



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS AND GOVERNANCE

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS AND GOVERNANCE FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Dr Clement Andeleki, MP (Chairperson); Ms Tasila E Lungu, MP (Vice Chairperson); Mr George K Chisanga, MP; Mr Chinga Miyutu, MP; Mr Edgar Sing'ombe, MP; Mr Anthony M Kasandwe, MP; Mr Mulenga F Fube, MP; Mr Monty Chinkuli, MP; Mr Lameck Hamwaata, MP; and Mr Jay E Banda, MP.

The Honourable Madam Speaker
National Assembly of Zambia
Parliament Buildings
LUSAKA

Madam

The Committee has the honour to present its Report for the First Session of the Thirteenth National Assembly.

2.0 FUNCTIONS OF THE COMMITTEE

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

3.0 PROGRAMME OF WORK

At the commencement of the First Session of the Thirteenth National Assembly, the Committee adopted the Programme of Work as set out below.

- (a) Consideration of the Action-Taken Report on the Report of the Committee for the Fifth Session of the Twelfth National Assembly;
- (b) Consideration of the topical issue "*The Growing Trend of Electoral Violence – A Human Rights Concern*";
- (c) Tours; and
- (d) Consideration and adoption of the draft Report.

4.0 MEETINGS OF THE COMMITTEE

The Committee held fourteen meetings during the year under review to consider the Action - Taken Report and receive submissions on the topical issue.

5.0 PROCEDURE ADOPTED BY THE COMMITTEE

The Committee requested for written memoranda from stakeholders on the topical issue under consideration and invited them to appear before it in order to make oral presentations and to clarify issues arising from the written submissions.

6.0 ARRANGEMENT OF THE REPORT

The Committee's Report is in two parts. Part I deals with the deliberations of the Committee on issues arising from the oral and written submissions by various stakeholders and local tour it undertook to Lusaka, Copperbelt and North-Western Provinces, as well as the Observations and Recommendations of the Committee. Part II outlines the Committee's recommendations following the consideration of the Action-Taken Report on the Report of the Committee for the Fifth Session of the Twelfth National Assembly.

PART I

CONSIDERATION OF TOPICAL ISSUE

THE GROWING TREND OF ELECTORAL VIOLENCE – A HUMAN RIGHTS CONCERN

7.0 Background

Elections played a critical role in any democratic dispensation. Zambia, being a multi-party democracy, presupposed that regular free and fair elections should be a normal occurrence. However, in recent times, Zambia had experienced unprecedented levels of electoral violence prior, during and post elections, including but not limited to threatening violence, malicious damage to property; vandalism, tearing or defacing of election materials; hate speech; cyber bullying; rivalry cadre clashes; and murder.

Electoral violence in Zambia had been on an upward trajectory with nearly every general, parliamentary and/or local government election experiencing violence. Examples include the 2016 post election violence reported in some parts of the country; the pre-election violence observed in the June, 2018 Parliamentary by-elections in Chilanga District of Lusaka Province; and the unparalleled incidences of violence experienced in Sesheke in Western Province in February, 2019, among others. The violent incidents escalated prior to the August, 2021 general elections, prompting the Electoral Commission of Zambia (ECZ) to suspend all political campaigns in Lusaka, Mpulungu, Namwala and Nakonde Districts, and for the military to be deployed to curb the violence.

Regrettably, electoral violence bred apathy which deprived citizens of their right to vote and/or to be elected in genuine, periodic elections. The right to vote was intrinsically linked to other human rights and freedoms such as the freedom of expression, association and movement, which were crucial to a meaningful electoral process. Electoral violence also negated democracy, justice and peace, which were at the core of democratic governments. The Committee, therefore, found it prudent to undertake the study with the view to urging political parties and other key stakeholders to take a strong position on electoral violence and root it out from the country's political space.

7.1 Specific Objectives

The study sought to achieve the specific objectives set out below.

1. Understand the legislative and regulatory framework addressing electoral violence.
2. Learn the causes of electoral violence in Zambia.
3. Understand the impact of electoral violence on human rights.
4. Appreciate the institutional mechanisms in place for addressing electoral violence in Zambia.
5. Appreciate the challenges, if any, in curbing electoral violence.
6. Make recommendations to the Executive.

7.2 Witnesses

The Committee received both written and oral submissions from the seventeen stakeholder institutions listed at Appendix II.

8.0 SUMMARY OF SUBMISSIONS BY STAKEHOLDERS

A summary of the submissions by the stakeholders who appeared before the Committee is presented below.

8.1 Legislative and Policy Framework

Stakeholders who appeared before the Committee stated that electoral violence was addressed in a plethora of national and international legal frameworks. At international level, Zambia was a State party to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African (Banjul) Charter on Human and People's Rights, and the African Charter on Democracy, Governance and Elections, among others. At national level, the legal framework was as stated below.

(a) The Constitution of Zambia

The Committee was informed that the Constitution of Zambia provided for the rights of all Zambian citizens to take part in peaceful, violence-free electoral atmospheres without fear of verbal, physical or electronic harassment, intimidation or attack. In particular, the Preamble in the Constitution was premised on the multicultural approach that sought to cultivate ethnic harmony among diverse ethnic groups in Zambia, thereby underscoring the fact that Zambia was a unitary, indivisible, multi ethnic, multi-racial, multi-religious, multi-cultural and multi-party democratic State. The Constitution, therefore, laid the foundation for propagating and consolidating ethnic harmony.

Stakeholders submitted that Article 8 of the Constitution outlined the national values and principles that were important in promoting ethnic cohesion. Specifically, Article 8(b) highlighted patriotism and national unity as important values for propagating ethnic harmony. Further, Article 23 prohibited discrimination of any citizen based on race, tribe and sex, place of origin or political opinion.

The Committee was further informed that Article 60(2)(a) and (b) conferred responsibility on political parties to promote and uphold national unity and have a national character while Article 60(3)(a) and (b) prohibited the formation of political parties on a religious, linguistic, racial, ethnic, tribal, gender, sectoral or provincial basis or engage in propaganda based on any of these factors. The Committee heard that this provision had not been adhered to by a number of political parties because most of them tended to attract support based on the ethnicity of the leader.

Stakeholders submitted that there was no dedicated institution or Act that operationalised the constitutional provisions on the regulation and management of political parties. The only institution that helped guide political parties was the Electoral Commission of Zambia (ECZ), but only on their participation in the electoral process. Stakeholders, therefore, recommended that legislation should be enacted to regulate political parties to include penalties for engaging in electoral violence.

The Committee was also informed that the Constitution established the Electoral Commission of Zambia under Article 229 (1) to implement the electoral process; conduct elections and referenda; register voters; settle minor disputes; as prescribed; regulate the conduct of voters and candidates; accredit observers and election agents, as prescribed; delimit electoral boundaries; and perform such other functions as prescribed.

(b) Electoral Commission Act, No. 25 of 2016

The Committee heard that the *Electoral Commission Act, No.25 of 2016* provided for the membership, functions, operations and financial management of the Electoral Commission of Zambia.

(c) Electoral Process Act, No. 35 of 2016 and the Code of Conduct

Stakeholders submitted that the *Electoral Process Act, No.35 of 2016* provided for a comprehensive process for conducting the electoral process by the Electoral Commission of Zambia. The Act criminalised corrupt practices and other illegal practices related to elections, provided for penalties, and empowered the Commission to make regulations in matters relating to elections to ensure that citizens were free to exercise their political rights and universal adult suffrage based on the equality of a vote. Section 110 of the *Electoral Process Act, No.35 of 2016* provided for the prescription and enforcement of the Code of Conduct.

The Code of Conduct governed elections and the electoral process. Under the Code, the Commission had the powers to reprimand a political party, candidate or stakeholder for any conduct in violation of the Code, report a breach of the Code to the Zambia Police Service, Anti-Corruption Commission and the Drug Enforcement Commission or any other relevant law enforcement agency, revoke the accreditation of election agents, polling agents, monitors, observers or the media and impose any administrative action on any person, candidate or political party for persistent breach of the Code.

The Committee heard that Rule 4(2) of the Code of Conduct prohibited all forms of political violence and gave an obligation to political parties, members and supporters as set out below.

A member or supporter of a political party or a candidate shall not—

- (a) use language which incites hatred or violence in any form against any person;

- (b) issue any pamphlet, newsletter, poster or other propaganda which contains materials that incite people to violence or rebellion;
- (c) deface, remove or destroy campaign materials of another political party or publications of the Commission;
- (d) disrupt another political party's rally, meeting, march or demonstration or seek to obstruct another person from attending a political rally of another political party;
- (e) continuously remain at a polling station during the campaign period or elections; and
- (f) wear any campaign materials within four hundred metres of the polling station on the polling day.

Further, Rule 4(3) provided for a fine not exceeding one hundred thousand penalty units or imprisonment not exceeding one year, or to both, as penalty when one contravened this law. Stakeholders further submitted that Rule 15 of the Code of Conduct prohibited violence during election campaigns and gave obligations to political parties and candidates during an election not to incite or cause violence. The Rule also provided for a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both, as penalty for contravening this law.

The Committee was further informed that section 113(1) of the *Electoral Process Act* gave the Commission the mandate to constitute Conflict Management Committees for the purposes of dealing with elections related conflicts. Other principles outlined in the Act included the secrecy of the vote, transparent, accurate and reliable vote counting procedure and proper management of invalid ballot papers; penalties for corrupt and other illegal practices related to election.

(d) The Penal Code Act, Chapter 87 of the Laws of Zambia

The meeting was informed that issuing threats by a member or members of one political party to a member or members of another political party amounted to the offence of threatening violence. The offence of threatening violence was provided for under section 90 of the *Penal Code Act, Chapter 87 of the Laws of Zambia*. The offence was created by threatening another person with an action that may cause injury to his or her person or property.

Section 199 of the *Penal Code Act* created the offence of manslaughter for any person who did not intend to murder another person, but whose acts or omission led to the death of the other person, while section 200 provided that a person that intended to kill and did an act that led to the death of another was guilty of murder.

Section 229 and 232 of the *Penal Code Act* provided for the offence of Grievous Bodily Harm for persons that caused permanent disfigurement to others and the offence of unlawful wounding for any person that stabbed another, caused cuts, piercings or lacerations in the body, respectively, while section 248 created an offence for persons who assaulted others Occasioning Actual Bodily Harm.

Stakeholders submitted that violence that caused damage to property constituted the offence of malicious damage, pursuant to section 335(1) of the *Penal Code Act*, while section 328(10)(a) provided for the offence of arson for any person or persons that damaged or destroyed another person's property or properties by setting such property or properties on fire. Section 70(1)(2) of the Act also provided for the offence of Hate Speech, whose ingredients were uttering words or

publishing any writing showing hatred or ridicule or contempt for any person or groups of persons and the utterance of hatred should be on the basis of the victim's race, tribe, place of origin or colour.

(e) The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

The Committee heard that section 26 of the *Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia* empowered a police officer to arrest persons reasonably suspected of committing or about to commit a cognisable offence, which included the common forms of electoral violence.

(f) Public Order Act, Chapter 113 of the Laws of Zambia

The Committee was informed that the *Public Order Act, Chapter 113 of the Laws of Zambia* was another notable legal framework that governed electoral violence in Zambia. The Act prohibited the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character. The Act further provided for the preservation of public order, and the enjoyment of freedom of assembly and association. Section 10(1) of the Act provided that any person, while present at any public meeting or on the occasion of any public process, had with him any lethal weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence. Other sections of the *Public Order Act* such as section 13(1) created the offence of Hate Speech with the elements of uttering any word or performing any act with intent to cause enmity between tribes or to encourage any person to do any act that defeated the purpose of any law.

Some stakeholders were, however, concerned with the selective application of the *Public Order Act, Chapter 113 of the Laws of Zambia* during election campaigns. They submitted that the Act had a lot of provisions which should be outlawed in order for the Act to operate effectively in a contemporary democratic dispensation such as Zambia. Further, the objects of the Act were very limited. In this regard, the Act presented a challenge for citizens to enjoy the freedoms espoused by the Constitution. The stakeholders informed the Committee that the *Public Order Act* allowed the Zambia Police Service to either deny the rights to assemble altogether or restricted them. In view of the forgoing, the stakeholders recommended that the Act should be repealed and replaced to conform to modern democracy. Other stakeholders submitted, however, that the *Public Order Act* was good law if fairly applied. They submitted that only part of the Act should be reviewed to make it conform to the contemporary democratic dispensation, and added that repealing the Act altogether would cause anarchy in the country.

(g) Cyber Security and Cyber Crime Act, No. 2 of 2021

It was submitted that the offence of Hate Speech was punishable under section 65 of the *Cyber Security and Cyber Crimes Act, No. 2 of 2021*. The ingredients of the offence were using a computer system such as phones and computers to transmit words or acts amounting to Hate Speech, doing so knowingly and without lawful excuse. The offender was liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or imprisonment for a period not exceeding two years, or both.

Stakeholders were of the view that many utterances during campaigns fell short of the offence of Hate Speech because they lacked the element of intent to cause enmity between tribes. The utterances also lacked the element of showing hatred against a tribal grouping and/or lacked the element of expressing such hatred on the ground of one belonging to a particular tribal grouping.

