

# REVIEW OF THE NATIONAL DIASPORA POLICY LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

ZAMBIA



REPUBLIC OF ZAMBIA

Ministry of Foreign Affairs and  
International Cooperation



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# ACRONYMS

<b>AFFORD</b>	African Foundation for Development
<b>BSSA</b>	bilateral social security agreement
<b>CD4D</b>	Connecting Diaspora 4 Development
<b>DNRPC</b>	Department of National Registration, Passport and Citizenship
<b>ECOSOCC</b>	Economic, Social and Cultural Council
<b>EPZ</b>	export processing zone
<b>FDI</b>	foreign direct investment
<b>ICRMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>MFEZ</b>	multifacility economic zone
<b>MLA</b>	Moroccans living abroad
<b>NIDCOM</b>	Nigerians in Diaspora Commission
<b>SADC</b>	Southern African Development Community
<b>SEZ</b>	special economic zone
<b>UDHR</b>	Universal Declaration of Human Rights
<b>ZIDIS</b>	Zambia Institute of Diplomacy and International Studies



# 1

## INTRODUCTION TO ZAMBIA'S NATIONAL DIASPORA POLICY LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

### 1.1. BACKGROUND

The international migration of highly skilled Zambians has increased during the past decade. The World Bank's *Migration and Remittances Fact Book 2016* shows that an estimated 1.4 per cent of Zambians migrate to other countries for various reasons (World Bank, 2016). The Zambian diaspora comprises students, professionals and entrepreneurs, among many other groups. The country has witnessed the migration of, among others, engineers, journalists, bankers, accountants, economists, medical doctors, nurses, lawyers and artists who, despite being out of the country, can still contribute positively to Zambia if engaged effectively. The Government of Zambia has recognized the significant potential of its diaspora to contribute to national development. In this regard, the Government, with support from IOM, formulated Zambia's Diaspora Policy of 2019 (hereinafter "the Diaspora Policy") to provide an enabling framework for diaspora engagement and their effective participation in national development.

Following the successful development of the Diaspora Policy, the Government also developed the National Diaspora Policy Strategic Implementation Action Plan, 2019–2022 to guide the implementation of the Diaspora Policy. The Action Plan has six thematic areas, namely:

- (a) Diaspora Policy legislative and institutional coordination mechanisms;
- (b) Knowledge and understanding of the diaspora;
- (c) Harnessing and leveraging remittances and diaspora capital;
- (d) Promoting trade, investment and tourism;
- (e) Diaspora diplomacy, social protection and consular services provision;
- (f) Building trust, confidence and patriotism.

In line with the first strategic area (Diaspora Policy legislative and institutional coordination mechanisms), the Government has prioritized the establishment of supportive legal and institutional frameworks, as well as enhancing coordination mechanisms to drive the diaspora agenda. Specific findings and recommendations in this report will inform strategic government interventions in the creation of these frameworks to operationalize the Diaspora Policy.

## 1.2. OBJECTIVES OF THE POLICY REVIEW

The objectives of this policy review process are to:

- (a) Conduct a diaspora legislative review in order to align diaspora-related legislation and policy with the country's Constitution and other relevant subsidiary legislation;
- (b) Assess the adequacy of the Diaspora Policy, as well as the institutional framework and coordination mechanisms implementing and/or supporting it;
- (c) Identify international good practices in the implementation of diaspora policies;
- (d) Make practical recommendations for legislative and institutional reforms and mechanisms to facilitate the implementation of the Diaspora Policy;
- (e) Produce a diaspora legislative report with gender-sensitive policy and recommendations for legislative alignment;
- (f) Develop a diaspora legislative policy brief, with specific recommendations for policy and legislative amendments.

## 1.3. SCOPE OF THE ASSESSMENT REPORT

This report is a comprehensive assessment of the legislative and institutional framework for Zambia's Diaspora Policy. It is substantively divided into two parts, each highlighting specific findings that inform the recommendations contained herein. The first part is devoted to the assessment of the coherence and alignment between the Constitution of Zambia and subordinate legislation on the one hand, and the Diaspora Policy strategies, objectives and measures on the other. It also presents the international and regional frameworks and thereafter gives an assessment of the national legal framework segmented into four clusters, each focusing on a different:

- (a) Laws relating to citizenship and the diaspora's access to national identity documents;
- (b) Laws relating to the diaspora's political participation and access to land;
- (c) Laws relating to trade, investment and empowerment;
- (d) Laws relating to remittances and social security benefits.

The other part deals with the adequacy and capacity of the diaspora institutional framework and coordination mechanisms in Zambia to fully harness the potential of the Zambian diaspora to contribute to national development. It presents case studies from selected countries that have successfully implemented diaspora policies and identified international good practices pertaining to institutional and legal frameworks, as well as coordination mechanisms. Using good practices emanating from the case studies, the segment presents specific findings and makes practical recommendations applicable to the Zambian context.

## 1.4. METHODOLOGICAL APPROACH

Qualitative data collection methods and analysis, principally based on assessment matrices developed around policy objectives and measures, were used to develop and compile the report. An in-depth desk study, involving a review of primary and secondary data sources, was conducted to assess how policy objectives and measures align with Zambia's Constitution and subordinate legislation.

Primary data sources for the desk review included, among others, international and regional human rights instruments, the Constitution of Zambia, subordinate legislation and policies, while secondary data sources included a comprehensive analysis of works authored by eminent persons in Zambia and other progressive jurisdictions. Material on the subject matter from other credible sources, such as the Office of the United Nations High Commissioner for Human Rights and the African Commission on Human and People's Rights, were considered.

The process included focus group discussions (FGDs) and comparative studies to fill in the data gaps that existed in the in-depth desk review and analysis. The FGDs drew participants from key government ministries, statutory bodies, Zambian diplomatic missions (specifically, those in Washington, D.C., London and Pretoria) and diaspora associations in the United States of America, the United Kingdom and South Africa.

The approach provided a platform for gaining in-depth understanding of, among others, the Diaspora Policy legislative and institutional frameworks; issues affecting diaspora participation in and contributions to Zambia's economic growth processes and sustainable development; and the ways in which other countries have harnessed diaspora participation (including good practices). Consequently, it helped shape the specific findings on which this report's practical recommendations for the Government's consideration in decision-making are based.



# 2.

## POLICY OBJECTIVES AND MEASURES FOR ZAMBIA'S DIASPORA POLICY

### 2.1. INTRODUCTION

In April 2019, the Vice-President of Zambia, Inonge Mutukwa Wina (Member of Parliament), launched the country's first-ever Diaspora Policy. The Diaspora Policy was passed in order to provide the country with a comprehensive national framework for effective mobilization and engagement of the Zambian diaspora by identifying objectives and implementing strategies and mechanisms that will harness its developmental potential. The Diaspora Policy provides a framework for reviewing and implementing legislative and institutional reforms that will facilitate the realization of its objectives for an integrated and prosperous Zambia.

The Diaspora Policy is based on the realization that the Zambian diaspora has great potential to make positive contributions to the development of the country as their homeland. The Government has recognized the vast contributions and benefits that can be realized from effective engagement with the diaspora, including skills and technological transfer, remittances, networking and investment. The Government of Zambia therefore intends to maximize the potential of the diaspora by, among others, enhancing Government–diaspora cooperation for inclusive national development.

Such engagement of the diaspora is in line with the integrated development approach of the Seventh National Development Plan (7NDP), which is premised on the principle of “leaving no one behind”. The Government therefore intends to strengthen its relationship with the diaspora community by creating a conducive governance environment through policy, legislative and institutional reforms that will ensure that benefits to the country and its diaspora are maximized – for a better Zambia that has a diversified and inclusive economy. The Diaspora Policy identifies values, principles, objectives and measures that will be used to guide its implementation. It is important that the objectives and strategies are presented in this review, as these set the parameters along which the interventions to be implemented at the legal and institutional levels, including setting up coordination mechanisms, will be aligned.

## 2.2. DIASPORA POLICY OBJECTIVES AND MEASURES

The Diaspora Policy identifies values, principles, objectives and measures to facilitate its implementation. The specific objectives ((a), (b), (c), etc.) and measures by which to achieve them ((i), (ii), (iii), etc.) are as follows:

### (a) Promote, facilitate and leverage remittances

- (i) Facilitate lowering of the cost of sending remittances from the diaspora, with a view to maximizing the benefits of remittances to the country;
- (ii) Provide information to members of the diaspora on mechanisms, policies and programmes pertaining to the various available remittance methods and their corresponding costs;
- (iii) Provide incentives for the import of capital goods and personal belongings by Zambian returnees;
- (iv) Monitor the transfer and payment systems of remittances in order to inform policy direction and interventions.

### (b) Promote trade and investment

- (i) Provide information to the diaspora on available trade and investment opportunities and incentives in Zambia, in order to encourage their participation thereon;
- (ii) Facilitate the establishment of diaspora investment funds in order to enhance the capacity of the diaspora to invest in Zambia;
- (iii) Encourage Zambians in the diaspora to enter into partnerships with indigenous businesses and joint ventures with foreign enterprises for the purpose of investing in Zambia;
- (iv) Encourage the diaspora to help promote Zambian trade and investment opportunities abroad;
- (v) Encourage diaspora members to get together and form companies to invest in Zambia;
- (vi) Use the diaspora for market penetration and expansion for Zambian products in host countries;
- (vii) Encourage savings from the diaspora, through participation in social security, housing and microfinance programmes;
- (viii) Establish a formal investment platform from which the Government can borrow through the issuance of bonds targeted at the diaspora.

### (c) Improve the diaspora's access to land

- (i) Provide information on land availability and acquisition procedures in Zambia;
- (ii) Ensure that local councils allow the Zambian diaspora the opportunity to apply for land acquisition in newly opened-up areas through an online portal;
- (iii) Use information and communications technology to make land acquisition and administration easier;
- (iv) Designate diplomatic missions to facilitate the processing of applications for land acquisition by the diaspora.



- (d) **Facilitate the portability of social security benefits of Zambians in the diaspora**
- (i) Enter into bilateral agreements to include reconciliation of transfer rules and rates, assessment rules, legislation, and reciprocity of policies and guidelines;
  - (ii) Enter into multilateral agreements with countries where the Zambian diaspora reside to establish a general framework of portability of social security benefits;
  - (iii) Engage multinational providers, which will function well for insurance and health-care benefits.
- (e) **Promote tourism, culture and the arts**
- (i) Support programmes and activities aimed at promoting Zambian tourism, art and culture;
  - (ii) Facilitate various Zambian cultural festivals and events in destination countries to enable Zambians in the diaspora to reconnect with their heritage;
  - (iii) Provide tourism promotional materials to Zambian diplomatic missions and diaspora associations abroad;
  - (iv) Provide information on an online portal relating to Zambian tourism, art and culture.
- (f) **Encourage the promotion of patriotism among the diaspora for the country's image-building**
- (i) Encourage patriotism among Zambians in the diaspora;
  - (ii) Encourage solidarity among the diaspora to be united in contributing to national development;
  - (iii) Encourage Zambians abroad to form Zambia-specific diaspora umbrella associations.
- (g) **Safeguard the rights and interests of the diaspora**
- (i) Strengthen and enhance the capacity of Zambian diplomatic missions (and honorary consulates) to effectively provide consular services to the Zambian diaspora;
  - (ii) Encourage Zambians in the diaspora to register with the nearest Zambian missions (or honorary consulates);
  - (iii) Advocate for the rights of Zambians in the diaspora, including through the signing of bilateral agreements with host countries;
  - (iv) Urge the Zambian diaspora to respect the immigration and other laws of their respective host countries;
  - (v) Promote and advance diaspora interests in international organizations of which Zambia is a member, and facilitate Zambians' access to international job opportunities;
  - (vi) Develop and promote mechanisms to aid the re-entry and reintegration of Zambians from the diaspora returning to Zambia permanently.

- (h) **Enhance access to national registration documents by the diaspora**
  - (i) Work towards the progressive implementation of the issuance and renewal of national registration documents at selected Zambian missions abroad;
  - (ii) Ensure that information on the processes and procedures for acquiring national registration documents is clear and accessible.
- (i) **Facilitate dual citizenship for Zambians in the diaspora**
  - (i) Provide for dual citizenship for Zambians in the diaspora, including children born to Zambians in the diaspora;
  - (ii) Provide for the re-acquisition of citizenship for Zambians who have lost or renounced their citizenship.
- (j) **Enhance political participation of the diaspora**
  - (i) Progressively provide for the participation of Zambian citizens abroad to vote in the country's general elections;
  - (ii) Progressively provide for the participation of the diaspora in the decision-making processes of the country.
- (k) **Facilitate knowledge and skills transfer**
  - (i) Promote the permanent, temporary and virtual return of skilled Zambians from the diaspora;
  - (ii) Establish a database of available skills in the diaspora and use it for, among other things, the placement of qualified Zambians in international organizations;
  - (iii) Match diaspora skills in the database with local needs and available job opportunities in Zambia;
  - (iv) Provide for the exchange of knowledge and skills;
  - (v) Promote collaboration between the diaspora, including Zambian professionals abroad, on the one hand, and institutions in the country, on the other, to strengthen partnerships for experience, knowledge and skills transfer.
- (l) **Facilitate effective administration of the diaspora**
  - (i) Encourage partnerships, linkages and networks to pursue the realization of the objective of mainstreaming diaspora issues in the national development agenda;
  - (ii) Establish an administrative structure within Zambia's Ministry of Foreign Affairs and International Cooperation to mainstream and coordinate on diaspora issues, in order to ensure that the objective of the diaspora contributing to national development is achieved;
  - (iii) Establish focal points in relevant government ministries and institutions in Zambia and at Zambian missions abroad;
  - (iv) Enhance coordination between diaspora associations in different geographic locations to establish wider networks, partnerships and linkages that will help realize the objectives of mainstreaming diaspora issues.

(m) **Establish a comprehensive online information portal and diaspora database**

- (i) Encourage Zambian diaspora members to register on an online information portal or with the nearest Zambian mission so they have access to relevant information about the home country;
- (ii) Facilitate interaction among the diaspora and exchange and dissemination of information on Zambia.



# 3.

## REVIEW OF THE INTERNATIONAL DIASPORA LEGAL FRAMEWORK AND THE ADEQUACY OF THE NATIONAL DIASPORA LEGAL FRAMEWORK

### 3.1. INTRODUCTION

Zambia's Diaspora Policy identifies the need to put in place an appropriate legal framework to facilitate its implementation. This requires a comprehensive review of Zambia's domestic laws and their compliance with minimum established standards to determine what laws and regulations can be introduced, amended or repealed, in order to ensure that a supportive legal framework is in place that creates a favourable legal environment for the realization of the objectives contained in the Diaspora Policy. This part of the report presents identified legal instruments at the international and regional levels, as well as an assessment of national laws relevant to the operationalization of the Diaspora Policy.

### 3.2. INTERNATIONAL LEGAL FRAMEWORK FOR THE DIASPORA

Zambia is subject to international law (Bantekas and Ouette, 2013:72). It has the primary duty to “promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law” (United Nations, 1983: para. 1). This duty as regards promotion, protection and participation (i.e. in national processes) extends to the diaspora and arises from the fact that the State is the primary duty bearer tasked with securing human rights protection (Smith, 2014:181) and is legally bound, for example, under the Vienna Convention on the Law of Treaties (hereinafter “the Vienna Convention”), to observe its international commitments in good faith (United Nations, 1969:art. 26).

Specifically, Zambia is expected, under the Vienna Convention (adopted by the United Nations Conference on the Law of Treaties on 22 May 1969, opened for signature on 23 May 1969 and preceded by a consideration of, among others, the political context in which the law operates and develops) to observe its international commitments relating to the diaspora in good faith (Shabtai, 1970:30). The Vienna Convention, in paragraph 3 of its preamble, establishes the principle of *pacta sunt servanda* (“that which must be performed in good faith”), as guided by article 26, which provides that “every treaty in force is binding upon the parties to it and must be performed by them in good faith” (United Nations, 1969: art. 26).

### 3.2.1. Universal Declaration of Human Rights

Human rights recognized in the Universal Declaration of Human Rights (UDHR) and other instruments, such as conventions, covenants and protocols, constitute a normative framework for the promotion and protection of the rights of all, including the diaspora. The UDHR sets a common standard of achievement for all peoples and contains all categories of rights, namely civil and political rights; economic, social, and cultural rights; and collective rights.

