

POLICING IN ZAMBIA

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- Specific constraints
 - Accessing information on policing in Zambia was very difficult from the ZPS particularly
 - Information assumed not suitable for public consumption
 - Other organizations e.g.. Amnesty International (2008) experienced similar difficulties
 - Late dissemination of findings

The Zambia Police Service

- Policing in Zambia is undertaken by the ZPS and other agencies
- Policing is at the centre of law enforcement in the country
- The ZPS-a major law enforcement agency
- Provided for in the constitution of Zambia (section 103 amended 1991 and 1996)
- Police Act also provides legal framework
- Functions of the ZPS:-
 - To protect life and property
 - To preserve law and order
 - To detect and prevent crime
 - To cooperate with civilian authorities and other security organs established under the Constitution and with the population in general

Legal Framework

- Legal framework exist and not in doubt
- Legislative and constitutional provisions providing for ZPS seem to meet most basic requirements of the rule of law
- Carothers defines rule of law as" a system in which the laws are:-
 - Public knowledge
 - Clear
 - apply to everyone equally and
 - uphold political and legal liberties
- Question is- does the rue of law strictly apply under the ZPS?

Threat to rule of law

- Fairness can only be guaranteed if policing is undertaken under rule of law
- However, rule of law is threatened by emergency legislation
- The preservation of the public security Act (No 5 of 1960) gives the President extraordinary powers to detain any individual indefinitely
- A Judge can force the police to produce a detainee, but with no power to question activities of the security forces
- Safeguards are feeble e.g. the right to challenge a detention order no sooner than 3 months after going into custody
- Presidential powers still override such interventions

Human Resource Capacity

- The rule of law requires a police force that is fair, competent and efficient
- Operational capacity is therefore a key determinant for achieving effective and efficient policing
- The ZPS currently has 13000 officers
- Ideally 27000 officers are needed
- Current recruitment drive is inadequate (e.g. only 1779 people were recruited in the ZPS in 2004)
- Deaths from HIV and AIDS-related opportunistic diseases is a major contributing factor to reducing personnel numbers in police service.

Police recruitment (1999-2004)

Source: Zambia Police , Zambia Prisons and Police Service Establishment 2005

Constraints to service delivery

- Service delivery and efficient criminal justice is hampered by:
 - Centralized bureaucratic structure of the ZPS
 - Absence of effective communication and information technology
 - Poor internal communication (e.g. officer-in-charge must first agree with authenticity of information before it can be passed to the next level)
 - Lack of investigative capacity in most agencies
 - According to the DPP some crimes can't be prosecuted (Lack of evidence: poor investigation techniques and limited forensic capacity)
 - Limitations lead to a relatively low rate of prosecution

Returns from the police

Source: Zambia Police, Annual report on crime statistics, 2005.

Thus despite low prosecutions, cases going to court result in very high Convictions (71.5). Rate of conviction not uniform (43.6%) central province-(84.4%) Lusaka.

Notable achievements

- Complaints of police brutality and widespread use of force have led to a mechanism of checks and balances
- Mechanisms have come through the police reform (Zambia Police amendment Act) of 1996
 - Establishment of victim support units:
 - Have addressed the needs of target groups (e.g. women, children and the aged)
 - Mandate extends to cultural related issues (e.g. widows and orphans)
 - Units organized hierarchically from station/to district and division level, and finally to police headquarters
 - Notable progress achieved in education and sensitization campaigns aimed at changing the mindset of the police and the public towards vulnerable persons
 - Many CSOs interact with the units in protecting victims and reducing abuse of power by police officers

