of the Zambian financial services sector, is largely a platform for the sourcing of long term finance.
- 122.4 According to the CSAR, there are fifteen commercial banks (at the time of preparation of the report). The role of the commercial banks in the economy include: (a) resource allocation from surplus units (savers) to deficit units (borrowers) as intermediaries; (b) conduit for government monetary policy; (c) payment system providers; (d) asset management; (e) maturity transformation of short term deposit into long term loans; (f) foreign exchange trading; and (g) diversification of risks.
- 122.5 The CSAR describes the role of non-bank financial institutions as follows: (i) they occupy a central place in the payment mechanism for households, government and businesses; (ii) they accept deposits, which is expected to be paid in full, either on demand or at their due term and constitute part of the society's financial assets; (iii) they play a major role in the allocation of financial resources, intermediating between depositors of surplus funds and would-be-borrowers on the basis of active judgment as to the latter's ability to buy; and (iv) they play a role in foreign exchange trading.
- 122.6 The CSAR identified the key financial institutions that support businesses in Zambia as: (i) the commercial banks; (ii) building societies; (iii) Government agencies: Zambia Development Agency, Securities and Exchange Commission; Citizens Empowerment Commission, Zambia Competition Commission and Zambia Communications Authority; (iv) Collective Investment Schemes: ABC Unit Trust, ECR Unit Trust, JM Busha Unit trusts and Cavmont Investment Portfolio. (v) Lusaka Stock Exchange and (vi) Broking firms.
- 122.7 The CSAR also reveals that pension funds and insurance companies play a major role in the economy. Pension funds are savings that are set aside to be accessed at retirement. The savings are supposed to give a stream of income after retirement. The role of the insurance corporations is to compensate business entities and individuals that suffer loss due to unforeseen circumstances. They ensure that once the compensation is paid, the entities continue conducting their businesses. Both insurance companies and pension funds act as institutional investors which provide surplus funds for investment in the economy. By so doing, they contribute to the provision of employment and the growth of the economy.
- 122.8 On the *legal and regulatory framework* governing business enterprises in Zambia, the CSAR provides a list of acts: Industrial and Labour Act, 1993, 1997 (amended); Employment Act, 1997; Human Resources Management Act; Minimum Wages and Conditions of Employment Act; Workers Compensation Act; National Pension Scheme Authority Act; Companies Act; Factories Act; Taxation Act; Bankruptcy Act, Insolvency Act; Environmental Protection and Pollution Control Act, 1990 and; Income Tax Act. *The acts on financial and banking institutions* include: Banking and Financial Services Act 2005; Insurance





Act 1997; Pension Scheme Act; Zambia Institute of Chartered Accountants Act; Accountants Act 2008; Public Finance Act 2004; Development Bank of Zambia Act; Prohibition and Prevention and Money Laundering Act 2001 and National Payment Systems Act.

- 122.9 The CSAR notes that, currently, monitoring and supervision of commercial enterprises in Zambia by relevant government agencies is weak. Once a license is issued to an enterprise, very little follow-up is undertaken to ensure that the enterprise is complying with the provisions. Agencies such as the Zambia Development Agency do not seem to have the requisite numbers of suitably qualified personnel and necessary equipment to carry out effective monitoring and supervision.

### **123. Findings of the CRM**

#### **123.1 The Business Environment in Zambia**

- 123.1.1 The CSAR is not very detailed in explaining the business environment in Zambia. Therefore, the CRM sought to provide its own in-depth analysis, which follows.

#### **123.2 Characteristics of Business Enterprises**

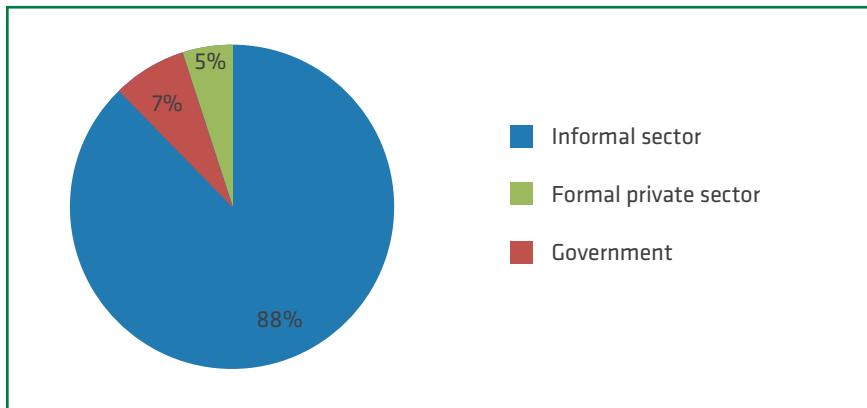
- 123.2.1 The CRM found that the Zambian business environment is sharply divided into two separate and different worlds. One comprises large businesses, and the other, micro, small and medium enterprises (MSMEs). The firms in these two entities are extremely different. They behave and interact with the government differently. The majority of MSME's are tiny micro enterprises and are mostly informal and owner-operated businesses. Most have no paid employees and are more like home-based income generating activities rather than clearly structured businesses. According to the Zambia Business Survey June 2010, 81 per cent are located in rural areas and 70 per cent are involved in agricultural production or wholesale/retail trade. Very few MSMEs are registered with any government agencies.
- 123.2.2 The other world consists of a few large-scale enterprises that produce the bulk of the country's industrial output and contribute the majority shares of tax revenues and exports. Although bigger than MSMEs, even large Zambian enterprises are small by international standards. Close to half employ between 51 and 70 employees. Almost all large enterprises are registered. While large enterprises drive the economy, MSMEs employ the vast majority of the labour force – 93 per cent.
- 123.2.3 On average, large businesses are much more productive than MSMEs. The average Zambian MSMEs in the agricultural and services sectors produces only about one-sixth of the average production of larger enterprise in the same sector. The difference for manufacturing and retail enterprises is even greater; MSMEs produce about 11 per cent of the amount that large enterprise do in the manufacturing sector and less than eight per cent as much in the retail trade sector.





- 123.2.4 Regarding infrastructure, only a fraction of MSMEs have access to hard infrastructure (energy, transport and water). Only six per cent of MSMEs in rural areas are connected to the public electricity grid, compared to 24 per cent of urban MSMEs. MSMEs that have access to and use hard infrastructure are far more productive than those that do not.
- 123.2.5 Although most Zambian workers are involved in the MSMEs, little information is available about these businesses. Even though large enterprises drive the economy, they account for only 7 per cent of total employment (Figure 1). Of the 4.1 million Zambians who are employed, most (88 per cent) work for informal enterprises. These informal micro enterprises are also common in rural areas.

**Figure 1: Distribution of Employment in Zambia**



Source: Zambia Business Survey, June 2010.

### 123.3 Zambia's Foreign Direct Investment (FDI) Assets by Sector

- 123.3.1 A sectoral analysis of Zambia's foreign direct investment indicates that the mining sector dominates. It accounted for about 94 per cent of stock at the end 2009, followed by the bank and non-bank financial institutions (4.7 per cent), and the manufacturing sector (1.2 per cent). See Table 14 below.

**Table 14: Foreign Direct Investment Assets by Sector (US USD million)**

Sector	Stock end 2009	Share of stock 2009 (%)
Tourism	0.86	0.07
Transport and Communication	0.62	0.05
Bank and non-bank Fin. Institutions	62.31	4.74
Manufacturing	15.66	1.19





Construction	0.87	0.07
Agriculture	-0.21	-0.02
Mining and quarrying	1,232.11	93.74
Wholesale and retail trade	2.12	0.16
Grand total	1,314.35	100

#### 123.4. Doing Business Survey

123.4.1 According to the World Bank's Doing Business report, Zambia ranks 76 out of 181 economies surveyed in the overall *ease of doing business* ranking (Table 15.). There has been an improvement from the previous year ranking of 84<sup>th</sup>.

123.4.2 *Starting a business* - When entrepreneurs draw up a business plan and try to get under way, the first hurdles they face are the procedures required to incorporate and register the new firm before they can legally operate. Economies differ greatly in how they regulate the entry of new businesses. In some, the process is straightforward and affordable. In others, the procedures are so burdensome that entrepreneurs may have to bribe officials to speed the process or may decide to run their business informally. Zambia eased business start-up by eliminating the minimum capital requirement. The *one-stop shop*, reorganised through a process reengineering and computerisation, and the operation of the Zambia Revenue Authority was improved by creating a customer service centre.

123.4.3 As illustrated in Table 15, there has been very significant improvement in starting a business in Zambia in the last three years in terms of rank, procedure numbers and duration days. Zambia ranked 57<sup>th</sup> out of the 181 countries surveyed in 2010 compared to 93<sup>rd</sup> in 2009. According to the interaction the In the CRM's interactions with stakeholders, the participants expressed the view that the procedures for starting a business in Zambia have improved dramatically in recent days. Moreover, the participants felt that the relevant government ministries have become significantly more helpful in processing the permit for starting a business.

123.4.4 *Registering property* - Formal property titles help promote the transfer of land, encourage investment and give entrepreneurs access to formal credit markets. But a large share of property in developing economies is not formally registered. Informal titles cannot be used as security in obtaining loans, which limits financing opportunities for businesses. Many governments have recognised this and started extensive property titling programs. But bringing assets into the formal sector is only part of the story. The more difficult and costly it is to formally transfer property; the greater the chances that formalised titles will quickly become informal again. Eliminating unnecessary obstacles to registering and transferring property is therefore important for economic development. Zambia ranked 83<sup>rd</sup> out of the 181 countries surveyed in 2010, a major improvement from 2009 when the country ranked 93<sup>rd</sup> (Table 15). Improvements at the Land Registry Office have cut the time it takes to register property in Zambia by almost half.





- 123.4.5 *Getting credit* - Firms consistently rate access to credit as among the greatest barriers to their operation and growth. Doing Business constructs two sets of indicators of how well credit markets function: one on credit registries and the other on legal rights of borrowers and lenders. Credit registries - institutions that collect and distribute credit information on borrowers - can greatly expand access to credit. By sharing credit information, they help lenders assess risk and allocate credit more efficiently. Zambia was ranked a questionable 6th<sup>out</sup> of the 181 countries surveyed in 2010, a significant improvement from 2009 when the country was ranked 14<sup>th</sup> (Table 15.).
- 123.4.6 *Protecting investors* - Companies grow by raising capital, either through a bank loan or by attracting equity investors. Selling shares allows companies to expand without the need to provide collateral and repay bank loans. But investors worry about their money, and look for laws that protect them. A study finds that the presence of legal and regulatory protections for investors explains up to 73 per cent of the decision to invest. In contrast, company characteristics explain only between 4 per cent and 22 per cent\*. Good protection for minority shareholders is more a feature of larger and more active stock markets. Thus, both governments and businesses have an interest in reforms strengthening investor protections. As illustrated in Table 15, Zambia's position in protecting investors' indicator is 74<sup>th</sup> in 2010 and 73<sup>rd</sup> in 2009.
- 123.4.7 *Enforcing contracts* - Where contract enforcement is efficient, businesses are more likely to engage with new borrowers or customers. Doing Business tracks the efficiency of the judicial system in resolving a commercial dispute, following the step-by-step evolution of a commercial sale dispute before local courts. The data is collected through studying the codes of civil procedure and other court regulations as well as through surveys completed by local litigation lawyers. Enforcing contract is another area where Zambia performs poorly along with dealing with licenses and registering property (Table 15).

**Table 15: Zambia's ranking in Doing Business 2010: Change in rank from previous year**

Ease of Doing Business	76	+8
Starting a Business	57	+36
Dealing with Construction Permits	158	+1
Registering Property	83	+10
Getting Credit	6	_8
Protecting Investors	74	-1
Paying Taxes	37	-1
Trading Across Borders	150	+7
Enforcing Contracts	86	+1
Closing a Business	97	-13

Source: *Doing Business 2010*







- 123.4.8 However, Zambia improved contract enforcement by introducing an electronic case management system in the courts that provides electronic referencing of cases, a database of laws, real-time court reporting and public access to court records.

### **123.5 The Bank of Zambia (the Central Bank)**

- 123.5.1 On 7<sup>th</sup> August 1964, the Bank of Northern Rhodesia was established and later changed its name to the present Bank of Zambia (BoZ) after the attainment of independence. The functions of the BoZ are outlined below by its major departments:

- 123.5.2 *The Economic Department* – The mandate of the BoZ is to formulate and implement monetary and supervisory policies that achieve and maintain price and financial system stability. The major role of the Economics Department is to provide economic information and advisory services to the BoZ management and the general public to ensure appropriate monetary policy formulation and implementation.

- 123.5.3 *The Bank Supervision Department* – the department is one of the operational departments through which the BoZ pursues its mission statement, which is “to formulate and implement monetary and supervisory policies that achieve and maintain price stability and promote financial system stability in the Republic of Zambia. “ The Bank Supervision Department’s mission is “to regulate and supervise banks registered under the Banking and Financial Services Act, Chapter 387 of the Laws of Zambia in order to promote a safe and sound financial system”.

- 123.5.4 *The Financial Market Department:* The mission is “to implement monetary policy of the BoZ and to act as a fiscal agent of the Government”.

### **123.6 The Commercial Banking System**

- 123.6.1 The Commercial Banking System is dominated by foreign banks; and currently there are 18 banks: Access Bank Zambia LTD, BANCABC LTD, Bank of China Zambia LTD, Barclays Bank Zambia PLC, CAVMONT Capital Bank Zambia LTD, Citibank Zambia LTD, Ecobank Zambia LTD, Finance Bank Zambia LTD, First Alliance Bank Zambia LTD, First National Bank Zambia LTD, Indo-Zambia Bank LTD, Inter market Banking Cooperation Zambia LTD, International Commercial Bank Zambia LTD, Investrust Bank Zambia LTD, Stanbic Bank LTD, Standard Chartered Bank Zambia PLC, United Bank for Africa and Zambia National Commercial Bank.

### **123.7 Access to Banking in Zambia**

- 123.7.1 As stated before, there are 18 commercial banks operating in Zambia. All are privately-owned, except for Zanaco, which is a state-owned bank under management by Rabobank of the Netherlands. Most banks operate along the “line of rail” between Livingstone in the south, and Copperbelt Province in the North ,which means that many outlying areas of Zambia are not well served





by banks. Indeed, only three commercial banks - Barclays Bank Zambia PLC, Finance Bank Zambia Ltd, and Zanaco - operate in 9 or 10 provinces. The three banks that operate in almost all the provinces are still woefully absent from many parts of the country.

### **123.8 Cost of Banking in Zambia**

123.8.1 The Bank of Zambia publishes monthly and weekly average interest rates for lending and savings at commercial banks in the country. The average lending rate at commercial banks in the country increased from 24.5 per cent in January 2008 to 27.6 per cent in July 2010. During the same period, the weighted inter-bank rate (the rate at which banks lend to each other, typically overnight) decreased from 10.4 per cent to 1.5 per cent. Interest paid on savings of over K100, 000 remained roughly the same over this period. In January 2008, the average interest on deposits of over K100, 000 in savings accounts was 4.8 per cent. This had declined marginally to 4.7 per cent in July 2010.

### **123.9 Key Regulatory Challenges in the Banking Sector**

123.9.1 The Governor of the Bank of Zambia, in a speech at the Fifth Meeting on "Improved Financial Regulation and Supervision" in New York, in May 2010, noted that the challenges the Central Bank is addressing at present include:

- the adoption of a risk based supervision (RBS) system;
- enhancing the legislative framework for the financial sector (as noted in the FSDP)
- the determination of capital adequacy for banks;
- the introduction of a deposit insurance scheme;
- the improvement of the "lender of last resort" regime;
- more effective cross-border cooperation through consolidated supervision of financial institutions; and
- Improving the regulation of macro- and micro-prudential systemic risk.

123.9.2 The Governor noted that the Bank of Zambia was developing a financial sector contingency plan to address systemic problems and improve the tools available for effectively managing financial distress and potential systemic crises.

### **123.10 Non-Bank Financial Institutions (NBFIs)**

123.10.1 In the late 1990's, the BoZ realised the non-bank financial sector was expanding, becoming more innovative and taking greater risks. As a result, effective regulation and supervision of this sector became necessary in order to protect public deposits and foster stability of the financial system. For this purpose, the Non-Bank financial Institutions Department was established in September 2001.

123.10.2 The formal non-bank financial sector under the BoZ supervisory authority includes the following categories of financial institutions:





**Table 16: Non-bank Financial Institutions**

Category	Number
Building societies	3
Leasing and finance companies	9
Bureaux de change	33
Micro finance institutions	7
Credit Reference Bureau	1
National Savings and Credit Bank	1
Development Bank	1

**123.11 Credit Reference Bureaux (CRB) in Zambia**

123.11.1 The first and only CRB in Zambia is the Credit Reference Bureau Africa Limited (CRBAL). It was licensed in 2006, and was formally launched on 11 January 2007. CRBAL commenced collecting data following the official launch and has, to date, enlisted the cooperation of all financial service providers. The more substantive operations of CRBAL commenced in the fourth quarter of 2008; this was after the BoZ had issued the *Provision of Data and Utilisation of Credit Reference Directive*. Following this, the total number of credit reports obtained from CRB at 155,108 whereas the credit data submitted to the CRB were 660,036. For the role of CRB in context of lending decisions refer to Box 1.



### Box 1: The Role of CRB in Lending Decisions

Although CRB collects data on the behaviour of people with respect to repayments of loans and bill payments, it does not create a blacklist nor create a list of 'good borrowers'. The CRB does not make a decision on behalf of credit providers as to whether a loan should be extended to a person or not. Information obtained from a CRB forms a part of the evaluation criteria used by credit providers to extend loans.

In order to assess a potential borrower, a credit provider will, amongst other things, conduct an investigation on the person's ability to pay, which involves determining the source of income that the borrower will use to repay the loan. The lender will also investigate the willingness of a person to repay a loan. Such an investigation also determine the person's integrity and loan history. The CRB enables a lender to have access to such database without necessarily having to extend time and resources contacting the various places that such a person may have borrowed from in the past. It is important to note that the decision on whether to extend a loan is made by the lender on the basis of the evaluation conducted. Further, a poor credit report from a CRB does not necessarily mean that the lender will not give a loan. The lender may, based on the credit evaluation, decide to extend the loan at a higher interest rate to reflect the risk profile of such a borrower.

The evaluation of a borrower's willingness to pay is not a new phenomenon that came with the introduction of the CRB in Zambia. It is a phenomenon that has existed ever since lending began. The CRB system can be seen, therefore, as an evolution that facilitates informed and efficient decision making by the lenders.

### 123.12 The Citizens Economic Empowerment Commission (CEEC)

123.12.1 The CEEC was established by government through Act No. 9 of 2006, with a mandate to implement various economic empowerment programmes across the country. The rationale is to promote the empowerment of citizens who have been marginalised or disadvantaged and whose access to economic resources and development capacity has been constrained due to various factors including race, sex, educational background, status and disability. In executing this mandate, CEEC has anchored its programmes and activities around the following nine pillars of empowerment:

- Equity ownership, management and control of companies. These are: Citizen-influenced (5%-25%), Citizen-empowered (25%-50%) and Citizen-owned (50%).
- Preferential procurement. At least 50% of government and private sector expenditure should go to empowered companies and that at least 30% of the supplier companies should be controlled by targeted groups : women, youth, disabled and people with HIV/AIDS.
- Skills development. Improve education and enhance the ability to adapt modern business practices.
- Access to finance. Establish the Citizens Economic Empowerment Fund (CEEF) a special purpose vehicle to finance CEE projects for would be beneficiaries.





- Transformation of society to provide supportive culture, entrepreneurship for sustainable CEE.
- Corporate and social responsibility. Encourage companies and communities to partner and uplift communities.
- Good political and corporate governance. Creation of predictable legislation and regulatory framework for transparency and accountability.
- Greenfield investment. Promote investments and partnership between local and foreign investors.
- Foreign direct investment. Encourage a foreign and local partnership approach to achieving CEE.

123.12.2 Disbursement of CEE Fund as at 30<sup>th</sup> May 2010 was as follows:

**Table 17: Disbursement of CEE Fund as at 30 May 2010**

Province	Approved Projects	Approved Amount (Millions K)	Funded Projects	Amount Disbursed (Millions K)
Central	34	14,313	22	11,228
Copperbelt	57	27,639	37	9,147
Eastern	55	9,037	39	4,411
Luapula	30	6,235	10	909
Lusaka	123	75,115	95	48,271
Northern	42	9,293	24	5,067
North-Western	33	11,056	22	6,818
Southern	51	9,482	27	6,898
Western	32	7,936	20	4,177
Total	457	170,111	296	96,930

Source: CEEC.

#### 124. Recommendations

The Panel recommends that Zambia:

- Look comprehensively at the provision of infrastructure including water, roads and energy in all regions so as to boost productivity of Zambian business.
- Review the legal environment in order to make it easier for business to enforce contracts, issue licences and register property.



## Objective 2: Ensuring that Corporations Act as Good Citizens with Regard to Human Rights, Social Responsibility and Environmental Sustainability

### 125. Summary of the CSAR

125.1 According to the CSAR, Zambia has labour laws that have been put in place to guide the corporations with regard to employees' rights. The laws are regarded as being clear, coherent and adequate. The CSAR states that the labour laws are being subjected to a review to bring them into conformity with current business demands and current cost of doing business. The CSAR acknowledges that there is need to carry out sensitisation activities on the labour laws and the rights of employees.

125.2 The CSAR admits that enterprises' compliance with labour laws is perceived to be low at 29% due to inadequate awareness by employees of their rights and weak enforcement of labour rights legislation for fear of losing foreign investors.

125.3 The CSAR indicates that the most common labour violations in Zambia include: Negligence by some employers as they do not have appropriate records such as conditions of services, hours of work, wages and accidents register in place, information which can give the labour inspector a useful and informed insight into the daily state of affairs at the company. Some employers have a tendency of paying only the minimum wage without any accompanying allowances:

- Lack of written contracts
- Exploitation of casual workers
- Unfair wages and salaries
- Conditions of service

125.4 The CSAR states that there are formal disciplinary and grievance procedures which are an essential aspect of industrial relations in that they provide a mechanism for handling grievances and disputes in corporations and institutions.

125.5 In relation to the provision of a safe working environment, the CSAR states that on average, 55 factories are cited annually for failure to provide a safe working environment to employees. The citations relate to:

- Lack of protective clothing
- Noise pollution
- Faulty boiler gadgets
- Safety issues relating to the operations of pressure vessels.

125.6 The CSAR admits that corporations operating in Zambia are generally perceived by the public as having a little or no engagement with the communities they operate in.





- 125.7 The CSAR indicates that the major types of environmental challenges caused by corporation relate to land degradation, deforestation, surface and ground-water contamination and soil pollution. Further, the nature and type of environmental impact corporations have depend on the sector while the degree and severity depends on both the size and nature of activities being undertaken by the corporations or individuals. Other environmental challenges facing the country include poor waste management practices and air and water quality issues. The main environmental impacts from mining countries are said to be the emissions into the atmosphere of high levels of dust particles from the stacks that suffocate vegetation, high emissions of sulphur dioxide, poor handling of used oil, effluent discharges, spillage of tailings, and disposal of hazardous material.
- 125.8 The CSAR reports that the main source of adverse environmental impacts from agricultural activities is water pollution mainly from the use of fertilisers, as well as deforestation and gully erosion from land clearance.
- 125.9 The CSAR points out that the industrial sector contributes to the environmental problems through effluent discharges and bad chemicals management. The commercial sector, on the other hand, is responsible for generating huge quantities of packaging waste.
- 125.10 The environmental legislation and licensing requirements in place are considered to be generally adequate. However, the CSAR points out that the institutional framework, human and financial resources and capacity is not adequate for consistent and effective enforcement and monitoring.

## **126. Findings of the CRM**

### **126.1 Labour Rights**

- 126.1.1 During the interaction with stakeholders, the CRM found that there was a general discontent over the non-observance of labour rights as enshrined in the Zambian Constitution and in sectoral legislation, especially labour rights of those working in the private sector. For example, it was revealed that while the right to collective bargaining is secured, it is almost impossible to call a lawful strike, as all strikes are subject to a long series of procedural requirements. Strikes can also be discontinued if found by the courts not to be “in the public interest”. Police officers can arrest workers without a warrant if they are believed to be on strike in an essential service, the list of which exceeds the ILO definition.
- 126.1.2 Discussions also revealed that trade union rights are widely flouted, particularly in the mining sector, which is dominated by foreign owners. The Zambia Congress of Trade Unions (ZCTU) has previously expressed concern at the government’s failure to apply labour legislation, particularly when it comes to foreign investors. The increasing number of sub-contractors in the mining industry makes it harder to organise the workers, and when trade unions do succeed they are often faced with employers who try to avoid social dialogue. Because the right to strike is subject to a long series of procedural requirements, in practice it is almost impossible for workers to hold a legal strike. Employers take advantage of this to declare strikes illegal and dismiss labour activists.





126.1.3 One such incidence occurred at the Konkola Copper Mines where at least 40 employees were dismissed for their role in a strike called to demand fair wages and decent employment conditions. The flagrant violation of workers' rights is observed to be excessive and widespread in the mining industry. Some of the stakeholders were of the view that the Government panders to these foreign investors because of fears that Zambia would lose FDI. It should be noted that FDI should not be used as an excuse to flout the laws of a country and exploit its citizens.

## **126.2. Human Rights in the Workplace.**

126.2.1 The consultations with stakeholders confirmed the direct linkages between labour rights, occupational safety and human rights, especially in the private-sector industries in Zambia. The non-observance of any right falls directly under human rights violation, be it a labour, child or safety right. The CRM found that although Zambia has adequate legislation in place to safeguard human rights, enforcement of such laws is largely compromised due to a variety of reasons. Primary amongst these was the fact that many Zambians were not aware of their human rights, especially rights at the workplace; the high level of unemployment that appeared to discourage those in employment to forgo their rights and just be grateful to be employed in the formal sector; and the government of Zambia seems to prefer giving corporations foreign companies unlimited rights so as to be regarded as a foreign direct investment country.

126.2.2 During the consultations, a number of incidents of gross human rights violations were cited by stakeholders, especially in the mining sector. It is important to state that human rights violations were said to take place in all industries and were not confined to the mining sector only.

126.2.3 Incidents on human rights violations cited as examples by the stakeholders included deaths resulting from shootings at Chambishi mine where Zambian mine workers were said to have been demanding safer working conditions. The CRM emphasised that, where transnational companies are engaged in economic ventures in the country, the government and, indeed, all stakeholders have a duty to protect citizens from human rights violations. Additionally, Zambia has an obligation under the African Charter on Human and Peoples' Rights to eliminate all forms of foreign economic exploitation, particularly that practised by international monopolies, to ensure their peoples can derive optimum benefits from their natural resources.

## **126.3 Occupational Safety**

126.3.1 Injuries and fatalities in Zambian mines have been increasing in recent years. The Chamber of Mines, an industry body, reported fourteen fatalities in 2004, eleven in 2003, and fourteen in 2002. According to the Mineworkers Union of Zambia, at least 71 people died in mining-related accidents in Zambia in 2005. For example, in April 2005, 52 Zambian workers died in a factory explosion which has been blamed on poor safety standards and lack of accountability at a mine.







## **126.4 Child Labour**

126.4.1 During interactions with stakeholders, the CRM was informed that child labour (in mining and commercial farming) remains a challenge in Zambia. The HIV and AIDS pandemic, among other factors, has made a large number of children highly vulnerable to child labour, and the increase in the number of working children is seen as a result of the growing number of children being orphaned. As a result, more and more children are being subjected to child employment. Despite clear and adequate legislation on child labour, the country still faces a challenge in dealing with child labour issues. Discussions in communities where manganese is predominantly mined revealed that children are employed in the mines and quite often work without adequate protective clothing. Another concern is the remuneration of these children as their ability to negotiate with powerful mining interests is questionable. The Government of Zambia owes it to its citizens, especially children, who are the vulnerable segment of the citizenry, to ensure that enforcement of legislation and programmes put in place to manage orphaned, unemployed and out-of-school children whatever their circumstances. The CRM acknowledged the good efforts being made to tackle the employment and exploitation of children by both the government and civil society but believes a lot more needs to be done.

## **126.5 Minimum Wage**

126.5.1 The CSAR does not mention the actual amount of minimum wage; however, it does state that there is a perception of unfair and low wages. The CRM discussions with authorities, employees and stakeholders revealed that there is a legal requirement under Minimum Wages and Conditions of Employment Statutory Instruments numbers 1 and 2 of 2011, for payment of minimum wages and allowances in Zambia for protected employees that are engaged in shops, general establishments and domestic service. These categories of employees are not unionised and include those in management under the provisions of Section 3 of the Minimum Wages and Conditions of Employment Act, Cap 276 of the Laws of Zambia.

126.5.2 According to the Statutory Instrument the following should apply:

- The Minimum Wage increased from K268, 800 to K419, 000 per month
- Retention of the housing allowance rate is at 30% of the basic pay, across the board
- Other allowances such as transport, lunch and subsistence adjusted upwards:
- Lunch: K70, 000 to K120, 000
- Subsistence: K100, 000 to K195, 000
- Transport: K80, 000 to K102, 000

126.5.3 Despite the existence of the legal requirements, some employers choose to underpay their employees and continue to keep such employees as casual employees so as to avoid paying them a decent wage, allowances and terminal benefits. Employers are also aware and are taking advantage of the fact there is very little employment available especially for the youth. It should be noted that cheap labour does not necessarily improve the competitiveness of industries as





it leads to lower productivity of human power. It is imperative on the part of Government to ensure that its minimum wage laws are fully implemented and enforced as it will increase the living standards of the citizens and contribute meaningfully to the realisation of the MDGs.

## **126.6 Environmental Protection**

126.6.1 Zambia has very good legislation on environmental protection. However, discussions with stakeholders brought to light the issue of the capacity of the existing institutional framework to enforce the laws on environmental protection effectively. Furthermore, it was explained by Stakeholders, from the government, private sector, civil society and communities further explained that in the case of foreign businesses, especially in the mining sector, environmental provisions could not be enforced because the Government of Zambia had exempted some mining companies from environmental obligations as part of the country's drive to attract and retain foreign direct investment.

126.6.2 This exemption from observance of environmental laws of the country has resulted in unacceptable levels of pollution through emissions exceeding legally permitted levels and tailings as well as other waste management practices. The CRM observes that environmental damage to the country is very costly because of the attendant potential to affect other industries necessary vital for economic diversification such as agriculture through pollution of surface and ground water resources and degradation of land suitable for agriculture. Environmental effects are also a concern because of the effects, especially the physiological health impacts, on the quality of the life of Zambians and residents of Zambia.

126.6.3 The CRM found it encouraging that, in some cases, the Zambian government took up issues of environmental safety with those business entities that were flouting the laws. In one instance, the government shut down a manufacturing factory for exceeding the allowable air pollution limits in surrounding areas and also charged the company with failing to provide for the personal safety of its employees. Kabwe, the city where that factory was located, is now one of the most polluted areas in the world. The national and international media should also continue to call for fair investment deals in Africa and other developing regions and continue tracking and publicising the impact of exploitative international corporations

## **126.7 Corporate Social Responsibility**

126.7.1 The CRM found that the level of corporate social responsibility in the country is very low. Some businesses are said to respond only when requested to support a cause and will do so only if it somehow assists in advertising the company. Most communities were of the view that business entities were only in their communities to maximise on their profits and leave. This is contrasted by the fact that according to stakeholders, the Zambian government gives tax holiday breaks as incentives for these corporations and yet the corporations give nothing back in return.





## 127. Recommendations

The Panel recommends that the Government of Zambia:

- Cultivate a favourable climate for foreign investment in an enforceable policy and legal regulatory framework that recognises the rights of workers - foreigners or citizens - and endeavour to protect its citizens from human rights abuses.
- Recognise in practical and tangible terms the role of trade unions in protecting workers' rights. The trade unions and their members must be given a fair level of platform to engage on their rights without being intimidated by fear of dismissal as is currently the practice
- Formulate corporate social responsibility requirements and conditions and encourage the corporate world to engage and fund projects in the communities they operate in and across Zambia aimed at improving ordinary citizens' standard of living and promoting HIV/AIDS prevention and human rights awareness.
- Ensure international mining standards are implemented and enforced by all companies operating in the country. The private sector must be made to understand that companies are legally required to abide by good corporate principles not only in their countries of origin but also in Zambia. Human rights are equal and applicable in all civilised countries the world over.
- Institute and enforce punitive consequences measures for corporations that either violate basic human rights principles or act in a way that is detrimental to the needs and the wellbeing of local communities.
- Protect the local community's right to freely express their opposition and consider that when negotiating agreements with foreign businesses. The national and international media should also continue to call for fair investment deals in Africa and other developing regions and continue tracking and publicising the impact of exploitative international corporations.
- Make concerted efforts, together with civil society, the private sector, communities and all stakeholders, to adhere to the laws on child labour and protection of children from exploitation.
- Strengthen the independence and enforcement powers of the Zambia Environmental Council and other bodies responsible for environmental protection to effectively carry out their respective responsibilities.
- Strengthen the capabilities and operational independence of the Human Rights Commission to safeguard the rights of all in Zambia.
- Increase support to the Industrial Relations Court in terms of human and financial resources capacity so that it can be more accessible to those who require its services.





- Partner with civil society in embarking on legal education in the area of labour and human rights in the workplace as well as core basic environmental protection and management principles.

**Objective 3: Promote the Adoption of Codes of Good Business Ethics in Achieving the Objectives of the Corporation**

**128. Summary of the CSAR.**

- 128.1 The CSAR adopts King II's definition of business ethics. In the public sector, five Councils out of nine respondents claimed to have a Code of Ethics, while in the private sector, seven of twelve respondents replied in the affirmative. As far as the perception of the general public was concerned, only 48% were of the view that corporations had Codes of Ethics. In addition, the general public responded more positively to the existence of "Codes of Conduct" as opposed to "Codes of Ethics".
- 128.2 A summary of the tabulation of trade union comments on the existence of good business ethics and codes of conduct reveals a largely positive response, especially in the mining sector. As far as the trade union responses go, KAGEM and KCM Plc. gave the highest rankings to their organisations in terms of ethical standards and integrity. On the question of organisations involved in the fight against white collar crime, the Report highlights the role of the Zambia Federation of Employers (ZFE) in the private sector while in the public sector it focuses on the role of the Anti Corruption Commission (ACC) and the Office of the Auditor General (OAG). The Report also mentions that a trade union survey revealed that a few corporations are involved in the fight against white collar crimes but these are not mentioned. The role of the unions themselves in reporting white collar crime was mainly in the areas of performance, environmental and forensic audits.
- 128.3 The report outlines two organs that are at the forefront of combating white collar crime in Zambia: the Anti Corruption Commission (ACC) and the Office of the Auditor General (OAG). The ACC's main focus is on preventing corruption, which it promotes through training and capacity building for both public and private sector organisations. It also offers advisory services to these institutions by making recommendations on the establishment of systems to curb corruption and receives corruption complaints from the public or the media, for investigation. The OAG, on the other hand, enforces its mandate through investigative audits of public resources. Prosecution of these cases is done by the Director of Public Prosecutions (DPP). Table 5.29 of the CSAR reveals that between the years 2006 and 2008, only about 50% of the corruption cases reported to the ACC were approved for investigations. Of these, only about 3% result in registered cases; actual convictions were nil in some years (2006).
- 128.4 Following Government's policy of 2006, Integrity Committees (ICs) were established as anti-corruption bodies at operational levels. The policy began with eight public institutions on a pilot basis and five more were rolled out in 2008. These vehicles are earmarked for assessment in 2010.





- 128.5 The Drug and Enforcement Commission is mandated to prevent and prosecute money laundering cases. Table 5.28 of the CSAR shows a conviction to cases reported rate of between 3% and 5% between 2007 and 2009. With regard to insider trading, the CSAR only highlighted the cases that the ACC had reported but did not mention the role of the Stock Exchange in this regard.

## **129. Findings of the CRM**

- 129.1 Business ethics seeks to examine the moral issues in business as it applies to all aspects of corporate conduct. Basically, ethics implies the difference between right and wrong-doing and choosing what is right in the circumstances. Contemporary discussions on the subject have emphasised a stakeholder approach where corporate bodies are compelled to consider the impact of their decisions on the wider stakeholder group over and above the impact on insiders whose primary interest is financial benefit. This part of the report is concerned with the following aspects of business ethics: corruption, employee management, environmental management, insider trading and money laundering.
- 129.2 Two issues may have affected the findings of the CSAR in this regard: the sample sizes of the surveys, which in many cases were small, and the confusion between Code of Conduct (which the respondents seem to be more familiar with) and Code of Ethics<sup>1</sup>.

## **130. Business Ethics in the Public Sector**

- 130.1 In March 2009, the Government established the Anti Corruption Policy which made Integrity Committees (ICs) a compulsory component in the structure of critical public institutions. The ICs are charged with developing and enforcing corruption prevention mechanisms in their respective organisations. The Committees are overseen by the Anti Corruption Commission (ACC). They are expected to adopt Codes of Ethics to guide their operations. These are to be augmented by service delivery charters which set out public expectations of Government services and commit Government to a higher standard of service. The establishment of these Committees began with a pilot group of nine institutions.
- 130.2 The establishment of ICs is indeed a very innovative and highly commendable enforcement tool that should have featured more prominently in the CSAR. However, according to an October 2008 report by Transparency International entitled "Overview of Corruption in Zambia", the institutions charged with enforcing ethical practices in the public sector are ineffective. This is due to their lack of independence from political interference (which in many instances

<sup>1</sup> The distinction between "Codes of Conduct" and "Codes of Ethics" is often blurred. However, Codes of Conduct are derived from Codes of Ethics and Codes of Ethics are a codification of the values of an organisation. The Code of Conduct outlines the specific practices and behaviours that are encouraged by the organisation in line with its value system.





has led to the selective pursuit of corruption cases); under funding, and a lack of investigative capacity.<sup>2</sup> These institutions include: The Director of Public Prosecutions, Auditor General, and Anti Corruption Commission, Task Force on Economic Plunder, Drug Enforcement Commission, and Investigator General. Furthermore, some key public sector institutions, such as the Bank of Zambia, and the Livingstone City Council (which was slated form part II of the pilot) do not have ICs. Provincial visits revealed that the implementation of ICs in critical public institutions lost its fervour soon after the policy was established, and action has been limited mainly to Lusaka.

130.3 To complement the ICs, the Anti Corruption Commission also proposed the establishment of Government Service Charters by public sector organs. The first of these Charters was launched early in 2011 by the Ministry of Lands. The Charter prescribes service standards to be applied by the Ministry's staff in dealing with their "customers" and emphasises a fair, timely and transparent approach to land matters. The mission was unable to establish whether any other public sector organisations had developed similar charters.

**131. Business Ethics in the Banking Sector**

131.1 As far as the banks and other financial institutions are concerned, the Bank of Zambia (BOZ), through its Corporate Governance Guidelines of November 2006 (section 6.4 ), makes it mandatory for all the institutions under its regulatory ambit to adopt a written Code of Ethics. The Guidelines also make it mandatory for these Codes to be reviewed annually and published in a booklet and on the institution's website. The CRM learnt that in terms of the enforcement of these Guidelines, the Central Bank, through the inspector of banks, reviews these Codes of Ethics for appropriate content and depth, as part of the regulator's periodic on-site inspections. Where these Codes are insufficient, the overall inspection rating of the institution is affected.

131.2 A quick e-survey of the websites of the banks and financial institutions reveals that the enforcement of the disclosure of Codes of Ethics has been very weak, at least as far as this medium is concerned. The CRM was however unable to establish whether the same trend is replicated when it comes to having these Codes published. However, if the e-survey is anything to go by, the general enforcement of this standard needs to be improved.

**Table 18: Results of an e-survey on the Publication of the Codes of Ethics of Banks on their Websites**

	Regulated Institution	Publication of Code of Ethics on website
1.	Access Bank of Zambia Limited	Not found

<sup>2</sup> [www.u4.no/helpdesk/helpdesk/query.cfm?id=184](http://www.u4.no/helpdesk/helpdesk/query.cfm?id=184)





2.	African Banking Corporation Zambia Limited	Group website
3.	Bank of China (Zambia) Limited	Not found
4.	Barclays Bank Zambia Plc.	Group website
5.	Cavmont Capital Bank Limited	Website under construction
6.	Citibank Zambia Limited	Not found
7.	Ecobank Zambia Limited	Section on "Ethics and Society" does not outline a Code
8.	Finance Bank Zambia Limited	Not found
9.	First Alliance Bank Zambia Limited	Has a Value Statement but not Code of Ethics
10.	First National Bank Zambia Limited	Not found
11.	Indo-Zambia Bank Limited	Not found
12.	Intermarket Banking Corporation Limited	Not found
13.	International Commercial Bank Zambia Limited	Website has corporate governance section but no Code of Ethics
14.	Investtrust Bank Plc.	Yes
15.	Stanbic Bank Zambia Limited	Not found
16.	Standard Chartered Bank plc.	Website has corporate governance section but no Code of Ethics
17.	United Bank for Africa Zambia	Website has corporate governance section but no Code of Ethics
18.	Zambia National Commercial Bank plc.	Website has corporate governance section but no Code of Ethics

131.3 The Central Bank Guidelines are augmented by the Banker's Association of Zambia (BAZ) Code of Ethics. The general view was that the professional bodies have generally played a very effective role in enforcing professional standards in Zambia. Members of professional bodies are therefore likely to respect Codes of Ethics (and any other Corporate Governance Codes) prescribed by their Associations in order to maintain their profession integrity.

131.4 The Panel established that enforcement of Codes of Ethics in financial institutions is inadequate because the Central Bank only inspects the banks, but excludes non-bank financial institutions (NBFIs) that are also covered by the same guidelines. Therefore This means that leasing companies, building





societies, micro finance institutions, development finance institutions, savings and credit institutions, bureaux de change and the credit reference bureau are left unregulated. Table 19 below shows the number of NBFIs under BOZ supervision between 2007 and 2009. Although the statistics are not current, they suffice in giving an impression of the scale of the NBFIs sub-sector that remains unattended in terms of ethics enforcement.

**Table 19: Number of Non Bank Financial Institutions 2007 – 2009 & 2011**

Name	2007	2008	2009	2011
Bureaux de Change	35	39	44	49
Microfinance Institutions	8	19	25	19
Leasing Companies	12	12	12	11
Building Societies	3	3	3	3
Development and Finance Institutions	1	1	1	1
Savings and Credit Institutions	1	1	1	1
Credit Reference Bureaux	1	1	1	1
Total	61	76	87	85

*Source: Republic of Zambia Economic Report 2009; Ministry of Finance and National Planning (2007-9) and the Public Relations Department, BOZ (2011).*

- 131.5 Secondly, the Guidelines attempt to outline key provisions that should be included in these Codes of Ethics: the management of conflict of interest, insider lending, preferential treatment to insiders, delinquency of loans to directors, unfair dealings with stakeholders and breaches of the Code. However, critical white collar areas should also be highlighted in order to ensure that the self-drafted Codes do not fall short of these provisions: insider dealing (for those banks that are listed on the stock exchange), corruption, and money laundering.
- 131.6 However, the Central Bank's seizure of Finance Bank Limited on the 10<sup>th</sup> December 2010 following the emergence of various malpractices in the Bank during an inspection attests to the Central Bank's willingness to intervene and take drastic measures where regulated entities fall short of recommended corporate governance practices. According to the Zambia Government Gazette of 31<sup>st</sup> December 2010<sup>3</sup>, one of the reasons for the Bank's possession of the Bank was "weak corporate governance and risk management systems" which led to unscrupulous insider lending involving shareholders, directors and senior management.

