

THE UNIVERSITY OF ZAMBIA


SCHOOL OF LAW

I recommend that the Obligatory Essay prepared by
Ngwira William

Entitled

A CRITICAL ANALYSIS OF THE EFFICIENCY OF THE ZAMBIA
POLICE FORCE

Be accepted for Examination. I have checked it
carefully and I am satisfied that it fulfils the
requirements pertaining to the format laid down in the
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DR. ENOCK M. SIMALUWANI

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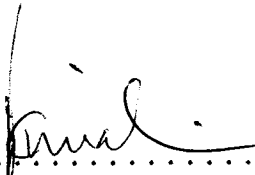
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(i)

A CRITICAL ANALYSIS OF THE EFFICIENCY OF THE
ZAMBIA POLICE FORCE

BY

NGWIRA WILLIAM

An Obligatory Essay submitted to the University of
Zambia's Faculty of Law in partial fulfilment of the
requirements for the award of the degree of Bachelor
of Laws (LL.B)

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Faculty of Law
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(ii)

DEDICATION

To the memory of my late Father
MR. PORTIFER K. NGWIRA who passed
away on 27th December, 1993

ACKNOWLEDGEMENT

In a work of this kind an obvious debt is owed to many people. I give well- expressed sincere thanks to Dr. Enock M. Simaluwani, My Supervisor. With an ever pervasive high professional integrity he guided me in the writing of this paper.

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I also take this opportunity to give special thanks to my Mother Mrs Esmeck Ngwira, Sisters Agness, Alice and Zelia and Brothers Albert and Goodson. Their unflinching assistance and support is a permanent value.

A word of profound gratitude goes to Mrs Eunice M. Lungu of Law School who typed this work. For my obscurities, errors and other short-comings I accept full responsibility.

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CHAPTER ONE

INTRODUCTION

There are several institutions that have come into existence by way of an Act of parliament. It has always been expected that scholars and members of the public at large would scrutinise the law and assess its successful implementation. At times such scrutiny has given rise to a lot of criticisms against such institutions that are to work in accordance with a given Act.

The Zambia Police Force has suffered the same fate. Various writers have prompted to write on varying aspects of the Zambia Police Force. Some of these works relate to police training,¹ Community policing,² the police and the power of arrest³ and the police and public relations.⁴

This paper attempts to critically analyse the efficiency of the Zambia Police Force as a law enforcement agency. Since its inception it has been observed to date that the Zambia Police Force does not work in accordance with section 5 of the Police Act, Cap 133 of the Laws of Zambia. This is the Case if we are to literally interpret this provision of the Act. Does the Police Force preserve life, protect property or apprehend offenders of peace. If these questions are answered in the negative then the state of affairs have to be interpreted to mean that the Zambia Police Force has failed to work according to

Section 5 of the Police Act.

A number of factors may be attributed to this. For instance the Colonial Police carried out the beat system which effectively brought about an efficient police force. The beat system is no longer being practised in the police force leading to the existence of a police force that meets its obligations by sitting in stations and offices, waiting for crime to be reported.

THE NATURE OF POLICE EFFICIENCY

Law enforcement or social control is the generally agreed on manifest function of the police. Most laws establishing police forces and defining their tasks clearly set this forth. An example is Section 5 of the Police Act, it provides that:-

"The Force shall be employed in and throughout Zambia for preserving the peace, for the prevention and detection of Crime and for the apprehension of offenders against the peace....."

Examination of police work based on the assumption inherent in the manifest definition is not on the face of it unreasonable. It can lead, however, to some seemingly simple conclusions. If the job is such, the success of the job is to be measured directly from the same basis. The legally defined end of a police force is presumably some measure of the degree to which it has in fact enforced the Law.

If crime prevention and law enforcement are the only responsibility of the police then it should be a full-time job.

SCOPE AND AREA OF STUDY

The statement that crime has increased in the country since independence cannot be doubted by any prudent person who is a Zambian citizen. The author was not only compelled to write this paper because of the increase in the crime rate, but also with personal observation of a number of crimes particularly robbers which took place on the Copperbelt and Lusaka.

Having had an opportunity to look, through several written works on the Zambia Police Force in the University of Zambia Library, it came to the author's knowledge that there has not been a paper written on the efficiency of the Zambia Police Force. Many writers tended to base their papers on one aspect to show that the police are not doing their job right.

However, this study will be based on a number of issues beginning from what led to the establishment of first police department, their expected role and then zero in on the crime and detection and prevention of crime and then the prosecution process.

The analysis of the police efficiency, will be based on the premise that, if such is the job given to an agency then its efficiency and effectiveness will be analysed on that basis. It therefore follows that the critical analysis will be based on its

designated duties under the Police Act.

The paper therefore gives a critical analysis of the efficiency of the Zambia Police Force.

