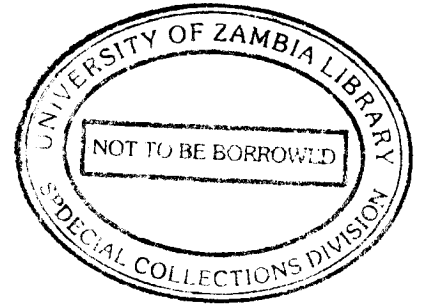


THE IMPACT OF THE VICTIM SUPPORT UNIT ON ZAMBIA'S
INDIGENT VICTIMS

BY

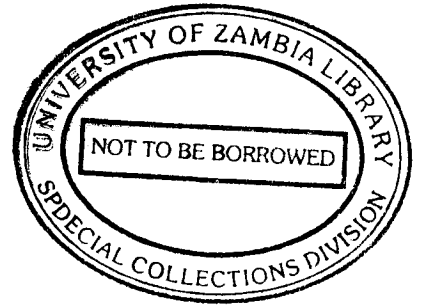
MAZYOPA EDWIN



Being a paper presented in partial fulfilment of Examination requirement for the
Degree of Bachelor of Laws of the University of Zambia

December 2005

The University of Zambia
School of Law
LUSAKA




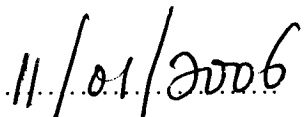
**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

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DECLARATION

I , Mazyopa Edwin, of Computer Number 90156129, do hereby declare that the contents of this Directed Research Paper are entirely based upon my own findings and that I have not in any respect used anybody else's work without acknowledging the same to be so.

I therefore bear the responsibility for the contents, errors, defects and omissions therein.

Date..... Signature.....

DEDICATION

To my dear wife, Joyce Mazyopa Zulu, my daughter, Balekile Gueen Mazyopa, and my son, Jabesi Mazyopa.

In

Recognition and appreciation of your difficult experiences triggered by my continued absence from you, so bravely endured.

I truly owe you all.

ACKNOWLEDGMENTS

This work is a combination of hard work and persistence. I must state that in the course of coming up with this text I received a great deal of assistance from many people among whom are my Supervisor, Judge Kabazo Chanda.

I give him special thanks for his valuable advice, tireless corrections of my work at every stage and above all, his keen interest in seeing me produce this work. I am obliged to you Judge.

Additionally, my thanks go to Mr. Francis K. Ndlhovu for his material assistance which enabled me to accomplish my work. I would also like to thank Mr. Peter Kanunka, Mr. Tresford Kasale, Miss Rose Sakala, Mr. Sam Nyirongo for their laborious contribution to my work. I salute you all.

I would also like to give thanks to John Lubumbwe Kayuni, Muki Phiri, Abel Lungu, Mwapela Sam, Willie Sinyangwe, Simukoko Emmanuel Chanda, and Emmanuel Sikazwe. At any time that I needed help in relation to this Research paper these people did give it to me.

Lastly, but by no means the least, I would like to thank the Secretary, Law School, Miss Precious B. Mweemba for her diligence and professionalism which enabled me to finish work in good time.

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Isaac Tantameni C. Chali v Liseli Mwala [2000] 1 LZA National
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PREFACE

Ordinarily, studies of mechanisms employed by law enforcement agencies should occupy a centre stage for lawyers. This is because such mechanisms tend to limit members of the general public in their enjoyment of rights. In the light of this, lawyers must help the law enforcement agencies to create mechanisms that are progressive and responsive to the needs of society. In order to give effect to this, it is imperative that the law enforcement agencies, say the Police, Anti-Corruption Commission and the like are guided by certain minimum standards – standards like respect for human rights and the laws of the country.

Certain criminal acts or omissions could be reduced in society if the law enforcement agencies responded quickly to the need of the general public by establishing new mechanisms of fighting crime.

The object for this paper is to look at the reasons behind the establishment of the Victim Support Unit in the Zambia Police Service. It is hoped that the paper maybe of help to those who wish to cast every criminal act or omission down to dust. A good law enforcement agency is one whose operations are based upon the application of principles of law and modernity to suit social change in society.

**MAZYOPA EDWIN
SCHOOL OF LAW, UNZA, 2005
LUSAKA**

ABSTRACT

In 1991, Zambia became a Third Republic. That is to say, the one-party system was abandoned in favour of the Multi-Party System.

This transition also demanded that the Policing System equally transforms from its hitherto militaristic approach (force) into a more humane policing approach.

The then Inspector General of Police, Francis, K. Ndlhovu, embarked on Police reform programmes in 1994.

It is at this time that the then Police Force changed into Police Service. Many new policing techniques meant to bring the members of the general public closer to the Police were introduced in order to crash the fear people had of the Police down to dust. Among these new techniques was the Victim Support Unit which was established in 1995. This research paper attempts to look at the impact of the Victim Support Unit on the Zambia's indigent victims. In the past complaints from this class of persons were given less attention by the Police. It later appeared that the services of the Police were divisive and did not care about the indigent victims of crime so to speak. Hence the creation of the Victim Support to address this imbalance.

ORGANISATION OF CHAPTERS

This study consists of five chapters. Chapter one attempts to present the definition of the term police, bearing in mind the nature of the various reasons for why there ought to be the Police in society. The chapter further discusses the driving forces behind the creation of the Victim Support Unit and goes on to show whether this was necessary. Chapter two covers the type of cases that are reported to the unit, funding, support that the unit receives and training of officers. Chapter three analyses instances of abuse of the Victim Support Unit by some members of the public. In Chapter four the paper presents successes and statistics of cases reported to the Unit, and analyses the reasons for the increase of the cases. And in Chapter five the paper concerns itself with operational difficulties that the officers under the Unit experience. It also considers some recommendations to be embarked on in order to improve upon the operations of the Unit, and finally the conclusion. All these are measures meant to come up with a better method of policing the general public.

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CHAPTER ONE

1.1 INTRODUCTION

It may be true to say that any development in society, be it political, economic or social, has got its own problems. In view of this members of the general public have tirelessly endeavoured to bring about measures to control the problems. One big and public institution that is charged with the responsibility to handle problems in society is the police. More often than not, police have been faced with serious, sophisticated and perhaps very challenging problems in the modern society. On account of this, police have been quick to introduce measures meant to create a culture of understanding that will enable them to more effectively prevent and manage cases where the victims are the most vulnerable members of our society.¹ Quite clearly, a variety of problems in our community today requires the assistance of an independent agent to parties having some problem or dispute that demands immediate attention. In the case when the Police Officer is the intervening agent, the range of problems that are encountered are diverse. The police may be called to settle violent husband-wife fights, disputes between parents and teenagers, arguments caused by alcohol or drugs, struggles over child custody or any of the myriad problems that arise among people.²

¹ Taya Weiss, Editor, **Policing Violence Against Women And Children**, Institute for Security Studies, Pretoria, 2003, page 1.

² John, R. Saibbe, **The Urban Policeman In Transition: A Psychological And Sociological Review**, Charles C. Thomas, Publisher, Springfield, 1973, page 421.

In order for police to more effectively settle such problems, they employ measures that tend to satisfactorily suit the environment. Arising from such a trend the Zambia Police established a new mechanism in their day to day quest to bring order in society. This new mechanism, the Victim Support Unit, was meant to deal with problems specifically encountered by the vulnerable. A vulnerable person is one in need of extra protection because the person does not have the same ability to protect themselves as other members of society. Someone who is unfairly treated, discriminated against, or victimized.³

This research paper attempts to assess the impact of the Victim Support Unit on the Zambia's Indigent Victims. The discussion is segmented into five chapters. Chapter one consists of the definition of the term police, establishment of the Victim Support Unit, and whether it was necessary to introduce the Victim Support Unit. Chapter two covers the types of cases that are reported to the unit, funding and support rendered to the unit and training of officers under the unit. Chapter three presents an analysis of instances of abuse of the victim support. These are instances where members of the public might have feined victimization in order to try and take advantage of others through the use of the law of enforcement organs.

Chapter four shows the success and the statistics of cases reported to the Victim Support Unit.

³ Taya Weiss, 2003, *supra*, page 2.

Chapter five will endeavour to show the operational difficulties faced by the unit, recommendations and finally the conclusion.

1.2 DEFINITION OF THE TERM POLICE

Charles Jeffries⁴ learnedly states that in the totalitarian system, the word police is used to describe a body of officials whose function it is to see that the public obey the dictates of the government. This may be true, also, in a democratic system, even though in this case the government itself is one that may be replaced by another if the majority of the people so decide. We are all rather inclined to take things for granted. But when one comes to think of it, one must admit that it is by no means inherent in the eternal order of the universe that one and the same organisation should include the gentleman who tracks and brings to justice the criminals; the gentlemen who directs the traffic at the crossroads; and the gentleman who walks or cycles about the streets keeping a general eye on things.

