



Human Rights Commission

ANNUAL REPORT 2019





HUMAN RIGHTS COMMISSION

Building a Sustainable Culture of Human Rights Together

Annual Report |2019

The Honourable Speaker of the National Assembly
National Assembly of Zambia
P O Box 31299
Lusaka
Zambia

November 2020

Honourable Mr. Speaker,

Re: SUBMISSION OF THE HUMAN RIGHTS COMMISSION 2019 ANNUAL REPORT TO THE NATIONAL ASSEMBLY

In accordance with Article 241 (e) of the Constitution of the Republic of Zambia [Amendment] Act No. 2 of 2016, the Human Rights Commission (HRC/Commission) is required to present to the National Assembly its Annual Reports.

I have the honour of submitting the Annual Report of the Human Rights Commission for the period January to December, 2019.

The Report incorporates the broad mandate of the Commission provided for under Article 230 of the Constitution of Zambia (Amendment) Act No.2 of 2016, which includes Human Rights Protection; Human Rights Promotion; Monitoring the State's Compliance with Human Rights against International, Regional and National Human Rights Standards; the HRC's Corporate Governance; Human Resource and Administration and; Financial Statement for the year ended 31st December 2019.

Yours in National Service,
HUMAN RIGHTS COMMISSION



Mudford Zachariah Mwandenga
CHAIRPERSON

CONTENTS

LIST OF BOXES, TABLES, GRAPHS AND FIGURES	4
LIST ABBREVIATIONS	5
FOREWORD	7
ACKNOWLEDGEMENTS	9
OVERVIEW	10

CHAPTER 1

GENERAL INFORMATION.....17

About the Human Rights Commission.....	17
Legislative and Other Mandates	17
Vision, Mission and Values	18
Affiliation to International and Regional Networks	19

CHAPTER 2

HIGHLIGHTS OF PERFORMANCE DURING 201921

Repeal and Replacement of the Human Rights Commission Act no. 39 of 1996	21
Complaints Management	21
Decongesting Places of Detention	21
Campaign Towards the Abolition of the Death Penalty	21
Monitoring of By-Elections	21
Rights of Suspects and Accused Persons.....	22
Monitoring Implementation Status of the UN Guiding Principles on Business and Human Rights	22

CHAPTER 3

DETAILED ACCOUNT OF 2019 ACTIVITIES23

Human Rights Protection	23
Human Rights Promotion.....	36
Human Rights Monitoring and Reporting	53
Governance, and Institutional Strengthening.....	60

CHAPTER 4

AUDITED FINANCIAL STATEMENTS FOR YEAR ENDED 31ST DECEMBER 201967

LIST OF BOXES, TABLES, GRAPHS, FIGURES AND INFOGRAPHICS

Boxes

1. Top Five Human Rights Violations in 2019

Tables

1. Status of Cases Received
2. Nature of Human Rights Violations
3. Category of Inmates
4. Correctional Facilities and No. of Inmates Sensitised
5. Employment and Vacancies by Category
6. Employment and Vacancies by Critical Occupation
7. Employee Exits and Type of Exit
8. Number and Percentage of Staff by Division
9. Number of Staff by Division and Gender
10. Management Team by Gender
11. Staff Recruitment by Gender
12. Staff Transfers
13. Training and Development
14. No. of Statutory and Selected Adhoc Meetings

LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organisations
DCs	District Commissioners
DEC	Drug Enforcement Commission
DEBs	District Education Board Secretaries
DIHR	Danish Institute for Human Rights
DMMU	Disaster Management and Mitigation Unit
EU	European Union
FDD	Forum for Democratic Development
F&A	Finance and Accounting
GBV	Gender-Based Violence
GIZ	Gesellschaft für Internationale Zusammenarbeit
HRA	Human Resource and Administration
HRBA	Human Rights-Based Approach
HRC	Human Rights Commission
ICCPR	International Covenant on Civil and Political Rights
IEC	Information, Education and Communication
ICERD	International Convention against All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social & Cultural Rights
ILD	Investigations and Legal Department
IETD	Information, Education and Training Department
KCCF	Kasisi Child Care Facility
MDAs	Ministries, Departments and Agencies
MP	Member of Parliament
NANHRI	Network of African National Human Rights Institutions
NHRI	National Human Rights Institution
NMRF	National Mechanism for Reporting and Follow-Up
NPA	National Prosecution Authority

OHCHR	Office of the High Commissioner for Human Rights
PF	Patriotic Front
PAC	Public Accounts Committee
POA	Public Order Act
PWDs	Persons with Disabilities
RAPD	Research and Planning Department
SMRTP/SMR	Standard Minimum Rules for the Treatment of Prisoners
SCA	Sub-Committee on Accreditation
UDHR	Universal Declaration of Human Rights
UNAIDS	United Nations Programme on HIV/AIDS (UNAIDS)
UNDP	United Nations Development Programme
UNESCO	United Nations Education, Scientific and Cultural Organisation
UNFPA	United Nations Population Fund
UPR	Universal Periodic review
SRHRs	Sexual Reproductive Health Rights
PLEED	Programme for Legal Empowerment for Enhanced Justice Delivery
UPPZ	United Prosperous and Peaceful Zambia
UPND	United Party for National Development
UNCAT	United Nations Convention Against Torture
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
VSU	Victim Support Unit
WDCs	Ward Development Committees
ZANIS	Zambia News and Information Services
ZAPD	Zambia Agency for Persons with Disabilities
ZLDC	Zambia Law Development Commission
ZNAPD	Zambia National Association for Persons with Disabilities
ZNBC	Zambia National Broadcasting Corporation

FOREWORD

The Human Rights Commission (HRC/Commission) is pleased to present its Annual Report for the year 2019. The Report highlights activities which were implemented by the Commission in executing its human rights protection, promotion and monitoring mandates during the year under review.

In executing its protection mandate, the Commission received, investigated and resolved complaints of human rights violations and abuses. The Commission was deeply concerned that for the third consecutive year, the *Right to Secure the Protection of the Law* and the *Rights to Employment and Favourable Conditions of Service* continued to rank first and second positions out of the 28 categories of Human Rights received and investigated. These were followed by the Complaints related to *Child Abuse, Deprivation of Property* and *Maladministration of Justice*.

In view of the forgoing, the Commission is calling on the Government and the Private sector to enhance the protection of human rights, particularly the rights of workers in relation to poor conditions of service, delayed and non-payment of salaries and benefits.

It was pleasing that the Commission was able to resolve **60.4 % of the** complaints received, mainly through mediation, despite the serious financial and human resource constraints that it continues to face.

The Commission executed its human rights promotion mandate through stakeholders' training and engagement, dissemination of education materials and issuing advocacy and advisory media statements in which the Commission expressed concern at the continued violations of human rights and freedoms, in some cases with impunity.

The Right to Freedom of Assembly remained one of the priority human rights thematic areas, particularly on account of its interdependence with the rights to freedom of association and expression- life bloods of a functioning democracy through majority participation of citizens in governance matters.

The Commission is urging for continued review of the Public Order Act and its fair and non-discriminatory implementation in order to enhance the protection of the rights to freedom of association, assembly and expression.

The Commission also scaled up its promotion of enhanced protection of the Right to Life through stakeholder engagement meetings to support the Government's decision for the past 23 years to maintain a moratorium on Death Penalty; thereby qualifying Zambia as a Death Penalty De facto Abolitionist Country.

Having attained that reputable status, the Commission is calling for reviewing of the mandatory death penalty for capital offences under the Penal Code Act and the Criminal Procedure Code and leave the discretion to the Courts of law. There is need for practical measures to abolish the death Penalty both in practice and Law. In addition, Zambia is urged to join the growing number of the international community by signing the United Nations Moratorium on Death Penalty and also ratify the Second Option Protocol on the International Covenant on Civil and Political Rights which abolishes the death penalty.

The Commission wishes to place it on record that it received and noted progressive efforts by the Government, through the Ministry of Justice and Home Affairs, among others, to review some laws impinging on human rights and support the Commission in discharging its mandate.

During the year under review, the Commission produced and disseminated the **2017-2018 State of Human Rights Report in Zambia** in line with its research, monitoring and reporting on observance and compliance of human rights mandate. In addition to that, the Commission carried out a **National Baseline Assessment (NBA) on Business and Human Rights (BHR)** of the **United Nation (UN) Guiding Principles on Business and Human Rights Pillar II** and also Monitored the implementation on Universal Periodic Review (UPR) and treaty body recommendations and concluding observations.

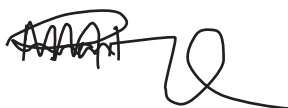
The Commission is pleased that the Government, through the Ministry of Justice developed the UPR Monitoring and Implementation Framework to provide a comprehensive guidance on implementing the recommendation which Zambia accepted at the UN Human Rights Council Meeting in Geneva in 2017.

However, the Commission is concerned that if implementation of the accepted recommendations is not accelerated, Zambia may still be found with a backlog of unfulfilled commitments during its Fourth cycle of review due in December 2021.

Notwithstanding the achievements during the year 2019, the Commission is calling for increased financial and human resource support to enable it to effectively execute its Constitutional mandate and maintain the public confidence that is required in the protection and promotion of human rights in Zambia. Further, the Commission is calling for enhanced more legislative and oversight roles by Parliament, in the protection and promotion of human rights.

I wish to take this opportunity to thank the Commissioners, Management and Members of Staff who worked tirelessly and courageously in discharging the mandate of the Commission during the year under review.

Finally, I am pleased to state that the Commission recorded yet another unqualified audit opinion for the 2019 financial year, which is included in this Annual Report. I commend management and staff for this continued impeccable financial management record.



Mudford Z. Mwandenga
Chairperson

ACKNOWLEDGEMENTS

I am pleased to state that, to a large extent, the Commission successfully executed its constitutional mandate under the challenging environment of constrained financial and human resources with increasing public pressure and demand for human rights protection.

This achievement would not have been possible without the able guidance of Commissioners, as well as the unwavering hard work of the staff of the Commission. Notwithstanding the financial challenges, the Commission continued to deliver on its very noble yet colossal mandate of ensuring that the Bill of Rights is upheld and protected.

In this regard, the Management and staff of the Commission are thankful for the continued leadership provided by the Commissioners. The strategic direction and guidance provided by the Members was pivotal in the attainment of the Commission's targets.

The Commission would like to acknowledge all the stakeholders and partners that contributed to its work in 2019. The continued financial support of the Government of the Republic of Zambia through its various Ministries, Departments and Agencies went a long way in ensuring that the Commission to a larger extent delivered on its mandate.

The Commission is grateful for the support of various development partners who provided the much needed complementary financial and technical support that assisted in growing the Commission's capacity to perform as best as it could. In particular, special recognition is extended to the European Union, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), United States Agency for International Development (USAID), the United Nations Development Programme (UNDP) and the Danish Institute of Human Rights (DIHR).

Immense gratitude goes to both State and Non-State Actors who collaborated with the Commission on various strategic interventions, particularly the Office of the Vice President; Cabinet Office, including Smart Zambia; Ministries of Finance, Justice, Foreign Affairs, Lands and Natural Resources, Community Development and Social Welfare, Mines and Home Affairs; the Judiciary; Zambia Correctional Service, the Zambia Police Service; Drug Enforcement Commission; Immigration Department; Legal Aid Board; Electoral Commission of Zambia; the Office of the Public Protector; and the Prisons Care and Counselling Association (PRISCA); Legal Resources Foundation and; YWCA among others too numerous to mention.

The Commission remains indebted to the people of Zambia who have continued to believe in the work of the Commission and the role it plays in ensuring that the rights of all persons in Zambia are **Upheld and Protected**.

Last but not the least, to the Staff of the Human Rights Commission for their commitment and hard work that resulted in the achievements highlighted in this report. The Commission looks to the future with renewed zeal to continue to be of meaningful service to everyone within the jurisdiction of Zambia in terms of promotion and protection of human rights and freedoms.



Florence Chibwasha
Director

OVERVIEW

This Annual Report provides an overview of the performance of the Commission in 2019 in fulfilling its constitutional mandate as provided for under Article 230 of the Constitution of Zambia [Amendment] Act No. 2 of 2016. As a National Human Rights Institution (NHRI), the Commission continued to work tirelessly to ensure effective promotion, protection, monitoring and reporting of human rights in the country, while engaging actively at international, regional and national levels with like-minded institutions.

This report is presented in four parts as follows: The first part provides general information on the Commission, including its mandate, vision, mission, values and operational structure. The second part gives highlights of the performance of the Commission in 2019. In the third part, a detailed account of the activities implemented by the Commission is provided. The activities relate to the Commission's mandate in terms of human rights protection, promotion, monitoring and reporting; as well as its governance, compliance and human resource and administration support systems. The last part is a presentation of the Financial Statement for the year ended 31st December 2019.

The Commission conducted investigations and enabled Victims obtain redress through formal and informal procedures in a significant number of cases of human rights violations handled in 2019. A total number of 1,093 complaints of human rights violations were received and 60.5% of them were resolved against a set target of 75% indicated in its 2017-2021 Strategic Plan, which was used as a measure of performance in complaints handling.

The analysis of the statistics of the complaints reported to the Commission indicated that 769 were reported by or on behalf of males while 324 complaints were reported by or on behalf of females. Further, 100 complaints were from or lodged on behalf of children, representing a sharp increase from 24 cases of violation and abuse of the rights of children recorded in the previous year. The majority of the cases handled by the Commission related to the right to secure protection of the law; the right to employment and favourable conditions of work; protection from child abuse; freedom from deprivation of property; and freedom from maladministration of justice.

In fulfilling its statutory obligations espoused in Section 9 (d) of the HRC Act, the Commission monitored correctional facilities and other places of detention in Lusaka, Copperbelt, Southern, Eastern, North-western, Central and Western Provinces. The benchmark against which the conditions in correctional facilities and other places of detention were assessed included the *1955 United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR)* also known as the *Nelson Mandela Rules as revised in 2015*; the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* and; *Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)*. A total of 32 scheduled inspections and 36 impromptu inspections were conducted. Further, the Commission instituted measures to reduce the challenge of overcrowding in correctional facilities and ensure respect for the rights of inmates and other detainees. To this end, the Commission supported the Zambia Correctional Service (ZCS) in the conveyance of inmates between correctional facilities in Lusaka and Central Provinces. As a result, Mukobeko Maximum Correctional Facility was decongested by transferring 567 long-term inmates to Mwembeshi Maximum Correctional Facility.

In its continued endeavors to ensure the promotion of human rights, the Commission conducted awareness-raising activities on the Copperbelt, in Lusaka and Southern Provinces with a focus on the rights of suspects and accused persons. The Commission directly engaged 128 key stakeholders representing a cross section of society; 8,981 members of community and 4,360 inmates.

Other significant activities included the launch of a campaign towards the abolition of the death penalty in Zambia as part of its efforts to ensure respect for, and protection of the right to life. Globally, there is a movement towards the abolition of the death penalty in recognition of the sanctity of the right to life. In Zambia, death penalty is still a mandatory sentence for the offences of murder, treason and aggravated robbery despite the resolve not to sign death warrants by sitting Presidents since 1997 when the execution of inmates on death row was last conducted. While recognising the positive efforts that Zambia had continued to maintain a moratorium on death penalty, the Commission continued to advocate for further steps to be taken by the State to towards the abolition of the death penalty and replacing it with life imprisonment, including ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights which aims at abolishing the death penalty worldwide.

In addition the Commission continued to monitor the electoral process and the implementation of the Public Order Act by the Police with a view of ensuring that persons, including the electorate, political parties and their candidates, supporters and sympathizers, were protected from acts of State or Non-State entities that would impair the enjoyment of their constitutional right to freedom of assembly and association. In this respect, the Commission participated in monitoring the observance of human rights standards during parliamentary By-elections held in Bahati Constituency, Luapula Province; Katuba Constituency in Central Province; Roan Constituency on the Copperbelt and Sesheke constituency in Western province and the by-elections for Council Chairpersons in Kafue and Kaoma Districts in Lusaka and Western Province respectively. The By-elections in Sesheke and Roan Constituencies were extremely violent, resulting in several injuries and retirement of four Police Officers in the national interest in Sesheke who allegedly brutally beat up violent Patriotic Front cadres who went to Sesheke Police Station to rescue their friends who were detained. In Kaoma, a UPND supporter, Lawrence Banda, was shot dead by unknown people and there were neither investigations nor arrests made by the Police. Investigations by the Commission were inconclusive due to lack of co-operation by witnesses who indicated that feared for their lives.

Further, the Commission joined local and international stakeholders in commemorating the International Human Rights Day by carrying out advocacy and awareness campaigns through stakeholders' engagement, media and community outreach activities. The Commission partnered with State Institutions and Civil Society Organisations, including the Ministry of Justice, Zambia Police Service and the Prisons Care and Counseling Association (PRISCA), in conducting sensitisation to promote human rights awareness in communities, schools and institutions of higher learning. The Commission raised various issues including fundamental rights and freedoms guaranteed under the Bill Rights and international human rights instruments, the abolition of death penalty campaign, and the need for an enhanced Bill of Rights incorporating economic, social and cultural rights and protecting the rights of vulnerable groups, particularly women, children, persons with disabilities and older persons.

The Commission carried out a number of activities aimed at assessing the State's compliance with international and regional human rights norms, including a comprehensive review of the steps taken to harmonise domestic legislation, policies and administrative measures in line with international human rights instruments, treaty body recommendations and concluding observations.

The Commission equally produced and launched the 2017-2018 Annual State of Human Rights Report (ASHRR). The ASHRR assessed the fulfillment of the State's trio obligation to *respect, protect* and *fulfill* human rights through legislation, policies and administrative measures. The Commission found evidence of widespread human rights violations in the country and recommended that the State put in place legislative, judicial, administrative and other measures for the protection of fundamental rights and freedoms.

Some of the human rights violations highlighted in the Report included freedom of assembly and association; right to secure protection of the law (speed trial and disposal of cases); freedom from torture and other cruel, inhuman or degrading treatment or punishment. The Commission also found that there was overcrowding in correctional facilities and that criminal justice system was clogged up with cases and very slow at disposing of cases, resulting in delayed delivery of justice.

The Commission continued to monitor the implementation status of United Nations Guiding Principles on Business and Human Rights. In an effort to address systemic human rights violations in the agricultural and mining sectors, a study was initiated, covering business entities in Central, Copperbelt, Lusaka, North –Western and Southern Provinces, with a view to assessing how businesses were respecting international human rights standards. The final report will be released in mid-2020.

As a member of the Universal Periodic Review (UPR) National Mechanism for Reporting and Follow-up (NMRF), the Commission actively participated in monitoring the implementing status of Zambia's commitments to the 2017 accepted UPR recommendations.

In rendering support to Legal Reforms, the Commission was involved in the review of key legislation aimed at enhancing the promotion and protection of fundamental rights and freedoms, including the Human Rights Commission Act No. 39 of 1996 and the Legal Aid Board Act. A number of submissions were made to Parliament through the Parliamentary Select Committee regarding the amendment to the Constitution of Zambia (Amendment) Act No. 2 of 2016 and the appointment of constitutional office bearers.

Inward, the Commission continued to build its internal capacity to deliver on its mandate. Outputs included Policies covering; in-house training of Staff and continuous improvement of its internal control systems. All in all, the Commission to a larger extent was able to play its role of ensuring that the Bill of Rights is Upheld and Protected; it's a difficult fiscal environment.

HRC - COMMISSIONERS



Mr. Mudford Zachariah Mwandenga
Chairperson



Mrs. Kondwa Sakala - Chibiya
Vice Chairperson



Dr. Harrington Simui Akombwa
Commissioner



Mr. Ackson Mhlakeni Zulu
Commissioner



Mrs. Yuyo Emma Nachali-Kambikambi
Commissioner



Mr. Fred Wamundila Waliuya
Commissioner



Reverend Agness Chongo Phiri
Commissioner



Florence Chibwesha
Secretary

HRC –MANAGEMENT TEAM



Florence Chibwasha
Secretary/Director



Katendi Kapin'a - Nkombo
Deputy Director



Kims Banda
Chief Investigations and Legal Services



Mweelwa Muleya
Chief Information Education
and Training



Foster Hamuyube
Chief Research and Planning



Mondwa Mwiya
Head Human Resource and Administration



Kabandala Inambao
Head Finance and Accounting



Irene T. Kalunga
Internal Auditor



CHAPTER

1

GENERAL INFORMATION

About the Human Rights Commission

The Human Rights Commission (hereinafter referred to as HRC or the Commission) is an independent and autonomous National Human Rights Institution, established under Article 230 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 (hereinafter referred to as the Amended Constitution). The HRC's mandate is articulated in the Amended Constitution and the Human Rights Commission Act No. 39 of 1996 (hereinafter referred to as the HRC Act).

