

**Zambia: Civil Society Report
by Transparency International Zambia**

An input to the UNCAC Implementation Review Mechanism:
Fourth year of review of UNCAC Chapters II and V

24 November 2023

This is the executive summary of a civil society parallel report from November 2023 reviewing Zambia’s implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Zambia covering those two chapters. The full report will be available on the UNCAC Coalition's website.¹

Whilst Zambia has improved its anti-corruption legislation since the regime change, a lack of legislation related to anti-corruption measures presents a serious challenge. This includes the lack of an Access to Information Law, unfavorable provisions in the Whistleblower Protection Law, and an outdated Anti-Corruption Policy. Whilst some of the missing legislation is pending approval in cabinet, stronger efforts are needed around enactment of legislation. Zambia launched its new National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy in 2023 and the Financial Intelligence Centre is efficient in its work.

Assessment of the Review Process

Did the government disclose information about the country focal point?	Yes	The focal point’s name is indicated on the Governmental experts list on UNODC website. ² However, the contact details are missing.
Was the review schedule published somewhere/publicly known?	Not available	–
Was civil society consulted in the preparation of the self-assessment checklist?	No	–
Was the self-assessment checklist published online or provided to civil society?	No	–

¹ The report will be published on the UNCAC Coalition website: <https://uncaccoalition.org/uncac-review/cso-review-reports/>.

² United Nations Office on Drugs and Crimes (2023) Zambia, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fzmb.html>.

Did the government agree to a country visit?	Yes	The government agreed to a country visit prior to the change of regime. There is no information available concerning the current regimes position.
Was a country visit undertaken?	Not yet	The COVID-19 pandemic derailed the country visit and there is no information on when it will be undertaken.
Was civil society invited to provide input to the official reviewers?	Not yet	–
Was the private sector invited to provide input to the official reviewers?	Not yet	–
Has the government committed to publishing the full country report?	No	–

Main Findings and Recommendations (R)

Preventive Anti-Corruption Policies and Practices

Zambia has no updated Anti-Corruption Policy. During the period 2016 to 2021, the Zambian government initiated the process for the development of a new Anti-Corruption Policy. However, after the change of regime in 2021, the United Party for National Development (UPND)-led administration recalled the policy for fresh consultations and alignment to their new vision. Following a multi-stakeholder consultative process, the Ministry of Justice finalized the policy pending approval by Cabinet.

R: Ensure the approval of the new National Anti-Corruption Policy

Preventive Anti-Corruption Bodies

The Anti-Corruption Commission (ACC) is mandated to; (i) investigate and prosecute cases of suspected corruption (ii) conduct public sensitization on the dangers of corruption and foster public support in the fight against corruption, and (iii) put in place mechanisms for preventing corruption.³ The ACC has been limited in executing its mandate due to legal and institutional challenges, including the inability to charge constitutional office holders and state officers for offences under the Act, limited geographical presence and limited financial autonomy.⁴

R: Amend the Anti-Corruption Act No. 3 of 2012 to make State officers, Constitutional office holders, Judges and Judicial officers liable under the Act. Increase the independence of the ACC.

³ Anti-Corruption Commission, Mandate, <https://www.acc.gov.zm/mandate/>.

⁴ International Monetary Fund (10th January 2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption, <https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

Political Financing

The Constitution of Zambia (Amendment) Act No. 2 of 2016⁵ provides for the establishment of the political parties' fund, auditing of political parties accessing the fund, declaration of sources of funding and spending limits during an election. However, there is no law actualizing this constitutional provision. The Political Parties Bill (2017)⁶ is the most recent attempt at regulating political financing, however, this has not been enacted due to a lack of stakeholder consensus.

R: Enact subsidiary legislation on political financing in order to actualize constitutional provisions and effectively regulate the use of money in politics.

Reporting Mechanisms and Whistleblower Protection

Zambia has a substantive law⁷ on corruption reporting and the protection of whistleblowers. However, the law contains some unfavorable provisions such as the possible prosecution of whistleblowers for reports deemed malicious or frivolous. After a decade of poor implementation, it is now apparent that the Act is losing touch with the reality on the ground. In the absence of sufficient protection, highly placed whistleblowers such as public officials in government have turned to Civil Society Organizations (CSOs) and the media to report acts of corruption.

R: Amend the Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2012 in order to remove unfavorable provisions and provide sufficient protection for whistleblowers.

Public Procurement

Zambia has a comprehensive legal framework for public procurement; however, there are a number of implementation challenges. These include ineffective checks on rent seeking by Politically Influential Persons, limited vetting of suppliers, resulting in awards of contracts to entities with no capacity to deliver; and limited beneficial ownership transparency. There are also cases of collusion between public officials and vendors in defrauding the government through the submission of false claims. **Error! Bookmark not defined.**

R: Ensure the full rollout of the Electronic Government Procurement (e-GP) System as it has demonstrated potential in promoting transparency in the procurement process.

