

**THE CHALLENGES FACED BY THE DRUG ENFORCEMENT COMMISSION IN
DISCHARGING ITS MANDATE**

BY

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A dissertation submitted to the University of Zambia in partial fulfilment of the Bachelor of
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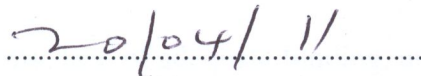
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ABSTRACT

The Drug Enforcement Commission (DEC) is the institution charged with the mandate of reducing drug trafficking in Zambia. It was established in 1989 by the Dangerous Drugs (Forfeiture of Property) Act No.7 of 1989.

The objectives of this study were to define the mandate of the Drug Enforcement Commission, to identify the challenges faced by DEC while discharging its mandate, to compare and contrast the Drug Enforcement Commission of Zambia with the Nigerian Drug Enforcement Commission (NDLEA) and to determine the role of other institutions working in collaboration with DEC. The study conducted both desk research and interviews.

The findings reviewed that the mandate of the Drug Enforcement Commission is to reduce drug trafficking in Zambia. In discharging its mandate, the Commission partners with other institutions internationally, regionally and locally. The role of these institutions is to supply the Commission with information about dangerous drugs, the methods and ways in which cultivation and manufacturing of drugs can be reduced and lastly, to offer training to the DEC personnel during conferences and seminars. It was also reviewed by the study that the National Drug Law Enforcement Agency is more efficient and effective than DEC. Lastly, the study reviewed that the Commission is faced with challenges while discharging its mandate. These challenges include lack of autonomy, lack of adequate funding, unavailability of accommodation, lack of adequate and reliable transport, lack of body scanners and few sniffer dogs. In view of the findings and conclusions, the recommendations were that the government should provide adequate funding, reliable transport, body scanners and sniffer dogs as well as accommodation to the DEC officers. Furthermore, the structure of the Commission should be expanded and the Commission should be established as an independent body under the Constitution of Zambia.

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DEDICATION

This dissertation is dedicated to the most important man in my life, my late father Mr David Muhwende Sipatunyana. It is because of you that I have reached this far. You taught me to be strong and never to give up no matter what happens. You will always be my hero. I thank God for all the times I spent with you because they were the best times of my life. I will forever be indebted to you.

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ABBREVIATIONS

DEA	Drug Enforcement Administration
DEC	Drug Enforcement Commission
INTERPOL	International Police Organisation
NDLEA	National Drug Law Enforcement Administration
PRA	Pharmaceutical Regulatory Authority
SADC	Southern African Development community
SARPCCO	Southern African Regional Police Chiefs' Cooperation Organisation
UNODC	United Nations Office on Drugs and Crime
ZRA	Zambia Revenue Authority

CHAPTER 1

Introductory chapter

1.0 Introduction

The Drug Enforcement Commission was created by the Dangerous Drugs (Forfeiture of Property) Act No.7 of 1989. This was an Act introduced to supplement the 1967 Dangerous Drugs Act, Chapter 549 of the Laws of Zambia. Although the Drug Enforcement Commission was created in 1989, it came into effect in 1990.¹ It was later continued in the Narcotic and Psychotropic Substances Act enacted in 1993.²

The preamble of the Narcotic and Psychotropic Substances Act Chapter 96 of the Laws of Zambia states “ an Act to continue the Drug Enforcement Commission; revise and consolidate the substances; incorporate into Zambian law certain international Conventions governing illicit drugs and psychotropic substances, control the importations, exportations production, possession, sale, distribution and use of Narcotic Drugs and Psychotropic Substances; provide for the seizure and forfeiture of property relating to, or connected with, unlawful activities involving narcotic drugs and psychotropic substances; repeal the Dangerous Drugs (Forfeiture of Property) Act, 1989’ and provide for matters connected with or incidental to the foregoing³.

The goal statement of the Drug Enforcement Commission is to effectively and efficiently control and prevent the illegal production and trafficking and abuse of narcotic drugs and psychotropic substances and money laundering and provide rehabilitation services to drug addicts in order to contribute to the social – economic development and maintenance of internal security.⁴

It is important to note that the Drug Enforcement Commission does not operate alone while discharging its mandate. The former United Nations Chief Koffi Anan noted that an estimated 190 million individuals around the globe were engaged in drug abuse. He further noted that no country is immune. And alone, no country can hope to stem the drug trade within its borders.

¹ www.dec.zambia.gov Visited on 27th December, 2010.

² Narcotic Drugs and Psychotropic Substances Act Chapter 96 of the Laws of Zambia. S(4)

³ The Narcotic Drugs and Psychotropic Substances Act Cap 96 of the Laws of Zambia

⁴ The Drug Enforcement Commission (DEC).Annual Report. Lusaka,(2005).p.2

The globalization of the drug trade requires an international response.⁵ It is for this reason that the Drug Enforcement Commission has fostered and maintained partnership locally, regionally and internationally in the face of the ever increasing sophistication of crime.

Locally the commission collaborates with departments and institutions such as the Zambia Police Service, the Bank of Zambia and other financial institutions, Zambia wildlife Authority, Zambia Revenue Authority, Anti Corruption Commission, Immigration Department and the Ministry of Health. Joint operations with these partners have yielded encouraging results; hence the Commission is all the more resolved to working with its partners.⁶

Drug trafficking and money laundering being transnational crimes, the Commission has continued to partner with sister organizations in neighboring countries such as Angola, Botswana, Democratic Republic of Congo, Malawi, Mozambique, Namibia, Zimbabwe and Malawi through the Joint Permanent Commission on Defense and Security (J.P.C.S).

Other regional grouping such as the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG), Southern African Regional Police Chiefs Cooperation Organization (SARPCCO), Common Market for East and Southern Africa (COMESA) and the Southern African Development Community (SADC) have continued contributing to the operations of the DEC in Zambia.⁷

Internationally, the Commission is indebted to organizations such as the Interpol, the United Nations Office on Drugs and Crime (UNODC), United Nations Development Plan (UNDP), the United States of America Drug Enforcement Administration (DEA), Her Majesty's Customs and Excise and the International Narcotics Control Board (INCB).⁸

The illegal trafficking in illicit drugs has been and continues to be a big and growing problem in Zambia.⁹ The Drug Enforcement Commission is an institution charged with the mandate of reducing drug trafficking in the country. Almost every week, the Drug Enforcement Commission

⁵ Watchtower Society, "Are Drugs taking over the world?" Awake, Nov.8 (1999).p.2

⁶ The Drug Enforcement Commission (DEC).Annual Report. Lusaka,(2005).p.15

⁷ The Drug Enforcement Commission (DEC).Annual Report.Lusaka,(2007).p.15

⁸ The Drug Enforcement Commission (DEC).Annual Report. Lusaka.(2007).p.15

⁹ The Times of Zambia Editorial, 16th June, 2007 @www.all.africa.com

announces the arrest of people suspected to be involved in illegal dealing of various banned psychotropic substances as well as money laundering.¹⁰ There is therefore need to identify the challenges faced by the Drug Enforcement Commission while discharging its mandate so as to provide solutions which will ensure a more effective and efficient Commission needed to preserve the security and well being of society.

The aim of the essay is to identify the challenges faced by the Drug Enforcement Commission. The essay will concentrate on the working mechanism of the Drug Enforcement Commission. In so doing, the essay will discuss the structure, composition and mandate of the Drug Enforcement Commission. The essay will thereafter make a comparative study with the Nigerian National Drug Enforcement Agency (NDLEA) so as to help ascertain the challenges faced by the Zambian Drug Enforcement Commission and the possible solutions to these challenges. This is because the Nigerian National Drug Law Enforcement Agency is said to be more effective and efficient than the Zambian Drug Enforcement Commission.¹¹ Lastly, the essay recommends a wide range of solutions needed to make the Drug Enforcement Commission more effective and more efficient in carrying out its mandate.

1.1 Structure of the Drug Enforcement Commission

The Drug Enforcement Commission is headed by the Commissioner appointed by the president whose office is a public office.¹² The Commissioner performs the following functions: he appoints such number of officers as may be necessary for the performance of the functions of the Commission¹³; he issues identity cards to the officers which, unless the contrary is proved, serve as evidence of the officers' appointment¹⁴.

Subject to the general directions of the President, the Commissioner may make staff rules providing for the control, direction and administration of the Commission, the discipline, training, classification and promotion of officers of the Commission; the duties of officers of the Commission; the financial management of the Commission; and such other matters as may, in

¹⁰ The Times of Zambia Editorial, 16th June, 2007@www.all.africa.com

¹¹ J.Nyawali. Drug Enforcement Commission –Public Relations Officer. Interview at the Drug Enforcement Commission (DEC). Lusaka, 22nd September, 2010.

¹² The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule

¹³ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule

¹⁴ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule s(6) first schedule

his opinion, be necessary or expedient for preventing the abuse or neglect of duty by an officer and for upholding the efficiency and integrity of the Commission¹⁵.

