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Mr. Pevioue Chitansa Kata

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The Vigilante Policing Scheme: An  
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SUPERVISOR

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THE VIGILANTE POLICING SCHEME:  
AN APPRAISAL OF THE OPERATION OF THE ZAMBIAN MODEL.

BY

PEVIOUS CHILANSAKATA

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I am entirely responsible for the mistakes that may be found in the essay.

(iv)

DEDICATIONS.

I hereby dedicate this paper to my mother and father for their incomparably unfailing support they have given to me throughout my School life.

PEVIOUS CHILANSAKATA

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CHAPTER ONE

INTRODUCTION

The institution of Vigilante Scheme is a recent phenomenon in the Zambia Legal System. It dates from 1985 when the statute was enacted which established the same scheme. The statute in issue is the Police Amendment Act N 23 of 1985.

Every institution, formal or informal, is capable of being studied in order to assess aspects of it. Such aspects may include its suitability, function and place in society. Therefore, we shall look at the Vigilante Scheme with a view of assessing its effectiveness in protecting community and property on the one hand and promoting community participation in stemming the ever-rising wave of crime in modern Zambia on the other hand.

The thesis will point out the purpose of the scheme and how far it has succeeded in achieving those objectives. However, it is worth mentioning that two people have looked at the scheme and they have contributed to the subject of Vigilante Scheme in Zambia. Maketo, in his fourth year law obligatory

essay of 1987 looks at the Vigilante Scheme as a law enforcing instrument. He also studies the administration of vigilantes. Mwansa, a lecturer at the University of Zambia, gives a comment on the Zambia Police Amendment No. 23, 1985 in an article submitted for the Zambia Law Journal.<sup>1</sup> He acknowledges friction in the functioning of the scheme. He suggests that an infra-structure should be created in which the two would operate freely.

#### VIGILANTE

The term 'vigilante' comes from the word 'vigil' which means staying awake to keep watch or to pray.<sup>2</sup> Therefore, 'vigilante' is a name given to any member of such a group or committee which keeps watch and maintains order in a community where organisation is imperfect or has broken down.<sup>3</sup> The term vigilante is not new in the United States of America's history. The institution is usually linked with the California Gold Rush of the 1850s.

Later, the system spread to the West during the Pioneer days. In such territories it was common that the authorities often found it difficult to enforce

the laws. In most cases it happened that the only law officer for many miles around was a United States Marshal who found it regrettably impossible to police the whole area. Vigilante Committees were ultimately formed. These were,

... the Volunteer Committees that flourished on the American frontier West of the Mississippi as organisations for suppressing lawlessness in regions where the law and order were not synonymous. Such committees....were especially effective in California...and later in the West.<sup>4</sup>

These committees were found mainly in the parts of the West that were plagued with horse, sheep and cattle thefts.

When these committees were spearheaded by responsible citizens, they meted out punishment and rough justice. Otherwise, they more often than not resorted to taking the law into their own hands.

It is important to note that sometimes innocent people suffered. However, often the vigilantes served as the only force to preserve order in the half-settled frontier territories.

The earliest known vigilante groups were those of San Francisco, such as, the San Francisco Vigilante Committee which was formed in 1851.<sup>5</sup> Such committees,

although they allowed public participation in curbing various crimes, had often used lynch law. This is a form of capital punishment which was delivered to alleged culprits by private citizens, usually mobs, with disregard to the due process of law. This system evolved into a traditional way of summary executive of Negroes.

Thus, the vigilante committees have had a mixed reputation in the American history. Nevertheless, the committees had achieved success in that sheep, cattle and petty crimes had gone down on a comparative basis to what they used to be before the establishment of the committees. The system of vigilantes has its own merits and demerits. The theme of this paper is to review the contributions that the scheme has made towards wiping out crime.

The scheme's acceptability and impact on the Zambian society forms the cornerstone of the thesis. The essay will be divided into the following breakdown of chapters and topics of discussion:

In chapter two, I will review the factors that prompted and justified the introduction of Vigilante Schemes.

As a way of understanding the justification for repealing Part IX on the Zambia Police Act cap 133 of the laws of Zambia, the provisions of that part will be weighed against the new provisions of the Amendment Act No. 23, 1985. Most important in itself, is the Amendment Act referred to. I will highlight the main features of the Act.

In Chapter three, I intend to look at the operation of the scheme including the various incidents of abuse of power by vigilantes, protection under the law of vigilantes, training programmes offered to them and their relationship with the Zambia Police one hand and the Party and its Government on the other hand.

Chapter four will focus on the criticisms that are levelled against the scheme. Most attacks relate to the powers of the scheme and the upholding of the rule of law. These will be looked at with a view of suggesting possible reforms.

Finally, the same chapter will contain a scholarly critical discussion of the subject matter and the author's opinion on the same scheme. The author also answers the question whether the institution is necessary in curbing crime in Zambia and the way the general public feels about it.

FOOTNOTES

1. Not yet published at the time the present author is writing this paper.
2. Hornsby, A.S.: Oxford Advanced Learner's Dictionary of Current English Version (Oxford, Oxford University Press, 1985) p. 957.
3. Ibid, p. 957.
4. Johnson, T.H.: The Oxford Companion to American History (New York, Oxford University Press, 1966) p. 820.
5. The World Book Encyclopedia vol. 19 (Chicago, Field Enterprise Educational Corporation, 1968) p. 293.

CHAPTER TWO

JUSTIFICATION FOR ESTABLISHMENT OF VIGILANTE SCHEME

i. Background to the Need for Vigilante Scheme

The vigilante scheme was a result of various factors in the history of Zambia. It is generally accepted that the primary responsibility of fighting crime in a given society rests on the community. In this regard, the Police are there to spearhead the battle. But without any real participation by the community, the battle may not attain the intended objectives of protecting community life and property.

