

2020

AUDITOR GENERAL'S REPORT

ANALYSIS



REPUBLIC OF ZAMBIA

REPORT

of the

AUDITOR GENERAL

ON THE ACCOUNTS OF THE REPUBLIC



Funded by
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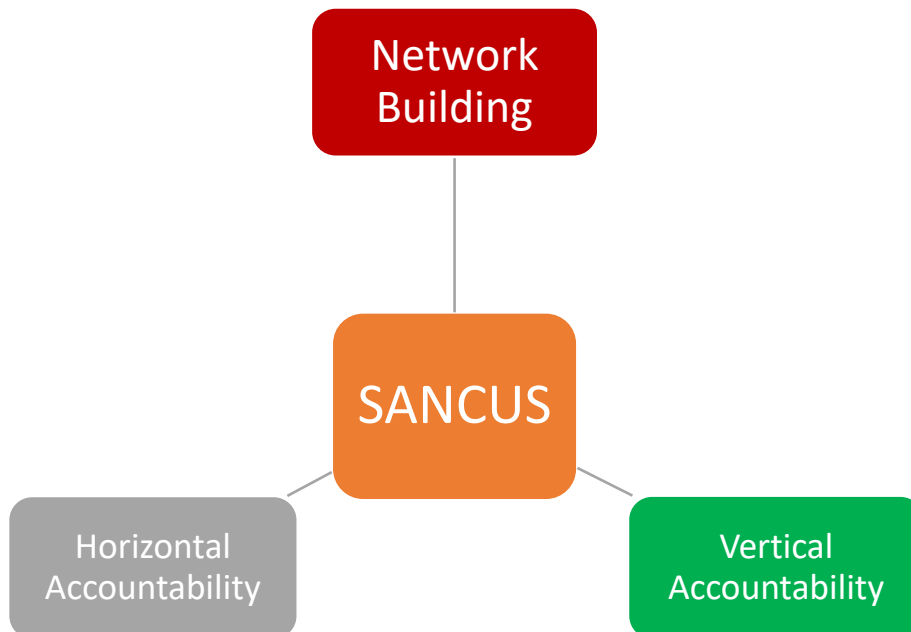
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Foreword

This report has been developed as part of evidence generation under the SANCUS project conducted by Transparency International Zambia. Strengthening Accountability Networks Among Civil Society (SANCUS) is a global project being implemented in 17 countries with the support of the European Union.

It aims to improve democratic accountability of public institutions globally by empowering CSOs to demand systematic change to address accountability and anti-corruption deficits. In Zambia, its main objective is to strengthen public participation and consultation as well as oversight in the policy and budget cycle through a three pronged approach of network building, vertical and horizontal accountability. In this context, vertical accountability is accountability between the government and citizens, whereas horizontal accountability is accountability between different branches of government.

The project is running from June 2021 to November 2023. Project approach:



1. Background to the OAG, AG's report and their relevance

Public sector auditing when conducted by supreme audit institutions, remains a significant factor in improving the lives of citizens by focusing the custodians of public resources on how well they utilize those resources (INTOSAI, 2019). According to the International Organisation of Supreme Audit Institutions (INTOSAI), supreme audit institutions promote the efficiency, accountability, effectiveness and transparency of public administration. Other international financial institutions such as the World Bank further attest to the view that supreme audit institutions are useful in managing public spending, ensuring financial accountability and strengthening public institutions (Stapenhurst et al, 2001).

This promotion of transparency and accountability that supreme audit institutions provide speaks to the core of Transparency International Zambia's work. As an organization, TI-Z is dedicated to the fight against corruption and the promotion of transparency, integrity, accountability and good governance in the discharge of public functions which includes the use of public resources. In addition, TI-Z has also embarked on a project on strengthening accountability networks among civil society (SANCUS) with the aim of strengthening public participation, consultation as well as oversight in policy and budget processes. This project includes a particular focus on horizontal accountability and working to strengthen oversight on the use of public resources.

In Zambia, the supreme audit institution is the office of the Auditor General which is established by Article 249(1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 which states that there shall be an Auditor General who shall be appointed by the President on the recommendation of the State Audit Commission, subject to ratification by the National Assembly.