It attempts to bring out the role that the police are supposed to play in combating crime and the way in which it has failed to achieve its objects

Police Force is reliance will be based on the following:-

- Prevention and detection of Crime.
- Investigation of Crime
- The Prosecution Process

CHAPTER FOUR

Considerations of police reforms will be analysed as well as other solution to crime prevention and control. It will also concern itself with a summary of the findings of the research and concluding remarks.

CHAPTER TWO

2. INTRODUCTION

The essential purpose of this chapter is to describe the general principles on the origins of the concept of policing and then look at various analyses of the function of the police. Thereafter an attempt to trace the origin of the Zambia Police Force will follow. An analysis of the extent to which the general principles on the origin of the concept of policing and police function apply to the Zambia Police Force is being made.

2.1 ORIGINS OF THE CONCEPT OF POLICING

In everyday life the mention of the word police brings to mind an association of law enforcement agents and perpetrators of crime or any disorder that comes hencewith. The increase in criminality should therefore bring about a proportionate increase in police activities. This in itself brings about the concept of policing.

In London, the first police department was created by Sir Robert Peel in 1829⁵. In the United States, New York City established a modern Police Force in 1845⁶ while Boston's Police emerged in 1838.⁷ In Washington, D.C., full-time Police were appointed in 1861.⁸

Richard Lundman (1980) in book *Police and policing* stated that rising levels of criminality is one of the conditions associated with the establishment of police departments.

Historian Gilbert Armitage (1935) describes the level of Criminal activity prevalent in London in the early 1700's.

"London..enjoyed a melancholy pre-eminence in crime probably unequalled by any time in earlier or subsequent history.... sneak thieves, pickpockets, shoplifters, and armed footpads [robbers] swarmed in filthy and unlighted streets, and for twenty or so miles into the country the main roads approaching the metropolis were infested with highway men, some of whom... had grown so bold as to hold up coaches openly.... in broad daylight."⁹

The situation was essentially similar in the United States. Historian James Richardson cites an 1842 description of crime in New York City.

"The property of citizens is pilfered almost before his eye. Dwellings and ware houses are entered with an ease and apparent coolness of detection which shows that none are safe. Thronged as our city is men are robbed in the street... and the defenceless and the beautiful are ravished and murdered in the day time, and no trace of the criminals is found. The man of

business in his lawful calling at the most public corner of our city is slaughtered in the sunshine and packed up and sent away.... and suspicion is hardly excited."¹⁰

This, however, was not the only reason that brought about the concept of policing. There were other factors like changes in patterns of social solidarity and elite interest and involvement were other factors.

Changes in patterns of social solidarity were recognised and said to be partly responsible for the development of the concept of policing.

This is because.....

"In primitive, mechanically solidary societies, there exists a common and jointly shared set of values and life styles"¹¹

This kind of a set up leads to the formation of an informal or Community police. Informal policing refers to a system where Community members are jointly responsible for the maintenance of order. Absent are persons whose sole responsibility is policing. Now in a situation where common and jointly shared set of values and life styles disintegrate, there develops a need for a defined police system.

The other factor responsible for the development of the concept of policing was elite interest and involvement.¹² Persons who wielded power, wealth and prestige overcame the historic reluctance surrounding the bringing into existence of a formal police force. Their motivation was purely economic. Elites used their influence to create a police force which would protect their vested interests. From this it can be stated that going by this factor of elite interest and involvement the police force was created by and for elites.

It suffices here to mention that the afore mentioned factors responsible for the development of the concept of policing are of English origin, however, the same factors apply to Zambia in analysing the establishment of the Zambia Police Force.

2.2 BRIEF HISTORY OF THE DEVELOPMENT OF ZAMBIA POLICE FORCE

The maintenance of law and order in the then Northern Rhodesia was until 1932 the entire responsibility of the military forces then stationed in the country. In that year separate civilian and military sections were established and thus begin the civilian police force as it is known today.

However, the history of policing in this country goes back to 1891 when the Charter of the British South African Company was established to give the company power to administer the areas

lying north of the Zambezi.¹³

In that year the first officials came north on an expedition to Barotseland and it is almost certain that contingents of military type police accompanied this mission.

There is also evidence that as bases were established in the then Northern Rhodesia that:-

"A force of Indians consisting of sepoy, sikhs and Indian Mohammedan Cavalry was recruited to keep the peace in the areas coming under the administration of the British South Africa Company"¹⁴

The main duties of these troops was to combat raids by Arab slave traders and there can be no doubt that the battles between the slave traders and these early forces were numerous as, to the Arabs, Slave trade was very lucrative business which they were not going to give up easily. In 1895 Nyasaland was separated from the areas of the Charter Company's activities and these mixed forces were then withdrawn.

Northern Rhodesia was then divided into two areas, North-Eastern Rhodesia and North-Western Rhodesia each with separate administration, each administration being charged with maintenance of law and order in the particular areas. They then proceeded to recruit and form their own peace-keeping forces and recruited mainly from local people in the area where

administration centres were being set up.

