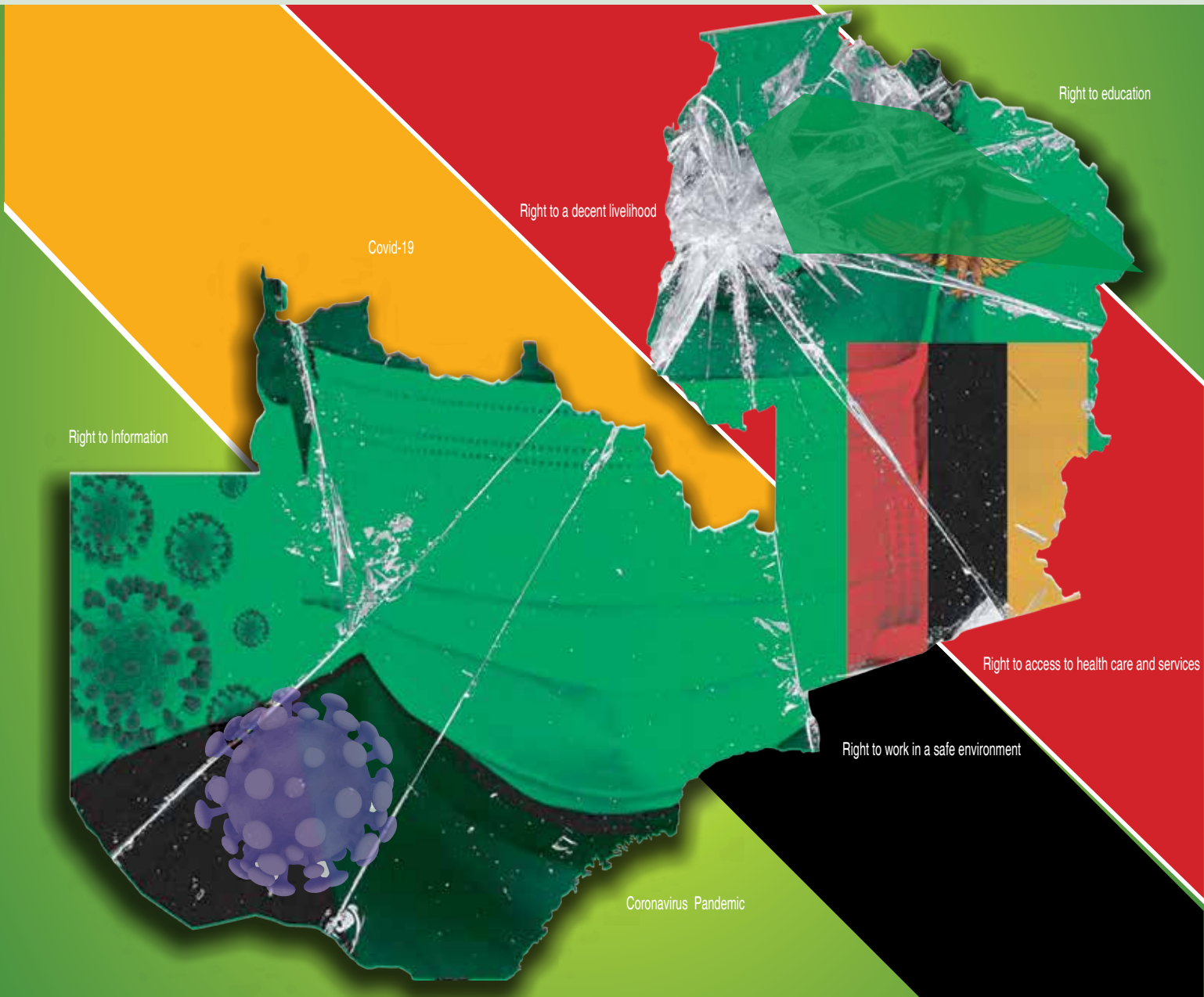




Human Rights Commission



ANNUAL REPORT 2021



Human Rights Commission

Bulding a Sustainable Culture of Human Rights Together

ANNUAL REPORT

2021

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

19th August, 2022

Honourable Madam Speaker,

**RE: SUBMISSION OF THE HUMAN RIGHTS COMMISSION 2021 ANNUAL REPORT TO
THE NATIONAL ASSEMBLY**

The Human Rights Commission (HRC/Commission) is a National Human Rights Institution (NHRI) created under Article 230 of the constitution of Zambia [Amendment] Act, Chapter 1 of the Laws of Zambia to ensure that the Bill of rights is upheld and protected.

The Commission is required to present its Annual Reports to the National Assembly of Zambia pursuant to Article 241(e) of the Constitution of the Republic of Zambia.

Therefore, it is with great honour and privileged to submit the 2021 Annual Report of the Human Rights Commission, which covers activities of the Commission from 1st January to 31st December, 2021.

Yours in National Service,

HUMAN RIGHTS COMMISSION

Mudford Zachariah Mwandenga
CHAIRPERSON

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ACRONYMS

AU	African Union
BHR	Business and Human Rights
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
CMG	Christian Monitoring Group
DCMC	District Conflict Management Committee
DIHR	Danish Institute for Human Rights
DSZ	Democracy Strengthening in Zambia
ECMS	Electronic Case Management System
ECZ	Electoral Commission of Zambia
ESA	Eastern and Southern Africa
EU	European Union
EWER	Early Warning and Early Response
FBO	Faith Based Organisation
FFTUZ	Federation of Free Trade Unions of Zambia
GANHRI	Global Alliance of National Human Rights Institutions
HRC	Human Rights Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
IEC	Information, Education and Communication
ILD	Investigations and Legal Department
IETD	Information, Education Training Department
LAZ	Law Association of Zambia
MISA	Media Institute of Southern Africa
NAP	National Action Plan
NAZ	National Assembly of Zambia
NANHRI	Network of African National Human Rights Institutions
NAPSA	National Pension Scheme Authority
NHRIs	National Human Rights Institutions
NBA	National Baseline Assessment
NHIS	National Health Insurance Scheme
NPA	National Prosecution Authority
NGOCC	Non-Governmental Gender Organisation Coordinating Council
PF	Patriotic Front
POA	Public Order Act
RPD	Research and Planning Department
SCA	Sub Committee on Accreditations
SOP	Standard Operating Procedures
UNDP	United Nations Development Programme
UPR	Universal Periodic Review
UNGP	United Nations Guiding Principles
UPND	United Party for National Development
ZCID	Zambia Centre for Inter Party Dialogue
ZCTU	Zambia Congress of Trade Union
ZFE	Zambia Federation of Employers

FOREWORD

The Human Rights Commission (HRC) is pleased to present its Annual Report for the year 2021. This is an annual report that the Commission publishes and submits to the Honourable Speaker of the National Assembly of Zambia, pursuant to Article 241 (e) of the Constitution.

This report highlights activities which were implemented by the Commission in line with its legislative mandate, the 2017-2021 Strategic Plan and the United Nations General Assembly Resolution 48/134 of 1993, commonly known as the Paris Principles which set out international standards that frame and guide the work of National Human Rights Institutions (NHRIs) such as the Human Rights Commission.

As we reflect on the year 2021, the fact that this was a year when the country was holding its Presidential, Parliamentary Mayoral and Local Government elections meant that participatory rights such as the rights to freedom of association, assembly, movement and expression were at the centre of the human rights promotion work for the Commission.

Recognizing its broad mandate of promoting and protecting human rights, the Commission in conjunction with the United Nations Development Programme (UNDP) and with support from Cooperating Partners under the Democracy Strengthening in Zambia (DSZ) Project, implemented the Early Warning and Early Response (EWER) System with some objectives being to identify early signs of possible violence, assess risk and provide a co-ordinated response for intervention and de-escalate political violence before, during and after elections.

Under the EWER Project, the Commission engaged staff on contracts ranging from periods of three (3) to seven (7) months. Those recruited included eighty-six (86) District Monitors and fourteen (14) officers to manage offices whose establishment was also supported by the project. These offices were opened in North-western, Luapula and Muchinga Provinces. Through this network of monitors and Commission staff across the country, three hundred and twenty eight (328) incidences and risks were reported from which two hundred and fifteen (215) were recommended for response action. The majority of the cases involved assaults and destruction of campaign materials.

Further in 2021, the Commission engaged a number of key stakeholders such as the United Nations Representative to the African Union; the European Union Observer Mission; the British High Commissioner; the Swedish Embassy; the German Embassy; Commonwealth Pre-Election Assessment team; and the Christian Monitoring Group (CMG) to discuss the mandate and role of the Commission and the state of human rights in Zambia, particularly with regards to the 2021 elections.

Apart from handling electoral cases, in the year under review, the Commission through its protective mandate, continued receiving complaints and proactively initiated investigations into alleged human rights violations and abuses including enabling victims obtain redress. In this regard, a total of eight hundred and seventy-four (874) complaints were received from all ten (10) provinces of the country.

Despite the fact that operations of the Commission continued being negatively impacted by the Covid-19 pandemic which necessitated staff working on a rotational basis, the Commission successfully resolved 426 (56.2%) of the cases as at 31st December 2021.

The Commission inspected a number of detention facilities to ascertain conditions under which inmates were kept and whether they were compliant with international human rights standards stipulated under the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). While noting the tremendous efforts made by the State to rehabilitate old facilities and to construct new ones, key notable findings by the Commission were the high congestion levels in some police stations and correctional facilities coupled with the inadequate provision of health care to guarantee the highest attainable health of detainees and inmates as required by the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In December 2021, the tenure of office of five Commissioners of the Commission came to an end. Their valuable input into the work of the Commission left a positive impact and remains highly appreciated. Lastly, I wish to thank Management and Members of Staff who diligently executed their duties while adhering to the COVID 19 Guidelines during the year under review. The effects of COVID 19 continued to negatively affect the execution of the work for the Commission, with the Delta strain spreading through members of HRC staff and their families.

Mudford Zachariah Mwandenga

CHAIRPERSON

HUMAN RIGHTS COMMISSION - ZAMBIA

ACKNOWLEDGEMENT

In 2021, the Human Rights Commission continued to enjoy the support and co-operation from the Government of the Republic of Zambia (GRZ) and many other stakeholders. Notably, as the Commission marked its 24th year of operations, it finally achieved its quest of having presence in all the ten (10) provinces of the country, in accordance with Article 230 (1) of the Constitution.

To facilitate the work of the Commission, resources were received from GRZ, for which the Commission is grateful. In addition, the Commission would like to thank various Cooperating Partners through the United Nations Development Programme (UNDP) and the European Union (EU) and the United States Agency for International Development (USAID) for the technical, financial and material support that was rendered in 2021.

Finally, the Commission commends Management and Staff of the Commission for the successes recorded in 2021 and look forward to enhanced performance and results in 2022 for the betterment and enjoyment of the rights of persons living in Zambia.

GOVERNANCE AND INSTITUTIONAL STRENGTHENING

Office of Commissioners

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

During the period under review, all the 7 positions of Commissioners were filled up as follows:

Mr. Mudford Zachariah Mwandenga Chairperson
Mrs. Kondwa Sakala-Chibiya Vice Chairperson
Dr. Harrington Akombwa Commissioner
Mr. Mhlakeni Zulu Commissioner
Mr. Wamundila Waliuya Commissioner
Mrs. Yuyu Nachalwe Kambikambi Commissioner
Rev. Agness Chongo-Phiri Commissioner

In addition, the Commission operated with two Committees namely the Audit Committee and the Administration and Finance Committee.

The Audit Committee whose composition and mandate is provided for under the Public Finance Management Act, Act No. 1 of 2018, continued working independently from the HRC Management team and continued to provide advice to the Commission on matters of internal controls.

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 Chibwasha
Secretary

HRC – MANAGEMENT TEAM



Florence Chibweshwa
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

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 Chapter 1 of the Laws of Zambia (Amendment) (hereinafter referred to as “the Constitution”). The HRC’s mandate is stipulated in the Constitution and the Human Rights Commission Act Chapter 48 of the Laws of Zambia (hereinafter referred to as “the Act”).

Legislative and Other Mandates

Constitution of the Republic of Zambia

Article 216

The HRC is, inter alia, guided by general principles relating to Commission under of the Amended Constitution 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.”

Article 230

- (1) There is established the Human Rights Commission which shall have offices in the Provinces and progressively in districts.
- (2) The Human Rights Commission shall ensure that the Bill of Rights is upheld and protected.
- (3) The Human Rights Commission shall—
 - (a) investigate and report on the observance of rights and freedoms;
 - (b) take necessary steps to secure appropriate redress where rights and freedoms are violated;
 - (c) endeavour to resolve a dispute through negotiation, mediation or conciliation;
 - (d) carry out research on rights and freedoms and related matters;
 - (e) conduct civic education on rights and freedoms; and
 - (f) perform such other functions as prescribed.

In addition to providing for qualifications of members of the Commission and financial independence, Article 241 of the Constitution provides for the general powers of Commissions as follows:

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

Sections 9 and 10 of the Act set out the functions and powers of the Commission as follows:
The functions of the Commission shall be to:

- 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; and
- 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 as follows:

(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.

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 the 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 and regional levels, the HRC being a 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 NHRIs from all parts of the world. Established in 1993, the GANHRI promotes and strengthens NHRIs to be compliant with the Paris Principles, and provides global 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, NHRIs are granted with participation rights 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 a human rights culture and justice for all.

CHAPTER 2

2.0. Human Rights Protection

2.1 Investigations

The Commission is mandated by the Constitution and the Human Rights Commission Act to investigate allegations or cases of human rights violations and abuse and to further take steps in order to secure redress where such rights have been, or are about to be violated or abused. During the period under review, the Commission received and investigated a total number of 874 cases or complaints of human rights violations and abuse.

2.1.2 Gender Segregation

The table below presents the number of cases received in the year 2021 segregated by gender.