Many changes have taken place from Independence including the Police Force which has been brought to a level where its relationship with the community is better than it was in the colonial days. At the same time, property and violent crimes have been on the increase in Zambia.<sup>1</sup> Therefore, it was a welcome initiative that at the time when Zambia was facing an ever-rising wave of crime, the Government through the legislators decided to augment the insufficient

resources of the regular Police with a voluntary reserve force of civilians.

ii. The Vigilante Scheme

The Zambian vigilante scheme was a result of studies conducted on the operation of similar systems in the Eastern Block countries, Japan, Mozambique, Nigeria; to mention but four.<sup>2</sup> Such studies were followed by the drafting of the mechanics of implementing the Zambian Scheme. However, the mechanics were well prepared in the Ministry of Home Affairs and they were presented in Parliament for debate in 1985. The working of similar schemes in other countries was emulated with few variations to suit the Zambian situation.

In 1984, the crime picture was analysed as follows:

<u>Province</u>	<u>Percentage</u>
Copperbelt	42
Central	13
Lusaka	8
Southern	8
Northern	6
Western	5
Eastern	3
Luapula	3
North-Western	2 <sup>3</sup>

The above picture of recurring criminal activities created an even higher need to include civilians in the fight against crime. Indeed, it is proper for the community to determine its own destiny and to know what is good and bad for it. In Zambia, it is short of argument that people who live in rural areas had occasions in which they apprehended an offender, but almost always failed to deliver such an offender into lawful custody. This resulted into many offenders being left scot-free and the ordinary courts could not take action against such law-breakers. People usually complained against this aspect, especially that there was no nearby authority to restrain the offenders.

The justification for vigilante schemes also lay on the premise that Zambia has an insufficient force to police all areas with efficiency and efficacy. Therefore, allowing the general public to participate and assist the regular Police Force would mean that some crimes which go unnoticed by the Police would be dealt with by the public working in conjunction with the Police. In this respect, one solution was

found, namely, the legal establishment of the Vigilante Policing System.

By Amendment Act No. 23 of 1985 of the Zambia Police Act, cap 133 of the laws of Zambia, the vigilante scheme came into operation. This scheme came as a way of amending part IX of the Zambia Police Act. The Amendment Act is fully called as the Zambia Police (Amendment) Act No. 23 of 1985.

At this point it is important to look at the amended provisions of part IX which provided for special constables. This is so in order to lay an understanding of the shortcomings of the special constables. Hence, the need to replace them with the Vigilante System. Under Section 48 of the amended provision, an officer-in-charge of a police station was empowered to appoint Special Constables when it was made clear to him that:

any grave disturbance of peace has taken place or may reasonably be apprehended within the District in which he is stationed, and the officer-in-charge of police is of the opinion that the ordinary officers appointed for preserving the peace are not sufficient ..., it shall be lawful for the officer-in-charge ... to appoint special

constables for such time and manner as he may deem fit and necessary for the preservation of peace, the protection of inhabitants and security of property.<sup>4</sup>

It is evident that the emphasis for the appointment of special constables lay on the fact that certain exigencies must exist that, in the subjective satisfaction of the officer-in-charge of a police station, could cause a breach of peace or danger to the inhabitants' lives and property. It appeared to leave most matters to the discretion of the officer-in-charge of a police station.

Special Constables were allocated into groups. Each group was designated a group leader. That leader was required to attend at the nearest police station for the purpose of undergoing instructions in their duties.<sup>5</sup> Moreover, constables appointed under part IX had the powers, privileges and protection mutatis mutandis to those applicable to regular police constables; and they were liable to equivalent penal sanctions. The special constables were also subordinate to the same authorities as regular police officers.<sup>6</sup>

Whenever such a constable was appointed on active duty, he was remunerated allowances according to what the Minister of Home Affairs deemed expedient and sufficient.<sup>7</sup> In practice, however, the appointment of special constables rested on mature elderly people. This appointment ensured that such special constables were responsible citizens who understood the nature of their duties. There was no express provision for the level of education required or training programme, but it would appear that every special constable was expected to be conversant with his or her powers, privileges and protection under the written law.

The institution of special constable was criticised, inter alia, that the officer-in-charge of a police station had wide discretionary powers to appoint constables. This criterion excluded and militated against community participation in the selection of people whom they would like to serve them. This flaw was carefully improved in the vigilante schemes as it will be shown later when discussing the main elements of the Zambia Police (Amendment) Act No. 23 of 1985. Further, it is easy to see that the appointment of special constables

was determined and dictated by the existence of an exigent situation in the district. In other words, it lived for as long as the exigency existed. The problem was that the appointment seemed to be temporary instead of running for a year or longer duration.

At this point I intend to review the relevant piece of legislation which established the vigilante schemes in Zambia. The first statement to be made relating to the scheme was made by the then Minister of Home Affairs, Mr. Frederick Chomba who briefed that:

Government is to enact a law to introduce vigilante policing scheme to curb the increasing crime rate in the country which has risen to 124 percent since Independence.<sup>8</sup>

The minister mentioned in parliament that details of the scheme had been worked out already and senior police, immigration, prisons and other security officers were to meet so that they could study it.

In his address to a seminar attended by senior officers of police, prisons, immigration, National Registration and Passport, and Citizenship office

at Mulungushi Hall in Lusaka, President Kaunda announced that the Zambia Police being a people's force should behave in a civil manner because its success depended on the help it got from the people.<sup>9</sup> By this statement, the president was acknowledging that the Zambia Police was an integral part of the community and as such it needed help from citizens. The Minister of Home Affairs announced at the same meeting that he was optimistic that the meeting would come up with a blue-print to spearhead the implimentation of the Vigilante Scheme. Thereafter, on 27th December, 1985 the Act to establish the scheme came into force namely the Zambia Police (Amendment) Act No. 23 of 1985 (which shall be referred to as the 'Act' hereafter).

iii. The Zambia Police (Amendment) Act No. 23, 1985

In discussing this Act, the author will concentrate on the main elements of the Act. The relevant statutory instrument will also be looked at viz., The Zambia Police (Vigilantes) Regulations, 1986.