<sup>3</sup> Zambia Government Gazette Vol. XLII No. 97







- 131.7 The Bank of Zambia has itself developed and adopted a Code of Ethics that governs its own ethical behaviour. The Code applies “in equal degree” to all board members, management and staff of the Bank. It addresses critical issues such as conflict of interest, the application of insider information and political activities. The Code is enforced by requiring all concerned persons to sign an acknowledgement undertaking in which they accept to be bound by it. The CRM found that although the Central Bank Code is elaborate in its coverage it does not specifically address the key areas of corruption and money laundering.
- 131.8 In the area of money laundering, the mission found that by virtue of The Prohibition and Prevention of Money Laundering Act 14 of 2001, an Anti Money Laundering Authority was established as a statutory body to be appointed by the Minister. The functions of the Authority are to provide general and specific directives to the Commissioner and to advise the Minister on measures required to prevent and detect money laundering in the country. The Authority was to constitute the Attorney General as its Chairman, the Inspector General of the Zambia Police Force, the Commissioner, the Director General of the Commission, the Governor of the Bank of Zambia, the Commissioner General of the Zambia Revenue Authority and two other persons. The law further provides for an Anti Money Laundering Investigations Unit within the Authority. However, it was established that this law was never implemented and therefore this Authority does not exist.
- 131.9 The CRM found, in addition, that the Drug Enforcement Commission (DEC) as established in 1989 was accorded additional responsibilities in 2001 to deal with the prevention and prohibition of money laundering issues in Zambia. To this end, the Anti-Money Laundering Unit was established within the DEC.
- 131.10 Currently the responsibility for investigation and prosecution of money laundering cases rests with the Anti-Money Laundering Investigations Unit. However, recent policy decisions and legal amendments have led to a Financial Intelligence Unit (FIU) being created to improve this enforcement channel. It is a special unit which will receive and analyse reports of money laundering. Upon the conclusion of its work, the FIU will refer its findings to a prosecuting agency, including but not limited to, the Anti-Money Laundering Unit under the DEC.
- 131.11 The Central Bank has also issued anti-money laundering directives – The Bank of Zambia Anti Money Laundering Directives of 2004 - to all banks and financial institutions operating in Zambia, under the Prohibition and Prevention of Money Laundering Act 14 of 2001. The directives seek to improve customer identification procedures and make provision for the verification of customer details. In the case of corporate clients, the Directives require the verification of the directors and beneficial owners of the entity. Provisions are also made for reporting suspicious transactions/ activities, employee obligations in this area and the establishment of a Money Laundering Reporting Officer as key enforcement personnel in the regulated institutions.
- 131.12 Zambia is a member of the Eastern and Southern African Anti Money Laundering Group (ESAAMLG) and is a signatory to the ESAAMLG Memorandum of Understanding (MOU) to combat money laundering by implementing the forty recommendations of the Financial Action Task Force (FATF).<sup>4</sup>

<sup>4</sup> The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorism financing.





131.13 From the statistics in the CSAR and the findings of the mission, CRM, actual convictions of money laundering cases have been very low few compared to the reports received. Political interference and lack of investigative capacity have been mooted as some of the reasons for this trend. However, the above discussion seems to suggest discordant efforts in this area, which is likely to affect detection and prosecution.

### **132. Business Ethics in the Pensions and Insurance Sector**

132.1 The pensions and insurance sectors are regulated by the Pensions and Insurance Authority (PIA) as established by the Pensions Scheme Regulation Act 28 of 1996. PIA is charged with offering prudential regulation to these sectors. The development of corporate governance guidelines, or more specifically, Codes of Ethics for the industry falls within the purview of this regulator. However, the CRM was not able to establish whether such specific guidelines or codes exist. If the Codes have been established, it would amount to some form of replication since, comparable codes have been issued within the same financial sector by both the Bank of Zambia and the Securities and Exchange Commission. This triplication of effort gives credence to the proposed consolidation of the regulatory agencies in this sector.

### **133. Business Ethics among Listed Companies.**

133.1 As far as listed and quoted companies are concerned, the CSAR makes no specific mention of the ethical practices in this case. The CRM was however able to establish that the Lusaka Stock Exchange (LuSE), in its Corporate Governance Code of March 2005, provides for organisational integrity matters. The Code mandates the Boards of listed and quoted companies to formulate and implement Codes of Ethics for their organisations and report on the extent of compliance these Codes in their annual reports.

133.2 The main ethical issue pertaining to listed companies is insider trading where “insiders” seek to use non-public, material information on the listed securities to benefit or avoid loss, to the detriment of the rest of the market. Curbing insider dealing is the remit of the Securities and Exchange Commission (SEC) which is the capital markets and stock exchange regulator. Section 52 of the Securities Act (Cap 354 Laws of Zambia) makes insider dealing an offence in this jurisdiction, punishable by a penalty not exceeding approximately USD 7 million<sup>5</sup> or five years imprisonment or both. The definition of “insider” itself has also ensured maximum application of the provision. Under this law, an insider is: “any director, officer or employee of the company concerned, any person associated in a professional capacity with that company, or any person who obtains such (non-public) information from any other the mentioned persons.”

133.3 Because the market is automated, insider dealings can be monitored with greater precision since the SEC is electronically linked to the stock exchange's trading system enabling “real time” observation and intervention in the case of unusual market movements. During an interview with officials at the SEC, the Panel established that, although insider trading was generally very difficult to detect, the automation of the systems between the Regulator and the Exchange had helped to flag potential unethical behaviour before it happens.

<sup>5</sup> Under Section 52 of the Act, the fine for insider dealing is 200,000 penalty units and each penalty unit is equivalent to 180,000 Kwacha. A rate of USD 5000 to the Kwacha was used for this approximation.





The CRM also learnt that the Regulator is in the process of seeking resources to upgrade its current software and enhance its functionality and its analysis of market trends that reveal possible insider activity. There are also plans to repeal and replace the current securities law with a view to enhancing its provisions including those relating to insider trading.

- 133.4 As far as the employees of the Commission and the Exchange are concerned, their insider activities are regulated by internal procedures manuals. Employees are required to disclose their intention to participate in the secondary market to the Chief Executive, who is in a position to assess whether the employee is intending to use non-public information. Directors and Board members must notify the Chairman. In addition, all Board members must disclose their securities holdings to the Exchange every year to enable the Exchange ascertain their insider positions.
- 133.5 In terms of general ethical standards, the Lusaka Stock Exchange (LuSE) prescribed a Corporate Governance Code in March 2005, which makes provision for the integrity standards of listed companies. Under part J of the Code, listed companies are mandated to formulate and implement a Code of Ethics for their organisation. In addition, this Code must be communicated to all identified stakeholders, must give clear guidance on the behaviour expected of employees, and the company annual report must include a report on the extent of compliance with the Code.
- 133.6 In order to encourage compliance with this Corporate Governance Code (and the established Codes of Ethics thereunder) the Exchange has established a special committee<sup>6</sup> comprising industry institutions to review the Annual Reports of all listed companies on an annual basis and recommend candidates for the Annual Lusaka Stock Exchange Corporate Governance Award. This recognition approach to enforcement has encouraged further incentive to comply with the corporate governance regime which is only premised on an otherwise weak “comply or explain” framework.
- 133.7 The Stock Exchange is also in the process of amending its Listing Rules to, *inter alia*, upgrade the corporate governance standards for listed entities. However, these enhanced standards will only apply to the listed entities and not those that are simply quoted or registered on the Exchange.

#### **134. Business Ethics in the Rest of the Private Sector.**

- 134.1 The Mission established from interactions in the Southern Province that, in general, the private sector in Zambia is reluctant to adopt any Codes because of the “burden” of follow-through. The Integrity Committees that were meant to apply to both the public and private sector were virtually non-existent in the private sector.
- 134.2 In the Copperbelt Province, the Panel learnt that in the private sector – the mining sector in particular- ethical standards were embedded in the Development Agreements between Central Government and the mining corporations. However, the contents of these Agreements are largely confidential; and even after they expired, companies tended to continue shielding themselves under these covenants.

<sup>6</sup> This Committee includes the Stock Exchange, the Law Association of Zambia, the Association of Chambers of Commerce and Industry, the Banker’s Association of Zambia and the Institute of Directors.





- 134.3 It was also established that the main ethical concerns centred on environmental responsibility and preservation. Unfortunately, it was very difficult to establish the extent to which the members of the mining sector had adopted Codes of Ethics or even Codes of Corporate Governance owing to their general absenteeism from the provincial meetings. It was also not possible to obtain this information from the Stock Exchange since the mining companies are simply quoted not listed, on the Exchange. According to the Minister of Finance, Hon. Felix Mutati<sup>7</sup>, Government has made a decision to compel mining companies to list on the Lusaka Stock Exchange to allow Zambians to own equity in the country's main economic stay but also to ensure that mining groups are not operating outside the governance fences of the Exchange.
- 134.4 Quoted companies expected to work towards listing on the Lusaka Stock Exchange (LuSE) are Copperbelt Energy Corporation; Chibuluma Mines; Chambishi Metals; Kansanshi Mining; Konkola Copper Mines; and Mopani Copper Mines.
- 134.5 Although the July 2009 survey of trade unions in corporations summarised on page 276 of the CSAR reveals that the Mine Workers Union of Zambia from the Kongola Copper Mines felt that their company displayed "very high integrity", this viewpoint contrasts sharply with recent public and press reports as well as provincial interviews in Ndola and Copperbelt provinces. These highlighted Kongola's pollution of the Kafue River<sup>8</sup> as a clear and recent testimony of poor business ethics. Another similar case that also concerned the Parliamentary Committee on Economic Affairs and Labour of the Zambian Parliament<sup>9</sup> was that of the sulphuric acid air and water pollution of the Mufulira area by Mopani Copper Mine Plc.
- 134.6 According to a detailed report by Counter Balance<sup>10</sup> published in December 2010, Mopani Copper Mines adopted the "in situ leaching" (ISL) extraction technique in 2003, which ultimately leads to acid injections into a deposit adjacent to the underground water supply of the Mufulira town. Two known water contaminations that had that affected up to 800 people in the region, occurred in 2003 and again in 2005. This environmental situation was compounded by massive emissions of sulphur dioxide from the smelters, which have caused acid rain in the area. According to the same report, air pollution readings taken between June and September 2009 showed contamination levels exceeding the legal limits by 72 times.
- 134.7 In the Southern Province, it was established that Kola Mines (a coal mining company) has on several occasions polluted neighbouring water sources owing to its failure to maintain a three-part pond effluent treatment system. The neighbouring community has, as a result, suffered from a serious degradation of the water sources.
- 134.8 Aside from pollution, other ethical cases - again in the mining sector - involved the poor facilitation of the miners. During the Ndola interviews, the CRM learnt of one such case involving a mine where the company is said to have deployed miners in the underground tunnels without any form of protective industrial

<sup>7</sup> [www.postzambia.com/post\\_print\\_article.php?articleId=7802](http://www.postzambia.com/post_print_article.php?articleId=7802)

<sup>8</sup> (Details of the Kafue pollution)

<sup>9</sup> (Parliament reference)

<sup>10</sup> [www.counterbalance\\_eib.org/images/mediaroom/doc/mopani\\_report\\_december\\_2010.pdf](http://www.counterbalance_eib.org/images/mediaroom/doc/mopani_report_december_2010.pdf)





- gear.
- 134.9 Deliberate “casualisation” of labour is another ethical issue that was pronounced in many of the Provinces. It was commonly known by the respondents that a number of private sector companies in Zambia kept a large proportion of their labour force as casual labourers so as to keep their financial and other employee obligations at a minimum. It was not uncommon to find people who had been in casual employment for three years or more. In addition, cases of dismissal without payment of terminal benefits were said to be common in the Southern Province. In fact, some of the respondents expressed the view that foreign investors were major culprits in this regard and that they acted with impunity because “they entered the country through State House.”
- 134.10 In manufacturing, a representative of the labour union in Ndola revealed a case where factory owners were known to lock their employees up in the factory premises while they went home for lunch as a means of curbing theft. In these instances, a fire outbreak would cause everyone in the premises to perish.
- 134.11 Enforcement of effective environmental and social ethical standards in the mining sector has been gravely complicated by the Development Agreements executed between the Government and the mining giants, which, according to the Counter Balance Report<sup>11</sup> provided for periods of stability of up to 20 years during which mining companies would be exempted from any changes in legal framework. This immunity coupled with the weak legal framework for this sector has led to grave unethical practices.
- 134.12 According to the Parliamentary proceedings of 30<sup>th</sup> January 2008<sup>12</sup> following the second pollution by Mopani, the Minister of Mines and Mineral Development informed the House that one of the measures that had been taken to ensure future compliance was that mining companies were being asked to conduct environmental audits against which their contributions to the Environmental Protection Fund would be measured. As judge and jury in their own case, the mining companies are in firm position to dictate the contents of these reports to mitigate both their environmental obligations and their financial ones to the fund.
- 134.13 The Institute of Directors (IOD) has played a leading role in promoting ethical business practices especially in the private sector. Through its publications, including the Manual on Corporate Governance<sup>13</sup> and the Corporate Governance Code for Small to Medium Enterprises (SMEs)<sup>14</sup> the Institute has offered guidance on the development of Codes of Ethics, ethical behaviour and the establishment of Ethics Committees as a key enforcement mechanism. Through its nationwide training programs, these publications and guidelines are marketed and encouraged.
- 134.14 The Integrity Committees that have been prevalent in the public sector are also an enforcement tool in the private sector, and in particular the mining sector. Kongola Copper Mines is an example of a mining company with an Integrity Committee.

<sup>11</sup> Ibid.

<sup>12</sup> Daily Parliamentary debates for the second session of the tenth assembly – [www.parliament.gov.zm](http://www.parliament.gov.zm)

<sup>13</sup> The Institute of Directors (IOD) Manual on Corporate Governance - A guide for Zambian companies and organisations on best practices in corporate governance, November 2004

<sup>14</sup> The Institute of Directors (IOD) Corporate Governance Code for Small and Medium Enterprises in Zambia





- 134.15 As an additional enforcement mechanism in the provincial areas where mining and related activities dominate, respondents proposed to involve the House of Chiefs, which is not only in touch with the people and the affected environment but whose authority was recognised by the corporations.

**135. Investigative Financial Journalism Reports on Economic Crimes and Ethics Violations**

- 135.1 The CRM found that the independent media has played a greater role in exposing unethical corporate behaviour in Zambia than the state-owned media. A majority of the stakeholders consulted opined that the state-owned media was heavily controlled and more concerned about tarnishing the image of foreign investors who may “decide to go”. During the provincial visits, one recurrent case that was quoted to illustrate the independent media’s role in exposing unethical behaviour was the shooting of miners in Collum Coal Mine on 15 October 2010 by their Chinese bosses. Eleven employees were critically injured in the incident. Respondents during the provincial visits were convinced that action against the Chinese investors would not have been taken if the independent press had not exposed the case. [The court charges against Chinese managers were later dropped because the state prosecutors could not proceed with the case].

- 135.2 On the issue of the role of state owned media in promoting business ethics and good corporate governance practices, a respondent from the Daily Mail in Solwezi revealed that their role was constrained by a lack of capacity building and absence of specialisation in investigative journalism. Training in this regard was pertinent.

**136. Public Bodies Active in Promoting Adoption of Codes of Good Business Ethics**

- 136.1 In addition to the disclosure in the CSAR, the following have been active in promoting codes of good business ethics in the public sector: the Parliamentary Committee on Economic Affairs and Labour and the Environmental Council of Zambia.

**137. Private Bodies Active in the Promotion of Codes of Good Business Ethics**

- 137.1 In addition to the disclosure in the CSAR, the following have been active in promoting codes of good business ethics in the private sector: Citizens for a Better Environment; Caritas Zambia, Centre for Trade Policy and Development, and Earth Organisation Zambia.

**138. Prior Reports on Assessment of the Integrity of the Corporate Sector**

- 138.1 In addition to the reports of the Office of the Auditor General mentioned in the CSAR, the following reports would have been useful to quote:





- “Opinion poll on Lusaka residents’ perceptions of corruption” of January 2005 compiled by Dr. Musonda Lemba, and published by Transparency International Zambia.
- “National Integrity Systems Country study Report, Zambia, of 2003, published by Transparency International Zambia.

138.2 The findings of the CRM are that codes (of ethics and conduct) are available but are not effectively implemented, monitored, and enforced. This is despite the presence of numerous public institutions, which are complemented by efforts from non-state organisations. There is evidence of duplication, or even triplication, of institutions that are supposed to ensure the application of standards and codes. However, they do not appear to have meaningful impacts. This raises questions about human and institutional capacities, and the acceptance of requisite value systems, for effective corporate governance conduct, and of political will to ensure that good practices are promoted.

### 139. Recommendations

It is recommended that the following actions be taken:

- Government should actively implement the policy on the establishment of Integrity Committees in critical public sector organisations, regardless of whether they form part of the pilot group or not. As a key institution in the public sector and in line with the Government policy, the Central Bank should establish an Integrity Committee; this can be done by mandating its Ethics Committee to carry out this function. In order to accord them the required independence, Integrity Committees should be appointed by the Boards of Governing bodies in both the public and private sectors and not the chief executives or their equivalents, who may be the subject of investigation by the Committee.
- Alongside the establishment of Integrity Committees, Government should ensure the development and enforcement of service delivery charters in public institutions, particularly Government ministries and departments as has been done in the Ministry of Lands.
- The Central Bank Corporate Governance Guidelines should be amended to highlight the following as pertinent areas for inclusion in the Codes of Ethics to be developed by regulated entities: insider dealing (for listed institutions), and corruption and money laundering. The Bank of Zambia should also enforce its standards for the publication of Bank Codes of Ethics as per the Corporate Governance Guidelines applicable to them. In addition, It should also amend its Code of Ethics to specifically address corruption and money laundering as key areas.
- To complement de jure autonomy<sup>15</sup> the Anti-Corruption Commission should be granted de facto autonomy by de-linking it from the Office of the President. In addition, the Commission should be sufficiently

<sup>15</sup> Section 5 of the Anti Corruption Commission Act (Cap 91 Laws of Zambia) provides that “The Commission shall not, in the performance of its duties, be subjected to the direction or control of any person or authority.”





resourced to enable it establish provincial operations.

- Government should harmonise its anti money laundering efforts and expedite the establishment and facilitation of the Financial Intelligence Unit as a key component in the anti money laundering enforcement mechanism. As part of the regime, Government should ensure legal protection for whistle blowers.
- The Code of Corporate Governance prescribed by the Lusaka Stock Exchange should be enhanced to offer better guidance on the content of Codes of Ethics to be developed by Listed Companies as an industry minimum.
- Government should expedite its decision to compel mining companies to list on the Lusaka Stock Exchange (LuSE). In addition, the House of Chiefs and the local chiefs should be incorporated as compelling enforcement mechanisms for promoting good corporate governance and business ethics in the provinces.
- The LuSE should expedite the revision of its Listing Rules that will enhance the corporate governance standards of listed companies. These revisions should also move the compliance standard away from “comply or explain” to a more substantive standard.
- As far as corporate governance and business ethical standards are concerned, the LuSE should eliminate the difference between listed and quoted entities and require both classes to comply with the same standard. This is especially important in view of the fact that quoted companies account for the larger portion of GDP as compared to the listed ones.
- Professional training institutes, including the Institute of Corporate Governance, should establish courses targeted at enhancing the capacity of commercial investigative journalism.
- In order to obtain accurate responses to this section of the CSAR, the process should sensitise the respondents on the distinction between Codes of Conduct and Codes of Ethics.

**Objective 4: Ensuring that Corporations Treat all Stakeholders Fairly, including Shareholders, Employees, Communities and Suppliers**

**140. Summary of the CSAR**

- 140.1 Zambia laws protect the right of various business stakeholders through various legal instruments. Unfortunately, the lack of enforcement capacities results in corporations not successfully implementing the regulations. Similarly, the weak nature of the law, the lack of understanding of the law, and the low degree of awareness of their rights by the various stakeholders also contribute to the non-enforcement of their rights within the various corporations. For example, minority shareholders have, by law, the means to intervene in a company's







decision-making but hardly do so. Because many of them are not aware of this, they hardly participate in decision making process in the various Corporations.

**141. Protection of Shareholder Rights (CSAR)**

141.1 According to the CSAR, the measures for the protection of shareholders rights can be summarised based on the World Bank Annual Doing Business survey in the “Protecting Investors” Category. This World Bank’s Annual Doing Business Survey critically investigates the extent to which minority shareholders interests are protected against director’s misuse of corporate assets for personal gain.

141.2 The CSAR notes that there are three main sub-indices that are used to measure the strength of investor protection Index: (i) the extent of disclosure index (ii) extent of director liability index and, lastly, (iii) the case of shareholders suits index.

141.3 The CSAR shows clearly that the investor protection index and its three sub - indices all rated from zero to one with higher values indicating better investor protection, disclosure, director liability and the case of shareholder suits.

141.4 The CSAR also compares Zambia’s performance against those of South Africa, Botswana and Kenya in respect of the extent of disclosure, director liability and the case of shareholder suits.

141.5 The report shows that Zambia’s protection of minority shareholders is only good when it comes to instigating shareholder suits. Unfortunately, Zambia is weak with respect to the extent of disclosure requirements required of companies by law. In this perspective, Zambia compares unfavourably with South Africa and Botswana.

141.6 South Africa has an advanced disclosure requirement that protects the interests of minority shareholders. For example, in South Africa, in conducting the affairs of a company, the minority is obliged to subject itself to the wishes of the majority as long as the majority acts lawfully.

**142. Rights of Stakeholders**

142.1 The CSAR indicates that the agency in charge of consumer protection in Zambia is the Zambia Competition Commission (ZCC). The two prominent NGOs involved in consumer protection in Zambia are the Consumer Unity Trust Society - Zambia Resource Centre (CUTS - ARC) and the Zambia Consumers Association (ZACA). The two NGOs together produce a bi - monthly e - newsletter entitled “Consumer Watch” which highlights consumer issues.

142.2 It is interesting to note that Zambia is a signatory to the United Nations Protocols on consumer rights. The CSAR notes that, currently, consumer protection is covered by the Competition and Fair Trading Act, Chapter 417 of the Laws of Zambia. The law will shortly be replaced by the “Competition and Consumer Protection Act” which will include the “right to be informed” and the “right to choose”. These rights will then be legally justifiable and pursued in Zambia.

142.3 The CSAR also indicates that the primary role of ZCC is to receive complaints from consumer regarding unsafe products, unsafe foodstuffs, defective or malfunctioning electric and electronic products, expired pharmaceutical





products, unsatisfactory telecommunication services etc.

- 142.4 What is of great concern to Zambians today, is the proliferation of sub-standard and counterfeit imported products which are not labelled to show the source of manufacturing and the expiry data.
- 142.5 The CSAR observed that, currently, members of the public are worried about the increasing number of unlicensed non – banking financial institutions (NBFIs) in Zambia. Since consumers are going to be affected if the NBFIs are not regulated, the CSAR was informed that the Bank of Zambia has taken it upon itself to caution the public against transacting business with unlicensed non – banking financial institutions. The Zambia Consumer Association (ZACA) says the warning by the Bank of Zambia (BOZ) is timely since large number of consumers will be affected.
- 142.6 The Central Bank's warning comes in the wake of reports that some persons are providing non – bank financial services without obtaining a license from BOZ. The BOZ has already received reports of persons providing such services, without being regulated under the Banking and Financial Services Act.
- 142.7 It is also alleged that some of these unlicensed NBFIs have received deposits from unsuspecting members of the public and their whereabouts have been difficult to establish. In view of this repulsive situation, the BOZ advises the public to ensure that the institutions that they do business with are duly licensed by it or another licensing authority, such as Ministry of Finance and National Planning.
- 142.8 The ZCC receives regular complaints about unsafe products, including foodstuffs, defective electric and electronic products, and expired pharmaceutical products.. The ZCC attempts to deal with such issues through litigation and by carrying out inspections with district and provincial authorities in areas where the ZCC does not have a permanent office.
- 142.9 For example, between 21 and 27 February 2010, the ZCC sent a team out of Lusaka to work with officials from the Kitwe City Council and the Mansa District Health Management team as part of joint inspections of supermarkets and retail outlets.
- 142.10 Consumers are well protected under Section 12 of the Competition and Fair Trading Act cap 417. This section clearly makes it illegal for any person to supply any product which is likely to cause injury to health or physical harm to consumers when properly used, or which does not conform to a consumer safety standard prescribed under any law.
- 142.11 In addition to the above Act, the Public Health Act, Cap 295 also prohibits the sale of foods or substances that are harmful to health. The CSAR also recorded that the inspection of three supermarkets in Kitwe found that a few products had expired. The ZCC attributed this to the lessons learnt by the retail industry in the city as a result of the September 2009 inspections when almost a tonne of expired products and products bearing no expiry dates had been confiscated. In the town of Chipata though, the joint inspections of at least 4 tonnes of goods had resulted in confiscations of expired foods, dented tins containing food, broken sealage, erased expiry dates as well as frozen foods with no expiry





dates which were clearly displayed in various outlets.

- 142.12 Generally, the ZCC and ZACA need to do more in protecting consumers. The above NGOs need to create public awareness of their rights to inform the manufacture date and the expiry dates of the various products consumed by the public. Many of the local consumers especially in the rural areas are not aware of their rights to such information. The Zambian Government itself must ensure that those rights are fully entrenched in the proposed “Competition and Consumer Protection Act”.
- 142.13 Coupled with the proposed legislation on consumer protection, the Zambia Bureau of Standards needs to have better means of enforcing consumer standards as some of the companies produce poor quality goods and are not held accountable.
- 142.14 In respect of employee’s rights, the CSAR notes that the labour laws are generally clear, coherent and adequate. However, there is a need for awareness raising programmes for members of the Zambia Federation of Employers to educate them about labour laws. The CSAR did not indicate instances where employee protection under the labour law and other circumstances where unfair labour practice have been undermined.
- 142.15 The CSAR indicates very briefly that the rights of suppliers and customers are provided for in the local legislation and policies. Suppliers and customers have little knowledge of these rights and the mechanisms for redress when their rights are infringed upon are not well spelt out. As a consequence, corporation may take advantage of such ignorance. Details of the rights of suppliers and customers are not discussed.
- 142.16 In terms of the community, CSAR indicates that corporations do not generally consult or involve the community, including civil society, when developing or undertaking social responsibility programmes. As a result, there is little flow of information to the general public on activities undertaken.
- 142.17 In addition to this, the Environmental Council of Zambia claimed that the level of compliance by corporations with the Environmental Protection and Pollution Control Act is high. However, the statistics provided by ECZ contradict the above statement, mainly because they show that a large number of corporations are responsible for pollution and environmental degradation throughout the country.

## **143. Findings of CRM**

### **143.1 Accountability to Shareholders.**

- 143.1.1 The Company Act (Number 26 of 1994) shows that company law is based on the principle of majority rule, that is to say the affairs of a company are decided by the majority of votes in that company. As long as the majority acts lawfully, the Zambian Court will refuse to interfere in the conduct of company affairs at the instance of a minority. Majority rule implies that the majority may, under





certain circumstances, ratify unlawful acts (irregularities).

- 143.1.2 Shareholders also informed the CRM that if a company has been wronged it must itself act to have the wrong redressed, a member or a group of members cannot normally do so for the company. This principle exists in conjunction with the concept of a company having a separate existence with its own rights which, as a consequence, it has to assert itself and in its own name.
- 143.1.3 However, it should be borne in mind that it is not always possible for a company to act in its own name, especially if the wrongdoers themselves are in control of the company. The shareholders confirmed to us that in such circumstances the rule of derivative action is applied.
- 143.1.4 Derivative action refers to wrongs done to the company. Where the company cannot, or will not, act against those who wronged it, a derivative action on its behalf may be instituted in certain circumstances. Such action will have to be instituted against the wrongdoers by somebody acting on behalf of the company and all the shareholders other than the wrongdoers. The company, being unable to act as plaintiff, must be joined as normal defendant so that it is party to the proceedings and any order of the Court can be made applicable to it. Generally speaking, in Zambia, a derivative action may be instituted under the circumstances below – (a) If an “unratifiable” wrong has been done to the company; and (b) if the company cannot or will not institute the action because the wrong doers control the company.
- 143.1.5 The CRM was also informed that there are classes of unratifiable wrongs in respect of the personal action and this include among others:
- Acts in breach of the rights of the company as set out in the corporate constitution – for example ultra vires acts or acts which, in terms of the constitution, are beyond the authority of its agents, or the payment of dividends in contravention of the memorandum.
  - Unlawful conduct and conduct in breach of the common law of the type which is not ratifiable by ordinary resolution and which amounts to a wrong to the company – for example, an unlawful reduction of the share capital of the company, in terms of section 81 (1) of the company Act or theft of company funds. Certain unlawful acts may give rise to a derivative as well as personal action. Where the unlawful conduct is merely a breach of the membership rights of a member (for example, short notice of meetings), it would not give rise to derivative action.
  - Fraud on the minority and, in some cases, including majority shareholders and the company itself. Examples of “fraud on the minority” in this specialised sense are where the majority manipulates matters in such a way that corporate assets end up in their hands or the hands of a company in which they have an interest.

## **143.2. Derivative Action Under Common Law**





- 143.2.1 The CRM was also informed that in Zambia, the derivative action of the common law has not received as much attention as it deserves mainly because the procedure to be followed is not clear. The second argument put before us is that the derivative action of common law is negatively affected by the serious defect that a member has to conduct the case at personal risks, especially as regards cost. Should the individual be successful, the benefits accrue to the company while it could well be that he does not recover all the costs and expenses; in case the individuals lost the case, the individual would be liable for all costs. In addition to this, the plaintiff must join action while all the information regarding company matters is in the hands of the controllers ,who are usually the wrongdoers or their sympathisers.
- 143.2.2 In view of this, it is undesirable to expect minority shareholders, who usually have no access to relevant information, to assert the rights of the company at their own cost by using derivative action.
- 143.2.3 The Zambian Company Law must be amended to enable minority shareholders invoke statutory derivative action without them bearing full liability for all the costs that arise from the case instituted against the wrongdoers of a company. The present scope of statutory derivative action must be extended in full to protect the interest of both the minority and majority shareholders and the company itself as a legal entity.

### **143.3. Responsibility to Stakeholders (Consumers, Employees, Communities and Suppliers)**

#### **143.3.1 Consumer Protection**

- 143.3.1.1 Stakeholders informed the CRM that there are various legal measures and institutions established to protect consumers in Zambia. It is also interesting to note that Zambia is a signatory to the United Nations protocol on consumer rights and protection. The United Nation clause on consumer right is covered by the competition and fair trading Act, Cap 417 of the Laws of Zambia.
- 143.3.1.2 Institutions such the National Bureau of Standards (NBS) and Zambia Competition Commission (ZCC) are supposed to ensure the protection of consumers. The National Bureau of Standards in Lusaka made it clear to the CRM that they have been given the mandate to ensure that products manufactured by various industries are of high quality and safe for consumption. However, it has multiple roles that overwhelm the performance capacity of the bureau. These include verifying the quality of the product manufactured; ensuring that the composition of the material used for the product are safe and approved; that manufacturers comply with the government regulations in the process of manufacturing their product and to indicate clearly the date the product was manufacture and the date it is expected to expire. Officials of the National Bureau of Standards considered that their role should be narrowed; they should only be assigned to recommend and approve the quality of manufactured products and the enforcement of the government regulations should be given to another organisation. They pointed out that such division of labour will help to improve their efficiency in terms of quality control.





- 143.3.1.3 The Zambia Competition Commission (ZCC) is a government agency in charge of consumer protection. In addition to this, there are two prominent NGOs involved in consumer protection and these NGOs are namely, the consumer Unity and Trust Society – Africa Resource Centre (CUTS – ARC) and the Zambia Consumers Association (ZACA). Unfortunately, some of the stakeholders we discussed with in the rural area of Solwezi (North West Province) and in Mongu (Western Province) are not aware of the two NGOs mention above. We therefore assumed that those two organisations are more popular in big cities like Lusaka and not in rural areas. Much more needs to be done by both the Zambia Competition Commission and the two NGOs to extend consumer protection to rural areas.
- 143.3.1.4 Most consumers we discussed with are not even aware that Zambia is a signatory to the United Nations Protocol on Consumer Rights. They were therefore unable to answer our question as to whether or not Zambia has complied with UN standards on consumer rights. The Zambian Government must intensify efforts to create the awareness of consumer's right in accordance with UN standards. This would help to educate consumers about their rights with regard to unsafe products and foodstuffs, and defective and expired pharmaceutical products.
- 143.3.1.5 There is an urgent need for the Zambian Government to finalise its proposed new legislation entitled "Competition and Consumer Protection Act". The proposed law will need to address many issues that many consumers currently have to contend with, and it must show clearly the redress measures that are available to consumers.
- 143.3.1.6 Financial institutions are also helpful in protecting consumers. For example, the Bank of Zambia has not only cautioned the public against transacting business with unlicensed non-banking financial institutions but is dealing squarely with the unlicensed ones in order to protect consumers from high interest rates and other harmful business practices. Consumers, even those in rural areas, are highly appreciative of these measures BOZ is taking against malpractices. However, urban areas benefit more from consumer protection than rural areas. This again buttresses the need for the Zambian Government and its various institutions to develop better channels of communications with those in the rural areas.

### **143.3.2 Employees**

- 143.3.2.1 The Ministry of Labour and Social Security has put in place a number of labour laws to guide corporations with regard to employees' rights. The labour laws enacted include the following:
- Employment Act of 1997
  - Industrial and Labour Relations Act No. 30 of 1997
  - Employment (Special Provisions) Act Cap 270,
  - National Pensions Scheme Authority Act of 1996
  - Factories Act, Cap 441





- Minimum Wages and Conditions of Employment Act and,
- The Employment of Young Persons and Children's Act

143.3.2.2 Although the CSAR claims that the above labour laws are generally clear, coherent and adequate, this was not what we saw in the various provinces we visited. Most employees were quite dissatisfied with the implementation of the above labour laws. For example, stakeholders informed the CRM of instances where inspectors from the Ministry of Labour failed to defend employee rights under the labour laws. Trade Union leaders pointed out many companies where employers prefer casualisation of workers to permanent jobs for their employees. Union leaders have expressed their dissatisfaction at this practice but can do very little to stop it. There are no legal provisions to support them in fighting the ways employers, especially the newly established Chinese companies in Zambia, now use casual workers in their factories. This is a serious issue that needs to be addressed urgently by the Zambian Government. It is also surprising that this casualisation of workers was not given prominence in the CSAR Investigation.

143.3.2.3 Stakeholders also brought cases of unfair labour practices and unfair dismissal of employees to the attention of the CRM. Many employees and trade union leaders complained bitterly about these forms of treatment. Although the Industrial and Labour Relations Act spelt out the procedure, and the substantive issues to be addressed before dismissing an employee, this is not followed. Trade union leaders in the provinces also alleged that when cases of unfair dismissals are reported to the Ministry of Labour and Social Security, the Ministry treats such complaints with levity. This is a great concern not only to trade union leaders themselves but to the employees who are denied their right to a fair dismissal.

143.3.2.4 Trade union leaders also mentioned the issue of constructive dismissal, a practice where the employer makes working conditions unbearable for the employee forcing him to resign. It was reported to be a common occurrence in the workplace. This is an issue the Ministry of Labour and Social Security needs to address urgently.

143.3.2.5 Stakeholders informed the CRM of the need to amend the current Minimum Wages and Conditions of Employment Act. Union leaders, and employees themselves, feel that employers should pay wages that are proportionate to the cost of living to safeguard the well-being of workers and enable them to meet their basic needs and those of his their families. That is one of the most important labour market policies in any economy.

143.3.2.6 This buttressed the fact that despite government's efforts to increase income for the lowest paid employees, the minimum wage has failed to keep pace with the rising cost of living as evidenced by the growing gap between the threshold and the cost of basic needs since the last revision in 2006. Employees themselves argued that those among them who earn the exact or just above the minimum wage simply cannot afford adequate food and other essential household needs that enhance human dignity for themselves and their families. They pointed out that there are many other advantages to increasing the minimum wage. One is that it creates ripple socio-economic effects as it has the immediate potential of reducing poverty since increased income boosts the purchasing power of the most vulnerable workers and encourages spending on basic needs.

143.3.2.7 In light of this argument, the minimum wage and conditions of employment





statutory instruments of 2006 require revision and amendment to satisfy employees.

143.3.2.8 In addition to the above amendments there is also a need to amend the Factory Act as it is no longer relevant to the current state of employee protection in the work environment. Trade union leaders and employees themselves contend that there is an urgent need to change the Factory Act to Occupational and Safety Act to reflect the current dynamic conditions of their present work environment. The Factory Act as it stands was enacted many years ago and does not cover the present health hazards or include other safety measures that are needed to protect employees in the current challenging work environment.

143.3.2.9 The Factory Act also does not conform to International Labour Organisation's standards in terms of occupational safety convention. Since Zambia is a signatory to that convention it needs to amend the Factory Act so as to comply with the ILO Standards.

### **143.3.3 Communities**

143.3.3.1 During provincial consultation with CRM, the stakeholders in the provinces listed many instances of businesses harming the communities in which they operate. The most conspicuous cases involve environmental pollution and contamination arising from mining companies. A number of cases can be cited:

143.3.3.2 In Ndola, the Copperbelt province, the Lafarge cement plant has seriously polluted that area by emitting high levels of dust particles from the stacks into the atmosphere. This is clearly visible from the vegetation that has been covered by dust in the surrounding areas.

143.3.3.3 In the same province, the CRM was informed by the stakeholders that there are two mining sites of the mining company Mopani Copper Mines Plc that contribute to air and water pollution at Kitwe and Mufulira. The main environmental problem at these mining sites is the emissions of sulphur dioxide.

143.3.3.4 Similar stories of pollution were cited against the Konkola Copper Mine Plc which is located in Chililabombwe, Nkana and in Nampundwe also create environmental problem in terms of the quality of the effluent discharge at the pollution control dam. This pollution has adversely affected the environment.

143.3.3.5 Stakeholders in Solwezi told the CRM that Lumwana Mine Company which is located 70 km from Solwezi creates environmental problem in respect of the quality of the discharged effluent from the copper tailings storage facility. Similarly, the high grade uranium ore also affects the environment.

143.3.3.6 The CRM was also informed that large quantities of pesticides are used in the agricultural sector; growth regulator and micro nutrients contribute to water pollution, which is additional to the deforestation which is now becoming a problem in the area.







143.3.3.7 In the commercial sector, the generation of huge quantities of packaging waste also affects the environment.

#### **143.3.4 Suppliers**

143.3.4.1 The CRM observed, through consultations with stakeholders in the various provinces visited, that small and medium enterprises (SMES) have no access to government contracts, especially in the area of procurement. SMEs have long been disadvantaged by the tender process when competing with large scale enterprises .

143.3.4.2 In addition to this, there are no visible linkages between small scale establishments and large enterprises in support of job creation and small scale industrialisation. Government must encourage SMEs to bid for public contracts and also encourage large enterprises to sub-contract to small scale businesses.

143.3.4.3 Vulnerable stakeholders are therefore not adequately protected by the existing legal and institutional frameworks. More often than not consumers, communities, and small-scale suppliers are victims of the predominance of larger, foreign-owned businesses which the government seems to favour.

#### **144. Recommendations**

The Panel recommends that :

- The Zambian Government revisit, urgently, the legal framework of corporate governance so as to protect the rights of suppliers, consumers and members of the community.
- The present responsibilities of the Bureau of Standards should be shared with other bodies to make it more effective and efficient. Enforcement of the standards must be carried out by another body.
- The present Company Act and Insolvency Act must be amended so as to protect the rights of the shareholders and other stakeholders. More awareness of the rights of minority shareholders must be created. The amended Company Act needs to include clear provisions for the protection of minority shareholders and their responsibility to the company whose shares they hold..
- More administrative structures and mechanisms need to be designed to facilitate recourse by shareholders who are seeking redress when they feel that their rights have been infringed.
- The Zambia Government should harmonise and integrate the various consumers' protective units into one strong body with a clear mission, visions and values. Some of the current roles of Zambia Bureau of Standards should be shared with other organisations especially the enforcement of the Bureau rules and regulations.
- The Environmental Council of Zambia should collaborate with other





stakeholders' institutions to ensure compliance with environmental laws and oversee their enforcement.

- Critical legislation should be revised urgently, including the Employment Act of 1997. The Industrial and Labour Relations Act of 1993 should be amended to protect employees from unfair labour practices and ensure they are paid better wages that directly reflect the current inflation rate in Zambia. The Factory Act should be replaced with Occupational and Safety Act that conforms to ILO standards.

#### **Objective 5: Providing for the Accountability of Corporations, Directors and Officers**

### **145. Summary CSAR**

**145.1** The Zambian Government recognises the fact that good corporate governance should embrace timely and accurate disclosure on all material matters. Unfortunately, there is low compliance by many corporations in this area. The CSAR states that this situation can be attributed to the challenges preventing the Patents and Companies Registration Office (PACRO) from effectively enforcing compliance, such as insufficient manpower and budget constraints.

### **145.2 Disclosure**

**145.2.1** The CSAR indicates that company and taxation law are the main sources of disclosure requirements on financial accountability of business enterprises. However, there is limited requirement on disclosure in respect of non-financial aspects in non-quoted companies. Enforcement for disclosure requirements is also found to be weak. The non-quoted companies and SMEs do not conform to the disclosure requirements.

### **145.3 Auditing**

**145.3.1** The Companies Act 26 of 1994 prescribes that all companies should have their financial statements audited by a qualified person. The Zambian government through the Public Finance Act requires the accounts of every state corporation to be audited and reported annually by the Auditor General. However, micro and small enterprises have complained about the high cost of meeting this requirement and many fail to comply because of this.

### **145.4 Eligibility of Directors and Effectiveness of Boards.**

**145.4.1** The CSAR notes that although public listed companies have good Boards, this is not the case with private firms and small and medium scale enterprises. Private and small and medium scale enterprises tend to have informal arrangements, with boards composed of friends and relatives. This is clearly a departure from the tenets of good corporate governance which requires appointment of board members on merit.

**145.4.2** The CSAR also found that some of the companies investigated reported that they were satisfied with the performance of their Boards. However, they did





not provide sufficient information on the composition of their boards, the criteria for appointment to the Boards and mechanisms for evaluating Board performance.

**146. Findings of the CRM.**

146.1 The CRM observed that Zambia has various bodies like the Institute of Directors, Zambia Institute of Management, Institute of Chartered Accountants and others which deal with corporate governance issues. Unfortunately, they do not have formally established forums to exchange views on how best to improve corporate governance issues at both macro and micro level of governance. Some of the Public Enterprises are controlled by a Board of Directors. For example, our visit to western province (Mongu) revealed to us that the Western Water and Sewerage Company Limited, which is a public enterprise, has a well-functioning Board of Directors that deals squarely with governance issues.