They, therefore, proposed that the law on Hate Speech be amended to include the prohibition of making utterances likely to accelerate regional voting patterns as prosecution was not guaranteed despite the increased utterances touching on tribal groupings, aimed at accelerating regional voting patterns.

8.2 Causes of Electoral Violence in Zambia

The Committee was informed that observations made by independent international election monitoring bodies such as the African Union Election Observation Mission, Carter Centre Expert Electoral Mission and the African Centre for the Constructive Resolution of Disputes, and the United Nations Development Project, were that electoral violence and its growing trend had been caused by a myriad of factors.

The Committee was informed that an independent conflict structural vulnerability assessment compiled in 2017, with the support of the United Nations Development Programme Support to the Electoral Cycle Project in Zambia, the Electoral Commission of Zambia and the National Conflict Management Committee highlighted militarisation of cadres, youth unemployment, regionalism, ethnic power politics, poverty and inequality as some of the causes of electoral violence. Other factors included the importation of political party cadres into other areas, especially during by-elections, intra-party electoral violence, and inadequate civic education. Further, the African Union Election Observer Mission's Final Report on the Presidential, Parliamentary and Local Government Elections for the August 12, 2021 elections reported that electoral violence continued to be fuelled by the factors set out hereunder.

1. Increase in hate speech and misinformation carried out by political party supporters during elections campaigns.
2. Restrictions placed on the activities of opposition political parties by state agencies and wide-spread misuse of state resources in favour of the ruling party, which created an unlevelled playing field, resulting in youth cadreism tactics being employed.
3. Low stakeholder confidence in the ability of the Electoral Commission of Zambia to conduct impartial and credible elections partly due to inadequate consultations and communication with stakeholders in the implementation of key electoral processes. For example, there were concerns raised over the accuracy and credibility of the new Voter Register, which resulted in stakeholders' call for an independent audit of the Voter Register to assess its comprehensiveness and accuracy. The Electoral Commission of Zambia's dismissal of the calls contributed to deep suspicions.
4. The selective application and lack of consistency in the enforcement of the *Public Order Act, Chapter 113 of the Laws of Zambia* by the Zambia Police Service and the Electoral Code of Conduct, respectively, and the Standard Operating Procedures (SOPs) of the Covid - 19 Guidelines.
5. The control and monopolisation of the media – The media was polarised with Hate Speech, misinformation and cyber-bullying message which were amplified through various media channels, including the internet.

8.3 Impact of Electoral Violence on Human Rights

Stakeholders submitted that electoral violence was the key cause of democratic instability. The trend not only jeopardised the long term viability of a country's democratisation process, but also future political culture. The violence had numerous and far-reaching consequences both for the voters, the broader political system, and citizens at large, including social and economic impact. Invariably, electoral violence had a direct bearing on individual and collective rights. According to Kabale Mukunto (2019) in his publication titled "*Electoral Violence and Young Party Cadres in Zambia*", the need to change political, economic, or cultural structures was what drove political disputes.

Stakeholders submitted that while the Republican Constitution endeavoured to ensure that elections were free from violence, it was evident that violence had continued to characterise elections in Zambia. The violence witnessed in the 2016 and 2021 general elections showed some disconnect between the rights protected by the Constitution and the actions of political players to further their interests.

The Committee heard that the impact of electoral violence had far-reaching effects on the lives of citizens. From the flouting of road traffic rules to the flagrant breach of the *Electoral Process Act* and the Code of Conduct, to the breach of the Penal Code, electoral violence caused a downward spiral in law and order and placed all human rights at risk. Especially worrying was the propensity of political party supporters to take on a militaristic outlook. Electoral violence was a direct violation of Article 21 of the Constitution of Zambia, which provided that except with his or her own consent, a person shall not be hindered in the enjoyment of his or her freedom of assembly and association, that was to say, his or her right to assemble freely and associate with other persons, and in particular to form or belong to any political party, trade union or other association for the protection of his interests.

Further, electoral violence directly curtailed the freedom of movement under Article 22 of the Constitution of Zambia. In the case of *Evans Kabamba v Elias Musonda and Electoral Commission Zambia 2021/HP/EP/001*, it was heard that in Chimbamilonga Constituency in the Nsama District of the Northern Province, on account of violence perpetrated by one group of people, police fired teargas canisters on Poll Day, which disturbed voters. This deprived voters of their freedom of movement and universal suffrage, as guaranteed under Article 45 (1)(a) and (b) of the Constitution.

Stakeholders submitted that wherever electoral violence was perpetrated, people were prevented from exercising their rights to vote. The violence had a direct bearing on voter apathy. An example that may illustrate this dent on democracy, was the Lusaka mayoral by-election held in 2018. From a total of 839,027 registered voters only 131,777, representing 15.88 percent, participated in the elections (Electoral Commission of Zambia, 2018). The low voter turnout was mainly attributed to widespread electoral violence which resulted in over 80 percent of the voters staying home, despite the Poll Day being declared a holiday.

In the case of *Chikonkolo Chilufya v Robert Kaela Kalimi 2021/HP/EP 022*, arson was reported in Mporokoso Constituency, where suspected cadres burned a motor vehicle which the petitioner used for her campaigns. The petitioner stated in her evidence that this act of arson, which took place amid threats of physical violence, physically and emotionally disoriented her, and brought

her campaign to an abrupt end. She was afraid to campaign on the ground and opted to remain at a lodge until Poll Day. This was an example of a situation where a candidate withdrew due to widespread fear and insecurity.

Other stakeholders indicated that many people shied away from political participation and lost trust in political institutions, which eroded their right to individual political participation, as enshrined in the Constitution. The stakeholders submitted that electoral violence suppressed voter turnout, thereby infringing on citizens' right to vote. The violence during the election of the Council Chairperson in Kaoma in 2019 was one such situation, which led to voter apathy as voters were too terrified to go and cast their vote.

8.4 Institutional Mechanisms in Place to Address Electoral Violence

The Committee was informed that it was imperative to note that electoral disputes were inherent to any electoral process and it was therefore important to develop effective administrative or legislative mechanisms to address electoral violence. Stakeholders submitted that key stakeholders in addressing electoral violence were the Electoral Commission of Zambia, the Ministry of Home Affairs and Internal Security, in particular the Zambia Police Service, and the Judiciary.

(i) The Electoral Commission of Zambia

The Committee was informed that the *Electoral Process Act, No.35 of 2016* had provisions that were aimed at addressing issues of electoral violence. Section 110 of the Act provided for the Electoral Code of Conduct, breach of which may result in disqualification of a party or a candidate. The Code of Conduct regulated the behaviour of all the election stakeholders such as candidates, agents, monitors, election officials, the media, and law enforcement agencies on how they must handle, conduct and carry themselves during elections. All election stakeholders were guided by the Code of Conduct. The Constitution stipulated that candidates and political parties must comply with the Electoral Code of Conduct. Regulation 15(1)(a) of the Electoral Code of Conduct stated as set out below.

"A person shall not –

cause violence or use any language or engage in any conduct which leads or is likely to lead to violence or intimidation during an election campaign or election"

Further, section 83 (1)(g) of the Electoral Process Act provides that:

“A person shall not directly or indirectly, by oneself or through any other person – (g) unlawfully prevent the holding of any political meeting, march, demonstration or other political event.”

The Committee was informed that the Electoral Commission of Zambia, during the just ended August 12, 2021 elections, employed some of the mechanisms within the law to address some of the reported cases of electoral-related violence. On 15th June, 2021, the Commission suspended, with immediate effect, all forms of political campaigns for some political parties in Lusaka, Mpulungu, Namwala and Nakonde districts due to escalating violence. In June 2021, the Electoral Commission of Zambia invoked its powers under the Electoral Code of Conduct and suspended individuals including an independent candidate in Sioma. The foregoing provisions

and cited examples showed that the law had mechanisms in place that proscribed violence, intimidation and similar conduct in the electoral process.

In the case of *Dean Masule v Kangombe 2019/CCZ/A002*, the Constitutional Court stated as follows:

“We, therefore, strongly urge the Electoral Commission of Zambia (ECZ) to take necessary steps to curb the worrying culture of electoral violence in the country. We take judicial notice that the ECZ has wide powers under the law to punish perpetrators of electoral violence, which include but not limited to disqualification of a political party in breach of the electoral code of conduct from taking part in an election. It’s time that such powers are invoked so as to preserve life, property, democratic values and principles.”

Further, section 113 of the *Electoral Process Act, No. 35 of 2016* provided for the establishment of Conflict Management Committees. A political party, voter or candidate could refer complaints to the Conflict Management Committees for breach of the Code of Conduct, including electoral violence. The Commission also referred some complaints it received to the Committees. Stakeholders were of the view that the Commission should replicate Conflict Management Committees at constituency, ward and branch levels to supplement the works of the Committees at national and district levels. This will ensure effective management of electoral conflicts.

(ii) Ministry of Home Affairs and Internal Security – Zambia Police Service

The Committee was informed that the Zambia Police Service, established under Article 193 of the Constitution, was charged with the responsibility of maintaining law, peace and order. In order to effectively and efficiently execute its mandate, especially in electoral violence, the Zambia Police Service had a duty to ensure that law and order at campaign meetings and processions was maintained. The Committee heard that police officers had the power to arrest individuals suspected of committing electoral-related offences during the campaign period or on Poll Day. Section 122 of the *Electoral Process (Amendment) Act, No. 35 of 2016* specifically provided that:

“(1) An officer may, during the campaign period and on polling day, enter any area, place and premises in which the officer reasonably believes there is being, or had been carried on, an activity that is an offence under this Act, except that an officer shall not enter into a private dwelling without the consent of the occupant or the authority of a court warrant.

(2) An officer may request any information from any person who appears to have custody or control of any material or thing which the officer reasonably believes is being used, or was intended to be used or is likely to be used, to commit an offence under this Act.

(3) An officer may seize or detain any material or thing where the officer has reasonable ground to believe that the material or thing is being used, was intended to be used or is likely to be used, to commit an offence under this Act.”

(iii) National Prosecutions Authority

Stakeholders submitted that electoral violence constituted a crime. In that regard, it should be investigated through the criminal justice system. The National Prosecutions Authority, therefore, was an important institutional mechanism for addressing electoral violence through prosecution of perpetrators so as to maintain the rule of law. Addressing electoral violence required a holistic

approach that resulted in the prosecution of offenders for the sake of accountability. The functions of the National Prosecution Authority, therefore, complemented the role of the Zambia Police Service. The lack of prosecution of perpetrators of electoral violence eroded the public trust in law enforcement agencies and the trust in the electoral process. There was, therefore, need to ensure efficiency in criminal investigations so that perpetrators of electoral violence were held accountable and convicted if it was found that they had abrogated the law. This was necessary to deter other would-be offenders.

(iv) The Judiciary

The Committee was informed that section 108(6) of the *Electoral Process Act, No. 35 of 2016* stipulated that where it appeared to the High Court or a tribunal upon the trial of an election petition that any corrupt practice or illegal practice had been committed by any person in connection with the election to which the election petition related, the High Court or tribunal shall, at the conclusion of the proceedings, prepare a report. The report prepared was required to be submitted to the Electoral Commission of Zambia and the Director of Public Prosecutions. Stakeholders expressed the concern that the hands of the courts were in effect in a strait jacket when matters pertaining to actively curbing electoral violence arose because its role was limited to rendering a report which was passed on to other law enforcement agencies. They added that the curbing of electoral violence was multisectoral and required the collaboration of all key stakeholders to take relevant action.

(v) Human Rights Commission

Article 230 of the *Constitution of Zambia, Chapter 1 of the Laws of Zambia, as amended by Act No. 2 of 2016* established the Human Rights Commission. The Commission investigated and reported on the observance of rights and freedoms and took necessary steps to secure appropriate redress where rights and freedoms were violated. Since electoral violence was a human rights violation, the Human Rights Commission, through its mandate, was an essential mechanism for addressing electoral violence.

(vi) Political Parties and Other Stakeholders

The Committee was informed that political parties and other stakeholders such as politicians and the general public played an important role in addressing electoral violence. The role played by political parties was an essential vehicle through which various human rights were actualised, and provided a platform for organised participation in governance. Stakeholders submitted, however, that the increased militarisation of political party cadres had contributed to electoral violence over the years. Political parties had a constitutional foundation, and therefore, were key in addressing the violence. Some stakeholders, however, called for the need to enact legislation that regulated political parties to include penalties for engaging in electoral violence.

(vii) Civil Society Organisations

The Committee was informed that civil society was an important institutional mechanism for addressing electoral violence. Both international and local civil society organisations (CSOs) were essential for providing accountability to political leaders, providing civic education to the general public, and actively being involved in sensitising the public on their rights. CSOs were also key in monitoring and reporting on the credibility processes prior, during and after elections.

(viii) Media

Stakeholders submitted that the media was mandated under Article 50 of the Constitution to provide coverage for political parties and candidates during elections. The provision was strengthened by paragraph 7 of the Electoral Process Code of Conduct where the media was obligated to give fair and balanced coverage to all political parties and candidates.

