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**CIVIL RIGHTS AWARENESS IN ZAMBIA: A CASE STUDY OF THE  
ZAMBIA CIVIC EDUCATION ASSOCIATION**

**By**

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the Zambia Civic Education Association"**

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**"The Civil Rights under the Constitution belong to you, they are your rights, familiarize yourself with them. Help to promote and defend them for yourself as well as for your fellow human beings"**

**(Extract from UDHR 1948).**

## **ABBREVIATIONS**

A.G.	-	Attorney General
A.C.H.	-	African Charter on Human and Peoples Rights
FODEP	-	Foundation for Democratic Process
MMD	-	Movement for Multi Party Democracy
UDHR	-	Universal Declaration on Human Rights
U.N.	-	United Nations
UNESCO	-	United Nations Educational Scientific and Cultural Organisation
UNIP	-	United National Independence Party
ZCEA	-	Zambia Civic Education Association.

## **DEDICATION**

This paper is dedicated to my dearest father Mr. Wilford Mwila Chibwe and my dearest mother

Mrs. Ada Chibwe.

For all your love, care, support and encouragement, may God Richly Bless You!.

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## **INTRODUCTION**

### **Justification for study**

My preference for this area of study has been prompted by the democratic climate in the country. Zambia today is going through a democratic process by the introduction of Multi Party Politics. However, survival of democracy depends upon so many factors, both political and legal. One such legal factor is the need to promote awareness of civil rights and responsibilities of citizens. Civil rights as defined in Radin Law Dictionary mean "those rights which an individual possesses which are protected by government and which may not be impaired by government."<sup>1</sup> These include, liberty, human dignity, property, fair trial, speech, religion and assembly. These rights are regarded as attempts to give meaning to the ideal of equality under laws. In Zambia they form Part III of the constitution.

In its manifesto, the Movement for Multi Party Democracy showed commitment to the promotion and protection of Human Rights and that "it would endeavour without reservation to ensure that the state upheld the respect for and observance of Human Rights and fundamental freedoms."<sup>2</sup> However, even though the 1991 constitution provides for protection of Human rights, there are reports of human rights abuse especially by the police acting as agents of the state. This actually led to the appointment of the Munyama Human Rights Commission. Its mandate was to investigate Human Rights abuse both in the second and third Republic."<sup>3</sup> There have also been reports of manipulation of members of society by politicians during elections and also inability of citizens to keep their surroundings clean. A question one would ask is, are there no laws to guard against these abuses? The Laws are there; its just ignorance on most citizens of this country and also of the leaders who violate these rights as to the meaning of human rights. Most people interviewed at the University of Zambia knew very little or nothing about rights guaranteed under the constitution. As to an average man, the word human right was completely

novel to the majority.

Most of them were actually more concerned with social and economic rights which are merely mentioned in the preamble than with civil rights that are raised when a special problematic case arises.

Another factor which has led to human rights abuse is failure on the part of citizens to enforce their rights because of the fear of being victimised.

It is submitted that this has a negative effect on the legal system, in that its effective functioning does not only depend on having Legislation and Legal Institutions like the courts. It also depends on whether citizens know their rights and are able to enforce them. This, in turn, leads to promotion of justice and fairness in a democratic state.

Hence, awareness, which means showing or bringing out realization of one rights, is important. This is because although the constitution of Zambia seeks to protect rights of individuals by provisions of Article 11 to 28, there is need to move beyond this limited perspective. The reason is that, even though the law is there it is one thing to postulate these rights as essential and its another thing to ensure their realisation.

It is even worse for Zambia because even though it has ratified some of the International Instruments such as the Universal Declaration of Human Rights and the African Charter on Human and Peoples Rights, it has not made these part of its domestic law. These instruments put the state parties under an obligation to promote respect for human rights through teaching. So since it has not made these instruments part of its domestic law, it cannot be forced to create an environment which will enable people to realise their rights. Thus since our Legislation lags behind, there is need to ensure that awareness of rights is brought about to promote justice and fairness.

Emphasis is put on civil rights as a lot of rights fall under this head and they are the most

violated rights.

A study is taken of the Zambia Civic Education Association, a non governmental organisation formed in 1993 involved in promoting civil rights awareness and also responsibility of citizens. This association is a well known organisation which has held a lot of seminars and workshops and has also offered Legal representation to people in need. It is hoped that through the study of ZCEA, which offers informal education, that is to say education which does not form part of any school curriculum, the importance of civil rights awareness will be brought out.

Chapter one gives a legal background to civil rights awareness. This will help us understand the international instruments which call for education for human rights.

Chapter two deals with civil rights awareness in Zambia. In this chapter reference will be made to the ZCEA which is currently promoting awareness of civil rights as well as duties of citizens. Chapter three is a legal evaluation of the work of the ZCEA. That is to say whether from a legal point of view the theoretical contents of the programmes have been properly conceived for the purpose of promoting civil rights awareness as well as duties. Through this chapter, it is hoped that the significance of civil rights will be brought out by showing whether teaching of civil rights does have an effect on the people.

Chapter four is a conclusion of all the chapters discussed above. It will also make recommendations to the government on the need to promote civil rights as well as duties through education. Recommendations will also be made to ZCEA so as to help it in this task of educating the masses.

## ENDNOTES

1. Max Radin; Radin Law Dictionary, U.S.A., Oceana Publication, 1966, p. 55.
2. Movement for Multi Party Democracy Manifesto, Paragraph 2(a), 1991.
3. Munyama Human Rights Commission Statutory Instrument No. 127 of 23rd March, 1992.

## CHAPTER ONE

### 1. LEGAL HISTORY OF CIVIL RIGHTS AWARENESS THROUGH EDUCATION

#### INTRODUCTION

##### 1.1. Meaning of the Concept of Human Rights

Human or fundamental rights is the modern name for what have been traditionally known as natural rights. Although there has been no agreed upon definition of Human rights, Ezeji for defines them as "moral rights which every human being, everywhere at all times ought to have simply because of the fact that, in contradistinction with other beings, he is rational and moral." No man may be deprived of these rights without grave affront to justice.

Thus human rights are inherent to all human beings; they are inalienable and universal, that is to say every individual regardless of race, tribe, national origin, gender, political opinion and religion is entitled to enjoy human rights.

These human rights have been internationally recognised and protected. The United Nations Charter laid the legal and conceptual foundation for the development of modern international human rights law. The Universal Declaration of Human Rights adopted by the General Assembly in 1948 was the first International document to spell out the civil, political economic, social and cultural rights which every human being is entitled to.

The civil rights found in the UDHR include:

- Right to life, liberty and security of person
- Equality before the Law
- Freedom of movement and residence
- Freedom from torture or cruel, inhuman degrading treatment.
- The right to seek in other countries asylum from persecution
- Freedom of expression and Association

- Freedom of thought, conscience and religion.

The underlying premise of the Declaration is that all human beings are born free and equal in dignity and rights, are endowed with reason and conscience and should act towards one another in a spirit of Brotherhood/Sisterhood."<sup>12</sup>

## 1.2 **Background to Civil Rights Awareness through Education**

Although civil rights awareness can be traced far back, it received increasingly greater support after the second world war owing to events like brutal killing of human beings, assault against the human being and against the international political system, which occurred during that war.

As a result of these events, the international community, particularly the United Nations, issued a charter called the Charter of the United Nations. The provisions of the Charter reflected the reaction of the international community to the horrors of that war and of the regimes which unleashed it. This war had a great impact on the world at large. For instance, in Germany, the first president of the Federal Republic of Germany, Theoder Heuss, considered that a democratic culture had been forcefully wiped out by Hitler's Third Reich. It became obvious in the early years of the newly established Federal Republic that a wide spread civil education in democratic principles, values, standards and procedures was essential for rebuilding a democratic society.

Similarly, the reaction against Nazi aggression and genocide produced several references in the United Nations Charter, the most important being Article 55 which states that "It shall promote inter alia, international, cultural and educational cooperation, universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, language or religion."<sup>13</sup>

Although this can be seen as a promotion of human rights, it can be implied that in its broad and general terms it calls for human rights education in which civil rights awareness falls.

