Autonomy of the Auditor General in Zambia: An Analysis of the Law

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DEDICATION

This research is lovingly dedicated to my family and friends, whose unwavering support, patience, and encouragement made this journey possible. Your understanding during the long hours of study and your constant belief in me gave me the strength to persevere through every challenge.

Your love and encouragement have been my greatest source of motivation, and this achievement would not have been possible without you.

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ABSTRACT

This study analysed the legal framework governing the autonomy of the Office of the Auditor General in Zambia and assessed the extent to which they support or limit its independence and operational effectiveness. Using a doctrinal desk research approach, the study analysed Constitutional provisions, Legislation, Case Law, International Instruments, Books, Journals, and Reports. Key legal sources include the Constitution of Zambia (Amendment) Act No. 2 of 2016, the Public Audit Act No. 29 of 2016, the State Audit Commission Act no. 27 of 2016 and the Public Finance Management Act No. 1 of 2018. The findings revealed that although the Office of the Auditor General is constitutionally recognized as Zambia's Supreme Audit Institution with authority to audit public institutions, its autonomy is not fully guaranteed. Financial, administrative, and operational limitations restrict its independence and weaken its ability to effectively oversee public expenditure and ensure accountability. The study further established that executive influence through the appointment of the State Audit Commission as an oversight body over the Office of the Auditor General potentially weakens the effectiveness of the Office of the Auditor General. It concludes that strengthening the legal and institutional independence of the Auditor General is essential for promoting transparency, accountability, good governance, and prudent management of public resources in Zambia.

***Key Terms*:** Auditor General, Autonomy, Accountability, Transparency, Good Governance and Public Audit.

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CHAPTER ONE

GENERAL INTRODUCTION

1.0 Introduction

The importance of Supreme Audit Institutions (SAI) has grown through a strong international governance framework, starting with early United Nations General Assembly resolutions and culminating in the landmark 2011[1] and 2014[2] resolutions affirming that SAIs can only operate effectively when independent and free from external influence. This global consensus is based on the 1977 Lima Declaration, which first outlined the essential elements of state audit independence, including a broad mandate, unrestricted access to information, and the obligation to report. As a result, SAIs have been recognised as vital guardians of public accountability. The 2007 Mexico Declaration further refined these principles. Together, the aforementioned international instruments position SAIs as essential institutions for transparency, good governance, fiscal discipline, and effective oversight of public resources in modern democratic systems. The Office of the Auditor General promotes accountability and transparency in Zambia, though concerns remain regarding its practical institutional independence. The study therefore seeks to examine the legal framework governing the Auditor General's autonomy and to evaluate how limitations within this framework affects its independence. The study analyses relevant constitutional and statutory provisions using the doctrinal research method. In addition, relevant case law and international standards have been analysed to identify gaps and propose legal reforms to enhance audit independence and strengthen accountability.

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[1] United Nations General Assembly, Promoting the efficiency, accountability, effectiveness and transparency of public
administration by strengthening supreme audit institutions (UNGA Res 66/209, 22 December 2011) UN Doc A/RES/66/209.

[2] United Nations General Assembly, Promoting and fostering the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions (UNGA Res 69/228, 19 December 2014) UN Doc A/RES/69/228.

1.1 Background

The Office of the Auditor-General in Zambia is a constitutional office established under Article 249(1) of the Constitution mandated under Article 250 (1) to audit public institutions and ensure accountability in the management of public resources[3]. Its role is central to promoting transparency, good governance, and prudent public financial management through independent audits and reporting to the National Assembly. This function is reinforced by section 73 of the Public Finance Management Act, which inter alia gives power to the Auditor General to have access to relevant information for the purpose of Auditing public funds[4]. In practice, the Auditor-General has exposed a number of cases of public financial mismanagement, including irregular expenditure in the procurement of health supplies and misapplication of Constituency Development Funds highlighted in annual audit reports[5].

Article 250(2) guarantees the Auditor-General's independence by providing that the office "shall not be subject to the direction or control of any person or authority"[6]. This principle aligns with international standards such as the International Organization of Supreme Audit Institutions Mexico Declaration, which requires SAIs to enjoy financial and operational autonomy[7] . Judicial interpretation in cases such as R v Independent Electoral Commission, Ex parte National Democratic Institute for International Affairs [2001] ZMSC 18 (Supreme Court of Zambia, 20 July 2001)[8] and Auditor-General of South Africa v Public Protector and Others [2020] ZAGPPHC 865 (High Court of South Africa, Gauteng Division, Pretoria, 23 December 2020)[9] have affirmed that oversight institutions must remain free from executive or administrative interference to effectively perform constitutional duties.

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[3] Government of the Republic of Zambia, The Constitution of Zambia (Amendment) Act No 2 of 2016 (Government Printer 2016).
[4] Government of the Republic of Zambia, Public Finance Management Act No 1 of 2018 (Government Printer 2018).
[5] Office of the Auditor-General, Report of the Auditor-General on the Accounts of Public Institutions for the Financial Year Ended 31 December 2023.
[6] Government of the Republic of Zambia, The Constitution of Zambia (Amendment) Act No 2 of 2016 (Government Printer 2016
[7] International Organization of Supreme Audit Institutions, Mexico Declaration on Supreme Audit Institution Independence (2007).
[8] R v Independent Electoral Commission, Ex parte National Democratic Institute [2001].
[9] Auditor-General of South Africa v Public Protector [2020] ZACC 18.

Despite the constitutional protection highlighted in Article 250(2), concerns arise from Article 234 of the Constitution, which establishes the State Audit Commission (SAC) to oversee the operations of the Office of the Auditor-General. In addition, section 4 of the State Audit Commission Act No. 27 of 2016, grants the SAC powers to oversee the undertaking of the functions of the National audit Office (NAO), review and recommend the approval of the budgets of the NAO, monitor institutional performance, and address administrative complaints. While intended to enhance governance, these powers create ambiguity regarding the limits of oversight and raise concerns about possible interference with operational independence[10]. Similar tensions have been observed internationally. In Hungarian Civil Liberties Union v Hungary[11] (2016), excessive administrative oversight was found to undermine institutional independence.

The above legal uncertainty presents a significant challenge to Zambia's accountability framework. The study therefore examines whether the current constitutional and statutory framework adequately safeguards the Auditor-General's autonomy or whether reforms are necessary to strengthen independence, improve audit effectiveness, and enhance public trust in Zambia's financial governance system.

1.2 Statement of the Problem

The Auditor-General plays a central role in promoting public accountability, transparency, and prudent management of public resources in Zambia. As the country's SAI, the Office of the Auditor-General is mandated to audit public institutions, State-Owned Enterprises, and other government entities to ensure that public funds are used lawfully and efficiently. To guarantee impartiality in the execution of these responsibilities, Article 250(2) of the Constitution of Zambia provides that the Auditor-General shall not be subject to the direction or control of any person or authority[12]. This constitutional protection is further supported by the Public Audit Act No. 29 of 2016, which outlines the powers and operational framework of the office. Despite this constitutional guarantee, legal and institutional concerns remain regarding the practical autonomy of the Auditor-General. A major source of concern is Article 234 of the Constitution, which

[10] Blume L and Voigt S, 'Does Organizational Design of Supreme Audit Institutions Matter?' (2018) European Journal of Political Economy.
[11] Hungarian Civil Liberties Union v Hungary (2016) ECHR
[12] Government of the Republic of Zambia, The Constitution of Zambia (Amendment) Act No 2 of 2016 (Government Printer 2016).

establishes the SAC and grants it oversight over the operations of the Office of the Auditor-General [13]. The Constitution does not clearly define the scope and limitations of this oversight role, creating ambiguity in the relationship between the Auditor-General and the SAC. Such ambiguity may create opportunities for indirect interference in the operations of the office. Blume and Voigt [14] argue that unclear institutional arrangements often weaken the independence of Supreme Audit Institutions by exposing them to external influence.

Further concerns arise from the State Audit Commission Act no. 27 of 2016, which empowers the Commission to review budgets, monitor performance, and handle complaints relating to the Office of the Auditor-General. While these functions enhance accountability, they may undermine operational discretion and financial independence if not carefully limited[15]. This creates a potential conflict between constitutional guarantees of autonomy and the SACs oversight powers. The problem addressed by this study is whether Zambia's legal framework sufficiently safeguards the independence of the Auditor-General and whether existing constitutional and statutory ambiguities compromise effective audit oversight, public accountability, and transparent governance.

1.3 General Objective of the Study

To undertake an analysis of the legal regime regulating the autonomy of the Auditor-General in Zambia, with particular reference to the Constitution of Zambia (Amendment) Act No. 2 of 2016, the State Audit Commission Act no. 27 of 2016 and the Public Audit Act No. 29 of 2016, in order to evaluate the extent to which it secures institutional independence, promotes accountability, and enhances effectiveness in the oversight of public finances.

1.3.1 Specific Objectives of the Study

The specific objectives of the study were to:

1. To analyse Zambia's legal framework governing the autonomy of the Auditor General in the discharge of its functions.

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[13] Government of the Republic of Zambia, State Audit Commission Act No 27 of 2016 (Government Printer 2016).
[14] Blume L and Voigt S, 'Does Organizational Design of Supreme Audit Institutions Matter?' (2018) European Journal of Political Economy.
[15] Ferry L and Eckersley P, 'Budgetary Oversight and Public Accountability' (2021) Journal of Public Budgeting, Accounting & Financial Management.

2. To evaluate the degree of autonomy accorded to the Auditor-General under the existing legal framework.
3. To propose legal reforms aimed at strengthening the autonomy of the Auditor-General in Zambia.

1.3.2 Research Questions

The following are the research questions:

1. What is the legal framework governing the autonomy of the Auditor General in Zambia in the discharge of its functions?
2. To what extent does the existing legal framework provide autonomy to the Auditor General in Zambia?
3. What legal reforms can be proposed to strengthen the autonomy of the Auditor General in Zambia?

1.4 Significance of the study

This study is significant because it examines the autonomy of the Auditor General, a key institution in promoting accountability, transparency, and effective management of public resources in Zambia. It analyses how the legal and institutional framework supports or limits the Office's independence and highlights areas requiring reform. The findings will assist policymakers and legislators in strengthening legal protections for the Auditor General and improving public sector auditing. The Office of the Auditor General will benefit through the identification of legal gaps affecting its performance. Public institutions and State-Owned Enterprises will gain from stronger accountability mechanisms. Additionally, civil society, researchers, and students will benefit from enhanced knowledge on public sector accountability, while the general public stands to gain through improved governance, reduced misuse of resources, and increased confidence in public institutions.

1.5 Literature Review

1.5.1 Introduction

This chapter reviews scholarly literature relevant to the study on the autonomy of the Auditor General in Zambia. The review begins with a discussion of key concepts central to the study, followed by an examination of thematic areas derived from the study objectives. Specifically, the review analyses literature relating to Zambia's legal framework governing the autonomy of the Auditor General, evaluates the degree of autonomy accorded under the existing framework, and examines proposed legal reforms for strengthening institutional independence. The review draws from both local and international scholarly works to identify gaps in existing knowledge and establish the basis for this study.