8.5 Challenges in Curbing Electoral Violence

The Committee was informed that despite the sufficient legal provisions to discourage electoral violence, socio-economic factors such as poverty, youth unemployment and illiteracy, which contributed to electoral violence, could not be mitigated by the law. Further, electoral violence stemmed from a lack of civic education.

Some stakeholders submitted that failure to identify perpetrators of electoral violence made perpetrators of this violence to act with impunity in most cases knowing very well that they could not be identified. It was difficult to locate imported unruly cadres when they committed an offence. This failure by state actors to act swiftly to punish perpetrators of violence posed a great challenge to curbing violence. Other stakeholders submitted that one major challenge was the manner in which the law was crafted. There was no strong emphasis on the human rights perspective. Other challenges were stated as set out below.

- (a) Lack of legal framework for the Electoral Commission of Zambia to investigate and prosecute perpetrators of electoral violence.
- (b) Lack of consistent enforcement of the *Electoral Process Act, No. 35 of 2016*.
- (c) Inefficient and ineffective collaboration among law enforcement agencies such as the Zambia Police Service, Anti-Corruption Commission and the Drug Enforcement Commission to effectively deal with electoral violence.
- (d) Institutionalism of cadreism in political parties.
- (e) Unfair application of laws such as the *Public Order Act, Chapter 113 of the Laws of Zambia* which govern the electoral process.
- (f) Political interference – this made it very difficult for institutions such as the Zambia Police to execute its mandate without fear or favour.
- (g) Polarisation of the media – Biased mainstream media institutions that gave the public propaganda instead of information to allow the public to make informed opinions and choices.
- (h) Lack of adherence to peace accords despite political parties signing them.
- (i) Low awareness levels of Conflict Management Committees.
- (j) Limited financing for the Committees which hampered their mandate to settle electoral disputes.

8.6 Recommendations on the Way Forward

The Committee was informed that there was need for the Government to put in place effective measures to prevent electoral violence. The specific measures set out below were proposed.

- (a) Revamp and enhance the indicator based grassroots Early Warning System in order to generate real time information which could be used by key stakeholders including the Electoral Commission and law enforcement agencies to prevent electoral violence.

- (b) Review the Electoral Process Act and Code of Conduct to include additional measures to prevent electoral violence.
- (c) Create an Electoral Fast Track Court to deal with electoral violence.
- (d) Enhance the capacity of the Electoral Commission of Zambia and the Zambia Police Service, including providing them with modern equipment for them to effectively enforce the Code of Conduct.
- (e) Enact legislation that regulated political parties to include penalties for engaging in electoral violence.
- (f) Strengthen the equality before the law principle by eliminating, in practice, the selective application of the *Public Order Act, Chapter 113 of the Laws of Zambia* by repealing and replacing the parts that that served to restrict or curb freedoms of assembly and association, both justiciable human rights.
- (g) Review the *Independent Broadcasting Authority Act, No.17 of 2002*, the Code of Practice required to be developed by broadcasters under the Act, and the Ethical Guidelines developed by the Independent Broadcasting Authority to ensure that they promoted balanced political coverage.
- (h) Electoral Commission of Zambia should replicate Conflict Management Committees at constituency, ward and branch levels to supplement the works of the Committees at national and district levels to effectively manage electoral conflicts.
- (i) Establish effective and efficient collaborative mechanisms between the Electoral Commission of Zambia and other institutions such as the Anti-Corruption Commission and the Zambia Police Service in order to gain greater coverage in the prevention of electoral violence.
- (j) Mobilise civil society organisations (CSOs), trade unions, religious and traditional leadership, and the media to play an active role in creating a secure electoral environment.
- (k) Develop plans and strategies to engage young people in politics and entrepreneurship activities that discourage violence related activities to earn a living.
- (l) Legislature should re-examine the offence of Hate Speech and make the necessary amendments to the provisions of section 70(1) of the *Penal Code, Chapter 87 of the Laws of Zambia* to expressly prohibit all forms of Hate Speech.
- (m) Political parties should take responsibility for the conduct and behaviour of their members and take appropriate action.
- (n) Political parties should use local structures to campaign and desist from importing cadres into areas where they do not reside.
- (o) Leaders of political parties should denounce members who are associated with violence.
- (p) Political parties should have capacity building programmes for their members, especially the youth on political education, ideology and tolerance for diversity during elections.
- (q) Churches and non-governmental organisations (NGOs) should promote non-violent environment and speak against all acts of violence, irrespective of their association with perpetrator.
- (r) Community, religious and traditional leaders should build networks in their communities to monitor acts of violence and come up with appropriate measures to prevent and manage conflicts.
- (s) CSOs and the media should create platforms where incidents of violence must be reported and the perpetrators named and shamed.

- (t) Enhance civic and voter education in the country and sensitisation of traditional leaders, police, political party leaders and party cadres on their role in conflict prevention and management. This would enhance the efficacy of grassroots conflict management and resolution.

9.0 LOCAL TOUR

9.1 Tour of Lusaka, Copperbelt and North- Western Province

In order to consolidate its findings on the growing trend of electoral violence from a human rights perspective, the Committee undertook a local tour to Lusaka, Copperbelt and North-Western Provinces. The local tour provided an opportunity to Members of the Committee to have first-hand knowledge about the growing trend of electoral violence in Zambia and its pervasive role.

During the tour, the Committee conducted business as follows:

9.1.2 Courtesy calls

The Committee paid courtesy calls on the following paid courtesy calls on the following:

- (a) Mr Elisha Matambo, Provincial Minister, Copperbelt Province;
- (b) Professor John Siame, Acting Vice Chancellor, Copperbelt University;
- (c) Dr (Rev) Anthony Fulwe, District Administrative Officer, North-Western Province;
- (d) Mrs Brenda Sankisa, District Commissioner, Kalumbila District; and
- (e) His Royal Highness, Chief Mumena of Kalumbila District.

9.1.3 Stakeholder Meetings and Public Hearings

The Committee also held stakeholder meetings and public hearing as follows:

Lusaka Province

- (a) Stakeholder meeting at Dag Hammarskjöld Institute for Peace and Conflict Studies, Copperbelt University – Lusaka Campus

Copperbelt Province

- (a) Stakeholder meetings at Dag Hammarskjöld Institute for Peace and Conflict Studies, Copperbelt University – Copperbelt University;
- (b) Public Hearing at Lowenthal Theatre Hall in Ndola; and
- (c) Stakeholder Meeting with Civil Society Organisations at the Copperbelt Health Education Project (CHEP) – Kitwe.

North-Western Province

- (a) Stakeholder Meeting with the North-Western Provincial Administration at the Solwezi Municipal Council Chamber; and
- (b) Public Hearing at North-Western University of Medicine, Kalumbila District.

The key findings of the Committee during its local tour are summarised below.

1. DAG HAMMARSKJÖLD INSTITUTE FOR PEACE AND CONFLICT STUDIES, COPPERBELT UNIVERSITY – LUSAKA CAMPUS

During the stakeholder meeting with the Dag Hammarskjöld Institute for Peace and Conflict Studies, Copperbelt University – Lusaka Campus, the Committee learnt that the Institute was created on 26th February, 2003 as Chair for peace, human rights and conflict management, to keep alive the memory of the late 2nd United Nations Secretary General, Dag Hammarskjöld, who was tragically killed in a plane crash on 18th September, 1961 in Chichele, Ndola, while on a peace mission to the Democratic Republic of Congo; and to enhance regional integration, as encapsulated in the United Nations Development Framework for Zambia, through strengthening Zambia’s capacity to contribute to regional peace, stability and cooperation.

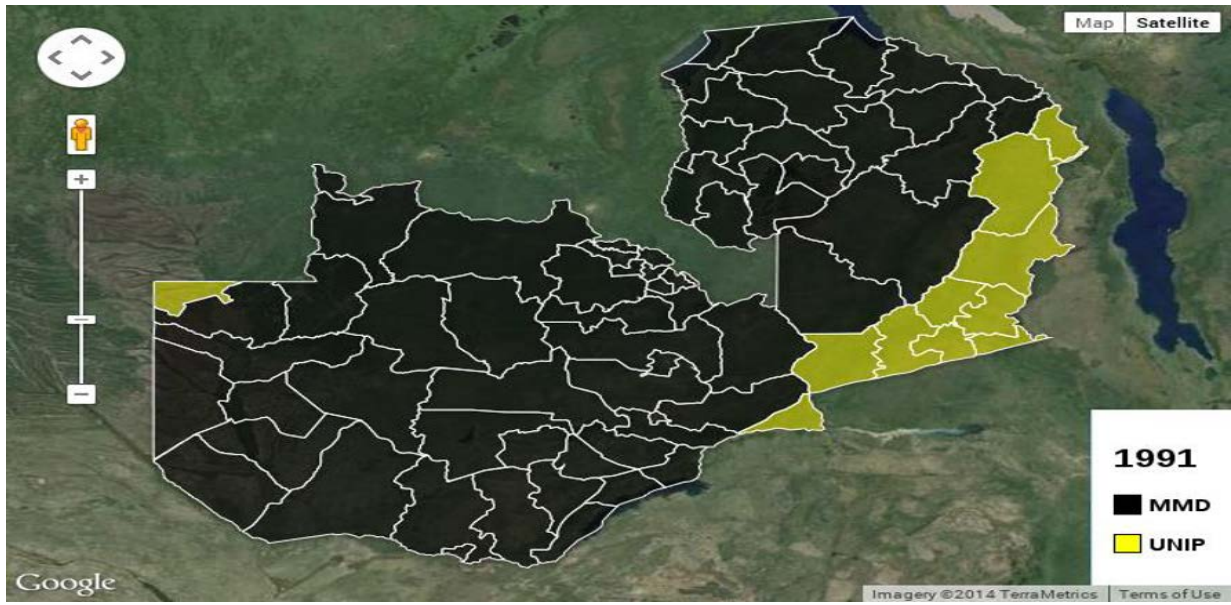
The Committee was informed that the mandate of the Institute involved conducting research, workshops, colloquiums and seminars in peace, conflict, human rights and governance; and also to offer degree programmes at three levels, namely; Bachelors in Peace and Conflict Studies; Masters in Peace and Conflict Studies; and Doctor of Philosophy (PhD) in Peace and Conflict Studies, by research. For PhD, the candidate chose a focus area of study in Environment, Sustainable Development and Peace, Human Rights, Governance and Peace Building, Human Security and Development, Defense and Security Management and Diplomacy and Strategic Studies.