Legislative and Other Mandates

Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016

The principles of the Commission as espoused in Article 216 of the Amended Constitution are as follows:

The Commission shall: -

- a) Be subject only to this Constitution and the law;*
- b) Be independent and not be subject to the control of a person or an authority in the performance of its functions;*
- c) Act with dignity, professionalism, propriety and integrity*
- d) Be non-partisan; and*
- e) Be impartial in the exercise of its authority.*

The functions in Article 230 (2) (3) relate to:

- a. The Human Rights Commission shall ensure that the Bill of Rights is upheld and respected.*
- b. The Human Rights Commission shall -*
 - i. Investigate and report on the observance of rights and freedoms;*
 - ii. Take necessary steps to secure appropriate redress, where rights and freedoms are violated;*
 - iii. Endeavour to resolve disputes through negotiation, mediation or conciliation;*
 - iv. Carryout research on rights and freedoms and related matters;*
 - v. Conduct civic education on rights and freedoms; and*
 - vi. Perform such other functions as prescribed.*

In addition to providing for qualifications of members of the Commission, and financial independence, the Amended Constitution in Article 241 provides for the general powers of the Commission.

The Commission-

- a. Shall appoint its own staff;*
- b. May refer matters within its mandate to appropriate State organs or State institutions for action;*
- c. May initiate its own investigations and receive complaints from a person on matters within its mandate;*
- d. Shall take measures to ensure that State institutions and other persons comply with its decisions; and*
- e. Shall submit annual reports to the National Assembly on its accounts and activities as prescribed.*

Human Rights Commission, Act No. 39 of 1996.

The Human Rights Commission fulfils its mandate and obligations as set out in the Human Rights Commission Act, No.39 of 1996. Sections 9 and 10 set out the functions and powers of the Commission.

The functions of the Commission are outlined in Section 9 of the HRC Act as follows:

- a. Investigate human rights violations;*

- b. Investigate any maladministration of justice;
- c. Propose effective measures to prevent human rights abuse;
- d. Visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems;
- e. Establish a continuous programme of research, education, information and rehabilitation of victims of human rights abuse to enhance the respect for the protection of human rights;
- f. Do all such things as are incidental or conducive to the attainment of the functions of the Commission

The powers of the Commission as articulated in Section 10 are that:

- (1) The Commission shall have powers to investigate any human rights abuses:
 - (a) on its own initiative; or
 - (b) on receipt of a complaint or allegation under this Act by –
 - (i) an aggrieved person acting in such person's own interest;
 - (ii) an association acting in the interest of its members;
 - (iii) a person acting on behalf of an aggrieved person; or
 - (iv) a person acting on behalf of and in the interest of a group or class of persons.
- (2) The Commission has powers, to -
 - (a) issue summons or orders requiring the attendance of any authority before the Commission and the production of any document or record relevant to any investigation by the Commission;
 - (b) question any person in respect of any subject matter under investigation before the Commission;
 - (c) require any person to disclose any information within such person's knowledge relevant to any investigation by the Commission; and
 - (d) Recommend the punishment of any officer found by the Commission to have perpetrated an abuse of human rights.
- (3) A witness summoned under subsection (2), shall be examined under oath and such oath shall be administered by the Chairperson.
- (4) Subject to subsection 5, the Commission may where it considers it necessary recommend –
 - (a) the release of a person from detention;
 - (b) the payment of compensation to a victim of human rights abuse, or to such victim's family;
 - (c) that an aggrieved person seeks redress in a court of law; or
 - (d) such other action as it considers necessary to remedy the infringement of a right
- (5) Notwithstanding subsection 4, the Commission shall not have powers where a matter is pending before a court.

Vision, Mission and Values

The Vision, Mission and Values of the Commission are as follows:

Vision

A Society that respects and upholds human rights for all persons in Zambia.

Mission

To ensure that promotion and protection of human rights and fundamental freedoms for all people in Zambia; through advocacy, investigations and appropriate redress of human rights violations and; monitoring compliance with human rights standards and obligations.

Values

The HRC is committed to upholding the following Values:

- Independence
- Human Dignity
- Professionalism
- Propriety and Integrity
- Equality and Non-Discrimination
- Action-Oriented
- Non-partisan and Impartiality

Affiliation to International and Regional Networks

At international level and regional level, the HRC being a National Human Rights Institution (NHRI) is a member of the Global Alliance of National Human Rights Institutions (GANHRI) and the Network of African Human Rights Institutions (NANHRI).

GANHRI is the international association of National Human Rights Institutions from all parts of the globe. Established in 1993, the GANHRI promotes and strengthens NHRIs to be in accordance with the Paris Principles, and provides leadership in the promotion and protection of human rights. In line with its mission to support the establishment and strengthening of NHRIs, the GANHRI through its Sub-Committee on Accreditation (SCA) reviews and accredits NHRIs in compliance with the Paris Principles. Accreditation confers international recognition, and protection, of the NHRI and its compliance with the Paris Principles. NHRIs are conferred with either A (highest status attainable), B or C status, with A status accreditation granting participation in the work and decision - making process of the GANHRI, as well as the work of the Human Rights Council and other United Nations (UN) mechanisms. The Office of the High Commissioner for Human Rights (OHCHR) is a permanent observer on the SCA and serves as the Secretariat to the GANHRI and its SCA. The HRC currently enjoys 'A' status.

At regional level, the HRC is a full member of the Network of African National Human Rights Institutions (NANHRI), headquartered in Nairobi, Kenya. NANHRI encourages and supports the establishment of strong and independent African NHRIs in compliance with the Paris Principles through national, sub-regional, regional and international cooperation. It strives to ensure that African NHRIs effectively undertake their mandate of human rights monitoring, protection, promotion and advocacy towards a continent characterised by human rights culture and justice for all.

CHAPTER

2

HIGHLIGHTS OF 2019

Repeal and Replacement of the Human Rights Commission Act

By the end of 2019, the process of Repealing and Replacing of the HRC Act had reached an advanced stage, with the HRC Bill, 2019, approved in principle by Cabinet. Following the said approval, the Legislative Committee of Ministry of Justice, scrutinised the Bill, in readiness for the Consideration of the Bill by the Cabinet Legislative Committee, who will in turn would be expected to recommend it for Full Cabinet Approval in 2020. The process is now that has taken long, having commenced in 2017. It is hoped as in years before, that 2020 will be the year that witnesses the enactment of a new law to govern the operations of the Commission, including giving its recommendations a binding effect.

Complaints Management

The Commission received a total 1,093 cases with 60.5% of the cases having been resolved before the end of the year. The 2019 resolution rate was less than the target of 75% set out in its 2017-2021 HRC Strategic Plan and the Implementation Plan for the 7th National Development Plan (7NDP) for the period 2017-2021 under Strategy No. 3 on promotion and protection of human rights. This status quo was mainly due to serious erratic under-funding by Central Government.

Sadly, this meant that just under 40% of the Victims did not have access to an effective remedy. In addition, of the 60.5% whose Cases were resolved, owing to inability of the Commission in some instances to access most parts of the Country and provide a timely intervention, some Victims, will continue to suffer the consequence of the violation, even though some level of remedy was afforded to them.

Decongesting Places of Detention

The state of over-crowding in the detention facilities was overwhelming, leading to deplorable conditions. This was coupled with high temperatures experienced in October of 2019, further exacerbating the situation. The situation obtaining was in serious contradiction with the Mandela Rules, which govern the Conditions of Places of Detention.

In a bid to reduce overcrowding of Lusaka Central Correctional facility, Mwembeshi and Mukobeko Maximum Correctional facility, the Commission provided logistical support to the Zambia Correctional Service (ZCS) for the conveyance of inmates between Lusaka and Correctional Facilities in Central Province. This somewhat made the state of the said facility more habitable.

Campaign towards the Abolition of the Death Penalty

For the first time in the history of Zambia, the Commission organised the commemoration of World Day against the Death Penalty on 10th October 2019. During the said commemoration, a Campaign towards abolishing the death penalty was launched. During the launch, positive efforts that Zambia had continued to make since 1997 through sustaining a moratorium on the death penalty were recognized and various speakers called for further steps towards the abolition of the death penalty.

Monitoring of By-Elections in 2019

The year under review was characterized by numerous By-elections at Parliamentary and local government. As part of its Public Order project, the Commission had opportunity to observe the

parliamentary by-election campaigns in Bahati, Katuba, Roan and Sesheke constituencies, as well as the By-elections for Council Chairpersons in Kafue and Kaoma Districts.

The Commission observed that inadequate respect for and protection of human rights and freedoms was the major source of conflict and violence during by-election campaigns, frequently occasioned by systemic suppression of those with opposing view from the ruling party; damage to public and private property; serious injuries suffered by the victims and, in some cases, the loss of life; failure by the Police to accord all the competing parties and their candidates equal protection of the law and freedom to assembly; subjecting of opposition political parties to threats, intimidation and attacks and; journalists and monitors subjected to violence. Despite having the incidents of violence reported to the police, most cases were not investigated to ensure that the perpetrators were prosecuted and the victims received appropriate redress.

Rights of Suspects and Accused Persons

Having noted continued violation and abuse of the rights of suspects, the Commission embarked on a sensitization programme to raise awareness on the need to ensure respect and protection of the rights of suspects and accused persons. The Commission implemented various awareness raising activities on the Copperbelt, in Lusaka and Southern Provinces targeting law enforcement agencies, the Judiciary, selected State institutions and Non-State Actors, inmates, communities and the general public. In addition, the Commission facilitated discussion programmes on community radio stations on human rights, including rights of suspects, accused persons and detainees.

Monitoring Implementation Status of United Nations Guiding Principles on Business and Human Rights

With various cases of human rights violations being filed before local and international courts and the Commissions regarding poor working conditions, water and air pollution, displacement of people to pave way for mining or agriculture, and other impacts on the communities attributed to business operations, the Commission responded by initiating and conducting a National Baseline Assessment on Business and Human Rights on Pillar II of UN Guiding Principles on Business on Human Rights. The study was to provide the country with vital information on how business entities respected international human rights standards on business and human rights. The world, over including in Zambia, business operations continued to impact negatively on community resulting into various human rights violations.

DETAILED 2019 ACTIVITIES

Human Rights Protection

The Human Rights Commission derives its protection mandate from Article 230 (2) and 230 (3) (a), (b) & (c) of the Constitution as follows;

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

(3) The Human Rights Commission shall—

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

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

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

Further, Section 9 (d) of the Human Rights Commission Act mandates the Commission to inspect all detention and correctional facilities.

During 2019, the HRC received a total of **1,093** complaints through its six Provincial offices situate in ¹Lusaka (Headquarters and catering for Central and Luapula provinces), Ndola (Copperbelt Province and catering for North-western province), Chipata (Eastern Province), Kasama (Northern Province and catering for Muchinga province), Livingstone (Southern Province) and Mongu (Western Province). The received complaints were less by 74 from the **1167** complaints that were received in 2018, representing a reduction of 6%.

Out of the total number of reported complaints, **769** were reported by or on behalf of males while **324** complaints were reported by or on behalf of females. Further, out of the total number of received complaints, **100** complaints were from or lodged on behalf of children. This represented a sharp increase from **24** cases of violation and abuse of the rights of children recorded in 2018.

Complaints Management

The status of the complaints received in 2019 was as highlighted in the table below:

Table 1. Status of Cases Received

STATUS	No.
Investigated and concluded	496
Pending and brought forward to 2020	324
Referred to other Institutions	147
Withdrawn by Complainants	5
Discontinued by the Commission	35
Not Admitted	86
TOTAL	1093

The Commission handled a total of **683** complaints broken down as follows; **496** complaints were investigated and concluded with **147** complaints having been referred, **5** complaints were withdrawn by the complainants, while **35** were discontinued².

¹ The Lusaka office is the Head office and caters for Lusaka, Central and Luapula Provinces; Ndola Office caters for Copperbelt and North-Western provinces; Kasama Office caters for Northern and Muchinga Provinces whilst; Chipata caters for Eastern province, Livingstone for Southern Province and Mongu for Western Province.

² HRC Act Section 11 (4) The Commission may refuse to conduct, or indeed to discontinue an investigation where it is satisfied that the complaint or allegation is malicious, frivolous, vexatious or the particulars accompanying it are insufficient to allow a proper investigation

The HRC's resolution rate for 2019 stood at **60.5%**. The Commission did not therefore, achieve the annual target set out in its 2017-2021 HRC Strategic plan and the Implementation Plan for the 7th National Development Plan (7NDP) for the period 2017-2021 under Strategy No. 3 on promotion and protection of human rights, which was set at **75%**.³ This was mainly attributed to inadequate funding to the Commission. Thus, the resolution rate of human rights violations in 2019 by the Commission was 7.1% less than the 2018 resolution rate of 77.6%.

Notwithstanding the financial challenges faced in 2019, the Commission enhanced its collaboration with like-minded institutions in order to achieve the reported results, which could have been much lower, had the Commission not taken remedial measures to achieve more with less resources.

Most of the pending cases related to complaints received in the fourth quarter of 2019 as well as some cases which required the Commission to travel for investigations due to the complexity and nature of the allegations.

In line with its mandate, the Commission referred some cases to other institutions which had direct jurisdiction to handle such complaints. These included the Department of Labour under the Ministry of Labour, the Legal Aid Board, the Public Protector, the Judiciary, the Zambia Police Service and the Legal Resources Foundation;

Complaints were withdrawn at the instance of complainants for various reasons, including having reconciled with a Respondent or where a complainant decided to proceed to take legal action in respect of his/her complaint.

Discontinued complaints were mainly those that the HRC upon preliminary investigations, found weak or had insufficient evidence to continue with investigations.

Nature of Human Rights Violations

The table below shows the nature of human rights violations recorded by the HRC in 2019

Table 2. Nature of Human Rights Violations

Civil & Political Rights	Total
<i>Right to life</i>	9
<i>Right to personal liberty</i>	13
<i>Freedom from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>	27
<i>Right to property</i>	54
<i>Protection for privacy of home and other property</i>	14
<i>Right to secure protection of the law</i>	319
<i>Protection of freedom of conscience</i>	2
<i>Protection of freedom of assembly and association</i>	7
<i>Protection from discrimination on the ground of race, etc.</i>	16
<i>Freedom from unlawful detention</i>	18
<i>Protection from maladministration of justice</i>	64
<i>Right to personal safety and security</i>	13
<i>Right to a name and nationality</i>	2

to be conducted, and shall indicate accordingly in the report.

³ The 7th National Development Plan (Implementation Plan for 2017-2021) at p. 73

<i>Right to apply for Asylum</i>	2
<i>Freedom from deprivation of property</i>	67
Economic, Social and Cultural Rights	
<i>Right to employment and favourable conditions of work</i>	258
<i>Right to social security</i>	11
<i>Right to protection of the family</i>	2
<i>Right to the highest attainable standard of physical and mental health</i>	18
<i>Right to participate in one's cultural life and scientific progress</i>	2
<i>Right to an adequate standard of living, including rights to food, clothing and housing;</i>	11
<i>Right to education</i>	25
<i>Contractual rights</i>	4
<i>Right to remedy</i>	27
<i>Protection from Child abuse</i>	92
<i>Child Custody</i>	3
<i>Rights in Intestacy</i>	12
<i>Minority Rights</i>	1
TOTAL	1093

From the above classification of complaints, the top five violations documented by the Commission for the year 2019 were:

Box 1. Top Five Violations in 2019

<i>Right to secure protection of the Law</i>	319	29.2%,
<i>Right to employment and favourable conditions of work</i>	258	23.6%,
<i>Protection from child abuse</i>	92	8.4%,
<i>Freedom from deprivation of property</i>	67	6.1%
<i>Freedom from maladministration of justice</i>	64	5.8%

The Right to Secure Protection of the Law and Employment related rights had continued taking the first and second most violated rights in 2019 (as the case was in 2018).

In 2018, Right to Secure Protection of the Law accounted for 29.4% of the total number of complaints while Employment related cases accounted for 18.5%. In 2019 the protection from child abuse made it to the top 5 violations and this could be seen from the increase in the actual number of complaints in 2019.

Specifically:

Secure Protection of the Law

Violation of the right to secure protection of the law had continued to be the top violation for the past three years in a row (2017, 2018, and 2019). This was of great concern to the Commission. In this regard, the Commission continued to engage all the players in the justice delivery sector in order to address the clogs and fetter that resulted in violations of human rights.

Employment and Favourable Conditions of Work

The HRC continued to receive high numbers of complaints regarding violations of the right to

employment and favourable conditions of work mostly involving employees complaining against employers about delayed salaries and unpaid dues. The Commission continued to record numerous complaints of companies engaged in the provision of security services failing to pay wages to their employees as and when they fell due. Not only did wilful failure to pay wages constitute a human rights violation, but it was also illegal and criminalized under Section 55 of the Employment Act, Chapter 268 of the Laws of Zambia.

Protection from Child Abuse

Complaints that related to children were of grave concern due to the vulnerability of the victims involved. Complaints ranged from lack of maintenance, support; denial of education, food and health related support. The Commission continued to work with the Victim Support Unit of Zambia Police Service in addressing violations of this nature. Further, the Commission through mediation brought families together to address issues surrounding the welfare and best interest of children.

Deprivation of Property

During 2019, the Commission received 67 complaints relating to deprivation of property, which was guaranteed under Article 16 of the Constitution, Chapter 1 of the Laws of Zambia. Many of these cases related to property grabbing especially in cases where a person died intestate and left property behind. As a result of this, most of the cases involved people who had family ties.

Mal administration of Justice

Cases involving maladministration of justice concerned acts or omissions mainly by State institutions. Such cases were referred to the Office of the Public Protector which is empowered pursuant to Article 244 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 to investigate an action or decision taken or omitted to be taken by a State institution in the performance of an administrative function.

Highlighted Cases

Below is a summary of some highlighted cases recorded in 2019.

Jonathan Mwiya (On Behalf of David Chizyuka) Vs. The Zambia Police Service (Monze Police Central Police Station)- <i>Freedom from Torture</i>
--

The Human Rights Commission received a complaint alleging torture of a suspect by police officers operating from Monze Central Police Station who were investigating a case of theft. The complaint was received in the 4th quarter of 2018. However, the investigations were conducted in March, 2019 due to inadequate funding.

The Complainant Mr. Jonathan Mwiya reported that David Chizyuka (hereinafter called “the Victim”), a taxi driver operating within Monze town was allegedly tortured by Police Officers from Monze Central Police Station on 18th November, 2018. According to the Complainant, the Victim was detained on allegations that he had stolen money amounting to K4,900.00

The Victim was reportedly subjected to the infamous swing (kampelwa) where his hands and legs were tied together with a metal bar used to suspend the body between two tables. This was done to force and secure a confession of the alleged theft.

The Complainant added that the Police refused or neglected to take action against the officers believed to have participated in torturing the Victim. According to the Complainant, the Police stopped the

Victim's family and friends from seeing him in custody in what appeared to have been an attempt to hide the injuries inflicted on him. The Complainant feared that justice would not be served given the resistance from the police hence seeking the HRC's intervention.

The Commission found that the Victim, David Chizyuka, was tortured by four (4) police officers led by Constable John Banda. After the torture, the police officers pleaded with the Victim to settle the matter outside court after which a total sum of K13,000.00 was paid to him. The payment of K13,000.00 together with the documentary evidence confirmed the act of torture.

As a result of the said torture, the Victim sustained injuries as per the medical report signed by Dr. Habinsi on 26th November, 2018 stating; **"grossly swollen and tender left buttock and multiple penetrating small wounds (acute)."** The small penetrating wounds were consistent with injuries from tiny sharp objects such as nails.

The Commission also found that the command at Monze Central Police Station was reluctant to charge the police officers for their criminal conduct. The Commission submitted a full report to the Inspector General (IG) of Police with the recommendation that the Zambia Police Service take appropriate administrative action against all the police officers who took part in the torture of the Victim. The IG responded and assured the Commission that the recommendation would be implemented. However, at the time of writing this report, the Commission had not yet received feedback on the matter from the IG despite the lapse of the 30 days statutory requirement.