Other policing agencies

- **Public order policing**

- The official objectives of the police paramilitary battalion is to provide a strike force in disturbed areas, guard vital installations.
- A second paramilitary police force, called the Mobile Unit, is trained and based in Kamfinsa, outside Kitwe.
- Duties are reinforcement of police stations during outbreaks of crime beyond the control of the normal police detachment.
- The Mobile Unit members receive special training in riot control, unlike other officers.
- According to the 2008 Amnesty International report police paramilitary units are often involved in ill-treatment of non-violent demonstrators.
- Police authorities have noted the problems of accountability that arise because of paramilitary and Mobile Unit police officers operating under a different command structure from regular uniformed police officers.
- Efforts are being made to phase out the paramilitary and members of existing paramilitary forces are either being retired or retrained

Neighbourhood watches

- Increasing rates of crime have resulted in concerned residents acting to protect themselves through the establishment of neighbourhood watch groups.
- There have been reports that these neighbourhood watches at times act like vigilantes and sometimes clash with the police.
- Partly because of their informal operations, the Zambia Police Act was amended to establish citizen crime prevention units
- These units are more formalised than the neighbourhood watches.
- The Act provides that any community may establish a crime prevention and control association in a residential, commercial or industrial area to complement the police force in the maintenance of law and order.
- Membership to the association is voluntary and open to any person who is normally resident or operates in the area. The inspector general may assign a police officer above the rank of inspector to an association.

Private security

- Zambia's private security industry has been active and growing for some time. The money spent on private security is double that of the criminal justice system budget
- Legislation aimed directly at the private security industry is largely absent and regulation of the means to hold the private security industry accountable are weak.
- The draft constitution under review by the Constitutional Review Commission does contain a proviso on the industry to the effect that 'the Minister responsible for police services shall register, regulate and supervise private security organisations'
- While many proposals from the constitutional review processes have been accepted by means of amendments, the numerous constitutional reviews on this issue have yet to come to fruition.
- The private security industry is growing at an alarming rate and it is essential that legislation be put in place to regulate this industry.

Accountability

- A key area of the governance of policing under the rule of law in a democracy relates to the effectiveness of mechanisms by which the institution is held accountable.
- **Parliamentary oversight**
The Zambia Police Service falls under civilian authority in the form of the Ministry of Home Affairs and is subject to parliamentary oversight in respect of:
 - The organs and structures of the Zambia Police Service
 - The recruitment of persons into the Zambia Police Service from every district of Zambia
 - Terms and conditions of service of members of the Zambia Police Service
 - The regulation generally of the Zambia Police Service

Custody officers

- A product of reforms to improve and professionalize the then Zambia Police Force Service by transforming it into a police service with the designation of custody officers.
- This post was introduced in an effort to improve the conditions of police detention.
- It is accordingly a requirement that every person placed in police custody must first be presented to the custody officer before being placed in detention.
- The functions of custody officers include to:
 - Ensure that a person in police custody is treated in a decent and humane way
 - Ensure that a person in police custody who requires medical attention has access to medical facilities
 - Ensure that police cells or other places used for the custody of persons are in clean and habitable condition
 - Record the name and offence for which the person is arrested and the state the condition of the person
 - Make such recommendations about each person's well-being as are necessary, including the requirement for the person to receive medical attention

The Public Police Complaints Authority (PPCA)

- Established in 2003 to investigate complaints from the public against the police as well as injuries or deaths in police custody.
- The PPCA submits its findings and recommendations to the Director of Public Prosecutions, Inspector General of Police and Anti-Corruption Commission.

The Commission for Investigators

- Deals with complaints of abuse of power such as arbitrary, omissions, improper use of discretionary powers, decisions made with bad or malicious motives.
- Commission is the equivalent of an ombudsman but with less power, reports to an Investigator General, who in turn is answerable to the President.
- Calls for the commission to be converted to an ombudsman have not been heeded.
- *Source:* J Berg, Police accountability in Southern African Commonwealth countries, Paper commissioned by the Commonwealth Human Rights Initiative, Institute of Criminology, University of Cape Town, 2005.