The Commissioner also appoints such number of persons as may be necessary for the performance of the functions of the Commission to be special agents.¹⁶ He may terminate the appointment of an officer, or special agent who has been convicted of a criminal offence or any offence under the Act.¹⁷

The Commissioner has two deputies to assist him in discharging his mandate. One deputy is in charge of operations while the other is in charge of administration. There are also Senior Assistant Commissioners who represent the Drug Enforcement Commission in the nine provinces of Zambia. Lastly, there are officers at different levels.¹⁸

1.2 Mandate of the Drug Enforcement Commission

As a law enforcement agency, the Drug Enforcement Commission is charged with the mandate of fighting the illicit trafficking in illegal drugs in Zambia and its attendant crimes of narco terrorism, money laundering and corruption.¹⁹

The Commission is mandated to control and prevent the illegal production and trafficking and abuse of narcotic drugs and psychotropic substances and money laundering and provide rehabilitation services to drug addicts.²⁰

According to the Narcotic and Psychotropic Substances Act, the functions of the Drug Enforcement Commission are as follows:

- (a) to collect, collate and disseminate information on narcotic drugs and psychotropic substances;

¹⁵The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule (7) first schedule

¹⁶ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule s(7) second schedule

¹⁷ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s(4) first schedule s(13) second schedule

¹⁸ J.Nyawali.Drug Enforcement Commission (PRO). Interview at the Drug Enforcement Commission (DEC).Lusaka,7th December 2010

¹⁹ DEC, 'message from the Commissioner,' DEC News Vol.20, July (2004).p.2

²⁰ The Drug Enforcement Commission (DEC). Annual Report. Lusaka, (2005).p.2

(b) to receive and investigate any complaint of alleged or suspected breach of the Narcotic Drugs and Psychotropic Substance Act and, subject to the directives of the Director of Public Prosecutions, prosecute under the Act;²¹

(c) to advise Government Ministries and Departments, public bodies, companies, institutions, statutory bodies and corporations on ways and means of preventing prohibited activities relating to narcotic drugs and psychotropic substances and suggest measures, procedures or methods of work compatible with the proper performance of their duties which, in the opinion of the Commission would reduce prohibited activities relating to narcotic drugs and psychotropic substances;²²

(d) to disseminate information intended to educate the public on the evils and dangerous effects of abusing drugs or psychotropic substances and the effect of dealing in property acquired from drug trafficking;

(e) to enlist and foster public support against the abuse of drugs or psychotropic substances and, in this connection, liaise with similar authorities outside Zambia.²³

1.3 Statement of the Problem

Zambia has never been spared from the international traffic in narcotic drugs and psychotropic substances which generate huge profits for its initiators. Because of its central location, it is seen and used as a transit point for drug barons and ‘merchants of death’ as they are sometimes called. Cocaine is said to lead the market in Zambia with 80% of it transported to Europe and 20% consumed locally.²⁴

Drug trafficking continues to affect the Zambian economy because the Drug Enforcement Commission lacks the resources that it needs to carry out its mandate. In the year 1993, the South African Drug Enforcement Authorities donated a fax machine to the Commission to facilitate

²¹ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia S5

²² The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia S5

²³ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia S5

²⁴ United Nations, ‘Merchants of Death Target Africa’ at www.africa-recovery.org online.org. Visited on 27th December, 2011.

communications of drug intelligence information on suspected traffickers²⁵. This and many other challenges are encountered by the Drug Enforcement Commission while carrying out its mandate. There is need to address these challenges so to as ensure that the Drug enforcement Commission becomes a more effective and efficient institution. An ineffective and inefficient Drug Enforcement Commission could lead to high drug trafficking rate in a nation. A nation infested with high drug trafficking and money laundering is bound to witness lawlessness, corruption and economic distortions and institutions such as the Judiciary might be compromised in executing their duties thereby threatening the existence of the State.²⁶ An effective Drug Enforcement Commission contributes to the socio-economic development and maintenance of internal security²⁷.

1.4 Objective of the study

The specific objectives of this study are

1. To define the mandate of the Drug Enforcement Commission
2. To identify the challenges faced by the Drug Enforcement Commission while discharging its mandate under the law.
3. To compare and contrast the Drug Enforcement Commission of Zambia with the Nigerian National Drug Law Enforcement Agency. This will be achieved by looking at the mandates of both Commissions.
4. To determine the role of other institutions working in collaboration with the Drug Enforcement Commission. These institutions include the Zambia Police, Anti Corruption Commission, Immigration Department, Interpol, the United Nations Office on Drugs and Crime (UNODC), the United States of America's Drug Enforcement Administration (DEA), Her majesty's Customs and Exercise and the International Narcotics Control Board (INCD).²⁸

²⁵ Drug Enforcement Commission (DEC). Annual Report. Lusaka, (1993). p.14

²⁶ <http://www.times.co.zm/news/review.Cgi?Category=4&ia=1119850601>

²⁷ Drug Enforcement Commission (DEC). Annual Report. Lusaka, (2002). p.1

²⁸ Drug Enforcement Commission (DEC). Annual Report. Lusaka, (2007). p.15

1.5 Research Questions

1. What is the mandate of the Drug Enforcement Commission?
2. What is the structure and composition of the Drug Enforcement Commission?
3. How does the Drug Enforcement Commission operate?
4. What are the differences between the Zambian Drug Enforcement Commission and the Nigerian Drug Enforcement Commission?
5. What is the role of international institutions that the Drug Enforcement Commission of Zambia works in collaboration with?
6. What is the role of the regional bodies that the Drug Enforcement Commission works in collaboration with?
7. What is the role of the national bodies that the Drug Enforcement Commission works in collaboration with?
8. What is the importance of having an effective and efficient Drug Enforcement Commission?
9. Is the Drug Enforcement Commission effective and efficient?
10. What are the challenges faced by the Drug Enforcement Commission while carrying out its mandate?

1.6 Significance of the study

The theoretical importance of this study is that the Drug Enforcement Commission must carry out its mandate without the challenges it faces. The Drug Enforcement Commission should protect and improve the well being of society and of the individual; protect public health and must take a balanced, integrated approach to the drugs problem²⁹. The Commission can only achieve this if the challenges it faces while carrying out its mandate are identified and addressed. The practical importance of this study is that even though the institution tries its best to carry out its mandate, it faces serious challenges that need to be addressed.

²⁹ European Union Drugs Strategy 2005-2012-15074/04 JV/nt/l DGH ii Council of the European Union

1.7 Methodology

The research will rely on both primary and secondary sources of law. The secondary data will be elicited from books, journals, scholarly articles and the internet. Primary data will be taken from investigations in the form of interviews.

1.8 Limitations of the study

These include lack of information save the dissertations submitted in 1989, 2005, and 2008. The dissertations did not define the issue in question objectively but merely stated in passing. The Commission classifies certain information as sensitive and it would therefore be difficult to access certain kind of information as it cannot be released during the interviews and desk research.

Secondly, certain institutions that work in collaboration with the Drug Enforcement Commission could not avail their members of staff for interviews because of the sensitive information that they have and the author was therefore denied the opportunity of interviewing members of staff of certain institutions.

Lastly, the author lacked the finances to visit the *Zambian* border posts which would have given the author a clear picture of how other national bodies assist the Drug Enforcement Commission at the various entry and exit points.

1.9 Conclusion

Drug trafficking continues to affect the *Zambian* economy from the 1980s to date even after enacting effective legislation. *Zambia* stands in a unique situation. Because of its central location, it is seen as a transit point for drug barons. The ultimate aim of the government over the years has been to strengthen the law that had remained weak for many years such that there were many complaints voiced by the international community, law abiding citizens of *Zambia* and even the courts themselves. They overlooked the fact that in order for the law to be effective,

there is need to address the challenges faced by the body charged with the mandate of enforcing that law.

CHAPTER 2

Institutions that collaborate with the Drug Enforcement Commission in discharging its mandate

2.0 Introduction

In the preceding chapter, the structure and mandate of the Drug Enforcement Commission was discussed in its entirety. The main objective of this chapter is to discuss the international, regional and national bodies that assist the Drug Enforcement Commission in discharging its mandate. The main aim is to bring out the role of other institutions that assist DEC in discharging its mandate and the challenges that they face in assisting DEC.

2.1 International institutions that collaborate with the Drug Enforcement Commission

2.1.1 International Police Organisation

The International Police Organisation (INTERPOL)'s primary drug intelligence role has been and continues to be the identification of new trafficking trends and criminal organisations operating at the international level and to an Interpol National Central Bureaus (NCBS) to their criminal activities.³⁰ Its General Secretariat is located in Lyon, France and it operates 24 hours a day, 365 days a year. It has six regional offices across the world, as well as a representative office at the United Nations in New York. It has a Secretary General, presently Mr Ronald Noble; an Executive Committee the members of which are drawn from around the world; and the member states meet annually in General Assembly.³¹

The role of Interpol in relation to major crime, organised crime and criminal network is to gather intelligence, analyse it, determine trends in criminality that have in fact or in potential the capacity to extend beyond national borders, and then to advise the member states of such trends. In so far as those trends may affect particular member states, the data and analysis provided by Interpol assists national police forces. Furthermore, Interpol plays a major role in facilitating and coordinating international cooperation by police forces throughout the world and in tracking

³⁰ B Okeefe, Dismantling Illicit Networks and Corruption modes-The role of Interpol, US department, Washington DC, 2006.p.13

³¹ W JLeamy, International Cooperation through the Interpol system to counter illicit drug trafficking.www.ncbi.nlm.nih.gov/pubmed/6563 visited on 31st January, 2011.

individual criminals and gangs. This in turn enables individual national police forces to arrest them and /or prevent them or stultify their criminal activities.³²

Interpol provides several types of support to national and international police bodies concerned with countering the illicit production and trafficking of controlled substances and precursor chemicals. For example:-

(i) Collecting and analysing post seizure data provided by member countries and national drug law enforcement agencies³³

(ii) Issuing drug alerts via I-24/7, Interpol's secure global police communications system, to warn the law enforcement community of unique cases, new trafficking techniques or emerging trends- within minutes, information and images can be distributed to NCBs all over the world and then shared with national drug law enforcement agencies.³⁴

(iii) Producing analytical studies to highlight criminal links between reported cases

(iv) Running regional or global conferences on specific drug topics, to assess the extent of a particular drug problem, share the latest investigative technique and strengthen co-operation within law enforcement communities.³⁵

(v) Organising investigative training courses for national drug enforcement agents³⁶

Interpol assists the Drug Enforcement Commission by permitting it access to specific sections of the database and the Commission is encouraged to check information held by Interpol whenever a major crime is committed. The rationale behind this is that drug traffickers and similar criminals have international ties and so it is likely that crimes will extend beyond political boundaries.³⁷ Apart from this, Interpol offers drug training and drug strategy programmes to the

³² [http://www.interpole.int/publc/Environmental Crime/manual/Work Chainsaw project-An Interpol perspective on law enforcement](http://www.interpole.int/publc/Environmental%20Crime/manual/Work%20Chainsaw%20project-An%20Interpol%20perspective%20on%20law%20enforcement) visited on 27th December,2010.p.2

³³ [http://www.interpole.int/publc/Environmental Crime/manual/Work Chainsaw project-An Interpol perspective on law enforcement](http://www.interpole.int/publc/Environmental%20Crime/manual/Work%20Chainsaw%20project-An%20Interpol%20perspective%20on%20law%20enforcement) visited on 27th December,2010.p.2

³⁴ [http://www.interpole.int/publc/Environmental Crime/manual/Work Chainsaw project-An Interpol perspective on law enforcement](http://www.interpole.int/publc/Environmental%20Crime/manual/Work%20Chainsaw%20project-An%20Interpol%20perspective%20on%20law%20enforcement) visited on 27th December,2010.p.2

³⁵ [http://www.interpole.int/publc/Environmental Crime/manual/Work Chainsaw project-An Interpol perspective on law enforcement](http://www.interpole.int/publc/Environmental%20Crime/manual/Work%20Chainsaw%20project-An%20Interpol%20perspective%20on%20law%20enforcement) visited on 27th December,2010.p.2

³⁶ [http://www.interpole.int/publc/Environmental Crime/manual/Work Chainsaw project-An Interpol perspective on law enforcement](http://www.interpole.int/publc/Environmental%20Crime/manual/Work%20Chainsaw%20project-An%20Interpol%20perspective%20on%20law%20enforcement) visited on 27th December,2010.p.2

³⁷ www.wordiq.com/definition/Interpol -cached visited on 27th January,2011

Drug Enforcement agencies of its member states³⁸ and this includes the Drug Enforcement Commission of Zambia. Interpol also monitors and responds to incoming communications from member states³⁹ and this includes the Zambian Drug Enforcement Commission.