MALE	FEMALE	TOTAL
631	243	874

2.1.3 Case Termination for the year 2021

In its 2017 – 2021 Strategic Plan, the Commission planned to investigate 85% of all the cases that it admitted. Procedurally, the Commission records all the complaints it receives and subjects them to an assessment through its Complaints Committee. Once a case is found to fall within the jurisdiction of the Commission, it is then admitted and investigated. The percentage of investigated cases is therefore calculated based on the cases that are admitted. Further, out of those which are admitted, some may be discontinued by the Commission after preliminary inquiries are done, while others may be withdrawn by the Complainants before conclusion. These factors are taken into consideration when arriving at the number of unconcluded cases.

The table below shows a breakdown of the cases received by the Commission:

Total No. of Cases Received	Not admitted	Referred	Withdrawn by Complainant	Discontinued by Commission	Resolved	Pending
874	53	64	8	51	426	272

In terms of percentage, the cases received can be summed up as follows:

- Resolved 56.2%
- Pending 35.9%
- Withdrawn/discontinued 7.9%

It should be noted that funding to the Commission for activities was disbursed in the second quarter of 2021 and therefore investigations of cases reported in the first quarter could not be fully concluded. Further, the operations of the Commission were negatively impacted by Covid-19 which resulted in staff working on a rotational basis as directed by Cabinet Circular minutes dated 24th March, 27th May and 9th July, 2021 respectively. As a result, field activities including investigations were temporarily suspended.

2.1.4 Categorisation of Cases Received for the year 2021

In terms of the number of human rights violations reported to the Commission, the Right to Secure the Protection of the Law accounted for the highest number of cases received followed by employment and labour-related rights while the least number of cases received included among others identity rights. Economic, Social and Cultural Rights as well as Group Rights continued to be the least reported category of cases received by the Commission in comparison to civil and political and rights.

CIVIL AND POLITICAL RIGHTS	#	ECONOMIC, SOCIAL AND CULTURAL RIGHTS	#	GROUP RIGHTS	#	TOTAL
Protection from torture, Inhuman and other like Treatment	39	Labour and Employment Rights	193	Rights of Minority Groups to Continued Existence	1	
Protection of the Right to Personal Liberty	81	Right to Social Security	13	Rights of Indigenous Persons to Maintain their Identity.	2	
Right to Secure Protection of the Law	258	Protection from Child Abuse	15	Other	2	
Protection from Discrimination	21	Right to Education	17			
Protection of Right to Life	09	Right to Health	8			
Protection from Deprivation of Property	71	Contractual Rights	20			
Protection of Freedom Assembly and Association	85	Compensation	8			
Right to National Identity	01	Rights in Intestacy	7			
Right to Personal Safety and Security	1	Right to shelter	6			
Freedom from violence, abuse and neglect	15					
Victimisation	1					

2.2 Legal Reforms/Parliamentary Submissions

During the period under review, the Commission participated in or undertook the following activities aimed at legal reforms:

2.2.1 Submission on the Electoral Process (Amendment) Bill

The Commission made a submission to the National Assembly on the above subject matter wherein the Electoral Process Act was being amended to allow inmates to exercise their right to vote. The Commission supported the Bill given that all citizens have the right to vote.

2.2.2 Submission on the Cyber Security and Cyber Crimes Bill

The Commission was requested by the National Assembly to make submissions on the above Bill. The Commission stressed the need to strike a fair balance between criminalising certain acts in the cyber space while ensuring compliance and respect for the rights of other people. It was also stressed that there was need to ensure that an independent body regulated the cyber space so that the State is precluded from interfering with the rights of its citizens particularly political opponents through intrusive surveillance and unlawful interception of their communication. The Commission further called for the lessening of the proposed sanctions in the Bill which were generally too stiff.

2.2.3 Internal Legislative Meeting on the Legal Aid Board Bill

The Commission participated in the Legislative Committee of the Ministry of Justice at the Ministry of Justice's invitation. The Commission supported the Bill as it sought to expand the provision of legal aid in Zambia by among other things recognising paralegals.

2.2.4 Submission on the Appointment of Judges

The Commission made submissions as part of the scrutiny for the presidential appointment of judges. Those scrutinised were Madam Justice Fulgency Mwenya Chisanga who was to serve as a judge of the Supreme Court, Madam Justice Judy Zulu Mulongoti, Mr. Justice Mwila Chitabo, SC and Mr. Justice Mathew Kasonde Chisunka to serve as judges of the Constitutional Court and Madam Justice Nicola Ann Sharpe-Phiri and Mr. Justice Kelvin Muzenga to serve as judges of the Court of Appeal.

2.3 Protection of Human Rights (Before, during and after Elections-2021)

The Commission met with several key stakeholders including international, regional and national observer missions and monitors. The discussions looked at the mandate of the Commission; the role of the Commission, particularly in the upcoming elections; the state of human rights in light of the 2021 general elections, and recommendations on the way forward.

Among the key stakeholders were the United Nations Representative to the African Union; the European Union Observer Mission; the British High Commissioner; the Swedish Embassy; the German Embassy; Commonwealth Pre-Election Assessment team; and the Christian Monitoring Group.

As part of its broad mandate of promoting and protecting human rights, the Commission, in conjunction with the United Nations Development Programme (UNDP) and with support from cooperating partners implemented the Early Warning and Early Response System (EWERS) whose objective was to identify early signs of possible violence, assess risk, and provide co-ordinated response for intervention and de-escalate political violence before, during and after elections, among others. Through a network of monitors and Commission staff across the country, 328 incidences and risks were reported from which 215 were recommended for responsive action.

The majority of the cases involved assaults and destruction of campaign materials. Reported incidents were resolved through the Commission's intervention and alternative dispute resolution mandate pursuant to Article 230(3)(c) of the Constitution while some were referred to other institutions with the appropriate mandate for resolution, such as the Zambia Police Service.

2.4 Inspections of Places of Detention

Pursuant to Section 9(d) of the Human Rights Commission Act, the Commission conducted inspections of places of detention to assess the conditions under which persons were detained in line with the Mandela Rules. The inspections were implemented in all ten (10) provinces.

Among the notable findings were the high congestion levels in some police stations and correctional facilities, coupled with the inadequate provision of health care to guarantee the highest attainable health of detainees and inmates as envisaged under the International Covenant on Economic, Social and Cultural Rights.

2.4.1 Highlighted Cases

The following are some highlighted cases for the period under review:

2.4.1.1 Nsama Nsama Chipiyoka and Joseph Kaunda v. Zambia Police Service: HRC/C/21

The Commission instituted investigations into the shooting incident in accordance with the Commission's mandate.

After concluding its own independent investigations, the Commission established that the Police Command bore full responsibility for the shooting incident which occurred on 23rd December 2020 between 10:00 hours and 11:00 hours in Lusaka, in which two persons were killed when the United Party for National Development (UPND) leader Mr. Hakainde Hichilema appeared at Police Headquarters for questioning. The two deceased persons were identified as Mr. Nsama Nsama Chipiyoka, a Public Prosecutor serving under the National Prosecution Authority (NPA) and Mr. Joseph Kaunda, a sympathizer of the UPND.

Pursuant to the Commission's powers under Section 13 (1) (b) of the Human Rights Commission Act, the Commission made the following recommendations:

- i. That the former Commissioner of Police for Lusaka Province Mr. Nelson Phiri together with the subordinates that he ordered to shoot must be charged with the murder of Mr. Nsama Nsama Chipiyoka and Mr. Joseph Kaunda;
- ii. That the estates of the deceased should be compensated by the State;
- iii. The Zambia Police Service should desist from the apparent criminalization of the right to freedom of assembly; and that
- iv. The Zambia Police Service should also desist from taking actions which are likely to result in the gross violation of human rights such as extra-judicial killing, arbitrary arrests and detentions and cruel, inhuman or degrading treatment or punishment of participants in assemblies, whether lawful or not.

Mubiana Lamaswala for and on behalf of the United Party for National Development (UPND) v. Zambia Police Service: HRC/WP/C/022/21

Mubiana Lamaswala representing UPND lodged a complaint on 7th June, 2021 to the effect that three members of UPND were being detained at Mongu Correctional facility by the Officer-In-Charge (OIC) for Mongu Police Station, Mr. Nkowanani without a charge.

The Commission engaged the Divisional Criminal Investigations Officer Mr. Chafunga. Following the Commission's intervention, the three suspects were immediately moved from Mongu Correctional facility to Mongu Police Station. Mongu Police were adamant in not granting them police bond.

On 8th June, 2021 the three suspects were formally charged with the offence of assaulting a police officer and on 10th June, 2021 and a docket was submitted to the National Prosecution Authority (NPA). The Commission then engaged NPA and on 18th June, 2021 and the three appeared in Court and were released on bail pending the determination of their matter.

Kelvin Mwela v. Judith Kalezu: HRC/CB/C/43/2021

The Commission received a complaint from Kelvin Mwela who complained against Mary Kalesu for non-payment of his dues. The Complainant alleged that he was employed as an outdoor domestic worker on 20th June, 2014. He alleged that on 25th March, 2021, his contract of employment was terminated without notice. It is against this background that the Complainant sought intervention from the Commission for him to be paid his leave days and payment in lieu of notice.

Mediation was conducted on 23rd June, 2021 and it was agreed that despite the Complainant not having been employed on a full-time basis, the Respondent would pay the Complainant leave days for the period worked which amounted to K3,400. This amount was duly settled in four equal monthly instalments in accordance with a payment plan executed by the parties.

2.4.1.4 William Mulenga v. Kanini Mosque: HRC/CB/C/27/2021

The Commission received a complaint from William Mulenga against Kanini Mosque regarding the failure to process his social security National Pension Scheme Authority (NAPSA) payment. The Complainant informed the Commission that he was employed by the Respondent and worked as a cleaner for nine years until 2006. The Complainant further informed the Commission that in February 2021, he approached the Respondent for purposes of claiming his NAPSA contributions. Having filled in the prescribed form and submitted it to the Respondents for their signature or endorsement, no action was taken by the Respondents for three months prompting the Complainant to seek the Commission's intervention.

The Commission conducted mediation in the matter. During mediation the Respondent did not deny the allegations and resolved to settle the matter amicably. Following the Commission's intervention, the Complainant was thereafter paid his NAPSA dues.

CHAPTER

3

3.0 Human Rights Promotion

The Human Rights Commission is mandated by the Constitution and the Human Rights Commission Act to promote human rights through civic education on rights and freedoms.

The purpose of human rights promotion is fundamentally two-fold:

1. to empower rights holders with information, knowledge, and capacity on understanding human rights to enable them to effectively claim their rights; and
2. to enable the State and institutions to effectively meet their human rights obligations.

To execute its mandate of promoting human rights, the Commission conducts several activities and projects such as developing and printing Information, Education and Communication (IEC) materials, conducting capacity building training workshops, conducting community sensitisation meetings as well as conducting media discussion and awareness programmes.

2021 was unique in the sense that it was the year when the country was held the Presidential and General Elections. Consequently, participatory rights such as the rights to freedom of association, assembly, movement and expression were at the centre of human rights promotion work for the Commission.

3.1 Promoting the Right to Freedom of Assembly and Association

Article 21 of the Constitution protects the freedom of assembly and association.

Regrettably, the Public Order Act (POA) Chapter 113 of the Laws of Zambia, which was first enacted in 1955, by its design and the politically discriminatory way in which it was being applied by the Zambia Police Service, seriously undermined the said constitutionally guaranteed to freedom of assembly and association.

To promote the freedom of assembly and association, the Commission conducted countrywide engagement and dialogue meetings, conducted radio discussion programmes and advertisements, produced IEC materials such as a card on a simplified notification process under the POA, monitoring tools and popularised and upgraded the Toll-Free Line 8181, issued Press Statements aimed at promoting and protecting the freedoms of assembly, movement and expression, including the media.

3.1.1 Stakeholders' Dialogue Meetings

The Commission conducted at least 12 stakeholders' meetings during the year under review, which brought together duty bearers and rights holders with a view to resolving the challenges surrounding the implementation of the POA. The meetings were held in the following provincial centres:

- i. Three (3) Interparty dialogue meetings were conducted in Choma District of Southern Province, Kitwe District of Copperbelt Province and Kabwe District of Central Province from 11th to 12th May 2022;
- ii. Three (3) Interparty Dialogue Meetings were held in Chipata District of Eastern Province, Kasama District of Northern Province and Mongu District of Western province from 24th to 28th May, 2021;
- iii. Three (3) Interparty Dialogue Meetings Interparty Dialogue Meetings were held in Chinsali District of Muchinga Province, Mansa District of Luapula Province and Ndola District of Copperbelt Province from 31st May to 4th June, 2021;
- iv. Two (2) Interparty Dialogue Meetings were held in Choma District of Southern Province and Solwezi District of North-Western Province 7th to 11th June, 2021; and
- v. One (1) an Interparty Dialogue Meeting was conducted in Kabwe District of Central Province from 15th and 16th June, 2021.

The Interparty Dialogue Meetings brought together representatives of various political parties, the Zambia Police Service and other Law Enforcement Agencies, the Judiciary, Civil Society Organisations, Faith-Based Organisations and the Media.