In 1911 North-Western and North-Eastern Rhodesia were amalgamated and the following year Northern Rhodesia Police was formed and its members were liable to perform Civil as well as military duties, but as time went on, these duties became more and more divided with certain sections performing military duties whilst other sections performing civil duties.¹⁵ However, the sections performing civil duties still came under the command of the Army who seconded an Officer to take charge of what had now become known as the Town and district police.

Industrial development and increased settlement along the line of rail and on the Copperbelt brought about the need for officers who could specialise in police duties and receive necessary training. In 1932 there was a recognition of the force as civil police force with its own legal status¹⁶

As the years have passed the population of the country has continued to grow and as in all societies, the criminal element has grown with it, and naturally it followed that the police force had to be continually expanded.

Shortly before independence in 1964 all the gazetted or senior officers in the then Northern Rhodesia Police were expatriates and it was not until the prospect of independence was absolutely clear that a programme was embarked upon to train local officers for senior positions in the Police Force.

The name of the Force changed from Northern Rhodesia to the Zambia Police with the advent to the independence in 1964, but the Constitution, uniform and duties of the Police Force changed but little.

Shortly before independence and immediately after independence, expatriates begun leaving the force in very large numbers which necessitated intensive training programmes in respect of local officer who were required to take over senior positions at short notice and as the Zambianisation policy of government within the Police Force continued...

"The 1st November of 1965 became a very significant day in the history of the Zambia Police Force when the first indigenous Zambian Officer Mr. Michael Mataka was appointed commissioner of Police."¹⁷

2.3 **THE EXPECTED ROLE OF THE ZAMBIA POLICE FORCE**

Law enforcement or social control is the generally agreed on manifest function of the police. The Law establishing the Police Force, Cap 133 of the Laws of Zambia defines its tasks. The Police in explaining their work take this assumption for granted. There has been emphasis on the social control aspect of police to maintain a crime free environment. Police point with pride to decrease in the crime index and are embarrassed by increases.

The role of the Police in the Community in relation to the duties

of law enforcement has always been a source of a major dilemma. Part of the dilemma is related to the fact that it has been very difficult to connect police work with the incidence of law breaking.

In examining definitions and expectations of police work regard should be had to historical roots and continuing arguments about the same. The Police has directed itself towards the need to protect law order and property rights and to suppress crime. These arguments were put forth during a period of the early stages of the development of the concept of policing as already considered under the heading Origins of the concept of policing. Therefore, if prevention of crime was the primary job of the police, right behind it was the expectation that police could lower crime rates.

"The primary object of an efficient police is the prevention of crime, the next that of detection and punishment of offenders if crime is committed. To these ends all the efforts of police must be directed."¹⁸

The protection of life and property, the preservation of public tranquillity and the absence of crime will alone prove whether the object for which the police were appointed have been attained.

In Britain there has been some rethinking about the role of the

police, partly because of the changes in society since World War II. The British police who were unarmed except for a night stick have begun carrying and using guns since the later part of 1970s.¹⁹

In Zambia many segments of the population look on the police as protectors against lawlessness and disorder.

This can be evidenced by the riots in Chingola when residents claimed inefficiency on the part of the police when bandits shot one of the residents in an armed robbery.²⁰ The residents in Chingola were protesting that there was nothing the police were doing in their area for there was too much lawlessness.

In Kanyama compound in Lusaka, the police were blamed for "allowing" crime to be on the upswing.²¹ On the other hand large segments of the police condemn the police for the extent of criminality the country has attained.

The above instances about how the general public look at police work shows to what extent the police's role is, that is social control. Meaning that with an inefficient police force what comes with it is social unrest or an increase in criminality.

From the way the public responded to the work of the police in Chingola and Lusaka's Kanyama Compound, it gives an instance of poor police community relations. This kind of relations adversely affect the ability of the police to prevent crime and

apprehend criminals. People hostile to the police are not so likely to report violations of law, even when they are the victims. They are even less likely to report suspicious persons or incidents, to testify as witnesses voluntarily, or to come forward and provide information yet citizen assistance is crucial to law enforcement agencies if the police are to solve an appreciable portion of the crimes that are committed.

CONCLUSION

It has been established in this Chapter that the origins of the concept of policing arose as a result of a number of factors.

These factors include:

- the increase in the level of Criminality
- elite interest and involvement
- changes in the patterns of social solidarity.

Where there is an increase in the level of criminality, the need for a police department arises. This is to ensure that an agency with a defined task is put in place to control the increase in crime.

In societies where there are no divergent social values, there develops a concept of community policing and where these patterns of solidarity disintegrate, then the need for a police force as a law enforcement agency arises.

And in situations where you have people vested with power and

wealth, the need for an agency to protect their vested interests arises and this in most cases leads to the creation of a police force.