The Commission was however still following up the matter as torture is a grave violation of human rights which was absolutely prohibited by international and national laws.

<p>Rev. Mmembe (On Behalf of Josephine Musonda) Vs. Joseph Musonda - <i>The Right to Personal Liberty</i></p>
--

The HRC received a complaint from a concerned member of the public regarding a 26-year-old lady of Matero East Township in Lusaka who was confined to her room by her parents on the basis that she had a mental impairment.

Josephine Musonda was being kept in a small room with her leg tied to a 20-centimetre chain for over five years. Josephine's parents who identified themselves as Jehovah's Witnesses alleged that their religious beliefs did not permit them to seek conventional medical intervention.

In collaboration with Young Women's Christian Association (YWCA) the Commission facilitated the process of obtaining a court order for Josephine to access medical attention at Chainama Hospital, where Josephine was admitted for 14 days and subsequently discharged.

A follow up visit confirmed that she was no longer confined in the said small room and was receiving treatment.

<p>Elina Kapepa vs. Emily Banda-<i>Freedom from Discrimination on the basis of Disability</i></p>
--

The Commission received a complaint from Elina Kapepa, female aged 50 of Chipulukusu Compound in Ndola against the Respondent for discriminating her son. The Complainant stated she had a son named Samuel Kaumba male aged 20 who was born with a disability called 'Attention Deficit Hyperactivity Disorder (ADHD)' - a chronic condition that causes difficulty in attention and emotional/behavioural self-control.

The Complainant alleged that the Respondent who was her neighbour issued remarks on the need to lock up the child in the house and that she had instructed her children to chase the Respondent's child away whenever he came out to play with her children. The Complainant therefore sought the Commission's intervention.

During mediation which was conducted on 28th May, 2019 the parties amicably agreed that the interest of the child with a disability was paramount and ought not to be discriminated against. The two parties reconciled and resolved that the right of the child to freedom of association would be respected.

Agness Musonda vs Zambia Police Service- *Right to Health*

The Complainant, Agness Musonda, complained against The Zambia Police Service on behalf of six (6) juveniles who were in detention at Mongu Central Police Station. The Complainant alleged that the Respondent had refused to take the juveniles to the hospital.

The juveniles were victims of mob justice, at the time they were apprehended by the community. They were charged with the offence of burglary and theft contrary to Section 301 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

The Commission immediately followed up the matter with the Respondent and met with the Criminal Investigations Officer (CIO). The CIO informed the Commission that the concern had just been brought to his attention. He explained that the victims could not be taken to the hospital immediately because the station had no fuel.

However, the Commission insisted that as the primary duty bearer, the Police had an obligation to ensure that suspects that were in their custody and were in need of medical attention, were facilitated to access medical services as a matter of right. Following this intervention, the suspects were taken to the hospital and accessed medical services.

Fenny Masaka v. Zambia Correctional Service (Livingstone Correctional Facility)-*Right to Health*

The Complainant, a 56-year-old female, brought a complaint against the Respondent on behalf of her husband Richard Muchaka, a 68-year-old male remandee. The Complainant alleged that the victim had been at the Livingstone Correctional Facility for over a year; had been very sick and; was admitted to Livingstone Central Hospital. She further alleged that due to his serious illness, the Hospital decided to refer him to the University Teaching Hospital (UTH) in Lusaka for specialist medical treatment.

The Complainant's efforts to engage the Officer in Charge at the Livingstone Correctional Facility seeking her husband's transfer to UTH to access better medical services did not bear fruits, hence the decision to engage the Commission. Following the Commission's intervention, the victim was subsequently transferred to UTH.

HRC/C/58/2019-Duncan Gama v. Kanjala Primary School- *Right to Education*

The complaint was on behalf of a juvenile, female (12) a grade 5 pupil at Kanjala Primary School in Chipata, who was put on forced transfer due to a misunderstanding between her parents and the school administration.

Investigations by the Commission revealed that the school was the nearest to the pupil's home. Further that the misunderstanding arose when the Complainant confronted her child's class teacher after she lost her books at school.

The Commission engaged the Head teacher who said that she would rescind the decision upon an apology being rendered to the affected teacher. Through mediation, the parties were reconciled and the Complainant was reminded to follow the right channel for registering a complaint. Following the Commission's intervention, the transfer was reversed. The Head teacher indicated that the child would attend catch-up lessons for the classes that she had missed during the period she was on forced transfer.

Ellie Besa Vs. Vascoda Pascal Musonda (Milima Correctional Facility) – Freedom from Sexual Harassment

On 6th September 2019, the Commission was in receipt of a complaint from Ellie Besa a Juvenile. The Complainant was arrested by police officers from Mporokoso Police Station and charged with the offence of theft on two occasions. He was ordered to be sent to Nakambala Approved School on 25th February, 2019. He was at the time being held at Milima Correctional Facility awaiting confirmation of the order.

While at Milima, the Respondent who was an adult inmate but sleeping in the Juvenile cell block was alleged to have started kissing the Complainant and touching him inappropriately.

The Commission carried out further investigation and discovered that there were multiple infractions of the Rule 11 of the Mandela Rules and the Juvenile Act which speak to the separation of Juveniles and adults in custody.

Following the Commission's recommendation, the Zambia Correctional Service immediately removed all adult male inmates from the juvenile cells.

The Commission through the Kasama Office brought this matter to the attention of the Zambia Police Service (Kasama Central Police Station) in a letter dated 24th September, 2019 which was received on the same day recommending that the Zambia Police Service conducts its own investigations and take appropriate action.

As at 11th October, 2019 the Police Investigations had not yet commenced. The Commission immediately brought this inaction to the attention of the Commissioner of Police for Northern Province.

The inmate was later charged and adjudicated and punished in accordance with the Prisons Act Chapter 97 of the Laws of Zambia.

Clare Whitehead Mateke vs. Department of National Registration, Passports and Citizenship-Right to Identity

Ms. Clare Whitehead Mateke lodged a complaint with the Commission alleging that her application to renew her passport was rejected at the Livingstone Passport Office on account that she could not use her ex-husband's name which was appearing on her passport. The Complainant was allegedly advised to seek her ex-husband's consent if she wished to continue using his name.

The Complainant argued that due to professional reasons, she was not desirous to revert to her maiden name. She thus wished to continue using the names she acquired at marriage which she had been using for over twenty-five (25) years.

The Commission engaged the Respondent and eventually the Complainant's passport was renewed in the names that she preferred.

This case was perhaps a reminder of the inherent discrimination against women that arise from the breakdown of the institution of marriage.

HRC/WP/C/069/2019: Gloria Lungowe Maimbolwa vs. Zambia Police Service*- Right to Personal Liberty*

The Complainant stated that her son Lipulamo Manshaputo who was arrested and detained on 20th July, 2019 for offence of aggravated robbery had not appeared in Court. The complaint was reported to the Commission on 19 August, 2019.

The Commission visited the Zambia Police Service and was informed that the docket was with the National Prosecution Authority (NPA) for further instruction. The Commission made a follow up with NPA and met with one of the State Advocates who informed the Commission that he was not aware of the matter.

After several engagements with the NPA, the victim appeared in Court on 4th September, 2019. The Commission advised the Complainant to consider instituting legal proceedings against the Zambia Police Service through the Legal Aid Board for over detention.

Joseph Nalumino and Siwa Nawa vs Zambia Police Station – Freedom from*Torture and the Right to Life*

On 13th August, 2019 the Commission investigated two (02) serious allegations of torture at the hands of officers at Kalabo Police Station. It was reported that Samulele Mundia and Manix Nalumino suspects in an Aggravated Robbery case were tortured by police officers at Kalabo Police Station.

The victims were reportedly severely tortured at the time of arrest and whilst in police detention, resulting in the death of Samulele Mundia (who died in the police cells), while Manix Nalumino was admitted to hospital for over a month with serious injuries.

In order to confirm the allegations, the Commission spoke to persons who came into contact with the victims before and after the alleged torture. The witnesses included the persons who were apprehended and detained together with the victims in relation to the same case. Others interviewed were officers from Zambia Police Service and the Medical Doctor who treated Mannix Mundia.

The findings of the investigations confirmed the allegation of torture. The persons interviewed confirmed that the two victims were tortured by police officers. The Officer-In-Charge at Kalabo Police Station in his statement stated that 'it was not easy to extract information from core criminals like the two victims'.

Dr Kabungo, the Medical Officer in Charge for Kalabo District Hospital submitted during the interview and in his written submission that Samulele Mudia, male aged 40 years old was brought to the hospital mortuary from the Correctional Facility as 'a brought in dead' (BID). He further submitted that Manix Nalumino, male aged 33 years old was admitted to Kalabo District Hospital on 18th June, 2019 complaining of pain on the left thigh and painful swelling leg. The Medical Doctor's findings after examination were as follows;

- Soft tissue injury on the posterior side of the left thigh with bruises on the skin and crushed muscle,
- Fracture on the metacarpal on left hand,
- Dislocation of the talus on the left ankle,
- Bruises on the right wrist,
- Painful swelling on the lower abdomen.

The Medical Doctor stated that the lesions were consistent with physical trauma due to a blunt object or excessive force. Manix Nalumino was treated for these lesions and discharged from the hospital on 19th July, 2019.

Manix Nalumino (one of the Victims) was interviewed and he stated that he was tortured until he became unconscious and he only gained conscious three (3) days later and found himself on the hospital bed. Nalumino was found using clutches to walk at the time of the interview due to the injuries inflicted on him.

However, the Commission could not conclude the cause of death of Samulele in the absence of a postmortem report as the police had failed, neglected or refused to release the post-mortem report. As at the time of reporting, the matter was yet to be concluded as the Commission awaited the post-mortem report.

Vincent Mweemba Vs. Zambia Police Service- *Right to Life*

On 15th August, 2019, several media houses were awash with the report and pictures of a suspect named Vincent Mweemba (hereinafter referred to as the 'deceased person') who was allegedly beaten to death by two police officers namely Constable Phiri and Constable Nyirenda also called '*Double 00*', based at Malengo Police Post located off the Kafue Chirundu Road.

By virtue of the Constitutional and Statutory mandate of the Commission, independent investigations were initiated to probe the circumstances that led to Vincent's death while in police custody.

The Commission interviewed the people closely related to the deceased including one Misheck Machipisa who was an eye witness having been detained together with the deceased person.

The Commission's findings were that the deceased met his death during police interrogations wherein he was severely tortured using the infamous swing '*kampelwa*'. The deceased was suspended between two pillars of a brick wall until it collapsed. The two named officers reportedly took turns in whipping him all over the body using sticks and a long button. They only stopped when it appeared that the deceased had passed out. The deceased lay prostrate on the ground agonizing in pain without any assistance. The deceased had his hands in handcuffs while his legs were tied together using a rope.

The Commission immediately brought this matter to the attention of the Zambia Police Command through the Ministry of Justice.

This led to the arrest of Constable Phiri and Constable Nyirenda, the two police officers who reportedly tortured the deceased to death. The duo started appearing before court in December, 2019 and had been committed to the High Court where they were undergoing trial for murder before Hon. Mr. Justice Mwape Bowa. The Commission will continue monitoring the court case in 2020.

HRC/SP/140/199-Chama Fumba & Others v. Zambia Police Service - *Right to Personal Liberty*

The Commission initiated an investigation in line with Section 10(1) of the Human Rights Commission Act, Chapter 48 of the Laws of Zambia following media reports of the arrest and detention of musician and human rights defender, Chama Fumba, popularly known as *Pilato* who was arrested with two other persons. The trio were allegedly apprehended on 21st December, 2019 at YCTC Centre of the Roman Catholic Church in Livingstone for holding a meeting without notifying the police. Initial reports on media indicated that the trio had been detained without charge.

The Commission made follow ups on the matter and had a meeting with the Officer Commanding who confirmed that the trio had been charged with Unlawful Assembly pursuant to Section 74 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

The Commission recommended the facilitation of bond in the event that the trio would not be taken to appear before Court within the statutory 24 hours period.

The Commission further released a press statement demanding the granting of the suspects police bond or taking them to court.

Pilato and others appeared before court and were released on bail on 24th December, 2019. The Commission continued monitoring the matter in court with keen interest and will continue to do so in 2020.

Monitoring Detention and Correctional Facilities

Visiting detention and correctional facilities is one of the statutory functions of the Commission.⁴ In this regard, the Commission conducted inspections to selected Police Stations, Posts and Correctional Facilities in Lusaka, Copperbelt, Southern, Eastern, North-western, Central and Western Provinces.

The benchmark against which the Commission assessed the conditions in detention and correctional facilities were the *1955 United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR)* also known as the *Nelson Mandela Rules as revised in 2015*; the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* and; *Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)*. The Commission conducted a total of 32 scheduled inspections and 36 impromptu inspections in 2019. Below are highlights of the inspections:

Lusaka Central and Kamwala Remand Correctional Facilities

The HRC as per its constitutional and legislative mandate undertook visits to the Lusaka Central Correctional Facility (Chimbokaila) and Kamwala Remand Correctional Facility. The main focus of the visit was to monitor compliance with the Mandela Rules; sensitize inmates on their rights and responsibilities as well to receive complaints from them. At the time of the visit, there was a total of 1,412 persons held in Lusaka Central Correctional Facility, broken down as follows:

- Male Convicts (MC) 836
- Male Remands (MR) 404
- Male Prohibited Immigrants (MPIs) 85
- Male Juvenile Remands (MJR) 46
- Male Juvenile Prohibited Immigrants (MJPIs) 04
- Male Detainees under the President's Pleasure (HEPs) 06
- Condemned 22
- Lifers [serving life imprisonment] 05
- Male Juvenile Ordered 04

The Commission were deeply concerned at the alarming congestion at Lusaka Central Correctional Facility which stood at 370% (1,412) as the Facility was originally designed for an official holding capacity of 300 inmates. In addition, the Commission learnt with great concern that, due to limited space, juveniles were not separated from adult inmates during the day and were only separated at night.

Another source of concern was the intermingling of remandees with adult convicts, in violation of various international human rights standards. Officers justified their action by stating that the remandees and convicted adult inmates were mixed to reduce the likelihood of escapes as remandees tended to escape. Therefore, trusted convicts watched over the remandees for security purposes.

Notwithstanding the challenges and justifications provided, the mixing of different categories of persons in detention was in violation of the Mandela Rule, particularly Rule 11(b) and (d), which states that: *"The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:*

- (b) Untried prisoners shall be kept separate from convicted prisoners;*
- (d) Young prisoners shall be kept separate from adults"*

⁴ Section 9 (d) Human Rights Commission Act, No. 39 of 1996

The Correctional Services Officers assured the Commission that they were hopeful that the construction of Mwembeshi Correctional Facility, where inmates from Lusaka Central and Kamwala Remand Correctional Facilities were earmarked to be relocated after completion, would resolve the overcrowding problem to a good degree.

Kamfisa Correctional Facility in Kitwe

At Kamfisa Correctional Facility in Kitwe, the total number of “inmates” found on 23rd August 2019 was **2,508** broken down in the table below.

Table 3 Category of Inmates

No.	“Prisoner” Category	Number
1.	Male Convicts	2,134
2.	Male Remands	314
3.	Male Prohibited Immigrants	04
4.	Male Juvenile Remands	39
7.	Male held under the Pleasure of the President	17
8.	Total	2,508

The design holding capacity for Kamfinsa Correctional Facility was 1,500, which means the facility was overcrowded by 1,008 inmates. The overcrowding in itself a violation of human rights, also contributed to a violation of a wide range of human rights as established under *Mandela Rules, the UN Standard Minimum Rules for protection of Prisoners*.

Other Correctional facilities visited included Senanga and Mongu Correctional Facility and Limulunga Police Post situate in Western province.

Highlights of Complaints from Places of Detention

In handling the complaints, the Commission grouped them based on the Respondents and thereafter engaged the various Institutions in order to address the complaints. Some of the Institutions engaged were Drug Enforcement Commission, Department of Immigration, Zambia Correctional Service, Zambia Police Service, Department of Social Welfare, Legal Aid Board, National Prosecution Authority, Chainama Hills Hospital and the Judiciary.

Below were some of the complaints which were received and resolved:

Shafie Ahmed & 7 Others vs. Department of Immigration- *Secure Protection of the Law*

The Complainant informed the Commission that he and 7 others were Ethiopians who came to Zambia in April, 2019; on a month’s permit as delegates to a workshop in what was suspected to be a case of Human Trafficking. On 16th May, 2019 they were picked up by Immigration Officers and detained initially at Ridgeway Police Post and later on 30th May 2019, transferred to Kamwala Remand Correctional Facility. They were being kept in the Correctional Facility as witnesses.

Following the Commission’s intervention, they were removed from the facility and moved to a home of a member of the Ethiopian Community in Zambia until they testified in court. They were later repatriated to their country of origin.

Abuddalah Hassan vs. Immigration Department- *Secure Protection of the Law*

Mr. Abuddalah Hassan complained on his behalf and on behalf of other fellow Somalian inmates who had completed serving their sentences but had not been deported, despite indicating their willingness to finance their travel. He stated that remaining in the Correctional Facility even for a single day after sentence, constituted a violation of an individual's right to personal liberty and led to other violations such as continued subjection to inhumane conditions.

He was convicted together with Hristov Donkov and Milko Stoyanor for unauthorized access to data and was due for release on 24th December, 2019. He stated that while his Embassy in Kenya had authorized him to purchase his own air ticket before release date, and he feared that he would have to wait way after his release date, as the Ministerial deportation order took long to be executed. He complained that in cases where inmates bought their own tickets, it was not only difficult but also expensive to change travel dates on the tickets when the deportation orders were delayed.

Following the Commission's intervention, the Complainants had their Deportation Orders signed in advance and were able to leave the country on the actual date of release.

Jennifer Chisanga vs. Drug Enforcement Commission- *Right to Property*

The Complainant was convicted and sentenced to serve three (3) months on 18th June, 2019 for a drug offence. She alleged that a named DEC Officer seized K390.00 and a power bank from her and these items had since not been given back to her or her relatives. Following the Commission's intervention, the items were released to the Complainant after presenting the Seizure Notice issued at the time of arrest.

Crispin Chibale and Dauti Manda v The Judiciary - *Secure Protection of the Law*

Crispin Chibale and Dauti Manda were juveniles aged 17 and 16 years respectively. The duo informed the Commission that they were arrested in July, 2016 and appeared before the Subordinate Court. Trial ended in December 2016 with Crispin's Social Welfare Report submitted while that of Dauti was not submitted.

On 22nd December, 2016 the matter was transmitted to the High Court but the duo had never appeared before court. It was alleged that their documents had gone missing.

The Commission brought this matter to the attention of the Judiciary, and the two juveniles appeared before Court on 4th October, 2019.

Sylvester Moonga vs The Judiciary- *Secure Protection of the Law*

The Complainant, Mr. Sylvester Moonga, was charged with incest and his trial was heard and he was convicted by the Siavonga Subordinate Court presided by Hon. Edward Banda on 23rd June, 2017. Thereafter, he was committed to the High Court for sentencing. Since 2017, he had been waiting to appear in the High Court for sentencing.

Following the Commission's intervention, the Complainant was sentenced to 20 years imprisonment, which is the minimum sentence for an offence of incest, on 23rd September, 2019.

Legal Reforms

Being a National Human Rights Institution, the Commission is, pursuant to its Constitutional mandate and Paris Principles, required to advise Government on laws, policies and practices to enhance the

promotion and protection of human rights. In 2019, the Commission worked towards the review of the following laws:

Repeal and Replacement of the Human Rights Commission Act

The Commission continued to advocate for the repealing and replacing of the Human Rights Commission Act No 39 of 1996 following the enactment of the Constitution of Zambia (Amendment) Act No. 2 of 2016. The proposed HRC Bill, 2019, is aimed at enhancing the powers of Commission. However, by the end of the period under review, the process of tabling it before the Cabinet Legislative Committee, followed by the full Cabinet, then Parliament was yet to be accomplished.

Review of the Legal Aid Act

The Commission was part of the stakeholders who participated in the review of the Legal Aid Board Act to align it with the Legal Aid Policy of 2018. The main objective of reviewing the Act was to ensure that a comprehensive legal aid system was in place to enhance access to justice, including the formal recognition of Community Paralegals.