In the context of the diaspora, as discussed in this review, the UDHR guarantees, among others, freedom of movement, which includes the right to leave and return to one's country of nationality or habitual residence (United Nations, 1948:art. 13); the right to take part in the government of one's country; and equal access to public services (ibid.:art. 21).

### 3.2.2. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), adopted through United Nations General Assembly resolution 45/158 of 18 December 1990, takes into account the principles embodied in the basic human rights instruments of the United Nations, which, in addition to the UDHR, include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. As Zambia has yet to ratify the ICRMW, its protective provisions are not effectively extended to the Zambian diaspora.

Under Part III of the ICRMW, migrant workers are entitled to human rights. For example, they are entitled to leave any State. Article 8 of the convention provides thus:



1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.
2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

(United Nations, 1990:art. 8)

It is also important to note with interest article 23 of the ICRMW, which provide that:



Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired...

(*ibid.*:art. 23)

Further, the convention expressly recognizes a migrant worker's child's right to a name, registration of birth and a nationality (*ibid.*:art. 29), as well as access to education on an equal basis (*ibid.*:art. 30). In addition, the convention stipulates that “[u]pon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings” (*ibid.*:art. 32).

In its article 40, the ICRMW guarantees migrant workers and members of their families the right to form associations for, among other purposes, the promotion and protection of their economic, social, cultural and other interests. Most importantly, the convention guarantees migrant workers the right to public participation in States of origin by stipulating that:



1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.
2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

(*ibid.*:art. 41)

By virtue of article 42(1) of the convention, States Parties are under the obligation to consider the establishment of procedures, mechanisms and/or institutions through which account may be taken, in both States of origin and States of employment, of the special needs, aspirations and obligations of migrant workers and members of their families, as well as allowing them to freely choose their representatives.

It is also envisaged, under article 46 of the convention, that migrant workers and members of their families must enjoy exemption from import and export duties and taxes on their personal and household effects, as well as on any equipment necessary to engage in or perform the remunerated activity for which they have been admitted to the State of employment, which may be levied upon:

- (a) Departure from the State of origin or habitual residence;
- (b) Initial admission to the State of employment;
- (c) Final departure from the State of employment;
- (d) Final return to the State of origin or habitual residence.

Regarding remittances, it is categorically clear in article 47 of the ICRMW that migrant workers have the right to transfer their earnings and savings – in particular those funds necessary for the support of their families – from the State of employment to their State of origin or habitual residence, or any other State. However, transfers must be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

### 3.2.3. International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR),<sup>1</sup> which Zambia has ratified, is a legally binding human rights instrument. The covenant recognizes the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. It also recognizes the obligation of States to promote universal respect for and observance of human rights and freedoms. The ICCPR applies to the diaspora with equal force.

Without subtracting from the generality of the rights to which the diaspora is entitled, the ICCPR provides for, among others: the right to life (art. 6); freedom from torture or to cruel, inhumane or degrading treatment or punishment (art. 7); liberty and the right to security of person, including protection from arbitrary arrest or detention and the right for persons in detention to be brought before court promptly (art. 9); right to privacy (art. 17); freedom of thought, conscience and religion (art. 18); freedom of opinion and expression (art. 19); right to peaceful assembly (art. 21); and the right to freedom of association with others (art. 22) (United Nations, 1966).

## 3.3. REGIONAL LEGAL FRAMEWORK FOR THE DIASPORA

### 3.3.1. African Union Constitutive (Amendment) Act of 2003

In 2003, the Constitutive Act (The Constitution) of the African Union was amended to clarify its fundamental relationship with the diaspora and to invite diasporans to join the organization to help Africa “unify”. Article 3(q) of the Protocol on the Amendments to the Constitutive Act of the African Union, invites and encourages “the full participation of the African Diaspora as an important part of the Continent, in the building of the African Union” (African Union, 2003).

Currently, only one permanent organ of the African Union – the Economic, Social and Cultural Council (ECOSOCC) – has designated spaces (20 of which, to be precise) for representatives from the diaspora. This is seen in the ECOSOCC organizational structure, which is:



...composed of 2 civil society organizations (CSOs) from each Member State; 10 CSOs operating at the regional level and 8 at the continental level; 20 CSOs from the African Diaspora, as defined by the Executive Council and covering the continents of the world; and 6 CSOs, in ex officio capacity, nominated by the [African Union Commission] and based on special considerations, in consultation with Member States.

(African Union, n.d.)

<sup>1</sup> Adopted in 1966 through United Nations General Assembly Resolution 2200A(XXI).



It has, for instance, been observed that:



One feature of the African Union (AU) that distinguishes it from its predecessor, the Organization of African Unity (OAU), is that it is envisioned as a people-oriented institution and not simply an exclusive club for African heads of [S]tate and government. This vision is clearly captured in the enabling law of the organization, the Constitutive Act, which states that the continent seeks to establish a “people-friendly African Union Community based on popular participation and association with all segments of society, particularly women, youth and the private sector, in order to strengthen solidarity and cohesion among our people. Crucially, two elements stand out in this vision: the first is the recognition of popular participation as a precondition for the development of the continent, and the second is the emphasis on the total mobilization of the energies of all relevant social and economic forces for the transformation of the continent. This imperative to mobilise African peoples in their diversity implies that a fully functional AU must necessarily reach out, not only to Africans in the continent, but also to those in the [d]iaspora.

(Ikome, 2009:1)

In terms of gender representation, “the ECOSOCC statute also provides for Member State, regional, continental and diaspora representatives to be elected on the basis of 50 per cent gender equality, with 50 per cent aged between 18 and 35” (African Union, n.d.).

### 3.3.2. African Charter on Human and Peoples’ Rights

At the regional level, the African Charter on Human and Peoples’ Rights (ACHPR) guarantees all categories of fundamental rights and freedoms to every person (i.e civil and political rights; economic, social and cultural rights; and collective rights). In the area of civil and political rights, the ACHPR, in its article 5, recognizes the inherent dignity of the human person (Organization of African Unity, 1981). The charter also guarantees the liberty and security of persons (art. 6), freedom of conscience and practice of religion (art. 8), freedom of expression (art. 9), freedom of association and assembly (arts. 10 and 11, respectively), and freedom of movement (art. 12) (ibid.). These articles are important to the promotion and protection of human rights. The rights enshrined under the ACHPR can be enjoyed individually or in association with others. As such, their importance to the diaspora cannot be overemphasized.

### 3.3.3. Trade agreements and free trade areas

Zambia is a member of the Common Market for Eastern and Southern Africa (COMESA), which has 21 member States and which allows for preferential tariff duties among member States. Zambia also belongs to the Southern African Development Community (SADC), which has 16 member States and established its Free Trade Area in 2008.

The establishment of a single market through the merged Tripartite Free Trade Area (comprising COMESA, the East African Community (EAC) and SADC) was formally launched in June 2015.

Zambia has duty- and quota-free access to the European Union market under the Everything but Arms (EBA) programme for the world's least-developed countries. Zambia is also eligible for trade benefits under the African Growth and Opportunity Act, which provides duty- and/or quota-free access to the United States market for most goods, including textiles and apparel.

The above avenues offer a better platform for facilitating participation, trade and investment by the diaspora.

### 3.4. NATIONAL LEGAL FRAMEWORK FOR THE DIASPORA

Ensuring the coherence of legal provisions with policy measures can enable Zambia to enhance diaspora participation in its developmental agenda and processes. In this regard, Zambia's Constitution and Diaspora Policy become instruments of primary consideration in assessing the adequacy of subordinate legislation (including in terms of advancing Diaspora Policy objectives).

The above position is based on the reasoning that the Constitution is the "supreme law" (Government of Zambia – National Assembly, 1991:art. 1) to which all policies and subordinate legislation must conform. The Constitution, in its preamble, also affirms the equal worth of women and men and their right to freely participate in, determine and build a sustainable political, legal, economic and social order. This aligns well with the overall Diaspora Policy objective of integrating "the Zambian Diaspora in the development agenda of the country by creating an enabling environment and platform for effective participation..." (Government of Zambia, 2019). As a tool for assessing the adequacy of subordinate legislation, the Diaspora Policy provides for defined policy objectives and measures to guide the operationalization of the overall policy objective.

In this vein, this part of the report highlights Constitutional provisions and assesses whether Zambia's subordinate legislation aligns well with policy objectives and measures. The review is organized in three broad topic clusters, namely: (a) citizenship and access to national registration documents; (b) trade, investment and empowerment; and (c) diaspora remittances and the portability of social security benefits in Zambia. Thereafter, an analysis is given in relation to relevant policy objectives.

#### 3.4.1. Laws relating to citizenship and access to national registration documents

##### *Constitution of Zambia*

Matters relating to citizenship are provided under Part IV of the Constitution of Zambia (Chapter 1 of the Laws of Zambia), which stipulates in its article 34 that "[c]itizenship may be acquired by birth, descent, registration or adoption...". (Government of Zambia – National Assembly, 1991). Article 42(a) also guarantees or prescribes certain rights and privileges to Zambian citizens (ibid.).

As defined in article 35(1) of the Constitution, a citizen by birth is one who is born in Zambia and who, at the date of that person's birth, has at least one parent who is or has been a citizen (ibid.).

On the other hand, as per article 36, one is considered a citizen by descent is he or she is "a person born outside Zambia" and if "at the date of that person's birth, at least one parent of that person is or was a citizen by birth or descent" (ibid.). Further, the Constitution, in

its article 38, provides for citizenship by adoption: “A child who is not a citizen and who is adopted by a citizen shall be a citizen on the date of the adoption” (ibid.). Therefore, a person born to or adopted by at least one parent who is a member of the Zambian diaspora is entitled to Zambian citizenship, as well as the rights and privileges guaranteed to or prescribed for citizens by the Constitution.

As regards dual citizenship, article 39 of the Constitution provides that:



1. A citizen shall not lose citizenship by acquiring the citizenship of another country.
2. A citizen, who ceased to be a citizen before the commencement of this Constitution as a result of acquiring the citizenship of another country, shall be entitled to apply, as prescribed, [with] the Citizenship Board of Zambia, for citizenship and the Citizenship Board of Zambia shall bestow citizenship on that person.

(ibid.)

Policy objectives pertaining to diaspora participation and dual citizenship align well with the aforementioned Constitutional provisions.

#### *Citizenship of Zambia Act*

The Citizenship of Zambia Act (No. 33 of 2016; Chapter 124 of the Laws of Zambia – hereinafter “the Citizenship Act”) provides for the composition, functions, tenure and procedures of the Citizenship Board of Zambia. It also makes procedural provisions for the acquisition, deprivation and renunciation of Zambian citizenship. Further, it repeals and replaces the Citizenship of Zambia Act of 1975.

Certain provisions of the act concerning citizens by birth are intimately connected to those of the Births and Deaths Registration Act. For example, section 15 of the Citizenship Act provides that:



1. A person who is a citizen by birth shall be registered at birth in accordance with the Births and Deaths Registration Act.
2. A person who is a citizen by birth shall obtain a National Registration Card upon evidence of registerable age in accordance with the National Registration Act.

(Government of Zambia – National Assembly, 2016a)

It may therefore follow that if a person, including one born in the diaspora to parents who are Zambian citizens (especially in countries where registration and issuance of birth certificates is not extended to foreigners, such as in South Africa) and whose birth is not registered in accordance with the requirements of the Births and Deaths Registration Act, may have problems obtaining a Zambian national registration card or passport. As such, that person may have difficulties establishing his or her citizenship, which may create loopholes leading to statelessness. Therefore, registration of birth is a vital process regardless of where a person is.

The act also provides for other forms of citizenship, such as citizenship by presumption (for foundlings) (sec. 16); citizenship by registration (sec. 17); citizenship by marriage (sec. 18); and citizenship for adopted children (sec. 19). The act also prescribes the procedure for the registration of such citizenships. However, it lacks a provision for citizenship by descent, and this may create a legal vacuum in the recognition of children born in the diaspora.

The Citizenship Act also makes provisions for dual citizenship. Section 25 provides that:



1. A citizen may apply for dual citizenship in the prescribed manner and form.
2. Subject to Article 39 of the Constitution and this Act, a citizen who acquires the citizenship of another country is entitled to retain the citizenship of Zambia.
3. A dual citizen shall, subject to the limitations contained in the Constitution, be entitled to a passport and other travel documents and to such other rights that citizens are entitled to.

(*ibid.*)

Echoing the Constitution, the act also takes into consideration persons who ceased to be citizens before the enactment (“commencement”) of the Constitution as a result of acquiring the citizenship of another country. Such persons are entitled to make an application with the Citizenship Board for the restoration of Zambian citizenship. (*Ibid.*:sec. 26)

#### *Births and Deaths Registration Act*

The main object of the Births and Deaths Registration Act (No. 21 of 1973; Chapter 51 of the Laws of Zambia) is to provide for a uniform law for the registration of all births and deaths in Zambia without distinction as to origin or descent and matters incidental thereto (Government of Zambia – National Assembly, 1973a). The act, in its section 4, also provides for the appointment of the Registrar-General and Registrars (*ibid.*).

With regard to the registration of births and deaths, the act expressly provides that:



The birth of every child born and the death of every person dying in Zambia after the commencement of this Act shall be registered in accordance with the provisions of this Act.

(*ibid.*:sec. 5)

Once the birth of a child has been registered, an application for a birth certificate can be made with the Registrar-General, in accordance with Rule 5 of the Births and Deaths Registration (General) Rules, which provides that:



When an application is made by any person to the Registrar-General for a certificate containing particulars of information which has been registered in regard to the birth or death of any person, the Registrar-General shall issue a certificate in the form prescribed for the purpose in the First Schedule.

(Government of Zambia – National Assembly, 1973b)

The Births and Deaths Registration Act expressly provides only for the registration of children born in Zambia and, by implication, excludes the diaspora. This leaves Zambian children born in the diaspora outside the protection of the law and makes such children vulnerable in countries where the law does not provide for their registration (e.g. South Africa).

### *National Registration Act*

The National Registration Act (No. 19 of 1954; Chapter 126 of the Laws of Zambia) provides for the registration of persons. In terms of scope:



This Act shall apply to all persons who at the commencement have attained, or thereafter attain, the age of sixteen years, or who at such commencement or thereafter are of an apparent age of sixteen years or more and who are within a specified area: Provided that this Act shall not apply to:

- (i) serving members of the armed forces of any friendly power;
- (ii) persons duly accredited to Zambia by or under the authority of the Government of any sovereign [S]tate; or
- (iii) such persons or class of persons being bona fide passengers in transit through Zambia or such temporary visitors to or such residents in Zambia as may be prescribed by Gazette notice.

(Government of Zambia – National Assembly, 1964)

The act is the principal item of legislation that provides for records of personal particulars to be kept in a register (ibid.:sec. 5), the registration of persons (ibid.:sec. 6), and the issuance and replacement of national registration cards (ibid.:sec. 8 and sec. 9, respectively).

### *Passport Act*

The Passports Act (No. 28 of 2016), which repeals and replaces the Passports Act of 2003, provides for, among others, the vesting of powers and duties for the issuance of and control over passports and travel documents, as well as the recognition of Interpol travel documents (Government of Zambia – National Assembly, 2016b).

Section 5(1) of the act specifically provides that “a citizen is, subject to the Constitution and this Act, entitled to be issued with a passport or travel document to facilitate international travel” (ibid.).

It is further provided in section 10(1) of the act that:



[a] holder of a passport or travel document may, at least thirty days before the expiry of the passport or travel document, apply for the renewal of the passport or travel document in the prescribed manner and form, upon payment of the prescribed fee.

(ibid.)

### 3.4.2. Land ownership by the diaspora

#### *Constitution of Zambia*

As regards the electoral system and the right to vote (suffrage), article 46 of the Constitution of Zambia provides for political franchise by stipulating that “[a] citizen who has attained the age of 18 years is entitled to be registered as a voter and vote in an election by secret ballot” (Government of Zambia – National Assembly, 1991). This is what international human rights instruments refer to as *universal adult suffrage*.

Article 45 of the Constitution provides that:

- “
1. The electoral systems provided for in Article 47 for the election of President, Member of Parliament or councillor shall ensure:
    - (a) that citizens are free to exercise their political rights;
    - (b) universal adult suffrage based on the equality of a vote;
    - (c) fair representation of the various interest groups in society; and
    - (d) gender equity in the National Assembly or council.