Civil society organizations

- Civil society also plays an important oversight role. Organisations such as the Legal Resources Foundation (LRF) provide legal aid, promote human rights and litigate in the public interest.
- The LRF also supports citizens in challenging the law enforcement system when their rights have been violated, as the case below illustrates.
- **LRF takes police officers and the state to court**

Oversight assessment

- Despite the many oversight mechanisms the system remains weak. The Police Professional Standards Unit has only dealt with limited cases since its inception.
- Since its establishment the PPCA has received 825 complaints, made 45 rulings and has dismissed 13 officers for abuse of authority.
- However, many citizens continue to lack information on their rights and where and how to seek redress.
- An investigation by Amnesty International has revealed that police oversight arrangements are not systematic or effective in ensuring that those responsible will be brought to justice.
- This failure creates the perception in the minds of the Zambian public and police officers themselves that the police enjoy immunity from investigations that might lead to the punishment of misconduct.
- Providing more human rights training to police officers, raising the educational requirements for new officers or other reforms cannot make up for the lack of an impartial, systematic and effective investigation into the violation of human rights by police officers.

Key issues

Police brutality

- In a question and answer session in Parliament in 2007, the Deputy Minister for Home Affairs noted the government's concern about the high level of police brutality and the abuse of human rights by police officers.
- The Minister revealed that in 2006, 83 complaints of unlawful detention were received against the police. Three of them had since been finalised while 80 were still pending. In the same year, 40 cases of police brutality were recorded, of which two had been finalised and 38 were still pending.
- The Minister told Parliament that in the light of these numbers, government had put in place measures to reduce the cases of brutality and abuse of inmates' human rights by the police.

Promoting human rights

- The upholding of human rights is a cornerstone of democratic governance and the rule of law. Nowhere is respect for human rights more critical than in the policing agencies, given their ability to use deadly force and deprive people of their liberties.
- The police training curriculum has recently been reviewed to include human rights law as a subject and the entry qualification for police officers was increased to a Grade 12 full certificate.

Public perception

- The acid test for policing in terms of its compliance with human rights standards and rule of law principles lies in the way it is perceived by those being policed.
- The UNODOC victimisation survey of 2003 revealed that more than 50 per cent of Zambians are dissatisfied with the performance of the police force while 46 per cent expressed satisfaction with their services.
- However, 69,3 per cent were dissatisfied specifically with how the police handles crimes.
- The levels of dissatisfaction are not borne out by complaints received by the Human Rights Commission
- Complaints may be indicative of dissatisfaction with institutional capacity and access problems.

Complaints to Human Rights Commission

Complaints received about law enforcement agents, 1998–2002

FIGHTING CORRUPTION

The Anti-Corruption Commission

- Corruption is a source of concern to the government as well as the general public citizenry.
- The years following the country's entrance into the Second Republic in 1991 saw a rise in the incidence of corrupt activities which led to the creation of the Anti-Corruption Commission (ACC).
- The ACC is an autonomous institution. Its duties are set out in the Anti-Corruption Commission Act and include:
 - The investigation of complaints of alleged and suspected corrupt practices
 - The prosecution of offences under the Act
 - The investigation of the conduct of any public officer which may be connected to corrupt practices
 - The dissemination of information on the dangerous effects of corrupt practices on society
 - The enlisting and fostering of public support against corruption

Acknowledgement of corruption and capacity of ACC

- The declaration of zero tolerance on corruption by the late President and the appointment of a task force on corruption constitute an official acknowledgement, from the highest office in the land, of the high levels of corruption in the country.
- However, the level of convictions for corruption remains low, amounting to only 6 per cent of corruption cases investigated in 2005, 5 per cent in 2006 and 7 per cent in 2007.
- Low convictions is an indication of inadequate capacity of ACC to:
 - Investigate cases of corruption
 - Prosecute and convict offenders
- The ACC acknowledged inadequate capacity in almost all the departments during this review
- This problem is exacerbated by the lack of ability of other law enforcement agencies whose mandate also encompasses corruption prevention.
- In its presentation to the Parliamentary Committee on Legal Affairs, Governance, Human Rights and Gender Matters in 2002, for example, TI-Z made some observations that painted a dismal picture of the fight against corruption in the country.