However, because of the general language of Article 55, states at the United Nations quickly began efforts to specify its meaning. The first result was the oft-celebrated Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948. This continues to be an inspiration to all human rights instruments and activities. Consistent with the goals of the United Nations Charter, the UDHR in 1948 laid down the initial formulation of specific Human Rights, stressing education. Article 30 of the UDHR is supposed to serve as "a standard of achievement for all peoples and all nations and to that end ... every individual and every organ of society keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms."<sup>4</sup>

Moreover, Article 26 of the UDHR not only proclaims a right to education, it also stipulates that one of the goals of education is to be "the strengthening of respect for Human Rights and fundamental freedoms."

At the international conference on Human Rights in Teheran in 1968, a program for the future promotion of UDHR resolved that states should ensure that "all means of education be used to provide youth with the opportunity to grow in a spirit of respect for human dignity and equal rights."<sup>5</sup> The conference saw the basis of such education as objective and free discussion and urged educational creativity to stimulate interest in the problems of the changing world. With the U.N. Charter's emphasis on the promotion of Human Rights and the UDHR's insistence on education as the means to that end, some scholars have identified an implied right to know one's right.

Other international instruments like the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights adopted in 1966 and the African Charter on Human and People's Rights which entered into force in 1986, acknowledge that state parties are bound to respect and ensure the rights and duties laid down in instruments

and to adopt Legislation or other measures to give effect to them. Although other measures could imply the provision of education, this is only explicitly stated in Article 25 of the African Charter on Human and Peoples Rights which states that "State parties to the present charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood."<sup>16</sup>

So although international instruments mention obligations for states parties to promote and protect Human Rights, only the UDHR and ACH refer to the promotion and protection of Human Rights through teaching and Education. Article 17(1) and (3) of ACH states that, "Every individual shall have the right to education and the promotion and protection of morals and traditional values recognised by the community shall be the duty of the state."<sup>17</sup>

Article 18 of the ICCPR provides the purpose of education as being the development of a sense of human dignity, enabling all persons to participate effectively in a free society, and the promotion of understanding tolerance and friendship among ethnic groups.

From these international instruments, it is submitted that the member states of U.N. are under an international obligation to provide for the teaching and dissemination of knowledge of human rights and also to create material conditions for adequate teaching at all levels of education.

It is, therefore, from that premise that there has been so much done by the international community and also national community through formal and non formal education with the aim of promoting civil rights.

### 1.3 **International Efforts to Promote Civil Rights Awareness**

At international level, the organisation most concerned with human rights education is the United Nations Educational, Scientific, and Cultural, Organisation (UNESCO). The promotion

of human rights lies at the core of all of UNESCO's work. Although there has been no report on Civil Rights Awareness Programme by UNESCO, it has a World Plan of Action in Education for Human Rights and Democracy, which was adopted during the International Congress on Education for human Rights and Democracy, organised by UNESCO in Montreal Canada in March, 1993. This World Plan addressed itself to individuals, families, communities, educators, teaching unions, popular movements, political parties, parliamentarians, governments, national and international NGO's, all multilateral and intergovernmental organisations and the U.N. The World Plan calls for a global mobilisation of energies and resources, from the grassroots all the way up to the U.N. in order to educate individuals and groups about human rights and democracy.

So it is this World Plan taken by UNESCO which influences most countries in the promotion of civil rights because it provides for the development of active national networks to produce material, curricula and programmes as well as the exchange of methods and materials and the development of best practice approaches.

In addition, UNESCO held the World Conference on Human Rights which took place in Vienna in June 1993. Its final document urged that Education on Human Rights and dissemination of proper information should increase the resources allocated to programmes aiming at the establishment and strengthening of human rights awareness through training, teaching and education, popular participation and civil society. UNESCO also recognised that this cannot be left to the government alone, and so through the World Conference, it recognised the national institutions and non governmental organisations in the constructive role of promoting and protecting human rights.

In conclusion, it is submitted that what the international community has done in relation to Civil Rights Awareness can be seen in the work done by UNESCO. Although UNESCO does not just recognise civil rights, it provides the basis for most countries to promote human rights

education.

#### 1.4 National Efforts done in Civil Rights Awareness

Apart from governmental institutions, many non governmental organisations undertake the task given by the Universal Declaration of Human Rights and the African Charter on Human and People's Rights. This action is long standing and it involves concerned individuals like lawyers, journalists, trade unionists and members of religious organisations. Most of these organisations start by holding seminars in which they identify the problems and pass resolutions as to how they are going to conduct their work.

In Accra, Ghana in 1968, there was a seminar on Civil and Political Education of Women. This was part of the programme on advisory services in the field of human rights initiated by the General Assembly in resolution 926(X). Under this, the Secretary General is authorized to make provisions, inter alia, for the holding of seminars in the field of human rights. In this resolution the Economic and Social Council recommended that the Secretary General examine the possibility of holding an additional annual seminar on the civil and political education of women in the nature of a demonstration or pilot project which can be adopted and used for the follow up projects at national and local level to equip women for more effective service to their countries.

This seminar identified women as the target group and started by highlighting the factors, obstacles and pressures which influence the exercise by women of their civil and political rights and responsibilities and their participation in public life. One of the obstacle identified was the tradition and custom which relegated women to a secondary position in society and that while most rights had been granted to women by Law, traditions and custom continued to restrict their exercise in practice. Other obstacles like apathy, inferiority complex and lack of education were identified.<sup>118</sup>

Thus in order to arouse and sustain women's interest in civil and political affairs, it was

*agreed that the use of discussion groups was one of the most valuable techniques. Participants at this seminar alluded to the fact that discussion groups concerning women ranging from round table talks to seminars had been organised in their respective countries."*<sup>9</sup> In conclusion, the seminar gave an elaboration of a programme of future action to equip women for full and effective exercise of their civil and political rights and responsibilities. For example, it was suggested that women should publish material on all subjects of concern to women and to the general public. It was hoped that literature like women's role in a changing society or women and politics would stir women from their lethargy to become more actively involved in the promotion of women's civil and political rights.

Other African countries have a lot of human rights organisations which have taken up the task of educating the people about their rights and making recommendations to government. In Zimbabwe, there is the Legal Resources Foundation. Although the Foundation concentrates on legal rights, its educational officer based in Bulawayo emphasizes the combination of Legal and Human Rights in education. Most of the work done in relation to human rights education involves civil rights. This is because civil rights are a favourable group of rights within the education programme as they contain a large number of rights. Their target groups include women's groups, schools and cooperatives. The Legal Resources Foundation, through one of its project Centres called the Harare Legal Projects Centre, records a programme called 'You and the Law'. Topics covered are the Bill of Rights in the constitution, capital punishment and the African Charter on Human and peoples Rights. This programme in itself creates that awareness which is needed especially for those people who have been or are oppressed.

In some countries, some writers say teaching should not only emphasise theoretical norms, principles, resolutions and texts of international instruments. It has been argued that it should be applicable, critical and creative and have relevance to the reality of each society. Learning should

go hand in hand with the practical exercise of rights and duties in daily life. So they decide to move a step further if democracy is to become a reality. In America for example, they have the students as the target group. So there is a framework for civic education called civitas which is designed as a model and resource for professional educators who teach students about their civil rights and how to be responsible citizens. This framework suggests guidelines for the development or enhancement of civic education instructional programmes in public and private elementary and secondary schools. The aim is to promote civic competence, civic responsibility and wide spread participation in the activities of society so as to uphold the principles of constitutional democracy.

In conclusion it is submitted that at both the international and national level, many organisations have become interested in issues relating to internationally recognised Human Rights and have thus taken up the task of educating people of their civil rights. This is all aimed at making target groups more responsible and knowledgeable citizens.