Chief-Information, Education and Training, Mr. Mweelwa Muleya , far right, answering to a question from a participant during the POA Interparty Dialogue Meeting in Livingstone

In all the meetings, participants were unanimous on the following resolutions and recommendations:

- i. The current Public Order Act must be repealed and replaced because it was inconsistent with the freedom of assembly as enshrined under Article 21 of the Constitution;
- ii. The Public Order Bill No. 12 of 2019 was generally progressive and demonstrated a departure from a prohibitive to an enabling Act of Parliament in facilitating the enjoyment of freedom of assembly. Therefore, the Government should table the Public Order Bill No. 12 of 2019 for enactment before the National Assembly to repeal the current 1955 Public Order Act, which was inimical to the enjoyment of human rights and democracy;
- iii. The Zambia Police Service was applying the POA in a discriminatory manner in favour of the ruling party and its members and candidates during election campaigns;
- iv. The wholesome banning of opposition political parties from holding meetings in a province or district where the Republican President or Republican Vice President were holding meetings was a disproportionate and unreasonable measure of maintaining law and order, and must be regulated to reasonable considerations or levels; and
- v. The practice by a Republican President to make sudden unscheduled public meetings in areas where the opposition had scheduled public meetings was regrettable. Participants noted that the practice was provocative and served to undermine the right to freedom of assembly of the opposition leaders whose meetings were being cancelled at the last minute in order to pave way for the President and Vice President. It was recommended that the ruling party ought to exercise self-restraint from abusing their well-meant privilege of incumbency by being exempted from being regulated under the POA.

3.1.2 Radio and TV Programmes

In order to broaden the outreach of activities aimed at promoting freedom of assembly to include stakeholders who could not be physically reached through meetings, the Commission facilitated at least 52 live radio discussion programmes on selected community radio stations countrywide.

There were at least two (2) radio programmes aired in each of the targeted districts involving the staff of the Human Rights Commission discussing issues related to elections, the Public Order Act and political violence among others. The members of the public also participated in the discussions by calling into the radio programmes and raised various human rights related issues to which the Commission's staff responded.



From left Mr. Robby Ditwayi – Central Province HRC Officer, Mr. Kebby Malila - Senior Investigation Officer and Ms. Lucy Bwalya Munthali – Education Officer during a radio discussion programme

The Commission also developed eight (8) radio spot adverts, in English and seven local languages, namely Bemba, Kaonde, Lozi, Lunda, Luvala, Nyanja and Tonga. A total of 460 spot radio adverts were broadcast on 21 selected Radio Stations countrywide. This was aimed at enhancing the general public's understanding and appreciation of the POA and its impact on the freedom of assembly, particularly during election campaigns.

Various Commission members of staff, and the Chairperson of the Commission, appeared on various Radio and Television Programmes championing freedom of assembly. A 60 seconds video spot advert on the POA promoting freedom of Association, Assembly, Expression and election-related rights and matters and at least 150 spots of the same were broadcast on Diamond TV.

3.1.3 Development and Printing of POA Booklet

Over the years, the Commission had discovered that various stakeholders, including the police and political parties, had limited knowledge about the provisions of the POA. One of the reasons for this knowledge gap was that the copies of the POA were not readily available.

Thus, the Commission developed and printed at least 20,000 copies of a booklet providing concise information on the notification procedure as provided for under Section 5 of the POA. The booklet was distributed to political parties, the police and other stakeholders for their use when planning to hold public meetings, processions or demonstrations in line with the requirements of the legal provisions.

The booklet was also uploaded onto the HRC website www.hrc.org.zm to enable the stakeholders access it as and when they needed it.

Further, the Commission also produced and distributed 8,000 copies of a simplified A6-sized card on the process for notifying the police on public assemblies in English and seven local languages.

3.1.4 Developing Monitoring Tools

The Commission also developed Monitoring Tools for political parties, Journalists and its members of staff, which were used to collect verified data and report on the observance and respect for human rights before, during and post the 12th August 2021 Presidential and General Elections. The monitoring tools were distributed to stakeholders for use.



Monitoring Tools which were developed for political parties, Journalists and HRC members of staff, which were used to collect verified data during the 2021 elections

The challenge that the Commission faced was that some stakeholders, particularly political parties, did not return the monitoring tools, especially after the elections. The purpose of the monitoring tools was to collect empirical evidence of human rights violations related to the right to freedoms of assembly, association, movement expression and media.

3.1.5 Violations of the Right to Freedom of Assembly

The findings of the Commission were that there was violation of the rights to freedom of assembly, movement and expression during the run up to August 2021 elections, particularly against the then opposition United Party for National Development (UPND) President, Mr. Hakainde Hichilema. For instance, Mr. Hichilema was “detained” at Chipata Airport runway in Eastern Province on 30th July 2021 by the police. He was not allowed to leave so that he could conduct his campaigns. His campaign in Muchinga and Northern Provinces was also characterised by occasional police blockades in some districts such as Mpika, Isoka, Nakonde, Mbala and Isoka on 3rd August 2021.

Mr. Hichilema was completely blocked from campaigning on the Copperbelt as the then Head of State, President Edgar Lungu, went back to the Copperbelt whenever his presidential competitor planned to visit the province. The police claimed that the opposition leader could not visit the Copperbelt Province where the Head of State was campaigning. The Commission issued a public statement on 7th August 2021, denouncing the discriminatory manner in which either the Public Order Act and the COVID 19 restrictions were being applied.

Further, the Commission engaged various District Conflict Management Committees (DCMCs) which were established under the auspices of the Electoral Commission of Zambia (ECZ) to assess how conflicts that resulted into, or had potential to result in human rights violations, were being resolved.

One of the best practices in preventing conflicts, maintaining law and order, in order to facilitate the enjoyment of the rights to freedoms of assembly, movement and expression was adherence to the campaign schedules by all participating political parties, candidates and their supporters. In areas where campaign schedules drawn out of consensus among political parties, the police and the ECZ were respected, the rights to freedom of assembly and movement were generally upheld. Regrettably, there was a tendency to disrupt the campaign schedules for the opposition parties on the ground that a VIP, usually the President, was visiting that area or province. The most affected political party was the UPND as it was the only opposition party that seemed to attract huge crowds, which the ruling party apparently could not ignore and engaged in disruptive activities to block such meetings, usually with the aid of the police.

Such conduct undermined respect for the rule of law and human rights as required in a democracy and had potential to deprive some citizens of an opportunity to readily access information in order to make informed decisions or choices in voting for candidates of their choice.

3.2 COVID-19 Pandemic

The continued cases of COVID-19 in 2021 had an adverse impact on a wide range of human rights and freedoms. For instance, the rights to life, education, freedom of assembly and movement, among others, were adversely affected by the pandemic.

The Commission’s role was to promote awareness on the dangers of the pandemic and also to promote strict adherence to the COVID-19 guidelines and regulations in order to enhance the fight against the pandemic which had undermined human rights and freedoms.

3.2.1 Public Awareness on COVID-19 Pandemic

In promoting public awareness, the Commission developed, printed and distributed fliers and conducted radio discussion programmes and community outreach activities to encourage individuals to adhere to the golden rules for preventing the spread of COVID-19, which included wearing mask, maintaining social distance, washing hands with soap and sanitizing them, covering mouth when coughing, staying home when one is sick or reporting to the Ministry of Health by calling the Hotline 909.

The Commission also encouraged individuals to be vaccinated against COVID-19 and to listen to medical expert advice instead of rumours based on falsehoods relating to vaccination.



The Commission conducting community awareness on COVID-19 with a help of a drama group

Initially, some members of the public were skeptical about the seriousness of the pandemic, arguing that it was only for the rich. This could have been caused by the way the initial reports were being presented, indicating or highlighting deaths of prominent individuals at the expense of the ordinary members of the public. On the other hand, it would appear that some cases of either illness or death from COVID 19 were not being captured by some health officials, thereby creating an impression that there were no COVID-19 related death in townships or compounds.

However, the scenario changed during the third wave of COVID-19 called the delta variant, during which many lives were lost. This prompted a number of people to start accepting vaccination, which they were initially largely resisting due to widespread myths spread through social media platforms and informal gatherings and discussions. This made the public awareness activities by the Commission readily acceptable by the masses.

3.2.2 Monitoring Enforcement of Public Health Guidelines on COVID 19

On the other hand, the Commission was monitoring the enforcement of guidelines and regulations to ensure compliance with respect for the rule of law and human rights, while safeguarding human life.

The Commission took keen interest in monitoring the enforcement of the Public (Notifiable Infectious Disease) (Declaration) (Notice) 2020 Statutory Instrument No. 21 of 2020 and the Public Health (Infected Areas) (Coronavirus Disease 2019) Regulations 2020, Statutory Instrument No. 22 of 2020 both gazetted on 13th March 2020.

The Zambia Police Service, through the technical and financial support of the United Nations (UN) Systems in Zambia, developed Standard Operating Procedures (SOPs) for COVID-19. The SOPs were, inter alia, aimed at empowering the police with modern policing strategies in order to ensure that international human rights standards were maintained and vulnerable people were protected during the enforcement of COVID-19 measures.

However, the Commission observed that in some cases, the enforcement of COVID-19 measures was being done outside the law. Despite the Statutory Instrument No. 21 of 2020 clearly designating responsible officers to enforce the law, some unauthorised individuals were involved in arbitrarily enforcing the measures. In particular, the then Minister for Lusaka Province, Mr. Bowman Lusambo, was alleged to have being involved in the enforcement of the guidelines with the help of police officers and was present during the operations to enforce COVID-19 Regulations and the Presidential directive to adhere to the Regulations.

As a result, various suspects of breaching the COVID-19 regulations were brutally victimized by the police. The advice by the Commission to Mr. Lusambo to refrain from abusing his authority and instead respect human rights as he carried out his noble function of preventing the spread of COVID-19 was met with threats of beating up the Commission Spokesperson by Mr. Lusambo himself, who contemptuously scoffed at the prospect of respecting human rights during the COVID-19 pandemic. Regrettably, the Commission received complaints from victims who were assaulted to an extent that others suffered broken limbs while two cases of extra-judicial killings at the hands of police as they were enforcing COVID-19 regulations were reported.

3.3 Campaign towards the Abolition of the Death Penalty

In 2021, the Commission continued implementing the campaign towards the abolition of the death penalty in Zambia. The campaign was aimed at achieving the following six (6) specific results:

- i. Continued suspension of the Death Penalty in practice;
- ii. Increased number of citizens calling for the abolition of the Death Penalty and encouraging the Government to sign the Global Moratorium on Death Penalty;
- iii. Signing of a Moratorium on Death Penalty by the Government;
- iv. Increased advocacy for amendment of the Penal Code Act and the Criminal Procedure Code Act, Chapters 87 and 88 of the Laws of Zambia, respectively, to review the mandatory sentence of death penalty for the crimes of treason, murder and aggravated robbery;
- v. Increased advocacy and submission for drafting of a Bill of Rights that does not provide for a derogation to the right to life, and subsequent adoption of the same should the Government decide to establish a National Referendum on the expanded Bill of Rights; and
- vi. Acceptance of the recommendation to abolish the death penalty by the Government during the 4th Cycle of Zambia's Universal Periodic Review (UPR), which had since been postponed from 2021 to 2023.

As part of increasing public understanding, appreciation and support towards the abolition of the death penalty both in practice and in law, the Commission printed and distributed IEC materials, conducted public outreach activities through radio and television discussion programmes, community sensitisation meetings and stakeholders' engagement meetings in all the 10 provinces of Zambia.

3.3.1 Provincial Meetings for State and Non-State Actors

The Commission conducted stakeholders' engagement workshops in 10 districts in nine (9) provinces of Zambia during the period under review. The total number of beneficiaries during the provincial consultative meetings was 423.

Below is a table showing the dates and the respective areas and the number of participants who benefited from the stakeholders' provincial consultative meetings:

DATE	ACTIVITY	DISTRICT	NO. OF PARTICIPANTS
1 st to 2 nd October, 2020	Stakeholders Engagement Meeting on the Death Penalty and Public Order Act	Kabwe	45
3 rd to 4 th December, 2020	Stakeholders' Engagement Meeting on the Abolition of the Death Penalty	Chinsali	40
28 th October, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Kasama	39
28 th October, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Solwezi	33
28 th October, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Mansa	41
3 rd November, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Chipata	45
3 rd November, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Chinsali	49
3 rd November, 2021	Provincial Consultative Meeting on the Abolition of the Death Penalty	Mongu	40
18 th -19 th Feb 2021	Stakeholders Engagement Workshop on Death Penalty	Choma	47
20 th -21 st Feb 2021	Stakeholders Engagement Workshop on Death Penalty	Mazabuka	44
Total			423

3.3.2 Salient Issues Raised During Stakeholders' Meetings

In almost all the provincial consultative meetings, stakeholders presented different or diverse views on the question of whether or not the death penalty should be abolished. The following were some of the views expressed:

3.3.2.1 Anti-Abolitionists:

- i. There is no need to abolish the death penalty in law since it is not being enforced;
- ii. It should be maintained in law to serve as a deterrent to would-be offenders;
- iii. Those who kill should also be killed. Even the Bible says an eye for an eye. There was need to empathise with families of victims of murder;
- iv. Abolishing the death penalty will increase the rate of capital offences;
- v. The Government was wasting public resources on feeding criminals for life. They should be executed immediately after being found guilty;

3.3.2.2 Pro-abolitionists:

- i. The death penalty should be abolished and be replaced with life imprisonment as had been the case since 1997;
- ii. The death penalty should be abolished because it was a cruel act which was against the biblical principles of justice and forgiveness;
- iii. There is no evidence that the death penalty serves as a deterrent to committing crime;
- iv. The death penalty violates the right to life and the right to protection against torture, other cruel, inhuman or degrading treatment or punishment; and
- v. The death penalty is largely predicated on vengeance.