A London Police Commission (1839)⁵ is quoted as having said that the police are “the primary constitutional force” Concerned with the maintenance or order, the enforcement of the law and ‘the protection of individuals in the enjoyment of their legal rights’.

⁴ Charles Jefferies, *The Colonial Police*, Max Parrish, London, 1952, page 18.

⁵ Ibid, page 18

Gabriel Ben Dor⁶ states that police fulfill a symbolic role, they may serve as an inspiring example of hard work and co-operation, and "in an underdeveloped country police are sometimes an island of modernity, eager to use the latest technical devices, organized on the basis of merit rather than status, and experimenting with functionally specific role-playing.

Taking into account the propositions in the foregoing, and taking a birds-eye-view of the functions of the police today in our community, we may agree, in no uncertain terms, that indeed it is in some such way that the word police has come to mean.

1.3 THE ESTABLISHMENT OF THE VICTIM SUPPORT UNIT

According to Francis, K. Ndlhovu (2005)⁷, in an interview, the Victim Support Unit is part and parcel of the Police Reform Programme which followed after the demise of the one party state into Multi-Party state. In the main, the unit was specifically meant to handle reports of complaints received from victims that are of a vulnerable nature, say, children, women, orphans, widows, the elderly especially those who may be accused of being witches. It came to be realized that in the past police looked down upon such reports and as such did not treat them with the seriousness they deserved. For example, if a woman complained of having been beaten and assaulted by her husband, police reduced the

⁶ **The Police Journal**, Article By Gabriel Ben Dor, **The Role of The Police In Political Development**, Barry Rose, London, 1974, page 104.

⁷ Francis, K. Ndhlovu (2005), Inspector General of Police, Retired Interview on 16th June, 2005.

complaint to a mere domestic problem which should be discussed between wife and husband. Or when, for instance, a husband in a customary marriage died, the widow would suffer untold consequences at the hands of the relatives of her late husband who would literally grab all the property from her. It meant that the widow, along with the surviving children would suffer for the rest of their lives.

Asked whether a person who is in employment and feels they have been victimized at their place of work could report to the Victim Support Unit, Mr. Francis, K. Ndlhovu⁸ states that such a person could report. For example, if a superior officer in the position of promotions asks a female employee for a sexual favour in consideration for promotion and the female employee refuses, the superior officer would want to fix her by not promoting her but promote her juniors instead. Because of these and a lot other related cases, police thought of introducing a unit which would train its officers to dedicate their work to such cases. This saw the introduction of the Victim Support Unit in 1995 and the officers under the unit were tasked to pay special attention to these problems.

This meant that when officers received such a complaint from any member of the public, the vulnerable especially, they were now expected to study the case thoroughly and look out for criminal elements. Once such criminal elements have been discovered they serve as a guide to have the perpetrators prosecuted.

It is important to realize that the introduction of the Victim Support Unit is a great achievement in the development of the Zambia Police. This is so in that other

⁸ Ibid.

crimes like motor vehicle thefts, murder, robbery, had well established mechanisms to handle them while complaints that are today being handled by the Victim Support Unit were neglected. Being a new phenomenon in the operations of the police, one would not be wrong to try and ask as to whether the Victim Support Unit was introduced with the blessing of the law.

As part of the Police Reform Programme, available information speaks volumes that the introduction of the Police Victim Support Unit received overwhelming Support from the government. This is evidenced by the fact that the Zambia Police Act⁹ was amended to include the Victim Support Unit. Infact the Act creates the Unit as it states that there shall be a Victim Support Unit at all Police Stations and posts to be administered by Police Officers appointed by the Inspector General of Police.

1.4 WAS IT NECESSARY TO INTRODUCE THE VICTIM SUPPORT UNIT?

By and large, members of the public would wonder as to whether it was necessary to introduce the Victim Support Unit at the time. This would be so because at this particular time police already had well established modes of operation in place.

In order to give a good and convincing account to clear the doubt, recourse to the Political, Social and economic ramifications obtaining at the time is imperative.

⁹ The Zambia Police (Amendment) [No 14 of 1999 365.

We have noted in the foregoing that the Victim Support Unit is part of the Police Reform Programme which took place in the early nineteen nineties when Zambia became a Third Republic. During this time, Politics Changed. Political parties boomed as the nation was no longer a single party state.

There is reason for us to believe that this political change sweeping across the country also affected social and economic spheres. For example, issues of property grabbing became rampant and became a worry to members of the public. Because of this, police realized that there was need for a special unit to pay particular attention to such problems.

Mr. Francis, R. Ndlhovu¹⁰ admits that the introduction of the Victim Support Unit was necessary as it came at an opportune time. He goes on to state that it enabled the police to investigate those cases which were previously trivialized in order to try and trace criminal tendencies thereof.

It is important to note that change which benefits any system in society is good. We have already noted that in an underdeveloped country police are sometimes an island of modernity, eager to use the latest devices, organized on the basis of merit rather than status, and experimenting with functionally specific role-playing.¹¹

¹⁰ Mr. Francis, K. Ndlhovu, *supra*, 16th June, 2005.

¹¹ Gabriel Ben Dor, 1974, *supra*, page 104.

This goes to explain that as society keeps changing its political, social and economic life, the police should also change its modus operandi in order to meet the aspirations of society. It is our considered view that if big institutions like the Police remained static and archaic there would be anarchy in society because the system could fail to serve the people stage by stage.

John, R. Snibbe¹² argues that change in our society is necessarily reflected in the institutions which we create to serve us. As society has shown massive change in the past decade, its institutions, which tend to change more slowly than the society itself, have been under considerable pressure to reexamine its directions and purpose. One institution which has been particularly subjected to pressure by the community at large is the police. The Police as an agency are not separated from the community but part of the community itself. Consequently, the way in which the community behaves necessarily influences the behaviour of the police, and sooner or later a community molds its police in its image.... For example, as a result of the social change taking place many traditional social values and customs are rapidly being altered and new social and political groups are evolving to challenge the authority and practices of established interests. These changes requiring the discarding of old values and the accepting of new standards cause much unrest among the police.

¹² John, R. Snibbe, **The Urban Policeman In Transition; A Psychological And Sociological Review**, Charles C. Thomas, Publisher, Springfield, 1973, page 486.

The above argument gives us reason to believe that Zambia's political change from a one party state to a multi-party state caused much unrest among the police, evidence abound. For example, Zambia Police introduced a Police Reform Programme which aimed at bringing the community closer to the police so that members of the general public do not fear the police any longer¹³. It is during this police reform programme that the Victim Support Unit was introduced. It goes without saying that its introduction was necessary in the operations of the police, inspite of the availability of a lot other mechanisms of law enforcement. The Unit was established to serve a specific purpose in the police service. To help the police to respond to a specific class of complaints in society. The necessity of the establishment of the Victim Support Unit lies in the fact that society is dynamic. It is therefore imperative that every stage of development or societal change which influences the behaviour of individuals is organized by latest modes of policing in order to ensure continued orderliness. It is a powerful argument that the foundations of police operations are built upon societal needs which are broad based and cover all classes of persons, the indigent inclusive. With the establishment of the Victim Support Unit Police have been able to successfully address the complaints raised by the vulnerable members of the general public. These persons occupy a considerably low status in society and the police realized that their complaints must be handled by a unit with personnel skilled to suit them.

¹³ Francis, K. Ndlhovu, supra, 16/06/05.

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For Security Studies, Pretoria, 2003.

LEGISLATION REFERRED TO

The Zambia Police (Amendment) [No. 14 of 1999 365].

CHAPTER TWO

2.1 TYPES OF CASES REPORTED TO THE VICTIM SUPPORT UNIT.

We have noted in the foregoing that the Victim Support Unit was established in order to enable the Police to attend to reports from vulnerable members of society. It became apparent at the time of inception of the Victim Support Unit that previously, Police looked down upon such cases received from such a class of people and rendered very little, or no help at all. But when the Unit was established, Police began to entertain cases reported by the vulnerable. Mr. Francis, K. Ndlhovu¹⁴ says the unit focuses not only on civil cases, but also on criminal cases. He gives two examples. The first one is, a lady may be victimized by a man who may cheat her by making false presentations of marriage. He may make her pregnant but later on refuse to marry her. A child is later born out of wedlock and the man neglects the child. The Victim Support Unit will take up the case and help the woman to sue the man for child maintenance. The second being that a wife or husband maybe victimized in terms of beatings, or spouse battering. The Victim Support Unit takes up such a case by issuing a medical report form and depending upon the doctor's endorsement in the medical report form, proceed to have the perpetrator prosecuted. The officers from the Unit will deal to such an extent that there is satisfaction on the part of the victims, so that they feel protected by the law at the end of the day. It is trite law that aims at protecting its people from all vices.

