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

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ABSTRACT

The study analysed the legal framework governing the autonomy of the Auditor-General in Zambia and assessed the extent to which the framework supports or constrains institutional independence and operational effectiveness. Using doctrinal legal research, the study examined the Constitution of Zambia, the Public Audit Act, the State Audit Commission Act, the Public Finance Management Act, relevant judicial authorities, international standards, scholarly literature, and institutional reports. The analysis finds that Zambia provides substantial formal safeguards for audit independence, particularly through the constitutional appointment framework, the Auditor-General's broad audit mandate, and the prohibition against direction or control in the performance of official functions. However, the framework also creates areas of interpretive tension. Article 234 establishes the State Audit Commission (SAC) and gives it oversight functions, while the State Audit Commission Act assigns the Commission functions that include staffing, disciplinary matters, performance monitoring, complaints, and budget review. These provisions do not expressly authorise the Commission to determine audit priorities, conduct audits, alter findings, or control audit reports, but their breadth makes clear statutory boundaries important for preserving operational independence. In addition, section 16 of the Public Audit Act expressly requires the Auditor-General to conduct a specific audit at the President's request. Although the provision does not expressly permit presidential direction over the conduct or outcome of the audit, its mandatory wording creates a potential tension with the constitutional principle of functional independence. The study concludes that Zambia's framework provides a strong foundation for autonomy but requires clarification of institutional boundaries, stronger safeguards for financial and administrative independence, and mechanisms that improve follow-up to audit findings.

KEYWORDS: Auditor-General; Autonomy; Accountability; Audit independence; Public Audit; State Audit Commission; Zambia.

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1. Introduction

Supreme Audit Institutions (SAIs) are important components of systems of public accountability because they independently examine the use of public resources and report their findings to the institutions responsible for democratic oversight. International standards have consistently emphasised that SAIs require institutional independence to discharge their mandates effectively. The Lima Declaration of Guidelines on Auditing Precepts identifies independence as a necessary condition for effective external public auditing, while the Mexico Declaration on SAI Independence identifies organisational, functional and financial safeguards as important dimensions of that independence (International Organization of Supreme Audit Institutions [INTOSAI], 1977, 2007). The United Nations has similarly recognised the importance of independent SAIs in promoting efficiency, accountability, effectiveness and transparency in public administration (United Nations, 2011, 2014).

In Zambia, the Auditor-General occupies a constitutionally protected position. Article 249 of the Constitution

establishes the office and provides for appointment by the President on the recommendation of the State Audit Commission, subject to ratification by the National Assembly. Article 250 confers a broad audit mandate and provides that the Auditor-General shall not be subject to the direction or control of a person or authority in the performance of the functions of office (Constitution of Zambia, 1991/2016). The constitutional design therefore seeks to combine accountability to Parliament with independence from executive direction.

The central issue addressed by this study is whether the formal constitutional and statutory safeguards translate into sufficient institutional autonomy. Particular attention is given to the relationship between Article 234, which establishes the State Audit Commission, and Article 250(2), which protects the Auditor-General from direction or control. The study also considers section 16 of the Public Audit Act, which requires the Auditor-General, at the request of the President, to conduct a specific audit where the President considers such an audit desirable in the public interest (Public Audit Act No. 29 of 2016). The article argues that these provisions should not be characterised automatically as contradictory. Rather, they require careful interpretation to distinguish legitimate oversight and accountability from interference with the Auditor-General's professional and operational judgment.

2. Background

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In Zambia, the Auditor-General occupies a constitutionally protected position. Article 249 of the Constitution establishes the office and provides for appointment by the President on the recommendation of the State Audit Commission, subject to ratification by the National Assembly. Article 250 confers a broad audit mandate and provides that the Auditor-General shall not be subject to the direction or control of a person or authority in the performance of the functions of office (Constitution of Zambia, 1991/2016). The constitutional design therefore seeks to combine accountability to Parliament with independence from executive direction.

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3. General Objective

To analyse the legal regime regulating the autonomy of the Auditor-General in Zambia, with particular reference to the constitutional and statutory framework governing institutional, financial, administrative and operational independence.

3.1 Specific Objectives

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 the functions of office.
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.