Submission to the Parliamentary Select Committee to Scrutinize the Constitution of Zambia (Amendment) Bill No. 10 of 2019

The HRC made a submission to the Parliamentary Select Committee regarding the proposed amendment to the Constitution of Zambia (Amendment) Act No. 2 of 2016. The Commission's submission was premised on the need to protect and uphold human rights for all, transparency, accountability and the rule of law.

Of high importance, the Commission in its submission advocated for the holding of another National Referendum on the proposed Bill of Rights to allow for a holistic amendment to the Constitution. The Commission reiterated the need for the National Referendum to be held independent of the general election to avoid what transpired in 2016 where the process ended up being politicized.

The Commission contended that amendment to other parts of the Constitution would have no genuine outcome if not coupled with an enhanced Bill of Rights which incorporated not only civil and political rights but also economic, social and cultural rights which were not provided for in the Constitution.

Submission to the Parliamentary Select Committee to Scrutinize the appointment of the Deputy Chief Justice

The Commission appeared before a Parliamentary Select Committee and supported the Presidential appointment of Hon. Mr. Justice Michael Musonda, State Counsel to serve as Deputy Chief Justice for the Republic of Zambia.

Parliamentary Select Committee to scrutinise the appointments of Commissioners of the Anti-Corruption Commission

The Commission appeared before a Parliamentary Select Committee to scrutinise the Presidential appointments of Commissioners of the Anti-Corruption Commission (ACC). The appointees included Hon. Judge Anderson Ray Zikonda (RTD) as Chairperson; Mrs. Yvone Mutepuka Chibiya as Vice Chairperson and; Mr. Kafula Mwiche, Mrs. Maimbo Febby Siamuzyulu Ziela and Mr. Hlobota Nkunica to serve as Commissioners.

Recommendations for Enhancing Human Rights Protection

- The Commission calls upon the Government to actualise its commitment to enacting the Human Rights Commission Bill into Law at the earliest possible sitting of Parliament in order to enhance

the mandate of the Commission, including Commission recommendations having a binding effect, for the securing of effective remedies for Victims.

- The Police Command should ensure that all cases of torture, extra-judicial killings and other cases bordering on serious human rights violations of a criminal nature perpetrated by men and women in uniform are subjected to the due process of the law in a timely and impartial manner in order to end impunity.
- The Zambia Police Service should scale up capacity building for Police Officers on modern investigative skills and prioritise the procurement of modern equipment to help reduce the incidences of torture as a means of information extraction from suspects.
- The Commission calls upon the Zambia Police Service to scale up crime prevention activities at community level so as to reduce the incidences of crime.
- The Ministry of Home Affairs through the Department of Immigration should ensure the timely removal and deportation of Prohibited Immigrants who have been through the criminal justice system.
- The Commission continues to urge the Zambia Police Service and the Judiciary to relax Bond and Bail conditions respectively in order for them to impose conditions that only aim at securing the appearance or attendance of an accused person before court.
- The Commission calls for enhanced collaboration among justice sector institutions such as the Judiciary, the Zambia Police, National Prosecution Authority and the Legal Aid Board in order to address the bottlenecks that result in delays in the disposal of criminal cases.

Recommendations arising from the Inspection of Detention Facilities

- The Commission calls upon the Ministry of Home Affairs to improve the conditions of detention facilities under the Zambia Police Service and the Zambia Correctional Service in order to make them more habitable for inmates.
- The Commission urges the Government to expedite the construction of the new facilities at Mwembeshi to mitigate the over-crowding at Kamwala Remand and Lusaka Central Correctional Facilities.
- The Commission calls upon the Zambia Correctional Service to strictly enforce the provisions of Section 60 of the Prisons Act, Chapter 97 of the Laws of Zambia as read together with the United Nations Standard Minimum Rules for the Treatment of Prisoners to ensure the separation of juvenile and adult inmates, convicted and unconvicted inmates among other categories.
- The Commission recommends that the Ministry of Finance allocates adequate funding through the Zambia Correctional Service towards the procurement of ambulances for use in the Correctional Health Facilities as a way of guaranteeing access to health by inmates.
- The Government should make available adequate funding through the Zambia Correctional Service and the Ministry of Community Development for purpose of conveying juveniles to Reformatory and Approved Schools respectively.

Human Rights Promotion

The Commission is mandated to carry out “Civic Education on Human Rights” as provided for under Article 230 (e) of the Amended Constitution of Zambia. This includes sensitization and awareness creation; education, Media and Public Relations mandate of the Commission on matters of human rights and freedoms. Below were some highlights of activities implemented by the Commission during the year under review.

Promoting the Right to Freedom of Assembly

Freedom of Assembly and Association is a fundamental human right enshrined under various international and regional human rights instruments, to which Zambia is a State Party. The right to freedom of assembly and association was enshrined under Article 20 the UDHR; Articles 21 and 22 of the ICCPR; and Articles 10 and 11 of the ACHPR

The right to freedom of assembly and association was guaranteed by the Zambian Constitution under Article 21, which stated that:

“21. (1) Except with his own consent a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his 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.

However, the right to freedom of assembly and association was not absolute. It could be limited “in the interests of defence, public safety, public order, public morality or public health”; and “for the purpose of protecting the rights or freedoms of other persons”; among other prescribed derogations.

In 2019, the Commission continued monitoring the enjoyment of the right to freedom of assembly and the implementation of the Public Order Act (POA), particularly during parliamentary and local government By-elections, as follows:

Sesheke Parliamentary By-election

The Commission monitored the policing of political campaigns during the Parliamentary By-election held in Sesheke Constituency, in Western Province on 12th February, 2019. The By-election was contested by four political parties, namely the Patriotic Front (PF), People’s Alliance for Change (PAC), United Party for National Development (UPND) and United Prosperous and Peaceful Zambia (UPPZ).

Through monitoring the policing of 21 political campaign activities, visits to areas where violence was reported and interviews with key witnesses, the Commission observed that political parties commenced their campaigns on a peaceful note having successfully filed their nominations on 10th January, 2019. However, campaigns turned out to be violent from 8th February, 2019 through to the date of voting on 12th February, 2019 and the period post the election.

The violence reported in Maondo and Mulimabango Wards was as a result of the police’s decision to stop UPND leader Mr. Hakainde Hichilema from entering Sesheke town where he was scheduled to conduct campaign activities. The UPND leader was barred from conducting scheduled meetings in Nakatindi Ward on 8th February, 2019 and in Luampungu and Lusu Wards on 9th February, 2019, including attending the Roman Catholic Church and the New Apostolic Church Services on 10th February, 2019.

Despite having agreed on a campaign schedule with all the contesting political parties, the police decided to cancel scheduled meetings of opposition political parties during the period when President Lungu visited Sesheke. The opposition political parties were not given ample notice regarding the cancellation of their planned campaign meetings nor proposed alternative dates when the cancelled meetings could be held within the provisions of the law. This was in violation of the right to freedom of assembly of the opposition parties as guided by the Supreme Court in the ⁵**Resident Doctors Association of Zambia and Others vs. The Attorney General** case, in which it stated that:

“The petitioners complied with the law and duly notified the Police within the time allowed by law.

⁵ Resident Doctors Association of Zambia and Others v Attorney General (SCZ Judgement No. 12 of 2003) [200] 3 ZMSC 31 (27 October 2003)

The regulating officer had a duty to inform the petitioners in writing at least five days before the event, if they were unable to police the march and propose alternative days. The petitioners' right to assemble and march therefore accrued at this stage."

As a result of the arbitrary decisions by the police of intercepting the UPND convoy in Maondo and Mulimambango; PF, UPND and police clashed violently resulting in loss and damage to property and injuries being sustained by all parties involved. At least 67 victims of police brutality in Mulimambango were treated at Yeta Mission Hospital.

The police responded in a brutal manner by using excessive force which further resulted in severe injuries inflicted on individuals and damage to property. Hundreds of uniformed police officers in full riot gear and armed with military weapons patrolled Sesheke District on foot and via motor vehicles. The police fired gunshots and tear gas to disperse unruly crowds in a way that was intimidating and instilled fear, particularly in the opposition strongholds. The methods and tactics employed by the police fell far short of the modern national and international policing standards of crowd management.

Bahati Parliamentary By-Elections

The Commission monitored Parliamentary By-Elections in Bahati Constituency - Mansa District, including the Local Government By-election in Chilyapa Ward of Mansa Central Constituency in Luapula Province, which were held on 11th April, 2019. The Parliamentary By-election was contested by the following five political parties: the Forum for Democracy and Development (FDD), PF, PAC, UPND and the UPPZ.

The Commission observed that stakeholders such as political parties, police and polling agents were engaged by the Electoral Commission of Zambia ahead of the campaign period on the need to adhere to electoral laws and conduct violence-free campaigns.

The police put in place effective measures to curb political violence, including the mounting of checkpoints on the main roads leading to Mansa to prevent illegal entry of weapons and importation of cadres from other regions.

However, there were sporadic reports of harassment and intimidation of the opposition during nominations and the final period of campaigns. On 14th March, 2019, suspected PF cadres went to the UPND offices in Mulenshe Ward of Mansa Central Constituency after filing nominations where they allegedly harassed UPND cadres and supporters. On 8th April, 2018, the UPND campaign team led by the party's National Chairperson, Mrs. Mutale Nalumango, was allegedly harassed by police officers manning a checkpoint at Musaila junction when going for campaigns in Musaila Ward.

Further, the UPPZ alleged that the party was forced to cancel a planned rally on 8th April, 2019 in Kaole upon receiving information that the PF were going to have another rally at the same place to be addressed by President Lungu. On the day of voting, there were also reported threats of physical attacks by suspected PF cadres on the UPND Deputy Secretary General for Politics, Mr. Patrick Mucheleka. Other issues of concern observed during the By-election included the destruction, obstruction and removal of political campaign materials. Further still, the Commission also received allegations of bribery and other forms of electoral malpractices aimed at influencing the voters.

Roan Parliamentary By-Elections

The Parliamentary By-Election in Roan Constituency, Luanshya District on the Copperbelt Province was held on 11th April, 2019. The By-election was contested by the PAC, PF, National Democratic Congress (NDC) and the UPPZ.

The Commission observed a good practice aimed at improving the enjoyment of the right to freedom of assembly. Prior to the campaign period, the police called for a joint meeting of the contending political parties, with the Electoral Commission of Zambia (ECZ) in attendance, where a schedule of

campaign activities was agreed to. The schedule considered a number of factors including the timings and locations against the number of police officers available to monitor and maintain peace pre, during and after the by-election.

The scheduled meetings were however slightly disturbed by visits by the Republican President and Vice Republican President, which resulted in some scheduled meetings for opposition political parties, such as the NDC, not taking place. Nonetheless, NDC was allowed to hold some meetings as the situation was resolved through the Electoral Conflicts Management Committee.

The general observation of the Commission was that the right to freedom of assembly was reasonably respected during the Roan Parliamentary By-election campaign. All the contending political parties were able to canvass for votes using either door to door campaigns, public meetings or rallies.

The campaign period was also relatively peaceful. The Commission monitored rallies jointly addressed by the NDC President, Dr. Chishimba Kambwili, and the UPND President, Mr. Hakainde Hichilema, held at Roan Grounds and Mpatamatu Stadium on Monday 8th April, 2019. Both rallies were incident free.

It was also encouraging that the opposition were not stopped from holding the rallies on Monday 8th April, 2019 on account that the same day the Vice Republican President, Mrs. Inonge Wina, was expected to address a rally at Maposa Primary School.

Further, on 9th April, 2019, the Commission observed campaign meetings whose main speaker was President Lungu, which were held at Roan-Kaunda Square Grounds and Mpatamatu Stadium respectively. The Commission neither observed any form of disruption of the campaign meetings nor received any report to that effect.

Notwithstanding the above, the NDC alleged that they were not allowed to conduct public rallies on 7th April, 2019 and there were attempts to stop them from conducting rallies on 8th April, 2019 on the pretext that the Head of State would be in the area to drum up support for the PF's candidate. After the NDC threatened to take legal action by filing an injunction to stop the holding of the by-elections if they were not allowed to conduct public rallies, as well as after tabling the matter before the Electoral Commission of Zambia Conflict Management Committee, NDC was allowed to hold rallies on 8th April, 2019.

Regrettably, on Polling Day, four of NDC members and leaders were brutally attacked by suspected PF cadres, who allegedly included a Minister, and were rushed to hospital for treatment.

The HRC received complaints from NDC members alleging that the police were either failing or refusing to deal with their complaints while they were quick to arrest and brutalise NDC members at the alleged instruction of PF members and supporters.

The NDC specifically alleged that on 6th April, 2019, they went to report to the Police that President Lungu's Special Advisor for Politics, Mr. Kaizer Zulu, allegedly had two boxes of ballot boxes at Cholwa Lodge where he was lodging and wanted the police to go and search Room Five (5) at the said Lodge. According to the NDC allegation, that Police Officers refused to go and conduct a search. After reportedly waiting at the Police Station for three hours, the NDC members who included their President, Dr. Kambwili, decided to drive back to Dr. Kambwili's house. They further alleged that suddenly they saw vehicles trailing them and that they saw Mr. Zulu in one of the vehicles and personally fired seven (7) shots right at the gate of Dr. Kambwili's house.

The NDC team drove back to the Police to report the shooting incident but that they were surprised to allegedly see Mr. Zulu in the company of Copperbelt Police Commissioner, Ms. Charity Katanga, who

ordered the immediate arrest and detention of Mr. Andrew Kapindula, a NDC member on allegation of malicious damage to one of the vehicles in the entourage of Mr. Zulu. It was further alleged that Mr. Kapindula was detained at Luanshya Police Station for more than seven days.

The Commission engaged Commissioner Katanga regarding the alleged case of over-detention in violation of the right to liberty, alleged by Mr. Kapindula. The Police informed the Commission that the reason for the over-detention was the inability of the suspect to provide sureties. The Commission proceeded to engage NDC offices to provide sureties and this led to the release of Mr. Kapindula on police bond.

Another complaint from the NDC was that the Police either failed or refused to arrest suspects in connection with the brutal assault of its members on the eve of Polling Day, in the early morning of 11th April, 2019 in Mpatamatu. The four (4) NDC members who were brutally beaten and severely injured by alleged suspected PF cadres and leaders were Mr. Guston Mwila (42), Mr. Obed Kasongo (52), a Mr. Musukwa and Mr. Byson Phiri.

There were no arrests of the alleged PF perpetrators and the NDC complained about the clear selective application of the law by the police in favour of the ruling PF. Katuba Parliamentary By-election.

On 11th April 2019, the Commission visited Luanshya Police Station to follow up on the continued detention of Mr. Lipindula on allegations of malicious damage to one of the vehicles which was allegedly in the entourage of Mr. Zulu. However, the Officers at Luanshya Police Station referred all queries regarding that case to Commissioner Katanga. The Commission proceeded to have a meeting with the Commissioner in the afternoon on the same day at Mpatamatu Police Station.

In response to the non - arrest, the Commissioner explained that one suspect by the name of Bernard Banda (25), from Nkana College of Education was already detained in connection with the assault of NDC members. She indicated that the PF had received a report that five (5) of its members had been abducted by NDC and they followed up the case along Mpatamatu-Kawama Road, where the four NDC members were attacked.

Commissioner Katanga denied that allegation that Honourable Lusambo was implicated in the attack, but explained that he was among those who took the injured NDC members to Police around 04:30 hours.

During the meeting with Commissioner Katanga, the Commission raised concerns that the police were selectively applying the law.

Katuba Parliamentary By-Election

The Commission monitored the Parliamentary By-election in Katuba Constituency, Chibombo District of Central Province, which was held on 30th July, 2019. The By-election was contested by three political parties, namely the PF, UPND and the UPPZ.

Prior to the By-election, the Chairperson of the Human Rights Commission, Mr. Mudford Zachariah Mwandenga, called for non-violent campaigns during a press briefing held in Lusaka on 9th July, 2019. The Chairperson emphasised that the expectation of the Commission was that the challenges that had been experienced during the past By-elections (i.e. Sesheke, Roan and Bahati Constituencies) relating to the management of elections and the enjoyment of human rights and freedoms in an environment free of violence would be overcome during the Parliamentary By-election in Katuba Constituency.

While the Commission observed that the By-election was generally peaceful, there were a few reported incidents of violence which had a bearing on the enjoyment of fundamental rights and freedoms.

There was confrontation between PF and UPND cadres leading to clashes during the pre-election period. On 15th July, 2019, PF Campaign Team member, Honourable Chanda Mutale, MP for Chitambo Constituency, informed stakeholders who attended a meeting called by the police at St. Peters Catholic Hall in Muwanjuni that the PF camp at Musopelo in Mungule Ward was attacked by suspected UPND cadres on 14th July, 2019.

The matter was reported to the police, but no arrests were made. On 30th July, 2019, UPND Chairperson for Elections, Honourable Garry Nkombo, MP for Mazabuka Central Constituency, addressed journalists at Muwanjuni Community Police Post and alleged that suspected PF cadres had beaten up UPND cadres in Mutakwa.

PF and UPND cadres also nearly came to blows at Lilanda Village Tent Polling Station in Chunga on 30th July, 2019 after some suspected UPND cadres allegedly attacked the PF camp next to the Polling Station demanding that it be closed during voting hours. The quick response by the police and senior officials from both parties brought the situation under control. The security around the Lilanda Village Tent Polling Station was beefed up and voting continued without disruption.

The Commission documented three incidents of violence by cadres against journalists and election monitors. The first two incidents happened before the polling day while the other occurred hours after the close of poll on 30th July, 2019. During nomination and accreditation, suspected UPND cadres attacked and verbally abused two officers of the Human Rights Commission who were deployed to monitor the by-election.

An Officer of the Human Rights Commission was attacked and his Samsung Tablet grabbed as he was trying to get pictures of UPND cadres who were harassing a man on a motor bike who was wearing a PF T-Shirt.

On 30th July, 2019, after the close of the poll, two Zambia Daily Mail reporters were attacked by cadres along Great North Road. The attack was carried out by cadres, armed with machetes and other offensive weapons, who came from Savannah Park Lodge where the PF had set up a camp. The reporters sustained injuries and lost a camera, recorder and undisclosed amount of money during the attack. A Nissan Hard body vehicle belonging to the Zambia Daily which was being used by the reporters in performing their duties in Katuba Constituency was also damaged during the attack. Later, the Commission learnt that the attacked Zambia Daily Mail Reporters were mistaken for Journalists from the Private Media who were a target of attack.

Kaoma Town Council Chairperson By-election

The Commission monitored political campaigns during the Kaoma Town Council Chairperson By-election held on 10th October, 2019. The By-election was contested by the PF, UPND and the UPPZ. The Commission observed that there were acts of violence during the campaign period leading to loss of life and damage to property. The cadres from PF and UPND clashed in Kaoma Site and Service area on 6th October, 2019 resulting in the shooting to death of Lawrence Banda, a Lusaka-based UPND supporter. The suspects had not yet been arrested by the police at the time of writing this report.

Further, there was another shooting incident documented involving a UPND cadre alleged to have shot and injured two PF supporters who were part of the mob that was chasing after him, allegedly with a view to lynch him. The suspect was arrested and detained at Kaoma Police Station awaiting appearance in court on the 14th October, 2019.

The Commission observed that the violence reported in Kaoma during the by-election for the Council Chairperson was instigated largely by PF and UPND cadres imported from outside the district. The cadres were allegedly armed with dangerous and offensive weapons such as pistols and machetes.

Again, the Commission observed selective application of the law by the police, which was not in line with the respect for the rule of law and the rights to equal protection of the law and protection against any form of discrimination.

By-Election for Chairperson of Kafue District Council

The Commission monitored the By-election for the Chairperson of Kafue District Council held on 27th March, 2019. The two contending parties, the PF and the UPND, conducted their campaigns in a generally peaceful manner. This was attributed to the fact that the police managed to bring the PF and UPND together in one meeting where campaign schedules were presented, conflicting meeting places ironed out and mutual agreement reached on the need to not interfere with each party's campaigns. Thus, both the PF and the UPND strictly adhered to their campaign schedules. The leaders of both parties held incident-free rallies and disseminated messages of peace during their campaigns.