¹⁴ Francis, K. Ndlhovu, Supra, 16/06/2005.

One Tresford Kasale,¹⁵ In-charge of the Victim Support Unit at Lusaka Police Division observes that the major focus of the Victim Support Unit was to give counseling to Victims of cases of sexual crimes, say, rape, defilement, incest and spouse abuse. He does not, however, fail to mention that property grabbing and cases of failure to maintain ones' children are equally prevalent and clog the Victim Support Unit. Most importantly, the Victim Support Unit has been quite instrumental in trying to solve problems received from young, vulnerable children victimized by either their own parents, grand parents, foster parents or guardians by either counseling the perpetrators or indeed having them prosecuted depending upon the gravity of the case.

As we have lucidly stated above, the Victim Support Unit receives both Civil and Criminal cases from the vulnerable members of the general public. Each case received, however, is dealt with in line with the facts surrounding it. Being a unit established to receive reports of cases from vulnerable members of the public, we maybe able to mention that the cases we have discussed above may not be the only ones that the unit welcomes. There may be a lot other cases that are reported to the unit, except the ones we have considered are prevalent. A good example could be the one in which Mr. Francis Ndhlovu¹⁶ states that even an employee who feels victimised by their superiors could as well report to the Victim Support Unit. Such employees, he argues, are not and should not be

¹⁵ Tresford Kasale, In-Charge of The Victim Support Unit at Lusaka Police Division, Interviewed on 18/06/2005.

¹⁶ Mr. Francis, K. Ndlhovu, supra 16/06/2005.

restricted to the Standing Orders of their various institutions lest their rights are violated without proper redress.

2.2 FUNDING AND SUPPORT RENDERED TO THE UNIT

For every change that has been introduced in society, human nature has always been seen to desire the consequences for which it was brought about. However, for this desire to come out true, many changes in society have been seen to be heavily dependent upon funding. And along with funding comes other types of support, either social or material. We may be right to argue that actually funding is the fulcrum of operation in every institution. Mr. Francis, K. Ndlhovu¹⁷ hastens to say that because police wanted to meet peoples' aspirations, a separate funding was created for the unit. This would assist the officers in investigations, movements, information publication to reach the members of the public and other areas of need.

Mr. Peter Kanunka, ¹⁸ director of the Victim Support Unit, agrees that the same gesture is still obtaining. He, however, notes that the same funding is erratic. For example, the funding is not sufficient to enable the unit to conduct its day to day operations thoroughly well. Be that as it may, the unit has been compelled to make do with the same insufficient funding in order to see to it that its operations are not left to suffer. To a great extent the officers are buoyed by a spirit of hard work and hope that one day things will improve.

¹⁷ Ibid.

¹⁸ Mr. Peter Kanunka, Director of Victim Support Unit, Interview, 16/09/2005.

It is important to note that most of the success scored by the Victim Support Unit has been as a result of the support received from the donor community by way of appreciating its services to the general public.

The Police amendment Act¹⁹ creating the Victim Support Unit permits that police officers under the unit may coordinate with the Civil Society and professional bodies in carrying out their duties. We may be able to state that such legislative backing is excellent. It is indeed a good gesture to the development of both the law and the police.

And it is because of this that officers under the Victim Support Unit have created good rapport with the donor community. The unit has, for example, received support from the National Legal Aid Clinic for women, The Young Women Christian Association (WYCA), The Royal Danish Embassy, United States Aid (U.S. Aid), United Nations International Children's Emergency Funds (UNICEF), and such other agencies.

Miss Chikonde,²⁰ a Senior Legal Officer with the National Legal Aid Clinic for Women, states that National Legal Aid Clinic For Women Offers cheap services to victims of crime and as such the institution is almost always congested with members of the general public bringing in different complaints.

¹⁹ Zambia Police Amendment Act, [No 14 of 1999].

²⁰ Miss Chikonde, Senior Legal Advisor, National Legal Aid Clinic For Women, Interview, 15/07/2005.

Because of this the institution has requested the Zambia Police to initiate an attachment of Police officers from the Victim Support Unit on the basis of rotation. The officers attached to the institution are given a small allowance to help them with transport. Besides, the officers, whilst on attachment, are given motor transport to help them to handle cases quickly.

Moreover, the National Legal Aid Clinic For Women has initiated phone-in Radio programmes to which they have invited police officers from the Victim Support Unit to reach the general public. In such phone-in radio programmes, the police have been able to discuss and answer questions related to cases of defilement, incest, intestate succession and human trafficking. In the sensitization workshops the National Legal Aid Clinic For Women has informed the general Public that it renders assistance to victims of crime through the Victim Support Unit.²¹

Tresford Kasale²² notes that the Victim Support Unit has been able to operate effectively with the help of Non-Governmental Organisations like the National Legal Aid Clinic For Women and the Young Women Christian Association. He notes that The Young Women Christian Association, for instance gives after care services to victims of spouse battering in form of food, shelter, legal services, and the like. Further, the Young Women Christian Association offers assistance to

²¹ Miss Chimimba Leah, Programme Officer, National Legal Aid Clinic For Women, Interview, 15/07/2005.

²² Tresford Kasale, supra, 18/06/2005.

young victims who are victimized by either their parents or guardians in terms of sponsorship to go to school.

Peter Kanunka²³, recognizes the importance of the role played by the donor community as he states that this has helped the Victim Support Unit a great deal to reach the vulnerable even in remote places. He states that the unit has received both monetary and material support from the donor community. For example, the Royal Danish Embassy donated money, two motor vehicles and sixty-five bicycles in 2003 to help the Victim Support Unit with its operations.

Additionally, the USAID donated a motor vehicle in January, 2005, and UNICEF donated ten motor bikes and ten computers with printers in 2004. This material and financial support received from the donor community has really helped the Victim Support Unit to conduct its day to day business.

2.3 TRAINING OF OFFICERS

Police is a public institution which renders its services to the general public. For this reason, it is imperative that officers employed by such an institution are well trained in order for them to properly handle various cases reported to them. Each department in the Police Service has training programmes which aim at availing the officers a certain skill so that they understand cases as they are reported to them. This is very important because most cases are reported to the police with an enormous amount of pressure which may confuse officers if they

²³ Peter Kanunka, Supra, 16/09/2005.

are not properly trained. We must as well hasten to note here that it is the type of training which officers receive that renders an institution effective. In other words, the success of every institution is largely dependent on the training programmes it offers to its personnel. We will keep pointing out that the Victim Support Unit came at a time of police reform programme which marked a change in certain modes of policing. For example, to try and bring the police closer to the public than before so that the members of the general public do not fear police officers.²⁴

Because of this, it has been observed that both police administrators and large segments of the public have called for more and better training for police so they can effectively handle the results of social change. However, a call for training has been more a recognition that training is necessary rather than a consideration of what kind of training will be most helpful.²⁵ This helps us to argue that it is training that makes every institution efficient.

With this in mind, Police administrators have worked so very hard to try and organize for training programmes for officers under the Victim Support Unit. Officers under the unit, especially those at the top of the hierarchy received special training both locally and regionary. They were exposed especially to the United States of American wherefrom the Victim Support Unit received a lot of pamphlets to supplement the knowledge that the officers had already acquired.

²⁴ Mr. Francis, K. Ndlhovu, *supra*, 16/06/2005.

²⁵ John, R. Snibbe, *Supra*, Pages 487 to 488.

The Victim Support Unit was associated to a number of Victim Support Unit youth groupings in the United States by other Police Forces right there. Moreover, officers under the Unit traveled to the United States during the late 1990s for training in Victim Support Programmes.²⁶

Additionally, officers have been trained to counsel victims of various cases like rape, incest and defilement. Police administration usually coordinates with the Young Women Christian Association which has a very good training facility at their headquarters where the officers from across the country are invited to train as Counselors. Training programmes are also organized at Lilayi Police Training College for officers under the Victim Support Unit with resource personnel drawn from the Young Women Christian Association, and The University of Zambia Counseling Centre.²⁷

Other training programmes have been conducted in Psycho-Social Counseling at Chainama, very specific and special investigations programme to deal with children especially, was conducted at Lilayi Police Training College, and some officers to prosecute cases of the Victim Support Unit have been trained at the National Institute of Public Administration NIPA²⁸.

Moreover, the monies received from the donor community have also contributed towards the training of officers under the unit. The funds donated by the Danish

²⁶ Mr. Francis, K. Ndlhovu, Supra, 16/06/2005.

²⁷ Ibid.

²⁸ Tresford Kasale, Supra, 18/06/2005.