## ENDNOTES

1. G. Ezejiolor, Protection of Human Rights Under the Law, London Butterworths, 1904, p. 3
2. Article 1, Universal Declaration on Human Rights, United Nations Department of Public Information.
- 3: Article 55, United Nations Charter.
4. Article 30, Universal Declaration of Human Rights
5. Human Rights Quarterly Journal, Volume 13 Number 4, the Johns Hopkins University Press, 1991, p. 26.
6. Article 25, African Charter on Human and Peoples Rights, p. 87.
7. Ibid., p. 87
8. Seminar held in Accra Ghana: Civil and Political Education of Women, 1968, United Nations Publications, p. 10.
9. Ibid., p. 15.

## CHAPTER TWO

### 2. CIVIL RIGHTS AWARENESS IN ZAMBIA; WITH PARTICULAR REFERENCE TO ZAMBIA CIVIL EDUCATION ASSOCIATION

#### Introduction

Prior to 1991, there were no organisations which were actively involved with promoting civil rights through education. In 1991, the over whelming majority of Zambian voters voted in favour of the introduction of Multi-Party Democracy. With the introduction of this new system, the next challenge was how to consolidate and sustain the new democracy. Survival of democracy depends upon whether citizens and leaders are willing to defend it, nurture and protect it. Democracy like any system is in danger of dying if it is not fully supported by citizens. Since democracy has to be learnt (as no one is born a dictator or democrat) it is vital that civil matters be amenable to education training and awareness building.

#### 2.1 Civil rights guaranteed under the constitution

The constitution of Zambia, being the most important law in Zambia protects the basic rights of all people and guarantees that there will be equal rights for all.

The most important civil rights guaranteed under the constitution of Zambia are:

- a) Right to life<sup>1</sup>
- b) Right to liberty<sup>2</sup>
- c) Respect for Human Dignity<sup>3</sup>
- d) Right to fair trial<sup>4</sup>
- e) Right to Privacy<sup>5</sup>
- f) Right to Property<sup>6</sup>
- g) Freedom from Discrimination<sup>7</sup>
- h) Freedom of Speech and conscience<sup>8</sup>

I) Freedom of Religion, Assembly and Association.<sup>9</sup>

The underlying premise for these rights is that all human rights are born free and equal in dignity and rights, are enclosed with Reason and Conscience and should act towards one another in a spirit of brotherhood.

Thus the rationale underlying the provision of these rights makes it necessary for all to know their rights so that they are not violated and if violated, that they can be enforced.

For instance the right to life provided for under Article 12(1) "No person shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which he has been convicted."<sup>10</sup> The constitution allows the courts in certain serious crimes to pass a death sentence where one has been convicted of murder, aggravated robbery or treason under the Penal Code. It is therefore important for everyone to know that they have a right to life, this can only be taken away when convicted of the above offenses. It thus places everyone under the duty not to break the law lest the courts take that right to life.

However, in practice, the right to life has been widely violated. For example on many occasions the police have shot dead suspects some of them unarmed. In August 1992 the then Minister of Home Affairs, Newstead Zimba ordered the police to shoot on sight, all criminal suspects. This is actually a violation of the right to life, so there is need to educate the police whose duty is to maintain law and order, of the importance of the civil rights guaranteed under the constitution.

Article 15 of the Constitution provides that "no person shall be subjected to torture, or to inhuman or degrading punishment."<sup>11</sup> This means that all government bodies and all courts must treat the people who appear before them with respect. In addition, no one can be tortured or punished in a cruel way, not even a person who has been convicted of a crime. So since people

are continuously being tortured now as was the case in the Second Republic, it is important that the citizens have a right to human dignity and where such right has been violated, it is enforced.

Article 20(1) also guarantees the right to freedom of expression. Freedom of expression includes freedom to hold opinions without interference; freedom to receive ideas and information without interference whether the communication be to the public generally or to any person or class of persons; and freedom from interference with one's correspondence.

During the Second Republic, people were not free to express themselves on matters of public interest especially as regards government officials. This led to the retention of oppressive laws such as section 53(1) of the penal code where the President of the Republic is empowered to prohibit any publication or series of publications that he considers to be contrary to public interest. What constitutes the public interest is within his sole discretion. There are no controls on the President's power to ban publications. In the case of Shamwana vs Attorney General<sup>12</sup> in which applicants contested the president's prohibition of their petition to the National Assembly, the High Court ruled that the President's exercise of the power was not open to question and could not be challenged.

Such laws have really no place in a democratic society. So since it is possible for people to think that they still cannot express themselves freely, there is need to educate them about the need to express themselves on matters of public interest without fear of victimisation. Government must also not regulate or censor the thoughts and ideas of its people because freedom of expression is indispensable for democracy.

Having looked at the civil rights guaranteed under the constitution and the rationale underlying them, it is important that people know their extent and scope such that if they are violated they would be able to enforce them.

## **2.2 Origin and History of the Zambia Civic Education Association**

The Zambia Civic Education Association initially commenced as a program of the United National Independence Party (UNIP), the former ruling political party as a mechanism in its revival campaign to meet the challenges following the general election. However, the party was not extremely responsive to its overtures. Consequently, the group attempted to distance itself from any direct political affiliation and claimed to be wholly independent.

Hence the ZCEA was registered in September, 1993 with the Registrar of Societies under the Societies Act.<sup>13</sup> The motto of the Association is "Education for our Masters." As the motto of the association indicates, the organisation was founded by a group of people, young and old, who share the belief and a vision that democracy can only become a reality for all Zambians when the rule of law, rights and duties are understood by the majority of the people."<sup>14</sup>

It was clear to the founding members that the majority of ordinary Zambians were ignorant of their rights, of the concept of the rule of law and totally unaware that they owed a duty to the society in which they lived."<sup>15</sup> This ignorance was evident from numerous reports of human rights abuse by police, reports of manipulation of members of the society by politicians during elections, voter apathy and the inability of people to keep their surroundings clean.

With the foregoing in mind the aims and objectives for which the association was founded are:

- a) "To assist the development of the democratic process in Zambia through the promotion and implementation of civic education and awareness programme, particularly through the development of projects that will lead to greater awareness and understanding of human, civil and political rights, electoral rules and procedures and the need for prison reform.
- b) To promote progress and justice in Zambia by creating greater understanding of the republican constitution, the role of the three arms of government, namely, the Executive,

Legislature and judiciary and the relationships between them, and to participate in and seek support for efforts aimed at the realisation of these goals. and

c) To establish and maintain an efficient liaison with other groups with similar interests."<sup>16</sup>

In its attempt to fulfilling these ambitious objectives, the ZCEA began its operation in Chilenje South, a high density peri- urban township in Lusaka. The main objective of the Chilenje South Project was the collection of data to ascertain the level of awareness amongst the citizens regarding their civil rights and duties in a democratic society.

To this end, the Association set up citizens desks at public places (markets, bus station) to which ordinary men and women brought numerous information in the form of complaints, requests for advice and assistance on the rights and duties. The Association members interviewed and collected information from marketeers, shop keepers in the area, minibuss operators, consumers, commuters and from door to door interviews of residents of Chilenje South."<sup>17</sup>

The data that was collected revealed a serious lack of awareness about the duties and responsibilities of the civic man and women. "It is this inability to assume responsibility for their actions, for the community and indeed of their country by the ordinary citizen that usually leads to a breach of fundamental rights and freedoms as evidenced by the following wide spread occurrences in our midst.

- vandalism
- crime
- street vending
- lack of a value standard in public life."<sup>18</sup>

In view of these facts (above) the Association decided that the best way in which to contribute to the development of civil society and to the democratic process would be by designing programmes that would support institutions which are most accessible to the ordinary

citizens. So three major projects were embarked on to effect the education and public awareness campaign. The Human Rights Project has two programmes - The Police and community programme and the Legal Aid programme. The Schools Project and Social Action Project are the other two

### 2.3 Programmes initiated by the Zambia Civic Education Association

#### A. The School and Community Programme

##### 2.3.1 Target group

One of the main programmes that the ZCEA has embarked on in their implementation of civic education and awareness is the schools and community programme. The Association identified the young people in secondary schools as its target group and it began with a pilot project that would include only government secondary schools in Lusaka. These include, Kamwala, Munali, Libala, Arakan and David Kaunda Secondary Schools. This programme aims to inculcate in school pupils an appreciation, first of all of their duties and also their rights as citizens of this country. Thus, it proceeds on the realization that one of the major problems facing the nation of Zambia today is the complete inertia with which responsibilities are taken. It is believed that the adult population in this country has been socialized to believe that there is always someone else responsible for what needs to be done. So knowing that school children are that part of society that is still in its formative years, the association has started a programme that will reach the young people with a different set of values. It is also believed that since good character is as a result of a deliberate socialisation process, tomorrow's generation has to be created now. So in the same way that the adult population was socialised negatively the younger ones can be socialized positively to be responsible citizens.