(a) Supervision. The Act confers upon the Inspector-General of Police overall command

and superintendence, direction and control of vigilantes which he may delegate. Such delegation could be to any officer in any section, branch, ward or district as he may designate for that purpose.<sup>10</sup> The Act requires that on the recommendation of the Ward Security committee, the inspector-General of Police or his delegate appoint one vigilante each to be: the section vigilante leader for a specific section in a ward; a branch vigilante leader to be in a specific branch; and a ward vigilante leader for that ward.<sup>11</sup>

By this scenario, it is vivid that the responsibility of immediate supervision is shared by three groups of people namely, section vigilante leaders, branch vigilante leaders and ward vigilante leaders. Although the Act does not expressly specify the number of vigilantes that are required in a section, section 3 (1) of the Statutory Instrument No. 122 of 1986 stipulates that:

There shall be a minimum of five vigilantes in every section one of whom shall be designated as the section vigilante leader.<sup>12</sup>

This means that so far there is no limit to the maximum number of vigilantes that can be recruited.

(b) Qualifications. The provisions of the Act are well laid in as much as qualifications of vigilante are concerned. Under s. 49 of the Act, a person will not be appointed as a vigilante unless such a person:

- (a) volunteers for services as a vigilante,
- (b) is resident in that section,
- (c) is at least eighteen years old,
- (d) is physically fit; and
- (e) has no previous conviction.<sup>13</sup>

The last qualification was intended to deal with people with past criminal records. However, to facilitate the smooth carrying out of their functions, the vigilantes may be supplied with police equipment by the inspector-General of Police. Such equipment should be bought from the funds allocated by parliament for that purpose. The equipment in issue includes police batons, handcuffs, whistles, identity cards, instruction manuals and other requisites necessary for

the training of, or carrying out of the functions by the vigilantes.<sup>14</sup> No fire arms may be supplied.

(c) Powers of Arrest. It is not clear from the wording of the Act whether a vigilante can, actually, take action after being informed that a crime has been committed. The Act only ends at providing that a vigilante:

... may arrest any person who, in his presence commits a cognizable offence, or whom he reasonably suspects of having committed a felony.<sup>15</sup>

There are two areas, therefore, where a Vigilante may take action, that is to say, when a cognizable offence is committed in his presence and if he reasonably suspects that a felony has been committed.

The powers of arrest are shortlived in as much as the law requires a vigilante to deliver an offender to the police officer or nearest police station in the absence of the former without unnecessary delay.<sup>16</sup> Although the Act does not expressly provide for what would happen to a defaulting vigilante, reasonable inference shows that such a vigilante would open himself to penal sanction. This is so because the

initial stage of setting the judicial process in motion is arrest. In this case the police must take immediate action when they receive reports from vigilantes and complete the arrest themselves.<sup>17</sup> But refusal by a vigilante to obey lawful orders or direction as may be given to him under the purview of the law would amount to a breach and punitive measures would be meted out in accordance with the vigilante code of discipline.

(d) Termination of Service. The Inspector-General of Police or his delegate is empowered to determine or suspend a vigilante's services after consultation with the Ward Security Committee.<sup>18</sup> But nothing in the Act prohibits a vigilante from resigning as long as he gives a one-month's notice in writing to the Inspector General of Police. A copy therefore must be submitted to the Ward Security Committee.<sup>19</sup> Upon termination of his services, a vigilante is required to surrender all police property which he may have been supplied with while he was in service.<sup>20</sup> However, it seems to follow that if a vigilante is no longer resident in

the section for which he was appointed then he forfeits his appointment and, similarly, he should hand back all equipment as provided for under s. 55 of the Act.

(e) Protection and Privileges. Unlike the former special constables who were subject to the same powers, privileges and protection as the regular police constables, the vigilantes have none to look to. This is the most discouraging aspect of vigilante service apart from the fact that no allowances are provided for them. It is sad, indeed, that such an important statute should omit protection and remuneration. In case of injuries or loss of life or limb in the execution of their duties, the vigilantes are not covered by the Act in relation to compensation. It seems the ordinary law relating to civil and criminal procedure may be invoked. Mwansa goes further to point out that if this is the case, it will be a major disincentive to most vigilantes because the majority of them will not be able personally to settle damages arising out of their abuse of power. He goes on to say that,

it is partly out of the realisation by government of the inability of police officers to settle damages that aggrieved parties sue the government directly.<sup>21</sup>

Therefore, the vigilantes are even in an awkward position. It is for this reason that it is vehemently felt that the vigilantes should have been protected just like their former counterparts, the special constables.

FOOTNOTES

1. Mwansa, K.T., "A Survey of Property Crime in Zambia," Hwedie and Ndulo (eds.), Issues in Zambia Development, Omenena Press, Boston (forth coming).
2. Personal interview with Mr. L. Munalisa, Public Relations Officer for Zambia Police. (as he then was).
3. Daily Parliamentary Debates for Zambia, 13th December, 1985 (Lusaka, Government Printer). Col. 894.
4. See Part IX of the repealed Zambia Police Act.
5. Ibid. s. 50.
6. Ibid. s. 51 (1)
7. Ibid. s. 57
8. Zambia Daily Mail, Saturday August 10, 1985 p.1.
9. Zambia Daily Mail, Monday August 19, 1985 pp. 1 and 3.
10. s. 48 (4) of The Zambia Police (Amendment) Act No. 23, 1985.
11. Ibid, s. 48 (6).
12. The Zambia Police (Vigilantes) Regulations, 1986.
13. The Amendment Act No. 23, 1985.
14. Ibid, s. 50.

15. Ibid. s. 51.
16. Ibid. s. 51 (2).
17. See Maketo E.: "The Party Vigilante Movement as a Law Enforcing Body in Zambia (1987 Law Obligatory Essay, University of Zambia).
18. Op. Cit. s. 53.
19. Ibid. s. 54.
20. Ibid. s. 55.
21. Mwansa, K.T.: A Comment on the Zambia Police (Amendment) Act No. 23, 1985, ((Submitted for Zambia Law Journal, 1988) (forthcoming)).

CHAPTER THREE

OPERATION OF THE VIGILANTE SCHEME IN ZAMBIA

i. Legal Framework

In this chapter, the discussion of the scheme will be confined to the operation of the same since the enactment of the Amendment Act No 23 of 1985 to the time the present author is writing.