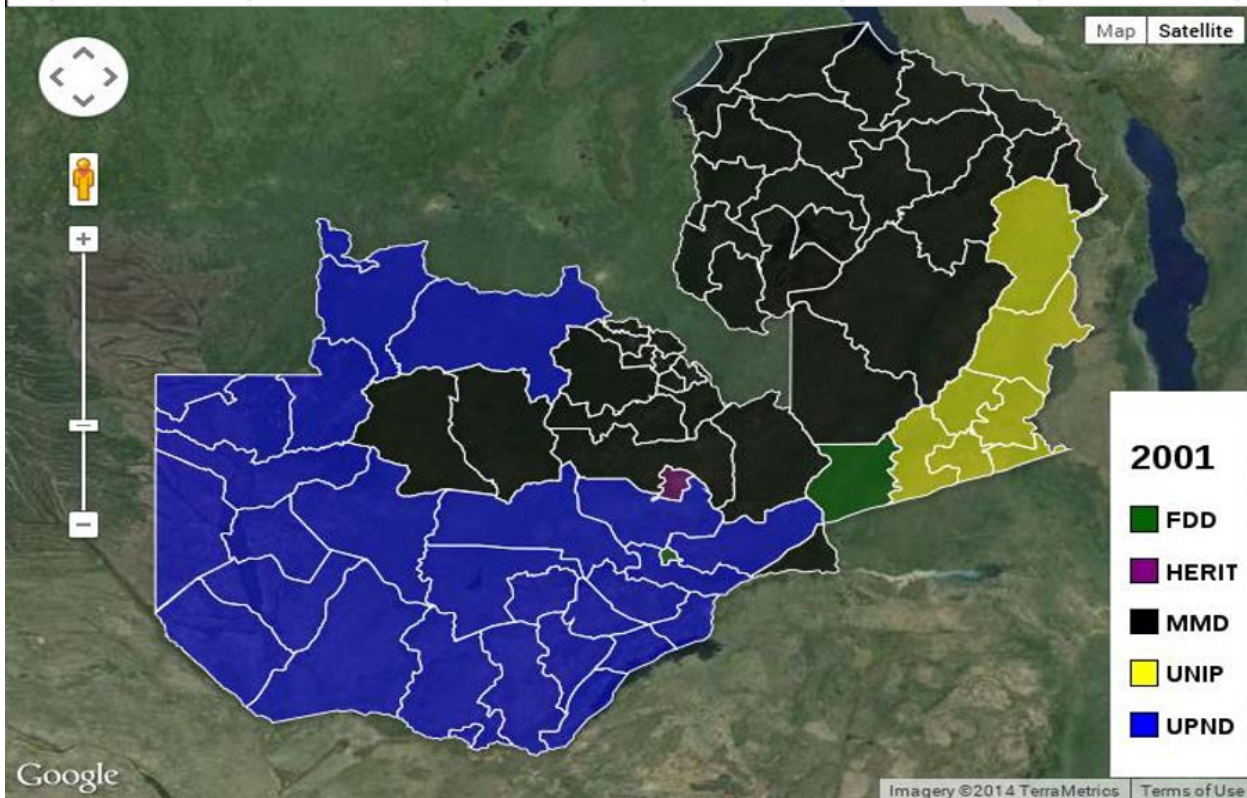
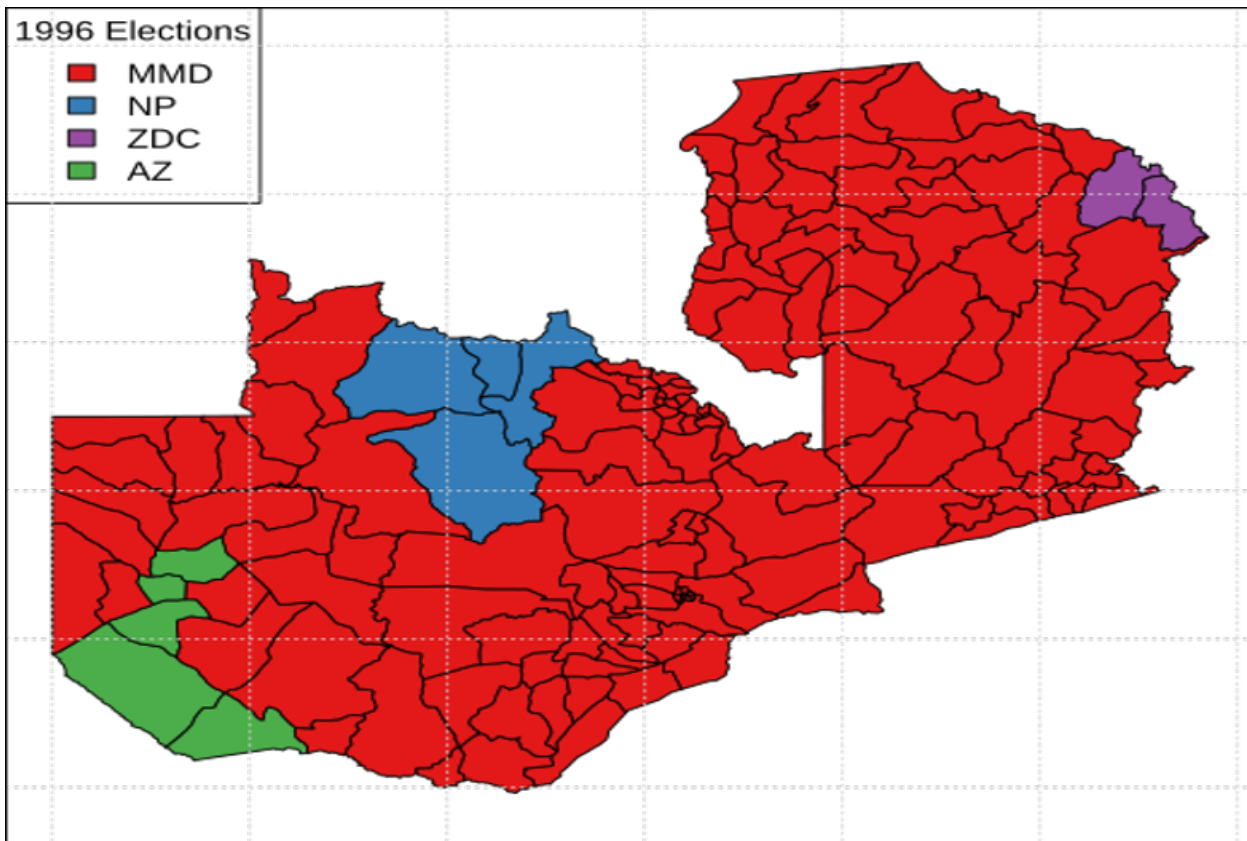
Other focus areas included community service and consultancy in human rights, democratic governance and peace building processes, policy research on various aspects of peace and security at national, regional and international level, DHIPS peace journal to publish research papers, conferences on matters of national, regional and international significance.

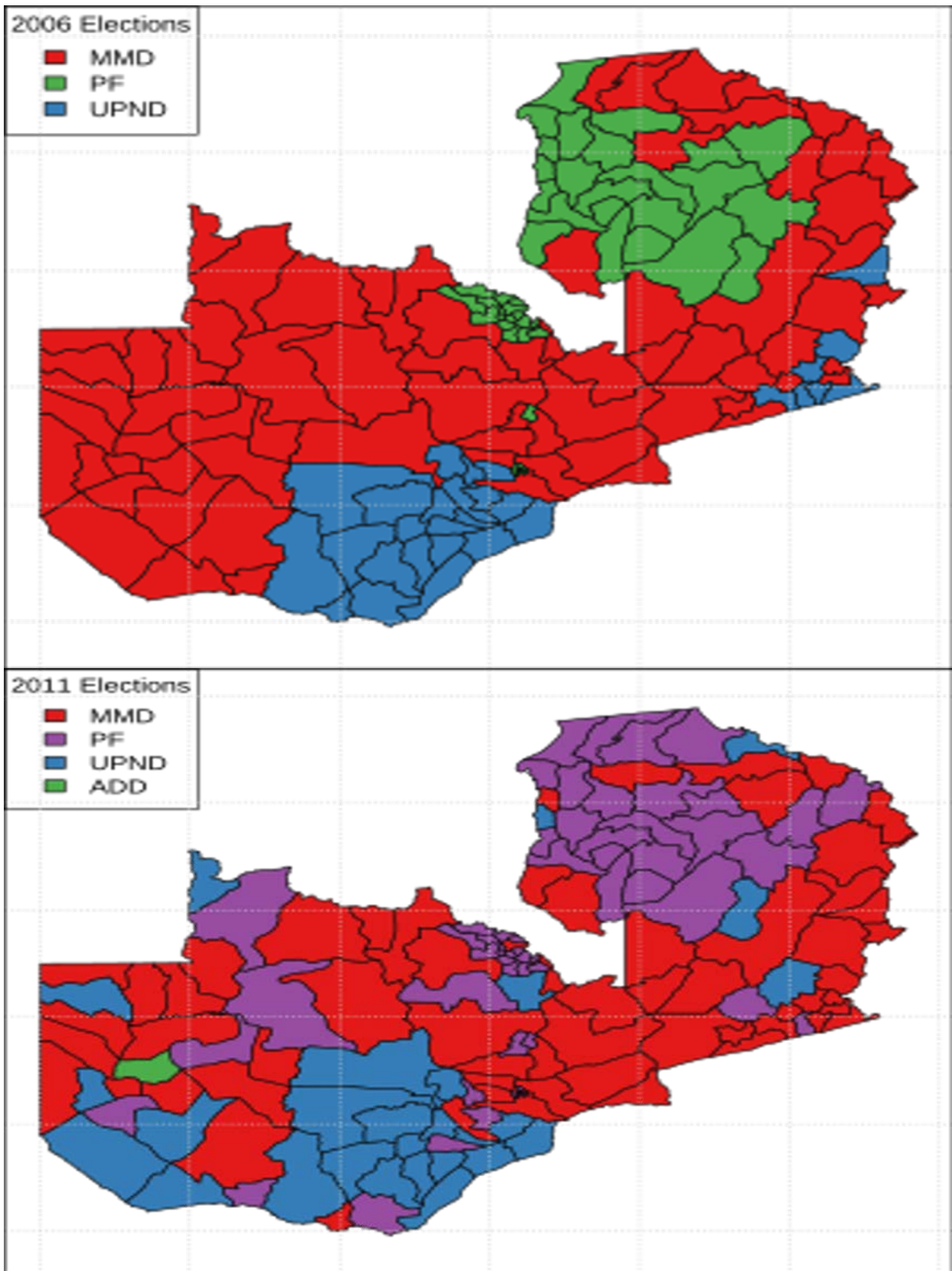
When making their presentation to the Committee on the topic under review, DHIPS indicated that electoral violence had for many years been used as a strategy for political mobilisation in Zambia. Electoral violence, which was an intentional use of force by people with a political purpose, was a human rights violation for some people. The violence manifested in various aspects such as violence against civilians or political rivals; violent demonstrations; human rights abuses, including killings, e.g genocide; and destruction of public and private property; violence based on ethnicity, geo-political power relations; and/or hate speech.

(a) Zambia’s Voting Pattern

The Committee was informed that Zambia was vulnerable to disintegration and polarisation as seen from the maps on its voting patterns for the period 1991 to 2021.