146.2 The Board is responsible for the formulation of policies, general administration of the business affairs of the company and all powers vested in the Board by the provisions of the Companies Act, Cap 388 of the Laws of Zambia. The Board members of the company hold office for a term of not more than three years and are eligible for reappointment upon expiry of their terms of office. The Managing Director is responsible for the day-to-day operations of the company. He is assisted by two Directors: one in charge of the Technical Department, and the other for Finance and Commercial Service Department, and the Manager in charge of Human Resources and Administration Department.

146.3 Districts are headed by the District Managers. The Managing Director and two Directors are appointed by the Board for a renewable term of three years while the rest of the staff is appointed on permanent and pensionable basis.

**147. Board of Directors (BOD) and Shareholders Interaction.**

147.1 In Western Water and Sewerage Company Limited discussed above, the CRM observed that the Local Authorities (LAs) are the shareholders of the (CUs) and it is they who appoint the BOD, which has to be approved by the Minister in that portfolio. The BOD is given the responsibility and power to oversee the running of the company and is accountable for the performance and affairs of the company, performance indicators, as well as other key events. The BOD is expected to take corrective measures if weaknesses become apparent. The CRM was informed that the division of roles and responsibilities between the shareholders, the BOD and Management is often not clear, appreciated, or consistently adhered to.

147.2 The company also recognised that Board members must be appointed based on their professional capabilities and the value they are capable of bringing to the company. For the Board to fulfil its role of overseeing the Management, it has to have representation from different professional backgrounds (technical, financial, legal etc.)

147.3 The company also pointed out to the CRM that the criteria for the appointment of the Board have been, among others: business experience, character, judgment, diversity of experience; skills and acumen, background and other factors relevant to the Board's needs and objectives; independence, financial





literacy and experience, and ability to devote significant time to Board activities to enhance the company's objectives.

**148. Disclosure of Company Information.**

148.1 Zambia does poorly in the Doing Business "extent of disclosure" index. The sub-indices of this index show that Zambia performs particularly poorly under the law in compelling companies to:

- Provide immediate disclosure to the public and/or shareholders of an event (zero out of a total possible two points)
- Provide periodic published filings on transactions (zero out of a possible two points); and
- Provide an external body to review a transaction before it takes place (zero points, as Zambia does not require an external review)

**149. BOD and Management Control Strategy.**

149.1 In the above company, it is the role of the BOD to give guidance to the company and to oversee management. The BOD appoints the Managing Director and plays a key role in the selection of other top management staff. It approves key strategies and documents such as the annual budget and the personnel structure. Any modifications have to be approved separately. It is however important that the Board does not run the company and it shall therefore not interfere unnecessarily in the daily operations of the company.

149.2 Conclusively, it should be noted that the above discussion is a reflection of what happens in most of the public enterprises in Zambia. The CRM heard similar information from other public enterprises in other provinces visited.

**150. Recommendations**

The Panel recommends that:

- The Companies Act of 1994 should be revised and made to state clearly the sanctions against corporations for non-disclosure on all material matters in both public and private sectors of the Zambian economy.
- The Zambian Government ensures the financial sustainability and institutionalisation of the Institute of Directors, Institute of Management and other similar institutions that help to train Directors in corporate governance issues.
- The Company Act should have a whole section devoted to establishing the difference between issues of governance and management issues. This will help to minimise the conflict of roles between Board members and Management.





## CHAPTER SIX

# SOCIO-ECONOMIC DEVELOPMENT

### 161. Overview

- 161.1 Sustained socio-economic development is measured by success and continuous improvement in the well-being and the standard of living of the people. The APRM framework is premised on the principle that sustained socio-economic development, and its consequence of poverty reduction, can be effectively tackled through the promotion of democracy, good governance, peace and security; the development of human and material resources; gender equality; openness to international trade and investment; allocation of appropriate resources to the social sector; and building strong partnerships between the Government, the private sector and civil society.
- 161.2 Since independence in 1964, Zambia has pursued this noble objective as expressed in a number of development documents, strategies and policies. Shortly after independence, it implemented its First National Development Plan, covering the period 1966 to 1971. The Plan, which provided for major investment in infrastructure and manufacturing, was generally successful. Subsequently, three other National Development Plans were implemented.
- 161.3 However, the strong mining-based economy that Zambia inherited at independence deteriorated sharply due to a significant fall in copper prices and a severe world oil shock around the end of the first Plan. The Government resorted to foreign borrowing to ameliorate the negative impact of the consequent decline in living standards. It also adopted a policy that sought to diversify the economy through a strategy of import substitution industrialisation and attempts to reduce dependence on mining. Though the policy encouraged firms to produce for the domestic market, it failed to build the necessary capacity to export leading to minimal export revenue. Eventually, the import substitution strategy and the intended economic diversification attempts failed to yield positive results.
- 161.4 The Government had to adopt a Structural Adjustment Programme (SAP) by accepting the conditionalities of the International Monetary Fund and the World Bank. Therefore, As a result, it privatised poorly performing public enterprises, abolished state controls, opened up agricultural input and output markets to private entry, lifted import controls and implemented a floating exchange rate.
- 161.5 On assuming power in 1991, the Movement for Multi-Party Democracy (MMD) government was faced with the difficult task of rehabilitating and developing a shattered economy and raising the living standards of the population. In the social sector, neglect of essential services, especially health and education, had contributed to a severe decline in the standard of living for the majority of the population, and institutional capacity had been weakened by disruption and continual crisis management.





- 161.6 Since 1992, the country has put in place progressive policies, guidelines and institutions to move the socio-economic development agenda forward. In 2002, the then President, Levy Patrick Mwanawasa, requested the Ministry of Finance and National Planning to produce a three-year Transitional National Development Plan by June 2002, and from 2006 onwards, to produce five-year National Development Plans. Reintroducing development planning after following SAP was designed to make it easier to anchor annual budgets explicitly within a strategic framework that promoted the long-term socio-economic agenda of the nation.
- 161.7 The Transitional National Development Plan (TNDP) drew heavily on the work of a Poverty Reduction Strategy Paper (PRSP) that had been implemented earlier. The TNDP was expanded to cover areas that were not adequately covered in the PRSP to incorporate a wider perspective of socio-economic development.
- 161.8 Around the time of the TNDP, Zambia qualified for the Heavily Indebted Poor Countries (HIPC) status. It greatly benefited from the cancellation of virtually all of its external debt. This implied that the Government's domestic revenues, hitherto needed to service external debt, could be reallocated to domestic expenditures, including pro-poor and other socio-economic projects.
- 161.9 Another National Development Plan, the Fifth National Development Plan (FNDP), was designed and implemented. The FNDP was to be the most successful of all the Plans implemented up to that time. It established an enabling environment for improving economic infrastructure and investment in human resource development to fast track socio-economic development in Zambia. It established macroeconomic stability and continued economic growth, averaging 6.1 per cent between 2006 and 2009 compared with an average of 4.8 per cent during the Poverty Reduction Strategy Paper and Transitional National Development Plan period of 2002 - 2005. The Plan also achieved positive gains in infrastructure development and general improvement in maternal and infant mortality rates, and education enrolment rates. Per capita Gross National Income grew by 44 per cent, rising from USD680 in 2006 to USD980 in 2009. However, the 6.1 per cent average growth rate was below the targeted average growth of 7.0 per cent. The targeted reductions in unemployment and poverty levels also were not significant.
- 161.10 Poverty reduction during the FNDP period was constrained by poor infrastructure, low quality of human capital, high cost of financial services, inefficiencies in public expenditure management and limited access to land. Programme implementation measured by outputs in ministries, provinces and spending agencies (MPSAs) was below expectations due to several factors, including a low absorption capacity by these state institutions. An assessment of key performance indicators presented in the plan's second annual progress report were also found wanting.
- 161.11 The current development plan, the Sixth National Development Plan (SNDP) (2011-2015), was launched while the Country Review Mission was in progress. The Plan was developed in a spirit of openness, involving wide consultation and partnership within the framework of popular participation. With a theme of "Sustained economic growth and poverty reduction", its overarching





objective is to propel Zambia into “a prosperous middle-income nation by 2030”. Therefore, its focus is on policies, strategies and programmes that contribute significantly to addressing the challenges of realising broad-based pro-poor growth, employment creation and human development. The SNDP emphasises “infrastructure and human development” through the principles of accountability, decentralisation and efficient resource allocation. It targets agriculture, livestock and fisheries, mining, tourism, manufacturing, and trade and commerce as the priority growth sectors.

- 161.12 The current administration of President Banda faces considerable challenges in the implementation of the SNDP. Despite many improvements over the years, effective policy implementation remains a critical concern in Zambia. Inadequate resources, lack of capacity, particularly at lower levels, and politicisation of development programmes are major challenges. There is also lack of effective public expenditure management and revenue enhancement. The weak policy and programme implementation suggests an inadequate programme monitoring and evaluation capacity.
- 161.13 Dependence on external sources is a major constraint to genuine domestic ownership of the development agenda in Zambia. While this dependence has been declining over the years, it still remains relatively high.
- 161.14 There is also concern that economic growth has not been associated with significant job creation and poverty reduction. The country faces high and rising unemployment, particularly among the youth as economic growth has been concentrated in the mostly urban based and capital intensive sectors of mining, wholesale and retail trade and construction. The problem of household vulnerability to poverty is also an area of concern. The spike in rural poverty levels since the early 1990s seems to indicate a significant level of household vulnerability to insecurity.
- 161.15 Another source of concern is the rising inequality. Zambia has not been able to fully address the problem of rising income inequality (within and across regions and between urban and rural areas). Income inequality, as measured by Gini coefficient, stands at 0.57, which is high. The inequalities are not only evident for income but also for other basic social services such as health and education.
- 161.16 The issue of equitable access to land in Zambia also remains unresolved. There is so much bureaucracy in land administration and a lot of poor people are facing problems processing their applications for title deeds.

Most of these challenges are not unique to Zambia but prevail in many other African countries. In the Zambian case, the Government has a number of positive achievements to build on towards solving the problems. First, the country’s 2008 MDG assessment suggests that Zambia is on course to achieve a number of the MDG targets. As regards the implementation of the SNDP itself, the CRM observed a strong political will and a high level of government dedication and commitment of purpose to see the Plan through.

- 161.18 This chapter discusses the preceding issues under the six APRM objectives for the socio-economic development thematic area.





## 162. Standards and Codes

### 162.1 Summary of the CSAR

162.1.1 In discussing the Standards and Codes, the CSAR contends that Zambia has entered into 169 Agreements, conventions, treaties and Protocols since its independence in 1964. Of these, the following standards and codes relate to socio-economic development:

- NEPAD Framework (2001);
- Right to Development in the African Charter on Human and Peoples' Rights (1981) including the protocol on the Right of Women in Africa;
- African Charter for Popular Participation in Development (1990);
- United Nations Millennium Declaration (2000);
- The African Charter on the Rights and Welfare of the Child (1990);
- Constitutive Act of the African Union (2000);
- Convention on the Elimination of all forms of Discrimination against Women (Beijing Platform for Action;
- Convention on the Right of the Child;
- Constitutive Act of the African Union ;
- Freedom of Association and Protection of the Right to Organise Convention;
- African Charter on Human and Peoples.

### 163. Findings of the CRM

163.1 The CRM observed that although the CSAR presented a very useful table detailing the status of the adoption, signing and ratification of a number of standards and codes, it did not provide any discussion of these with regard to human and/or social development. Table 20 lists the standards and codes that are relevant to socio-economic development.

**Table 20: Standards and Codes Adopted, Signed and Ratified by Zambia**

Standard and Codes	Adopted	Signed	Ratified
NEPAD Framework Document (2001)		2006	
Right to Development in the African Charter on Human and Peoples' Rights (1981) including the protocol on the Right of Women in Africa	12.06.1986	17.01.1983	10.01.1986
Rights (1981) including the protocol on the Right of Women in Africa		03.08.2005	Not Yet
African Charter for Popular Participation in Development (1990)			







World Summit on Sustainable Development (WSSD) Johannesburg (2002)			
United Nations Millennium Declaration (2000)		2000	
United Nations Declaration on the Right to Development			
The African Charter on the Rights and Welfare of the Child (1990)	10.02.2009	28.02.1992	02.12.2008
World Summit on Social Development Plan of Action (1995)			
Constitutive Act of the African Union (2000)		12.07.2000	21/02/01
Convention on the Elimination of all Forms of Discrimination against Women (Beijing Platform for Action)		17.07.1980	14.02.1983
Convention on the Right of the Child		02.09.1990	06.12.1991
Constitutive Act of the African Union		12.07.2000	21.02.2001
Committee on the Elimination of Discrimination against Women (CEDAW)	21.05.1985	17.07.1980	
Freedom of Association and Protection of the Right to Organize Convention		02.09.1996	
African Charter on Human and Peoples	12.06.1986	17.01.1983	30.05.1986

**Source:** *Ministry of Justice explanatory notes of 20 and contained in the CSAR.*

- 163.2 The CRM also noticed that the Standards and Codes are domiciled in many different government institutions; there is no central depository or comprehensive record of all the agreements and which institutions are the custodians. This practice has fostered lack of ownership and proper communication of the conventions and has also made it difficult to obtain pertinent information readily on some of the conventions.
- 163.3 Stakeholder-consultations indicated that many stakeholders were unaware of many of the conventions. Some stakeholders in Central Province pointed out that the general lack of awareness of the Standards and Codes made it difficult to determine which codes applied to the importation of certain goods.
- 163.4 Though the country has embarked on a laudable policy of citizens pursuing degree courses in local languages, none of the Standards and Codes has been translated into any of the local languages. This has a limiting effect on citizen's general understanding and appreciation of their rights, privileges and responsibilities relating to Zambia's role in the world.





163.5 Stakeholder consultations further revealed that most of the Standards and Codes have not yet been domesticated. However, Zambia is to be commended for setting up several institutions for the implementation of adopted or ratified codes. It has taken a step further to incorporate some of the provisions of the Codes in its National Gender Policy, National Cultural Policy, Education Policy, Health Policy and National Development Plans. The United Nations Convention on the Rights for Persons with Disabilities (UNCPRD) has been incorporated into the Sixth National Development Plan. Under this Plan, the Government will, between 2011 and 2015, fast track mainstreaming of disability issues to enhance the lives of persons with disabilities.

#### 164. Recommendations

The Panel recommends that Zambia :

- Publish and disseminate all adopted Standards and Codes. The Government may also translate them into local languages and implement a sensitisation programme through the print media, radio and electronic media, such as television programmes to promote greater awareness among citizens. (Ministries of Justice and Foreign Affairs, and CSOs)
- Convert the important Codes, such as CEDAW, into easy-to-read pocket-size documents in English and local languages and widely disseminate them.
- Domicile all the Conventions in one government institution to promote ownership and proper communication.
- Set up committees for monitoring the implementation of conventions. This system of periodic progress reporting would provide a participatory framework for enhancing dialogue between the Government and civil society.

#### **Objective 1: To Promote Self-Reliance in Development and Building Capacity for Self-Sustaining Development**

#### 165. Summary of the CSAR

165.1 The CSAR underscores the critical importance of local ownership of the development programmes by noting the level of consultation in the development of National Programmes. It stated that the Poverty Reduction Strategy Paper (PRSP), the Transitional National Development Plan (TNDP), the Fifth National Development Plan (FNDP), the Vision 2030 and the Sixth National Development Plan (SNDP) were undertaken after wide consultations with a cross section of people from civil society, government and cooperating partners. The consulted participants tasked government to ensure the implementation of the adopted resolutions.

165.2 However, the CSAR concedes that despite these and many improvements over the years, effective policy implementation remains a critical challenge in Zambia. Corruption, inadequate resources, lack of capacity, particularly at lower levels, and politicisation of development programmes are identified as the major challenges. There is also lack of effective public expenditure management, revenue development and coordination of development assistance.





165.3 According to the CSAR, national development programmes are funded through three main sources, namely, domestic revenues, external grants and, to a limited extent, borrowing (both internally and externally) but aid still plays an important, albeit a declining role .

## **166. Findings of the CRM**

### **166.1 Self Reliance and Ownership of Development Programmes**

166.1.1 Zambia has the potential to be self-reliant in its socio-economic development. The country is relatively well endowed with natural resources and large tracks of fertile land for agriculture. However, the CRM observed that an excessive reliance on copper revenue has led to a failure to diversify and broaden the base of the economy from mining dependence into other sectors such as tourism, manufacturing, and agriculture and agro-business. Frequent fluctuations in the price of copper have had a negative impact on revenue generation and the availability of self generated funds for development programmes.

166.1.2 Therefore, while Zambia aims to achieve independence and sustainability in funding its national development programmes, reliance on external support is still critical for the delivery of services in most social and economic fronts. Official data indicate that aid accounted for an average of 53 per cent of the budget in 2001. However, between 2006 and 2007, the proportion of aid dropped below 30 per cent. Further decreases were recorded in both 2008 and 2009. In 2008, the proportion of aid in the budget fell from 28 per cent in 2007 to 24 per cent, and in 2009 to about 20 per cent, which suggests improved self-reliance and enhanced government ownership of the development process. The CRM agrees with the CSAR's suggestion that the relative fall in the contribution of aid to the government budget was mainly due to debt relief, rising copper prices and strong economic growth. While it is commendable that aid dependence has been reduced significantly in recent years, it still remains relatively high.

166.1.3 The dependence on external funding has sometimes constrained the rapid implementation of development programmes. The budget requirement for education and skills development for 2008 amounted to K2.147 trillion of which K1.878 trillion was from domestic sources while the remaining K268 billion was derived from external sources with an actual commitment of only K223 billion. This caused a funding gap of K58 billion thereby impeding the immediate implementation of the programme. With a number of projects not implemented on time due to lack, or late delivery of funds, Zambians still face major challenges in self reliance and ownership of development and reduction of poverty.

166.1.4 The CRM learnt that the authorities hope to minimise the dependence on external funding by broadening the tax base through high economic growth, and by diversifying the economy into other sectors such as tourism, agriculture, livestock and fisheries, mining, manufacturing, and trade and commerce, including trade in non-traditional exports.





- 166.1.5 Self reliance and ownership of development programmes is not only measured in terms of financial autonomy but it is also a function of leadership and management of socio-economic development. Self reliance in this regard measures institutional and technological capacity in programme formulation, implementation, ownership of the entire process by the state and the other administrative structures of the nation, and, in addition, the strength of consensus around a social vision and project.

Regarding leadership self reliance, the CRM was informed of gaps in the governance system, particularly in the area of budgeting and disbursement. Stakeholders expressed concern that, although districts have consultative processes in place that facilitate participation in local government, districts that are controlled by opposition political parties are often denied access to national budgetary resources. The stakeholders further noted that, in some districts, the Constituency Development Fund (CDF) has not been a successful development tool because local politicians are the final decision-makers with regard to allocations. Yet the CDF is the only source of available public finance in some of these districts. They observed that there is the potential for the situation to promote an ad-hoc development planning and delivery system, which is not necessarily in line with the imperatives of broad-based development.

- 166.1.6 The CRM was also informed that lack of capacity is another challenge to self reliance and ownership of development programmes in Zambia. According to experts and analysts, lack of capacity has led to design gaps in both the Fifth National Development Plan (FNDP) and Vision 2030, a key statement of ideals that are meant to be a guideline. They criticised the FNDP for its lack of specific programmes and achievement targets. They further observed that although the goals and targets set in the Transitional National Development Plan (TNDP) and Poverty Reduction Strategy Paper (PRSP) were, in some respects, aligned with the human development goals of the MDGs, the documents did not define a comprehensive strategy for reaching the MDG targets. The absence of this long-term perspective meant that there were limited opportunities for horizontal coordination of the approach to development. Therefore, programmes were said to be implemented individually and separately without a clear understanding of their inter-linkages and relationships to attain synergetic intended outcomes.

- 166.1.7 As regards the Vision 2030, these analysts argue that, despite its noble objectives, the Plan does not set any monitorable indicators. It has been observed that the document does not include set targets for poverty reduction and for greater equity in society. It has been further argued that the vision largely focuses on economic development while ignoring people's social and cultural aspirations and that it does not address Zambia's regional integration aspirations.

## **166.2. Promotion of National Social Vision**

- 166.2.1 The CRM's own observations tend to contradict the conclusion that the Vision 2030 is largely economic development focused and ignores social, cultural and regional aspirations. Zambia's national social vision is well articulated in the Vision 2030 document as being "*to become a prosperous middle income*





country by the year 2030". The Vision 2030 identifies two other complementary development goals: to significantly reduce hunger and poverty, and fostering a competitive and outward-oriented economy. The national vision is being promoted at the national, sub-national and project levels. Various ministries and projects have developed relevant mission statements towards the achievement of the vision, which are well articulated on the complimentary cards of some of the officials. The complimentary card of a senior Government official in the Eastern Province expresses the mission statement of the province, in line with the national vision, as: *"To promote equitable and sustainable development in order to ensure improved standard of living of the people in the eastern province"*. Such evidence suggests that a consensus building process has developed around the national vision.

166.2.2 In terms of ownership, the CRM was informed that all the previous national development plans - which include Transitional National Development Plan (TNDP), the Fifth National Development Plan (FNDP) had been designed, adopted and implemented through broad-based consultations with the public sector, private sector, and local communities. The plans were deliberately inclusive to achieve budget allocation efficiency and make future policies more responsive. The current Plan, the Sixth National Development Plan (SNDP), was also developed in an open spirit of wide consultation and partnership within the framework of popular participation. Stakeholders consulted included district, provincial and national development coordinating committees, civil society organisations, academics, traditional rulers and the private sector.

166.2.3 However, an APRM survey of 1,200 households interviewed shows that 20 per cent of them indicated having participated in some community projects. Of these, 47 per cent and 46 per cent participated in project identification and project implementation respectively. Only 26 per cent were involved in training, and 10 per cent in monitoring and evaluation. This survey raises concerns regarding ownership and sustainability because of the important nature of training and monitoring and evaluation in this regard.

### **166.3. Measures Taken to Enhance Self-Reliance**

166.3.1 The Government of Zambia has developed and implemented programmes and policies to increase self reliance and build capacity for self-sustaining development. The reintroduction of development planning following the failure of the SAP was to facilitate the anchoring of annual budgets explicitly within a strategic framework that promotes the long-term socio-economic development agenda of the nation to ensure self reliance and self-sustaining development.

166.3.2 Under a Public Expenditure Management and Financial Accountability (PEMFA) programme, the Government sought to implement Integrated Financial Management Systems (IFMS) in ministries, provinces and spending agencies. PEMFA's sub-component on legal reforms is supporting transformation and accountability in the public sector. The revision and harmonisation of legislation on public expenditure management is to facilitate efficient and effective civil service operations to build capacity for self reliance and self-sustaining development.





- 166.3.3 The Government of Zambia has also been implementing a Public Sector Reform Programme (PSRP) to: enhance public service management for purposes of improving the delivery and quality of public services at an efficient cost, improve human resource management, and decentralise and devolve administrative power away from central ministries in Lusaka to the field stations and local government structures. These programmes have the potential to enhance self-reliance and ownership of development programmes in Zambia.

## 167. Recommendations

The Panel recommends that the Government:

- Carry out a publicity campaign to promote the national vision of achieving middle-income status by 2030 through the use of radio, TV, the print media and other media of communication. The importance of the vision in relation to the socio-economic wellbeing of the population should be emphasised in these campaigns to solidify the concept of the national vision in the country. (Media, Ministry of Information and CSOs)
- Ensure a quick implementation of the Public Sector Reform Programme including the decentralisation programme. Zambia should, as a matter of urgency, deal with the perception that districts that are politically in opposition to the Government are often denied access to the national budgetary resources. Decentralisation and economic empowerment of the provinces and districts should therefore be accelerated.
- Diversify and broaden the base of the economy from mining-dependence into other sectors such as tourism, manufacturing, and agriculture and agro-business.
- Implement the necessary programmes and tools to wean Zambia from dependence on external funding.

### Objective 2: Accelerate Socio-economic Development to Achieve Sustainable Development and Poverty Reduction

## 168. Summary of the CSAR

- 168.1 The CSAR notes that Zambia has made tremendous progress towards achieving some major socio-economic targets set out in the MDGs and its Fifth National Development Plan (FNDP). Over the past 20 years, Zambia has achieved sustained growth and significant reduction in income poverty. The economy has grown at an average rate of 5.6 per cent per year over the past five years. Income poverty headcount has declined from 56 per cent in 1992/93 to 31 per cent in 2005/2006. Other noticeable achievements are the increase in enrolment rates in both Primary and Secondary Education and the reduction in HIV/AIDS prevalence rates from 16 per cent in the early 1990s to about 14.3 per cent in 2005.





168.2 Despite the gains over the years, effective policy implementation remains a critical challenge in Zambia. Corruption, inadequate resources, lack of capacity and politicisation of development programmes are identified as major challenges. There is also lack of effective public expenditure management, revenue enhancement and coordination of development assistance.

168.3 Economic growth has not been associated with significant job creation and commensurate poverty reduction. The country faces high and rising unemployment, particularly among the youth. The upswing in rural poverty levels since the early 1990s seems to indicate a significant level of household vulnerability to insecurity.

## **169. Findings of the CRM**

### **169.1 Dimensions of Poverty**

169.1.1 Available evidence shows that poverty is both an evident fact and a serious concern in Zambia. Living conditions have worsened over time, with most socio-economic indicators showing low progress, and, in some instances, a declining trend. With a well known record of peace and political stability, the country appears to have a low Human Development Index, having fallen from 136 in 1996 to 142 in 1998 and then to 150 in 2010. The 2010 index was only better than those of 19 countries on the list. Though life expectancy of 51.3 years in 2008 in Zambia is higher than the 49.7 years that it was in 1998, it has shown a declining trend since 2005 when it attained its highest level at 52.6 years.

169.1.2 The CRM observed that poverty levels have remained high at 64 per cent of the total population and that the incidence of poverty among the rural population has increased, with levels rising from 78 per cent in 2004 to 80 per cent in 2006. Among the provinces, poverty is most prevalent in the Western Province where the proportion of the population in the "total poor" category increased from 69 per cent in 1998 to 84 per cent in 2006. However, there was a reduction in poverty in the Copperbelt during the 1998 to 2006 period due, in a large measure, to improved employment opportunities.

169.1.3 The poverty situation may, in reality, be worse than the picture presented because of weaknesses in the caloric measure of poverty. The food basket used to arrive at the poverty line is very modest and based on a predominantly minimal caloric requirement that is vegetarian in nature and excludes meat, chicken, and fish. Moreover, the caloric measurement does not fully consider such basic needs as shelter, education, health care, lighting, clothing, footwear, and transport. On this measure, Government documents indicate that 45 per cent of children under five are stunted and 21 per cent are severely stunted.

169.1.4 Inequality is high within and across the regions and between urban and rural areas. Income inequality as measured by Gini coefficient stands at 0.57, indicating a high level of inequality. In Zambia, as elsewhere in Africa, poverty is experienced differently by different groups in society. Poverty has struck hardest and deepest at those in the country who are least able to cope with it and therefore least able to protect themselves. At a general level, those who have been seriously affected by poverty include:





- 169.1.5 Women: The narrowing of opportunities associated with poverty is felt and most severely experienced by women, especially female-headed households (FHHs). According to the 2004 *Living Conditions and Monitoring Survey*, the incidence of poverty by gender of household revealed that persons in female-headed households were more likely to be extremely poor than those in male-headed households.
- 169.1.6 Children: The poverty situation of children in Zambia has been aggravated by the adverse social impact of the HIV/AIDS pandemic. Many of them have lost a parent, in some cases both parents, to AIDS. Government available data show that there were about 1,197,867 orphans in 2005 of which 536,692 were paternal orphans and 508,768 were maternal orphans. The majority of these orphans and vulnerable children suffer from poverty, hunger, lack of access to decent shelter, illiteracy and destitution. These socio-economic problems negatively affect their growth and development. Unlike adults, the impact of poverty can be more devastating because they have low resilience levels.
- 169.1.7 Youth: Unemployment, inadequate skills and the HIV/AIDS pandemic have combined to exacerbate the level of poverty among the youth. The current land tenure system makes it difficult for the youth to access land, which constrains them from going into agriculture.
- 169.1.8 The disabled: The CRM learned that another group of people which has been especially affected by poverty and marginalisation in general are the disabled. Lacking sufficient means of livelihood, this group has failed to cope with the negative consequences of economic poverty.
- 169.1.9 The new poor: During the consultations, the CRM was made aware that a new category of poverty, known as the new poor, had emerged in Zambia. This category, created by economic reforms of previous years, mainly comprises people who were retrenched during the economic restructuring era, retirees, and those private and public sector workers whose wages are too low to sustain them.
- 169.1.10 The high levels of poverty in Zambia have been compounded by high levels of unemployment and low wages. Unemployment is more an urban than a rural problem. The 28 per cent rate of unemployment in urban centres is about 2.8 times that of the rural unemployment rate. The proportion of unemployed urban illiterates is about 300 per cent of that of rural illiterates while the proportion of urban youth labour force is triple that of rural youth. On the other hand, 84.3 per cent of the employed persons were underemployed in 2005 which implies a low labour productivity in the economy.
- 169.1.11 While unemployment by itself is sufficient reason for concern, the high rate of urban unemployment is even more serious cause for concern. So far, the good nature of the Zambian people has maintained political stability and a low-crime and peaceful country. However, this should not be taken for granted for the devil finds work for idle hands.
- 169.1.12 The prevailing situation suggests that the high per capita growth rates and impressive rising economic growth trend have not filtered down adequately







to job creation and poverty alleviation. Factors hampering this process include poor performance of the agricultural sector which employs the majority of people in the rural areas; low level of economic diversification; the structure of economic growth being oriented towards a few sectors, such as mining, which are capital intensive; and poor linkages between the earnings from those sectors that have registered growth with those, like agriculture, that employs the largest number of poor people.

- 169.1.13 According to preliminary results of the October 2010 population census, Zambia's population increased by nearly 32 per cent between 2000 and 2010, rising from 9,885,591 to 13,046,508. Though the current average annual economic growth of 5.5 per cent and Gross Domestic Product (GDP) growth rate of 2.8 per cent may be adequate to sustain the population, the situation should be of concern to policy makers because the economy will need to grow at an annual rate of around 7 per cent to adequately manage such large increases in the population. The country will need to reduce the fertility rate by encouraging females to stay longer in education to postpone child bearing.
- 169.1.14 Related to the large increase in population is the phenomenon of high degree of rural-urban migration with its attendant pressure on available facilities. According to the Zambia Daily Mail (Wednesday, February 9, 2011), the population growth in Lusaka city has put enormous pressure on the water and sanitation sector. This poses a risk of contamination to the aquifers of Lusaka, the source of nearly half of the domestic water supply.

## **169.2. Legal Institutions and Policies**

- 169.2.1 Despite the scenario described above, Zambia has made commendable efforts in putting in place a set of policies and institutions to guide the country out of poverty. The Constitution, for instance, has a number of provisions related to socio-economic rights and equal opportunities for men and women. Equally, the country has acceded to and ratified various international instruments, including the COMESA Gender Policy and the Southern African Development Community (SADC) Declaration on Gender and Development Protocol, key international labour conventions protecting the status of women in employment.
- 169.2.2 Since assuming power in 1991, the Government has developed and implemented a series of national development plans for improving the status of all Zambians. From the Fifth National Development Plan (FNDP), for the period 2006 to 2011 - a successor of the Poverty Reduction Strategy Paper (PRSP), covering the period 2002-2004 - and the Transitional National Development Plan (TNDP) of 2002 to 2005, Zambia has been shown to have a well crafted development planning experience with government leadership. Vision 2030 was prepared to capture the nation's long-term perspective to all policy and strategic planning, with its implementation left for the short-to medium-term instruments.
- 169.2.3 The Government of the Republic of Zambia (GRZ) has made a significant effort to decentralise authority from central and national level to sub-national levels. Adopted in 2002, and launched in 2005, the National Decentralisation Policy (NDP) places the district level as the focus for planning and service delivery. Decentralised administration of government takes place at three levels :





provincial, district, and local government systems. The NDP implementation however, remains inadequate with challenges ranging from the absence of the requisite transfer of functions and resources as envisaged by the policy to capacity constraints. Consultations with provincial governments, local authorities, and other stakeholders, including the private sector and civil society, have indicated that, in general, local authorities lack such delivery capacity and transferring additional capital resources and/or recurrent responsibilities exerts much pressure on service delivery.

- 169.2.4 Nonetheless, the approval of the National Decentralisation Policy in November 2002 is a remarkable move towards better service delivery at local levels. The policy's delayed launching in August 2004, and the subsequent approval of the Decentralisation Implementation Plan (DIP) in 2009, seven years later, has certainly affected fiscal decentralisation and the pace of FNDP implementation. This has delayed the timely delivery of services to the people.
- 169.2.5 While Zambia has made commendable efforts in building up a credible planning system, weaknesses prevail throughout the policy planning, implementation and monitoring processes. For example, Vision 2030 sets ambitious objectives but fails to set monitoring indicators, and it is biased towards economic development with little attention to people's social and cultural aspirations. The FNDP leaves a legacy of pursuing economic growth that has poorly translated into poverty reduction and job creation.
- 169.2.6 In view of these various challenges, the Government of Zambia adopted the Decentralisation Implementation Policy (DIP) in late 2009, aimed at providing a roadmap to guide the efforts of all stakeholders through the articulation of their roles in the implementation of the decentralisation policy. The DIP presents strategies and activities to be carried out through nine components: (i) legal and regulatory reform, (ii) sensitisation and civic education, (iii) institutional and human resource capacity building, (iv) local development planning and budgeting, (v) financial management and accounting, (vi) fiscal decentralisation and revenue mobilisation, (vii) sector devolution, (viii) infrastructure development and service provision and (ix) monitoring and evaluation.
- 169.2.7 The current national plan, the Sixth National Development Plan, attempts to address these challenges as well as diversify the economy into non-traditional sectors such as tourism. Tourism is identified as a priority sector for development because of the huge potential it has in contributing to the socio-economic development of the country. Focus will be on infrastructure development in the three priority areas of Kafue National Park, Livingstone and the Northern Circuit.
- 169.2.8 The SNDP has a precise set of targets for poverty reduction. It emphasises this through its stated theme of "*sustained economic growth and poverty reduction*". The Government intends to achieve middle-income status with a per capita income of USD4, 000.00 by 2015 and reduce the proportion of people living in extreme poverty from 37 per cent in 2006 to 29 per cent by that year. A major challenge will be the country's ability to make itself the preferred investment destination.





169.2.9 The CRM was impressed with the series of pro-poor programmes set up to alleviate poverty. One programme that attracted attention is the social cash transfer programme. By providing small, regular grants to households with under-five-year children in selected districts with highest poverty and under-five mortality, the programme is contributing to the security of vulnerable groups in the Zambian society by ensuring that they meet their basic needs.

### **169.3. Challenges to Sustainable Development**

169.3.1 With a number of projects not implemented on time due to lack or late delivery of funds, Zambia will still face major challenges in its attempts to reduce poverty. Currently it is not clear where and how massive resources will be generated to fight poverty, particularly in light of heavy reliance on the mining sector (with unstable copper prices), and on donor funded programmes. Debt relief, under the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative and the Multilateral Debt Relief Initiative (MDRI), has greatly improved the country's external debt sustainability. The authorities have resolved to avoid building up new external debt but it is more likely that Zambia will incur more debt aid if and when revenue from copper varies widely. The country needs to wean itself from donor aid and replace it with private sector driven economic activities.

169.3.2 The CRM observed that Zambia suffers from inadequate technical capacity at the sub-state levels but infrastructure and critical skills development remain a challenge across many sectors. The road network is poor and connectivity within the country is difficult. For example, moving from Kasama to Mansa in the "green season" would take over eight hours, as opposed to four through a direct route.

169.3.3 In spite of the positive developments in the economy, a number of formidable hurdles must be scaled before the economy is able to offer the population a reasonable opportunity to improve their position. Generally, economic growth in recent years has not been broad-based enough. As a result, poverty remains widespread, and the economy is still vulnerable to shocks.

169.3.4 In rural areas, where most households are dependent on agriculture, socio-economic development challenges relate to poor conditions of irrigation systems, lack of access to credit, infrastructural deficiencies, and lack of proper and consistent marketing channels. In addition, a human resources crisis, directly related to income poverty, weak education and health systems and the HIV/AIDS endemic, continues to frustrate efforts to increase productivity in agriculture.

### **169.4 Progress on Millennium Development Goals (MDGS)<sup>1</sup>**

#### **169.4.1 Eradicating Extreme Poverty and Hunger**

<sup>1</sup> This Section draws on Zambia Millennium Development Goals Progress Report 2008.





169.4.1.1 Zambia's 2008 progress report on MDGs shows some interesting trends. As Table 21 indicates, the country is on course to achieve the targets for a number of the MDGs. There is a high possibility that the target for eradicating extreme poverty will be met for urban areas. A drop of 4 per cent in extreme poverty in urban areas will ensure this target is met.

**Table 21: The MDG Indicators**

Goals	Years			Will target be met?
	2004	2006	2015 Target	
Eradicate extreme poverty: Halve the proportion of people living below international poverty line by 2015	53	51	29	Potentially likely
Universal primary education: Achieve universal education by 2015 (NER)	85	96 (2005 Figure)	100	Very nearly achieved
Promote Gender Equality: Achieve equal access for boys and girls to primary;	0.94 (2005)	0.95	1.00	Likely
Achieve equal access for boys and girls to secondary schools	0.81 (2005)	0.86	1.00	Likely
Child Mortality: Reduce child mortality by two-thirds by 2015	95/100,000 live births (2002)	70/100,000 live births (2007)	30/100,000 live births	Potentially likely
Maternal Health: Reduce maternal mortality ratio by three-quarters by 2015	729/100,000 live births (2002)	591/100,000 live births (2007)	162/100,000 live births	Very unlikely





Combat HIV/AIDS: Stop and reverse the spread of HIV and AIDS, tuberculosis and malaria by 2015 (HIV)	HIV prevalence rate (%): 16	HIV prevalence rate (%): 14.3 Malaria prevalence rate: 412/1,000	HIV prevalence rate (%): 16 or less	Potentially likely
Environmental sustainability: Reverse the loss of environmental resources by 2015	51.52 million tonnes (1994)	54.72 million tonnes (2000)		Very unlikely

Source: Zambia Millennium Development Goals Progress Report 2008

169.4.1.2 However, it will take much more effort to reduce poverty by 26.5 per cent. At the provincial level, more effort will be needed for Western, Central and Eastern Provinces to reach their goal as they will need to cut extreme poverty by between 27 per cent and 35 per cent respectively.

169.4.1.3 The target for reducing the proportion of people who suffer from hunger is also likely to be achieved. There has been more than noticeable progress in reducing the proportion of people who suffer from hunger. At the national level, only a reduction of 2 per cent is required to achieve the 2015 target. Rural and urban areas need to cut the proportion of children who are underweight by 0.8 per cent and 2 per cent respectively to meet the 2015 target. In fact Lusaka, Luapula and Northern provinces have already exceeded their targets although much more needs to be done in North Western, Central and Copperbelt Provinces.

#### 169.4.2. Universal primary education

169.4.2.1 The available data strongly suggest that Zambia may have achieved the target in net enrolment ratio (NER) in primary education for both girls and boys. NER has steadily risen since 1990 and the number of pupils in primary schools (Grades 1-7) increased at a rate of 4.6 per cent per year between 2004 and 2009 from 2.2 million to 2.9 million. The 8.3 per cent per year increase in NER in secondary schools (Grades 8-12) in the same period was equally remarkable. As a result, net enrolment for secondary schools rose from 416,261 to 673,185, indicating a 62 per cent increase.

#### 169.4.3. Gender Equality and Women Empowerment

169.4.3.1 Like net enrolment ratio figures, gender equality in primary education is not disaggregated by rural and urban. Lusaka and Copperbelt Provinces, which have higher urban populations, had a higher ratio of girls to boys in primary school in 2005. Since then, gender equality in primary education has declined in the Copperbelt Province, the only province to suffer a regression, and has remained stagnant in Lusaka. However, the rural provinces made very good progress with the biggest improvements recorded in Northern and Western provinces followed by Luapula and North Western provinces. On the basis of these improvements, this target is likely to be met.





#### **169.4.4 Reduce Child Mortality**

169.4.4.1 Zambia has the potential to meet the target of a child mortality rate of 30 deaths per 1,000 live births by 2015. However, much effort will be needed to do so. The current child mortality rate of 70 deaths per 1,000 live births must decline by 40 deaths per 1,000 live births by 2015 in order to meet this target. Though a daunting challenge, it is within the country's capability. Both infant mortality and under-five mortality rates have been on a downward trend since 1992 as a result of an established strong state of supportive environment in the country. Infant mortality rate fell from 107 deaths per 1000 live births<sup>2</sup> in 1992 to 70 deaths per 1000 live births in 2007, indicating a decline of 35 per cent. Also, under-five mortality rates decreased from 191 deaths per 1000 live births in 1992 to 119 deaths per 1000 live births in 2007.

#### **169.4.5. Improve Maternal Health**

169.4.5.1 All available indicators suggest that Zambia is off-track to meet this target. Though maternal mortality has been declining in recent years after rising by 12.3 per cent between 1996 and 2002, maternal deaths must decrease by 429 deaths per 100,000 live births to achieve the 2015 target of 162 per 100,000 live births, which is a monumental task.

169.4.5.2 The *Zambia Millennium Development Goals Progress Report 2008* suggests that the factors hampering the achievement of reduced maternal mortality include a high percentage of home births; limited access to health care facilities; poor quality of care by untrained staff; and lack of surgical and medical supplies. Zambia needs to scale up efforts to reduce the number of women dying due to complications during pregnancy, which only decreased from 649 deaths per 100,000 live births in 1996 to 591 in 2007. The target is 162 in 2015. The main success factor is the presence of trained midwives at births. Of all births in Zambia in 2007, 46.5 per cent were assisted by a skilled health worker.

169.4.5.3 The CRM supports the view expressed in the report that necessary investment in terms of training, oversight, and incentives for midwives should be provided in conjunction with improved access to and monitoring of rural health posts. These challenges must be seriously addressed and reversed within the shortest possible time for the attainment of this goal. Currently, it does not appear that this can be done. The good news, however, is that there has been a declining trend in maternal mortality rates.

#### **169.4.6. Combat HIV/AIDS, Malaria and Other Major Diseases**

169.4.6.1 With the current HIV/AIDS prevalence rate at 14.3 per cent, the set target of 16 per cent or less has been achieved. However, the current HIV/AIDS prevalence rate is still too high. It is one of the highest in the world. It appears that the 16 per cent prevalence target was set rather too modestly. The still prevailing high rate has negative consequences for the achievement of some of the other MDGs targets

<sup>2</sup> Zambia Millennium Development Goals Progress Report 2008, p. 14.





169.4.6.2 The goal for tuberculosis (TB) treatment success rate of 85 per cent in the new smear positive TB patients was attained in 2007 and climbed to 86 per cent in 2008. Important progress has also been made with regard to malaria, as the proportion of under-five children who sleep under an insecticide-treated net soared from 6.5 per cent in 2001-2002 to 41.1 per cent in 2008.

#### **169.4.7. Ensuring Environmental Sustainability**

169.4.7.1 It is very unlikely that Zambia will achieve the target of ensuring environmental sustainability. The percentage of land covered by forests in Zambia has been decreasing since the 1990s. From 59.8 per cent in 1992 it fell to 56.4 per cent in 2005. This has had negative effects on greenhouse gas (GHG) emissions. A preliminary comparative analysis of greenhouse emission inventory of 1994 and 2000 indicated that the GHG emissions increased by 6.2 per cent from 51.52 million tonnes CO<sub>2</sub> equiv to 54.72 million tonnes CO<sub>2</sub> equiv in 2000.