3.3.2.3 The Human Rights Commission

The Commission explained the following to the participants as a way of encouraging them to support the abolishment of the death penalty:

- i. Zambia's continued moratorium on the death penalty was in line with the global trend where most countries were doing away with the death penalty in upholding the right to life;
- ii. Suspension of the death penalty in itself was not adequate because it was based on an executive decision that had no legal backing and any President may resume execution and that would be legally permissible;
- iii. It would be a worrying development for Zambia to resume executions as it would demonstrate that the country was regressing in the promotion and protection of human rights;
- iv. Anyone, including the most innocent person, could be accused of committing any capital offence and could be convicted and sentenced to death;
- v. It was necessary to give those who offended society a second chance and evidence was available, nationally, regionally and internationally, of individuals who may have been executed but became productive to their societies and countries;
- vi. Abolishing the death penalty may enhance Zambia's human rights record;
- vii. The maintenance of the death penalty in the laws was in conflict with the constitutional reforms that support a movement from a punitive to a restorative criminal justice system under the Zambia Correctional Service;
- viii. Zambia had not carried out any executions since 1997 despite the existence of the death penalty. Therefore, Zambia was considered a de facto death penalty abolitionist country.
- ix. That the repeal of the death penalty did not entail advocacy for lawlessness because those found guilty and sentenced to death by the courts of law would still be sentenced to life imprisonment, which was an adequate punishment by any measure.

3.4 Community Awareness Raising

The Commission conducted at least 25 community sensitisation meetings on the need to abolish the death penalty reaching out to an estimated 21,792 direct beneficiaries in all the provinces of Zambia. The meetings targeted selected communities such as students in institutions of higher learning, religious gatherings, public national events such as commemorations and public places such as markets and bus stations in various parts of the country.



The Commission conducting a community sensitisation meeting on the need to abolish the death penalty in Kasama

The meetings were initially planned to be exclusively conducted physically. However, a combination of physical and virtual sensitisation was employed to maximise public outreach but also to take into consideration the need to adhere to COVID 19 guidelines that restricted public gatherings following the outbreak of the pandemic in March 2020.

During the stakeholders' meetings, the majority of participants generally supported the need to abolish the death penalty mainly because of the following fundamental reasons:

- i. it violates the right to life;
- ii. there is always the risk that an innocent person can wrongly be convicted and executed due to miscarriage of justice;
- iii. the death penalty is the ultimate form of torture, which is absolutely prohibited under international human rights law; and that
- iv. the Death Penalty represents bad governance.

However, there were some participants who still felt that the death penalty should be upheld, arguing that those who committed grave crimes such as murder also deserved to be killed. The debate in most cases was emotive. However, the Commission guided that the Government, which was primarily responsible for promotion and protection of human rights such as the right to life, was required to be rational and restrain from making public decisions from an emotional point of view. Thus, the argument on the need to kill those who killed was largely based on emotion and vengeance, which did not make the Government any better than those who engaged in such atrocities.

3.4.1 Documented Lessons Learnt:

- i. The use of popular drama and theatre proved to be effective in mobilizing community members.
- ii. Most community members focused more on the death penalty being used as a punishment for the offence of murder cases as opposed to also focusing on the offences of aggravated robbery and treason.
- iii. The opinions of those for and against the abolition of the death penalty in Zambia were strong and varied.
- iv. There was need to continuously engage with stakeholders through consistent messaging.

3.5 National Capacity Building on the Death Penalty

The Commission facilitated a National Capacity Building meeting on 14th October 2021 at Radisson Blu in Lusaka. The capacity building meeting took the form of presentation of speeches by various key national leaders and Co-operating Partners stating their positions on the death penalty. The objective was to facilitate stakeholders' buy-in into the vision and positions of the various leaders on the need to abolish the death penalty.

Thus, an opportunity was given to various key stakeholders who included the Government, the UN system in Zambia, the European Union, Civil Society Organisations and the Human Rights Commission itself to state their positions on the death penalty.

The following were the guest speakers during the event:

1. Minister of Justice, Hon. Mulambo Haimbe MP;
2. UN Resident Co-ordinator to Zambia, Dr. Coumba Mar Gardio;
3. EU Charges d'affaires Mr. Arnaud Borchar;
4. HRC Chairperson, Mr. Mudford Z. Mwandenga; and
5. Non-Governmental Gender Organisations' Co-ordinating Council (NGOCC) Board Publicity Secretary, Ms. Annie Sampa.

3.5.1 Expressed Position of Government on the Death Penalty

The Minister of Justice, Hon. Mulambo Haimbe, MP who represented Government noted that the global movement towards abolishing the death penalty was very clear.

He explained that statistics showed that by the end of 2020, out of the 195 countries in the world, at least 107 had abolished the death penalty for all crimes, while 54 still retained it; 27 countries including Zambia had abolished it in practice while seven (7) still retained the death penalty for special crimes such as war crimes. Further, in sub-Saharan Africa, as at the end of 2020, at least 21 countries had abolished the death penalty.

The Minister stressed that the commitment of the government to protecting the right to life was guaranteed, adding that "as a government, we will provide clear political leadership, through a consultative process, towards matching global trends while enhancing public security and safety in the country."

The Minister took advantage of the occasion to announce that the Presidential Prerogative of Mercy as provided for under Article 97 of the Constitution was a critical tool in safeguarding life through "commutation of death sentences to life imprisonment and pardoning of inmates serving various sentences, including death, [and] will continue without any form of discrimination."

The Minister concluded as follows: "The new dawn administration will keep and maintain an open-door policy on the question of abolishing the death penalty. It will continue seeking expert advice and monitoring cultural trends while providing national leadership on the subject-matter. The government will also take time to study the prevailing regional and international movements towards abolishing the death penalty to inform the national decision.

I, therefore, call upon the Human Rights Commission, faith-based organisations, civil society organisations and other stakeholders to freely engage the government in order to come up with a decision that will have legitimacy and broad-based consensus. It is my sincere belief that through this process, the government will come up with an official decision on the question of abolishing the death penalty in the not-too-distant future”.

3.5.2 The Position of UN systems in Zambia on Death Penalty

Ms. Dutima Bhagwandin, Senior Human Rights Advisor, who represented the UN Resident Coordinator to Zambia, Dr. Coumba Mar Gadio, reminded the participants that the United Nations position on the question of abolishing the death penalty was emphatic, referencing the UN Secretary General, Antonio Guterres’ statement that the death penalty “has no place in the 21st century”. By 2017, 170 countries globally had either abolished the death penalty or put a moratorium on its use, which was a welcome global trend towards the abolition of the death penalty.

She said that:

“the death penalty undermines human dignity and denies our most basic right, the right to life. The United Nations High Commissioner for Human Rights has recently reiterated that there is no evidence that capital punishment deters crime more effectively than any other punishment. On the contrary, studies suggest that some States that have abolished the death penalty saw their murder rates unaltered or even in decline.

This evidence should speak louder than assumptions. Studies have shown that it is the certainty of punishment, not its severity, that deters criminals. True deterrence is the rule of law.”

Failure in deterring crime was not the only reason why the death penalty should be abolished. The death penalty inflicted severe mental and physical suffering on the person concerned and their family members.

Worse still, there was “often an arbitrary and discriminatory application of the death penalty, with odds against the voiceless – the poor and economically vulnerable, those belonging to religious or ethnic minorities, LGBTI, people with disabilities, foreign nationals, indigenous peoples and other marginalised members of society.”

Another reason why the death penalty should be abolished was that there was no such thing as an infallible, mistake-proof judiciary. Legal systems were made of people and it was human to make mistakes. But when a miscarriage of justice resulted in the killing of a person, the State itself violated the fundamental right to life.

Worldwide, the vast majority of States, with a variety of legal systems, traditions, cultures and religions, had either abolished the death penalty in law, or did not carry out executions in practice. At the end of 2020, 123 States voted in favour of the General Assembly resolution for a moratorium on use of the death penalty.

She concluded by noting that through the Universal Periodic Review (UPR) mechanism, several recommendations have been made to Zambia to ratify the 2nd Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) on the abolition of the death penalty and “We encourage you [Zambians] to support this recommendation and we (UN systems in Zambia) are ready to work with you to also achieve statutory prohibition of the death penalty”.

3.5.3 The Position of the European Union on Death Penalty

The European Union Delegation to Zambia and Common Market for Eastern and Southern Africa (COMESA) was represented by the Charge d’Affairs and Head of Co-operation, Mr. Arnaud Borchard who raised the following issues:

- The abolition of the death penalty contributes to the progressive realization of human rights;
- The abolition enhances human dignity; promotes the right to life and the right not to be subjected to cruel, inhuman or degrading punishment or treatment;
- Capital punishment is inhuman and unnecessary;
- There was no compelling evidence that the abolition of the death penalty leads to increased crime in society;
- Miscarriage of justice in a capital offence case can lead to the intentional killing of an innocent person;
- Most persons charged with capital crimes, cannot afford expensive criminal defense lawyers and are sometimes left with no choice but to seek services of legal aid lawyers that are overworked and underpaid;

- There was a link between the abolition of the death penalty and the sustainable development goals;
- The promotion of the rule of law was targeted at both the national and international level;
- The de facto moratorium was introduced in 1997, by the late Zambian President Levy Mwanawasa and has since been adopted by all other Zambian Presidents that came after him;
- It had been almost a quarter of a century since the last execution took place in Zambia and the European Union commends Zambia's continued de facto moratorium on the death penalty;
- The three capital offences, that is, murder, treason and aggravated robbery, still carry the death penalty despite this moratorium;
- Abolishing the death penalty in Zambia will require high level effort;
- The EU in Zambia has maintained regular dialogue with the Zambian Government on the topic of the death penalty;
- The dialogue needs to be maintained and nurtured, including our current support to the Human Rights Commission to campaign for the abolition of the death penalty in Zambia;
- The EU sincerely hoped that the results of the 2021 General elections that ushered in New Dawn Administration will trigger new interest on the topic of the death penalty;
- Some of Zambia's neighbouring countries like Malawi and Kenya have abolished the death penalty; and
- It was hoped that Zambia would vote in support of a moratorium on the death penalty next time it was tabled at the UN level.

3.5.4 The Position of the Human Rights Commission on Death Penalty

The Chairperson of the Commission, Mr. Mudford Z. Mwandenga, informed the participants that the Commission had over the years been engaging both duty bearers and rights holders with a view of supporting efforts towards the abolition of the death penalty in Zambia. He explained that the death penalty violated the right to life as well as the right to protection against torture and other cruel, inhuman or degrading treating or punishment.

In addition to grave violation of human rights that the death penalty caused, the Commission's opposition on the death penalty was also based on the ground-breaking global research findings to the effect that the death penalty was not more effective in deterring the commission of atrocious crimes than life sentences. He clarified that the campaign to abolish the death penalty did not entail that those found guilty of committing capital offences should go scot-free, but that they should be sentenced to life imprisonment.

The Commission was also opposed to the death penalty because it was an absolute, irreversible, irreparable and terminal form of punishment. Once a death penalty was carried out, life lost could never be restored even if it was later discovered that the person executed was innocent.

Further, stakeholders should oppose the death penalty because it was applied in a discriminatory manner against vulnerable and marginalized groupings due to societal prejudices and stigmatization that found their way into the criminal justice system.

It was the position of the Commission that the sustainable way of eliminating such forms of discrimination in matters relating to capital offences was to completely abolish the death penalty.

Therefore, the Commission was calling upon the newly elected government to maintain the executive position of practicing a moratorium on the death penalty which had been in effect for over two decades. Further, the Commission urged the Government to ensure that Zambia voted in favour of the Global Moratorium on the Death Penalty during the next voting cycle at the United Nations.

Zambia must also ratify the Second Optional Protocol to the ICCPR that aims at abolishing the death penalty.

Further, the Commission urged the Government to facilitate the repealing of the sections of the Penal Code and the Criminal Procedure Code Act, Chapter 88 that gave effect to the death penalty as that was within the powers of the executive and legislative wings of government to do.

3.5.5 The Position of the NGOCC on death penalty

The presentation by the NGOCC was made by its Board Publicity Secretary, Ms. Annie Sampa. She explained that the importance of the global advocacy for the abolishment of the death penalty could not be over-emphasized and that what Zambia needed was to encourage and consolidate the political and general awareness of the world-wide movement against the death penalty.

The fear of discriminatory application of the death penalty against women was real. Women risked being sentenced to death because of their vulnerability relating to inadequate financial resources and [low] literacy levels to effectively defend themselves.

According to the Cornell Centre, death penalty worldwide estimates that there were at least 800 women sentenced to death around the world. At least seven (7) countries were confirmed to have had a woman under the sentence of death in 2020 which included Ghana, Japan, Maldives, Taiwan, Thailand, USA and Zambia. The number of women on death row globally was in reality higher than indicated because some countries concealed data on death row while others did not have accurate breakdown of death-row statistics by gender.

The women movement was aware of views in support of the death penalty. The supporters of the death penalty believed that those who committed murder, had forfeited their own right to life because they had taken the life of another. Furthermore, the pro death penalty believed that capital punishment was a just form of retribution, expressing and reinforcing the moral indignation not only of the victim's relatives but of law-abiding citizens in general.

However, the NGOCC, like many organisations, believed that while the campaign to abolish the death penalty remained a very controversial subject, the death penalty inherently violated the constitutional ban against cruel and inhuman punishment and the guarantees of due process of law and of equal protection under the law.

Capital punishment was an intolerable denial of civil liberties and was inconsistent with the fundamental values of a democratic system. The death penalty therefore was uncivilized in theory, unfair and inequitable in practice.

Extensive discrimination based on sex and gender, often coupled with other elements of identity, such as age, sexual orientation, disability, and race exposed women to intersecting forms of structural inequalities. Such prejudices could weigh heavily on sentencing, including when women were stereotyped as an evil mother, a witch, or a femme fatale [an attractive and seductive woman, especially one who is likely to cause distress or disaster to a man who becomes involved with her].

That kind of discrimination could also lead to critical mitigating factors not being considered during arrest and trial, such as being subjected to gender-based violence and abuse.

In conclusion, Ms. Sampa stated that “as the women’s movement... we therefore join other progressive voices in calling on our Government to abolish the death penalty. When critically analysed even in practice, the successive Governments have over the years resisted to sanction the death penalty. We believe there are other sufficient punishment modes that are more deterrent and punitive”.