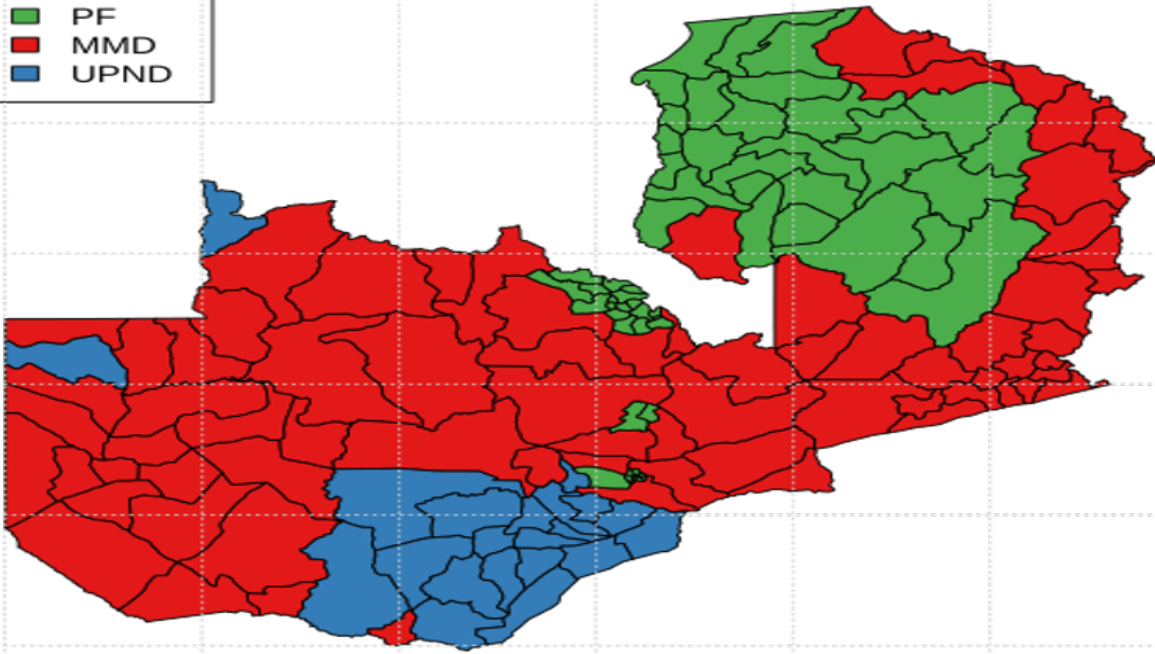






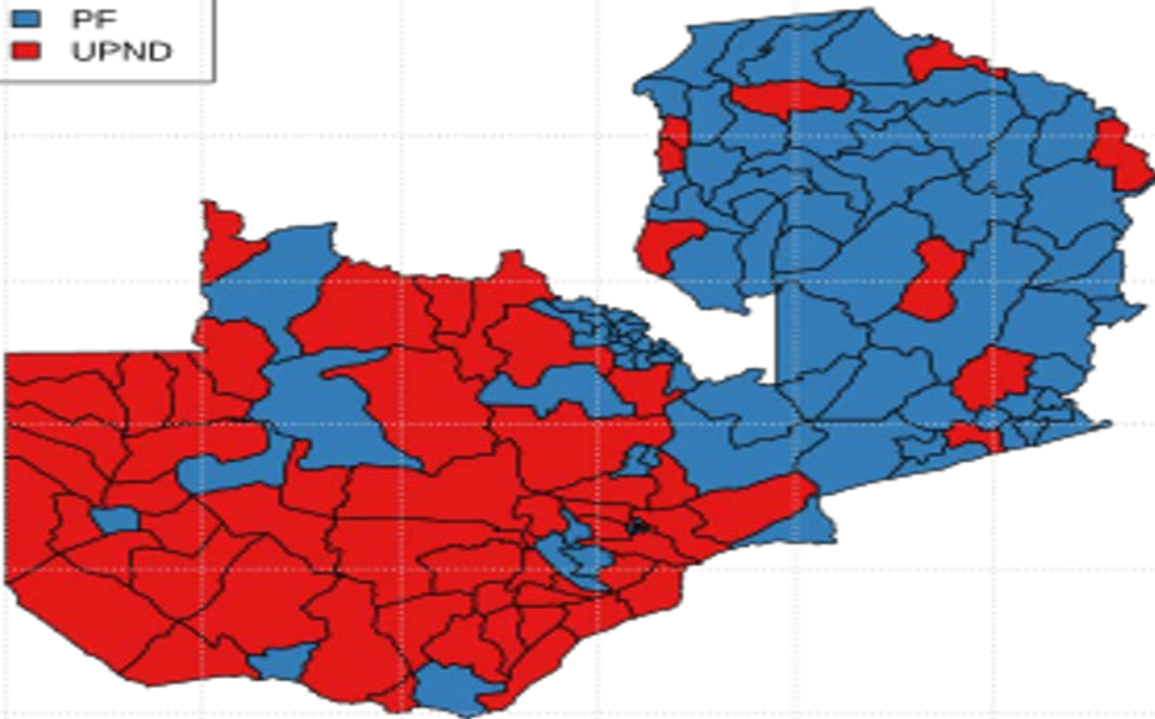
2008 Elections

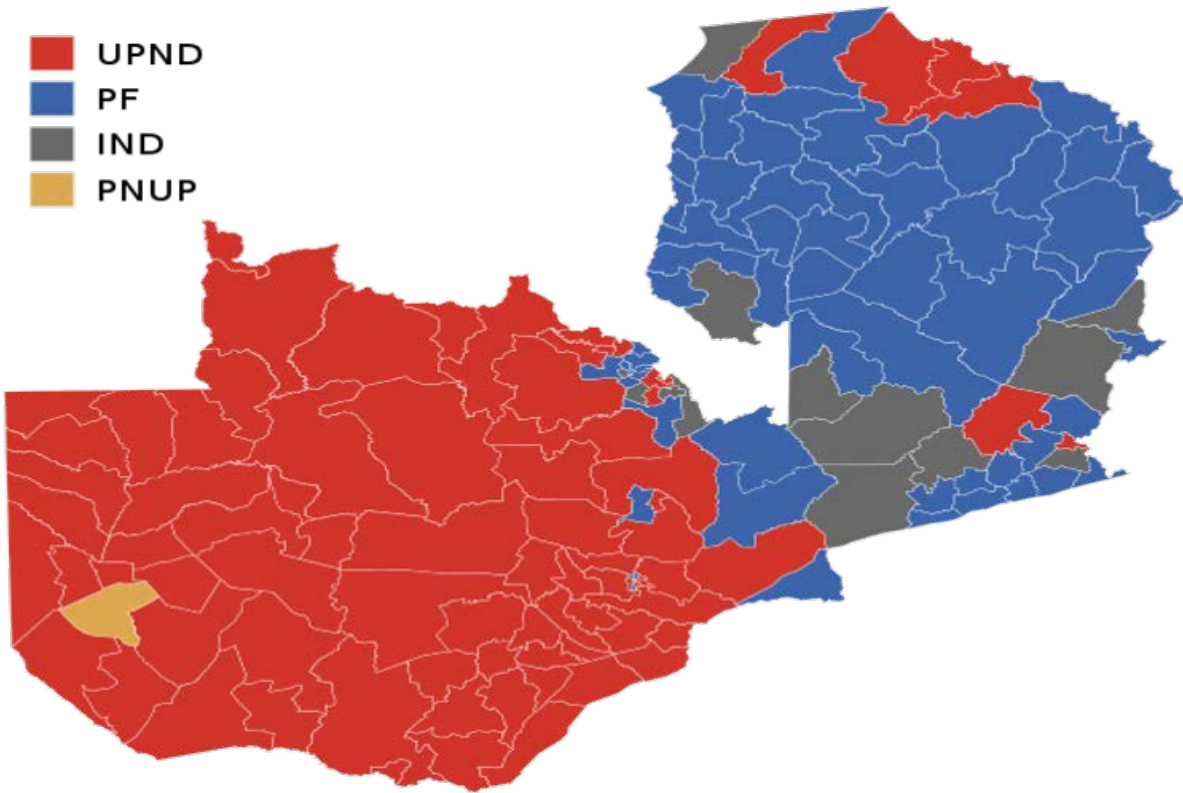
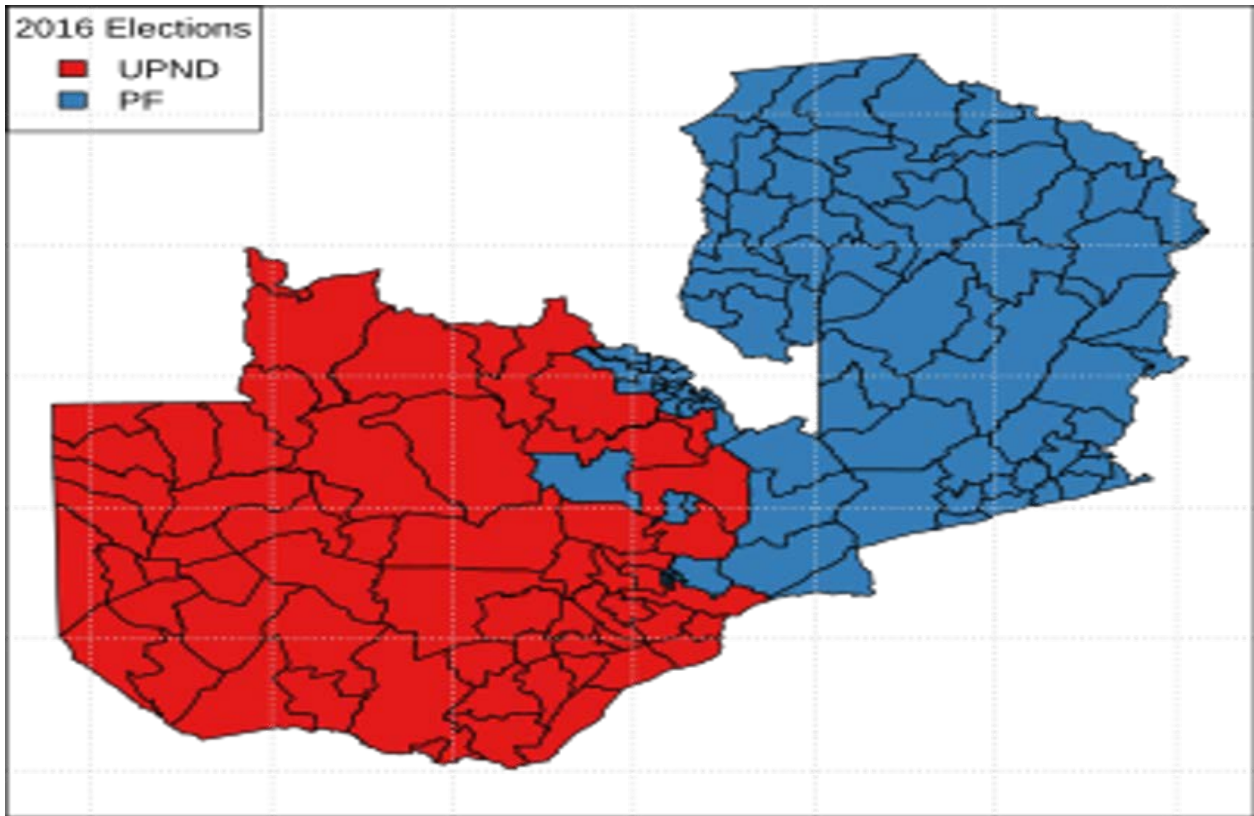
- PF
- MMD
- UPND



2015 Elections

- PF
- UPND





The Committee was informed that political and electoral violence was more pronounced during election years, with devastating impacts on ordinary citizens. The Committee heard that the 2011, 2015, 2016 and 2021 Presidential elections witnessed many incidents of political violence, which threatened the country’s democracy. It was submitted that electoral violence in Zambia was mostly sponsored by senior political elites, who took advantage of the unemployed young people to advance their political objectives. Examples cited included the violence that erupted in Mufumbwe in 2011; the 2016 killing of one opposition party supporter, Mapenzi Chibulo; the 2021 killing of two political party supporters in Kanyama during the campaigns and the gasing incidents of 2021.

The Committee was also informed that other concerns included the political use of state institutions; the unfair application of the *Public Order act, Chapter 113 of the Laws of Zambia*; the militarisation of political party cadres; and the practice of regional and ethnic politics. Table 1 below outlined the increase in percentage of political violence incidents from 2011 to 2021.

Table 1: Political Violence Incidents, 2011–2021

Item Description	YEAR					
	2012	2013	2014	2015	2016	2021
Reported incidents of political violence including molestation, violent intimidation, seizure of public property, disorder, party property vandalism, hate speech	6	10	28	44	99	328
	(%increase)	67%	180%	57%	125%	231%

(b) Reasons for Participating in Electoral Violence

The Committee heard that according to the research carried out by the Institute, young people participated in violence for the following reasons:

- i. economic gain so as to get paid instantly through the control of facilities such as markets, bus stations; among others;
- ii. political dominance in order to receive favours potential for business and job opportunities; and
- iii. social identity and protection.

(c) Early Warning, Early Response Project

The Committee was informed that the Early Warning, Early Response (EWER) Project, which used data collected by the United Nations Development Programme (UNDP) and the Human Rights Commission was launched on 1st July, 2021. Specifically, the project sought to identify early signs of possible violence; and assess risks of electoral violence; and responding to prevent and de-escalate political violence as intervention was more costly than prevention. The collection of data was done through Web-based EWER platform, which recorded 223 incidents, a dedicated SMS gateway, which received fifty-nine incidents and the HRC Toll Free line – 8181, where forty-six incidents were received.

The Committee was informed that the total number of incidents reported under the EWER Project was 328. Out of the 328 incidences of political violence reported, 215 were analysed and recommended for intervention. Lusaka, Copperbelt, Western and Northern Provinces were the top four hotspots with seventy-five, forty-four, forty-four and forty-three incidents, respectively. The categories of electoral violence included killings due to political clashes; physical assault between party cadres; destruction of campaign billboards and posters; violence against women in elections; destruction of property, both public and private; hate speech; regional and ethnic politics; and a gang culture for political intimidation.

(d) Impact of Electoral Violence on Human Rights

The Committee was informed that the implications of the electoral violence were many including, but not limited to –

- i. a drain on the national Treasury;
- ii. loss of human life;
- iii. destruction of vital infrastructure;
- iv. Low productivity from spill-over effects;
- v. escalated and deepened hatred among citizens;
- vi. cultivated ground for acts of genocide;
- vii. collapse governance institutions; and
- viii. contributed to failed states and state fragility.

(e) Suggestions on the Way Forward

The witness made the following recommendations:

- i. Members of Parliament, as the people’s representatives should undergo training in peace and conflict management upon assuming office;
- ii. there was need to promote conflict management journalism training;
- iii. there was need to enact a law that punished both the sponsor of political violence and the perpetrator;
- iv. peace and conflict studies should be integrated in the school curriculum; and
- v. reate a national agency to respond to conflict-related matters, similar to Disaster Management and Mitigation Unit (DMMU) initiative.

2. STAKEHOLDER MEETING AT THE DAG HAMMARSKJÖLD INSTITUTE FOR PEACE AND CONFLICT STUDIES, COPPERBELT UNIVERSITY

During the meeting with the Committee was informed that Electoral violence was “any random or organised act or threat to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, and influence an electoral process.”

(a) Pervasive Role of Electoral Violence in Zambian Politics

The Committee heard that electoral violence had been on the increase since 2001, and had become a central part of political competition, especially in urban and peri-urban areas. The increase in violence propelled the Electoral Commission of Zambia to establish Conflict Management Committees (CMCs) at national and district levels, which Committees had been ineffective in curbing electoral violence partly because they were not established at ward level,

where conflict originated. The Committee heard that violence had become a form of political mobilisation during elections. Thus, it intensified during elections.

(b) Impact of Electoral Violence in Zambia

The Committee was informed that electoral violence escalated violence in the country prior, during and post election. Other results included the following:

- (a) injury and death;
- (b) threatened peace and infringed human rights;
- (c) undermined democracy and its foundations;
- (d) shrunk the democratic space;
- (e) undermined voter choice;
- (f) depressed voter turnout;
- (g) disrupted territorial control;
- (h) built sentiments against the Government;
- (i) fractured ethnic relations;
- (j) undermined durable peace;
- (k) reduced credibility of the electoral process by undermining free and fair elections; and
- (l) built uncertainty in terms of political, economic and social governance.

The Committee heard that the 1992 election in Angola led to a ten year civil war. In the post-election violence of 2005, Ethiopia lost more 200 lives and there were thousands of arrests. In the 2007/2008 elections in Kenya, there were more than 1500 deaths and more than 660,000 displaced.

(c) Recommendations on the Way Forward

The Committee was informed that there was need to establish national and local mechanisms for resolving and curbing electoral related violence as set out below.

1. National mechanisms – Review the 2016 Republican Constitution; the Electoral Process Act, No. 35 of 2016; the Public Order Act, Chapter 113 of the Laws of Zambia; and the Penal Code Act, Chapter 87 of the Laws of Zambia.
2. Local initiatives – consulting and involving research institutions, civil society organisations (CSOs), non-governmental organisations (NGOs), traditional leadership, among others.
3. Blend local and national mechanisms in conflict management.
4. Establish Conflict Management Committees at ward level, where violence originated.
5. There should be enforcement of the legal framework with regard to electoral violence.