The main functions of the Auditor General are outlined in Article 250 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 and are as follows:

- Audit the accounts of state organs, state institutions, provincial administration and local authorities and institutions financed from public funds.
- Audit the accounts that relate to the stocks, shares and stores of the Government.
- Conduct financial and value for money audits, including forensic audits and any other type of audit, in respect of a project that involves the use of public funds.
- Carry out special, environmental, procurement and contract audits or reviews of the state organs, state institutions and private institutions.
- Recommend to the Director of Public Prosecutions or law enforcement agency any matter within the competence of the Auditor General that may require to be prosecuted.

It is also provided for in Article 73(1) of the Public Finance Management Act No. 1 of 2018 that the Auditor General and an office holder, agent or specialist consultant authorized by the Auditor General, shall in the performance of duties under the Constitution, the Public Audit Act No. 29 of 2016 or any other law:

- Have access to all the books, records, returns, reports, other documents and financial management systems, in electronic or any other form, relating to the accounts of public bodies as the Auditor General considers necessary
- Access at any reasonable time of the day to the premises of any public body under audit examination or inspection.

- Power to call for relevant information from persons responsible for the financial administration of any public body under examination or inspection and;
- Access to all information, communication technology systems used in the management of public monies.

The operations of the Office of the Auditor General are decentralised to all provinces and progressively to all districts as provided by Article 249(2) of the Constitution (Amendment) Act No. 2 of 2016. The Office of the Auditor General audits Ministries, Provinces and Other spending agencies (MPSAs) and reports to Parliament as provided in the Constitution. In executing this function, the Office of the Auditor General produces the Auditor General's Report on an annual basis, which covers all MPSAs Estimates of Revenue and Expenditure for the just ended financial year. This report is based on audits conducted by the Auditor General on the afore mentioned institutions to determine whether the funds appropriated by Parliament or raised by Government and disbursed has been accounted for. The audits are conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). the audit findings in the reports are those that were not resolved during the audit process as well as those highlighted in previous reports but were not resolved by the time of preparation of the current report.

The importance of the Auditor General's report for transparency and accountability in the use of public resources cannot be overemphasized. In the absence of the Access to Information Act in Zambia, only the Auditor General has complete access to financial records of state bodies and institutions in addition to the capacity to conduct comprehensive audits to determine how public funds have been utilized. This remains a key component of horizontal accountability whereby state institutions such as the Auditor General's Office hold the Executive and MPSAs accountable on how public funds are used on behalf of the citizens. Their work also provides the backdrop for oversight functions of the Public Accounts Committee of the National Assembly as well as provide critical information to citizens to exercise vertical accountability in demanding for explanations, justifications and corrective actions regarding public funds used on their behalf.

Despite the legal provisions supporting the functions of the Office of the Auditor General and the consistent publication of the annual Auditor General's report, in practice there remain a number of challenges in holding public officials accountable for the use of public resources. These challenges include inadequate punishment for public officers found wanting, lack of uptake of recommendations made by the Public Accounts Committee in Parliament, limited commitment by the executive to denounce corruption amongst others. By the time of the publication of the 2020 Auditor General's report, these challenges had not changed and necessitated an analysis to ascertain a better understanding of the financial irregularities highlighted by the Auditor General's report, why this situation prevails and what it ultimately costs the citizens of Zambia.

2. Objectives

The objectives of this analysis are manifold:

- a) To provide a five-year trend analysis of major classifications of financial irregularities in the Auditor General's reports
- b) To obtain in-depth analysis of the two most significant contributors of public financial irregularities in 2020
- c) To determine the corruption vulnerabilities leading to the prevailing situation
- d) To ascertain some of the socio-economic opportunity costs of the financial irregularities of public funds
- e) To provide recommendations to stakeholders