Embassy, for example, were used to train twenty officers in Psycho-Social Counseling, twenty officers in Basic Criminal Investigations course, and also enabled the police administration to organize forty-four community based workshops with participants from both the police and the general public.²⁹

Most importantly, Police Officers who are attached to the National Legal Aid Clinic For Women are sometimes invited to para-legal workshops organized by the institution. This helps the officers to learn how best to approach complaints reported to them.³⁰

These and many other training programmes organized by Police administration have benefited both the police and the general public. For example they have helped the officers to create good rapport with the members of the public in their effort to attend to victims of crime. Miss Chikonde (2005)³¹ states that the officers attached to the National Legal Aid Clinic For Women are given legal tips to help them to approach cases that they receive with caution.

With all this in mind, we may be right to say that training of personnel is but a fundamental part of any development in society. The pressures mounted on an institution in the course of any development tend to be contained when the personnel therein receive adequate training. Obviously training equips officers at

²⁹ Mr. Peter Kanunka, Supra, 15/09/2005.

³⁰ Miss Chikond, Supra, 15/07/2005.

³¹ Ibid.

various levels of development with a special skill aimed at making them understand their role and their very existence.

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LEGISLATION REFERRED TO

Zambia Police Amendment Act [No. 14 of 1999].

CHAPTER THREE

3.1 ABUSE OF THE VICTIM SUPPORT UNIT

It is common knowledge that a number of changes that have swept across society carry with them some advantages and disadvantages. In this particular chapter we are concerned with the element of abuse of the Victim Support Unit by some persons who make false reports to the Victim Support Unit that they have been victimized when in fact they have not been victimized.

Many a time, institutions like the police which render services to the general public are abused in the course of their operation for various reasons. Miss Chikonde,³² a Senior Legal Officer at the National Legal Aid Clinic for women argues that usually some people have a propensity for abusing institutions that render free services. Some of these instances are ones in which some members of the public have suffered untold consequences at the hands of those who should have protected them by virtue of their role or standing in society.

Elsewhere, some members of the public have attempted to use the Victim Support Unit in order to try and take advantage of others. Such instances, shameful as they maybe, have posed an enormous challenge to Police officers serving under the victim support unit. This maybe attributed to the fact that officers have received false allegations from some people who have usually mounted pressure on them to follow-up the same allegations urgently. In order

³² Miss Chikonde, Supra, 15/07/05.

for us to drive home the point, we will look at three sad incidents which actually reflect worrying elements of abuse.

The first one is that of witchcraft. First and foremost, it is important for us to note that it is against the law in Zambia for anyone to allege that another person is a witch. Whoever names or indicates or accuses or threatens to accuse any person of being a wizard or witch shall be liable upon conviction to a fine not exceeding seven hundred and fifty penalty units or to imprisonment with or without hard labour for any term not exceeding one year, or to both.³³

However, such behaviour of naming other persons witches or wizards have been prevalent in society, and especially in villages, inspite of the existence of the law. Usually it is the indigent persons in society, the old especially, who have been subjected to such undesirous accusations. Worse still, these persons have been victimized by the people whose task it is to provide protection to all in society. Chiefs are the worst culprits or perpetrators of such unfortunate and traumatizing activities in villages.

One Chief Sinadambwe of the Tonga People in the Siavonga District of Southern Province one day in 2000 wrote a letter to the office of the officer-in-charge of Siavonga Police Station requesting for police assistance to protect a witch finder whilst on duty. I was the officer-in-charge of Siavonga Police Station at the time and the Chief was asking for the presence of the police officers because some of

³³ The Witchcraft Act, Cap 90 of the Laws of Zambia, Section 3(a).

his subjects objected to the functions of the witchfinder. They vividly indicated that if the witchfinder dared to temper with them, they would beat him up. The Chief indicated that those people were very bad and he was desirous to see the witchfinder operate in the villages where they came from. Alert to the right of protection that every member of the public enjoys from the police I replied to the chief's letter and told him that the duty of the police is to protect everyone, an alleged witchcraft inclusive. The response was in line with the provisions of the Witchcraft Act³⁴ which states that any chief or headman who directly or indirectly permits, promotes, encourages or facilitates the commission of any act punishable by this Act shall be liable upon conviction to a fine or to imprisonment with or without hard labour for any term not exceeding three years.

Clearly, the chief's request for police presence during the performance of the duties of the witchdoctor is an attempt to abuse the Victim Support Unit. To him police presence would assist to cow-down the resistant persons and coerce them into permitting the witchfinder to carryout his duties in their respective villages. Alas, very few villagers are aware that such behaviour is not only ridiculous but also unlawful.

The second instance is one suffered by one Captain Austin Chewe.³⁵ One Liseli Mwala reported to the Police Victim Support Unit that she had a child with Captain Austin Chewe and that he neglected the child. The child was deaf and

³⁴ Ibid, Section 12.

³⁵ Tresford Kasale, *supra*, 18/06/05.

damp. Captain Chewe refused having had carnal knowledge of the woman at any time and therefore it was not possible that he had a child with her. Police advised her to take the case to court so that the court would help to prove the paternity of the child. The advice which she took. But before the case was disposed of she took the child to the custody of Captain Chewe. Soon thereafter, she reported to the Victim Support Unit that Captain Chewe had poisoned the child. This allegation caused Punic to the police who took the child to the University Teaching Hospital where he was admitted pending examination. The Police guarded the child to avoid instances of abduction. When the results finally came out it was discovered that he had not taken poison. Because of what he was going through, Captain Chewe requested to have blood groupings of himself, the mother and the child to help to prove the paternity of the child. Chewe had group B+ and the Child AB. Owing to these results, Captain Chewe ordered his servants to take the child back to the mother. The child, upon arrival showed his mother the mark of the injection on the arm. This ushered in another problem because, according to the mother, the child was injured. She kept on mounting pressure on the police until the court ordered for a D N A taste. The court further ordered the Police to assist to have the blood samples obtained from Captain Chewe, the child and the mother. Captain Chewe hurriedly gave his blood samples. She failed to give that of herself and her son. Through continued investigations, the Police came across the case of **Isaac Tantameni C. Chali v Liseli Mwala**.³⁶ In this case there was evidence by the respondent that when she (Liseli Mwala) was moved to her father's house he had carnal

³⁶ [2001] 1 LAZ NATIONAL LEGAL AID FOR WOMEN 142.

knowledge of her resulting in a pregnancy while she was still at school. She subsequently gave birth to a boy who is deaf and dumb. The Police questioned her in connection with the facts of the case and hastened to find out why she decided to level such an allegation of Paternity against Captain Austin Chewe. The lady told the Police that it was true that she had that child with her own father, but that she brought this allegation against Captain Chewe because she loved him very much. Asked whether he could allow the police to take the lady to court for giving wrong information to the police, Captain Chewe declined. He said that he would not allow that since he was a public figure. The woman has since died.

It is quite unbelievable that an innocent person can be subjected to such atrocities by another person whom they do not even know. Captain Chewe never had any social intercourse with the lady previously, let alone sexual intercourse. Even if she loved him as she put it, surely she would have employed some other means to lure him. As we have seen such false reports presented to the police are very misleading as the police almost always treat the complainant's story as the truth.

One other important instance of abuse was reported to police by a Mr. Simweene. Alleging that one Henry Banda had defiled his fourteen years (14) old daughter, Mercy Simweene. Both the mother and father to the girl went to see Banda and told him that she was only fourteen years old when he had

carnal knowledge of her. Banda was really worried about the development and pleaded with the parents of the girl. He asked them if he could pay them some money so that they do not take the case any further. They agreed and charged him six million kwacha (K6m). He paid them five hundred thousand kwacha (K500,000.) and promised to pay the remaining five million five hundred thousand kwacha (K5.5m). Banda later on paid two more instalments of five hundred thousand kwacha (K500,000.) each, bringing the total amount of money paid to one million five hundred thousand kwacha (K1.5m). However, the father of the girl was not happy to receive the money in instalments. He wanted it in full. But Banda pleaded for clemence as he did not have enough money to pay at once. The father to the girl went to Banda's home one day but did not find him. He instead found Banda's wife. He started shouting at the top of his voice using threatening words. Upon returning from where he had gone Banda was told by his wife what had transpired in his absence. The father of the girl reported the case to Westwood Police Station where the Police issued the girl with a medical report.

Meanwhile, before negotiations with Banda started the parents took the girl to the clinic to see if she was pregnant. The medical personnel advised that she was not pregnant and did not have any infections. Westwood Police Station opened up a docket of case but there was no medical report in the docket. When Banda was called by the Police officers at Westwood Police Station he went but failed to

meet the officers who had sent for him. This was because he did not find the officers. He tried to wait for them but in vain.