Public perceptions

- Most members of the public interviewed about the efficiency and effectiveness of the ACC rated them to be average.
- However, some respondents argued that ACC officers have not created a presence in the communities and that members of the community who may wish to report suspected cases of corruption have no means of locating or reaching them to make their reports in confidence.
- This study found that public access to the ACC is limited largely because of a lack of capacity in terms of human resources at all levels.
- Most rural districts do not have ACC officers and rely mostly on second-hand information extracted from the Office of the President.
- The establishment of the Task Force against Corruption in 2002 is largely seen as a vote of no confidence in the capacity of ACC to fight corruption.
- Public access has also been hampered by the lack of a legal framework for whistle blowers. On many occasions 'informers' have found that they are not adequately protected by law.
- There is need for a legal framework that will not only provide protection, but also reward whistleblowers.
- One positive step is the creation of the Community Education Department which has enhanced the dissemination of information on anti-corruption activities.

POLICING DRUGS AND MONEY LAUNDERING

Drug Enforcement Commission (DEC)

- DEC was established under the Narcotic Drugs and Psychotropic Substances Act, 1993 (Act 37 of 1993) (Act 14 of 2001).
- The goal of the DEC is to control and prevent the illegal production of narcotics, combat abuse of narcotic drugs and psychotropic substances and money laundering, and provide rehabilitation services to drug addicts.
- DEC, in recognition of the pervasiveness of drug abuse and trafficking, is taking a holistic approach to ensure these are dealt with in an effective manner.
- Through its specialised wing, the National Education Campaign Division, the commission provides counselling, education and rehabilitation services to drug addicts free of charge.
- The division also works with learning institutions including the University of Zambia and Copperbelt University, as well as colleges
- The sensitisation programmes are aimed at promoting community awareness of the dangers associated with drug abuse in an effort to reduce the demand for illicit drugs.

Money laundering

- The government, through the Bank of Zambia, has issued anti-money laundering directives to all banks and financial institutions operating in Zambia.
- The directives require the following, among others, from the regulated institutions:
 - Put in place such anti-money laundering measures and adopt such practices as are necessary for the detection and prevention of money laundering
 - Require individual customers to produce specified documents when opening an account, establishing business relations or conducting business transactions
 - Appoint a money laundering reporting officer responsible for keeping all reports made by employees of the regulated institutions and for ensuring effective communication with law enforcement agencies
 - Training of employees, irrespective of the level of seniority, on what money laundering is and why it is important to report any suspicious transactions to the money laundering reporting officer
- The directives also provide a lengthy schedule on how to identify suspicious activities, and contains information on suspicious customer behaviour, customer identification circumstances etc,

Public perceptions

- The limited capacity of the DEC is viewed as the single biggest impediment to improving public access to the institution. Generally, public knowledge of the DEC was found to be fair.
- This can be attributed to numerous educational campaigns that the DEC conducted over the years, which has led to greater awareness among the general public of the dangers of dealing in illicit drugs and money laundering, and the benefits of getting rid of these evils.
- The efficiency of the operations of the DEC was rated at above average by the majority of respondents from the general public, who nevertheless emphasised the need for improvement.
- However, in the focus group discussions the effectiveness of DEC was in fact rated as average and was constrained particularly by the long delays in concluding its cases.
- A further negative perception about the DEC and its operations stemmed largely from the Commission's lack of facilities for the rehabilitation of drug users.
- Participants argued that the DEC was only interested in securing convictions and not in providing a lasting solution to the problems of drug trafficking and drug abuse. This argument was backed by the high recidivism rate among persons convicted on drug offences.
- Delays in concluding investigations, violations of human rights, suspected coercing of witnesses to secure convictions, brutality and abuse of power by law enforcement officers from the DEC and ACC were noted as the main reasons for a poor public perception and the low rating these institutions.