(*ibid.*)

#### *Electoral Process Act*

The Electoral Process Act (No. 35 of 2016) is primarily intended to provide for a comprehensive process for general elections, including the actual conduct of elections by the Electoral Commission of Zambia. It is also the principal act that provides for the registration of voters and the keeping of voters’ registers (Government of Zambia – National Assembly, 2016c). Further, the Electoral Process Act prescribes a procedure for voting during an election (*ibid.*).

Section 2 of the act defines “polling station” to mean “a place established as a polling station by the [Electoral] Commission under section twenty-four,” while “voter” is defined as “a person who is registered as a voter and whose name appears in the register of voters” (*ibid.*). Pursuant to the Constitution, the act also makes provisions for principles governing the electoral system and process. Principles of interest to this review include, among others, equal and universal suffrage; equality of treatment based on gender and (dis)ability in the provision of electoral services; elimination of impediments to lawful inclusion in the electoral register (i.e. “Register of Voters” (sec. 8)); and impartiality of voter education programmes (*ibid.*).

In terms of qualifications to vote and the issuance of voter’s cards, section 8 of the Electoral Process Act provides that:

- “
1. A person qualifies for registration as a voter if that person:
    - (a) is a citizen of Zambia;
    - (b) has attained the age of eighteen years; and
    - (c) is in possession of a national registration card.
  2. The [Electoral] Commission shall register a person as a voter as prescribed.
  3. A person who has been registered in the Register of Voters shall be issued with a voter’s card.

(*ibid.*)

The criteria for disqualifying a person from registering as a voter are defined in section 9(1) of the act. A person who “(a) is not a citizen of Zambia; (b) is not in possession of a national registration card; (c) suffers from a mental disability which makes the person unable to exercise their right to vote...” (ibid.) does not qualify to be registered as a voter and cannot vote in an election. It is clear from the foregoing that disqualification from registering as a voter and from voting in an election does not extend to the diaspora.

It is, however, pertinent to address the question relating to where eligible Zambians in the diaspora can register and vote in an election since the disqualification from voting does not extend to them, for the sole reason that they are in the diaspora. Section 21(1) of the act provides that:

The [Electoral] Commission shall:



- (a) establish polling districts for the whole of the territory of the Republic;
- (b) determine the boundaries of each polling district in accordance with the criteria provided in section twenty-two; and
- (c) keep a map of each district.

(ibid.)

In relation, section 24(1) empowers the Electoral Commission to establish a polling station in each polling district for an election. It is at such polling stations that Zambians in the diaspora can cast their votes.

#### *Electoral Commission of Zambia Act*

In order to operationalize the Constitutional provisions relating to elections, article 229 of the Constitution established the Electoral Commission of Zambia, with its specific functions outlined in section 4 of the Electoral Commission of Zambia Act (No. 25 of 2016). Section 4(1) of the act provides that “[s]ubject to the Constitution, the Commission shall direct, supervise and control elections in a fair and impartial manner” (Government of Zambia – National Assembly, 2016c).

Further, section 4(2) of the act provides for specific functions, which, among others, include ensuring that elections are free and fair; promoting conditions conducive to free and fair elections; promoting democratic electoral processes; supervising and controlling the registration of voters for elections; supervising the preparation, publication and maintenance of a national voters’ register and local voters’ registers; and conducting education and information programmes to promote public awareness of electoral and parliamentary matters.

The mandate of the Electoral Commission must be executed pursuant to relevant provisions of the Constitution. In line with this, subordinate legislation, such as the Electoral Commission of Zambia Act and the Electoral Process Act, must facilitate the actual exercise of political franchise (suffrage) guaranteed by the Constitution and should not stifle the political participation, including the right to vote, of persons in the diaspora.

### *Access to land: The Constitution of Zambia and the Lands Act*

Part XIX of the Constitution of Zambia makes provisions relating to land, the environment and natural resources. In its article 253, in particular, the Constitution outlines the principles of land policy. They include, among others, equitable access to land and associated resources; security of tenure for lawful landholders; recognition of indigenous cultural rites; sustainable use of land; transparent, effective and efficient administration of land; and effective and efficient settlement of land disputes (Government of Zambia – National Assembly, 1991).

In its article 254(1), the Constitution provides for two categories under which land may be delimited and classified: State land and customary land. Sub-article (2) empowers the President of Zambia, through the Lands Commission, to alienate land to citizens and non-citizens, as prescribed (*ibid.*).

The above provisions are operationalized through the Lands Act (No. 29 of 1995; Chapter 184 of the Laws of Zambia), which is the principal act in the administration and acquisition of land in Zambia. It covers all of the country's land and vests in the President the power to alienate land. Therefore, all land in Zambia is alienated in the President pursuant to the provisions of section 3 of the Lands Act, which provides that:



1. Notwithstanding anything to the contrary contained in any other law, instrument or document, but subject to this Act, all land in Zambia shall vest absolutely in the President and shall be held by him in perpetuity for and on behalf of the people of Zambia.
2. Subject to subsection (4) and to any other law, the President may alienate land vested in him to any Zambian.

(Government of Zambia – National Assembly, 1995)

However, a payment of consideration, in the form of money, is required by law whenever the President alienates land, unless the person to whom it is being alienated has the right of use and occupation of the land under customary law and wishes to convert such right to leasehold tenure (*ibid.*:sec. 4(1)). In addition, per the provisions of section 5 of the act, no person is allowed to sell land without the President's consent (*ibid.*).

As per the aforementioned provisions, the only qualification required for the alienation of land to an individual is that the person must be a Zambian. It therefore follows that the law does not prohibit the alienation of land to members of the diaspora. For land to be alienated land to a non-Zambian, he or she must qualify for an exception provided by law.

### *The Lands and Deeds Registry Act*

Once land has been alienated or bought after consent of the President has been obtained, and a certificate of title has been issued in accordance with the requirements of the Constitution and the Lands Act, the land titleholder is required to register the certificate, pursuant to the Lands and Deeds Registry Act (No. 15 of 1914; Chapter 185 of the Laws of Zambia), as evidence of title. Section 33 of the act provides that:



A Certificate of Title shall be conclusive as from the date of its issue and upon and after the issue thereof, notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the President or otherwise, which but



for Parts III to VII might be held to be paramount or to have priority; the Registered Proprietor of the land comprised in such Certificate shall, except in case of fraud, hold the same subject only to such encumbrances, liens, estates or interests as may be shown by such Certificate of Title...

(*ibid.*)

The processes associated with registering land are, however, shrouded in legal technicalities of which the diaspora may have limited knowledge. The situation is further compounded by their being outside the country.

### 3.4.3. Laws relating to trade, investment and empowerment

#### *Constitution of Zambia*

The Constitution of Zambia provides for the basis of the country's economic order (or system). Article 10 requires the Government to, among others, create an economic environment that encourages individual initiative and self-reliance among the Zambian people, so as to promote investment, employment and wealth. It also promotes the economic empowerment of citizens so that they are able to contribute to sustainable economic growth and social development, and local and foreign investment, as well as protecting and guaranteeing such investment through agreements with investors and other countries (Government of Zambia – National Assembly, 1991).

In addition, article 10 requires the Government to “not compulsorily acquire an investment, except under customary international law and subject to article 16(1)” (*ibid.*). Therefore, where an investment is compulsorily acquired, there must be adequate compensation. However, if the investment compulsorily acquired was made from the proceeds of crime, no compensation is payable by the Government.

As such, in addition to promoting trade and investment to both foreign and local investors, the Constitution also guarantees the confidence and security that an investment shall not be compulsorily acquired by the Government without compensation. The Constitution can therefore be instrumental in encouraging the diaspora to contribute effectively to Zambia's sustainable development agenda and economic growth in general.

#### *Companies Act*

The Companies Act (No. 10 of 2017) is the principal act that, as stated in its preamble, intends to:



...promote the development of the economy by encouraging entrepreneurship, enterprise efficiency, flexibility and simplicity in the formation and maintenance of companies; provide for the incorporation, categorization, management and administration of different types of companies; provide the procedure for the approval of company names, change of name and conversion of companies; provide for shareholders' rights and obligations, the conduct of meetings and the passing of resolutions by shareholders; to encourage transparency and high standards of corporate governance...; and provide for the registration of foreign companies doing business in Zambia...

(Government of Zambia – National Assembly, 2017)

In relation to the incorporation of companies, section 12 of the act provides that:



1. Subject to the other requirements of this Act, two or more persons may apply to incorporate a company specified in section 6 for a lawful purpose, by subscribing their names to an application for incorporation in accordance with this section.

(*ibid.*)

In making the application for incorporation, the applicants must lodge with the Registrar of Companies documents that include, among others, an application for the incorporation of their company; a copy of the proposed articles of the company or a statement that it has adopted the Standard Articles (in the First Schedule); a signed consent form from each person named in the application as a director or secretary of the company; and a statement of beneficial ownership (which should state in respect of each beneficial owner his or her full name, date of birth, nationality(-ies), country of residence and residential address, and any other particular, as may be prescribed by the Registrar) (*ibid.*:sec. 12(3)(e)).

The act also provides for the transfer of shares in a company. Section 188 provides that:



1. Subject to the articles, fully paid-up shares in a company may be transferred by entry of the name of the transferee on the share and beneficial ownership register and evidenced by registration with the Registrar.

(*ibid.*)

Regarding attendance at the meetings of a company, a member is entitled to either attend in person or may choose to appoint a proxy. Section 71(1) of the act provides that “[a] member entitled to attend and vote at a meeting of the company is entitled to appoint another person as a proxy” (*ibid.*).

The act also provides for the residential requirements of directors. It provides in section 91(1) that “the number of directors, including an executive director, resident in Zambia, shall not be less than half the number of [all] directors appointed” (*ibid.*). It therefore follows that individuals in the Zambian diaspora can take the role of director in companies operating in Zambia, provided that the number of directors resident in Zambia is at least half of the total number of all directors.

Another option through which the diaspora can participate in trade and investment in Zambia is by registering a foreign company to do business in the country. Section 299(1) of the act provides that:



- A body corporate formed outside Zambia may register as a foreign company by lodging with the Registrar an application for registration accompanied with other documents specified in this section.

(*ibid.*)

### *Public–Private Partnership Act*

The main object of the Public–Private Partnership Act (No. 14 of 2009) is to promote and facilitate the implementation of privately financed infrastructure projects and the effective delivery of social services by enhancing transparency, fairness and long-term sustainability. Another principal aim of the act is “removing undesirable restrictions on private sector participation in the provision of social sector services and the development and operation of public infrastructure” (Government of Zambia – National Assembly, 2009).

The act is also instrumental in the establishment of coordination mechanisms, such as the Public–Private Partnership Unit (*ibid.*:sec. 4) and the Public–Private Partnership Council (*ibid.*:sec. 6), and provides for their functions (*ibid.*:sec. 5 and sec. 7).

Further, the act provides for public–private partnerships for the construction and operation of new infrastructure facilities and systems, as well as the maintenance, rehabilitation, modernization, expansion and operation of existing infrastructure facilities and systems, and the provision of social sector services (*ibid.*:preamble). Therefore, this piece of legislation may be critical in facilitating diaspora participation in the social and economic sectors for sustainable development.

### *Customs and Excise Act*

The Customs and Excise Act (No. 16 of 1955; Chapter 322 of the Laws of Zambia) provides for the imposition, collection and management of customs, excise and other duties. It also provides for the licensing and control of warehouses and premises for the manufacture of certain goods, as well as the regulation, control and prohibition of certain imports and exports (Government of Zambia – National Assembly, 1955). Further, it has provisions relating to the conclusion of customs and trade agreements with other countries (*ibid.*). Therefore, it may be a useful tool for providing incentives to the Zambian diaspora.

### *Zambia Development Agency Act*

The Zambia Development Agency Act (No. 11 of 2006) intends to, among others, foster economic growth and development by promoting trade and investment in Zambia through an efficient, effective and coordinated private sector-led economic development strategy. It establishes the Zambia Development Agency as a one-stop facility to ensure, among others, client focus and dialogue with the private sector, and build confidence in the public sector to ensure support for businesses (Government of Zambia – National Assembly, 2006a).

Further, the act equally intends to attract and facilitate inward and after-care investment; provide and facilitate support to micro- and small business enterprises; promote exports and globalization; and promote and encourage education and skills training to boost the productivity of business enterprises (*ibid.*). Most importantly, the act aims to encourage measures to increase Zambia’s capacity to trade and enable business to participate in a competitive global environment, as well as ensuring that the private sector takes advantage of and benefits from international and regional trade agreements (*ibid.*). Therefore, its importance in this review process cannot be overemphasized.

### *Citizens’ Economic Empowerment Act*

The Citizens’ Economic Empowerment Act (No. 9 of 2006) is intended to bring about an “integrated, broad-based and multifaceted strategy aimed at substantially increasing the meaningful participation in the economy of targeted citizens, citizen-empowered companies, citizen-influenced companies and citizen-owned companies, as well as decreasing income inequalities” (Government of Zambia – National Assembly, 2006b).

In addition, the act defines economic empowerment measures and targets to empower citizens who are or have been marginalized. Towards this end, it provides for the functions of the Citizens' Economic Empowerment Commission (which is the institution with the primary mandate of implementing the act) and creates the Citizens Economic Empowerment Fund.

#### 3.4.4. Laws relating to remittances and portability of social security benefits in Zambia

##### *Constitution of Zambia*

Public finance principles, among others, require the “promotion of a public finance system that ensures that the burden of taxation is shared fairly” (Government of Zambia – National Assembly 1991). When imposing taxes, it is a requirement under article 199(1) of the Constitution that “[a] tax shall not be imposed, except as prescribed”, while 199(2) stipulates that “where legislation confers power on a person or an authority to waive or vary a prescribed tax, the power shall be exercised through a statutory instrument” (ibid.).

With regard to the determination of monetary policy, article 213(2)(c) of the Constitution vests such functionary role in the Bank of Zambia, while article 213(2)(d) confers on it the power to “regulate banking and financial services, banks, financial and non-banking institutions, as prescribed” (ibid.).

It therefore follows that the power to impose, waive or regulate taxes and fees payable on remittances and social security benefits, including those payable by Zambians in the diaspora, rests on the Government's discretion.

The Constitution has provisions on pension benefits, which is classified as a social security benefit that “shall be exempt from tax” (ibid.:sec. 188(2)). This can serve as basis for exempting diasporans' social security benefits from taxes. In addition, subordinate legislation used to offer exemptions and incentives to the Zambian diaspora, in order to encourage remittances and portability of social security benefits.

##### *Income Tax Act*

The Income Tax Act (Chapter 323 of the Laws of Zambia) provides for the taxation of income and related matters, such as income tax exemptions. Section 9 of the act empowers the Minister of Finance to establish regulations, through statutory instruments, for better enforcement of the act (Government of Zambia – National Assembly, 1966). The act and regulations issued by the minister may therefore be used to exempt income and social security benefits remitted or transferred to Zambia by Zambians in the diaspora.

The act can also be used to provide incentives to the diaspora. For example, it can be used to reduce the diaspora's tax burdens and encourage remittances.

##### *Banking and Financial Services Act*

The Banking and Financial Services Act (Chapter 387 of the Laws of Zambia) provides for the regulation of the conduct of banking and financial services. In addition, it makes provisions for safeguards for investors and customers of banks and other financial institutions.

Given that remittances from the Zambia diaspora are made through banks and other financial institutions, or platforms offering financial services, the act, if enforced well by the Bank of Zambia (which is responsible for regulating financial institutions, including both banking and non-banking institutions, as well as the banking and other financial services the

sector provides (Government of Zambia – National Assembly, 1991:sec. 213(2)(d)) can be used to provide safeguards and offer further incentives to the diaspora and institutions dealing with remittances and social security benefits from the diaspora.