However, there was one incident of violence reported during campaigns involving the PF and UPND cadres at a named lodge in Kafue. There were no identification of the alleged attackers and no arrests were made by the Police.

On the polling day, the police confirmed having received two reports of violence in Lukolongo where two people that were identified as belonging to UPND were beaten by suspected PF cadres. The victims were issued with medical reports and the Police stepped up security in the area by deploying more officers.

Further, the Commission observed some individuals in ordinary attire brandishing machetes as they were driven around town in unlabeled and unregistered vehicles, creating an intimidating atmosphere. The police were quick to respond and pursued the vehicles. It was later learnt that some UPND polling agents were forcefully removed from the polling stations they were manning, and others were arrested, including the party's Lusaka Provincial Chairperson, Mr. Obvious Mwaliteta, and charged with an offence of being found in possession of offensive weapons.

Awareness-raising on the Rights of Suspects

The Commission received financial support from the European Union through GIZ to conduct public awareness on the rights of suspects, detainees and accused persons. The project focus, as per GIZ support, primarily targeted Lusaka, Southern and Copperbelt provinces. The activities as outlined below were implemented:

Training of Trainers' Capacity Building Workshop

The Commission conducted an in-house capacity building training for 32 of its members from 20th to 21st May, 2019, held at Sandy's Creation Conference Centre in Chilanga District, aimed at enhancing its capacity to promote and protect the rights of suspects, detainees and accused persons.

The capacity building resulted in the rolling out of activities in the targeted project areas of Copperbelt, Lusaka and Southern Provinces as follows:

Development, Translation and Distribution of simplified IEC materials

The Commission developed, printed and distributed 19,000 copies of various forms of Information, Education and Communication (IEC) materials on the rights of suspects, which included 10,000 Booklets, 5,000 Bumper Stickers and 2,000 copies each poster on Bail and Bond. These were distributed

to members of the Public, to ensure that Rights holders understood the Rights of Suspects and Accused person, should they or persons they know come in conflict with the law.

Stakeholders' Engagement Workshops

The Commission conducted sensitisation and training workshops for State and Non-State Actors on the Copperbelt, Lusaka and Southern Provinces and a total of 128 stakeholders (45 on the Copperbelt, 43 in Lusaka and 40 in Southern province) were engaged who included Law Enforcement Agencies, Government Ministries and Departments, the Judiciary, Civil Society Organisations, Faith-Based Organisations and the Media.

The sensitization included topics such as the right to liberty; protection against torture and other cruel, inhuman or degrading treatment or punishment; securing the protection of the law and the rights of children.

Further, the stakeholders were taken through the process of identification of bottlenecks faced in the delivery of justice, including lack of access to legal aid, delayed court appearances and/or conveyance to Correctional Facilities, delayed appeals, deprivation of the right to access bail/bond by suspects and accused persons, among others.

Sensitisation Meetings for Communities

The Commission conducted community sensitisation meetings on the rights of suspects in **20** districts and **33** communities of Copperbelt, Lusaka and Southern Provinces, during which an estimated total number of **8,981** people were directly reached. A total of 3,255 were sensitized on the Copperbelt, 1,129 in Lusaka and **4,597** in Southern Province.

In addition to community sensitisation meetings, the Commission engaged traditional leaders, members of the Community Crime Prevention Unit (CCPU) popularly known as the Neighbourhood Watch in the respective three provinces on the rights of suspects and their role in facilitating the delivery of justice.

For instance, the Commission in collaboration with the Police, the Department of National Parks and Wildlife and the Office of the President, engaged Chief Mpuka of Luangwa District and the members of the CCPU on the rights of suspects from 29th to 30th August, 2019. The Commission and the police also addressed concerns relating to abuses of human rights by the traditional leaders and members of the CCPU. In total, there were more than 40 groups of CCPU and 63 who included traditional leaders from the following 18 villages (Nkalipilana, Fungulani, M'siafumbi, Lufasi, Thimanimoto, Mpakata, Janeiro, Mbilisau, Ngwende, Chavulala, Zavedo, Mwantigola, Phwazi, Nyaukwindi, Yapite, Kapyanyika, M'siafumbi and Mpakata villages) who attended the sensitisation meeting at Chief Mpuka's Palace. Furthermore, the Commission also conducted sensitisation for more than **150** members of the Anglican Church who were attending the Men's Union Annual Conference in Chelstone Township of Lusaka District on 31st August, 2019. The main issues discussed during the Men's Conference included Gender-Based Violence, property grabbing and the rights of persons in conflict with the law.

Sensitisation in Correctional Facilities

The Commission conducted sensitisation for inmates in eight (8) correctional facilities on Copperbelt and Lusaka Provinces. A total of 4,360 inmates were directly reached by the Commission in both the Copperbelt and Lusaka Provinces.

In Lusaka Province, 2,769 inmates were sensitised at Kamwala Remand, Lusaka Central (Female and Male Sections), and Mwembeshi Maximum Security Correctional Facilities, from 9th to 17th of July, 2019. On

the Copperbelt, the Commission sensitised 1,591 accused persons and inmates at Chingola, Kafinsa, Luanshya and Mufulira Correctional Facilities between 11th and 26th August, 2019.

The sensitisation focused on Articles 13 [Liberty], Article 15 [Protection against Torture] and Article 18 [Secure Protection of the law] of the Constitution of Zambia, Chapter 1 of the Laws of Zambia [Bill of Rights] and the *Mandela Rules* [UN Standard Minimum Rules for Treatment of Prisoners].

Correctional Facility	No. of Inmates Sensitised
Chingola	210
Mufulira	297
Kafinsa	812
Luanshya	272
Kamwala Remand	654
Lusaka Central – Female Section	149
Lusaka Central Male Section	1,412
Mwembeshi Maximum Security	554
Total	4,360

During sensitisation of inmates, the Commission came across a disturbing situation where eight (8) juveniles at Mufulira Correctional Facility were incarcerated by one Magistrate. Efforts by the Correctional Services Officials to follow up with the Judiciary and the Department of Social Welfare were not bearing fruits. There were no facilities for juveniles, and to prevent them from interacting with other inmates, they were kept indoors in one of the rooms, almost all the time, which was inhumane. At the time of writing this report, the Commission was still following up the above matter with the Judiciary with a view of redressing the situation.

Further, at Kamwala Remand Correctional Facility during sensitization of the inmates on 17th July, 2019, the Commission was informed that inmates were being subjected to ill-treatment by cell captains through beating, verbal abuse and humiliating punishment. It was alleged that the captains forced fellow inmates to sit/sleep on one side of the cell to leave room for those who wanted to sleep comfortably upon payment of K1, 000.00 per month. Inmates of foreign nationality were charged higher “rent”. Further, the inmates were made to pay K10.00 or provide two (2) packets of cigarettes fortnightly to take a bath or K100.00 per month or equivalent packets of cigarettes to use a toilet outside the cells which were reportedly in better hygienic conditions. The inmates were also charged K10.00 or K20.00 to make phone calls using Correctional Officers’ handsets.

The HRC engaged the Officers and explained their responsibility to provide security to all inmates as a matter of right and protect them from any form of abuse. Complaints of human rights violations that were not of an administrative nature were addressed as reported under the Investigations department under its mandate of inspection of Correctional Facilities.

Production of Radio Programmes on Rights of Suspects and Accused Persons

The Commission produced and aired a number of radio programmes on the rights of Suspects and Accused persons. The radio programmes were conducted in both English and local languages commonly spoken in the targeted areas, particularly Bemba on the Copperbelt; Nyanja in Lusaka and Tonga in Southern Province.

The programmes on the rights of suspects and accused persons were conducted and aired on Radios 1 and 2 of the Zambia National Broadcasting Corporation (ZNBC) and 16 community, private or religious radio stations on the Copperbelt, Lusaka and Southern Provinces.

The programmes were interactive phone-in, which allowed for participation of listeners who called in, with immediate feedback and clarification of issues by the Commission. It was estimated that about seven million people were reached through the numerous human rights radio education programmes through the 18 Radio Stations and/or channels.

Sensitisation on General Human Rights Issues

The Commission further conducted sensitisation on general human rights issues through community outreach activities, education tours, radio and television programmes and social media platforms. Some of the activities undertaken during the year under review were as follows:

Human Rights Sensitisation in Kasulusa East in Chieftaincy Mungule's Area

The Commission carried out sensitisation in Kasulusa East of Chieftaincy Mungule's area on 18th January, 2019 following increased reports of child marriages. In particular, the Commission received a complaint on 22nd November, 2019 via the Toll-Free Line Number 8181 from a Mr. Richard Nkuwa, a representative of *Concerned Citizens for Justice and Human Rights* (CCJHR). Mr. Nkuwa alleged that 14 girls were forced into child marriages by their parents or guardians and dropped out of school in violation of their right to education.

The Commission collaborated with CCJHR to sensitise over 120 people in Kasulusa who were gathered at Kanywanji Primary School, including nine (9) girls who were withdrawn from child marriages. The sensitisation focused on the rights of the child as espoused by the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). The members of the community were also sensitised on other acts of child abuse such as sexual assault, defilement, child negligence, and child battering or corporal punishment, which constituted criminal offences under the Zambian statutes and were punishable by imprisonment when found liable by the courts of law.

Further, the members of the community were encouraged to report abuses and violations of children's rights to the Commission via the Toll-Free Number 8181 and other like-minded institutions such as the Zambia Police Service (Child Protection Unit).

Education Tour by Pupils from Woodford School Students (Lusaka) and Rusangu University (Monze)

Human rights education to children, particularly pupils, was one of the primary focus of the Commission in line with its constitutional mandate and Motto of "*Building a Sustainable Human Rights Culture Together*". In this regard, the Commission hosted and sensitised a total of 55 Grade 5 pupils from Woodford School in Lusaka who were on an education tour on human rights to the Commission. The children were taken through a session on children's rights and had an opportunity to ask questions on human rights and freedoms in relation to their social studies syllabus.

On 31st October, 2019, the Commission hosted 60 students from Rusangu University in Monze District, including faculty members who visited the Commission on an education tour. The students who were pursuing studies in different social disciplines, such as civic education, history, conflict resolution, international relations and social work, were sensitised on a wide range of issues relating to the mandate and powers of the Commission as well as the promotion and protection of human rights and freedoms in Zambia. The students had a fruitful and engaging discussion with the staff of the Human Rights Commission and Commissioner Harrington Akombwa, who incidentally is also the Chancellor of Rusangu University.

Campaign Towards the Abolition of the Death Penalty

The Commission was implementing a public engagement project aimed at officially replacing the death penalty with life imprisonment in Zambia in order to enhance the protection of the right to life, as well as in line with the international and regional reforms in the criminal justice sector. The following activities were implemented during the year under review:

Commemoration of the World Day Against the Death Penalty

The Commission facilitated the national commemoration of the World Day against the Death Penalty on 10th October, 2019 by holding celebrations at Mulungushi International Conference Centre, where the campaign towards abolishing the death penalty was officially launched.

The Minister of Justice, Hon. Given Lubinda, MP, was the Guest of Honour. Other Guest speakers were the Commission Vice Chairperson, Mrs. Kondwa Sakala-Chibiya, the European Union Deputy Head of Delegation to Zambia, Mr. Robert De Raeve and Prisons Care and Counseling Association Executive Director, Dr. Godfrey Malembeka.

All the speakers recognised the positive efforts Zambia had made by initiating and sustaining a moratorium on the death penalty since 1997 and called for further steps towards the abolition of the death penalty.

“There is no rehabilitation in the grave. The death penalty must go!” declared Dr. Malembeka who was one of the inmates at Mukobeko Maximum Security Correctional Facility during the last executions in 1997.

The Commission Vice Chairperson, Mrs. Chibiya stated that “the Commission is opposed to the death penalty and calls for its abolition”.

Hon. Lubinda explained that that the Government led by His Excellency, Mr. Edgar Chagwa Lungu, the President of the Republic of Zambia, was “already converted” on the need to abolish the death penalty and challenged the Commission to focus its sensitisation activities on the masses.

There were over 80 stakeholders from both State and Non-State Institutions who attended the launch.

Sensitisations at Mulungushi and Kwame Nkrumah Universities

The Commission, in collaboration with the Zambia Correctional Service (ZCS) and the Prisoners Future Foundation, engaged 83 students and lectures at Mulungushi University in Kapiri-Mposhi District and 467 students at Kwame Nkrumah University on the need to replace the death penalty with life sentence. The dialogue attracted divergent views, with some participants arguing that it was necessary to maintain the death penalty while others felt it was high time it was abolished.

Those who supported the death penalty argued that it was necessary to deter would-be perpetrators and also punish “with death” those found guilty of capital offence. On the other hand, the proponents of abolishing the death penalty submitted that the death penalty was merely based on vengeance. They expressed fear that if emotions were allowed to influence national decisions such as depriving someone of the right to life, there was danger that innocent people could suffer.

The ZCS explained that it had established a Correctional and External Services Department, which was facilitating rehabilitation of inmates in line with the transformation from Prisons to Correctional Services, which necessitated the transformation from retributive to restorative justice system – supporting the abolishment of the death penalty.

Study visit at Mukobeko Maximum Security Correctional Service

The Commission undertook a study tour to Mukobeko Maximum Security Correctional Service in Kabwe, Central Province with an objective of getting first-hand information on inmates on death row.

At the time of the visit, the population of inmates on death row was 360, comprising 342 males and 18 females, representing 1.6% of the total population of 22,000 inmates countrywide. Of the 342 male inmates on death row, a total of 272 had their cases unconfirmed, meaning that they had appealed against their convictions, while 70 had their cases confirmed.

The Commission found that cases of murder were predominant. For instance, out of the 342 cases of male inmates on the death row, 292 were convicted of murder while 50 were convicted of aggravated robbery. There was no case of anyone convicted of, or serving a case of treason at the time of the study.

It should be noted that, in exercising his Constitutional Prerogative of Mercy Powers His Excellency, Mr. Edgar Chagwa Lungu, the President of the Republic of Zambia, had in 2015 commuted all the 332 death penalty sentences to life imprisonment.

However, on the day of the study visit [14th November 2019], which was four years after the mass commutation of sentences, the number of inmates on death row was back to exactly 332. By the time the research team left Mukobeko, the number of inmates on death row had swelled to 342. This means that, an average, 10 individuals were being sentenced to death every month after being convicted of committing a capital offence of either murder[mostly], aggravated robbery or in some rare cases aggravated robbery and murder.

Perspectives on abolition of the Death Penalty by Former Mongolian President

The Commission in conjunction with the Ministry of Justice, invited the former Mongolian President **Tsakhagiin Elbegdorj** to share his experience on abolition of the death penalty in his Country and in his capacity as Commissioner of the International Commission against Death Penalty, headquartered in Spain. This was done during the commemoration of Human Rights Day on 10th December, 2019 which was held at Mulungushi International Conference Centre, and graced by Her Honour, Mrs. Inonge Wina, the Republican Vice President.

It was made clear, that it required political will at the highest level (President) as was the case in Mongolia. Mr. Elbegdorj explained that he decided to repeal the law that had authorised Mongolia to execute individuals convicted of serious offences because he believed in Justice. He stressed that there was always a real danger that, because of inherent imperfections of the criminal justice system, an innocent life could be deprived of through the execution of the death sentence.

Mongolia had a bad reputation before the abolition of the death penalty, but the abolition of the death penalty earned her a good reputation and respect within the international community. That had a positive impact on socio-economic support and development of the country.

The Commission also facilitated the interaction between Mr. Elbegdorj and some Members of Parliament from the combined Parliamentary Select Committees on *Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs* as well as on *National Security and Foreign Affairs* on 11th December, 2019 at Parliament Building. Divergent views were expressed by the respective MPs, with apprehension on public reaction to suggestions on abolition of the death penalty. The general take was that "you cannot please everyone".

On the same day, a similar engagement meeting was held with the Judiciary, represented by the Chief Justice, Justice Ireen Mambilima and the Deputy Chief Justice, Justice Phillip Musonda. The Judiciary explained that their role was to interpret and enforce the law and the moment, the law provided for the death penalty for the three capital offences of treason, murder and aggravated robbery. Possible interventions by the Legislature that would assist the Judiciary (in the absence of a referendum) included removing the mandatory application of the death penalty in subsidiary legislature.

Commemoration of Human Rights Days

Commemoration of World Day against Child Labour

The Commission participated in the Commemoration of the *World Day against Child Labour* which was held at the Olympic Youth Development Centre (OYDC) on 12th June, 2019 in Lusaka. The Theme for 2019 was **“Children shouldn’t work in fields, but on dreams!”** The Commission Director, Ms. Florence Chibwesha, gave remarks urging the different Duty bearers to uphold the right to education and self-actualization. At the said event, the Commission had an opportunity to distribute human rights IEC materials to children and adults.

Commemoration of Africa Public Service Day

The Commission took part in the *Africa Public Service Day Commemoration*, which was held on 23rd June, 2019 at Government Complex in Lusaka under the theme: **“The Intersection of Youth Empowerment and Migration: Entrenching a culture of Good Governance, ICT and innovation for inclusive service delivery”** The commemoration, which was enshrined in the African Union calendar, was graced by President Lungu, through Honourable Lubinda, MP, who read the speech on his behalf. The commemoration was preceded by a three-day Roadshow Exhibition from 20th to 22nd June, 2019 at *East Park Mall* in Lusaka, where the Commission had a stand for disseminating information and engaging the public on its mandate and service delivery.

International Human Rights Day

The International Human Rights Day (IHRD) is observed every year on 10th December, in commemoration of the day when the United Nations General Assembly adopted, in 1948, the Universal Declaration of Human Rights (UDHR). The Commemoration in 2019 marked the 71st Anniversary of the UDHR. Zambia joined the rest of the world in commemorating the Human Rights Day under the universal theme, *“Youths Standing Up for Human rights,”* by carrying out the following activities:

Provincial Awareness Campaigns

The Commission collaborated with the Ministry of Justice, Zambia Police Service and the Prisons Care and Counseling Association (PRISCA) in conducting awareness campaigns on the Copperbelt, Eastern, Lusaka, Northern, Southern and Western Provinces between 17th November, and 3rd December, 2019. This was part of countdown activities towards the Commemoration of the IHRD.

An estimated 7, 929 people were directly reached through the sensitization sessions held during awareness campaigns that were undertaken in institutions of high learning, Primary and Secondary Schools, as well as during human rights clinics conducted in public places such as markets and densely populated residential areas.

Some of the higher learning institutions where awareness activities were conducted were the Copperbelt University in Kitwe; Victoria Falls University in Livingstone; Chipata College of Education; Kasama College of Education; and Lewanika School of Nursing in Mongu, Western Province. The awareness activities

were purposely directed at learning institutions in order to enhance the role of Lecturers, teachers, students and pupils play as change agents, human rights defenders and peer educators within their respective institutions and beyond to communities at large.

The schools reached included Parklands Secondary School in Kitwe; Hillside Girls Secondary School and Anoya Zulu Boys Secondary School in Chipata; Soft Katongo Primary and Secondary Schools in Kasama; Nansunzu Secondary School in Livingstone; and St. Johns Secondary School in Mongu, Western Province.

Human Rights Clinics were conducted at Nakadoli and Chimwemwe Markets in Kitwe; Nabvutika Market in Chipata; Chisanga Market in chief Mwamba's area and at Chambeshi Market in Kasama; Ngwenya Market in Livingstone; and in Mbuyuwana Community in Mongu. Market Places and communities were deliberately targeted because that was where most of the vulnerable rights holders were found and there was need to enhance their knowledge and capacity to claim their rights whenever they were violated or abused.

Further, the Commission organised discussion programmes on the following Community Radio Stations: Ichengeo Radio FM in Kitwe; Feel Free Radio FM; and Radio Maria FM in Chipata; Zambezi FM Radio in Livingstone; Radio Mano in Kasama and Oblate Liseli FM in Mongu. The programmes were broadcast in English and local languages mainly spoken in the respective provinces where activities were conducted; being Bemba, Lozi, Nyanja and Tonga.

While conducting public discussions at learning institutions and human rights clinics in communities, the Commission distributed various IEC materials with simplified messages about the UDHR, the abolition of death penalty campaign, rights of suspects and accused persons, the Commission's mandate and services, as well as the Toll-Free Line, 8181, for members of the public to report human rights violations and abuses to the Commission at no cost.