The schools programme therefore aims at achieving the following:-

- I. To cultivate a sense of responsibility for the welfare of Zambia and its citizens,

- especially the well being of the least advantaged in society;
- ii. To cultivate and foster the attitude that asks what requires to be done for the country and its citizens rather than what the country can do for the individual;
  - iii. To provide leadership training and to impart appreciation of the fact that work is honourable through manual labour;
  - iv. To create appreciation of the responsibility for the social, economic and political development of the country;
  - v. To raise the general awareness about rights and duties of the community in the provision and maintenance of law and order and respect for human rights in society;
  - vi. To provide para legal services to the surrounding communities especially in rural areas.

### 2.3.2 **Method of Education and Attitude of Target Groups**

In order to achieve these aims and objectives the association has established Civic Education Clubs in the schools already mentioned since these schools already have a club system in place. These clubs are joined by senior pupils. It is believed that after their education or training they will go into the community in which they are based, to mount civic education campaigns for the residents. Thus, the civic education clubs started after the seminar which was publicly launched by the Republican President in July 1994 and it has adopted the theme "This is my country" and they emphasise 'Duty'. So the teachers who have been trained in the basic concepts such as the constitution, the function of various organs of Government Executive, Legislature, Judiciary as well as basic rights and duties of the individual, teach the pupils by organising workshops, seminars and talks. Thus, the method of education is informal in the sense that it is outside the schools syllabus and there is no coordinated programme of activities as the

pupils are allowed to work in their schools according to their needs.

In the attempt to inculcate in young people a feeling of responsibility, they identify areas in schools that can be improved by the pupils themselves and taking responsibility for them. For example, cleaning of surroundings and ablution blocks. But in their task to clean the surroundings or to do their work, the clubs do not undertake fund raising through soliciting for donations or sponsored walks, rather all money needed is worked for. Hence Kamwala Secondary school Civic Education Club discovered that one of the class room blocks in their school needed to be painted. So what they did was to make contacts with the Bata Shoe Company where they did some work and in the end got money to paint a classroom block. In this instance the pupils learnt that actually there are some things which they can do and need not rely on other people to take up their responsibilities.

In the attempt to teach the pupils about the workings of the government, the teachers who are in charge of the clubs get eminent people in society to talk to them, people who are quite conversant on the topic. For example Mrs Lucy Banda Sichone has talked to the pupils at Munali Secondary school about the workings of the government and how they can develop skills in making decisions about public issues and participating in public affairs.<sup>19</sup>

In addition the association conducts publication workshops under the schools programme, so during these workshops, literature on civil rights and duties are given to the pupils so as to provide relevant reading materials for the clubs and the community civic education programmes. Some of the subjects for publications have been: " Know your rights," " Know your constitution; "The three wings of government"; "Duties of the Citizen;" and "This is my country." So since these subjects cannot be understood easily, the workshops discuss each of the above topics in order to reduce the knowledge to the level of a secondary school pupil.

So through this training which the pupils undergo, it is planned that when they are ready,

they will go into the community in which they are based to mount civic education campaigns for the residents.

In an interview with one of the patrons of the clubs, it was said that the attitude of the pupils was actually overwhelming in that most pupils wanted to join the clubs such that some schools had to limit the number of members. However, the association is faced with problems in this task.<sup>120</sup>

iii) **Problems Associated with Educating Target Group**

The coordinator of the Civic Education clubs admitted that they face problems in trying to educate the pupils.

It was stated that since most of the club members are senior pupils and usually in their final year at school, the activities which are planned by the clubs never get to be done by the pupils in that they leave school before the programme is completed. Hence, they never go too far in acquiring the knowledge they need in order to help out in the communities in which live.

Another problem was that the patrons found it difficult to identify some of the work which could be done in the schools. Usually what was done was cleaning the surroundings, ablution blocks and painting the classrooms.

Furthermore, the work of the patrons is made difficult by the fact that a lot of transport problems are faced such that the pupils do not get to go for tours or to workshops which are organised by the Association. So in the end, they never get to teach much because a lot of opportunities are missed.

In conclusion, the ZCEA through the schools programme wants to form character of a private citizen in the pupils, who will be responsible for his actions, for the community and indeed for the country hence the adoption of the theme 'This is my country.'

## **B. THE POLICE AND COMMUNITY PROGRAMME**

### **(1) Target Group**

The police and community programme was devised from data collected by members of the Zambia Civic Education at a citizens Advice Bureau set up at the market place in Chilenje South, a township in Lusaka. Information, requests for advice and complaints which were brought to the Bureau indicated wide spread concern about the use of police powers in the community. Thus the association identified the police constables and sergeants as its target group. Therefore it initiated discussions with the police command so as to start a programme of action. The Police and Community programme is of special importance in that the police station is the most accessible and least expensive institution for the arbitration, prosecution and settlement of a variety of disputes and claims in the community. It is to the local police station that the community turns for the quick arbitration and settlement of issues relating to debt claims, breach of provisions of various agreements, domestic disputes and disciplinary action for juvenile delinquents, spouses and neighbours. It is also believed that it is because of the fact that so many demands that do not fall under the ambit of police jurisdiction are made on the police force that abuse of police powers and indeed even corruption tend to exist in the system. It is imperative, therefore, that the Police Force should be equipped with the necessary knowledge and tools for the effective discharge of their functions. Further, the policeman should be able to understand the role of the police institution as defined by the Republican Constitution and the Bill of Rights. In addition, since the Policeman is perceived as a necessary evil, there is a need to integrate the police force within the community so that it is accepted as an essential institution to the welfare and well being of society.

So the association planned that the police and community programme would be conducted at all the fifteen police stations in Lusaka with the following objectives:

by the community before the Human Rights commission where officers identified as suspects in cases of beatings, torture and indeed even deaths of suspects in police cells, escaped the process of the law.

So in order to alleviate these situations the Association adopted a method called remedial training, "remedial in the sense that it was designed for the slow learners like police officers who are most susceptible to corruption and abuse of office."<sup>21</sup> The training seminars were held at base, that is the police stations where the officers worked, the first one being held at Lusaka Central Police Station in May 1994. This training consisted of presentation of papers by various resource persons followed by question and answer sessions. So in one seminar a paper was presented on the duties of a policeman in which it was taught that being a policeman did not only involve arresting criminals but also that regard must be had to the rule of law and human rights in dispensing their duties. In another seminar, the participants were given a simple test which required them to write down authorised circumstances in which a police officer could arrest without warrant. When this was done the highest score was two out of ten. Other modes of training employed were group discussions, work groups and visual displays. Through these visual displays, they learnt how they are supposed to work closely with the community by properly investigating a reported crime so as not have a hostile response from the community.

Before the courses were discontinued in August 1994 by the Inspector General of Police, the Coordinator of the Police and Community Programme revealed that the police officers were actually interested in the courses they were taking. The courses were very well received by the participants and they did have an impact on the officers. Reports were received by the association which showed improved performance by officers who had participated in the course.

### **iii) Problems Associated with Educating Target Group**

Even though the response was good, it was revealed that the work was not being carried

out freely as the Police Commander felt that the association was directly interfering with the work of the police force. This led the association to limit their operations because most of the work which they used to do was being done at Lilayi training school. For example, there is now a syllabus on Human Rights. This actually led to the programme being discontinued by the Inspector of Police in August 1994.