### 3.5. SPECIFIC FINDINGS ON THE LEGAL FRAMEWORK

#### 3.5.1. Findings on laws relating to citizenship and access to national identity documents

1. Article 36 of the Constitution provides for citizenship by descent. A child born outside of Zambia, either of whose parents is a citizen of Zambia at the time of the child's birth, is upon birth a Zambian citizen and is, by right, entitled to national identity documents. However, the Citizenship Act, despite recognizing other forms of citizenship contained in the Constitution, does not provide for citizenship by descent. This can negatively affect the rights of a person born outside Zambia who has at least one Zambia parent.
2. Article 38 of the Constitution provides for citizenship by adoption and makes a child a Zambian citizen on the date of his or her adoption. Therefore, an adopted child, by right and following an application for citizenship made in his or her behalf by the adoptive parent or legal guardian, must be issued with national identity documents. However, the provisions of section 19 of the Citizenship Act are not couched in mandatory terms that the Citizenship Board of Zambia has (or does not have) the discretion to reject an application, which meets the conditions precedent, made under this section.
3. Article 39 of the Constitution and section 25 of the Citizenship Act, both of which provide for dual citizenship, are aligned or conform to objective 6.2(i) of the Diaspora Policy. However, there is limited awareness among the diaspora about the law and, in general, dual citizenship in Zambia.
4. The Births and Deaths Registration Act only provides for registration of births and deaths occurring within Zambia. It does not provide for the registration of children born in the diaspora. Further, the minister responsible for home affairs and internal security has yet to promulgate a statutory instrument to serve as an alternative vehicle or mechanism to fill this gap. This puts children who are Zambian citizens by descent in limbo – especially in countries where services for the registration of birth and issuance of birth certificates are not extended to foreigners (e.g. South Africa). Thus, as expressed by the Zambian Mission in South Africa and the Association of Zambians living in South Africa, an unregistered child in the diaspora (and therefore has no national identification documents) risks becoming stateless.
5. Article 42(b) of the Constitution entitles a person to a document of identification issued by the State to its citizens. The issuance of such documents is a primary responsibility of the Government of Zambia through the Department of National Registration, Passport and Citizenship (DNRPC). However, the processing of applications for and the issuance of national identity documents, such as birth certificates and national registration cards, can only be carried out in Zambia. This makes access to the said documents difficult or costly for the diaspora.

6. The Passports Act does not exclude the Zambian diaspora from applying for a passport. However, the act makes no provisions for the issuance of passports by Zambian diplomatic missions. This, by necessary implication, means that a Zambian in the diaspora needs to travel or send in an application for a passport (first time or renewal) to Zambia. This makes it both costly and time-consuming. It makes access to a passport, a form of national identity for persons outside of Zambia, difficult.

### 3.5.2. Findings on laws relating to enhanced political participation and access to land

1. The Constitution makes it a right and responsibility of an eligible citizen to endeavour to register to vote and vote in an election or referendum. The Constitution does not define or impose geographical barriers to keep an eligible Zambian from exercising this franchise. Therefore, being in the diaspora should not prevent an eligible Zambian from voting. However, the Electoral Process Act does not provide for the establishment of polling districts and polling stations by diplomatic missions abroad and therefore stifles the diaspora's right to vote.
2. In relation to land, the Constitution provides for equitable access to land and associated resources. It also guarantees security of tenure for landholders, as well as the transparent, effective and efficient administration of land. In addition, the Lands Act empowers the President to alienate land to any Zambian, which, by implication, includes the diaspora. However, there is no quota system, under the Lands Act or the Land Policy, to reserve land for the diaspora. In addition, the diaspora is not recognized as a special interest group to whom land must be alienated or land availability must be communicated.

### 3.5.3. Findings on laws relating to trade, investment and empowerment

1. Article 10 of the Constitution, which provides for the basis of the economic system, aligns well with the overall Diaspora Policy objective of enhanced diaspora participation and the specific objective on trade and investment. It encourages individual initiative and self-reliance of the people and promotes foreign and local investment, employment and wealth, as well as the economic empowerment of citizens for sustainable economic growth and social development. It also promotes investment through agreements with investors and other countries, as well as ensuring the protection of investments from compulsory acquisition by the Government.
2. The Companies Act provides for various options for the diaspora's effective participation in trade and investment. The diaspora can incorporate companies in Zambia, as provided in section 12 of the act; acquire shares in existing companies or from shareholders of incorporated companies, as envisaged under section 188; or register an international company to conduct business in Zambia, as provided in section 299(1). Further, they can participate in the corporate governance of the company as members or directors, since the act only requires that half the total number of company directors appointed are resident in Zambia.
3. The Public-Private Partnership Act provides a platform, including by removing undesirable restrictions on private sector participation, for the diaspora to partner with the Government in implementing and financing infrastructure projects and delivering social services.

### 3.5.4. Findings on laws relating to remittances and social security benefits

1. The Government of Zambia has the Constitutional power to impose, waive or exempt the payment of tax, as prescribed in article 199. This power may be exercised through the Income Tax Act and/or any other relevant laws. However, it must, in exercise of that power, ensure that the tax burden is shared fairly (i.e. across society).
2. The Bank of Zambia is vested with the power, under article 213 of the Constitution, to determine monetary policy and regulate financial institutions, including both and non-banking institutions, as well as banking and financial services, as prescribed. Such powers can be operationalized to benefit the diaspora under the Banking and Financial Services Act (Chapter 387 of the Laws of Zambia).
3. The Constitution has provisions on pension benefits, including that they should be classified as a social security benefit that “shall be exempt from tax” (art. 188(2)).
4. The Income Tax Act provides for the taxation of income and matters connected therewith, such as tax exemptions. Section 9 of the act empowers the Minister of Finance to make regulations by way of statutory instruments for the better enforcement of the act. Therefore, the act, as well as regulations that the Minister of Finance may develop and issue, can be used to exempt from tax any income or social security benefit remitted to Zambia. The act can also be used as legal basis for providing incentives to the diaspora, including those aimed at reducing tax burdens and encouraging remittances.
5. The Banking and Financial Services Act provides for the regulation of the conduct of banking and financial services. In addition, it makes provisions for safeguards for investors and customers of banks and financial institutions. Given that the Zambian diaspora makes remittances through banks and other institutions and platforms offering such financial services, the act, if enforced well by the Bank of Zambia, can be used to provide safeguards and offer further incentives to the diaspora and institutions dealing with remittances and social security benefits held by members of the diaspora.





# 4

## REVIEW OF INSTITUTIONAL FRAMEWORKS AND COORDINATION MECHANISMS FOR ZAMBIA'S DIASPORA POLICY

### 4.1. INTRODUCTION

Most developing countries have realized the need to recognize and incorporate their diasporas in their respective development agendas. It is a well-known and proven fact that, if managed well, the diaspora can be a catalyst for development in their countries and communities of origin. Hence, most countries are working with their respective diasporas for national development and have developed policy, legal and institutional frameworks to guide their efforts for the realization of their development objectives.

This section presents a brief overview of the policy and institutional frameworks being used by Zambia to harness the contributions of the diaspora as a potential resource for development and national cohesion.

### 4.2. DIASPORA POLICY INSTITUTIONAL FRAMEWORK

The Diaspora Policy provides a guide on the institutional framework and coordination mechanisms that the country intends to use in its implementation. The Ministry of Foreign Affairs and International Co-operation (hereinafter “the Ministry of Foreign Affairs”), per its mandate, is the lead implementing Ministry for the policy and is responsible for coordinating all initiatives aimed at promoting and enhancing diaspora engagements in national development.

The Diaspora Policy identifies the establishment of an administrative structure – a Diaspora Coordination Desk (“Diaspora Desk”) within the Ministry of Foreign Affairs – to mainstream and effectively coordinate on diaspora issues. Further, the policy provides for the decentralization of the Diaspora Desk at Zambian diplomatic missions abroad.

The Diaspora Policy includes line ministries, other government institutions and non-State actors as part of the institutional framework necessary for its implementation. It further recommends the appointment of focal points in line ministries to spearhead the implementation of diaspora programmes and initiatives within those ministries and other supporting institutions.

## 4.3. FINDINGS ON NATIONAL-LEVEL INSTITUTIONAL FRAMEWORK AND COORDINATION MECHANISMS FOR THE DIASPORA POLICY

### 4.3.1. Ministry of Foreign Affairs

The Ministry of Foreign Affairs is the national-level institution responsible for coordinating the implementation of the Diaspora Policy. The ministry began implementing the policy immediately after it was launched in 2019 and has appointed the Department of Political Affairs to coordinate its implementation while the Diaspora Desk was awaiting establishment. The main functions of the department include monitoring political events and situations around the world, analysing and compiling reports, and advising the Government on foreign policy.

#### *Diaspora Desk*

Per the Diaspora Policy, a Diaspora Desk, charged with the responsibility of coordinating its implementation, is to be created within the Ministry of Foreign Affairs – something that has yet to come to fruition. Pending the creation of the Diaspora Desk within the ministry, the tasks of planning for and the actual implementation of the Diaspora Policy are delegated to the Department of Political Affairs, specifically the Americas and the Caribbean Section. Functions related to diaspora issues are assigned to staff at the Department of Political Affairs as part of their “other duties” (or “additional functions”).

During consultations, the Ministry of Foreign Affairs highlighted that the Diaspora Desk remains to be operationalized, with the ministry awaiting the formalization of the Diaspora Desk organizational structure and job descriptions – to be accomplished in consultation with the Management Development Division of the Cabinet Office, which is responsible for the creation and approval of structures in the Government. Therefore, recruitment and appointment of staff to the Diaspora Desk can only be done once this process is concluded. The creation and revision of a government structure can be a lengthy and very involving process that includes obtaining Treasury Authority from the Treasury for the allocation of government operational resources, including the financing of positions within the structure. (Treasury Authority is the authority granted by the Treasury to government institutions to fund a proposed structure and required staff positions therein.) Thus, such authority needs to be obtained timely, so that funding for the proposed structure can be included in the concerned government institution’s annual budget (and the national budget at large), as delays would have implications on the recruitment of staff and the implementation of programmes.

The Ministry of Foreign Affairs has yet to request for Treasury Authority to fund positions at the Diaspora Desk, as its organizational structure is yet to be determined. The ministry highlighted that the process has been delayed because the Government is currently implementing austerity measures due to economic and social challenges that the country is facing, which have affected the creation of new structures such as the Diaspora Desk.

The ministry also indicated that they acknowledge the huge mandate or scope of functions that the Diaspora Desk is expected to perform. As such, it intends to progressively expand the size of the Diaspora Desk in the future as resources will permit.

#### *Zambian diplomatic missions*

Zambian diplomatic missions, under the purview of the Ministry of Foreign Affairs, are charged with the responsibility of taking care of Zambian nationals living abroad. Their responsibilities include the repatriation of destitute Zambian nationals from foreign countries.

These missions are also responsible for keeping the diaspora informed of opportunities for development in the homeland; registering and keeping an inventory of Zambians in the diaspora; and encouraging them to form or join diaspora associations, among others.

The Diaspora Policy identifies diplomatic missions as institutions that will be used to facilitate the implementation of the Diaspora Policy in foreign countries. Missions abroad confirmed in interviews that they had begun implementing the Diaspora Policy and had been conducting “sensitization clinics” to inform and engage the Zambian diaspora.

Missions abroad also facilitate the acquisition of identity documents, such as passports, by Zambians in the diaspora. The missions indicated that they still faced challenges facilitating the diaspora’s access to national identity documents such as national registration cards, which are currently issued only in Zambia due to prevailing legislative and security provisions. The missions also confirmed that they continuously update their database of Zambians living abroad and their skills.

### *Zambia Institute of Diplomacy and International Studies*

The Zambia Institute of Diplomacy and International Studies (ZIDIS) is a statutory body under the Ministry of Foreign Affairs established by an act of Parliament in 1995. ZIDIS is responsible for providing training in diplomacy and international relations, including for the purpose of establishing and maintaining a cadre of career diplomatic service for professionalism in service delivery within the Ministry, including at Zambian diplomatic missions.

The Diaspora Policy, in describing its implementation framework, identifies ZIDIS as a potential centre for training and providing the necessary skills for the effective engagement of Zambians abroad. As the Diaspora Policy is currently not part of the ZIDIS training curriculum, the Ministry of Foreign Affairs intends to engage the institute to address this gap. This will facilitate familiarization of staff to be deployed for diplomatic service at Zambian missions abroad with the Diaspora Policy and its implementation strategies.

### *Provincial, district and subdistrict levels*

Structures for the management of diaspora issues have yet to be decentralized to lower levels of governance, being currently operationalized only at the national level, under the Ministry of Foreign Affairs. As such, the ministry has no such structures at the provincial and district levels. The Diaspora Policy, in its description of its implementation framework, does not provide for how addressing Diaspora Policy issues will be decentralized to districts and villages.

### *Coordination mechanisms for diaspora issues*

To strengthen the coordination of policy implementation and accountability on diaspora issues with stakeholders, the Government of Zambia has appointed focal points in line ministries to coordinate on diaspora issues. The Ministry of Foreign Affairs confirmed that the appointment of such focal points has been completed and has enhanced coordination on diaspora issues with line ministries. For example, the focal point at the DNRPC has been facilitating the acquisition of national identity documents by the Zambian diaspora.

Zambian missions abroad also confirmed that having a focal point for diaspora affairs at the DNRPC has made following up on applications for national identity documents much easier for the diaspora. Having a focal point has also contributed to improved communication

between diplomatic missions and the DNRPC, and, as a result, enhanced service delivery. Further, the appointment of a focal point at the DNRPC means that Zambians abroad now have direct access to the department through an officer who can give them feedback on the processing of service requests, such as applications for documents. This has also helped reduce missions' backlog in the processing of national identity document application.

The Ministry of Foreign Affairs, in collaboration with the Ministry of Home Affairs and IOM, developed and published the booklet, *Guidelines and Procedures for the Acquisition of National Documents by Zambians in the Diaspora* (IOM and Government of Zambia, 2021). (The development of such guidelines is one of the deliverables under the National Diaspora Policy Strategic Implementation Action Plan, 2019–2022.) The booklet, available on the ministry's website and those of Zambian diplomatic missions, aims to inform the Zambian diaspora on how they can acquire national identity documents from abroad.

For purposes of progress-reporting and monitoring of joint assignments on Diaspora Policy implementation at higher levels of governance, the Ministry of Foreign Affairs has been considering the use of a system of hosting ad hoc meetings of permanent secretaries and ministers to review diaspora affairs. Meetings of permanent secretaries, chaired by the Secretary to the Cabinet, will serve as a platform where they can report on and review the implementation of diaspora programmes and interventions. A similar arrangement is being considered for government ministers.

The Ministry of Foreign Affairs currently has joint workplans on the Diaspora Policy with IOM, concerned line ministries and other stakeholders, implemented under the National Diaspora Policy Strategic Implementation Action Plan, 2019–2022.

The ministry also reports on progress in Diaspora Policy implementation as per Pillar 5 (“Creating a conducive governance environment for a diversified economy”) of the Seventh National Development Plan (2017–2021) – specifically under Result Area 1, Strategy 5 on reforming the migration policy and legislative framework.

#### 4.3.2. Assessment of the adequacy and capacity of national-level Diaspora Policy institutional framework and coordination mechanisms

The successful implementation of the Diaspora Policy requires, among others, strengthening of the institutional framework and coordination mechanisms that are expected to facilitate its implementation. Within the current institutional framework for government ministries, the Ministry of Foreign Affairs, in accordance with its mandate, is best suited to coordinate the implementation of Zambia's diaspora agenda and harness the developmental potential of the Zambian diaspora. The ministry has the structures, staff and experience, at its national headquarters and missions abroad, to support operations related to diaspora affairs. Therefore, it is best suited for coordinating on any national policy or programme targeting the diaspora.

Literature also shows that most countries that do not have stand-alone institutions to manage diaspora affairs place this function under the foreign affairs ministry – as is the case with most African States, such as Benin, Ethiopia, Ghana, Kenya, Nigeria, Malawi, Rwanda and Zimbabwe.

##### *Capacity of the Diaspora Desk*

Zambia's Diaspora Policy adopts an institutional approach whereby the institution responsible for coordinating on diaspora issues (i.e. the Diaspora Desk) is at the subministerial level,

while it places the primary responsibility for institutional capacity-building for managing diaspora issues on the Ministry of Foreign Affairs. Beyond the creation of a central Diaspora Desk within the ministry and Diaspora Desks at Zambian missions abroad, this responsibility includes the assignment of human and other resources to facilitate their operations.

The review finds that the functions of the Diaspora Desk are currently being undertaken by the Department of Political Affairs (under the Ministry of Foreign Affairs) and its staff. To be specific, under the arrangement, the duties that the Diaspora Desk are expected to perform are performed by the Director of Political Affairs and staff of the department's Americas and Caribbean Section as additional functions. At missions abroad, focal points for diaspora issues have been appointed, although their terms of reference (or scope of duties) remain to be formalized.

Considering that the organizational structure, staff compliment and operational resources for the Diaspora Desk are non-existent at the moment, it is challenging to fully assess its adequacy and capacity to harness the development potential of the Zambian diaspora, as provided for in the Diaspora Policy. Further, due to limitations in resources and the implementation of austerity measures by the Government of Zambia, the Ministry of Foreign Affairs is unable to give a definite time by which the Diaspora Desk would be set up.