From the above factors responsible for the origins of the concept of policing, it is hereby submitted that going by the brief history of the development of the Zambia Police Force that it was established solely to protect the vested interests of the colonial masters in the then Northern Rhodesia.

On the expected role of the Zambia Police Force, it is submitted that the public in general will regard the Force as being efficient if it is seen to prevent and detect crime and also to ensure that the perpetrators of crime are brought to book. The general public expect the police to enforce the law and act as an agency of social control.

The Chapter also concludes that where there is poor police-public relations, there is an adverse effect on the operations of the police. This is because people hostile to the police are not so likely to report violations of the law or help in the detection of crime.

CHAPTER THREE

3. THE ZAMBIA POLICE FORCE AT WORK

INTRODUCTION

The purpose of this Chapter is to look at how the Zambia Police Force has functioned in accordance with the Police Act. That is, how has the Zambia Police Force preserved peace, to what extent has it detected crime, has the Zambia Police been apprehending offenders.

In the previous Chapter it was stated that the primary object of an efficient police is the prevention of crime, the next that of detection and punishment of offenders if crime is committed. To these ends all the efforts of police must be directed. The protection of life and property, the preservation of public tranquillity and the absence of crime will alone prove whether the object for which the police were appointed have been attained. It is on this basis that the analysis of the efficiency of the Zambia Police Force will be based.

3.1 A HISTORICAL TRACE ON THE EFFICIENCY OF THE ZAMBIA POLICE FORCE.

Availability of the police is here not only confined to presence of police per a certain number of population, but also to how

effectively they carry out their duties. This latter part includes minimising frustrations in the force, and it involves such aspects as police accommodation and training facilities. The importance of these aspects have been recognised by Lord Morris in the case of Conway v. Rimmer²² when he said.

"Weight if consideration that the police in their work of fighting crime, which is so much in the public interest must in no way be impeded or frustrated."

There is no doubt that less crimes were reported during the colonial period partly because the police force was as is generally conceded more effective and readily available. There was, however several reasons for such a state of affairs.

3.1.2 **NATURE OF THE COLONIAL POLICE**

As already stated in Chapter two on the brief history of the Zambia Police Force, it was until 1932 that the Northern Rhodesia Police was completely military in nature. It was not until that year that the civilian force was established as a separate entity from the military force. Nevertheless, the military and brutal nature of the police force continued up to the independence period in 1964. The mobile unit was also military in nature. This was specifically concerned with the physical control of law and order. Through the mobile unit, the colonial police dealt ruthlessly with any political disturbances. Thus the force was conditioned to the idea that its work was essentially to provide

a pool of watchmen at public expense and under European Supervision to guard European lives and property. Deliberate limited small recruitment of the force to mainly cater for European settlement makes comparison of its percentage increase with that of population difficult. Nevertheless in 1950 the strength of the force was 1472²³ and 3054 in 1956²⁴ while at the time nearing independence in 1963 it had grown up to 5061²⁵. Thus with its small size compared to the population, the colonial police as a law enforcement agency was never strong enough to withstand any disturbances, but because of its military and brutal attitude it managed to persist. It was called on occasionally before the rise of any disturbance political or otherwise. When it was not so occasionally called upon, it was generally patrolling the white settlement areas through a process which was known as the "beat system"

3.1.2.1 **THE BEAT SYSTEM**

The system involved a number of police men dispatched from a police station to go on foot and patrol a residential area for a few hours and then report back to allow another group to be so dispatched.

The efficiency of the system lay in the fact that despite the small size of the force compared to the population, it only catered for the limited white settlement areas. It did not extend to African residential areas.²⁶ District Commissioners, District Messengers, Chiefs and Headmen upheld the law in native

authority areas.²⁷ The white settlement areas were mainly in towns along the line of rail.

The beat system could operate efficiently because the police on patrol could walk a short distance from the police station to the patrol area. This was by virtue of the fact that police stations were centrally placed within these white residential areas. The short distance between the white residents areas and the police Stations meant that the problem of motor transport did not arise.

3.1.3 THE ZAMBIA POLICE FORCE AFTER INDEPENDENCE

3.1.3.1 POLICE PATROL

Despite its efficiency the colonial beat system has been stopped in the post-independence era. After independence all kinds of discrimination were removed where as the limited colonial manpower of the police force could effectively cater for the European areas only, the police manpower after independence could not adequately cater for both former European and African Settlement. In so far as the beat system was concerned not only did Africans continue to live in the then native settlement but they also occupied the then colonial white settlement areas. This system could not be continued to operate only in former white settlement areas leaving out African settlement areas as well as new residential areas.

There has been an increase in rural urban migration since independence. This has facilitated for the increased expansion by squatter settlement. In addition to these there have been various other residential establishments. The aspect of residential establishments or expansion means that in essence, there has been an increase in population requiring an adequate corresponding growth in the strength of the police force to cater for such an increase.

