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BY

KIMBERLY MALIKO

REGIONAL GREED AND LOCAL CRIMES: FINANCIAL CRIMES AND IMPLICATIONS ON TAX, CASE STUDY OF ZAMBIA AND BOTSWANA

A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF A BACHELOR OF LAWS/ LLB FROM THE UNIVERSITY OF LUSAKA

2025

DECLARATION

I, **KIMBERLY MALIKO,** do hereby declare that this dissertation titled **"REGIONAL GREED AND LOCAL CRIMES: FINANCIAL CRIMES AND IMPLICATIONS ON TAX, CASE STUDY OF ZAMBIA AND BOTSWANA"** which is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, is my original work and has not previously been submitted for the award of a degree at this or any other tertiary institution.

The sources that have been used or quoted have been indicated and duly acknowledged as complete reference.

Signature……………………………………….

Date………20/11/2025……………..

SUPERVISOR'S RECOMMENDATION

I RECOMMEND THAT this obligatory essay under my supervision

By

KIMBERLY MALIKO

(STUDENT NUMBER LLB22111927**)**

Entitled

REGIONAL GREED AND LOCAL CRIMES: FINANCIAL CRIMES AND IMPLICATIONS ON TAX, CASE STUDY OF ZAMBIA AND BOTSWANA

Signature………………………………….

Supervisor: MONICA CHIPANTA MWANSA

Date………………………………………..

DEDICATION

This paper is dedicated to my beloved mother, Comfort Kabanda Makungu, and my father, Oliver Maliko, for their unwavering love and continuous sacrifices, along with their constant words of encouragement, that have helped and pushed me to keep going. Your love and dedication have been the foundation of my achievements.

A heartfelt thank you to my aunt, second mother and mentor, Catherine Makungu, who has been an absolute inspiration. Her guidance and encouragement have been instrumental in shaping my journey, and I am profoundly grateful for her wisdom and example.

And to my wonderful siblings, Ashley Mweshi and Hayley Lumbwe for always believing in me and inspiring me to pursue my dreams.

This work is dedicated to each of you with heartfelt gratitude.

ACKNOWLEDGEMENTS

Firstly, I would like to thank God for allowing me to pursue my Bachelor of Laws and bring me this far, for without him, this journey would have been impossible.

I would like to express my deepest gratitude to everyone who has supported me throughout this journey. To my friends Mwansa Constance Sandu, Ingrid Takudzwa Chimuka, Musonda Sindala, N’gandwe Mulonda, Habiba Bassoum, and Ian Chanda, your constant encouragement, support and companionship have made my academic path far more manageable and enjoyable. I am deeply thankful for each of you and always will be.

To my high school friends Monde Phiri and Nyawa Phiri, even though we are no longer at the same school, your unwavering support has meant the world to me. Thank you for being there every step of the way.

A special thank you to my cousins, Emmanuel Milambo and Kunda Milambo, whose unwavering support and guidance have been invaluable. Your help has been a true pillar throughout my studies even in our distance.

I am also immensely grateful to Mr Mulambia, under whose tax law lectures inspired this topic and Mrs Monica Mwansa, whose dedication and excellence as supervisor has profoundly enriched my learning experience. Thank you both for inspiring and guiding me along the way.

To each of you, I am grateful for your contributions, which have made this achievement possible.

Finally, I would like to thank the University of Lusaka for the opportunity given to me to pursue my degree and acquire the necessary knowledge required to excel in the course of my study

ABSTRACT

This study examined the systematic erosion of Zambia's tax base, which is often caused by the convergence of regional greed, which could be defined as illicit cross-border capital flight by multinational entities, and local crimes, more specifically, financial crimes that are often perpetrated by politically exposed persons. The study looked into the efficacy of Zambia's current legal and institutional frameworks in how they combat these threats, asking why comprehensive statutes such as the Prohibition and Prevention of Money Laundering Act No.44 of 2010 and the Financial Intelligence Centre Act No.16 of 2020 have come short in closing the nation's enforcement gap.

By adopting a qualitative, comparative case study methodology, the research compared Zambia's enforcement architecture to that of Botswana. The study analyses the operational mandates in each jurisdiction as well as the structural independence of key institutions, such as the Anti-Corruption Commission (ACC) and Zambia Revenue Authority with Botswana's Directorate on Corruption and Economic Crime (DCEC) and Botswana Unified Revenue Service (BURS).

The findings of this research recognized that Zambia possesses a robust de jure legislative framework, and point out that its de facto application is mostly reactive as it is characterized by institutional silos and vulnerability to political interference. On the other hand, however, Botswana was identified as a country whose model is more proactive, which can be seen by its effective use of non-conviction based asset forfeiture, its mandated inter agency data sharing and the preventative approach to corruption auditing. This dissertation concluded that in order to effectively counter the double threats of regional greed and local crimes, Zambia must move towards institutional reform by adopting Botswana's models of operational autonomy and a more integrated intelligence led tax enforcement, rather than enacting more legislation.

LIST OF STATUTES

Anti-Corruption Act No.3 of 2012 of the Laws of Zambia

Botswana Unified Revenue Service Act Chapter 53:03

Corruption and Economic Crimes Act of 2018 of the Laws of Botswana

Financial Intelligence Act of 2022 of the laws of Botswana

Financial Intelligence Centre Act No.16 of 2020 of the Laws of Zambia

Forfeiture of Proceeds of Crime Act No.19 of 2010 of the Laws of Zambia

Income Tax Act, Cap 323 of the Laws of Zambia

Local Government Act No. 2 of 2019 of the Laws of Zambia

Proceeds and Instruments of Crime Act No. 28 of 2018 of the Laws of Botswana

Prohibition and Prevention of Money laundering Act No.44 of 2010

Public Interest Disclosure (Protection of Whistleblowers) Act No.4 of 2010 of the Laws of Zambia

Whistleblower Protection Act No.9 of 2016 of the Laws of Botswana

Zambia Revenue Authority Act Chapter 321 of the Laws of Zambia

LIST OF CASES

Director of Public Prosecutions v Louis Goodwill Nchindo and Others [2009] 2 BLR 423 (HC) [Botswana]

Mopani Copper Mines Plc v Zambia Revenue Authority (Appeal No. 107/2019) [2020] ZMSC 29 [Zambia]

Sydney Mwansa v The Director of Public Prosecutions (Appeal No. 276/2021) [2024] ZMCA 118 [Zambia]

The People v Bowman C. Lusambo (SSP/010/2022) [2024] ZMMSC (Magistrate Court Judgement) [Zambia]

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COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS ON FINANCIAL CRIMES AND THE IMPLICATIONS ON TAX IN ZAMBIA AND BOTSWANA

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1.0 Introduction

Tax law is a very important tool when it comes to state sovereignty as it grants the government the ability to finance public goods and mitigate inequality that may exist and overall foster national development. However, there is often a problem that arises in resource rich nations such as Zambia, in which the fiscal sovereignty is under constant assault. This dissertation will aim to investigate the dual phenomena of both "regional greed" and "local crimes." Regional greed could be defined as the sophisticated and cross border financial strategies of multinational enterprises[1], this could include aggressive tax avoidance and even illicit profit shifting. Local crimes on the other hand refers to the domestic and high level offenses which can include corruption, illicit enrichment and even money laundering[2]. These crimes are so often committed by Politically Exposed Persons (PEPs) with their networks which often leads to the draining of resources.

The joint impact of these forces then leads to a critical implication on tax, this being a direct and catastrophic erosion of the national treasury. Though Zambia has established a good and comprehensive legal architecture to fight back, a lot of its successes has been limited, creating a paradox in which law does exist, but with an enforcement gap persisting.

In comparison, Zambia's regional peer, this being Botswana, has managed to cultivate a global reputation for institutional resilience and even a relative success in safeguarding its public purse[3]. This study will show that the core of this argument is not necessarily in the existence or non-existence of laws in each of the jurisdictions, but rather more on the designs, applications and institutional enforcements.

1.1 Background of the Problem

Financial crimes in both Zambia and Botswana are rooted in their histories and institutional legacies which were shaped by colonialism. However, post-

[1] N Shaxson, Treasure Islands: Tax Havens and the Men Who Stole the World (Bodley Head)

[2] Bratigam D, Taxation and Governance in Africa (American Enterprise Institute, 2008)

[3] https://advanceglobalcap.com/cultivating-economic-potential-accelerating-resilient-growth-and-development-in-botswana/

independence, Botswana prioritized strong governance by enacting laws like the Corruption and Economic Crime Act[4] to establish autonomous anti-corruption bodies, they also focused on creating trustworthy institutions, such as the anti-corruption agency Directorate on Corruption and Economic Crimes (DCEC), which operates independently to investigate and prosecute crimes. Zambia on the other hand has struggled with weak laws, seeing as its anti-corruption efforts are prone to interference. Additionally, with outdated laws such as the money laundering act, issues such as online fraud are not addressed, making it easy for criminal networks to exploit, whilst Botswana has updated laws to meet international standards, making it harder for criminals to hide money.

Both countries have signed regional agreements to fight corruption, but without strong local institutions, these promises do not mean much. Botswana's successes teaches Zambia that good laws and independent agencies are keys to stopping financial crimes.

1.2 Statement of the Problem

Zambia faces a critical development paradox in that it has a comprehensive de jure legal framework to combat financial crimes but however, suffers when it comes to de facto enforcement. This failure creates a profound and persistent “enforcement gap.” The nation’s statutes that include the Prohibition and Prevention of Money laundering Act No.44 of 2010[5], the Financial Intelligence Act No.16 of 2020[6] and the Anti-Corruption Act no.3 of 2012[7] all provide on paper what seems to be a full scale arsenal against illicit financial flows.

There is a disconnect between the law on the books and the law in practice that causes the rise of a question being that if Zambia has the laws then why is it that local crimes and regional greed continue to persist and drain the treasury? The enforcement gap that exists is not that which is accidental but rather a product of deep structural weaknesses.

[4] Corruption and Economic Crime Act No 13 of 1994

[5] Prohibition and Prevention of Money laundering Act No.44 of 2010
[6] Financial Intelligence Act No.16 of 2020
[7] Anti-Corruption Act no.3 of 2012

In contrast, Botswana which is a regional peer, faces similar threats but has managed to achieve different and better outcomes which this dissertation will seek to investigate. Therefore, by doing a comparative analysis with Botswana, this research will address the gap in successes with combating financial crimes by deconstructing the legal and institutional frameworks of both nations to identify the root causes of the differing performance and to help formulate strategies that could help strengthen Zambia's fight against financial crimes that erode tax and justice.

1.3 Research Objectives

I. To conduct a comparative analysis of the legal and institutional frameworks governing financial crime and tax enforcement in Zambia and Botswana.

II. To evaluate how the differences in these frameworks impact the effectiveness in combating financial crime and protecting national tax revenue.

III. To identify strategies from Botswana's law for the reform of Zambia's legal and institutional systems.

1.4 Research Questions

I. What are the key legal differences in the legal statutes and institutional structures that Zambia and Botswana use to combat financial crimes and protect their tax systems?

II. How do the differing legal and institutional approaches affect the outcomes in preventing revenue loss from financial crimes like tax evasion and money laundering?

III. What lessons Zambia can learn from Botswana's legal and institutional practices to strengthen its own tax system and reduce financial crime?