3.6 Media Awareness Against the Death Penalty

The Commission conducted more than 60 Radio Discussion Programmes averaging six (6) programmes per province in the 10 provinces of Zambia. In addition to that, at least three (3) Television Programmes were produced and aired on Diamond TV, reaching out to accumulative audience of more than 15,000 viewers and listeners.

Some callers supported the campaign to abolish the death penalty while others expressed reservations, claiming that abolishing the death penalty may increase the crime rate while others supported the death penalty from the point of view of vengeance or retaliation.

The Commission explained that there was no evidence in countries where the death penalty had been abolished which showed an increase in crime rate. Similarly, there was also no evidence to the effect that the existence of the death penalty deterred commission of capital offences.

It was stressed that, to the contrary, there was evidence in some countries that innocent lives had been lost through execution of the death penalty due to miscarriage of justice under the criminal justice system. It could happen also in Zambia, if it had not yet been happening during the time when the death penalty was being implemented.

It was encouraging that more callers were in support of the campaign, though with caution that effective measures needed to be put in place to atone the pain and loss caused on the aggrieved families of the deceased.

3.7 Modernisation of the Toll-Free Line

During the period under review, the Toll-Free line 8181 was upgraded from analogue to digital to include the following:

- i. addition of call waiting features;
- ii. automated voice recording;
- iii. call number tracking and identification;
- iv. call diversion; and
- v. automated generated reports.

The Toll-Free line became one of the critical means of reporting cases of human rights violations and abuse by the victims themselves and concerned individuals, organisations or human rights defenders. It enhanced the accessibility of the services of the Commission and removed the cost and geographical or distance barriers that limited access to the Commission by rights holders.

3.8 Press Statements

The Commission issued various Press Statements advising duty bearers against human rights violations. Some statements were advisory in nature and encouraged duty bearers to respect and protect human rights while others called on the government to meet their international human rights obligations. Most Pr

ess Statements were uploaded on the HRC Website www.hrc@org.zm under General Publications-Multi-media.

Press statements included -

- i. Acknowledging receipt of a complaint letter from the UPND President Mr. Hichilema concerning extra-judicial killing of Mr. Nsama Nsama and Mr. Joseph Kaunda on 23rd December, 2020 by the Zambia Police Service. The Commission had on the same day of the shooting issued a statement condemning the extra-judicial killing immediately after visiting the crime scene, almost 200 metres from the HRC offices. The Commission also released the investigations findings of the killing of Mr. Nsama Nsama and Mr. Kaunda;
- ii. Commending the Republican President, H.E. Edgar C. Lungu for commuting sentences of 246 inmates on death row to avert the spread of COVID-19 in correctional facilities;
- iii. Commending the Government for adopting the Legal Aid Board Bill;
- iv. Condemning the attacks on Democratic Party President, Harry Kalaba, by suspected Patriotic Front (PF) cadres who stormed a radio station to disrupt a paid for radio programme on which he was featuring in Mporokoso District;
- v. Calling for the immediate release or taking to court of four (4) UPND officials detained without charge for more than two weeks;
- vi. Calling for the protection of the safety of journalists and media independence as the world commemorated the Press Freedom Day on 3rd May 2021;
- vii. Condemning the beating of citizens by the police accompanied by Lusaka Province Minister, Hon. Bowman Lusambo, MP;
- viii. Calling for the immediate arrest of the suspected PF cadres who invaded the Government offices at the Ministry of Works and Supply and harassed a female Civil Servant, Ms. Sheily Chatugwa, on allegations of supporting the opposition United Party for National Development (UPND);
- ix. Calling on the Government to with immediate effect restore internet services to promote the right to access to information and communication through social media platforms. This followed the cutting off of internet services on Voting Day on 12th August elections.

3.9 Social Media Platforms

The Commission has been using various social media platforms to promote and protect human rights. During the period under review, the Commission used the Website, Facebook, Twitter, Instagram and YouTube to disseminate human rights information, as well as to receive complaints against human rights violations or abuse.

Further, the Commission continued to develop content for the Facebook, Instagram and Twitter HRC accounts and also to monitor comments by the followers and providing the necessary feedback. Below were the statistics:

Name of Social Media Platform	Number of Likes/ Subscribers (2021)	Number of Follows/ Followers (2021)
Facebook	11,959	12, 124
Instagram		308 followers, 30 following
Twitter		976 followers, 682 following
YouTube		79

The Commission's website had been maintained on a continuing basis with the uploading of Annual Reports and other publications and IEC materials produced by the Commission, including Press and/or public statements issued from time to time.

CHAPTER

4

4.0 Human Rights Monitoring and Reporting

The Commission is mandated under Article 230(3)(d) of the Constitution to “carry out research on rights and freedoms and related matters.”

4.1 Business and Human Rights

After the State acceptance of a recommendation to develop and implement a National Action Plan (NAP) on Business and Human Rights during the third cycle of the Universal Periodic Review in 2017, all efforts relating to human rights and business are part of Universal Periodic Review (UPR) recommendations implementation plan. However, the Commission implemented some activities during 2021 as part of its overall strategy to advance respect and protection of human rights from adverse human rights harms. These included:

4.1.1 Launch and Dissemination of Supplementary Baseline Assessment on Business and Human Rights

Since 2019, the Commission, with support from Danish Institute for Human Rights (DIHR), has been conducting a supplementary baseline assessment on business and human rights with a focus on corporate responsibility to respect human rights and related operational level remedies, where human rights are already adversely impacted.

The assessment report is a supplement to the Zambia National Baseline Assessment (NBA) on Business and Human Rights of 2016. The supplementary study found that most businesses in Zambia still have a long way to go to comply with the responsibility to respect human rights and providing operational level remedies where rights have been impacted adversely by their operations. Few businesses have human rights policies and due diligence processes to enable them prevent and address the impact they have on human rights. Conversely, few of them publicly disclose or report on their operations and how they go about addressing any negative impact their operations might have on human rights.

The launch was a culmination of concerted efforts by the Commission to build a solid background and basis for the development of a National Action Plan (NAP). The national baseline assessment provides detailed analysis at state level, the legal and policy gaps including frameworks for effective access to remedies in cases where human rights have been adversely impacted by businesses and at corporate level, the measures taken to create an environment of respect for human rights including operational level access to effective remedy.

4.1.2 Capacity Building in Business and Human Rights

The Commission, working with other regional National Human Rights Institutions (NHRIs) and the Danish Institute Human Rights (DIHR) continued implementing the Eastern and Southern African (ESA) initiative virtual peer learning capacity Building on Business and Human Rights.

The programming started in 2020 and is focused on learning from one another’s work around business and human rights. Pioneering NHRIs sharing their experiences in implementing initiatives promoting United Nations Guiding Principles (UNGP) on business and human rights.

Some sharing included how to conduct baseline assessments, development of NAP, business compliance monitoring, corporate responsibility to respect human rights and the due diligence process, gender mainstreaming in business and human rights, grievance mechanisms and social and environmental impacts assessments in the face of UNGPs etc.

The regional ESA peer learning capacity has deepened understanding of pertinent issues and engagements with regional peer NHRIs and carry home lessons on how they are addressing business and human rights issues. Through this platform, NHRIs shared knowledge, tools and skills essential to drive the NAP process in respective countries.

4.2 Policy Brief on Workers’ Rights in the Context of COVID – 19

This policy brief was jointly developed by the Human Rights Commission, Ministry of Labour and Social Security, Zambia Federation of Employers (ZFE), Zambia Congress of Trade Unions (ZCTU) and Federation of Free Trade Unions (FFTUZ) with support from the DIHR. It was intended to contribute to national efforts to address workers’ rights in the context of COVID-19’s impact on undertakings productivity, sustenance of jobs, incomes and livelihoods by reiterating the obligations of the State to protect and employers’ responsibility to respect workers’ rights

The Policy Brief reiterated the State and employers’ obligations and responsibilities to protect and respect the rights of workers in the context of COVID- 19 as recognised by international, regional and national law. It focused on 6 important themes namely: -

- (i) relevant legal and policy framework on the rights of workers in the context of COVID 19
- (ii) occupational safety and health
- (iii) employment security and fair remuneration
- (iv) social security and social protection
- (v) organizing and collective bargaining and
- (vi) other cross cutting issues.

4.3 Coalition for Peaceful Elections in Zambia

Leading towards the August 2021 presidential and general elections, the Commission was a member of a Coalition for Peaceful Elections in Zambia. The objectives of the Coalition were to get the majority of political players to commit to non-violent and peaceful elections. The Coalition had other notable members such as the Commonwealth, Law Association of Zambia (LAZ), Caritas, Zambia Centre for Inter-Party Dialogue (ZCID), Media Institute of Southern Africa (MISA) Zambia and NGOCC, among others. Among the achievements of the coalition were the day political parties made a reaffirmation for peace and non-violence at Mulungushi International Conference Centre on 14 July 2021. The reaffirmation was followed by a national day of prayer for peace and non-violence held on 1st August, 2021.

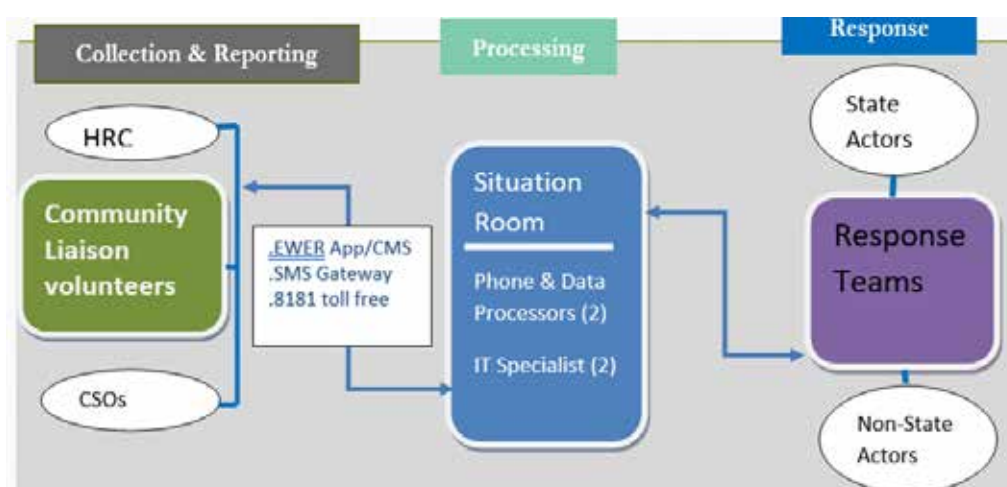
4.4 Early Warning and Early Response (EWER) Project

The Commission implemented the EWER project under the Democracy Strengthening Project Zambia (DSZ) aimed at addressing actual and risks of violence during the 2021 presidential and general elections. More than 215 cases of actual and potential violence were resolved by the Commission through the EWER project during this. Eighty-six (86) monitors were deployed to monitor the campaigning and voting on 12th August 2021.

Apart from being a platform for addressing cases of violence, the project strengthened the capacity of the Commission through expansion of its presence to Muchinga, Luapula and North-Western Provinces, rehabilitation of dilapidated infrastructure, provision of additional personnel, and provision of IT and other equipment to enhance efficiency and effectiveness of operations.¹

Arising from the project implementation and lessons learnt, there is a sustainability proposal to transform the system to include an additional module to facilitate installation and operationalization of the Electronic Complaints Management System (ECMS) on the EWER Application.

The proposal is illustrated in the diagram below.



However, to successfully implement the proposed sustainability measures, further capacity building of Commission staff to manage the system Situation Room would be required, including ICT capacity. There was need to invest in the broadened EWER Application infrastructure and improving some identified flaws to make it more user friendly.

CHAPTER

5

5.0 Human Resource and Administration

The Section's function is internally focused and aims at developing and implementing appropriate operational and administrative systems and policies that promote the Commission's operational effectiveness. The Commission attaches significant importance to strengthening support services systems including the availability and efficient management of human resources; availability of appropriate infrastructure, equipment and transport systems, established management information systems, finance and financial management systems and leadership and governance systems.

5.1 Operational Objectives for Human Resource and Administration

The section had the following operational objectives for the year 2021:

- i. Ensure adequate capacity, and efficient and effective management of human resources;
- ii. Ensure availability of adequate and appropriate infrastructure, equipment, transport and logistics; and
- iii. Enhance data management and use, for evidence-based management decision

5.2 Human Resource Management

5.2.1 Staff Establishment

The approved staff establishment for the Commission stood at 133. The total number of filled positions was 57 representing a 42% staff strength. 52 members of staff were permanent and pensionable staff and 5 on fixed term contract. The Commission had 76 frozen positions which represents 57%.

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	27	46	63%

Table 2: Number and percentage of staff by division

Division	No. of staff	Percentage of staff
Division 1	25	45%
Division 2	8	14%
Division 3	23	41%
Total	56	

Table 3: Number of Staff by division and gender

Division	No. of Male staff	No. of Female staff
Division 1	14	11
Division 2	4	4
Division 3	17	6
Total	35	21

Table 4: Management team by gender

	No. of Male staff	No. of Female staff	Total
Management team	3	5	8

5.2.2 Early Warning and Early Response Project (EWER)

Under the (EWER) Project, the Commission engaged staff to provide services. Contracts ranged from periods of 3 to 7 months. Those recruited included eight-six (86) District Monitors (during campaigns and on voting day) and fourteen (14) officers for the under listed positions:

- i. Senior Analyst – Conflict Management
- ii. Senior Analyst- Political Science,
- iii. Senior Communications Expert,
- iv. Information Technology Specialist,
- v. 2 Data Processors,
- vi. 3 Phone Processors,
- vii. 3 Investigations Officers
- viii. 3 Registry Clerks.