2.1.2 The Drug Enforcement Administration

The Drug Enforcement Administration (DEA) is a federal enforcement agency under the United States Department of Justice tasked with combating drug smuggling within the United States of America.⁴⁰ Not only is the Drug Enforcement Administration the lead agency for domestic enforcement of the Controlled Substances Act, sharing concurrent jurisdiction with the Federal Bureau of Investigation and Immigration and Customs Enforcement, it also has sole responsibility for coordinating and pursuing United States drug investigations abroad.⁴¹ It is headed by an administrator of drug enforcement appointed by the president of the United States and confirmed by the US senate. The administrator is assisted by a deputy administrator, the chief of operations, the chief inspector and three assistant administrators.⁴²

The agency is charged with the mandate of enforcing controlled substances laws and regulations in the US, bringing to justice key members of organisations that contribute to drug trafficking deployment of canine unit and forensic analysis of phones and computers ; and supporting non enforcement programs that reduce the supply and demand for illicit drugs in domestic and international markets.⁴³ DEA is also responsible for coordinating and pursuing US drug investigations abroad. DEA agents regularly assist foreign police forces in their efforts to destabilize trafficking networks. US efforts to promote effective law enforcement against narcotics traffickers also include suggestions to nations on means to strengthen their legal and judicial systems.⁴⁴

DEA carries out two major US international narcotics control strategies. Firstly there is interdiction and secondly law enforcement. Interdiction involves attacking and disrupting large

³⁸W J Leamy, International Cooperation through the Interpol system to counter illicit drug trafficking.www.ncbi.nlm.nih.gov/pubmed/6563

³⁹W J Leamy, International Cooperation through the Interpol system to counter illicit drug trafficking.www.ncbi.nlm.nih.gov/pubmed/6563 Visited on 3rd March, 2011.

⁴⁰<http://www.usdoj.gov/dea> visited on 27th January, 2011.

⁴¹<http://www.usdoj.gov/dea> visited on 27th January, 2011

⁴²<http://www.answers.com> visited on 27th January, 2011.

⁴³<http://www.answers.com> visited on 27th January, 2011.

⁴⁴<http://www.dea.gov> drug enforcement administration visited on 27th January, 2011.

aggregates of criminal power, immobilising their top leaders and severing drug traffickers' ties to the economy and to the political hierarchy. Training of foreign law enforcement personnel constitutes a major part of such endeavors.⁴⁵ Law enforcement involves the use of diplomatic initiatives, both bilateral and multilateral to encourage and assist nations to reduce cultivation, production and trafficking in illicit drugs. These bilateral agreements and international conventions have thus been largely ineffective in reversing the growth of international narcotics trafficking in part because they lack strong enforcement mechanisms and are not uniformly interpreted by member nations.⁴⁶ DEA assists the Zambian Drug Enforcement Commission by encouraging and assisting them to reduce cultivation, production and trafficking in illicit drugs.

2.1.3 United Nations Office on Drugs and Crime

The United Nations Office on Drugs and Crime (UNODC) is a global leader in the fight against illicit drugs and international crime. It was established in 1997, through a merger between the United Nations Drug Control Programme and the centre for International Crime Prevention. UNODC operates in all regions of the world through an extensive network of field offices.⁴⁷ UNODC relies on voluntary contributions, mainly from governments for 90 percent of its budget. In pursuing its objectives, UNODC makes every effort to integrate and mainstream the gender perspectives, particularly in its projects for the provision of alternative livelihood as well as those against human trafficking.⁴⁸

UNODC operates from its headquarters in Vienna, Austria, as well as from field network currently comprising twelve regional offices and nine country offices. A liaison office is maintained in New York.

UNODC was established to assist the UN in better addressing a coordinated, comprehensive response to the interrelated issues of illicit trafficking in and abuse of drugs, crime prevention and criminal justice, international terrorism, and corruption.⁴⁹ These goals are pursued through three primary functions: research, guidance and support to governments in the adoption and implementation of various crime-, drug-, terrorism-, and corruption-related conventions, treaties

⁴⁵ <http://www.dea.gov> drug enforcement administration visited on 27th January, 2011.

⁴⁶ <http://www.dea.gov> drug enforcement administration visited on 27th January, 2011.

⁴⁷ en.wikipedia.org/wiki/united_nations_office_on_drugs_and_crime visited on 27th January, 2011

⁴⁸ en.wikipedia.org/wiki/united_nations_office_on_drugs_and_crime visited on 27th January, 2011

⁴⁹ en.wikipedia.org/wiki/united_nations_office_on_drugs_and_crime visited on 27th January, 2011

and protocols, as well as technical/financial assistance to said governments to face their respective situations and challenges in these fields. Analytical information about the global drug and crime problems enables the international community to identify drug and crime control. UNODC provides trend and policy analyses, publicizes and disseminates data and information on the global drug and crime scene.⁵⁰

UNODC addresses all aspects of the drug problem such as demand reduction-including prevention, treatment, rehabilitation and averting the negative health and social consequences of drug abuse and supply reduction-including alternative development and law enforcement; and legislative and institutional advisory services to enhance governments' capacity to implement the international drug control conventions.⁵¹

UNODC supports member states in addressing drug use and drug addiction as any other health disorder that is by implementing drug use prevention interventions and providing drug dependence treatment and care services, which are based on scientific evidence and on ethical standards.⁵²

UNODC assists governments by actively promoting the development of high quality information systems at national, regional and global levels.⁵³ The organisation is responsible for the analysis of information provided by member states in their current drug abuse situation and their counter measures. The use of psychoactive drugs has facilitated the spread of HIV infection in several ways, the most direct of which is by HIV transmission through needles shared by infecting drug users.

The UNODC helps the Drug Enforcement Commission by offering data and analysis. This analytical information about the global drug and crime problems enables the Drug Enforcement Commission to identify drugs and crime control priorities.⁵⁴

⁵⁰ www.unodc.org/unodc/illicit_drugs/index.html visited on 27th January, 2011

⁵¹ Joint United Nations Programme on HIV/AIDS United the World 16th April, 2010

⁵² Joint United Nations Programme on HIV/AIDS United the World 16th April, 2010

⁵³ www.un.org, Last visited on 31st January, 2011

⁵⁴ ⁵⁴ J.Nyawali. DEC-Public Relations Officer. Interview at DEC.2nd February, 2011

2.2 Regional bodies that collaborate with the Drug Enforcement Commission

2.2.1 Southern African Regional Police Chiefs' Cooperation Organisation

The Southern African Regional Police Chiefs' Cooperation Organisation (SARPCCO) came into being on 2nd August, 1995 at the Victoria Falls in Zimbabwe. At this meeting, police chiefs of the Southern African Sub region assembled within the framework of the Inter State Defence Security Committee, decided to form an organisation through which they could enhance cooperation to meet their common goals. The Inter State Defence and Security Committee has subsequently recognised SARPCCO as the vehicle for policing matters in the region.⁵⁵

SARPCCO is the primary operational mechanism in Southern Africa for the prevention and fighting of cross border crime, including the trafficking of weapons. Since its foundation, SARPCCO has become an important asset in the regionalisation of the international criminal police organisation (Interpol) by becoming its' de facto sub regional operational arm since, for practical effect, the SARPCCO secretarial and the sub regional Interpol bureau in Harare are one and the same.⁵⁶

The objectives of SARPCCO can only be prescribed through an appropriate multilateral policing forum. Significant progress has already been made in putting such structures in place.⁵⁷

Article 5 of the SARPCCO Constitution provides specific areas of cooperation and these include regular exchange of crime related information; the planning, coordination and execution of joint operations; cooperation with respect to border control and crime prevention in border areas as well as follow up operations; control over the delivery of illegal substances or any other objects; technical assistance and expertise; logical support, advice, support or assistance in the training of officials, the improvement and development of organisations and administration, the promotion of expertise and the performance of supportive functions of the respective police services.⁵⁸

⁵⁵ [http:// www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm](http://www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm). Visited on 7th February, 2011.

⁵⁶ [http:// www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm](http://www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm). Visited on 7th February, 2011

⁵⁷ [http:// www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm](http://www.iss.com.co.Za/Pubs/monographs/No 43/the South African Police.htm). Visited on 7th February, 2011

SARPCCO assists the Drug Enforcement Commission by supplying it with information, technical assistance and expertise relating to drug trafficking. This is done through the conferences held by SARPCCO twice every year.⁵⁹

2.2.2 Southern African Development community

While the Southern African Development Community (SADC) defines itself as a community devoted to the development integration, it has become clear that economic growth and development cannot be achieved without peace and stability. It is for this reason that SADC members decided to adopt a SADC protocol to address illicit trafficking of drugs which continues to cause instability in the region. The head of drug unit of Northern region in Zimbabwe Lawrence Njodzi observed that the problem of drug trafficking in Southern Africa is on the increase.⁶⁰ SADC members decided to adopt a SADC Protocol known as the Protocol on Combating Illicit Drugs to address the illicit trafficking of drugs which has become a problem in Southern Africa. The protocol dealing with combating illicit drug trafficking was signed during the SADC heads of state and government summit meeting in Lesotho in August, 1996.