3. PUBLIC HEARING AT LOWENTHAL THEATRE HALL IN NDOLA

The Committee held a public hearing at Lowenthal Theatre Hall in Ndola. The public expressed sentiments as set out hereunder.

1. There was lack of enforcement of the law that provided for the punishment of perpetrators of electoral violence.

2. There was a lot of intolerance among political players, including the unwillingness to put up with opposing views, ideas and groups. Tolerance and even respect for the opponent was considered to be an important democratic norm which was central to liberal democracy. Political tolerance protected the right to express an unpopular opinion, and this was crucial to guaranteeing individual autonomy and equal rights.
3. The Government should initiate the enactment of laws that protected law enforcement officers, especially with respect to their tenure of office, as well as laws that criminalised intimidation of public officers to enable them uphold professionalism, integrity, accountability, confidentiality, impartiality, excellence, pro-activeness, teamwork and human rights, in the execution of their duties without fear of losing their jobs.
 - a. In the same vein, there should be no political interference in law enforcement to allow for professionalism. The police had been accused of lack of professionalism in the application of the *Public Order Act*, and several police officers who had attempted to act in a professional and impartial manner had found themselves transferred to hardship posts without any reasons given.
4. Socio-economic conditions that drove electoral violence such as unemployment and illiteracy should be addressed by putting in place deliberate measures for job creation and good quality education.
5. Political party cadres needed to be ideologically-oriented in ways that equipped them with a clear understanding of the objectives, vision and mission of their party. This was important for ensuring that they had the skill sets to explain their party's ideology and philosophy.
6. There was need for adequate training of cadres to ensure that they had the ability to convince potential members that belonging to their political party would be a better option than belonging to a rival political party.
7. Citizens should uphold national values and principles of governance as enshrined in Article 10(2) of the Constitution, as amended by Act, No.2 of 2016. While the process of upholding national values and principles started with the Government, it ended with citizens who should be seen to be practising such values and moralities. There should be mainstreaming of national values and principles in all spheres of society.
8. The Church and traditional leaders should be involved in the fight against electoral violence. More often than not, they were an afterthought.
9. Intensify civic and voter education at all levels, especially among the youth. The Electoral Commission of Zambia needed to be adequately funded to engage civil society organisations to carry out continuous sensitisation programmes countrywide.
10. The *Public Order Act, Chapter 113 of Laws of Zambia* should be amended to conform to the multipartism and the modern democratic dispensation that the country was in. The Act was good law but only when fairly applied.

11. Conflict Management Committees should be replicated at constituency, ward and branch levels to supplement the works of the Committees at national and district levels to ensure effective management of electoral conflicts.

4. STAKEHOLDER MEETING WITH CIVIL SOCIETY ORGANISATIONS AT THE COPPERBELT HEALTH EDUCATION PROJECT (CHEP) - KITWE

The Committee engaged civil society organisation on the topic under review and the following was the outcome:

1. Wearing and use of military-like attires by civilians should be strictly prohibited. Increased militarisation of political party cadres had contributed to electoral violence over the years. Political parties had a constitutional foundation, and therefore, were key in addressing the violence.
2. All political parties should demilitarise their cadres and avoid the transportation of cadres into other towns for the purposes of canvassing for votes. The local party structures and the members of all political parties should be empowered to conduct their own campaigns.
3. The Office of Inspector General of Police was the highest in the hierarchy of authority of the Zambia Police Service which commanded, superintended, directed and controlled the functions of the Zambia Police Service. The fact that the Inspector General of Police was a presidential appointee, who served at the pleasure of the appointing authority, had been identified as one of the causes of the lack of impartiality by the police in the application of the *Public Order Act*, which had contributed to the uneven level of the political playing field among contestants and served to fuel electoral violence.
4. Hence, it was imperative, in practice, to eliminate the selective application of the *Public Order Act, Chapter 113 of the Laws of Zambia* by repealing and replacing the parts that served to restrict or curb freedoms of assembly and association.
5. Increase the budgetary allocation to the Electoral Commission of Zambia so as to intensify continuous civic and voter education. This was cardinal, at all levels, especially among the youth countywide, through civil society organisations (CSOs), as agents of change. Further, the period for voter education should be increased to six months in an election year.
6. Police should also refrain from disrupting any campaigns, rally or meeting which was legally convened by any political party especially by using force, and when administering the *Public Order Act*.
7. Political party registration should be based on political ideologies. Political party cadres needed to be ideologically-oriented in ways that equipped them with a clear understanding of the objectives, vision and mission of their party. Party registration should simply not be based on 100 supporters.

8. There was need to criminalise tribal remarks during campaign period – Stakeholders expressed concern at the continued issuance of tribal remarks by politicians as they jostled for support. Such utterances amounted to discrimination under the Constitution and had the effect of increasing the political tensions in the country.
9. Fast track courts should be created to address electoral violence and other election illegalities during general elections.
10. Security at polling stations should be enhanced. One stakeholder who was a returning officer in the August, 2021 general elections submitted that voting took place inside a tent which was pitched opposite a bar where people were drinking alcohol. Needless to say that the officers were threatened with violence.
11. There was need to heighten and intensify public awareness on the pervasive role of electoral violence. People should adhere to the Electoral Code of Conduct and punishment meted on those abrogating the law.
12. National Assembly of Zambia should allow citizens countrywide to participate in the legislative process through virtual platforms.
13. People in markets and bus stations who belonged to different political parties should be free to trade and operate therein without intimidation.
14. Ferrying of weapon-wielding cadres from one region to another to go and campaign for their political parties in areas where by-elections were taking place should be prohibited.
15. Campaign messages of political parties should be aired equitably on the public radio and television. In the same vein, during campaigns, there should be presidential debates on national issues at sub-national and national levels, and not politics of character assassinations.

5. STAKEHOLDER MEETING WITH THE NORTH-WESTERN PROVINCIAL ADMINISTRATION AT THE SOLWEZI MUNICIPAL COUNCIL CHAMBER

During a stakeholder meeting with the North-Western Provincial Administration at the Solwezi Municipal Council Chamber, the following sentiments were expressed:

1. Voter education was only done for a short period. The undertaking should be continuous, especially in an election year. In this same vein, there is need for continuous registration of voters.
2. There was unfair application of the *Public Order Act, Chapter 113 of the Laws of Zambia*, which was a good law. This put law enforcement officers in an awkward position, particularly with regard to presidential campaigns. Stakeholders submitted that it was possible to have contesting presidential candidates in the same province or area. Pronouncements such as “this is a no-go area” for a certain candidate or political party fuelled the violence.

3. Ferrying cadres should be prohibited to allow people in one area to exercise their free will and judgment in choosing a candidate of their choice without the influence of outsiders. Imported political cadres were known for instigating violence. In most cases, it was these “imported” cadres who were weapon-wielding.
4. There should be a law to criminalise hate speech. In the same vein, hate speech should be defined to make it easier to enforce the law where an individual vilified, humiliated or incited hatred against a group or class of persons on the basis of race, religion, ethnicity or national origin.
5. Stakeholders called for the ban of political party regalia during election campaigns. Party regalia such as t-shirts, caps and other clothing materials should be banned from being used as campaign tools during elections because they were a major contributing factor to electoral violence.
6. The Electoral Commission of Zambia should employ more staff to manage the electoral process. In particular, the Commission should carry out massive sensitisations countrywide to educate and adequately inform the general populace on the pervasive role of electoral violence. For example, there was need to sensitise the general populace on what democracy was. Most people did not understand that democracy meant free will and choice. There was no room, therefore, for cohesion in a democratic dispensation.
7. Campaign messages should be based on political ideologies and party manifestos. Politicians should desist from castigating competitors. Political party cadres needed to be ideologically-oriented in ways that equipped them with a clear understanding of the objectives, vision and mission of their party.
8. Stakeholders submitted that the permit to campaign should be given by the Electoral Commission of Zambia and not the Zambia Police Service.
9. Printing of Ballot papers should be done in Zambia. This would install confidence in the general populace. Aside from this, it would be cheaper to print them in Zambia than outside the country.
10. The Government should consider online voting or electronic voting system, which was the use of modern technologies in the process of marking or casting a vote during elections. This would expedite the counting of ballots, reduce the cost of paying staff and improved accessibility for persons with disabilities. This way, results could be reported and published faster, and the transmission of results to the totalling centre, which heightened tensions because it took long, would be averted.
11. There should be the depoliticisation of the civil service to create a level playing field in the interest of neutrality, harmony, integrity and development of the Civil Service.

6. SUBMISSION BY HIS ROYAL HIGHNESS DR CHIEF MUMENA OF KALUMBILA DISTRICT

His Royal Highness Dr Chief Mumena of Kalumbila District informed the Committee that tribalism caused electoral violence. He submitted that instead of tribes, clans should be promoted in Zambia because Zambians would be brothers' keeper. A culture of clanship was a family-like or tribe-like type of corporate environment that emphasised consensus and commonality of goals and values. Clan culture was the most collaborative and least competitive. His Royal Highness indicated that national values and principles should be mainstreamed in all social, cultural, economic and political spheres.

Further, he informed the Committee that grassroot poverty was one of the causes of electoral violence and that to combat the vice, electoral laws meant to govern the electoral process such the *Public Order Act* or the Electoral Process Act should not be applied selectively. He concluded that there was need for continuous voter education in the communities, especially chiefdoms, and not just during campaigns.

7. PUBLIC HEARING AT NORTH-WESTERN UNIVERSITY OF MEDICINE, KALUMBILA DISTRICT

During the public hearing at North-Western University of Medicine in Kalumbila District, the Committee took note of the following sentiments.

1. There was need to sensitise the general populace on the meaning of democracy. People should have free will and judgment to choose a candidate of their choice. There should be no cohesion. There was a lot of intimidation by contesting candidates which influenced the voting pattern. Often times, there were even threats of not bringing development to that particular region if a particular candidate was not voted for.
2. The process of selecting the Chairperson of the Electoral Commission of Zambia should be revised. The Chairperson should not be a presidential appointee. ECZ and some other independent entity should appoint the Chairperson of the Commission for autonomy and independence.
3. Issuance of National Registration cards/Voter registration was problematic in the District which sometimes resulted in some people being disenfranchised. In that regard, there was need to divide district into two, namely; Kalumbila and Lumwana Districts. This would also accelerate development of the area.
4. ECZ should be adequately funded to enable it carry our continuous voter education countrywide. The undertaking should be intensified at all levels, especially among the youths countywide. Ignorance tended to cause violence.
5. Ferrying cadres should be prohibited to allow people in one area to exercise their free will and judgment in choosing a candidate of their choice without the influence of outsiders. Cadres that were imported into other regions had no qualms about hurting the next person.

6. Poverty fuelled electoral violence. In this regard, the adverse socio-economic conditions such as unemployment and illiteracy, which drove electoral violence should be addressed. Deliberate measures should be put in place for the inclusion of the youth in meaningful socio-economic and political processes and decision-making. By pushing the youth into a productive space, they would be able to generate income for the country.
7. Tribalism: Leaders were in the forefront of advancing tribalism causing the other tribe to rise in a quest to defend their leader. It was an “*us versus them*” mentality. Political tribalism was about identities and rooted deeply in emotions. This was why political arguments often degenerated into outrage and animosity. People felt that their identities were under threat when their political leaders were attacked.
8. The elderly and the persons with disabilities should have improved access to polling stations and booths. Due to inaccessibility of these structures, the elderly and persons with disabilities were denied their right to vote which increased political tensions.
9. Biased media coverage caused political tension. There must be self-regulation of the media backed by law.
10. Political party regalia during election campaigns should be banned. Party regalia such as t-shirts, caps and other clothing materials should be banned from being used as campaign tools during elections because they were a major contributing factor to electoral violence.

10.0 COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS

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

1. The Committee is aware that electoral violence undermines civil and political rights as espoused in the Constitution. While the Constitution endeavours to ensure that elections are free and fair from violence, it is evident from the 2016 and 2021 general and parliamentary elections that electoral violence has continued to characterise elections in Zambia, with a far-reaching effect on the lives of the Zambian people. The Committee, therefore, strongly denounces electoral violence in any form in Zambia.
2. The Committee observes that conflict may always arise where there is competition for public office. The Committee is of the view that election-related violence can be prevented with the development of an early warning and prevention system whose measures can include collection, analysis and dissemination of information on various aspects of a conflict, including root causes, triggers, and factors that perpetuate electoral violence. The Committee, therefore, recommends that the Government creates an Early Warning, Early Response (EWER) mechanism to minimise the impact of electoral violence and formulate clear and actionable intervention options for conflict prevention and management.
3. The Committee notes that one of the mandates of the Electoral Commission of Zambia is to manage and resolve electoral conflicts in a prudent and timely manner, with a view of achieving peaceful elections and mutual resolutions through mediation of conflicts that arise in the electoral process, pursuant to section 113 of the *Electoral Process Act, No. 35*

of 2016. The Committee is of the view that the Government should progressively create these Conflict Management Committees at branch, ward and constituency level, where violence originally erupts. The Committee, therefore, recommends that Conflict Management Committees should be replicated at branch, ward and constituency level to supplement the work of Conflict Management Committees at national and district level to effectively manage electoral conflicts.