Even though remedial training of the police officers was discontinued, the Citizens Advice desks have continued under the Police and Community programme.

### **Citizens Advice Desk**

One other project undertaken by the ZCEA is the introduction of Citizens Advice desks at Lusaka Central, Matero, Chilenje, Woodlands and Emmasdale Police Stations. These desks were established so as to provide some measure of relief to the over-burdened police system by handling cases relating to debt collection, breach of contracts and inheritance disputes.

So in order to educate people about their civil rights, that is to say the right of recognition before the law, and equality before the law, the desks dispense legal advice and in some cases it has taken up legal aid cases, particularly criminal cases for people who have been accused of criminal offences as a result of complaining about police abuse of powers.

These desks also provide civic education on rights and duties in civil society. These desks are manned by volunteers who have gone through para-legal training which is aimed at equipping the volunteers with basic knowledge of the Zambian Legal System, court system, law enforcement agencies and substantive law. The Association, through the desks, maintains an active watchdog role on the observance of the rule of law by state agencies. By taking up a number of test cases it aims at protecting and enforcing civil rights of the people. The most significant of such cases taken up by the Association involved the shooting of a client of the ZCEA by a policeman at the reception of a Police station. In this case the ZCEA client was picked up one evening from his

parents home for reasons which were not given to him at the time of his arrest. Upon reaching the police station, he asked the arresting officer to advise him of the offence he had committed. The arresting officer aimed his gun and shot him through the shoulder and the man was admitted to University Teaching Hospital (U.T.H.). Whilst in hospital, the police station at which the incident had occurred charged him with disorderly conduct in a police station leading to the shooting and proffered five other charges against him. The Association took up the matter and successfully fought off all the charges. The offending officer was charged with attempted murder.

Another case involved the detention of an elderly man who fell in love with a female Cabinet Minister. "He was charged with criminal trespass and the Association challenged this offence as false since he had been arrested at the Minister's office, which is a public place and outside the preview of criminal trespass."<sup>23</sup> The Association's challenge was successful and the man was released at the discretion of the President.

The Association also took up the case of a young girl who lent money to a policeman's wife, who failed to repay the debt. When she insisted upon repayment, the husband of the debtor, a Policeman, had the girl charged with theft and was kept in Police cells. The Association bailed the girl out and proceeded to trial after the matter was brought to the Association's attention by a brother policeman who was one of the graduates at one of the police and community programme training seminars.

So with the association taking up these cases, it can be concluded that the general public is becoming more aware of their rights such that abuse of police powers leading to violation of rights can no longer be entertained.

## **C. SOCIAL SERVICE PROGRAMME**

### **1) Target group**

One other programme which has been initiated by the ZCEA is the social service

programme. Through this programme the Association tries to develop relevant programmes which will promote a greater awareness of civic rights and duties in the general population and especially those based in higher density residential areas. So it has as its target group members of the community more especially people of low standard of living and low education level or no education at all.

The Association thus acts as an initiator and advocate of the community in ensuring that they are able to claim the rights to which they are entitled such as proper shelter and sanitation and also to appreciate their responsibilities towards the proper usage of these services

Therefore, its aims and objectives are to:

1. Create in the community an awareness and appreciation of their human, political and civil rights as well as duties and responsibilities by making information available through publications and projects.
2. Source funding on behalf of the communities for various activities and projects that will help the community to lead a more dignified life.
3. Instill a sense of responsibility in individuals by encouraging them to participate collectively in community matters for example general cleaning of surroundings, maintenance of public.<sup>1124</sup>

## II. **Method of Education and Attitude of target Groups**

In order to instill a sense of responsibility in individuals by encouraging them to participate collectively in community matters, the Coordinator, with the help of volunteers, conducts talks within which they decide areas of priority which will be cleaned up. For example, Mapoloto is an area situated in Chilenje township which is an unplanned settlement characterised by poorly constructed houses most of which have no doors, no windows and no proper drainage and sewer systems and no system of refuse collection. So the dirty surroundings of this settlement were

identified as an area of concern and the Lusaka City Council, with the help of the community carried out a major clean up exercise. Thereafter, steps to maintain acceptable standards of cleanliness were drawn up by the community, which included the digging of pits in which refuse could be disposed.

In addition, through talks which are conducted, the community is taught about their right to vote and also their right to know the member of parliament of the area. This is meant to make them participate in the public affairs of the country.

However, in spite of the efforts being made by the Association, the attitude of these people is quite negative. It was revealed by the Coordinator that while most of them want to learn about their rights and duties, their main concern are their basic needs like food, shelter and clothing. They are not yet at a level where they really care about political issues and also issues of the constitution.

### III. Problems Associated with Educating Target Groups

As already stated, the target group has not yet reached a level where they really care about rights, political issues and constitutional issues, so the Association faces a great problem in convincing these people to attend meetings so as to discuss issues of concern. So the Association a major obstacle is getting people to actively take part in issues which affect them and the entire public.

### CONCLUSION

In conclusion, it is submitted that the actual concern of the schools programme is to create a character for a private citizen who will be responsible for his actions, for the community and indeed his country. It is hoped that through the provision of relevant literature the pupils will get to know of their civil rights and duties.

Although the Police and Community programme was discontinued, it aimed at training

police officers in areas of law relevant to them such as issues of the rule of law, the Constitution and the Bill of Rights. It was only after a clear understanding of these subjects that the role of a policeman could be understood leading to lessening of human rights violations . Through the Citizens Advice desks, the ZCEA gives legal representation and this in a way makes people become more aware of their civil rights, like the right to fair trial: That is why most people who are aggrieved turn to the Association as evidenced by the cases handled.

Lastly, through the social service programme, the main aim is to make the world a better place to live in by helping out people of low standard of living and very low education. It is also concerned with making them fully appreciate their political and civil rights as it is found that most of them do not participate actively in the affairs of the country.

## ENDNOTES

1. Article 12, Republican Constitution, Chapter One of the Laws of Zambia.
2. Ibid, Article 13.
3. Ibid, Article 15.
4. Ibid, Article 18.
5. Ibid, Article 17.
6. Ibid, Article 16.
7. Ibid, Article 23.
8. Ibid, Article 20.
9. Ibid, Article 21.
10. Ibid, Article 12(1).
11. Ibid, Article 15.
12. (1982) Z.R. 122.
13. Chapter 105 of the Laws of Zambia.
14. The Zambia Civic Education Association Report on the History of the Association, p. 1.
15. Interview with ZCEA Chairperson, on the History of the Association 5th May 1995 in Makeni at 10:30 hours.
16. Op. Cit, p. 2.
17. The ZCEA Annual Report, 1995, p. 2.
18. Ibid., p. 2.
19. Interview with Laura Miti, Coordinator of Schools Programme, 12 the June 1995 at Mulungushi Conference Centre at 08.55 hours.
20. Ibid., p. 2.
21. The ZCEA report on Police and community programme.
22. Interview with ZCEA Chairperson, July 1995, at ZCEA Office (Makeni) 14.30 hours.

23. The ZCEA report on Police and Community Programme
24. The ZCEA report on the Social Service Program, p. 1.

## CHAPTER THREE

### 3. A LEGAL EVALUATION OF THE WORK OF ZCEA

#### Introduction

Having looked at the work being done by the ZCEA the next question is whether from a legal point of view the theoretical contents of the programmes have been properly conceived for the purpose of promoting civil rights awareness. This chapter considers whether the programmes initiated have had any behavioural change on the target groups so as to ascertain whether the association is on course or not.

#### 3.1 Schools and Social Service Programmes

In these programmes which the ZCEA initiated for promoting civil rights awareness, the association put much emphasis on the duties and responsibilities of the citizens to the community in which they live. Duties as defined by Blacks Law Dictionary mean "human actions that are exactly conformable to the law which requires us to obey."<sup>11</sup> Article 25 of the African Charter on Human and People's Rights emphasizes the need to educate people about their rights as well as their responsibilities. It thus states that ... "state parties should see to it that these freedoms and rights as well as corresponding obligations and duties are understood."<sup>12</sup> Further, Article 29 of the UDHR states that everyone has duties to the community and recognises the community as the only place where man can develop his personality. So in as much as it is important for one to know and enforce one's civil rights, one is also under a duty to conform to the law so as to strike a balance between the two, if at all society is to function effectively.