1.5 Significance of the Study

This study matters as it tackles a critical issue that affects the everyday life of people in Zambia. Financial crimes like tax evasion and even money laundering take away from public funds that are meant for schools, hospitals and even roads. By comparing the struggles of Zambia to the successes of Botswana, this research will answer a simple but urgent question which is, "how can Zambia address its vulnerabilities in its tax system?" For Zambian policymakers, the findings may offer practical lessons like how Botswana's strong institutions and updated laws could help Zambia fix its outdated systems and even possibly regain public trust.

1.6 Scope of Study

This study will focus on understanding how financial crimes, specifically crimes such as money laundering, tax evasion, and even fraud, impact tax systems in both Zambia and Botswana. It will examine the legal frameworks of each country in their approach with combating these crimes, laws such as Zambia's Anti-Money Laundering Act[9] and Botswana's Proceeds of Serious Crime Act[10], as well as the institutions that are responsible for enforcement, including Zambia's Anti-Corruption Commission and Botswana's Directorate on Corruption and Economic Crime(DCEC).

Lastly, this study will also explore how regional agreements like the standards such of the Financial Task Force (FATF) Recommendations shape national efforts.

1.7 Literature Review

Zambian academic **Dr. Sishuwa Sishuwa** has written greatly on the enforcement gap that exists in the laws of the country, framing it as a product of cyclical political will[8]. In his analysis he argued that the fight against corruption is episodic and only peaks after a change in administration but later wanes as political calculations shift. This then results in a public perception of there being selective justice and institutional weakness, which then scares away whistleblowers and encourages criminals who believe they could wait out the political cycle, which supports the thesis that Zambia's institutions lack the de facto independence to fight local crimes that are committed by political elites.

Professor O'Brien Kaaba of the University of Zambia under the School of Law has analyzed broadly the culture of impunity. His scholarship on constitutionalism and rule of law has recognized a continuous disconnect between that which is the legislative intent and the prosecutorial outcomes[9].

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[8] Shishuwa, S. (2021). 'Zambia's 2021 election: a democratic rupture' Journal of Democracy, 32(4), pp. 93-107

[9] Kaaba, O. (2013). 'The Judicial Enforcement of Socio- Economic Rights in Zambia: Challenges and Opportunities' In African Human Rights Law Journal, 13 (1)

Zambia institute for Policy Analysis and Research[10] has provided a critical analysis on the regional greed component in their work on tax policy and mining sector governance which highlights the technical gaps that multinational corporations exploit such as transfer pricing vulnerabilities. The case of **ZRA v Mopani Copper Mines**[11] has been analyzed by experts who have pointed out how outdated tax laws and a lack of international cooperation frameworks contribute to a catastrophic revenue loss which is the core to the implications on tax.

Professor Mpho G. Molomo, a Botswanan political scientist, has written on the foundations of Botswana's "exceptionalism" which attributes to a post-independence commitment to the building of a strong and professional institutional framework. This focus is important especially in regards to the analysis of the Directorate on Corruption and Economic Crimes (DCEC). **Professor Kenneth Good**[12] gave some in depth analysis on this body all the while noting its potential limitations that includes it being within the Office of the President. His work nevertheless also establishes the reputation of the DCEC more in regards to its de facto independence and its unique "three-pronged" mandate which provides a lesson for Zambia in regards to taking action before funds are officially stolen.

Dr. Tachilisa Balule[13] confirmed the robustness of the Proceeds and Instruments of Crime Act of Botswana. He demonstrated a legal and judicial consensus that supports Act's broad powers, including its non-conviction based forfeiture provisions. This is a good contrast to Zambia with the judicial uncertainty identified, showing that a supportive and aligned judiciary is important for enforcement.

1.8 Research Methodology

This study adopts a comparative case study approach, combining qualitative analysis of statutory frameworks, policy documents and reported financial crime cases in both Zambia and Botswana with an addition of an analysis of interviews with tax officials and legal practitioners to assess the implications of regional greed on tax systems.

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[10] Zambia Institute for Policy Analysis and Research (ZIPAR).

[11] Mopani Copper Mines Plc v Zambia Revenue Authority (Appeal No. 107/2019) [2020] ZMSC 29

[12] Molomo, M.G (2000). 'Democracy in Botswana: The Making and Fading of a Success Story'. Pula: Botswana Journal of African Studies.

[13] Balule, T.B. (2015). 'The War against Corruption and the Constitution in Botswana'. University of Botswana Law Journal.

1.10 Research Approach

This study will employ a qualitative comparative research approach to analyse how regional greed and local crimes shape tax systems in Zambia and Botswana. By examining legal frameworks, and institutional practices in both countries. According to **Creswell**[14] A qualitative approach involves the use of exploration of phenomena and descriptions focusing on words, concepts, ideas or images to measure differences between variables and the relationship between them.

1.11 Research Design

The research design adopted for this study is phenomenological design. This design has been favoured because data for this study will involve asking those with lived experiences to interpret them in order to grasp the meaning of those experiences.

1.12 Research Type

This research will involve a comparative study between Zambia and Botswana's legal frameworks, focusing on understanding the how and why behind financial crimes and tax system dynamics. It will contrast Zambia's institutional weaknesses with Botswana's successes to identify transferable solutions.

1.13 Study Population

The population for this research will include that of Zambia, which is 16,405,229 according to the Central Statistical Office of Zambia[15].

1.14 Sample Size

This study sample is 10 people drawn from legal practitioners specializing in financial crimes, tax officials and anti- corruption experts from Zambia.

1.15 Sample Technique

This study employs purposive sampling to select participants and documents that are most relevant to understanding financial crimes and tax governance in Zambia and

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[14] John W. Creswell, Qualitative Inquiry and Research Design: Choosing Among Five Traditions (SAGE Publications, 1998)

[15] http://www.zamstats.gov.zm.com

Botswana. This means that participants were chosen based on their expertise and institutional roles.

1.16 Data Collection

Data was gathered using three methods, through documents such as the laws in each country, namely Zambia's Anti Money Laundering Rules and Botswana's Proceeds of Serious Crime Act and even government reports. Secondly, interviews of people who work in tax offices and anti-corruption agencies as well as legal practitioners with much experience in the financial crimes field, and lastly, real life examples of financial crimes.

1.17 Data Analysis

This study will employ Interpretive Phenomenological Analysis (IPA), a qualitative method designed to explore individuals' personal experiences and their interpretations of significant life events or situational involvement. IPA allows the research to delve into how participants perceive and make meaning of their lived experiences. Additionally, content analysis will be integrated to systematically examine data focusing on their use in certain context and frequency. These approaches will ensure a both nuanced understanding of subjective experiences and a meaning of participants' narratives.

1.18 Ethical Considerations

For this study permission will be sought from the UNILUS Research Ethics Committee through the School of Laws research unit in addition permission will be sought from different organizations, institutions or communities to be studied .Therefore, each research subject will be required to consent to the participation in this study by signing a research consent from that will be provided to them.

CHAPTER TWO

An Analysis of Zambia's Legal Framework on its Fight against Financial Crimes and the Effect on its Tax system

2.0 Introduction

Financial crime is not a victimless offense, it is a direct assault on the economic sovereignty of a nation as well as on its ability to provide for its citizens. In developing countries such as Zambia, the drainage of resources through money laundering, tax evasion and even corruption cause devastating results. While Zambia has established laws to combat these issues, its legal framework has still shown struggle to keep pace with the sophisticated and evolving methods of criminals. This chapter will look into Zambia's primary legislative tool, being the Prohibition and Prevention of Money Laundering Act of 2010[16], and briefly look into other legislation that helps combat financial crimes.

2.1 Historical Context and Rationale for the Legislation

Zambia's journey in regulating financial crimes and its tax system is deeply rooted with its political and economic evolution. After the gain of independence in 1964, the legislative framework was focused on state building and nationalization, mainly towards the copper mining industry[17], during which in this period, financial regulation was more focused on managing a state led economy. However, the legal framework was not made to handle sophisticated financial crimes as we know them today.

During the shift into post-independence, Zambia had faced economic stagnation and pressure from international financial institutions such as the World Bank, causing the country to embark on a program of economic liberalization. In this era, there was privatization of state owned enterprises as well as a push to attract foreign direct investment.

Though this had opened up the economy, it also created significant vulnerabilities as the rapid but poorly regulated privatization process created opportunity for corruption

[16] Prevention of Money Laundering Act No. 44 of 2010

[17] https://humanities.uct.ac.za/media/283053#:~:text=Zambia%20became%20independent%20in%201964,population%20living%20in%20urban%20areas. Accessed on 3rd August 2025.

and illicit outflow of capital. Due to the lack of adequate oversight, the financial system became a conduit for laundering the proceeds of such criminal activity.

The enactment of the Prohibition and Prevention of Money Laundering Act of No. 14 of 2001, later amended to the Prohibition and Prevention of Money Laundering Act of No. 44 of 2010[18], was a landmark moment. It was Zambia's first step to criminalize money laundering and align its framework with the growing international standards. The rationale had two components, firstly, to protect Zambia's newly liberalized financial system from being abused and secondly, to demonstrate that Zambia too was a responsible partner committed to fighting transnational crime.

Additional legislation such as the Financial Intelligence Centre Act No.16 of 2020[19] as well as the Anti-Corruption Act No.3 of 2012[20], came in to build on this foundation by creating institutions working to enhance and detect enforcement against financial crimes and relieve the tax base.

2.2 Key Provisions of the Legal Framework in the Fight Against Financial Crimes

The Prohibition and Prevention of Money Laundering Act No. 14 of 2001, now amended to Act No.44 of 2010, remains a cornerstone of Zambia's anti-money laundering scheme. Understanding its core provisions is essential to appreciate both its intended purpose as well as its current limitations. The act defines money laundering broadly as engaging in transactions that are aimed at disguising the origins of property known to be the proceeds of crime. It further criminalizes the converting, transferring and even possession of property derived from criminal activity. The act specifies a list of serious crimes that act as predicate offenses to money laundering, which include drug trafficking, fraud and even corruption. Furthermore, a significant portion is dedicated to placing obligations on reporting entities, to perform customer due diligence, record keeping and even report suspicious activity. Lastly the act grants power to law enforcement agencies to investigate and prosecute, resulting in fines, imprisonment or even forfeiture of the illicit assets to the state.

[18] Ibid No. 44 of 2010
[19] The Financial Intelligence Centre Act No. 16 of 2020
[20] Anti-Corruption Act No.3 of 2012

The Financial Intelligence Centre Act No. 16 of 2020[21], establishes the financial Intelligence Centre as the sole national agency which is the one responsible for receiving, analyzing and even disseminating financial intelligence.

Anti-Corruption Act No. 3 of 2012[22], provides a legal foundation for combating corruption, providing for both the private and public sectors. The act also establishes the Ant-Corruption Commission (ACC) which is an autonomous body with the power to investigate corrupt practices and prosecute them. It gives definitions of corrupt practices, abuse of authority, and even possession of unexplained property.

2.3 The National Tax System and the Zambia Revenue Authority (ZRA)

Zambia's national revenue is collected through a "source-based" tax system, this means that income is generally taxed if it originates or is perceived to originate from Zambia. This system is administered by a central and semi-autonomous body called the Zambia Revenue Authority (ZRA).

The Zambia Revenue Authority was established the Zambia Revenue Authority Act, Chapter 321 of the laws of Zambia[23], with the primary mandate to "assess, charge, levy and even collect any and every revenue that is due to the government under the written laws[24]." It is, therefore, the institutional gatekeeper of the nation's treasury.

The tax system that is administered by the Zambia Revenue Authority is composed of three main categories, each having its own significant vulnerabilities to financial crime.