Further, rights holders and duty bearers were sensitized on the need to expand and reform the Bill of Rights (Part III of the Constitution of Zambia) which guaranteed fundamental rights and freedoms of the individual and protection against their violation.

The Commission with its partners also highlighted rights of vulnerable groups, particularly women, children and persons with disabilities (PWDs). The rights of children were prominently highlighted in light of the fact that 2019 also marked the 30th Anniversary of the Convention on the Rights of the Child (CRC), which was being celebrated on 20th November, 2019.

Further, on account of the significance of 25th November which marked the International Day against the Elimination of Violence against Women and the beginning of 16 Days of Activism against Gender-based Violence, culminating into the Human Rights Day commemoration on 10th December; the rights of women and girls were highlighted in the context of the 2019 theme of the commemoration: *"Orange the World: Generation Equality Stands against Rape"*.

Furthermore, the importance of 3rd December, - the International Day of Persons with Disabilities afforded an opportunity to highlight rights of PWDs with a focus on the 2019 commemoration theme: *"The Future is Accessible"*, a clarion call for enhanced involvement and participation of PWDs in national development.

Generally speaking, the provincial awareness campaigns provided an opportunity for the Commission to reach out to the grassroots, schools and institutions of higher learning. The Commission was able to empower the rights holders with knowledge on human rights and information on how to claim their rights and report human rights violations and abuses. The Commission also received complaints, (for which files were opened for follow ups and resolution), and provided free legal advice to the victims of

human rights violations and abuses on the spot. In addition to this was the receipt of instant feedback on its services that would inform its future planning and sensitisation activities on human rights and the commemoration of the IHRD.

Commemoration on 10th December, 2019

The provincial awareness campaigns culminated into the national celebration on 10th December at Mulungushi International Conference Centre in Lusaka. The commemoration was graced by Her Honour, Mrs. Inonge Wina, the Republican Vice President. An overwhelming number of over 1,000 stakeholders representing State and Non-State Institutions, human rights defenders, the media and Cooperating Partners attended the commemoration.

Other speakers included the Minister of Justice, Hon. Given Lubinda, MP, the Commission Chairperson, Mr., Mudford Z. Mwandenga, the UN Resident Co-ordinator in Zambia, Dr. Coumba Mar Gadio, the former President of Mongolia, His Excellency, Tsakhiagiin Elbegdorj and the NGOCC Executive Director, Ms. Engwase Mwale, who gave a vote of thanks.

The Hon. Justice Dr. Mumba Malila, who is a Judge of the Supreme Court of Zambia and former HRC Chairperson and Commissioner on the African Commission on Human and Peoples' Rights, was honoured for his outstanding contribution to the promotion and protection of human rights in Zambia and beyond.

Public Relations and Publicity

The Commission continued to engage and work with the media to inform and educate the public on topical human rights issues and human rights implications. The Commission used different media and approaches, including the following:

Media Briefing

The Commission Chairperson, Mr. Mwandenga, held a media briefing held on 9th July, 2019 at Radisson Blu Hotel in Lusaka on the need to use a human-rights-based approach to managing, and participating in, the electoral process in order to deal with the root causes, rather than effects or symptoms, of the problem of electoral violence that was plaguing the country.

The Chairperson also highlighted some of the Commission's observations from monitoring by elections, among others. The Chairperson cited the suppression of the right to freedom of assembly; militarisation of party cadres; discriminatory application of the Public Order Act; and the failure by police to ensure equal protection of the law for all competing parties in an election as some of the problems that had marred the by-elections in Sesheke, Bahati and Roan Constituencies and, inevitably, contributed to political violence.

To this effect, the Chairperson called for a human rights-based approach to managing the Katuba Parliamentary by-election, which was to be held within three weeks, and any other future elections. All stakeholders were urged to strive towards creating an inclusive democratic environment that would enhance the participation of all political players in the Katuba by-election which was set to take place 30th July, 2019.

Press Statements

The Commission issued a number of Press Statements on various topical human rights issues. These included:

- Commending President Edgar Lungu's call to stop stigma against persons with mental impairments;
- Expressing sadness at the continued cases of Gender- Based Violence but appealed to the police to grant bond and the courts to grant bail to suspects in GBV cases- where applicable;
- Expressing deep concern at the death of Constable Lenox Kapila who was shot by a fellow police officer and called for the arrest of the suspect. In the same vein the Commission called for the immediate release of Ms. Loveness Mwale, wife to police officer who shot constable Kapila who was detained on illegal grounds of "helping police with investigations";
- Strong condemnation of the killing of a wife of a police officer and the wounding of the police officer and his brother in Lusaka's Makeni Villa by suspected armed robbers;
- Released a summary statement of its investigations findings on the 4th to 5th October 2018 University of Zambia (UNZA) students' unrest in which a fourth-year female student, Vespers Shimuzhila, died as a result of a police night operation in which tear gas was fired into students' rooms;
- Condemnation of the violence in Sesheke Parliamentary by-elections and called on the PF and the UPND to take the national dialogue seriously to stop future political violence;
- Recommendation to the Independent Broadcasting Authority (IBA) to reconsider its decision to suspend the broadcasting license of Prime TV and allow it to operate while addressing the identified shortcomings; and
- Urged the Government to enact a law to criminalise torture;
- Called upon the Government to take practical steps towards abolishing the death penalty in Zambia;
- Reminded the Police on the need to grant Mr. Fumba Chama and three others police bond or take them to Court without further delay;
- Commended His Excellency, Mr. Edgar Chagwa Lungu, the President of the Republic of Zambia, for pardoning 283 Inmates and 961 inmates from the various Correctional Facilities across the country on the eve of the 55th Independence Anniversary Celebration and; on Christmas Day respectively;
- Called for the arrest of suspects in connection with the brutal assault of Patriots for Economic Progress (pep) members during their peaceful procession in Lusaka to end impunity;
- Condemned the harassment of its member of staff and a member of the public wearing a PF t-shirt by UPND supporters during the nomination of their candidate in Katuba Constituency

Human Rights Commission Website and Social Media Pages

The Commission continued its awareness campaigns through its website (www.hrc.org.zm) and social media pages (Facebook, Twitter, YouTube and Instagram) on a wide range of human rights issues, such as the campaign towards abolition of the death penalty, campaign against torture and rights of suspects and the commemoration of the IHRD.

The Commission also disseminated messages via the website and social media platforms on its mandate and activities/events, press statements, radio and television programmes on various human rights issues. The website was also used to raise public access to information, reports, press statements and publications on human rights issues.

The followers of the Commission on social media pages were encouraged to report any human rights abuses and violations using the social media platforms and the Toll-Free Number, 8181. The Commission's Facebook page [*Human Rights Commission-Zambia*] had 9,114 followers while Twitter [*@hrc-Zambia*] had 625 followers, YouTube had 41 channel subscribers and Instagram had 132 followers at the end of 2019.

Recommendations on Enhancing the Freedom of Assembly and Association

- The Government must publicise the contents of the report by the *Commission of Inquiry into Voting Patterns and Electoral Violence* to allow for discussions of the recommendations and also facilitate political dialogue to create a conducive environment before the 2021 general election;
- The ECZ must disqualify political parties or candidates that perpetuate political violence as it was a breach the Electoral Code of Conduct as provided by Section 110 of the Electoral Process Act No. 35 of 2016 which provided that; **"The Commission may disqualify a political party or candidate in breach of the Code."** This will send a strong signal to political parties and compel them to abide by the electoral laws which prohibit violence and carrying of offensive weapons;
- The Zambia Police Service should adhere to the approved campaign schedules of political parties and endeavour to protect their public meetings or rallies, and where it becomes necessary to change the schedule, provide political parties with reasonable alternative days, venues and time to avoid disadvantaging them against their competitors, a situation that ignites violence. The exemptions with respect to the President, the Vice-President or a Cabinet Minister, as provided under Section 5 (4) and (5) of the Public Order Act should not be understood to mean that simultaneous meetings in the same area may not be held;
- Zambia Police Service must act on the reports of violence against the four NDC members, who include the late Mr. Kasongo, which was reported by NDC as a matter of their constitutional obligation to enforce the law equally without any form of discrimination. Similarly, the Police should investigate and prosecute suspects in connection with the shooting to death of the later UPND member, Lawrence Banda, in order to end impunity and ensure justice is done;
- Zambia Police should guarantee and ensure the safety and protection of all stakeholders participating in an election as required by the law. In particular, ensure that all competing political parties and their candidates exercise their fundamental rights to freedom of expression and association, and that Journalists, civil society organisations and other election observers are able to conduct their monitoring and reporting activities freely;
- All Political parties should restrain cadres from engaging in violence or any unlawful conduct such as carrying offensive or dangerous weapons and engaging in any form of violence as that was criminal and contributed to violation of human rights and freedoms. Aggrieved political parties in an election should lodge their complaints before the conflict management committees in line with Clause 13 (1) of the Electoral Code of Conduct which provides that; **"13 (1) Conflict management committees established by the Commission pursuant to section one hundred and eight may resolve electoral disputes."**

Recommendations on the Rights of Suspects

- Zambia should domesticate **the Principles on the Decriminalisation of Petty Offences in Africa**, which were adopted by the African Commission on Human and Peoples' Rights in 2017, under the auspices of the African Union, to enhance protection of a wide range of human rights and in particular prevent unnecessary and arbitrary arrests and detentions which result into overcrowding and a clogged criminal justice system, thereby undermining access to justice;
- The Penal Code Act and Criminal Procedure Code must be reviewed to include express provisions on the right to police bond and bail, with clear exceptions when bond and bail may be denied, in order to enhance the protection of the right to liberty; equal protection of the law, particularly presumption of innocence; protection from torture and other cruel, inhumane or degrading treatment or punishment and protection from discrimination. Further, the prohibition of police

bond and bail for capital offences [murder, treason and aggravated robbery] must not be absolute, but the discretion be granted to the courts of law to decide;

- There is need to expeditiously develop rules guiding the Judiciary on Community Service Sentencing for specific categories of offences, especially for first time offenders, juveniles, persons with disabilities and others as part of criminal justice system reforms;
- The Zambia Police Service should continuously review the recruitment and performance of Police Reserves and the Community Crime Prevention Units, popularly known as Community Neighbourhood Watch to ensure that they do not engage in criminal activities and acts of human rights violations.

Recommendations on the Death Penalty

- The Penal Code Act and the Criminal Procedure Code must be reviewed to remove the mandatory death penalty for offences of aggravated robbery and treason that do not result into death in order to enhance protection of the right to life;
 - The Government must ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights which abolishes the Death Penalty;
 - The Government must vote in favour of the **United Nations Moratorium on Death Penalty** when the matter comes up for voting during the United Nations General Assembly, instead of the current status of Zambia abstaining on every occasion in the recent past; particularly that Zambia has not undertaken any executions for the 23 years, qualifying it as a de facto death penalty abolitionist country.
-

Human Rights Monitoring and Reporting

The Commission is mandated by the Constitution of Zambia under Article 230 (3) (d) to “carry out research on rights and freedoms and related matters”. Therefore, in line with its mandate, the Commission in 2019 carried out a number of activities aimed at assessing the State’s compliance to International and regional human rights norms, which included, the comprehensive review of the measures taken by the State to harmonise its legislation, policies and administrative measures in line with provisions of the relevant international human rights treaties, recommendations and concluding observations. Specifically, the Commission carried out the following activities:

Annual State of Human Rights Report 2017-2018

The Commission produced and launched the 2017-2018 Annual State of Human Rights Reports (ASHRR). The Report was produced pursuant to the Commission’s recognition that continuous monitoring and reporting of human rights incidents, hindrances to human rights enjoyment and protection played a vital role in the improvement of human rights situation in the country.

The Report was basically an assessment of fulfillment of the State’s trio obligation to *respect, protect* and *fulfill* human rights through legislation, policies and administrative measures. The Report was a summary of issues affecting the Zambian human rights landscape in relation to internationally accepted standards.

The ASHRR was comprehensive in nature and considered all human rights categories as it covered both Civil and Political Rights; and Economic, Social and Cultural Rights. In analysing the human rights situation, the Report used internationally recognized human rights indicators that included; structural, process and outcomes indicators. The indicators were measured against the legal, policies and administrative measures that the state had put in place to achieve an improved human rights environment.

The Report was launched in October, 2019 and received overwhelming response from various stakeholders, and ignited debate on the need for the State to fulfill its obligations where it was found lagging behind. As such, the Report was used as an advocacy tool when holding the State accountable.

The ASHRR was a culmination of various activities that included, but not limited to the following:

- Meetings to validate and finalise tools developed for collection of data for the Annual ASHRR for 2017 and 2018;
- Training Research Assistants and Supervisors on the data collection process;
- Field work that included data collection and stakeholders' engagements in all the 10 provinces of Zambia.

The Report indicated a plethora of human rights violations in the country, and that the State needed to improve its obligation to respect, protect and fulfil human rights. Among the human rights violations highlighted in the Report were Freedom of Assembly and Association, Right to Secure Protection of the Law (speedy trial and disposal of cases) and, Freedom from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The ASHRR further stated that Correctional Facilities were congested or overcrowded. The criminal justice system was clogged with cases, and very slow in disposing of cases, resulting into delayed delivery of justice.

Business and Human Rights

Baseline Assessment on Business and Human Rights on Pillar II

The Commission is part of the Global Alliance of National Human Rights Institutions (GANHRIs) that have been tasked with the role of promoting and protecting international human rights law standards at the domestic level. The Commission has been involved in monitoring and advising the State and business entities on the implementation of *UN Guiding Principles on Business and Human Rights (UNGPs)*, which were unanimously adopted by the United Nations in 2011. The UNGPs are grounded on the principles of Protect, Respect and Remedy framework, and take cognisance of the following:

- States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This required taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
- Business enterprises should respect human rights. This means that Business enterprises should avoid infringing on the human rights of others and should address adverse human rights impacts with which they were involved. This means that companies must carry out due diligence by knowing their actual or potential impacts, prevent and mitigate abuses, and address adverse impacts which were caused by their operations.
- As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occurred within their territory and/or jurisdiction, those affected had access to effective remedy.

In order to monitor and assess the level of Zambia's implementation of, and enhanced domestication of the UNGPs on Business and Human Rights into domestic laws, policies and practices; the Commission with financial support from the Danish Institute for Human Rights (DIHR) initiated a National Baseline Assessment (NBA) on Business and Human Rights on Pillar II of the UNGPs. The objective of the study

was to compliment the initial NBA⁶⁷ (launched in 2016) and bring about balance on information appropriate for the development of a National Action Plan (NAP) on Business and Human Rights. Further, the assessment was meant to assess measures taken by companies in implementing corporate responsibility to respect and redress/mitigate human rights impacts on communities.

The focus of the assessment was informed by the fact that in the past five (5) to six (6) years, cases on air and water pollution, displacement of people, poor working conditions, were reported in the media and to the Commission as common human rights violation by business entities. It was found that human rights violations and abuses linked to business operations were mainly attributed to the Mining and Agricultural sectors. In addition to that, the Commission focussed the research on the two sectors because they were considered as predominant drivers of Zambia's economy.

It was therefore envisaged that information from case studies for the baseline assessment from the two sectors would be largely representative and provide adequate understanding on how the UNGPs on Business and Human Rights (Pillar II) were being incorporated by business entities in Zambia.

In carrying out the study, the Commission sampled five provinces, namely; Copperbelt, North-Western, Southern, Central and Lusaka Provinces. The choice of provinces was based on judgement that prominent mining and agricultural business entities were situated in the selected provinces. In the same vein, convenience and purposive sampling technique were applied when selecting respondent business entities, business associations, trade Unions (workers), regulatory authorities and communities affected by businesses.

Among the businesses and communities that were selected and provided information were: Barrick Lumwana Mine; Kansanshi Mine (First Quantum Minerals); Mopani Mine; Konkola Copper Mine (KCM); Chambeshi NFCA; SINO Leach Mine; Chambeshi Metals; Chibuluma Mine; Maamba Coal Mine; Kariba Minerals (ZCCM-HI); Mabiza Resources (Munali Nickel Mines) ; Lubambe Mine; CNMC Luanshya; Zambia Sugar Company (ZSC); Kafue Sugar; Sylverland Farms; Agrivision; Agri-Options; HongTongShun ; Zambeef; Mapatizya Community; Zongwe Farms; Kushiya Farms; Mubuyu Farms; Parmalat Zambia; African Explosives ; HANFRE Investments; Kagem Mines; Scaw Limited; Kabwela Community; Kakaindu Community; Kawelanga Community; and trade union and workers from selected business entities.

In order to triangulate and compliment information collected using questionnaires, the Commission held stakeholder's engagements in Kitwe, Mazabuka and Solwezi Districts. The Report would be finalised and launched during the second quarter of the year, 2020.

Business and Human Rights in Sports

Sports and sporting events had in the recent past been found to be lucrative businesses to which huge investment had been made, and had continued to provide employment opportunities. However, although sports and sporting events had the potential to advance human rights through employment, leisure, social housing, it could also be associated with serious violation of human rights, such as discrimination (ethnicity, disability, etc.). It was therefore, imperative that sports and sporting events are not left out without information on human rights promotion.

To this effect, the Commission made a presentation at a workshop for Secretary Generals of sporting institutions organised by the National Olympics Committee of Zambia. The aim of the presentation was to discuss human rights in sports and sporting events, and was centred on business and human rights, in particular the UNGPs vis-à-vis Protect, Respect and Remedy framework. The framework was the basis for measures being taken to address human rights impacts related to sports including the mega-sporting event lifecycle - embedding human rights from vision to legacy. The mega-sporting

⁶

⁷ National Baseline Assessment on Business and Human Rights on pillar I & II- Zambia published in 2016.

event lifecycle provided step by step measures to mainstream human rights when undertaking mega sports events. The presentation was made on the basis that knowledge shared on business and human would build capacity and strengthen mechanisms for accountability in the community.

Universal Periodic Review

In fulfilling its mandate as stipulated in the Constitution of Zambia and in line with the Paris Principles and the United Nations- Human Rights Council Resolution No. 5/1 & 16/20, the Commission continued to be an active partner in monitoring the States' implementation of its commitments to the 2017 Universal Periodic Review (UPR) recommendations. To this effect, the Commission continued to attend meetings meant to execute activities agreed by members of the newly constituted UPR Mechanism for Reporting and Follow-up (NMRF). This mechanism was constituted to ease the process of monitoring the implementation of the States' commitment to human rights promotion and protection as recommended under the UPR outcome of 2017 and other subsequent recommendations.

The Commission as a member of the NMRF, played a significant role in the development of an Action Plan aimed at dealing with outstanding issues related to the implementation of UPR recommendations and other treaty body reports that were overdue. It was observed that the State was behind schedule, in terms of its reporting obligations to treaty bodies and the only way to reduce on the backlog was to set out timelines through an Action Plan.

However, effectiveness of the NMRF was negatively affected by lack of institutional capacity to effectively carry out the tasks of State Reporting. Through consultative meetings held with members and stakeholders, it was resolved that line Government Ministries, Departments and Spending Agencies be trained on monitoring implementation of recommendations and concluding observations, and also on how to report on implementation status. However, due to lack of resources, the said training was not undertaken.

Engagement with Cooperating Partners and other Stakeholders

In a quest to raise resources and enhance collaboration with Cooperating Partners (CPs) and stakeholders in the promotion and protection of human rights in the country, the Commission attended a number of meetings:

- To finalise the project document to govern implementation of human rights and access to justice programming up to 2021. The meeting was organized by UNDP and was held from 21st -25th January, 2019 at Chaminuka Lodge. In attendance were other stakeholders that included the Ministry of Justice, Ministry of Gender, Zambia Police Service, Jesuit Centre for Theological Reflection (JCTR) and Women in Law and Development in Africa (WILDAF).
- To validate the UNDP Country Project Document on Support to Human Rights and Access to Justice in Zambia on 19th June, 2019. It was a meeting that gave stakeholders an opportunity to understand the linkage between the 7NDP and the Country Project, the basis and challenges being addressed, and the strategies and intended outcomes. During the meeting, it was underscored that the primary duty bearer was the State while the Commission and other partners were mandated to hold the State accountable in line with its obligations to Respect, Protect and Fulfill. As a result of this interaction, there was an enhanced cooperation and collaboration between the State and Commission in promoting and protecting human rights in the country.
- To collaborate with Action-aid Zambia who expressed desire to collaborate with the Commission in implementing activities related to Fair Green and Global Project which was being sponsored by the Dutch Ministry of Foreign Affairs. Under the project, Action Aid – Zambia was implementing activities aimed at holding mining companies accountable for human rights impacts in the local

host communities. However, Action- Aid Zambia was implementing its activities through partners who were based in the affected communities such as Kalumbila, Mufulira and Chingola.