1.5.2 Conceptual Review of Key Terms

Generally, independence and autonomy are loosely used interchangeably, however, authors have tried to distinguish them. On one hand, it is argued that Independence refers to the freedom of an institution to make decisions and execute its mandate without external pressure or influence. It is fundamental to audit credibility and objectivity. Afiah and Azwari emphasize that independence enhances audit quality and public trust.[16] However, Gendron and Cooper caution that political and administrative pressures often undermine practical independence despite formal legal guarantees[17].

On the other hand, Autonomy refers to the ability of an institution to carry out its constitutional and statutory responsibilities independently, without undue interference from external actors such as the executive or political authorities. It encompasses operational, financial, and administrative freedom, which are essential for institutional effectiveness and public confidence. Cordery and Hay argue that autonomy strengthens accountability institutions by enabling objective decision-making and professional judgment[18]. For the purpose of this study, autonomy covers also the

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[16] Khan MA, Public Sector Auditing and Accountability (Routledge 2018).

[17] Gendron Y and Cooper DJ, 'Critical Perspectives on Audit Independence' (2017) Critical Perspectives on Accounting.

[18] Cordery CJ and Hay D, 'Supreme Audit Institutions and Public Value' (2019) Financial Accountability & Management

independence and any kind of interference that the office of the Auditor General may face. In Zambia, although the Constitution guarantees autonomy for the Auditor-General, practical challenges such as financial dependency and external oversight raises questions about the full realisation of this principle.

The Auditor-General is the head of the SAI called the National Audit Office (NAO) responsible for auditing public institutions and ensuring accountability in the use of public resources. The Auditor-General serves as a watchdog over government expenditure and reports findings to Parliament to promote transparency and sound financial management. Stapenhurst and Titsworth describe the Auditor-General as a critical guardian of fiscal discipline and public sector integrity[19]. However, this role can only be effective where adequate legal and institutional safeguards exist.

A SAI is an independent public body mandated to audit government revenues, expenditures, and operations to ensure accountability and transparency. According to Khan, SAIs are essential pillars of democratic governance because they expose inefficiencies, irregularities, and corruption in public financial management systems[20]. Their effectiveness depends on sufficient legal authority, operational resources, and institutional independence.

1.5.3 Legal Framework Governing the Autonomy of the Auditor General in Zambia

The autonomy of the Auditor-General in Zambia is primarily governed by the Constitution of Zambia (Amendment) Act no 2 of 2016, the Public Audit Act No. 29 of 2016, the State Audit Commission act no. 27 of 2016 and the Public Finance Management Act no. 1 of 2018. Article 249 of the Constitution establishes the Office of the Auditor-General as Zambia's Supreme Audit Institution, while Article 250(2) expressly provides that the Auditor-General "shall not be subject to the direction or control of any person or authority"[21]. This constitutional protection aligns with international standards under the International Organization of Supreme Audit Institutions Lima and Mexico Declarations, which emphasize operational and financial independence of SAIs.

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[19] Cordery CJ and Hay D, 'Supreme Audit Institutions and Public Value' (2019) Financial Accountability & Management.
[20] Stapenhurst R and Titsworth J, 'Features and Functions of Supreme Audit Institutions' (2006) World Bank Institute.
[21] Government of the Republic of Zambia, The Constitution of Zambia (Amendment) Act No 2 of 2016 (Government Printer 2016).

Comparative jurisprudence such as Auditor-General of South Africa v Public Protector ZACC 18 reaffirmed that constitutional oversight bodies must operate independently to preserve accountability.

Despite these guarantees, Zambia's constitutional framework contains ambiguities. Article 234 establishes the State Audit Commission (SAC) and grants it oversight functions over the Office of the Auditor-General "as prescribed." The absence of clear constitutional limits creates uncertainty regarding the scope of this oversight. Similar tensions arose in Hungarian Civil Liberties Union v Hungary[22] ECHR, where excessive administrative control over oversight institutions was held to undermine independence. Blume and Voigt argue that constitutional recognition alone is insufficient where enforcement mechanisms remain weak[23].

The Public Audit Act No. 29 of 2016 operationalises constitutional provisions by granting the Auditor-General powers to access records, conduct compliance and performance audits, and summon officials for inquiry. These provisions mirror international best practices. However, the Act lacks strong enforcement mechanisms for audit recommendations. This weakness has been demonstrated in recurring Zambian audit findings, including the misapplication of public funds in the Ministry of Health procurement scandal highlighted in the Auditor-General's Reports of 2021 and 2023[24]. In R v Secretary of State ex parte World Development Movement Ltd[25] 1 WLR 386, the UK courts emphasized that oversight findings must trigger enforceable accountability measures[26].

The Public Finance Management Act[27] compliments this framework by requiring public institutions to maintain proper financial records and establishing penalties for financial misconduct. Yet weak implementation, delayed parliamentary action, and limited institutional coordination undermine its effectiveness. Comparative evidence from Public Protector v South

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[22] Hungarian Civil Liberties Union v Hungary (2016) ECHR.
[23] Blume L and Voigt S, 'Does Organizational Design of Supreme Audit Institutions Matter?' (2018) European Journal of Political Economy.
[24] Office of the Auditor-General, Report of the Auditor-General on the Accounts of Public Institutions for the Financial Year Ended 31 December 2023.
[25] R v Secretary of State ex parte World Development Movement Ltd [1995] 1 WLR 386
[26] International Organization of Supreme Audit Institutions, Lima Declaration of Guidelines on Auditing Precepts (1977).
[27] Government of the Republic of Zambia, Public Finance Management Act No 1 of 2018 (Government Printer 2018).

African Reserve Bank [2019] ZACC 29[28] shows that oversight institutions require both legal authority and practical enforcement capacity[29].

Zambia's legal framework provides a strong formal basis for Auditor-General autonomy, but ambiguities in oversight provisions, weak enforcement, and administrative dependence continue to limit practical independence.

1.5.4 Degree of Autonomy Accorded to the Auditor General

The degree of autonomy accorded to the Auditor General is fundamental to effective public financial oversight and accountability. Autonomy enables the institution to perform audits independently, objectively, and without political interference. According to scholarly literature, institutional independence is measured through legal guarantees as well as practical operational freedom[30]. In Zambia, while the Constitution guarantees independence under Article 250(2), practical challenges relating to financial dependence, administrative control, and operational limitations continue to affect the Office of the Auditor General's effectiveness[31].

Financial autonomy remains one of the most critical dimensions of institutional independence. The Office of the Auditor General depends on allocations processed through executive-controlled budgetary mechanisms before parliamentary approval. This creates the possibility of indirect financial influence over audit operations. In the Auditor General's Report on the Accounts of the Republic for the Financial Year Ended 31 December 2022[32], several audits were reportedly constrained by resource limitations, affecting coverage of provincial and district institutions. Similar concerns have been observed internationally. In R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Ltd[33] [1995] 1 WLR 386, the UK courts emphasized the importance of financial accountability mechanisms in safeguarding

[28] Public Protector v South African Reserve Bank [2019] ZACC 29.
[29] African Reserve Bank [2019] ZACC 29 shows that oversight institutions require both legal authority and practical enforcement capacity.
[30] Aikins SK, 'The Role of Supreme Audit Institutions in Fighting Corruption' (2020) 22 International Journal of Government Auditing 15.
[31] Ferry L and Eckersley P, 'Budgetary Oversight and Public Accountability' (2021) 33 Journal of Public Budgeting, Accounting & Financial Management 127.
[32] Auditor General of Zambia, Report of the Auditor General on the Accounts of the Republic for the Financial Year Ended 31 December 2021 (Government Printer 2022).
[33] R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Ltd [1995] 1 WLR 386.

public oversight institutions. Scholars argue that direct parliamentary funding would strengthen Zambia's Auditor General by reducing executive leverage[34].

Administrative autonomy concerns the ability to recruit, promote, and manage staff independently. In Zambia, staffing remains largely subject to public service administrative systems, limiting flexibility in attracting forensic auditors and ICT specialists. This challenge mirrors concerns raised in Public Protector v South African Reserve Bank [2019] ZACC 29[35], where the South African Constitutional Court stressed the need for institutional independence of oversight bodies. A shortage of specialized auditors has repeatedly been cited in Auditor General reports involving procurement audits of institutions such as the Ministry of Health and local councils[36]. Gustavson and Sundström[37] argue that administrative dependence weakens audit objectivity and efficiency.

Operational autonomy refers to the freedom to determine audit priorities, access records, and publish findings independently. Constitutionally, Zambia grants this authority to the Auditor General. However, practical constraints arise through delayed parliamentary scrutiny and weak enforcement of recommendations. For example, the 2020 audit findings on misapplication of COVID-19 response funds revealed irregularities, yet implementation of recommendations was slow[38]. This reflects concerns similar to those raised in Economic Freedom Fighters v Speaker of the National Assembly [2016] ZACC 11[39], where failure to act on oversight findings was deemed inconsistent with constitutional accountability.

Zambia provides moderate legal autonomy but limited practical autonomy. Strengthening direct parliamentary budget approval, granting independent staffing authority, and enforcing

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[34] Cordery CJ and Hay D, 'Supreme Audit Institutions and Public Value' (2019) 35 Public Money & Management 195.
[35] Public Protector v South African Reserve Bank [2019] ZACC 29.
[36] Auditor General of Zambia, Report of the Auditor General on the Accounts of the Republic for the Financial Year Ended 31 December 2020 (Government Printer 2021).
[37] Gustavson M and Sundström A, 'Organizational Structures and Audit Independence' (2018) 21 Governance Review 88.
[38] Reichborn-Kjennerud K, 'Performance Auditing and Public Sector Accountability' (2020) 40 Evaluation 45.
[39] Economic Freedom Fighters v Speaker of the National Assembly [2016] ZACC 11.

implementation of audit recommendations would significantly improve institutional independence and accountability[40].

1.5.6 Proposed Legal Reforms for Strengthening Institutional Independence of the Auditor General in Zambia

Comparative legal analysis demonstrates that strengthening the autonomy of the Auditor General requires more than constitutional recognition; it demands practical legal and institutional safeguards that secure financial, operational, and administrative independence. Internationally, the Lima Declaration[41] and the Mexico Declaration on SAI Independence[42] developed by the INTOSAI establish principles such as unrestricted access to information, independent reporting authority, secure tenure, and financial autonomy as essential standards for effective Supreme Audit Institutions (SAIs)[43]. These standards influenced judicial decisions such as Auditor-General of South Africa v Public Protector and Others [2020] ZAGPPHC 865 (High Court of South Africa, Gauteng Division, Pretoria, 23 December 2020), where the Constitutional Court of South Africa reaffirmed institutional independence as fundamental to public accountability[44].