In American Jurisprudence the term duty is correlated to the word right; thus, wherever there exists a right upon any person, "the American judiciary sees a corresponding duty upon some other person or upon all persons generally."<sup>13</sup>

Although duties do not exist in a particular code or law because they are more on the

moral side than legal, it is submitted that there are duties inherent in the rights guaranteed under the constitution. It is actually this inability of the people to assume their responsibilities that leads to crime.

Under the Zambian law, the duty not to breach the peace corresponds with the right to freedom of speech and assembly. So where police officers reasonably apprehend that a crowd would commit a breach of peace the crowd can be arrested. If found guilty, they are liable to imprisonment for five years.<sup>43</sup> In this sense the law comes in to lawfully restrict the enjoyment of the right to freedom of speech and assembly.

Further, one is under a duty to obtain a permit when exercising one's freedom of assembly, failure of which one is punishable under the Penal Code. The law regulating this is the Public Order Act. However, Section 5(4) vests too much powers in the Police Officers for granting of permits, in that, it is left to them to decide who should be given a permit and who should not. This issue arose in the recent cases of The People V Christine Mulundika and six others<sup>5</sup> and The People V Kenneth Kaunda.<sup>6</sup> It was argued by counsel for the applicants that Section 5(4) of the Public Order Act could be construed as conferring absolute powers on the Regulating Officer to grant or refuse a permit. The provision was thus ultra vires Article 20 and 21 of the Republican Constitution. However, the court replied by saying that the powers conferred on the Regulating Officer were not absolute but discretionary and which discretion would have to be exercised judiciously and if not properly exercised, could be challenged and corrected.

Even though the court in this case held that the powers are not absolute but discretionary, it is argued that Regulating Officers abuse these powers because they use them to suppress the opposition and anti government demonstrations. Whereas the MMD has no problems in obtaining permits, opposition parties and groups apposed to government policies are routinely denied permits to hold meetings or to form processions on dubious grounds. For instance, the Supreme

Court in Alfred Zulu (on behalf of UNZASU) V. A.G.<sup>7</sup> in a scandalous decision, upheld the Police's action in cancelling a permit earlier given to the students to hold a rally at Kafue Roundabout. There was clear evidence that the police were instructed to cancel the permit by the government.

So it is as a result of vesting too much powers in the Regulating Officer which makes it difficult for people to perform their duty to get a permit if they want to exercise their freedom of assembly. People will always see it as a violation of the freedom of assembly and expression if such powers given to Regulating Officers are not amenable to check so as to reflect the purpose to which they are given

It is therefore submitted that if Legislation is used for the attainment of other goals then the duty incumbent upon individuals to conform to the law will not be achieved.

So despite some irregularities in the law the programmes emphasis on duty and responsibility is important, in the sense that if this is inculcated in the pupils at an early stage it will make them become well informed responsible young citizens of the country. This in a way will even help reduce crime.

### **3.1.1 Behavioural Change in the Pupils**

Implementation of these programmes would be fruitless if they do not have an impact on the target groups.

Even though the programme of schools has only run for two years it has had an impact on its target group in that most of the pupils talked to gave a good response as to the work being done by the ZCEA. Most of the pupils revealed that they were aware of the duty they owed to their country, to obey the law. Out of total twenty-four pupils asked about what they would do if they found that the school surroundings were dirty, only one pupil who did not belong to the club, gave a negative answer of leaving the work to the cleaners. One pupil from Munali

Secondary School actually admitted that before becoming a member of the Civic Education Club, he used to do a lot of bad things including vandalism of school property. He said through the Civic Education club he had learnt a lot of good things especially his rights and duties.

As the school is one institution where the pupils rights are violated as was the case in Feliya Kachasu V A.G.<sup>8</sup> the question as to what they would do if they were refused to join the debating club on tribal grounds by their teacher, had a good response. Most of the pupils replied by saying that they would report to higher authority because they knew that they had a right to belong to a club of their choice irrespective of tribe. Again one pupil who does not belong to the club replied by saying that she would oblige and stay away since she would not be authorised to join.

It is submitted that through the Civic Education Club, the provision of the Zambian constitution to the members of the Club has yielded good results. This is a long step taken by the Association towards the establishment of a civil rights culture, which is needed for every democratic state.

#### **Behavioural Change in Illiterate or Low Level Income Group (Mapoloto Area)**

Even though this area was identified by the Association as a target group, nothing has been done in relation to the promotion of civil rights awareness as one of the objectives stipulates. The people of this area have not really come to appreciate the freedom of expression, assembly and association. A lady from Plot 29 stated that she did not like attending meetings where they discussed their problems, for fear of appearing in the press. She also revealed that they were not free to talk about the high rates which they were being charged by their landlords because they feared losing the houses in which they lived. Further this lady did not know the name of their area Member of parliament.<sup>9</sup> Situations like this are not good especially now that we are in a democratic society where everyone is supposed to enjoy the rights guaranteed under

the constitution, unless derogated from according to law.

The ZCEA chairlady of the area admitted that nothing much had been done by the ZCEA in that area and that it was very unfortunate because the people of that area were really suffering at the hands of the landlords who exploited them by charging them high rates.

The only thing which the people appreciated from the work of the ZCEA was instilling of a sense of responsibility in the individuals by encouraging them to participate collectively in community matters.

However, most of the people in this area have lost confidence in the ZCEA because they feel the Executive Chairperson, Lucy Sichone, is a member of UNIP and had therefore started this programme as a UNIP campaigner.

It is, therefore, submitted the people of this area think ZCEA is part of UNIP and thus in a way it is a hindrance to the people. This is because most of the people suffered a lot during the UNIP era and they would not want to associate themselves with UNIP again.

It is, further submitted that this programme has failed because of the economic environment of this area. This has stood as an obstacle in the achievement of behavioural change of the people. Not so many people would like to know their civil rights when they cannot afford the basic requirements in order to sustain their lives. It is only when people have the means of survival that they may concern themselves with civil rights issues.

### **3.2.1 Police and Community Programme and Citizens Advice Desk**

Deducing from the objectives of the Police and community programme which the ZCEA initiated, it is submitted that they were emphasising on the role of a police officer in a community in relation to human rights. This was a realisation that the Police station was a place where many people turned to for help.

The Zambia Police Act<sup>10</sup> gives the police the role of investigating and preventing crime.

This is to help maintain law and order so as to uphold the rule of law which is a prominent feature of all democracies.

Moreover, the constitution of Zambia gives the police some powers in relation to their conduct towards suspect and criminal defendants. For example Article 13 of the Constitution guarantees the right to personal liberty. But the police may apprehend a person upon reasonable suspicion of his/her having committed a criminal offence under the law

Further, Article 12(3)(b) of the constitution allows the police to kill in order to effect a lawful arrest or to prevent the escape of a person lawfully detained. But a policeman must use firearms on the suspect only when his/her life or that of an innocent person is in serious danger and there is no other alternative. A police officer must not aim to kill a suspect but merely to demobilise him/her.

But the reports in the press reveal that the police do not know that the powers given to them in the constitution are limited for example, the incident of killing an innocent man at the High Court by a police officer when the UNZA students wanted to have their friends released, only reveals that the police do not know their powers. This has led to abuse of powers and violation of human rights.

In addition Article 15 states "No person shall be subjected to torture or to inhuman or degrading punishment or other like treatment"<sup>11</sup> Thus a person tortured can sue the state for compensation and the police officer guilty of torture can be persecuted or disciplined. So even though such provisions exist in the constitution, people are being tortured and subjected to inhuman treatment. This is against the civil right to human dignity. It is, therefore, submitted that the inability of the Police to assume their role is a hindrance to people's awareness of their rights. This is because it is through the work of the police that individuals get to know of their civil rights and duties when they do things according to the powers given to them by the

constitution. So if reports are seen or read in the press which depict a situation contrary to the law, people with no knowledge of the law or the constitution would assume that is what the law states.