#### **169.4.8. Global Partnership for Development**

169.4.8.1 In 2010, Zambia was considered the 6th best country in Africa to do business in (World Bank). This context has attracted significant foreign direct investments (FDI). From 1995 to 2005, the country received an annual average of USD211 million in FDI and the figure rose to USD960 million between 2006 and 2009. Similarly, Official Development Aid (ODA) increased from USD475 million in 1990 to USD1,086 million in 2008. A number of improvements are recorded in the availability, accessibility and use of information and telecommunication technologies. However, much needs to be done in terms of competitiveness, as Zambia is ranked 115 out of 139 countries. Policies should be targeted at easing supply-side constraints, such as transportation, storage, communication and access to markets.

### **170. Recommendations**

The Panel recommends that Zambia:

- Remain committed to implementing the programmes identified under the Decentralisation Implementation Plan and addressing the essential factors identified, to ensure that the country has a devolved system of governance that is more in tune with the social and economic development demands and requirements of the grassroots.
- Develop a long-term strategic plan that addresses unemployment, consider the needs of the labour market, and strengthen the human and financial capacity of development programmes.
- Further promote participatory policy planning. Plans and programmes must be accompanied by appropriate budgeting and funding to ensure effective delivery of goods and services.
- Ensure timely budget allocations and mechanisms for disbursing funds to the sector ministries and to the decentralised structures of government and development programmes.





- Attract more skilled professionals to the civil service for staffing positions at the sub-state levels.
- Substantially increase resources to agriculture, which currently employs the majority of the population.
- Institute a long-term plan for infrastructure development across the country by deploying concerted public and private efforts to explore funding options for a successful infrastructure development programme.
- Address the issue of youth unemployment by designing appropriate employment promotion programmes.
- Design and implement policies that address inequalities.
- Reset the target for maternal mortality ratio to levels that are more realistic but show a more accelerated momentum in the reduction of maternal deaths; or set a new target date for this MDG.
- Make necessary investment in terms of training, oversight and incentives for midwives in conjunction with improved access to and monitoring of rural health posts, and curbing unsafe birthing practices to help reduce maternal mortality rate.
- Enact policies targeted at easing supply-side constraints such as transportation, storage, communication and access to markets.

**Objective 3: To Strengthen Policies, Delivery Mechanisms and Outcomes in Key Social Development Areas, Including Providing Education for All and Combating HIV/AIDS and Other Communicable Diseases**

**171. Summary of the CSAR**

**171.1 Education**

171.1.1 Education, according to the CSAR, is a key priority sector in Zambia and so the sector's responsibilities have been assigned to four ministries. The Ministry of Education (MoE) guides service delivery. It is decentralised to the provincial and district levels through Provincial Education Management Committees (PEMCs) and District Educational Management Committees (DEMCs). The Ministry of Science, Technology and Vocational Training (MSTVT) oversees Technical Educational, Vocational and Entrepreneurship Training Authority (TEVETA) while the Ministry of Sport, Youth and Child Development (MSYCD) is concerned with community-based skills training. The fourth Ministry, the Ministry of Community Development and Social Services, supervises issues relating to orphans, non-literate youths and adults, and other vulnerable groups in society.







- 171.1.2 The current education provisions are guided by the education policy document, *Educating Our Future* (1996). This policy focuses on equitable access to quality education at all levels and re-adopted the concept of basic education which led to the implementation of the Basic Education Sub-sector Investment Programme (BESSIP) in 1999. Actual implementation of the policy has, since 2003, been based on the Education Sector Strategic Plan (ESP), 2003-2007.
- 171.1.3 The CSAR also stated that, in order to ensure quality education, priority has been given to the provision of teaching and learning materials (particularly textbooks) and more trained teachers. Teacher-output rose from 3,500 in the late 1990s to 5,000 per year by 2005. There has also been a marked increase in the number of teachers attending in-service training during the period. Although the curriculum for the basic school level was re-conceptualised to make it relevant to the needs of the learners and society, the APRM survey respondents felt that more needs to be done. Education specialists are also of the view that skills training has been unfunded in past programmes with the result that while enrolment is increasing, the gains in the quality of education have not matched the levels achieved in terms of access.
- 171.1.4 Key challenges of the sector identified by the CSAR include outdated curriculum and limited infrastructural, human and finance resources.

## **171.2. Health**

- 171.2.1 Since 1992, there have been significant reforms in the Health Sector in Zambia. The anchor principle has been to decentralise healthcare delivery from the centre to the districts. The reforms have been complemented by the government's commitment to the realisation of the MDGs. However, some of the health-related MDG indicators, e.g., maternal mortality, have worsened in recent years despite a high antenatal attendance and an increased attention to reproductive health.
- 171.2.2 Other challenges in the Health Sector in Zambia include an HIV/AIDS pandemic since the first case of HIV/AIDS was detected in 1984. This has been a heavy drain on resources and on life expectancy. The pandemic has also created a dislocation in and restructuring of social relations and hierarchy in Zambia. Female heads of household have increased and, in certain cases, children have become surrogate parents due to losing both parents to the pandemic. Although free, few people living with HIV/AIDS, especially children, have access to ARVs. Be that as it may, Zambia has achieved its HIV/AIDS Millennium Development Goals target.
- 171.2.3 The main sources of financing public healthcare services in Zambia include allocations from the Central Government, donor support, user fees and insurance schemes, employer contributions and other miscellaneous receipts, such as donations in kind. The Government also receives financial support for the fight against HIV/AIDS from the Global Fund to fight against HIV/AIDS, the World Bank (under the Zambia National Response to AIDS - ZANARA - Project) and the USA President's Emergency Plan for AIDS Relief (PEPFAR). This support is channelled through the Government, NGOs, and other projects at various levels of intervention.





171.2.4 The key approach to donor coordination is built on sector-wide approaches (SWAps), which emphasise pooling of government and donor funds, and from which the National Health Sector Strategic Plan (2001 – 2005) is financed.

## 172. Findings of the CRM

### 172.1 Education

172.1.1 Zambia has made remarkable progress in basic education. It has introduced free basic education, which has raised enrolment rates. Total enrolment increased by 38 per cent for Grades 1 to 9 and by 45 per cent for Grade 10-12 in 2008 over their pre-free basic education levels. The free education policy has also brought about another 68 per cent increase in enrolment largely because it is responsive to the basic needs of communities. The enrolment policies have been complemented at senior levels by bursaries and re-entry programmes for pregnant female pupils.

172.1.2 These policies have enabled the government to meet and exceed its target of 84.4 per cent completion rate at Grade 7 level. The actual completion rate in 2007 was 89.8 per cent. As Table 22 below indicates, Zambia has also achieved gender parity in the basic education sector. After rising steadily from 2004 when the gender parity index (GPI) was 0.937, the index rose to 0.957 in 2008. The GPI for Grades 8 and 9, and Grades 10 to 12 follow a similar, though less spectacular pattern. Furthermore, the country has recorded very high net enrolment rates of 98 and 96 for girls and boys, respectively in 2006.

**Table 22: Enrolments and Gender Parity by Gender and Year**

Indicator	2004	2005	2006	2007	2008
<b>Enrolments and Gender Parity in Basic Schools 1-9</b>					
Female	1,218,611	1,391,988	1,464,137	1,547,715	1,631,009
Male	1,300,530	1,460,382	1,522,644	1,618,595	1,704,018
Total	2,519,141	2,852,370	2,986,781	3,166,310	3,336,009
GPI	0.937	0.953	0.962	0.956	0.957
<b>Enrolment in Grades 8-9 by Gender and Year</b>					
Female	70,062	81,730	85,980	99,186	106,565
Male	88,176	100,856	107,863	119,946	129,982
Total	158,238	182,586	193,843	219,132	236,547
<b>Enrolment in Grades 10-12 by Gender and Year</b>					
Female	70,062	81,730	85,980	99,186	106,565





Male	88,176	100,856	107,863	119,946	129,982
Total	158,238	182,586	193,843	219,132	236,547

Source: Government of Zambia (2006), "2006 Educational Statistical Bulletin", Ministry of Education, Directorate of Planning and Information Lusaka, Zambia (From CSAR, Annex 6.57, p.431).

- 172.1.3 The CRM highly commends the Government's concern for Children with Special Needs (CSEN) by providing space and resources for them in the education system. In 2004, the total number of CSEN in basic education was 73,316 and this rose to 170,084 in 2007, representing an increase of 132 per cent.
- 172.1.4 Despite these achievements, the education sector still faces a number of challenges. The dropout rates for pupils reaching Grade 7 are still very high in spite of a substantial improvement over 1990 levels. The rate for all pupils was 18 per cent in 2004, 19 per cent in 2005 and 17 per cent in 2006. On a desegregated basis, fewer girls reach Grade 7 than boys. In 2004, 25 per cent of girls dropped out before Grade 7 compared to only 5 per cent of boys. Also, in 2005 and 2006, 27 per cent and 21 per cent of girls respectively did not proceed to Grade 7 and the respective figures for boys were 12 per cent and 9 per cent. Stakeholders have advanced early marriages of girls and their being engaged in petty-economic activities as some of the explanations for the difference in the dropout rates.
- 172.1.5 The CRM was informed that there had been a drastic deterioration in the quality of school buildings in recent years and that a decline in teachers' motivation has led to absenteeism and poor work ethics. Stakeholders expressed concern about shortages of staff in schools in rural areas because many teachers, especially female teachers, do not accept postings to rural area schools. In their attempts to avoid such posting, some female teachers are said to have resorted to the anti-social behaviour of forging marriage certificates which indicate that their spouses are already stationed in urban area posts.
- 172.1.6 A stakeholders' meeting revealed that the education sector needs complementary services such as adequate teachers, houses for teachers, water and sanitation and road infrastructure, especially in remote rural areas, to entice teachers to take up positions in rural areas that remain critically underserved. Stakeholders noted that the inadequacy of school boarding facilities has placed girls, who have to travel some distance from their homes to attend school, at risk since they have to find their own accommodation. Furthermore, girls were perceived to perform very poorly in the sciences with stakeholders stating that this arose out of a lack of role models, early marriages that keep girls out of secondary schools, lack of adequate science facilities in most rural schools and an educational system that does not encourage girls to study science. The CRM was also informed that the re-entry policy for pregnant girls was not observed by mission or private schools.
- 172.1.7 Observers and analysts have noted that the focus of the sector-wide approaches (SWAps) in donor-funded programs has been mainly on the basic education sub-sector which has created imbalances in the Education Sector. They argue





that the approach has created a funding gap for the high school sub-sector with some challenging results. The challenges include lack of adequate increases in school places and infrastructure investment, inadequate training and deployment of qualified teachers, lack of continual revision of the curriculum and a dearth of significant investments in production and procurement of teaching and learning materials. Consequently, according to these observers and analysts, only a third of pupils from basic schools proceed to high schools.

- 172.1.8 The CRM learnt that in order to address some of these challenge, steps have been initiated to revise the basic and high-school curriculum which education specialists have noted to be outdated and not relevant to national development. The curriculum revision will focus on competence and continuous assessment instead of using examinations as a means of assessment and grade qualification.
- 172.1.9 Participants of the consultation meetings expressed concern about weak financial management capability at lower levels in the education sector regarding budget discipline, poor absorption capacities of allocated funds and poor understanding of programme objectives and indicators. In some cases, these problems are said to be causing long delays in the execution of programmes.
- 172.1.10 Though the CRM applauds the Government on its programme of building more school facilities, the training of teachers has not kept pace with the expansion in school infrastructure and enrolment. The education system in Zambia, as in some other African countries, is heavily dependent on untrained teachers. Generally, while none of us would be ready to undergo a brain surgery performed by an untrained brain surgeon, we fail to take issue with untrained teachers “performing brain surgery on our children’s minds”, as it were. The preponderance of untrained teachers in the education system does not augur well for the development of the higher skills needed to propel Zambia to middle income status. Therefore, the introduction of a degree programme for teachers to upgrade teacher-skills is a welcome idea.
- 172.1.11 Public universities have not expanded adequately to meet the demand for education in the country. Many students fail to gain entry into universities because of space limitation. Though the building of Mulungushi University is aimed directly at further improving enrolment figures in the country, the government should consider entering into Private Public Partnerships (PPP), if it has not already done so, to encourage the more private universities in the country in addition to the current private universities.

## **172.2 Health**

- 172.2.1 Zambia’s achievement of the MDGs target in HIV/AIDS is an important feat in the country’s socio-economic development though the target might have been set at a moderate level. It demonstrates good planning, good policies and a judicious use of resources to fight the disease. In this regard, the CRM learnt that the country developed a macro-level response by setting up a Ministerial Cabinet Committee on HIV/AIDS that directed, supervised and monitored policy implementation at provincial, district and community levels. The Committee





co-opted other partners, through the Partnership Forum and the National AIDS Council, to foster broad-based participation in the fight against the pandemic. On the funding level, the Government coordinated national and international efforts of cooperating partners and NGOs to effectively increase funding for HIV/AIDS projects. As statistics show, these approaches led to a decline of 1.3 per cent of HIV/AIDS cases in the 15-49 age groups.

- 172.2.2 The district basket mechanism of pooling of government and donor funds, which supports the delivery of the basic health care package by providing extra-budgetary funds directly to District Health Management Teams, is an idea whose time has come. It enables the Districts to set and fund their priority projects, which the Ministry of Finance and National Planning (MoFNP), might perhaps not have the resources to fund. Therefore, it promotes response to the channelling of appropriate resources to issues that are peculiar and of priority to the specific district.
- 172.2.3 These gains notwithstanding, the health sector is experiencing a very serious lack of qualified health professionals. In 2006, there were 706 doctors in the country of which 33 per cent were located in Lusaka and 30 per cent in the Copperbelt. The rest were sparsely distributed among the remaining seven provinces. Table 6.3 shows that the ratio of doctors to 100,000 citizens for the country and for the various provinces is among the lowest in the world. The CRM was informed that migration of doctors and nurses outside the country in search of greener pastures and the difficulty in placing qualified health workers in remote areas were some of the major challenges facing the health care system.

**Table 23: Number of Health Personnel by Type and by Province**

Province	Medical Doctors	Nurses	Clinical Officers	Pharmacists	Population	Doctors Per
Central	35	796	132	2	1,012,257	3
Copperbelt	213	2,256	186	11	1,581,221	13
Eastern	36	804	140	-	1,306,173	3
Luapula	30	378	66	1	775,353	4
Lusaka	231	1,976	226	5	1,391,329	17
Northern	40	598	110	1	1,258,696	3
North-Western	25	373	56	-	583,350	4
Southern	50	1,198	175	1	1,212,124	4
Western	46	480	92	3	765,088	6
Total	706	8,859	1,183	24	9,110,238	8

*Source: Compiled from Selected Economic Indicators 2004 – 2005 by Central Statistical Office.*





- 172.2.4 According to press reports, the Government plans to recruit and train 300 health assistants to be deployed in health institutions in all parts of the country (Zambia Daily). When this policy is implemented, it will help to enhance the health delivery system by increasing the number of health professionals. However, more efforts are needed to ensure a well established health care system for the country.
- 172.2.5 In terms of institutional arrangements, there is relative decentralisation in the health sector, with funds going directly to lower levels. At central level, there is strong institutional capacity, including strong financial management and accountability systems. But both state and non-state stakeholders expressed concern about weak financial management systems at lower levels of health care. They observed that, as in many other sectors in the country, absorption capacity (utilisation of allocated funds) in the health sector is very limited and that this is reflected in low drug procurement.
- 172.2.6 The challenges discussed above have affected access to, and utilisation of, health services. In some health centres and hospitals, especially in urban areas, the levels of access and utilisation are high. Rural areas are characterised by low access and utilisation, due largely to little investment in rural health infrastructure. The CRM was informed that accessibility to the limited - and already overstretched - rural health services was heavily hampered by long distances to the nearest health facility and lack of medicines.

### **172.3. Malaria**

- 172.3.1 Eradicating malaria is on the priority list of the Government of Zambia, as a means to attaining its MDGs targets of reductions in maternal and child mortality rates.
- 172.3.2 Malaria is endemic in Zambia and statistics show that 4.3 million cases of malaria (both confirmed and unconfirmed) were reported in 2007 with 6,149 deaths and an incidence of 358 cases per 1,000 population (Zambia Demographic and Health Survey, 2007).
- 172.3.3 The Government has made important progress in the eradication of malaria. The proportion of children under five who sleep under an insecticide-treated net (ITN) soared from 6.5 per cent in 2001-2002 to 41.1 per cent in 2008. According to available data, 64 per cent of Zambian households own mosquito nets (treated or untreated) while 31 per cent of them own more than one mosquito net (Zambia Demographic and Household Survey, 2007). The use of these nets, especially in high endemic areas, has helped to lower the incidence of malaria from 412 cases per 1,000 people in 2006 to 358 cases per 1,000 in 2007.
- 172.3.4 Expert panels have commended and rated Zambia's malaria and immunisation policies highly (APRM Survey). The CRM corroborates the CSAR's finding that Zambia has one of the highest immunisation rates in the Southern African Development Community (SADC) sub-region. Stakeholders interviewed informed the CRM that the Government's 2001-2005 National Health Sector





plan set up strategic interventions, such as universal immunisation, which helped bring down child and infant mortality rates. In 2007, another Government programme, the Expanded Programme on Immunisation, was implemented. In the same year, vaccine-monitoring tools were installed in all nine provincial health centres and a 'Reaching Every District' (RED) strategy to track children that missed their immunisations was scaled up.

172.3.5 A general observation of the CRM is that Zambians seem determined to reverse nearly two decades of steady decline in human development. The current government has adopted a number of plans aimed at promoting sustainable human development through significant poverty reduction. Fiscal discipline and effectiveness measures in resource allocation and value for money in the execution of expenditures are at the core of project financial management.

172.3.6 The MDG target for tuberculosis has been achieved. The target of tuberculosis (TB) treatment success rate of 85 per cent in the new smear positive TB patients was attained in 2007 and reached 86 per cent in 2008.

### **173. Recommendations**

The Panel recommends that Zambia:

- Investigate the critical relationships between education, poverty, health and infrastructure to assess their collective and interrelated effects for a more sustainable response to improving the quality of education for all Zambians, especially those living in rural areas.
- Address the issue of teacher training to limit the number of untrained teachers in the education system.
- Strengthen instruments of planning and initiatives to enhance transparency and accountability in both public and private institutions.
- Develop a long-term plan to grow the entire infrastructure in Zambia with both public and private capital and using the Sixth National Development Plan as a good starting point..
- Modernise land policies as an empowerment tool and introduce government policies to contain rising real estate prices and promote affordable housing. .
- Consider entering into Private Public Partnerships in the tertiary education sector to increase the number of universities and help address the limited number of universities.
- Enhance and strengthen managerial capacity at the district and sub-district levels, especially in the education and health sectors, to facilitate the effective utilisation of allocated funds.





- Collaborate with and mobilise traditional and religious leaders for a sustained sensitisation campaign to abolish the practice of early marriages.
- Provide generous incentive systems for health professionals, especially doctors, posted to rural stations.

**Objective 4: Ensure Affordable Access to Water, Sanitation, Energy, Finance, Markets, ICT, Shelter and Land to All Citizens, especially the Rural Poor**

**174. Summary of the CSAR**

- 174.1 Water and Sanitation: The CSAR acknowledged that although Zambia is endowed with relatively abundant water resources, there is a problem with access to water and sanitation, especially, in rural areas. So the established vision for water and sanitation is: *“A Zambia where all users have access to water and sanitation and utilise them in an efficient and sustainable manner for wealth creation and improved livelihood by 2030.”* The Government’s aim is to promote sustainable water resource development and sanitation with a view to facilitating an equitable provision of adequate quantity and quality of water for all users.
- 174.2 To achieve this, the Government during 1993-1994 established a more comprehensive policy framework for the water sector. In 1993, seven policy principles were adopted as a basis for restructuring the sector. This was followed, in 1994, by the adoption of the National Water Policy (NWP), which covers water resource management, water use and water quality aspects.
- 174.3 The CSAR reported that in recent years, both urban and rural water supply has benefited from significant donor assistance. Bilateral and multilateral agencies have financed capital development and institutional strengthening projects all over the country. In addition, a number of NGOs have implemented projects with their own funds or with resources from bilateral and multilateral agencies.
- 174.4 Energy: Government sources indicate that except for petroleum, which is wholly imported, Zambia is almost self-sufficient in energy. It is endowed with indigenous energy sources, such as woodlands and forests for wood fuel, coal and new and renewable sources of energy. .
- 174.5 The CSAR estimated that total annual energy consumption of all energy in Zambia is about 4.5million Tonnes Oil Equivalent (TOE). However, access to modern forms of energy, especially electricity, is very low among households. Only an estimated 27 per cent of households have access to electricity, with only 5 per cent of these in rural areas.
- 174.6 Land: The CSAR observed that though land is a potential area of conflicts in Zambia’s development process, there have been very few land disputes, such as chieftdom boundary disagreements, and urban-traditional land misunderstandings.







- 174.7 In discussing equitable land distribution and ownership in the country, the CSAR identified the key challenges as limited state land due to rapid urbanisation and lack of a land policy. It stated that the issue of equitable access to land had remained unresolved because of excessive bureaucracy in land administration. It suggested urgent broad-based consultations on land in general and land policy in particular.
- 174.8 Housing: Zambia has been facing a very critical shortage of housing since independence. The lopsided pattern of development between rural and urban areas has resulted in very high rural-urban migration without a corresponding effort to provide appropriate housing in the expanding urban regions.
- 174.9 Moreover, until 1996, the country had no housing policy that could guide action in the sector. The National Housing Policy (NHP) was adopted in that year with the overall aim of providing adequate and affordable housing to all income groups in the country. To this end, the Government liberalised the housing sector and provided an enabling environment to stimulate private investment in housing and provide more housing units to satisfy the ever increasing demand. Since then, lack of adequate financing in the housing sector has, however, hindered satisfactory performance throughout the country.
- 174.10 It is the opinion of the CSAR that efforts through the National Housing Authority, the Low Cost Housing Programme, formerly Africa Housing Fund Project (AHF), and the introduction of the Municipal Bonds have the potential for improving the housing stock in the country.
- 174.11 Finance: Financial issues in Zambia are governed by the Bank of Zambia Act, Cap 360 and the Banking and Financial Services Act, Cap 387. Microfinance is governed by the Banking and Financial Institutions Act, Cap 387 and the Banking and Financial Services (Microfinance) Regulations, 2006 (Statutory Instrument No. 3 of 2006).
- 174.12 Microfinance fiduciary activities are categorised into deposit-taking microfinance institutions and non-deposit-taking microfinance institutions. Deposit-taking MFIs may provide credit facilities, linkage banking, in-country transfers, savings, and such other service as the Bank of Zambia may prescribe. Non-deposit-taking MFI only provide credit facilities.
- 174.13 The CSAR observed that there has been a steady increase in the number of Non-Bank Financial Institutions (NBFIs). The NBFIs include, leasing companies, building societies, micro-finance institutions, bureaux de change and a Credit Reference Bureau.
- 174.14 The CSAR further observed that there has been an increase in private sector lending, which improved domestic credit by 37.8 per cent in 2008 compared with 20.3 per cent recorded at end-December 2007. Lending to households is also said to have increased by 164.4 per cent while credit to private enterprises rose by 26.6 per cent within the same period.
- 174.15 ICT: The CSAR regards the enactment of the 1994 Telecommunications Act and the Postal Services Act as the beginning of Zambia's Information and Communication Technology revolution. The Act led to the restructuring of the telecommunications sub-sector by separating the posts and





telecommunications functions in the Posts and Telecommunications Corporation (PTC) into two commercial entities: ZAMTEL and ZAMPOST. The PTC was stripped of its regulatory functions and an autonomous regulatory agency, the Communications Authority of Zambia (CAZ) established. The CAZ governs the use of the Radio Frequency Spectrum, which is an important component in the effective performance of the telecommunications and broadcasting sub-sectors.

- 174.16 The launching of the National Information and Communication Technology Policy of 2006 in 2007 is also regarded as a major contributing factor to the further development of ICT in the country. The policy integrated ICT into the country's development agenda for sustainable national development and poverty reduction. A strategic ICT Implementation Plan was developed accordingly to implement the policy and provide a framework for the overall development of the ICT sector in Zambia.
- 174.17 The ICT sector is categorised into four main sub-sectors: Telecommunications, Information Technology, Electronic Media and Postal Communication System, and four government institutions have been assigned responsibilities for them. The Ministry of Information and Broadcasting Services regulates media contents. The Ministry of Science, technology and Vocational Training formulates policies for general science and technology while the Communications Authority monitors and regulates the communications sub-sector. The CSAR maintained that the Government is committed to facilitating a vibrant, profitable and enabling ICT sector that embraces and thrives on private sector participation.
- 174.18 Markets: The National Agricultural Policy of 2004 is the key policy instrument regarding markets in the agricultural sector. Domestically, the policy aims to build and strengthen credit facilities and other infrastructure necessary to ease market access for small-scale farmers, especially those in remote areas.
- 174.19 Nonetheless, poor rural infrastructure has created difficulties in agricultural inputs and marketing of produce, especially in outlying areas. The Government of Zambia, according to the CSAR, has recognised that special measures are needed to help farmers in less developed regions. Such measures include development and improvement of rural infrastructure. It has developed plans for implementing the measures.

## **175. Findings of the CRM**

### **175.1 Water and Sanitation**

- 175.1.1 The CRM corroborates the CSAR's finding that, relative to other countries, Zambia is well endowed with abundant water resources. Despite this, there are problems with access to water and sanitation in the country and the situation is particularly biting in rural areas. According to Government documents, about 57 per cent of all Zambians have access to clean water (i.e., protected wells, boreholes, pumped water and taps). The rest of the population rely on unclear and unsafe sources of water for their water needs. Though stakeholders agreed that much effort has been made to provide water in the form of boreholes, especially in the rural areas, as many as 83 per cent of the inhabitants of Luapula Province, 78 per cent of the population of Northern Province and 63 per cent of people who live in North Western Province depend mainly on lakes, rivers and unprotected wells for their water supply.





- 175.1.2 As would be expected, more urbanised provinces have better access to clean water, with Lusaka accounting for 84 per cent and Southern and Copperbelt Provinces with 75 per cent and 71 per cent, respectively. The CRM noted with interest that the infant mortality rates (IMR) of these three provinces were among the highest rates in the country in 2005, the most recent data year. Luapula's IMR was 106 while those for Northern and North West Provinces were 98 and 73, respectively. Clean water is vital to health. The CRM therefore wonders whether these high infant mortality rates could be partly linked to water-borne diseases.
- 175.1.3 A similar trend prevails in the area of sanitation. Urban centres have better sanitation than rural areas. The Government is currently implementing the Zambian National Rural Water Supply Programme by providing shallow wells and rehabilitating broken ones in the rural areas to provide safe drinking water and improve the situation. Yet, the water sector is severely constrained by weak or inadequate legal and institutional framework, inadequate water resources in some areas, limited human resource capacity, and insufficient and unpredictable sector funding. This has put a strain on Zambia's efforts to realise its vision for water and sanitation of "A Zambia where all users have access to water and sanitation and utilise them in an efficient and sustainable manner for wealth creation and improved livelihood by 2030." More strenuous efforts are needed for achieving this vision.

## **175.2. Energy**

- 175.2.1 Stakeholder consultations confirm the assertion of the CSAR that petroleum is the only energy form which is wholly imported by the country. Crude petroleum is imported on medium to long term contracts from suppliers in the Middle East and is reliably supplied through TAZAMA Pipeline.
- 175.2.2 In addition to oil as a source of electricity, Zambia also has sources of hydro electricity with the Kariba dam as a major example. However, electricity as a source of cooking is prevalent more in urban centres than in rural settings. Documents indicate that 39 per cent of all urban households use electricity for cooking as compared to only 1.7 per cent households in rural areas, and that 77 per cent of households in Lusaka and Copperbelt Provinces rely on electricity for cooking. The other households depend on basic and primitive forms of energy, such as firewood, charcoal and cow dung.

## **175.3. Forestation and Environmental Degradation:**

- 175.3.1 A related issue to energy which is of particular importance to Zambia is deforestation and environmental degradation. Forests are logged for: charcoal burning, promoting soil fertility for farming, and for collecting caterpillars. In some localities, people who first discover caterpillars on a tree cut down the tree to indicate their discovery and claim of title to harvesting the caterpillars. The CRM was reliably informed that due to heavy logging, the rate of deforestation is currently so alarming in certain areas that people cannot find firewood for cooking. Yet, because of a lack of manpower (each of the 72 districts in the country has been assigned just two patrol officers), the Ministry of Tourism, Environment and Natural Resources cannot mount an effective surveillance to deter the practice.





- 175.3.2 The challenge for the Government, especially the Ministry of Tourism, Environment and Natural Resources is to wean people from traditional practices of forest logging that exacerbate climate change. Also, although over 3,000 national heritage sites have been identified, no tourism plans have been developed for their proper management.
- 175.3.3 The Government is taking appropriate remedial steps by partnering with chiefs to make communities appreciate the link between deforestation, climate change and environmental sustainability. . The Ministry of Tourism, Environment and Natural Resources also has been encouraging massive tree planting annually in a programme dubbed "woodlot establishment programme". The Ministry has introduced acceptable income generating activities such as beekeeping to eventually replace the indiscriminate logging of the forest.
- 175.3.4 Furthermore, programmes such as the promotion of efficient production and utilisation of wood fuel, and the promotion of gel fuel and liquid petroleum gas, are aimed at reducing wood consumption as a source of energy. The former, so far, involves the production of a charcoal production manual and dissemination of improved wood fuel stoves. The latter aims at providing an alternative to wood fuel for household energy requirements. The net result of these efforts is that an annual saving of about 10 per cent of total wood consumption has been achieved, which is said to be equivalent to 400,000 tons per annum.
- 175.3.5 In the North West Province, the emergence of uranium mining is raising concerns about environmental protection and workers' health. The crux of this problem is that while the country has had a lot of experience in copper mining, uranium mining is a new venture that may require different and new skills and tools to deal with any related environmental disasters.

#### **175.4. Finance**

- 175.4.1 Both the CSAR and official documents indicate a rising trend in private sector lending in Zambia. However, some stakeholders informed the CRM that it is very difficult to access loans in general, and agricultural loans, in particular. Accordingly, most of Zambia's existing large financial institutions and programmes are mainly designed to address corporate banking. Therefore, access to finance can be a problem for vulnerable members in the country. This is particularly the case for women, youth, and small and micro-enterprises.
- 175.4.2 In general, even microfinance institutions (MFI) are said to set stringent qualification criteria for individual micro-loans. Among these are: possession of a bank account, being in operation for a required period of time, applicants' clear understanding of their business, and, in some cases, the presentation of business plans.
- 175.4.3 These criteria are more appropriate for existing and well established entrepreneurs than potential and existing poor entrepreneurs who want to either start new enterprises or improve existing ones. These demands show that MFIs do not focus on enterprise formation, which is a vital factor for employment creation and poverty reduction. It is through enterprise formation that the youth, women and the urban poor can create jobs for themselves and be empowered to enhance their economic status and move out of poverty.





- 175.4.4 Both state and non-state stakeholders said that Government youth credit schemes, such as Youth Enterprise Promotion Fund (YEPP) and Youth Constituency Fund Scheme (YCFS) that have been implemented have not performed to expectations. They identified poor selection of youth beneficiaries, lack of monitoring, lack of strong financial control systems and, oftentimes, political influence as some of the reasons for their poor performance.

#### **175.5. Land**

- 175.5.1 Land in Zambia is under both customary and state ownership. Customary land constitutes 94 per cent of the total land surface of the country. Though land laws do not discriminate against gender, the Government has recognised that women, because of customary practices, still lack access to land in comparison to their male counterparts. Consequently, 30 per cent of land has been set aside for women and other vulnerable groups.
- 175.5.2 Many stakeholders told the CRM that despite the commendable intention behind the policy, its pronouncement may be easier than its effective implementation. According to them, most women are on traditional land where women rarely have land titles. Besides, certain prevailing inhibiting factors have generated an opaque land allocation system which makes social elites and urban groups the largest beneficiaries of the current system. These factors include a cumbersome and tedious land application process, long delays in land registration and a serious lack of surveying facilities. An emerging issue noted during the CRM's consultations is the rate at which foreigners (e.g. Chinese, Lebanese) are buying up Zambian land from traditional leaders.
- 175.5.3 Some stakeholders have therefore suggested the need for broad-based land reforms in order to enable Zambians acquire lands for farming and release their agricultural entrepreneurial spirits to propel the country to higher levels of socio-economic development. They argued that the Land Act of 1995 introduced by the market-oriented MMD Government to govern all land issues has not changed the land tenure system significantly from the socialist-oriented post-independence UNIP Government land policy of 1975. All land of Zambia is still vested in the President and land in customary areas, held under customary tenure before the commencement of the Lands Act 1995, continues to be so held and recognised. Also, the current land delivery system is said to be unable to meet the increased demand for land because only a limited proportion of available land is titled and registered. Given the high demand for land, some customary land will need to be converted into state land to ease the pressure on demand.
- 175.5.4 The CRM learnt that the Government has taken some steps towards reform. The Ministry of Lands has started decentralising operations to provincial and districts centres so that the public could be issued with land titles. The Ministry is also drafting a land policy to be considered by Parliament after the current constitutional review has been completed. Also, the Government has set aside 100,000 hectares of land for the creation of land banks across the country for local and foreign investors.





## **175.6. Housing**

- 175.6 In the housing sector, the CRM learnt that Zambia has been facing a critical shortage of housing since independence, which confirms the CSAR's statement. Therefore, a National Housing Authority Act was adopted establishing an Authority for the development and control of housing in the country. Its objective and general duty is to continuously review housing conditions throughout the country and assess the national need for more housing. The Authority is also obligated to take all requisite or expedient steps to secure and promote the provision of housing for the country.
- 175.7 Implementing the Authority's mandate has been somewhat difficult because nearly 46 per cent of the country's households live in traditional huts. So, less than 10 per cent of Zambian towns are planned and about 70 per cent of urban dwellers live in unplanned areas. This has a negative effect on the socio-economic wellbeing of the inhabitants because they lack access to amenities such as water, sanitation electricity and proper housing.
- 175.8 The CRM was gratified to note that adequate attention is being given to housing and the Sixth National Development (SNDP) expresses the intention to address the country's chronic housing shortage. The SNDP will focus on increasing housing stock and improving the living environment in both rural and urban settings by creating 150,000 housing units annually in 10 districts during the implementation period of the Plan.
- 175.9 Stakeholders have suggested that Government consider working together with mining companies to increase housing stock, especially in mining areas such as the North West Province which has one of the most expensive housing because of limited housing stock.

## **175.7. Markets**

- 175.7.1 A serious inhibiting factor to accessing markets in Zambia is the poor state of feeder roads. As stated elsewhere (Challenges to Sustainable Development) in this report, because of poor feeder road system, going from Kasama to Mansa in the "green season" takes over eight hours instead of four through a direct feeder route.
- 175.7.2 As a result, access to farm inputs and other social amenities and marketing of farm produce is very difficult and this deepens poverty in rural areas where the only form of access is by road. In a meeting at Kasama, the CRM was informed that, due to lack of transport, the rural population walks long distances to markets; in some cases rural farmers' produce goes to waste because of lack of markets and storage facilities.
- 175.7.3 The CRM was informed that the Government would embark on the development of rural infrastructure under the Sixth National Development Plan, to create an efficient transport and communication system that would promote economic growth and poverty reduction.





## **175.8. Information and Communication Technology**

- 175.8.1 The Government's Information and Communication Technology Policy of 2005 has spurred ICT growth in the country. The policy introduced privatisation in the sector thereby promoting competition in mobile communication and internet service.
- 175.8.2 Cheaper handsets following a reduction of duty, expansion of coverage areas and the provision of a variety of value-added services - such as texting - propelled a fast growth in the mobile communication. Zamnet, established by the University of Zambia, was the first Internet service provider; sources indicate that there could be as many as eight internet service providers operating in the country. The dominant ones are Zamtel, MTN and Celtel. The proliferation of mobile communication has drawn clients from fixed phone lines, causing growth in that sub-sector to stall.
- 175.8.3 During discussions with stakeholders, it was generally agreed that Zamtel is a partially privatised company because it is owned by two investors - Lap Green Network and the Government of Zambia with 75 per cent and 25 per cent shares respectively. The stakeholders emphasised that the heavy Government involvement in Zamtel makes the playing field of competition in the internet sub-sector uneven. As the regulator and part-owner of Zamtel, the Government is referee and player at the same time in the sub-sector.
- 175.8.4 Internet service providers in Zambia serve business organisations, non-governmental organisations, schools, universities and government agencies, etc. The majority of customers are found along the line of rail but a few are in rural areas. **The bulk of the internet business is shared between Lusaka and the Copperbelt.**
- 175.8.5 Generally, the liberalisation of the internet gateway has: resulted in reduction in the cost of communication in Zambia, widened the choice of partnerships and suppliers for Zambian companies, and instituted an effective use of time by reducing correspondence time from weeks to minutes. However, there are three main challenges to growth in the sub-sector, which are: communication infrastructure limitations, high cost of delivering internet bandwidth, and high cost of computers and related communication accessories. These areas require attention to ensure a fast and sustained expansion of service. Moreover, these challenges may partially explain why the targets for 2007 for both the number of districts connected to fibre optic cables, and access to internet services were only partially met. The Government may wish, through judicious use of fiscal policy, to address some of these challenges.
- 175.8.6 Both policy makers and implementers should be concerned at the limited number of Internet Service Providers.. It is a potential source of oligopolistic powers that even the government may find difficult to handle. For example, the Communication Technology Authority's threat in October 2010 to shut down five internet service providers for not renewing their operating licences had to be withdrawn. Their closure would have left only three firms providing internet access in the country. This implies that, if the current structure remains, any similar future threats also will be equally non-credible unless the Government is ready to cause a severe interruption in internet access.





175.8.7 The existence of solar powered internet service in rural Zambia is a positive sign for the country's internet policies. The service, provided by the UK-based charitable organisation "Computer Aid", incorporates farming techniques via the internet for the benefit of local communities in and around Macha, a farming area in southern Zambia. It has enabled many farmers to optimise their produce by switching from growing maize to sunflower as a result of researching what grows best under the area's particular conditions.

## 176. Recommendations

The Panel recommends that Zambia:

- Consider entering into private-public partnership agreements, including working together with mining companies to complement Government efforts in the housing sector to increase the housing stock in the country. A province such as the North West Province which has one of the most expensive housing because of limited housing stock should be among the priority list.
- Review the current tax regime on Information and Communication Technology equipment and other peripherals and perhaps offer tax holidays based on laid down benchmarks as measures of success.
- **Examine** the modalities of the solar powered internet service at Macha to establish whether it can be adopted and used in the country. It appears to be cost-effective as far as rural ICT is concerned and could therefore be adopted and introduced country-wide.
- Develop policies and strategies to make entry into the internet sub-sector more attractive and increase the number of investors in order to diffuse the current potential oligopolistic source of power in the sub-sector.
- Urgently undertake consultations on the land question and the passing of the proposed land bill.
- Establish a set procedure and fee structure for investors seeking permission from chiefs and put in place a reliable and electronic land registry.
- Identify and provide the resource requirements for fully computerised documentation and record keeping, survey, mapping and tracking of land.
- **Assiduously implement** the rural infrastructure programme outlined in the Sixth National Development Plan to create an efficient transport and communication system to promote economic growth and poverty reduction.







## **Objective 5: Progress towards Gender Equality, Particularly Equal Access to Education for Girls at All Levels.**

### **177. Summary of the CSAR: Progress towards Gender Equality**

177.1 The CSAR notes that Zambia has taken a number of clear steps towards gender equality. Gender equality has been mandated by the national Constitution, which accords fundamental rights and freedoms without discrimination based on race, origin, political opinions, colour, creed, sex or marital status. Zambia has also taken several legal, policy and institutional steps to promote and encourage gender equality and has ratified and adopted a variety of international instruments on gender. These include the: Convention on the Political Rights of Women (1953), Convention on the Nationality of Married Women (1957), Convention on Consent to Marriage, Minimum Age of Marriage and Registration of Marriages (1962), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, African Charter on Human and People's Rights (1981), United Nations Charter on the Rights of the Child (CRC) (1989), Chapter 24 of Agenda 21 – Global Action for Women Towards Sustainable and Equitable Development Programme (1992), COMESA Gender Policy and the SADC Declaration on Gender and Development Protocol (1997). Some of these instruments have been incorporated into policy documents.

177.2 In the area of Mainstreaming Gender Equality, the CSAR states that the Government has established a **Gender in Development Division (GIDD) at the Cabinet Office, within the Office of the Vice-President**, to serve as the National Gender Machinery in Zambia and to implement gender equality commitments. GIDD has an action plan focusing on a number of policy areas which include poverty, health, education, decision making, gender-based violence, legal reforms, commerce and trade and labour and employment. GIDD's current strategic plan provides for gender sub-committees at provincial and district levels aimed at strengthening its institutional framework. Capacity building and awareness creation activities to strengthen gender equality responses have been instituted throughout various levels of governance.

177.3 However, the CSAR concedes that entrenched patriarchal attitudes and belief systems, disparities in wages and earnings between women and men, a high female dropout rate at secondary school level which results in low representation of females in tertiary education and in wage employment, and gender based violence still persist. It also observes that in 2006 and 2007, the number of women in decision-making positions remained at 18 per cent, far less than the SADC recommended target of 50 per cent, which suggests that there is inadequate representation of women in decision-making structures.

### **178. Findings of the CRM**

178.1 The CRM notes that Zambia is in the process of making substantive amendments to its current Constitution. The amendments propose provisions for political parties that require respect for the rights of women to participate in political processes and the promotion of gender equality and equity in





political parties. Stakeholders, nevertheless, noted that the absence of social, economic and cultural rights in the current Constitution as well as the proposed Bill of Rights would continue to hamper large scale women participation in the political process.

- 178.2 The establishment of GIDD and positioning it at the Cabinet level has been an important step in the right direction. However, the relationship of between GIDD and other national institutions has been questioned. Some stakeholders said that some clarification is needed regarding the establishment of gender focal points across all levels of government, and the nature of the institutional relationship between GIDD and the gender focal points at ministerial, provincial and district levels. They noted, for example, that gender focal points do not facilitate linkages across programmes, and that even where there is a clear need to do so, they are encumbered by an environment of strong cultural resistance to gender equality.
- 178.3 A key finding of the CRM is that Zambia has achieved gender parity in primary education through the implementation of judicious policies. These policies include the introduction of free education at primary school level, the expansion of the bursary schemes, an increase in the number of community schools, the Programme for the Advancement of Girl-Child Education (PAGE), and the re-admission of pregnant girls to schools.
- 178.4 Stakeholders informed the CRM that gender based violence (GBV) continues to be a critical concern in Zambia despite continuous awareness creation through radio and print media. Stakeholders in Western Province highlighted that rural communities have not been adequately exposed to these programmes nor have the cultural, social and economic constraints that rural women face been adequately addressed in order to deal more effectively with GBV. Nonetheless, Zambia has taken a bold step in the area of Gender based Violence with the introduction of an “Anti Gender Based Violence” bill in 2010 that is due to be passed by parliament. Also, plans are well advanced to pilot an initiative across three districts that will provide support for a collaborative relationship between parliamentarians and gender focal points on actions to transform attitudes and beliefs that hamper gender equality. Furthermore, the country has implemented a Zambia – UN joint programme for strengthening gender initiatives.
- 178.5 The CRM was informed that though the 30 per cent allocation of land to women in both rural and urban areas under the current land reforms is a step in the right direction, the policy may fail unless steps are taken to adequately address the current lack of awareness among women of its existence, the cultural beliefs that continue to hinder women’s ownership of land and local authorities’ high services charges on urban state-land.
- 178.6 There was an indication from stakeholders that while the Citizenship Economic Empowerment Commission (CEEC) fund has created an enabling environment and, in some instances, provided business incubators to support groups seeking funds, the CEEC has been a complex application process for a majority of targeted women beneficiaries.