#### *Scope of functions of the Diaspora Desk*

The Diaspora Desk is expected to spearhead the implementation of the Diaspora Policy and coordinate all stakeholder efforts and initiatives aimed at harnessing the Zambian diaspora's potential towards its effective participation in national development (Government of Zambia, 2019).

The scope of functions of the Diaspora Desk include the following, among others:

- (a) Facilitating the leveraging of remittances and the portability of social security benefits;
- (b) Promoting trade, investment, tourism, culture, art and patriotism among the Zambian diaspora;
- (c) Safeguarding the rights and interests of the Zambian diaspora and obtainment of dual citizenship;
- (d) Facilitating the Zambian diaspora's access to national identity documents, services, and land and other resources;
- (e) Facilitating political participation and knowledge and skills transfer;
- (f) Promoting the effective administration of the diaspora and the interests of Zambians in the diaspora;
- (g) Ensuring the establishment and maintenance of a comprehensive information online portal and diaspora database.

#### *Organizational structure of the Diaspora Desk*

Based on the scope of functions detailed in the previous section, it is evident that the Diaspora Desk will have wide-ranging, specialized functions to perform to effectively deliver on diaspora matters identified in the Diaspora Policy. Most diaspora-related concerns will be delegated to certain departments of different government ministries and public institutions

and managed by directors thereat. As functions will be spread across various government bodies, the Diaspora Desk would need to consist of a high-level structure, ideally headed by a director, to facilitate the efficient and effective management of and coordination, collaboration and liaison on diaspora issues with other stakeholders.

Further, with its head having the rank of director, the Diaspora Desk would be able to command the necessary respect, authority and support needed to coordinate diaspora affairs, which will require a lot of effective communication and networking with stakeholders. In addition, at this level, the head of the Diaspora Desk will be further empowered to consult and collaborate on diaspora matters with fellow directors in line ministries more effectively and even informally, as the positions will be at par.

Additionally, the position of director is recognized and respected – which will be useful when conferring with stakeholders outside public service. This will facilitate and enhance collaboration and cooperation with such stakeholders, who would have more confidence in a structure headed by a director than someone at a lower level. Further, the Diaspora Desk would be able to report directly to the Permanent Secretary to the Cabinet (acting as a “controlling officer”), unlike when the structure is at a lower level or under a ministerial department.

One of the functions of the Management Development Division of the Cabinet Office is facilitating the effective development of optimum organizational structures and determining appropriate staffing levels in public service. During stakeholder consultations, guidance is provided to inform the creation of government institutions and structures on the scope of functions they are expected to perform (the creation of ministries remains the prerogative of the President of Zambia, in accordance with the Constitution). Overall, considering the wide scope of functions the Diaspora Desk is expected to perform, it would do so optimally as a department or unit with a head having the rank of director.

#### *Staffing, communication and liaison skills for the Diaspora Desk*

Since the organizational structure of the Diaspora Desk has not been finalized, job descriptions and job qualifications consequently have not been defined, and recruitment of staff to fill positions thereat is yet to take place.

Considering the scope of functions it is expected to perform, the Diaspora Desk should have staff compliment with skills and experience in the management of various matters relevant to Zambia’s diaspora engagement agenda. These include financing and investment, trade, culture and the arts, citizenship, realization of political and civic rights, empowerment programmes, land and gender issues, and other development-related issues of concern to the diaspora.

Diaspora issues cut across different sectors of government. Therefore, staff at the Diaspora Desk will need to possess good communication, liaison, networking, diplomacy, and information management and dissemination skills. (The need for the Diaspora Desk to be capacitated with appropriately qualified, experienced and diplomatic staff with good communication skills to effectively and efficiently manage diaspora affairs was likewise emphasized by stakeholders during consultations.) The staff will also have to be proactive and welcoming, as they will act as front runners and middlepersons between the Government, on the one hand, and the diaspora and other stakeholders involved in the implementation of the Diaspora Policy, on the other.

### *Coordination on diaspora issues*

It has been observed that the Ministry of Foreign Affairs and missions abroad need to enhance their capacity for networking and communication with the diaspora for improved diaspora engagement. This will contribute to improved implementation of the Diaspora Policy, as the diaspora community will be better informed of the Government's intentions for it and thus better engaged.

The diasporans consulted also expressed that the ministry and diplomatic missions need to become more visible and more involved in the activities of associations of Zambians abroad. This will enhance cooperation, strengthen networking and create a sense of belonging with Zambians living abroad, as diplomatic missions are the “face of the Government” abroad.

### *Local-level governance (decentralization) of diaspora issues*

For most in the diaspora, the connections and sentiments that tie them to their country of origin and heritage are specific to their regions or communities. Thus, when Zambians in the diaspora engage, they often choose to do so with their communities of origin. According to migration specialists Russell and Harley (2020), central to effective diaspora engagement is leveraging the power of affinity and, in many cases, notions of “affinity” and “belonging” are tied to specific regions or communities. There are regions around the world that are known to have benefited or developed due to their diasporas' continued engagement with their communities of origin – for example, the states of Gujarat and Punjab in India, the provinces of Guangdong and Sichuan in China and the Kayes Region of Mali. The willingness of the diaspora to engage with their community or region of origin presents an opportunity for local diaspora engagement. As such, the diaspora is a potential resource that can be integrated into local development plans, with local government bodies developing their own targeted diaspora initiatives.

Given the above, there is a need for a decentralized structure for implementing the Diaspora Policy locally. The institutional framework for the Diaspora Policy in Zambia is currently centralized – anchored on the Ministry of Foreign Affairs, which operationalizes the policy at the national level. The ministry does not have structures at lower, local levels (provinces or districts) to delegate functions or cascade directives to. It is only at Zambian missions abroad where the ministry has support structures (also referred to as “Diaspora Desks”) to which it can decentralize its operations.

The Diaspora Policy's overall objective is to harness the potential of the Zambian diaspora as a resource that can significantly contribute to national development. It would be useful to extend the diaspora institutional framework down to local levels of governance, as Zambia's national development programmes are operationalized not only at the national level, but are cascaded to the provincial, district and ward levels as well, as stated in its Vision 2030 and its subsequent national development plans. In addition, both development programmes and plans are extended down to the village level.

In line with this, Zambia is implementing the National Decentralization Policy in order to, among others, facilitate enhanced service delivery at local levels of governance and promote equitable development at all levels. During stakeholder consultations, Zambians in the diaspora expressed an interest in being facilitated to invest in their home districts and villages. If the Diaspora Desk is to effectively perform this facilitative role, it needs to have decentralized structures to fill the gaps at lower levels of governance to provide services needed by the diaspora, and collaborate closely with other government ministries and sectors, including the private sector.

### *Building a culture of trust, transparency and engagement with the diaspora*

Countries that have successfully managed to engage their respective diasporas in national development were able to do so by playing the role of facilitator of their diaspora engagement agendas. The institution responsible for Zambian diaspora affairs (i.e. the Diaspora Desk) will need to facilitate endeavours such as culture-building, in order to create and foster bonds between the diaspora and the home country, and citizenship acquisition beyond the country's borders, which would ultimately enable Zambians in the diaspora to fully exercise their rights as nationals, as well as their responsibilities to the homeland. Further, there is a need to facilitate the formation of economic and business networks with the diaspora for a mutually fulfilling homeland–diaspora relationship, including through information-sharing. The LinkedIn podcast, “Powerful diaspora engagement: 10 tips for government” (Russell and Harley, 2020), however, cautions that most diasporans do not want to be seen as “cash cows” by their governments. As such, they would be more willing to give and invest back home if they have confidence in their country and if they perceive their government to be “on their side”, especially during times when they are in need. This is important to remember in order to truly nurture the homeland–diaspora relationship, enhance mutual trust and keep the diaspora well informed.

Most Zambian diasporans present at the stakeholder consultations expressed a willingness to invest back home but at the same time raised concerns about the need for the Government to enhance its capacity to facilitate the diaspora's access to services and opportunities for investment and empowerment to effectively participate in national development. Thus, the Government needs to increase engagement with its diaspora so that it is better informed on how to collaborate effectively with Government in a win–win arrangement that enhances relations with the home country. Increased engagement and facilitation of access to services and opportunities therefore contribute towards building the diaspora's respect and confidence in government structures and efforts that solicit their participation in national development and unity in an environment of mutual trust.

### *Visibility and accountability*

The Diaspora Desk will need to maintain its visibility to stakeholders, considering its future role in ensuring and facilitating the implementation of the Diaspora Policy. Stakeholders, both within and outside the country, will need to know about its existence, functions and organizational structure, including contact persons or focal points, to enhance collaboration on and coordination of diaspora programmes and activities. Integrating the Diaspora Desk into a department within the Ministry of Foreign Affairs would undermine its visibility. Consequently, it would be difficult for the public to hold the institution accountable for its performance if it is not well known or visible.

### *Research on diaspora issues*

Zambia's Diaspora Desk will need to gain a deep understanding of its diaspora to effectively engage it. This would entail obtaining, through research, detailed insights into its demographics, the available skills in the diaspora, the interests of diasporans, the opinions that they hold and the challenges that they face, among others. Research and development – the purpose of which is to gather evidence to contribute to knowledge in a field of study and, ultimately, inform action – is thus key to the implementation of the Diaspora Policy.

Research undertakings on Zambia's diaspora may involve investigating global good practices in diaspora engagement; informing public policy on issues affecting Zambians abroad; and facilitating benchmarking with diaspora host countries, with a view to finding solutions that will improve policies, programmes and institutional arrangements for the mutual benefit



of these countries and the Zambians that they host. Other countries – for example, China, Nigeria and Morocco – have created stand-alone institutions or departments within ministries specifically for the purpose of facilitating diaspora-based research or have assigned this task to existing government entities.

#### *“Diaspora champions”*

The Government of Zambia will need to embrace more strategies to further its diaspora agenda and get more stakeholders on board to support it. Zambian diplomatic missions can make use of so-called “diaspora champions” to begin fostering strong business networks with the Zambian diaspora. While the Government is encouraged to try to build constructive and long-term relationships with its diaspora, it is generally small groups of these diaspora champions and “elites” that facilitate the greatest capital transfers (Russell and Harley, 2020). As much as the Government needs to ensure that strategies target the wider Zambian diaspora, deliberate outreach initiatives must be carried out to capture the critical few who have existing or potential business networks and influence to facilitate capital transfers and investments into the country. For example, Craig Barrett, an Irish diasporan and former Chairman of Intel, facilitated the company’s investment of over USD 7 billion in his home country. This contributed to the transformation of the national economy, resulting in it being referred to as the “Celtic Tiger” (ibid.). With support from its diaspora, many leading United States companies now use Ireland as a springboard to the European market. In 2003, overseas companies accounted for 51 per cent of Ireland’s export production and more than EUR 14 billion of expenditure in the economy, in addition to employing nearly 140,000 people (Abelaira, 2007).

### 4.3.3. Advantages of the current institutional arrangement

The current institutional arrangement for implementing the Diaspora Policy, put in place following delays in the operationalization of the Diaspora Desk, has its advantages. This section discusses some of the benefits of the arrangement.

#### *Use of existing structures and staff*

The main advantage of using existing structures, expertise and linkages is that the implementation of the Diaspora Policy can begin immediately, as opposed to waiting for the creation of a new, dedicated institution (i.e. the Diaspora Desk) to carry out the implementation. In addition, existing structures can be reinforced or built upon, pending the creation of the Diaspora Desk. As such, implementation of the Diaspora Policy through the Department of Political Affairs would benefit from the expertise and experience of staff who have been dealing with foreign policy for a long time. Further, the department can leverage the linkages it has established with both local stakeholders and the international community to support Diaspora Policy implementation. Also, the department is organized into sections, each covering a geographic region (e.g. Africa, the Americas and the Caribbean, Asia and the Pacific, and Europe). This is beneficial, as it allows the department to capture and address issues concerning the Zambian diaspora in various countries across the globe with which Zambia has diplomatic relations.

#### *Cost-effectiveness for the Government*

Diaspora Policy implementation benefits from the existing expertise of experienced staff and institutional memory at the Department of Political Affairs. This approach is less costly to the Government, as it does not need to employ additional staff. With the current arrangement, the Government is able to deliver on diaspora-related assignments, with staffing costs covered by the standard personal emoluments bill, as diaspora-related functions are performed as “other duties assigned” to officers at the department.

#### 4.3.4. Disadvantages of the current institutional arrangement

The current institutional arrangement is not without its disadvantages. This section discusses some of them.

##### *Dual functions and effectiveness*

With the Diaspora Desk still non-existent, its functions are currently performed by the Department of Political Affairs. This means that staff affected by the current arrangement are performing functions outside of their regular or primary duties and responsibilities in order to support the implementation of the Diaspora Policy and manage diaspora affairs. As diaspora-related functions do not form part of staff's primary or key accountabilities and are categorized merely as "other duties" in their performance appraisals, diaspora issues are often treated as secondary in priority-setting. When the department's "additional", diaspora-related functions become equally demanding as its regular activities and programmes, staff performance of the former is bound to suffer, negatively impacting on Diaspora Policy implementation.

##### *Poor public visibility and accountability of the Diaspora Desk*

The Department of Political Affairs, to which the role of the planned Diaspora Desk is currently assigned, will need to make its diaspora-related purpose and functions known and be visible in this role, especially to its clientele – that is, the Zambian public, especially those in the diaspora. The current institutional arrangement, however, undermines the department's public visibility in this role, as the primary focus of the department is on advancing Zambia's foreign policy and fostering international relations. The department's name is self-explanatory as regards its purpose, described in the preceding sentence, and may not do much to communicate to the public that it is currently responsible for implementing the Diaspora Policy and coordinating on diaspora issues. Public visibility contributes to making an institution effective and accountable, as it raises the awareness of the public that uses its services, assesses its performance and provides feedback to the institution.

# 5.

## SELECTED INTERNATIONAL GOOD PRACTICES AND DEVELOPMENTS IN DIASPORA POLICY IMPLEMENTATION

### 5.1. INTRODUCTION

Several countries, especially those with high migration rates, have partnered with their respective diasporas for national development. China, India, Morocco and the Philippines are notable among countries that have successfully harnessed the support and resources of their diasporas for national development and influence overseas.

This chapter features good practices from China, India and Morocco relating to policy, institutional and legal frameworks, as well as coordination mechanisms, that have helped these countries fulfil their respective diaspora agendas. These practices include:

- (a) Capturing diaspora talent and skills (human capital);
- (b) Attracting targeted capital inflows;
- (c) Fostering long-term investment through partnerships;
- (d) Developing capacity (institutional and industrial);
- (e) Cultivating a community identity;
- (f) Promoting informal diplomacy;
- (g) Developing tourism and other culture-based sectors and industries.

### 5.2. CHINA

China has been identified as a country case study in reforming diaspora policy legal and institutional frameworks and coordination mechanisms, largely due to the success of its diaspora as a major force behind its successful development and rise to become one of the largest economies in the world. As far back as 1995, the Australian Department of Foreign Affairs and Trade had reported that overseas Chinese business networks had become one of the main forces behind the dynamic growth that China was experiencing.

### 5.2.1. The transformation of China: transgovernance and the diaspora engagement agenda

*World Migration Report 2022* reports that China has over 10 million migrants. The majority of migrants from China are male and the top countries of destination for Chinese migrants include other Asian countries, such as Japan, the United States, Canada and Australia. Africa has also seen an increase in Chinese migrants in recent years.

Gamlen (2006: paras. 3 and 5) argued that diaspora engagement policies are part of an effort to “transnationalize government” or extend the State’s monopoly on power to its nationals residing outside its territory. The Government of China has benefited from transnational governance and enhanced networking to harness the support and cooperation of the Chinese diaspora to advance Chinese interests both at home and beyond its borders. China has also relied on networking (both business and informal) to connect the State, society actors and the diaspora, which is important for implementing diaspora policies. Commitment and strategic engagement to garner the support of the diaspora and leverage its resources has helped China develop its economy and other sectors of society.

### 5.2.2. Foreign policy and the diaspora engagement strategy

In the late 1970s, China was still a poor, developing country racked by political battles over the direction that economic reforms would take. In the 1980s, China began to recognize the need to embrace its diaspora as a partner for national development and reform policies concerning the role its diaspora played in national development. During this new era, China began to advocate for a policy of “big overseas Chinese work” (da (big) *qiaowu* (overseas Chinese work)). China believed that overseas Chinese work must embody a new concept – a new train of thought – that would result in broad and deep cooperation between the country and overseas Chinese. Two decades later, *qiaowu* remains an integral part of the “Chinese dream” of economic modernization, scientific and technological innovation, and cultural revival (Liu and van Dongen, 2016).