The objective of the SADC protocol is to reduce and eventually eliminate drug trafficking, money laundering, corruption and the illicit use and abuse of drugs through cooperation among enforcement agencies and demand reduction through coordinated programmes in the region; to eliminate the production of illicit drugs and lastly to protect the region from being used as a conduit for drugs destined for international market.⁶¹

Under the SADC protocol, member states are encouraged to:-

- a) Develop, implement and evaluate policies and strategies aimed at establishing a comprehensive and integrated demand reduction programme that will include the development of community prevention, public and school education and research activities so as to address the underlying causes of drug abuse;⁶²
- b) Establish mechanisms to coordinate, monitor and evaluate the demand reduction efforts of Government and Non-Governmental Organisations (NGOs);

⁵⁹ J.Nyawali. DEC-Public Relations Officer. Interview at DEC.2nd February, 2011

⁶⁰ www.muvitv.com/%3Fp%3D3967 Visited on 27th January, 2011.

⁶¹ SADC Protocol article 2

⁶² SADC Protocol article 7

- c) Call upon the public, private, business and NGO sectors to give higher priority in their programmes to combating drug abuse and the demand for drugs;⁶³
- d) Establish appropriate facilities for the treatment, rehabilitation and social re-integration of drug dependent persons and make these available to Member States;
- e) Promote the establishment of employee assistance programmes in all work situations regarding drug abuse;⁶⁴
- f) Provide and share systematic information and research data on drug abuse, drug trafficking and demand reduction programmes in order to facilitate regional co-operation and coordination;
- g) Ensure the availability of adequate training opportunities for personnel involvement in all aspects of demand reduction programmes and to share those opportunities within the Region;⁶⁵
- h) Provide adequate human, financial and technical resources for the implementation of the activities to combat drug abuse⁶⁶

SADC continues to meet periodically to analyse information on drug consumption and trafficking in SADC countries. In Luanda 2004 a meeting was held to discuss consumption and trafficking within the region. The aim of the meeting was to facilitate discussion around the establishment of policies meant to put an end to drug trafficking in the community. The meeting comprised of experts from Angola, Mozambique, South Africa and Zambia. The investigative discussions were within a SADC project, and the delegation worked with ministries of Health and justice towards the installation of drug consumption monitoring system.

SADC assists DEC by supplying it with information concerning drugs and the possible solutions to the drug problem in the region.⁶⁷

⁶³ SADC Protocol article 7

⁶⁴ SADC Protocol article 7

⁶⁵ SADC Protocol article 7

⁶⁶ SADC Protocol article 7

⁶⁷ J.Nyawali. DEC-Public Relations Officer. Interview at the Drug Enforcement Commission. 2nd February, 2011.

2.3 National bodies that collaborate with the Drug Enforcement Commission

2.3.1 The Immigration Department

The Immigration Department is a department under the Ministry of Home Affairs. It's Director General and officers are appointed under the Immigration and Deportation Act⁶⁸ for the purposes of administering the Act.⁶⁹ The preamble to the Immigration and Deportation Act⁷⁰ states that it is an Act to consolidate the Law relating to immigration; provide for the appointment of a Director-General of Immigration and other immigration officers and provide for their powers and functions; promote a human rights based approach and culture in respect of immigration controls; regulate the entry, exit and remaining within Zambia of immigrants and visitors; provide for prohibited immigrants and other specified persons and their deportation from Zambia; provide for, and regulate immigration consultants; create an environment of cooperation with other public institutions and promote an integration of functions and harmonisation of operations among public institutions controlling borders and activities at ports of entry; repeal and replace the Immigration and Deportation Act, 1965; and provide for matters connected with, or incidental to, the foregoing.⁷¹

The functions of the Immigration Department are to:-

- (a) control all borders as provided under this Act;⁷²
- (b) administer and regulate all ports of entry;
- (c) regulate the migration of any person to Zambia but at the same time promoting economic growth, encouraging the training of citizens and residents by employers by the following, as the case maybe:⁷³
 - (i) ensuring that businesses in Zambia may employ skilled foreigners who are needed, especially in sectors that are reliant on international exchanges of people and personnel, as provided under any other law;⁷⁴

⁶⁸ Immigration and Deportation Act No.18 of 2010.

⁶⁹ Immigration and Deportation Act No.18 of 2010. s(4)

⁷⁰ Act No.18 of 2010

⁷¹ Immigration and Deportation Act No.18 of 2010 preamble

⁷² Immigration and Deportation Act No.18 of 2010.s(39)

⁷³ Immigration and Deportation Act No.18 of 2010.s(39)

- (ii) enabling exceptionally skilled or qualified people to sojourn in Zambia; or
- (iii) facilitating the movement of students and academic staff, within the Southern African Development Community and the Common Market for East and Southern Africa, for study, teaching and research;⁷⁵
- (d) assist in the prosecution of any offence under this Act; and
- (e) maintain public records showing funds received or collected-
 - (i) from foreign countries to defray the cost of repatriating illegal foreigners originating from their country, as determined through international relations and agreements;⁷⁶
 - (ii) from donors or other sources; and
 - (iii) from other fees and fines imposed or received by the Department under the Act.⁷⁷

The Immigration Department and the Drug Enforcement Commission are two different entities and have therefore different mandates. Though having different mandates, they are said to co exist. This is because they are both security wings and therefore assist each other in preserving the security, peace and wellbeing of the nation.⁷⁸

The Immigration Department and the Drug Enforcement Commission conduct joint patrols when pursuing illegal immigrants. There is need for the Immigration Department to incorporate the Drug Enforcement Commission when pursuing an illegal immigrant so that he can be arrested by the DEC officers if found in possession of drugs.⁷⁹

When a non Zambian is found in possession of drugs and is prosecuted under the Narcotic Psychotropic Substances Act⁸⁰, upon completion of the sentence, the Immigration Department effects deportation under the powers granted to them by the Immigration & Deportation

⁷⁴ Immigration and Deportation Act No.18 of 2010.s(39)

⁷⁵ Immigration and Deportation Act No.18 of 2010.s(39)

⁷⁶ Immigration and Deportation Act No.18 of 2010.s(39)

⁷⁷ Immigration and Deportation Act No.18 of 2010.s(39)

⁷⁸ J. Siame. (PRO). Interview at the Ministry of Home Affairs. Lusaka, 20th December, 2010

⁷⁹ J.Siame. (PRO). Interview at the Ministry of Home Affairs. Lusaka, 20th December, 2010

⁸⁰ Cap 96 of the Laws of Zambia.

Act.⁸¹ Section 39 provides that after receiving the particulars under section three of the Penal Code⁸², in respect of a person who is not a citizen, the Minister, unless the term of imprisonment is set aside on appeal, shall at the expiration of the sentence, under a warrant signed by the Minister, deport that person from Zambia.⁸³ If an immigration officer has reasonable grounds to believe that any person's presence in Zambia or conduct is likely to be a danger to peace and good order in Zambia, that person shall be deported from Zambia under a warrant signed by the Minister.⁸⁴

As aforementioned, the Drug Enforcement Commission and the Immigration Department are both security wings and therefore attend security meetings together. At provincial level, these meetings are called Provincial Joint Operations Committee. At district level, these meetings are called District Joint Operations Committee. At these meetings they exchange information relating to the security of the nation.⁸⁵

Apart from this, the Immigration Department assists the Drug Enforcement Commission to discharge their mandate by facilitating the entry of any foreign expert coming into Zambia to train the Drug Enforcement Commission officers. The Immigration Department grants these foreign experts permits at the government rate which is 50% lower than the normal charge.⁸⁶

2.3.2 The Ministry of Health

The Ministry of Health assists the Drug Enforcement Commission by furnishing them with information about drugs that are addictive and those that must be granted by prescription only. In 2009, the Drug Enforcement Commission faced the challenge of trafficking of pharmaceutical drugs such as Diazepam, hignocaine and Diphenylhydramine. These drugs were seized from individuals that did not have prior authorisation (prescriptions) to possess such drugs from the relevant authorities in the Ministry of Health.⁸⁷

⁸¹ Immigration and Deportation Act No.18 of 2010.s(39)

⁸² Cap 87 of the Laws of Zambia.

⁸³ Immigration and Deportation Act No.18 of 2010.s39(1)

⁸⁴ Immigration and Deportation Act No.18 of 2010.s39(2)

⁸⁵ Immigration and Deportation Act No.18 of 2010.s.(39)

⁸⁶ Immigration and Deportation Act No.18 of 2010.s.(39)

⁸⁷ Drug Enforcement Annual Report.2009.p.5

The Ministry of Health also provides training materials to DEC in terms of psychotropic substances because it is usually psychotropic substances that are abused. The Ministry of Health interacts with DEC during rehabilitation programmes. Instead of having addicts imprisoned, the Ministry of Health advises DEC to allow such persons undergo counseling services. Addicts can change when taken to a centre capable of providing treatment or offering an alternative to the drug being abused.⁸⁸

The Drug Enforcement Commission interacts more with the Pharmaceutical Regulatory Authority. The Pharmaceutical Regulatory Authority is a government department under the Ministry of Health responsible for regulating and controlling medicine.⁸⁹

It was set up in 2004 in order to improve regulations of all pharmaceutical business. The forerunner to the Pharmaceutical Regulatory Authority which was known as the Pharmaceutical and Poisons Board was not effective in regulating medicines for public health protection.⁹⁰ The government decided to address this problem by repealing and replacing the Pharmaceutical and Poisons Board with the Pharmaceutical Act.⁹¹ The preamble to the Pharmaceutical Act states that it is an Act to repeal the Pharmacy and Poisons Act of 1940 and Therapeutic Substances Act 1968, provide for the registration and regulation of pharmacies, the registration and control of medicines, herbal medicines and allied substances, the regulation and control of the manufacture, importation, exportation, possession, storage, distribution, supply, promotion, sale and use of medicines, herbal medicines and allied substances.⁹²

The Pharmaceutical Regulatory Authority is established as a statutory body under the Pharmaceutical Act.⁹³ It is mandated to ensure that pharmaceutical products being made available to the Zambian people consistently meet the required standards of quality, safety and efficacy.⁹⁴

The Pharmaceutical Regulatory Authority performs four major functions:-

(a) to register medicines, herbal medicines and license allied substances⁹⁵

⁸⁸ P.Kwapa. Principal Mental Health Officer. Interview at the Ministry of Health. Lusaka, 23rd December, 2010
⁸⁹ <http://pharmexcil.com/data/uploads/presentation>. Visited on 7th February, 2011.