In the same vein, the Committees can utilise the Early Warning Early Response system to report any indication of electoral violence to avert the costly measure of intervention.

4. The Committee observes that laws governing elections in Zambia are adequate. The key pieces of legislation including the Constitution and the *Electoral Process Act, No. 35 of 2016*, as amended by Act No. 32 of 2021, provide a reasonable basis to conduct free and fair democratic elections. The Committee, however, is concerned about the lack of enforcement of the legal framework by law enforcement agencies. The Committee, therefore, urges the Executive to enhance the enforcement of the legal framework that governs elections by establishing effective and efficient collaborative mechanisms between the Electoral Commission of Zambia, and the law enforcement agencies.
5. The Committee agrees with stakeholders that youth unemployment and poverty are some of the causes of electoral violence. The Committee is proud, however, to state that Zambia is a nation of energetic, innovative and versatile young men and women who make up over 60 percent of the population. The Committee is of the view that by pushing the youth into a productive space, they would be able to stay away from vices such as electoral violence. The Committee, therefore, urges the Government to address the socio-economic conditions that drive electoral violence, and recommends that the Government put in place deliberate measures for the inclusion of the youth in national internship and apprenticeship programmes, and meaningful socio-economic and political processes and decision-making.
6. The Committee observes that one of the factors that cause electoral violence, as observed by the African Union Election Observer Mission Final Report on the Presidential, Parliamentary and Local Government elections for the August 12, 2021 elections, is intra-party electoral violence. The Committee also observes that Article 60 of the Constitution provides for political parties to promote values and principles as specified in the Constitution, and promote and uphold national unity and not engage in or encourage violence or intimidate its members, supporters or opponents or other persons.

The Committee is of the view that enactment of legislation to regulate, manage and provide penalties for engaging in electoral violence help political parties to promote constitutional values and principles and disseminate information on political ideologies and build tolerance for diversity during elections. The Committee, therefore, recommends that legislation as provided in Article 60 of the Republican Constitution to regulate political parties.

7. The Committee is aware that civil society is an important institutional mechanism for addressing electoral violence through the provision of voter and civic education and sensitisation to the general populace. Further, civil society is key in monitoring and

reporting on the credibility of the electoral process, prior, during and on Poll Day. In this regard, the Committee recommends that the Government should enhance networks with civil society in communities to monitor acts of violence and create platforms where incidents of violence should be reported.

Further, the Committee urges the Executive to work closely with civil society to enhance civic and voter education in the country and to continuously sensitise law enforcement agencies, traditional leaders, the Church, political party leaders and party cadres on their role in conflict prevention, management and resolution.

8. The Committee is aware that law enforcement officers, such as police officers work and operate under very difficult conditions due to various challenges. This situation is worsened during elections. The Committee, therefore, recommends the enactment of laws that protect law enforcement officers, especially with respect to their tenure of office, and laws that criminalise intimidation of police officers to enable them uphold professionalism, integrity, accountability, confidentiality, impartiality, excellence, pro-activeness, teamwork and human rights, in the execution of their duties without fear of losing their jobs.
9. The Committee notes with great concern that the media, which is the primary means through which public opinion is shaped, is polarised and used as a channel to promote hate speech, misinformation and cyber-bullying. The Committee is of the view that the media has an extremely significant impact on the public's views. In this regard, it should not be controlled and monopolised. The Committee, therefore, recommends that media organisations should comply with the Code of Professional Standards provided under section 33 of the *Independent Broadcasting Authority Act, No. 17 of 2002* to ensure balanced coverage and other ethical reporting standards such as fact-checking systems to combat misinformation, especially with regard to elections.

The Committee further recommends that section 70(1)(2) of the *Penal Code Act, No. 87 of the Laws of Zambia* which provides for expressing or showing hatred, ridicule or contempt for persons because of race, tribe, place of origin or colour should be amended to include hate speech. The amendment should also make necessary provisions to forbid any tribal remarks during elections.

10. The Committee is of the view that there is need to develop a framework to help respond to and manage conflict before it escalates into violence. In this regard, an entity could be in place to capture early warning signals and help keep violence and human rights violators out of the political space. The Committee, therefore, recommends that a national peace Architecture or national agency to respond to conflict-related matters, similar to the Disaster Management and Mitigation Unit (DMMU), be established to identify structural vulnerabilities and put in place mitigation measures as well as guide on how to resolve and prevent conflicts.
11. The Committee observes that voter and civic education is cardinal in averting electoral conflicts in the electoral process. There is need to sensitise the general populace on the meaning of democracy and for people to have free will and judgment in choosing a candidate. The Committee, therefore, recommends that the Government increase the

budgetary allocation to the Electoral Commission of Zambia so that it can intensify civic and voter education on a continuous basis, especially among the youth countrywide. Further, the Committee recommends that the period for voter education be increased to six months, in an election year.

12. The Committee notes that electoral violence can be averted with the implementation of an online voting or electronic voting system. This way, results could be reported and published faster, and the transmission of results to the totalling centre, which heighten tensions, can be quicker. The Committee, therefore, recommends that the Government should expedite the implementation of the online voting or electronic voting system, to among others, speed up the counting of ballots, reduce the cost of paying staff and improve accessibility for persons with disabilities, and more importantly, reduce on electoral conflicts on Poll Day.

PART II

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE, GENDER MATTERS AND GOVERNANCE FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

11.0 REVIEW OF THE OPERATIONS OF THE LANDS TRIBUNAL

11.1 Employment of Members of the Lands Tribunal on Part-Time Basis

The previous Committee had noted with concern that all members of the Lands Tribunal, apart from the Registrar, were employed on part-time basis. The previous Committee had recommended that the members of the Lands Tribunal should be employed on full-time basis so that they could be available to hear and determine matters in a timely manner.

Executive's Response

It was reported in the Action-Taken Report that the *Lands Tribunal Act, No. 39 of 2010* was undergoing review, and one of the proposed amendments was to have the Chairperson and the Deputy Chairperson employed on full-time basis. It was further reported that the Chairperson and Deputy Chairperson of the Tribunal were the ones responsible for presiding over cases and delivery of Judgment, and it was not sustainable to have them on part-time basis in view of the increasing volume of land disputes. Therefore, having the Chairperson and Deputy Chairperson on full-time basis would ensure that matters were attended to expeditiously, and further ensure speedy delivery of Judgments.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report on the amendment of the *Lands Tribunal Act, No. 39 of 2010* to provide for the employment of the Chairperson and Deputy Chairperson of the Lands Tribunal on full-time basis.

11.2 Appointment of Members of the Lands Tribunal by the Minister Responsible for Lands and Natural Resources

The previous Committee had observed that section 5(1) of the *Lands Tribunal Act, No. 39 of 2010*, provided for the appointment of members of the Lands Tribunal by the Minister responsible for Lands and Natural Resources, and recommended that for consistency and predictability, all members of the Lands Tribunal should be appointed by the Judicial Service Commission on permanent basis.

Executive's Response

It was stated in the Action-Taken Report that the appointment of the members of the Lands Tribunal by the Minister responsible for Lands and Natural Resources had worked very well and had had no serious challenges. It was reported, however, that the proposal to have the members of the Tribunal appointed by the Judicial Service Commission was a welcome move that would be considered further, and possibly included as an amendment to the *Lands Tribunal Act, No. 39 of 2010*.

Committee's Observations and Recommendations

The Committee reiterates that a rigorous and independent appointment process of the members of the Lands Tribunal will enhance public confidence in the Tribunal. The Committee, however, notes the response by the Executive, and resolves to await a progress report on the matter.

11.3 Staffing Levels at the Lands Tribunal

The previous Committee had noted with concern the low staffing levels at the Lands Tribunal. In particular, the Committee was concerned that out of the six staff in the employ of the Tribunal, only the Registrar heard and determined interlocutory applications. The previous Committee implored the appointing authority to ensure that more competent members of staff were appointed to hear and determine interlocutory applications.

Executive's Response

It was reported in the Action-Taken Report that one of the positions that shall be created in the Tribunal establishment was that of Deputy Registrar. The Deputy Registrar would be a legal practitioner and would assist the Registrar with determining interlocutory applications and the day to day administrative operations of the Lands Tribunal.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report with regard to the creation of the position and employment of the Deputy Registrar at the Lands Tribunal.

11.4 Lack of Employment of Technical Staff

The previous Committee had further recommended the employment of more technical staff such as court marshals, court reporters and legal researchers and interpreters on full-time basis for the effective running of the Tribunal Secretariat.

Executive's Response

It was reported in the Action-Taken Report that a provision would be included in the *Lands Tribunal Act, No. 39 of 2010* amendment to increase staffing levels by the appointment of court reporters, Marshalls, interpreters and researchers. It was also reported that this would greatly contribute to the efficiency and effectiveness of the Tribunal as these technical staff, who were outsourced from the High Court, were essential to the operations of the Tribunal.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report with regard to the amendment of the Act and the employment of technical staff at the Lands Tribunal.

11.5 Non-Visibility of Lands Tribunal in Other Parts of the Country

The previous Committee had noted with concern that the Lands Tribunal only had presence in Lusaka. The Committee had urged the Government to ensure that the operations of the Tribunal were decentralised so as to achieve its intended purpose and objective of adjudicating over land disputes countrywide in a speedy, flexible, efficient and cost-effective manner.

Executive's Response

It was acknowledged in the Action-Taken Report that the Lands Tribunal only had offices in Lusaka. It was, however, stated that section 10(4) of the *Lands Tribunal Act, No. 39 of 2010* mandated the Tribunal to circuit and hear matters in any part of the Country. It was further reported that the Tribunal conducted circuit sessions as and when finances allowed. The increase in the budgetary allocation of the Tribunal, therefore, would allow the Tribunal to conduct more circuit sessions.

Furthermore, there was a provision in the proposed amendment to the *Lands Tribunal Act, No. 39 of 2010* to decentralise the Lands Tribunal by the creation of registries in provincial headquarters to allow litigants to file documents in their respective provinces, as opposed to travelling to Lusaka to file documents.

Committee's Observations and Recommendations

The Committee observes that as good dispute resolution tool, there is need to ensure that the Tribunal is visible in all parts of the country. The Committee notes the response by the Executive, and resolves to await a progress report with regard to the decentralisation of the Lands Tribunal.

11.6 Appeals from the Lands Tribunal

The previous Committee had observed that section 16 of the *Lands Tribunal Act, No. 39 of 2010* stipulated that a person aggrieved with the decision of the Tribunal may, within thirty days of the receipt of its decision, appeal to the High Court. The previous Committee was of the view that this provision was erroneous because in practice, appeals from the Tribunal lay to the Court of Appeal, which had jurisdiction to hear appeals from judgments of the High Court and a quasi-judicial body, as provided for by Article 131(1)(c) of the Constitution of Zambia, as amended by Act No. 2 of 2016.

The Committee had, therefore, recommended that the *Lands Tribunal Act, No. 39 of 2010* should be amended so as to be in conformity with the provisions of Article 131(1)(c) of the Constitution of Zambia.

Executive's Response

It was reported in the Action-Taken Report that one of the provisions earmarked for amendment was section 16 of the *Lands Tribunal Act, No. 39 of 2010*. It was reported that the section would be amended in order to provide for appeals from the Lands Tribunal to go to the Court of Appeal in line with the Article 131 (1) (C) of the Constitution of Zambia.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report on the amendment of section 16 of the *Lands Tribunal Act, No. 39 of 2010*.

11.7 Timeframe for Hearing Matters before the Lands Tribunal

The previous Committee had observed with concern that the *Lands Tribunal Act, No. 39 of 2010* did not have a timeframe set for conducting the hearing of a matter brought before the Tribunal even though the Act stipulated that the Tribunal shall deliver judgment on any matter within sixty days after the conclusion of the hearing of the case. The Committee had, therefore, recommended that a time limit should be stipulated in order to activate the characteristic of speedy determination of land disputes.

Executive's Response

It was reported in the Action-Taken Report that cases in the Lands Tribunal, and in many other courts, were mainly client-driven. This meant that the onus was on the clients to ensure that they filed and served the relevant documents as quickly as possible. Clients who had not done that normally requested the Tribunal to adjourn the matter to the next hearing. In some instances, it was the legal representatives who requested for a matter to be given another date of hearing because they may be appearing in another Court at the same time. In the interest of justice, the Tribunal may grant such adjournments. It was further reported that the period a case took to be heard and determined before the Tribunal was dependent on the preparedness of the litigants. However, the proposal to set a timeframe within which matters could be heard would be looked into as the *Lands Tribunal Act, No. 39 of 2010* was being amended.

Committee's Observations and Recommendations

The Committee notes the response by the Executive and it is of the view that the lack of a time limit within which the Tribunal must conclude the hearing of land disputes defeats the objective of the Tribunal being a fast-track court. The Committee resolves to await a progress report on the matter.