2.3.1 Direct Taxes: The Vulnerability to Regional Greed

All direct taxes are levied on income and profits, which is the primary arena for regional greed, for example corporate Income Tax (CIT) which is tax that is levied on profits of companies that are operating within Zambia at a standard rate of 30%[25]. For Multinational Enterprises (MNE's), specifically in Zambia's economy that is majorly dominated by mining, the tax is not a fixed calculation but more of a strategic battleground. The main weapon that is often used to minimize CIT liability is abusive

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[21] The Financial Intelligence Centre Act No. 16 of 2020

[22] Anti-Corruption Commision No.3 of 2012

[23] Zambia Revenue Authority Chapter 321 of the Laws of Zambia, s.9

[24] Zambia Revenu Authority Chapter 321 of the Laws of Zambia, s.11 (1)

[25] https://www.pwc.com/zm/en/assets/pdf/pwc-zambia-budget-bulletin-2024.pdf accessed 15 November 2025

transfer pricing[26]. This usually involves Zambian subsidiaries selling core products, such as copper, to related parent companies in low tax jursidictions such as Mauritius, at rather low and non-marketable prices.

Such shifts of profits result in situations of minimal taxable profit that is declared in Zambia, thereby eroding the tax base. This very mechanism was seen in the case of Zambia Revenue Authority v Mopani Copper Mines.[27]

Pay as You Earn (PAYE)

This system highlights a different kind of vulnerability, this being a narrow tax base. The burden of Pay as You Earn falls on a small pool of formerly employed workers. This then makes the losses faced by corporate tax avoidance even more damaging since the state will then be put in a position in which they are to disproportionately rely more on the salaries of the employed population, while multinational enterprises and other corrupt elites continue to fail to pay their share.

2.3.2 Indirect and Trade Taxes

Whereas direct taxes are more susceptible to regional greed, indirect taxes on the other hand, are the primary target of local crimes. Take for instance Value Added Tax (VAT), which is levied at 16% and has its primary vulnerability not to do with tax avoidance but more so regarding fraud. VAT refund fraud is the most pervasive local crime. It usually iolves criminal syndicates, usually insiders of companies creating fictitious shell companies, which then generate false invoices to show that they have paid VAT. Fraudulent refund claims are then filed with ZRA, thereby stealing from the treasury. This has been reported on multiple occassions by the ZRA, as they have been repeatedly investigating many companies for this crime, with potential losses in billions of Kwacha.[28]

Another form of indirect and trade taxes is customs and excise duties, which are taxes that are collected at the borders of Zambia. The issues faced here normally concern the interactions between ZRA customs officials and the private importers in which a fertile ground for bribery is created. Some of the common issues that arsie here involve

[26] https://www.elibrary.imf.org/display/book accessed 15 November 2025

[27] Zambia Revenue Authority v Mopani Copper mines Plc [2020] ZMSC 29.

[28] https://www.vatupdate.com/2024/11/27/zambia-revenue-authority-investigates-over-320-vat-fraud-cases-worth-k5-billion/ accessed 15 November 2025

undervaluation, which is when importers bribe officials to accept fraudulent invoices that state the calue of imported goods, such as for luxury vehicles, at prices far lower than what they truly cost. Another common issue could be miscalssifying high tax items to be low tax items by officials after receiving payment, and lastly, smuggling, in which goods are moved through porous or even complicit borders without any declaration at all. These acts may seem small when looked at in isolation, but they, however, represent a huge and systematic drain on state revenue in the long run.

2.3.3 The ZRA's Structural Chasm

The Zambia Revenue Authorityy is, by its legal design, a tax administration and civil enforcement body. Its main legal mandate is to chase tax debt as well as tax evasion. However, the regional greed and local crimes that have been discussed previously are not tax issues alone, but predicate criminal offenses that involve money laundering, fraud, forgery, and even corruption.

This then creates an institutional chasm. When a ZRA auditor uncovers sophisticated VAT refund fraud they are able to prove the tax evasion, however, they lack the legal mandate and technical capacity to investigate the money laundering or corruption elements. The ZRA must therefore refer the criminal components of the case to other separate agencies such as the Anti-Corruption Commission. This referral is the "enforcement gap."

This is so as the case leaves the hands of the tax specialists to more bureaucratic channels where it coud potentially be lost. This institutional fragmentation is a core vulnerability as there is a lack of a mandated and integrated mechanism to pursue a case holistically from tax evasion through to the criminal prosecution creating a system in which sophisticated criminals and other actors have learned to exploit.

2.4 The Interconnection of Financial Crimes such as money laundering, Illicit Financial Flows and Tax Revenue Loss

Tax crimes, money laundering and other financial crimes are linked to one another, posing significant threats to strategic, political, and even economic interests of a country[29]. These crimes deprive governments of crucial resources essential for development.

While being distinct, financial crimes such as money laundering and negative effects on tax, often intersect. Money laundering involves making illegally gained proceeds appear legal, whereas negative effects on tax such as tax evasion is the illegal non-payment or underpayment of tax. These illicit practices damage economies and societies by reducing public funds and facilitating other criminal activities.

Illicit financial flows (IFFs) which is money illegally earned, reduces the domestic tax base of a nation which leads to substantial loss in tax revenue of a country.[30] IFFs, money laundering and many other financial crimes thrive in environments that are characterized by secrecy, inadequate legal frameworks, lax regulations and even poor enforcement.

2.5 Application of Law in Practice

In practice, the application of the Prohibition and Prevention of Money Laundering Act has been faced with quite a few challenges, despite the provision for a legal basis for prosecution as the number of successful high-profile convictions as well as significant asset recoveries remains low. To assist it, bodies like the Financial Intelligence Centre (FIC), play a very important function by receiving suspicious transaction reports from institutions like banks and even analyzes them to identify any potential case of money laundering and tax evasion[31]. The Financial Intelligence Centre then gives reports to law enforcement such as the Anti-Corruption Commission (ACC) and even the Drug Enforcement Commission (DEC) for further investigation.

However, a gap still remains between the intelligence produced by the Financial Intelligence Centre and the tangible enforcement actions. The 10th Money Laundering and Terrorism Report 2024[32] The Financial Intelligence Centre provides an overview of the multifaceted nature of financial crimes in Zambia, which includes, money laundering, illicit tax flows and more. His report highlighted the importance of robust

[29] https://www.oecd.org/en/topics/policy-issues/tax-and-crime.html accessed on 3rd August 2025
[30] https://openknowledge.worldbank.org/server/api/core/bitstreams/c9f03a57-ebf5-59c7-bca3-4a7f7b3c0f77/content accessed on 3rd August, 2025
[31] https://www.fic.gov.zm/about-us accessed on 3rd August, 2025
[32] https://www.fic.gov.zm/component/attachments/download/155 accessed on 4th August, 2025

legal and regulatory frameworks and brought out the successes and the continuing challenges in the application of law when combating these issues.

The report further exposed gaps and weaknesses in the existing legal application, stating that some of the contributing challenges concerns issues of shell companies, undeclared cash and forged documents, which further highlights the evasion of legal mechanisms designed to regulate commerce and taxation.

It is further noted in the report[33], that with the emergence of cyber-enabled financial crimes a new challenge has been added, and that this is a challenge that the current legal and regulatory framework of Zambia may not sufficiently be agile to keep pace with. It suggests a need for continuous adaptation and refinement of the legal tools in order to address the criminal categories in order for Zambia to properly combat these threats.

Additionally, **Albert Sikapizye**[34] who explored both the positive and negative effects of the anti-money laundering legal framework, focusing on corruption and financial crimes within the country's borders, had argued to say that Zambia has a good Anti-Money Laundering legal framework, however, the overall application and effect of these laws are hampered by poor enforcement, lack of political will and institutional non-coordination. That though the legal tools are available they are not leveraged to their full potential.

2.6 Identified Gaps and Deficiencies in the Financial Crimes Framework

Zambia is often crippled by its legal and institutional framework that fails to combat the sophisticated threats of money laundering, tax evasion, and corruption. Despite the existing laws on paper, they are often faced with deficiencies which create an environment where illicit funds flow, leaving the state tax systems and evidently the state treasury in ruins. A critical examination of Zambia's framework may relieve the gaps in the legislative core.

The Prohibition and Prevention of Money Laundering Act of 2010[35], is a fundamental product of an era that is bygone. The act was initially put in place to address the

[33] https://www.fic.gov.zm/component/attachments/download/155 accessed on 4th August 2025
[34] Albert Sikapizye, 'Do the Anti-Money Laundering Laws in Zambia Work Well to Address Corruption in Public Procurement?' (Master's thesis, international Anti-Corruption Academy, 2021)
[35] Ibid No. 44 of 2010

challenges of a newly liberalized economy, however, it is now rather outdated as it does not tackle today's digital and globalized financial landscape. One of its major deficiencies is its failure to address the modern methods of money laundering.

For instance, the 2019 Financial Action Task Force (FATF) Mutual Evaluation Report[36], stated that the country's primary anti-money laundering act has failed to keep pace with the global standards. A critical flaw that was identified by FAFT was that serious crimes such as tax evasion are not explicitly designated as predicate offenses for money laundering which is a monumental gap. This results in situations where individuals or even companies can engage in activities resulting in tax evasion and be unlikely to face severe penalties that come with being charged for money laundering.

This legislative weakness directly creates one of the most damaging forms of tax base erosion in the country. The weak anti-money laundering framework makes it easier to disguise and legitimize the proceeds of such aggressive tax avoidance schemes. When the underlying acts of profit shifting are not treated as serious crimes, then the subsequent movement of those funds becomes harder to prosecute as money laundering.

Additionally, the institutions that are tasked with enforcement regarding financial crimes, face significant operational hurdles which undermine their effectiveness. For example, the Financial Intelligence Centre which is Zambia's primary financial intelligence unit, has observed and reported to a persistent "enforcement gap"[37]. This shows disconnect between the intelligence and subsequent successful prosecutions and asset recoveries by law enforcement agencies.

The gap is also greatly attributed to the lack of guaranteed operational autonomy and political interference. Take for example, when investigations implicate powerful political or even business figures, there are enforcement agencies such as the Anti-Corruption Commission (ACC) which requires consent from the Director of Public Prosecutions[38], and does not permit the charging of constitutional office holders and state officers under the act causing them to sometimes face pressure and either stall

[36]https://www.fatf-gafi.org/content/dam/fatf-gafi/annual-reports/FATF-annual-report-2019-2020.pdf.coredownload.inline.pdf accessed on 5th August, 2025

[37] https://www.fic.gov.zm/component/attachments/download/155 accessed on the 6th August, 2025

[38] Anti-Corrupt Act No. 3 of 2012, S64

or drop the cases. This creates a perception of selective justice and also a deterrent effect of the law.

In conclusion, the gaps in Zambia's financial crimes framework are not just a peripheral issue, but they are in fact central to the economic struggles of the nation. An outdated legal core is enforced by fragile institutions, creating a weak chain easily broken by sophisticated criminals. To help combat, Zambia needs a modernized legal framework that recognizes digital-aged threats, institutional reforms that can guarantee genuine autonomy and even provide adequate resources.

2.7 Suggestions and International Best Practices

The mandate of the Financial Task Action Force (FATF) is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. FAFT also aims to recognize national level vulnerabilities.[39]

Expand predicate offenses: the new law should explicitly include serious tax crimes such as evasion and fraud as predicate offenses for money laundering. This would align with FAFTF recommendations[40] and mirror the approach taken by Botswana in its Proceeds of Serious Crime Act[41]. This change would enable authorities to prosecute tax cheats for the more serious offense of money laundering.