Though generally speaking the initial problem is that of manpower, the patrol system similar in function to that of the colonial beat system requires, if it has to operate effectively establishment of police stations in new residential areas. In the absence of such a correlation the distance between the two is increased. By the time a group of policemen leave the police stations and walk a long distance this new areas, they would generally be tired and would not be able to do their work.

In the light of these circumstances the police have taken on patrolling these areas by using vehicles. However, limited number of vehicles available to the police does not make the system any better. One patrol vehicle would cover one residential area for a few hours after which it transferred to another area and so forth.

3.1.3.2 **POLICE STATIONS**

The need for the police today to operate through out the country

entails not only suitable renovation of the police stations left by the colonial masters, but also the setting up of new police stations to cater not only for expanded residential areas, but also to widen the scope of its activities by assuming responsibility of policing the whole country.

In the light of contemporary development, it can not be doubted that the insufficiency of police stations has contributed to the high rate of crime in the country. It has contributed to the problem of unreported crime.

A survey carried out in Kitwe, at Kitwe Central Hospital Compound, an area which is approximately 7 Km from Riverside Police Station and 10Km from Mundolo Police Station revealed the following.

"71% of the 35 people interviewed stated that the proximity of Mindolo and Riverside Police Stations would be a major factor on the question of whether to report or not to report a crime.

The increased distance makes it very unlikely for an individual to go and report a crime very late at night. For example, when in the absence of public transport that particular individual does not have any personal form of transport. It is to this effect that Tanner points out that:

"available crime statistics largely represents

offences in the vicinity of police stations and a police station built in a new area will mean an immediate rise in reported crime."²⁸

While the hoped for increase in police stations and manpower still stands, we must not deliberately close our mind to the fact that, the more the number of unreported crimes increase the more crimes would be committed. Offenders aware of this tend to take advantage and even commit more crimes. The absence of the foregoing problems would not however put the police in a position to reduce crime.

3.1.3.3. PREVENTION AND DETECTION OF CRIME

Prevention of crime has been recognised as the main purpose of police work. The detection of crime and its prevention are in themselves deterrents to crime requiring among other things an efficient police organisation. A police agency that vigorously and enforces the law operates as a definite deterrent to the commission of crime and delinquency.

In Zambia today, the volume of police work derives from an extreme source, the citizen complaint, rather than an internal organisational source police detection of crimes committed.

The major element occasioning a complaint is that one sees oneself as "a victim" experiencing a personal loss. Citizens are unlikely to mobilize the police or to report violations in which

they are not actually victims. In all other cases the citizens tends to define enforcement of the law as a police responsibility. This means that many violations are known to citizens but not reported to the police because of lack of direct personal involvement in the violate activities.

The nature of violative activities markedly affects the way police organisation can cope with it. The popular image of how one effectively deals with crimes is through detective work. Yet in a very important sense the Zambia Police Force is not seen to be detecting crime. We have in our midst a police force that waits for crime to be reported for it to spring into action.

A survey carried out in most of the police stations in Lusaka revealed the following:

There are three(3) shifts and officers are supposed to report twenty (20) minutes before time. Before they do various assigned work they are supposed to parade for inspection. This is done to check whether the officers are fit for work.

However, nowadays there is a lapse, no parades are conducted. This then means there is a rebuttable presumption that sick or at times drunk officers are made to work.

Upon being inspected they are supposed to be to be detailed, that is, one to man the occurrence book another in charge of cells and there should be a car crew. The beat system is there on paper as it is provided for in section 65 of the Force instructions.

However, it is not being implemented. If it were being implemented the shift officer was supposed to detail officers into each beat but all that is done is that the officers are sent instead on general patrol rather than on beat.

As a result of such a situation officers sent on general patrol will not go to places where offences are likely to occur but would rather go where they feel like going. Thus they may be found around a station, may visit any quiet place and yet the places which require police presence are shunned. This cannot happen where there is a beat system in place.

It has been observed that even when these officers go on general patrol, the mode of communication that they use is a whistle. Even if they know the use of it one thing comes out clearly that a whistle was designed for communication with a fellow officer on a beat or in another beat.

In this present situation a whistle cannot be used as an effective means of communication because it is common knowledge that it cannot be heard far off or reach the base. Sometimes officers carry a radio, but because of the need to rationalise on batteries they do not keep it on through out their patrols. As such they may not even know that they are being called by their "mother" station.

The objective of a police force is to detect and prevent crime, protect life and property and arrest offenders. When officers are on patrol they are supposed to bear in mind the above objects.

It has been observed that the above objects can only be attained if officers are on beat and all the necessary requirements for conducting a beat are in place. With all these in place crime would be detected and prevented, life and property protected as these can be attained only by police presence in areas where offences are likely to be committed.