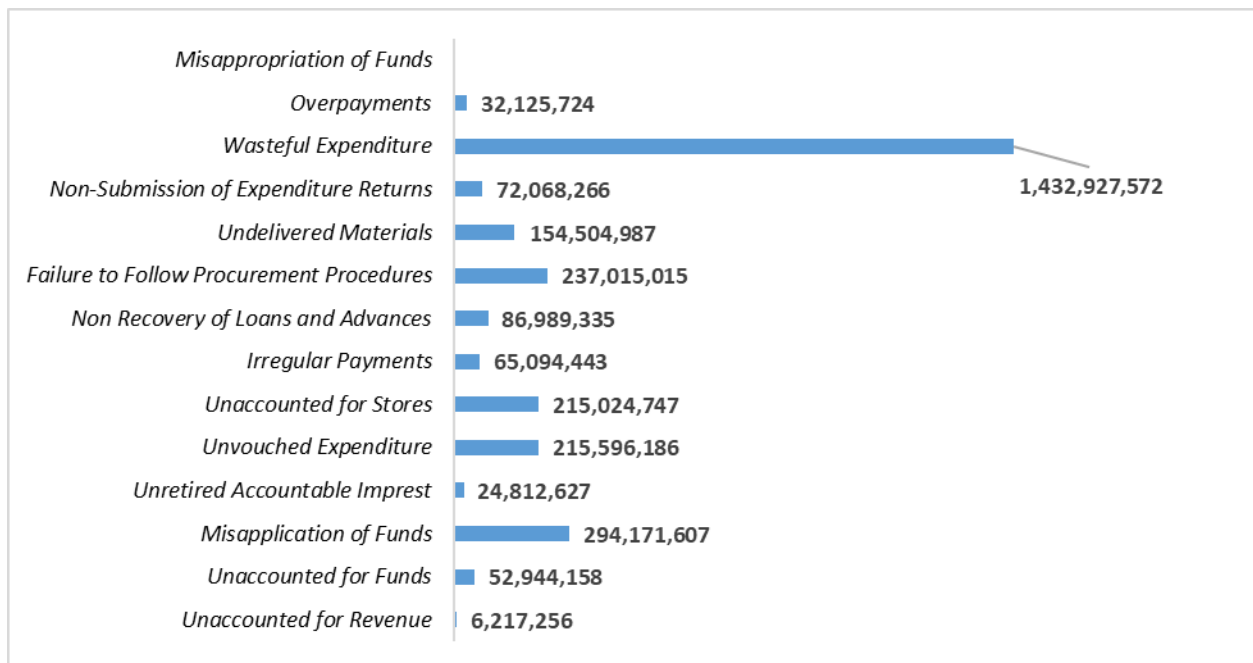
3. Methodology

The study used analytical research methods and mixed qualitative and quantitative approaches. This analysis was conducted purely as a desk review relying on secondary data mainly being drawn from the Auditor General's reports from 2016 to 2020. Other sources of information were pieces of legislation which form part of the legal framework for public financial management as well as official Government documents such as the yellow book of estimates for the national budget. The data collected was analysed using Microsoft Excel as well as content and discourse analysis on the qualitative front.

4. Analysis of Financial Irregularities 2016 to 2020

Figure 1 Presents the fourteen (14) specific forms of financial irregularities reported in the Auditor General's report for the years 2016 to 2020. The summary analysis indicates that Wasteful expenditure, which is expenditure incurred by government with no benefits derived, was by far the most significant form of financial irregularity at ZMW1.43 billion between 2016 and 2020. This was followed by Misapplication of funds, defined as the use of funds budgeted for an unrelated programme and without authority from the secretary to the treasury, which was at ZMW294 million. Failure to follow procurement procedures, which refers to non-compliance with the Public Procurement Act No. 8 of 2020 and guidelines in the purchase of goods and services, was ZMW237 million. In the year 2020, Wasteful expenditure was at ZMW1.418 billion accounting for 98.95% of the total wasteful expenditure between 2016 and 2020 and was followed by Failure to follow procurement procedures at ZMW234 million.

Figure 1: Summary of financial irregularities, 2016 to 2020



Source: Developed by Author using Auditor general's reports

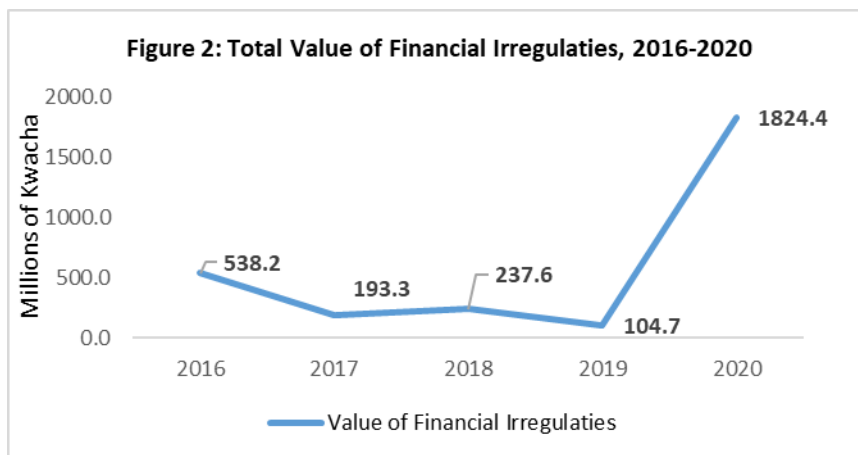


Figure 2 Indicates that the value of financial irregularities reduced from ZMW538.2 million in 2016 to ZMW193.2 million in 2017. There was, however, a significant increase in the value of financial irregularities in 2020 as compared to 2019. In 2020, the Total Financial Irregularities were valued at ZMW1.82