⁹⁰ D.Sinyangwe. Pharmaceutical Inspector. Interview at the Pharmaceutical Regulatory Authority. Lusaka, 28th December, 2010.

⁹¹ Act No.14 of 2004

⁹² Pharmaceutical Act No.14 of 2004 preamble.

⁹³ Pharmaceutical Act No.14 of 2004.s(4)

⁹⁴ <http://pharmexcil.com/data/uploads/presentation>. Visited on 7th February, 2011.

(b) to register pharmacies and license any premises used for purposes of manufacturing, importing, exporting, distribution and sale of medicines, herbal medicines and allied substances

(c) to regulate and control the manufacture, importation, exportation, distribution and sale of medicines, herbal medicines and allied substances⁹⁶

(d) to regulate and control the advertising and promotion of medicines, herbal medicines and allied substances.⁹⁷

Medicines can be categorised in different ways depending on criteria. The most relevant category to this essay is habit forming which involves psychotropic and narcotic drugs. The Pharmaceutical Regulatory Authority controls and monitors the use of these drugs which are sometimes termed as “Dangerous Drugs.”⁹⁸

The Pharmaceutical Regulatory Authority assists DEC by providing a list of medicines that falls in this category of dangerous drugs using their professionalism and their scientific base. They also assist DEC by providing to it on request, individuals that are qualified to use certain medicines and by availing themselves as expert witnesses during prosecution of drug addicts or traffickers.⁹⁹

2.3.3 The Zambia Revenue Authority

The Zambia Revenue Authority interacts with DEC in various ways. To suit this essay, the Customs and Excise Division was selected. This division is governed by the Customs and Excise Act.¹⁰⁰ The preamble to the Act states that it is an Act to provide for the imposition, collection and management of customs, excise and other duties, the licensing and control of warehouses and premises for the manufacture of certain goods, the regulating, controlling and prohibiting of

⁹⁵ Pharmaceutical Act No.14 of 2004.s(4)

⁹⁶ Pharmaceutical Act No.14 of 2004.s(4)

⁹⁷ Pharmaceutical Act No.14 of 2004.s(5)

⁹⁸ D.Sinyangwe. Pharmaceutical Inspector. Interview at the Pharmaceutical Regulatory Authority. Lusaka, 28th December, 2010

⁹⁹ D.Sinyangwe. Pharmaceutical Inspector. Interview at the Pharmaceutical Regulatory Authority. Lusaka, 28th December, 2010.

¹⁰⁰ Chapter 322 of the Laws of Zambia

imports and exports, the conclusion of customs and trade agreements with other countries, forfeitures and for other matters connected therewith or incidental thereto.¹⁰¹

The Zambia Revenue Authority assists DEC in various ways. DEC refers certain cases to the Zambia Revenue Authority to have certain individuals investigated. This usually occurs when they suspect that such an individual has not been paying tax consistently or if they believe that an individual is involved in money laundering.¹⁰²

There are customs officers at the various borders and airports in the country. This is so because the customs officers are mandated to enforce the Customs and Excise Act.

A Customs Officer has powers to stop and search any person, including any person within or upon any ship, aircraft, or vehicle, whom he has good reason to suspect of having secreted about him or his possession any dutiable goods or any goods in respect of which there has been a contravention of any of the provisions of the Customs and Excise Act.¹⁰³ If a customs officer suspects that a person is carrying drugs, he asks an officer from the Drug Enforcement Commission to assist him in conducting the search. These searches are in two types namely baggage and strip search. If they suspect a bag has a prohibited substance, it can be opened in the presence or absence of the owner with or without their consent. If they suspect a person is carrying drugs on their bodies they conduct a strip search and they rely on the expertise of the DEC officers¹⁰⁴.

The customs excise services has three shifts at the Lusaka International Airport terminal. Each terminal has two officers and there is one supervisor in charge of all the three terminals. Customs officers have the power to seize consignments containing drugs and in the absence of DEC, the person found in possession of drugs is handed over to the police pending arrival of DEC officers and disposal of the matter.¹⁰⁵

When such an instance occurs, a Customs officer is faced with certain challenges. Firstly, there are no body scanners at the various exit or entry points. They only have metal detectors which

¹⁰¹ The Customs and Excise Act, Cap 322 of the Laws of Zambia, preamble.

¹⁰² E.Petimor. Senior Collector Customs Investigations. Interview at the Zambia Revenue Authority (ZRA). Lusaka, 3rd January, 2011

¹⁰³ Customs and Excise Act Chapter 322 of the Laws of Zambia, s(9)

¹⁰⁴ F.Kaingu.Terminal Supervisor.Interview at the International Airport.Lusaka,6th January 2011

¹⁰⁵ F.Kaingu.Terminal Supervisor.Interview at the International Airport.Lusaka,6th January 2011

merely detect metals on the body of someone or in their baggage. They rely on profiling. Profiling entails collecting and putting together information against which you judge someone and it is not very effective in detecting whether a person is carrying drugs or not.¹⁰⁶

2.4 Conclusion

This chapter has considered the role of international, regional and national bodies that assist DEC in discharging its mandate of reducing drug trafficking. These bodies assist DEC by supplying it with information about dangerous drugs , the methods and ways in which cultivation and manufacturing of drugs can be reduced and lastly, by offering training to its personnel during conferences and seminars.

¹⁰⁶ F..Kaingu.Terminal Supervisor.Interview at the International Airport.Lusaka,6th January 2011

CHAPTER 3

Title: A comparative analysis between the Drug Enforcement Commission and the Nigerian National Drug Law Enforcement Agency

3.0 Introduction

The main objective of this chapter is to compare and contrast the Zambian Drug Enforcement Commission and the Nigerian National Drug Law Enforcement Agency (NDLEA). It begins with a brief historical background to the creation of NDLEA. It also discusses the functions and the mandate of the NDLEA for the purposes of comparing the two institutions. The main aim is to bring out the measures adopted by NDLEA in discharging its mandate so as to benefit and improve the effectiveness and efficiency of DEC.

3.1 Brief historical Background to the creation of the National Drug Law Enforcement Agency of Nigeria

Drug related crime in Nigeria emerged in 1980s.¹⁰⁷ At least 328 drug seizures were made between 1986 and 1989 and the number of hard drug convictions surged from 8 in 1986 to 149, with women accounting for 27% of the 275 total convictions during this period. Drug-induced psychoses accounted for 15% of admissions to four psychiatric hospitals in 1988.¹⁰⁸ In a related development, the federal Ministry of Health reported in 1989 that about one half of the drugs available in Nigeria were imitations, leading to a series of counterfeit and fake drugs decrees imposing increasingly high penalties for violators. Decree number 48 of January, 1990 established a National Drug Law Enforcement Agency to address the drug related offences.¹⁰⁹

The establishment of the National Drug Law Enforcement Agency by the promulgation of Decree Number 48 of 1989, now Act of Parliament was aimed at exterminating illicit drug trafficking and consumption in the Nigerian society.¹¹⁰

¹⁰⁷ <http://www.ndlea.gov.ng/v/eq=content/history> visited on 3rd March, 2011.

¹⁰⁸ <http://www.ndlea.gov.ng/v/eq=content/history> visited on 3rd March, 2011.

¹⁰⁹ <http://www.ndlea.gov.ng/v/eq=content/history> visited on 3rd March, 2011.

¹¹⁰ <http://www.ndlea.gov.ng/v/eq=content/history> visited on 3rd March, 2011

Until the advent of the NDLEA, the Board of Customs and Excise (new Nigerian Customs Service) and the Nigerian Police were the major drug interdiction organs of government while the federal welfare Department was charged with the counseling, treatment and rehabilitation of drug dependent persons. From the activities of the agency over the years, it is a known fact that any involvement in drugs, especially their importation, exportation, sale, transfer, purchase, cultivation, manufacture, extraction and possession is universally unacceptable. The establishment of the National Drug Law Enforcement Agency was Nigeria's deliberate attempt at joining the rest of the world in getting rid of this cankerworm within her borders.¹¹¹

3.2 Mandate of the National Drug Law Enforcement Agency of Nigeria

The mandate of the Nigerian Drug Law Enforcement Agency is to eliminate the growing, processing, manufacturing, selling and trafficking of hard drugs. The mission of NDLEA is to become the most proactive and leading Drug Enforcement Agency on the African continent and one of the best in the world through the provision of effective and efficient services to Nigerians by cutting off the supply of illicit drugs, reducing the demand for illicit drugs and other substances of abuse, trading and recovering drug related proceeds and contributing to the creation and maintenance of an enviable image for the nation throughout the world.¹¹²

The mission of the National Drug Law Enforcement is to deploy all resources at its disposal for the total eradication of illicit trafficking in narcotic drugs and psychotropic substances; to suppress the demand for illicit drugs and other substances of abuse; to recover ill-gotten wealth acquired from proceeds of illicit drug trade and to protect, enhance and maintain the image of Nigerians at home and abroad.¹¹³

The functions of the National Drug Law Enforcement Agency include:-

¹¹¹ K White, What do we mean by NDLEA? http://www.ehow.com/how-5501160_figure-out-meaning-life.html visited on 10th March, 2011

¹¹² <http://www.ndlea.gov.ng/vi/?2q=node>. Last visited on 3rd March, 2011.

¹¹³ <http://www.ndlea.gov.ng/vi/?2q=node>. Last visited on 3rd March, 2011.