4. Legal Research Methodology

The study adopted a qualitative doctrinal legal research methodology. The approach was appropriate because the study principally examined legal rules, constitutional provisions, statutes, judicial authorities and international standards in order to determine the legal position concerning the autonomy of the Auditor-General. The primary legal materials included the Constitution of Zambia, the Public Audit Act, the State Audit Commission Act and the Public Finance Management Act. Secondary materials comprised scholarly literature, institutional reports and comparative materials on the independence of Supreme Audit Institutions.

The analysis proceeded by identifying the legal provisions establishing the Auditor-General, defining the office's functions, regulating appointment and tenure, providing for oversight, and protecting operational independence. Comparative authorities were used as contextual benchmarks rather than as direct sources of Zambian law. Where the analysis identifies a potential conflict or institutional risk, the proposition is framed as an interpretation or normative concern rather than as an assertion that the law expressly provides for executive interference.

4.1 Scope and Jurisdictional Focus

The study is primarily concerned with the Zambian legal framework governing the autonomy of the Auditor-General. It focuses on Articles 234, 249, 250 and related constitutional provisions, the Public Audit Act No. 29 of 2016, the State Audit Commission Act No. 27 of 2016 and section 73 of the Public Finance Management Act No. 1 of 2018. Comparative materials from South Africa and Kenya and international standards issued by INTOSAI are used selectively to illuminate possible approaches to institutional independence, parliamentary oversight and accountability.

5. Discussion

5.1 Introduction

This section examines the legal and scholarly dimensions of Auditor-General autonomy. It first distinguishes autonomy from independence and then considers the legal framework, the degree of autonomy provided by that framework, and possible reforms. The discussion deliberately separates what the Zambian legal texts expressly provide from conclusions that arise through interpretation or comparison.

5.2 Conceptual Review of Key Terms

Independence and autonomy are closely related but are not identical. Independence primarily concerns freedom from inappropriate external direction or control in the exercise of institutional functions, while autonomy is broader and includes the practical capacity to organise and administer the institution, manage resources and exercise professional judgment. For an SAI, meaningful autonomy therefore includes functional, administrative and financial dimensions. The distinction is important because an institution may be formally independent in the performance of its audit functions while remaining institutionally dependent in areas such as staffing or budgeting (Blume & Voigt, 2011; Cordery & Hay, 2019).

The Auditor-General is the constitutional office-holder responsible for the external audit of public resources. The National Audit Office provides the institutional framework through which the audit mandate is undertaken. The SAI concept therefore refers to the institution as a whole, while the Auditor-General is the constitutional office-holder at its head. The effectiveness of both depends on adequate legal authority, professional capacity and safeguards against inappropriate interference (INTOSAI, 1977, 2007).

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

The constitutional framework provides several significant safeguards. First, Article 249 establishes a constitutionally protected office and creates a multi-stage appointment process: the President appoints the Auditor-General on the recommendation of the State Audit Commission, subject to ratification by the National Assembly. This arrangement distributes appointment authority among institutions rather than placing the appointment solely within executive discretion. Secondly, Article 250 gives the Auditor-General a broad jurisdiction over public resources. Thirdly, Article 250(2) expressly protects the Auditor-General against direction or control by a person or authority in the performance of official functions (Constitution of Zambia, 1991/2016).

The State Audit Commission introduces an additional institutional layer. Article 234(2)(a) gives the Commission responsibility to oversee the operations of the Office of the Auditor-General, subject to Article 249(2), while the State Audit Commission Act specifies the Commission's functions. These include overseeing the undertaking of functions by the National Audit Office, appointing and disciplining auditors

and other staff, promoting staff, receiving and investigating complaints, monitoring and evaluating performance, and reviewing and recommending approval of the National Audit Office's budget estimates (State Audit Commission Act No. 27 of 2016).

The statutory text therefore establishes genuine oversight powers. It would be inaccurate, however, to conclude that the Commission is expressly empowered to direct the Auditor-General in the exercise of audit judgment. Section 4 does not expressly confer power to choose audit findings, alter reports, or direct the methodology or outcome of a particular audit. The stronger legal argument is that the breadth of administrative oversight creates a potential boundary problem: if an administrative power were exercised in a manner that effectively controlled audit judgment, it could come into tension with Article 250(2). The constitutional protection should consequently guide the interpretation and application of the Commission's statutory powers.