11.8 Archaic Rules and Regulations

The previous Committee had been concerned that the Lands Tribunal was still using rules and regulations under the Lands (The Lands Tribunal) Rules statutory instrument (SI) No. 90 of 1996, under the Lands Act of 1995, for lodging an appeal for proceedings before the Tribunal. The Committee had recommended that new rules aligned to the *Lands Tribunal Act, No. 39 of 2010*, should be promulgated to enable the Tribunal to effectively carry out its mandate.

Executive Response

It was reported in the Action-Taken Report that the Ministry of Lands and Natural Resources was working in collaboration with the Ministry of Justice to ensure that new rules aligned to the *Lands Tribunal Act, No. 39 of 2010*, were promulgated. It was reported that there were already draft rules before the Ministry of Justice which were in the final stages. Once the rules were completed, they would provide procedures on how matters shall be conducted in the Lands Tribunal.

Further, it was reported that what would be more ideal was to firstly complete the amendments to the *Lands Tribunal Act, No, 39 of 2010*, then subsequently finalise the rules, which would then be in line with the amended Act.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report on the promulgation of the new rules for lodging of an appeal for proceedings before the Tribunal.

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE, GENDER MATTERS AND GOVERNANCE FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

12.0 THE AFRICAN PEER REVIEW MECHANISM: THE CASE OF ZAMBIA

12.1 Facilitation of Second Base Review

The previous Committee had urged the Executive to facilitate Zambia's second peer review under the Base Review in the shortest possible time so as to assess the progress made in addressing the governance challenges highlighted in the first progress report.

Executive's Response

It was reported in the Action-Taken Report that the facilitation of the second base review would be undertaken in the year 2022 because a review was not usually conducted in a member state when that member state was conducting elections. It was further reported that a second peer review had not been budgeted for in the 2021 national budget.

Committee's Observations and Recommendations

The Committee notes with concern that even the 2022 Budget had no provision for the second base review. The Committee is of a strong view that the second base review will help to assess the progress made in addressing the governance challenges that were highlighted in the first progress report. The Committee, therefore, recommends that the Executive should endeavour to carry out the second base review in order to address these challenges, and resolves to await a progress report on the matter.

12.2 Funding of African Peer Review Mechanism Activities

The previous Committee had urged the Executive to adequately fund the African Peer Review Mechanism (APRM) activities and its Secretariat so that its mandate could be carried out effectively.

Executive's Response

It was reported in the Action-Taken Report that the Ministry of Justice had engaged the Secretary to the Treasury for the funding of African Peer Review Mechanism Activities and awaited a response on the matter.

Committee's Observations and Recommendations

The Committee is greatly concerned that the implementation of the APRM in Zambia has been drastically affected by reductions in the budgetary allocations. The Committee observes that the promotion of the mainstreaming of APRM programmes in the national development programme will enhance efficiency and effectiveness. The Committee, therefore, recommends that the Secretary to the Treasury should be engaged further for increased budgetary allocation to the APRM for it to be impactful in Zambia. The Committee resolves to await a progress report.

12.3 Enhancement of the Bill of Rights

The previous Committee had urged the Executive to begin preparations for the holding of a Referendum to educate the general citizenry on the requirements of amending the Bill of Rights to include social, economic and cultural rights.

Executive's Response

It was reported in the Action-Taken Report that one of the activities that the Ministry of Justice had undertaken in 2021 was to educate the general public on the Bill of Rights. It was reported, however, that due to limited funding, the programme of holding of the Referendum may not be feasible.

Committee's Observations and Recommendations

The Committee observes that social, cultural and economic rights are an important tool to hold states, and increasingly non-state actors, accountable for violations and also to mobilise collective efforts to develop communities and global frameworks conducive to economic justice, social well-being, participation, and equality. The Committee, therefore, recommends that the Bill of Rights be enhanced to include economic, social and cultural right as this would be key in realising these rights. The Committee resolves to await a progress report on the enhancement of the Bill of Rights.

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE, GENDER MATTERS AND GOVERNANCE FOR THE FIRST SESSION OF THE TWELFTH NATIONAL ASSEMBLY

13.0 THE IMPLICATIONS OF THE EXTRACTIVE INDUSTRY ACTIVITIES ON HUMAN RIGHTS: THE CASE OF ZAMBIA'S MINING SECTOR

13.1 Amendment of the Zambia Development Agency Act, No. 11 of 2006

In noting the Executive's submission on the proposed revisions to the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, the previous Committee had resolved to await a progress report on the amendment of the *Zambia Development Agency Act, No. 11 of 2006*.

Executive's Response

It was reported in the Action-Taken Report that the Zambia Development Agency Bill was still at Ministry of Justice for finalisation before presentation to Parliament.

Committee's Observations and Recommendations

The Committee notes the response by the Executive, and resolves to await a progress report on amendment of the *Zambia Development Agency Act, No. 11 of 2006*.

13.2 Government Support to Human Rights Commission, Zambia Environmental and Management Agency, Water Resources Management Authority and Mines Safety Department

The previous Committee in the previous Session had resolved to await a progress report on the enactment of the Human Rights Commission Bill, 2018. This was with regard to the specific nature of Government support to the Human Rights Commission (HRC), Zambia Environmental and Management Agency (ZEMA), Water Resources Management Authority (WARMA) and the Mines Safety Department (MSD).

Executive's Response

It was reported in the Action-Taken Report that the Human Rights Commission had made fresh draft provisions to deal with the affected clauses that related to the composition of Commissioners; selection process of Commissioners; tenure of office; service on full time basis; and removal of Commissioners. It was also reported that this would be considered for approval at the next Commission Statutory meeting scheduled for last July, 2021. Thereafter, it would be submitted to the Ministry of Justice.

Committee's Observations and Recommendations

In noting the response by the Executive, the Committee reiterates that the Bill should be expedited, and resolves to await a progress report on the matter.

13.3 Stiffening of Penalties for Environmental Pollution

The previous Committee had recommended that the drafting of the Bill to amend the *Environmental Management Act, No. 12 of 2011* be expedited and that the Bill be possibly presented to Parliament within 2019. In this regard, the Committee had resolved to await a progress report.

Executive's Response

It was reported in the Action-Taken Report that the Zambia Environmental Management Agency (ZEMA) had completed the review of the Act and had submitted a layman's draft of the Environmental Management (Amendment) Bill to the Ministry of Justice in March, 2021 for finalisation of the drafting process.

Committee's Observations and Recommendations

In noting the response by the Executive, the Committee reiterates that the Bill should be expedited in order to deter would-be polluters, and resolves to await a progress report on the matter.

13.4 Need for Legislation on Resettlement and Compensation

The Committee in the previous Session had resolved to await a progress report on the outcome of the consultations undertaken by the Ministry of Justice on the need for legislation on resettlement and compensation.

Executive's Response

It was submitted in the Action-Taken Report that the Ministry of Justice was still in the process of consulting stakeholders on the matter and hoped to expedite the process to meet the needs of the people who owned or used land resources.

Committee's Observations and Recommendations

The Committee is concerned with the inordinate delay with regard to the consultation with stakeholders by the Ministry of Justice. The Committee, therefore, strongly urges the Executive to expedite the process so as to meet the needs of the people who own or use land resources. The Committee resolves to await a progress report on the matter.

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

14.0 RESTORATION OF PUBLIC CONFIDENCE IN THE JUDICIARY THROUGH REFORM

The previous Committee had noted the submission and observed that there was no timeframe given as to when the stakeholder consultations would be concluded on judicial reforms. The Committee had recommended that a timeframe be stipulated for the conclusion of these consultations and resolved to await a progress report.

Executive's Response

It was reported in the Action-Taken Report that consultations with stakeholders had not been finalised due to non-availability of funds. It was hoped that the process would be expedited as soon as funds were made available.

Committee's Observations and Recommendations

The Committee notes the response by the Executive but reiterates that as and when funds are available, consultations with stakeholders be finalised. The Committee resolves to await a progress report on the matter.

15.0 CONCLUSION

For the First Session of the Thirteenth National Assembly, the Committee on Legal Affairs, Human Rights and Governance undertook to study the topic "*The Growing Trend of Electoral Violence – A Human Rights Concern*" with the view to urging political parties and other key stakeholders to take a strong position on the electoral violence that had engulfed the country's political space.

The Committee notes that the consequences of electoral violence, which is caused by a myriad of factors, including, but not limited to youth unemployment, poverty, and weak implementation of the legal framework, undermined the citizens' civil and political rights, as espoused by the Constitution. The Committee also notes that there is need for a comprehensive multisectoral approach to addressing electoral violence by all stakeholders including the Government, the church, political parties, civil society organisations, traditional leaders and the media. The Committee observes that there is need for the strict enforcement and impartial application of the existing legal framework to address electoral violence and enhance credibility, transparency and trust in the electoral process.

To augment and consolidate its finding from the long meetings, the Committee undertook a local tour to Lusaka, Copperbelt and North-Western Provinces. The tour findings formed part of this Report.

The Committee is hopeful that the observations and recommendations contained in this Report will go a long way in curbing electoral violence in Zambia.

The Committee wishes to express its gratitude to the Honourable Madam Speaker and the Clerk of the National Assembly for the guidance and support rendered to it throughout its deliberations. The Committee is also indebted to the all the stakeholders who appeared before it for their cooperation in providing the necessary memoranda and briefs, and for appearing before it to clarify any matters arising from their written submissions.



Dr Clement Andeleki, MP
CHAIRPERSON

June, 2022
LUSAKA

APPENDIX I – List of National Assembly Officials

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

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

Mrs A M Banda, Senior Committee Clerk (SC)

Ms B P Zulu, Committee Clerk

Mrs R N Mwiinga, Typist

Mr D Lupiya, Committee Assistant

APPENDIX II – List of Witnesses

GOVERNANCE, ELECTIONS, ADVOCACY RESEARCH SERVICES (GEARS) INITIATIVE ZAMBIA

Mr M Chipenzi, Executive Director
Ms A D Banda, Finance and Administration Officer
Mr G Musonda, Project Coordinator

FOUNDATION FOR DEMOCRATIC PROCESS

Mr G Chisenga, Programmes Manager
Ms G Mubanga, Project Coordinator

NATIONAL YOUTH DEVELOPMENT COUNCIL

Mr D Musonda, Council Secretary
Ms M Lubinda, Programme Officer
Mr P Cheelo, Programme Officer
Mr M Lwandamo, Public Relations Officer

ZAMBIA CENTRE FOR INTER-PARTY DIALOGUE

Mrs D N Kabwe, Executive Director
Mr B Mwale, Programmes Officer
Ms S Kaoma, Information and Research Officer

CARITAS ZAMBIA

Mr E Kabilika, Executive Director
Mr P Mwanangombe, Programme Manager

OPERATION YOUNG VOTE

Mr G Nyirenda, Executive Director
Mr G Muselela, Project Manager
Mr I Mwale, Board Member

ACTION AID ZAMBIA

Ms N Nganga, Country Director
Mr M Kabinga, Head of Programmes
Mr V S Nawa, Governance Officer
Ms I Sakala, Communications Officer

SOUTHERN AFRICAN CENTRE FOR THE CONSTRUCTIVE RESOLUTION OF DISPUTES

Mr B Cheembe, Executive Director
Mr A Muyunda, Programmes Officer

HUMAN RIGHTS COMMISSION

Ms F Chibwasha, Director

JUDICIARY

Mr R K Kaoma, Registrar

Mr S Nyimbiki, District Registrar/ Senior Research Advocate

Ms L C Sikwenda, District Registrar/Senior Research Advocate

ZAMBIA AGENCY FOR PERSONS WITH DISABILITIES

Mr N Goma, Acting Director General

Mrs T Hatwiko, Director Finance

Ms A Banda, Director Rehabilitation and Research

Ms M Miti, Senior Planner

Mr K Makabe, Accountant

Ms J M Nkonde, Rehabilitation Officer

ZAMBIA CIVIC EDUCATION ASSOCIATION

Ms M Wamuwi, Programmes Manager

Mr M Chisanga, Project Officer

ZAMBIA POLICE SERVICE

Mr M Muyambango, Deputy Inspector General – Operations

Ms G Sanduku, Assistant Commissioner of Police – Deputy Director Legal

Mr E Sindandumuna, Assistant Commissioner of Police – Assistant Director Legal

Chief Inspector W Mbula – Legal Officer

MINISTRY OF JUSTICE

Mrs B K Mwenya, Permanent Secretary (Legal)

Ms B Chibbonta, Acting Chief Parliamentary Counsel

ELECTORAL COMMISSION OF ZAMBIA

Mr R Katongo, Director Electoral Operations

Ms T K Phiri, Manager Legal Department

CONTINENTAL LEADERSHIP RESEARCH INSTITUTE

Ms C C Kapumpu, Programmes Manager

Mr E Moonde, Programmes Associate

LAW DEVELOPMENT COMMISSION

Ms H N Chanda, Director

Mr M Mwenda, Research Coordinator

Mr Y Ngoma, Research Officer

Mr N Chulu, Researcher