- (a) the enforcement and the due administration of the provisions of this act
- (b) the coordination of all drug laws and enforcement functions conferred on any person or authority, including Ministers in the government of the federation by such laws¹¹⁴
- (c) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from drug related offences or property whose value corresponds with such proceeds¹¹⁵
- (d) adoption of measures to eradicate illicit demand for narcotic drugs and psychotropic substances
- (e) taking such measures which might require the taking of reasonable precautions to prevent these ordinary means of transport for illicit traffic in narcotic drugs and including making arrangements with transport owners
- (f) adoption of measures which shall include coordinated preventive and repressive action, introduction and maintenance of investigative and control techniques¹¹⁶
- (g) the adoption of measures to increase the effectiveness of eradication efforts
- (h) the facilitation of rapid exchange of scientific and technical information and the conduct of research geared towards eradication of illicit use of narcotic drugs and psychotropic substances which have been seized, confiscated or forfeited¹¹⁷
- (i) facilitation or encouragement of the presence or availability of persons including persons in custody who consent to assist in the investigations or participate in proceedings relating to narcotic drugs and psychotropic substances
- (j) enhancing the effectiveness of law enforcement to suppress illicit traffic in narcotic drugs and psychotropic substances.¹¹⁸

¹¹⁴ National Drug Law Enforcement Agency Act [http://www.the-convention.org/pdf/regulations NDLEA>PDF](http://www.the-convention.org/pdf/regulations_NDLEA.pdf) Visited on 3rd March, 2011.

¹¹⁵ National Drug Law Enforcement Agency Act [http://www.the-convention.org/pdf/regulations NDLEA>PDF](http://www.the-convention.org/pdf/regulations_NDLEA.pdf) Visited on 3rd March, 2011.

¹¹⁶ National Drug Law Enforcement Agency Act [http://www.the-convention.org/pdf/regulations NDLEA>PDF](http://www.the-convention.org/pdf/regulations_NDLEA.pdf) Visited on 3rd March, 2011.

¹¹⁷ National Drug Law Enforcement Agency Act [http://www.the-convention.org/pdf/regulations NDLEA>PDF](http://www.the-convention.org/pdf/regulations_NDLEA.pdf) Visited on 3rd March, 2011.

3.3 Powers of NDLEA

The Agency has the following powers :-

- (a) to cause investigations to be conducted as to whether any person has committed an offence under the NDLEA Act or not
- (b) with a view of ascertaining whether any person has been involved in offences under this Decree or in the process of such offences to cause investigations to be conducted into the properties of any person if it appears to the Agency that the person's life style and properties worth do not match his ostentatious living¹¹⁹
- (c) For the purpose of inquiring into and ascertaining whether an offence under paragraph (h) of sub-section (i) of this section has been committed, the Agency may by notice in writing call upon any one to furnish it within a time specified in the notice, with information, returns, accounts, books or other documents in custody of such persons as the Agency may consider fit and proper in the circumstances.
- (d) The Agency shall not exercise the power conferred upon it by paragraph (b) of sub-section (i) of this section without first obtaining the approval of the Attorney General of the Federation.¹²⁰

3.4 Similarities between DEC and NDLEA

DEC and NDLEA are both institutions charged with the mandate of reducing drug trafficking. The Drug Enforcement Commission was created by the Dangerous Drugs (Forfeiture of Property) Act No.7 of 1989.¹²¹ NDLEA was created in 1990 by Decree No 4 of 1990.¹²²

¹¹⁸ National Drug Law Enforcement Agency Act http://www.theconvention.org/pdf/regulations_NDLEA>PDF

¹¹⁹ National Drug Law Enforcement Agency Act http://www.theconvention.org/pdf/regulations_NDLEA>PDF visited on 3rd March, 2011

¹²⁰ National Drug Law Enforcement Agency Act http://www.theconvention.org/pdf/regulations_NDLEA>PDF visited on 3rd March, 2011

¹²¹ www.dec.zambia.gov Visited on 3rd March, 2011.

¹²² K White, What do we mean by NDLEA? http://www.ehow.com/how-5501160_figure-out-meaning-life.html visited on 10th March, 2011

The mandate of NDLEA is to eliminate the growing, processing, manufacturing, selling and trafficking of hard drugs.¹²³ Similarly, DEC is mandated to control and prevent the illegal production and trafficking and abuse of narcotic drugs and psychotropic substances and money laundering and provide rehabilitation services to drug addicts.¹²⁴

Both DEC and NDLEA collaborate with international bodies in their attempt to fight illicit drug trafficking. The United States of America DEA has an office situated in Lagos which remains in contact with the NDLEA operations throughout the year, primarily through the US Nigeria Joint Task Force reactivated in November 1995.¹²⁵ Similarly, DEC in their 2009 annual report acknowledged the fact that they received support in information exchange and training from the United Nations Office on Drugs and Crime (UNODC), United Nations Development Plan (UNDP), the Drug Enforcement Administration (DEA) in the United States of America and the International Narcotics Control Board (INCB).¹²⁶

Both DEC and NDLEA have training divisions, investigation divisions, intelligence divisions and money laundering divisions.

3.5 Differences between NDLEA and DEC

One of the differences between DEC and NDLEA is that the head of the NDLEA is called the Chief Executive Officer or the Chairman¹²⁷ whereas the head of DEC is known as the Drug Enforcement Commissioner.¹²⁸ In Zambia, the DEC Commissioner is represented by the

¹²³ <http://www.ndlea.gov.ng/vi?q=content/history> visited on 3rd March, 2011.

¹²⁴ The Drug Enforcement Commission (DEC). Annual Report. Lusaka, (2005).p.2

¹²⁵ <http://www.ndlea.gov.ng/V1/> visited on 3rd March, 2011.

¹²⁶ The Drug Enforcement Commission (DEC). Annual Report. Lusaka, (2010).p.12

¹²⁷ <http://www.thenationlifeonline.com>. Visited on 3rd March, 2011.

¹²⁸ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s. 4 first schedule

Assistant Commissioners in all the provinces of Zambia while in Nigeria, state commanders are the ones in charge of drug trafficking in the various states of Nigeria.¹²⁹

Another important difference to note between the DEC and NDLEA is that NDLEA has six functional divisions while the DEC has four divisions. The NDLEA's functional divisions are investigation, prosecution, drug demand reduction, training, research and development, assets laundering and intelligence. DEC's functional divisions are money laundering, training, intelligence and investigations.

DEC is granted the power to prosecute for offences under the Narcotic and Psychotropic Substances Act¹³⁰ subject to the directives of the Director of Public Prosecutions while NDLEA can enforce and exercise due administration of the provisions of the Act independently without any directives from any other government officer.¹³¹

Another difference between the functions of NDLEA and DEC is that NDLEA can facilitate or encourage the presence or availability of persons including persons in custody who consent to assist in the investigations or participate in proceedings relating to narcotic drugs and psychotropic substances¹³² whereas the Narcotic and Psychotropic substances Act does not have such a provision. The NDLEA Act enables citizens of Nigeria to actively take part in the fight against drug trafficking by participating in the investigations or proceedings if they so wish. The Narcotic and Psychotropic Substances Act does not have such a provision.

Lastly, the NDLEA Act sets the conditions of bail for drug traffickers whereas in the Narcotic and Psychotropic Substances Act, when ever any person is arrested or detained upon any reasonable suspicion of his having committed a cognisable offence, no bail shall be granted to him when he appears before any court.¹³³ Section 2 of the Narcotic Drug and Psychotropic Substances Act¹³⁴ defines trafficking as follows:

¹²⁹ <http://www.the.nationlifeonline.com>. Visited on 3rd March, 2011.

¹³⁰ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s. 5

¹³¹ National Drug Law Enforcement Agency Act <http://www.theconvention.org/pdf/regulationsNDLEA.pdf> last visited on 3rd March, 2011

¹³² National Drug Law Enforcement Agency Act <http://www.theconvention.org/pdf/regulationsNDLEA.pdf> last visited on 3rd March, 2011

¹³³ Cap 96 of the laws of Zambia, s. 43.

¹³⁴ The Narcotic and Psychotropic Substances Act, s. 2

- (a) “Being involved directly or indirectly in the unlawful buying or selling of narcotic drugs or psychotropic substances and includes the commission of an offence under this Act in the circumstances suggesting that the offence was being committed in connection with buying or selling; or
- (b) Being found in possession of narcotic drugs or psychotropic substances in such amounts or quantities as the president may, by statutory instrument, declare to be trafficking.¹³⁵

In the case of *Chetankumar Shantkal v The People*¹³⁶ the Supreme Court of Zambia, took time to address its mind to the definition of the term ‘trafficking’ as stated in the sub-section quoted above. It noted -:“We don’t have too much difficulty in the approach of the learned judge except to caution that there are two limbs in the definition of the term ‘trafficking’ and an offence of unlawful possession could conceivably still be caught by paragraph (a) if the circumstances suggest to the court that the offence was being committed in connection with buying and selling. This suggests to us that a trial magistrate is not precluded from applying a common sense approach where the amounts or quantities of drugs alleged in the case appear to the court to exceed what may reasonably be supposed to be for personal consumption.”¹³⁷,

It is important to note that there is a distinction between trafficking of drugs and importation of drugs. Section 7 of the Narcotic and Psychotropic Substances Act¹³⁸ makes importing or exporting of narcotic drugs or psychotropic substances an offence punishable upon conviction by imprisonment not exceeding twenty years. This is five years less than the maximum penalty for trafficking. Section 23 (1) of the Narcotic and Psychotropic Substances Act¹³⁹ states that “every drug trafficking and drug manufacturing offence shall be a cognizable offence for the purposes of the Criminal Procedure Code¹⁴⁰ and therefore not bailable. The interpretation of this section in line with section 7 was a bone of contention in *Lanton, Edwards and Thewo v The people*¹⁴¹ . Both the subordinate court and the High court concluded that the appellants were not entitled to

¹³⁵ The Narcotic and Psychotropic Substances Act, Cap 96 of the Laws of Zambia s.2

¹³⁶ SCZ No. 11 of 1995

¹³⁷ *Chetankumar Shantkal v The People* SCZ No.11 of 1995

¹³⁸ Cap 96 of the Laws of Zambia

¹³⁹ Chapter 96 of the Laws of Zambia

¹⁴⁰ Chapter 88 of the Laws of Zambia

¹⁴¹ (1998) S.J.30(S.C)

bail as the importation of drugs for which they had been charged, like trafficking was a cognizable offence. The Supreme Court disagreed stating that under the Act the offence of importation is not the same as the offence of trafficking and therefore not a cognisable offence.¹⁴²

3.6 Measures put in place by NDLEA to make it more efficient and effective

Nigeria has full body scanning machines for the Lagos, Kano and Abuja and Port Harcourt international airports and these have proved to be efficient. Between 2006 and June 2008 over 12, 663 suspected drug dealers were arrested, with seizure of over 418.8 metric tonnes of various drugs.¹⁴³ In Zambia, there are no body scanners but only metal detectors which are not very effective because they are used to detect metals.¹⁴⁴

Furthermore, the Agency was able to get the Federal Government through the National Education Research and Development Council to approve the inculcation of Drug Abuse Education into the Nigerian School Curricula.¹⁴⁵ Apart from getting all the States of the Federation involved in the drug crusade, all arms of government and relevant Ministries and Parastatals, like Information, Foreign Affairs, Justice as well as Customs and Immigration Services and the Presidency are now very active and prepared to always support and complement the efforts of the Agency.¹⁴⁶

On the international scene, the untiring efforts and unprecedented enthusiasm exhibited by the leadership of Alhaji (Dr.) Bello Lafiaji in fighting the drug problem, has given assent to various United Nations Conventions, which set out to fight drug abuse and trafficking. Not only this, determined to redeem the image of Nigeria abroad, a lot of agreements were entered into, to

¹⁴² Lanton, Edwards and Thewo v The People (1998)S.J. 34 (S.C.)