billion as compared to ZMW104.7 million in 2019. In terms of the financial irregularities over time, 2020 accounted for the greatest value of irregularities, during the period 2016 to 2020 despite the enactment of the Public Finance Management Act No. 1 of 2018 during this same period. Section 5 provides a deeper discussion on the corruption vulnerabilities leading to this increase. Further, the two largest contributors to financial irregularities in 2020 were wasteful expenditure and failure to follow procurement procedures. Consider **Figure 3** and **Figure 4** Below:

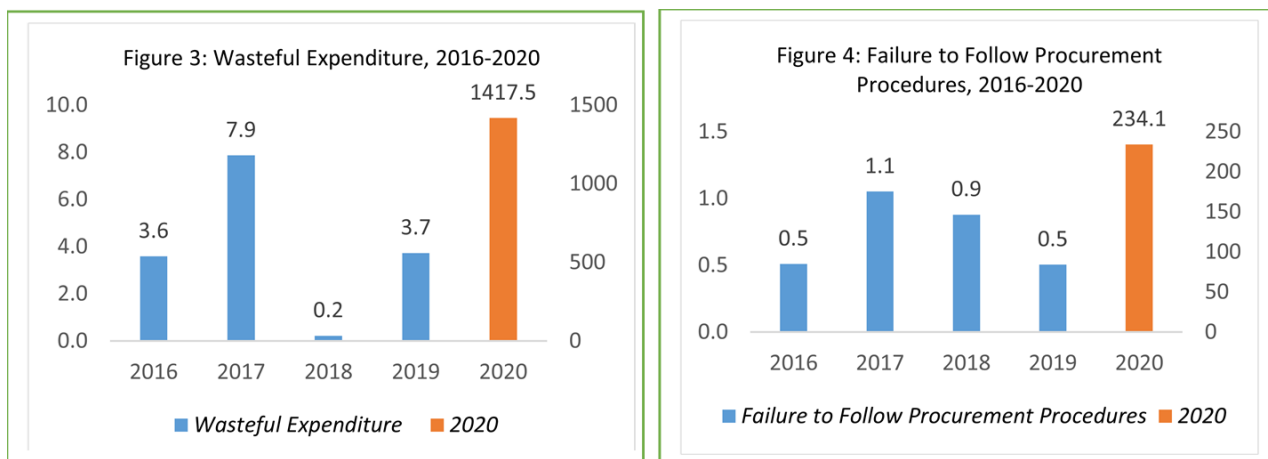


Figure 3 and 4 Indicate that wasteful expenditure was at ZMW1.4 billion in 2020 compared to ZMW3.7 million in 2019. The significant increase in wasteful expenditure in 2020 is therefore worth investigating. Similarly, the value of irregularities classified as a Failure to Follow Procurement Procedure increased to ZMW234.1 million in 2020 as compared to the 2019 figure of ZMW504,500. For the period 2016 to 2020, the value of financial irregularities classified as wasteful expenditure was greater in each year than those classified as Failure to follow Procurement Procedures in all the years except 2018. In 2018, Failure to Follow Procurement Procedures was at ZMW879,000 as compared to the Wasteful Expenditure value of ZMW222,534.

4.1 Case Study: Wasteful Expenditure

The 2020 Auditor General’s report notes that total Wasteful Expenditure was ZMW1.418 billion. The vast **majority** of this amount, about **79.2%**, was due to a contract between the Food Reserve Agency and Advanced African Solutions ADAS, a company incorporated in Mauritius. The duo entered into a contract worth US\$72 million for the design, rehabilitation and construction of 98 grain storage sheds. Due to a delay in making advance payments on this contract, Government incurred interest payments and penalties amounting to ZMW**1.123 billion or US\$52 million without any grain storage sheds being built**. This was after government negotiated down the interest and penalties from US\$115.5 million, an amount which was higher than the original contract sum.