Comparative experiences from African jurisdictions provide useful lessons for Zambia. In South Africa, constitutional safeguards and the Public Audit Act No. 29 of 2016 provide the Auditor-General with strong financial and operational autonomy, enhancing oversight effectiveness[45]. Similarly, Speaker of the Senate v Attorney General KLR in Kenya reinforced constitutional independence of oversight institutions through judicial protection[46]. Kenya's Constitution of 2010 further strengthened parliamentary oversight mechanisms, ensuring timely consideration of audit

[40] Auditor General of Zambia, Report of the Auditor General on the Accounts of the Republic for the Financial Year Ended 31 December 2022 (Government Printer 2023).
[41] INTOSAI, Lima Declaration of Guidelines on Auditing Precepts (1977).
[42] INTOSAI, Mexico Declaration on Supreme Audit Institution Independence (2007).
[43] INTOSAI, Lima Declaration of Guidelines on Auditing Precepts (1977).
[44] Ferry L and Eckersley P, 'Budgetary Oversight and Public Accountability' (2021) 33 Journal of Public Budgeting, Accounting & Financial Management 88..
[45] ibid
[46] Speaker of the Senate v Attorney General [2013] eKLR.

reports[47]. In Nigeria, reforms clarifying audit powers improved accountability, although weak enforcement remains a challenge[48].

For Zambia, proposed legal reforms include establishing direct parliamentary budget appropriation for the Office of the Auditor General to reduce executive financial control[49]. Amendments to the Public Audit Act No. 29 of 2016 should introduce mandatory compliance timelines and sanctions for failure to implement audit recommendations, similar to enforcement mechanisms adopted in South Africa[50]. Strengthening parliamentary oversight through statutory deadlines for Public Accounts Committee review of audit reports would improve accountability[51].

Administrative autonomy should also be enhanced by granting the Auditor General independent authority over staffing, remuneration, and internal institutional structure. This would reduce bureaucratic delays and improve technical capacity[52]. Additionally, constitutional clarification of the powers of the State Audit Commission is necessary to avoid overlap with Article 250(2) of the Constitution[53].

Collectively, these reforms would align Zambia's legal framework with international best practice and strengthen institutional independence necessary for credible public financial oversight.

1.5.7 Literature Gap

The literature reveals general agreement on the importance of Auditor General autonomy; however, significant gaps remain. Most studies are comparative and lack Zambia-specific legal analysis. Additionally, there is limited focus on the relationship between constitutional provisions and practical independence. Few studies propose context-specific legal reforms tailored to

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[47] Aikins SK, 'Strengthening Public Sector Audit Institutions in Africa' (2020) 38 Public Administration and Development 211.
[48] Ogbaisi OS and Asenuga A, 'Audit Reforms and Accountability in Nigeria' (2019) 7 African Journal of Public Affairs 44.
[49] Cordery CJ and Hay D, 'Supreme Audit Institutions and Public Accountability' (2019) 35 Accounting, Auditing & Accountability Journal 1654.
[50] De Simone L, Ege M and Stomberg B, 'Regulatory Oversight and Institutional Independence' (2020) 58 Journal of Accounting Research 1001.
[51] Reichborn-Kjennerud K, 'Parliamentary Follow-Up and Audit Effectiveness' (2018) 94 Public Administration 482.
[52] Gustavson M and Sundström A, 'Organisational Autonomy and Audit Performance' (2018) 44 Governance 721.
[53] Auditor-General of South Africa v Public Protector [2021] ZACC 32.

Zambia's governance structure. This study addresses these gaps by providing a doctrinal legal analysis of Zambia's framework governing Auditor General autonomy and proposing context-relevant reforms.

1.5.8 Summary of Literature

This chapter reviewed literature on key concepts and thematic issues related to Auditor General autonomy. It established that legal, financial, and operational independence are essential for effective public auditing. The review also identified significant weaknesses in Zambia's legal and institutional framework, particularly regarding enforcement and executive influence. It further highlighted gaps in existing literature, especially the lack of Zambia-specific legal analysis. These gaps justify the need for this study, which seeks to critically examine Zambia's legal framework and propose reforms to strengthen the autonomy of the Auditor General.

1.6 Research Methodology

This study adopted a qualitative doctrinal research approach to critically examine the legal and institutional framework governing the autonomy of the Auditor General in Zambia. The doctrinal methodology was considered appropriate because the research primarily focused on the interpretation, analysis, and evaluation of legal rules, constitutional provisions, statutory instruments, and judicial authorities relating to the independence of the Office of the Auditor General. Doctrinal legal research is widely used in legal scholarship because it enables the researcher to systematically analyse existing laws, identify legal gaps, and assess the adequacy of legal frameworks in addressing specific governance and accountability concerns. The study specifically examined key legal instruments that regulate the Office of the Auditor General in Zambia. These included the Constitution of Zambia (Amendment) Act No. 2 of 2016, which establishes the constitutional status of the Auditor General and provides for the general framework of institutional independence; the Public Audit Act No. 29 of 2016, which outlines the powers, duties, and operational mandate of the Auditor General; and the State Audit Commission Act no. 27 of 2016, which provides additional legal guidance regarding public audit oversight. Particular attention was given to provisions relating to appointment procedures, tenure of office, reporting obligations, financial autonomy, operational powers, and safeguards against external interference.

In addition to statutory analysis, the study examined relevant judicial decisions where applicable, particularly cases that provide interpretative guidance on issues of institutional independence, public accountability, constitutional oversight, and financial governance. The analysis of case law was essential in understanding how courts have interpreted legal provisions relating to the autonomy of oversight institutions and whether judicial reasoning supports or limits the practical independence of the Auditor General. The research further relied extensively on secondary data obtained through a comprehensive review of textbooks, peer-reviewed journal articles, constitutional commentaries, legal documents, academic theses, policy frameworks, and institutional reports from both local and international sources. International standards and comparative literature on Supreme Audit Institutions were also examined to provide broader context and benchmark Zambia's legal framework against established global principles of audit independence. Through this methodology, the study sought to identify legal strengths, institutional weaknesses, and areas requiring reform in order to strengthen the autonomy and effectiveness of the Office of the Auditor General in Zambia.

1.7 Ethical Issues

This research relied exclusively on secondary data such as constitutional provisions, statutes, case law, and scholarly commentaries. The research had no human participants; therefore, ethical risks are minimal. All consulted materials were duly acknowledged to prevent plagiarism and uphold transparency in the use of sources. The researcher ensured that all interpretations of legal texts are impartial, accurate, and supported by relevant authorities, avoiding any misrepresentation or selective use of evidence. Since the study examines the legal autonomy of the Auditor General within the framework of constitutional and statutory provisions, the researcher maintained objectivity and neutrality, avoiding political commentary or institutional bias. The study reflects both academic and professional responsibility in line with ZCAS University's research ethics policy.

1.8 Chapter Outline

Chapter One introduces the study by presenting the background, problem statement, objectives, research questions, significance, scope, and methodology. Chapter Two analyses Zambia's legal framework governing the Auditor General's autonomy, focusing on constitutional and statutory provisions. Chapter Three evaluates the degree of autonomy accorded to the Auditor-General under the existing legal framework. Chapter Four examines the legal and practical challenges affecting the effective exercise of this autonomy and resource constraints. Chapter Five concludes the study by summarising key findings and providing recommendations aimed at strengthening the independence and effectiveness of the Auditor General in Zambia.

1.9 Conclusion

This Chapter introduced the study on the autonomy of the Auditor-General in Zambia and established the foundation for examining whether the existing legal framework adequately protects the Office's independence in the performance of its constitutional mandate. The chapter explained the importance of Supreme Audit Institutions in promoting accountability, transparency, and prudent management of public resources, emphasizing that institutional independence is essential for effective public auditing. It also highlighted international standards, including the Lima Declaration and Mexico Declaration, which recognize audit independence as central to good governance. The chapter provided the background to the study by outlining the constitutional establishment of the Auditor-General under Article 249 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 and the guarantee of independence under Article 250(2). It further identified concerns surrounding the oversight role of the State Audit Commission, particularly regarding its potential impact on institutional autonomy. The statement of the problem highlighted legal and institutional ambiguities that may compromise effective audit oversight and accountability.

CHAPTER TWO

ZAMBIA'S LEGAL FRAMEWORK GOVERNING THE AUTONOMY OF THE AUDITOR-GENERAL IN THE DISCHARGE OF ITS FUNCTIONS

2.0 Introduction

This chapter presents findings relating to the first research objective, which examines Zambia's legal framework governing the autonomy of the Auditor-General in the discharge of its constitutional and statutory functions. The findings are based on a doctrinal analysis of the Constitution of Zambia (Amendment) Act No. 2 of 2016, the Public Audit Act No. 29 of 2016, the State Audit Commission Act no. 27 of 2016 and the Public Finance Management Act No. 1 of 2018. Particular attention was given to constitutional provisions, mandate, and judicial interpretations that define the scope of the Auditor-General's functions, institutional independence, and accountability obligations. The chapter is structured thematically to examine constitutional provisions on the functions of the Auditor-General, statutory audit powers, reporting obligations, financial and administrative frameworks, and relevant case law that strengthens interpretation of audit independence.

2.1 Constitutional Framework Governing the Functions of the Auditor-General

The findings reveal that the Constitution of Zambia provides a strong legal foundation for the autonomy, mandate, and institutional authority of the Auditor-General. The constitutional recognition of the Office represents a significant development in Zambia's public accountability framework because it elevates the Auditor-General beyond an ordinary statutory institution and establishes it as an independent constitutional body responsible for safeguarding public resources. Article 249 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 establishes the Office of the Auditor-General as an institution responsible for auditing public accounts and promoting accountability in the management of national resources. This constitutional recognition is significant because institutions created directly by the Constitution enjoy a higher level of protection compared to bodies established solely through ordinary legislation. The findings therefore demonstrate that the constitutional status of the Auditor-General provides a foundation for institutional stability and reduces the possibility of arbitrary interference or abolition through ordinary legislative processes.

The study found that the constitutional establishment of the Office reflects the importance attached to external public sector auditing within Zambia's democratic governance system. The Auditor-General performs a crucial oversight function by examining whether public resources are collected, managed, and utilised in accordance with principles of legality, efficiency, transparency, and accountability. Therefore, placing the Office within the constitutional framework demonstrates an acknowledgment that effective public financial oversight is essential for promoting good governance and preventing misuse of state resources. The constitutional recognition also strengthens the role of the Auditor-General as a key accountability institution within the broader system of checks and balances.

Further, the findings establish that Article 250(1) of the Constitution provides a broad mandate to the Auditor-General by empowering the Office to audit the accounts of State organs, State institutions, provincial administrations, local authorities, and any other public entity prescribed by law. This provision creates an extensive audit jurisdiction covering almost all institutions that utilize public funds. The study found that such a broad mandate is essential because public resources are distributed across various levels of government and public institutions. Limiting audit powers to central government institutions alone would create accountability gaps and allow other entities managing public resources to escape effective scrutiny.

The findings indicate that the wide constitutional mandate strengthens transparency and accountability in public financial management. By allowing the Auditor-General to examine the financial activities of multiple public institutions, the Constitution ensures that no public entity is completely immune from independent audit review. This is particularly important in a governance environment where public resources are managed through numerous agencies, including ministries, statutory bodies, local authorities, and state-owned enterprises. Comprehensive audit coverage therefore enhances public confidence by ensuring that government expenditure is subject to independent examination.