Introduce Illicit Enrichment Provisions: Zambia should consider introducing provisions that criminalize illicit enrichment, making it an offense for individuals or public persons and all else to possess wealth which cannot be explained by legitimate sources of income, which would be a powerful tool against corruption.

Guarantee Operational Autonomy: the Financial Intelligence Centre and even bodies like the Ant-Corruption Commission need legally guaranteed operational autonomy to protect them from political interference, and their leaderships should be protected from arbitrary removal.

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[39] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html accessed on 6th august, 2025

[40] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html accessed on 6th August, 2025

[41] .Proceeds of Serious Crime Act

Adopt a Proactive, Risk-Based Approach[42]: Zambia could follow Botswana's model, shifting from a purely reactive stance to one that is risk based. Meaning that instead of waiting for money laundering in and of itself to actually come into play, they must take action before the matters actually escalate into money laundering or tax evasion and other financial crime by looking at the activities that pose the highest risk.

2.8 Addressing the Root Causes

The deficiencies in Zambia's fight against financial crimes are deeper than systematic issues, this could include:

High levels of Unemployment and Poverty: A good amount of the population is living in economic desperation which has created a fertile ground for financial crimes. This allows for the growth of crimes as result for not only need but also a continuing greed. Due to this, a lot of people may be more willing to participate in illicit activities if it means getting a fee for it.

A Culture of Impunity: When political and even economic elites are seen as individuals that are above the law, it destroys public trust and discourages compliance among ordinary citizens. This stems from weak governance structures and a lack of political will to prosecute those who are powerful individuals.

Adopting these recommendations and borrowing from international best practices could enable Zambia to fill in the gaps in its legal framework, better its fight against financial crimes, better its tax base and put it in compliance with international standards.

2.9 Conclusion

The history of Zambia's legislation on financial crime largely reflects a nation that is simply trying to keep pace with a rapidly changing world. With the laws born out of an economic transition which were at the time a very necessary step but are now inadequate to face the challenges of the present day. The Prohibition and Prevention of Money Laundering Act[43] Though foundational, it is faced with gaps that undermine

[42] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html accessed on 6th August, 2025

[43] Ibid No. 44 of 2010

effectiveness, especially regarding the link between money laundering and tax evasion.

The way forward, however, is clear as it aims to draw on international best practices that are laid out by the Financial Action Task Force and the successful, robust models set out by countries such as Botswana, Zambia can undertake a meaningful reform, by modernizing its primary legislation, strengthening the independence and capacity of the enforcement institutions. However, these legal and institutional adjustments will only hold if the nation also faces the deep rooted causes of vulnerability such as poverty, unemployment and the culture of impunity which is present. A holistic approach that joins robust laws and economic opportunity as well as an unwavering commitment to the rule of law is essential in Zambia's fight for financial integrity.

CHAPTER THREE

Comparative Analysis of Legal Frameworks on Financial Crimes and the Implications on Tax in Zambia and Botswana

3.0 Introduction

The idea of regional greed in Southern Africa is more than just a moral issue; it is a core part of the region's economic system as it represents a desire for wealth and power, which has become a main driver of government policy. This can be seen in the way some individuals get power and use it for their own gain, transforming certain bodies into crime syndicates, thereby creating a perfect environment for illegal activities that in the end drain the resources of the nation.

Instead of being driven by ideological differences, it is found that crime and conflicts in resource rich countries like Zambia, are often caused by a calculated effort to gain control of valuable assets. This then means that the seemingly small crimes, this being the local crimes, are not random acts but are a direct result of a larger system of greed.

This chapter will argue that while both Zambia and Botswana have put in place legal and institutional frameworks to combat financial crimes that inevitably protect the tax base, a comparative analysis will reveal the differences in law as well as the effectiveness of them. Looking at Zambia, with recent reforms that represent a reactive, prosecution-focused approach that is driven by public pressure and a history of enforcement failures.

In contrast, it will look at Botswana, which has pursued a much more proactive and preventative strategy that is actually rooted in international tax cooperation and risk based assessment, aiming to secure its fiscal borders before major losses occur. This comparison will offer profound lessons for Zambia on how to move beyond mere enforcement and towards building a more resilient legal and fiscal framework that is more capable of safeguarding its national treasury against the corrosive effects of regional greed.

3.1 The Zambian Legal Framework

Zambia's approach to combating financial crimes is largely characterized by a comprehensive and even layered legal and institutional framework. However, this framework faces problems such as those faced as a result of corruption or even the judiciary grappling with the application of powerful but complex new legal tools. The direct result of such challenges is a continuous loss in tax revenues which in turn damage the nation's economic stability.

3. 1. 2 Legislative Foundations and Institutional Ecosystem

Zambia's fight against financial crime is built upon several key statutes. The cornerstone of this fight is the Prohibition and Prevention of Money Laundering Act No.14 of 2001[44], as amended by Act No.44 of 2010[45], which defines and criminalizes money laundering, and establishes the predicate offenses that cause investigations to begin. Complementing this is acts such as the Financial Intelligence Centre Act No.16 of 2020[46], which created the Financial Intelligence Center (FIC) as the main agency for receiving, analyzing, and disseminating suspicious transaction reports to law enforcement[47]. Another important piece of legislation is the Forfeiture of Proceeds of Crime Act No.19 of 2019[48], which gives a legal basis for both civil and criminal based forfeiture of assets deemed to be the proceeds of crime, which is a vital tool for stripping criminals of their illicit gains.

This legislative framework is performed through an interconnected web of institutions, this includes the Anti- Money Laundering Authority, which serves at policy level and is headed by the Attorney General who provides the overarching strategic direction.[49] Then the Financial Intelligence Centre which serves as the central nervous system by being the body that processes financial intelligence and flagging potential criminal activity for investigation[50]. The more investigative and prosecutorial functions are handled by the Anti-corruption Commission which investigates corruption related offenses[51] and the National Prosecution Authority which is responsible for prosecuting all criminal matters.[52]

[44] Prohibition and Prevention of Money Laundering Act no.14 of 2001
[45] Prohibition and Prevention of Money Laundering Act No.44 of 2010
[46] Financial Intelligence Centre Act no.16 of 2020
[47] https://www.fic.gov.zm/aml-cft-framework accessed on 27th August, 2025
[48] Forfeiture of proceeds of Crime Act No.19 of 2019
[49] https://www.fic.gov.zm/aml-cft-framework accessed on 27th August, 2025, s.3 Act No.44 of 2010
[50] https://www.fic.gov.zm/aml-cft-framework accessed on 27th August, 2025
[51] Anti-Corruption Commission Act Cap 91 s.9
[52] https://www.npa.gov.zm/index.php/taxation-and-finical-crime/ accessed 27th August,2025

Due to the specialized nature of these offences, the National Prosecution Authority established a dedicated Taxation and Financial Crimes Unit (TFCU)[53], which called for a more focused and organized approach to tackling white-collar crimes and their direct impact on state revenue. This system, although works well on paper, heavily relies on the effective coordination and a shared commitment of each of the bodies to overcome the complex challenges created by financial crimes.

3. 1. 3 The Implications on Tax

The impact of financial crime in Zambia is largely felt in the erosion of the tax base. A good exhibit of this is the case of **Zambia Revenue Authority v Mopani Copper Mines**[54] which had to do with a transfer pricing scheme, where Mopani, a Zambian subsidiary, had sold copper to a Swiss based parent company called Glencore international at artificially low prices. This resulted in profits being shifted out of Zambia and so reducing its local tax liability. Due to this, Zambia Revenue Authority successfully argued that these low prices were designed to evade tax resulting in Mopani being ordered to pay $13 million in taxes. In the ruling, the courts had stated that the issue in this case was a perfect demonstration of the challenge that multinational corporations create for the tax revenues of many developing countries. This recognized corporate greed and its impact on national treasuries.

Beyond these large scale corporate schemes, Zambia faces issues of tax evasion at other levels. The Zambia Revenue Authority is currently investigating over 320 cases of suspected Value Added Tax refund fraud with an estimated value of over K5 billion[55]. However, the state's commitment to prosecute these offenses is shown by the 11 convictions that they have already secured through the Economic and Financial crimes court. The case of **The State v Kennedy Likomeno and Liko Industries**[56] was a case in which the High Court overturned an acquittal and convicted the company for filling fraudulent VAT returns which does show the growing intolerance for such

[53] https://www.npa.gov.zm/index.php/taxation-and-finical-crime/ accessed 27th August,2025

[54] Zambia Revenue Authority v Mopani Copper Mines ZMSC 29 (20 May 20)

[55] https://www.vatupdate.com/2025/07/21/zambia-revenue-authority-suspends-withholding-vat-due-to-successful-smart-invoice-system-implementation/ accessed 28th August, 2025

[56] https://www.npa.gov.zm/wp-content/uploads/2025/01/Likomena-Judgment-1-1.pdf accessed 28th August,2025

schemes. In the court's judgment it was brought out that the submission of false returns through the ZRA online portal was evidence of the intention to evade tax.

3. 1. 4 The Judicial Response and the Challenge of Enforcement

The Zambian judiciary is very important in the fight against financial crimes. For many years, the justice system has been perceived as weak, in 2023, a powerful address by Chief Justice **Dr Mumba Malila** acknowledged the "systematic weaknesses and even failure in the justice systems to effectively deal with the economic and financial crimes"[57] which was a situation he said made 'corruption and related offenses appear to be low-risk business with high returns". This historical context along with the lengthy trial delays and acquittals due to technicalities all create an environment for the unchecked growth of economic crime.

The establishment of the Economic and Financial Crimes Court was a direct response to the historical failings. As it was announced by the Chief Justice, the specialized court was indeed created to ensure the expeditious disposal of complex financial cases that had once before been failed in court systems. Take for example the 2024 conviction of former Lusaka Province Minister **Bowman Lusambo** for possessing tainted property, in which the courts had said "public servants are poorly remunerated, making it almost impossible for such a one to acquire such expensive assets only a few years in without questioning possible other sources" this reflected a willingness a scrutinize unexplained wealth.

Despite this, there seems to still be a challenge in the interpretation of non-conviction based asset forfeiture, which is a powerful weapon against unexplained wealth. Take for example the case of **Sydney Mwansa v The Director of Public Prosecutions**[58] In the commentary, the National Pension Authority expressed a deep concern over a court of appeal decision that seemed to need the state to first identify a specific predicate offense before it could proceed with a non-conviction based forfeiture. The National Pension Authority had argued that the interpretation fails to recognize that the core element of non-conviction based forfeiture is the lack of requirement for the state to show that an offense has been committed. This judicial decision places the

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[57] Mumba Malila, 'Economic & Financial Crimes Courts: Challenges and the Future' (Inaugural National Annual Prosecutors' Conference, Livingstone, 21 August 2023)

[58] https://www.npa.gov.zm/index.php/2024/12/30/case-comment-sydneymwansa-v-director-of-public-prosecutions-dpp-and-non-conviction-based-forfeitureorders/ accessed 28th August,2025

law at risk, effectively undermining its ability to target and forfeit illicit assets where proof of a specific crime is difficult to achieve. This shows a disconnect between the legislative intent and the judicial interpretation, which creates a potential delay in the fight.