The Public Audit Act provides the operational framework for the National Audit Office and the exercise of audit functions. Of particular importance is section 16(1), which provides that the Auditor-General shall, at the request of the President, conduct a specific audit into the accounts of a State organ, State institution or private institution where the President considers the audit desirable in the public interest. The provision is an express statutory power to request an audit and an express duty on the Auditor-General to conduct it. It does not, however, expressly authorise the President to determine the audit findings or otherwise control the Auditor-General's professional judgment. Accordingly, section 16 creates a potential tension with Article 250(2), but it should not be described without qualification as an invalid direction or as proof that the Constitution has been breached (Public Audit Act No. 29 of 2016).

The Public Finance Management Act complements this framework. Section 73 gives the Auditor-General broad access to financial and information systems necessary for audit work. The provision strengthens the practical ability of the Auditor-General to obtain evidence and conduct audits effectively (Public Finance Management Act No. 1 of 2018).

5.4 Degree of Autonomy Accorded to the Auditor General

The legal framework provides substantial functional autonomy. Article 250(2) is unequivocal in protecting the Auditor-General from direction or control in the performance of the functions of office. The constitutional mandate is also sufficiently broad to cover financial, value-for-money and forensic auditing. The Public Finance Management Act reinforces access to information, while the Public Audit Act supplies a statutory framework for audit operations. In this respect, Zambia's formal legal framework is broadly consistent with the international expectation that SAIs should have a clear mandate and access to information necessary to fulfil it (INTOSAI, 1977, 2007).

Administrative autonomy is more complex. The State Audit Commission Act assigns the Commission authority over appointment, discipline and promotion of National Audit Office staff. These are substantial administrative powers. They may enhance accountability and professional administration, but they also create a potential risk if administrative decisions are used to influence audit priorities or professional judgments. The appropriate legal position is therefore not that all Commission oversight undermines independence, but that the exercise of administrative powers must remain within boundaries compatible with Article 250(2).

Financial autonomy is likewise an important dimension of SAI independence. International standards recognise that an SAI should have access to adequate resources and should be protected from financial arrangements that could compromise its ability to perform its mandate (INTOSAI, 2007). Zambia's framework provides for public funding and parliamentary processes, but the budgetary role of the State Audit Commission and the wider public finance framework demonstrate that financial independence is not equivalent to complete financial self-determination. The appropriate reform objective is therefore adequate, predictable and protected funding rather than exemption from parliamentary accountability.

Operational autonomy is strongest where the Auditor-General determines how constitutionally mandated audits are planned, conducted and reported. Section 16 of the Public Audit Act should be understood within this structure. A presidential request can initiate a specific audit, but Article 250(2) provides a constitutional limit against direction or control in the performance of the functions of office. Thus, the legal concern lies principally in the possibility that an audit request could be used to influence priorities or professional judgment, not in the mere existence of the statutory request mechanism.

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

Comparative and international materials suggest that legal independence is most effective when accompanied by clear institutional boundaries, adequate resources and accountability mechanisms. The INTOSAI Lima and Mexico Declarations provide the principal international benchmarks. They emphasise

functional and organisational independence, access to information, reporting rights and adequate resources (INTOSAI, 1977, 2007). For Zambia, these principles support reforms that clarify rather than eliminate legitimate oversight.

South African jurisprudence provides a useful comparative reference. In Member of the Executive Council for Economic Opportunities, Western Cape v Auditor-General of South Africa and Another (2020), the High Court considered the institutional character and reviewability of the Auditor-General's functions. The case demonstrates the importance of identifying the legal nature of audit functions and preserving the constitutional position of the Auditor-General. The South African model is relevant to Zambia because both systems constitutionally protect external audit institutions while maintaining accountability to democratic institutions; however, the South African constitutional framework should be treated as a comparative benchmark rather than directly transplanted into Zambia.

The South African Constitutional Court has also stressed the constitutional importance of independent accountability institutions. In Public Protector v South African Reserve Bank (2019), the Court situated accountability and transparency within the broader constitutional order. The relevance for Zambia is that independence should not be understood as freedom from accountability; rather, accountability should be structured so that it does not become a means of controlling the institution's constitutionally protected functions.