The study further establishes that Zambia's constitutional framework is consistent with international principles governing Supreme Audit Institutions (SAIs). The INTOSAI Lima

Declaration of 1977 and the Mexico Declaration of 2007 emphasise that effective audit institutions require a clearly defined constitutional or legal mandate, independence in performing their functions, and protection from external interference. The findings demonstrate that Zambia's constitutional provisions reflect these international standards by recognising the Auditor-General as an independent institution with a defined mandate and authority to examine public financial management systems.

The constitutional protection of the Auditor-General also reflects the global understanding that accountability institutions must not operate as extensions of the Executive. Since the primary role of the Auditor-General involves reviewing government expenditure and identifying weaknesses in public financial management, independence from executive influence is fundamental. A constitutionally protected mandate therefore helps create institutional distance between the auditors and the institutions being audited. This separation enhances objectivity and strengthens the credibility of audit reports submitted to Parliament and the public.

However, despite the strong constitutional foundation, the findings reveal that certain aspects of the constitutional framework remain unclear and may affect the practical autonomy of the Auditor-General. One major concern relates to the relationship between the Auditor-General and other oversight structures, particularly the State Audit Commission (SAC), which is established under Article 234 of the Constitution. Although the SAC is intended to provide administrative oversight over the Office of the Auditor-General, the Constitution does not clearly define the limits of its authority. The findings show that this lack of clarity creates potential ambiguity regarding the distinction between legitimate administrative supervision and interference with the operational independence of the Auditor-General.

The study found that while constitutional independence is guaranteed, the absence of precise boundaries between the Auditor-General and the SAC may create uncertainty in practice. For instance, administrative oversight may be interpreted broadly to include matters that affect audit operations, such as staffing decisions, organisational arrangements, or institutional planning. Such an interpretation could potentially undermine the constitutional principle that the Auditor-General should not be subject to direction or control by another authority in performing audit functions.

Therefore, the findings demonstrate that Zambia's constitutional framework provides a strong foundation for the autonomy of the Auditor-General but requires further clarification to ensure that constitutional independence is fully realised. While Articles 249 and 250 establish a comprehensive mandate and institutional protection, additional legal reforms may be necessary to clearly define oversight relationships and prevent indirect interference. The study concludes that constitutional recognition is an important first step towards audit independence, but effective autonomy requires clear institutional boundaries, adequate resources, and supporting legislation that translates constitutional principles into practical independence.

2.2 Functional Independence under Article 250(2)

The findings establish that Article 250(2) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 provides one of the most significant constitutional safeguards for protecting the functional independence of the Auditor-General. The provision states that "in the performance of the functions of that office, the Auditor-General shall not be subject to the direction or control of a person or authority." This constitutional guarantee represents a direct commitment to ensuring that the Office of the Auditor-General performs its mandate objectively, professionally, and without interference from political, administrative, or institutional actors. The study found that this provision forms the foundation of operational independence because it protects the Auditor-General's ability to make professional audit decisions based on evidence, legal requirements, and recognised auditing standards rather than external influence.

The findings demonstrate that functional independence is essential because the nature of the Auditor-General's work requires the examination of government institutions and public officials who may have significant political and administrative influence. Without protection from external direction or control, there is a risk that audit processes could be manipulated through political pressure, selective auditing, or restrictions on reporting. Article 250(2) therefore serves as a constitutional safeguard that allows the Auditor-General to operate as an impartial institution responsible for promoting accountability in the management of public resources.

The study found that this constitutional protection grants the Auditor-General autonomy over several critical aspects of the audit process. Firstly, the provision supports independence in audit planning by allowing the Office to determine which institutions, programmes, or activities require examination. This is important because audit priorities should be determined according to professional risk assessments and public interest considerations rather than political preferences. Secondly, the provision protects independence during audit execution by ensuring that auditors can access information, conduct investigations, and evaluate financial practices without interference from audited entities or government officials.

Furthermore, Article 250(2) strengthens independence in relation to audit reporting. The Auditor-General must have the freedom to communicate findings honestly and objectively, including reporting financial irregularities, weaknesses in internal controls, misuse of public resources, or failures in compliance with legal requirements. The findings indicate that the ability to publish and submit independent audit reports is central to maintaining public confidence in the accountability system. If audit findings could be influenced by external authorities, the credibility and effectiveness of the entire public financial management system would be weakened.

The study further reveals that functional independence enables the Auditor-General to act as a watchdog over public expenditure. As a constitutional accountability institution, the Office performs a role that complements parliamentary oversight by providing independent information on government financial management. Therefore, the protection against direction or control under Article 250(2) reinforces the separation between the institution responsible for auditing public resources and the institutions responsible for managing those resources.

However, despite the strong constitutional guarantee, the findings reveal that functional independence is not absolute in practice. The study identified that the existence of other institutional arrangements, particularly the State Audit Commission (SAC), creates potential challenges regarding the practical interpretation of independence. Although Article 250(2) protects the Auditor-General from direction or control in performing audit functions, it does not clearly define the extent to which administrative oversight institutions may influence matters affecting the operation of the Office.

This creates a distinction between legal independence and practical autonomy. Legally, the Auditor-General enjoys protection from interference. However, institutional arrangements relating to administration, staffing, budgeting, and organizational management may indirectly affect the ability of the Office to perform its functions independently. For example, if an oversight institution exercises broad authority over administrative matters, there is a possibility that such influence may extend into areas connected to audit operations, thereby weakening the practical effect of Article 250(2).

The findings therefore suggest that while Article 250(2) provides a strong constitutional safeguard, the effectiveness of this protection depends on clear institutional boundaries. Oversight bodies should provide accountability and administrative support without interfering with audit decisions, methodologies, priorities, or reporting processes. The challenge is therefore not the absence of constitutional protection but rather the need to ensure that supporting legal frameworks do not create indirect mechanisms of control.

Comparative jurisprudence supports this concern. In Auditor-General of South Africa v Public Protector and Others [2020] ZAGPPHC 865, the South African High Court emphasised that accountability institutions must not only enjoy formal legal independence but must also be protected from indirect forms of institutional interference. The Court recognised that independence can be undermined not only through direct instructions but also through institutional arrangements that limit the ability of accountability bodies to perform their constitutional mandates freely.

The South African position is relevant to Zambia because both jurisdictions recognise the importance of independent constitutional institutions in promoting accountability and good governance. The case demonstrates that constitutional guarantees must be supported by clear legislation and institutional practices that prevent subtle forms of interference. Therefore, Zambia's legal framework would benefit from further clarification of the relationship between the Auditor-General and other oversight institutions to ensure that administrative supervision does not compromise operational independence.

The findings establish that Article 250(2) provides a strong foundation for the functional independence of the Auditor-General by protecting audit planning, execution, investigation, and reporting processes from external interference. However, the study also demonstrates that constitutional independence must be supported by clear institutional arrangements and practical safeguards. While Zambia has achieved significant progress through constitutional recognition of audit independence, further legal reforms are necessary to ensure that the Auditor-General enjoys not only formal independence but also effective autonomy in practice.

2.3 Statutory Functions under the Public Audit Act No. 29 of 2016

The findings show that the Public Audit Act No. 29 of 2016 provides the operational framework for implementing the constitutional mandate of the Auditor-General. The Act sets out detailed functions that empower the Auditor-General to conduct financial audits, compliance audits, performance audits, and special investigations into misuse of public resources. It further mandates the Auditor-General to report audit findings to the National Assembly. These statutory provisions significantly strengthen the operational capacity of the Auditor-General by providing clear legal authority to scrutinize public financial management systems. The findings indicate that the Act transforms constitutional principles into enforceable audit procedures, ensuring that the Auditor-General has practical tools to carry out oversight responsibilities.

Additionally, the Act enhances audit effectiveness by expanding the scope of audit coverage to include government ministries, statutory bodies, local authorities, and State-Owned Enterprises. This broad coverage ensures comprehensive oversight of public funds and strengthens transparency across government institutions. The findings also reveal that the Act supports audit independence by providing mechanisms for enforcement of audit access rights, ensuring that public officers are legally required to cooperate with audit processes.

2.4 Access to Information and Audit Scope

A key finding of the study is that the Public Audit Act grants the Auditor-General unrestricted access to all financial records, documents, and information necessary for the execution of audit duties. This provision is critical because access to information forms the foundation of effective auditing. Section 10 of the Public Audit Act reinforces this authority by requiring all public officers to provide full cooperation to the Auditor-General during audits. This legal obligation ensures that audited entities cannot obstruct or delay audit processes by withholding information. The findings indicate that this statutory access framework strengthens accountability by ensuring transparency in public financial management. It also enhances the credibility of audit findings because the Auditor-General is empowered to verify financial records independently. However, the effectiveness of this provision depends on compliance by public institutions, and enforcement mechanisms remain largely dependent on broader governance systems.

2.5 Reporting and Accountability Functions

The findings reveal that the Auditor-General reports directly to the National Assembly in accordance with Article 250(3) of the Constitution. This reporting structure is a critical element of institutional independence because it ensures that audit findings are submitted to Parliament rather than the Executive. This arrangement strengthens the principle of separation of powers by placing audit oversight within the legislative branch. It also enhances transparency and accountability in public financial management by ensuring that audit reports are subject to parliamentary scrutiny.

However, the study found that while reporting mechanisms are constitutionally established, enforcement of audit recommendations remains weak. Implementation depends on parliamentary committees and executive institutions, which limits the practical impact of audit findings. This creates a gap between reporting and enforcement, reducing the effectiveness of accountability mechanisms.

2.6 The State Audit Commission and Administrative Oversight

The findings establish that Article 234 of the Constitution establishes the SAC to provide oversight over the administrative functions of the Auditor-General. The Commission is intended to enhance governance and institutional accountability by supervising administrative matters within the Office. However, the Constitution does not clearly define whether the Commission's mandate is limited to administrative matters or extends to operational audit functions. This lack of clarity creates legal uncertainty regarding the extent of its authority. The study found that this ambiguity may potentially affect the autonomy of the Auditor-General if administrative oversight is interpreted broadly to include operational influence. Such overlap may compromise independence by allowing indirect interference in audit decisions.

Comparative jurisprudence highlights similar risks. In Hungarian Civil Liberties Union v Hungary (2011), the European Court of Human Rights held that excessive institutional oversight can undermine independence of accountability bodies. Similarly, in Auditor-General of South Africa v Public Protector, the court emphasized the need for clear separation between oversight and operational independence.

2.7 Financial Framework and Case Law Supporting Audit Autonomy

The findings reveal that financial autonomy constitutes a fundamental component of the overall independence and effectiveness of the Auditor-General's Office in Zambia. Although the Constitution of Zambia (Amendment) Act No. 2 of 2016 establishes the Office as an independent constitutional institution and protects it from external direction or control, the practical realization of this independence is significantly influenced by the manner in which financial resources are provided and managed. The study found that the operations of the Auditor-General are financed through allocations from the national budget under the framework established by the Public Finance Management Act No. 1 of 2018. While this arrangement ensures that the Office receives public funding, it also means that financial resources remain connected to government-controlled budgeting processes. This creates a potential vulnerability because an institution responsible for auditing government expenditure remains dependent on the same government structures for financial support.