The gap between the law in theory and in practice is corroborated by international scrutiny. The 2019 Mutual Evaluation Report[59] the Eastern and Southern Africa Anti-Money Laundering Group, endorsed by the Financial Action Task Force, had stated that while Zambia had made improvements on the technical compliance with the global standards, its overall system shows a low level of effectiveness in areas like confiscating the proceeds of crime. Reports that follow show continuous efforts to address these deficiencies, however, the shift to be effectively implemented remains a significant challenge. Zambia's framework is therefore a system that is in transition and still grappling with deep seated challenges of judicial alignment and effective enforcement.

3.2 The Botswana Legal Framework

Botswana serves as a good comparison as it is known for its good governance and rule of law in Africa. Its approach to combating financial crimes is characterized as that of a proactive nature and risk based philosophy that seeks to prevent illicit activities before they metastasize.

3. 2. 1 A Risk-Based Legislative Framework

Botswana's legal framework for fighting financial crime has undergone much modernization in order to align with international standards. Their legislative core is the Financial Intelligence Act of 2022[60], which provides a comprehensive framework for money laundering, combating the financing of terrorism, and countering the financing of proliferation of weapons of mass destruction. This act is supported by the Proceeds and Instruments of Crime Act[61] which provides for both conviction based and non-conviction based asset forfeiture, which easily gives authorities the tools to seize illicitly acquired wealth.

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[59] https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/ESAAMLG-MER-Zambia-June%202019.pdf.coredownload.inline.pdf accessed 29th August, 2025

[60] Financial Intelligence Act of 2022

[61] Proceeds and Instruments of Crime Act 28 of 2014

Institutional pillars that support this framework are also clearly defined, take for instance the Financial Intelligence Agency which serves as the central national authority for receiving, analyzing and disseminating financial intelligence, so it is the main body that identifies suspicious transactions. The lead investigative body is the Directorate on Corruption and Economic Crime, which is tasked to investigate allegations of corruption and economic crime, and also prevent such activities and educate the public[62]. One of the key functions of the Directorate on Corruption and Economic Crime is to focus on proactive measures, such as conducting lifestyle audits on public officials to uncover unexplained wealth and to perform corruption task assessments in government departments to identify and close any systematic loopholes. This shows that they prioritize prevention alongside enforcement.

3. 2. 2 Protecting its Tax Base by Design

The feature that stands out in Botswana's framework and is a good lesson for other countries is its proactive approach to protecting its tax base through international cooperation. Rather than waiting to prosecute tax evasion after the fact, Botswana has actually made a policy choice that is to align its fiscal and legal systems with global standards which are designed to prevent tax avoidance right at its source. In July 2017, the country had joined the Organization for Economic Co-operation and Developments Based Erosion and Profit Shifting inclusive framework[63]. This commitment has since put Botswana in a position in which they are to implement minimum standards aimed at preventing multinational enterprises from artificially shifting profits to low or no tax jurisdictions at all. Additionally, with them signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters[64] Botswana gained access to a powerful network for exchanging tax information with over a 100 other jurisdictions, which has made it much harder for individuals and even corporations to hide assets or income abroad. This approach treats tax integrity not merely as a law enforcement issue but as a core component of national economic policy and security.

3.3 A Comparison of the Two Frameworks

[62] https://gov.bw/ministries/directorate-corruption-and-economic-crime accessed 29th August,2025
[63] https://dailynews.gov.bw/news-detail/61479 accessed 29th August, 2025
[64]https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/convention-on-mutual-administrative-assistance-in-tax-matters/status_of_convention.pdf accessed 29th August 2025

The anti-financial crime frameworks for both Zambia and Botswana show two different strategies for achieving the same goal of protecting their economies from the ravages of corruption and illicit flows, this is seen in the different design, application and effect of their laws. This comparative analysis will look at the strengths and weaknesses in each approach, giving a clear basis to identify transferable lessons.

3. 3. 1 Institutional Design and Effectiveness

Both Zambia and Botswana have rather similar frameworks, seeing as they both have their own central financial intelligence units, these being the Financial Intelligence Centre for Zambia and the Financial Intelligence Agency for Botswana. They also each have their own anti-corruption agencies, Anti-Corruption Commission for Zambia and Directorate on Corruption and Economic Crime for Botswana, however, despite some of these similarities, their operational focuses are different. Botswana's Directorate on Corruption and Economic Crime has a much more preventative mandate and utilizes lifestyle audits and even corruption risk assessments within government departments all in order to proactively identify and mitigate vulnerabilities[65].

On the other hand, Zambia's institutions, such as the recent creation of the Taxation and Financial Crimes Unit within the National Prosecution's Authority and within the Economic and Financial Crimes Court, appears to be much more geared towards improving their investigative as well as prosecutorial engine to react to crimes that have already occurred.

3. 3. 2 The Reactive Prosecution vs. the Proactive Prevention

This is the main difference between the two frameworks, with Zambia launching new prosecution guidelines and even establishing special courts[66], these are reactive measures. These are measures brought in to improve the ability of the state to punish offenders and are mostly a response to past failures and negative international evaluations.

Botswana on the other hand, while also having a strong enforcement strategy, it is much more proactive and preventative. The country's decision to join the Based

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[65] https://gov.bw/ministries/directorate-corruption-and-economic-crime accessed 29th August, 2025
[66] https://corpus.co.zm/esatblishment-of-the-economic-and-financial-crimes-court/ accessed 29th August 2025

Erosion Profit Shifting framework and to adopt international standards on tax transparency and transfer pricing is a good move to change the environment in which financial crimes occur, this aims to prevent the tax base from eroding before it creates something costly and complex.

3. 3. 3 The Power and Perils of Forfeiture

Each nation has implemented non-conviction based asset forfeiture laws, and they both recognize it as an important tool in trying to combat unexplained wealth. However, the difference here is in their judicial reception. Take for instance Botswana's judiciary, which has consistently assured the constitutionality and the procedural validity of their laws, creating a supportive legal environment for their application by the Directorate of Public Prosecutions.

In contrast, Zambia, as highlighted in the commentary of the case of Sydney Mwansa[67] suggests that a more cautious or even resistant approach is being taken towards the law. That this approach could even be placing a higher burden of proof on the state rather than the law intended. This shows that a law's effectiveness is not only about what is written but also how the judges interpret and apply it.

3. 3. 4 The Performance in International Evaluations

The Financial Action Task Force and the Eastern and Southern Africa Anti-Money Laundering Group findings, provide a good base for comparison. While both countries have indeed faced scrutiny and have both been required to address strategic deficiencies in their individual anti-money laundering regimes, Zambia's 2019 Evaluation Report[68] had pointed to various challenges in its overall effectiveness, more specifically in its ability to secure convictions and confiscating criminal proceeds.

Botswana, while also facing effectiveness challenges that led to grey listing at one point, demonstrated a rapid progress in technical compliance[69]. This shows that Botswana's foundational framework is more aligned with international standards than

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[67]https://www.npa.gov.zm/index.php/2024/12/30/case-comment-sydneymwansa-v-director-of-public-prosecutions-dpp-and-non-conviction-based-forfeitureorders/ accessed 28th August, 2025
[68]https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/ESAAMLG-MER-Zambia-June%202019.pdf.coredownload.inline.pdf accessed 29th August, 2025
[69] https://www.fatf-gafi.org/en/publications/Mutualevaluations/FUR-Botswana-2023.html accessed 30th August 2025.

Zambia, allowing for a more targeted and rapid remediation wherever deficiencies are identified.

3.4 Conclusion

This comparative analysis shows two nations that are engaged in the fight against financial crimes but are doing so using two different strategic paths. Zambia, is doing so with a reactive enforcement system, which was recently fortified with a specialized court and prosecution unit in an effort to overcome a legacy of impunity. Though its prosecutorial muscle is growing, the system still shows signs of strain, especially in the friction between the legislative intent and the judicial interpretation regarding the recovery of assets.

In contrast, Botswana is more proactive and prevention oriented, it leverages international cooperation and risk based assessments in order to secure its fiscal borders. Despite the fact that they still have challenges, this approach offers a more strategic and long term vision for protecting the tax base.

Financial crime driven by regional greed is a real problem, it is a phenomenon that exploits gaps and weaknesses that are within legal frameworks. It erodes a nation’s tax base with every bit of money lost that cannot be spent on essential services such as healthcare or education.

In order to fight this, a country needs more than just laws, it needs an actual comprehensive strategy that joins a strong domestic legal system with a proactive International Corporation. Zambia should strengthen its abilities by learning from Botswana’s focus on prevention. By doing so the nation can build a sophisticated defense against greed.

CHAPTER FOUR

Best Practices Zambia Can Draw From Botswana to Better Its Fight Against Financial Crimes And Protect Its Tax Base.

4.0 Introduction

Botswana has for many years come out on top as one of the least corrupt countries within Africa[70]It is also widely known for its political stability and its economic management which further supports why it is a relevant case study for Zambia which faces significant challenges related to financial crimes, tax evasion and the illicit outflow of resources. The best practices that can be drawn are those that are based on the actual implementation of governance principles in a similar geographical setting. This chapter will look into how Botswana fights financial crimes and how it protects its tax base in doing so and more importantly the lessons Zambia can draw.

4.1 A Breakdown of Botswana's Institutions in Their Fight against Financial Crimes and Protecting Their Tax Base.

Most of Botswana's success is a result of a strategy that has been built on three pillars, these pillars being a strong institutional framework, a robust legislation and lastly an unwavering political will.

One key lesson that can be drawn from Botswana is how the country has invested in creating as well as empowering specialized agencies that have clear mandates and operational independence, take for example The Directorate on Corruption and Economic Crime (DCEC) which is established by the Corruption and Economic Crimes Act No.29 of 2018[71], and has three main functions to which its effectiveness stems from.

To start with, the directorate has a wide range of powers to investigate any allegations of corruption and financial crime in both the private and public sectors[72], furthermore in looking at the power explicitly granted and its history as well, it can be seen that this body has shown no fear in investigating any person[73], including high profile cases such

[70]https://tradingeconomics.com/country-list/corruption-rank?continent=africaaccessed on 18th October,2025
[71] Corruption and Economic Crimes Act no.29 of 2018, s.3
[72] Corruption and Economic Crimes Act no.29 of 2018, s.6(a)
[73] Corruption and Economic Crimes Act no.29 of 2018,s.6(d)

as **The Louis Nchindo (Debswana) case**[74]**.** Though this case resulted in an acquittal, it is a good and clear example of how DCEC was willing to take on an individual who for a long time was termed untouchable, and him being an individual that was still in power as he directed a diamond company that was one of the nation's primary source of wealth.

The next power of DCEC is that it actively works hand in hand with ministries and even parastatals in order to conduct corruption audits. They look into different procedures and systems in order to identify loopholes that could be exploited and it also recommends changes that can seal them. With this, it is seen that they have a proactive and preventative approach which is a great lesson that can be drawn as it is much more effective to prevent a bad outcome than to constantly have to fight it.

Additionally, the DCEC also conducts itself in publicly educating people about the cost of corruption and also tries to create a culture of integrity[75]. This helps to build a societal consensus against corruption, and makes it harder for illicit activities to thrive.

The next institution that can be looked into is the Financial Intelligence Agency which acts as the central agency in the nation for receiving, analyzing, and disseminating financial intelligence[76]. Some of its main functions includes receiving suspicious transaction reports[77] where financial institutions, law firms and any other body are legally obligated to report any and all suspicious activities to the agency.