The exercise of functions and duties by vigilantes are clearly set out in the Zambia Police (Vigilantes) Regulations, 1986 which was effected on 13th August, 1986 by statutory instrument No 122 of the same year. Under s.2 of the said instrument, every vigilante is required to: inter alia:

- "(a) report promptly to the police all cases of a criminal nature occurring in his Section;
- (b) track and if possible identify criminals in the Section;
- (c) execute patrols in the Section;
- (d) collect and transmit to the police reports relevant to the security of the section; and

- (e) perform any general or specific duties as the Ward Security Committee may direct after approval of the Inspector-General."

Vigilantes have no power to erect a cordon, barrier or road block<sup>1</sup> or use a fire-arm<sup>2</sup> in the course of executing their functions and duties. However, vigilantes are exempted from liability for acts done under the authority of a warrant.<sup>3</sup>

Any applicant who meets the requirements of s. 49 of the Act is entitled to apply to the Ward Security Committee in form VGI set out in the schedule attached to the Zambia Police (Vigilantes) Regulations, 1986 (herein after referred to as the Regulations unless the context requires otherwise) for consideration of appointment as a vigilante in the section where he resides. The application must be signed in the presence of the Chairman of the Section Security Committee. The latter must attest and forward the application together with his recommendations to the chairman of the Branch Security Committee. Thereafter, such application should be handed to the officer-in-charge of police together

with the recommendations of the Chairman of the Branch Security Committee. The Officer-in-Charge of police then forwards it for onward transmission to the Inspector-General of Police.<sup>4</sup>

When executing his functions and duties, every vigilante is required to carry with him his identity card. If he is no longer resident in the section for which he was appointed vigilante then he ceases to be one. This implies that the effects of s.9(1) of the Regulations which must be read together with s. 55 of the Act come into play. The two sections read together require such a vigilante to deliver up all police property which may have been supplied to him.

ii. Nature of Police Work

It is generally accepted that police work is reactive rather than pro-active. The presence of a police-officer in a public or private place usually makes people feel at unease and suspect that a crime has been or is being committed. This constrains the police officers from pro-active observation of the public in such places like parties,

bus stations stadia or crowded places. Therefore, very few cases are committed in the presence of a police officer. The police only come in when they are informed by private citizens who may be either victims or citizens who are interested parties. The Act was in this respect expected to enhance police-public co-operation to facilitate crime detection. This being so, the question that arises is have the two institutions functioned in harmony with each other? The question will be resolved later after looking at the relationship between the two.

a. Vigilantes at Work and their powers.

The vigilante scheme has seen its own merits and demerits. There are various factors that have made the Scheme's work difficult and unpopular on one hand and appreciable on the other hand. Whereas the present author acknowledges with due respect to the corrective and deterrent role the scheme is playing it is also his concern about the way that achievement has come about. In jurisprudential theory of law and obedience it would ghastly be

debatable as to whether the scheme has stricken its supposed success through appreciation by the public or through having been coercive.

Paradoxically, the scheme is hardly three years old in Zambia, but its relationship with the general public has soured already. Instead of appreciating the work of the scheme, many a person have tended to shun or fear it. The general public have attacked the scheme and called upon the Party and its Government to abolish it altogether.<sup>5</sup> This is particularly so because in certain events the scheme has had to exceed its powers in dealing with the members of the general public and offenders. But how has this state of affairs come about? There are times when vigilantes have clashed with marketeers because of the <sup>former's</sup> habit of closing down markets when political rallies are anticipated. Marketeers are irked by vigilantes working in conjunction with party militants and youth brigades. This also contributes to the overlap of their duties, especially in Kabwe where the problem was visible.<sup>6</sup>

In an effort to lower prices down, by picketing if possible, Lusaka Urban District Governor Michael Sata aroused a lot of panic and fear in the business

community of Lusaka when he directed the youths comprising vigilantes and party militants to "monitor and force down prices" in Lusaka shops.<sup>7</sup> This is another way in which the scheme exceeded its powers to an extent whereby the general public's resentment for the scheme increased. The move was clearly out of order because the constitution of Zambia grants protection and freedom of privacy as well as property. Surely, picketing is illegal and outside the precincts of the powers of vigilantes, let alone the Party Militants. The business community expressed fear in the above mentioned incident because whereas such directives were well-intentioned there was a higher possibility that the "overzealous youths may use such occasions to harass traders or even loot shops."

The Copperbelt province has been renowned for the aggression of the scheme in fighting against criminals on one hand and the general public on the other hand. There are various cases in point, firstly, it is worth appreciating that not so long ago Ndola's Masala inter-town bus station was a hive

of criminal activities ranging from petty crimes to harassment of intending passengers. Vigilantes have reaped success in restoring the peace of the place. Secondly in Masala township the vigilantes have managed where the regular police have done little. But from one end of town to another, residents have been reported to cry against the scheme; that it was subjecting them to brutal beatings and harassment to an extent of overlooking the individual rights.<sup>8</sup> Surprisingly, the vigilantes have become the new terrorists in Masala township where people have to rush home in the early hours of evening in fear of vigilantes. This fear mainly stems from an unpopular hussle used by vigilantes in the Copperbelt Province (and now spreading to Lusaka) called 'by-air', ('flying-squad') or 'DHL'.<sup>9</sup>

In this drama, an alleged offender is hoisted in the air and roughly put on the shoulders of vigilantes. After taking a walk such a person is made to drop roughly and abruptly to the ground. This is vividly inhuman treatment which goes beyond the scope of the Act. The vigilantes are given powers to arrest and as soon as possible hand the culprit to the nearest policeman or police station.

They have extended their duties to being moralists who would not tolerate seeing a female either in 'short dress or trousers' for such female risks being taken 'by-air'.<sup>10</sup> Any female falling prey would then be dumped into a furoughfull of muddy water. Mulenga reveals that residents were being advised to report all cases of domestic quarrels or sexual misbehaviour-and the result was a flood.<sup>11</sup> Additionally, he reports that hardly a day went by without someone being dragged to the UNIP offices for committing one marital or extra-marital offence of one sort or another.