Once a report of complaint has been made and need arises for further investigations the Criminal Investigations Department is notified and a report is passed on to them.

Section 150(2)(1) of the Force Instructions provide that:-

If a complaint or report is of such a nature as to call for further investigations, that is, visiting the scene or elsewhere, recording statements, taking finger prints etc, the officer receiving it, then passes it to the Criminal Investigation Department.

This department is one in the series through which the graduate constable has to work. It is a department that specialises in the gathering of information working on promising leads, taking finger print impressions, forensic etc. Any investigations must necessarily include these. The aim of investigations should be the collection of sufficient evidence to warrant laying a charge against suspected persons so that the law may take its course.

Prior to conducting an investigation, the officer must have a perfect knowledge of his statutory authority and the rules of evidence. Lack of it may result in the destruction of the entire case against the accused.

This work calls for men of high perceptive faculties. Quick witted men whose observation powers are beyond average. Only such can carryout thorough initial examination of the scene of an offence which is an important part of the prosecution process since the investigator usually has no second opportunity to obtain first hand evidence. The investigator must also have a thorough knowledge of all aids available to him and this demands highly skilled personnel.

In most cases investigations are carried by the recipient of the complaint or report, the constable, and he bears the brunt of most of the investigations.

The criticism on the police efficiency is attributed to the afore described situation in the force. These constables do not only lack experience but also equipment and it is not a surprise that many police cases have been destroyed due to improper investigations and the accused set free.

In PHIRI AND OTHERS V. THE PEOPLE,²⁹ Baron J observed after setting aside the charge of murder and substituting it with manslaughter that:

"We cannot leave this case without commenting yet again on a trend that is disturbing to the extreme. This is the fourth appeal in the session and the second from a conviction of murder in which the investigation of the crime was totally inadequate.

In this case, a report was made to the police by an eye witness who gave his name and the police officer actually gave his name in court. In spite of this, no one appeared to have thought it necessary to take a statement from the man. Further, the evidence disclosed that there were several bystanders yet there was no evidence that any effort was made to take statements from them.

IN SENSENTA V. THE PEOPLE,³⁰ the police had set up a trap for the appellant who had been convicted in a magistrate court on two counts of corrupt practices. But unfortunately the trap did not work. But in their determination to have the appellant lose his appeal the police fabricated evidence against Sensenta without carrying out any further investigations. The court observed that:

"the fabrication of prosecution evidence in most cases would be fatal to the prosecution and in every case it must have the effect of weakening such a case."

Another clear illustration of police inefficiency in their investigation is given in the case of Nzala V. The People,³¹ the appellant had been convicted of murder the allegation being that for no apparent reason, he had beaten the defenceless old woman to death. In his statement to the police, the appellant denied any knowledge of the offence and gave the police detailed information as to the place where he had been and the company of persons he was in at the time the offence was alleged to have occurred. Surprisingly none of these people were called as witnesses and the police remained silent on it. Baron D.C.J noted:

"It was trite law that where a person puts forward an alibi and gives the police detailed information as to the witness who could be called to support that alibi. It is the duty of the police to investigate it. That duty is certainly not discharged by the police remaining silent on the matter. This is the standard procedure and the failure to back this evidence must always be a matter of severe comment. For this reason it would be unsafe to allow the conviction to stand."

The above illustrative cases about investigations by the police are but few which show inefficiency in the Zambia Police Force in the department of investigations. And because of this state of affairs there are repercussions in the prosecutions department.

3.1.3.4 **THE PROSECUTION DEPARTMENT AND THE PROSECUTION PROCESS**

The Director of Public Prosecutions has power to appoint officers in the police service to be designated Public Prosecutors, Section 86(1) of Cap 160, the Criminal Procedure code. Every public prosecutor thus appointed is subject to the direction of the Director of Public Prosecutions, Section 86 (3) of Cap. 160.

In the exercise of the powers conferred upon him by law, the Director of Public Prosecution can also appoint members of the police force above the rank of sub - inspector to be public prosecutors.

To prosecute is to set in motion the law and the law is set in motion by an appeal to some person clothed with judicial authority in regard to the matter in question. It therefore follows that a prosecutor is a person actively instrumental in setting the law in motion. The prosecutor is expected to be armed with the necessary tools if he is satisfactorily set the law in motion. And his aim is to secure a conviction of the accused.

Nearly all criminal prosecutions in the magistrates court are conducted by police prosecutors who act under the directions of the Director of Public Prosecutions. Members of the prosecutions department of the police are selected from the uniformed general

duties policemen (they still wear uniforms even after appointments as prosecutors). These have to undergo long periods of inservice training under the supervision of the more senior members of the department and magistrates before they appear to prosecute. They then go for 12 months prosecution course at the National Institute of Public Administrators (NIPA) where they are expected to pass examinations in Criminal Law, Criminal Procedure, Evidence, Statute Interpretation, Police Procedure and English.