He left the Police Station without seeing any of the officers, let alone the officer-in-charge. Because of this the father of the girl complained that the officers at Westwood Police Station were favouring and shielding Mr. Banda. He went to complain to the Commanding Officer at Lusaka Police division who instructed that the case be transferred from Westwood Police Station to the Victim Support Unit at Lusaka Police division. When the docket was finally sent to Lusaka division the Police officers there discovered that there was no medical report in it. They issued her with a medical report which she went with to the University Teaching Hospital for examinations. The medical personnel were reluctant to examine her due to the lapse of time because the girl could have slept with someone else other than Mr. Banda during the period after which the alleged act took place. After some good time of persistence the medical personnel examined the girl and confirmed she had sexual intercourse. However, they did not confirm that she had sexual intercourse with Banda.

Police Officers at the Victim Support Unit called Mr. Banda and interviewed him. Mr. Banda, however, agreed that he had an affair with the girl but did not know that she was fourteen (14) years of age. The officers, after a thorough study of the docket discovered that infact there was an agreement between Banda and the parents of the girl to the effect that he would pay them six million kwacha

(K6m), and that he had already paid three instalments of five hundred thousand kwacha (K500,000) each. This alone was additional evidence that Mr. Banda had carnal knowledge of the girl of only fourteen (14) years. This was in fact construed as admission of guilt.

They charged him with indecent assault. The charge was received with mixed feelings by the father to the girl who later abandoned the officers at Lusaka Police division and went to Police Headquarters where he complained that the arresting officer had reduced the charge. Senior Police Officers positioned at Police Headquarters exerted pressure on the officers under the Victim Support Unit at Lusaka Police Division. Investigations, due to the pressure exerted on the officers, became increasingly unbearable. They requested the parents of the girl to surrender the girls under five years clinic card to help with investigations. The card showed that Mercy was born in 1988.

However, the card exhibited some suspicious entries. For example, the same colour of ink was used on the card to indicate the weight of the child through the graph for all the five years. The officers took the card to the forensic department situated at Police headquarters to try and verify as to whether the entries were forged or not.

Unfortunately this was not possible because the forensic department did not have equipment to do that. The matter was finally taken to court. Counsel for the accused demanded that the doctor be called from the University Teaching

Hospital to come to court to give evidence. This demand opened up another phase of investigations. The officers travelled to the clinic where the girl was born. There they were referred to the Provincial Headquarters where they saw a Senior doctor who promised them that he would release the register for that year some day later. But before the date of court when the doctor would produce the register as part of the evidence in court, he called the officers to the University Teaching Hospital. When the officers called to the doctors' office, he told them that the information on the card was incorrect. For example, the date of birth had been altered. The doctor revealed to the officers that according to the information laid down in the register, traced with the help of the card number issued at the clinic of birth, the child was born in 1986 and not 1988 as the father of the girl purported. Meaning that, the girl, Mercy, was already sixteen (16) of age at the time of the alleged offence. On the day of court, the doctor brought the register and gave evidence. Thereafter, the case was adjourned, and the parents of the girl have never again come to either the police or to court.

As we can see from the conduct of the parents of the girl as the case unfolds, we can be able to observe that these are serious and undesirable manoeuvres that certain indigent or less fortunate members of the general public may create in order to try and take advantage of those whom they think are well-to-do. But the most saddening thing is that much as they are aware of their false allegations aimed at destabilising innocent persons, they pursue them with verve. Worse still, they elect to use the services of public institutions without any fear of the

consequences should they be discovered. This is a serious abuse of the services of a public institution like police. One member of the public, Beatrice Mwala,³⁷ former Council Secretary of Siavonga District, commented that it is important that officers under the Victim Support Unit approached their cases very carefully. She stated that the officers must be able to investigate the cases reported to them thoroughly by getting evidence from both or all the parties lest they are misled by the persons reporting. This comment was made in connection with the experience that she went through at Lusaka Central Police Station where her former husband had reported to the Victim Support Unit that she had grabbed his vehicle after they divorced. According to her this was not true at all. What was true in fact was that she had bought a motor vehicle from her own resources, but her former husband used his names during the change of ownership on the registration book. What actually assisted her was his continued absence from the Police Station when she demanded that the officers try and put them together so that they could resolve who the real owner of the motor vehicle was.

However, the problematic part of the police under the Victim Support Unit is that they are usually put under pressure by the persons making such reports. And as a result of this, they are only able to discover the true version of the story much later – probably after the innocent party has been made to expend his money on, say, legal fees and court costs. This takes us back to the importance of training of the officers under the unit. It is mainly through good training programmes

³⁷ Beatrice Mwala, Council Secretary, Siavonga District, retired, interview, 10/07/2005.

organized for the officers that enables them to improve upon their skills in order to serve the community better.

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CASES REFERRED TO

Isaac Tanameni C. Chali v Liseli Mwala [2000] 1 LAZ National Legal Clinic For Women at 142.

LEGISLATION REFERRED TO

The Witchcraft Act, Cap 90 of the Laws of Zambia.

CHAPTER FOUR

4.1 SUCCESS OF THE VICTIM SUPPORT UNIT

One of the very many challenges that public institutions like the police face in society is success. Most frequently, information about the importance of a unit like the Victim Support Unit is observed from the way the unit functions. Being a unit which is charged with the responsibility for serving the vulnerable in society, success in the eyes of the public is seen as a way to gain access to justice. This is so when the case has been taken to court, or when the Victim Support Unit officers have been able to mediate or solve the conflict between the parties without the interference of the court or any of the parties being arrested for the matter.

Overall, there is great satisfaction with the services of the Victim Support Unit amongst the clients that they have served. In fact the Victim Support Unit is claimed to bring peace and harmony in the community and to families and performing better than the local courts. Thus it can safely be claimed that the Victim Support Unit is extremely popular and much appreciated and fulfils the objectives that are set out for it, that of assisting the most vulnerable in society.³⁸

Much of the success that has been scored by the Victim Support Unit can be attributed to the tireless effort that its officers have put in place to try and inform the general public of its existence. The Victim Support Unit believes that a well-

³⁸ Pre-Programme Support to Access to justice-Zambia: Zambia Police Service-Victim Support Unit Evaluation, 17/03/2004.

informed community is a community that understands and is sympathetic to protecting victims of human rights abuses. A well-informed community, is seen as a resource, both for reporting crime, and for creating, promoting and securing an enabling environment in which human rights and fundamental freedoms can be exercised by all citizens.³⁹

In order for the police to inform the general public about the existence of the Victim Support Unit, Police administration at police service headquarters, says Francis K. Ndlhovu,⁴⁰ initiated three lines of communication. For example, Television Interviews which went very far. This involves police officers under the unit going on Television or radio interviews with the members of the general public. Besides, pamphlets about the existence and functions of the Victim Support Unit were printed and distributed to the general public. Most importantly, the officers under the unit went into classrooms to teach school children of all levels to go out there and educate people from all walks of life about the Victim Support Unit. Basically to put them in the know of what they would expect as treatment befitting of victims of various crimes.

Elsewhere, the success of the Victim Support Unit can be attributed to the good working relationship and support which it has received from other public institutions say, the Young Women Christian Association of Zambia and the National Legal Aid Clinic for women. These institution have worked hand in hand

³⁹ Ibid.

⁴⁰ Francis K. Ndlhovu, supra, 16/06/2005.

with the police to try and help victims of crime. For example, the police officers attached to the National Legal Aid Clinic for women have been instrumental in the area of counseling complainants and their assailants. Before lawyers can see clients at the National Legal Aid Clinic For Women, these clients have to be interviewed by the Victim Support Unit officers. As a result of this exercise, most cases are dealt with and concluded by the officers without even getting into court. They sometimes offer mediation to clients and conclude cases where they can. This exercise is viewed as justice rendered quickly because lawyers are often in court and have little time to meet clients, and also, cases last longer in court.⁴¹

This ability to make a difference to the people and communities that officers work with is important to them and they enjoy the impact that their work has on their clients, such as witnessing a change in gender awareness, the increase in the number of cases referred to the Victim Support Unit and the ability to secure convictions for crimes convicted. This positive attitude is clearly reflected in the response given by both the clients as well as other stakeholders who appreciate the understanding, availability and a sense that victim support unit officers listen to them and really take time and care about them.⁴²

In trying to assess the way the Victim Support Unit has been operating, we are left with no option but to simply state that it is a successful mechanism of fighting crime. For instance, the unit is popular country-wide and has been created at all

⁴¹ Miss R. Mutasa, Legal Practitioner, National Legal Aid Clinic For Women, Interview, 15/07/2005.

⁴² Pre-Programme Support to Access to Justice, *supra*.

major stations and posts. It is interesting to note that there are about three hundred and fifty (350) Police Stations countrywide and about one thousand police posts. The Victim Support Unit has officers in about three hundred (300) Police Stations. The number of cases that the unit deals with has increased steadily from six hundred and fifty-seven (657) in 1997 to nine-thousand five hundred and eighty-five (9585) in 2003.⁴³

This increase alone is evidence enough to indicate that the Victim Support Unit is succeeding in its endeavours to protect the vulnerable in society.

Infact the good work of the Victim Support Unit does not only end with providing protection to the needy. It also extends to juvenile offenders. In this area, the unit, in collaboration with the community safety unit, a unit under the Zambia Police Service, solicit for assistance from well-wishers in terms of mattresses and blankets. These mattresses and blankets are put in cells so as to comfort juvenile offenders whilst in custody. The Victim Support Unit has distributed these items to Police Stations for use by the juvenile detainees. This commendable job is in line with the United Nations Convention on the Rights of the Child,⁴⁴ which states that depriving a child of liberty can only be done under very restricted circumstances. Children are protected from imprisonment or detention under the Juveniles Act.

⁴³ Ibid.

⁴⁴ Initial and First Periodic Report on the Implementation of the UN Convention on the Rights of the Child, Published by the Government of the Republic of Zambia with Support from UNICEF, 2002.

Further, the Penal Code prohibits the death sentence against a person under the age of eighteen (18) years and provides that in lieu thereof the court shall sentence him to be detained during the presidents' pleasure and when so sentenced he shall be liable to be detained in such a place and under such conditions as the president may direct.⁴⁵ The supply of blankets and mattresses is therefore very important as it reduces hardship on the part of Juvenile offenders.

4.2 STATISTICAL DATA ON THE OPERATIONS OF THE VICTIM SUPPORT UNIT

In this area, we are concerned with the presentation of information of reports made to the Victim Support Unit over the years. To be exact, the information is obtained from reports made from the year 2000 to the year 2003. We must mention here that this information was obtained from police service headquarters, Victim Support Unit section.

4.2.1 TABLE 1, YEAR 2000

| OFFENCE | REPORTS | TAKEN TO COURT | CONVICTIONS | ACQUITLS | CARRIED FORWARD | CHARGE REFUSED | TOTAL |
|---------------------------|---------|----------------|-------------|----------|-----------------|----------------|-------|
| DEFILEMENT | 306 | 77 | 45 | 9 | 77 | 98 | 306 |
| PROPERTY GRABBING | 801 | 304 | 58 | 37 | 104 | 298 | 801 |
| MURDER | 29 | 14 | 0 | 1 | 14 | 0 | 29 |
| NAMING A WITCH | 4 | 2 | 0 | 0 | 0 | 2 | 4 |
| USE OF INSULTING LANGUAGE | 17 | 7 | 3 | 0 | 0 | 7 | 17 |

⁴⁵ The Penal Code, Cap 87 of the Laws of Zambia, section 25(2).

TABLE 2, YEAR 2001

| REPORTED OFFENCES | 1 | 2 | | | | | 3 | | |
|---|--------------|------------------|-----------------|--------------------|--------------|------------|-------------------------|--------------------|------------|
| | | TAKEN TO COURT | | | | | NOT TAKEN TO COURT | | |
| | A REPORTS | B CONVICTIONS | C ACQUITTALS | D WITH DRAWN | E PENDING | F TOTAL | G CARRIED FORWARD | H WITH DRAWN | I TOTAL |
| Assaults | 2520 | 465 | 88 | 525 | 127 | 1205 | 463 | 852 | 1315 |
| Rape | 198 | 42 | 12 | 36 | 39 | 129 | 43 | 6 | 49 |
| Assault on a female | 65 | 6 | 4 | 12 | 6 | 28 | 13 | 24 | 37 |
| Defilement | 366 | 52 | 9 | 37 | 151 | 249 | 106 | 11 | 117 |
| Depriving Beneficiaries of their benefits | 909 | 57 | 4 | 316 | 184 | 561 | 88 | 260 | 348 |
| Abduction | 22 | 2 | 4 | 2 | 6 | 14 | 5 | 3 | 8 |
| Child Neglect | 1551 | 233 | 7 | 21 | 90 | 351 | 59 | 1141 | 1200 |
| Child Desertion | 74 | 8 | 0 | 16 | 12 | 36 | 16 | 22 | 38 |
| Murder | 29 | 2 | 2 | 8 | 13 | 25 | 6 | 0 | 6 |
| Infanticide | 5 | 2 | 0 | 0 | 3 | 5 | 0 | 0 | 0 |
| Abortion | 2 | 0 | 0 | 1 | 1 | 2 | 0 | 0 | 0 |
| Attempted abortion | 2 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 0 |
| Arson | 15 | 0 | 1 | 4 | 1 | 6 | 3 | 6 | 9 |
| Malicious damage | 42 | 4 | 1 | 1 | 14 | 20 | 3 | 19 | 22 |
| Threatening Violence | 54 | 4 | 0 | 4 | 0 | 8 | 5 | 41 | 46 |
| Incest | 16 | 2 | 0 | 2 | 8 | 12 | 3 | 1 | 4 |
| Child stealing | 5 | 1 | 1 | 0 | 3 | 5 | 0 | 0 | 0 |
| Sodomy | 5 | 2 | 0 | 1 | 1 | 4 | 1 | 0 | 1 |

KEY
1=2+3
F=B+C+D+E
I=G+H

TABLE 3, YEAR 2002

| REPORTED OFFENCES | POLICE STATIONS | | | | | TAKEN TO COURT | | | | |
|--|-----------------|---------|--------------------|-------|-----------|----------------|------------|---------------|---------|-------|
| | REPORTS | ARRESTS | CARRIED FORWARD | TOTAL | WITHDRAWN | CONVICTION | ACQUITTALS | WITH DRAWN | PENDING | TOTAL |
| Assaults | 3285 | 576 | 398 | 2887 | 804 | 545 | 29 | 848 | 661 | 2887 |
| Rape | 198 | 138 | 43 | 155 | 2 | 65 | 5 | 7 | 76 | 155 |
| Depriving beneficiaries Of benefits | 641 | 255 | 119 | 522 | 95 | 96 | 9 | 134 | 188 | 522 |
| Defilement | 865 | 315 | 146 | 719 | 17 | 238 | 10 | 29 | 425 | 719 |
| Abduction | 35 | 4 | 8 | 27 | 0 | 4 | 0 | 5 | 18 | 27 |
| Child Neglect | 1496 | 283 | 483 | 1013 | 33 | 72 | 3 | 435 | 470 | 1013 |
| Child Desertion | 121 | 28 | 23 | 98 | 28 | 10 | 3 | 20 | 37 | 98 |
| Murder | 36 | 25 | 1 | 35 | 0 | 12 | 10 | 0 | 13 | 35 |
| Infanticide | 10 | 8 | 3 | 7 | 0 | 7 | 0 | 0 | 0 | 7 |
| Abortion | 16 | 15 | 5 | 11 | 2 | 5 | 0 | 2 | 2 | 11 |
| Attempting abortion | 9 | 5 | 3 | 6 | 1 | 0 | 0 | 0 | 5 | 6 |
| Malicious damage | 40 | 21 | 2 | 38 | 14 | 10 | 2 | 12 | 0 | 38 |
| Arson | 14 | 11 | 0 | 14 | 0 | 7 | 0 | 0 | 0 | 7 |
| Incest | 21 | 7 | 9 | 12 | 1 | 2 | 1 | 0 | 8 | 12 |
| Threatening violence | 53 | 32 | 9 | 44 | 14 | 22 | 2 | 2 | 4 | 44 |
| Use of Insulting language | 234 | 25 | 6 | 228 | 1 | 25 | 1 | 121 | 80 | 228 |
| Child stealing | 13 | 2 | 0 | 13 | 0 | 1 | 1 | 4 | 7 | 13 |
| Sodomy | 8 | 5 | 1 | 7 | 0 | 6 | 0 | 0 | 1 | 7 |