Unfortunately the story is similar almost everywhere one goes. Some people would praise the scheme while others would sling mud at it. The Chisokone vigilantes in Ndola bear more similarities with other units. They may be credited for having got rid of petty thieves in the streets. But they have been criticised as infringing human rights especially by the town workforce who suffer daily raids. In another episode, a Mukuba Ward Vigilante Leader displayed a public show of two of his members who did

not turn up for their beat on one right. He caned them with a horse pipe and showered them with water outside the vigilante office. He unleashed heavy strokes on the bare backs of the two poor youths with their hands tied behind them.<sup>12</sup> This act was in clear confrontation with the provisions of the code of discipline which do not allow a vigilante to assault another vigilante notwithstanding the enshrined protection in the constitution against torture.

In a nutshell, the vigilantes do not seem to follow their powers as by law established. This is mainly due to poor supervision and management by the police. The Act clearly specifies that the vigilante scheme shall be supervised, controlled and inter alia, commanded by police. But those elements are lacking. Therefore, the police have abdicated the work into the tyrannical hands of some overzealous vigilantes who have taken the law into their own hands. This has further stiffened the vigilante-public cooperation much to the disadvantage of the public. Equally, it is to be expected because the vigilantes must have a way of making their presence felt. Therefore, if the police do not check these anomalies in

the running of the scheme, the scheme might fail to attain its desired goals. This is not to say that there is no vigilante scheme which is doing well or that the scheme is totally useless as a mechanisms of fighting against crime. The crucial point is that the scheme is showing signs of unanticipated malfunctions on the part of legislators. This short sightedness should be corrected now before the scheme becomes a new force of coercion that may be used by party leaders to gain political recognition or otherwise. There is need to guard the scheme from attaining the ever-mixed reputations of its American equivalent.

b. The Vigilante Scheme and The Zambia Police Force.

The relationship between the two entities has been dealt with already. It is, however, clear that the Inspector-General may delegate to any officer the overall power of command, superintendence, direction and contral of vigilantes.<sup>13</sup> Therefore, although vigilantes are Party functionaries, they answer and report to the Zambia Police Personnel. The question at this point is why did the vigilante scheme fall under supervision of police and yet its recruitment

is done through the party structure at grassroot level? The answer to this question seems to have a political component to it. The Party is the only organisation which has a good widespread grassroot level. Therefore, it was for this reason that the leadership felt the scheme should be introduced using the party machinery.

There is a serious problem with this type of recruitment. When vigilantes are recruited in this way there is a tendency to be more inclined to Party lines than police's. This will become clear when scrutiny is accorded to the way the scheme has sometimes functioned. It is important to note that the relationship between vigilantes and the police has had occasion to harbour suspicions and mixed feelings. In Chingola, for example, 200 vigilantes from eight wards ceased voluntary patrols.<sup>14</sup> A group of their leaders met the District Political Secretary and complained about police molestation. They vowed never to resume patrols unless the police stopped irking them. Similarly, in Lusaka, Kanyama vigilantes were threatened by lack of co-operation from police who were labelling them as thieves. The vigilante leader of the same reported that the dealings with

police were unco-operative and at one time the police even threatened to shoot them.<sup>15</sup> The vigilantes accuse the police for friction in the operations of the scheme. Criticisms have been levelled against junior officers, that is to say, officers below the rank of Sub-inspector.

Vigilante leaders have argued that such officers have a high propensity of releasing offenders apprehended by vigilantes after a short while of being handed to them. This further antagonises the relationship because some officers do not communicate reasons for releasal to the vigilante leaders contrary to the provisions of note number 47 of the Guidelines for the Implementation and Administration of the Vigilante Scheme. Vigilantes complain about the manner in which the police treat them when they are alleged to commit a crime. A case in point is one which was narrated by the Vigilante-General and Ward Chairman of Independence Ward in Lusaka when they were summoned by Lusaka Central Police Station to arrest one Indian businessman. As soon as the vigilante leader together with a team comprising about eight uniformed vigilantes reached the Indian's

business premises, the same culprit rung the flying squad department of the same Central Police Station. A convoy of armed and sirening police vehicles with flashing lights soon strayed along the way to the scene. Paradoxically, all vigilantes were apprehended at gun point and they were all rushed to the Police Station. The auxiliary force was kept under 'detention' for two hours while their leaders endeavoured to sort issues out with the antirobbery squad. Therefore, they were released and cautioned that next time they would be shot.

The example above shows extremes into which the relationship may be driven sometimes. However, it is important to find out why the relationship has sometimes been so poor. Poor administration apart, the two institutions are greatly at variance with each other. On the one hand, the Police are well-trained in combating crime and they know how to deal with police work having regard to the tenets of upholding the rule of law while vigilantes are only ordinary citizens without the same knowledge. Indeed, it is not easy for police offices to trust vigilantes with certain skills essential to the nature of police work because certain information may be prejudicial to the

security of the nation once devulged to a mere citizen. This type of information remains within the bounds of trained police personnel. This is another source of dissatisfaction which contributes to the bittering of the relationship. Police officers would not be expected to liaise with vigilantes who do not understand the complexities of police work.

However, some cases lack proper evidence to secure a good case against the offenders. This is so because some vigilantes lack the adequate education to distinguish between a breach of criminal law and that of morality. This is a serious handicap reflecting the defect in the level of understanding the law. The vigilantes have a lot of problems even in communicational skills and interpersonal tactics of police work. This touches upon the adequacy of the training programmes to be discussed later.

So we can see that vigilantes are also in a predicament. Moreso, <sup>n</sup>ight patrols are adversely affected. Vigilantes are reluctant to carry out such patrols because they are not trained and equipped for the job. Such duties would have been expected to

be done under all-time supervision of an armed police officer or two. The job is very perilous and exposes the unarmed vigilantes to dangers of loss of life or limb.