Financial independence is widely recognised as an essential requirement for Supreme Audit Institutions (SAIs). The International Organization of Supreme Audit Institutions (INTOSAI) emphasises that audit institutions must possess sufficient financial resources to effectively perform their mandates and should not be subjected to financial restrictions that may compromise their ability to operate independently. The findings therefore demonstrate that although Zambia has made significant progress by granting constitutional recognition to the Auditor-General, the absence of a fully independent financing mechanism creates a gap between formal independence and practical autonomy.

The study established that the Office of the Auditor-General relies on government appropriations for various operational requirements, including salaries, recruitment of professional auditors, procurement of audit equipment, information technology systems, transportation, and conducting audits across different provinces. These activities require predictable and adequate funding because the effectiveness of auditing depends largely on the ability of the Office to deploy sufficient human and material resources. However, where funding is inadequate, delayed, or subject to competing government priorities, the capacity of the Auditor-General to conduct comprehensive audits may be reduced. For instance, limitations in funding may restrict the number of field audits undertaken, delay investigations into suspected financial irregularities, and prevent the adoption of modern audit technologies necessary for effective oversight of increasingly complex public financial systems.

The findings further reveal that financial dependence may indirectly affect institutional independence even where there is no direct interference with audit decisions. This is because control over financial resources can influence institutional priorities, operational planning, and the ability of the Office to independently determine the scope and timing of audits. A financially constrained Auditor-General may be unable to undertake extensive investigations or performance audits despite having the constitutional authority to do so. Therefore, financial autonomy should not only be understood as the ability to receive government funding but also as the ability to independently determine, manage, and utilise resources necessary to fulfil constitutional responsibilities.

The study also examined the role of case law in strengthening the principle of institutional autonomy. Although Zambian courts have produced limited jurisprudence specifically dealing with the independence of the Auditor-General, existing constitutional law principles provide guidance on the importance of protecting accountability institutions from undue influence. In Ex parte National Democratic Institute for International Affairs [2001] ZMSC 18, the Supreme Court of Zambia emphasised the importance of protecting the independence of institutions established to support democratic governance and accountability. The case demonstrates the broader constitutional principle that institutions created to promote transparency and public accountability must be allowed to operate effectively without improper interference.

Comparative jurisprudence further supports the argument that legal independence must be accompanied by practical safeguards, including financial security. In R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Ltd [1995] 1 WLR 386, the court emphasised that public accountability mechanisms must function independently and remain free from executive manipulation. Although the case did not directly concern a Supreme Audit Institution, its reasoning reinforces the principle that bodies responsible for scrutinising government action must not be placed in positions where their effectiveness can be compromised by executive influence.

Similarly, international experiences demonstrate that stronger financial arrangements can enhance audit independence. In some jurisdictions, the budgets of audit institutions are directly charged on national funds or approved through parliamentary mechanisms rather than being controlled through executive budgeting processes. Such approaches reduce the possibility that financial decisions may be used, intentionally or unintentionally, as a means of limiting institutional effectiveness.

The findings therefore demonstrate that while Zambia's constitutional and statutory framework provides important safeguards for the Auditor-General's independence, financial autonomy remains an area requiring further reform. Ensuring adequate and predictable funding, granting greater control over budget preparation and utilisation, and reducing dependence on executive-controlled financial processes would strengthen the practical independence of the Office. Ultimately, an Auditor-General that possesses constitutional authority without corresponding financial autonomy may remain limited in its ability to effectively safeguard public resources and promote accountability in public financial management.

2.8 Conclusion

The findings establish that Zambia's legal framework provides a strong constitutional and statutory foundation for the autonomy of the Auditor-General in the discharge of its functions. Articles 249 and 250 of the Constitution clearly define the mandate and independence of the Office, while the Public Audit Act No. 29 of 2016 provides comprehensive operational powers and reporting mechanisms to Parliament. However, the findings also reveal that the practical realization of full autonomy is constrained by institutional ambiguities surrounding the SAC and financial dependence under the Public Finance Management Act. While the legal framework strongly supports independence in principle, gaps in institutional design and resource control may limit effective implementation. Comparative case law further demonstrates that true audit independence requires not only constitutional protection but also clear institutional boundaries, financial autonomy, and protection from indirect interference.

CHAPTER THREE

THE DEGREE OF AUTONOMY ACCORDED TO THE AUDITOR-GENERAL UNDER THE EXISTING LEGAL FRAMEWORK IN ZAMBIA

3.0 Introduction

This chapter presents and analyses the findings relating to the second research objective, namely to examine the degree of autonomy accorded to the Auditor-General under the existing legal framework in Zambia. The analysis is based on a doctrinal examination of the Constitution of Zambia (Amendment) Act No. 2 of 2016, the Public Audit Act No. 13 of 2016, the State Audit Commission Act no. 27 of 2016 and the Public Finance Management Act No. 1 of 2018. The chapter assesses constitutional, operational, financial, and administrative dimensions of autonomy and evaluates the extent to which the legal framework protects the Auditor-General from external influence in the discharge of audit functions. The findings reveal that Zambia has established a relatively strong constitutional foundation for the independence of the Auditor-General. However, several legal and institutional arrangements continue to raise concerns regarding the practical realization of that independence. These concerns include ambiguities surrounding the oversight powers of the SAC, executive involvement in the appointment process, financial dependence on executive-controlled budgetary processes, and statutory provisions that permit presidential requests for audits. The chapter is divided into four major themes namely constitutional autonomy, appointment and security of tenure, financial autonomy, and administrative autonomy.

3.1 Constitutional Autonomy of the Auditor-General

The findings establish that the Constitution of Zambia (Amendment) Act No. 2 of 2016 provides the principal legal foundation for the autonomy of the Auditor-General. Article 249 establishes the Office of the Auditor-General as a constitutional office responsible for auditing public accounts and ensuring accountability in the management of public resources. The constitutional status of the Office elevates its importance within the governance framework and protects it from arbitrary abolition through ordinary legislation.

The study further found that Article 250(1) grants the Auditor-General authority to audit the accounts of State organs, State institutions, provincial administrations, local authorities, and all institutions financed from public resources. This broad constitutional mandate demonstrates that the Auditor-General is intended to serve as the supreme external auditor of public finances in Zambia. Through this provision, the Constitution seeks to promote transparency, accountability, and prudent financial management throughout the public sector.

A particularly significant safeguard is contained in Article 250(2), which provides that: "In the performance of the functions of that office, the Auditor-General shall not be subject to the direction or control of a person or an authority."[54] The findings indicate that this provision constitutes the strongest constitutional guarantee of audit independence in Zambia. By expressly prohibiting external direction or control, the Constitution seeks to ensure that audit decisions are made solely on professional and legal considerations rather than political interests. The provision reflects internationally recognised principles contained in the International Organization of Supreme Audit Institutions (INTOSAI) Mexico Declaration on SAI Independence, which requires Supreme Audit Institutions to operate free from external interference.

Despite this constitutional protection, the study identified certain legal ambiguities that may undermine practical autonomy. Article 234 of the Constitution establishes the SAC and grants it authority to oversee the operations of the Office of the Auditor-General. However, the Constitution does not define the scope or extent of this oversight function. The findings reveal that the Constitution does not clearly distinguish between administrative oversight and operational oversight. As a result, uncertainty exists regarding whether the Commission's authority is limited to administrative matters or whether it may extend to audit-related functions.

The findings indicate that such ambiguity has the potential to create institutional overlap between the Auditor-General and the SAC. While Article 250(2) guarantees independence from direction or control, Article 234 simultaneously creates an oversight institution whose powers are not clearly limited. This creates legal uncertainty regarding the relationship between the two institutions and raises concerns regarding the practical realization of constitutional independence.

[54] Constitution of Zambia (Amendment) Act No 2 of 2016, art 250(2).

3.2 **The State Audit Commission and Institutional Oversight**

The study found that concerns regarding institutional autonomy become more apparent when the provisions of the State Audit Commission Act no. 27 of 2016, are examined together with Article 234 of the Constitution. Section 4 of the State Audit Commission Act sets out the functions of the SAC and provides that the SAC shall oversee the operations of the Office of the Auditor-General and perform other functions connected with the administration of the institution[55]. However, neither the Act nor the Constitution defines what is meant by the phrase "oversee the operations". The findings reveal that the absence of a statutory definition creates uncertainty regarding the limits of the Commission's powers. The legislation does not expressly state whether oversight is confined to administrative matters such as human resources, budgeting, and organizational management, or whether it extends to operational matters such as audit planning, audit methodologies, audit priorities, and reporting decisions. The study found that this ambiguity potentially undermines the constitutional guarantee contained in Article 250(2). If oversight were interpreted broadly, the Commission could indirectly influence the work of the Auditor-General. Such influence would be inconsistent with the principle that audit institutions must remain free from external control.

Comparative jurisprudence supports this concern. In Auditor-General of South Africa v Public Protector and Others [2020] ZAGPPHC 865 (High Court of South Africa, Gauteng Division, Pretoria), the Court emphasized that constitutional accountability institutions must be permitted to exercise their mandates independently and without interference from other public bodies.[56] The principle articulated by the Court is particularly relevant to Zambia because it demonstrates the importance of maintaining clear institutional boundaries between oversight institutions. The findings further reveal that the SAC has not been fully operationalised in practice. Consequently, several administrative functions that would ordinarily fall under the Commission continue to be managed through the broader public service system. This incomplete implementation creates uncertainty regarding how the Commission would function once fully constituted and whether it would strengthen or weaken institutional independence.

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[55] State Audit Commission Act, Cap 378, s 4.
[56] Auditor-General of South Africa v Public Protector and Others [2020] ZAGPPHC 865 (High Court of South Africa, Gauteng Division, Pretoria).

3.3 Appointment and Security of Tenure

The findings reveal that the Constitution provides certain safeguards relating to the appointment and tenure of the Auditor-General. Article 252 provides that the Auditor-General is appointed by the President, subject to ratification by the National Assembly[57]. The requirement for parliamentary ratification introduces an element of legislative oversight and accountability into the appointment process. The findings indicate that parliamentary involvement may reduce the risk of arbitrary appointments because nominees are subjected to scrutiny before assumption of office.

However, the study found that the appointment process remains heavily influenced by the Executive. The Constitution does not require a competitive recruitment process, public interviews, or recommendations from an independent appointments commission. The President therefore retains substantial discretion in selecting nominees for parliamentary approval. The findings reveal that this arrangement may create perceptions of political influence. Since candidates are selected solely by the President, concerns may arise regarding whether appointees are chosen based on professional competence or perceived loyalty to the Executive. Although parliamentary ratification provides a safeguard, the absence of an independent selection mechanism may affect public confidence in the independence of the Office.

Security of tenure constitutes another important component of autonomy. The findings establish that constitutional protection against arbitrary removal strengthens institutional independence because it enables the Auditor-General to perform duties without fear of retaliation. The legal framework therefore provides a reasonable degree of protection regarding tenure. However, the study found that the overall appointment structure remains executive-centred and may therefore affect perceptions of independence.