The Financial Intelligence Agency then analyzes these reports and tries to identify any possible pattern of money laundering, terrorism financing, and any other financial crimes, and provides actionable intelligence to law enforcement agencies such as the one previously discussed, being, the Directorate on Corruption and Economic Crimes or even the Botswana police themselves. It's also important to note that this agency

[74] https://www.sundaystandard.info/the-unsung-hero-who-nailed-the-nchindo-corruption-case/ accessed on 18th October, 2025

[75] https://www.gov.bw/ministries/directorate-corruption-and-economic-crime accessed on 18th October,2025

[76] https://www.finance.gov.bw/index.php?option=com_content&view=article&id=39&catid=20&Itemid=159 accessed on 18th October,2025

[77] https://www.finance.gov.bw/index.php?option=com_content&view=article&id=39&catid=20&Itemid=159 accessed on 18th October,2025

serves as an important link between the private sector and law enforcement as it ensures that financial data is used effectively to trace illicit funds.

4.2 Botswana Unified Revenue Service (BURS)

Alongside the DCEC's anti-graft mission comes in what is called Botswana Unified Revenue Service (BURS), which is the nation's main body when it comes to who administers tax[78]. When it comes to BURS they are very instructive in their focus on structural efficiency and are also very hands on when it comes to adapting to technology in an effort to continue to protect its tax base. It is semi-autonomous[79] which helps insulate revenue collection from undue political interference, so this allows it to operate as a professional and merit based organization.

Additionally, BURS has been a prominent example when it comes to implementing e-services and data analytics[80]. By digitizing tax filing and even payments, it has helped minimize opportunities for corruption that may arise. Alongside this, it creates risk-based audit systems by using data to identify and target sectors that are in high risk and even individuals for investigation, so inevitably optimizing its enforcement resources.

While BURS has strong enforcement capabilities, it also invests heavily in taxpayer education such as they did last year and did so successfully[81]. They work on the understanding that voluntary compliance is the most efficient form of being able to collect tax. With this, BURS conducts workshops and even publishes guides in order to inform citizens and businesses of their obligations. This adds on to creating trust and frames tax payment as more of a civic duty and less of a civic burden.

4.3 Botswana's Robust and Evolving Legal Framework

Zambia just like Botswana possesses the requisite legal tools to combat financial crime, however a key difference and central lesson lies in the nuances of the laws and the consistency of their application.

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[78] https://www.burs.org.bw/index.php/aboutus/mandate#:~:text=The%20mandate%20of%20the%20BURS,as%20the%20Minister%20may%20direct. Accessed on 18th October, 2025

[79] file:///C:/Users/Admin/Downloads/External%20Vacancy%20Circular%20No.%206%20of%202024.pd accessed on 19th October, 2025

[80] https://nortal.com/insights/lessons-on-how-to-make-tax-collection-simple-safe-and-transparent accessed on 19th October,2025

[81] https://www.mmegi.bw/business/burs-tackles-low-tax-compliance/news accessed 20th October,2025

Botswana's institutions are supported by a clear legal framework that is designed to criminalize illicit financial crimes activities and seize any proceeds of crime. Some important pieces of legislation that can be looked into may include acts such as the Proceeds and Instruments of Crime Act No.28 0f 2018[82]. With this act it allows for the confiscation of assets if it is found that they were acquired through criminal activities. This is very important as it strikes at the very motivation of financial crimes which is to gain profits.

Zambia's Forfeiture of Proceeds of Crime No.19 of 2010[83] equally provides the same and can be seen through high profile cases such as in the 2024 forfeiture of assets that were linked to the former Lusaka Province Minister **Bowman Lusambo[84]**. The key lesson that can be drawn however, is in the robust provisions for non-conviction based forfeiture (civil forfeiture), that is provided for the laws of Botswana.

So with the civil procedure, it allows the state to pursue assets themselves if it is proved on a 'balance of probabilities', rather than the general higher standard to satisfy a criminal conviction which is 'beyond a reasonable doubt.'

Another important piece of legislation that can be looked into is the Whistleblower Protection Act No.9 of 2016 of Botswana[85]This legislation gives protection to individuals who come forward and report forms of corruption taking place, and inevitably encourages insiders to equally come forward without any fear of reprisal.

Though Zambia equally has a similar act, this being the Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010[86], the effectiveness hinges on public trust and this will be brought out by comparing the specific protections that are offered by the two. When comparing the two acts the questions that can be asked are things like, whether the acts provide clear and inviolable rights to anonymity, or if they define reprisal to include demotion, harassment or even professional blacklisting, and even how much trust and confidence the public has in the institutions that work hand in hand with such acts, such as the Anti-Corruption Commission in Zambia and the Directorate

[82] Proceeds and Instruments of Crime Act No.28 0f 2018
[83] Forfeiture of Proceeds of Crime No.19 of 2010
[84] https://phoenixfm.co.zm/bowman-lusambo-jailed-for-3-years-for-possession-of-property-suspected-to-be-proceeds-of-crime/ accessed on 20th October,2025
[85] Whistleblower Protection Act No.9 of 2016
[86] Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010

on Corruption and Economic Crimes when it comes to protecting identities and act on information given.

A good lesson that can be gotten from Botswana in this case is the synergy between the Whistleblower Act and the Directorate on Corruption and Economic Crimes as they have a long-term public education mandate[87] which helps to create the necessary trust to function.

4. 4 More Key Lessons for Zambia

4. 4. 1 Granting of Institutional Independence

A key lesson Zambia can adopt from Botswana is to genuinely grant institutional independence. This is of importance as local crimes of financial crime are often committed by powerful and politically connected individuals. Take for example the Directorate on Corruption and Economic Crime is a position that operates under the office of the president, however, it nevertheless has proceeded to operate with a degree of separation despite being presidentially appointed, thereby being able to investigate high-profile cases.

Zambia on the other hand has bodies like the Anti-Corruption Commission that has persistent challenges that have as well been noted in previous governance reports, showing that there is a perception of vulnerability to political influence[88], and even issues specifically regarding the appointment and dismissal of the Attorney General.

Looking at this, it is of importance in looking at the Botswana model that there is a need to move beyond de jure independence and to move to a more de facto independence. This could possibly be achieved by amending the Anti-Corruption Act by making it a requirement for parliamentary ratification for the appointment and dismissal of the Attorney General or by establishing a fixed term that will not coincide with the political cycle. This will insulate the institution from executive pressure and will empower it to pursue financial crimes based on evidence and not political expediency.

4. 4. 2 Autonomy of Zambia Revenue Authority

[87]Whistleblower Protection Act No.9 of 2016, s.8

[88] International Monetary Fund. Legal Dept," Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption" (2023)

Another key lesson for Zambia would be to enhance the autonomy and integration of the Zambia Revenue Authority (ZRA). This institution functions in a very similar capacity to the BURS in Botswana. However, just like the ACC, it is often subject to the perceptions of political influence which can limit its ability to impartially pursue powerful, politically connected tax defaulters[89].

Whereas, BURS operates under a semi-autonomous body, that is intended to insulate it from political influence and pressure regarding tax assessments and enforcement, thereby allowing it to function as a professional and merit based entity. Equally, the lesson drawn here could be for the Zambia Revenue Authority Act Chapter 321 of the Laws of Zambia[90] to protect the tenure of its Commissioner General and also to ensure that its budget is ring-fenced so as to prevent political manipulation. A completely autonomous Zambia Revenue Authority will more likely pursue financial crimes as tax crimes and will open a more powerful front against corruption.

4. 4. 3 Empowerment of Financial Intelligence Centre

Thirdly, Zambia can empower the Financial Intelligence Centre (FIC) to be a more proactive hub by looking at Botswana's Financial Intelligence Agency (FIA) which equally acts as the central hub for receiving and analyzing suspicious transactions, but also disseminates intelligence to the Directorate on Corruption and Economic Crimes as well as the police.

The Financial Intelligence Centre in Zambia has annual reports that are famously detailed and often implicate "Politically Exposed Persons" (PEPs) and highlight significant revenue losses resulting from corruption and tax evasion[91]. What is noted, however, is the gap between the Financial Intelligence Centre reports and the launch of investigations or prosecutions by other law enforcement bodies.

The lesson here, would not be about the Financial Intelligence Centre's ability to analyze, but rather about the mandatory and the transparent uptake of its intelligence. What can be drawn from Botswana's framework is the structured collaboration between the Financial Intelligence Centre and the Directorate on corruption and

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[89] International Monetary Fund. Legal Dept," Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption" (2023)

[90] Zambia Revenue Authority Act Chapter 321 of the Laws of Zambia

[91] https://democracyinafrica.org/democracy-and-justice-a-case-of-zambias-predicament-on-political-victimization accessed on 20th October

Economic Crimes. Zambia could input a time bound duty to respond, which would require agencies like the Anti-Corruption Commission and even Zambia Revenue Authority to formally Report back to FIC on actions taken in response to its disseminated intelligence.

4. 4. 4 Move from Risk Based Tax Audits to Integrated Data Driven Enforcement

BURS was able, by digitizing its tax system, to employ sophisticated data analytics in order to run risk based audits[92]. So instead of random and resource intensive audits being carried out, it instead uses data to flag high risk files such as unusual VAT refund claims for example. Though Zambia Revenue Authority equally uses a risk based approach, its effectiveness is tied to the quality of its data and its analytical capacity[93]. Just like BURS, it can identify tax specific red flags, but it cannot automatically see the corruption related red flags from the Anti-Corruption Commission or money laundering red flags from the Financial Intelligence Centre, nor can it see the possible corporate shielding red flags from PACRA.

The lesson that can be drawn from here is for Zambia to move beyond a simple risk based tax audit system and into a more integrated data driven enforcement system by creating a unified digital platform or data sharing protocol. This would allow for real time and cross reference of company tax files with data from the Financial Intelligence Centre or even the Anti-Corruption Commission and other institutions necessary.

This would mean that when the Zambia Revenue Authority auditor opens files, they would automatically see a consolidated risk score that would have alerts for issues such as suspicious transactions or links to corrupt practices. The result of this would transform the tax audits into that which is a holistic financial crime investigation, so crimes of money laundering or tax evasion and corruption would be treated as interconnected criminal enterprises.

4. 4. 5 Sustained and Impartial Political Will

In Botswana, its anti-corruption reputation was built very early on and this is seen in the prosecution of high-profile cases as discussed previously, this being the **Nchindo**

[92] https://www.burs.org.bw/index.php/about-us/divisions/internal-audit-and-ethics accessed on 21st October,2025
[93] https://www.zra.org.zm/zra-assures-evidence-based-reforms-as-government-places-special-focus-on-drm accessed on 21st October,2025

Case[94] which sent an unambiguous message that indeed nobody was above the law. In Zambia, however, political will is seen as cyclical, rising with new administrations and waning over time.

Take for example, the new administration which came in and initiated numerous high profile investigations as well as asset forfeitures, targeting alleged financial crimes by politically exposed persons from the former administration, this is seen from the **Bowman Lusambo case** and even connections to the former President **Edgar Lungu**[95] issue. This aggressive anti-corruption stance is a good demonstration of political will, however, it is also viewed by some that looking at the historical cycle, it may not be a permanent institutional shift, but a temporary and politically motivated phase that will simply wane over time[96].

A good lesson for Zambia would be to institutionalize political will rather than to personalize it to a single president or political party. The current and on-going investigations into high profile figures of the former administration provide a real-time test. Therefore, by institutionalizing political will, it will be the only way to prove that the law is being applied impartially, regardless of who is being investigated.