¹⁴³ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁴⁴ F.Kaingu.Terminal Supervisor.Interview at the International Airport.Lusaka,6th January 2011

¹⁴⁵ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁴⁶ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

formalise cooperation, information dissemination and exchange of technical assistance where necessary.¹⁴⁷

Realising that the drug problem is more prevalent amongst the youth, the Agency has taken a bold step by carrying the drug war to the doorsteps of this group which the Nigerian society looks up to as the future leaders of their country, by strengthening the activities of the life clubs formed in all the secondary schools in the country to put in check the cancerous tendencies of the youth. The club is a replica of Boys Scout and the Boys Brigade. Also, in the Universities across the country, Drug Free Clubs, DFC, have been introduced and launched. The reception of the DFC on campuses is very impressive.¹⁴⁸

Furthermore, the Agency was able to get the Federal Government through the National Education Research and Development Council to approve the inculcation of Drug Abuse Education into the Nigerian School Curricula¹⁴⁹. Apart from getting all the States of the Federation involved in the drug crusade, all arms of government and relevant Ministries and Parastatals, like Information, Foreign Affairs, Justice as well as Customs and Immigration Services and the Presidency are now very active and prepared to always support and complement the efforts of the Agency.¹⁵⁰

Satisfied with the efforts of the NDLEA, the United States government weeks ago removed Nigeria from its drug major list.¹⁵¹ The removal which is ostensibly an acknowledgement of the NDLEA good efforts in fighting drug trafficking was contained in the 2010 annual drug

¹⁴⁷ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁴⁸ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁴⁹ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁵⁰ <http://www.punchontheweb.com/Artid.aspx?theratic-art 2010101333578> last visited on 3rd March, 2011

¹⁵¹ D Iriekpen, NDLEA gets a shot in the arm. <http://allafrica.com/stories/201010200298.html>. last visited on 3rd March, 2011

certification report presented to Congress by the U.S president.¹⁵²

3.7 Conclusion

This chapter considered the similarities and distinctions between the NDLEA and DEC. They are both institutions charged with the mandate of reducing drug trafficking and they both have the training divisions, investigation division, money laundering and intelligence divisions. One difference between NDLEA and DEC is that NDLEA is headed by the Chief Executive Officer whereas DEC is headed by the Commissioner. Another important difference is that NDLEA can enforce and exercise due administration of the Act without interference from any other government officer whereas DEC can only prosecute under the Act subject to the directives of the Director of Public Prosecutions. In this regard, NDLEA exercises some degree of independence over DEC in exercising its functions. Further, the NDLEA Act encourages Nigerian citizens to take part in the fight against drug trafficking by participating in the investigations and proceedings whereas the DEC Act does not have such a provision.

¹⁵² D Iriekpen, NDLEA gets a shot in the arm. <http://allafrica.com/stories/201010200298.html>. last visited on 3rd March, 2011.

CHAPTER 4

Title: The challenges faced by the Drug Enforcement Commission

4.0 Introduction

In the preceding chapter, a comparative analysis was done between the Drug Enforcement Commission of Zambia and the National Drug Law Enforcement Agency of Nigeria so as to ascertain the measures which can be adopted by DEC in order to make it more effective and efficient. The main objective of this chapter is to discuss the challenges faced by DEC in discharging its mandate.

4.1 The challenges faced by the Drug Enforcement Commission

Amongst many of the challenges that have limited the DEC for a long time has been the scarcity of transport for operations.¹⁵³ The Drug Enforcement Commission lacks adequate and reliable transport. As a result of this deficiency, the Commission has been experiencing reduced output in terms of illicit drug growers and traffickers.¹⁵⁴

Badly hit is the Copperbelt province which has very few vehicles. Lusaka province is also another important province which is faced with the problem of lack of adequate operational transport to allow the field officers to operate effectively.¹⁵⁵

In the year 2009, the Commission had a fleet of one hundred and thirty one (131) vehicles of which most were problematic old vehicles and fifty four (54) were completely non-runners.¹⁵⁶ In most provinces, the Commission has had to rely on the good will of other security wings for reliable transport as the available single drive vehicles are not suitable for rough terrain making them unable to reach far fetched areas where cannabis cultivation is very rampant.¹⁵⁷ In Zambia about 17 percent of the population aged between 15 and 64 years abuse cannabis.¹⁵⁸ The then Minister of Home Affairs Honourable Dr Kalombo Mwansa stated the commercial cultivation

¹⁵³ The Drug Enforcement Commission Annual Report.2006.p.8

¹⁵⁴ The Drug Enforcement Commission Annual Report.2006.p.8

¹⁵⁵ The Drug Enforcement Commission Annual Report 1994.p.55, 56

¹⁵⁶ The Drug Enforcement Commission Annual Report 2009.p.10

¹⁵⁷ The Drug Enforcement Commission Annual Report 2009.p.10

¹⁵⁸ DEC news Vol.24.2006.p.15

and trafficking of cannabis in Zambia has continued to pose a serious threat to governments' agricultural policy and the maintenance of internal security.¹⁵⁹

Senior chief Iyambo Yeta of the lozi people of Sesheke district declared pluckily that he had noticed increased weird behaviour among his subjects and that his chiefdom was on record of being among the highest cannabis cultivating areas in the country, the chief disclosed that he was deeply ashamed with the intolerable state of affairs.¹⁶⁰

Cannabis cultivation is very rampant in these areas but because the Commission does not have adequate transport, it has foregone some of their operations with regard to those areas.

Another important challenge faced by the Commission is unavailability of accommodation. The Drug Enforcement Commission officers continue to largely depend on rented houses which prove to be expensive given the ever increasing rental charges and the poor funding.¹⁶¹ Officers who are transferred from the other sister departments such as the Zambia Police and the Office of the President Special Division and continue occupying the institutional houses are being evicted thereby compounding the house problem. While the Commission has established offices in the provinces particularly Copperbelt, Southern, Northern and Central Province most officers who cover Northern and Central provinces have not been moved because houses are not yet available in those areas.¹⁶²

Apart from this, the Commission lacks body scanners at the various entry and exit points.¹⁶³ Body scanners assist in detecting whether a person is carrying drugs or not. Body scanners have proved to be very effective in assisting drug enforcement officers worldwide to detect whether a person is carrying drugs or not. For instance, in Nigeria between 2006 and June 2008 over 12,663 suspected drug dealers were arrested, with seizure of over 418.8 metric tonnes of various drugs.¹⁶⁴

¹⁵⁹ DEC News Vol.21 April, 2005.

¹⁶⁰ DEC news Vol.24.2006.p.15

¹⁶¹ The Drug Enforcement Commission Annual Report 1994.p.57

¹⁶² The Drug Enforcement Commission Annual Report 1994.p.57

¹⁶³ J.Nyawali. Drug Enforcement Commission –Public Relations Officer. Interview at the Drug Enforcement Commission (DEC). Lusaka, 31st March, 2011.

¹⁶⁴ <http://www.punchontheweb.com/Artid.aspx?thartic-art 2010101333578> last visited on 3rd March, 2011.

Further the Commission has few sniffer dogs which they use on rare occasions to assist them in detecting whether a person is carrying drugs or not. These dogs have also proved to be effective in other countries. Mr Martin Chitamba, Head of the Canine Unit started that drug trafficking is a very complex issue because drug traffickers try to develop new ways of evading law enforcement officers but not with dogs.¹⁶⁵ According to him, dogs are used worldwide to detect and fight illicit and contraband smuggling and because of their superior sense of smell and nose work, it has been possible for some of these illicit drugs and weapons of mass destruction to be intercepted at borders and checkpoints of many countries.¹⁶⁶ Mr Chitamba further added that the effectiveness of dogs can best be described as marvelous, because their ability of detecting heroin concealed in a high pressure cylinder or inside a heel of a shoe is unbelievable.¹⁶⁷

The other challenge experienced by the Commission is the fact that Zambia has very few rehabilitation centres.¹⁶⁸ The mandate of the Commission includes rehabilitating and re-integrating dependent persons into society.¹⁶⁹ Rehabilitation enables people who have lost their integrity and productivity adopt productive life styles, avoid and reduce mental and physical health problems, improve family relationships and find employment, hence contributing to national development.¹⁷⁰

Additionally, rehabilitation and counseling enables people to make informed decisions, rebuild self esteem and manage peer pressure, and avoid getting into trouble with the law. In Zambia, there are only few rehabilitation centres. In other provinces, it becomes difficult for drug addicts to benefit from rehabilitation because there are no rehabilitation centres.