Kenya offers a further lesson concerning institutional boundaries. In In the Matter of the Speaker of the Senate and Another (2013), the Supreme Court emphasised the importance of constitutional allocation of functions and institutional consultation. Although the case concerned the relationship between the two Houses of Parliament rather than an audit institution, its broader constitutional principle is relevant: where several institutions exercise interconnected constitutional powers, the legal framework should define their respective roles clearly to avoid jurisdictional overlap. Zambia could apply this principle by clarifying the boundary between SAC oversight and the Auditor-General's professional audit functions.

Accordingly, Zambia should consider the following reforms. First, the State Audit Commission Act should expressly distinguish administrative oversight from professional audit functions. The statute should state that the Commission may exercise its personnel, performance, complaints and budgetary functions but may not direct audit selection, audit methodology, audit findings or reporting decisions. This would give practical effect to Article 250(2) while preserving legitimate institutional oversight.

Second, the law should strengthen the financial safeguards applicable to the National Audit Office. Parliament should ensure that funding is adequate, predictable and sufficient for the Office to perform its constitutional mandate. The objective should be to reduce opportunities for financial constraints to affect audit coverage while retaining parliamentary control over public expenditure.

Third, administrative arrangements should give the National Audit Office sufficient professional capacity to recruit and retain specialised personnel, including forensic auditors, information-technology auditors and performance-audit specialists. Administrative accountability should remain, but it should be designed so that staffing decisions cannot be used to influence individual audit work.

Fourth, section 16 of the Public Audit Act should be clarified. A presidential request for a specific audit may be retained as an accountability mechanism, but the legislation should expressly provide that the request does not authorise the President to direct the scope, methodology, findings or reporting of the audit beyond the statutory subject matter of the request. This would reconcile the statutory request mechanism with Article 250(2).

Finally, follow-up mechanisms should be strengthened. International literature indicates that the public value of SAI work depends not only on producing reports but also on the ability of Parliament and public bodies to respond to findings (Cordery & Hay, 2019; Reichborn-Kjennerud, 2013). Zambia should therefore establish clear timelines for parliamentary consideration and institutional responses to audit findings, together with transparent reporting on the status of implementation.

6. Analysis

The study establishes that Zambia's legal framework provides a substantial formal foundation for the autonomy of the Auditor-General. Article 249 constitutionalises the office and distributes appointment responsibilities among the President, State Audit Commission and National Assembly. Article 250 provides a broad audit mandate and expressly protects the Auditor-General from direction or control in the performance of official functions. These provisions provide stronger legal protection than would exist where the audit institution were created only by ordinary legislation.

The analysis nevertheless identifies a significant institutional boundary issue. Article 234 expressly creates

the State Audit Commission and gives it oversight responsibilities. Section 4 of the State Audit Commission Act then confers powers over National Audit Office staff, complaints, performance monitoring and budget estimates. These are not insignificant powers. However, the legislation does not expressly give the Commission authority to determine the substance of an audit, alter audit findings, or control the Auditor-General's reports. The principal legal problem is therefore one of potential overlap rather than an express statutory grant of operational control.

The analysis also finds that section 16 of the Public Audit Act requires careful treatment. The President may request a specific audit and the Auditor-General is required to conduct it. The provision is therefore an express legal power rather than an implied executive authority. Nevertheless, because Article 250(2) protects the Auditor-General from direction or control in performing official functions, the exercise of section 16 should not extend to controlling the professional conduct or outcome of the audit. The provision would benefit from express safeguards to remove doubt.

The study further finds that the degree of autonomy is multidimensional. Functional independence is strongly protected in the Constitution. Administrative autonomy is more qualified because the State Audit Commission Act assigns important personnel and institutional powers to the Commission. Financial autonomy is also qualified because the Office remains part of the public financial system and is accountable for public resources. These qualifications do not necessarily defeat independence; rather, they demonstrate that autonomy must be assessed by considering the interaction of functional, administrative and financial safeguards.

Finally, the analysis shows that formal autonomy must be accompanied by effective follow-up. Audit reports contribute to public accountability only when their findings receive meaningful institutional and parliamentary attention. The legal framework should therefore protect both the independence of the Auditor-General and the accountability of public bodies subject to audit.

6.1 Summary of Findings

The Constitution provides strong formal protection for the Auditor-General, particularly through Articles 249 and 250(2).

Article 234 and the State Audit Commission Act create a legitimate oversight structure, but the breadth of some administrative powers makes clear statutory boundaries necessary.