It is further submitted that the theoretical content of this programme was properly conceived for its purpose. As it was reported by FODEP at the District Workshop on Civic Education in relation to rights of suspects and criminal defendants, fairness of the system of criminal justice is not ensured simply by putting values of human rights on paper. "It is ensured by an acceptance of these values and a commitment to protect them by all concerned with criminal process."<sup>12</sup> So since the police are concerned with criminal process they carry the final responsibility for ensuring the observance of human rights as well as awareness of civil rights.

### **3.2.2 Behavioural change**

It should be noted that this programme was discontinued in 1994 but even though the programme does not run it can be said that it had an impact on the police officers who attended. Most of the police officers interviewed revealed that the remedial training they went through was totally different from Lilayi training school in that at Lilayi what they learnt were police duties and their roles. The ZCEA lay much emphasis on Human Rights. This is in fact true because most of them went through Lilayi training during the Second Republic and the kind of training depended on the ideology and policies of the day such that there was no syllabus on Human Rights.

A police Detective from Kabwata Police Station, highly commended the task which was undertaken by the ZCEA and admitted that it had a positive impact on his work in that his vision was more widened.

It is also submitted that most of the police officers attitudes changed. Only one Sub-Inspector from Lusaka Central Police revealed that it had no impact because the ZCEA were

against their work, that is to say, they were protecting criminals by demanding that they should not be kept in prison for too long. This is a view which was put forward by police officers from Emmasdale Police Station who had not gone through the remedial training. One of the police officers from Emmasdale asked:

"Why are you lawyers against us? Why do you like defending criminals?"

Answer: Everything that we do is according to law and we do so, so as to help promote justice."<sup>13</sup>

It is really unfortunate that police officers have not come to appreciate the fact that they, as well as lawyers, have a responsibility for ensuring the observance of rights of individuals.

Despite this negative attitude, the case already referred to in which a girl who lent money to a policeman's wife but who was charged with theft and remanded to prison, is an important one. This case was brought to the attention of the Association by a police officer who had graduated from the Police and Community programme. This was a total violation of the girl's right to liberty contrary to Article 13(1) of the Republican Constitution. It is therefore, submitted that the remedial training was a step in helping the police officers realise their role in relation to the rights of the individual as guaranteed by the constitution. So by enforcing the civil rights of individuals they would help in public awareness of these civil rights.

### **3.3 Citizens Advice Desks**

This programme falling under the police and community programme has no specific target group. Thus, it does not only give advice on issues relating to rights of individuals, it also provides legal representation to those who have been accused of criminal offenses for complaining about police abuse of powers and also to those who cannot afford costs of litigation. The rationale underlying legal representation especially to the poor is that "it is essential for the proper functioning and integrity of the machinery of justice which is the Legal System."<sup>14</sup> Although there

is a department for Legal Aid under the Ministry of Legal Affairs, this is not enough because under the Legal Aid Act, Legal Aid is only mandated for all offenses triable in the High Court such as murder, aggravated robbery and treason. The state is not obliged to provide a lawyer to a defendant who is tried in a magistrate's court. But actually there are so many offenses triable in the magistrate court like theft, assault and rape which also need legal representation.

In Western countries, Legal systems are structured on the assumption that all citizens have equal access to information about the Legal systems functioning and to expect professional advice and service when needed. Under the United States Constitution, the right to counsel is a constitutional right.<sup>15</sup> The decision in Gideon V Wainwright<sup>6</sup> established a new requirement through the fourteenth amendment by making the right to counsel a constitutional right. In this case, Clarence Earl Gideon was a hopeless petty offender who nevertheless had a strong sense of his rights. Charged with felony breaking and entering, in Florida, he requested a lawyer because he could not afford to hire one. His request was turned down at the trial and in the state appellate courts but it was accepted by the Supreme Court. It was held that at least in all felony prosecutions an indigent defendant must be appointed counsel. As Black J. pointed out for the court in Gideon case "any person hailed into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him."<sup>17</sup>

Under the Zambian Law this is not the case because Article 18(2) does not give a constitutional right to a lawyer paid for by the state. It is only those who are being tried for murder or treason who can be provided with a Legal Aid Lawyer if they cannot afford. It is, therefore submitted that since access to the Legal System is not equal, the system's integrity is compromised and fails to perform effectively the dispute settling, social ordering and social control of functions assigned to it.

Since there are circumstances in which some people are unrepresented, Police Prosecutors

who are not paragons of impartiality, subject ignorant people who are unrepresented and unadvised to abuse and violation of rights. For instance, Chilenje Advice Desk provided seven cases of police abuse to the court, but these were withdrawn before trial by the police after realising that the people involved had legal representation. It is evident from this that the police wanted to take advantage of the people involved because they knew that it was very difficult for persons not represented to establish their innocence. However, the ZCEA managed to have two cases go through prosecution. From this it is submitted that the ZCEA is doing a commendable job in assisting with Legal representation so as to ameliorate the problem of ineffective access among the poor. This is actually the best assistance that can be given to a victim of actual Human Rights abuse.

It is further submitted that through legal representation, that is through greater use of lawyers services and greater instrumental use of the legal system by the lower income groups, it helps in educating the participants (litigants and witnesses and the people of their community) on their civil rights and also legal systems functioning. Experience may actually contribute to continuing use of the legal system and may erode the passivity, even hostility with which people tend to view governmental authority.

In conclusion, for all the programmes initiated by the ZCEA, it is submitted that they are on course in promoting civil rights and duties to the youth in the schools. The programme is succeeding in its aims and objectives because it has an impact on the target groups.

As for the social service programme, this has not succeeded in promoting civil rights awareness because most people are not free to speak or to assemble and talk about important issues.

Even though the police programme was discontinued it was on the right path of helping the police, in that it was teaching about human rights which were not learnt by the police officers

when they were at Lilayi Training School. It actually had a positive impact on the police officers as their visions were widened and they appreciated the role they play in society.

Further, the Citizens Advice Desk is a good programme in that it brings about a greater awareness of civil rights and duties through civic education and also through legal representation.

## ENDNOTES

1. H. Campbell (ed), Blacks Law Dictionary, 5 edition, U.S.A. Set. Paul Minn West Publishing House Company, 1979, p. 453
2. Article 25, African Charter on Human and Peoples Rights, p. 1.
3. J. Feinberg and Hyman Gross, Philosophy of Law, California, Wadsworth Publishing Co., 1986, p. 319.
4. Section 75, Penal Code, Chapter 146 of the Laws of Zambia.
5. HPR/10/95.
6. HPR/11/95.
7. SCZ No. 5 of 1994 Appeal No. 28 1993 (unreported).
8. (1967) Z.R. 145.
9. Interview with a lady from Mapoloto area, Plot 29 on Saturday.
10. Chapter 133 of the Laws of Zambia.
11. Article 15, Constitution of Zambia, Chapter 1 of the Laws of Zambia.
12. The Foundation for Democratic Process, Report on District Workshops on Civic Education.
13. Interview with Police Officer at Emmasdale Police Station on 31/08/95 at 11.15 hours.
14. Legal Aid and World Poverty: A survey of Asia; Africa and Latin America, New York, Praeger Publishers (1974), p. 4.
15. Article vi, 14th Amendment of the United States Constitution.
16. (1932) 372 U.S. 375
17. W.B. Cockhart and Y. Kamisar, Constitutional Law Cases. Comments Questions, 6th edition, U.S.A., West Publishing Company, 1986, p. 448.

## CHAPTER FOUR

### CONCLUSION AND RECOMMENDATIONS

This paper has tried to show the need for civil rights awareness in Zambia, taking into account that Zambia protects civil rights under Part III of the constitution. The introductory part of the paper highlighted the fact that abuse of rights guaranteed under the constitution is, mainly due to ignorance on the part of the individuals and also those entrusted with the task of ensuring the enjoyment of these rights. The other factor is fear by some individuals to enforce their rights; these factors in turn place a problem on the entire legal system.