China’s diaspora policy was very closely tied to the goal of economic development during the reform era. During this period, China began opening up special economic zones (SEZs), mostly in traditionally high-emigration areas such as the provinces of Guangdong and Fujian (ibid.).

China has been engaging and involving its diaspora in national development according to national priorities that are translated into sector-based strategies and legal and institutional reforms. Some of the measures that China has put in place under its diaspora engagement agenda include the establishment of SEZs, patriotic appeals with its diaspora and the passage of preferential laws for overseas Chinese.

Over the last two decades, Chinese interest in investment and development has become more outwardly focused, with the Government of China recognizing the strategic role that its diaspora will continue to play in this policy shift. This is evident in the action plan for the Belt and Road Initiative (formerly “One Belt One Road”), released in 2015 by the National Development and Reform Commission, the Ministry of Foreign Affairs and the Ministry of Commerce. The action plan underscores the need to leverage the unique positions of overseas Chinese, as well as of the Hong Kong Special Administrative Region, China and Macao Special Administrative Region, China, by encouraging them to participate in and contribute to the initiative (ibid.). As such, the Government of China has become more aggressive at attracting and co-opting its overseas Chinese for its development and foreign policy agenda. Strategies include government officials courting potential investors and the setting up of more than 70 business parks exclusively for their use.

China's policy for engaging its diaspora has changed over time alongside its national development priorities. In the beginning, priority was given to attracting trade and capital for the country's economic development. At the turn of the millennium, China changed its diaspora policy approach and now involves attracting talent and knowledge, which has contributed to the booming number of hi-tech industrial development parks; science, technology, engineering and mathematics (STEM) laboratories; and research and development facilities and crucibles. This policy shift was undertaken to attract new generations of the Chinese diaspora to invest in China as the world embraces technology for development.

### 5.2.3. Role of foreign direct investment in China's rise

Foreign direct investment (FDI) has been a major factor in the emergence of China as a manufacturing and trade powerhouse in the 1990s. Since the onset of China's economic reform era, the diaspora has provided the largest share of inward FDI through investments and remittances. It is estimated, for example, that about half of the GBP 26 billion (USD 48 billion) in FDI that flowed into China in 2002 originated from the Chinese diaspora (Newland and Patrick, 2004).

The Chinese diaspora invests heavily in its economy. This has contributed to the growth in its influence on the conception and implementation of the SEZs. Such efforts powered the take-off of China's export industry, which influenced the Government's decision to fully embrace liberalization and open up its economy. In addition, investments by the diaspora contributed to the growth of enterprises in townships and villages and impacted positively on the growth of China's foreign exchange reserves, facilitating the importation of goods for the country's growing industries and economy. Today, according to the East Asia Forum, China is the largest source of FDI in the region (Dollars, 2021).

### 5.2.4. Legal and institutional reforms

China is closely connected with the overseas Chinese community through strong, institutionalized links. Among the significant reforms that China has undertaken to support its diaspora-inclusive agenda are those that led to the creation in 1978 of the Overseas Chinese Affairs Office (OCAO), an administrative office that assists the Premier in handling affairs related to overseas Chinese. OCAO is decentralized and has offices at all levels of government. Its major responsibilities include the following:

- (a) Studying and formulating guidelines, policies and regulations concerning overseas Chinese affairs, as well as supervising and checking on their implementation;
- (b) Conducting studies on the development of overseas Chinese affairs, both domestically and abroad, to provide the necessary information to the Central Committee of the Communist Party of China and the State Council;
- (c) Formulating plans for managing overseas Chinese affairs;
- (d) Assisting the Premier in the administration of overseas Chinese affairs;
- (e) Reviewing policies directly related to overseas Chinese affairs, as suggested by relevant ministries and local government bodies;
- (f) Coordinating the work of relevant government departments and social organizations relating to overseas Chinese affairs;
- (g) Protecting the legitimate rights and interests of overseas Chinese;
- (h) Enhancing unity and friendship in overseas Chinese communities;

- (i) Maintaining contact with and supporting overseas Chinese media and Chinese language schools;
- (j) Increasing cooperation and exchange between overseas Chinese and the home country related to the economy, science, culture and education;
- (k) Protecting, in accordance with the law, the rights and interests of returned overseas Chinese and their family members;
- (l) Drafting and formulating, together with relevant government departments, guidelines and policies concerning returned overseas Chinese and their family members;
- (m) Assisting relevant departments in the selection of deputies among returned overseas Chinese and their family members.

(Liu and van Dongen, 2016)

In the same year as the founding of OCAO, the Government also established the All-China Federation of Returned Overseas Chinese (ACFROC) to help returned overseas Chinese and their families. In 1983, the National People's Congress (i.e. China's parliament), also formed the Overseas Chinese Affairs Committee. The main purpose of these institutions has been to encourage overseas Chinese to contribute to the development of the homeland (Zhiqun, 2019).

As regards legal reforms undertaken by China for its diaspora, landmark examples include: (a) a review conducted in 1982 of article 50 of the Constitution and its consequential amendment in 2004, which aimed to protect the legitimate rights and interests of overseas Chinese, Chinese returnees and their family members; and (b) the State Council's "Regulation on encouraging Overseas Chinese and Hong Kong and Macao Compatriots to invest in the mainland", issued in 1990 (Liu and van Dongen, 2016).

### 5.2.5. Lessons for Zambia

China can be said to be a prime example of how a country can formulate and implement policies, laws and institutional reforms to attract the resources of its diaspora specifically, in order to achieve economic growth and support other national priorities.

#### *Promoting trade, investment and leveraging of remittances*

Following the adoption of a new economic management approach in 1991, Zambia introduced and implemented several economic programmes, including the establishment of economic zones similar to China's SEZs. Export-processing zones (EPZ), which have boosted Zambia's manufacturing and trade capacity, and multifacility economic zones (MFEZs) now exist in different parts of the country. Industrial development initiatives such as EPZs and MFEZs were put in place to foster an attractive business environment, promote exports, enhance domestic trade and make Zambia an attractive destination for FDI.

Initially, Zambia mostly adopted an outward-looking approach to attracting investment. As such, the country adopted policies and laws and put in place strategies, initiatives and incentives that were tailored more towards attracting foreign investors than Zambians in the diaspora. Thus, the country relied heavily on foreign investors, financial institutions such as the World Bank and the International Monetary Fund (IMF), and multinational organizations as sources of FDI.

The Zambian version of EPZs is largely derived from the Chinese model, which modified the EPZ concept and practice to suit Chinese conditions. Chinese EPZs serve as “demonstration areas” for inviting foreign investment and informing policy reform. The success of Chinese EPZs is largely due to the following factors:

- (a) Proximity to Hong Kong SAR, China, which is a major consumer and distributor of goods produced in mainland China; flexible labour laws in the zones that are different from national laws;
- (b) The Government’s provision of trade-related infrastructure, such as power, water, roads and ports, and social infrastructure in the form of housing, hospitals and schools;
- (c) Strong linkages with the domestic economy due to China’s diversified industrial base, raw materials and manpower, and full convertibility of the Chinese currency;
- (d) Specific fiscal incentives provided by the Government to enterprises operating in MFEZs, including exemptions from customs duty and taxes on capital expenditures.

Zambia, until its recent passage of the Diaspora Policy in 2019, has not had a specific policy, law or diaspora investment strategy aimed at engaging or attracting its diaspora to invest or trade in the homeland. It has not fully explored the potential of the Zambian diaspora as an economic development partner and source of FDI, like what China has done.

Although Zambia has passed policies and laws aimed at promoting local investment through private sector development initiatives, none were tailor-made to tap its diaspora as a potential source of investment. According to the article, “Foreign direct investment in Zambia”, indeed, “not so much emphasis and enthusiasm has been given to Zambians to invest or indeed take over some of the parastatal companies that were being privatized” (Muweme, 2004).

The diaspora can also be encouraged to invest or get investors to invest in the Zambian economy by participating in industrial development initiatives such as the MFEZs – for example, by setting up industrial parks, including science and technology parks. As already highlighted, it was the Chinese diaspora that greatly invested in the Chinese economy and developed its SEZs, which resulted in China being the economic giant and technology and education hub that it is today.

#### *Leveraging remittances and boosting foreign exchange reserves*

Zambia is currently experiencing the highest foreign exchange rates in its history, at a time when it needs to boost its foreign exchange reserves. Investments by the Chinese diaspora greatly contributed to the growth of China’s foreign exchange reserves, which facilitated the importation of goods for their growing industries and economy and spurred the growth of enterprises in townships and villages. This, too, has been the case for other countries such as the Philippines, where the diaspora has significantly contributed to the growth of the country’s foreign exchange reserves and stabilization of the economy. Zambia can put in place similar measures, such as revising the necessary laws to promote foreign exchange flows into the country to grow its foreign exchange reserves.

## 5.3. INDIA

India is included in this review as a country with good practices that Zambia can learn from, as it has put measures in place such as building development think tanks and investing in the medical and technology sectors, which has contributed to India now becoming a renowned hub for affordable, quality medical services. India has also gone a step further by signing bilateral agreements that have effectively facilitated the mobilization of remittances and social security benefits for its diaspora, including labour agreements that have facilitated the employment of Indians in other countries.

In addition, India has a large diaspora – as a matter of fact, the largest in the world according to *World Migration Report 2022*, with almost 18 million Indians living abroad (IOM, 2021). Top destination countries for Indian migrants include the United Arab Emirates, Saudi Arabia, the United States, Oman and Qatar. *World Migration Report 2022* further indicates that India was the top remittance-receiving country in 2020, with inflows amounting to USD 83.15 billion, followed by China (USD 59.51 billion) and Mexico (USD 42.55 billion) (ibid.).

### 5.3.1. Policy, institutional and legal reforms

India does not have a diaspora engagement policy per se, but it has put in place institutional support and coordination mechanisms, among other initiatives, to maximize the success of its diaspora in destination countries while embracing their diverse contributions to communities of origin and national development.

Indians in the diaspora are categorized into two. The first group consist of non-resident Indians, who are Indian citizens, holding Indian passports, living and/or working in another country. The second comprises overseas citizens of India, who have taken up citizenship in another country and may have had to forfeit their Indian citizenship.

India had mostly ignored its overseas population for decades since its independence until the 1990s, when it began to realize the potential of its diaspora to contribute to national development. It was then that the country initiated a policy of diaspora engagement. Crucially, India also started to adopt official economic reforms around the same time, in 1991. The Government's strategy involved responding to a large and diverse diaspora, thereby introducing several institutional reforms to pursue national goals with its help. This resulted in the establishment of the Ministry of Overseas Indian Affairs in 2004 to address the lack of government policy coordination on migration and to implement programmes that reach out to the Indian diaspora (*The Guardian*, 2013).

The Government has come up with various other institutions and legal reforms to address different aspects of diaspora engagement. Some of these initiatives include the Overseas Citizenship of India (OCI) Scheme, made possible through the amendment of the Citizenship (Amendment) Act of 2005. The programme grants citizenship to Indians in the diaspora and permits foreign citizens of Indian origin to live and work indefinitely in India. Other initiatives include the creation of the Indian Council of Overseas Employment (ICOE), a think tank specializing in international migration, and labour mobility partnership agreements with several European countries to diversify and secure overseas labour markets for Indian workers.



### 5.3.2. Welfare support to the diaspora

The Indian Community Welfare Fund (ICWF) was created in 2009 to support a wide range of welfare services for overseas Indian workers. In 2017, the Government of India decentralized the decision-making process and empowered embassies and consulates to disburse funds managed by ambassadors and diaspora counsellors, to assist overseas Indian migrant workers in need.

### 5.3.3. Remittances, foreign direct investment and bilateral agreements

Remittances are another important source of diaspora contributions for India. Inflows began to increase significantly in the mid-1990s, due to the growing emigration of highly skilled migrants to the United States, coupled with a more liberal foreign exchange policy implemented by the country (Tumbe, 2012).

One important initiative to promote FDI in India was the establishment in 2007 of the Overseas Indian Facilitation Centre (OIFC), a non-profit, public-private body under the Ministry of Overseas Indian Affairs and the Confederation of Indian Industry (CII). The OIFC has a mandate to implement initiatives dealing in investment facilitation, knowledge-networking and ensuring business-to-business (B2B) partnerships in real estate, wealth management, taxation, law, health care, education and infrastructure (Hodiwala and European Union Global Diaspora Facility (EUDiF), 2020).

In 2016, India and the European Union signed the Common Agenda for Migration and Mobility (CAMP), a comprehensive framework for cooperation on migration management. Objectives of the framework include harnessing the contribution of migrants to the economies of both destination countries and countries of origin; facilitating the secure and cost-effective flow of remittances and their development effects; and supporting diaspora networks and optimizing the benefits of return.

Further, India has established bilateral social security agreements (BSSAs) with various countries to protect the interests of expatriate workers and the companies that employ them on a reciprocal basis. India's Ministry of External Affairs has signed 20 BSSAs to this effect.

### 5.3.4. Diaspora youth programmes

India has been implementing programmes targeting Indian diaspora youth. The Know India Programme (KIP), managed by the Ministry of External Affairs, is one such initiative. It consists of, among others, a three-week orientation programme for diaspora youth, conducted with a view to promoting awareness on the different facets of life in India.

### 5.3.5. Philanthropy

Philanthropy is another significant area of Indian diaspora contribution. The largest share of diaspora philanthropy comes through informal channels where “there are some personal links through family and friends” (Newland and Patrick, 2004). The Government of India has provided institutionalized platforms to facilitate these contributions, such as the Indian Development Foundation of Overseas Indians (IDF-OI), by helping forge partnerships between donors and recipients, the latter including volunteer organizations in India's social sector.

### 5.3.6. E-government

India manages emigration through its E-governance Project. Implemented in collaboration with the India Centre for Migration, the project helps Indian migrants move up the value chain to position India as a preferred supplier of qualified and skilled human resource.

### 5.3.7. Lessons for Zambia

India's diaspora agenda offers lessons on how a country can use legal and institutional frameworks to harness and support the potential of its diaspora to contribute to national development. Aside from creating relevant institutions to advance its diaspora agenda, the country also relies heavily on coordination, networking and strong business links with its diaspora to realize its objectives and reap the financial and social benefits of diaspora engagement.

Further, the Government of India has instituted a welfare programme to assist Indian diasporans in need. Providing such a support system is an initiative that countries like Zambia will find worth emulating. During stakeholder consultations with diaspora associations, some complained of the Government of Zambia's lack of welfare support to members of the diaspora who are in need. They reported that Zambian embassies usually only offered support in repatriation cases and failed to assist diasporans with other needs.

India has also used bilateral agreements as a tool to secure employment for its nationals and facilitate the reduction of remittance costs, among other objectives. One type of agreement – that is, mobility partnership agreements – enable the portability of social security benefits across labour markets, which is particularly helpful to Indian migrant workers who have lost or reached the end of their employment overseas. In addition, portability of social security benefits may translate to increased remittance and FDI flows into the country. Zambia can broker similar agreements to secure overseas employment opportunities for its nationals and make their social security benefits portable, which will result in increased diaspora remittances and investments back home, ultimately reducing poverty.

During the stakeholder consultation with Zambian diplomatic missions and diaspora associations, the research consultant was informed that a good number of Zambians in the diaspora were interested in philanthropy but faced challenges finding reliable and accountable institutions or platforms back home in Zambia that they can use or partner with to send donations or offer their skills and/or services for free. They indicated that this issue needed to be urgently addressed, especially at a time when the country was battling the effects of the COVID-19 pandemic, which had greatly affected the health sector, as Zambians in the diaspora were willing to offer their resources and support if there were reliable and accountable institutions and platforms they could work with. India recognized the philanthropic potential of its diaspora and has responded to the need for such institutionalized platforms by establishing, for example, the IDF-OI to support this cause and receive contributions from its diaspora. Zambia, too, can address this matter through strong collaboration with relevant institutions that can be held accountable, as well as by creating dedicated platforms to support the philanthropic efforts of its diaspora.

Zambia also needs to “court” its diaspora youth to learn more about the homeland and its culture and promote patriotism among them. India is implementing youth programmes, such as KIP, for similar purposes. Zambia can benefit from similar strategies to engage its diaspora youth.