## 179. Recommendations

The Panel recommends that the following measures be taken:

- Ensure that the gender action plan on gender equality is updated and its costs adequately estimated to respond to the evolving context and lives of Zambian women and men. (*Government; CSOs*)
- Enhance gender mainstreaming programmes and policies to promote and engrain a genuine understanding of the role of gender equality in socio-economic development. (*Government; CSOs*)
- Establish and strengthen monitoring mechanisms that include a variety of tools such as beneficiary assessments to measure sustainable progress on gender equality. (*Government; CSOs, Citizens, Media*)
- Intensify awareness creation efforts for the promotion of gender equality and women's empowerment. (*Government, CSOs, Media, Traditional Leaders, Private Sector*)
- Create a well resourced Ministry of Gender to sustain gender equality actions and with clear reporting guidelines for gender focal points, clarity of roles for gender focal points and for all government officers to be guided by a vision of gender mainstreaming that seeks to strengthen governance for gender equality. Such a vision would be underpinned by:
  - Accountability by government officers for delivery on commitments to gender equality as outlined in an updated GIDD action plan, regional and international codes/standards on gender that Zambia has signed ratified and adopted.
  - Capacities on the part of government structures and institutions at all levels of governance, to be able to respond to the needs and concerns of women and men, through sensitisation and the provision of skills and tools for effective gender mainstreaming
  - Responsiveness, as reflected by government establishment of laws, procedures, policies, and institutions with adequate resources to respond to the concerns and needs of women and men in order to realise gender equality. (*Government; CSOs*).
- ;
- Review and amend discriminatory customary laws and procedures and harmonise them with state laws to eliminate the current bias of such laws against women. (*Government, Traditional Leaders*).
- Explore creative initiatives that bring on board and co-ordinate government, traditional leaders and constituency representatives in actions to address the negative effects of patriarchal systems and other root causes of inequalities. (*Government, Traditional Leaders, Parliamentarians, Media*)
- Increase skills and knowledge for gender analysis and GRB through workshops and seminars to facilitate understanding of the differential





impact of poverty on women and men and to enable gender specific targeting in poverty reduction programmes. CSOs to provide inputs to help determine key gender gaps and priority areas for interventions. (Government; CSOs)

**Objective 6: Encourage broad-based Participation in Development by All Stakeholders at All Levels**

**180. Summary of the CSAR:**

**180.1 Mechanisms to Promote Broad-based Participation.**

180.1.1 The CSAR highlights the mechanisms in place (legal, policy and institutional) to ensure broad based participation in the development process by all stakeholders in all the socio-political sectors of Zambia. It notes that the mechanisms and policies of sectors such as forestry, disabilities, land, and housing are either outdated or grossly inadequate to ensure effective citizen participation in their socio-economic development programmes.

180.1.2 The CSAR acknowledges that the institutions and structures at national, provincial, district and community levels have not been functioning as effectively as planned. It identifies lack of proper legal backing for the creation of some of the institutions (e.g., Provincial Development Coordinating Committees), management problems and the dominant influence of Members of Parliament (MPs) on prioritising programmes that sometimes excludes community involvement.

180.1.3 The CSAR emphasised a number of things which need to be improved upon. Among these are the slowness in enacting bills into laws; the slow-moving implementation of developed policies due to lack of or delayed response in the development of action plans. Some laws also remained outdated and hinder development. And finally, the much needed community level structures, such as RDCs and ADCs, which will facilitate grass-roots consultations and participation in development planning and implementation under the MLGH, have yet to be legalised and therefore properly established.

**181. Findings of the CRM**

181.1 The CRM notes with interest that Zambia has in place several broad-based participatory flex points from the national level to the local government levels. For example, the local levels have set up District Development Coordinating Committees, (DDCC) and Community level platforms such as Area Development Committees (ADC), Residence Development Committees (RDC), Zone Development Committees and Project Committees that provide space and scope for the involvement and participation of community members in development planning and budgetary discussions.





- 181.2 However, stakeholders noted that these mechanisms lack the legal framework for effective participation and that most of them comprise only representatives of associations. This strongly suggests challenges to fair and equitable representation on these platforms. There was unevenness across provinces, districts and constituencies regarding broad based participation on the committees, with some areas seeking to ensure equal representation of women and the inclusion of people with disabilities on these committees while others were constrained to do so because of the committees' weak participatory mechanisms, an absence of adequate institutionalisation across the country and the power of local elites. Emphasising the point on the power of local elites, many stakeholders who appeared before the CRM in North-western Province stated that there is very limited broad-based participation in development because of a pervasive belief in Zambia that "*power resides with a few elites and they decide.*" Above all, the CRM found that many ordinary people may often shun consultative forums because, often, their experience is that "nothing will come out of it."
- 181.3 The CRM observed that there is broad-based participation in the education sector. The sector consults widely and reflects the priorities of citizens in its programmes. Other sectors, such as manufacturing, mining and tourism, however, are currently constrained in their attempts to promote full participation of local communities and stakeholders due to lack of adequate financial, technical and human resource support.

The CRM observed that a majority of the stakeholders considered that broad-based participation in development would be greatly enhanced if the decentralisation policy was fully implemented. Decentralisation has been a stated government policy since 2002, with the government adopting the Decentralisation Implementation Plan (DIP) in 2009 as a road map. However, stakeholders expressed the view that the process is slow and that there appears to be inadequate political will to implement it and strengthen citizen participation at all levels of governance.

## 182. Recommendations.

### **The Panel recommends that the following actions be taken:**

Fully implement the decentralisation reforms to foster sufficient budgetary and fiscal policy decentralisation that gives stakeholders a real say in their own development and ensures more transparency and equitable distribution of national resources. *(Government)*

Given the critical role of the traditional leadership in people's lives, explore how their political, economic and social functions are to be more effectively incorporated into socio-economic development agenda. *(Government and Traditional leaders)*

Enable broad based participation by seeking to ensure equal representation of women, people with disabilities, the youth and the vulnerable poor in their respective committees to voice their concerns and participate in advancing and





implementing development priorities for their communities. (*Government, Traditional leaders, CSOs, Citizens*)

Utilise a variety of communication channels to keep citizens informed about development initiatives, their rights and benefits and legislative changes underway and to encourage them to become involved with broad-based participation platforms so that they can help define, plan, implement, monitor and hold government accountable for sustainable socio-economic development outcomes. (*Government, CSOs*)

Provide support to CSOs who work with the most marginalised to further empower, and thus increase participation of the most marginalised groups in development actions. (*Government, CSOs*).





### Commendable Practice 4: Social Cash Transfer Scheme<sup>3</sup>

In 2004, Zambia introduced a Social Cash Transfer Scheme (SCTS) with the help of co-operating partners, such as the United Kingdom Department for International Development (DFID) the Irish Aid and the United Nations Children Fund (UNICEF). The programme is administered under the Ministry of Community Development and Social Services through the public welfare assistance scheme.

The SCTS was implemented to cater for the majority of Zambian households headed by the elderly, widows children, or either disabled or chronically-ill individuals in need of basic social protection. It provides small, regular grants to households with under-five-year-old children in selected districts with the highest levels of poverty and under-five mortality rates.

The Government opted for this scheme rather a transfer in kind scheme, such as food aid, because, generally, poor households are best served with cash transfers which are flexible and can be used according to the recipient's own set priorities. Besides, the administrative and logistical costs of such a programme are much lower than those for transfer in kind.

The scheme was piloted in Kalomo district, and later in Kazungula and Chipata districts. Since then, Monza and Katete districts have been added to the list of pilot districts. Each district's variant of the SCTS was designed to address specific questions and issues in the particular districts. In Kalomo, the effort was to learn lessons in terms of implementing STCs with conditionality, e.g., keep a child in school. In Chipata the idea was to learn about the effectiveness of SCTs in an urban centre. For Katete it was meant for the elderly, i.e., how the social pension would work.

Based on the successful piloting of the scheme in these districts, the Ministry of Community Development and Social Services has decided to scale up the programme to all the 72 districts of Zambia. The number of cash transfers has already risen from 12,000 households to 21,000 and they are expected to increase to 70, 000 recipients in the very near future.

Qualification for the scheme is limited to destitute households. This means that the household struggles to survive, adopts negative coping mechanism, has less than three meals a day, possesses indecent shelter and clothing, and has limited access to education and health. Another criterion for qualification is that the household must be incapacitated. In other words, the household cannot be reached by labour-based schemes such as food- for-money or cash-for-work or micro credit, which make up a large proportion of social protection programming in Zambia.

Targeting of the households is done by a Community Welfare Assistance Committee. This community-based approach is used in Kalomo, Monza, Chipata and Kazugula while the Katete programme has implemented a universal social pension to all local residents who are 60 years or older.

<sup>3</sup> Source: Field notes and press reports: Zambia Daily Mail, (February 15<sup>th</sup>, 2011, Page 8 and February 22, 2011, page 9)





The scheme incorporates child grant element. A monthly transfer of K50, 000 is paid to all approved households. Households which have children who are physically disabled and are 14 years and younger receive twice as much. The Government's commendable justification for this special attention to disabled children is that it needs to enable them to meet other extra costs that their disability attracts. Payments are made on bi-monthly basis.

The child grant scheme addresses the challenge of childhood poverty in Zambia which is a pervasive problem facing about 55 per cent of the population that is 19 years of age and younger. Through this grant, the Government is indicating its attention to the challenge of childhood poverty.

Generally, the SCTS complements other government investments in education, health and infrastructure. It empowers the most vulnerable in society to access these services and also enhances local economic activities because it increases the purchasing power of the poor. Given that the poor are known to spend their income on basic needs often within the locality, the programme increases the demand for local produce thereby generating large volumes of local economic activity. It is consistent with the objective of Zambia's Sixth National Development Plan of (a) contributing to the security of all vulnerable citizens by ensuring that incapacitated and low capacity income households have sufficient livelihood security for meeting their basic needs and (b) protecting them from the worst impacts of risks and shocks. The scheme has the potential to reduce inter- generational transfer of poverty, hunger and starvation in most destitute and incapacitated households in Zambia







## CHAPTER SEVEN: CROSS CUTTING ISSUES

### 183. Introduction

183.1 The crosscutting issues are those common to all the thematic areas of the APRM: democracy and good political governance; economic governance and management; corporate governance; and socioeconomic development. These issues do not just permeate all of the governance assessment variables they are recurrent also. Their impact is felt throughout the political, economic, and social economic aspects of Zambia's development. The crosscutting issues are, therefore, intricate, and require holistic and carefully formulated interventions in order to resolve the challenges and constraints that they pose.

183.2 The CRM identified five crosscutting issues which straddle all areas of governance; the challenges they pose as well as the solutions they demand call for complex and multi-dimensional interventions. These include:

- Implementation of agreements, standards, and codes.
- Constitutional changes.
- State centralisation, patronage, and corruption
- Capacity building
- Environmental degradation.
- The Barotseland problem.

### 184. International Agreements, Standards and Codes

184.1 The international and regional agreements, standards, and codes that Zambia has committed to in all areas of governance are not necessarily implemented, monitored, and reported on. The official explanations that this is due to inadequate human capacity and insufficient funding for implementation are contradicted by non-state actors' assertions that the government lacks political will to fulfil its obligations. It is clear, however, that there is no central register of the agreements entered into and it was impossible for the CRM to obtain a comprehensive list of all governance standards and codes, and the status of ratification, domestication, and actual implementation.

### 185. Constitutional Changes

#### 185.1 Introduction

185.1.1 Zambia has had four Constitutions since independence; with each having an average span of only one decade. The protection and promotion of constitutional rule is done through an assessment of the Constitution of Zambia Bill 2010, which was under discussion by the National Assembly during the duration of the CRM. The constitutional change was not passed by the legislature in its vote of 29 March 2011. Nevertheless, the assessment is necessary in view of the frequent constitutional changes that Zambia has gone through since independence, and due to concerns





that such frequent changes may not necessarily be in the long term national interest. The brief review therefore seeks to highlight significant reforms and improvements that were proposed in the bill, and their implications for enhancing constitutionalism and democratic governance.

- 185.1.2 Constitutionalism, in the sense in which it is used in the APRM founding documents, flourishes when the provisions of any given constitution enjoy legitimacy among the people, when there are sufficient and effective checks and balances in place on the exercise of power, and when respect for human rights is in evidence in its provisions. There would appear to be wide support for the ideals of constitutionalism in Zambia. Having attained independence in 1964, Zambia has traversed forms of governance ranging from its initial Lancaster House type constitution to a period of one-party statehood before embracing the multi-party system in 1991. The 2005 Constitutional Commission of Enquiry recommended many reforms, some of which now see the light of day in the 2010 Constitution of Zambia Bill, prepared by the Attorney General and first debated in Parliament on 22 February 2011. However, how does the proposed constitution stand up to critical scrutiny? The following review assesses the provisions for the electoral system, the National Assembly, Presidency, Judiciary, and Office of the Ombudsman, Public Service, Bill of Rights, Zambia as a Christian nation, and management of public finance.

## **185.2. Electoral System**

- 185.2.1 The Speaker of Parliament informed the CRM at a meeting on 11 February 2011 that it was hoped that the Bill would become law by the end of March 2011. Meanwhile, the Electoral Commission is conducting voter education on the assumption that the law will not change before elections due later in 2011. As the Bill proposes proportional representation and a party list system in mixed member councils and the National Assembly, this could pose practical challenges as Zambia has not hitherto embraced proportional representation.
- 185.2.2 While the Bill retains the first past the post system for the 240 directly elected members of the national Assembly [A 143(1) (a)] a mixed member representation system is introduced with 30 seats for members elected on the basis of proportional representation [A143 (1) (b)] and up to 10 nominated by the President to enhance representation as regards “special interests or skills” [A146]. At district council level, councillors are to be elected in similar fashion [A216] with 40 per cent of the total number of councillors elected on the basis of the proportional representation system from a party list [A216(2)(c)] and the balance on the first past the post system.
- 185.2.3 The proposed introduction of the mixed member representation system at both national and local level is laudable. It will enhance democratic participation and representation of smaller political parties among the 39 registered political parties. This demonstrates a Zambian commitment to a multi-party system. However, there are features of the changes that give cause for pause. It is by no means clear why a 40 per cent segment for proportional representation should be acceptable at local level while only 30 out of a possible 280 members of the National Assembly (around 9 per cent) should be elected in this way. As





proportional representation enhances the representation of smaller parties, which all too often fall by the wayside in first past the post elections, having so few members elected in this way in the National Assembly is bound to continue to leave the smaller parties out in the cold. This is because they will not be able to muster the threshold of votes necessary to find a seat when so few seats are reserved for proportionally elected representatives.

- 185.2.4 The broadening of democracy is thus defeated by setting aside only 30 seats for members elected in this way, and the interests of the powerful larger parties will continue to be served notwithstanding the introduction of this feature of the electoral system that is designed, theoretically, to temper the hegemonic tendencies of the larger parties. It would perhaps be better, and more consistent, to have a 40 per cent segment proportionally elected at both local and national level. This would serve to moderate the concentration of parliamentary power in the hands of the larger parties and may help to introduce a diversity of views to the debates and deliberations of the National Assembly. In this way, democracy will be deepened and broadened in Zambia without doing away with the constituency level accountability that is diluted, or even absent, in purely proportional representation. A good balance is struck when the best features of both systems are in place; this could be achieved by electing 40 per cent of both the National Assembly and the district councils through the proportional representation method.

### **185.3. National Assembly**

- 185.3.1 It is remarkable that the size of the National Assembly has been increased from the current 150 elected and 8 nominated members plus the Speaker [A63 of the 1991 Constitution] to the proposed 280 plus Speaker [A143]. The cost will be enormous in terms of salaries and increased infrastructure in the form of buildings, staff and transport, while the benefits of so radical an increase in numbers are not readily apparent. The affordability of such a large increase requires close investigation. In the information age, the size of constituencies ought not to be the decisive factor.
- 185.3.2 The justification given for allowing the President to nominate up to 10 members of the National Assembly, namely special interests and skills, is questionable. If proportional representation is more wholeheartedly embraced at national level, then special interests will be served. If skilled individuals are not willing to subject themselves to the popular vote they should not be permitted to enter the National Assembly via the back door of presidential nomination. In a hung parliament or one in which the government of the day has a slim and tenuous majority, the nomination of members can be abused to shore up the side that enjoys presidential favour; this is not genuine constitutional democracy as the scope for gerrymandering is ever present.
- 185.3.3 It would be far better to do away with the notion of presidentially-nominated members. The doctrine of the separation of powers is infringed by giving the President the power to put his own nominees into the National Assembly, the institution at the pinnacle of the legislature, which is a separate arm of government. This feeds into the dominance of the legislature by the executive.





At present, more than 60 members of the legislature, all “front-benchers”, are also in the cabinet. The back-benchers are overwhelmed by the seniority and sheer numbers of the Cabinet. Enlarging Parliament will ameliorate this problem without actually solving it. It would be far better to shed the inappropriate retention of inapplicable features of the Westminster parliamentary system and fully separate the executive from the legislature. This will considerably enhance the oversight functions of Parliament.

- 185.3.4 It is not merely a matter of separating functions; the doctrine needs to be recognised and implemented because there must be checks and balances on the exercise of power, particularly executive power, if the proper separation of powers is to serve the nation as it should. At present, there is too much power in the hands of the executive. This needs to be addressed in order to reduce the very high stakes that are involved in contesting the presidency at present. The new constitution will slightly dilute the pre-eminence of the cabinet in parliament through increasing the size of Parliament (number of MPs). However, this will only be a palliative rather than a cure for the excess of power in the executive. It would be better to keep the cabinet out of Parliament altogether.

#### **185.4. The President**

- 185.4.1 The election of the President under the current system, where the candidate who receives the highest number of votes cast wins [A34 (8) of the present Constitution] is abolished (subject to a referendum), and there is substituted for it the fifty per cent plus one system [A110 (2)]. This is an improvement on the system and is likely to be widely welcomed if the information that the APRM gleaned from civil society is an accurate reflection of popular sentiment. It is certainly a more democratic way of electing the head of state than the system it replaces. Under the current first-past-the-post system, if ten candidates run for president and one of them garners just over 10 per cent of the vote while the rest each gets just under 10 per cent, then a candidate who enjoys only a fraction of the support of the people of Zambia (perhaps 11 per cent) wins. Under the new system, the winner has to command 50 per cent plus one of the popular votes, whether in the first round or after a run-off.

- 185.4.2 The Bill still envisages an excessive concentration of power in the hands of the executive that could easily and usefully be addressed by moderating the various powers of appointment which the President is given, by requiring that the Cabinet not be drawn from the ranks of the National Assembly [A130 (1)] and by removing the power of the President to nominate up to 10 National Assembly members [A143 (1) (c)]. These steps will enhance the separation of powers and could, if properly constructed, serve to put in place necessary checks and balances on the exercise of executive power without in any way prejudicing the effectiveness and efficiency of the system of constitutional government in Zambia. Their introduction would also free up the President to fulfil his actual executive functions relating to the running of the country. An independently constituted body tasked with the appointment of all commissioners, judges, senior prosecutors and the director of public prosecutions as well as an independent ombudsman with power to investigate and remedy irregularities





is preferable to the virtual carte blanche which the president at present enjoys, and will continue to enjoy, in only slightly diluted form if the bill becomes law after the next elections due late in 2011.

### **185.5. The Judiciary**

185.5.1 As regards the judiciary, the Bill proposes the creation of a Constitutional Court. As there are only some 700 lawyers in Zambia, it may be preferable to strengthen existing judicial institutions rather than create a new one with a difficult-to-define mandate. As the rule of law and the protection of human rights are fundamental to constitutional order in Zambia, all courts are, in effect, constitutional courts, and the cosmetic creation of a “virtual” Constitutional Court is not going to change this. Appointing suitably experienced human rights lawyers to the Supreme Court bench is more likely to promote a culture of human rights and responsibilities than the expensive creation of a new court structure. If the Supreme Court is inundated with its current caseload, rules making it more difficult to appeal a case already on appeal could be introduced. The introduction of the Appeal Court should help serve this purpose.

185.5.2 The formula used for the appointment of the Judicial Service Commission [A208], should follow that of the Electoral Commission[A88] expanded to include retired judges nominated by the Chief Justice, academics as well as representatives of civil society, the NGO sector, trade unions, and traditional leaders nominated by the Council of Chiefs. The politicisation of these bodies via the role of the President as envisaged should be avoided, if not eliminated, by setting up mechanisms designed to facilitate merit appointments untrammelled by narrow party political interests or expedient considerations. The public’s confidence in the judiciary will be well served if there is a de-politicisation of the appointment process of judges.

185.5.3 The judiciary ought to receive a fixed percentage of the national budget or benefit from an alternative means of ensuring that its financial independence is secured. This reform is urgently needed. It is unacceptable that the Treasury consistently fails to pay over money voted to the judiciary for the administration of justice.

185.5.4 The removal of presidential portraits from all court buildings would reinforce Zambia’s commitment to the separation of powers and would enhance public perceptions of the autonomy, independence and impartiality of the judiciary.

### **185.6. The Office of the Ombudsman**

185.6.1 A proposal for an Ombudsman, contained in Part XV of the 2005 Constitution of Zambia Bill, has not been fully carried forward to the 2010 Bill. The functions of the Ombudsman set out in A290 of the 2005 Bill could act as a valuable check on the exercise of state power, not only by the executive but also in public enterprises and legislative bodies. The people of Zambia may wish to reconsider the introduction of an Ombudsman with greater powers than those accorded to the various Commissions in existence. (These remain essentially unaffected by





the new Bill). Democracy would be well served if the Commissions and the public could turn to the Ombudsman when there are irregularities and infringement of human rights. The need for the office of the Investigator-General, who has lesser powers [A251 to 254] determined by parliament (not the Constitution) would fall away if an Ombudsman of the kind envisaged in 2005 were to be brought into existence. A deepening of the embryonic Zambia culture of human rights is needed in a country in which abortion, homosexuality and pornography are all regarded as “vices”. Gender insensitivity is still reflected in the national anthem which unnecessarily and inappropriately refers to all Zambians as “free men” when the line “freely we stand” could easily be substituted for the outdated gender insensitive twentieth century lyrics.

### **185.7. The Public Service**

185.7.1 As regards the public service, it would be more appropriate to set out the basic values and principles applicable in the new Constitution itself, to give them constitutionally binding force, and allow these to be fleshed out in ordinary legislation. This was proposed in 2005 but has not been carried forward in the new Bill.

### **185.8. Bill of Rights**

185.8.1 The draft constitution should incorporate a fully justiciable Bill of Rights encapsulating all of the human rights and responsibilities which Zambians have struggled for. Specifically highlighted should be economic, social and cultural rights, including the rights to employment, food, water and sanitation, and a clean environment.

### **185.9. Christian Nation**

185.9.1 The specification of Zambia as a “Christian Nation” and reference to “Christian values” need to be excised from the constitution, because not all the people of Zambia are Christians, nor are they guided in their daily lives by “Christian values”. The constitution belongs to all the citizens that who inhabit the territory of Zambia, regardless of their values, beliefs, and faiths. The reference to religious inclination could be a source of discrimination and possible social, cultural, religious, and political conflicts.

### **185.10. Management of Public Finance**

185.10.1 There should be constitutional guarantees that the Parliament would have oversight of financial management to make sure that state revenues, including borrowed funds, are allocated to, and used for nationally important and necessary development activities, and that it monitors that their utilisation is limited to intended purposes.





## **185.11. State Centralisation, Patronage, and Corruption**

- 185.11.1 The Zambian state system is excessively centralised, with a dominant executive branch headed by the President. The executive branch is preeminent because of an over-concentration of power in the presidency, which includes several features. First, there is the blurring of the line between the executive and legislature by the outmoded and inappropriate continuation of the use of a Westminster-type parliamentary feature where the Cabinet ( part of the executive) is drawn from the ranks of the National Assembly ( part of the legislature). This is exacerbated by the numbers game, in which a disproportionately large cabinet dominates a relatively small National Assembly. The junior status of back-benchers who are not in the cabinet does not give them the necessary clout and sufficient authority to hold the executive to account.
- 185.11.2 Secondly, the omnipotence of the President is fuelled further by his powers of appointment in respect of the judiciary, where he is said to prefer contract appointments to security of tenure - thus undermining institutional independence and cultivating executive-mindedness in judges wishing to have their contracts renewed. Similarly, the President has the power to appoint senior civil servants, including the DPP, and those who serve on the various commissions and public entities. The judiciary is also undermined by presidential power to give directives to the Judicial Service Commission (also appointed by the president). That serves to further increase the over-concentration of power in presidential hands.
- 185.11.3 Further examples of the President's predominance can be seen in the appointment of cabinet and provincial ministers, permanent secretaries, and district commissioners. Since the president is the head of the ruling party, these appointments give the incumbent significant sway in dispensing patronage to party incumbents. Appointments that are due to patronage encourage cronyism and this may be responsible for the significant lack of accountability of public officers both in the government and in the political arena. Indeed, political patronage in Zambia has reached such proportions that it is not possible to distinguish party from government.
- 185.11.4 Not only does patronage happen at the top but it permeates the entire hierarchy of the state system. What needs to be recognised is the fact that provincial and district administrations are devolved from the office of the president. The President, as head of the ruling party, also appoints the provincial ministers, the provincial permanent secretaries, and the district commissioners. The provincial permanent secretaries are not civil servants but political functionaries, and are the accounting officers. The Deputy Permanent Secretaries are civil servants, but are not the accounting officers. This is a rather strange arrangement where political appointees are given control over public finance rather than the norm where the civil servants are the "permanent" servants of the people. The arrangement therefore gives the party functionaries control over public spending that is normally the preserve of civil servants in most countries that had evolved from the Westminster style of government.





- 185.11.5 The patronage system is further replicated at district and constituency levels. For example, the Constituency Development Funds, which are for small grassroots projects, are essentially utilised for politicians' petty projects, although they are disbursed by the local councils. This gives the politicians significant leeway in buying votes for the incumbent party.
- 185.11.6 Zambia has signed a number of international and regional agreements, enacted laws, and set up various institutions such as the Anti-Corruption Commission, the Anti-Money Laundering Authority in the Central Bank, and the office of the Auditor General, and the Police. All are aimed at fighting corruption but they do not appear to function effectively.
- 185.11.7 The CRM was told that the ACC is weak, underfunded, lacks the requisite capacities to effectively undertake its functions and is subject to political interference. The DPP was regarded as partisan and in favour of the politically connected. Although the Office of the Auditor General was considered effective, neither the Police nor the DPP supported it adequately to follow up and investigate malpractices and financial maladministration. The problems of inadequate performance of these institutions were widely attributed to the perpetuation of the system of political patronage and cronyism that favour party functionaries and undermine professionalism.
- 185.11.8 The CRM was frequently told that the political will to fight corruption appears to have waned after the death of President Mwanawasa. This was manifested in the lack of follow-up on the reports of the Auditor General and those of the Anti-Corruption Commission, and the prosecutions that would have been expected after the recommendations of the Public Accounts Committee of Parliament. The weaknesses of non-state actors and their lack of political influence were also mentioned as possible contributors to the growing spread of corruption.
- 185.11.9 In summary, the pre-eminence of the executive actually favours the political party in power. The president of the ruling party is the president of the country. Immense powers of appointment and dispensation of patronage encourage unbridled cronyism, which promotes corruption and lack of accountability. The CRM therefore learnt that there is no political will to improve on these governance deficiencies from which the incumbents benefit politically and economically. This state of affairs means that the over-centralised state cannot effectively fight corruption.

## **185.12. Capacity Building Challenges**

- 185.12.1 The short, medium and long-term objectives of Zambia are clearly spelt out in its Vision 2030. According to this document, the goal of Zambia is to achieve the status of a middle income industrial country by 2030 with a per capita income of nearly USD1, 700. To achieve this objective, the Government of Zambia has embarked on efforts to implement macroeconomic policies that support sustainable development; pursue sound, transparent and predictable economic policies; promote sound public finance management; combat corruption and money laundering, and accelerate sub-regional economic integration. However,







while policies and institutions that seem sound and viable on paper have been adopted and established, as demonstrated in Chapter Four, progress in these five policy areas has been spotty at best. A critical obstacle has been the lack of capacity to implement these policies vigorously and ensure that the institutions established for these purposes work efficiently and effectively.

- 185.12.2 Problems of capacity cut across the service delivery institutions. This is even pronounced in disparities between urban and rural areas. Education, Health, Police, Immigration, Drug Enforcement Department, Prisons, and Registrar of Societies, National Registration and Commission of Refugees all suffer from insufficient human resource capacity. This problem is further compounded by high turnover of staff, resignation of staff from the public service, and natural attrition caused by disease, such as HIV and Aids.<sup>1</sup> Inadequate human resources in various Government institutions has greatly affected their capacity to perform their functions. The officer-client ratio remains high in most government departments, and this indeed affects service delivery and the performance of the whole economy of Zambia.
- 185.12.3 For instance, while Zambia has adhered to a number of international, regional and sub-regional standards and codes on good economic governance and management, it has been unable to keep a centralised record of such standards and codes, or to monitor their implementation and domesticate many of them. These standards and codes have an essentially cosmetic value. In the area of macroeconomic policy, the key failure has been that of promoting broad-based, diversified and accelerated economic growth that impacts positively on poverty. Soundness, transparency and predictability of economic policies are hindered by the lack of adequate staff with the necessary technical skills to provide solid analytical foundations to policies. Moreover, the institutions intended to facilitate broad consultation with non-state stakeholders in particular and keep the public informed of government policies have not functioned with the necessary efficiency and effectiveness.
- 185.12.4 Public finance management is marred by the failure to broaden and increase domestic resource mobilisation and reduce reliance on government borrowing and on external resources for investments. The fight against corruption and money laundering is making little or no progress because it lacks strong and consistent support at the highest political level and the institutions that are intended to fight corruption and money laundering are weak. Zambia is not deriving optimum benefit from its membership in SADC and COMESA because the Government and the private sector have not been able to work closely and effectively together.
- 185.12.5 The principal deficiencies in capacity which are to blame for the shortcomings listed above are well-known and common to all five areas as well as to the other thematic groups. They are as follows:
- The absence of strong political commitment and support at the highest political level to push energetically for the realisation of the stated goals and objectives because those who control policy making stand to gain from the status quo and face little or no effective pressure from stakeholders and society at large to introduce meaningful change;

<sup>1</sup> Ministry of Finance and National Planning, *Mid Term Review, Fifth National Development Plane 2006-2010*, October 2009





- Non-state stakeholders and civil society are not involved in a sustained and forceful manner in trying to influence the Government because they lack the required information, analytical skills, organisational strength, and political access and clout to do so;
- The Government is not endowed with enough staff with the required training, expertise and skills to implement policies and ensure that institutions function efficiently and effectively;
- The systems and processes in place for policy making, implementation, monitoring and evaluation are inherently defective and are not properly aligned to the stipulated goals and objectives; and
- Adequate financial resources are lacking to provide staff with the equipment, tools and the other resources they need to perform their tasks efficiently and effectively.

185.12.6 The absence of these capabilities is, first and foremost, a matter of prioritisation. Resources are and will always be scarce in any society. The challenge is to allocate these scarce resources to high priority goals and objectives. That being so, costly spending on the military and security apparatus and celebrations, to cite only these, is highly questionable. However, the root cause is that these deficiencies in capacity are a manifestation and demonstration of the fact that Zambia is a developing country that has not succeeded in building a capable state grounded in a well developed society with a vibrant civil society. In other words, the real challenge facing Zambia in mobilising the required capabilities is to ultimately build a capable state and a capable society.

185.12.7 private sector has to some extent boosted the latter sector, which appears to be growing in Zambia. And although the private sector is also lacking capacity, especially in implementing regulations, the Institute of Directors of Zambia (IODZ) is effectively promoting corporate governance practices in the country. Given IODZ's successful efforts in this area, it should be granted capacity-building funds to extend its activities throughout other Sub-Saharan countries.

185.12.8 Together with other Government institutions such as Bank of Zambia, Lusaka Stock Exchange and other financial sectors, the IODZ has played a leading role in promoting ethical business practices, especially in the private sector. It has carried out training, public awareness campaigns on good governance principles, which is aimed at alleviating the problems of incapacity.

### **185.13. Environmental Degradation and its Effects**

185.13.1 Zambia has very good legislation on environmental protection. However, CRM discussions with stakeholders brought to light the issue of the capacity of the existing institutional framework to enforce the laws on environmental protection effectively. Stakeholders from the government, private sector, civil society and communities further explained that in the case of foreign businesses- especially in the mining sector - enforcement of environmental provisions was compromised by the fact that the Government of Zambia had exempted some





mining companies from environmental obligations in its drive to attract and retain foreign direct investment. This has resulted in unacceptable pollution levels through emissions beyond legally permitted levels, and tailings as well as other waste management practices. The CRM observes that the environmental damage to the country is very costly given that it can potentially affect other industries necessary for economic diversification, such as agriculture, through pollution of surface and ground water resources and degradation of arable land. Environmental effects are also a concern as far as the effects on the quality of the life of Zambians and residents of Zambia is concerned, especially the physiological health impacts. Depletion of natural assets and environmental degradation continues to be a major problem in Zambia.

- 185.13.2 Zambia's mining companies have been criticised for frequently polluting drinking water sources in the Copperbelt province. For example, in early 2008, after a pump malfunction, the second largest copper miner, Mopani Copper Mine whose mines lie near the DRC border accidentally discharged polluted water into the water system of a private water utility. As a result, over 1000 residents of Mufulira town visited local clinics with abdominal pains, severe diarrhoea and vomiting, although no fatalities were recorded. Mopani mine is jointly owned by two multinationals, Canada's First Quantum Minerals and the Swiss Glencore International as well as the Zambian Government.
- 185.13.3 In 2007, Zambia's biggest mine, Konkola Copper Mine [KCM], owned by the London-listed company Vedanta Resources, released acidic effluent into the Kafue river, the water source for approximately 2 million people. Hundreds of people became sick after eating fish from the poisoned water. More than 50 local farmers demanded compensation for crops that failed after being irrigated with polluted water. KCM had its operating license suspended for 10 days after the incident and reportedly lost USD26 million during the suspension. The head of the Environmental Council of Zambia stated at the time that "we will now be forcing all mining companies to follow the law to the letter, and the penalties might include closure of some erring mines as a deterrent to other would-be offenders".
- 185.13.4 In 2003, the Environmental Council of Zambia (ECZ) shut down Chat Breweries of Lusaka. The brewer had been accused of operating a boiler that emitted uncontrolled amounts of pollutants into the air contrary to section 39 of the Environmental Protection and Pollution Control Act (EPPCA) 1990, which forbids the emission of air pollutants. The brewer was instructed to inform the ECZ once it had replaced the offending boiler. The ECZ senior education and communication officer at the time appealed to the public to be vigilant and safeguard the environment by reporting any activity that was likely to endanger lives and degrade the environment.<sup>2</sup>
- 185.13.5 The core statutory bodies that are responsible for the management of the environment and natural resources are the Environmental Council of Zambia (ECZ), the Zambia Wildlife Authority (ZAWA) and the National Heritage Conservation Commission (NHCC). All these bodies are part of the Ministry of Tourism, Environment and Natural Resources (MTENR).

<sup>2</sup> ECZ shuts Lusaka brewery. Times of Zambia. 18 September 2003.





- 243.6 The ECZ was created under the Environmental Protection and Pollution Control Act of 1990, Cap 204. It has a mandate to protect the environment and control pollution. Its main function is to advise government on policy formulation and pollution control, conduct research, oversee the Environmental Impact Assessments process and co-ordinate environmental and pollution control activities. The ECZ has inspectors who are mandated to monitor trends in natural resource use and the impact on the environment.
- 185.13.6 The ZAWA was created under the Zambia Wildlife Act of 1998. Its function is to manage and conserve wildlife in Zambia. ZAWA is responsible for the creation and management of national parks, and has been introducing public-private partnerships in managing some of Zambia's national parks. Under the initial experiences, ZAWA has provided enforcement officers to the parks, while the private sector has provided resources including technical assistance.<sup>3</sup>
- 185.13.7 Despite the fact that all these statutory bodies exist in Zambia, they have been ineffective as regards their mandate of controlling environmental degradation and its effects.
- 185.13.8 The CRM found it encouraging that in some cases the Zambian government took steps to address issues of environmental safety with business entities that were flouting the laws. In one instance, the government shut down a manufacturing factory for exceeding the permissible air pollution limits in surrounding areas. It was also charged with failing to provide for the personal safety of its employees. Kabwe, the city where the said factory was located, is now one of the most polluted areas in the world.

#### **185.14. The Barotseland Problem**

- 185.14.1 The Barotseland problem is essentially political, but has several dimensions: the national constitutional issue; discord within the royal clan and the simmering conflict between the Litunga and other chiefs within the Western province. It also has a socioeconomic dimension, which is manifested in Barotseland people's claims of economic neglect and marginalisation of the Western province by the government. The discovery of economic natural resources and competition over future access and exploitation is a potential source of conflict.
- 185.14.2 The national constitutional issue stems from the government's abrogation of the Barotseland Agreement of 1964, which has since its breach in 1969, been the source of disagreement between the government and the people of the Western province. The Barotseland Royal Establishment would like the government to restore the constitutional status of Barotseland that prevailed at the establishment of the unitary state and the independence of Zambia in 1964. That agreement gave the Litunga and the Barotseland Royal Establishment considerable customary powers, including over local economic activities and the administration of land law within Barotseland territory. However, the Government considered that, in its quest for unity (expressed in the slogan "One Zambia, One Nation"), it would not tolerate a "state within a state", and thus terminated the agreement, which effectively meant the removal of the Litunga's powers and privileges that had actually been unique. The termination

<sup>3</sup> Environment and Natural Resources Management and Mainstreaming Programme document.





of the agreement was therefore meant to bring about national coherence by applying uniform local government legislation and policies throughout Zambia. Unfortunately, this decision resulted in the long-running dispute between the government and the Barotseland Royal Establishment, a dispute which has the potential of causing major conflict and destabilisation of the entire State. Certain elements within Barotseland have advocated secession from Zambia, claims which the Royal Barotseland Establishment has repudiated.

- 185.14.3 A second dimension to the Barotseland problem is the internal discord within the royal clan. The CRM gathered from consultations that some elements within the royal family questioned the legitimacy of the current Litunga and would prefer to have him replaced. Although this might seem like an internal matter within their clan, it has implications for national unity because the people of the Western province would appear to be divided, thus making the solution to the historical problem even more difficult.
- 185.14.4 A third problematic dimension to the Barotseland issue is the restlessness of certain chiefs who appear to detest their subordination to the Litunga and the Barotseland Royal Establishment. The CRM was not able to delve deep into the root causes of the simmering conflict among the chiefs, due to the limited time that the Mission had in the province.
- 185.14.5 The fourth problematic issue concerns the economy of the province. The Western province is generally undeveloped, but it has great economic potential for Zambia. The recent discovery of diamonds and oil and the availability of water resources in the province make the area crucial to future economic development. Any political upheaval there is therefore likely to be harmful to the prospects for developing economic activities.
- 185.14.6 Historically, the province has been through a long period of economic decline and even marginalisation. The CRM learnt that there used to be a number of economic activities that are no longer in operation. For example, the consultations revealed that the post independence government had established several agricultural processing industries but a significant number of these were privatised as from 1991 and ultimately collapsed over the years. The CRM was told by representatives from the provincial Chamber of Commerce that they had attempted to initiate discussion with the central government on ways to revitalise the provincial economy but had not been successful. There are a number of potential economic ventures that could be promoted, including the growing, processing and selling of cashew nuts, rice, and mango; processing and packaging of meat and fish, and the rationalisation of the timber industry.
- 185.14.7 In addition, the CRM was informed that there are reported discoveries of oil, diamonds and other minerals in the province. These discoveries were said to have attracted foreign entrepreneurs from Angola, Singapore, and the United Kingdom, who had interests in the exploitation of these resources. However, it was felt that the traditional authorities were an obstacle because they denied the approval of possible economic ventures because they did not want people from outsiders to engage in economic activities within the province. There was therefore a perception, especially amongst the official government representatives, that the traditional authorities and people of the province were





hostile to outsiders, including other Zambians, who would otherwise engage in economic activities that would assist to uplift the province's economy. The marginalisation of the Western province was therefore not entirely due to government neglect or the fact that government encouraged private entrepreneurs. It would appear from this that the political problematic is compounded by economic grievances and misconceptions that make the entire relationship between the province and the Government much more complex.

- 185.14.8 There is a probability that the issues at hand, that is, the Barotseland constitutional disagreement, internal chieftom squabbles, and various groups' competition for access to and benefits from the exploitation of natural resources could be conflated, thus making the entire problem appear much more complicated than it is at present, which might result in major conflicts in the Western province, and that could have dire consequences for the nation.





## CHAPTER EIGHT CONCLUSIONS

186. The conclusions of the Zambia APRM Country Review Mission are derived from analysis of the Country Self-Assessment Report and National Plan of Action, the findings of the CRM from the stakeholder consultations, and information from documents that were made available to the review team. The conclusions are presented as a synthesis of the findings, challenges, and recommendations per thematic area; followed by a summary commendable practices and crosscutting issues.

### 187. Standards and Codes

187.1 It is evident from the findings of the CRM that Zambia has been progressive in committing to various international and regional agreements in order to promote and protect democracy, sound economic management, good corporate governance, and to enhance social economic development. Similarly to other African countries, the country faces many challenges. The major challenge is the implementation of the commitments that Zambia entered into. This challenge is demonstrated in Zambia's apparent problems in keeping a comprehensive record of the various agreements; inadequate translation of the agreements into domestic laws; inadequate or incomplete monitoring and assessment of implementation, and a rather dismal record in reporting on progress.

187.2 However, given Zambia's positive national outlook, it is likely that these challenges will be resolved. It is crucial that Zambia increase efforts to fulfil the obligations it has committed to, and it is imperative for the country to domesticate international and regional agreements to enable their implementation. In addition, Zambia should increase sensitisation of ordinary people to their rights and hold the government to account for its policies and their implementation. It is also important that international and regional agreements that directly affect people at the grassroots level should be translated into local languages that the people can easily understand, and local capacity for implementation at grassroots levels should be enhanced.

187.3 Zambia therefore has to endeavour to improve overall capacity for implementation of international and regional agreements as well as strengthen national capacities to implement domestic policies. There needs to be monitoring of the implementation of standards and codes and implementation of national policies. Such monitoring ought to be accompanied by evaluation of progress and imposition of sanctions on institutions and individuals that refuse to adhere to or comply with standards and codes and to effectively implement national policies.