Furthermore, the Commission opened new provincial offices in Muchinga, Luapula and North-western Provinces. The offices commenced operations in June 2021. With the opening of the three provincial offices, HRC had presence in all the ten provinces of Zambia.

5.2.3 HRC Conditions of Service

The approved HRC Conditions of Service were submitted to Cabinet for consideration by the Remuneration Division. An inception meeting was held and HRC was advised to budget for a job evaluation exercise in 2022.

5.2.4 Processed Cases

In coordinating the management function, the Commission processed the following cases segregated by type as indicated in the table below:

S/N	Case type	No. of Employees	Positions
1	Appointments	3	Investigations Officer Registry Clerk x 2
2	Promotions	1	Legal Counsel
3	Acting Appointments	2	Investigations Officer – Kabwe H-HRA – HQ
4	Resignations	3	H-HRA CILS PSO
5	Non-Renewal of Contract	1	Director – HRC
6	Notification of Retirement	1	Registry Clerk notified the Commission of his retirement
7	Internship	2	Internships were supported at Provincial Offices

5.2.5 Statutory and Adhoc Meetings

The Commission facilitated the following Meetings during the year

S/N	Type of Meeting	No. of staff attended	International/Domestic
1	Management meetings	8	Domestic
2	Audit Committee meetings	3	Domestic
3	Administration and Finance Committee meetings	4	Domestic
4	Statutory Commission meetings	8	Domestic
5	Staff Meeting	55	Domestic
6	Technical Validation Meeting on the 8 th National Development Plan	2	Domestic
7	Virtual meeting on the development of a National Referral Mechanism for Children on the move held from 7 th to 8 th September 2021 organised by the Ministry of Home Affairs	1	Domestic

5.3 Human Capacity Development

During the year in review, staff attended various training and development programmes which were aimed at improving the knowledge base and performance. All capacity building programmes were held in Zambia due to Covid-19 restrictions. The programmes were mainly funded by cooperating partners and were as outlined below:

S/N	Type of Training/Workshop	No. of staff trained/ attended	No. of days for training
1	Staff Training in Alternative Dispute Resolution with focus on mediation organized by Investigations Department via Zoom meeting	55	1
2	Electronic Government Procurement Training organized by ZPPA	4	5
3	A discussion workshop on challenging sections of the penal code and public order act hindering citizens' enjoyment of their fundamental freedoms organized by GEARS Initiative Zambia in collaboration with Action Aid Zambia	1	1
4	Development of legislation for Human Rights Defenders	1	10
5	After-Action Review workshop	20	5
6	Travel Liaison Officers Workshop	1	1
7	Strategic Planning and Review Meeting	55	3
8	Implementation of 2022 Output Based Budget (OBB)	2	5
9	Workshop organized by Institute of Internal Auditors	1	3
10	Virtual Meeting on the Orientation in the Public Finance Management Regulations No 97 Of 2020 and the International Public Sector Accounting Standards Cash Basis for Accounts Assistant	4	1

11	Technical Backstopping and Capacity Building Consultative Meeting	1	1
12	Dissemination and stakeholder engagement on the supplementary national baseline assessment on business and human rights and advisory on the rights of workers in the context of COVID – 19 in Zambia	9	7
13	Consultative meetings, radio programmes and community sensitization activities as part of the campaign to demolish death penalty in Zambia	6	5

5.4 Administration

5.4.1 Human Resource Management Response to Covid-19

In view of the guidance given by Health authorities, the Commission, like many other institutions, undertook numerous measures within the workplace to prevent the spread of COVID 19. Measures included the placing of COVID 19 educational notices and fliers around the office premises, the purchase and distribution of Personal Protective Equipment such as hand sanitizers, disinfectants, face masks, gloves and hand washing basins for all staff, implementation of rotational work schedules to limit the number of staff at the work place thereby promoting social distancing, forming a WhatsApp group for all staff aimed at sharing information, fumigation of offices and utilising of virtual meeting platforms. Despite adherence to the COVID 19 guidelines, the Commission recorded six (6) positive cases.

5.4.2 National Health Insurance Scheme (NHIS)

In 2021, the Commission subscribed all employees to NHIS. All fifty-seven (57) employees of the Commission started contributing to the National Health Insurance Scheme. The UTH Medical Scheme was also maintained to assist with medical services excluded in NHIS.

5.4.3 General Administration Utility Bills

The section facilitated the procurement of non-movable assets, payment of utilities bills such as fuel, repair works, electricity bills, water bills, internet bills, security services as well as the insurance of assets.

5.4.4 Logistics and Transport Management

The HRA Section was responsible for undertaking and ensuring that correct procedures were undertaken in the acquisition, enhancement, use, control, maintenance, repair and disposal of the Commission's motor vehicle fleet and for the management of related forms of personnel transport. During the period under review the Commission had 19 motor vehicles of which eleven (12) were runners while seven (7) non-runners. The Commission purchased two motor vehicles at a total cost of K1, 300,000.00

5.4.5 Committee of Survey on the Inspection, Verification, Valuation and Boarding of Obsolete and Unserviceable Assets

The Commission requested Ministry of Finance and the then Ministry of Works and Supply to nominate Stock Verifiers, Valuation Officers and the Controller of Government Transport officers to be part of a Special Board of Survey to facilitate the disposal of disused assets at the Commission. The identified motor vehicles, plant and equipment, office equipment, office furniture and general stores items were physically inspected, valued and boarded and their condition noted. The recommendation was that the boarded items be disposed of through an auction sale. The items included five (5) motor vehicles and other assets (printers, tables and chairs).

5.4.6 Infrastructure Maintenance and Development

A number of rehabilitation works were undertaken at Head Office which included painting of offices, roofing, modern electrical fittings and fitting new toilets. New furniture which included chairs and tables and assets such as printers, laptops mobile phones and two television were procured through the support from the EWER Project.

5.5 Development of the ICT Policy

In line with the Employment Code Act No.3 of 2019 which stipulates that organizations need to have policies, the Commission continued to develop and implement various HR policies. The Commission's ICT Policy was developed and approved in the third quarter of 2021. In terms of ICT infrastructure, Smart Zambia Institute connected fibre optic internet which helped with internet access at the Commission and routers were procured for provincial offices.

CHAPTER 6

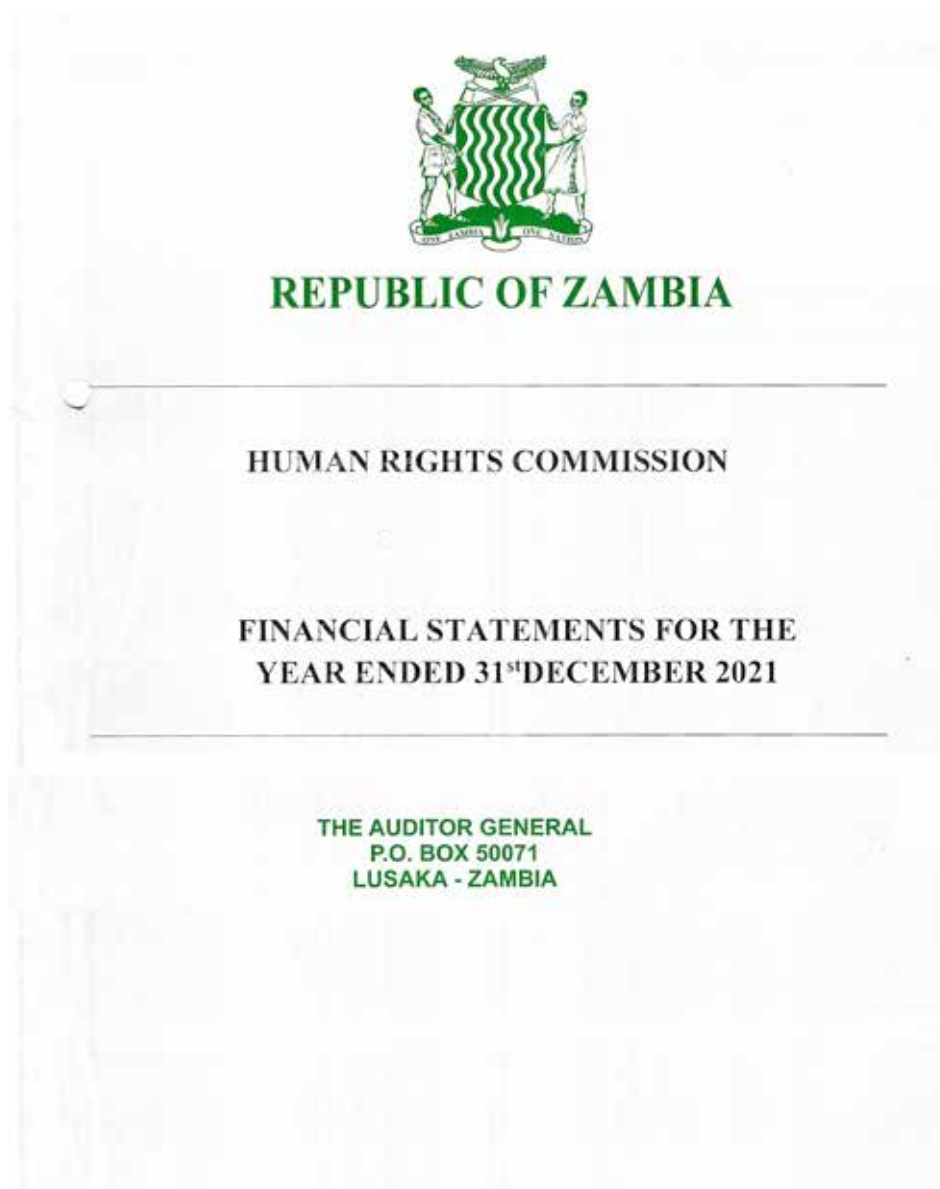
6.0 FINANCE AND ACCOUNTING

6.1 Introduction

The Finance and Accounting Section is responsible for the financial management of the Human Rights Commission. The funds of the Commission are appropriated by the National Assembly on a yearly basis and thereby the Commission is mandated to adhere to the public finance management procedures and guidelines provided for by the Government. In addition, the Commission is funded by Cooperating Partners in support of specific projects which are human rights based in nature. The role of the section is to ensure that all the financial processes of the Commission are well managed, coordinated, recorded and finally reported into a financial statement whose main purpose is to allow stakeholders and cooperating partners to assess the value of the Human Rights Commission.

6.2 Financial Information

Expenditure and revenue figures included in this report are based on public information provided in the audited financial statements of the Human Rights Commission for the financial year ended 31st December, 2021 below:





HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS FOR THE YEAR ENDED 31st DECEMBER, 2021

Building a Sustainable Culture of Human Rights Together

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THE INSTITUTIONAL PERFORMANCE REPORT

It is my honour to provide the background and overview of the performance of the Human Rights Commission for the financial year ended 31st December, 2021.

Background and Location of the Commission

The Human Rights Commission is a Constitutional, autonomous National Human Rights Institution (NHRI) for Zambia, mandated by the Constitution under Article 230 the Constitution of Zambia (Amendment) No.2 of 2016, to promote and protect human rights, by “ensuring that the Bill of Rights is upheld and protected. Further the Constitution of Zambia 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.

In view of the foregoing, the 2017-2021 Human Rights Strategic Plan has been prepared within the framework of the national, regional and international human rights instruments. It seeks to scale up the promotion and protection of human rights in Zambia, by expanding national coverage, and improving the standards, efficiency and effectiveness of service delivery.

The plan is founded upon the assumption that adequate funding will be provided by the Government, and the supplemental support from the Cooperating Partners and other well-wishers. It is my considered view that, the successful implementation of this plan will significantly contribute to the attainment of the national goals on human rights, and the attainment of the

THE INSTITUTIONAL PERFORMANCE REPORT

country's regional and international human rights obligations. This in the end is expected to lead to increased observation of human rights, to the benefit of all the people in Zambia.

I therefore, wish to call upon all the people of Zambia, to support this plan and contribute to **"Building a Sustainable Human Rights Culture"** in our country. I remain hopeful that the Government and our partners will be able to mobilise the required funding and support, to ensure a successful implementation of this plan

The address of the registered office of the Human Rights Commission is as follows: -

Human Rights Commission
Human Rights House
Mulungushi House Annex
Independence Avenue
P O Box 33812
LUSAKA.

The Commission Executive Management

The Commission Executive Management consists of the Director who is a Controlling Officer, Deputy Director, three (3) Heads of Departments, two (2) Heads of Sections and two (2) Heads of Units appointed by the Director.

Major Developments / Key Policies Implemented for the financial year ended 31st December 2021

The Commission has seen a number of projects and carried out the following events: -

1. Complaint's handling;
2. Legal Reforms/Parliamentary Submissions

During the Financial year ended 31st December, 2021, the Commission participated or undertook the following activities aimed at legal reforms:

- i. Submission on the Electoral Process (Amendment) Bill
 - ii. Submission on the Cyber Security and Crimes Bill
 - iii. Internal Legislative Meeting on the Legal Aid Board Bill
 - iv. Submission on the Appointment of Judges
-
3. Implementation of the Public Order Act Project
 4. Public Awareness on COVID 19
 5. Campaign to Abolish the Death Penalty in Zambia project
 6. Democracy Strengthening Project in Zambia
 7. Press statements
 8. Social Media Monitoring

GOVERNMENT OF THE REPUBLIC OF ZAMBIA – HUMAN RIGHTS COMMISSION FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31st DECEMBER, 2021



Mr. Mudford Z Mwandenga

Chairperson - Human Rights Commission

Date: 23rd May 2022

THE CONTROLLING OFFICER'S REPORT

I have the pleasure of presenting the report regarding the Human Rights Commission together with the Financial Statements for the financial year ended 31st December 2021 which disclose the sources, utilization and balances of cash for the Human Rights Commission for the financial year ended 31st December 2021

OPERATING RESULTS

Receipts

Total receipts amounted to K17,411,771 compared to K15,366,630 for the previous year. This represented 13% (K2,045,141) increase.