- To submit a parallel or independent report to every report that the State submitted to treaty bodies and other human rights reporting mechanisms. This was a way of keeping the State's performance under scrutiny, and also to provide objective analysis of the human rights situation in the country to the treaty bodies and other reporting mechanism. In fulfilling this important role, the Commission with financial support from the UNDP held a four day's meeting from 15th -19th December, 2019 at Lake Kariba Inn in Siavonga where independent reports on the Convention on the Rights for Persons with Disabilities (CRPD) and the International Covenant on Civil and Political Rights (ICCPR) were prepared.

Participation in Preparation of State Reports

All State Parties to various international human rights treaties were expected to submit reports on progress and challenges in the implementation of respective treaties. It was the responsibility of the State to prepare its own State Party Report. The State was required to lead the process from within, and that gave it an opportunity to conduct a comprehensive evaluation on its implementation of recommendations, concluding observations and provisions of the treaty through legislation, policies and administrative measures.

However, in the process of preparing a State report, the State was required to consult with both State and Non-State Actors, NHRI, and experts amongst other, to get their views on the human rights situation in the country and on-going challenges.

To this effect, the Commission was invited to be part of consultative meetings that were spearheaded by the State. The consultative meetings that the Commission participated included:

- Preparation of State Party Report to the African Commission on the African Charter on Human and People's Right protocol on the Rights of Women in Africa (Maputo Protocol);
- Preparation of State Party Report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in Zambia;
- Validation of the draft Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Country Report which covered the period 2016 to 2019; and
- State Report on the Solemn Declaration on Gender Equality in Africa. The Commission's submission to the Ministry of Gender was made in April, 2019.

The Commission took such preparatory processes serious as they provided the State with a platform to; Conduct a comprehensive review of the measures it had taken to harmonise national laws and policies with the provisions of the relevant international human rights treaties to which it was a party to; monitor progress made in promoting the enjoyment of the rights set forth in the treaties; identify challenges and shortcomings in its approach to the implementation of the treaties; assess opportunities, future needs and goals for more effective implementation of treaties; and plan and develop appropriate policies to achieve the set goals.

Interaction with Regional and International Human Rights Mechanisms and other Institutions

In 2019, the Commission continued to strengthen its relationship with global and regional human rights associations by participating in most of the high-level meetings. These high-level meetings provided an opportunity for the Commission to influence international and regional human rights agenda setting and formulation of strategies for promotion and protection of human rights. In addition, they served as a platform for knowledge and best practice sharing on human rights. Below were some of the international and regional meetings the Commission participated in:

Global Alliance of National Human Rights Commissions Annual General Meeting.

During the year, the Commission attended the Global Alliance of National Human Rights Commissions (GANHRI) Annual General meeting in Geneva, Switzerland from 4th – 6th March, 2019.

The 14th CSO Forum on the African Charter on the Rights and Welfare of the Child

During the year under review, the Commission through Commissioner Fred Wamundila Waliuya and the Research and Documentation Officer- Mr. Themba Mazyopa attended the 14th Civil Society Organization Forum (14th CSO) Forum from 15th – 17th March, 2019 in Addis Ababa, Ethiopia. The theme for the conference was “Humanitarian Action in Africa: Children’s Rights First.”

The objective of the forum was;

- To promote partnership and networking among Civil Society Organizations (CSOs), the Committee of Experts on the African Charter on the Rights and Welfare of the Child (ACRWC); the African Union Commission, its structures and organs, and other stakeholders working towards the promotion and protection of the rights and welfare of Children in Africa;
- To contribute to the process of information-sharing, best practices and research between the African Committee on African Experts on the Rights and Welfare of Children, States Parties and CSOs on the implementation of the ACRWC,
- To build the capacity of CSOs on the ACRWC and its mechanisms,
- To lobby member states to respect and implement provisions of ACRWC.

Workshop for National Human Rights Institutions and Commonwealth Games Associations

The Commission through the Vice Chairperson, Mrs. Kondwa Sakala- Chibiya, attended a workshop for NHRIs and Commonwealth Games Associations which was held alongside the annual meeting of the Commonwealth Games Federation, from 3rd – 5th September, 2019 in Kigali, Rwanda.

3rd African Union Commission - Network of African National Human Rights Institutions Policy Forum

The Commission through Commissioner Yuyo Emma Nachali-Kambikambi attended the 3rd *African Union Commission (AUC) – Network of African National Human Rights Institutions (NANHRI) Policy Forum* on the State of African NHRIs whose theme was on “the Role of NHRIs in providing durable solutions to Forced Displacements in Africa”. The workshop took place from 5th to 6th September, 2019 in Addis Ababa, Ethiopia.

High Level Consultative Meeting with National Human Rights Institutions

The Commission led by the Chairperson, Mr. Mudford Z. Mwandenga, was represented at the high-level consultative meeting with NHRIs to promote the implementation of commitments made on the Right to Health for all, held from 19th to 20th June, 2019 in Johannesburg, South Africa.

The Role of National Human Rights Institutions in Legal Assistance and Complaints Handling

The Commission participated in a workshop held from 17th -19th April, 2019 in Cairo, Egypt on the Role of NHRIs in Legal Assistance and Complaints Handling. The meeting was aimed at providing an opportunity to NHRIs to share best practices, experiences and challenges in complaints handling and the role they played in facilitating legal assistance.

National Workshops and Training Opportunities

Workshop for Finalisation of the National Strategy for out of School Children and Girls Education 2019 - 2023

In line with international and regional standards, effective promotion and protection of human rights was a result of consented efforts all stakeholders. With the Commission being a stakeholder with mandate to promote and protect human rights, including children's rights, the Commission participated in the finalization the National Strategy for out of School Children and Girls Education 2019-2023. This was a collaborative effort by stakeholders to put in place a strategy aimed at developing and establishing learning opportunities of education and skills training for the Out of School Children and Girls. The meeting was held on 7th June, 2019 at the Grand Palace Hotel in Lusaka.

Workshop on Democratic Policing

Human Rights violations relating to arbitrary arrest and unlawful deprivation of liberty had been a matter of concern for the Commission and other like-minded institutions. The Commission participated in a meeting on *Democratic Policing* held on 27th and 28th June, 2019 at Cresta Golf View Hotel in Lusaka. The main objective of the workshop was to advance democratic policing by focusing on violations relating to arrests without a warrant and how such violations undermined trust in the police. The meeting was organized by The Zambia Law Development Commission (ZLDC), Africa Criminal Justice Reform (ACJR), the United Nations Office on Drugs and Crime (UNODC) and the Ubuntu Justice Initiative.

Recommendations in Monitoring Compliance, Collaboration and Research

In order to realise State aspirations and commitments expressed through acceptance of 183 UPR recommendations aimed at improving the human rights landscape in Zambia, it is recommended that

- Through relevant Ministries, Departments and Agencies; Government Develop and implement an action plan to implement all recommendations from 2017 Universal Periodic Review (UPR);
 - Operationalise the National Mechanism for Implementation, Reporting and Follow-up (NMRF) to ensure strengthened coordination, reporting and follow up recommendations from all human rights mechanisms;
 - Review and amend the Ratification of International Agreements Act no. 34 of 2016 to provide for emerging international best practices including creation of National Mechanism for implementation, Reporting and Follow-up (NMIRF);
 - Develop a National Action Plan on Business and Human Rights in line with commitments made and acceptance of the recommendation from the last Universal Periodic Review;
 - Harnesses goodwill from sports stakeholders who have on their own volition initiated human rights safeguarding measures, by strengthening coordination to ensure sports bodies response to the responsibility to respect human rights yielded results in reducing incidences of human rights abuses in sport.
-

Governance, and Institutional Strengthening

Office of Commissioners

Commissioners being the Mandate holders, continued to provide the necessary leadership in driving the work of the Commission.

During the period under review, there were 6 Commissioners out of the required 7, namely:

Mr. Zachariah Mwandenga	Chairperson
Mrs. Kondwa Sakala Chibiya	Vice Chairperson
Mr. Mhlakeni Zulu	Commissioner
Mrs. Yuyu Nachalwe Kambikambi	Commissioner
Mr. Wamundila Waliuya	Commissioner
Dr. Harrington Akombwa	Commissioner

The Commission renewed the mandate of the members of the Audit Committee and Finance and Administration Committee respectively for a further 3 years.

Audit and Risk Management

The Audit Committee, working independently from the HRC Management team, continued to provide advise to the Commission on matters of internal controls. To this end the draft Risk Management Policy was finalized. In addition, recommendations were made on strengthening the HRC Toll-free line, an indispensable avenue for reporting of alleged violations, especially for persons that are unable to physically access the services of the Commission. Other recommendations related to the need to further strengthen the HRC provincial offices, by allocating more resources and investing in supervision of the said offices.

By the end of the reporting period, Government was yet to provide the necessary resources to facilitate the upgrading of the Head of Finance and Internal Auditor as had been done in line Ministries. This is aimed at enhancing the standing and authority of these offices to further strengthen accountability.

Human Resource and Administration

In 2019, the Commission staff establishment filled up was at 55 staff members. This is according to the tabulations below;

Employment and Vacancies

The following tables summarises the number of posts on establishment at the Commission, the number of employees, the vacancy rate, exits and recruitments. It is important to note that the 2019 budgeted approved positions were 57 in number against the approved establishment of 133.

Table 1: Employment and vacancies by category

Category	No. of posts	No. of posts filled	Vacancies	Vacancy rate
Director	1	1	0	0%
Deputy Director	1	1	0	0%
Corporate and Financial Support Services	58	27	31	53%
Programme Services	73	25	48	66%

Table 2: Employment and vacancies by critical occupation

Critical Occupations	No. of posts	No. of posts filled	Vacancies	Vacancy rate
Investigations and Legal Services	47	17	30	64%
Information Education and Training	19	5	14	74%
Research and Planning	7	3	4	57%
Monitoring and Evaluation	1	1	0	0%

Table 3: Employee exits and type of exit

Termination type	No. of staff
Resignation	1
Redundancy	0
Expiry of contract	0
Dismissal	0
Medical discharge	1
Retirement	0
Secondment	0
Death	0
Total	2

Table 4: Employee turnover by critical occupation

Critical Occupations	No. of staff	Terminations and transfers out of the department	Turnover rate
Investigations and Legal Services	17	1	6%
Information Education and Training	4	0	0%
Research and Planning	3	0	0%
Monitoring and Evaluation	1	0	0%

Table 5: Number and percentage of staff by division

Division	No. of staff	Percentage of staff
Division 1	25	46%
Division 2	8	15%
Division 3	21	39%
Total	54	

Table 6: Number of staff by division and gender

Division	No. of Male staff	No. of Female staff
Division 1	15	10
Division 2	4	4
Division 3	17	4
Total	36	18

Table 7: Management team by gender

	No. of Male staff	No. of Female staff	Total
Management team	4	4	8

Table 8: Staff recruitment by gender

	Number of staff	Position	Department
Female Staff recruited	0	-	
Male staff recruited	2	-Driver x 2	-Human Resource and Administration
Total recruited	2	-	-

Table 9: Staff transfers

Division	Lateral transfer	Transfer on promotion
Division 1	0	0
Division 2	0	0
Division 3	2	0
Total	2	0

Human Capacity Development

During the year under review, staff attended various training and development programmes which were purposed to improve the quality of staff. The programmes were mainly funded by partners and were as outlined below:

	Type of Training/Workshop	No. of staff trained/attended	No. of days for training	International/Domestic
1	26 th East and Southern African Association of Accountants – General	2	5	Domestic
2	Study Visit at Amnesty International	1	5	International
3	Sensitization on the Rights of Suspects	5	5	Domestic
4	Regional Expert Workshop on the role of NHRIs in Legal Assistance and Complaints Handling	1	3	International
5	High Level Consultation with National Human Rights Institutions	1	2	International
6	Stakeholders Workshop on promoting and protecting the rights of suspects including accused persons	8	3	Domestic
7	Awareness raising Activities on rights of suspects	10	20	Domestic
8	SADC National Human Rights Institutions meeting on the protection of the Rights of Persons with albinism	1	1	International
9	National Steering Committee for Legal Environment Assessment in LPP Project Countries	1	1	International
10	Regional Capacity Strengthening Convening for National Human Rights Institutions	1	3	International
11	Workshop for Director of Finance and Head of Accounting Units	2	4	Domestic

12	Stakeholder Engagement on the campaign to abolish death penalty	6	5	Domestic
13	Public discussions at higher learning institutions	8	10	Domestic
14	Stakeholders Workshop on Decent Work Deficit in Agriculture Sector	1	2	Domestic
15	Rights of Suspects	25	2	Domestic
16	Orientation Meeting by Ministry of Community Development and Social Services	1	1	Domestic

In addition to the above trainings, one (1) staff member proceeded on paid study leave for purposes of undertaking a Psycho Social Counselling short course at the University of Zambia in view of the fact that the course would assist the Commission to ably provide the said counselling services when need arises.

Similar to the previous year, it was noted that over 80% of the training indicated was donor funded. The Government capacity building budget provision was insufficient for staff training, making it difficult for the Commission to undertake most of the much-needed training for its staff during the year. This affected the Commission's ability to scale-up its operations required to have staff that have adequate capacity and competencies to execute its mandate.

Statutory and Adhoc Meetings

The Commission facilitated and attended a number of meetings during the year all purposed for improving the execution of its mandate. The following were meetings during the year:

	Type of Meeting	No. of staff attended	International/ Domestic
1	Non-Management Meeting	38	Domestic
2	Management meetings	11	Domestic
3	Audit Committee meetings	2	Domestic
4	Administration and Finance Committee meetings	5	Domestic
5	Statutory Commission meetings	8	Domestic
6	Staff Meeting	54	Domestic
7	Commissioner's Retreat	8	Domestic
8	Launch of the Zambia Police Service Strategic Plan 2019 - 2021 on 23rd April, 2019	1	Domestic
9	EU roundtable discussion with Election Stakeholders on the 2016 EU Election Observation Mission's Recommendations at Intercontinental Hotel on 14th June, 2019	1	Domestic
10	Electoral Commission of Zambia Briefing on Delimitation at ECZ on 21 st June, 2019	2	Domestic
11	Meeting for Controlling Officers at Mulungushi International Conference Centre	1	Domestic
12	National Development Coordinating Committee (NDCC) Meeting, 25 – 26 June 2019 at Mulungushi International Conference Centre	1	Domestic
13	The Diversion and Arrest, Reception and Referral Services (ARRS) Sub-Committee meeting from the Child Justice Forum at Magistrates Complex on 31 st January 2019.	1	Domestic

14	ACTIONAID to a Public discussion on 22 nd March 2019 on the Impact of Shrinking Civic and Democratic Spaces in Zambia.	1	Domestic
15	Amnesty Meeting International Meeting aimed at enhance protection and promotion of the rights of Persons with Albinism	1	International
16	National Dialogue Forum	2	Domestic

Logistics and Transport Management

During the year under review, the Commission had 17 pool motor vehicles broken down as follows:

#	Age Range of Vehicle	No. of Vehicles
	3-5 Years	3 - Runners
	6-15 Years	4 – Non-Runners 5 -aged with high maintenance costs
	16 years and above	4 – Non-Runners 01 - Runner

In 2019, it became increasingly challenging, especially for provincial offices, to execute the Commission's mandate using the current available vehicles because most of these vehicles were unable to reach areas of a rough terrain where the most vulnerable reside, with high numbers of alleged human rights violations. The Commission continued to advocate through the 2020 budget proposal for consideration of the procurement of motor vehicles.

Development of Internal Management Systems

In order to enhance internal management system, the Commission undertook the process of reviewing and formulating staff policies that were aimed at making work easy for the staff. In doing so, small working groups were constituted by the office of the Director. These working groups spearheaded the process consultation in order for such policies to be minimum requirement or standard. The following were the policies reviewed/formulated:

- The conditions of service for HRC staff and The Exit Interview Form and;
- The Whistle Blower Policy;
- The Performance Appraisal Form (as part of the Appraisal System in HRC);
- The Recruitment Policy;
- The Health and Wellness Policy;
- Code of Ethics
- Temporary Engagement Policy
- Workplace Gender Policy

Human Resource Management Support

During the year, it was recommended that the Commission considers the engagement of interns in order to provide support to the Provincial offices as well as provide a platform for students or fresh graduates to learn about and participate in human rights promotion and protection. Four interns were engaged on 6 months contracts to assist with operations at the Provincial office. The engagement was

guided by the new Temporary Engagement Policy. In addition, one intern was engaged on attachment to HRC following her completion of Bachelor of Laws degree and subsequent application for enrolment at the Zambia Institute of Advanced Legal Education which required that students be attached to an Institution to obtain experience in the legal profession. The internship engagements were received positively by Commission staff.

Infrastructure Maintenance and Development

The rehabilitation of offices has been a priority, aimed at improving the Commission's image. Similar to the previous year, the year in review was challenging due to inadequate funding and therefore most maintenance works could not be undertaken as required. The Commission, however, undertook works which were not extensive including completion of wall fence at the Livingstone office, painting of the Chipata office wall fence, replacement of office fittings including doors and locks at the Kasama office.

Recommendations

- The Government through the Ministry of Finance should make available adequate funding to the Commission in line with Article 238 (2) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 to enable the Commission effectively execute its mandate.
- The Government, through the Ministry of Finance should grant treasury authority to address the 76 vacancies that have not been filled since the Commission's inception. This will close the existing gap in terms of the necessary human resource that is required for the adequate and efficient execution of the Commission's mandate whose scope is nationwide.
- The Government must provide adequate funding towards the Commission's training budget line in order to increase the ability to build staff capacity through training activities. Budget proposals by the Commission should therefore be considered by Government in view of the stated need as building capacity is a means to achieving the institutional mandate.
- The Government must support the Commission's transport needs by increasing its motor vehicle fleet through provision of the stated asset or increase in budget allocation. This will greatly improve the Commission's ability to reach wider scope of areas especially those where the most vulnerable people are. Addressing the area of transport will additionally increase the Commission's much needed visibility and networking capabilities with other stakeholders.
- The Government must support the Commission in addressing the need for an adequate office building as the current infrastructure lacks capacity to house the required staff members. This will further show Government's commitment towards value attached to human rights and those who are responsible for executing the Commission's mandate.
- The Government must continue to provide for the Commission's subscription to the Network for African National Human Rights Institutions (NANHRI) and the Global Alliance of National Human Rights Institutions (GANHRI). The consistent support towards meeting this subscription will ensure that the Commission adheres to the mandatory requirement to be a member thereby not jeopardizing its status within National Human Rights Institution circles.

CHAPTER

4

Financial Statements for the Year Ended 31st December, 2019

TABLE OF CONTENTS

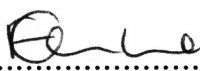
CONTENT	PAGE
Statement of Management Responsibilities	1
Independent Auditor’s Report	2-4
Statement of Comprehensive Income	5
Statement of Financial Position	6
Statement of Cash Flows	7
Notes to the Financial Statements	8-16

Financial Statements for the year ended 31st December 2019

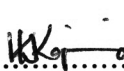
STATEMENT OF MANAGEMENT RESPONSIBILITIES

1. Management of the Human Rights Commission is required to ensure that the Financial Statements for each financial year are prepared which give a true and fair view of the state of affairs of the Commission and of the excess or deficit of the income and expenditure for the period. In preparing the financial statements, management is required to:
 - a) Select suitable accounting policies and then apply them consistently;
 - b) Make judgments and estimates that are reasonable and prudent;
 - c) State whether applicable accounting standards have been followed and;
 - d) Prepare financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue with its activities.
2. Management of the Human Rights Commission is responsible for keeping proper accounting records which disclose with reasonable accuracy at any given time the financial position of the Commission and enable it ensure that the Financial Statements comply with the relevant laws and agreements with the Government of the Republic of Zambia (GRZ). Management is also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.
3. The Management of the Commission confirms that in its opinion;
 - a) The Financial Statements give a true and fair view of the state of the Commission's affairs as at 31st December 2019 and of its excess of income for the period then ended,
 - b) At the date of this statement, there were reasonable grounds to believe that the Commission will be able to pay its debts as and when these fall due and,
 - c) The Financial Statements are drawn up in accordance with the International Public Sector Accounting Standards.