There is evidence to show that not all prosecutors undergo training at NIPA. Some have learnt prosecution by experience gained upon graduating from training School. Despite the clear procedure in the prosecution process, there is still evidence of poor performance. Sometimes exhibits are not brought to court.

Mr. Gabriel Muya a magistrate in Chililabombwe had the following to say about police prosecutors.

"Prosecutors are supposed to be sub-inspectors and above but in most cases certain stations do not have sub-inspectors. This being the case practice has allowed constables to prosecute in the magistrates courts with leave of the court."

In most cases constables will have started as court orderlies, they observe their seniors handles court matters.

These constables have only basic police training without training in prosecution process. They learn the hardway without a ground

in Law of evidence procedure. And because of this most cases are dismissed or the accused is acquitted because prosecution may not understand the burden of proof and it is difficult for them to prove the allegations against the accused.

During the course of the interview with Mr. Gabriel Muya (Magistrate), he cited a case one of rape where a prosecutor failed to produce a medical report to show that penetration had taken place and that matter was decided on the reduced charge of indecent assault. Another instance where Mr. Muya felt the incompetence of police prosecutors was when prosecutor failed to prove time of the occurrence of the offence.

Mrs. Rose Samakayi a Magistrate in Lusaka had similar sentiments about police prosecutors, when she stated that there are so many untrained prosecutors with so many courts. She, however, said that there are times when an accused person may be acquitted all because of inadequate investigations by the police.

CONCLUSION

It has been established in this chapter that the colonial police was efficient in that it was established solely for the protection of the vested interests of the colonial masters in the then Northern Rhodesia. They dealt ruthlessly with any political disturbances all because of their having had been conditioned to work essentially as watchmen under European supervision to guard European lives and property.

As for the detection and prevention of crime, the operations were efficiently done by way of the beat system. This, however, was stopped at the beginning of the post independence era. And to today it is considered to be outdated and only fit for colonial times. It has further been established that distance between residential areas and police stations was a factor when reporting a crime. The further the distance from the police station the more unlikely the crime was to be reported.

This, however, reflects badly on the efficiency of the Police force for we have a system that sits waiting for crime to be reported.

It has further been established that even where there are clear violations of the law, the prosecution process by the Zambia Police Force is so inefficient that many cases are dismissed and the accused in most cases acquitted.

CHAPTER FOUR

4 DISCUSSION AND CONCLUSION

The objective of the study was to critically analyse the efficiency of the Zambia Police Force. It has been established by the study that examination of police work based on the manifest definition of police duties is not unreasonable for it can lead to conclusions on how efficient a given police force is. It has also been established that historical roots have got an effect on present day operations of the police force.

4.1. THE ORIGIN OF THE CONCEPT OF POLICING AND THE ZAMBIA POLICE FORCE

Consideration of the origin of the concept of policing was embarked on by the study and it has been established that there were basically three factors that led to the development of this concept in London, New York and Boston in the 19th Century.

Reference was made to London, New York and Boston because records show that it is in these areas where the first police departments were established. These factors on the origin of the concept of policing are.

- an increase in the level of criminality;
- changes in the patterns of social solidarity;

- elite interest and involvement

The increase in criminal and subversive acts brought about the need for a police force. Crime escalated all because of the changes in the values people had on life generally and there was that lack of commitment from the community to fight this increase in crime. Another factor looked at that helped in recognising the need for a police force was one of elite interest and involvement. To protect their vested interests in property and other related interests, the people who wielded power and wealth thought of an idea of creating an institution that would protect their vested interests.

Applying the factors that brought about the idea of policing to the Zambia situation, it is here by submitted that the factor at work in the development of the Zambia Police Force was one that can be likened to elite interest and involvement. A trace on the development of the Zambia Police Force dates back to the time the colonial masters came to Zambia then Northern Rhodesia.

During the colonial era the colonialists wielded wealth and power. They had vested interests in them and so the best way to safeguard these interests was to come up with a police force that would have a full-time job in protecting the settlers.

The police then was efficient in that it underwent some military training to suppress any political disturbance by the indigenous people. Police accommodation was designed in such a way that all

the houses were centrally located in order to make call ups in case of a disturbances much easier. The study also found that police stations were centrally placed in white settlement areas to facilitate the enforcement of the beat system. This enforcement was made much easier because the police on beat had the walk only short distances from the "mother" stations,

However, the situation as it is now is that formerly whites only areas are now being occupied by the local people. This should have meant a continuation of the way the police operated in the colonial era but alas much of the system of patrols has changed and it is in these formerly whites only areas that there is a prevalence of crime.