3.4 Operational Autonomy and Presidential Audit Requests

The study identified an important limitation on operational autonomy within the Public Audit Act No. 13 of 2016. Section 16 of the Public Audit Act No. 13 of 2016 empowers the President to request the Auditor-General to conduct an audit, investigation, or inquiry into any matter relating

[57] Constitution of Zambia (Amendment) Act No 2 of 2016, art 252.

to public resources. The provision further states that the Auditor-General "shall" conduct such an audit upon request[58]. The findings reveal that the use of the word "shall" creates a mandatory legal obligation. Unlike permissive language that would allow discretion, the wording compels the Auditor-General to comply with presidential requests.

The study found that this provision potentially conflicts with Article 250(2) of the Constitution. While the Constitution prohibits direction or control by any person or authority, section 16 creates a mechanism through which the Executive may influence audit priorities. The President may determine which issues should receive immediate audit attention, thereby affecting the Auditor-General's discretion regarding allocation of audit resources. The findings establish that although section 16 may have been intended to enhance accountability, its mandatory nature creates the possibility of executive influence over audit operations. This raises concerns regarding consistency between the Public Audit Act and the constitutional principle of independence.

Comparative jurisprudence reinforces this concern. In R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Ltd [1995] 1 WLR 386 (QB), the Court emphasized that accountability institutions must remain free from executive manipulation in the performance of statutory functions[59]. Although the case did not concern an Auditor-General directly, its reasoning highlights the broader principle that public oversight institutions should not be subjected to undue executive influence.

3.5 Financial Autonomy of the Auditor-General

The findings reveal that financial autonomy remains one of the weakest dimensions of institutional independence of the Auditor-General under Zambia's existing legal framework. Financial autonomy refers to the ability of an institution to independently determine, manage, and utilise financial resources necessary for the effective performance of its functions without undue influence or dependence on another authority. For a Supreme Audit Institution such as the Office of the Auditor-General, financial independence is essential because the effectiveness of audit activities depends on adequate and timely access to resources. Although the Constitution of Zambia (Amendment) Act No. 2 of 2016 provides significant protection for the operational

[58] Public Audit Act No 13 of 2016, s 16.
[59] R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Ltd [1995] 1 WLR 386 (QB).

independence of the Auditor-General, the study found that financial dependence on executive-controlled budgetary processes continues to limit the practical realisation of institutional autonomy.

The findings demonstrate that constitutional protection against interference is insufficient if the institution does not possess adequate control over its financial resources. Article 250(2) of the Constitution provides that the Auditor-General shall not be subject to the direction or control of any person or authority in the performance of official functions. However, the study found that this protection primarily addresses operational independence rather than financial independence. In practice, the Office remains dependent on government appropriations that are processed through structures controlled by the Executive under the Public Finance Management Act No. 1 of 2018. Consequently, although the Auditor-General may legally determine audit priorities and conduct investigations independently, the ability to effectively implement those decisions depends on the availability of financial resources allocated through government processes.

The study established that the Office of the Auditor-General relies heavily on government funding for essential activities such as payment of staff salaries, recruitment and training of auditors, procurement of audit equipment, acquisition of information technology systems, transportation, provincial audit activities, and investigations into financial mismanagement. This dependence creates a potential vulnerability because the institution responsible for auditing public expenditure remains financially dependent on the same government structures whose activities it is required to examine. While this arrangement does not automatically result in interference, the findings indicate that it creates a possibility of indirect influence, particularly where budgetary allocations are insufficient or delayed.

The findings further reveal that Zambia's legal framework does not provide a mechanism for direct parliamentary appropriation of funds to the Office of the Auditor-General. Instead, the budgeting process requires the Office to submit financial requirements through government financial systems before approval by Parliament. This process places significant control over financial decisions within executive structures. Although Parliament ultimately approves the national budget, the Executive plays a central role in preparing and presenting budget proposals. The study found that this arrangement differs from stronger international models where Supreme Audit Institutions receive constitutionally protected funding arrangements that reduce dependence on executive approval.

The study also found that financial dependence may affect the scope and quality of audit operations. Delays in the release of approved funds can disrupt audit schedules, particularly where the Office is required to conduct extensive fieldwork across different provinces. Effective auditing requires timely availability of resources for travel, data collection, forensic investigations, and engagement with audited institutions. Where resources are limited, the Office may be forced to prioritise certain audits while postponing others, thereby reducing the comprehensiveness of public sector oversight.

Furthermore, resource limitations may hinder the adoption of modern audit technologies. Contemporary auditing increasingly relies on digital systems, data analytics, artificial intelligence-based audit tools, and specialised software capable of detecting complex financial irregularities. Without adequate financial resources, the Office may face challenges in acquiring and maintaining such technologies. This may reduce its ability to effectively audit increasingly complex government transactions, procurement systems, and digital financial management platforms.

The findings also demonstrate that financial constraints may affect human resource capacity. A strong audit institution requires highly qualified professionals, including forensic auditors, information technology auditors, procurement specialists, and performance auditors. However, limited financial flexibility may restrict the ability of the Office to offer competitive remuneration packages and professional development opportunities. This may result in difficulties attracting and retaining specialised personnel, thereby weakening institutional capacity.

International standards emphasise that financial independence is a necessary component of audit independence. The INTOSAI Mexico Declaration on Supreme Audit Institution Independence provides that Supreme Audit Institutions should have access to necessary financial, human, and material resources and that the Executive should not control or direct access to such resources. Similarly, the Lima Declaration emphasises that audit institutions must have adequate financial means to accomplish their mandates effectively. The findings therefore suggest that Zambia’s current framework does not fully satisfy these international principles because financial control remains substantially connected to executive budgeting systems.

Comparative experiences from jurisdictions such as Ghana and South Africa demonstrate stronger approaches to safeguarding financial autonomy. In Ghana, the Constitution provides that the administrative expenses of the Auditor-General are charged directly on the Consolidated Fund, reducing dependence on executive discretion. Similarly, South Africa's Auditor-General has greater control over financial planning and institutional budgeting. These models demonstrate that constitutional recognition of independence should be supported by practical financial safeguards.

Therefore, the study concludes that financial autonomy of the Auditor-General in Zambia remains significantly constrained despite constitutional guarantees of independence. Effective independence requires more than legal protection from interference; it requires adequate, predictable, and independently controlled financial resources. Strengthening financial autonomy would require reforms that provide the Office with greater control over budget preparation, secure funding mechanisms, and reduced dependence on executive-controlled financial processes. Such reforms would enhance the ability of the Auditor-General to perform comprehensive audits, strengthen accountability, and promote effective management of public resources.

3.6 Administrative Autonomy of the Auditor-General

The findings reveal that administrative autonomy remains moderate but incomplete under the current legal framework governing the Office of the Auditor-General in Zambia. Administrative autonomy refers to the ability of an institution to independently manage its internal affairs, including recruitment, appointment, promotion, remuneration, disciplinary processes, procurement systems, and organizational structures without undue influence from external authorities. For a Supreme Audit Institution such as the Office of the Auditor-General, administrative independence is a fundamental component of institutional autonomy because the effectiveness of audit functions depends heavily on the availability of competent personnel, efficient organizational systems, and adequate operational resources. Although the Constitution of Zambia (Amendment) Act No. 2 of 2016 provides a broad guarantee of independence to the Auditor-General, the study found that practical administrative independence remains constrained by continued reliance on broader public service systems.

The findings indicate that while the Office of the Auditor-General exercises some internal administrative authority, several important administrative functions continue to operate within frameworks established for the general public service. This situation creates a distinction between legal independence and practical autonomy. In principle, Article 250(2) of the Constitution provides that the Auditor-General shall not be subject to the direction or control of any person or authority in the performance of official functions. However, the provision primarily protects operational audit functions rather than detailed administrative management. As a result, areas such as human resource management, remuneration structures, and procurement processes may still be influenced by wider government administrative arrangements.

One of the major findings relates to the incomplete operationalisation of the SAC, which was established under Article 234 of the Constitution of Zambia (Amendment) Act No. 2 of 2016. The Commission is intended to provide oversight over matters relating to the Office of the Auditor-General. However, the study found that this oversight role has potential to interfere with the powers of the Auditor General as provided in Article 250(2) of the Constitution. Since the Commission had not assumed its intended role because it had not yet been appointed by the President, some of the functions of the SAC continue to be managed through existing public service structures. This arrangement reduces institutional flexibility because the Auditor-General may not have complete discretion over critical administrative decisions that directly affect audit effectiveness.

The absence of a fully operational institutional structure creates challenges in attracting and retaining specialised audit professionals. Modern public auditing as exhibited in the Public Audit Act which highlights the different types of audits speaks to the fact that audit has increasingly become complex, requiring expertise in areas such as forensic auditing, information technology auditing, environmental auditing, procurement auditing, and performance auditing. These specialised areas require highly skilled personnel who often demand competitive remuneration packages and flexible employment conditions. In the case that remuneration structures remain tied to broader public sector frameworks, the Office of the Auditor-General may experience difficulties competing with private sector organisations or international audit institutions that offer more attractive conditions. As a consequence, the quality of the audits is likely to be negatively affected.

This challenge is worth highlighting because the effectiveness of a SAI depends not only on legal authority but also on institutional capacity. An Auditor-General may possess extensive constitutional powers, but without sufficient technical expertise and human resources, the ability to conduct comprehensive audits and identify financial irregularities may be limited. Therefore, administrative autonomy should include the ability to independently design recruitment strategies, establish specialised positions, determine appropriate staffing levels, and create incentives necessary to maintain a highly skilled audit workforce.

The findings further revealed that procurement autonomy remains another area where administrative independence is limited. The Office of the Auditor-General requires specialised equipment, information systems, transport facilities, and modern audit technologies to perform its functions effectively. However, procurement processes remain subject to broader government procurement procedures. While such systems are intended to promote transparency and prevent misuse of public resources, they may also create delays that affect audit operations. For example, delays in acquiring audit software, vehicles for field inspections, or technological equipment may reduce the ability of auditors to complete assignments within planned timelines.

The study therefore found that procurement dependence may indirectly affect the operational effectiveness of the Auditor-General. International standards on Supreme Audit Institutions emphasise that independence requires not only freedom from interference but also access to sufficient resources and administrative flexibility. The INTOSAI Mexico Declaration on SAI independence highlights that audit institutions should have the necessary organizational, administrative, and financial independence to effectively fulfil their mandates. Therefore, excessive dependence on general government administrative procedures may undermine the practical ability of the Auditor-General to respond quickly to emerging audit needs.

Comparative experiences from other jurisdictions demonstrate the importance of granting audit institutions stronger administrative autonomy. In South Africa, the Office of the Auditor-General operates with greater administrative independence, including authority over internal organizational management, staffing decisions, and financial planning. Similarly, institutions such as the SAI of Botswana have developed administrative systems that allow greater control over human resources and operational arrangements. These examples demonstrate that effective audit independence requires autonomy beyond constitutional recognition; it requires institutional capacity to manage internal affairs without unnecessary bureaucratic limitations.