Conversely, vigilantes have had a good and steady relationship with the Party hierarchy. Perhaps this illustrates the extent of political influence involved. Beside one has to be a party member before he can qualify for appointment as a vigilante. In a number of cases that the present author came across, vigilantes showed an inclination of taking culprits to their section Chairmen who would later met out punitive measures or merely deal with such offender at the UNIP office.<sup>16</sup> These UNIP offices have sometimes been the new police stations or courts which calculate extra-judicial measures to the offenders. Reportedly, the vigilantes beat people in the same offices. A case in point is the jailing by the Lusaka Court of three vigilantes for manslaughter after beating the deceased.<sup>17</sup> The trio beat up the deceased together with his wife at the UNIP office after a Kachasu drink-up. At the same offices, the vigilantes

took the law into their own hands and by-passed the rule of law by pouring water on the deceased and his wife. They beat up the elderly couple with a hose-pipe and sticks causing the deceased to start bleeding from the nose and mouth, before he finally lost consciousness. It is public knowledge that vigilantes use UNIP offices for flogging offenders and solving both civil and criminal cases. They have used the umbrella of UNIP to get away from the ignorant members of the public. The work of vigilantes has further been complicated by Party Militants and the youth brigade. The three entities sometimes work in alliance so that it is quite difficult to tell who is who. This perhaps even makes it difficult for police to control the vigilantes who seem to function more under the Party than the Police. To this end the police seem to abdicate the scheme to the party militants. This also explains why the general public finds it difficult to distinguish a party militant and a vigilante from the way they operate.

What is needed is for the police to be actively instrumental in supervising the vigilantes. They should not work together with the Party Youths. Party

youths only add to the already existing confusion. The police must exercise firm control <sup>on</sup> the scheme before it slips out of their hands. Most police departments have structured themselves after the military. This is done under the assumption that in (~~the same manner as the military does~~) order to cope with the problems of controlling and curbing crime and maintaining order, a closely co-ordinated and disciplined body of personnel with clear-cut lines of authority is crucial. The police assume that their ability to respond to a crisis depends on the speed with which a variable number of police-officers can be assigned to a given task and speed with which orders are communicated to the assigned groups of officers. The criteria must also apply to the effective administration of vigilantes.

c. Police Posts and Communication

The operations of the scheme are further hampered by the obvious fact that there are not adequate resources at its disposal. The scheme is crippled by the inadequacy of police posts especially in high density areas and rural areas. Police posts

and effective system of communication are essential to the continued running of the scheme. The Law Association of Zambia echoed that:

"for such a scheme to be effective, adequate police posts should be constructed and where possible use should be made of inexpensive and under-utilized structures."<sup>18</sup>

An illustrious example is Chifunabuli which has been crying out for an establishment of a police post at Lubwa Sub-Boma.<sup>19</sup> But of pressing request is Luibena which is about 200km away from the nearest police station at Senanga.<sup>20</sup> A vigilante from Luibena would not be expected to walk that incredible distance in order to hand an offender into lawful custody. The distance is so long that only an ambitious vigilante would dare to walk. Besides they may have to carry with them enough food supplies, blankets and other requisites for a long foot journey. By the time they reach Senanga one wonders whether the arrest would still be so called or unlawful for failure to hand the offender into lawful custody "without unnecessary delay." This, however, is one of the shortcomings of the Act. It did not foresee such a situation as arising. The legislators assumed

that police posts would be near the vigilante schemes. This also contributes to vigilantes' taking of the law into their own hands and met out rough punishment and justice to the culprits.

Even if "inexpensive and underutilized" structures were used to serve as police stations, the same would not be to specifications or requirements of a police post. The reason is that police posts are carefully and deliberately constructed in a way that they would accommodate the cells, armoury, reasonable offices et cetera. These necessities may not be provided by inaccurate and inappropriate buildings. Therefore, it is not just a matter of taking any building to serve as a police post. Therefore, vigilantes need transport and an effective communication system which is a standing directive of the president.<sup>21</sup> Logically, if the regular police do not have adequate transport and proper communication, what about mere volunteers? The situation for them is worse. It is in this light that they should be helped with

transport and police posts.

d. Orientation courses and training programmes.

Orientation course are given to newly appointed vigilantes in order to familiarise them with the nature of their work. The syllabus of the course can be found in the Appendix III of the Guidelines for the Implementation and Administration of the Vigilante Scheme.<sup>23</sup> Monthly briefings are also conducted for the same purpose. As it has been noted earlier on many vigilantes have a humble educational background while others are either semi-literate or illiterate. This puts a premium on most of them in relation to the understanding capacity of their course. In their trainings they are taught political and security matters and the requirements of the philosophy of Humanism both as a tool for national development and ideology. One would have expected a comprehensive and detailed course on law and order to be given to the vigilantes. Therefore, the training is not sufficient to vigilantes as a law enforcement organ. These trainings are very different from those given to the regular police officers while they are at Lilayi Police Training School. The insufficiency of the

training is enhanced by the fact that they are conducted on a monthly basis. This is another serious handicap on the operation of the scheme which needs to be checked. The vigilantes are engaged in matters of national security and natural defence. They must be fully acquainted with the due process of law. But the fact that the Act does not give a special provision for the minimum level of education attained before one could be eligible of appointment as a vigilante constitutes yet another problem of the Act.

e. Use of Force

Vigilantes are not empowered to use force in their dealings with the offenders and the general public. The political Commissar in the Zambia Police Force Headquarters, Jonah Kilimboyi, explained that vigilantes do not have any special powers of arrest. What they have are powers of arrest that any citizen has. This entails that vigilantes conduct arrests in the same way as any ordinary citizen would. The powers of arrest by private persons are ably provided for in s. 31(1) of the

Criminal Procedure Code, cap 160 of the Laws of Zambia, which reproduces part of the section relating to powers of arrest by a vigilante in s. 51(1) of the Act. The said s. 31(1) reads:

"Any private person may arrest any person who, in his presence, commits a cognizable offence, or whom he reasonably suspects of having committed a felony."

But s. 51(1) of the Act substitutes private person by vigilante.

Therefore, it is clear that the vigilante does not enjoy the powers of arrest as anything special. Despite this aspect, the vigilantes have been established as a separate organisation. Reasons for this could be political as a way of mobilizing the youths to be loyal to the Party and for easy access by the leadership.

f. Privileges, protection and remuneration.