Expenditures

Total expenditure amounted to K17,211,744 compared to K15,194,499 for the previous year. This represented 13% (K2,017,245) increase.

Surplus/Deficit

Surplus for the financial year ended 31st December 2021 was K200,027

Related Party Transactions

There were no related party transactions for the financial year ended 31st December 2021

Property, Plant and Equipment

The Commission purchased property, plant and equipment amounting to K2,000,000 and did not receive equipment and motor vehicles from Cooperating partners. No property, plant and equipment were disposed of for the financial year ended 31st December 2021.

Intangible Assets

There were no purchases of intangible assets for the financial year ended 31st December 2021.

Employees

The number of employees at the beginning of the year was 54 which increased to 56 at the end of the year. The total amount spent on employees' remuneration and welfare for the financial year ended 31st December 2021 was K11,238,237

Health and Safety of Employees

The Commission is aware of its responsibilities regarding the safety and health of employees as prescribed in the Occupational, Health and Safety Act No.36 of 2010 and took appropriate measures to safeguard their safety and health.

Events

The Commission did not incur anything towards hosting the events for the financial year ended 31st December 2021.

Auditors

In line with Article 250 of the Constitution of Zambia (Amendment) Act No.2 of 2016 and Section 73 of the Public Finance Management Act No.1 of 2018, the Commission is audited by the Auditor-General.



Mrs. Sindiso.N. Sichone

Controlling Officer

Date: 23rd May 2022

STATEMENT OF RESPONSIBILITIES FOR ANNUAL FINANCIAL STATEMENTS

In line with requirements of the Part VI Section 70 (4) of the Public Finance Management Act No. 1 of 2018, the Controlling Officer is responsible for preparing and certifying the correctness of the Financial Statements for the year ended 31st December, 2021 which are free from material misstatement, whether due to fraud or error, and are prepared, in all material respects, in accordance with the Cash Basis International Public Sector Accounting Standard (IPSAS). In preparing the Financial Statements, the Human Rights Commission selected applicable policies from Central Government Accounting Policies (CGAPs) of December 2020 and applied them consistently, making judgment and estimates that were reasonable and prudent.

The Controlling Officer is also responsible for the maintenance of adequate accounting records and the preparation and integrity of the annual Financial Statements and related information. The Auditor-General has audited the Financial Statements and the report is shown on pages 8 to 11

The Controlling Officer accepts responsibility for the annual Financial Statements, which have been prepared using appropriate accounting policies supported by reasonable estimates, in conformity with the Cash Basis IPSAS, the requirements of the Public Finance Management Act No.1 of 2018 and Central Government Accounting Policies (CGAPs) of 2020.

In addition, Part III and section 8(s) of the Public Finance Management General Regulation requires the Head of the Accounting Unit to sign off Accounts, Management Reports, Financial Statements, or any component of the work submitted to the supervising officer or any other Officer as Input in the Financial report of the Republic.

The controlling Officer and Head of Accounting Unit further accepts responsibility: -

- for the maintenance of accounting records that may be relied upon in the preparation of Financial Statements;
- for designing, implementing and maintaining systems of internal controls relevant to the preparation and fair presentation of Financial Statements that are free from material misstatement, whether due to fraud or error.

To the best of our knowledge, proper books of accounts were maintained to support preparation of Financial Statements that comprise Statement A - Cash Receipts and Payments, Statement B – Comparison of Budget and Actual Amounts, Statement C - Detailed Budget Execution, and a summary of significant accounting policies and other explanatory information on pages 12 to 26 that present fairly the financial results of Human Rights Commission for the financial year ended 31st December, 2021.

Note that the financial report does not include Statement D – Comparison of Budget and Actual (Functional Classification) because the system was not configured to produce the report during the period under review.

Signed on behalf of Human Rights Commission.

Name: Kabandala Inambao

Signature:.....

Date: 23rd May 2022

Position: Head, Finance and Accounting

Name: Mrs. Sindiso.N. Sichone

Signature:.....

Date: 23rd May 2022

Position: Controlling Officer



REPUBLIC OF ZAMBIA
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 Commissioners – Human Rights Commission (HRC)

Report on the Audit of the Financial Statements of Head 34 – Human Rights Commission

Unmodified Opinion

I have audited the financial statements of the Human Rights Commission (HRC) for the financial year ended 31st December 2021 which comprise Statement A - Statement of Cash Receipts and Payments, Statement B - Statement of Budget Execution, Statement C - Statement of Comparison of Budget and Actual Expenditure by Programme and a summary of significant accounting policies and other explanatory information on pages 12 to 26.

In my opinion, the accompanying financial statements of the HRC present fairly, in all material respects, its cash receipts and payments and balances for HRC for the year ended 31st December 2021 in accordance with the Cash Basis International Public Sector Accounting Standard (IPSAS) and the Central Government Accounting Policies (CGAPs).

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 HRC 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.



REPUBLIC OF ZAMBIA
OFFICE OF THE AUDITOR GENERAL

Key Audit Matters

Key audit matters (KAMs) are those matters that, in my professional judgment, were of most significance in my audit of the financial statements of the current period. However, we have determined that there are no key audit matters to communicate in our report.

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 Cash Basis International Public Sector Accounting Standard, the Public Finance Management Act No. 1 of 2018 and Central Government Accounting Policies (CGAPs) of 2020, and for such internal controls 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 Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

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

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



REPUBLIC OF ZAMBIA

OFFICE OF THE AUDITOR GENERAL

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 controls 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.
- 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 control that I identify during my audit.

Report on Other Legal and Regulatory Requirements

In relation to other legal and regulatory requirements, Article 212 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 requires me not later than nine months after the end of a financial



REPUBLIC OF ZAMBIA
OFFICE OF THE AUDITOR GENERAL

year to submit a report to the President and the National Assembly, on the accounts of the Republic in respect of the preceding financial year.

In this regard, the Auditor General's report for the financial year ended 31st December 2021 may include audit findings on the operations of Head 34, Human Rights Commission.


.....
Dr. Dick Chellah Sichembe
AUDITOR GENERAL



DATE: *26/05*.....2022


**STATEMENT A – STATEMENT OF CASH RECEIPTS AND PAYMENTS FOR THE
YEAR ENDED 31st DECEMBER 2021**

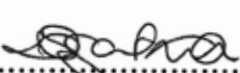
	Note	2021 Kwacha
RECEIPTS		
Treasury	2	15,947,495
External Assistance	3	1,464,276
Other Receipts	4	-
TOTAL RECEIPTS		17,411,771
PAYMENTS		
Personnel Emoluments	5	11,238,237
Goods and Services	6	3,833,507
Financial Charges	7	-
Social benefits	8	-
Non-financial assets acquisition	9	2,000,000
Financial Assets	10	-
Other payments	11	140,000
TOTAL PAYMENTS		17,211,744
Increase/(decrease) in Cash		200,027
Foreign Exchange Losses	12	-
Cash at beginning of the year	13	-
Cash at the end of the year	13	200,027

Signed on behalf of Human Rights Commission.

Name: Kabandala Inambao

Name: Mrs. Sindiso.N. Sichone

Signature:.....

Signature:.....

Date: 23rd May 2022

Date: 23rd May 2022

Position: Head, Finance and Accounting

Position: Controlling Officer

**STATEMENT B – STATEMENT OF BUDGET EXECUTION FOR THE YEAR ENDED
31st December, 2021**

	Original Budget Kwacha	Adjustments Kwacha	Final Budget Kwacha	Actual Amounts Kwacha	% Performance	Variance Kwacha	% Variance
RECEIPTS							
Funding	17,181,044		17,181,044	15,947,495	93%	(1,233,549)	-7%
External Assistance	-	1,464,276	1,464,276	1,464,276	-	-	
Other Receipts	-	-	-	-	-	-	
TOTAL RECEIPTS	17,181,044	1,464,276	18,645,320	17,411,771	93%	(1,233,549)	-7%
PAYMENTS							
Personnel							
Emoluments	11,238,240		11,238,240	11,238,237	100%	3	0%
Use of goods and services	3,802,804	1,294,276	5,097,080	3,833,507	75%	1,263,573	25%
Financial Charges	-	-	-	-		-	
Social benefits	-	-	-	-		-	
Non-financial assets acquisition	2,000,000	70,000	2,070,000	2,000,000	97%	70,000	3%
Financial Assets	-	-	-	-		-	
Other payments	140,000	100,000	240,000	140,000	58%	100,000	42%
TOTAL PAYMENTS	17,181,044	1,464,276	18,645,320	17,211,744	3	1,433,576	1

The composition of budget adjustments and explanations of major variances are provided in note 14

Signed on behalf of Human Rights Commission.

Name: Kabandala Inambao

Signature:.....

Date: 23rd May 2022

Position: Head, Finance and Accounting

Name: Mrs. Sindiso.N. Sichone

Signature:.....

Date: 23rd May 2022


Position: Controlling Officer

STATEMENT C – STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS BY DEPARTMENT/PROGRAMME FOR THE YEAR ENDED 31st DECEMBER 2021

	Original Budget 2021 Kwacha	supplementary/ Variance Budget 2021 Kwacha	Final Budget 2021 Kwacha	Actual Expenditure 2021 Kwacha	Variance 2021 Kwacha
4140 Protection and Promotion of Human Rights	10,572,689	190,000	10,762,689	10,555,803	206,886
4199 Management Support Services	6,608,355	1,274,276	7,882,631	6,655,941	1,226,690
TOTAL	17,181,044	1,464,276	18,645,320	17,211,744	1,433,576

Signed on behalf of Human Rights Commission.

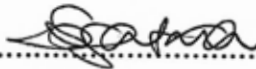
Name: Kabandala Inambao

Signature:.....

Date: 23rd May 2022

Position: Head, Finance and Accounting

Name: Mrs. Sindiso.N. Sichone

Signature:.....

Date: 23rd May 2022

Position: Controlling Officer

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1. Basis of the Preparation of the Financial Statements

The Financial Statements have been prepared in accordance with Central Government Accounting Policies (CGAPs) and Cash Basis IPSAS, *Financial Reporting under the Cash Basis of Accounting*, issued by the International Public Sector Accounting Standards Board (IPSASB).

These Financial Statements have been prepared in accordance with the historical cost convention as the basis of measurement, unless specified otherwise. The accounting policies have been applied consistently throughout the period.

1.1 Statement D–Statement of Comparison of Budget and Actual Amounts (Functional Classification)

The Central Government Accounting Policies requires The General-Purpose Financial Statements of an MPA to comprise the following:-

- i) Statement A – Statement of Cash Receipts and Payments which recognises all cash transactions, other events and balances controlled by an MPA;
- ii) Statement B – Statement of Comparison of Budget and Actual Amounts (Budget Execution);
- iii) Statement C – Statement of Comparison of Budget and Actual Amounts (By Department or Programme);
- iv) Statement D – Statement of Comparison of Budget and Actual Amounts (Functional Classification);
- v) Summary of significant accounting policies; and Explanatory notes to the Financial Statements. This includes disclosure of cash balances held in the bank account of an MPA on behalf of other entities.

However, these financial statements do not include Statement D-Statement of Comparison of Budget and Actual Amounts (Functional Classification) because the system was not configured to produce the statement at Head level during the period under review. In this regard, Statement D has been centrally prepared by the Ministry responsible for Finance.

1.2 Comparatives

In line with the Central Government Accounting policies (CGAPs) and the Treasury and Financial Management Circular No .14 of 2020 issued prior but applicable to finalisation of these financial statements, the starting point for preparation of financial statements using Cash Basis IPSAS *Financial Reporting under the Cash Basis of Accounting* is 2021.

The International Public Sector Accounting Standards allows that in the year of first application, comparative financial statements for the previous year may not be included. In this regard, these financial statements do not include such.

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1.3 Reporting Entity

These Financial Statements are for Human Rights Commission. The Financial Statements encompass the Commission as set up in the Constitution of Zambia (Amendment) Act No. 2 of 2016 and the Public Finance Management Act No.1 of 2018.

The specific functions of the Human Rights Commission are outlined in the Human Rights Act, Chapter 48 of the Laws of Zambia.

1.4 Authorisation Date

The Financial Statements were authorised for issue on 23rd May 2022 by the Controlling Officer.

1.5 Revenue

The Commission does not generate its own revenue. Instead, it receives financial support from Central Government in form of funding. Funding consists of amounts appropriated by Parliament which the Treasury releases to the Commission. The Commission does not operate its own bank accounts for the amounts from the Treasury. Instead, the Government through the Ministry of Finance Treasury Services Department operates a centralised treasury function through the Treasury Single Account (TSA) set up in line with Section 25 of the PFMA 2018.

Amounts are funded on request in IFMIS to the Commission by the Treasury. Funded amounts are moved from Government revenue control account maintained at Bank of Zambia (BOZ) to TSA Payment Account also maintained with BOZ. Except for funds meant for capital projects, amounts authorised for use by the Commission which are unexpended at year end are transferred back to the revenue control account of the Treasury.

Apart from funds received from the Treasury, the Commission operates Third Party Accounts to cater for specific projects funded by cooperating partners. The balances on these accounts are reported in the Financial Statements.

1.6 Expenditure

Expenditure is recognised when payment is made for expenses incurred. The Commission incurs expenditure relating to the discharge of its functions which includes expenses relating to other Personal Emoluments, goods and services, general administration and acquisition of Non-Financial Assets.

Items of a capital nature are expensed at the time of payment and such transactions are depicted in the appropriate class and heading in the Financial Statements. Since capital

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

expenditure is expensed when incurred, neither depreciation nor amortization is charged on Non-Current Assets.