So in order to really explore this problem and emphasize the significance of education, the ZCEA was studied because this Association has taken up the task of promoting civil rights awareness.

Our discussion in Chapter One revealed that civil rights awareness came at the same time that human rights came to be internationally recognised or protected under the law. The United Nations Charter laid down the Legal and conceptual foundation for development of modern international human rights law. But in relation to human rights education, the Universal Declaration on Human rights emphasized the need for promoting human rights through education. So at the international level, the UDHR lays the legal background for promotion of human rights education.

At the regional level, the African Charter on Human and Peoples Rights stresses the need for education by placing an obligation on member states to ensure through teaching, education and publication the respect for rights contained in the charter.

Chapter One also revealed that the United Nations is really committed to the promotion of human rights through education because it has an organisation called UNESCO. The

promotion of human rights lies at the core of all of UNESCO's work. Hence it organised a World Plan in 1993 calling for mobilisation of resources from grassroots all the way up to the United Nations, in order to educate individuals and groups about human rights and democracy.

So the international community has moved from the limited perspective of protecting human rights under the law to the task of helping their realisation by individuals.

At national level, the task of educating people is mainly done by non governmental organisations.

In Chapter Two the rationale underlying most of the civil rights guaranteed under the constitution was identified to be that human beings are born free and equal in dignity and so derogations can only be made according to law. So the ZCEA took up the task of promoting awareness among the citizens so that their rights could not be unjustifiably infringed in Zambia's new democracy. It therefore, initiated programmes and identified the youth in secondary schools, policemen and low income level people (from Mapoloto area) as its target groups. The Association also took up the task of providing legal representation to people who have been arrested and subjected to inhuman treatment as a result of complaining about police abuse of powers. Through representation it was hoped that people would come to know that there is equal protection before the law and that no one is above the law.

By identifying the youth as their target group it was hoped that they would form a responsible character in the youth which was needed for a democratic society. The police were identified as they are the ones entrusted with the responsibility of ensuring that rights are enjoyed by everyone, so it was only logical that they know these rights taking into consideration that they were not familiar with them. The people of Mapoloto were identified because they lived in deplorable conditions and they cared, very little about their civic life.

Chapter three was a legal evaluation of the work of the ZCEA, that is to say, it was hoped

to find out whether from a legal point, the theoretical contents of the programmes initiated were properly conceived and whether the work had an impact on the target groups.

Through the evaluation; it was revealed that the ZCEA does not just emphasize on the right to know one's rights, it also emphasizes on the need to know one's duties and responsibilities. It is the inability to assume one's responsibilities that usually leads to breaking of the law. If people observe the duties inherent in the rights guaranteed, it will help in the enjoyment of these rights.

This chapter also revealed that though civil rights education is planting the seeds of a more just, open and tolerant world, that is to say, it is one of the factors in the long term process of transforming ways of thinking and behaviour, the teaching has had an impact on most of the pupils talked to. This can be attributed to the fact that ZCEA was more active in trying to promote civil rights awareness because of organising seminars, workshops and also providing booklets like the constitution which arouse a lot of interest. This, however, was not the case with the people of Mapoloto area. It was difficult to create an interest because of the economic environment surrounding most people. In addition the ZCEA did not make frequent visits to the area.

It was also observed from this chapter that the need to educate the police about human rights was properly conceived because most of them had gone through Lilayi Training School without knowing a single thing about human rights. This actually contributed to many human rights abuses because the police did not know their role in the community. Most of the police officers expressed interest in the training they got and it was very unfortunate that the programme was discontinued because training of this sort is supposed to have a positive impact if the role of policemen is understood.

Further, the task of offering legal representation by ZCEA was properly conceived because it was only through programmes like this that would help enlighten people that everyone

has the right to secure protection of the law if charged with a criminal offence. This legal representation comes in to redress the problem created by the Legal Aid Act which provides for a right to counsel only if charged with murder, treason and aggravated robbery and if one is appearing in the High Court. So by offering legal representation it offers an awareness not only to the people being represented, but also to the general public who would seek legal representation when need arises.

## RECOMMENDATIONS

Having looked at what the whole paper has established, it is hereby submitted that Zambia as a member of the Organisation of African Unity, should take the pledge to implement the Charter it ratified in 1981 very seriously. It is important, therefore, that Zambia should make some of the provisions of international treaties part of its domestic law, for instance, it should place itself under a duty to ensure through teaching education and publication the respect of rights guaranteed under the constitution. The failure of not doing so has made the state deprive its citizens of the fundamental rights protected under these international instruments, by claiming the shield of state sovereignty. By this it is meant that as a sovereign, no one can force it to do anything which it considers to be against its will. This may include international obligations.

Since the ZCEA has not succeeded in promoting civil rights awareness among the people of Mapoloto area, it is submitted that they should make more frequent visits to the area and make the meetings as informal as possible so as to create an interest in the people to freely participate. It is also submitted that they should publish the Republican constitution in vernacular language and this constitution should have as many cartoons as possible. This will help arouse interest in the people as communication will be easy.

Another factor which will help this target group is improving their standard of living and also of people in similar situations. So if the Draft constitution is adopted, the economic and social policies should be given first priority. This is so because in as much as it is important to create civil as well as political awareness among most people of Zambia, this cannot have the desired results if most of them cannot afford basic requirements like food, clothing and shelter.

Therefore, the Members of Parliament should be more representative of the needs of the people so that when making law they will be guided by the needs of the people.

Under the Draft Constitution, Section 13(3) states that the state shall endeavour to

provide equal and adequate educational opportunities in all fields and at all levels for all the people of Zambia. So the Zambia Education System should try to provide adequate educational opportunities in all fields and at all levels by including the study of human rights in all schools, colleges and Universities. This will help in having an integrated approach to civil rights education because not only will it involve informal education but formal education as well. This would make the teaching of civil rights more successful, if we want to achieve a good human rights culture. In America for example, there is a Centre for Civic Education and this helps to promote human rights culture by making the study of human rights part of the school curriculum.

It is also important to state that the failure by our Zambian Legislature to expressly state the duties to be performed when exercising one civil rights has contributed to people being unable to perform their duties according law. Under the African Charter, duties of the citizens are expressly mentioned in the Charter under Articles 27 to 29 and in the preamble it is mentioned that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone.

Currently there has been a lot of debate about the Public Order Act, in particular about Section 5(4) which requires anyone wishing to convene a public meeting to apply for a permit from the Regulating Officer. This is not a violation of the freedom of assembly as it was decided in the case of The People V Kenneth Kaunda, but it is a duty which must be performed if one is to enjoy the freedom of assembly. But since the Regulating Officer is vested with vast powers which are bound to be abused as was argued in the above case, they are not reasonably justifiable in a democratic society. So it is submitted that these powers should be amenable to effective check and not be used to suppress the opposition.

Since the police and community programme was discontinued by the Investigator Police, some policemen in the field are still ignorant about Human Rights issues. It is submitted that they

be afforded an opportunity to go and learn about human rights at Lilayi training school since human rights have now been included in the syllabus and only the new recruits are the ones benefiting. Abuse of human rights will not be reduced if the majority of the police officers do not learn about them.

It is also submitted that since there are very few Legal representation programmes, there should be a constitutional right to counsel like in the American constitution. This should not just be limited to offenses like murder, aggravated robbery and treason but also to other felonies which carry a term of imprisonment.

This will make the right to access to justice and the Due Process of law provided for in the Draft Constitution meaningful.

In addition, since the media in a new democracy has a function to inform and educate, it is recommended that the ZCEA should use it to educate the people about their rights and duties. Currently FODEP is doing a lot to educate the people on the right to vote, the ZCEA should help in promoting civil rights awareness by use of the media so as to catch a lot of people.

In conclusion, it is hoped that this paper has contributed to the current work being done in promoting civil rights awareness in Zambia and that these recommendations will help bring about a new democracy aimed at promoting justice and fairness.

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