4.46 Adopt the Three Pronged Attack

The three pronged attack is that which is practiced by the Directorate on Corruption and Economic Crimes[97]. This involves investigating, preventing and educating. The prevention division explicitly conducts corruption audits in public bodies so as to fix systematic weaknesses before they become criminal cases. Its public education division works to create a societal consensus against graft.

In Zambia, it is seen that the Anti-Corruption Commission equally has mandates for prevention and public education under its act[98]However, its public profile and resources are overwhelmingly dominated by its investigative function. The prevention

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[94] https://www.sundaystandard.info/the-unsung-hero-who-nailed-the-nchindo-corruption-case/ accessed on 18th October, 2025

[95] https://www.voanews.com/a/state-seizes-properties-linked-to-former-president-edgar-lungu/ accessed 21st October,2025

[96] https://democracyinafrica.org/democracy-and-justice-a-case-of-zambias-predicament-on-political-victimization accessed on 20th October

[97] https://centreforpublicimpact.org/public-impact-fundamentals/fighting-corruption-in-botswana accessed on 21st October,2025

[98] Anti-Corruption Commission Act No. 3 of 2012, s.6

and education arms are then often perceived as under-resourced and much less prioritized.

The lesson that can be drawn from here can be in regards to resource allocation. The Anti-Corruption Commission's budget and its operational structure should be rebalanced in order to significantly elevate the Prevention and Public Education units. The lesson here would be that it is more cost effective to harden targets by fixing corrupt systems and reduce public tolerance for graft than to rely only on costly investigations after funds are lost.

4. 4. 7 Rebuild Public Trust through a Functional Whistleblower System

Botswana's Whistleblower Protection Act[99] is a modern piece of legislation and it works hand in hand with the DCEC's public education campaigns in order to build trust and provide clear channels for reporting and protection against reprisal. On the other hand, Zambia's Public Interest Disclosure (Protection of Whistleblowers) Act[100] is not as well known to the public and has been criticized for lacking robust and independent enforcement mechanisms[101], thereby leaving potential whistleblowers to fear reprisal.

What Zambia could do is to re-launch and empower the whistleblower Act. This would of course involve massive public awareness campaigns and even designating a receiving body like the Human Rights Commission that is independent from political and corporate influence and has the power to genuinely protect whistleblowers.

4.5 Conclusion

Botswana's framework may not be perfect as it faces its own challenges, but it nevertheless serves as a clear and actionable blueprint. It shows that a successful fight against financial crimes and the protection of a nation's tax base are not separate battles but one and the same.

In saying this, the core lesson for Zambia would be that its existing legal framework is indeed one that is sufficient, and that the deficit is not in fact in the law itself but in the will, capacity and independence to enforce it. Zambia can learn to insulate anti-corruption and revenue bodies from political cycles, fund them adequately mandate

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[99] Whistleblower Protection Act No.9 of 2016
[100] Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010
[101] https://uncaccoalition.org/uncacparallelreportzambia accessed on 28th Otober,2025

inter-agency collaboration and even invest in public trust that will transform the law into that which is not just on paper but also that which is lived in reality of integrity as well as accountability.

CHAPTER FIVE

Summary of Findings, Recommendations, and Conclusion

5.0 Introduction

This dissertation was set out to investigate one of the most pressing issues in Zambia's economy which is the persistence of systematic financial crimes and the effect it then has on the national tax base even though there is a long and broad legal and institutional framework put in place to combat it. The research was based on the fact that Zambia's challenges are not due to the lack of proper legislation put in place, but rather due to an institutionally fragile framework, as it is politically vulnerable and even operationally reactive. This, therefore, allows issues of regional greed and local crimes being the domestic facilitation of greed by politically exposed persons (PEPs) and their networks to soar, resulting in a continuous drain of public funds.

So in order to find good solutions, this study has adopted a comparative case study approach, comparing Zambia's framework to Botswana's. Botswana, though not a perfect model, remains a regional peer that even though it faces its own challenges, it has built a reputation for good governance and even institutional resilience. It has a framework which is built in a proactive and preventative philosophy which has offered a great blueprint for fiscal sovereignty. This last chapter joins the previous findings from the preceding chapters in order to provide a conclusive answer to the research questions.

5.1 Summary of Key Findings

The research and the analysis that has been conducted in previous chapters has raised several findings that form the basis of this dissertation's conclusion, to start with, the issue of Zambia's framework being legally broad yet institutionally broad, as brought out in chapter two.

The analysis of Zambia's legal architecture found that laws like the Prohibition and Prevention of Money Laundering Act[102], the Financial Intelligence Act[103], and even the Anti-Corruption Act[104], which all, on the surface, great tools for financial crime, but is

[102] Prohibition and Prevention of Money Laundering Act No.44 of 2010
[103] Financial intelligence No. 16 of 2020
[104] Anti-Corruption Act No. 3 of 2012

however, a framework that is crippled by significant and systematic deficiencies. The Prohibition and Prevention of Money Laundering Act is outdated and fails to address modern and more digital age threats, thereby lacking the explicit classification of serious tax crimes as a predicate offenses for crimes of money laundering which is an important gap that has been identified by the Financial Action Task Force (FATF)[105]. This then creates a legal shield for corporations and even individuals who engage in aggressive tax evasion, thereby, making it more difficult to prosecute them for much more serious crimes of money laundering.

Additionally, a persistent "enforcement gap" was seen between the high-quality intelligence disseminated by the Financial Intelligence Centre and actual prosecutions as well as asset recoveries by law enforcement agencies like the Anti-Corruption Commission which point to a disconnect that is actually driven by a lack of capacity, political interference or even both.

The next finding as set out in chapter three is that Zambia is more reactive whereas Botswana is more proactive. The comparative analysis showed that there is quite a good difference in legal strategy between the two countries. For example, Zambia's current approach is exemplified by the recent establishment of the Economic and Financial Crimes Court (EFCC)[106] and the National Prosecutions Authority's (NPA) Taxation and Financial Crimes Unit (TFCU) which is demonstrably reactive. Though these are indeed good and necessary steps, they are clearly designed to improve prosecution after a crime has been committed and the revenue already lost. This reactive strategy is a response to a legacy of enforcement failures and public pressure.

Meanwhile, on the other hand, Botswana's framework is proactive and even preventative. This is seen in its decision to join the OECD's Base Erosion and Profit shifting (BEPS) framework[107] and also sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which exemplifies a policy of fiscal border defense.

[105]https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/ESAAMLG-MER-Zambia-June%202019. 2019 Mutual Evaluation Report

[106]https://corpus.co.zm/esatblishment-of-the-economic-and-financial-crimes-court accessed 8th November,2025

[107] https://www.npa.gov.zm/index.php/taxation-and-finical-crime/ accessed 8th November

The third finding has to do with institutional independence as a core differentiator. It is seen in chapter four that Botswana has a very de facto kind of system when it comes to its key institutions. This was seen in looking at the Directorate on Corruption and Economic Crime (DCEC) that even though it operates under the office of the president, it nevertheless has a history of investigating high-profile figures, as was discussed in the **Nchindo (Debswana) case[108].** It's functioning like this brought about institutional confidence and public trust. Much like it, there is the existence of the Botswana Unified Revenue Service (BURS) which is a semi-autonomous body that insulates its professional and merit based operations from the short term political cycles which can plague revenue collection and enforcement.

This is a clear difference from that of the Zambian framework where institutions like the Anti-Corruption Commission and Zambia Revenue Authority are very often perceived as vulnerable to political influence which impact their ability to properly deal with powerful and politically connected defaulters.

The last finding to be highlighted is that the law is only as strong as its application. It has been noted that both nations possess non-conviction based (NCB) forfeiture laws, but that, despite this, their different applications reveal a rather critical divergence. For example, Botswana's judiciary which has consistently affirmed the constitutionality of its Proceeds and Instruments of Crime Act (PICA), creating a supportive legal environment in which it can be applied.

In Zambia, though the state has begun to utilize its Forfeiture of Proceeds of Crime Act, which is a very positive shift towards political will, judicial friction still remains in existence. Take for example, the case of **Sydney Mwansa v The DPP case[109]** which was discussed previously in which through the NPA's analysis it was recognized that a higher burden of proof has been placed on the state rather than the law intended, which threatens the very purpose of the civil tool. This therefore shows that even with a perfect law put in place, it can still be rendered ineffective if the judiciary is not properly aligned with the legislative intent.

[108] https://www.sundaystandard.info/the-unsung-hero-who-nailed-the-nchindo-corruption-case/ accessed on 18th October, 2025

[109] https://www.npa.gov.zm/index.php/2024/12/30/case-comment-sydneymwansa-v-director-of-public-prosecutions-dpp-and-non-conviction-based-forfeitureorders/ accessed 28th August,2025

5.2 Answers to the Research Questions

The first legal question that was asked in this dissertation was concerning the key legal differences in the legal statutes as well as institutional structures between both Zambia and Botswana in their fight against financial crimes that inevitably protect their tax base? Through research, it has been seen that the key differences are in fact more so in the design and integration of the laws rather than whether certain laws exist in each jurisdiction.

To start with, the issue of institutional independence, it has been brought out that both Botswana Unified Revenue Service (BURS) and the Directorate on Corruption and Economic Crimes (DCEC) are structured for a more de facto and operational autonomy whereas, in Zambia, the Zambia Revenue Authority and the Anti-Corruption Commission are perceived as institutions that are more so vulnerable to executive influence[110].

The next difference in design is in regards to the strategic mandates of the institutions involved in the fight against financial crimes and the protection of the tax base. It has been discussed that in looking at the DCEC, this institution has adopted a three pronged strategy[111], which includes investigating, preventing and finally educating. With this strategy, it has given its preventative and its education units a great deal of power to conduct corruption audits before funds are even lost. When it comes to the Anti-Corruption Commission, however, it is seen that it is overwhelmingly dominated by its investigative function.

Thirdly, regarding the answer to question one, is the issue of data integration. Botswana's BURS uses a technology driven and a risk based system[112]Zambia's framework uses more informational silos with the ZRA , FIC, ACC and even PACRA data which are all not being automatically infused. Lastly, in answering question one, it can be noted that Botswana adopted a proactive and preventative stance by joining

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[110]https://democracyinafrica.org/democracy-and-justice-a-case-of-zambias-predicament-on-political-victimization accessed on 20th October

[111]https://centreforpublicimpact.org/public-impact-fundamentals/fighting-corruption-in-botswana accessed on 21st October,2025

[112]https://centreforpublicimpact.org/public-impact-fundamentals/fighting-corruption-in-botswana accessed on 21st October,2025

international tax cooperation, this being the (BEPS)[113], all the while Zambia remains primarily domestic and prosecutorial.

The next question this dissertation sought to answer was how the differing legal and institutional approaches affect the outcomes in preventing the loss of revenue due to financial crimes like tax evasion and money laundering. In looking at the different approaches or rather the designs of the laws and how differently they are carried out, it is noted that there is indeed a difference in outcomes. With Zambia's reactive system, though it can be noted that there are indeed some recent improvements, it is still locked in a costly and continuous battle of trying to catch up. It suffers from revenue loss which can be seen in looking at FIC's annual reports, which are then litigated after the fact. This joined with the enforcement gap has created a public perception that is more of a catch and release cycle which inevitably erodes public trust.

Whereas Botswana on the other hand has more of a proactive approach, this does not mean that it goes without fault, however, it nevertheless creates a much more resilient and stable tax base. This is so as by hardening the system against illicit activities from the root, it has reduced the opportunities for financial crime, resulting in much better fiscal stability and much greater public confidence which is reflected in its historically stronger sovereign credit ratings and corruption perceptions.