### 188. Democracy and Political Governance

188.1 Zambia has major challenges on the road towards enhancing its democratic credentials. However, Zambian democracy is maturing, and the country's progressive stance towards reform puts it in good stead to strengthen democracy.





Three major challenges feature prominently in Zambia's political system : (a) state centralisation and executive dominance; (b) constitutional instability; and (c) postponement of the resolution of existing disagreements.

- 188.2 The first challenge of an excessively centralised state system and presidential pre-eminence has historical roots. The colonial state was centralised and the independent one-party regime consolidated that centralisation. Constitutional amendments have side-stepped consideration of this problematic but have rather served to institutionalise both state centralisation and presidential pre-eminence. Despite the liberalisation of political participation since the multi-party system was reintroduced, centralisation of state structures and presidential dominance have remained since the one-party era. Zambia has retained a republican form of government whereby the leader of the ruling party is also the President and Head of Government. At the executive's disposal are extensive powers of appointment, official patronage, and control of state resources. The National Assembly, which performs the legislative functions, and the Judiciary, which is supposed to interpret the law, both appear to be junior partners in their interactions with the executive branch.
- 188.3 The inefficiency and ineffectiveness of service delivery by state institutions is also a challenge. This is partly a consequence of state centralisation and half-hearted attempts to implement the decentralisation policy. However, the quest for democracy and national development demands that Zambia focus on building or re-building human capacity in national, provincial and district institutions in order to strengthen the professional cadre for national development.
- 188.4 The country also needs to establish systems that would guarantee certainty of budget allocations for the performance of state functions, especially those of critical national institutions such as the Judiciary, National Assembly; state commissions and parastatal organisations and provincial and district administrations and councils.
- 188.5 The second challenge is constitutional instability. The frequent constitutional changes amount to a national failure to institutionalise long-term constitutional order. This has the potential to destabilise the country and erode the democratic gains that Zambia has made since independence. It is crucial that the constitutional changes being proposed address the genuine problems of strengthening democracy, such as the constraints posed by excessive concentration of power in the executive and use of a system of state patronage. The changes should be seen to be more than just "panel beating" the system to suit the whims and wishes of the incumbent regime(s).
- 188.6 The third challenge is failure to resolve long-standing internal disagreements, or postponement of proposals to deal with them. The long-running disagreement over Barotseland, simmering political party tensions, and labour conflicts that are not resolved to the satisfaction of Zambian people are problematic. The apparent lack of haste to resolve these problems is tantamount to nurturing situations that could aggravate the problems; this could ultimately blow out into intractable conflicts that would pose greater threats to the peace and stability of the country. The often-heard phrase that "there is no political will" seems to characterise the basis for this inertia, and it ought to be addressed as a matter of urgency.







188.7 The major challenges facing Zambia's democracy and good governance can be resolved given the country's progressive and reform-minded character. The following recommendations are therefore presented for consideration in improving democratic governance.

It is recommended that Zambia:

- Increase efforts to fulfil the country's international, regional, and national commitments and obligations.
- Urgently address internal constitutional disagreements such as those between the government and the Barotseland Royal Establishment, and other internal disputes like those amongst traditional chiefs, poor labour and employees, and between political parties that appear to be increasingly intolerant of each other (as shown in numerous electoral disputes).
- Consider, in the constitutional proposal, a fundamental transformation of the over-centralised state system and promote decentralisation to ensure constitutional rule, separation of powers, checks and balances, and official accountability.
- Focus on building or re-building the human capacities of national, provincial and district institutions, in order to strengthen the professional cadre for national development.
- Establish systems to enhance the financial capacity and certainty of budgets of critical national institutions such as the Judiciary, National Assembly, and other agencies for the promotion and protection of a democratic order, such as the Human Rights Commission, Anti-Corruption Bureau, provincial government, local government councils, etc.
- Consider dismantling the system of political patronage that fuels official corruption and distorts broad-based development.

## **189. Economic Governance and Management**

189.1 Zambia has had a progressive approach to economic governance and management, but has to resolve several challenges. One major challenge is to implement the international and regional commitments that the country has entered into. The second is to make institutions work to implement the economic policies that have been formulated as effectively as possible.

189.2 Zambia should continue to encourage greater transparency, accountability, and democratic control over economic policies and implementation, in which the legislature should be given greater powers of oversight of the executive agencies of the state so that policies, budget allocations, and project implementation are guided by national interest.





- 189.3 Zambia should strengthen the implementation of reforms aimed at sound public financial management, including tax collection and administration; institutionalisation of the MTEF; improving the performance of the office of the Auditor General; implementation of fiscal decentralisation; and strengthening the functioning of the Anti-Corruption Commission.
- 189.4 Government efforts should also focus on re-positioning Zambia as a “developmental state”, with increased but selective intervention in the determination of critical economic variables that affect growth and development, and with more state assistance to, and regulation of domestic entrepreneurship, and cultivation of a new partnership involving the state, private enterprise, and labour.
- 189.5 Lastly, given that regional integration is important for Zambia’s development, the country should seek to harmonise its membership of regional integration schemes, with a view to finding the best forms of regional interactions that could maximise national benefits.
- 189.6 There are several recommendations that the CRM suggests to resolve the above-mentioned challenges of economic governance and management.

It is recommended that Zambia:

- Endeavour to improve its overall capacity for implementation of international and regional agreements while strengthening national capabilities to implement domestic economic policies.
- Reconsider its laissez-faire approach to economic management, so that it provides a more proactive, indicative, and even state-interventionist approach of a “developmental state”. This implies permitting the central bank to have greater say in the determination of interest rates; increased state assistance to, and regulation of domestic entrepreneurship, and cultivation of a new partnership involving the state, private enterprise, and labour.
- Encourage greater transparency, accountability, and control over economic policies and implementation by giving the legislature greater powers of oversight of the executive agencies of the State so that policies, budget allocations, and project implementation are guided by the national interest.
- Strengthen the implementation of reforms to promote sound public financial management, including tax collection and administration; institutionalisation of the MTEF; improving the performance of the office of the Auditor General; implementation of fiscal decentralisation, and strengthening the functioning of the Anti-corruption Commission.
- Carefully re-examine ways and means by which it can harmonise its membership of regional integration schemes with a view to finding the best forms of interactions that could maximise national benefits.





## 190. Corporate Governance

190.1 There is enthusiasm for improving corporate governance practices in Zambia. However, there are a number of corporate governance challenges that Zambia has to contend with. These include: the general non-observance of standards and codes; disrespect for human (labour) rights in the workplace, including the rights of children; non-enforcement of environmental protection regulations; lack of corporate social responsibility; non-protection of consumers; and discriminatory government contracting.

190.2 There are a number of recommendations that Zambia should consider to enhance corporate governance:

- There should be strict monitoring of the implementation of standards and codes, and there must be sanctions imposed on institutions and individuals that refuse to implement those standards and codes.
- Zambia should make the regulatory framework actually work through monitoring the actual operations of licence holders by such institutions as the Central Bank, Zambia Development Agency, and the Bureau of Standards.
- All enterprises should be subjected to operating in conditions where they observe human rights at the workplace and social responsibility obligations. The Human Rights Commission should be empowered to monitor and sanction when these are not respected.
- Regulatory institutions and the Industrial relations Court should be strengthened in terms of human capacities and guaranteed public budget support, and be given sanctioning and enforcement powers, so that their effectiveness is enhanced.
- It is crucial that Codes of Conduct and Codes of Ethics be developed and strictly enforced throughout all corporate entities. Where these already exist, such as the Central Bank Corporate Governance Guidelines, they must be revised and updated. The accountability of directors, managers, and all employees must be placed at the centre of all corporate activities.
- The Anti-Corruption Commission should be strengthened by human capacity and guaranteed public financial resources, be given autonomy from the Office of the President, and be decentralised to the provincial level, in order to broaden its coverage and effectiveness in discharging functions.
- Zambia should revise the legal frameworks so that the rights of suppliers, consumers, and members of the community are protected and promoted. This would require changes to the Companies Act; Employment Act; Labour Relations Act; Factory act; Occupational and Safety Act; as well as the revision of the functioning of institutions like the Bureau of Standards; Environmental Council of Zambia; and regulation of MSMEs.





## **191. Social and Economic Development**

191.1 Zambia's social and economic development has been promoted by sound and progressive policies. However, the limited implementation of policies fails to sustain the momentum of development. The country faces a great risk of backsliding; constrained policy implementation is partly due to limited human and financial capacities. However, structural economic and political characteristics also mean that economic growth has not necessarily translated into sustainable development.

191.2 There are still a number of challenges in the social and economic development of Zambia. These are, in summary: aligning national development to the international conventions that the country has committed to; the diminished national self-reliance and low levels of grassroots participation; continuing (although reduced) dependence on foreign development aid; lingering poverty; human capacity constraints; and persistent gender inequalities.

191.3 There are a number of recommendations that Zambia may consider in order to enhance social and economic development:

- Translate international agreements such as CEDAW into local languages that can be easily understood by the people so that they will be aware of their rights; domesticate these agreements to improve the capacity for implementation that is suited to local conditions. Sensitisation should also include concerted efforts to promote gender equality.
- Improve publicity of the national vision as an instrument for development, with increased efforts to implement complementary policies such as public sector reforms, decentralisation, and timely budgetary allocations for implementation of development programmes.
- Strengthen efforts aimed at building human and institutional capacities for implementation of development policies. This should be inclusive of education, training, and collaboration with non-state actors (especially the private sector, civil society organisations, and community leaders). The role of these non-state actors in promoting development should also be encouraged and institutionalised.
- Enhance grassroots participatory approach through decentralisation and by creating inclusive partnerships of government, civil society, private sector, and community leaders.

## **192. Commendable Practices**

192.1 Zambia has a number of commendable practices that are worthy of emulation. Particularly unique are the solidarity that the country provided to liberation movements in southern Africa; the maturing of democratic practice; the Social Cash Transfer Scheme and the Public Hearings on Breach of Children's Rights.





- 192.2 Zambia supported, at tremendous economic and social cost, the liberation movements of Southern Rhodesia, South Africa, Namibia, Angola, and Mozambique. The country also hosted a number of refugees from political hotspots from outside the region, mainly Rwanda, Burundi and the Congo. The solidarity shown is praiseworthy and commendable for increasing continental integration.
- 192.3 The maturing of Zambian democracy is exhibited in the peaceful conduct of politics (despite reports of recent escalation of electoral disputes and violence). Zambia has, by and large, been a peaceful country with disagreements and tensions that are capable of resolution, given political will. The recent non-approval of constitutional amendments also points to healthy cooperation between opposition and ruling party members of parliament in support of the general will of the people they represent.
- 192.4 The Social Cash Transfer Scheme (SCTS), introduced in 2004, is implemented to cater for the majority of Zambian households headed by the elderly, widows, children, or either disabled or chronically ill individuals in need of basic social protection. It provides small, regular grants to households with under-five year old children in selected districts with the highest levels of poverty and under-five mortality rates.
- 192.5 Organised by the Human Rights Commission, the public hearings on issues that undermine the rights of children are essential for sensitising Zambians about human rights and their importance. These contribute to enhancement of respect for children's' rights as human rights.

### **193. Cross-cutting Issues**

- 193.1 A number of issues cut across all the areas of governance, and the challenges they pose as well as the solutions they demand, call for complex and multi-dimensional interventions. These include, implementation of agreements, standards, and codes; constitutional changes; state centralisation, patronage, and corruption; capacity building; environmental degradation; and the Barotseland problem.
- 193.2 The international and regional agreements Zambia has entered into are not necessarily implemented. The official explanation for non-implementation is that the country lacks adequate human capacity and sufficient funding. Non-state actors blame the non-implementation on the government's lack of political will. The CRM observed that it was impossible to obtain a comprehensive listing of all governance standards and codes, and the status of ratification, domestication, and actual implementation.
- 193.3 Zambia has had four Constitutions since independence with each having an average span of only one decade. These are a number of positions regarding democratic principles and institutional structures and functions that different sections of Zambian society do not agree on. These have implications for the promotion and protection of good governance and could be a source of future conflicts.





- 193.4 The Zambian state system is excessively centralised with a dominant executive branch headed by the President. A system of official patronage permeates the entire political system. Corruption appears to be fuelled by such patronage with the result that it seems to be so entrenched in society that even the laws and institutions that are established to combat it appear to be ineffective. There is serious need to address this problem.
- 193.5 Capacity building is another cross-cutting issue. Problems of capacity cut across the service delivery institutions. This is even pronounced in disparities between urban and rural areas. Education, Health, Police, Immigration, Drug enforcement Department, Prisons, and Registrar of Societies, National Registration and Commission of refugees all face the insufficient human resource incapacity. There is high turnover of staff, resignation of staff from the public service and natural attrition caused by disease such as HIV and Aids. Efforts to implement macroeconomic policies for sustainable development should go hand in hand with capacity building. Efforts such as those made by the Bank of Zambia, Lusaka Stock Exchange and other financial sectors, the IODZ to train personnel are applauded.
- 193.6 Environmental degradation is having serious effects on Zambian development. Despite good legislation on environmental protection, enforcement is very weak, especially regarding the practices of foreign businesses such as the mines. Their exemption from observance of environmental laws of the country has resulted in unacceptable levels of pollution through emissions beyond legally permitted levels and tailings as well as other waste management practices. Furthermore, there is depletion of natural assets and environmental degradation and Zambia's mining companies have been criticised for frequently polluting drinking water sources in the Copperbelt Province. Air pollution is also high in mining areas due to emissions from the mines. Though Government has taken steps to address issues of environmental safety, the effectiveness of those measures is still inadequate.
- 193.7 The Barotseland problem is essentially political, but has several dimensions: the national constitutional issue; discord within the royal clan; and the simmering conflict between the Litunga and other chiefs within the Western province. It also has a social economic dimension, which is manifested in the Barotseland people's claims of economic neglect and marginalisation of the Western province by the government. The discovery of economic natural resources and competition over future access and exploitation is a potential source of conflict. The Government, local leaders, chiefs and other stakeholders need to sit and look into these squabbles within the region to devise ways of resolving them for its good governance and development.





# APPENDIX I

## ZAMBIA'S NATIONAL PROGRAMME OF ACTION





## THE NATIONAL PROGRAMME OF ACTION OF THE REPUBLIC OF ZAMBIA

The preparation of the National Programme of Action (NPOA) is an integral part of the entire APRM assessment process. Zambia's draft NPOA is based on the recommendations contained in the Country Review Report (CRR) that was prepared by the Country Review Mission (CRM) in consultation with local stakeholders. The CRR highlights the challenges, institutional weaknesses and best practices on governance and socio-economic development in Zambia as well as key recommendations for improving governance in the country as perceived by the people of Zambia. The views of the Zambian people were crystallized into recommendations which inform this Programme of Action.

### Main Objective

The over-arching objective of the NPOA is to guide and mobilize Zambia's efforts in implementing relevant changes designed to improve governance and socio-economic development in the country by providing necessary supplementation to on-going development initiatives and introducing fresh initiatives as appropriate.

### Specific Objectives

Specifically, the NPOA seeks to:

1. Proffer additional measures for addressing the governance challenges and institutional weaknesses identified in the CRR;
2. Provide a clear time-bound commitment on the implementation of priority recommendations on political, economic and corporate governance as well as socio-economic development, including the identification of key stakeholders for implementation;
3. Highlight the capacity building and resource mobilisation requirements for implementing the Programme of Action;
4. Highlight the measurable indicators to ensure the attainment of expected outputs and outcomes; and,
5. Outline the implementation, monitoring and evaluation mechanisms for the National Programme of Action.

### Preparation of the National Programme of Action

Following the successful peer review of Zambia at the 18th APR Forum Summit that was held on 26th January, 2013 in Addis Ababa, Ethiopia, the National Governing Council, the APRM National Secretariat and some Civil Society Organisation embarked on conducting consultative workshops in selected districts of Zambia. The workshops were aimed at enlightening district stakeholders on issues raised during the peer review of Zambia and receiving inputs for updating of the National Programme of Action.

The preparation of this National Programme of Action was therefore based on the inputs from the District Development Coordinating Committees that were consulted. The inputs were consolidated by the National Governing Council and the APRM National Secretariat.







## Structure

The actionable programmes relating to the prioritized governance issues in Zambia's draft NPoA are structured as follows:

1. Democracy and Political Governance;
2. Economic Governance and Management;
3. Corporate Governance; and,
4. Socio-Economic Development.

## Costing of the National Programme of Action

The costing of the National Programme of Action (NPoA) was through consultations with Ministries, Provinces and Spending Agencies (MPSAs), which will be responsible for implementing the activities identified in the NPoA. The cost estimates include the period from 2013-2016 Medium Term Expenditure Framework (MTEF). The cost estimates were compiled by the National Governing Council (NGC), the APRM National Secretariat.

Several national documents were also used in the costing of the NPoA. These included; the Sixth National Development Plan; National Budget Estimates (Yellow Books); Consumer Price Index and the Fifth National Development Plan Annual Reports.

### Summary of the Cost of the National Plan of Action (Exchange Rate used: 1US\$=K5.50).

Thematic Area	US\$	Zambian Kwacha
	35	796
Democracy and Political Governance	1,160,100.00	6,380,550.00
Economic Governance and Management	546,500.00	3,005,750.00
Corporate Governance	2,036,000.00	11,198,000.00
Socio-Economic Development	1,206,000.00	6,633,00.00
<b>Grand Total</b>	<b>4,948,600.00</b>	<b>27,217,300.00</b>

## Implementation, Reporting, Monitoring and Evaluation Mechanism

The implementation of the National Programme of Action will be done by the Ministries, Provinces and Spending Agencies (MPSAs). However, the APRM National Secretariat and the National Governing Council will spearhead the monitoring and evaluation component. In order to accelerate the implementation of the programmes, the MPSAs shall utilise the Sector Advisory Groups (SAGs), Provincial Development Coordinating Committees



(PDCCs) and District Development Coordinating Committees (DDCCs) that were created under Circular No. 1 of 1996. The APRM National Secretariat and the NGC shall also work closely with the private sector, academia, Civil Society Organisations and Cooperating Partners to ensure that the APRM Agenda is upheld. At the Continental level, the APRM National Secretariat will create synergies with the APRM Continental Secretariat to strengthen coordination and information sharing.





## SECTION ONE: DEMOCRACY AND GOOD POLITICAL GOVERNANCE

CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Standards and Codes:</b>				
<ul style="list-style-type: none"> <li>Zambia is deficient in domesticating and implementing regional International agreements.</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should consider signing additional regional instruments such as: the Nairobi Declaration on Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (2000); the Declaration and Plan of Action on Control of Illicit Drugs Trafficking and Abuse in Africa (2002).</li> </ul>	<ul style="list-style-type: none"> <li>Identify international conventions that need to be reflected in national legislation and pass the relevant Acts.</li> <li>Conduct a national needs assessment for domesticating and implementing regional and international agreements and conventions</li> </ul>	<ul style="list-style-type: none"> <li>Number of regional instruments domesticated</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice has been listing some of the international conventions</li> </ul>
<ul style="list-style-type: none"> <li>Absence of a common depository for standards and codes.</li> </ul>	<ul style="list-style-type: none"> <li>Designate a central depository for all standards and codes.</li> <li>An inventory of all international standards and codes which should be updated continuously be established.</li> <li>A follow-up mechanism be established for ensuring ratification of instruments signed, domestication of and compliance with standards and codes that are adopted or ratified.</li> </ul>	<ul style="list-style-type: none"> <li>Designate a central depository</li> <li>Establish an inventory for all international standards</li> <li>Strengthen the capacity of MoJ as the lead agency in establishing and managing the central depository</li> </ul>	<ul style="list-style-type: none"> <li>Central depository established</li> <li>Number of international standard and codes in the inventory.</li> <li>Follow up mechanism for ensuring ratified standards and codes are established</li> </ul>	<ul style="list-style-type: none"> <li>Signing, ratification and domestication of identified international standards and codes which is on-going.</li> </ul>



EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
<ul style="list-style-type: none"> <li>All necessary regional instruments are domesticated.</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Moj</li> <li>ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>MoFA</li> <li>MPSA</li> <li>Central Statistics Office</li> <li>Parliament</li> </ul>	<ul style="list-style-type: none"> <li>NGC/ APRM Sec</li> </ul>	<ul style="list-style-type: none"> <li>14,000</li> <li>(K77,000)</li> </ul>
<ul style="list-style-type: none"> <li>Functional central depository established.</li> <li>Coordinated documentation of the international standards and codes.</li> <li>Enhanced tracking of the implementation of international standards and codes</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> <li>1 year</li> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>Moj</li> <li>ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>MFA and MPSAs</li> <li>Parliament</li> </ul>	<ul style="list-style-type: none"> <li>NGC/ APRM Sec</li> <li>Parliament</li> </ul>	<ul style="list-style-type: none"> <li>10,000</li> <li>(K55,000)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>Lack of inclusive participation of the general public in domestication process of the international agreements</li> </ul>	<ul style="list-style-type: none"> <li>Make the domestication process more inclusive by involving as much public input as possible.</li> <li>Ministries directly responsible for implementing the provisions can take the lead in this exercise.</li> <li>Publicising the non-domesticated agreements and inviting submissions from all stakeholders will help to quicken the process.</li> </ul>	<ul style="list-style-type: none"> <li>Organise workshops to train key stakeholders</li> <li>Institutionalise state reporting on domesticated standards and codes</li> <li>Develop a Communication Strategy for disseminating information on ratified and domesticated standards and codes.</li> <li>Sensitise stakeholders on the domestication process</li> </ul>	<ul style="list-style-type: none"> <li>Number of institutions with data bases on domesticated standards and codes.</li> <li>Communication Strategy for disseminating information on ratified and domesticated standards and codes developed.</li> </ul>	<ul style="list-style-type: none"> <li>Some reporting is being done on standards and codes.</li> <li>Developing a communication strategy</li> </ul>
<ul style="list-style-type: none"> <li>Inadequate domestication of regional and international agreements</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should increase efforts and capacity to fulfil the country's regional and international commitments by domesticating them.</li> </ul>	<ul style="list-style-type: none"> <li>Identify international agreements that need domestication.</li> <li>Enhancement of inter-ministerial coordination on the ratification and domestication of regional and international conventions.</li> </ul>	<ul style="list-style-type: none"> <li>Number of international agreement identified and domesticated.</li> </ul>	<ul style="list-style-type: none"> <li>Legislative being reviewed.</li> </ul>
<b>Objective 1: Reduce inter and Intra-state Conflicts</b>				
<ul style="list-style-type: none"> <li>Poor enforcement of labour laws and policies</li> </ul>	<ul style="list-style-type: none"> <li>Government agreements with foreign investors must be made transparent and available to the public so that citizens can be assured that government is safeguarding the public's rights and interests. This would help workers to know that their rights are protected.</li> </ul>	<ul style="list-style-type: none"> <li>Review the current labour laws.</li> <li>Increase the capacity of Ministry of Labour and Social Services to enhance the enforcement of labour laws</li> <li>Carry out countrywide sensitisation on employment and labour laws</li> </ul>	<ul style="list-style-type: none"> <li>Number of employment and Labour Laws reviewed.</li> </ul>	<ul style="list-style-type: none"> <li>On-going consultation on the act.</li> </ul>
<ul style="list-style-type: none"> <li>High cost of doing business in Zambia especially for local investors.</li> </ul>	<ul style="list-style-type: none"> <li>Extend tax holidays to local investors so they too can benefit from the incentives for investments just like foreigners.</li> </ul>	<ul style="list-style-type: none"> <li>Review fiscal policy.</li> </ul>	<ul style="list-style-type: none"> <li>Number of incentives offered to local domesticated investors increase.</li> </ul>	<ul style="list-style-type: none"> <li>On-going consultation on the MTEF.</li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
	• 3 years	<ul style="list-style-type: none"> <li>• MoJ</li> <li>• MFA</li> <li>• ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant line ministries and non-state actors</li> </ul>	<ul style="list-style-type: none"> <li>• NGC/APRM</li> </ul>	<ul style="list-style-type: none"> <li>• 25,000</li> <li>• (K137,500)</li> </ul>
• International agreement domesticated	• 3years	<ul style="list-style-type: none"> <li>• MOJ and relevant line ministries,</li> <li>• MFA</li> <li>• ZLDC</li> <li>• Parliament</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant line ministries and non-state actors.</li> </ul>	<ul style="list-style-type: none"> <li>• NGC/APRM</li> </ul>	<ul style="list-style-type: none"> <li>• 9,500</li> <li>• (K52,250)</li> </ul>
<ul style="list-style-type: none"> <li>• Well informed general public about their rights and interests.</li> <li>• Improved conditions of service</li> <li>• Investment agreements are in tandem with labour laws</li> </ul>	• 2years	<ul style="list-style-type: none"> <li>• MOLSS</li> <li>• MOJ</li> <li>• ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>• CSO</li> <li>• Private sectors</li> <li>• Parliament</li> </ul>	<ul style="list-style-type: none"> <li>• MOLSS</li> <li>• PDCC</li> <li>• DDCC</li> </ul>	<ul style="list-style-type: none"> <li>• 27,000</li> <li>• (K148,500)</li> </ul>
• Increased decent employment opportunities.	• 2years	<ul style="list-style-type: none"> <li>• MOF</li> <li>• ZRA</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant CSOs and Private sectors organisations.</li> </ul>	<ul style="list-style-type: none"> <li>• MOF</li> <li>• ZRA</li> </ul>	<ul style="list-style-type: none"> <li>• 17,000</li> <li>• (K93,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>High levels of casualization of Labour</li> </ul>	<ul style="list-style-type: none"> <li>Strengthening regime for casual labours so that their rights are not violated.</li> </ul>	<ul style="list-style-type: none"> <li>Review employment and labour laws</li> </ul>	<ul style="list-style-type: none"> <li>Number of companies complying to non-casualization of labour</li> </ul>	<ul style="list-style-type: none"> <li>Review of employment and labour laws</li> </ul>
<ul style="list-style-type: none"> <li>Limited access to Justice</li> </ul>	<ul style="list-style-type: none"> <li>Zambia needs to broaden access to justice by employees.</li> <li>The Industrial Relations Court should be decentralised further to cover all the provinces.</li> </ul>	<ul style="list-style-type: none"> <li>Decentralise the industrial relatives court to district level</li> </ul>	<ul style="list-style-type: none"> <li>Increased number of people accessing justice.</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by the CRC</li> </ul>
		<ul style="list-style-type: none"> <li>Enhance the capacity of Industrial Relations Court</li> </ul>		
		<ul style="list-style-type: none"> <li>Enhance the capacity of MLSS.</li> </ul>		
		<ul style="list-style-type: none"> <li>Carry out countrywide sensitisation on Labour Laws.</li> </ul>		<ul style="list-style-type: none"> <li>MLSS and ILO carrying out some sensitisations</li> </ul>
<ul style="list-style-type: none"> <li>Limited inclusion of traditional authority in electoral disputes.</li> </ul>	<ul style="list-style-type: none"> <li>The traditional chiefs should be included in mediating electoral disputes.</li> </ul>	<ul style="list-style-type: none"> <li>Review of the electoral act</li> <li>ECZ to conduct an assessment to establish how traditional authorities can be included in the mediation of electoral disputes.</li> </ul>	<ul style="list-style-type: none"> <li>Reduced number of electoral disputes</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by ECZ.</li> </ul>
<ul style="list-style-type: none"> <li>Seemingly discontent by some regions in Zambia</li> </ul>	<ul style="list-style-type: none"> <li>Need to resolve long standing Barotseland problem that could pose a threat to internal stability.</li> </ul>	<ul style="list-style-type: none"> <li>Design mechanism to resolve the issues.</li> </ul>	<ul style="list-style-type: none"> <li>Reduced incidences of internal conflict.</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by the state</li> </ul>
<b>Objective 2: Promoting Constitutional Democracy</b>				
<ul style="list-style-type: none"> <li>High centralised governance structures.</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should consider dismantling the system of centralisation.</li> </ul>	<ul style="list-style-type: none"> <li>Increased implementation of the DIP.</li> </ul>	<ul style="list-style-type: none"> <li>Proportion government decentralisation</li> </ul>	<ul style="list-style-type: none"> <li>On-going implementation of DIP</li> <li>Being considered by the CRC</li> </ul>





	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	MGE	ESTIMATED COST (USD/ZK)
nd	<ul style="list-style-type: none"> <li>Reduction in casualization in Zambia</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MLSS</li> </ul>	<ul style="list-style-type: none"> <li>ILO</li> <li>ZFE</li> <li>ZCTU</li> <li>FFTUZ</li> <li>Civil Society Organisations</li> <li>HRC</li> </ul>	<ul style="list-style-type: none"> <li>MLSS</li> <li>ILO</li> <li>ZCTU</li> <li>PDCC</li> <li>DDCC</li> <li>HRC</li> <li>ZFE</li> </ul>	<ul style="list-style-type: none"> <li>19,000</li> <li>(K104,500)</li> </ul>
ed	<ul style="list-style-type: none"> <li>Increased access to justice by employees and employers</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>Judiciary</li> <li>Private sectors</li> <li>HRC</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>136,000</li> <li>(K748,000)</li> </ul>
		<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>Judiciary</li> <li>Private sectors</li> <li>HRC</li> </ul>		<ul style="list-style-type: none"> <li>64,000</li> <li>(K352,000)</li> </ul>
		<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MLSS</li> </ul>	<ul style="list-style-type: none"> <li>ZCTU</li> <li>FFTUZ</li> <li>Business Associations</li> <li>DDCC PDCC</li> <li>ILO</li> <li>ZFE</li> </ul>	<ul style="list-style-type: none"> <li>ZCTU</li> <li>FFTUZ</li> <li>Business Associations</li> <li>DDCC PDCC</li> <li>ILO</li> <li>ZFE</li> </ul>	<ul style="list-style-type: none"> <li>64,000</li> <li>(K352,000)</li> </ul>
		<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MLSS</li> </ul>			<ul style="list-style-type: none"> <li>41,000</li> <li>(K225,500)</li> </ul>
ed	<ul style="list-style-type: none"> <li>Reduced likelihood of electoral disputes</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>ECZ</li> <li>MOTC</li> <li>ECZ</li> </ul>	<ul style="list-style-type: none"> <li>CSO</li> <li>Parties</li> <li>Traditional Authority</li> <li>House of Chiefs</li> <li>Religious mother bodies</li> <li>MLGH</li> </ul>	<ul style="list-style-type: none"> <li>ECZ</li> </ul>	<ul style="list-style-type: none"> <li>25,000</li> <li>(K137,000)</li> </ul>
ed	<ul style="list-style-type: none"> <li>Reduced likelihood of internal conflict.</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>Relevant stakeholders</li> <li>Traditional Authority</li> <li>House of Chiefs</li> <li>Religious mother bodies</li> <li>MLGH</li> </ul>	<ul style="list-style-type: none"> <li>MoJ</li> </ul>	<ul style="list-style-type: none"> <li>50,000</li> <li>(K275,000)</li> </ul>
in ed	<ul style="list-style-type: none"> <li>Decentralised and inclusive governance structures</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MLGH</li> <li>DS</li> </ul>	<ul style="list-style-type: none"> <li>Political parties</li> <li>MLGH</li> <li>PDCC</li> <li>DDCC</li> </ul>	<ul style="list-style-type: none"> <li>MLGH</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>82,000</li> <li>(K451,000)</li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>Limited capacity to deliver public services</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should establish systems to enhance both human and financial capacity of critical institutions such as judiciary, national assembly, Human Rights Commission and other agencies that promote good governance practices.</li> </ul>	<ul style="list-style-type: none"> <li>Develop programme and strategies aimed at enhancing capacity on good governance</li> </ul>	<ul style="list-style-type: none"> <li>Number of institutions with strategies aimed at enhancing capacity on good governance</li> </ul>	
<b>Objective 3: Promoting Economic, Social and Cultural rights, and civil and Political Rights</b>				
<ul style="list-style-type: none"> <li>High levels of torture and corporal punishment.</li> </ul>	<ul style="list-style-type: none"> <li>Pass a law against Torture and ensure that Corporal Punishment is completely eradicated in schools, prisons and police.</li> </ul>	<ul style="list-style-type: none"> <li>Ratification of the protocol on convention on the rights of the child and convention against torture</li> </ul>	<ul style="list-style-type: none"> <li>Reduced number of torture cases reduced child abuse</li> </ul>	<ul style="list-style-type: none"> <li>Being addressed by the CRC</li> </ul>
<ul style="list-style-type: none"> <li>Limited access to information by citizens.</li> </ul>	<ul style="list-style-type: none"> <li>Similarly, pass a law on Freedom of Information Act as expeditiously as possible.</li> </ul>	<ul style="list-style-type: none"> <li>Pass the freedom of information Bill</li> </ul>	<ul style="list-style-type: none"> <li>Freedom of information bill passed</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by National Assembly</li> </ul>
<ul style="list-style-type: none"> <li>Inadequate mechanism to regulate the media</li> </ul>	<ul style="list-style-type: none"> <li>The Media are also encouraged to voluntarily regulate their activities through a designated body.</li> </ul>	<ul style="list-style-type: none"> <li>Encourage the formation of an inclusive media body.</li> </ul>	<ul style="list-style-type: none"> <li>Number of Self-regulated media houses</li> <li>Number of Media houses operating within ethical guidelines</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by MoBS</li> </ul>
<b>Objective 4: Uphold Separation of Powers</b>				
<ul style="list-style-type: none"> <li>High levels of executive dominance</li> </ul>	<ul style="list-style-type: none"> <li>Amend the constitution to guarantee the separation of powers amongst the three organs of the state: the executive, legislature and judiciary and to safeguard the operational independence of each</li> </ul>	<ul style="list-style-type: none"> <li>Review the CRC Recommendations</li> </ul>	<ul style="list-style-type: none"> <li>Increased independence of the Judiciary and legislature</li> </ul>	<ul style="list-style-type: none"> <li>Being addressed by the CRC</li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
<ul style="list-style-type: none"> <li>Improved services delivery</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet offices</li> <li>MOJ</li> <li>GIs</li> </ul>	<ul style="list-style-type: none"> <li>Judiciary</li> <li>HRC</li> <li>National Assesbmlly</li> <li>CSOs</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>NGC</li> <li>APMC</li> </ul>	<ul style="list-style-type: none"> <li>65,000</li> <li>(K357,500)</li> </ul>
ed	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>National assembly</li> <li>MOJ</li> <li>MOE</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>5,000</li> <li>(K27,500)</li> </ul>
ed	<ul style="list-style-type: none"> <li>1year</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Information and Broadcasting Services</li> </ul>	<ul style="list-style-type: none"> <li>National assembly</li> <li>MoIBS</li> <li>MOJ</li> <li>MISA</li> <li>ZUJ</li> </ul>	<ul style="list-style-type: none"> <li>MoJ</li> </ul>	<ul style="list-style-type: none"> <li>82,000</li> <li>(K45,100)</li> </ul>
ed	<ul style="list-style-type: none"> <li>2years</li> </ul>	<ul style="list-style-type: none"> <li>MoIBS</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>All relevant stakeholders</li> <li>Media houses</li> </ul>	<ul style="list-style-type: none"> <li>MoIBS</li> </ul>	<ul style="list-style-type: none"> <li>5,000</li> <li>(K27,500)</li> </ul>
ed	<ul style="list-style-type: none"> <li>2years</li> </ul>	<ul style="list-style-type: none"> <li>National Assembly</li> <li>Judiciary</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>All relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>MoIBS</li> </ul>	<ul style="list-style-type: none"> <li>86,000</li> <li>(K473000)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 5: Ensure accountable, efficient and effective Public Service and other public office holders</b>				
<ul style="list-style-type: none"> <li>Absence of a systematic resource capacity development plan in the public service.</li> <li>Nepotism and corruption in resource capacity development</li> </ul>	<ul style="list-style-type: none"> <li>There should be a concerted effort to develop human capacity, including the development of a national capacity development plan.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out a training needs assessment for the public service</li> <li>Carry out an inventory of training institutions in the country</li> <li>Develop a comprehensive training programme for public officers</li> <li>Roll out the Performance Management Package (PMP)</li> <li>Review the Role of NIPA (National Institute of Public Administration) in the training of public service workers</li> </ul>	<ul style="list-style-type: none"> <li>Number of training needs assessment conducted</li> <li>Inventory on training institutions carried out</li> <li>A comprehensive training programme for the public service developed</li> <li>Number of officers who have undergone the Performance Management Package</li> <li>Number of officers trained in the public service</li> </ul>	<ul style="list-style-type: none"> <li>Some public officers are being trained in various disciplines.</li> <li>The Performance Management Package (PMP) is being conducted in some ministries</li> <li>New pay policy developed and implemented</li> </ul>
<ul style="list-style-type: none"> <li>Ineffective and inefficient public service delivery</li> </ul>	<ul style="list-style-type: none"> <li>The system of appointment of public servants should be based on merit, that is, qualifications, skills, and competence, in order to enhance professionalism.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen integrity committees</li> <li>Accelerate the implementation of the public sector reform programme.</li> </ul>	<ul style="list-style-type: none"> <li>Increased delivery of services</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of the Public Sector Reform Programme</li> </ul>
<b>Objective 6: Fighting Corruption in Political sphere</b>				
<ul style="list-style-type: none"> <li>High executive control over the ACC</li> </ul>	<ul style="list-style-type: none"> <li>Steps must be taken to create an independent corruption fighting unit.</li> </ul>	<ul style="list-style-type: none"> <li>Review of the ACC Act.</li> </ul>	<ul style="list-style-type: none"> <li>Increased independence of the ACC</li> </ul>	<ul style="list-style-type: none"> <li>Being considered by CRC</li> </ul>
<ul style="list-style-type: none"> <li>Inadequate funding and capacity of the office of the Ombudsman.</li> <li>Centralisation of the office of the Ombudsman</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen the office of the Ombudsman in the fight against corruption</li> </ul>	<ul style="list-style-type: none"> <li>Increased budgetary allocation to the Ombudsman</li> <li>Decentralise the office of the Ombudsman to the provinces</li> <li>Sensitize the public on the role of the Ombudsman</li> </ul>	<ul style="list-style-type: none"> <li>Office of the Ombudsman established in all the Provinces</li> </ul>	





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
<ul style="list-style-type: none"> <li>Increased performance of public service officers in the delivery of services</li> <li>Effective staffing, high standards of performance and productivity in the public sector</li> <li>Public appreciation of the role of public officers in contributing to national development</li> <li>Harmonisation of remuneration in the public sector</li> <li>Increased job satisfaction and high motivation among public sector workers</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Public Service Management Division, Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>Public Service Division, line ministries</li> <li>Zambia Institute of Human Resources Management</li> </ul>	<ul style="list-style-type: none"> <li>PSMD</li> <li>ZIHRM</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>56,000</li> <li>(K308,000)</li> </ul>
<ul style="list-style-type: none"> <li>Effective and efficient service delivery</li> <li>Enhanced integrity of the public sector</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Public Service Management Division, Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>Line ministries</li> <li>ACC</li> </ul>	<ul style="list-style-type: none"> <li>PSMD</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>32,000</li> <li>(K176,000)</li> </ul>
<ul style="list-style-type: none"> <li>Independent ACC</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>National Assembly</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>TIZ</li> <li>CSOs</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>MOJ</li> <li>Parliament</li> </ul>	<ul style="list-style-type: none"> <li>59,000</li> <li>(K324,500)</li> </ul>
<ul style="list-style-type: none"> <li>Enhanced capacity of the office Ombudsman in the fight against corruption</li> </ul>	<ul style="list-style-type: none"> <li>3years</li> </ul>	<ul style="list-style-type: none"> <li>MoJ</li> </ul>	<ul style="list-style-type: none"> <li>MoJ</li> <li>ACC</li> <li>National Assembly</li> </ul>	<ul style="list-style-type: none"> <li>NGC</li> <li>ACC</li> </ul>	<ul style="list-style-type: none"> <li>82,000</li> <li>(K451,000)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 7: Promoting Rights of Women</b>				
<ul style="list-style-type: none"> <li>Inadequate promotion and protection of the rights of women</li> </ul>	<ul style="list-style-type: none"> <li>Constitutional reforms need to be undertaken to address the discrimination clause (Article 23 (4) (c) and (d) which undermine the principles of CEDAW.</li> </ul>	<ul style="list-style-type: none"> <li>Accelerate the implementation of different pieces of legislation that aims at protecting the rights of women</li> <li>Review the laws and remove discriminatory clauses against women in existing legislation</li> <li>Pass the Gender Violence Bill</li> <li>Undertake measures of affirmative action in order to promote the participation of women in management positions</li> <li>Take measures to promote women candidates in politics</li> </ul>	<ul style="list-style-type: none"> <li>Number of laws reviewed</li> <li>Number of women occupying management positions in public offices and political parties.</li> <li>Reduced rate of violence against women</li> <li>Number of women that are aware of their rights</li> <li>Effective M&amp;E system established</li> </ul>	<ul style="list-style-type: none"> <li>Consultations on the promotion of women's rights are taking place in the NCC</li> <li>The Gender Violence Bill has been drafted awaiting Parliamentary consideration</li> <li>Zambia Law Development Commission is undertaking a study on customary law/ early marriages</li> <li>Developing legislation to regulate marriages under customary law</li> </ul>
<ul style="list-style-type: none"> <li>Inadequate promotion and protection of the rights of women</li> </ul>	<ul style="list-style-type: none"> <li>Advocate for the 50/50 campaign needs to target political parties to amend their constitutions and manifestos in order to embrace inclusion of women in the party structures.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out more awareness raising programmes on women's rights</li> <li>Encourage positive cultural practices that reduce stereotyping of women's roles in society</li> </ul>	<ul style="list-style-type: none"> <li>Reduced levels of inequality between men and women</li> </ul>	<ul style="list-style-type: none"> <li>Some sensitisation programmes are being conducted</li> </ul>
<b>Objective 8: Promoting Rights of the Children and Young Persons</b>				
<ul style="list-style-type: none"> <li>Inadequate involvement of chiefs and traditional authority in the promotion of children's rights</li> </ul>	<ul style="list-style-type: none"> <li>Intensify the efforts to create awareness of children's rights and the contents and rationale of CRC.</li> </ul>	<ul style="list-style-type: none"> <li>Sensitise communities and traditional authority on children's rights</li> </ul>	<ul style="list-style-type: none"> <li>Number of the traditional authority involved in the promotion of children's rights</li> </ul>	





