

## MINISTERIAL STATEMENT

### REPEAL OF LAW RELATING TO BIGAMY IN THE PENAL CODE, CHAPTER 87 OF THE LAWS OF ZAMBIA

Madam Speaker, I thank you for according me the opportunity to issue a ministerial statement on the recommendation by the Zambia Law Development Commission to repeal the provision relating to bigamy under the Penal Code, Chapter 87 of the Laws of Zambia.

Madam Speaker, this topic has garnered a lot of debate across the country and the discussions and comments on the matter have necessitated this ministerial statement as the Penal Code falls under the Ministry of Justice.

Madam Speaker, the crux of the matter is whether the law relating to bigamy will be proposed for repeal when the Penal Code is reviewed.

Madam Speaker, from the outset, it should be noted that the Zambia Law Development Commission is an independent corporate body established under the Zambia Law Development Commission Act, Chapter 32 of the Laws of Zambia. The functions of the Zambia Law Development Commission under Section 4 of the Act are, among others, as follows:

- (a) to recommend the revision and reform of the law in Zambia;
- (b) to recommend the codification of the unwritten laws in Zambia;
- (c) review and consider proposals for law reform referred to the Commission by the hon. Minister or members of the public;
- (d) hold seminars and conferences on legal issues;
- (e) translate any piece of legislation into local languages;

- (f) encourage international cooperation in the performance of its functions under the Act; and
- (g) do all such things incidental or conducive to the attainment of the functions of the Commission.

Madam Speaker, pursuant to the Commissions' functions, the Government, in 2011, appointed a Technical Committee led by Hon. Justice Chalwe Mchenga in collaboration with the Zambia Law Development Commission to review the Penal Code Act, Chapter 87 and the Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia.

Madam Speaker, a report of the said Committee has since been submitted to the Ministry of Justice. The report has highlighted on page 35 that a person may be charged under Section 166 of the Penal Code for the same conduct and offence of bigamy, similar to that provided under Section 38 of the Marriage Act, Chapter 50 of the Laws of Zambia.

Madam Speaker, for clarity, Section 38 of the Marriage Act provides as follows:

Any person who –

- (a) contracts a marriage under this Act, being at the time married in accordance with African customary law to any person other than the person with whom such marriage is contracted;
- (b) having contracted a marriage under this Act, during the continuance of such marriage contracts a marriage in accordance with African customary law;
- (c) shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years: