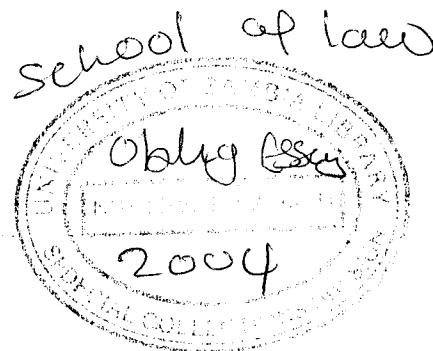


AN OBLIGATORY ESSAY



**THE EXEMPTION OF TRADE UNIONS FROM THE ZAMBIAN POLICE
SERVICE: A QUEST FOR A MEANINGFUL REFORM.**

BY

EMMANUEL SIMUKOKO

COMPUTER NO.: 91205123.

**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF ZAMBIA IN
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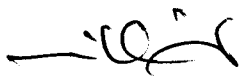
SCHOOL OF LAW.

I recommend that the obligatory essay prepared under my supervision by Emmanuel Simukoko, Computer Number 91205123

entitled:

THE EXEMPTION OF TRADE UNIONS FROM THE ZAMBIAN POLICE SERVICE: A QUEST FOR A MEANINGFUL REFORM.

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MRS L. MUSHOTA

DATE 21. 12. 04

DEDICATION

To

My would be wife Martina Chalata

For her unswerving loyalty, love and indeed support,

Particularly for agreeing to post pond all the wedding arrangements

Until the completion of my studies, may our good Lord continue giving

You wisdom and faith in everything we share;

My parents for supporting me in all my efforts; uncle Mr R.K.Simukoko

For your words of wisdom as you continue inspiring me in my academic

Endeavours, your support has been unrelenting; mum for her silent encouragement and prayers; to all my wonderful brothers and sisters I say thank you for your support.

To my wonderful friends Kenneth Mulife, Siloka Sililo, Mazyopa Edwin and Ian Mananjiti for sharing my life as we went through this academic life which can only be likened to a pendulum.

Finally, to my late father; Mr Robert.M.Simukoko whose emphasis and aim was to give me the best education ever, I thank you for teaching me that 'education was both my father and mother,' may your soul rest in eternal peace.

ACKNOWLEDGEMENT.

The work of this magnitude demands support and encouragement at various stages in its preparation. For all those whose help and encouragement made it possible to bring this essay into fruition but whom I may not have mentioned, I ever remain grateful. However there is one whose presence can never be doubted and whose unwavering support I have never questioned through out my endeavours and for that I give praise and honour to you mighty God by fully acknowledging your presence.

I sincerely wish to acknowledge the assistance that my supervisor; Madam Mushota rendered towards this work. Madam, your patience and willingness to fully scrutinize the draft chapters: the valuable and incisive suggestions all go towards edifying this work, notwithstanding my weaknesses and mistakes. May God Almighty give you the strength to continue the good works.

I am also indebted to my employers, Zambia Police, for the support both materially and morally. Particularly I thank the Inspector General of Police, and the Assistant Commissioner of Police under administration Mr A.Daka at Headquarters for providing the necessary information on the condition of service for the institution. Special acknowledgement goes to the Assistant Commissioner of Police commanding Eastern Province Mr Chewe Bowa for providing almost all the relevant materials used in my study. All the police officers that participated in the research at Police Stations deserve my special thanks too.

I am also deeply indebted to Mr Fumpa of Zambia Congress of Trade Unions (ZCTU) for providing the materials regarding the South African Police.

To my dear friends Mulife Kenneth, Sililo Siloka and Ian Mwananjiti, I say thank you gentlemen for sharing the whole academic life with me. With you around, life was made more bearable, God bless you guys.

To my fiancée Martina Chalata, I am grateful for your unswerving support. To my uncle Mr R.K. Simukoko, I say thank you for showing me the way and encouraging me to work hard. However, I remain fully responsible for any shortcomings and weaknesses in this presentation.

Emmanuel Simukoko.

December 2004.

Table of Cases

Mulundika and Seven Others v. The People [1995] ZR 20 (S.C).....	14
Kachasu v. Attorney General [1967] ZR 146(H.C)	14

List of Tables

Table 3.1	Nature of Risks Encountered by Police Officers According to the Departments...	29
Table 3.2	Number of Police Officers Injured or Killed in the Year 2003 At Lusaka Central Police Station.....	30
Table 3.3	List of other Allowances offered to Police officers as at January 2004.....	32
Table 3.4	Gross Monthly Salaries for all the Police Officers.....	34
Table 3.5	Some of the Problems cited as faced by Police officers in their Various Departments.....	35
Table 3.5	Number of Vehicles Required Per Police Station contrasted with the actual Number running.....	37
Table 3.6	Level of Knowledge on Collective Bargaining.....	39
Table 3.7	Level of knowledge on Collective Bargaining according to the Academic Qualification.....	40
Table 3.8	The Inspector General as the Negotiator of the officers' Conditions of Service...	43
Table 3.9	Establishing Trade Unions as the means to Advancing Police officers', interests.....	45

Table of Statutes.

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87),.....	11,12
Right to Organise and Collective Bargaining Convention, 1949 (No.98).....	11,12
Labour Relations (Public Service) Convention, 1978 (No.151),	11,12
Collective Bargaining Convention, 1981 (No.154).....	11,12
The constitution of Zambia Chapter I of the Laws of Zambia.....	13,24
The Zambia police act chapter 107 of the laws of Zambia.....	14
Industrial and Labour Relations Act 1997,Chapter 269 of the Laws of Zambia .	15,16,17,18,19,20,25
The Labour Relations Act No.66 of 1995 of the Laws of South Africa.....	15,16,17
The Constitution for the Police and Prisons Civil Rights Union (POPCRU).....	22,23
The Constitution for the South African Police Union (SAPU)	23

Abstract

The central theme to this study is that Zambia Police reforms cannot be successfully achieved whilst ignoring the internal democratisation of the institution. By internal democratisation it is meant allowing police officers organise through the formation of trade unions. Currently the condition of service leave much to be desired largely because the institution lacks proper representation through trade unions.

Thus in the first chapter this study commences by identifying and stating the problem being faced by the institution. The introduction makes it clear that both external and internal democratisations are complementary and it is as such fatal to concentrate on one. So far the reform that has been undertaken concentrated on external aspects better training, civilianisation of administration, community policing, creating the victim support unit and improving on information technology. However what is clearly missing in this type of reform is liberalising labour relations within the Police Service. The structure of internal relations still remains oppressive and militaristic because it was basically handed down by the Colonial powers. Sadly research has shown that oppressed officers are more likely than not to transfer the same oppressive tendencies to the public they serve. Otherwise this approach to management was more suited during the colonial era because at that time the Police was used as an instrument to suppress pre independence agitations by the freedom fighters. The paper contends that this method of administration should be reformed to suit the democratic legal order in which the officers must embrace respect for fundamental human rights.

Under chapter two the fears of introducing trade unions in Zambia Police have been dispelled. It has been argued that police officers must be treated as essential workers and not as military personnel. Thus Zambia should take a leaf from the South Africans government who by treating police workers as essential workers they have allowed them to organise trade unions merely as a forum through which to present their work related problems to their employer. This chapter acknowledges the fact that though the international labour conventions give governments the discretion to choose whether or not police should be allowed to organise trade unions, the Zambian Constitution guarantees freedom of association and the right for the workers to form trade unions. With this

constitutional guarantee in mind and the fact that Zambia is a constitutional democracy this paper contends that it is not justified to continue denying the police officers their fundamental right to associate by forming trade unions. By re-classifying police officers as essential workers the fear of strike will no longer be used as a scapegoat as the law shall only allow them to associate but prohibit strike actions.

Chapter three has revealed that the actual conditions of service obtaining in the Zambia Police Service are below expectation. It is only the Inspector General of Police and a few top senior police officers that are floating above the current Basic Needs Basket produced by the Jesuit Centre for theological Reflection (**JCTR**). Therefore the majority of officers are living in abject poverty. The government has aggravated the situation by withdrawing instead of increasing all the allowances for police officers. The argument used to justify this unilateral decision was that the allowances were incorporated into the revised salaries. The paper submits that all these unilateral decisions are taken by the government because they are fully aware that no officers can question them after all there is no union to defend the officers.

Finally the paper has concluded that the current reform is inadequate, as it has failed to address the issue of internal democratisation. This has led to deplorable conditions of service in this strategic governance institution. Further that the Inspector General who is expected to present officers problems has failed to do so because he is more inclined to protecting his political appointment than advocate for better conditions for the officers. Besides that apart from being the most powerful official in the entire institution he has the discretion to appropriate the economic benefits to himself without any one questioning him. Therefore it is submitted that the Inspector General cannot be a substitute for the trade union representation. Therefore the paper ends by recommending that the **Industrial and Labour Relations Act** be targeted for reform. Simply by excluding police officers from

section 2 of the Act and including them under section 107 so that they become essential workers reform of this enabling provision can easily be achieve.

TABLE OF CONTENTS

Title.....	i
Certificate.....	ii
Dedication.....	iii
Acknowledgement.....	iv
Table of Cases.....	vi
List of Tables.....	vii
Table of Statutes.....	viii
Abstract.....	ix
Table of Contents.....	xii

CHAPTER ONE

1.1	Introduction.....	1
1.2	Statement of the problem.....	3
1.3	Rationale of the study.....	4
1.3.1	Man power problem.....	5
1.3.2	Lack of resources.....	6
1.4	Chapter outline.....	9

CHAPTER TWO

2.1	Brief background to the legal framework.....	10
2.1.1	International Conventions.....	11
2.2	Freedom of association under the Constitution of Zambia.....	13
2.3	The Zambia Police Act Chapter 107 of the Laws of Zambia.....	14
2.4	Zambian labour laws as contrasted with the South African laws.....	15
2.5	Police unions in South Africa.....	21
2.6	The Constitution for the Police and Prisons Civil Rights Union (POPCRU).....	22
2.7	The Constitution for the South African Police Union (SAPU)	23

CHAPTER THREE

3.0	Research findings.....	26
3.1	Personal information.....	27
3.2	Conditions of service.....	28
3.2.1	Risks associated with the job.....	29
3.2.2	Risk allowance.....	31
3.2.3	Major allowances.....	32
3.2.4	Salaries.....	33
3.3	Operational problems.....	35
3.3.1	Transport.....	37
3.4	Collective bargaining.....	38
3.4.1	Police association.....	41
3.4.2	Trade union.....	41
3.4.3	Who negotiates for the institution?.....	43
3.4.4	Was establishing a trade union the best means to advance their interests?.....	45

CHAPTER FOUR

4.0.	Conclusion and Recommendations.....	50
4.1	Conclusions.....	50
4.1.1	The Legal Framework.....	50
4.1.2	Research Findings.....	50
4.2	Recommendations.....	54
	Bibliography.....	56
	Appendices.....	58

CHAPTER ONE

1.1 INTRODUCTION

When Zambia embraced multi party politics in the year 1991, good governance and observance of human rights became topical. Consequently, reform was prescribed for many government institutions and of course the Zambian Police was not immune to this quest for reform. Apparently in 1994 the Inspector General of the Zambian Police outlined the need to reform the institution in his 1994 Annual Police Report, which included the need for better training, the civilianisation of administration, creating Victim Support Unit and improving the information technology. However what was clearly missing in the initial stage of the reform was a clarion call for liberalising labour relations within the Police Service.

By the year 1997, the ultimate goal, which was to guide the institutional reform programme, had been coined. Thus, *"the Zambia police are ready to change their approaches to law enforcement methods where necessary in order to facilitate good governance, while upholding their professional standards and ethics."*¹ Therefore it is to be noted that the desire to adapt the police administrative approaches from militaristic to civilian approaches was consummated at this time. It is also imperative to note that the militaristic and brutal style of policing was a colonial legacy that largely remained unchanged even after independence. In fact it is axiomatic that under this system, brutality is an historical aspect being a colonial policy that was fashioned to serve the interest of colonial administrators whose

¹ Zambia Police Annual Report, 1994, p.3

main preoccupation was to suppress pre-independence agitations. Therefore the mission statement reflects the desire by Police administrators to adopt and adapt their administrative strategies to suit the democratic dispensation that had dominated the 1991 multi party political milieu.

However while the Zambian Police recognised the need for reform or change, this mainly related to external democratisation focused on improving service delivery rather than internal democratisation or improving the internal conditions of service for the institution. There is in fact no acknowledgement of the contingent relationship between internal and external democratisation. The consequence of this is that since 1994, hitherto, there has been no mention of the need to liberalise labour relations within the Police service. Apparently both the government leaders and Zambian Police administrators fail to realise the need to incorporate labour relations in the Zambian police as part of the reform. It is the contention of this essay that the entrenched position assumed by leaders cannot be justified in this era of multi party democracy.

Furthermore the essay also endeavours to decipher and bring to the fore the connection between the much talked about poor conditions of service in this institution and the lack of internal democratisation within this system. In other words the main task at the centre of this essay is to dispel the fear harboured by both government and Police administrators by proposing the means through which trade unions could be introduced in the institution without necessarily jeopardising national security.

Prima facie the today's description of a police officer as corrupt, poorly trained, ill equipped and lowly remunerated are mere symptoms of a failing system the essay contends.

1.2 STATEMENT OF THE PROBLEM

The lack of trade unions in the *Zambian Police Service* can be partly attributed to the views held by both the government leaders and police administrators. Thus it is commonly argued that a police officer being an essential worker cannot be allowed to establish trade unions for this would be disastrous especially in an event of a strike action. Therefore emanating from this argument has been the justification to perpetually exempt the Zambia Police from establishing trade unions². It follows therefore from this argument that the major problem is the tendency by the leaders to narrowly view trade unions as being synonymous with strike action only but such a view can no longer be sustained especially in this era of multi-party politics. This point was well illustrated by the Zambia Congress of Trade Union (ZCTU) President **Mr Leonard Hikaumba** as follows "*currently the conditions of service prevailing in the *Zambian Police Service* were deplorable especially on accommodation which is mostly not fit for human habitation but government sees nothing wrong with that. He further observed that: the current position by government that *Zambian Police* could not form a union was not justified because that was the only avenue through which officers' grievances could be channelled to the relevant authorities. We ought to learn from South Africa which has allowed South African Police to establish trade Unions to ensure that officers' dignity and public confidence is maintained*"³

² Section 2 of the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia.

³ The Police News, February /March 2004, Issue No.22, p1

While at the zenith of Police Reforms in the year 1997, the Inspector General of Police once stated in his Annual Report that it had become necessary to change the name of the institution from Zambia Police [Force] to the Zambia Police [Service] with the implication that the system was no longer to be viewed as a quasi-military institution but one whose preoccupation was to provide security services to the public as demanded by the tenets of multi party democracy⁴. However in spite of this declaration, the legal framework which provides for the Zambian Police Service has remained largely prohibitive more particularly with respect to the **Zambia Police Act, Chapter 107** and the **Industrial and labour Relations Act, chapter 269** which have effectively barred the institution from establishing trade unions⁵. Therefore the statutory exemptions in the aforesaid Acts occupy the centre stage of this essay and it is contended that this lack of representation has rendered the institution susceptible to the poor internal conditions of service.

1.3 RATIONALE OF THE STUDY

Ideally the Police Service ranks highly among the institutions that ought to enhance and promote good governance in Zambia's fledgling democracy. For example on the political front the police officers are expected to treat all the Political parties in a fashion that depicts equality and respect for human rights and the constitution.

On the day-to-day activities of the citizens, the police officers are expected to discharge their duties in the way that will ensure that private property and

⁴ Zambia Police Annual Report, p3

⁵ Section 2 of the Industrial and labour Relations Act

individual persons are protected from crime. Obviously where crime has already been committed they are again expected to, investigate, arrest and prosecute the offenders.

In other cases the police officers are expected to manage the highway in order that motor vehicle accidents are minimised and in the event of accidents, the police officers are expected to minimise the loss of life by administering first aid. There is no doubt that the demand from the public is immense and this suggests that a number of conditions should exist to enable the police carry out all these functions. In fact an ideal police institution is naturally expected to be well ahead of criminals in terms of knowledge, skill and equipment otherwise, the battle will be lost to criminals. However, to the contrary, **Ndulo** observed *"in Zambia there has long been a crisis of confidence on the part of the public as to the ability of the force to deal effectively with the crime. Some view the police with suspicion; others treat officers with hostility and contempt. There is no doubt that the performance of the force has left a lot to be desired, with clear-up rates for many offences remaining unsatisfactory."*⁶

In explaining the problem faced by the Zambian Police Service as an organisation the following reasons were advanced.

1.3.1 Man Power Problem

During the colonial period, Europeans dominated the Police Force. All superior officers (Superintendent and above) were white settlers and recruitment for these

⁶ John Hatchard and Muna Ndula, READINGS IN CRIMINAL LAW AND CRIMINOLOGY IN ZAMBIA, multimedia Publications, Lusaka, 1994, p78

ranks was conducted outside the territory. Africans were not permitted to rise above the rank of inspector. It was not until 1962 that any move was made to promote Africans to senior ranks. This had serious consequences for during the next few years a mass exodus of white officers took place, primarily because of the coming of independence. Thus out of a total of 141 superior officers and 774 subordinate officers in 1963, 130 superior and 523 subordinate officers had left the force by 1965. This meant the introduction of a crash programme to train Zambians to takeover the senior ranks and, because of their relative inexperience, the efficiency of the Police Force was seriously affected in the early year.⁷

An additional factor is the relative decline in police strength compared to the increase in population and crime. Poor conditions of service and restrictions on recruitment led to police strength being almost continually below establishment. The resultant lack of manpower has undoubtedly seriously affected police effectiveness and is likely to do so for some time⁸.

Another contributory factor has been the calibre of the officers recruited. Up to 1972 the majority joining the force as constables had no more than primary education. However it is also gratifying that the recruitment standards have improved. It is now well documented that the organisation recruited a large number of University of Zambia graduates in 1996.⁹

⁷ Ibid, p.79

⁸ Ibid

1.3.2 Lack of Resources.

There is now a serious shortage of police stations in urban areas. For example, whilst the population of Lusaka increased by over 70 percent since 1963, no new major police stations have been built. Consequently this has placed an enormous strain on the existing stations. Small stations, which were built and established to cater for small areas prior to independence, now cater areas ten times than they were designed to cover. Officers in these stations are usually over-worked due to lack of relief manpower.¹⁰

Transport also remains a real difficulty. All police stations, paramilitary and mobile units are not even operating on the authorised allocation scale that was used in 1965. Prior to that date each police station was allocated three vehicles for three shifts and one vehicle for administration. At present most police stations have just one vehicle, which is used by all three shifts for twenty-four hours. Not surprisingly the vehicles are constantly breaking down from over use.

Whilst most officers live in the police camps in the urban areas, there is a serious accommodation problem elsewhere. Officers on patrol in operational areas sleep in torn tents; have primitive cooking facilities and no mosquito nets. In some parts of the country, such as Nakonde and along the Tazama pipeline and rail line, officers are accommodated in mud huts. In other cases officers are scattered in Shanty Compounds around towns. As the Inspector General of Police had noted; this does not raise the [morale] of the officers¹¹.

⁹ Zambia Police Annual Report, 1997, p.3

¹⁰ Ibid, p.80

¹¹ Zambia Police Annual Report, 1986, p.2 cited in John Hatchard and Muna Ndulo, READINGS IN CRIMINAL LAW AND CRIMINOLOGY IN ZAMBIA (Multimedia Publications, Lusaka, 1994), p.14.

It is imperative to note that the problems cited by **Ndulo** remains pretty much the same hitherto. In fact his conclusion was concise when he stated that it is clear that whilst the force has performed poorly in dealing with crime, the causes and remedies are not solely in the hands of the police. There is a need for improved support including the provision for better resources and training facilities, in crime prevention. In return the country has the right to expect improvements in police efficiency and performance and a strengthening of public relations.

Having highlighted some of the problems being faced by the police in the face of reforms being undertaken this essay focuses on the legal framework under which the police service operates. In this vein it has been stated already that there is a contingency between internal reforms, which ought to be aimed at the introduction of a trade union for purposes of bargaining for better conditions of services among the police officers and the external functions or delivery of service. Therefore it follows that it is incomplete to concentrate on reforming the external aspects aimed at improving on the service delivery only. This approach is flawed and in need of reform. In fact, illustrative of this point is the assertion that "research and experience has shown that if police staff are treated in an authoritarian and dictatorial way with no freedom to express their views within the service, they will treat the public in the same authoritarian and dictatorial way and not listen to views expressed by the public. The rule is simple, you simply reap what you sow."¹²

¹² Exploring Alternative Approaches to Bargaining in the Police Service, University of Natal, POPCRU and ILO Sub-regional Southern Africa Workshop On Promoting Labour Management Relations in Police Services (Johannesburg 21-23 October 2003), p.2

1.4 CHAPTER OUTLINE

Apart from the foregoing chapter, which lays the general introduction, there are basically three more chapters covered in this study. The second chapter tackles the legal framework as it relates to industrial and labour relations in Police organisations. It briefly provides the international legal framework before outlining the Zambian provisions. These are then contrasted with South African provisions. The third chapter analyses the research findings and this will mainly be done by means of simple diagrams, graphs, percentage distributions and pie charts. Chapter four deals with the conclusion and recommendations.

CHAPTER TWO

2.1 BRIEF BACKGROUND TO THE LEGAL FRAMEWORK.

This chapter focuses on the legal framework that governs industrial relations at the international plain in general and Zambia in particular. It is crucial to begin by establishing the position of international labour provisions as they relate to the police organisations because it is at this stage that the standard to be followed by member states is initiated. In this respect the International Labour Organisation (ILO) carries the mandate to set up international labour standards through the promulgation of international conventions against which the domestic laws of the member states ought to be measured. In fact Zambia is a signatory to a number of international conventions.

Further this chapter will also make an attempt at comparing the Zambian legal framework with that of the South African. In this connection it must be stressed that the South African labour laws offer a good model against which to compare the provisions that govern police labour relations in Zambia. In the context of this essay, South Africa is said to offer a good model in contrast to Zambia because it has allowed the South African Police to establish trade unions under its labour laws. Therefore South Africa's labour laws buttress the argument that allowing the police service to form trade unions in Zambia is not a far-fetched ideal. However with the fears exhibited by leaders it then becomes necessary to inquire into the South African legal frame with the view to gaining an insight through a comparative analysis

2.1.1 INTERNATIONAL CONVENTIONS

The International Labour Conventions that protect the fundamental rights of all workers, including public service employees, include the **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)**, and the **Right to Organise and Collective Bargaining Convention, 1949 (No.98)**. In addition, public employees are covered by the **Labour Relations (Public Service) Convention, 1978 (No.151)**, and the **Collective Bargaining Convention, 1981 (No.154)** to mention but only a few.

*For example under **Convention No. 87**, all workers and employers, have the right to establish and join organisations of their own choosing without previous authorisation, while their organisations have the right to draw up their constitutions, elect their representatives in full freedom, organise their administration and activities and formulate their own programmes. The Convention protects organisations against resolution or suspension by administrative authority and recognizes their right to establish and join federation and Confederations and to affiliate with international organisations. **Convention No.98** requires the promotion of collective bargaining and protects workers against anti-union discrimination in respect of their employment and organisations against interference in their affairs. **Convention No. 151** also provides protection to public employees against anti-union discrimination and interference by public authority. In addition, it requires members to promote procedures for the negotiation of public employees' terms and conditions of employment as well as for the settlement of disputes, and recognizes their civil and political rights, which are essential for the normal exercise of freedom of association.*

However it is important to note that in spite of these wonderful provisions, all these Conventions permit the exclusion of police organisations from their scope. In fact all the Conventions are couched in more or less similar language that *"the extent to which the guarantees provided for in this convention shall apply to the armed forces and the police shall be determined by national laws or regulations."*¹³ Having said that, it is clear from the International Labour conventions that the consideration whether to allow the Police to form trade unions with the objective of protecting their interest has been left to the discretion of each member state. The labour laws prevailing in Zambia as such reflects the government's position not to allow Zambia Police to establish trade unions. Therefore with such a discretion given by the International conventions it is legally permissible for Zambia to exempt the police from the labour provisions. However, it is this position that this paper seeks to challenge by submitting that it is no longer justifiable to outlaw the establishment of trade unions in the Zambian Police Service especially in view of the new democratic aspirations that Zambia embarked on after the introduction of Multi Party Politics in 1991. Therefore the Zambian Police being the most public as well as the governance institution needs to be reoriented to suit the democratic demands but this can not be achieved without reforming the empowering Act. Henceforth the Labour Laws with regards to the Institution of Police beg to be reformed otherwise in their current position they fly in the face of Zambia's fledging democracy. The Zambian legal framework is now considered commencing with the constitution.

¹³ Article 9(1) of Convention No. 87, Article 5(1) of Convention No.98, Article 1(1) of Convention No.151

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¹³ Article 9(1) of Convention No. 87, Article 5(1) of Convention No.98, Article 1(1) of Convention No.151

2.2 FREEDOM OF ASSOCIATION UNDER THE CONSTITUTION OF ZAMBIA.

It is now well established that issues of forming trade unions and collective bargaining are closely intertwined with freedom of association. The Constitution of Zambia enshrines freedom of association under **PART III** as one of the basic fundamental freedoms. Article 21 of the Zambian Constitution protects the freedom to form and belong to a trade union of one's choosing for the protection of his/her interests:

“(1) Except with his own consent a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of his interest.”

Clearly freedom of trade union establishment is enshrined with the specific purpose of enabling employees to protect their own interests. It shall not be impaired except in the “interest of defence, public safety, public order, public morality or public health” and in any event these restrictions must be reasonably required or reasonably justified in a democratic society.”¹⁴Parliament is presumed by law to have passed statutes that are necessary and reasonably justifiable in democratic society and the onus of disapproving the presumption has been said to be on the person complaining of the violation of his/her Constitutional freedoms, upon showing one or other of the following (i) the alleged unconstitutional infringement is not a reasonably required limitation, or (ii) reasonably justifiable¹⁵ in

¹⁴ Per Article 21(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent it is shown that the law in question makes provision (a) that is reasonably required in the interest of defence, public safety, public order, public morality or public health: and except so far as that provision or the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society.”

¹⁵ The Supreme Court of Zambia accepted the following formulation as regards what is “reasonably justifiable in a democratic society” the impugned decision must be judged according to whether it is arbitrary or excessively invades the enjoyment of a constitutionally guaranteed right”-**Mulundika and Seven Others v. The People [1995] ZR 20 (S.C)**

a democratic society. In order to conform to the constitution of Zambia the restriction need not be essential but reasonable¹⁶.

2.3 THE ZAMBIA POLICE ACT CHAPTER 107 OF THE LAWS OF ZAMBIA.

The **Zambia Police Act Chapter 107 of the Laws of Zambia** is another important provision of the **Zambian Laws** because it lays the structure and functions of the **Zambia Police**. More precisely, the Act provides for the organisation, functions and discipline of the **Zambia Police Force** and the special constables and for matters incidental thereto. However the Act expressly outlaws the establishment of trade unions by members of the **Zambia Police Force**. Thus **section 28(1)** provides.

“It shall not be lawful for any Police Officer to be, or to become, a member of-

- (a) any trade union, or of any body or association affiliated to a trade union; or
- (b) any body or association the object of which or one of the objects is to control or influence conditions of employment in any trade or profession; or
- (c) any body or association the object of which is to control or influence the pay, pensions or conditions of service of the force:

Provided that a police officer may be or become a member of any body or association which may be established or constituted for any objects mentioned in paragraph (b) or (c) pursuant to regulations made under this Act.”

It is interesting to note from the foregoing that members of the **Zambia Police** are given an option to form an association. The establishment of police association is provided for under the **Police Regulation**. Thus regulation 3(1) states.

“There is hereby established a body, to be known as the **Zambia Police Association**, the object of which shall be to enable subordinate police officers and other ranks to consider and to bring to the attention of the **Inspector-General** and the **Minister** matters affecting the

¹⁶ **Kachasu v. Attorney General** [1967] ZR 146(H.C) at 162 (par 40-46) –163(par 1)

welfare and efficiency of the Force, other than questions of promotion affecting individuals and the question of discipline. Further sub-section (2) provides: The Association shall be entirely independent of and unassociated with any body outside the Force: Provided that this shall not be a bar to the Association consulting with associations of civil servants on matters of a general nature affecting the public service as a whole. The membership to this association is provided by section 4 and include "all subordinate police officers and other ranks shall be members of the Association."

Apparently the police association is not meant to provide members with the right to bargain but simply to bring to the attention of the Inspector General and the Minister issues affecting their welfare and efficiency. The position of Police Association was properly cast by the research finding, conducted under the auspices of the University of Natal, which concluded that:

"The Police Association in Zambia appears to be largely engaged with providing recreational facilities to police members at station level. Even police managers acknowledged that the association is ineffective, and is powerless given that it is not allowed to negotiate for collective agreements."¹⁷

2.4 ZAMBIAN LABOUR LAWS AS CONTRASTED WITH THE SOUTH AFRICAN LAWS.

Under this heading, the essay endeavours to make a distinction in the manner in which the institutions of Police are provided for by their respective legal frameworks obtaining in the Zambian and South African jurisdictions. Naturally the two principal empowering Acts namely, the **Industrial and Labour Relations Act**

¹⁷ Monique Marks, "Police Labour Relations in Southern Africa" Trade Union Research project, Department of Sociology, University of Natal, August 2002, p.8

1997, Chapter 269 of the Laws of Zambia and the Labour Relations Act No.66 of 1995 of the Laws of South Africa are now contrasted. However of equal importance is to stress the point that this section shall not engage in a detailed analysis of all the provisions of the said Acts but simply to highlight the relevant distinctions discernable from the provisions of both Acts and only in the context of police institutions.

Suffice it to commence by stating that the **Zambian Industrial and Labour Relations (Amendment) Act No. 30 of 1997** provides for the law relating to the formation of trade unions and employers representative organisations including the formation of federations of trade unions and federations of employers organisations, recognitions and collective agreements, settlement of disputes, strikes, lockouts, essential services and the tripartite consultative labour council, the industrial relations court, and to provide for matters connected with or incidental to the foregoing.

On the other hand the **South African Labour Relations Act No. 66 of 1995** proceeds by declaring that the purpose of the Act was to give effect to section 27 of the South African Constitution. In fact it is this feature of expressly connecting the Act to the Constitution, which makes the provision command tremendous respect.

Thus pursuant to section 1 of the South African Labour Relations Act is:

"(a) to give effect to and regulate the fundamental rights conferred by section 27. Section 27 entrenches the following rights: (1) every person shall have a right to fair labour practices. (2)

Workers shall have the right to form and join trade unions and employer shall have the right to form and join employers' organisations.(3) Workers and employers shall have the right to organise and bargain collectively. (4) Workers shall have the right to strike for the purpose of collective bargaining. (5) Employer's recourse to the lockout for the purpose of collective bargaining shall not be impaired...

(b) to give effect to obligations incurred by the Republic as a member State of the **International Labour organisation**; (c) to provide a framework within which employees and their trade unions, employers and employers' organisations- (i) collectively bargain to determine wages, terms and conditions of employment and other matters of mutual interest; and (ii) formulate industrial policy"

At this point it is essential to focus on the centre of controversy in this essay with respect to the way the Police is provided for in the **Zambian Act**. Thus whereas section 2 of the **Zambian Industrial and Labour Relations Act** excludes the **Zambia Police Service** by providing that this Act shall not apply to (a) the **Zambia Defence Force** (b) the **Zambia Police Force**, *inter alia*, to the contrary the **South African Labour Act** regards the **South African Police** as simply essential workers. It is therefore not surprising that **section 213** of the **South African Act** classifies the **Police** as falling under the category of essential workers as follows:

"**Essential service means-**

- (a) a service the interruption of which endangers the life ,personal safety or health of the whole or any part of the population;
- (b) the **Parliamentary service**;
- (c) the **South African Police Services**."

Subsequently following the essential nature of the services as defined in the foregoing category the Act has imposed a limit on the right to strike by members providing essential services. Henceforth, **section 65(1)(d)(i)** of the **South African Labour Relations Act** states that there shall be;

"Limitations on right to strike or recourse to lock-out. No person may take part in a strike or lock-out or in any conduct in contemplation or furtherance of a strike or a lock-out if that person is engaged in essential services."

Further it is encouraging to note that the South African Act limits the exclusions only to those institutions, which are typically security oriented. This has been achieved by excluding the following institutions from the scope of 'Public Service' under **section 215** of the Act:

- (a) the members of the National Defence Force
- (b) the National Intelligence Agency; and
- (c) the South African Secret Service.

This scope of exemption should be contrasted with the similar provision under the **Zambian Industrial and Labour Relations Act** where section 2 (c) provides that the Act applies to the public service and local authorities. The

"Act does not apply to: -

- (a) The Zambia Defence Force.
- (b) The Zambia Police Service.
- (c) The Zambia Prison Service.
- (d) The Zambia Security Intelligence Service; and
- (e) Judges, Registrars of the Courts, Magistrates and local Court Justices."

It is tempting from the foregoing provision to conclude that the section is too widely cast and in need of reform. In fact taking a leaf from the South African provision, the only institutions that ought to qualify for inclusion under this exemption clause are only two, namely, (a) The Zambia Defence Force and (d) The Zambia Security Intelligence Services. It is therefore highly persuasive and as suggested by the South African provisions to argue that the rest of the institution under the **Zambian provision** could be properly included under the provisions for 'essential workers' in Zambia. Moreover it is imperative to note that the **Zambian Industrial and Labour Relations Act** does have a provision related to essential Services. This provision is cardinal in this study particularly because the South African Legislators properly

used this provision to provide for its Police. This provision is more desirous and appropriate for institutions such as the Police Service because it gives a chance to these workers to bargain for their conditions of service whilst at the same time preserves the principle that such workers should not go on strike because such an action could easily jeopardise the security or the safety of the public even in a democratic society. Therefore this provision offers an alternative and a better example for consideration by the Zambian Legislators and Police Administrators. Thus **section 107** aptly provides as follows.

- (1) "Every employee engaged or employed in essential service shall be issued by his employer with an essential service certificate in such form and in such manner as may be prescribed and such certificate shall be prima facie evidence for the purpose of any inquiry or proceedings under this section that the person to whom such certificate has been issued is engaged or employed in an essential service and that the attention of such employee has been drawn to the provisions of this section.
- (2) Any person engaged or employed in an essential service who, without just cause or excuse (the onus of proof shall lie on him), does any act, or omits to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.
- (3) No employer or other person shall take part in a lockout and no employee, trade union or other person shall take part in a strike, which is likely to hinder or interfere with the carrying on of any essential service.
- (4) No person engaged in an essential service shall be eligible for payment of his salary if such person goes on strike or go-slow.
- (5) Any person who incites or encourages a person engaged or employed in an essential service to do any act, or omit to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.

- (6) A police officer may arrest without warrant any person whom he has reasonable grounds to believe is acting in contravention of this section, and any person who obstructs a police officer in the execution of his duties under this subsection shall be guilty of an offence.
- (7) Any person who contravenes subsection (2) (4) and (5) shall be liable, upon conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding six months and may be prohibited from holding office in a trade union for such period as the Court may determine.
- (8) Any employer or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction...
- (9) Any employee, trade union or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction...
- (10) For the purpose of this section, "essential service" means-
- (a) any service relating to generation, supply or distribution of electricity;
 - (b) any hospital or medical service;
 - (c) any service relating to the supply and distribution of water;
 - (d) any sewerage service;
 - (e) any fire brigade; or
 - (f) any service for the maintenance of safe and sound conditions in mine of-
 - (i) underground working and drainage;
 - (ii) shafts and shaft installations; or
 - (iii) machinery and plant."

2.5 POLICE UNIONS IN SOUTH AFRICA

Naturally flowing from the South African legal framework was the possibility for the South African Police to establish trade Unions. **Monique Marks** of the University of Natal observed that there are three main police representative organisations at present in South Africa-

“the Police and Prisons Civil Rights Union (POPCRU), the South African Police Union (SAPU) and the Public Service Association (PSA). Thus having been covered by the Labour Relations Act (1995), the Police officers in South Africa share the same rights, responsibilities and protections with other workers in both private and public sector. These representative organisations, while not permitted to engage in collective bargaining and political pressure activities.

It was further observed that the Police unions were formally recognised in 1993, and have since played an important role not only in determining officers' salaries and fringe benefits, but also in setting policies pertaining to promotions, assignments, discipline, and other conditions of work. The involvement of police unions in determining conditions of work has a number of positive spin-offs. Firstly, it fosters co-operative relations between police workers, police managers and police employers. Secondly, it provides police with the opportunity to participate in determining the conditions of their daily working lives and thus builds morale and commitment to the service. Collective bargaining between police managers or employers and police workers also serves to weaken the traditional militaristic and autocratic nature of police administration.”¹⁸

Having said that it is necessary to highlight some of the salient features found in both the POPCRU and SAPU Constitutions.

2.6 THE CONSTITUTION FOR THE POLICE AND PRISONS CIVIL RIGHTS UNION (POPCRU).

The objective of POPCRU is well stated in the preamble. Thus the members and employees of the South African Police Services, Correctional Services and Traffic Services, recognise the civil and basic human rights of all people in South Africa...Further recognise that such basic human rights are fundamental human rights worthy of enhancement and protection, and as such committed to the

¹⁸ Monique Marks, “Police Labour Relations in Southern Africa” Trade Union Research project, Department of Sociology, University of Natal, August 2002, p7

creation and development of a security establishment which is the just expression of the will of the people. A system, which will reflect cooperation between our members and the community in an effort to truly serve and protect all members of our society.

The union provides the following services to its members under **section 7.3**

1. "To organise all those employed within the union's scope of operation;
2. To seek to ensure equality of treatment and fair representation for all members and to work for the elimination of discrimination on the grounds of race, gender, disability, age religion and any other form of unfair discrimination;
3. To strive to establish economic and social justice for all members by means regulating relationships between members and their employers;
4. To secure the settlement of disputes arising from employment, and;
5. To participate in any collective bargaining machinery;
6. To protect the employment security of all to advance their employment prospects and generally to do things that will serve the interest of members socially and otherwise in their individual and collective capacities;
7. To provide, insofar as it is possible, legal assistance to members in connection with their employment;
8. To be involved in planning of policing, rehabilitation and traffic control policies, programmes, changes and/or other developments as well as to conduct research into new methods of policing, rehabilitation and traffic processes;
9. To encourage the settlement of disputes by conciliatory methods;
10. To strive for improvement of wages and conditions of service for all members and to strive for healthy and safe working conditions for all members;
11. To resist arbitrary retrenchments and unfair dismissal and to fight for full permanent employment for all workers;

13. To promote project training, training courses, seminars and other education facilities for members in order to encourage self-improvement and self-preparation.”¹⁹

2.7 THE COSTITUITION FOR THE SOUTH AFRICAN POLICE UNION (SAPU)

The essence of the South African Police Union (SAPU) is not different from that of the Police and Prisons Civil Rights Union (POPCRU).

SAPU's main aims and objectives are to be found under **section 4** of its constitution. Thus some of the aims and objectives are as follows:

1. “To function as a democratic union for employees of South African Police Service and employees of policing and all other recognised legal law enforcement agencies without limitation as far as race, creed, religion or gender are concerned and to represent and improve the employment, professional, economic, social and cultural interests of such employees.
2. The union shall be a non-profit organisation and all income to the union shall be used to advance and protect the socio-economic and labour interests and rights of the members of the union.
3. The sole purpose of the Union's activities shall be focussed on achieving the main objectives of the Union.”

By way of summary, **Chapter two** has noted that though Zambia is a signatory to a number of **International Labour Conversions**, these appear to have provided little guidance because they give the discretion to the State parties to determine the extent to which their national police services could be bound by these International Provisions. Thus Zambia in this case has chosen to exclude the Zambia Police Service from the effect of the **Industrial and Labour Relations**

¹⁹ Section 7.3 The Constitution of the Police and Prisons Civil Rights Union, Revised Version, 2001, pp 3-4

Act, which also includes being barred from the effects of related International Instruments.

However there is some guidance at domestic level under the **Zambian Constitution**. Thus freedom of association is guaranteed under the Constitution and it expressly provides under **Article 21** *that no person except with his own consent shall be hindered to form or belong to any trade union for the protection of his interest*. Of course it is acknowledged that this right is not absolute but even then the constitution guards against arbitrariness by stating that this right can only be limited to the extent that it is reasonably justifiable in a democratic society. This paper contends that the **Industrial and Labour Relations Act** is inconsistent with this constitutional requirement because when Zambia became a Constitutional democracy in 1991 the Constitution of Zambia became supreme law of the land. Therefore by virtue of **Article 1(3)** if any other law is inconsistent with it that other law shall, to the extent of the inconsistency, be void. Similarly the **Zambia Police Act** has basically reiterated the Industrial and Labour Relations Act and has simply affirmed the exclusion of the Zambia Police from organising trade unions. The Police Act also provides for the formation of Police Associations but these again are not permitted to act as trade unions by way of bargaining.

A **comparative analysis** was conducted in which the **Zambian Industrial and Labour Relations Act** was compared with that of South Africa. This analysis revealed that the South Africans have allowed their Police Service to form trade Unions with the necessary modification in the provision by limiting their right to go on strike. The balance between the right to form unions on one hand and public

security on the other was achieved by simply classifying Police officers as essential workers. Therefore, it is submitted that the fear of police officers going on strikes once allowed to form trade unions cannot be justified because the South Africans have shown that this right can easily be limited without necessarily denying police officers their fundamental right to form trade unions. ***Most interestingly, the Zambian Industrial and Labour Relations Act has a provision which aptly provides for essential workers under section 107.*** It was therefore submitted that this is adequate enough to cater for the Zambian Police Service as it is this similar provision that South Africans found useful for purposes of trade unions by their police service. Consequently unlike in Zambia, the South African Police Service can affiliate itself to trade unions and prominent among them include the **Police and Prisons Civil Rights Union (POPCRU)** and the **South African Police Union (SAPU)**. The Constitutions governing these unions revealed that the South African Police could now, *inter alia*, strive to establish economic and social justice for all members by means of regulating relations between members and their employers and participate in any collective bargaining machinery.

CHAPTER THREE

3.0 RESEARCH FINDINGS

This segment of the report deals with the research findings that were mainly collected by means of a questionnaire. Data was collected from four Police Stations of the Provincial Capital Lusaka, which included the following; Lusaka Central Police, Emmasdale Police, Chilenje Police and Woodlands Police. However during the course of the interview it was discovered that certain vital information could only be collected from the Zambia Police Service Headquarters due to the centralised nature of the institution. Data collected in this manner mainly refers to government circulars for the conditions of service for the institution. Henceforth it was decided that those individuals holding strategic positions in the institutions be interviewed as well namely the Inspector General of Police, the Deputy Commissioner of Police for administration the Assistant Commissioner of Police under administration and the Police Human Resources Personnel.

Basically the questionnaire was designed with four major segments or parts. The first part covers questions pertaining to Personal Information; basic questions associated with the Conditions of Service were tackled in the second part, whereas the third part reflects on some of the Operational Problems faced by the establishment and the final part focused on issues of Collective Bargaining. It is cardinal to note that all the interviewees were subjected to a full range of questions except in the case of some particular individuals where the questionnaire had to be modified to suit the specific situation. Thus the modifications applied to interviewees such as the Inspector General of Police, the Deputy Commissioner for Administration, the Assistant Commissioner for Administration with the view of

clarifying specific issues especially on matters pertaining to the conditions of service and collective bargaining. Therefore the total number of respondents actually interviewed in this research was thirty-five.

3.1 PERSONAL INFORMATION

Personal information was concerned with the individual background of each interviewee. This information proved vital to this report as in some instances results revealed some interesting findings. For instance there appeared to be a correlation between the level of knowledge possessed pertaining to collective bargaining and the level of academic qualification. Typically, Superior Police Officers at and above the rank of Assistant Superintendent who were also University of Zambia graduates demonstrated a high level of knowledge and awareness on matters of collective bargaining. Thus 90% of the University graduates who were sampled aptly understood and defined the term collective bargaining. This was contrasted with 55% of the None-University graduates who were able to demonstrate a similar understanding.

However another interesting observation was that there was a sharp contrast between University of Zambia graduates who were direct entrants and those graduates who were trained whilst serving in the system. Henceforth whereas all the 6 Direct Entrants University of Zambia graduates indicated that the best way to improve representation was through a trade union all the 4 None-Direct Entrants into Zambia Police believed that the Inspector General of Police was the best person to handle such matters. The reason for this contrast is attributable to the high level of exposure among the Direct Entrants University graduates both at the university and at Lilayi College. It must be pointed out that the None-Direct

Entrants were first recruited directly from Secondary School upon completing Grade XII and trained at Lilayi College as Police Constables. The training given to them puts more emphasis on obedience to lawful orders and discipline. Consequently when these recruits graduate they tend to be more reserved and less likely to question their superior's decisions and actions. Further by the time they turn to the University these same officers will have served at these lower positions for some time and they will have internalised the principle of obedience and discipline without questioning. In contrast University of Zambia graduates most of who joined Zambia Police Service between the years 1995-1998 were recruited at the level of middle managers. Therefore even when they were taken for training at Lilayi their training was tailored to prepare them to easily issue orders to those below them and not so much of discipline and obedience. Thus the net effect of their University training and their commander's training at Lilayi College enhances their radical disposition that was exhibited in the kind of responses they gave during the interviews

3.2 CONDITIONS OF SERVICE.

Generally it is difficult to obtain a standard definition acceptable to every one when defining what constituted conditions of service. However in this paper conditions of service should be understood to mean; how the welfare of Police Officers is managed and this encompasses issues relating to their salaries including allowances to compensate for the risk involved in performing their functions as given by their employers.

3.2.1 RISKS ASSOCIATED WITH THE JOB

The table below depicts the distribution of risks encountered by Police Officers presented according to the departments in which they operated. It is important to note that risks presented are according to what the interviewees perceived as such. **Table 3.1 Nature of Risks Encountered by Police Officers According to the Departments**

DEPARTMENT	NATURE OF RISKS
Traffic Police Officers.	<ul style="list-style-type: none"> ➤ Being hit by a vehicle while manning the roadblock. ➤ Accidents such as falling from motor cycles. ➤ Contracting diseases whilst administering first aid to victims of accidents.
Police officers under Forensic Sciences.	<ul style="list-style-type: none"> ➤ Exposure to dangerous fumes and rays whilst investigating scenes of fire. ➤ Exposure to various chemicals whilst analysing samples. ➤ Lack of periodic medical check up.
Anti-Robbery Police Unit.	<ul style="list-style-type: none"> ➤ Likely injuries from gun wounds and high incidences of death. ➤ Being pursued by dangerous criminals.
Criminal Investigations officers	<ul style="list-style-type: none"> ➤ Being assaulted or killed whilst investigating suspects. ➤ Being pursued by dangerous criminals.
Police Public Prosecutors	<ul style="list-style-type: none"> ➤ Being assaulted or killed by suspects, including by those acquitted or discharged because they are perceived as malicious. ➤ Risk to the family members who can either be killed or injured by the criminals as a way of revenge.
Riot Police	<ul style="list-style-type: none"> ➤ Being injured or killed by riotous crowds or demonstrators. ➤ Accidental shooting or injury among the officers themselves.
Police Administrators	<ul style="list-style-type: none"> ➤ Being entangled in a political conflict and losing the job as a result or being told to resign in the public interest. ➤ Being depressed as a result of stress and overwork.
Police Bomb Experts	<ul style="list-style-type: none"> ➤ Being injured or killed through an accidental explosion.
Paramilitary Police	<ul style="list-style-type: none"> ➤ Being attacked by criminals whilst guarding sensitive installations such as the Banks.

SOURCE: Data Collected from the Questionnaire.

**Table 3.2 Number of Police Officers Injured or Killed in the Year 2003
At Lusaka Central Police Station.**

DEPARTMENT	SOURCE OF INJURY AND OR DEATH	NUMBER OF OFFICERS INJURED	NUMBER OF OFFICERS DEAD
Traffic Police officers	Accident	7	2
Police officers under Forensic Sciences	Exposure to chemicals	-	-
Anti-Robbery Police Unit	Gun shots	6	3
Criminal Investigations	Assault	2	-
Police public Prosecutor	Assault	1	-
Police Bomb Experts	Accidental explosion	-	-

Source: Lusaka Division Staff Officer's Annual Returns.

Table 3.1 reveals that there are a number of risks those police officers are likely to experience whilst on duty. Moreover table 3.2 depicts the actual injuries of deaths experienced by police officers at Lusaka Central Police Station. It should be noted that the potential risks associated with police work is now acknowledged worldwide. Thus the **International Labour Organisation Report** observed that:

“Police work is potentially dangerous, and injury and fatal rates among officers are higher than in many other occupations, as presented by the Occupation Safety and health Report. This is due to the risk they take in apprehending suspected criminals and responding to all kinds of emergency situations, including industrial fires and

explosions, terrorist bombing, hostage taking incidents and traffic accidents, involving potentially dangerous and delicate rescue operations.”²⁰

Although the findings in both table 3.1 and table 3.2 are not exhaustive and complete because they were done at a small scale however they are a good indication of the types of hazards and risks that police officers face while on duty. Therefore, the challenge for the Government as the employer and Police administrators concerned is how to minimize these known hazards and risks using the technologies and knowledge available today, combined with training. However it must also be noted that there is a connection between lack of representation and the level of risks and hazards the officers are being exposed to while on duty. Whether the collective concerns affecting police officers are communicated to the employers greatly depends on whether in fact they have an effective means of achieving that objective. In other words where there is no trade union it means that police officers have no forum in which to voice their collective concerns including safety and health issues at work. At the most basic level, police members are denied any power to influence police policy or economic interests. It is crucial to now focus on the levels of other allowances depicted in table 3.3 below in order to understand and appreciate this point fully.

3.2.2 RISK ALLOWANCE

Risk allowance is an allowance given to an officer as a result of being subjected to various risks due to the nature of the job. However all the officers interviewed revealed that there was no risk allowance being given to them. Consequently the Deputy Commissioner of Police in charge of administration was interviewed in

²⁰ International Labour Organization, Public Emergency Services: Social Dialogue in a Changing Environment, (JMPES, International Labour Office, Geneva, 2003), p.19.

order to make a clarification. It was confirmed that though there used to be a risk allowance for all the officers of K2000 per month up to the year 2003, this has been abolished by the government. Thus in accordance with the **Public Service Management Division Circular No. B.1 of 2004** dated 29th January 2004;

“Risk allowance has been abolished. Government has introduced exposure allowance to be paid at the rate of K50, 000 per month and eligibility under the Police Service is now restricted to Bomb Disposal Experts.”

Clearly the government has now narrowed down officers eligible to be given this allowance. The implication of this is that all officers except Bomb Experts are no longer entitled to this allowance.

Considering the high risk associated with police work, it is not justified for the government as the employer to abolish the risk allowance and limit the same only to the Bomb Disposal Experts. It should be noted that the withdraw of allowances was done unilaterally and in the light of low salaries for majority of officers existing in the Police Service this denial is not justified. However it is submitted that such action by government has been made possible simply because they are fully aware that the Police officers have no means through which they are able to negotiate or at least defend their interests pertaining to their working conditions.

3.2.3 MAJOR ALLOWANCES.

Again all the officers interviewed revealed that there were no more allowances given to them after the conditions of service were revised. However according to the government Circular No.B1 of 2004,

“In line with the Medium Term Pay Reform Strategy (MTPRS) being implemented in the Public Service, the following allowances have been merged into the revised salaries:

Table 3.3 List of other Allowances offered to Police officers as at January 2004

<u>ALLOWANCE</u>	<u>AMOUNTS</u>
(a) Grade allowance	K 1.50
(b) Coxswain allowance	K 148.00
(c) Equitation allowance	K 62.00
(d) Mental allowance	K 16.00
(e) Theatre allowance	K 24.00
(f) Finger print allowance	K2,000.00
(g) Protection Unit Kilometre allowance	K 45.00
(h) Body guard allowance	K 124.00
(i) Armourer allowance	K2,000.00
(j) Bandsman allowance	K2,000.00
(k) C.I.D allowance	K 25.00
(l) Instructor allowance	K1,500.00
(m) Shift Patrol allowance	K2,000.00
(n) Farrier allowance	K 49.00"

SOURCE: Government Circular No.B.1

Clearly the allowances depicted in table 3.3 above are ridiculously low by any standard bearing in mind the Zambian economy as it stood in 2004. Thus the only logical conclusion that could be drawn behind the abolishing of all these allowances in the table above and claims by the Government that they have been incorporated in the salaries was simply to conceal their embarrassment this caused to the officers and the public. Otherwise the other reason for this embarrassing situation is simply that the officers have been taken for granted due to their incapacity to negotiate or expose such by means of trade union representation. It is therefore submitted that the position would have been different if they had a representative body that genuinely looked at their interest.

3.2.4 SALARIES

The following table presents the distribution of salaries for Police officers according to their ranks commencing with the lowest. According to the **Public Service Management Division Circular No B. 1 of 2004** the government has:

“Restructured the salary for the police, Prisons and Immigration scales which include Police Force (PF) scales, Prison Scales (PS) and Police Technical Scales (PTS) to one structure to be called Protective Service Scales effective 1st January, 2004.”

Table 3.4 Gross Monthly Salaries for all the Police Officers.

RANK	SALARY SCALE	SALARY PER MONTH
Constable (Grade 9 or 10 Failure)	PSS 15	K 414'875. 00
Constable (Grade 12 Failure)	PSS 14	K 425,699.00
Sergeant	PSS 13	K 461,131.00
Sub-Inspector (and Grade 12 with Full certificate)	PSS 12	K 625,912.00
Inspector	PSS 11	K 728,587.00
Chief Inspector	PSS 10	K 848,103.75
Assistant Superintendent	PSS 9	K 987,227.00
Superintendent	PSS 8	K1, 189,608.00
Senior Superintendent	PSS 7	K1, 433,478.00
Chief Superintendent	PSS 6	K 1,727,341.00
Assistant Commissioner of Police	PSS 5	K 2,081,446.00
Senior Assistant commissioner of police	PSS 4	K 2,508,142.00
Deputy Commissioner of Police	PSS 3	K 3,033,312.00
Commissioner of Police	PSS 2	K3, 717,443.00
Inspector General of Police	PSS 1	K 4,572,455.00

SOURCE: Government Circular No.B.1 Annexure ‘A’

Again table 3.4 depicts the salary structure for all the police officers in the Zambia Police Service. It is clear that this structure seems to favour the senior police officers above the rank of Superintendent with the lowest ranking officers being the constable getting a salary 11 times less than the salary for the Inspector General of Police. The table suggests that the majority being between the rank of Constable and Assistant Superintendent are below the Basic Needs Basket for a family of six in Lusaka. Thus according to the **Jesuit Centre for Theological Reflection (JCTR)** August 2004 publication the basic needs basket stood at **K 1,100,200**. This scenario should raise some serious concerns to the government as the employer.

Firstly these salaries do not reflect the government's argument that allowances have been incorporated in these salaries. Secondly the senior officers that this structure seems to favour are already in a better position, as they tend to enjoy and control the economic resources given to the institution. For instance the Inspector General of Police who is expected to fight for the better conditions of service for the officers is the highest paid in the salary structure. Obviously this has an effect of compromising him as the appointing authority will always remind him that he is highly paid and in such instances he is likely to be used as an instrument of oppression against his junior officers. Having said that it is submitted that the only way to improve representation for the majority of police officers is through the creation of their own representative body and not expecting their seniors especially the Inspector general to fight for them.

3.3 OPERATIONAL PROBLEMS

In order to assess the efficiency of the Police Service generally, there are certain parameters that become crucial if this is to be done. To a great extent much of the police work depends on the mobility of field officers. For instance, police officers are expected to conduct patrols at night, to immediately respond when a crime has been reported, to be the first to reach a scene of crime or accident, to carry out surveillance on suspected criminals and to investigate crime. However there are also other parameters that can give an insight on whether the system is functioning as expected by the public or otherwise. One way of knowing the extent of efficiency is by reviewing some of the problems being faced by the system. Thus the following table depicts some of the problems being faced in terms of respective departments.

Table 3.5 Some of the Problems Cited as faced by Police officers in their Various Departments.

DEPARTMENT	PROBLEMS FACED
Traffic Police	<ul style="list-style-type: none"> ➤ Lack of appropriate equipment such as speed traps, scene of accident measuring tapes, cordoning tapes, reflectors, raincoats. ➤ Lack of appropriate stationery. ➤ Lack of modern data processing equipment and information management such as computers
Forensic Sciences laboratory	<ul style="list-style-type: none"> ➤ Lack of protective attire for preventing exposure to hazardous materials and rays. ➤ Lack of equipment and testing reagents for handling samples.
Police Ant-Robbery Squad	<ul style="list-style-type: none"> ➤ Lack of appropriate equipment such as bulletproof jackets, helmets and armoured vehicles. ➤ Serious gaps in training techniques and modern tactics to minimise on death and injuries.
Criminal Investigation	<ul style="list-style-type: none"> ➤ Serious lack of surveillance vehicles. ➤ Lack of modern investigative techniques to counter act new forms of crime such as computer fraud.
Police public prosecution	<ul style="list-style-type: none"> ➤ Lack of advanced and specialised Police Public prosecutors such as lawyers, ballistic experts, computer specialists and fraud specialists. ➤ Lack of refresher training.
Riot Police	<ul style="list-style-type: none"> ➤ Still using outdated riot control techniques, which exposes both the officers and the general public to the risk of injuries and even death. For instance the use of short buttons and guns.
Police Administration	<ul style="list-style-type: none"> ➤ Lack of modern methods of managing police as an institution. The system is too centralised and inefficient. ➤ Lack of appropriate equipment to manage the growing population and modernised environment. For instance there is no helicopter to allow the conduct of rescue operations in cases of fire affecting high buildings. ➤ Limited capacity for most of the police cells. Limited infrastructure, as almost all the stations have never been altered to accommodate the increased population in the cities.

SOURCE: Data from the questionnaire.

The table gives an aggregate of problems as perceived by the Heads of Department in each section of the Police service in Lusaka Province generally. It must be observed that most of these problems were reported as having been brought to the attention of the superiors who have either ignored them or simply

did not have the solution to the same. The sad part is that this chronic shortage of transport in the Zambia Police Service has had a negative impact on some other complementary institution in the administration of the justices system in Zambia. It has now become common for the courts to fail to hear cases on the ground that the Police have no transport to ferry the criminal suspects to the courts to stand trial. This problem was well highlighted in the 1992 Report by the Special Committee, which was initiated by the Law Association of Zambia.²¹

This is simply reflecting the symptoms of a failing system and it is suggested that the solution lies to the great extent on proper communication which seems to be lacking.

3.3.1 TRANSPORT

It has already been noted that much of police work heavily depends on the mobility of the field officers. Thus crime preventive measures such as highway patrols, surveillance and investigations require high levels of mobility and as such an efficient transport system. The questionnaire provides data on the expected numbers of vehicles per station from four Police Stations that were sampled, namely; Lusaka Central Police, Chilenje Police, Woodlands Police and Emmasdale Police. According to the officers in charge of these stations the following depicts the distribution of vehicles at each station:

²¹ George kunda, "The Zambian Judiciary in the 21st Century," ZAMBIA LAW JOURNAL, Volume 30, 1998, pp. 46-47.

Table 3.5 Number of Vehicles Required Per Police Station contrasted with the actual Number running.

STATIONS	NUMBER OF VEHICLES REQUIRED	NUMBER OF VEHICLES RUNNING
Lusaka Central Police	15	5
Chilenje Police	6	2
Woodlands Police	7	5
Emmasdale Police	7	2
TOTAL NUMBER	36	14

SOURCE: Data from questionnaire.

It must be noted from table 3.5 above that the number of vehicle actually running is far below the average number of vehicles a station is expected to have. In fact an increase in population entails an increase in the levels of crime that the police stations are expected to handle. The picture presented in this table suggests that there is a serious shortage of vehicles in the Police Stations with all except Woodlands Police station running below 50% the actual requirement. It was revealed that Woodlands Police station appears better equipped in this area because of the high security requirements demanded by the Ambassadors living under this jurisdiction. One way in which to assess the efficiency of the Zambia Police Service is through the level of mobility. Otherwise this acute shortage suggested by the results in the table above is likely to render the police service crippled and irrelevant in the face of the rising crime in the country. This paper contends that the communication to the government has been hampered because there is simply no forum through which to air such complaints.

3.4 COLLECTIVE BARGAINING.

The officers were asked to state what they understood by collective bargaining. This question was basically meant to test the extent of their knowledge with respect to issues of bargaining. Section 2 of the Industrial and Labour Relations Act Cap 269 defines collective bargaining as:

“The carrying on of negotiations by an appropriate bargaining unit for the purpose of concluding a collective agreement.”

However it must be noted that the standard of definition that was used, as a test was more liberal than the technical definition advanced by the Act. Basically all the 30 Police officers were asked to define the term ‘collective bargaining’ and the table below shows the distribution of the Responses given.

Table 3.6 Level of Knowledge on Collective Bargaining.

Number and the percentage of interviewees with knowledge.	20	66%
Number and percentage of interviewees with little or no knowledge.	10	34%
Total Number interviewed	30	100%

SOURCE: data from the questionnaire.

Table 3.6 above shows the level of knowledge among the police officers interviewed. The table suggests that the knowledge levels are appreciably high being represented by 66% of the total respondents interviewed. Having said that it is imperative to note that in any organisation, knowledge acts as an engine or an instrument of change. It is this knowledge that is mostly determined by the levels of education one has attained that has tended to set a distinction between the old police officer and a modern police officer. A modern police officer who is expected

to operate in a modern and complex society is more likely to change the status quo where necessary. Underscoring this point is **Burpo** when observed that:

“A leadership vacuum exists in many police departments in the United States of America through out the States. Many police departments are not attuned to the economic and other job needs of their officers. This situation can be attributed to inadequate training in police managerial techniques and poor communication within the departmental chain of command. Police departments are structured in a quasi-military fashion, and many police chiefs attempt to use this structure to run their departments in a dictatorial, autocratic fashion. In past decades this approach proved to be satisfactory, but today’s more intelligent, well-trained officer is unable to accept arbitrary regulations and policies without questioning their justification. Government officials are equally to blame for the lack of alternatives.”²²

Therefore with the high levels of educational attainments in the Zambia Police Service it is expected that officers are more likely to begin to question some of the oppressive police policies that can be traced back in most cases to the colonial time.

Perhaps it becomes cardinal to analyse the level of knowledge vis- a- vis the education attainment.

Thus in order to test the degree of knowledge among the interviewees they were further classified in terms of their qualifications and the distribution is presented in table 3.7 below: **Table 3.7 Level of knowledge on Collective Bargaining**

According To the Academic Qualification.

University graduates with knowledge	9	90%
University graduates with little or no knowledge	1	10%
Total Number of graduates interviewed	<u>10</u>	<u>100%</u>
None-University graduated with knowledge	11	55%
None-University graduates with little or no knowledge	9	45%
Total number of none-university graduates interviewed	<u>20</u>	<u>100%</u>

SOURCE: data from the questionnaire.

²² John H.Burpo, THE POLICE LABOUR MOVEMENT; Problems and Perspectives,(Charles Thomas,Illinois,U.S.A.1971), p.12

It is clear from the foregoing table above that the highest level of knowledge was recorded among the University graduates. According to table 3.7 the University graduates represented 90 % rate of knowledge among the graduates themselves, which was contrasted, with 55% rate of knowledge among the none-graduates. This suggests that knowledge if it is to be used as an instrument of change it is more likely to be influenced by the University graduates than the none-graduates. The other argument is that by infusing more graduates in the system this is more likely to bring about change because they can easily question certain policies, which for decades have remained unchallenged.

3.4.1 POLICE ASSOCIATION

All the 30 officers were asked if they had a Police Association and all of them gave their responses in the negative. A further question was asked as to why there was no association in these stations and all of them expressed ignorance. However when the Deputy Commissioner in charge of administration was asked to clarify the position he affirmed that the laws provide and permit the formation of these associations though they are none existent currently. This suggests that one could not expect change to be influenced by the Police Association because after all these are not there. However even if these were in existence and vibrant, by law they are barred from engaging in any form of collective bargaining and agreements as the union would do.

3.4.2 TRADE UNION.

All the interviewees were asked whether they had a trade union in their institution. Clearly all the respondents were fully aware that establishing a trade union in Zambia police was illegal and would amount to a criminal offence called mutiny. It

became apparent especially among the junior police officers constituting the bulk of the none-university graduates that this awareness was inculcated in them at the time of training at Lilayi Training College. This became apparent especially when they were asked to give their reasons why it was unlawful to form or join any trade union. **Mark** once observed in this connection that:

“Police in Southern Africa, it would seem, are viewed as professionals who are employed in the security sector and thus require military like discipline. Belonging to a trade union is seen as antithetical to membership in a military like organisation. In Zambia, for example, police involvement in a go-slow or strike action is considered as mutiny. Police managers and Government authorities seem to believe that police membership in a trade union undermines their role as state agents.”²³

It is submitted that this view held by police administrators and government leaders cannot go unchallenged. The main reason is that the Police Service can not perform mainly because it has failed to adapt and adopt new strategies suited for a modern police system expected to function in a modern and multi party political order which was brought about in 1991. The Police Service needs better training and the requisite motivation if they are to meet the challenges posed by multi party democracy such as observance of human rights when enforcing the law and being corruption free. It must therefore be noted that the militaristic approach to management has now become out dated and could only be justified during the oppressive colonial era. It is well documented for instance that as a colonial legacy the Police Service we know today is still military in its outlook. This fact is an historical one and evidence of this was found in section 7 of the **Northern Rhodesia Proclamation No. 17 of 1912**, which read as follows:

‘In case of any war or other emergency, members of the force are liable to be employed for police or military purposes either within limits of Northern Rhodesia Order in Council 1911 or...Further it was observed that this position remained so for some time and it was only in April 1932, when the Northern Rhodesia Police

²³ Monique Mark, “Organising the blue Police Labour Relations in Southern Africa,” African Security Review, Volume 11, No. 2, 2002, p.7

Ordinance was passed that the Police Force was separated from the military. This marked the beginning of the civilian police force, as we know it today. The writer concluded that this mode of historical background of the police force in Zambia still has a bearing on the current police practices. In fact it is interesting to note that like other aspects of English culture, which came with the colonial package, the colonial police forces were constituted and made to develop on a different plane from the English forces at home. Thus in contrast unlike in colonial African Police Forces the British police force was not tailored to suppress any colonial dissent. Therefore it must be observed that the British Police Force in contrast is civilian and unarmed body. In addition it also has collective bargaining arrangement whereby members are part of the police association. This mode is institutionalised within the police force' ²⁴

Surely with this kind of evidence it becomes totally unjustified to continue maintaining a system that was modelled to achieve a different objective being the suppression of the African freedom fighters in this era when Zambia is in a multi party democratic dispensation. This point is cardinal especially that research and experience has shown that if police staff are treated in an authoritarian and dictatorial way with no freedom to express their views within the service, they will treat the public in the same authoritarian and dictatorial way and not listen to views expressed by the public²⁵. "You basically reap whatever you sow." It should necessarily follow that if not democratised this strategic governance institution will always cast a negative outlook in the eyes of the public.

3.4.3 WHO NEGOTIATES FOR THE INSTITUTION?

The respondents were asked to state the person or a body of persons responsible for negotiating their conditions of service. The answers to this question were varied and the table below presents the distribution of the answers.

²⁴ Kalombo Mwansa and A.J.Mumba "Zambia Police and the Changing Society," Zango, Journal of Contemporary Issues, Volume 21, Number 11, (1997), Pp46-49

²⁵ University of Natal, POPCRU and ILO Sub-regional Southern African Workshop On Promoting Labour Management relations In Police Services (Johannesburg 21-23 October 2003), p.3

Table 3.8 The Inspector General as the Negotiator of the officers' Conditions of Service.

TYPES OF RESPONSES	NUMBER OF RESPONDENTS
Inspector General of Police	17
No one	8
Did not know	5
Total Number of respondents	30

SOURCE: Data from the questionnaire.

It is evident from the table above that the majority of the officers believed that it was the Inspector General of Police who was responsible for negotiating their conditions of service. Naturally where there is no trade union representation it is a fair assumption that the Head of the Department should be expected to be the one to bargain for the officers. It is submitted that this arrangement is less than satisfactory. Firstly it was clearly established under chapter II of the research that the Police Act bars any police officer from engaging in any collective bargaining and by implication the Inspector General is equally governed by this principle. Secondly it has also been revealed that the Inspector General of Police is the highest paid in the institution apart from being in the position to enjoy and control all the economic resources allocated to the institution. Therefore his superior position sets him apart from the majority of his subordinates who are normally subjected to the poor conditions of service. Thirdly the Inspector General does not enjoy any security of tenure like judges of the High Court and as such he services at the pleasure of the appointing authority being the President of the republic of Zambia. The implication of the appointment is that his allegiance lies with the President and not the officers whom he can easily order to be obedient to his

appointing authority who at the same time are the employers. Besides if he took too much interest in the welfare of the officers at the expense of government and advocated for the better conditions this becomes detrimental on the part of government as an economic cost and this alone may risk his job. Thus it is only natural for him to remain mute when the officers present problems pertaining to their poor conditions of service. It is therefore submitted that the Inspector General lacks the necessary industry to allow him to handle issues of labour; as much as the trade union would do henceforth he cannot be the substitute for the trade union.

3.4.4 WAS ESTABLISHING A TRADE UNION THE BEST MEANS TO ADVANCE THEIR INTERESTS?

The respondents were asked to state whether establishing their trade union was the best way in which their interests could be advanced. The responses to this question presented varied answers. Interestingly the distribution appeared to suggest a correlation between academic qualification and the type of response given especially among the University graduates. The table below shows the distribution on the basis of academic qualifications.

Table 3.9 Establishing Trade Unions as the means to Advancing Police officers interests.

Direct Entrant University Graduates who said yes	6	60%
None-Direct Entrant University Graduates who said no	4	40%
Total Number of University Graduates interviewed	<u>10</u>	<u>100%</u>
None- University Graduates who said yes	7	35%
None-University graduates who were not sure	13	65%
Total Number of None-University Graduates interviewed	<u>20</u>	<u>100%</u>

SOURCE: Data from the Questionnaire

It is important to note that those who are being referred to as Direct Entrants University Graduates in the table above are those superior police officers who joined Zambia Police directly from University of Zambia in the years between 1995 and 1998. These are still young and most importantly they joined the institution directly after graduating from the University of Zambia. The contrast is that these seemed to have a more radical mind than those who obtained University education after serving in the institution for some time. Furthermore it is also important to note that the level of uncertainty was high in the case of the none-university graduates who seemed to be more guided by the principle of mutiny as inculcated at Lilayi College during their training. This suggests that change is only likely to come from amongst the University graduates and not from the none- University graduates.

In addition to the responses given above there were other respondents who were mainly interviewed for the specific purpose of making clarifications on critical matters such as the one under discussion. These persons included the Inspector

General of Police, the Deputy Commissioner of Police in charge of administration, the Assistant Commissioner of Police under administration and the Zambia Police Human Resources Personnel all based at the Zambia Police Service Headquarters.

Although the Inspector General was fully aware that the South African Police do have a trade union he was not sure whether the same could apply to Zambia. His contention was that even if the government allowed the Zambia Police to establish trade unions the poor economy would still restrict this activity and therefore one would not expect a radical change. In fact the trade unions in this case would operate to divide the would be eligible workers from the management and this would drastically affect the morale and discipline. It is submitted that this view seems to confirm **Burpo's** assertion that a:

'leadership vacuum exists in many police departments because many administrators such as the Inspector General himself are not attuned to the economic and other job needs of their officers. This can be attributed to inadequate training in police management techniques.'²⁶

However the two Commissioners were of the view that though it was possible to establish trade unions, it was difficult to grasp how and where the officers would start from because any attempt to form one now would amount to an offence called mutiny. The whole process of change greatly depended on the commitment of the government itself. It is submitted that this position prevailing in the Zambia Police Service is a precarious one as experience elsewhere has shown that where police officers are pushed beyond their limits it may in fact lead to the strikes

²⁶ Ibid.

notwithstanding the fact that this is unlawful. A good example is the **Boston Police Strikes of 1919**. Burpo observed that

“ the morale of Boston Policemen prior to the strike was low because of distressingly inadequate working conditions, among which were vermin-infested stationhouse, wages too low for the post-World War I inflationary period, working hours ranging between seventy-three to ninety hours per week, and the use of favouritism in assigning officers to the best positions.

To combat these substandard working conditions, officers affiliated themselves to the American Federation of Labour. After issuing an order prohibiting membership in any organisation other than a war group, the Commissioner of Boston Police Department suspended nineteen recalcitrant officers in August 1919 for engaging in union activity. These suspensions became the catalyst for a massive walkout.

Looting of shops and stores began the same day as the strike. The total property damage of strike amounted to more than one million dollars, the result of pillaging and looting. The Massachusetts State Guard was summoned on September 10 to protect the city. Three persons were killed on this day when the Guard attempted to suppress a riot in South Boston.”²⁷

The Zambia Human Resources Personnel appeared not to have any view over the issue of whether a trade union would help improve the conditions of service for the officers or not.

The Zambia Congress of Trade Unions (ZCTU) President **Mr Leonard Hikaumba** held a totally different view from the rest. According to him “forming a trade union in Zambia Police was not far fetched. Even the South African Police including the Americans had to fight for these to be allowed by the authorities. World over the authorities are not so enthusiastic about allowing the Police to form unions because they are afraid of strikes or at least give this as their excuse. However the

²⁷ Burpo John, THE POLICE LABOUR MOVEMENT; Problems and Perspectives, (Charles Thomas, Illinois, U.S.A. 1971), p.12

Zambian Police can be allowed to freely express their grievances by forming trade unions without a right to strike.”

By way of a summary, Chapter three has revealed that there were a number of risks associated with Police work. However it was startling when it was revealed that the allowances remained ridiculously low up to the year 2003. For instance the following allowances were depicted in **table 3.3**, risk allowance of K2000 per month, criminal investigation allowance of K25 per month, body guard allowance of K2000 per month, shift patrol allowance of K2000 per month, and grade allowance of K 1.50 per month. Worse still the government unilaterally decided to abolish all the allowances in 2004 and purported that they were all incorporated in the improved salaries. However in spite of the purported improvements **table 3.4** shows that the majority of police officers still get below K1, 000,000 per month with the lowest getting as low as K 400,000 per month. Clearly the majority of these officers fell below the K 1,100,000 per month basic needs basket calculated on an average family size of six persons and living in Lusaka according to the Jesuit Centre for Theological Reflection (JCTR). It should be noted that the Inspector General of Police was the highest paid official in the entire system.

Other problems facing the institution were cited and some of them have impacted negatively on other supporting institutions such as the Courts of Law. For instance **table 3.5** revealed that the majority of police stations were operating at below the expected number of vehicles per station. Thus the implication of this is that some times officers fail to ferry suspects to the Courts of Law for trial on account of transport.

expected number of vehicles per station. Thus the implication of this is that some times officers fail to ferry suspects to the Courts of Law for trial on account of transport.

The findings also revealed that the majority of the officers expected the Inspector General to present problems related to their conditions of service. However this view appears preposterous because the Inspector General enjoys the best conditions of service in the entire system besides being more inclined to protecting his political interests.

Otherwise it is submitted that the conditions of service and the level of safety in the Zambian Police Service leave much to be desired. This has been aggravated by the lack of proper representation such as through a trade union.

CHAPTER FOUR

4.0. CONCLUSION AND RECOMMENDATIONS.

This paper now comes to the close, which is marked by the conclusion, and the necessary recommendations of how to reform the law in order that the Police reform programme may be meaningfully pursued. Thus conclusions shall be drawn at two levels and this shall be related to the relevant legal provisions as well as the research findings and in the process offer the recommendations.

4.1 CONCLUSIONS.

4.1.1 THE LEGAL FRAMEWORK

The legal provisions were related to the international labour conventions, which revealed that the state parties including Zambia had discretion to decide on the nature of the legal provisions they deemed were appropriate. Therefore as far as Zambia was concerned the laws under the **Industrial and Labour Relations Act** and the **Police Act** excluded the establishment of trade unions in the Zambia Police notwithstanding that the **Zambian Constitution** expressly guarantees freedom of association including formation of trade unions. This has been achieved by classifying the Zambia Police Service together with the National Army and the Intelligence agencies under the Industrial and Labour Relations Act. The consequence of this is to make it unlawful for any member of the Police to establish or join any trade union organisation of any kind either within or outside the Zambian Police Service.

4.1.2 RESEARCH FINDINGS.

The research findings provided some insights in some of the effects and the impact of the lack of trade unions in the Zambian Police Service. Generally the manner in

which the questions were answered depended to a greater extent on the level of academic qualification an individual possessed. Particularly those Police officers who were directly recruited from the University of Zambia between the years 1995-1997 reflected more radical views. These graduates showed a big contrast with those graduates trained within the system whilst serving and other officers below the University qualifications.

Under the conditions of service it was revealed that even though the Police Officers were exposed to a number of risks in their functions, the government had withdrawn the risk allowance and restricted it only to the Police officers who were Bomb Disposal Experts. Generally the allowances, which were given to Police Officers, before these were incorporated in the reviewed salaries were ridiculously low some being as low as K24.00. However in order to hide from the embarrassment the government purported that all the allowances had since been incorporated in the salaries.

The salaries for the majority of Police officers were economically low notwithstanding the government's claim that they had revised these salaries. According to the **Jesuit Centre for Theological Reflection (JCTR)** Basic Needs Basket, issued for the Month of September 2004, the total for a family of six in Lusaka was presented at **K 1,100,000**. However the gross salary for the majority of officers between the ranks of Constable and superintendent before tax fell in the range of K414, 000 to K1, 189,608. Further it must be noted that the average needs basket was calculated on the basis of six family members it is submitted that an average family size for Zambians may be well above six members with the

implication that more money may be required to meet these basic requirements for the majority of these officers.

The research findings also revealed a number of unique problems that were faced by each department in the four stations. However the biggest problem highlighted in the findings was that all the four stations were running below half the expected capacity of vehicles required.

Although the Police Association was provided for in the Police Act Cap 107 this was nevertheless non-existent in all the four stations sampled. However even if it existed at all this would not have had any bearing on issues of collective bargaining as it had no mandate to concern itself with issues of collective bargaining.

Upon subjecting all the 30 police officers to a simple assessment test it was revealed that 90% of the University of Zambia Graduate Police officers interviewed exhibited a high degree of knowledge regarding issues of collective bargaining. This was in sharp contrast with only 55% of the Non-graduate Police Officers who demonstrated a similar understanding. Moreover, when all the officers were asked to state the person or body they believed negotiated on their behalf more than half the total number interviewed 17 out of 30 respondents believed it was the Inspector General of Police who negotiated for them.

Finally all the interviewees were asked to state whether establishing their own trade union was the best way to advance their interest. However whereas 60% of the Direct Entrant University of Zambia Graduates believed that their conditions of

service would be better than what obtained currently only a lower 35% of the Non-Graduates believed that their position would improve.

Interestingly the inspector General of Police himself did not believe that allowing the formation of trade unions in Zambia Police would improve the poor conditions of service faced by the institution. He contended that the poor economy of the country was a general problem, which affected every body in the nation and police officers included. However the Zambia Congress of Trade Unions (ZCTU) President believed that representation for Police officers was cardinal if the poor conditions of service were to be addressed in the institution.

Finally it is also submitted that the current position prevailing in the Zambian Police where the majority of officers expect the Inspector General to fight for the improvement in their conditions of service is not ideal. **Firstly** the main reason is that this office is not directly affected by the poor conditions of service existing in Zambia Police as this office appears to enjoy different conditions of service apart from being the highest paid in the institution the office has capacity to control and distribute economic resources including to itself without being questioned by anyone in the institution. **Secondly** the fact that the Inspector General serves at the pleasure of the appointing authority being the President of the Republic entails that this office does not enjoy the same security of tenure of office as that enjoyed by the Judges, this has effectively made this officer more vulnerable to being removed as the President pleases than if it was a constitutional office. Practically this compromises his ability to pursue aggressive approaches to ensure that officers under him were well catered for. **Thirdly** according to the **Police Act Cap 107**, section 3(1) – declares that

“the Inspector General shall subject to orders and directions of the President, have the command, superintendence, direction and control of the force.”

This made him the most powerful officer in the entire institution and under these conditions no one should expect officers below him to advocate or question their poor state of affairs freely. Therefore this highly centralised system where orders flow from the top-down wards has made it prohibitive for the officers to question orders. Having said that it is therefore submitted that the Inspector general of Police cannot at all be a substitute for the trade unions representation for Police Officers.

4.2 RECOMMENDATIONS.

Having considered the poor conditions of service existing in the Zambian Police Service and the inefficiencies that could have been triggered due to the lack of appropriate training and equipment this paper largely attributed this state of affairs to lack of trade unions representation in this strategic governance institution. Thus this paper contends that the legal provision under which the institution operates is too prohibitive to guarantee meaningful development. Therefore in order to improve the status quo, it is recommended that **section 2 of the Industrial and Labour Relations Act Chapter 269 of the Laws of Zambia** be targeted for reform.

The fears exhibited by the government leaders including the President of the Republic of Zambia and some police officers themselves can no longer be justified in a democratic society like Zambia. In fact it is submitted that Zambia must take a leaf from its South African counterpart, which has allowed the South African Police to form trade unions specifically as a forum for representation whilst at the same

time limiting their right to strike. This had been achieved by classifying their Police Institutions under the ambit of essential workers.

The legal provisions obtaining for the South African Police is easily tenable under the Zambian legal provisions. It is recommended that through the process of re-classification, Zambia Police Service be removed from **section 2** of the **Industrial and Labour Relations Act** and be included in **section 107** which provides for '**essential workers**.' Section 107 has been fully presented under chapter two of this paper. This provision will ensure that the right to strike is limited henceforth casting out the fears of police officers engaging in strike actions once allowed to form trade unions. At the same time this provision will give the institution a necessary forum through which to present their problems and bargain for better conditions of service by allowing them to form trade unions. In short Zambia should strive to strike a balance between protecting the fundamental human rights for police officers to form trade unions and security concerns. In fact in a democratic society like Zambia more premium should be put on protecting human rights that are enshrined and protected by the Constitution.

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Appendices.

QUESTIONNAIRE

TOPIC:

**THE EXEMPTIONS OF TRADE UNIONS FROM THE ZAMBIAN
POLICE SERVICE; A QUEST FOR A MEANINGFUL REFORM.**

Dear Respondent,

I am a fourth year law student of the University of Zambia who is administering this questionnaire in partial fulfilment of the Bachelor of Laws Degree.

You have been randomly selected to take part in this study and therefore your sincerity and truthfulness shall be greatly appreciated. Further the information you will give shall be treated as strictly confidential and only for academic purposes.

I take this opportunity to thank you in advance.

INSTRUCTIONS

In answering the questions below, you are required to TICK your answers in one of the options provided for you. Where the answer requires you to write please use the space provided.

PERSONAL INFORMATION

1. When did you join the Zambian Police Service?
2. Please Tick in the appropriate box: Male [] Female []
3. State your substantive rank.....
4. What is your academic qualification?
5. State any special professional training you have undergone with respect to your job.....

CONDITIONS OF SERVICE

6. State some of the risks associated with your job.....
7. How much is your risk allowance per month?.....
8. What is your current pay per month?.....
9. State other major allowances you are entitled to.....

OPERATIONAL PROBLEMS

10. What problems are you facing in your establishment ?.....
11. How many vehicles are you expected to have at your station?.....
12. How many are actually running?.....

COLLECTIVE BARGAINING

13. What do you understand by collective bargaining in your job?.....
14. Do you have an association? Yes [] No []
15. If the answer is yes, what is the purpose of your association?.....
16. Do you have a trade union in your institution? Yes [] No []
17. If the answer is 'yes' to question 16 above, Why?.....
18. If the answer is 'no' to question 16 above why?.....

19. Whom do you think bargains on your behalf in your institution?.....

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20. Do you think establishing a trade union is the best way in which your interests
can be advanced?.....

21. State other ways in which your conditions of service could be improved...

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