1.7 Reporting on Gross Basis

Transactions are reported on gross basis without netting off similar classes of receipts and payments. However, transactions may be reported on net basis when they relate to transactions the Commission administers on behalf of other entities recognised in the Financial Statements

1.8 Cash on hand at the Beginning and the End of the Year

Cash at the beginning and end of the year consist of cash on hand, demand deposits and cash equivalents held at such dates.

Cash on hand refers to notes and coins held by the Commission at the reporting date and it includes petty cash. Demand deposits consist of reconciled balances held in the Commission's bank accounts which it can use on demand. Cash equivalents, on the other hand, refer to short term high liquid investments that can easily be converted to known amounts of cash and are subject to insignificant risk of change in values.

The Commission recognises all short-term high liquid investments having maturities of three months or less as cash equivalents.

1.9 Presentation Currency

The presentation currency is Zambian Kwacha.

1.10 Foreign Currencies

Transactions in other currencies are converted into Zambian Kwacha using the Spot rate at the time of receipt or payment. Balances expressed in foreign currencies at the year-end are translated into Kwacha at the ruling rate then. The resulting difference from the conversion and translation are charged to the Statement of Cash Receipts and Payments.

The Commission did not make any foreign transactions during the year under review.

1.11 Borrowings

No borrowings are undertaken by the Commission. Therefore, neither borrowings nor their repayments are recognised in the Financial Statements of the Commission.

1.12 Budgets and Actual Amounts

A final budget includes all adjustments (supplementary and re-allocations) made to the original approved budget during the year. Supplementary budgets consist of additional

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

provisions beyond what was originally approved while re-allocations are approved budget variations.

The approved budget is developed on the same accounting and classification basis as Statement B for revenue and Statement C for expenditure, and for the same year as for the Financial Statements. All material differences between final budgets and actual amounts are explained in the notes to the annual Financial Statements. Budget differences of 20% and above are considered material.

1.13 Encouraged Disclosures of Accrual Type of Items

The Commission makes Accrual Basis type of disclosures called Encouraged Additional Disclosures in line with Part 2 of Cash Basis IPSAS as follows: -

i. Property, Plant and Equipment

These are assets that have useful economic lives or service potential of more than one year. They are recorded and disclosed at either cost or valuation. Valuations are conducted by the Government Valuation Department. Where valuation has been undertaken, the applicable valuation bases are as follows: -

- Land Market Value
- Buildings Historical Cost or Market Value
- Plant and Equipment Historical Cost

ii. Investments in Other Entities

The Commission made no investments in other entities for the financial year ended 31st December 2021

iii. Administered Transactions

There were no administered transactions by the Commission for the financial year ended 31st December 2021.

iv. Related Party Transactions

A related party is one that has the ability to control the Commission or exercise significant influence over the Commission in making financial and operating decisions. The related party entity is also any entity that is subject to common control with the Commission.

Related parties include: -

- (a) Entities that directly, or indirectly through one or more intermediaries, control, or are controlled by the Commission;
- (b) Associates being entities over which the Commission has significant influence;
- (c) Individuals that have significant influence over the Controlling Officer such as Members of Parliament, Chiefs and close family members of such individuals;

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- (d) Key management personnel, and close members of the family of key management personnel; and.
- (e) Entities in which a substantial ownership interest is held, directly or indirectly, by any person described in (c) or (d), or over which such a person is able to exercise significant influence.

The key management personnel of the Commission are: -

- (a) the Commissioners, members of the Audit, Administration & Finance and Procurement Committees; and
- (b) The Director, Deputy Director and other members of the management team.

Spouses, children and grandchildren, grandparents, brothers, sisters, parents in law, brothers in law, and sisters in law of key management personnel are related parties to the Commission Secretariat.

The Commission discloses the nature of the related party relationship as well as information about those transactions and outstanding balances as a note to the Financial Statements. Such transactions may include remuneration, loans and contracts awarded to key management personnel and their close relatives.

v. External Assistance

External assistance comprises grants from multilateral and bilateral agencies provided under agreements specifying the purposes for which the assistance will be utilised.

The Human Rights Commission discloses total external assistance received in cash during the year, total external assistance paid by the agencies for the benefit of the Commission, external assistance received in form of loans and grants, their classifications, purposes for which it was received and undrawn balances.

vi. Other Receipts

There were no other receipts for the financial year ended 31st December 2021.

vii. Payments to Third Parties

There were no payments to third parties for the financial year ended 31st December 2021.

NOTES TO THE FINANCIAL STATEMENTS

2. Funding

During the financial year ended 31st December 2021, the Commission received funding from the Treasury as follows:-

Funding	2021
	Kwacha
1st Funding	74,922
2nd Funding	936,520
3rd Funding	1,011,442
4th Funding	1,011,442
5th Funding	1,011,442
6th Funding	1,011,442
7th Funding	1,011,442
8th Funding	1,011,442
9th Funding	1,011,442
10th Funding	1,111,442
11th Funding	1,111,442
12th Funding	1,111,442
13th Funding	159,967
14th Funding	11,666
15th Funding	500,000
16th Funding	1,150,000
17th Funding	350,000
18th Funding	250,000
19th Funding	2,000,000
20th Funding	100,000
21st Funding	
22nd Funding	
TOTAL	15,947,495

NOTES TO THE FINANCIAL STATEMENTS

3. External Assistance

During the financial year ended 31st December 2021, the Commission received funding from Cooperating Partners: -

	2021 Kwacha
USAID	1,464,276
	-
	-
Total	<u>1,464,276</u>

4. Other Receipts

The Commission did not receive other receipts for the financial year ended 31st December 2021 from other sources.

5. Personnel Emoluments

The Commission prepares its own payroll and below are actual amounts of emoluments paid to staff in various categories that amounted to K11,238,237:

	2021 Kwacha
Super scale	998,772
Salary Division 1	7,493,136
Salary Division 2	1,627,261
Salary Division 3	1,003,332
Wages Division 4	-
Other Personal Emoluments	<u>115,736</u>
	<u>11,238,237</u>

However, actual amounts of emoluments to staff in various categories paid by Human Rights Commission amounted to K12,346,393.85 out of which K11,238,237 was reported under this Head. The difference of K 1,108,156.85 was reported under Ministry of Finance where this expenditure was budgeted for.

NOTES TO THE FINANCIAL STATEMENTS

6. Goods and Services

Use of Good and services consist of expenditure incurred on administrative activities

	2021
	Kwacha
Other Administrative	729,340
Requisites	-
Services	1,734,986
Travel expenses	1,369,181
Training	-
Medical costs	-
	<u>3,833,507</u>
Other costs	<u>140,000</u>
TOTAL	<u>3,973,507</u>

Refer to Appendix 1 for details

7. Financial Charges

The Commission had no financial charges paid for the financial year ended 31st December 2021.

8. Social Benefits

Social benefits include payments towards death on duty, burial, and other benefits. During the financial year ended 31st December, 2021, the Commission did not make any social benefit payments.

9. Non-financial Asset Acquisition

Acquisition of assets involved the following payments: -

	2021
	Kwacha
Equipment	176,609
Furniture	496,431
Plant & Machinery	-
Building	-
Motor Vehicle	1,326,960
Assets under construction	-
Other assets	-
TOTAL	<u>2,000,000</u>

Refer to Appendix 2 for details

NOTES TO THE FINANCIAL STATEMENTS

10. Financial Assets

The Commission did not acquire any financial assets during the financial year ended 31st December, 2021.

11. Other payments

The Commission made other payments amounting to K140,000 during the financial year ended 31st December, 2021. These related to payment of annual subscription membership fees to both the National and International Human Rights Institutions.

12. Foreign Exchange Losses/Gains

There were no foreign Exchange losses/gains during the financial year ended 31st December, 2021.

13. Cash Balances

The Commission's Cash amounts for the financial year ended 31st December, 2021 was as follow:

	2021
	Kwacha
Cash on hand	200,027
TOTAL	200,027

a. Cash on hand

The Commission had no cash on demand (Petty Cash) as at 31st December, 2021

b. Demand Deposits – Bank Balances

The Commission held K200,027 on TSA as balance for the financial year ended 31st December, 2021.

c. Cash Equivalents

The Commission held no treasury bills for the financial year ended 31st December 2021.

NOTES TO THE FINANCIAL STATEMENTS

14. Budget Adjustments and Variances

a. Budget Adjustments

The original budget was approved by the National Assembly on 31st December 2020. There were no subsequent approved adjustments to the budgets.

	Approved Supplementary Kwacha	Approved Variations Kwacha	Total Adjustments Kwacha
RECEIPTS			
Funding		-	-
External Assistance	1,464,276	-	1,464,276
Other	-	-	-
TOTAL RECEIPTS	1,464,276	-	1,464,276
PAYMENTS			
Personal Emoluments	-	-	-
Use of goods and services	1,294,276	-	1,294,276
Financial Charges	-	-	-
Social benefits	-	-	-
Non-financial assets acquisition	70,000	-	70,000
Financial Assets	-	-	-
Other payments	100,000	-	100,000
TOTAL EXPENDITURE	1,464,276	-	1,464,276

b. Budget Variances

• Own Source Revenues

The Commission did not generate any form of revenue during the financial year ended 31st December, 2021.

• Use of Goods

The Human Rights Commission Planned to Spend K5,097,080 on use of goods and services but spent K3,833,507 resulting in a variance of 25%. The variances were attributed to inadequately funded budget for the financial year ended 31st December 2021.

• Other payments

The Human Rights Commission Planned to Spend K240,000 on other payments but spent K140,000 resulting in a variance of 42%. The variances were attributed to inadequately funded budget for the financial year ended 31st December 2021. Other payments related to annual subscription membership fees paid to both the regional and international human rights institutions.

NOTES TO THE FINANCIAL STATEMENTS

15. Property, Plant and Equipment

The Commission had property, plant and Equipment valued at K6,801,294

	Land K'000	Land and Buildings K'000	Plant & Machinery K'000	Motor vehicles K'000	TOTAL K'000
Opening balance	-	261,462	1,871,358	2,668,475	4,801,294
Additions	-	-	673,040	1,326,960	2,000,000
Revaluation	-	-	-	-	-
Re-classification	-	-	-	-	-
Disposal	-	-	-	-	-
Closing balance	-	261,462	2,544,398	3,995,435	6,801,294

16. Investments

The Commission did not hold any investments during the financial year ended 31st December 2021.

17. Administered Transactions

The Commission did not administer tax collection on behalf of Zambia Revenue Authority (ZRA).

18. Related Party Disclosures

The following disclosures are made in the Financial Statements of the Human Rights Commission:

a. Fringe benefits Disclosures

The Director/Controlling Officer was provided with a personal-to-holder car, an office and personal secretary.

b. Remuneration of the Director/Controlling Officer

The aggregate remuneration of the Director/Controlling Officer determined on a full-time equivalent basis receiving remuneration under the Commission is:

Aggregate Remuneration	K998,772
Number of persons	1

The Director/Controlling Officer did not have any outstanding loans obtained under the Secretariat.

NOTES TO THE FINANCIAL STATEMENTS

c. Remuneration of Senior Management

The aggregate remuneration of members of the Senior Management and the number of individuals determined on a full-time equivalent basis receiving remuneration from the Commission Secretariat are:

Aggregate Remuneration	K4,528,202
Number of persons	11

None of the members of Senior Management acquired loans from the Commission during the financial year ended 31st December 2021.

For the purposes of this part:

- Remuneration refers to salaries and other personal emoluments; and
- Senior Management refers to officers from salary scale HRC H to Super Scale.

19. External Assistance

The amounts, class of provider and purpose for which external assistance was received during the financial year is outlined below.

	2021
Details	KWACHA
USAID	1,464,276
Total	1,464,276

20. Third Party Payments (Direct Payments)

The Human Rights Commission did not benefit from payments made by third parties during the financial year ended 31st December, 2021.

APPENDICES

APPENDIX 1– List of Goods & Services

Description	Amount
K	
Spare Parts	19,273.40
Insurance - Plant an	20,000.00
Licences and Taxes	1,250.00
Toll Fees	3,100.00
Boards And committee	313,573.70
Other Costs	78,630.00
Hand tools & Equipme	2,299.00
Protective Wear Clot	16,345.92
Accounts & Audit Ser	54,999.20
Printing	160,010.40
Advertising & Public	562,849.88
Official Entertainme	7,105.00
Other Services	1,734,986.05
Contributions to int	140,000.00
TOTAL	3,973,507

APPENDICES

APPENDIX 2 – List of Assets Acquired in the Year

Assets	2021
	KWACHA
air conditioners	163,579.58
executive table	90,480.00
office desk top	92,800.00
printer	63,069.99
projector	16,820.00
standard table	14,442.00
vistors chair	68,857.60
water dispenser	4,150.00
office chair	158,840.80
Motor Vehicle	1,326,960.00
TOTAL	2,000,000

6.3 CHALLENGES

Challenges

The Commission experienced some challenges which need to be addressed in order to ensure that smooth operations in the execution of its mandate. The following were challenges faced in the year 2021.

- 6.3.1 Transport: The transport challenge was experienced both at HQ and in the provinces. Most of the fleet had clocked more than 5 years with others clocking more than 10 years and their performance was below standard while maintenance costs kept rising.
- 6.3.2 Funding: The funding for the year was not enough and as such it was difficult to execute some tasks and formulate a sustainable procurement plan. This on several occasions affected the supply of goods and services as well as capacity building programmes.
- 6.3.3 The COVID-19 pandemic: It affected programme implementation as movements were highly restricted.
- 6.3.4 Low staffing levels: Due to the low numbers of staff employed by the Commission, some programmes could not be implemented on time. Additionally, employees are overworked which can in the long run have a negative impact on the quality of results the Commission produces.

HUMAN RIGHTS ARE

Inherent

Universal

Inalienable

Interdependent

Fundamental

Indivisible



Human Rights
Commission -
Zambia



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