As it was discussed in chapter two, the Act does not afford any privileges, protection or remuneration to the vigilante. Thus, the omission of remuneration opens such workers to temptations

such as receiving bribes. Since vigilante policing is a full-time job, how are the vigilantes expected to guard their sections without receiving any peps for their sweat? The job is very involving and risky and yet there is no protection guaranteed. This means that in case of loss of life or limb while serving as a vigilante no compensation would be given. Even if this is a voluntary job, protection and compensation are necessary. Sometimes the vigilantes have to fight armed robbers or arrest dangerous criminals bare-handed. It is therefore fair that they should be rewarded in form of wages or monthly awards. This would act as an incentive for better performance and dedication to work. Lack of privileges, protection remuneration and, above all, compensation has led to the resignation of a larger portion of the literate component of the scheme,<sup>24</sup> and many more are expected to shun it.

iii. Success of the Scheme.

Inspite of the peculiar problems it has encountered, the scheme's success may be assessed in terms of its novelty in Zambia. But this is not the sole criterion. Also the suitability of the scheme should

be assessed. Munalisa, Public Relations officers of Zambia police (as he then was) reiterated that the scheme needed some time.<sup>26</sup> He was pleading with the general public which criticised the scheme and called upon the Party and its Government to abolish the scheme as it was alleged to be violating human rights. But it is not time alone which is crucial, but also shaking up the management aspect of vigilantes through officers responsible for the field operation of the scheme.

Speaking at a passout parade of 120 officers at Police-Training School at Lilayi, President Kaunda commended the vigilantes for their work in fighting against crime in Zambia.<sup>27</sup> The political commissar at Force Headquarters exclaimed that reports showed that where vigilantes were operating "the rate of crime has drastically dropped."<sup>29</sup> Many culprits have been apprehended and stolen goods recovered.<sup>30</sup> For instance 20 suspects were picked up in Kitwe on 3rd September night during an operation carried out by a combined team of vigilantes, Mine and Zambia Police.<sup>31</sup> Among the suspects rounded up in Misesi and Mindolo township were three suspected dangerous criminals who were part of the gang that was

terrorising the residents.

Equally, in searches and arrests, usually initiated by the police through written notes to vigilantes, the vigilantes have conducted and effected many arrests. Most of the arrests have secured convictions; an indication of success. This was confirmed by police force on one hand and party officials at places of work, section branch ward level and residences on the other hand where the researcher went.<sup>32</sup> Success to the vigilantes has been sweet in that, as one vigilante-General in Lusaka remarked:

"the police officers secure arrests easily because of the weapons they carry, that is, the guns. ...But we vigilantes are unarmed. So it is difficult to arrest someone that is why sometimes we use force."

Vigilantes have earned a bad name among criminals partly because of the way they treat criminals and partly for putting what seems to be a terrible blow to their business of stealing. Thus in an effort to undermine the scheme, Some of the criminals wanted to infiltrate the scheme. But so far about 1,100 were screened on the basis of criminal record.<sup>33</sup>

Doubts are raised as to the efficiency of this method. There are some criminals who have never had any past criminal records. These people may infiltrate the scheme and engage in subversive activities. In other words, the method does not ensure a total check on criminals who may try to join the vigilantes.

It is worth mentioning that vigilante schemes are less appreciated, if at all, in low density areas. The poor response in these areas is prompted by poor party organisation and the fact that most residents can afford the services of a hired watchman. These areas include Kabulonga, Woodlands, Roma, Ibex in Lusaka and Highridge and Luangwa townships in Kabwe. Therefore, the Inspector-General of police initiated the Neighbours Watch Criminal Prevention Schemes. So far four centres have been formed at Woodlands, Kabulonga, Roma and Ibex. In these centres the police hold meetings with residents to politicise and conscientise them on the need for security. The initiative was prompted due to the higher activities of property crime that were recorded in the first quarter of 1988. They amounted to about 300 burglaries,

with stolen money exceeding K1,000,000.<sup>34</sup> This shows that not all areas appreciate or are able to form vigilante schemes. Additionally, it reveals the weakness of the system namely that it comes into play where there is a strong party organisation. This is also a defect in the Act for some people may not be members of the party yet they may be willing to serve as vigilantes. Nevertheless, where party organisation at grassroot level is defective, such areas risk being insecure.

FOOTNOTES

1. S. 2(2): The Zambia Police (Vigilantes) Regulations 1986 brought into effect on August 13, 1986 by Statutory Instrument No 122 of 1986.
2. Ibid, s.3
3. Ibid, 2.4
4. Ibid, s.5
5. The Sunday Times of Zambia, November 22, 1987 p.1.
6. Personal Interview with Inspector Mainza of Central Police, Kabwe.
7. Zambia Daily Mail Comment Friday June 26, 1987 p.4.
8. Op. Cit The Sunday Times of Zambia, p.3.
9. Ibid.
10. Ibid.
11. Ibid.
12. Ibid.
13. Proviso to s.48(4) of the Act.
14. Zambia Daily Mail Saturday September 5, 1987
15. Zambia Daily Mail Wednesday August 12, 1987, p.1

16. Op. Cit. The Sunday Times of Zambia p.3
17. Personal interview with Nnawa Kwaleyela, Freelance journalist and Associate editor of Nkwazi Magazine at Zambia Police Force Headquarters, and Zambia Daily Mail Monday June 4, 1987 p.6
18. Times of Zambia Wednesday, December 18, 1985 p.1.
19. Daily Parliamentary Debates, December 13, 1985. Col. 896
20. Ibid.
21. Guidelines for the Implementation and Administration of the Vigilante Scheme issued by the Inspector General of Police (Lusaka, Government Printer, 1986) p.12.
22. Personal interview with the Political Commissar and Head of the Vigilantes at Force Headquarters; the Senior Assistant Commissioner of Police, Jonah Kilimboyi (SACP).
23. Op. Cit. Guidelines for the Implementation.... pp.24-26.
24. Op. Cit. interview with the SACP at Force Headquarters.
25. Ibid.
26. Op. Cit., The Sunday Times of Zambia, p.1.
27. Vigilante Assignment; Article in Nkwazi Magazine Vol.5, No1 April 1988 (Lusaka, Public Relations Unit, Z.P.F.H.Q.) p.11

28. Op. Cit., personal interview with the SACP.
29. Ibid.
30. Op. Cit., Nkwazi Magazine, p.11 September 5, 1987.
31. Op. Cit., Zambia Daily Mail
32. Matero, Garden, Kanyama, Kalingalinga, Kabwata, Emasdale in Lusaka; Shamabanse, Makululu, Katondo in Kabwe.
33. Op. Cit., Interview with the Political commissar (SACP).
34. Ibid.