4.2 Case Study: Failure to Follow Procurement Procedures

The 2020 Report only highlights one case of failure to follow procurement procedures. It established that the Department of Social Welfare engaged two (2) transporters to ferry farming inputs to various sub-centers within the district at a cost of ZMW**28,008** without obtaining three (3) quotations. This is contrary to Section 108 (2) of the Public Procurement Act No. 12 of 2008 which states that “the Procurement Unit

should include sufficient bidders in a short list of bidders to ensure efficient competition, but in any case, should obtain no less than three quotations.” It is therefore unfortunate that the Department of Social Welfare failed to adhere to this standard practice. Section 5 of this analysis gives more insights into some of the causes of this situation.

5. Corruption vulnerabilities leading to the prevailing situation.

The third objective of the Auditor’s General Report analysis was to determine the corruption vulnerabilities leading to the current prevailing situation for the last five years. A review of the three Government arms was assessed to give a clear picture of how corruption risks infiltrated the management of Government resources for the last five years. Some of the main factors established having seriously contributed to prevailing situation are detailed below;

- **Inadequate commitment by the Executive to Denounce Corruption;** The executive branch of the Government has been lukewarm in enforcing the laws that prevent corruption through various integrity institutions. The Executive in the last five years instead, was marred these institutions through political influence and hegemony (CPI, 2020).
- **Non-Effective Implementation of Procurement Guidelines;** up till 2020, Zambia has been following an outdated Public Procurement Act No. 12 of 2008 which failed to provide for enhanced transparency, efficiency, effectiveness, economy, value for money, competition and accountability in public procurement. Further, there was a failure to regulate and control practices relating to public procurement in order to promote the integrity of those processes, fairness and public confidence in the procurement process as well as the participation of citizens in public procurement. This led to weaknesses in procurement and contract management and hence high corruption risks associated with the same (Rahman, 2020).
- **Lack of Access to Information Law;** for the past 20 years or also, Zambia has not enacted the Access to Information Law which is an essential tool in the fight against corruption as it increases democratic accountability and transparency, identifies and uncovers corrupt practices and enables participation in the development of anti-corruption policy and law. It has proved difficult

to hold public servants accountable for their actions on public resources management in the absence of this law.

- **Limited use of Automated System;** Information Communication Technology (ICT) facilitates the information flow between government and citizens, across government institutions, and among societal actors. Potentially, these foster transparency, vertical and horizontal accountability and citizen participation. However, in Zambia, various Government institutions have not fully implemented the use of ICT tools, i.e., E-procurement systems. This to some extent creates a loophole for corruption vulnerabilities in terms of failure to maintain books of accounts and accounting records, failure and delays in the collection of Government revenue, weaknesses in payroll management, etc.
- **Inadequate Punishment for Erring Officers;** Due to political influence, Zambia failed to fully implement the Punishment stipulated in the various legal frameworks such as the Public Financial Management Act No. 1 of 2018, Forfeiture of Proceeds of Crime Act No. 19 of 2010 and the Penal Code amongst others

5.1 Legal Framework

Zambia's legal framework for ensuring public resources is managed in a befitting manner is inadequate and weak in many areas. i.e., inadequate actualization of the Public Financial Management Act No. 1 of 2018, Outdated Procurement Guidelines, unclear code of conduct, weak financial internal control systems in Public Institutions, failure to maintain accounting records, ineffective implementation of recommendations from the Public Accounts Committee, non-protection of whistle-blowers and criminalisation of access to information of certain documents deemed to be classified. Further, over the past five years, the executive's exposure to looting Government resources through a weakened procurement system could be observed in the 1.4 billion wasteful expenditure indicated in the 2020 Auditor's General Report.