TABLE 4, YEAR 2003

| REPORTED OFFENCES | POLICE STATIONS | | | | | TAKEN TO COURT | | | |
|--|-----------------|--------------------|-----------|-------|-------------|----------------|---------------|---------|-------|
| | REPORTED | CARRIED FORWARD | WITHDRAWN | TOTAL | CONVICTIONS | ACQUITTALS | WITH DRAWN | PENDING | TOTAL |
| Assault OABH | 2841 | 486 | 467 | 953 | 599 | 71 | 492 | 726 | 1888 |
| Rape | 308 | 33 | 11 | 44 | 87 | 6 | 70 | 101 | 264 |
| Indecent Assault female | 196 | 23 | 49 | 72 | 25 | 4 | 47 | 48 | 124 |
| Depriving beneficiaries of benefits | 734 | 87 | 79 | 166 | 228 | 7 | 178 | 155 | 568 |
| Defilement | 1233 | 77 | 96 | 173 | 626 | 23 | 192 | 219 | 1060 |
| Abduction | 52 | 5 | 23 | 28 | 6 | 0 | 10 | 8 | 24 |
| Child Neglect | 1420 | 86 | 957 | 1043 | 17 | 0 | 281 | 61 | 359 |
| Child Desertion | 219 | 15 | 54 | 69 | 12 | 0 | 26 | 112 | 150 |
| Murder | 20 | 5 | 0 | 0 | 5 | 0 | 10 | 0 | 15 |
| Infanticide | 11 | 5 | 0 | 5 | 1 | 0 | 0 | 5 | 6 |
| Abortion | 8 | 0 | 0 | 0 | 1 | 0 | 1 | 6 | 8 |
| Attempted abortion | 8 | 0 | 0 | 0 | 2 | 0 | 2 | 4 | 8 |
| Arson | 18 | 4 | 6 | 10 | 2 | 0 | 3 | 3 | 8 |
| Malicious Damage | 77 | 5 | 28 | 33 | 15 | 0 | 9 | 20 | 44 |
| Incest | 36 | 0 | 1 | 1 | 16 | 0 | 1 | 19 | 36 |
| Threatening Violence | 65 | 8 | 30 | 38 | 17 | 0 | 2 | 8 | 27 |
| Use of Insulting Language | 353 | 6 | 204 | 210 | 70 | 0 | 23 | 50 | 143 |
| Child stealing | 8 | 0 | 0 | 0 | 1 | 0 | 1 | 6 | 8 |
| Sodomy | 26 | 4 | 1 | 5 | 0 | 0 | 0 | 21 | 21 |
| Cruelty to Juveniles | 53 | 3 | 0 | 3 | 36 | 0 | 2 | 12 | 50 |
| Victimization of the elderly | 15 | 0 | 3 | 3 | 0 | 0 | 6 | 6 | 12 |

4.2.1 ANALYSIS OF THE STATISTICAL DATA

With the help of the information of cases shown in the tables above we can be able to see that the duties of the Victim Support Unit are multiplying year by year. TresfordKasale⁴⁶ attributes a less number of cases reported to the Victim Support Unit during the early years of establishment of the unit to the fact that most cases are committed by relations of the victims. However, he says, due to the units collaboration with Non Government Organisations such as the Young Women Christian Association and the National Legal Aid Clinic for Women, many people have been alerted to their Human Rights, hence the increase in the number of cases reported in the latter years.

Equally, the units effort to inform the general public about its services has led to the increase of its duties. It is worthy noting that the increase in the duties of the Victim Support Unit has been due to the commitment of the officers under the unit as well. Obviously if the officers under the unit were not serving the purpose for which it was established it would have lost popularity and its duties could have declined a great deal.

When we take a close observation of the tables above we note that the number of convictions of offenders is growing. This goes to explain that the officers are improving on their work. However, we also note that there are large figures on the tables indicating withdrawals of cases both at Police Stations and at courts. There are three reasons for this occurrence. The first one is that officers have

⁴⁶ Tresford Kasale, *supra*, 18/06/2005.

tried tirelessly to counsel both Victims and the victimized and reconciled them before cases are taken to court. We have noted above that those officers attached to the National Legal Aid Clinic for Women do interview the victims of various crimes before they can be given access to the lawyers. Also officers do mediate in certain instances and conclude cases where they can. This has been understood to be justice given to the victims quickly, a move which is very important.⁴⁷

The second reason for the large figures indicating withdrawals is that most of the perpetrators of these cases are relations of the victims. When the victims have reported and the officers have apprehended and detained the accused persons, this has usually brought animosity among relations. Most families discuss the issue and resolve to have it withdrawn so that they settle it outside court. The withdrawal can either be done at Police Stations or at court depending upon the circumstances surrounding the case. The third and last reason is that the Victim Support Unit was mainly established to address problems encountered by the vulnerable, the indigent members of the public. When the accused persons have promised to pay them some money if they withdrew the case, the complainants are left with no alternative but to go ahead and withdraw with a view to benefiting. This situation has seen the vulnerable complainants coming up with all sorts of reasons to convince either the court or the police to allow the withdrawal.

In sum we can be able to argue that the Victim Support Unit has succeeded in its day to day operations because of the Support it has received from Non

⁴⁷ Miss R. Mutasa, *supra*, 15/07/2005.

Governmental Organisations in training the officers. These Non Government Organisations, as we have pointed out above, have provided the unit with funds to enable it to meet some operational costs. Additionally, the Government has also encouraged the Victim Support Unit officers to coordinate with the Civil Society and other professional bodies in carrying out their duties.⁴⁸ This kind of encouragement has exposed officers under the unit to a lot of sound procedures in their dealings with the general public. For example, they have travelled abroad extensively and this has availed them a chance to acquaint themselves with the duties of an officer of the Victim Support Unit in other regions of the world. Francis K. Ndlhovu⁴⁹ acknowledges that the officers have learnt a lot from countries like the United States of America.

Most importantly, officers under the unit have shown appreciable commitment to their duties. For example, they are engaged in counseling members of the public to promote harmony. Infact it is the performance of general service to the public which are only remotely connected with the maintenance of law and order which has helped to make the police popular and so to enable them to exercise so strong a controlling influence over the public without the use of force.⁵⁰

⁴⁸ The Zambia Police Amendment Act No. 14 of 1999, section 53(3).

⁴⁹ Francis, K. Ndlhovu, Supra, 16/06/2005.

⁵⁰ Charles Jeffries, *The Colonial Police*, Marx Parish, London, 1952.

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CHAPTER FIVE

5.1 OPERATIONAL DIFFICULTIES OF THE VICTIM SUPPORT UNIT

As already pointed out in the foregoing the police are the primary constitutional force concerned with the maintenance of order, the enforcement of the law and the protection of individuals in the enjoyment of their legal rights.⁵¹ This being the case, it is quite obvious that the Police officers experience a number of difficulties in their attempt to serve the public to everybody's expectation.

One major difficulty that the Police officers face, irrespective of the department under which they fall, is that of remuneration. Many a time, calls have been made by members of the general public, the police inclusive, to the Government to review the conditions of service of police officers. One recent call was made by the former-ex Inspector General of Police, Zunga Siakalima, to the Ministry of Home Affairs to look at the conditions of service of Police officers as these were people who were charged with the responsibility of maintaining law and order. He said it was imperative that officers were well remunerated and that their allowances were availed them. "I hence call upon you honourable minister that as government and stakeholders sit to review conditions of public service, the plight of police officers should not escape your considerations" he pleaded.⁵² As we can see this is a very big problem for Police officers which has adversely affected their operations.

⁵¹ Charles Jeffries, *supra*, page 18.

⁵² Police News, New Horizon Printing Press, issue no. 2 April – June 2005, page 20.

Another worrying difficulty experienced by Police officers, especially those under the Victim Support Unit is that of transport. Since inception the Victim Support Unit has been relying on transport donated by the donor agencies like the Royal Danish Embassy.⁵³ Even police administrators in their very many meetings have acknowledged that lack of transport has really emerged as one of their concerns.⁵⁴ The Victim Support Unit officers need steady transport for them to get to every corner of the country, however remote, so that they are able to come into contact with the victims. The unit is also hampered by lack of proper infrastructure. This has an adverse effect on the work of the officers because most cases that they receive are special and confidential and demand secrecy, which is not available at all. As a result of this the officers refer some cases to the Young Women Christian Association which does not cover all areas in the country. In some cases where the Unit has been availed office accommodation, it has been noted that they lack office equipment.⁵⁵ Besides, there is a problem of rank structure of the officers serving under the unit. For example, the director of the Victim Support Unit, the overseer of all operations of the unit throughout the country is merely a superintendent who is based at Police Service Headquarters. It is clear that the promotional ladder for these officers is stunted and not inspiring at all. The Victim Support unit is also experiencing a big problem of funding which has rendered certain operations virtually impossible. The Unit has a poor funding allocation, and infact for most of their operations to succeed officers have largely depended upon the good will of donors. The

Peter Kanunka, *supra*, 15/07/2005.
Police News, *supra*, page. 20.
Tresford Kasale, *supra*, 18/06/2005.

director of the unit has vividly avowed that the funds received from the Royal Danish Embassy have helped a great deal to shape the Victim Support Unit to its current state.⁵⁶

These and many other problems which we cannot be able to mention in totality have created a very serious impediment in the operations of the Victim Support Unit. The officers, however, are eager and willing to carryout out their duties inspite of everything.

5.2 RECOMMENDATIONS

Going by what we have discussed in the foregoing, it is clear that certain measures ought to be put in place in order to improve the image of the Victim Support Unit.