RECOMMENDATIONS

A number of recommendations were made based on the findings of the review aimed at addressing observed weaknesses. These include:

Community education to promote awareness

- Recent reforms, and particularly the establishment of Victim Support Unit and the PPCA, are to be commended.
- However, findings about the limited awareness by members of the public of their rights and the functions of the Victim Support Unit and the PPCA, show that improvements are needed with regard to public awareness on police misconduct. To maximise the benefits of the Unit and Authority and to reduce police victimisation and violation of people's rights, it is recommended that a public awareness campaign be developed and implemented.
- It is further recommended that the DEC undertakes increased sensitisation of the general public on the gravity of drug cultivation, use and trafficking.

Recommendations Cont'd

- **Improving policing capacity**

Police training: A lack of or limited capacity in many key areas was found to be one of the major weaknesses of all the public law enforcement agencies that formed part of this review. This undermines efficient service delivery. There is a particular need to strengthen capacity in the areas of policing and human rights.

- Professional training of police officers should include modules on accountability and public trust, while induction programmes should focus on what it means to be a police officer in a democratic society, with special emphasis on policing by consent. Training can be provided through existing institutions, such as National Institute of Public Administration.

Recommendations Cont'd

- ***Combating the impact of HIV/AIDS:*** To offset the impact of HIV/AIDS, appropriate measures should be taken, such as:
 -
 - Re-training and training to replace officers who have died from AIDS and planning for those who are already infected by the HIV virus
 - Embarking on effective HIV/AIDS awareness programmes
 - Conducting a baseline study on HIV/AIDS in the institutions in order to establish 'the realities on the ground'
 - Mainstreaming HIV/AIDS in the operations of these security organisations to protect the staff and the communities they serve, in order to bring about sustainable, efficient performance in service delivery

Recommendations Cont'd

- **Improving resources for policing**

Improving resources for policing is critical and goes hand in hand with improving the police and their agencies' capacity to fulfil their functions optimally is that the resources they have for carrying out their jobs need to be improved too.

- ***Establishment of a resource centre:*** The ACC lacks adequate research and information resource facilities on corruption. This makes investigations and referencing of cases difficult. The current practice of relying on second-hand information from the Office of the President can lead to inaccuracies, inefficiencies and delays. In order to improve the professionalism of the ACC it is recommended that the ACC acquire a modern resource and research centre on corruption.

- ***Development of a research programme:*** It is recommended that a research facility or criminal justice inspectorate be established to provide regular reports to Parliament on the state of policing and criminal justice system in the country.

- ***Establishment of a forensics laboratory:*** It is recommended that a reliable and modern laboratory for forensic analysis be constructed. Such a laboratory is critical to the effective functioning of the Zambia Police Services and the DEC

Recommendations Cont'd

- **Strengthening the legal framework**
- It is recommended that an inspector general be appointed to Zambia Police Service and that he or she should be appointed by an independent body, such as a Parliamentary committee or service commission, which should be ratified by Parliament. The same recommendation is made with respect to the ACC and DEC. In each case this will ensure that the body in question is autonomous and thus prevent political interference in the functioning of these three law enforcement bodies.
- The Anti-Corruption Act and other relevant legislation should be amended to include a mechanism for whistle blowers, with regard to all forms of misconduct – be it police violations, corruption or drug-related activities. Corruption prevention reforms should also be introduced.

Recommendations Cont'd

■ **Penalties and sanctions**

The current penalties for convicted offenders in corruption, money laundering and trafficking in drugs are inadequate and can therefore not be regarded as a satisfactory deterrent. It is recommended that existing penalties for these offences be reviewed. Stiffer sanctions should be offset by increasing the capacity of rehabilitation facilities for drug addiction.

THANK YOU