Despite the various laws and regulations that lead the procurement system in Zambia, the system needs keen policy coherence which is critical in ensuring the sound management of public finances whilst maximizing impact for consumers or the Zambian citizens. For instance, there is policy incoherence in terms of public procurement being aligned to provisions for beneficial ownership disclosure provided for in the Companies Act No. 2 of 2017 which is vital to protect public funds from corrupt practices of politically exposed persons and public officials. Additionally, there is the aspect of ineffective implementation of existing laws for instance, implementation of sanctions provided for in the Public

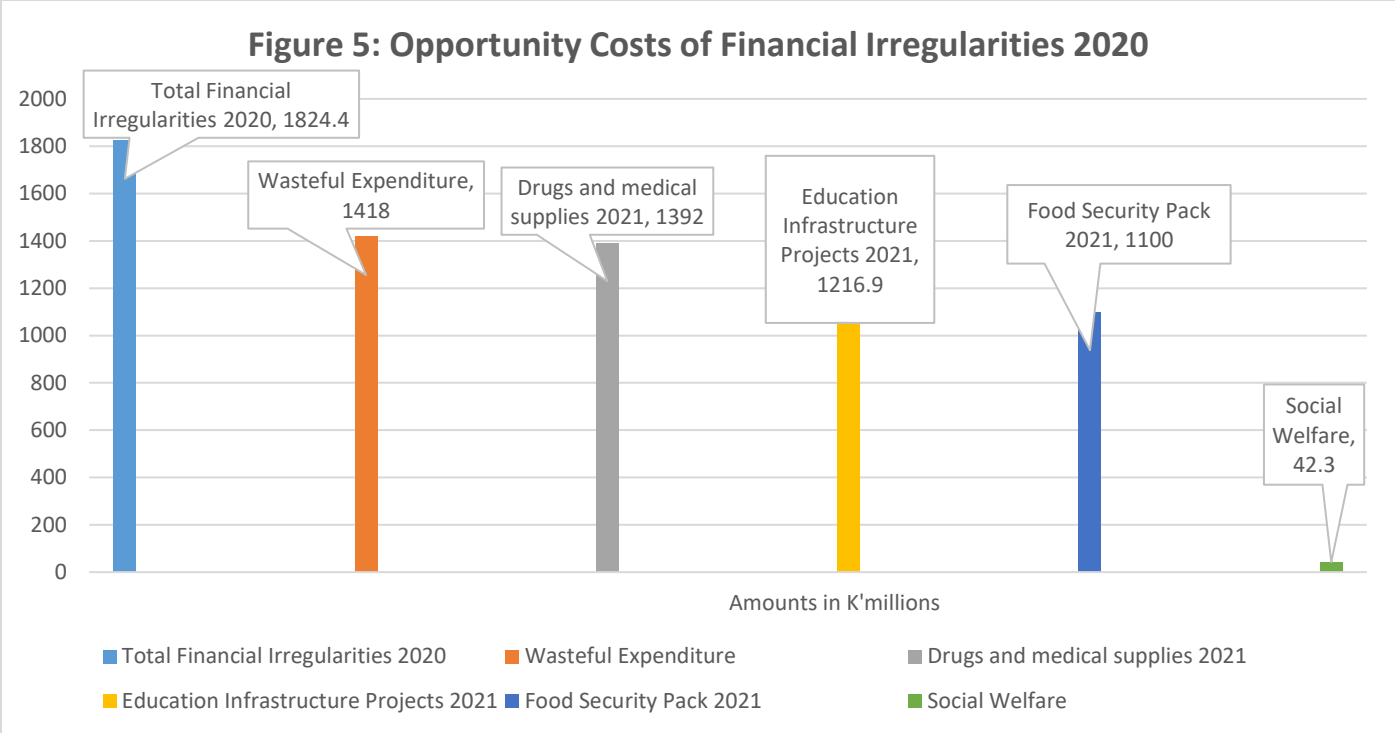
Financial Management Act No. 1 of 2018 and the gaps in institutional strengthening, especially when it comes to sub-national Ministries and Spending Agencies (MPSAs) (CSO Statement of Procurement in Zambia, 2021).