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
<ul style="list-style-type: none"> <li>An improvement in the welfare of women in society</li> <li>Gender equity in legal provisions</li> <li>Gender equity in decision-making and programme implementation</li> <li>Meaningful participation of women in development</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MoG</li> <li>ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>NGOCC and other CSOs</li> <li>Ministry of Justice</li> <li>NAZ</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice</li> <li>CSOs</li> </ul>	<ul style="list-style-type: none"> <li>45,000</li> <li>(247,500)</li> </ul>
<ul style="list-style-type: none"> <li>Improved social status of women in society</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MoG</li> <li>ZLDC</li> </ul>	<ul style="list-style-type: none"> <li>NGOCC and other CSOs</li> <li>Ministry of Justice</li> <li>NAZ</li> </ul>	<ul style="list-style-type: none"> <li>NGC</li> <li>GIDD</li> </ul>	<ul style="list-style-type: none"> <li>27,000</li> <li>(K148,500)</li> </ul>
<ul style="list-style-type: none"> <li>Meaningful participation of traditional Authority</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MoCTA</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Youth, Sport and Child Development</li> <li>CSO</li> <li>Traditional Authorities</li> </ul>	<ul style="list-style-type: none"> <li>MoCTA</li> </ul>	<ul style="list-style-type: none"> <li>35,000</li> <li>(K192,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>Weak implementation of the Child policy</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen institutions entrusted with promotion and protection of children's rights and reconsider rights to health, education and shelter (currently under the directive of state principles) to be part of the justiciable bill of rights.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen the implementation of the child policy.</li> <li>Review the Child policy</li> </ul>	<ul style="list-style-type: none"> <li>Increased budget for implementation of the child policy</li> <li>Strengthened implementation of child policy</li> </ul>	<ul style="list-style-type: none"> <li>Some parts of the child policy are being implemented</li> </ul>
<b>Objective 9: Promoting Rights of the Vulnerable Groups including Refugees, the aged people and IDPs</b>				
<ul style="list-style-type: none"> <li>Inadequate social protection mechanism especially for the aged.</li> </ul>	<ul style="list-style-type: none"> <li>Adopt the Policy for the Ageing and make appropriate resource allocations for its implementation.</li> </ul>	<ul style="list-style-type: none"> <li>Develop legislation and policy for the aging through consultative process</li> </ul>	<ul style="list-style-type: none"> <li>Legislation on aged persons enacted</li> <li>Policy on aged persons enacted.</li> <li>Increased funding towards social welfare programmes</li> </ul>	<ul style="list-style-type: none"> <li>Social Cash Transfer and Social Pension Schemes are being implemented for a small number of beneficiaries</li> </ul>
<ul style="list-style-type: none"> <li><b>Slow pace of implementation of the Convention on the Rights of Persons Living with Disabilities</b></li> </ul>	<ul style="list-style-type: none"> <li>Undertake reforms to improve the rights and welfare of PWDs in the socio-economic, political and cultural sphere; development initiatives should take into account the inclusion and involvement of PWDs in planning, implementation and monitoring processes.</li> </ul>	<ul style="list-style-type: none"> <li>Improve coordination between ZAPD and MCDSS</li> <li>Increase funding to MCDSS and Disability Organisations</li> </ul>	<ul style="list-style-type: none"> <li>Increased funding to MCDSS and Disability Organisations</li> <li>Number of interactions between MCDSS and Disability Organisations</li> </ul>	<ul style="list-style-type: none"> <li>Some programmes are being implemented to protect the rights of persons living with disabilities</li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD/ZK)
<ul style="list-style-type: none"> <li>Improved welfare of children and young people in society</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Youth, Sports and Child Development.</li> <li>CSOs promoting children's rights</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Youth, Sport and Child Development</li> <li>CSOs promoting children's rights</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Youth, Sport and Child Development</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>60,000</li> <li>(K330,000)</li> </ul>
<ul style="list-style-type: none"> <li>Reduced vulnerability of marginal groups to poverty</li> <li>An improvement in the welfare of vulnerable people in society</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Community Development and Social Services</li> </ul>	<ul style="list-style-type: none"> <li>Public Service Pensions Fund</li> <li>NAPSA</li> <li>Ministry of Labour &amp; Social Security</li> <li>CSOs</li> <li>HRC</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Labour &amp; Social Security</li> <li>NGC</li> <li>APRM Sec</li> <li>HRC</li> </ul>	<ul style="list-style-type: none"> <li>45,000</li> <li>(K247,500)</li> </ul>
<ul style="list-style-type: none"> <li>Reduced violation of the rights of vulnerable groups in society</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Community Development and Social Services</li> <li>MoLSS</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice</li> <li>ZAPD</li> <li>MoFNP</li> <li>CSOs dealing with disabilities</li> <li>Ministry of Health</li> <li>Ministry of Education</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Community Development and Social Services</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>15,000</li> <li>(K82,500)</li> </ul>







## SECTION TWO: ECONOMIC GOVERNANCE AND MANAGEMENT

CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Standards and Codes</b>				
<ul style="list-style-type: none"> <li>Absence of a common depository for standards and codes</li> </ul>	<ul style="list-style-type: none"> <li>Establish a depository unit at the Ministry of Foreign Affairs for centralised documentation of the standards and codes to which Zambia is a party so as to facilitate monitoring their implementation.</li> </ul>	<ul style="list-style-type: none"> <li>Designate a central depository</li> <li>Establish an inventory for all international standards</li> <li>Sensitize the public on the various codes and standards Zambia has adopted.</li> </ul>	<ul style="list-style-type: none"> <li>Central depository established</li> <li>Number of international standard and codes in the inventory.</li> </ul>	<ul style="list-style-type: none"> <li>Signing, ratification and domestication of identified international standards and codes which is on-going.</li> </ul>
<ul style="list-style-type: none"> <li>Delays in the implementation of International treaties</li> </ul>	<ul style="list-style-type: none"> <li>Improve the overall capacity of the Government to implement international treaties.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen the capacity of MFA as the lead agency in establishing and managing the central depository</li> </ul>	<ul style="list-style-type: none"> <li>Follow up mechanism for ensuring ratified standards and codes are established</li> </ul>	
		<ul style="list-style-type: none"> <li>Enhance inter-ministerial coordination</li> </ul>	<ul style="list-style-type: none"> <li>Number of inter-ministerial meetings held</li> </ul>	





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
l nd is	<ul style="list-style-type: none"> <li>Functional central depository established.</li> <li>Coordinated documentation of the international standards and codes.</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MFA</li> <li>Moj</li> </ul>	<ul style="list-style-type: none"> <li>MFA and MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>NGC</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>14,000</li> <li>(K77,000)</li> </ul>
	<ul style="list-style-type: none"> <li>Enhanced tracking of the implementation of international standards and codes</li> </ul>	<ul style="list-style-type: none"> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MFA</li> <li>Moj</li> </ul>	<ul style="list-style-type: none"> <li>MFA and MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>NGC/ APRM Sec</li> </ul>	<ul style="list-style-type: none"> <li>10,000</li> <li>(K55,000)</li> </ul>
	<ul style="list-style-type: none"> <li>Enhanced coordination</li> </ul>	<ul style="list-style-type: none"> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MFA</li> <li>Moj</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>9,000</li> <li>(K49,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 1: Promote Macro-Economic Policies that support sustainable development</b>				
<ul style="list-style-type: none"> <li>Difficulties in maintaining price stability</li> </ul>	<ul style="list-style-type: none"> <li>The Zambian Government should consider taking on more of an interventionist stance, so as to create the conditions prevalent in a “developmental state”. This should include efforts to reduce inflation through a more active monetary policy by the Central Bank, rather than leaving this completely in the hands of “market forces”.</li> </ul>	<ul style="list-style-type: none"> <li>Review and strengthen fiscal policy to create fiscal space</li> <li>Implement prudent fiscal policy</li> <li>Design appropriate Macroeconomic Models for inflation analysis and forecasting</li> <li>Reconstitute the Monetary Policy Committee to include non-state actors</li> <li>Review the implementation of diversification initiatives (Indaba, CB Diversification, etc)</li> <li>Review the foreign exchange liberalisation policy and regulations</li> <li>Review the role of FRA in the supply chain</li> </ul>	<ul style="list-style-type: none"> <li>Budget deficit as a percentage of GDP</li> <li>Macroeconomic models designed</li> <li>Reconstituted MPC.</li> <li>Foreign Exchange policy and regulations reviewed</li> <li>FRA role reviewed</li> </ul>	<ul style="list-style-type: none"> <li>Government borrowing limited to under 2 percent of GDP</li> <li>Deficit financing through</li> <li>TBs and bonds</li> <li>Development of public sector pay policy and strategy</li> <li>Introduction of the overnight lending facility ,</li> <li>Export Policies and programmes</li> <li>BoZ intervention</li> <li>Farmer Input Support Programme</li> </ul>
<ul style="list-style-type: none"> <li>High dependence on government</li> </ul>	<ul style="list-style-type: none"> <li>The private sector, especially domestic entrepreneurs, should facilitate cooperation and mutual help among themselves and not rely passively on the Government for assistance.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen the Business Associations and chamber of commerce</li> <li>Formation of Village banks</li> </ul>	<ul style="list-style-type: none"> <li>Number of business associations fully function</li> <li>Membership to business associations increase</li> <li>Number of village banks formed and fully functional</li> </ul>	
<ul style="list-style-type: none"> <li>Limited public Private Partnership (PPP) initiatives</li> </ul>	<ul style="list-style-type: none"> <li>There should be cultivated some genuine partnership between Government and the private sector, starting with eliminating the negative stereotypes each side has of the other.</li> </ul>	<ul style="list-style-type: none"> <li>Accelerate the implementation of the PPP mechanism</li> <li>Raise awareness among stakeholders on the PPP policy</li> <li>Increase dialogue between government and private sector on the PPP</li> </ul>	<ul style="list-style-type: none"> <li>Number of projects and programmes implemented through the PPP</li> <li>Number of investments through the PPP increase.</li> </ul>	<ul style="list-style-type: none"> <li>Merging of ZDA and PPP Unit at MOFNP into an Industrial Development Commission (in process).</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
OP ds t  of t	<ul style="list-style-type: none"> <li>Budget deficit below 2 percent of GDP</li> <li>Effective monetary policy instruments</li> <li>Exchange rate stability</li> <li>Stable food prices</li> </ul>	<ul style="list-style-type: none"> <li>1-2 years</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>MOFNP</li> <li>BOZ</li> <li>MACO / FRA</li> </ul>	<ul style="list-style-type: none"> <li>Bank of Zambia</li> <li>Private sector</li> <li>Co-operating partners</li> <li>MoFNP,</li> </ul>	<ul style="list-style-type: none"> <li>MoFNP</li> <li>Bank of Zambia</li> <li>MACO</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>11500</li> <li>(K63,250)</li> </ul>
	<ul style="list-style-type: none"> <li>Thriving private sector</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MCTI</li> <li>Chamber of Commerce</li> <li>ZDA</li> <li>MOFNP</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>MOFNP</li> <li>MLGH</li> <li>CEEC</li> <li>Bankers Association of Zambia</li> </ul>		<ul style="list-style-type: none"> <li>15,000</li> <li>(K82,500)</li> </ul>
NP t	<ul style="list-style-type: none"> <li>Enhanced partnership between the government and private in financing development initiatives and or investments through the PPP.</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MOFNP</li> <li>MCTI</li> <li>Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>Private Sector Development Association</li> <li>Business Associations</li> <li>Private sector</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>25,000</li> <li>(K137,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 2: Implement Sound and Transparent and predictable economic Policies</b>				
<ul style="list-style-type: none"> <li><b>Limited participation of non-state actors in formulation of macroeconomic policies</b></li> </ul>	<ul style="list-style-type: none"> <li>Zambia should continue to encourage greater transparency, accountability, and democratic control over economic policies and implementation.</li> </ul>	<ul style="list-style-type: none"> <li>Increase the number of non-state actors participating in SAG meetings</li> <li>Orientation of non-state actors in macroeconomic issues</li> <li>Encourage and facilitate the participation on non-state actors in SAG meetings</li> <li>Speed up implementation of the Decentralisation policy</li> </ul>	<ul style="list-style-type: none"> <li>Number of non-state actors participating in SAG meetings</li> <li>Number of non-state actors oriented in macroeconomic issues</li> </ul>	<ul style="list-style-type: none"> <li>Consultations during preparation of the National Plans , MTEF and the Annual Budgets, plus holding quarterly SAG meetings</li> <li>Implementation of the DIP</li> <li>Formation of devolution task forces in 17 pilot districts through the local authorities such as Ndola City Council</li> </ul>
<ul style="list-style-type: none"> <li>Lack of legislative framework for planning and budgeting</li> </ul>	<ul style="list-style-type: none"> <li>There should be increased efforts to strengthen the oversight role of Parliament in monitoring and evaluation...</li> </ul>	<ul style="list-style-type: none"> <li>Provide legal framework for planning and budgeting</li> </ul>	<ul style="list-style-type: none"> <li>Planning and Budgeting Act enacted</li> </ul>	<ul style="list-style-type: none"> <li>Consultations in the preparation of National Plans, MTEF and Annual budgets</li> </ul>
<ul style="list-style-type: none"> <li>Inconsistences in the disbursement of funds to MPSAs including delays and sometimes non release of funds</li> </ul>	<ul style="list-style-type: none"> <li>There is need for the country to establish systems that guarantee certainty of budget allocations for performance of state functions.</li> </ul>	<ul style="list-style-type: none"> <li>Establishment of systems that guarantee certainty of budget allocations for performance of state functions.</li> </ul>	<ul style="list-style-type: none"> <li>Percentage of budget released to MPSA</li> <li>Percentage of budgets expenditure by MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>Consultations in the preparation of National Plans, MTEF and Annual budgets</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
s of s, G P ask	<ul style="list-style-type: none"> <li>Wider participation by non-state actors</li> <li>Improved accountability and participation on non-state actors in formulation and implementation of economic policies</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>GRZ</li> <li>BoZ</li> <li>MCTI</li> <li>MLGH</li> <li>MOFNP</li> </ul>	<ul style="list-style-type: none"> <li>MPSAs</li> <li>Co-operating partners</li> <li>non-state actors</li> <li>Decentralisation Secretariat</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>NGC</li> <li>MLGH</li> </ul>	<ul style="list-style-type: none"> <li>30,000</li> <li>(K165,000)</li> </ul>
of ns,	<ul style="list-style-type: none"> <li>Legal framework for Planning and Budgeting finalised</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MOFNP</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice</li> <li>Parliament</li> </ul>	<ul style="list-style-type: none"> <li>MoFNP</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>17,000</li> <li>(K93,500)</li> </ul>
	<ul style="list-style-type: none"> <li>Guaranteed certainty of budget allocations for performance of state functions.</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MOFNP</li> </ul>	<ul style="list-style-type: none"> <li>ZRA</li> <li>MLGH</li> <li>BOZ</li> <li>Parliament</li> <li>Non state actors</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>20,000</li> <li>(K110,000)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>Inadequate financial management issue</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should strengthen implementation of reforms aimed at sound public financial management including tax collections and administration.</li> </ul>	<ul style="list-style-type: none"> <li>Accelerate the implementation of the public financial management</li> </ul>	<ul style="list-style-type: none"> <li>Increased funding to institutions</li> </ul>	<ul style="list-style-type: none"> <li>PEMFA Project</li> <li>ZRA – e Project</li> </ul>
<ul style="list-style-type: none"> <li>Objective 3: Promote Sound Public Finance Management</li> </ul>				
<ul style="list-style-type: none"> <li>Limited access to credit on the domestic market</li> </ul>	<ul style="list-style-type: none"> <li>Efforts should be increased to improve small investors' access to credit by the Government working together with the BOZ, commercial banks.</li> </ul>	<ul style="list-style-type: none"> <li>Reduction in lending interest rates by banks and non-bank financial institutions</li> <li>Banks to develop flexible lending conditions including reductions in collateral security requirements</li> </ul>	<ul style="list-style-type: none"> <li>Number of individuals accessing credit from banks</li> <li>Level of interest lending rates</li> <li>Number of firms accessing credit</li> <li>Volume of loans given out by banks</li> </ul>	<ul style="list-style-type: none"> <li>Creation of Credit Reference Bureau</li> </ul>
<ul style="list-style-type: none"> <li><b>Inadequate capacity to audit all MPSAs in a fiscal year</b></li> </ul>	<ul style="list-style-type: none"> <li>Widen the audit coverage in a given fiscal year by scaling up the funding of the office of the Auditor General.</li> </ul>	<ul style="list-style-type: none"> <li>Scale up funding to the Office of the Auditor General</li> <li>Increase coverage of audits</li> <li>Establish and strengthen internal audit units in MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>Increased funding for OAG</li> </ul>	<ul style="list-style-type: none"> <li>Decentralisation of the functions of the Office of the Auditor General under the PEMFA reforms</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
	<ul style="list-style-type: none"> <li>Improvement in service delivery by institutions</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> <li>ZRA</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Finance</li> <li>MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>MoF</li> </ul>	<ul style="list-style-type: none"> <li>13,500</li> <li>(K74,250)</li> </ul>
	<ul style="list-style-type: none"> <li>Increased investments and accelerated socio economic development</li> <li>Increased employment opportunities and reduction in poverty levels</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Finance</li> <li>BOZ</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Finance</li> <li>BOZ</li> <li>Bankers Association of Zambia</li> <li>Non state actors</li> <li>Business Associations</li> <li>ZRA</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>MOFNP</li> </ul>	<ul style="list-style-type: none"> <li>9,500</li> <li>(K52,250)</li> </ul>
	<ul style="list-style-type: none"> <li>Improved public finance management</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>OAG</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Finance</li> <li>MPSAs</li> </ul>	<ul style="list-style-type: none"> <li>Auditor General</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>45,000</li> <li>(K247,500)</li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>• <b>Slow implementation of the National Decentralisation Policy</b></li> </ul>	<ul style="list-style-type: none"> <li>• Accelerate the implementation of the Decentralisation Policy by sensitizing the public on the legal administrative aspects of the centralized government, building capacity to implement the policy, and strengthening the councils by giving them authority to collect their own revenue, gradually reduce their dependence on the central government, and grant them autonomy in decision making.</li> </ul>	<ul style="list-style-type: none"> <li>• Programmes and strategies aimed at increasing public awareness of the National Decentralisation Policy (NDP) be undertaken</li> <li>• Enhance the Implementation of the Decentralisation Policy and Implementation Plan.</li> <li>• Accelerate fiscal decentralisation at local government level</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of the population that is aware of the NDP</li> <li>• Number of councils that have implemented NDP and Plan</li> <li>• Proportion of financial resources generated by councils in their budgets</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of the NDP and plan are on going</li> <li>• MLGH and Decentralisation Secretariat are addressing some of the issues</li> <li>• Formation of the Devolution task forces in selected local authorities (17)</li> </ul>
<ul style="list-style-type: none"> <li>• Inadequate human and financial resources channelled to the fight against corruption.</li> </ul>	<ul style="list-style-type: none"> <li>• The Anti-Corruption Commission and the Auditor-General's Office should be given adequate human and financial resources and full institutional and administrative autonomy so that they can perform their functions more efficiently.</li> </ul>	<ul style="list-style-type: none"> <li>• Increase budgetary allocations to the Anti-Corruption Commission</li> <li>• Decentralise ACC and Office of the auditor general to the district level</li> <li>• Employ more officers under the auditor general's office.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased funding to ACC</li> <li>• Number of programmes implemented in the National Anti-Corruption Policy and Plan</li> <li>• Reduction in the levels of corruption in society</li> <li>• Anti-corruption Bill enacted</li> </ul>	<ul style="list-style-type: none"> <li>• The Anti-corruption Bill has been drafted and will be tabled before Parliament in 2010</li> <li>• Some codes of conduct and service charters are being developed for the public sector</li> </ul>
<ul style="list-style-type: none"> <li>• Increasing levels of corrupt practices in society</li> </ul>	<ul style="list-style-type: none"> <li>• Provide adequate protection to whistle blowers, including establishing/opening internet and/or e-mail lines to report cases of corruption.</li> </ul>	<ul style="list-style-type: none"> <li>• Recognition of other stakeholders in anti-corruption fight</li> <li>• Intensify the sensitisation campaigns on ACC issues</li> </ul>	<ul style="list-style-type: none"> <li>• Increase in the number of stakeholders engaged in anti-corruption fight</li> </ul>	<ul style="list-style-type: none"> <li>• The Anti-corruption Bill has been drafted and will be tabled before Parliament in 2010</li> </ul>
<ul style="list-style-type: none"> <li>• High incidence of money laundering</li> </ul>	<ul style="list-style-type: none"> <li>• Develop mechanism to reduce the incidence of money laundering.</li> </ul>	<ul style="list-style-type: none"> <li>• Introduce Electronic based payments</li> </ul>	<ul style="list-style-type: none"> <li>• Amount released from Electronic based payment</li> </ul>	<ul style="list-style-type: none"> <li>• SI 32 of 2013</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
DP on iat ng on I (7)	<ul style="list-style-type: none"> <li>Increased public understanding of the decentralisation reforms</li> <li>Improved service delivery at local level</li> <li>Devolution of power to local authorities in decision making</li> </ul>	<ul style="list-style-type: none"> <li>1-2 years</li> </ul>	<ul style="list-style-type: none"> <li>MLGH</li> <li>Decentralisation Secretariat</li> <li>Councils</li> </ul>	<ul style="list-style-type: none"> <li>Political parties</li> <li>Relevant CSOs</li> <li>Traditional authorities</li> <li>House of Chiefs</li> </ul>	<ul style="list-style-type: none"> <li>MLGH</li> <li>Decentralisation Secretariat</li> <li>MOJ</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>55,000</li> <li>(K302,500)</li> </ul>
ll f ers	<ul style="list-style-type: none"> <li>An improvement in the livelihoods of Zambians</li> <li>Effective and efficient use of public resources</li> <li>Reduced levels of corruption</li> <li>Efficient service delivery to the public</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Anti-Corruption Commission</li> </ul>	<ul style="list-style-type: none"> <li>APNAC</li> <li>Zambia Police Public Complaints Authority</li> <li>MoFNP</li> <li>Ministry of Justice</li> <li>National Assembly of Zambia</li> <li>Zambia Policy</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice (State of Governance Report)</li> <li>NAZ</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>70,000</li> <li>(K385,000)</li> </ul>
ll l o	<ul style="list-style-type: none"> <li>An improvement in the livelihoods of Zambians</li> <li>Effective and efficient use of public resources</li> <li>Reduced levels of corruption</li> <li>Efficient service delivery to the public</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Anti-Corruption Commission</li> <li>Reduced incidence of corrupt cases</li> </ul>	<ul style="list-style-type: none"> <li>APNAC</li> <li>Zambia Police Public Complaints Authority</li> <li>MoF</li> <li>Ministry of Justice</li> <li>National Assembly of Zambia</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice (State of Governance Report)</li> <li>NAZ</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>32,000</li> <li>(K176,000)</li> </ul>
	<ul style="list-style-type: none"> <li>Reduced incidences of money laundering</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>DEC</li> </ul>	<ul style="list-style-type: none"> <li>MoF</li> <li>Private sector</li> <li>Financial sector stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>DEC</li> <li>MoJ</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>35,000</li> <li>(K192,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>High centralised public procurement</li> </ul>	<ul style="list-style-type: none"> <li>Public Procurement activities should be decentralised according to the provisions of the Public Procurement Authority Act (2008).</li> </ul>	<ul style="list-style-type: none"> <li>Acceleration of the implementation of the Public Procurement Authority Act (2008).</li> </ul>	<ul style="list-style-type: none"> <li>Number of ZPPA established and operational</li> </ul>	<ul style="list-style-type: none"> <li>On-going implementation of ZPPA</li> </ul>
<b>Objective 4: Fighting Corruption and Money Laundering</b>				
<ul style="list-style-type: none"> <li><b>Inadequate anti money laundering legislative framework</b></li> </ul>	<ul style="list-style-type: none"> <li>Zambia should review several statutes to ensure that they conform to international standards and best practices. Among these are The Prohibition and Prevention of Money Laundering Act (PPMLA), The Banking and Financial Services Act, and the Anti-Terrorism Act.</li> </ul>	<ul style="list-style-type: none"> <li>Define predicate offences for money laundering</li> <li>Review several statutes to ensure that they conform to international standards and best practices</li> </ul>	<ul style="list-style-type: none"> <li>Reduced incidences of money laundering</li> </ul>	<ul style="list-style-type: none"> <li>PPMLA to criminalise money laundering offences being amended</li> </ul>
<ul style="list-style-type: none"> <li>Failure to enforce some ACC and Auditor General findings</li> </ul>	<ul style="list-style-type: none"> <li>Government should make deliberate efforts to treat the recommendations of the ACC and the Auditor-General institutions as having the force of High Court judgement.</li> </ul>	<ul style="list-style-type: none"> <li>Review the ACC and Auditor General legal frameworks</li> </ul>	<ul style="list-style-type: none"> <li>ACC legal framework developed</li> <li>Auditor General legal framework developed</li> </ul>	<ul style="list-style-type: none"> <li>Establishment of Integrity Committees</li> <li>PAC hearings</li> </ul>
<ul style="list-style-type: none"> <li>Lack of follow up on Audit Report findings.</li> </ul>	<ul style="list-style-type: none"> <li>The role of Parliament in addressing problems of corruption should be strengthened by setting up a select parliamentary committee to follow up on the implementation of the recommendations made by the ACC and the Auditor General.</li> </ul>	<ul style="list-style-type: none"> <li>Establish a Ad Hoc parliamentary committee to follow up on the Auditor General the recommendations</li> </ul>	<ul style="list-style-type: none"> <li>Ad Hoc parliamentary committee established</li> </ul>	<ul style="list-style-type: none"> <li>Main PAC hearings</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
	<ul style="list-style-type: none"> <li>Efficient and effective public procurement system.</li> </ul>	<ul style="list-style-type: none"> <li>2 year</li> </ul>	<ul style="list-style-type: none"> <li>ZPPA</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> </ul>	<ul style="list-style-type: none"> <li>ZPPA</li> <li>MoF</li> </ul>	<ul style="list-style-type: none"> <li>20,000</li> <li>(K110,000)</li> </ul>
ng	<ul style="list-style-type: none"> <li>Amended PPMLA</li> <li>Money laundering definition widened</li> <li>Better understanding of Predicate offences</li> </ul>	<ul style="list-style-type: none"> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MHA</li> <li>DEC</li> </ul>	<ul style="list-style-type: none"> <li>MoJ</li> </ul>	<ul style="list-style-type: none"> <li>DEC</li> <li>MoJ</li> <li>NGC</li> </ul>	<ul style="list-style-type: none"> <li>37,000</li> <li>(K203,500)</li> </ul>
nt	<ul style="list-style-type: none"> <li>Reduced incidences of corruption</li> <li>Reduced incidences of financial frauds</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>OAG</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>OAG</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>OAG</li> <li>MOJ</li> <li>Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>31,000</li> <li>(K170,500)</li> </ul>
	<ul style="list-style-type: none"> <li>Enhanced public financial management</li> </ul>	<ul style="list-style-type: none"> <li>2 Years</li> </ul>	<ul style="list-style-type: none"> <li>OAG</li> </ul>	<ul style="list-style-type: none"> <li>OAG</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>OAG</li> <li>MOJ</li> <li>National Assembly</li> </ul>	<ul style="list-style-type: none"> <li>7,500</li> <li>(K41,250)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 5: Accelerating Regional for Participating in the Harmonisation of Monetary, Trade and Investment Policies</b>				
<ul style="list-style-type: none"> <li>Complicated trade regulation environment</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should consider re-assessing its dual membership of COMESA and SADC in view of the need to harmonise macroeconomic policies that could maximise the benefits of regional integration for Zambia.</li> </ul>	<ul style="list-style-type: none"> <li>Review Zambia's membership to COMESA and SADC respectively</li> </ul>	<ul style="list-style-type: none"> <li>Guidelines for Zambia's membership to COMESA and SADC developed</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
<ul style="list-style-type: none"> <li>Zambia not fully benefiting from economic integration</li> </ul>	<ul style="list-style-type: none"> <li>The country should initiate a discussion within SADC and COMESA to encourage a shift in emphasis from primarily trade integration to market integration, especially labour mobility, but also including the integration of physical infrastructure, financial markets, commodity markets, and standards and codes for regulating markets.</li> </ul>	<ul style="list-style-type: none"> <li>Design an advocacy campaign to intensify regional economic integration</li> </ul>	<ul style="list-style-type: none"> <li>Guidelines for Zambia's regional economic integration</li> <li>Increase in the investment in various trade</li> </ul>	<ul style="list-style-type: none"> <li>Revision of Zambia's foreign policy</li> </ul>
<ul style="list-style-type: none"> <li>Inability to diversify the economy.</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should develop a comprehensive implementation strategy to ensure that the Diagnostic Trade Integration Study and Private Sector Development Reform Programme make effective contributions to export diversification and private sector development.</li> </ul>	<ul style="list-style-type: none"> <li>Design and implement an export diversification strategy.</li> </ul>	<ul style="list-style-type: none"> <li>Increased domestic trade</li> </ul>	<ul style="list-style-type: none"> <li>PSDR Reform programme</li> </ul>





IVES	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
	<ul style="list-style-type: none"><li>An improvement trade regulation environment</li></ul>	<ul style="list-style-type: none"><li>3 years</li></ul>	<ul style="list-style-type: none"><li>MoCTI</li><li>MOFA</li></ul>	<ul style="list-style-type: none"><li>MOFA</li><li>MoJ</li></ul>	<ul style="list-style-type: none"><li>MOFA</li><li>MoJ</li></ul>	<ul style="list-style-type: none"><li>12,000</li><li>(K66,000)</li></ul>
	<ul style="list-style-type: none"><li>Increased benefits from regional economic inter-gration</li></ul>	<ul style="list-style-type: none"><li>3 years</li></ul>	<ul style="list-style-type: none"><li>MoCTI</li></ul>	<ul style="list-style-type: none"><li>MOFA</li><li>MoJ</li></ul>	<ul style="list-style-type: none"><li>MOCTI</li><li>MOFA</li></ul>	<ul style="list-style-type: none"><li>90,000</li><li>(K49,500)</li></ul>
1	<ul style="list-style-type: none"><li>Increased exports</li></ul>	<ul style="list-style-type: none"><li>3 years</li></ul>	<ul style="list-style-type: none"><li>MoCTI</li></ul>	<ul style="list-style-type: none"><li>MOFA</li><li>MOJ</li></ul>	<ul style="list-style-type: none"><li>MoCTI</li><li>MOFA</li></ul>	<ul style="list-style-type: none"><li>85,000</li><li>(K46,750)</li></ul>





## SECTION THREE: CORPORATE GOVERNANCE

CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	ED
<b>Standards and Codes:</b>					
<ul style="list-style-type: none"> <li>Absence of a special government institution to monitor the ratification and compliance of the standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>A special government institution should be established to monitor the ratification and compliance of the standards and code in all organisations.</li> </ul>	<ul style="list-style-type: none"> <li>Establish a special government institution to monitor the ratification and compliance of the standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>A special government institution to monitor the ratification and compliance of the standards and codes in all organisations formed</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
<b>Objective 1: Promoting an Enabling Environment and Effective Regulatory Framework for Economic Activities</b>					
<ul style="list-style-type: none"> <li>Inadequate Socio economic infrastructure development such as roads, water and energy</li> </ul>	<ul style="list-style-type: none"> <li>Zambia comprehensively looks at provision of infrastructure including water, roads and energy in all regions so as to boost productivity of Zambian business.</li> </ul>	<ul style="list-style-type: none"> <li>Provision of infrastructure including water, roads and energy in all regions</li> <li>Renovate the old infrastructure</li> <li>Liquidate the outstanding govt arrears to the facilities</li> </ul>	<ul style="list-style-type: none"> <li>Number of socio economic infrastructure improved</li> <li>Number of roads constructed</li> <li>Length of roads (in km) covered constructed</li> </ul>	<ul style="list-style-type: none"> <li>Being addressed through Presidential initiatives on improvement of road infrastructure- Link Zambia 8000 and Pave Zambia 2000</li> <li>Water utility facilities in the provinces</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>





EXPECTED OUTCOME	TIME-FRAME	• IMPLEMENTING AGENCY	• STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"> <li>Enhanced adherence to ratified standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>Min of Commerce</li> <li>Planning departments in relevant ministries</li> <li>MLGH</li> <li>Min of Energy</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Min of Commerce</li> </ul>	<ul style="list-style-type: none"> <li>14,000</li> <li>(K77,000)</li> </ul>
<ul style="list-style-type: none"> <li>Improved productivity of Zambian business</li> <li>Reduction in poverty levels</li> </ul>	<ul style="list-style-type: none"> <li>3-5 Years</li> </ul>	<ul style="list-style-type: none"> <li>RDA</li> <li>MOF</li> <li>MWS</li> </ul>	<ul style="list-style-type: none"> <li>RDA</li> <li>MOE</li> <li>MOH</li> <li>Other relevant line ministries</li> <li>MWS</li> <li>Local Authorities</li> <li>MOF</li> <li>MOC</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> <li>RDA</li> <li>MWS</li> <li>MOJ</li> <li>MOC</li> <li>MOE</li> <li>MLGH</li> </ul>	<ul style="list-style-type: none"> <li>1,450,000</li> <li>(K7,975,000)</li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	E
<ul style="list-style-type: none"> <li>Legal environment not conducive for effective operations of business</li> </ul>	<ul style="list-style-type: none"> <li>Zambia reviews the legal environment in order to make it easier for business to enforce contracts, issue licences and register property.</li> <li>Codify the provisions</li> <li>Make it easier to do business</li> <li>Ensure that the legal review is not anchored on the political will</li> </ul>	<ul style="list-style-type: none"> <li>Review legal environment</li> </ul>	<ul style="list-style-type: none"> <li>Number of legal provisions reviewed</li> </ul>	<ul style="list-style-type: none"> <li>Zambian Constitution being reviewed</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> <li></li> </ul>
<b>Objective 2: To ensure that Corporations act as Good Citizens with Regard to Human Rights, social responsibility and environment</b>					
<ul style="list-style-type: none"> <li>Lack of adequate enforcement of policies and legislation to foster human and worker's rights, promote social corporate responsibility and environment sustainability</li> </ul>	<ul style="list-style-type: none"> <li>Zambian government needs to cultivate a favourable climate for foreign investment in an enforceable policy and legal regulatory framework that recognises the rights of workers, foreign or citizens and must endeavour to protect its citizens from human rights abuses.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out sensitisation campaigns among stakeholders</li> <li>Enforcement existing policies and legislation</li> <li>Protect citizens from violation of their human rights</li> <li>Implement reforestation programmes</li> </ul>	<ul style="list-style-type: none"> <li>Number of sensitisation campaigns carried out</li> <li>Size of land covered by deforestation programme</li> </ul>	<ul style="list-style-type: none"> <li>Favourable climate for foreign or local investment</li> <li>Job creation</li> <li>Reforestation</li> <li>Improved environmental management</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> <li></li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"><li>Improved legal environment that provides for easier enforcement of contracts, issuance licences and registration of property for business.</li><li>Easy of doing business enhanced</li><li>Legal environment that promotes effectiveness and efficiency in the conduct of business</li></ul>	<ul style="list-style-type: none"><li>1-2 years</li></ul>	<ul style="list-style-type: none"><li>MOJ</li></ul>	<ul style="list-style-type: none"><li>Min of Commerce, Trade and Industry</li><li>Line ministries</li></ul>	<ul style="list-style-type: none"><li>MOJ</li><li>Cabinet Office</li></ul>	<ul style="list-style-type: none"><li>25,000</li><li>(K137,500)</li></ul>
<b>mental sustainability</b>					
<ul style="list-style-type: none"><li>Strict adherence of investors to labour laws.</li></ul>	<ul style="list-style-type: none"><li>Ministry of Commerce and Trade</li></ul>		<ul style="list-style-type: none"><li>CSOs</li><li>Govt</li></ul>	<ul style="list-style-type: none"><li>Forest dept</li><li>ZEMA</li><li>CSOs</li><li>CSO</li></ul>	<ul style="list-style-type: none"><li>250,000</li><li>(K275,000)</li></ul>



CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	ED
<ul style="list-style-type: none"> <li>The role of trade unions in protecting worker's rights not fully recognised</li> <li>Splinter unions [fragmentation in the labour movement]</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should recognize in practical and tangible terms the role of trade unions in protecting workers' rights.</li> </ul>	<ul style="list-style-type: none"> <li>Engage employers and government on the need to foster the role of trade unions in protecting worker rights</li> <li>Hold regular tripartite labour council meetings</li> <li>Carry out media campaign on labour laws</li> <li>Merge splinter union</li> <li>Amend labour laws</li> <li>Carry out open forums</li> <li>Hold tripartite meetings</li> </ul>	<ul style="list-style-type: none"> <li>Number of consultative meetings held</li> <li>Number of media campaigns carried out</li> <li>Consultative meetings with govt held</li> </ul>	<ul style="list-style-type: none"> <li>Media campaigns on Labour laws on-going</li> <li>Consultations o merging of trade unions</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
<ul style="list-style-type: none"> <li>Lack of adequate enforcement of legal provisions on sustainable environmental management</li> <li>Weak legal provisions to allow for effective and sustainable environmental management by regulatory bodies</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should fully strengthen the independence and enforcement powers of the Zambia Environmental Council and other bodies responsible for environmental protection to effectively carry out their respective responsibilities. Zambia should as ensure regulatory framework functional.</li> </ul>	<ul style="list-style-type: none"> <li>Review and strengthen environmental laws</li> <li>Increase capacity of ZEMA and other bodies responsible for environmental protection</li> <li>Sensitisation at grassroots level</li> </ul>	<ul style="list-style-type: none"> <li>environmental laws reviewed</li> <li>Number of members of staff recruited and retained</li> <li>Budgetary allocations to ZEMA and other bodies responsible for environmental management</li> </ul>	<ul style="list-style-type: none"> <li>Review of the Zambian Constitution</li> <li>Change towards natural environment at community level</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"><li>Enhanced industrial harmony and improved worker productivity</li></ul>	<ul style="list-style-type: none"><li>2 years</li></ul>	<ul style="list-style-type: none"><li>MLSS</li></ul>	<ul style="list-style-type: none"><li>ZCTU</li><li>FFTUZ</li><li>ZFE</li><li>ILO</li></ul>	<ul style="list-style-type: none"><li>MOJ-GD</li><li>Cabinet Office</li><li>MLSS</li></ul>	<ul style="list-style-type: none"><li>75,000</li><li>(K412,000)</li></ul>
<ul style="list-style-type: none"><li>Sustainable environmental management</li><li>Strengthened capacity for ZEMA and other bodies responsible for environmental management</li></ul>	<ul style="list-style-type: none"><li>MOJ, Ministry of Mines and Natural Resources</li></ul>	<ul style="list-style-type: none"><li>ZEMA</li></ul>	<ul style="list-style-type: none"><li>Citizens for better environment</li></ul>	<ul style="list-style-type: none"><li>ZEMA</li><li>CSOs</li><li>MMNEP</li><li>MOL</li></ul>	<ul style="list-style-type: none"><li>65,000</li><li>(K357,500)</li></ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	E
<ul style="list-style-type: none"> <li>Lack of adequate legal framework on corporate governance to protect the rights of suppliers, consumers and members of the community,</li> <li>Inadequate provisions in the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>There is an urgent need for the Zambian Government to revisit the legal framework of corporate governance so as to protect the rights of suppliers, consumers and members of the community, as well amending the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>amending the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders</li> <li>Review legal framework for corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>Company Act and insolvent Act to protect rights amended</li> <li>legal framework for corporate governance reviewed</li> <li>Number of people sensitised</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Uncoordinated and fragmentation in consumer protection units</li> </ul>	<ul style="list-style-type: none"> <li>The Zambia Government shall harmonize and integrate the various consumers' protective units into one strong body with a clear mission, visions and values.</li> </ul>	<ul style="list-style-type: none"> <li>Establish one institution with a clear mission, vision and values on protection of consumers.</li> <li>Strengthen consumer protection</li> </ul>	<ul style="list-style-type: none"> <li>One institution on protection of consumer rights established</li> <li>Number of consumers sensitised</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Corporate Bodies that promote Corporate governance issues not institutionalised and lack financial sustainability</li> </ul>	<ul style="list-style-type: none"> <li>Zambian Government should ensure financial sustainability and institutionalization of the Institute of Directors, Institute of Management and other similar Institutions that help train Directors in corporate governance issues.</li> </ul>	<ul style="list-style-type: none"> <li>Review legislation to provide for financial support to Institute of Directors, Institute of Management and other</li> <li>Facilitate the institutionalisation of Institute of Directors, Institute of Management and other similar Institutions that help train Directors in corporate governance issues.</li> <li>Institutionalise the bodies by an Act of Parliament</li> </ul>	<ul style="list-style-type: none"> <li>Number of Institutions that help train Directors in corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>Sensitisations by IoD</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	EX
<b>Objective 3: Promote the Adoption of Codes of Good Business Ethics in Achieving the Objectives of the Corporation.</b>					
<ul style="list-style-type: none"> <li>Integrity Committees in the public sector have not been rolled to all government intuitions</li> </ul>	<ul style="list-style-type: none"> <li>Government should actively implement the policy on the establishment of Integrity Committees in critical public sector organisations, regardless of whether they form part of the pilot group or not. As a key institution in the public sector and in line with the Government policy, the Central Bank should establish an Integrity Committee.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate the formation of Integrity Committees in all government institutions</li> <li>Ensure that ICs are composed of people from other ministries</li> <li>Establish toll free lines</li> <li>Mandating the BOZ Ethics Committee to carry out this function.</li> </ul>	<ul style="list-style-type: none"> <li>Number of Integrity Committees formed and functional</li> </ul>	<ul style="list-style-type: none"> <li>Enhanced adherence to codes of good business ethics in achieving the objectives of the Corporation</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Bank of Zambia Corporate Governance Guidelines not comprehensive to cartel insider dealing (for listed institutions), corruption and money laundering for regulated entities.</li> </ul>	<ul style="list-style-type: none"> <li>The Central Bank Corporate Governance Guidelines should be amended to highlight the following areas which are pertinent for inclusion in the Codes of Ethics to be developed by regulated entities: insider dealing (for listed institutions), corruption and money laundering.</li> </ul>	<ul style="list-style-type: none"> <li>Amend The Central Bank Corporate Governance Guidelines amended to highlight the following areas which are pertinent for inclusion in the Codes of Ethics to be developed by regulated entities: insider dealing (for listed institutions), corruption and money laundering.</li> <li>Sensitisation on issues of corruption and money laundering</li> </ul>	<ul style="list-style-type: none"> <li>The Central Bank Corporate Governance Guidelines amended</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Lack of harmonisation in anti-laundering efforts by Government</li> </ul>	<ul style="list-style-type: none"> <li>Government should harmonize its anti-money laundering efforts and expedite the establishment and facilitation of the Financial Intelligence Unit as a key component in the anti-money laundering enforcement mechanism. As part of the regime, Government should ensure legal protection for whistle blowers.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate the formation of the Financial Intelligence Unit</li> <li>Provide and enforce legal provision to facilitate the protection of whistle blowers</li> <li>Providing incentives for the whistleblowers</li> </ul>	<ul style="list-style-type: none"> <li>Financial Intelligence Unit established</li> <li>Law on protection of Whistle blowers put in place and enforced</li> </ul>	<ul style="list-style-type: none"> <li>Financial Intelligence Unit was established</li> <li>Law on protection of Whistle blowers put in place and enforced</li> <li>Enhanced adherence to corporate governance</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"> <li>Improved public institutions' image</li> <li>Increased confidence in the public institutions</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> </ul>	<ul style="list-style-type: none"> <li>All line government ministries and parastatals</li> </ul>	<ul style="list-style-type: none"> <li>All line ministries</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>CSO</li> </ul>	<ul style="list-style-type: none"> <li>35,000</li> <li>(K192,500)</li> </ul>
<ul style="list-style-type: none"> <li>Comprehensive Central Bank Corporate Governance Guidelines</li> <li>Effective regulation and adherence to code of ethics on Corporate Governance</li> <li>Export of mineral clearance procedures</li> </ul>	<ul style="list-style-type: none"> <li>6 months</li> </ul>	<ul style="list-style-type: none"> <li>Bank of Zambia</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>Bankers Association of Zambia</li> <li>MOF</li> <li>DEC</li> <li>TIZ</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> <li>BOZ</li> <li>CSO</li> </ul>	<ul style="list-style-type: none"> <li>52,000</li> <li>(K286,000)</li> </ul>
<ul style="list-style-type: none"> <li>SI 32 of 2013</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ, Ministry of Home Affairs</li> <li>ACC</li> <li>Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>MOJ-GD</li> </ul>		<ul style="list-style-type: none"> <li>45,000</li> <li>(K247,500)</li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	ES
<ul style="list-style-type: none"> <li>Limited participation of mining companies on LuSE</li> <li>Limited role of House of Chiefs and local Chiefs in the promotion of Good Corporate Governance and business ethics in Provinces</li> </ul>	<ul style="list-style-type: none"> <li>Government should expedite its decision to compel mining companies to list on the Lusaka Stock Exchange (LuSE). In addition, the House of Chiefs and the local Chiefs should be incorporated as compelling enforcement mechanisms for promoting good corporate governance and business ethics in the provinces.</li> </ul>	<ul style="list-style-type: none"> <li>Establishing of govt owned mining companies</li> </ul>	<ul style="list-style-type: none"> <li>Number of Mining Companies listed on LuSE</li> <li>Mechanism to compel mining companies to trade on LuSE put in place</li> <li>Number of traditional leaders participating</li> </ul>	<ul style="list-style-type: none"> <li>Growth of Capital market on the LuSE</li> <li>Increased customer confidence</li> <li>Increased investor confidence</li> </ul>	•
<b>Objective 4: Ensuring that Corporations treat all Stakeholders fairly, including Share-holders, Employees, Communities and Suppliers</b>					
<ul style="list-style-type: none"> <li>Legal framework on corporate Governance not comprehensive to protect the rights of suppliers, consumers and members of the community.</li> </ul>	<ul style="list-style-type: none"> <li>There is an urgent need for the Zambian Government to revisit the legal framework of corporate governance so as to protect the rights of suppliers, consumers and members of the community.</li> </ul>	<ul style="list-style-type: none"> <li>Revisit the legal framework of corporate governance</li> <li>Re-enforce the legal framework on corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>the legal framework of corporate governance revisited</li> </ul>	<ul style="list-style-type: none"> <li>Review of the Zambian Constitution</li> </ul>	•
<ul style="list-style-type: none"> <li>Lack of effective and efficient discharge of its mandates by the Zambia Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>The present responsibilities of the Bureau of standards need to be shared with other bodies so that the Bureau can be more effective and efficient. The enforcement of the standards must be carried out by another body.</li> </ul>	<ul style="list-style-type: none"> <li>Repeal the existing Standards Act Cap. 416 to redefine the powers and functions of the Zambia Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>Standards Act Cap. 416 repealed</li> </ul>	<ul style="list-style-type: none"> <li>The repeal of Standards Act Cap. 416 is in progress.</li> <li>National Standards Bill of 2012 is under consideration by relevant authorities</li> </ul>	•
<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act is not comprehensive/adequate to protect the right of the shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act must be amended so as to protect the right of the shareholders and other stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the present Company Act and insolvency Act</li> </ul>	<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act amended</li> </ul>	<ul style="list-style-type: none"> <li>Comprehensive legal environment to effectively protect the rights of shareholders and other stakeholders</li> </ul>	•