Zambia, too, has embraced e-government for enhanced service delivery and information dissemination to the Zambian diaspora. These platforms, in addition, can be used to enhance data collection from the Zambian diaspora.

## 5.4. MOROCCO

Over 2.7 million of Morocco's total population is in the diaspora, most of whom are spread across France, Spain, Italy, Belgium and the Netherlands (AFFORD et al., 2020). Since the 1990s, the Government of Morocco has been making progressive efforts to ensure that its diaspora is integrated and informed of national development plans and strategies for inclusive development.

Morocco is included in this review as a country case study with good practices that Zambia can learn from, as it has put in place measures aimed at lowering the costs of sending remittances to the country, which has resulted in the country maximizing the benefits of this resource and investments by its diaspora. Morocco has also addressed the issue of making social security benefits portable by signing bilateral agreements with host countries of Moroccan migrants and strengthening coordination mechanisms with social security institutions thereat – a matter that Zambia is still struggling with. The country has also signed employment agreements for the mobility of labour towards foreign labour markets, which has contributed to lowering unemployment in the country and mobilizing remittances. Additionally, Morocco has made amendments to its legal framework to facilitate dual citizenship and the political participation of its diaspora.

### 5.4.1. Policy, legal and institutional reforms

Morocco has been making several efforts at the policy, legal and institutional levels aimed at effectively engaging its diaspora for development. The country has invested in the creation of institutional reforms that would facilitate effective engagement with its diaspora. In 1990, Morocco created the Delegate Ministry in charge of Moroccans Living Abroad to strengthen links with Moroccans living abroad (MLAs). In the same year, the Government launched the Hassan II Foundation for Moroccans Residing Abroad (ibid.), whose purpose is to ensure that the Moroccan diaspora maintains ties with its country of origin through religion, education, culture and language. The foundation supports MLAs and provides them with information in various areas, such as investment opportunities in Morocco. It also organizes summer camps or summer schools for Moroccan children living abroad, as well as financing the deployment of teachers to provide them with Arabic language instruction. The Government formed the Council of the Moroccan Community Abroad (French: Conseil de la Communauté Marocaine à l'Étranger (CCME)) in 2007 and made a specific provision for this institution in the Constitution of 2011. The CCME is composed of Moroccan emigrants and its responsibilities include guiding the Government of Morocco on policy issues concerning its diaspora; monitoring and evaluating the implementation of policy decisions; protecting the interests of MLAs; reinforcing diplomatic relations and cooperation between Morocco and countries hosting the largest populations of MLAs; and boosting cultural ties with Moroccans in the diaspora, especially the youth.

In 2013, Morocco created an interministerial committee for MLAs to enhance the coordination of its migration strategy. Morocco launched its National Strategy for Moroccans Living Abroad in the following year. The strategy focuses on mobilizing the skills of MLAs, attracting investments from them and improving their access to public services. It has three strategic objectives:

- (a) Preserving the national and cultural identity of MLAs;
- (b) Protecting the rights and interests of MLAs;
- (c) Encouraging MLA contributions to the development of the country.

Apart from making institutional changes to facilitate its response to diaspora needs and affairs, Morocco has also made legislative reforms to support its diaspora agenda. In 2011, the country revised its Constitution, which sets out various provisions for recognizing MLAs, including by granting them dual citizenship under its article 16. The legal framework also provides for the right of MLAs to participate in the governance of the country. For example, article 17 contains a provision that allows MLAs to enjoy full rights as citizens, including the right to vote in elections, although not from abroad, while article 30 permits MLAs to return to the country to participate in elections. In addition, article 18 commits the Government of Morocco to consulting MLAs on governance issues. Article 163 of the Constitution meanwhile stipulates that the Council of Moroccans Living Abroad should publish advice on policies to help MLAs maintain their sense of Moroccan identity, guarantee their rights and contribute to the sustainable and human development of their homeland (ibid.).

#### 5.4.2. Social security, bilateral agreements and remittance mobilization

The National Social Security Fund (French: Caisse Nationale de Sécurité Sociale (CNSS)) is a public social security institution under the supervision of the Ministry of Labour and Professional Integration. The fund was created to manage social security protection for all employees in the private sector in Morocco. It is also given the mandate to address social security issues of MLAs in countries where Morocco has sizeable numbers of its diaspora. Morocco has so far signed BSSAs with 16 countries, namely Algeria, Belgium, Canada, Denmark, Egypt, France, Germany, Libya, Luxembourg, Mauritania, the Netherlands, Portugal, Romania, Spain, Sweden and Tunisia. Such initiatives, among others, have facilitated the portability of social security benefits for Morocco's diaspora (ibid.).

Amounting to almost 6 per cent of GDP, remittances represent the second largest item in the balance of payments of revenue for Morocco after travel receipts. In order to maximize the benefits of remittances, Morocco has put in place measures to lower the cost of sending remittances by the diaspora. In March 2021, Morocco World News reported that, according to Morocco's Central Bank, Bank Al-Maghrib, Morocco's diaspora remittances reached USD 7.54 billion in 2020, a 5-per-cent increase from the previous year (Kasraoui, 2021).

#### 5.4.3. Facilitating service delivery to the diaspora

The Government of Morocco facilitates legal and other services to MLAs through the Delegate Ministry in charge of Moroccans Living Abroad. It has set up legal and judicial assistance mechanisms for the benefit of MLAs across 22 countries of residence in Europe, sub-Saharan Africa, Asia and the Arab region (AFFORD, 2020), with embassies and consulates supervising the assistance. The initiative involves annually renewed agreements with law firms authorized to provide legal advice and guidance to Moroccan nationals abroad. In host countries not covered by such agreements, embassies can arrange for the appointment and remuneration of lawyers to defend the rights and interests of Moroccan citizens in court.

#### 5.4.4. Lessons for Zambia

The experience of Morocco, as a country that depends on migration for much of its social and economic development, offers lessons on the implementation of its diaspora policy that Zambia can learn from. Morocco has managed to lower the cost of sending remittances to the country, which has enabled the country to maximize the benefits from this resource and from the investments made by its diaspora. Equally, through strengthened coordination mechanisms and bilateral agreements, Morocco has addressed the issue of unemployment and facilitated the portability of its diaspora's social security benefits. The country has also made amendments to the legal framework to facilitate dual citizenship and grant Moroccans living abroad the right to vote in Moroccan elections.

##### *Facilitating the portability of social security benefits*

One of the objectives of Zambia's Diaspora Policy is to facilitate the portability of social security benefits for Zambians working in the diaspora. During stakeholder consultations, the Ministry of Labour and Social Security informed the consultant that Zambia was still trying to navigate how the portability of social security benefits can be facilitated from various diaspora host countries. The Government of Zambia, as a member of the Southern African Development Community (SADC), was part of the SADC team that studied and negotiated for the portability of social security benefits at the regional level.

On the other hand, Zambia can learn from Morocco, which created the CNSS to, among others, manage international social security issues with countries where Morocco has considerable numbers of its diaspora. To date, Morocco has signed BSSAs with 16 countries for this purpose.

##### *Facilitating service delivery to the diaspora*

Zambia missions do not provide social welfare-based services to Zambians in the diaspora who need them. Morocco, on the other hand, offers such services, including legal services, to MLAs. This is done through the Delegate Ministry in charge of Moroccans Living Abroad, which has set up legal and judicial assistance devices for the benefit of MLAs across 22 countries around the world with substantial numbers of Moroccans (AFFORD, 2020).

##### *Promoting patriotism and culture among the diaspora*

Zambia needs to enhance its strategies aimed at promoting patriotism and Zambian culture among its diaspora. During stakeholder interviews with missions abroad and Zambians in the diaspora, participants emphasized the need to enhance efforts and strategies aimed at promoting patriotism and Zambian culture, especially among Zambian youth in the diaspora, who are growing up away from home.

In 1990, Morocco created the Hassan II Foundation for Moroccans Residing Abroad, with the purpose of ensuring that MLAs maintain ties with their country of origin through religion, education, culture and language. The foundation also organizes summer camps or summer schools for Moroccan children living abroad and finances Arabic language teachers abroad to teach the language to Moroccan children. The Government of Zambia can learn from such initiatives and also use them to promote patriotism by promoting Zambian culture, traditions and languages among the diaspora.

### *Addressing unemployment*

Zambia is struggling with high levels of unemployment and poverty. According to 2020 statistics, unemployment stood at 12.17 per cent (O'Neill, 2021). Morocco faced a similar challenge and harnessed migration to address the issue, as well as contributing to boost remittance flows to the country. Twelve years after its independence, Morocco's budgetary plans proposed emigration as a means of (partially) addressing the under- and unemployment problem that the country was facing. Morocco signed employment agreements for the mobility of its labour to foreign labour markets, which has contributed to lowering unemployment in the country and facilitating remittance mobilization.

### *Empowerment programmes for the diaspora*

During stakeholder consultations with diaspora associations and Zambians in the diaspora, participants complained of the lack of specific empowerment initiatives for the diaspora. They informed the consultant of the need for the Government to formulate empowerment programmes especially for women, who were more vulnerable and were usually expected to send financial support to the (extended) family back home. Morocco already has home-grown programmes supporting Moroccan diaspora entrepreneurs such as Maroc Entrepreneurs, a non-profit organization created in 1999 (Sørensen, 2014).

The Government of Zambia can encourage Zambians in the diaspora to start their own businesses back home by formulating a strategy to empower them and support their entrepreneurship potential. As part of the strategy, the Government can provide a platform for sharing information about business start-ups and investment opportunities for the diaspora, as well as facilitating synergies between the diaspora and companies based in Zambia.

## **5.5. AFRICA AND INSTITUTIONALIZED DIASPORA ENGAGEMENT**

Most African countries have been making efforts to encourage their respective diasporas to contribute to national development. According to the European Union Global Diaspora Facility (EUDiF), African governmental and policy approaches have increasingly shifted towards “courting” the diaspora to: (a) invest in the home country; (b) return on a short- or longer-term basis to invest in the national economy; (c) enable skills and technology transfers; and (d) build and maintain cultural links, especially with the second and subsequent diaspora generations (Tittel-Mosser, 2021).

The institutionalization of diaspora engagement proceeds through the establishment of structures and coordination mechanisms for the specific purpose of addressing diaspora issues. Some of the Africa-wide agreements and initiatives that have significantly contributed to the institutionalization of diaspora issues in countries of the continent include the Citizens and Diaspora Directorate (CIDO), created by the African Union in 2001, the Sandton Agreement of 2012 and the African Union's Agenda 2063, adopted in January 2015.

The African Union has identified the African diaspora as key partners in building and developing the African continent. It defines the African diaspora broadly as “consisting of people of African origin living outside the continent, irrespective of their citizenship and nationality and who are willing to contribute to the development of the continent and the building of the African Union” (ibid.). The African Union has also urged its member States to embrace their diasporas and develop and implement diaspora engagement frameworks, creating CIDO in 2001 to lead the way. Since its inception, CIDO has been providing

leadership, coordination and guidance to African Union member States in developing and implementing their diaspora engagement frameworks.

### 5.5.1. Regional overview: diaspora policies and interventions in selected African countries

This section analyses national policies, institutional frameworks and coordination mechanisms used by other countries in the region, such as Kenya and Ethiopia. Reference is also made to institutional frameworks in Nigeria. These countries are selected because, like Zambia, they are developing countries with large numbers of their nationals in the diaspora. Further, these countries have also put in place policy, legal and institutional frameworks and coordination mechanisms in the last 10 years to guide national efforts in effectively engaging their diaspora in national development.

#### *Kenya's diaspora and national development*

Kenya has over 3 million in its diaspora. According to statistics from the Central Bank of Kenya, the country recorded approximately USD1.3 billion in inward formal remittances in 2014, accounting for approximately 2.98 per cent of the country's annual gross domestic product (GDP). The contributions of the Kenyan diaspora in terms of skills, expertise and knowledge transfers to the home country is invaluable, although they are yet to be fully realized.

#### *Overview of the Kenya Diaspora Policy framework*

The Kenya Diaspora Policy, launched in June 2014, was developed in recognition of the urgent need to mainstream the Kenyan diaspora into the national development process, in line with the aspirations and goals outlined in Kenya Vision 2030. Kenya recognizes the contributions of its diaspora as a major enabler of economic growth and a critical factor in the achievement of the national vision of a globally competitive and prosperous Kenya by the year 2030. Further, "diaspora diplomacy" is now one of the pillars of the Kenya Foreign Policy (Government of Kenya, 2014).

The main objective of the Kenya Diaspora Policy is to mainstream and empower Kenyans abroad to effectively make significant contributions to the development of the country. The main thrust of the policy, therefore, is to harness and maximize the potential of Kenyans abroad to contribute to Kenya's transformation agenda while at the same time meeting their needs and expectations through a mutually beneficial and lasting partnership.

#### *Legal framework and coordination mechanisms for the Kenyan diaspora*

Kenya is a signatory to the African Union Constitutive (Amendment) Act of 2001, which promotes the participation of African professionals as citizens of their countries, whether they are in their home countries or in the diaspora. The diaspora legal framework, specifically the Constitution of Kenya, recognizes the importance of Kenyans abroad. For example, in relation to diaspora participation in elections, the Constitution states in its article 82(1) that "Parliament shall enact legislation to provide for the progressive registration of citizens residing outside Kenya, and the progressive realization of their right to vote" (Government of Kenya, 2010). Regarding registration documents, the Constitution provides that "[e]very citizen is entitled to a Kenyan passport and any document of registration or identification issued by the State to citizens" (ibid.). These are a few examples of how the Government of Kenya prioritizes the participation of the diaspora in the country's affairs.

### *Institutional framework and coordination mechanisms for the Kenyan diaspora*

The Government of Kenya recognizes that for it to achieve its diaspora policy objectives, it needs to put in place a good institutional framework and coordination mechanisms to support it. The Ministry of Foreign Affairs and International Trade is the primary institution responsible for the coordination and implementation of the policy. To strengthen the ministry's role, eliminate functional overlaps and promote consistency in the management of issues of Kenyans abroad, the policy provides for the creation of a National Diaspora Council of Kenya (NADICOK) (Government of Kenya, 2014). NADICOK is expected to play an advisory role to the Government on the issues of Kenyans abroad, including by undertaking research on diaspora issues and benchmarking with countries with diaspora policies to identify best practices.

The Kenya Diaspora Policy also defines the roles and responsibilities of various institutions and agencies that are expected to implement initiatives and programmes aimed at achieving its objectives. Further, the policy recognizes the need for the institutional framework to take a decentralized structure and prescribes working through county governments to achieve this. Thus, counties are expected to play a central role in facilitating the participation of Kenyans abroad in their development. For this purpose, the Ministry of Foreign Affairs and International Trade is expected to develop an engagement framework to facilitate closer partnerships with county governments to ensure that strategies outlined in the Diaspora Policy are realized. Counties are also expected to come up with tailor-made incentives and investments targeting Kenyans abroad such as exclusive investment zones (ibid.).

The institutional framework includes a reporting and feedback mechanism, which has been integrated into the National Integrated Monitoring and Evaluation System (NIMES).

### *Ethiopia's diaspora and national development*

Ethiopia has a large diaspora population scattered around the world. Ethiopians in the diaspora are estimated to number over 2.5 million (CD4D, 2021). The diaspora of Ethiopia has been known for its contributions to the development of the country through remittances, investments, and knowledge and skills transfer.

### *Overview of Ethiopia's National Diaspora Policy framework*

Ethiopia developed a draft Diaspora Policy, which was presented to the diaspora in multiple locations around the world in 2011 and early 2012. At the same time, the Government of Ethiopia began reviewing and implementing several pieces of legislation to facilitate the active engagement of its diaspora and address its needs. Ethiopia has been taking a two-pronged approach with its diaspora engagement that consists of the following:

- (a) Attracting remittances, investment and skills from its diaspora in Europe and North America;
- (b) Ensuring the protection and reintegration of its low-skilled labour migrants in the Middle East.