Another important challenge faced by the Commission is lack of sufficient funding. The Commission is funded by the Central Government under the Ministry of Home Affairs.¹⁷¹ The Commission lacks adequate funding and this state of affairs has made the Commission to forego some of their important operations.¹⁷² Professional drug investigations and operations are

¹⁶⁵ DEC News Vol 20 July, 2004.p.17

¹⁶⁶ DEC News Vol 20 July, 2004.p.17

¹⁶⁷ DEC News Vol 20 July, 2004.p.17

¹⁶⁸ J.Nyawali. Drug Enforcement Commission –Public Relations Officer. Interview at the Drug Enforcement Commission (DEC). Lusaka, 31st March, 2011

¹⁶⁹ DEC Annual Report, 2006.p.9

¹⁷⁰ DEC News Vol 21 April, 2005.p.9

¹⁷¹ Drug Enforcement Commission Annual Report, 2009.p.10

¹⁷² Drug Enforcement Commission Annual Report, 2009.p.10

expensive and are in fact capital-intensive exercises. For example, conducting surveillance, and gathering against targets require transport and financial resources to accomplish complex and sophisticated investigations.¹⁷³ Unfortunately, ever since its establishment in 1989, the Commission has never been adequately funded in the budget and the Commission continues to suffer from the chronic lack of operational funds to meet the increased work out.¹⁷⁴

In the year 2004, the then Minister of Home Affairs Honourable Shikapwasha speaking at the official opening of the DEC Regional Commanders and Heads of Department Conference held in Lusaka stated that he was aware of the urgent need to fund the Commission to adequately fight the increasingly sophisticated trends of drug trafficking and money laundering.¹⁷⁵ It was hoped that something would be done to address this challenge. However this has not been the case and the Drug Enforcement Commission still lacks sufficient funding. The table below depicts the budget submitted to the government by DEC, the total funded by the government and the variance between the budget and the total funded by the government.¹⁷⁶

Department	Total provision	Total Funded	Variance
Central Province	82,763,920.00	74,894,193.00	7,869,727.00
Copperbelt Province	110,306,883.00	99,347,819.00	10,959,064.00
Southern Province	87,317,085.00	78,378,230.00	8,938,855.00
Northern Province	80,470,814.00	72,419,218.00	8,051,589.00
North Western Province	78,171,050.00	70,581,750.00	7,589,300.00
Luapula Province	82,678,946.00	75,397,792.00	7,281,154.00

¹⁷³ Drug Enforcement Commission Annual Report, 1993.p.65

¹⁷⁴ Drug Enforcement Commission Annual Report, 1993.p.65

¹⁷⁵ DEC News Vol.20 July, 2004.p.6

¹⁷⁶ Drug Enforcement Commission Annual Report, 2009.p.10

Lusaka Province	136,181,517.00	123,870,553.00	12,310,964.00
Eastern Province	83,655,411.00	76,323,629.00	7,331,782.00
Western Province	80,139,975.00	72,769,057.00	7,375,918.00

The Commission also lacks enough manpower. According to Mr Nyawali, there are few officers in the various provinces of Zambia. He further stated that these officers are found in selected districts. For instance, in the Southern Province the officers are only found in Livingstone and Choma districts. The rest of the districts in the Southern province do not have DEC officers. There is need for DEC to expand its structure but it cannot do so unless Cabinet authorises it to do so.¹⁷⁷

Lastly, the Commission lacks autonomy. The DEC Commissioner is appointed by the president and he can also be dismissed by the president. The Act states that there shall be a Commissioner of the Commission, whose office shall be a public office, and who shall be appointed by the president on such terms and conditions as the President may determine.¹⁷⁸ The Act further provides that the Commissioner may resign upon giving three months notice, in writing, to the President or may resign with immediate effect upon paying to the Government three months' basic salary in lieu of notice and the President may subject to the same conditions, terminate the services of the Commissioner.¹⁷⁹

This section gives the President wide discretionary power to dismiss the Commissioner without stating any reasons because the Act does not list down the instances in which the Commissioner may be dismissed by the President. If the senior officers can be dismissed at a stroke of the pen, then it entails that DEC as an institution is not independent.

¹⁷⁷ J.Nyawali. Drug Enforcement Commission –Public Relations Officer. Interview at the Drug Enforcement Commission (DEC). Lusaka, 31st March, 2011

¹⁷⁸ The Narcotic Drugs and Psychotropic Substances Act, Chapter 96 of the Laws of Zambia, section 4 first schedule

¹⁷⁹ The Narcotic Drugs and Psychotropic Substances Act, Chapter 96 of the Laws of Zambia, section 4 first schedule

4.2 Conclusion

This chapter discussed the challenges faced by the Drug Enforcement Commission in discharging its mandate. These challenges include lack of adequate and reliable transport, insufficient funding, insufficient manpower, few rehabilitation centres, lack of body scanners, few sniffer dogs and lack of independence. There is need to address these challenges faced by the Drug Enforcement Commission in order to make it more effective and more efficient.

CHAPTER FIVE

Conclusions and Recommendations

5.0 Introduction

In the last chapter the challenges faced by the Drug Enforcement Commission were discussed. The main objective of this chapter is to make recommendations that should be adopted in order to make the Commission more efficient and effective.

5.1 Conclusions

In chapter one, the Drug Enforcement Commission was discussed in its entirety. The structure of the Commission was discussed as well as its mandate. Apart from this, the functions of the Commission were also discussed.

In chapter two, the international, regional and local institutions which collaborate with DEC were discussed so as to determine their role in assisting the Drug Enforcement Commission to discharge its mandate. The institutions which were discussed include the International Police Organisation (INTERPOL), the Drug Enforcement Administration (DEA), the United Nations Office on Drugs and Crime (UNODC), the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO), the Southern African Development Community (SADC), the Zambia Revenue Authority (ZRA), the Ministry of Health and the Immigration Department. These institutions assist DEC by supplying it with information about dangerous drugs, the methods and ways in which cultivation and manufacturing of drugs can be reduced and lastly, by offering training to its personnel during conferences and seminars.

Chapter 3 compared and contrasted the Zambian Drug Enforcement Commission and the Nigerian National Drug Law Enforcement Agency (NDLEA). Both DEC and NDLEA are institutions charged with the mandate of reducing drug trafficking and they both have training divisions, investigation divisions, money laundering and intelligence divisions. One difference between the NDLEA and the DEC is that DEC is headed by the Commissioner whereas NDLEA is headed by the Chief Executive Officer/Chairman. Another important difference between NDLEA and DEC is that NDLEA can enforce and exercise due administration of the National Drug Law Enforcement Agency Act without interference from any other government officer

whereas DEC can only prosecute under the Narcotic and Psychotropic Substances Act¹⁸⁰ subject to the Directives of the Director of Public Prosecutions. The main objective of chapter 3 was to bring out the measures adopted by NDLEA in discharging its mandate so as to benefit and improve the effectiveness and efficiency of DEC.

In chapter 4, the challenges that are faced by DEC in discharging its mandate were identified and discussed. One of the challenges faced by the Commission is lack of adequate funding. Ever since its establishment in 1989, the Commission continues to suffer from the chronic lack of operational funds to meet the increased work output. Secondly, the Commission lacks adequate and reliable transport and this has made it impossible for the DEC officers to reach far fetched areas where cannabis cultivation is rampant. Thirdly, the Commission lacks enough manpower and it is for this reason that the DEC officers are not found in all the districts in Zambia. Apart from this, the Commission lacks Autonomy. The DEC Commissioner is appointed by the president who also has the power to dismiss the Commissioner. Further more, the DEC officers can only prosecute under the Act subject to the directives of the Director of Public Prosecutions. The Commission also lacks body scanners to be used at the various exit and entry points of Zambia. Lastly, the DEC officers face accommodation problems in the various provinces of Zambia.

5.2 Recommendations

5.2.1 Adequate and prompt funding

Firstly, it is recommended that the Commission should be adequately and promptly funded in order for it to carry out its mandate. Professional drug investigations and operations are expensive and are in fact capital-intensive exercises. For example, conducting surveillance, and gathering against targets require transport and financial resources to accomplish complex and sophisticated investigations. The Commission requires adequate and prompt funding so that the mandate of the Commission can be discharged in good time in order to serve the interests of society.

¹⁸⁰ Cap 96 of the Laws of Zambia

5.2.2 Adequate and Reliable transport

Secondly, it is recommended that the government should make available adequate and reliable transport. This will enable the DEC officers to reach farfetched areas where cannabis cultivation is rampant without having to rely on the good will of other security wings for reliable transport.

5.2.3 Body Scanners and Sniffer Dogs

Thirdly, it is recommended that the government should supply the Commission with body scanners to be used at the various entry and exit points of Zambia. Further the government should purchase sniffer dogs for the Commission to assist the DEC officers in detecting drugs and these dogs should be found at all the various entry and exit points.

5.2.4 Independence of the Institution (DEC)

Fourthly, it is recommended that the Commission should be created under the Constitution as an independent and separate body from the Ministry of Home Affairs. . Firstly, because the Constitution is the supreme law of the land and anything done in contravention with it is void to the extent of its inconsistency.¹⁸¹ Section 1(3) of the Constitution¹⁸² states that the Constitution of Zambia is the supreme law of Zambia and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency, be void. Section 1(4) further provides that the Constitution shall bind all persons in the republic of Zambia and all Legislative, Executive and Judicial organs of the state at all levels.¹⁸³ For this reason the Constitution is binding on every one.

Secondly, every institution of the state charged with an important function is created by the Constitution. For example, the Human Rights Commission is created under article 125 of the Constitution.

The Act should also provide for the grounds upon which the president can dismiss the Commissioner so that the president does not dismiss the Commissioner without valid reasons. Furthermore section 5 should be amended so that the DEC officers can be able to prosecute

¹⁸¹ The Constitution of Zambia, Cap 1 of the Laws of Zambia S 1(3)

¹⁸² Cap 1 of the Laws of Zambia.

¹⁸³ The Constitution of Zambia, Cap 1 of the Laws of Zambia

under the Act without having to obtain permission from the Director of Public Prosecutions. This will enable DEC to operate freely without interference from other government bodies.

5.2.5 Accommodation

It is also recommended that the government should ensure that it provides accommodation to the DEC officers in the various provinces of Zambia especially in the Central and Northern Provinces where the DEC officers are badly hit with unavailability of accommodation.

5.2.6 Expansion of the Structure of the Commission

Lastly, the government should authorise the Commission to expand its structure. This will enable the Commission to send more officers in the various provinces of Zambia. It will also enable the Commission to have representation in all the districts including those that do not have any DEC officers like Kalomo district in the Southern Province.

In Zambia, the Drug Enforcement Commission is the institution charged with the mandate of reducing drug trafficking. It collaborates with other international, regional, and local institutions while discharging its mandate. The role of these institutions is to supply the Commission with information about drugs and also to offer training to the DEC personnel. A comparative study was made between NDLEA and DEC in order to ascertain the measures which can be adopted by DEC to make it more efficient and effective. In addition to this, the challenges faced by DEC were discussed. It is hoped that these challenges will be addressed in order to make the Commission more effective and efficient.

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