CHAPTER FOUR

CRITICISMS LEVELLED AGAINST THE SCHEME.

Introduced under the Zambia Police (Amendment) Act No 23 of 1985, the Vigilante Scheme was launched in 1986. Today there are over 27,000 legally appointed vigilantes in the country.<sup>1</sup> However, is it evident that the scheme has received perhaps most criticisms than any other auxilliary force. This partly explains the carelessness that was involved in drafting it.

Many people have accused the scheme of trampling upon human rights through subjecting them and offenders to harassments, brutal beatings and maltreatments. Some people have argued that the youths are too overzealous with their work which, therefore, makes them adventurous. In certain cases the vigilantes have assumed the role of moralists or police officers. This is clearly beyond their powers.

The argument also falls on the ground that most of the vigilantes are 'immature and irresponsible.' As a result, such youths enjoy taking advantage of the

people by using the scheme as a way to have their presence felt. However, even though the youths go astray they do not have any special protection or privileges under the Act. For this reason many vigilantes who are literate enough have shunned the institution. They are only protected for acts done under the authority of a warrant. This, therefore, makes them personally liable for acts done outside the authority of a warrant. An arrest commenced by their own motion may open them to criminal sanctions if they delay the process of handing the alleged offender to the police.

There are problems concerning onward transmission of an offender to the police considering the inadequacy of police posts and transport. An institution without the two cannot claim to be effective if it has to supplement the regular police officers in their efforts. Widely, criticised is also the qualification of appointment as vigilante namely the requirement of past criminal record.<sup>2</sup> This is not an effective way of ridding the scheme of people with criminal backgrounds in that there

are certain criminals whose crimes go unnoticed or unrecorded but who would join the scheme.

The scheme is further disliked by the fact that the volunteers are not given any form of allowances. This is a disincentive towards the effective execution of the duties by vigilantes. It leads to relaxation in performing their duties. It is generally accepted that it is not easy to fight crime. So the volunteers should be given allowances and awards in order to have good results. This would act as positive reinforcement.

But the nature of police work is risky, involving and one must be tactical. To this end training in politics and security of the nation helps. This is hindered further in that not all vigilantes are educated. Besides they are not allowed to use firearms although they are expected to face criminals. This is clearly a contradiction in terms because whereas they are expected to fight crime, the vigilantes are not suitably equipped for that purpose. They may be issued with short batons, whistles handcuffs and other requisites.<sup>3</sup> The

question to pose is, are these instruments sufficient to fight against sophisticated armed criminals? The answer is in negation. Therefore, this shows that even the training they receive omit an essential part viz, fighting against armed criminals. There is also nowhere in the Act, Regulations of or Guidelines for vigilantes provided that vigilantes would be given lessons in self-defence and close-quarter combat. Thus, police work being so involving the volunteers should have been given sufficient training apart from monthly briefings only. The syllabus seems to inculcate then more with the party requirements and philosophy of Humanism that the crucial aspect of police work.

Senior Staff police personnel seem to be unaware of the actual friction that prevails between the scheme and the officers responsible for its operation in the field. This has been attacked as due to poor management and lack of proper control by the police thereby abdicating the scheme to the supervision of party militants. However, friction between the scheme and police may

be solved through joint meetings and effective control and supervision of the scheme by the police.

REFORMS NEEDED .

It is about the right time that the Act came under scrutiny. This is so particularly in relation to the question of protection of vigilantes while executing their duties viz. compensation in case of loss of life and limb, and give them allowances for their duties. Needless to state is the necessity of an intending vigilante to possess a reasonable level of education so as to eliminate some problems that have been found in the present scheme, for example, poor understanding capacity of many vigilantes in regard to their duties and instruction manuals et cetera.

It is also necessary to provide for the vigilantes to be in the company of an armed uniformed police officers when going to arrest a suspect and when conducting night patrols. This would afford protection to the vigilantes as well as not being mistaken for thieves masquerading as vigilantes. Moreso, the

vigilantes leaders should be given a comprehensive course in police work at a recognised police training school so that they may lead their vigilantes according to the law.

CONCLUSION.

Lack of proper policy decisions has not been without repercussions in the scheme. The problems have also been compounded by the fact that most people do not know the difference between party militants and vigilantes or a merely misguided person taking advantage of the confusion. We have seen the way the scheme functions and perhaps it is time the police personnel came out to clarify to the masses on the need for the scheme through the media.

Apart from some problems that the scheme has faced during its operations, it has nevertheless also stricken success as in the case of the Masala ward vigilante scheme and others. Therefore, at this point it is important to answer whether the scheme is necessary to the committed fight. However,

the scheme is a step in the right direction for it involves community participation in the fight against crime. It is true that the primary responsibility of doing this rests on the community which has the right to defend itself. Therefore, the police are there to spearhead this fight.

Considering that the police force is the sole arm of the government charged with a full time duty to protect society, it therefore, needs a comprehensive study of its functions and place in society. Hence the public must be made to know the real function of the police and vigilantes. The vigilantes scheme should also be an independently functioning institution. It must never work in conjunction with the Party Militants because this breeds confusions. Public sentiments are well founded but with some suggested reforms in the schemes, the scheme would be appreciated even more.

In conclusion, it is important to reiterate that the crime picture in Zambia has gone up and, therefore, schemes such as the vigilantes policing and neighbourhood watch criminal prevention schemes help the insufficient regular force in protecting

the community life and property. The scheme of vigilantes is a good initiative given that they sometimes operate under risky circumstances and manage to reap success. Deviant behaviour is normal in society, hence departures from laid down rules by vigilantes. But this can be remedied by workshops, seminars and joint meetings between police personnel on one hand and vigilantes and members of the public on the other hand. Constant dialogue is an essential element in the work of police.

FOOTNOTES.

1. Personal interview with Kwaleyela, ■. Associate Editor of the Nkwazi Magazine at the Zambia Police Headquarters.
2. S.2(e) of the Regulations.
3. S.50 of the Act.

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