5.2 Uptake of the Recommendation by the Executive.

In the last five years, Zambia saw a weak executive in responding to actions towards curbing corruption and ensuring that public resources are safeguarded. i.e., an analysis done by Civil Society for Poverty Reduction in 2019 discovered that none of the recommendation made by the Public Accounts Committee towards the erring officers were implemented. The most Government did was to transfer the affected controlling officers to other Ministries without a clearance certificate of where they were coming from. This occurred despite the Public Finance Management Act No. 1 of 2018 provisions where an officer is found to have committed financial misconduct, the Secretary to the Treasury shall (a) suspend or impose on that office holder a surcharge equivalent to the loss or wasteful or irregular expenditure incurred by Government; and (b) recommend to the relevant Service Commission, appropriate action to be taken which may include— (i) demotion; (ii) termination of employment; and (iii) any other penalty as prescribed under any relevant regulation (Zambia National Assembly, 2018). As if this is not enough, the President was also recorded using a traditional idiom at a rally in Ndola stating “Ubomba *Mwibala Ayla Mwibala*”. A local language idiom which means “a person working in a field eats from there”. This could be interpreted as allowing those close to power to abuse public resource. Such a statement can further be taken as encouraging misuse of public funds and frustrate the fight against corruption. Further, the Corruption Perception Index of 2020 indicated that the Executive branch of the Government in Zambia had weak capacity to safeguard against abuse of resources in the Country (Chanda, 2021).

5.3 Abuse of Public Resources and Social Economic Impact.

For the year 2020, Wasteful expenditure was ZMW1.418 billion. This amount is much higher than the total amount allocated to food security pack in 2021 budget which stood at ZMW1.1 billion (Zambia National Assembly, 2020). Further, this wasteful expenditure amount is 33 times higher than the amount allocated to social welfare department in 2021 budget with the aim of protecting and promoting the rights of children especially those who are in need of care such as abandoned, circumstantial, orphaned, abused and neglected children by ensuring that in all matters relating to them are attended to. This implies that the social welfare department and other social sectors are being robbed of much-needed resources to improve the status quo through corrupt activities that come out on an annual basis in the Auditor’s General Reports.



According to figure 5, financial irregularities in 2020, were almost twice the allocations for food security packs and social welfare for 2021 combined!

Wasteful expenditure was more than total allocation for drugs and medical supplies in the health sector for 2021. This means that the wasteful expenditure, if allocated to health, could have doubled the supply of drugs and medical supplies, thereby greatly reducing drug and material shortages in health centers across the country. Wasteful expenditure for 2020 was also greater than the entire allocation for education infrastructure projects in 2021, meaning Zambia lost the opportunity to double infrastructure development in the country in 2021 due to financial irregularities.

6. Recommendations

The law should require that the people found wanting from the misuse of public funds are punished stiffly. Full application of the punitive measures contained in the Public Finance Management Act would reduce the propensity for financial irregularities and corruption.

Also, the government must address issues of competition by broad basing of bidders through satisfactory publicity on procurement opportunities or objective pre-qualifying criteria for bidders, fixing timelines for processing the bids to obviate interference in the procurement process.

The government, through the Ministry of Finance, must strengthen and come up with monitoring mechanisms such as good procurement procedures and internal control systems and the development of a fraud prevention programme to reduce fraud and non-compliance.

Government must expedite implementation of the electronic Government Procurement system (e-GP) to be rolled out countrywide. This will promote open procurement and allow stakeholders to monitor and participate in the procurement processes.

The Zambia Public Procurement Authority needs to show commitment to the e-GP implementation by ensuring that the Procurement Entities within the country have the capacity to keep the e-GP system fed with relevant data to promote open contracting. Open Contracting is the practice of publishing and using accessible procurement cycle information to ensure that vast sums of public money are spent honestly, fairly, and effectively.

Furthermore, the Government must ensure policy coherence when it comes to public procurement in the country for the appropriate management of public finances while maximizing impact for citizens. The government must also develop provisions in the regulatory and legal framework to adequately enforce as well as promote accountability and transparency. Finally, the government must foster the engagement of citizens and Civil Society Organizations (CSOs) in procurement oversight.

The recommendations made by Public Accounts Committee to the affected line ministries have been taken as an academic exercise because no information or feedback is got back from the affected line ministries if were implementing the recommendations. The Law enforcement agencies and the Public Accounts Committee should take it upon themselves to make follow ups to the affected ministries to ascertain if the recommendations have been implemented, unlike waiting for the affected line ministries to report back on the implementation progress.

PAC should give a minimum period in which all the controlling officers for all the affected line ministries should provide a progress report on the recommendations made.

The controlling officers should be compelled to give a status report of the previous audit queries before the current queries can be answered during PAC hearings. This could help in keeping tabs on the executive from an informed position, thereby enhancing accountability.

Parliament should consider publicizing the appendices of the action taken by PAC on the website for wider accessibility as very few copies are printed by parliament.

Parliament should consider coming up with performance clearance certificates for all controlling officers before they can be transferred. This would ensure that they do not leave audit queries in the institutions they have been to.

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