### *Legal framework for the Ethiopian diaspora*

The legal framework that governs matters concerning the Ethiopian diaspora comprises various laws and directives. It starts with the Constitution, which guarantees freedom of movement (Ong'ayo, 2014:26). Other laws and directives on the matter, among others, include:

- (a) Proclamation No. 270/2002, providing foreign nationals of Ethiopian origin with certain rights to be exercised in their country of origin" (5 February 2002);
- (b) The Non-Governmental Organizations Act (January 2009), which provides for the formation of public benefit organizations and their operations, including philanthropic work, in which the diaspora may be equally interested;
- (c) Directive No. FXD/30/2006: Provisions for international remittance services (28 August 2006);
- (d) Directive No. 784/2021: Establishment and operation of foreign currency accounts for non-resident Ethiopians and non-residents of Ethiopian origin (8 March 2021);
- (e) Proclamation No. 378/2003 on Ethiopian nationality in relation to citizenship (23 December 2003);
- (f) Proclamation No. 375/2003 amending Investment Re-Enactment Proclamation No. 280/2002 (28 October 2003), which provides for advertising Ethiopian investment through websites, brochures and Ethiopian embassies;
- (g) Proclamation No. 104/1998: Private Employment Agency Proclamation (5 March 1998), which protects the rights of Ethiopian migrant workers abroad.
- (h) Investment Proclamation No. 280/2002, later amended as Investment (Amendment) Proclamation No. 849/2014, which provides for the administration of migration-related competencies;
- (i) Directive issued to determine the manner of employment of Ethiopian nationals abroad (1994);
- (i) Proclamation No. 271/1969, regulating the issuance of travel documents and visas, and registration of foreigners in Ethiopia (22 August 1969).

### *Institutional framework and coordination mechanisms for the Ethiopian diaspora*

Ethiopia only developed its first Diaspora Policy within the last eight years. Since 2002, the Government has been putting in place an institutional framework and coordination mechanisms to ensure that its diaspora plays a constructive role in the development of the country. The diaspora has been engaged in research undertakings, to invest back home and as agents for winning "friends for Ethiopia" by influencing their host countries to cooperate with Ethiopia.

The Government established the Ethiopian Expatriate Affairs General Directorate in 2002 to foster relationships with migrant communities abroad and encourage them to participate in activities in Ethiopia (Kuschminder and Siegel, 2011). At the national level, the Ministry of Foreign Affairs and the Ministry of Interior are responsible for diaspora engagement. These ministries work with ministries responsible for other sectors to address and mainstream diaspora issues.

In 2005, the Government established the Diaspora Coordinating Office within the Ministry of Interior to fully mobilize and utilize diaspora resources and facilitate optimal brain gain and capacity-building for poverty alleviation. In 2006, the Government established the Inter-institutional Technical Committee of Federal Government Institutions on Emigrant Community Issues under the Ethiopian Expatriate Affairs General Directorate. The technical committee was set up to coordinate dialogue between institutions dealing with matters related to the diaspora. In 2018, the Government created the Diaspora Agency to engage Ethiopians and foreigners of Ethiopian origin in meaningful participation in the development of Ethiopia (CD4D, 2021).

Ethiopia has also assigned responsibility for diaspora engagement in finance and investments to the Ethiopian Investment Agency and the Development Bank of Ethiopia as financial institutions under the Ethiopian National Bank (ENB). Structures for diaspora issues are also found at the regional level – the diaspora coordinating offices – to engage directly with the diaspora. The agency has offices across Ethiopia and representatives in Ethiopian missions abroad.

### *Nigeria's institutional approach to diaspora engagement*

The Nigerian Diaspora Policy proposes an institutional structure that stems from the Presidency. It identifies the creation of a Presidential Advisory Committee on Diaspora Matters and the appointment of a Senior Special Assistant to the President on Foreign Affairs and Diaspora to oversee and chair meetings of the committee. The policy also provides for the establishment of the Nigerians in Diaspora Commission (NIDCOM) within the Ministry of Foreign Affairs through an act of Parliament. In 2017, the Nigerians in Diaspora Commission (Establishment) Act, was passed to provide for the engagement of diasporic Nigerians in policymaking and to participate in the country's projects and national development – in the process utilizing human capital and material resources of the diaspora towards the overall socioeconomic, cultural and political development of Nigeria.

NIDCOM has a very active website, which it uses to disseminate information to the Nigerian diaspora. It uses other online platforms to engage its diaspora and undertake business and social networking. In July 2020, during a webinar held to commemorate Diaspora Day in Abuja, the NIDCOM Chairperson informed the diaspora and other stakeholders that Nigeria was in the process of setting up a Diaspora Investment Trust Fund and a diaspora mortgage housing project and was working closely with the National Assembly to make absentee voting a reality for the diaspora.

NIDCOM has also been working with several stakeholders to come up with strategies and plans that would encourage Nigerians in the diaspora to invest back home, including by providing land for diaspora-biased housing schemes. In 2018, the Managing Director for the Federal Housing Authority (FHA), Mohammed Al-Amin, said the FHA had plans to build a Diaspora City in seven states, namely Abuja, Lagos, Port Harcourt, Benin, Kaduna, Enugu and Kano (*Infrastructure News*, 2018). The strategy aimed to attract FDI, boost job creation and improve access to housing schemes for Nigerians in the diaspora (ibid.).

Further, the Nigerian Diaspora Policy provides for the establishment of a Diaspora and Transnational Studies Programme at the University of Ibadan as a postgraduate research programme on diaspora matters in Africa. The programme is expected to boost research on, thereby increasing the country's knowledge of, diaspora issues.

# 6.

## CONCLUSIONS AND RECOMMENDATIONS

### 6.1. INTRODUCTION

The review process conducted a comprehensive assessment of both the legal and institutional frameworks for Zambia's National Diaspora Policy. It has also drawn lessons from other jurisdictions, such as China, India and Morocco, which have successfully implemented or operationalized their respective diaspora policies. Based on the specific review findings highlighted in this report, the following recommendations are presented to inform reforms in the legislative and institutional frameworks, as well as coordination mechanisms.

### 6.2. RECOMMENDATIONS FOR LEGISLATIVE REFORMS AND ADMINISTRATIVE INTERVENTIONS

- (a) Amend the Citizenship Act by inserting a provision immediately after section 16 that provides for citizenship by descent. This will be in line with article 36 of the Constitution and result in enhanced legal protection of persons born outside Zambia to at least one parent who is a citizen by birth or descent.
- (b) Refine section 19 of the Citizenship Act to align it with article 38 of the Constitution, which provides for citizenship by adoption, and identify specific policy objectives and measures. The section should be couched in mandatory terms, for example, by providing that “the Citizenship Board shall grant the application, where the application meets the conditions precedent, made under this section”.
- (c) Amend the Births and Deaths Registration Act to include a provision to allow a child born outside Zambia to Zambian citizens, where registration or issuance of birth certificates to foreigners is not allowed by law, to be registered in Zambia. In the absence of an alternative, the minister responsible for home affairs and internal security should promulgate a statutory instrument on the matter. After registration, such a child should be issued with requisite documents of Zambian national identity based on the parents' own identity documents and the notice of birth obtained from the foreign country. This measure will reduce the vulnerability to or risk of statelessness of children of Zambian descent born in the diaspora.
- (d) Amend article 46 of the Constitution, which provides for political franchise, by inserting a provision that allows Parliament to “enact legislation to provide for the progressive registration of citizens residing outside Zambia, and the progressive realization of their right to vote”, as is the case in Kenya. This will expressly acknowledge the diaspora's right to vote in elections and compel the Government to put in place administrative measures to facilitate absentee voting for the diaspora.
- (e) Amend sections 21 and 24 of the Electoral Process Act, which contain the mandate for the Electoral Commission of Zambia to create polling districts and polling stations, respectively, and allow for the establishment of polling districts and polling

stations at Zambian missions abroad (as missions are, under international law, considered part of the territory of the sending State). It will resolve the geographical barrier that prevents the diaspora from voting due to the lack of proximity to registration and voting centres.

- (f) Amend the Lands Act to provide for a quota system for the alienation of land, in order for allocations to be made for the diaspora. This will enhance the diaspora's access to land, in line with the Diaspora Policy's objectives and measures.
- (g) The Minister of Finance, in exercise of the powers vested in him or her, is urged to prescribe regulations (by way of statutory instruments intended for the better enforcement of the Income Tax Act (as per section 9)) providing for tax exemptions on income from investments in Zambia made by the diaspora, among other incentives to encourage the diaspora to send remittances and transfer their social security benefits to Zambia.
- (h) The Bank of Zambia may develop favourable regulations to govern banks and other financial institutions as they deal with remittance and social security benefit transfers from the diaspora. Favourable conditions will encourage the diaspora to remit funds and use formal channels to do so and, consequently, boost the country's foreign exchange reserves.

### **6.3. RECOMMENDATIONS FOR ADMINISTRATIVE ACTION ON LEGISLATIVE MEASURES**

- (a) The DNRPC is urged to extend the option of mobile issuance of national identity documents (e.g. birth certificates, national registration cards and passports) to Zambian missions abroad. In the alternative, missions are authorized to conduct data capture while final processing of national identity documents is done in Zambia. This operationalizes the Diaspora Policy objective of providing access to national identity documents, with article 42(b) of the Constitution providing for the entitlement to such access.
- (b) The Citizenship Board of Zambia may design programmes for disseminating information and engaging the diaspora on matters such as dual citizenship (objective 6.2(i) of the Diaspora Policy, as provided in article 39 of the Constitution and section 25 of the Citizenship Act), to empower persons who have lost their Zambian citizenship with information on how to reacquire it, as well as persons who wish to acquire another nationality to still maintain their Zambian citizenship.
- (c) The Ministry of Commerce, Trade and Industry can encourage and inspire confidence in the diaspora to invest in Zambia by guaranteeing that diaspora investments will not compulsorily be acquired. In the rare case that an investment is to be compulsorily acquired, to serve public interest as provided by law, such acquisition shall be subject to adequate compensation.
- (d) The Patents and Companies Registration Agency (PACRA) can partner with Zambian diaspora associations and diplomatic missions to disseminate information and communication materials and encourage the use of an online portal built for sharing information on possible investment avenues in Zambia, as provided under the Companies Act.

- (e) The Public–Private Partnership Unit and the Public–Private Partnership Council may establish mechanisms and coordinate and partner with the diaspora to implement and finance infrastructure projects and deliver social services in Zambia. This can only be possible if the diaspora is educated and sensitized on the benefits associated with public–private partnership.
- (f) The exemption of pension benefits from tax provided for in article 188(2) of the Constitution must equally apply to the diaspora. This would encourage the diaspora to transfer their pension and other social security benefits to Zambia.

#### 6.4. RECOMMENDATIONS FOR INSTITUTIONAL REFORMS

- (a) The Diaspora Desk needs to be operationalized as soon as possible, both at the Ministry of Foreign Affairs and at Zambian missions abroad, to enhance coordination of diaspora issues and implementation of diaspora programmes and policies. Delays will compromise implementation of the Diaspora Policy and the timely achievement of its objectives. The Diaspora Desk is thus a key institution in the implementation of the Diaspora Policy.
- (b) The Diaspora Desk is to be created ideally as a stand-alone department or unit under the Ministry of Foreign Affairs and headed by an official with the rank of director, given the broad scope of functions it is expected to perform.
- (c) The institutional framework for managing diaspora issues needs to be decentralized to lower levels of government to facilitate diaspora investment and philanthropy in districts and villages where they wish to direct their efforts and support. The Ministry of Foreign Affairs can work closely with the Ministry of Local Government through structures such as local councils, which have a presence in every district, or the private sector to implement diaspora initiatives and programmes.
- (d) The Diaspora Desk needs to be supported with the necessary human and financial resources for effective operation, to enhance its capacity for optimal results on matters affecting the diaspora.

#### 6.5. RECOMMENDATIONS ON COORDINATION MECHANISMS

- (a) The Ministry of Foreign Affairs is urged to undertake a mapping of all institutions involved in the implementation of the Diaspora Policy and clarify their respective roles and responsibilities.
- (b) The Ministry of Foreign Affairs is to establish a technical committee of government officials and a steering committee of presidents and CEOs of partner stakeholder organizations, to monitor the implementation of the Diaspora Policy and its Strategic Implementation Action Plan. The technical committee will ideally meet at least quarterly, with the steering committee of decision makers meeting at least biannually. Further, the ministry will need to put in place a system for following up on decisions. The Diaspora Desk will be the best institution to serve as secretariat to these committees.
- (c) The Ministry of Foreign Affairs may consider developing an engagement framework with local councils and other stakeholders to facilitate closer partnerships with them to achieve Diaspora Policy objectives at local levels.

- (d) The Diaspora Desk will need to ensure timely information-sharing with all stakeholders, which shall also promote transparency, accountability and mutual trust.
- (e) The Diaspora Desk will need to produce an annual calendar of meetings and circulate it to all stakeholders in a timely manner, including through relevant websites. This will facilitate planning for meetings and allow ample time for feedback.
- (f) The Diaspora Desk will need to spearhead planning and holding of joint annual reviews with stakeholders on the implementation of the Diaspora Policy according to the Implementation Action Plan.
- (g) The Diaspora Desk will need to develop close working relations with focal points. A directory of focal points for diaspora issues in line ministries and other partner institutions should be developed and shared with stakeholders and posted on the websites of the Ministry of Foreign Affairs, Zambian missions abroad and other key institutions.
- (h) The Ministry of Foreign Affairs needs to know and be aware of the diaspora's location (i.e. geographic distribution), situation and the role it can play in national development. This can be done by undertaking research and courting the diaspora.
- (i) Consideration should be given to the appointment of a diaspora focal point at the Office of the Vice-President for liaison with and briefing of the Vice-President on diaspora issues, given that it formally launched the Diaspora Policy. This is also an opportunity to have the Vice-President as a patron of the so-called "diaspora champions" and a representative for diaspora issues at the Cabinet level, along with the Minister of Foreign Affairs.
- (j) The Ministry of Foreign Affairs is to ensure that diaspora issues are included in the Eighth National Development Plan (8NDP), so that diaspora issues are considered in national plans. This will result in diaspora issues being included in the agenda and reported on at meetings at the cluster and Cabinet levels throughout the duration of National Development Plan implementation.

## **6.6. RECOMMENDATIONS ON COMMUNICATION AND NETWORKING**

- (a) The Diaspora Desk will need to formulate and implement a strategy to improve communication, visibility and public relations, especially with the diaspora and other stakeholders. The communication and public relations strategy should include strategies to promote the country's culture, including art, language and music, among others.
- (b) The Ministry of Foreign Affairs should consider appointing so-called "diaspora champions". This will require identifying the influential, critical few Zambians in the diaspora, in various locations, who will champion the cause of the diaspora agenda for Zambia. These champions should be accorded the necessary support by the Government and missions abroad and treated as VIPs.
- (c) The Ministry of Foreign Affairs will need to build trust and partnerships with the diaspora. A strong foundation built on good communication and mutual trust is important for engaging the diaspora as partners. This includes creating a welcoming and friendly environment for diaspora engagement; creating business and social

networks and providing opportunities and incentives for the diaspora; enhancing transparency and accountability; and promoting effective communication, among others.

- (d) The Ministry of Foreign Affairs will need to enhance its website to provide more and timely information, as well as linking to key institutions, Zambian diaspora associations and missions abroad, to facilitate understanding and management of diaspora issues.
- (e) The Ministry of Foreign Affairs can consider using e-government platforms built, for example, by Smart Zambia to promote Web-based interaction and information-sharing on diaspora issues.
- (f) The Ministry of Foreign Affairs may consider implementing tailor-made programmes and activities for different categories of the Zambian diaspora, such as the women and youth, to promote patriotism and Zambian culture and language. It may produce and disseminate information materials, including promotional giveaways, with key promotional messages on Zambia as part of its awareness strategy.
- (g) The Ministry of Foreign Affairs can engage the Ministry of Lands, local councils and traditional leaders for the purpose of allocating land to the diaspora for development.
- (h) The Ministry of Foreign Affairs is to facilitate and create platforms and bodies to support philanthropy work with the diaspora.
- (i) The Ministry of Foreign Affairs, working with other relevant sector ministries, such as the Ministry of Labour and Social Security, needs to strategize and engage countries where most of the Zambia diaspora are hosted and sign bilateral agreements for the portability of social security benefits, facilitating remittances and securing employment agreements for Zambians. Securing employment agreements will reduce unemployment, poverty rates and vulnerability levels of Zambians abroad, especially women, from getting exploited by unscrupulous employers.
- (j) The Ministry of Foreign Affairs may also wish to consider partnering with other stakeholders to provide empowerment programmes for the Zambian diaspora, especially women, who are more vulnerable as migrants and also have the burden of caring for their families back home.
- (k) The Ministry of Foreign Affairs is to formulate a joint diaspora strategy with key stakeholders to promote tourism, trade, investment, culture and arts.





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