Management of Public Finances

⁵ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20\(Amendment\),%202016-Act%20No.%2020.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20(Amendment),%202016-Act%20No.%2020.pdf).

⁶ Political Parties Bill 2017, <https://www.parliament.gov.zm/sites/default/files/documents/articles/THE%20POLITICAL%20PARTIES%20BILL,%202017%20Consultative%20Process%20Document-1.pdf>.

⁷ Public Interest Disclosure (Protection of Whistleblower) Act No. 4 of 2010, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Public%20Interest%20Disclosure%20%28Protection%20of%20Whistleblowers%29%20Act%202010.PDF>.

While the National Assembly has the powers to vary the allocation to specific functions and departments but not the total budget, it generally focuses instead on debating the budget and voting to pass the Budget Appropriation Bill⁸, which gives powers to the executive to implement the national budget. As Zambia's Supreme Audit Institution, the Office of the Attorney General (OAG) conducts annual audits of the accounts of state organs, state institutions, provincial administration and local authorities and institutions financed from public funds, as well as of projects using public funds. While the OAG submits reports to the President and Parliament, in practice, there has been limited responsiveness to its recommendations by the executive.

R: Ensure the full rollout of the Integrated Financial Management Information System (IFMIS) through onboarding all government department and ministries. Ensure the operationalization of the Public Debt Management Office to support the monitoring and evaluation of Government investments and the management of Government's debt stock.

Access to Information and the Participation of Society

Zambia has no access to information law. A draft Access to Information (ATI) bill has been under development for the past 20 years. In 2022, the United Party for National Development (UPND) government informed the public that the draft ATI Bill would undergo another round of nation-wide consultation. In the absence of this law, access to information has been at the benevolence of government departments and ministries.

R: Ensure the enactment of an access to information law in line with international best practice in order to ensure access to information in Zambia.

Measures to Prevent Money Laundering

In 2023, Zambia launched the National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy outlining the government's policy direction for the effective combatting of money laundering, terrorism financing and proliferation financing. The Financial Intelligence Centre (FIC) was established in 2010 to receive and analyze Suspicious Transaction Reports (STRs) and Currency Transaction Reports (CTRs) from Commercial Banks and Non-Bank Financial Institutions, and Designated Non-Financial Businesses and Professions (DNFBPs). The FIC has been consistent in carrying out its mandate and has assisted in a number of joint investigations with other competent authorities with some of these cases leading to arrests and forfeiture of assets.⁹

R: Develop a mechanism for effective follow-up of cases disseminated to law enforcement agencies by the Financial Intelligence Centre.

Asset recovery

⁸ Budget Appropriation Bill (2022), <https://www.parliament.gov.zm/sites/default/files/documents/acts/Act%20No.%2030%20The%20Appropriation%20Bill%2C%202022.pdf>.

⁹ Financial Intelligence Centre (2023), 2022 Trends Report <https://www.fic.gov.zm/79-fic-news/118-trends-report-2022>, accessed on 16th July 2023.

Zambia has a legal framework for the return and disposal of confiscated property. This includes Section 28 of the Forfeiture of Proceeds of Crime Act No. 19 of 2010¹⁰ that deals with forfeiture proceeding and the Mutual Legal Assistance in Criminal Matters Act,¹¹ which allows cooperation with other state parties for return and disposal of confiscated property. The Office of the Attorney General facilitates this cooperation using Mutual Legal Assistance requests. In practice, requests made through Mutual Legal Assistance tend to take a long time. Therefore, Zambia has also been using Bilateral Agreements and the International Criminal Police Organization (INTERPOL) to obtain information and recover assets. The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) has also been very helpful in the recovery of assets, though it is not a legal channel. With regards to information exchange, the Financial Intelligence Centre Networks have been critical since many countries have established Financial Intelligence Units (FIUs) which exchange information through the Egmont Group.¹²

R: Ensure the operationalization of the Forfeited Assets Fund as a consolidate fund to enhance transparency and accountability in the management of forfeited assets.

¹⁰ Forfeiture of Proceeds of Crime Act No. 19 of 2010, <https://www.parliament.gov.zm/node/3286>.

¹¹ Mutual Legal Assistance in Criminal Matters Act, Chapter 98 of the Laws of Zambia <https://www.parliament.gov.zm/node/841>, accessed on 20th July 2023.

¹² EGMONT Group (2023), Connecting Financial Intelligence Units Worldwide, <https://egmontgroup.org/>.