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"> <li>ZDA activities</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Mines</li> <li>Ministry of Commerce Trade and Industry</li> </ul>	<ul style="list-style-type: none"> <li>Chamber of Mines</li> <li>LuSE</li> <li>Ministry of Chiefs and Traditional Affairs</li> <li>House of Chiefs</li> <li>Mining Companies</li> </ul>	<ul style="list-style-type: none"> <li>LUSE</li> </ul>	<ul style="list-style-type: none"> <li>25,000</li> <li>(K137,500)</li> </ul>
<b>Suppliers</b>					
<ul style="list-style-type: none"> <li>Comprehensive legal framework on Corporate Governance that would ensure Corporations treat all stakeholders fairly</li> </ul>	<ul style="list-style-type: none"> <li>3 year</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce and Trade</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC</li> <li>Civil society</li> </ul>		<ul style="list-style-type: none"> <li>30,000</li> <li>(K165,000)</li> </ul>
<ul style="list-style-type: none"> <li>Enhanced efficiency and effectiveness in the operations of the Zambian Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Cabinet Office</li> </ul>		<ul style="list-style-type: none"> <li>15,000</li> <li>(K82,500)</li> </ul>
<ul style="list-style-type: none"> <li>Enhanced protection of rights of shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce and Trade</li> </ul>	<ul style="list-style-type: none"> <li>Chamber of Commerce and Business Associations, Consumer Rights Protection Groups</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>MOJ-GD</li> </ul>	<ul style="list-style-type: none"> <li>12,000</li> <li>(K66,000)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	ED
<ul style="list-style-type: none"> <li>Conflict in roles between Board members and management.</li> </ul>	<ul style="list-style-type: none"> <li>The Company Act should also devote a whole section of the Act to differentiate the issues of governance from management issues.</li> </ul>	<ul style="list-style-type: none"> <li>Review Company Act to provide for Management issues</li> </ul>	<ul style="list-style-type: none"> <li>Company Act reviewed</li> </ul>	<ul style="list-style-type: none"> <li>minimized role conflicts between Board members and management.</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>



EXPECTED OUTCOME	TIME-FRAME	• IMPLEMENTING AGENCY	• STAKEHOLDERS	M&E	ESTIMATED COST (USD)
• Harmony in the operations of IoM and IoD	• 3 years	• Ministry of Commerce	• IoM • IoD		• 20,000 • (K110,000)





## SECTION THREE: CORPORATE GOVERNANCE

CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	
<b>Standards and Codes:</b>					
<ul style="list-style-type: none"> <li>Absence of a special government institution to monitor the ratification and compliance of the standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>A special government institution should be established to monitor the ratification and compliance of the standards and code in all organisations.</li> </ul>	<ul style="list-style-type: none"> <li>Establish a special government institution to monitor the ratification and compliance of the standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>A special government institution to monitor the ratification and compliance of the standards and codes in all organisations formed</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	
<b>Objective 1: Promoting an Enabling Environment and Effective Regulatory Framework for Economic Activities</b>					
<ul style="list-style-type: none"> <li>Inadequate Socio economic infrastructure development such as roads, water and energy</li> </ul>	<ul style="list-style-type: none"> <li>Zambia comprehensively looks at provision of infrastructure including water, roads and energy in all regions so as to boost productivity of Zambian business.</li> </ul>	<ul style="list-style-type: none"> <li>Provision of infrastructure including water, roads and energy in all regions</li> <li>Renovate the old infrastructure</li> <li>Liquidate the outstanding govt arrears to the facilities</li> </ul>	<ul style="list-style-type: none"> <li>Number of socio economic infrastructure improved</li> <li>Number of roads constructed</li> <li>Length of roads (in km) covered constructed</li> </ul>	<ul style="list-style-type: none"> <li>Being addressed through Presidential initiatives on improvement of road infrastructure- Link Zambia 8000 and Pave Zambia 2000</li> <li>Water utility facilities in the provinces</li> </ul>	
<ul style="list-style-type: none"> <li>Legal environment not conducive for effective operations of business</li> </ul>	<ul style="list-style-type: none"> <li>Zambia reviews the legal environment in order to make it easier for business to enforce contracts, issue licences and register property.</li> <li>Codify the provisions</li> <li>Make it easier to do business</li> <li>Ensure that the legal review is not anchored on the political will</li> </ul>	<ul style="list-style-type: none"> <li>Review legal environment</li> </ul>	<ul style="list-style-type: none"> <li>Number of legal provisions reviewed</li> </ul>	<ul style="list-style-type: none"> <li>Zambian Constitution being reviewed</li> </ul>	





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"> <li>Enhanced adherence to ratified standards and codes in all organisations</li> </ul>	<ul style="list-style-type: none"> <li>1 year</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>Min of Commerce</li> <li>Planning departments in relevant ministries</li> <li>MLGH</li> <li>Min of Energy</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Min of Commerce</li> </ul>	<ul style="list-style-type: none"> <li>14,000</li> <li>(K77,000)</li> </ul>
<ul style="list-style-type: none"> <li>Improved productivity of Zambian business</li> <li>Reduction in poverty levels</li> </ul>	<ul style="list-style-type: none"> <li>3-5 Years</li> </ul>	<ul style="list-style-type: none"> <li>RDA</li> <li>MOF</li> <li>MWS</li> </ul>	<ul style="list-style-type: none"> <li>RDA</li> <li>MOE</li> <li>MOH</li> <li>Other relevant line ministries</li> <li>MWS</li> <li>Local Authorities</li> <li>MOF</li> <li>MOC</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> <li>RDA</li> <li>MWS</li> <li>MOJ</li> <li>MOC</li> <li>MOE</li> <li>MLGH</li> </ul>	<ul style="list-style-type: none"> <li>1,450,000</li> <li>(K7,975,000)</li> </ul>
<ul style="list-style-type: none"> <li>Improved legal environment that provides for easier enforcement of contracts, issuance licences and registration of property for business.</li> <li>Easy of doing business enhanced</li> <li>Legal environment that promotes effectiveness and efficiency in the conduct of business</li> </ul>	<ul style="list-style-type: none"> <li>1-2 years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>Min of Commerce, Trade and Industry</li> <li>Line ministries</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>25,000</li> <li>(K137,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	E
<b>Objective 2: To ensure that Corporations act as Good Citizens with Regard to Human Rights, social responsibility and environment</b>					
<ul style="list-style-type: none"> <li>Lack of adequate enforcement of policies and legislation to foster human and worker's rights, promote social corporate responsibility and environment sustainability</li> </ul>	<ul style="list-style-type: none"> <li>Zambian government needs to cultivate a favourable climate for foreign investment in an enforceable policy and legal regulatory framework that recognises the rights of workers, foreign or citizens and must endeavour to protect its citizens from human rights abuses.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out sensitisation campaigns among stakeholders</li> <li>Enforcement existing policies and legislation</li> <li>Protect citizens from violation of their human rights</li> <li>Implement reforestation programmes</li> </ul>	<ul style="list-style-type: none"> <li>Number of sensitisation campaigns carried out</li> <li>Size of land covered by deforestation programme</li> </ul>	<ul style="list-style-type: none"> <li>Favourable climate for foreign or local investment</li> <li>Job creation</li> <li>Reforestation</li> <li>Improved environmental management</li> </ul>	
<ul style="list-style-type: none"> <li>The role of trade unions in protecting worker's rights not fully recognised</li> <li>Splinter unions [fragmentation in the labour movement]</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should recognize in practical and tangible terms the role of trade unions in protecting workers' rights.</li> </ul>	<ul style="list-style-type: none"> <li>Engage employers and government on the need to foster the role of trade unions in protecting worker rights</li> <li>Hold regular tripartite labour council meetings</li> <li>Carry out media campaign on labour laws</li> <li>Merge splinter union</li> <li>Amend labour laws</li> <li>Carry out open forums</li> <li>Hold tripartite meetings</li> </ul>	<ul style="list-style-type: none"> <li>Number of consultative meetings held</li> <li>Number of media campaigns carried out</li> <li>Consultative meetings with govt held</li> </ul>	<ul style="list-style-type: none"> <li>Media campaigns on Labour laws on-going</li> <li>Consultations on merging of trade unions</li> </ul>	
<ul style="list-style-type: none"> <li>Lack of adequate enforcement of legal provisions on sustainable environmental management</li> <li>Weak legal provisions to allow for effective and sustainable environmental management by regulatory bodies</li> </ul>	<ul style="list-style-type: none"> <li>Zambia should fully strengthen the independence and enforcement powers of the Zambia Environmental Council and other bodies responsible for environmental protection to effectively carry out their respective responsibilities. Zambia should ensure regulatory framework functional.</li> </ul>	<ul style="list-style-type: none"> <li>Review and strengthen environmental laws</li> <li>Increase capacity of ZEMA and other bodies responsible for environmental protection</li> <li>Sensitisation at grassroots level</li> </ul>	<ul style="list-style-type: none"> <li>environmental laws reviewed</li> <li>Number of members of staff recruited and retained</li> <li>Budgetary allocations to ZEMA and other bodies responsible for environmental management</li> </ul>	<ul style="list-style-type: none"> <li>Review of the Zambian Constitution</li> <li>Change towards natural environment at community level</li> </ul>	





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<b>mental sustainability</b>					
<ul style="list-style-type: none"> <li>• Strict adherence of investors to labour laws.</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Commerce and Trade</li> </ul>		<ul style="list-style-type: none"> <li>• CSOs</li> <li>• Govt</li> </ul>	<ul style="list-style-type: none"> <li>• Forest dept</li> <li>• ZEMA</li> <li>• CSOs</li> <li>• CSO</li> </ul>	<ul style="list-style-type: none"> <li>• 250,000</li> <li>• (K275,000)</li> </ul>
<ul style="list-style-type: none"> <li>• Enhanced industrial harmony and improved worker productivity</li> </ul>	<ul style="list-style-type: none"> <li>• 2 years</li> </ul>	<ul style="list-style-type: none"> <li>• MLSS</li> </ul>	<ul style="list-style-type: none"> <li>• ZCTU</li> <li>• FFTUZ</li> <li>• ZFE</li> <li>• ILO</li> </ul>	<ul style="list-style-type: none"> <li>• MOJ-GD</li> <li>• Cabinet Office</li> <li>• MLSS</li> </ul>	<ul style="list-style-type: none"> <li>• 75,000</li> <li>• (K412,000)</li> </ul>
<ul style="list-style-type: none"> <li>• Sustainable environmental management</li> <li>• Strengthened capacity for ZEMA and other bodies responsible for environmental management</li> </ul>	<ul style="list-style-type: none"> <li>• MOJ, Ministry of Mines and Natural Resources</li> </ul>	<ul style="list-style-type: none"> <li>• ZEMA</li> </ul>	<ul style="list-style-type: none"> <li>• Citizens for better environment</li> </ul>	<ul style="list-style-type: none"> <li>• ZEMA</li> <li>• CSOs</li> <li>• MMNEP</li> <li>• MOL</li> </ul>	<ul style="list-style-type: none"> <li>• 65,000</li> <li>• (K357,500)</li> </ul>







CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES	E
<ul style="list-style-type: none"> <li>Lack of adequate legal framework on corporate governance to protect the rights of suppliers, consumers and members of the community,</li> <li>Inadequate provisions in the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>There is an urgent need for the Zambian Government to revisit the legal framework of corporate governance so as to protect the rights of suppliers, consumers and members of the community, as well amending the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>amending the current Company Act and insolvent Act to protect rights of shareholders and other stakeholders</li> <li>Review legal framework for corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>Company Act and insolvent Act to protect rights amended</li> <li>legal framework for corporate governance reviewed</li> <li>Number of people sensitised</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Uncoordinated and fragmentation in consumer protection units</li> </ul>	<ul style="list-style-type: none"> <li>The Zambia Government shall harmonize and integrate the various consumers' protective units into one strong body with a clear mission, visions and values.</li> </ul>	<ul style="list-style-type: none"> <li>Establish one institution with a clear mission, vision and values on protection of consumers.</li> <li>Strengthen consumer protection</li> </ul>	<ul style="list-style-type: none"> <li>One institution on protection of consumer rights established</li> <li>Number of consumers sensitised</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Corporate Bodies that promote Corporate governance issues not institutionalised and lack financial sustainability</li> </ul>	<ul style="list-style-type: none"> <li>Zambian Government should ensure financial sustainability and institutionalization of the Institute of Directors, Institute of Management and other similar Institutions that help train Directors in corporate governance issues.</li> </ul>	<ul style="list-style-type: none"> <li>Review legislation to provide for financial support to Institute of Directors, Institute of Management and other</li> <li>Facilitate the institutionalisation of Institute of Directors, Institute of Management and other similar Institutions that help train Directors in corporate governance issues.</li> <li>Institutionalise the bodies by an Act of Parliament</li> </ul>	<ul style="list-style-type: none"> <li>Number of Institutions that help train Directors in corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>Sensitisations by IoD</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"><li>Enhanced legal environment for the effective promotion of Corporate governance in the country</li><li>Radio programmes</li><li>Open forums</li></ul>	<ul style="list-style-type: none"><li>2 years</li></ul>	<ul style="list-style-type: none"><li>Ministry of Commerce and Trade</li></ul>	<ul style="list-style-type: none"><li>MOJ</li><li>MLGH</li><li>MOHA</li></ul>	<ul style="list-style-type: none"><li>MOJ</li><li>GD</li></ul>	<ul style="list-style-type: none"><li>58,000</li><li>(K319,000)</li></ul>
<ul style="list-style-type: none"><li>Enhanced coordination in the protection of consumer rights</li><li>Improved welfare of consumers</li></ul>	<ul style="list-style-type: none"><li>1 year</li></ul>	<ul style="list-style-type: none"><li>Ministry of Commerce and Trade</li></ul>	<ul style="list-style-type: none"><li>Ministry of Finance</li></ul>	<ul style="list-style-type: none"><li>MOJ-GD</li><li>Cabinet office</li></ul>	<ul style="list-style-type: none"><li>30,000</li><li>(K165,000)</li></ul>
<ul style="list-style-type: none"><li>Enhanced role Institute of Directors, Institute of Management and other similar Institutions that help train Directors in corporate governance issues. In the promotion of corporate governance.</li><li>More corporations adhering to ethics of good corporate governance that is supportive to business and socio economic development</li></ul>	<ul style="list-style-type: none"><li>3 years</li></ul>	<ul style="list-style-type: none"><li>Ministry of Commerce and Trade</li><li>MOJ</li><li>HRC</li></ul>	<ul style="list-style-type: none"><li>Institute of Management</li><li>Institute of Directors</li><li>TIZ</li><li>SACCORD</li><li>JCTR</li><li>MOJ</li><li>MOC</li><li>CSPR</li></ul>	<ul style="list-style-type: none"><li>MOC</li><li>MOJ</li></ul>	<ul style="list-style-type: none"><li>55,000</li><li>(K302,500)</li></ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<b>Objective 3: Promote the Adoption of Codes of Good Business Ethics in Achieving the Objectives of the Corporation.</b>				
<ul style="list-style-type: none"> <li>Integrity Committees in the public sector have not been rolled to all government intuitions</li> </ul>	<ul style="list-style-type: none"> <li>Government should actively implement the policy on the establishment of Integrity Committees in critical public sector organisations, regardless of whether they form part of the pilot group or not. As a key institution in the public sector and in line with the Government policy, the Central Bank should establish an Integrity Committee.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate the formation of Integrity Committees in all government institutions</li> <li>Ensure that ICs are composed of people from other ministries</li> <li>Establish toll free lines</li> <li>Mandating the BOZ Ethics Committee to carry out this function.</li> </ul>	<ul style="list-style-type: none"> <li>Number of Integrity Committees formed and functional</li> </ul>	<ul style="list-style-type: none"> <li>Enhanced adherence to codes of good business ethics in achieving the objectives of the Corporation</li> </ul>
<ul style="list-style-type: none"> <li>Bank of Zambia Corporate Governance Guidelines not comprehensive to cartel insider dealing (for listed institutions), corruption and money laundering for regulated entities.</li> </ul>	<ul style="list-style-type: none"> <li>The Central Bank Corporate Governance Guidelines should be amended to highlight the following areas which are pertinent for inclusion in the Codes of Ethics to be developed by regulated entities: insider dealing (for listed institutions), corruption and money laundering.</li> </ul>	<ul style="list-style-type: none"> <li>Amend The Central Bank Corporate Governance Guidelines amended to highlight the following areas which are pertinent for inclusion in the Codes of Ethics to be developed by regulated entities: insider dealing (for listed institutions), corruption and money laundering.</li> <li>Sensitisation on issues of corruption and money laundering</li> </ul>	<ul style="list-style-type: none"> <li>The Central Bank Corporate Governance Guidelines amended</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC sensitisation activities</li> </ul>
<ul style="list-style-type: none"> <li>Lack of harmonisation in anti-laundering efforts by Government</li> </ul>	<ul style="list-style-type: none"> <li>Government should harmonize its anti-money laundering efforts and expedite the establishment and facilitation of the Financial Intelligence Unit as a key component in the anti-money laundering enforcement mechanism. As part of the regime, Government should ensure legal protection for whistle blowers.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate the formation of the Financial Intelligence Unit</li> <li>Provide and enforce legal provision to facilitate the protection of whistle blowers</li> <li>Providing incentives for the whistleblowers</li> </ul>	<ul style="list-style-type: none"> <li>Financial Intelligence Unit established</li> <li>Law on protection of Whistle blowers put in place and enforced</li> </ul>	<ul style="list-style-type: none"> <li>Financial Intelligence Unit was established</li> <li>Law on protection of Whistle blowers put in place and enforced</li> <li>Enhanced adherence to corporate governance</li> </ul>





EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
<ul style="list-style-type: none"> <li>Improved public institutions' image</li> <li>Increased confidence in the public institutions</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> </ul>	<ul style="list-style-type: none"> <li>All line government ministries and parastatals</li> </ul>	<ul style="list-style-type: none"> <li>All line ministries</li> </ul>	<ul style="list-style-type: none"> <li>BOZ</li> <li>CSO</li> </ul>	<ul style="list-style-type: none"> <li>35,000</li> <li>(K192,500)</li> </ul>
<ul style="list-style-type: none"> <li>Comprehensive Central Bank Corporate Governance Guidelines</li> <li>Effective regulation and adherence to code of ethics on Corporate Governance</li> <li>Export of mineral clearance procedures</li> </ul>	<ul style="list-style-type: none"> <li>6 months</li> </ul>	<ul style="list-style-type: none"> <li>Bank of Zambia</li> </ul>	<ul style="list-style-type: none"> <li>ACC</li> <li>Bankers Association of Zambia</li> <li>MOF</li> <li>DEC</li> <li>TIZ</li> </ul>	<ul style="list-style-type: none"> <li>MOF</li> <li>BOZ</li> <li>CSO</li> </ul>	<ul style="list-style-type: none"> <li>52,000</li> <li>(K286,000)</li> </ul>
<ul style="list-style-type: none"> <li>SI 32 of 2013</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>MOJ, Ministry of Home Affairs</li> <li>ACC</li> <li>Cabinet Office</li> </ul>	<ul style="list-style-type: none"> <li>MOJ-GD</li> </ul>		<ul style="list-style-type: none"> <li>45,000</li> <li>(K247,500)</li> </ul>





CHALLENGES	RECOMMENDATIONS	REQUIRED ACTION	VERIFIABLE INDICATOR	ONGOING INITIATIVES
<ul style="list-style-type: none"> <li>Limited participation of mining companies on LuSE</li> <li>Limited role of House of Chiefs and local Chiefs in the promotion of Good Corporate Governance and business ethics in Provinces</li> </ul>	<ul style="list-style-type: none"> <li>Government should expedite its decision to compel mining companies to list on the Lusaka Stock Exchange (LuSE). In addition, the House of Chiefs and the local Chiefs should be incorporated as compelling enforcement mechanisms for promoting good corporate governance and business ethics in the provinces.</li> </ul>	<ul style="list-style-type: none"> <li>Establishing of govt owned mining companies</li> </ul>	<ul style="list-style-type: none"> <li>Number of Mining Companies listed on LuSE</li> <li>Mechanism to compel mining companies to trade on LuSE put in place</li> <li>Number of traditional leaders participating</li> </ul>	<ul style="list-style-type: none"> <li>Growth of Capital market on the LuSE</li> <li>Increased customer confidence</li> <li>Increased investor confidence</li> </ul>
<b>Objective 4: Ensuring that Corporations treat all Stakeholders fairly, including Share-holders, Employees, Communities and Suppliers</b>				
<ul style="list-style-type: none"> <li>Legal framework on corporate Governance not comprehensive to protect the rights of suppliers, consumers and members of the community.</li> </ul>	<ul style="list-style-type: none"> <li>There is an urgent need for the Zambian Government to revisit the legal framework of corporate governance so as to protect the rights of suppliers, consumers and members of the community.</li> </ul>	<ul style="list-style-type: none"> <li>Revisit the legal framework of corporate governance</li> <li>Re-enforce the legal framework on corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>the legal framework of corporate governance revisited</li> </ul>	<ul style="list-style-type: none"> <li>Review of the Zambian Constitution</li> </ul>
<ul style="list-style-type: none"> <li>Lack of effective and efficient discharge of its mandates by the Zambia Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>The present responsibilities of the Bureau of standards need to be shared with other bodies so that the Bureau can be more effective and efficient. The enforcement of the standards must be carried out by another body.</li> </ul>	<ul style="list-style-type: none"> <li>Repeal the existing Standards Act Cap. 416 to redefine the powers and functions of the Zambia Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>Standards Act Cap. 416 repealed</li> </ul>	<ul style="list-style-type: none"> <li>The repeal of Standards Act Cap. 416 is in progress.</li> <li>National Standards Bill of 2012 is under consideration by relevant authorities</li> </ul>
<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act is not comprehensive/adequate to protect the right of the shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act must be amended so as to protect the right of the shareholders and other stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the present Company Act and insolvency Act</li> </ul>	<ul style="list-style-type: none"> <li>The present Company Act and insolvency Act amended</li> </ul>	<ul style="list-style-type: none"> <li>Comprehensive legal environment to effectively protect the rights of shareholders and other stakeholders</li> </ul>
<ul style="list-style-type: none"> <li>Conflict in roles between Board members and management.</li> </ul>	<ul style="list-style-type: none"> <li>The Company Act should also devote a whole section of the Act to differentiate the issues of governance from management issues.</li> </ul>	<ul style="list-style-type: none"> <li>Review Company Act to provide for Management issues</li> </ul>	<ul style="list-style-type: none"> <li>Company Act reviewed</li> </ul>	<ul style="list-style-type: none"> <li>minimized role conflicts between Board members and management.</li> </ul>





	EXPECTED OUTCOME	TIME-FRAME	IMPLEMENTING AGENCY	STAKEHOLDERS	M&E	ESTIMATED COST (USD)
al ce .	<ul style="list-style-type: none"> <li>ZDA activities</li> </ul>	<ul style="list-style-type: none"> <li>2 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Mines</li> <li>Ministry of Commerce Trade and Industry</li> </ul>	<ul style="list-style-type: none"> <li>Chamber of Mines</li> <li>LuSE</li> <li>Ministry of Chiefs and Traditional Affairs</li> <li>House of Chiefs</li> <li>Mining Companies</li> </ul>	<ul style="list-style-type: none"> <li>LUSE</li> </ul>	<ul style="list-style-type: none"> <li>25,000</li> <li>(K137,500)</li> </ul>
<b>Suppliers</b>						
	<ul style="list-style-type: none"> <li>Comprehensive legal framework on Corporate Governance that would ensure Corporations treat all stakeholders fairly</li> </ul>	<ul style="list-style-type: none"> <li>3 year</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce and Trade</li> <li>MOJ</li> </ul>	<ul style="list-style-type: none"> <li>ZCPC</li> <li>Civil society</li> </ul>		<ul style="list-style-type: none"> <li>30,000</li> <li>(K165,000)</li> </ul>
2 er- t	<ul style="list-style-type: none"> <li>Enhanced efficiency and effectiveness in the operations of the Zambian Bureau of Standards</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce</li> </ul>	<ul style="list-style-type: none"> <li>MOJ</li> <li>Cabinet Office</li> </ul>		<ul style="list-style-type: none"> <li>15,000</li> <li>(K82,500)</li> </ul>
nt ts	<ul style="list-style-type: none"> <li>Enhanced protection of rights of shareholders and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce and Trade</li> </ul>	<ul style="list-style-type: none"> <li>Chamber of Commerce and Business Associations, Consumer Rights Protection Groups</li> </ul>	<ul style="list-style-type: none"> <li>Cabinet Office</li> <li>MOJ-GD</li> </ul>	<ul style="list-style-type: none"> <li>12,000</li> <li>(K66,000)</li> </ul>
en	<ul style="list-style-type: none"> <li>Harmony in the operations of loM and loD</li> </ul>	<ul style="list-style-type: none"> <li>3 years</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Commerce</li> </ul>	<ul style="list-style-type: none"> <li>loM</li> <li>loD</li> </ul>		<ul style="list-style-type: none"> <li>20,000</li> <li>(K110,000)</li> </ul>





# APPENDIX II

## RESPONSE FROM THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA TO THE APRM COUNTRY REVIEW REPORT.



JANUARY 2012





***Panel's Comments: Factual errors in the text of the Government's response have been corrected, but the Panel considered it important to append some comments explaining the Government's position and policies.***

## **Democracy and Political Governance.**

1. While Zambia faces challenges in reporting on and domesticating international treaties that it is a party to, its performance on ratification cannot be termed "dismal" as suggested by paragraph 33.5.1 of the Report. Ratification of international agreements comes with the added cost of implementation and each state has a right to take stock of what instruments are of priority to it in determining implementation of the same.
2. The Report has noted that Zambia faces challenges in implementing treaties that it is a party to through domestication and state reporting. The Report in its recommendations under paragraph 33.11 (a) urges Zambia to ratify more regional instruments. In our view, it is more important to develop a strategy to deal with already ratified Conventions in order to ensure domestication and compliance first, before Zambia can consider ratifying more treaties.
3. Paragraph 37.4 of the report should clearly explain how section 96 (3) of the Electoral Act No. 12 of 2006 is used to "Cheat the real winners" who do not get justice from the Election Management Committees. Section 96 (3) of the Act provides as follows: "Every election petition shall be signed by the petitioner or by all petitioners if more than one, and shall be presented not later than thirty days after the date on which the result of the election to which it relates is duly declared."
4. Paragraphs 50.1 to 50.3 of the Report refer to the excessive Presidential powers in making key Government appointments. It should be balanced by indicating the role of Parliament in some appointments, including the appointment of constitutional office holders e.g. Judges, the Attorney General, the Solicitor General, the Director of Public Prosecutions, the Director-General of Anti-Corruption Commission.
5. The report discusses access to Justice under paragraph 54.7. While the challenges relating to access to justice are acknowledged, the Report is not balanced as there is no reference to access to justice Programme including its goals and objectives.
6. The report, paragraph 57.3 has stated that only workers in public service are "privileged by law and protected in their right to form and to join trade unions and they enjoy labour law immunities and protections. On the contrary, most workers in the private sector are ill protected and left to the vagaries of respective companies that employ them" This statement does not reflect the actual situation in the labour market. A number of trade unions exist in the private sector including the banking and financial services sector, the mining and the public sector.







# REPORT ON THE PEER REVIEW OF ZAMBIA

## I. Introduction

1. The 18<sup>th</sup> Summit of the Committee of Heads of State and Government Participating in the African Peer Review Mechanism [APR Forum] was held on 26 January 2013 at the African Union Commission Headquarters in Addis Ababa, Ethiopia. The Summit marked the official launch of the commemoration of the 10<sup>th</sup> APRM Anniversary. The APR Forum also peer-reviewed the reports of the United Republic of Tanzania and the Republic of Zambia.
2. The Summit was chaired by H.E. Hailemariam Desalegn, Prime Minister of the Federal Democratic Republic of Ethiopia and Chairperson of the APR Forum.

## II. Attendance

The following Heads of State and Government attended the 18<sup>th</sup> Summit:

- (i) H.E. Hailemariam Desalegn, Prime Minister of the Federal Democratic Republic of Ethiopia and Chairperson of the APR Forum;
  - (ii) H.E. Abdelmalek Sellal, Prime Minister of the People's Democratic Republic of Algeria;
  - (iii) H.E. Dr. Boni Yayi, President of the Republic of Benin;
  - (iv) H.E. Idriss Déby, President of the Republic of Chad;
  - (v) H.E. Ismail Omar Guelleh, President of the Republic of Djibouti;
  - (vi) H.E. Thomas Thabane, Prime Minister of the Kingdom of Lesotho;
  - (vii) H.E. Paul Kagame, President of the Republic of Rwanda;
  - (viii) H.E. Macky Sall, President of the Republic of Senegal;
  - (ix) H.E. Jacob Zuma, President of the Republic of South Africa;
  - (x) H.E. Jakaya Kikwete, President of the United Republic of Tanzania;
  - (xi) H.E. Moncef Marzouki, President of the Republic Tunisia; and
  - (xii) H.E. Michael Sata, President of the Republic of Zambia.
3. Angola, Burkina Faso, Cameroon, Republic of Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Mauritius, Mali, Mozambique, Nigeria, Rwanda, Sudan, Togo, and Uganda were represented at the Summit by National Focal Points of the APRM, Ministers, Officials and Heads of Delegations.





4. All the members of the Panel of Eminent Persons (APR Panel) were present: Professor Amos Sawyer (Chairperson), Barrister Julienne Ondziel Gnelenga, Barrister Akere Tabeng Muna, Ambassador Mohamed Ashraf Rashed, Madam Baleka Mbete, Dr. Mustapha Mekideche, Ambassador Fatuma Ndangiza and Ambassador Professor Okon Edet Uya.
5. The Summit was opened with welcome remarks by His Excellency Hailemariam Desalegn, Prime Minister of the Federal Democratic Republic of Ethiopia and Chairperson of the APR Forum, His Excellency Dr. Boni Yayi, President of the Republic of Benin and Chairperson of the Assembly of the African Union, Her Excellency Dr. Nkosazana Dlamini-Zuma, Chairperson of the African Union Commission, and His Excellency Professor Amos Sawyer, Chairperson of the APR Panel of Eminent Persons.

### III. Peer Review of the Republic of Zambia

6. The peer review of Zambia began with a presentation of the Country Review Report by Professor Amos Sawyer, the Lead Panel Member in charge of Zambia. He first commended the Government of Zambia for accepting to have his country peer-reviewed even though the Country Review Mission was conducted and the corresponding Report was prepared under the previous Government. He then highlighted the contents of the Key Issues Paper on Zambia as follows:

#### A. Commendable Practices

- a) Support to Liberation Struggles in Southern Africa: Zambia provided support and assisted liberation movements in Southern Africa;
- b) The maturing of democratic practice, as manifested in the peaceful change of leaders through ballot boxes and the acceptance of defeat by incumbent leaders;
- c) The Social Cash Transfer Scheme introduced to cater for the majority of Zambian households headed by the elderly, widows and the chronically ill in selected districts with the highest levels of poverty and under-five mortality rate;
- d) The Public Hearings on Breach of Children's Rights: Zambia organises public hearing on issues that undermine the rights of children. This initiative enhances respect for children's rights.

#### B. Challenges

- a) State centralisation and political patronage: This trend, which permeates the entire political system as well as the administrative system, also fuels corruption;
- b) Frequent change of the Constitution: With an average span of about a decade per Constitution, such a practice carries uncertainty in the political and economic systems;
- c) Capacity building: Insufficient human skills constitute a challenge that cuts across service delivery institutions (Health, Education, Police, Immigration, etc.);





- d) Environmental degradation: particularly due to weak enforcement of legislation on environmental protection as well as activities of large foreign companies operating in the mines;
- e) The Barotseland problem: In the western part of Zambia, where the cultural/traditional leaders are in disagreement with the Central Government over land. This essentially political problem should be resolved by involving all relevant stakeholders to unlock the socio-economic potential of the area.

### **C. Recommendations**

- a) Zambia to endeavour to ratify and implement the pending international instruments and report on them periodically;
- b) Government to urgently address internal political disagreements over the question of Barotseland Royal Establishment, to avoid any possible conflict;
- c) Government to establish constitutional mechanisms that guarantee separation of powers among the three Organs of the State, ensure checks and balances and implement decentralisation programmes;
- d) Government to step up efforts towards promoting local involvement in the selection of Provincial Leadership as well as and the professionalism of Permanent Secretaries and other local and provincial authorities in addition to implementing its decentralization policy;
- e) Government to strengthen anti-corruption institutions through adequate legislation guaranteeing their constitutional independence and insulating them from political interference;
- f) Government to promote policies and practices that encourage greater transparency, accountability, as well as democratic control over economic policies, and also strengthen the implementation of reforms aimed at ensuring sound public finance management;
- g) Zambia to formulate economic policies that will ensure that its impressive economic growth spawn development for the benefit of all sectors of its population, especially the poor;
- h) Zambia to enforce the environmental legal framework required to effectively monitor operations in the mining areas, with regard to human rights and environmental protection;
- i) Government to step up efforts aimed at building human and institutional capacities, including the establishment of a comprehensive national capacity development plan for implementing development policies and achieving the Millennium Development Goals;
- j) Government to strengthen gender equality and raise the percentage of women representation in the public and private sectors to 50%;





- k) Government to set up a mechanism for promoting employment opportunities, particularly for the youth;

**Response by H.E. Michael Chilufya Sata, President of the Republic of Zambia**

7. Responding to the presentation by the Lead Panel Member in charge of Zambia, H.E. Michael Chilufya Sata, President of the Republic of Zambia, first expressed gratitude for being part of “the African promise championing good governance and democracy in Africa”. He paid tribute to the late Zambian President, His Excellency Levy Patrick Mwanawasa, who acceded to the APRM in January 2006 on behalf of the Zambian people, and to his immediate predecessor, His Excellency Rupiah Bwezani Banda, who ensured that the APRM process remained on track in Zambia. He reiterated that the Patriotic Front (PF) Government would continue building on the foundation laid by his predecessors.
8. The President further commended Professor Amos Sawyer and the Team of African Experts who worked tirelessly on the Zambia Review Mission. He indicated that the Country Review Report adequately reflected Zambia’s governance situation vis-à-vis the four thematic areas of the APRM.
9. The President informed his Peers that Zambia continues to be a beacon of peace and political stability in Southern Africa, in spite of the region’s lingual and tribal diversity. He reiterated that Zambia is one of the few countries on the African continent that has had peaceful handover of political power following general elections. He noted that such a gesture attests to the growth of democracy in Zambia. He further urged other countries on the continent to emulate Zambia’s example.
10. The President reminded his Peers that the Country Review Report was a reflection of the governance of Zambia by the previous regime. However, the President was quick to mention that his Government would not engage in the blame game. He noted that the Report came out timely for the PF Government, soon after the latter had been entrusted with the stewardship of affairs of the Republic of Zambia. He acknowledged that the issues raised and the respective recommendations would be of invaluable assistance, as the new Government strove to make Zambia a better place for all.
11. The President noted that the main drivers of Zambia’s economic growth, which the Report highlighted as having been recorded in the past decade, lay in increased agricultural production and new investments in key economic sectors, especially mining. He also applauded the Government of Tanzania, whose Port of Dar es Salaam has been a beacon of Zambia’s economic boost. He indicated that, without the support of Tanzanian Presidents - right from the Father of the Nation, Mwalimu Julius Nyerere, to President Jakaya Kikwete - Zambia would not have succeeded in its economic plans.
12. The President however noted that reducing poverty remained one of the major challenges facing Zambia. He indicated that, in order to address the high poverty levels in the country, the PF Government has prioritised four core development programmes in the education, health, agriculture, local government and housing sectors, supported by other key sectors such as infrastructure development, social protection, commerce, trade and industry, and tourism.





13. With regard to the poor state of infrastructure, President Sata averred that the Government has already committed a substantial part of the national budget to the construction of roads linking various provinces and districts in the country as well as the construction of bridges, schools, universities, hospitals and health centres.
14. Commenting on the observation that women still lack access to land, in comparison with their male counterparts, the President asserted that about 90 per cent of land in Zambia is under customary tenure. To address the issue, the Government is working on a mechanism to promote security of tenure for customary land in the rural areas.
15. On the question of corruption, the President noted that the public had lost confidence in the Anti-Corruption Commission (ACC) in the fight against corruption. To restore public confidence in the Commission, the Government has reinforced the Anti-Corruption Commission Act by introducing stiffer penalties for corruption and related offences and reinstating the "Abuse of Office Clause" removed by the previous Government.
16. As regards ratification, domestication and implementation of international as well as regional instruments, the President agreed that Zambia's performance has been far from exemplary. He reaffirmed that the Government will strive to ensure that the process of ratification and implementation of international and regional instruments is carried out progressively and in conformity with the national development objectives.
17. On the issue of environmental degradation, the President indicated that Zambia has passed progressive legislation on environmental protection. A new law was enacted in 2011 to ensure that the environmental law conforms to the current international best practices in environmental protection.
18. President Sata acknowledged the fact that Zambia has experienced frequent constitutional changes since its independence in 1964. He assured his Peers that his Government will work to ensure that the constitutional instability that has characterised the country since independence will soon be a thing of the past. According to him, a committee of experts has been constituted to review the recommendations of all the previous constitutional review commissions and come up with a draft People's Constitution.
19. He observed that the constitutional review process is dealing adequately with the issues of presidential pre-eminence and state centralisation that vested the country's Chief Executive Officer with extensive powers in the appointment of all the pivotal officers in state administration.
20. Recalling the structural bottlenecks in the justice administration system, as raised in the Report, the President stressed that access to justice remains a priority for his Government, and that the Government is already in the process of carrying out extensive judicial reforms involving all stakeholders.
21. President Sata corrected the impression - "only workers in the public service are privileged by law and protected in their right to form and join trade unions..." - as stated in the Report. He explained that Zambia's legal framework governing industrial relations does not discriminate between the public and private sectors. The right to form and join trade unions is guaranteed by the Constitution of the Republic of Zambia. In this context, private sector employees are not precluded in any way from forming or belonging to trade unions.





22. As regards the Barotseland issue, President Sata clarified that it is important to note that the Barotseland Agreement of 1964 created a unitary state by making Barotseland an integral part of Northern Rhodesia, the present-day Zambia. However, in 1969, the Government terminated the Barotseland Agreement. He agreed with the findings of the Country Review Report that the Barotseland issue has several dimensions to it, including the socio-economic dimension. He indicated that, as part of the efforts being made to address the issue, the Government has started implementing the Decentralisation Policy that will not only encompass the transfer of decision-making powers and resources to lower government levels, but will also enhance public participation in the local economic and political processes.
23. The President concluded his response by reaffirming Zambia's commitment to reducing inequalities, raising basic standards of living, as well as fostering equitable economic growth and social development in order to create greater opportunities for the entire population of the country.

### **Forum Discussions**

24. The President of the Republic of South Africa, His Excellency Jacob Zuma, commended Zambia for the crucial role it played in the liberation of South Africa and other countries in Southern Africa. He reiterated that, without the support of Zambia and Tanzania, South Africa would have taken a long way to freedom.
25. The Chairperson of the Forum, H.E. Hailemariam Desalegn, summarised the highlights of the discussions and congratulated Zambia on its peer review. He observed that the President of Zambia did not only bring out good practices in his response but also made the review quite entertaining.

### **Conclusion**

26. The Heads of State and Government of the APRM Member Countries congratulated the President of Zambia on his response, which laid emphasis on the progress made since Zambia's accession to the APRM. They thanked the APR Panel for producing the Report.
27. The Forum noted that Zambia was taking steps towards ratifying some international instruments and codes. It commended President Sata for embracing the APRM, and Zambia, for supporting liberation movements of other African countries, and for the Vision 2030 Plan as well as the commendable practices identified in the Country Review Report.
28. The Forum encouraged Zambia to address challenges such as capacity building, over-centralisation, corruption and other issues of concern highlighted in the Country Review Report.