Section 16 of the Public Audit Act expressly permits a presidential request for a specific audit. The provision creates a potential tension with functional independence but does not expressly authorise presidential control over audit findings or methodology.

Administrative and financial arrangements mean that constitutional functional independence does not necessarily amount to complete institutional autonomy.

International and comparative standards support reforms that protect functional independence while maintaining appropriate parliamentary and administrative accountability.

6.2 Implications for Law, Policy and Development

The study has implications for constitutional design, public financial management and institutional accountability. For law and policy, it demonstrates the need to align statutory oversight mechanisms with constitutional guarantees of functional independence. For public financial management, stronger audit autonomy can improve the scrutiny of public expenditure and strengthen the credibility of public financial reporting. For institutional development, clear boundaries between oversight and professional audit judgment can reduce uncertainty and protect the National Audit Office from inappropriate interference. The reforms proposed in this study are therefore directed at strengthening both accountability and independence rather than treating them as competing objectives.

7. Conclusion

The study concludes that Zambia has established a substantial constitutional and statutory foundation for the autonomy of the Auditor-General. Article 249 establishes the office and provides for a multi-institutional appointment process, while Article 250 gives the Auditor-General a broad mandate and protects the office-holder from direction or control in the performance of official functions. The Public Audit Act and Public Finance Management Act provide additional operational and information-access powers necessary for effective auditing.

At the same time, formal constitutional protection does not remove all questions concerning institutional

autonomy. The State Audit Commission is constitutionally authorised to oversee the operations of the Office of the Auditor-General, and the State Audit Commission Act gives it significant administrative responsibilities concerning staff, complaints, performance and budget estimates. These provisions do not expressly authorise the Commission to control audit judgment, findings or reports, but their breadth makes it necessary to maintain a clear boundary between administrative oversight and professional audit functions.

Section 16 of the Public Audit Act presents a further issue requiring careful interpretation. The President may request a specific audit, and the Auditor-General is required to conduct it. This is an express statutory power. However, the provision should operate consistently with Article 250(2), meaning that a request to conduct an audit should not become a power to control its methodology, findings or reporting. Clarifying this relationship would strengthen legal certainty and protect the credibility of the audit process.

The study therefore concludes that Zambia's principal challenge is not the absence of formal independence but the need to translate constitutional independence into coherent institutional arrangements. The most important reforms are clearer limits on State Audit Commission oversight, adequate and predictable financial resources, sufficient administrative flexibility to maintain professional capacity, and stronger follow-up mechanisms for audit findings. These reforms would enable the Auditor-General to remain accountable to Parliament and the public while preserving the professional independence necessary for credible external audit.

8. Recommendations

1. The State Audit Commission Act should be amended or clarified to distinguish administrative oversight from professional audit functions. The Commission should not direct audit planning, methodology, findings or reporting decisions.
2. The legal framework should strengthen the adequacy and predictability of funding for the National Audit Office while retaining parliamentary accountability for public expenditure.
3. The National Audit Office should have sufficient administrative flexibility to recruit, retain and manage specialised professional staff, subject to transparent accountability safeguards.
4. Section 16 of the Public Audit Act should be clarified to provide that a presidential request for a specific audit does not authorise direction over the audit methodology, findings or reporting.
5. Parliamentary and statutory follow-up mechanisms should establish clear timelines for consideration of audit findings and responses by audited institutions.
6. The implementation status of audit recommendations should be reported transparently so that Parliament and the public can assess whether corrective action has been taken.

9. Limitations of the Study

The study adopted a doctrinal methodology and therefore relied principally on constitutional and statutory provisions, judicial authorities, international instruments, scholarly literature and institutional reports. It did not collect primary empirical data from the Office of the Auditor-General, the State Audit Commission, Parliament, public officials or other stakeholders. Consequently, conclusions about practical autonomy are derived from documentary evidence and legal analysis rather than from measured perceptions or experiences of institutional actors.

A second limitation concerns the relative scarcity of Zambian judicial decisions directly interpreting the constitutional relationship between the Auditor-General and the State Audit Commission. Comparative authorities were therefore used to illuminate general principles of institutional independence and constitutional allocation of powers. Such authorities provide useful benchmarks but cannot substitute for authoritative Zambian interpretation. The study accordingly treats comparative jurisprudence as contextual rather than determinative.

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