The findings also demonstrate that administrative autonomy is closely connected to accountability. Granting greater administrative independence does not mean removing oversight or reducing transparency. Rather, it means creating a balanced framework where the Auditor-General can manage internal affairs independently while remaining accountable through appropriate mechanisms such as parliamentary oversight, financial reporting, and professional standards. Excessive administrative control by external institutions weakens independence, while complete absence of accountability may create risks of institutional misuse. Therefore, the appropriate approach is to establish clear legal boundaries defining which administrative functions belong to the Auditor-General and which oversight responsibilities belong to external bodies.

3.7 Conclusion

The findings establish that Zambia's legal framework provides a substantial constitutional and statutory foundation for the autonomy of the Auditor-General. Articles 249 and 250 of the Constitution of Zambia create a strong basis for institutional independence by establishing the Office of the Auditor-General and protecting it from direction or control by any person or authority. However, the study also identified significant legal and institutional challenges that affect practical autonomy. These include the undefined oversight powers of the SAC under Article 234 of the Constitution and section 4 of the State Audit Commission Act, the executive-centred appointment process under Article 252, the mandatory presidential audit request mechanism under section 16 of the Public Audit Act No.29 of 2016, financial dependence arising from executive-controlled budgetary systems, and incomplete administrative autonomy. The findings therefore demonstrate that although Zambia has established a legal framework for Public audit independence, important reforms remain necessary to strengthen practical autonomy. Clarification of the SACs oversight role, enhancement of appointment procedures, strengthening of financial independence, and amendment of statutory provisions that potentially permit executive influence would significantly improve the effectiveness and independence of the Office of the Auditor-General.

CHAPTER FOUR

PROPOSED LEGAL REFORMS AIMED AT STRENGTHENING THE AUTONOMY OF THE AUDITOR-GENERAL IN ZAMBIA

4.0 Introduction

This chapter presents proposed legal and institutional reforms aimed at strengthening the autonomy of the Auditor-General in Zambia. It builds on findings in Chapter Two and Three, which established that although the Constitution of Zambia guarantees independence of the Auditor-General, practical autonomy is constrained by institutional ambiguity, financial dependence, and weak enforcement mechanisms. The analysis draws on international standards such as the INTOSAI Lima Declaration (1977) and Mexico Declaration (2007), as well as comparative experiences from South Africa, Ghana, India, and the United Kingdom. The reforms are structured under institutional independence, financial autonomy, and enforcement mechanisms.

4.1 Reforming Institutional and Operational Independence of the Auditor-General

The findings of this study demonstrate that although Zambia's constitutional framework formally recognises the independence of the Auditor-General, institutional ambiguity significantly undermines operational autonomy. Article 250(2) of the Constitution of Zambia provides that the Auditor-General shall not be subject to the direction or control of any person or authority in the performance of its functions.[60] This provision is the cornerstone of audit independence and reflects constitutional intent to insulate the Office from political or administrative interference.

However, Article 234 of the Constitution establishes the SAC without clearly defining the limits of its oversight powers. This creates a dual governance structure where the Auditor-General is constitutionally independent in principle but supervised by an institution whose oversight mandate is undefined. The result is legal uncertainty regarding whether the SAC's oversight is purely administrative or extends into operational audit functions. This ambiguity creates a structural risk to independence because institutional control can be exercised indirectly through administrative

[60] Constitution of Zambia (Amendment) Act No 2 of 2016, art 250(2).

oversight. As noted in comparative constitutional theory, independence is not only the absence of direct control but also the absence of indirect influence that may affect decision-making autonomy.

International standards strongly support the need for absolute clarity in institutional independence. Principle 3 of the INTOSAI Mexico Declaration provides that: "Supreme Audit Institutions shall be free from direction or interference from the legislature or the executive in the discharge of their functions."[61] Similarly, the INTOSAI Lima Declaration emphasises that Supreme Audit Institutions must be protected from any influence that compromises their ability to perform audits independently.[62] These principles establish that audit independence must be both *de jure* (as a matter of law) and *de facto* (in fact).

In Zambia's context, the existence of the SAC without clearly defined boundaries undermines compliance with the above highlighted INTOSAI standards. The absence of legislative clarity creates potential for administrative interference in audit planning, execution, and reporting. Comparative jurisdictions provide useful reform models. In South Africa, section 3(3) of the Public Audit Act 25 of 2004 provides that: "The Auditor-General is independent and subject only to the Constitution and the law."[63] This provision eliminates ambiguity by explicitly excluding external control. Similarly, section 1 of the United Kingdom National Audit Act 1983 states that: "The Comptroller and Auditor General shall not be regarded as the servant or agent of the Crown."[64] This provision clearly separates audit institution from executive authority and reinforces institutional independence.

The study therefore proposes that Zambia should amend Article 234 of the Constitution and the State Audit Commission Act No. 27 of 2016 to explicitly define the SAC's mandate as strictly administrative. The SAC should be restricted to human resource management, budgetary facilitation, and institutional support functions only. It should be expressly prohibited from influencing audit planning, execution, findings, or reporting processes.

In addition, operational independence must be strengthened through enhanced constitutional safeguards. The Auditor-General should be empowered to determine audit priorities,

[61] INTOSAI, Mexico Declaration on SAI Independence (2007) Principle 3.
[62] INTOSAI, Lima Declaration of Guidelines on Auditing Precepts (1977).
[63] Public Audit Act 25 of 2004 (South Africa), s 3(3).
[64] National Audit Act 1983 (UK), s 1.

methodologies, and reporting timelines without external approval. This reform would ensure alignment with INTOSAI standards and reduce institutional overlap. Another critical aspect of institutional reform is security of tenure. The Constitution of Zambia has no clearly defined tenure but only provides for retirement age of 60 years and the grounds for which the Auditor General can be roved. Zambia should therefore introduce a fixed non-renewable term of office for the Auditor-General, combined with removal only through a parliamentary supermajority on grounds of proven misconduct or incapacity. This would enhance stability and protect against political interference.

Strengthening institutional independence requires constitutional clarity, statutory reform, and alignment with international standards. Without clear institutional separation, legal guarantees of independence remain largely symbolic rather than practical.

4.2 Strengthening Financial Autonomy and Resource Independence

The findings reveal that financial autonomy is one of the most significant weaknesses affecting the independence of the Auditor-General in Zambia. Although Article 250 of the Constitution guarantees institutional independence, funding arrangements remain subject to executive control through the Public Finance Management Act No. 1 of 2018. Financial dependence on the Executive undermines operational independence because budget allocation, disbursement, and approval processes are controlled within the executive financial system. This creates a situation where the Auditor-General's effectiveness may be indirectly influenced through resource limitation, delayed funding, or budget cuts.

International standards clearly reject such arrangements. Principle 8 of the INTOSAI Mexico Declaration provides that: "Supreme Audit Institutions should have available necessary and reasonable human, material and monetary resources; and the Executive should not control or direct the access to these resources."[65] Similarly, paragraph 7 of the INTOSAI Lima Declaration states: "Supreme Audit Institutions shall be provided with the financial means to enable them to accomplish their tasks."[66] These principles establish that financial independence is a core requirement of audit autonomy. The study found that Zambia does not fully comply with these

[65] INTOSAI, Mexico Declaration on SAI Independence (2007) Principle 8.
[66] INTOSAI, Lima Declaration of Guidelines on Auditing Precepts (1977) para 7.

standards because budget proposals are processed through executive institutions before being submitted to Parliament. This arrangement gives the Executive indirect influence over audit priorities by controlling resource allocation.

Comparative jurisdictions demonstrate stronger financial autonomy frameworks. In Ghana, Article 187(7)(a) of the Constitution provides that: "The administrative expenses of the Auditor-General shall be charged on the Consolidated Fund."[67] This ensures automatic funding without executive discretion. Similarly, section 38(1) of South Africa's Public Audit Act 25 of 2004 provides that: "The Auditor-General must prepare a budget and strategic plan for each financial year."[68] This model allows the Auditor-General to independently determine resource needs while maintaining parliamentary oversight.

The study therefore proposes that Article 250 of the Constitution of Zambia should be amended to provide that the budget of the Auditor-General shall be a direct charge on the Consolidated Fund and approved by Parliament without executive alteration. Such reform would ensure financial independence and reduce the risk of budgetary manipulation.

In addition to budget autonomy, financial reform must also include human resource independence. The Auditor-General should have authority to recruit, promote, and retain specialised audit personnel without reliance on civil service structures. This is essential because audit institutions require technical expertise in areas such as forensic auditing, information technology auditing, and performance auditing. The current system, which subjects recruitment to broader public service frameworks, limits flexibility and slows institutional responsiveness. Comparative evidence from South Africa and Botswana shows that audit institutions with independent staffing structures perform more effectively and maintain higher audit quality. Procurement autonomy is also critical. Delays in procurement processes under centralised systems can hinder acquisition of audit tools, vehicles, and technology. This reduces efficiency and limits audit coverage, particularly in remote regions. Financial independence therefore must be understood holistically, encompassing budgeting, recruitment, procurement, and resource management. Without these reforms, constitutional independence remains incomplete.

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[67] Constitution of Ghana 1992, art 187(7)(a).
[68] Public Audit Act 25 of 2004 (South Africa), s 38(1).

4.3 Strengthening Enforcement of Audit Findings and Accountability Mechanisms

The findings reveal that Zambia's audit system is significantly weakened by poor enforcement of audit recommendations. Although Article 250(3) of the Constitution provides that the Auditor-General shall submit audit reports to the National Assembly,[69] and section 16(1) of the Public Audit Act No. 29 of 2016 reinforces this obligation,[70] these provisions focus primarily on reporting rather than enforcement. As a result, audit findings often do not translate into corrective action. Many institutions repeatedly appear in audit reports with similar irregularities, indicating weak implementation of recommendations. This reflects a structural gap between audit reporting and accountability enforcement. International best practice demonstrates that effective audit systems require enforcement mechanisms beyond reporting. In South Africa, section 5A of the Public Audit Amendment Act 2018 empowers the Auditor-General to: "Refer any suspected material irregularity to a relevant public body for investigation."[71]

This provision enables audit findings to trigger corrective investigations and legal consequences. Similarly, Ghana's Public Financial Management Act 2016 introduces sanctions for non-compliance with audit directives, strengthening accountability culture. These models demonstrate that audit effectiveness depends on enforceability, not merely reporting. The study therefore proposes several reforms for Zambia. First, the Public Audit Act should be amended to require all audited institutions to submit audit implementation plans within 90 days of receiving audit reports. These plans should outline corrective measures, timelines, and responsible officers.

Second, failure to comply should attract administrative sanctions, including disciplinary action and potential financial penalties where losses are identified. Third, an Audit Recommendation Implementation Unit should be established within the Office of the Auditor-General. This unit would monitor compliance with audit recommendations and submit quarterly reports directly to Parliament. This would strengthen parliamentary oversight and ensure continuous monitoring of public accountability. Fourth, Parliament should strengthen the Public Accounts Committee (PAC) by granting it statutory authority to enforce compliance with audit findings. This would close the gap between reporting and implementation. Finally, public transparency mechanisms should be

[69] Constitution of Zambia (Amendment) Act No 2 of 2016, art 250(3).
[70] Public Audit Act No 29 of 2016, s 16(1).
[71] Public Audit Amendment Act 2018 (South Africa), s 5A.

enhanced through digital publication of audit findings and implementation status reports. Increased public access would strengthen civic oversight and pressure institutions to comply with audit recommendations. These reforms would transform the audit process from a purely investigative function into an enforcement-driven accountability system.