Going by the trace on the efficiency of the Zambia Police Force from its inception to date, it is hereby submitted that most of the problems the force is facing can seemingly be said to have been compounded by the colonial masters' involvement in the force's development. This is more so if regard is made to the colonial police force's operations generally. They were designed in such a way that they were to operate to suit the ways and needs of the white settlers. The set back, however, is that the composition and police operations have not changed so as to encompass the needs of the growing indigenous population. The number and location of police stations have changed but little and upto date accommodation is centrally located.

4.2 THE EFFICIENCY OF THE ZAMBIA POLICE FORCE - AN ANALYSIS

Prevention and detection of crime have been recognised as the main object of police work. The detection of crime and its prevention are in themselves deterrents to crime requiring among other things an efficient police organisation. A police agency that vigorously and efficiently enforces the law operates as a definite deterrent to the Commission of Crime and therefore contribute significantly to the maintenance of peace in our communities. And where police duties extend to the prosecution process, they should be seen to undoubtedly commit those before courts of law to get the deserved punishment as the law provides. That is if the job of the Zambia Police Force is to prevent and detect crime and apprehend the offenders of the peace then this should be a full time job which needs to be done successfully with efficiency.

4.2.1 PREVENTION AND DETECTION OF CRIME

Going by the findings of the study, it has been established that one of the systems that made the colonial police efficient was the beat system. This system has, been discarded. This means that as things stand right now in the Zambia Police Force, there is no deterrent or preventive system for crime. What we have is a police force that "sits" in police stations waiting for crime

to be reported . This in itself shows an element of inefficiency on the part of the police force for they are not working according to the duties given to them by the Police Act, Cap 133. No system in place for prevention and deterrence of crime leads to an increase in crime. Zambia today is experiencing an increase in the crime rate. This in itself is an indicator of how inefficient our police force is.

4.2.2. THE PROSECUTION PROCESS

The study found that there are a number of set back in the prosecution process by the police. It has been established that there are several factors responsible for the inefficiency on the part of the police force.

These factors include:

- a general poor education background among police officers compounded by on inadequate training structure;
- the inadequate manpower in the force compared to the country's needs;
- a general lack of proper incentives in the force to inspire qualitative and quantitative performance and attract educated high calibre personnel.

4.3 RECOMMENDATIONS

Some methods of prevention and deterrence of crime consist of the already mentioned beat system, patrolling highways, streets etc.

These in themselves if practised improves the police community relations. This means that a police officer on duty will be in a position to know most of the people living in his area of the beat or patrol.

One of the recommendation for improving police efficiency is for the prescriptive measure of improving police community relations. Improvement of police community relations leads to community policing which works best and relies heavily on long term assignment of police officers to specific beats or patrols within a defined locality. There should be a dedicated community constable scheme which should be able to service neighbourhood watch and other crime preventive schemes. The officers should also be working and staying with the community. In this way there will be more prevention and deterrence of crime.

It is until Zambia has a police force that commands confidence and support of the majority of the people, crime will continue to be difficult if not impossible to control. There is therefore great importance on building confidence and trust of communities in their local police in order to move towards a common approach to policing.

As it has been observed, the public will generally help the police to deal with those crimes that offend their own sense of morality. However, under the prevailing situation, this cooperation with the police can no longer be expected to last.

The people must see their efforts being appreciated by having some of the suspects undoubtedly convicted it is not re-assuring on the part of the public to learn that, a rapist for example originally apprehended for any such offence was acquitted because the police failed to conduct proper investigations and prosecution. Subsequently the public might start showing a total lack of respect for the courts and general indifference to police work.

For indeed what good does it serve to assist the police apprehend the criminal but a few days later the same criminal will be out on the streets.

It is desirable that there should be coordination in the police force beginning from the detection and prevention of crime through to the investigation and prosecution process. It is also desirable that police prosecutors go to court fully prepared and not equipped merely with a set of allegations based on scanty (if any) evidence at all.

In the light of the setbacks in the prosecution process of the Zambia Police Force, it is, recommended that there must be a minimum standard qualification, say an ordinary level certificate with a merit in English. This will facilitate proper understanding of the courses that are offered at NIPA, It will also enable the prosecutor to argue his case confidently in court because language will not be an obstacle. If one has a good command of English language he would not find great difficulties

in assimilating the subject under discussion.

It is also recommended that proper incentives are put in place in the police force so that trained lawyers are recruited in the force. Of the few that are there, they are placed in departments that are not relevant to legal training. Mr. Francis Musonda is an example, he was at one time Force Public Relations Officer and he is now heading a research department at the Force Headquarters in Lusaka.

If most of the Lawyers in the Police Force were in the prosecution and investigations department they would be able to scrutinise all the cases that are to be taken to court.

It should further be noted that examination of the Zambia Police Force's efficiency was based on the laid down police duties and conclusions are based on the same.

These are some of the proposals the author would recommend if the Zambia Police Force is to produce fruitful results in their work. It is only when the above mentioned are looked into by the government can the public expect a good show from them.

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