Signed on 7th August, 2020

By 

Florence Chibwesha
Director
Human Rights Commission

By 

Katendi Kapin'a Nkombo
Deputy Director
Human Rights Commission

OFFICE OF THE AUDITOR GENERAL

INDEPENDENT AUDITOR'S REPORT STAND No.7951

HAILE SELASSIE AVENUE,
LONGACRES
P.O BOX 50071
LUSAKA, ZAMBIA
E-mail: auditorg@ago.gov.zm
Website: www.ago.gov.zm
Telephone: +260252611/252771

To the Chairperson - Human Rights Commission

Report on the Audit of the Financial Statements

Opinion

I have audited the financial statements of the Human Rights Commission, which comprise the Statement of Comprehensive Income, the Statement of Financial Position as at 31st December 2019, and the Statement of Cash Flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies as set out on pages 5 to 16.

In my opinion, the accompanying financial statements presents fairly, in all material respects, the financial position of Human Rights Commission as at 31st December 2019, its financial performance and its cash flows for the year ended in accordance with International Public Sector Accounting Standards (IPSASs).

Basis for Opinion

I conducted my audit in accordance with International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I am independent of the Human Rights Commission in accordance with the International Organisation of Supreme Audit Institutions (INTOSAI) Code of Ethics together with the ethical requirements that are relevant to my audit of the financial statements in Zambia, and I have fulfilled my other ethical responsibilities in accordance with these requirements and the INTOSAI Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with International Public Sector Accounting Standards (IPSASs), suitable accounting and legislation and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. In preparing the financial statements, management is responsible for assessing the Human Rights Commission's ability to continue as a going concern and disclosing applicable matters related to going concern.

Those charged with governance are responsible for overseeing the Commission's financial reporting process.

OFFICE OF THE AUDITOR GENERAL

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISSAIs, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that I identify during my audit. I also provide those charged with governance with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on My independence, and where applicable, related safeguards.

OFFICE OF THE AUDITOR GENERAL

Report on Other Legal and Regulatory Requirements

In my opinion, the Financial Statements of the Human Rights Commission have been properly prepared in accordance with the Human Rights Act Chapter 48 of the Laws of Zambia.



Dr. Dick Chellah Sichembe
Auditor General
Office of the Auditor General

DATE: 25/08.....2020

HUMAN RIGHTS COMMISSION

Statement of Comprehensive Income

For the period 1st January 2019 to 31st December 2019

	Note	2019 K	2018 K
Income			
GRZ Funding	3	16,533,480.00	14,306,140.99
Donor Funding	4	1,476,194.41	1,410,377.74
Other Income	5	<u>124,209.14</u>	<u>101,854.42</u>
Total Income		<u>18,133,883.55</u>	<u>15,818,373.15</u>
Expenses			
Employee Benefits Expense	6	15,412,712.82	12,053,665.55
Other Expenses	7	3,417,906.86	3,237,502.67
Depreciation Expenses	8	<u>442,914.35</u>	<u>457,721.98</u>
Total Expenses		<u>19,273,534.03</u>	<u>15,748,890.20</u>
Surplus/(Deficit) for the year		<u>(1,139,650.48)</u>	<u>69,482.95</u>

The notes on pages 8 to 16 form an integral part of these financial statements

HUMAN RIGHTS COMMISSION


STATEMENT OF FINANCIAL POSITION

As at 31st December 2019


ASSETS EMPLOYED	Note	2019 K	2018 K
Non-Current Assets			
Property, Plant and Equipment	8	<u>1,391,791.04</u>	<u>1,800,845.86</u>
Current Assets			
Staff and other Receivables	9	1,197,681.25	1,075,354.44
Cash and Cash Equivalents	10	<u>1,164,476.28</u>	<u>1,560,624.03</u>
		<u>2,362,157.53</u>	<u>2,635,978.47</u>
Total Assets		<u>3,753,948.57</u>	<u>4,436,824.33</u>
EQUITY AND LIABILITIES			
Total Accumulated Funds	11	<u>326,600.63</u>	<u>1,466,251.11</u>
Current Liabilities			
Staff and other Payables	12	<u>3,427,347.94</u>	<u>2,970,573.22</u>
Total Equity and Liabilities		<u>3,753,948.57</u>	<u>4,436,824.33</u>

These financial statements were approved by the Human Rights Commission

On 7th August, 2020 and signed on its behalf by:



Mudford Z Mwandenga
Chairperson
Human Rights Commission



Florence Chibwesa
Director
Human Rights Commission

The notes on pages 8 to 16 form an integral part of these financial statements

**HUMAN RIGHTS COMMISSION
STATEMENT OF CASH FLOWS
For the year ended 31st December 2019**

	2019	2018
	K	K
Cash Flows from Operating Activities		
Surplus (Deficit) for the year	(1,139,650.48)	69,482.95
Depreciation	442,914.35	457,721.98
Operation Surplus (Deficit) before Working Capital Changes	(696,736.13)	527,204.93
Changes in Receivables	(122,326.81)	(24,979.79)
Changes in Payables	456,774.72	487,196.22
Net Cash flows from Operating Activities	(362,288.22)	989,421.36
Cash Flows from Investing Activities		
Acquisition of Property Plant & Equipment	(33,859.53)	(83,705.99)
Net Cash Flows from Investing Activities	(33,859.53)	(83,705.99)
Cash Flows from Financing Activities		
Increase/(Decrease) in Commission Funds	0.00	0.00
Movement in Cash		
Net Cash flow	(396,147.75)	905,715.37
Cash & Cash Equivalents at the beginning of the year	1,560,624.03	654,908.66
Cash & Cash Equivalents at the end of the year	<u>1,164,476.28</u>	<u>1,560,624.03</u>

The notes on pages 8 to 16 form an integral part of these financial statements

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019

1. Regulatory Framework

The Human Rights Commission (HRC) is a National Human Rights Institution (NHRI) whose establishment and mandate is under the Constitution of Zambia (Amendment) No.2 of 2016.

Article 230 (3) specifically empowers the Commission to undertake the following:

- a) Investigate and report on the observance of rights and freedoms;
- b) Take necessary steps to secure appropriate redress where rights and freedoms are violated;
- c) Endeavour to resolve a dispute through negotiation, mediation or conciliation;
- d) Carryout research on rights and freedoms and related matters;
- e) Conduct civic education on rights and freedoms; and
- f) Perform such other functions as prescribed.

Functions and Powers of the Commission

The Human Rights Act, Chapter 48 of the Laws of Zambia prescribes the functions and powers of the Commission as follows:

- a) Investigate human rights violations
- b) Investigate any maladministration of justice
- c) Propose effective measures to prevent human rights abuse
- d) Visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of persons held in such places and make recommendations to redress existing problems
- e) Establish a continuing programme of research, education, information and rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights
- f) Do all such things as are incidental or conducive to the attainment of the functions of the Commission.

2 Basis of preparation

(a) Statement of compliance

The financial statements of the human Rights Commission have been prepared in accordance with International Public Sector Accounting Standards (IPSASs).

(b) Basis of measurement

The financial statements have been prepared on the historical cost basis of accounting.

(c) Functional and presentation currency

The financial statements of the Commission are presented in Zambian Kwacha (ZMW), which is the Commission's functional currency.

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019

(d) Significant accounting policies

The accounting policies set out below have been applied consistently to all periods presented these financial statements.

(e) Property, plant and equipment

(i) *Recognition and measurement*

Items of property, plant and equipment are stated at cost less accumulated depreciation and accumulated impairment losses. Expenditure on repairs or maintenance of plant and equipment made to restore or maintain future economic benefits expected from the asset is recognised as an expense when incurred.

Cost includes expenditure that is directly attributable to the acquisition of the asset. The cost of self-constructed assets includes the cost of materials and direct labour, any other costs directly attributable to bringing the asset to a working condition for its intended use, and the cost of dismantling and removing the items and restoring the site on which they are located.

When parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items (major components) of property, plant and equipment.

Gains and losses on disposal of an item of property, plant and equipment are determined by comparing the proceeds from disposal with the carrying amount of property, plant and equipment and are recognised net within "other income" in profit or loss.

(ii) *Subsequent costs*

The cost of replacing part of an item of equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Company, and the costs can be measured reliably.

Expenditure on assets under construction is initially shown as capital work in progress and transferred to the relevant class of asset when commissioned.

(iii) *Depreciation*

Depreciation is charged to profit or loss on a straight line basis over the estimated useful life of each part of an item of equipment. Depreciation is based on the cost of an asset less its residual value. The rates for current and comparative years are as follows:

Land	2 %
Buildings	2%
Plant and Equipment	20%
Furniture & Fittings	15%
Communication Equipment	15%
Motor vehicles	20%

Depreciation methods, useful lives and residual values are reviewed at each reporting date and adjusted if appropriate.

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

3. GRZ Funding

These were funds received from the Government of the Republic of Zambia (GRZ) from 1st January 2019 to 31st December 2019 with comparative figures.

Funding	2019 K	2018 K
January	1,018,137.00	850,970.00
February	807,863.00	2,916,328.00
March	1,309,280.00	850,970.00
April	900,500.00	1,726,880.00
May	1,150,500.00	1,040,418.00
June	1,400,500.00	876,500.00
July	1,035,560.00	876,500.00
August	1,037,480.00	850,970.00
September	936,520.00	1,126,500.00
October	2,136,520.00	1,345,533.99
November	1,186,520.00	826,434.00
December	<u>3,614,100.00</u>	<u>1,018,137.00</u>
Total	<u>16,533,480.00</u>	<u>14,306,140.99</u>

4. Donor Funding

This was income received from Cooperating Partners with support to the Human Rights Commission to undertake specific projects.

Source	2019 K	2018 K
USAID	361,150.00	0.00
GIZ	1,017,357.70	249,349.77
Danish Institute for Human Rights	97,686.71	135,356.69
European Union	0.00	<u>1,025,671.28</u>
Total	<u>1,476,194.41</u>	<u>1,410,377.74</u>

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

5. Other Income

This represents additional funds that were deposited into the accounts due to various circumstances as indicated:

	2019 K	2018 K
Interest Received from Bank	2,034.76	1,238.02
Interest Received from personal loans	37,015.74	36,906.16
Profit Gain on Foreign Currency Exchange	4,794.87	24,007.79
Sundry Income	34,544.30	29,055.46
Interest Received from Welfare Loans	<u>45,819.47</u>	<u>10,646.99</u>
Total	<u>124,209.14</u>	<u>101,854.42</u>

6. Employee Benefits Expenses

	2019 K	2018 K
Salaries and Wages	11,324,801.92	11,152,456.69
Settling-in- Allowance	16,597.50	19,629.00
Leave Travel Benefit	170,000.00	108,000.00
Living Allowance	10,000.00	60,000.00
Meal Allowance	0.00	12,260.00
Sitting Allowance	2,635.00	0.00
Outfit Allowance	64,500.00	0.00
Acting Allowance	15,000.00	0.00
Staff Training	3,500.00	0.00
Medical Discharge	278,838.00	0.00
Cash-in lieu	434,356.27	0.00
Repatriation	4,248.96	0.00
Leave pay	574,468.29	69,222.06
Gratuity	<u>2,513,766.88</u>	<u>632,097.80</u>
Total	<u>15,412,712.82</u>	<u>12,053,665.55</u>

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

7. Other Expenses

Item	2019	2018
	K	K
Audit Committee Expenses	14,020.00	23,235.00
Advertising and Publicity	0.00	95,849.47
Bank Charges	12,075.97	15,279.00
Cleaning Materials	11,657.75	21,163.05
Commissioners Allowances-Honorarium	214,483.34	211,500.00
Commissioners Allowances-Sitting & Transport	22,505.00	20,605.00
Commissioners Allowances-Out of Pocket	9,923.05	0.00
Committee Allowances	10,835.00	7,650.00
Consulting Fees	12,000.00	0.00
Electricity	26,000.00	42,100.00
General Investigations	81,913.14	101,203.58
Ground Rates	6,100.10	9,667.65
Human Rights Awareness	27,692.00	45,261.79
Human Rights Research & Advocacy	11,748.00	21,221.10
Hand Tools and Equipment	0.00	385.99
Inspection of Prisons	45,328.27	185,779.23
Internet Charges	26,310.13	32,222.78
Insurance-Other	500.00	0.00
Levies, Billboards etc	0.00	6,585.03
Library (Periodicals & Publications)	5,620.00	13,337.00
Monitoring and Evaluation	0.00	14,418.50
Motor Vehicle-Fuel & Oil	89,015.93	195,953.73
Motor Vehicle-Insurance	90,000.00	46,449.81
Motor Vehicle-Licenses & Taxes	11,868.00	9,231.78
Motor Vehicle-Repairs & Maintenance	20,246.12	12,307.47
Motor Vehicle-Spare Parts	31,347.60	16,307.59
Motor Vehicle-Branding	0.00	1,800.00
Official Entertainment	15,467.78	19,518.25
Postal & Delivery Charges	45,376.71	31,523.20
Printing	82,488.52	21,669.31
Public Functions and Ceremonies	13,720.00	60,430.00
Protective Wear	0.00	2,240.00
R & M- Hand Tools & Equipment	3,487.00	159.69
R & M- Buildings	58,216.15	49,993.30
R & M-Equipment	9,749.98	14,860.00
R & M-Furniture	0.00	150.00

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

7. Other Expenses continued

	2019	2018
	K	K
Sanitary Services	12,729.12	16,914.55
Security & Caretaking Services	7,360.10	31,101.01
Software Charges	35,484.05	45,935.51
Stationery	53,141.85	80,406.39
Subscriptions - International bodies	68,237.81	98,050.00
Subscriptions - Professional bodies	81,761.71	32,178.00
Sundry Expenses	21,993.15	51,650.58
Telephone and fax	87,037.72	54,852.24
Travel –Foreign	49,635.62	250,478.12
Travel –Local	20,590.00	320,584.92
Water Charges	35,217.21	32,440.00
Website Maintenance	11,780.00	2,500.00
Workshops ,Conferences & Seminars	70,240.51	134,290.40
Returned Funding	322,668.00	20,823.07
Project Expenditure-GIZ Awareness	503,210.31	491,627.36
Project Expenditure-GIZ ASHHR	463,036.45	0.00
Project Expenditure-UNDP	0.00	59,595.34
Project Expenditure-European Union	73,031.60	94,333.08
Project Expenditure-USAID-Public Order Act	171,873.05	0.00
Project Expenditure-USAID- Universal Periodic Review	0.00	24,300.00
Project Expenditure-Danish Institute for Human Rights	196,036.26	45,383.80
Project Expenditure-EU Death Penalty	123,146.80	0.00
Total	<u>3,417,906.86</u>	<u>3,237,502.67</u>

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

8. Property, Plant and Equipment

	Land and Buildings	Motor Vehicles	Office Equipment	Communication Equipment	Furniture and Fittings	Plant and Equipment	Total
COST							
As at 01/01/2019	832,312.05	2,991,404.73	1,400,182.60	111,734.07	553,402.35	28,647.18	5,917,682.98
Additions during the year	0.00	0.00	13,860.00.	0.00	19,999.53	0.00	33,859.53
Disposals	0.00	0.00	0.00	0.00	0.00	0.00	0.00
As at 31/12/2019	832,312.05	2,991,404.73	1,414,042.60	111,734.07	573,401.88	28,647.18	5,951,542.51
DEPRECIATION							
As at 01/01/2019	228,169.37	2,199,174.73	1,129,812.16	94,445.27	454,352.87	10,882.72	4,116,837.12
Disposals	-	-	-	-	-	-	-
Charge for the year	16,646.24	312,323.01	79,049.37	3,757.74	26,676.19	4,461.80	442,914.35
As at 31/12/2019	244,815.61	2,511,497.74	1,208,861.53	98,203.01	481,029.06	15,344.52	4,559,751.47
NET BOOK VALUE							
As at 31/12/2019	587,496.44	479,906.99	205,181.07	13,531.06	92,372.82	13,302.66	1,391,791.04
As at 31/12/2018	604,142.68	792,230.00	270,370.44	17,288.80	99,049.48	17,764.46	1,800,845.86

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

Current Assets

9. Staff and other Receivables	2019	2018
	K	K
Salary Advance	41,766.25	67,482.76
Personal Loan	997,250.51	938,088.81
Medical Scheme Loan	8,793.30	21,955.61
Prepayments	68,116.22	11,993.93
Staff Welfare Loans	81,754.97	35,833.33
Total	<u>1,197,681.25</u>	<u>1,075,354.44</u>

Other Current Assets

10. Cash and Cash Equivalents

These are cash on hand and bank balances as shown below:

Item	2019	2018
	K	K
EU Death Penalty Abolition Bank		
RDCs Account	0.00	34,911.90
Salaries Account	5,244.64	3,631.93
Revolving Account	0.00	415.54
ZANACO Savers Account	29,011.57	94,803.52
GIZ-Annual State of HR Bank	16,868.55	0.00
Petty Cash-General	3,168.26	3,124.96
Save the Children	0.00	995.18
HRC- Medical Scheme	10,249.25	26,690.40
UNICEF Account	0.00	7,131.90
Petty Cash-Staff Welfare	240.00	240.00
GIZ-Awareness	15,117.64	1,396.99
European Union Bank Account	1,425.52	1,125,223.85
EU Death Penalty Abolition Bank	902,521.93	0.00
RDCs TSA Ledger	90,557.28	205,430.89
USAID Ledger	1,384.10	0.00
Revolving TSA Ledger	20,270.74	19,208.12
Salaries TSA Ledger	0.00	525.27
HRC-Staff Welfare Scheme	68,416.80	36,893.58
Total	<u>1,164,476.28</u>	<u>1,560,624.03</u>

HUMAN RIGHTS COMMISSION

Notes to the Financial Statements for the year ended 31st December 2019 (Continued)

Equity and Liabilities

11. Accumulated Fund

Item	2019 K	2018 K
Balance as at 1 January	1,466,251.11	1,396,768.16
Prior Period Adjustment	<u>0.00</u>	<u>0.00</u>
Adjusted Accumulated Fund	1,466,251.11	1,396,768.16
Surplus/(Deficit) for the Year	(1,139,650.48)	69,482.95
Balance as at 31 December	<u>326,600.63</u>	<u>1,466,251.11</u>

Current Liabilities

12. Staff and other Payables.

Item	2019 K	2018 K
Trade Payables	0.00	1,083.34
Salaries Ledger	35.11	0.00
Madison Insurance	5,978.52	2,925.26
ZRA Tax Account	2,068.97	0.00
NAPSA- Employer Contribution	2,617,902.84	2,263,167.84
Public Service Pension Fund- Employer	681,126.93	585,372.81
Staff Creditors-Medical Contributions	8,113.07	38,771.47
Staff Creditors-Staff Welfare	85,732.50	75,192.50
Staff Creditors-SAYE Welfare	<u>26,390.00</u>	<u>4,060.00</u>
Total	<u>3,427,347.94</u>	<u>2,970,573.22</u>

Subsequent events

There were no, material post reporting date events requiring adjustments to, or disclosure in, these financial statements.

“Accelerating Development Efforts towards Vision 2030 without Leaving Anyone Behind”

HEAD OFFICE

Human Rights Commission
Human Rights House
Independence Avenue
P.O. Box 33812
Lusaka, Zambia

PROVINCIAL OFFICES

Chipata Office

Plot No.916, Anoya Zulu Road
P.O. Box 510496 Chipata

Kasama Office

Plot No.696, Lunzua Road
P.O. Box 410653 Kasama

Livingstone Office

House No. 1861/1, Muchinga Road
P.O. Box 60935 Livingstone

Mongu Office

Plot No. 164, Senanga Road
P.O. Box 910447 Mongu

Ndola Office

Plot No. 88189, Moffat Road
P. O. Box 240528 Ndola



Human Rights
Commission - Zambia



www.hrc.org.zm



Human Rights
Commission Zambia



[hrc. zambia](https://www.instagram.com/hrc_zambia)



info@hrc.org.zm



[@hrc_zambia](https://twitter.com/hrc_zambia)



Toll Free Line
8181

Building a sustainable culture of human rights together