4.4 Conclusion

This chapter has proposed comprehensive legal and institutional reforms aimed at strengthening the autonomy of the Auditor-General in Zambia. The analysis demonstrates that although the Constitution of Zambia provides a strong legal foundation for audit independence, practical autonomy remains constrained by institutional ambiguity, financial dependence, and weak enforcement mechanisms. Comparative analysis from South Africa, Ghana, India, and the United Kingdom shows that effective audit independence requires clear institutional separation, secure financial arrangements, and enforceable accountability systems. The proposed reforms therefore focus on three key areas: clarifying institutional independence by limiting the role of the SAC, enhancing financial autonomy through direct parliamentary funding and independent resource control, and strengthening enforcement mechanisms through mandatory implementation of audit recommendations and sanctions for non-compliance. If implemented, these reforms would significantly improve the effectiveness of the Auditor-General, strengthen public accountability, and align Zambia's governance framework with international best practices on supreme audit institution independence.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter presents the conclusion, summary of findings, and recommendations of the study entitled "Autonomy of the Auditor-General in Zambia: An Analysis of the Law." The study examined the extent to which Zambia's constitutional and statutory framework guarantees the independence and autonomy of the Auditor-General in the discharge of its constitutional mandate. The research was guided by three main objectives. The first research objective examined Zambia's legal framework governing the autonomy of the Auditor-General in the discharge of its functions. This objective was addressed through an analysis of the Constitution of Zambia (Amendment) Act No. 2 of 2016, the Public Audit Act No. 29 of 2016, the State Audit Commission Act No. 27 of 2016, and the Public Finance Management Act No. 1 of 2018. The study established that Zambia has created a strong constitutional and statutory foundation for audit independence through the recognition of the Auditor-General as a constitutional office with a broad mandate to audit public institutions and safeguard public resources.

The second research objective focused on examining the degree of autonomy accorded to the Auditor-General under the existing legal framework in Zambia. This objective was answered through an assessment of constitutional, institutional, operational, financial, and administrative dimensions of autonomy. The findings demonstrated that although Zambia's legal framework provides significant protection for the independence of the Auditor-General, practical autonomy remains constrained by institutional ambiguity, financial dependence, and certain legal provisions that may permit indirect influence. The third research objective examined proposed legal reforms aimed at strengthening the autonomy of the Auditor-General in Zambia. This objective was addressed through comparative analysis with other jurisdictions and international standards developed by the INTOSAI. The study established that reforms are necessary to strengthen institutional independence, guarantee financial autonomy, enhance administrative control, and improve enforcement of audit recommendations.

5.1 Findings

The study found that Zambia's legal framework provides a relatively strong foundation for the autonomy of the Auditor-General. The establishment of the Office under Article 249 of the Constitution of Zambia demonstrated the importance attached to external public auditing within Zambia's governance framework. The constitutional recognition of the Office ensured that the Auditor-General was not merely a statutory institution but a constitutionally protected accountability institution responsible for promoting transparency and accountability in the management of public resources. The study further found that Article 250(1) of the Constitution provides the Auditor-General with a wide audit mandate covering State organs, State institutions, provincial administrations, local authorities, and other institutions financed from public funds. This broad jurisdiction was significant because it ensured that public expenditure across government institutions was subject to independent scrutiny. The finding confirmed that the constitutional framework was consistent with international principles governing Supreme Audit Institutions, particularly the INTOSAI Lima Declaration and Mexico Declaration, which emphasise that effective audit institutions require a clear constitutional mandate. The study also found that Article 250(2) of the Constitution provides one of the strongest safeguards for audit independence by stating that the Auditor-General shall not be subject to the direction or control of any person or authority in the performance of official functions. This provision was found to guarantee operational independence in areas such as audit planning, conducting investigations, determining audit priorities, and preparing audit reports.

However, the study found that constitutional independence had not completely translated into practical autonomy. The existence of the SAC under Article 234 of the Constitution created uncertainty regarding the relationship between the Commission and the Auditor-General. Although one can conclude that the Commission was intended to provide administrative oversight, the law does not clearly define whether its mandate was restricted to administrative matters or whether it could extend to operational audit functions. This ambiguity creates a potential risk of institutional interference.

The study further found that the Public Audit Act No. 29 of 2016 strengthened the constitutional mandate by providing detailed operational powers to the Auditor-General. The Act empowered the Office to conduct financial audits, compliance audits, performance audits, and special investigations into the management of public resources. The Act also provided the Auditor-General with access to documents, financial records, and information required to conduct effective audits. This finding demonstrated that the statutory framework provided the Auditor-General with important tools necessary for fulfilling its accountability mandate.

Despite these strengths, the study found weaknesses regarding the implementation and enforcement of audit findings. Although the Auditor-General was required to submit reports to the National Assembly, the law provided limited mechanisms to compel public institutions to implement audit recommendations. As a result, audit findings often remained unresolved, reducing the effectiveness of auditing as a mechanism for improving public financial management. The study also found that financial autonomy remained one of the major challenges affecting the independence of the Auditor-General. Although the Constitution guaranteed independence, section 16 of the Public Audit Act number 29 of 2016 gives the powers to the president to request the Auditor general to undertake a special kind of audit. The foregoing goes against the ethos of SAI independence. Further, the Office continues to rely on an executive driven budgetary processes with the Secretary to the Treasury at the centre. This financial dependence created challenges relating to funding adequacy, staffing, acquisition of audit technologies, and expansion of audit coverage.

Furthermore, the study found that administrative autonomy was only partially achieved. While the Office exercised some control over internal operations, several administrative matters remained connected to broader public service structures. This limited the ability of the Office to independently recruit, retain, and manage specialised audit professionals required in modern auditing environments. The study therefore established that the autonomy of the Auditor-General in Zambia existed strongly in law but remained incomplete in practice. The legal framework provided important safeguards; however, institutional, financial, and administrative reforms were necessary to ensure that constitutional independence translated into effective operational independence.

5.2 Summary of Findings

The study demonstrated that Zambia had made significant progress in strengthening the legal position of the Auditor-General through constitutional reforms introduced under the Constitution of Zambia. The constitutional recognition of the Office and the protection against external direction or control represented important developments in promoting accountability and transparency in public resource management. The study established that the constitutional and statutory framework generally reflected international standards governing SAIs. The Auditor-General was granted extensive powers to audit public institutions, access information, investigate financial irregularities, and report findings to Parliament. These provisions strengthened the ability of the Office to serve as an independent oversight institution.

However, the study revealed that legal independence alone was insufficient to guarantee effective autonomy. The findings showed that institutional ambiguity surrounding the SAC remained a significant concern. While oversight mechanisms were necessary for accountability, excessive or unclear oversight could undermine the independence of the Auditor-General by creating opportunities for indirect influence. The study further established that financial dependence remained a major limitation to autonomy. The absence of a direct constitutional funding mechanism meant that the Auditor-General remained vulnerable to resource limitations. The study found that inadequate funding could affect audit effectiveness by limiting human resource capacity, technological advancement, and the ability to conduct comprehensive audits.

The study also revealed that the appointment framework required further strengthening. Although parliamentary ratification provided some accountability, the appointment process remained largely influenced by the Executive because the President retained significant authority in selecting candidates. The absence of an independent appointment mechanism created concerns regarding perceptions of political influence.

Additionally, the study found that the Public Audit Act allows the President to request audits. This creates potential tension with constitutional independence. Although presidential audit requests may promote accountability, the mandatory nature of such requests could influence audit priorities and limit the discretion of the Auditor-General.

Comparative analysis demonstrated that jurisdictions such as South Africa, Ghana, India, and the United Kingdom had developed stronger safeguards relating to financial independence, appointment procedures, security of tenure, and enforcement of audit findings. The study therefore concluded that Zambia's legal framework required further reforms to strengthen practical autonomy.

5.3 Recommendations

The study recommends that Zambia should consider undertaking constitutional and legislative reforms aimed at strengthening the independence of the Auditor-General. Firstly, the Constitution of Zambia and the State Audit Commission Act should be amended to clearly define the powers and limitations of the State Audit Commission. The law should expressly provide that the Commission's role is limited to administrative oversight and should not extend to audit planning, investigations, audit execution, or reporting decisions.

Secondly, the study recommends strengthening the appointment and tenure arrangements of the Auditor-General. The appointment process should involve greater participation by independent institutions to reduce perceptions of political influence. A fixed and secure tenure of office should be guaranteed to enable the Auditor-General to perform duties without fear of interference or removal.

Regarding financial autonomy, the study recommends that the budget of the Auditor-General should be charged directly on the Consolidated Fund and approved by Parliament. This would reduce dependence on executive-controlled budgetary processes and align Zambia with international standards requiring Supreme Audit Institutions to have adequate and independent financial resources.

The study also recommends granting the Office greater administrative autonomy over recruitment, promotion, remuneration, and human resource management. Modern auditing requires specialised skills in areas such as forensic auditing, information technology auditing, and performance auditing. Greater administrative flexibility would enable the Office to attract and retain qualified professionals.

Furthermore, the Public Audit Act should be amended to strengthen enforcement of audit recommendations. Public institutions should be legally required to prepare implementation plans within a specified period after receiving audit reports. Failure to implement recommendations without reasonable justification should attract appropriate administrative sanctions.

The study also recommends strengthening parliamentary oversight of audit findings. Parliamentary committees responsible for public accounts should be provided with enhanced mechanisms to monitor implementation of audit recommendations and ensure that responsible officials are held accountable.

Lastly, public awareness regarding the role of the Auditor-General should be increased. Greater access to audit reports and civic engagement would strengthen public participation in promoting transparency and accountability within public institutions.

5.4 Final Conclusion

The study concludes that the autonomy of the Auditor-General is essential for promoting good governance, accountability, and effective management of public resources in Zambia. The research established that Zambia has developed a strong constitutional and statutory foundation for audit independence through the Constitution of Zambia and the Public Audit Act No. 29 of 2016. However, the study demonstrated that constitutional recognition alone does not guarantee effective autonomy. Practical challenges relating to institutional oversight, financial dependence, administrative limitations, and weak enforcement mechanisms continue to affect the effectiveness of the Office.

The findings therefore indicate that Zambia requires further legal reforms to transform formal independence into practical autonomy, in particular, there is need to define the scope of oversight for the SAC over the office of the Auditor General. Strengthening the legal position of the Auditor-General through clearer institutional boundaries, secure financial arrangements, enhanced administrative independence, and stronger enforcement mechanisms would significantly improve public accountability.

The study established that an independent and effective Auditor-General remains a fundamental requirement for democratic governance. Strengthening the autonomy of the Office would contribute towards improved transparency, reduced misuse of public resources, and enhanced public confidence in Zambia's governance institutions.

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