In the area of training of officers, police administration should strive to introduce intensified training for Police officers.⁵⁷ Miss R. Mutasa⁵⁸, a Legal practitioner at the National Legal Aid Clinic for Women has expressed need for Government to train officers under the unit because they are willing to help the people. She has further advised that Government and Police administration should avail the officers latest volumes of law so that they read and in turn give appropriate advice to the victims. There is also need to train more and more officers so that

⁵⁶ Peter Kanunka, *supra*, 16/09/2005.

⁵⁷ Police News, *supra*, page 20.

⁵⁸ Miss R, Mutasa, *supra*, 15/07/2005.

they are sent to all stations in the country. Miss Chikonde,⁵⁹ a Senior Legal Officer at the National Legal Aid Clinic for women has suggested that Police administration should begin sending officers to the Southern African Human Rights Trust headquarters in Zimbabwe which offers training to Police Officers in the region. There is a further sound proposition for further education of officers under the unit which states that they should be trained in psycho-social counseling and legal education with the help of the University of Zambia and other relevant institutions. Legal education should include human rights training and mediation skills Psycho-Social training should include psychology, counseling skills and child psychology as well as trauma counseling.⁶⁰ This call for more and better training for Police officers under the unit is made so that they can effectively handle cases reported to them.

Promotion of officers serving under the unit is another area of concern. Francis, K. Ndlhovu,⁶¹ states that in order for officers under the unit to be retained, Police administration should ensure that their promotional ladder is not stunted. Promotion of officers in every working environment inspires them. But if their promotional ladder is limited they tend to show signs of dissatisfaction and desire to join sections where promotional prospects are higher. This is a big blow to the unit because experienced officers are lost and thereby leaving it shakey. In his views, Francis Ndlhovu thinks that the officers deserve a promotional ladder that

⁵⁹ Miss Chikonde, *supra*, 15/07/2005.

⁶⁰ Pre-Programme Support to Access to Justice – Zambia, *supra*, 17/03/2004.

⁶¹ Francis, K. Ndlhovu, *supra*, 16/06/2005.

will move them up to the level of Senior Assistant Commissioner of Police so that they are not lured by promotions in other sections within the Police Service.

One other important area of concern is that of office accommodation. We have already observed above that most cases reported to the Victim Support Unit are confidential and require a separate and secret environment. It is only prudent that the officers should have their own office space which will allow them to counsel their clients in a private and confidential manner. Additionally, the offices should be availed separate and lockable filing cabinets to deter removal of Victim Support Unit files. And more, the offices should be equipped with computers, printers and adequate furniture to ease their operations.⁶²

The question of transport has been a big hassle in the operation of police duties in all sections. Unfortunately, this problem is quite alarming in the Victim Support Unit. It is imperative that the officers be availed adequate transport in order to enable them to serve the communities adequately. It is obvious that the unit cannot be availed motor vehicle transport to distribute to all stations and posts in the country. However, motor bikes or indeed bicycles may be ideal for officers to follow up on cases in town.⁶³ All in all adequate transport will obviously help a great deal to enable officers to make urgent visits to scenes of crime and also pursue the perpetrators as soon as possible.

⁶² Pre-Programme Support to Access to Justice-Zambia, *supra*, 17/03/2004.

⁶³ *Ibid.*

We have also observed with dismay that the funding of the Victim Support Unit is rather bad. It is clear that any good result from any operation is attained where the operation was properly funded. This argument alone inspires us to argue that in order for the Victim Support Unit to bring desired results police administration should ensure that its funding is improved.

Another important concern which should not be forgotten is that of conditions of service for the officers. Most certainly good conditions of service for Police officers serving under various units would be a source of inspiration. It is in the light of this that former-ex Inspector General of Police, Zunga Siakalima appealed to the government and stakeholders as they sat to review the conditions of service for the public service, that the plight of Police officers should not escape them.⁶⁴ We may be inclined to think that bad conditions of service rob officers of their devotion to duty. This alone is detrimental to the development and success of newly established mechanisms like the Victim Support Unit meant to enhance fundamental rights of persons in society. For example, the right to property as enshrined in Article 16(2) (h) of the Republican constitution,⁶⁵ which states that nothing contained in or done under the authority of any law shall be held inconsistent with or in contravention of clause (1) to the extent that it is shown that such law provides for the taking possession or acquisition of any property or interest therein or right thereover for the purpose of the administrator of the property of a deceased person, a person of unsound

⁶⁴ Police News, *supra*, 2005, page 20.

⁶⁵ The Constitution of the Republic of Zambia, Cap.1 of the Laws of Zambia, Article

mind or a person who has not attained the age of eighteen years, for the benefit of the persons entitled to the benefit interest therein . This provision should help to reduce cases of property grabbing and those of depriving beneficiaries of their benefits which are rampant in Zambia today as shown on the tables in the foregoing.

Additionally, mention of the importance of the role played by the dissemination of information to the general public about the existence and functions of the Victim Support Unit to the community should not be allowed to escape our thought as we make these recommendations. We have noted that police administration has worked hard to inform the general public about the existence and good work of the Victim Support Unit, and that this has been complemented by other institutions like the Non-Governmental institutions. It is our considered view that this effort of spreading information about the Victim Support Unit should be made even more vigorous so that everybody in Zambia is given an opportunity to access it once victimized. For this to happen, information must be spread to every corner of Zambia, irrespective of its geographical location. This can best be done by improving on electronic and print media, distribution of pamphlets throughout Zambia, encouraging officers by giving them incentives, organizing lessons of the unit in all schools, colleges and universities, the development of good rapport between the police and the community, and lobbying for continued support from the donor community, improving upon motor transport, provision of

bicycles, and motorbikes for use by officers.⁶⁶ Police administration and other stakeholders should organize for workshops aimed at bringing the community closer to the police. This will enable the members of the public to understand that the police are there to serve them and not be feared.

5.3 CONCLUSION

When one looks at the functions of the Victim Support Unit so very closely, one is tempted to argue that infact all it does had previously been done by other sections within the Zambia Police Service. Much as this argument may carry water, it is wiser to realize that human life is not static. It is always changing and because of this, even, institutions meant to provide a service ought to change in order to be abreast with the daily events, in spite of similarities. The Victim Support Unit was established specifically to deal with reports received from the vulnerable members of the public, which reports were previously insignificant in the eyes of the police. Over and above, the duties of this unit, some high court judges have argued, are similar to those of Human Rights and because of this they have proposed that let the Unit fall under Permanent Human Rights Commission. While this may be right, the Permanent Human Rights Commission is an entity with its own programmes and it does not have to embrace the Victim Support Unit for it to be effective. There ought to be many approaches towards resolving problems of human nature, particularly of victims of crime.⁶⁷ By and large the interest of the unit is to try and trace the criminal element in the cases

⁶⁶ Francis, K. Ndlhovu, *supra*, 16/06/2005.

⁶⁷ *Ibid.*

reported to it regardless of its triviality and the social and economic status of the victims. This might have been done in the past before the unit was established in the Police Service by a section which might have been handling many cases from all classes of persons in society. Alert to this, police administration established the unit which could address the plight of the indigent members of the public.

This effort by police administration aimed at reducing crime takes us back to our earlier observation made by Gabriel Ben Dor⁶⁸ that in an underdeveloped country police are sometimes an island of modernity, eager to use the latest technical device, organized on the basis of merit rather than status, and experimenting with functionally specific role-playing. Surely the creation of the Victim Support Unit appears to be in agreement with this observation when we consider the reasons for which it was established. Our opinion is that the unit was created at the right time and for a very sound purpose. Police administrators should therefore continue to collaborate with the Government and other stakeholders to ensure the continued existence of the unit. Besides, the Victim Support Unit should not only exist, but should also improve. The Unit should spread throughout the country and beneficial educational programmes to enhance its operations must be put in place. It is only reasonable that the indigent members of the public, the less fortunate, are given a special position in society with respective sections in public institutions established to attend to them. This class of persons must not be neglected but be treated in much the same way as the

⁶⁸ Gabriel Ben Dor, *supra*, 1974, page 104.

well-to-do. For this is the very principle upon which justice is based - equality for all, irrespective of class.

Justice seems to have been a personification of social and moral duty-that is of moral law, which might or might not correspond with temporal law. Justice was the highest conception of the proper bearing of all the members of a community toward one another, and of the law of the state toward the individuals constituting its population. The customs, conditions, and laws of states and communities change with times, but justice remains the same, since it is based neither on man's conception of what justice really is nor his administration of what he calls justice, but on the intrinsic and inherent rights of all, born of the social equality of all before the law.⁶⁹ Our assessment of the Victim Support Unit is that it has impacted very well on the Zambia's indigent victims in its administration of Justice.

⁶⁹ **The Encyclopedia Americana: The International Reference Work**, Volume 16, American Corporation, New York, 1962, page 262.

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