The last question the dissertation sought to answer was what lessons Zambia could learn from Botswana's legal and institutional practices in order to strengthen its own tax system and help reduce financial crimes. The answer to this is that there is so much Zambia can learn from Botswana, the main basis of this is to shift from a reactive posture to a more proactive one. To do this, there should be a genuine grant of de facto institutional independence for bodies like the ACC and ZRA which must be adopted, there should be a mandate of the technological integration of data across all financial crime fighting agencies to be put in place, there should be an institutionalization of the current political will for asset recovery in order to protect it from future political cycles, and lastly, public trust should be rebuilt by creating a functional and independent whistleblower protection system.

[113] https://us.ibfd.org/knowledge-hub/tax-insights/base-erosion-and-profit-shifting-beps accessed 9th November, 2025

5.3 Recommendations for the Legal and Institutional Reform

The first recommendation is in regard to the already discussed issue to legislate de facto institutional independence for the ACC and ZRA. The problem here is the perception of political vulnerability in these two institutions, which can be said to be a weakness in Zambia's framework in comparison to Botswana's DCEC and BURS which operate very effectively due to their operational autonomy.

To help address this, there should be an amendment to the Anti-Corruption Act No. 3 of 2012[114], primarily regarding the tenure of the Director General of the ACC, to insulate it from the political cycle. This can be done by amending the Act by at least amending the act to require two thirds of majority parliamentary ratification for both the appointment and the dismissal of the Director General. Additionally this, the term of the Director General should be a single and non-renewable term of a period of 10 years. This will remove the incentive for seeking political favor for reappointment and will empower the office to pursue cases against all persons, regardless of the political calendar.

More on legislating de facto independence, an amendment of the Zambia Revenue Authority (Cap 321) of the laws of Zambia[115] can be done, more specifically regarding the Commissioner General of the ZRA who should be afforded the very same protections recommended for the Director General under the ACC. This would be to ensure that tax enforcement against powerful and politically connected persons or entities is impartial as well as consistent.

Lastly on independence, these two institutions should be granted budgetary autonomy, which should be ring fenced and appropriated directly by parliament at least as a statutory percentage of the national budget. This would protect these institutions from any executive level budgetary manipulation.

The next recommendation is to create a mandated and integrated data driven enforcement system. The problem here is that Zambian institutions such as ZRA, FIC, ACC and even PACRA all operate in informational silos, meaning that knowledge is often isolated within the different departments or in this case, institutions. What

[114] Anti-Corruption Act No.3 of 2012
[115] Zambia Revenue Authority (Cap 321) of the laws of Zambia

happens is the auditor from ZRA for example cannot see a FIC red flag if one happens to be placed on the same entity. Looking at Botswana it is seen that BURS leverages data analytics for complex and risk based audits[116].

To help this there could be an enactment of a statutory provision that mandates real time and an automated sharing of relevant data between any and every institution that takes part in the fight against financial crimes. Additionally, a unified digital platform could be created, thereby creating a single view digital platform which would create a dynamic in which whenever auditors from either of the institutions decide to open corporate files, the system would automatically query the other databases, thereby providing a consolidated risk core flagging. This would alert other institutions if an entity is a subject of interest in an active investigation and more.

The impact this would have is that it would help transform simple tax audits into much more holistic financial crime investigations, thereby treating issues of tax evasion, money laundering and even corruption as that which is interconnected as in most cases is.

The third recommendation would be to adopt a more proactive international tax cooperation posture. The issue here is that Zambia currently has a framework that is more domestic and prosecutorial, which leaves it more vulnerable to cases of tax avoidance either within or across borders. Looking at Botswana, it is seen that they have proactively joined the OECD's and even the BEPS framework in order to prevent tax base erosion straight from the roots.

To navigate this, the ministry of finance could formally and swiftly join the OECD/ G20 Inclusive framework on Base Erosion and Profit Shifting (BEPS) and even sign the Multilateral Convention on Mutual Administrative assistance in Tax Matters. With this, it would help by giving the ZRA the automatic and international data sharing tools that are needed to help protect its tax base.

A further recommendation has to do with adopting a mandate and funding the ACC's "three pronged attack." When it comes to the ACC, their prevention and public education units even though mandated, are actually under resourced and

[116]https://www.burs.org.bw/index.php/customsexcisemain/computerization-of-customs-procedures/risk-management accessed on 9th October, 2025

overshadowed by the investigations unit[117]. The DCEC of Botswana on the other hand, gets a great deal of its success from its proactive prevention and education functions that carry out corruption audits in an effort to fix the systematic weaknesses that may exist.

To assist this, the ACC's institutional budget should instead be allocated towards the prevention and education units, rather than the investigative as heavily as it is. By doing this, it would empower the other units, such as the preventative unit, allowing it to carry out Corruption Risk Assessment (CRAs) within the government ministries and parastatals just as the DCEC. The recommendations that are then formed by this unit should be made legally binding which would make ministries close loopholes that allow for corruption, thereby hardening targets before any funds can even be lost.

The last recommendation would be to institutionalize non-conviction based asset forfeitures. Currently in Zambia, the successful use of the non-conviction base forfeiture has been largely due or rather driven by the political will of the current administration which creates uncertainty and unreliability as to whether it is a practice that will stay. Additionally the case of Sydney Mwansa[118] highlighted the friction that exists with judicial interpretation. Compared to Botswana, it is seen that in their framework is an institutionalized routine which is actually part of the justice system and is not dependent on the will of a particular administration.

In bettering this, Zambia could create a permanent asset recovery directorate who would have their own budget and career prosecutors, this would insulate the functions away from political cycles that exist and ensure that it becomes more of a routine and a non-political deterrent. Finally, in regards to the gap addressed in the Sydney case, a mandate can be put in place for specialized and maybe continuous training for the judiciary, which should include the Economic and Financial Crimes Court, regarding the intent on civil law principles of non- conviction based forfeiture in order to ensure that there is a consistent and effective application of the Forfeiture of Proceeds of Crime Act.

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[117] https://tizambia.org.zm/2025/10/ti-z-statement-on-the-anti-corruption-commissions-2026-national-budget-allocation accessed 9th November,2025

[118] https://www.npa.gov.zm/index.php/2024/12/30/case-comment-sydneymwansa-v-director-of-public-prosecutions-dpp-and-non-conviction-based-forfeitureorders/ accessed 28th August,2025

5.4 Final Conclusion

Zambia has the right tools that it needs in order to combat financial crimes and protect its tax base, however, these tools are found in hands that may be under-resourced. With Botswana's model, it shows that fiscal sovereignty is simply a product of institutional independence, proactive prevention and even an institutionalized and unwavering political will. With the way things are currently in Zambia, these being the new specialized courts for example, show a good window of opportunity, so by adopting structural lessons from its neighboring country, things can change for the better, finally battling the cycle of regional greed and local crimes and inevitably securing its tax base, allowing the country to reclaim its financial sovereignty for the benefit of its citizens.

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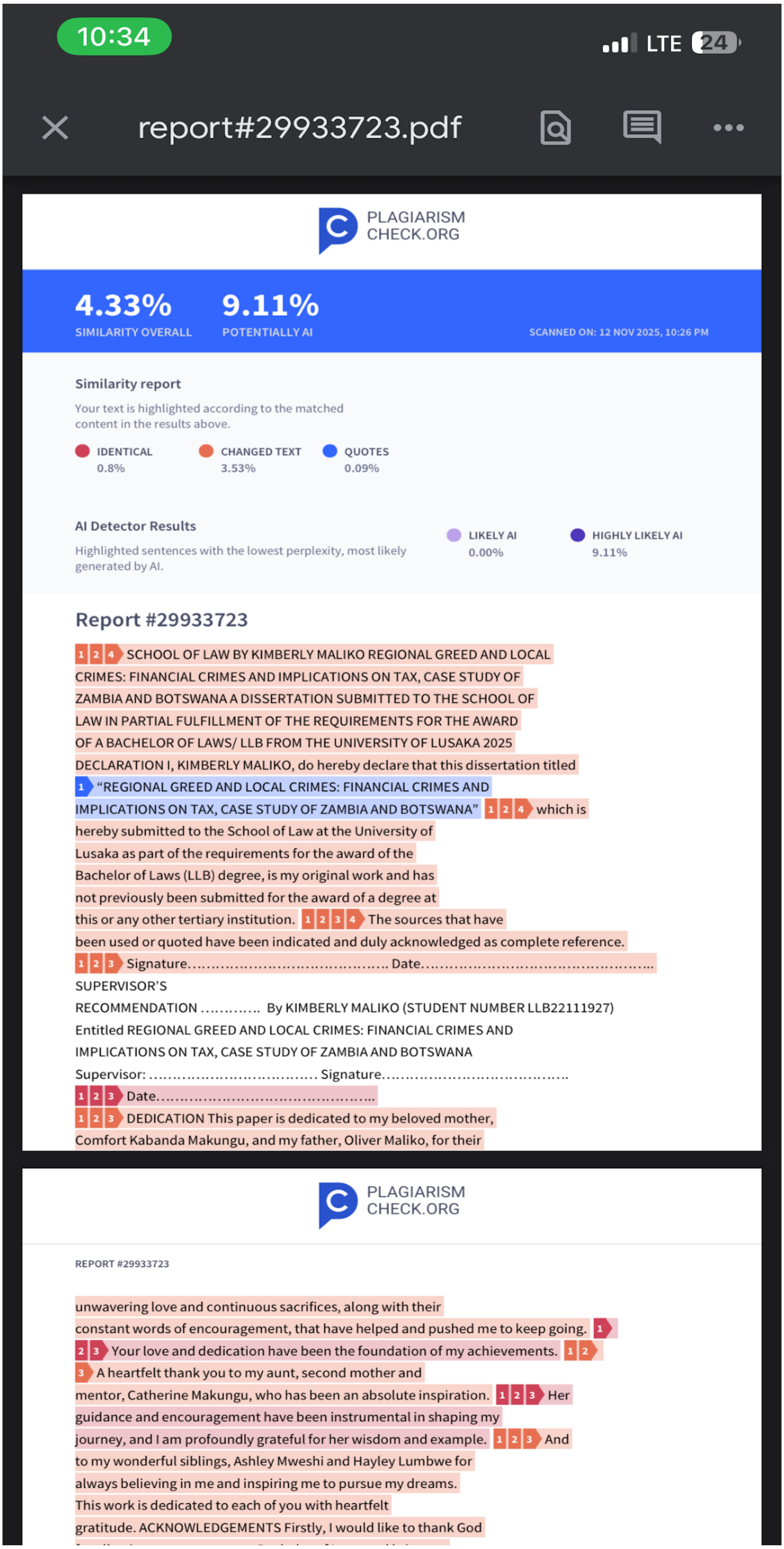
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unwavering love and continuous sacrifices, along with their constant words of encouragement, that have helped and pushed me to keep going. Your love and dedication have been the foundation of my achievements. A heartfelt thank you to my aunt, second mother and mentor, Catherine Makungu, who has been an absolute inspiration. Her guidance and encouragement have been instrumental in shaping my journey, and I am profoundly grateful for her wisdom and example. And to my wonderful siblings, Ashley Mweshi and Hayley Lumbwe for always believing in me and inspiring me to pursue my dreams. This work is dedicated to each of you with heartfelt gratitude. ACKNOWLEDGEMENTS Firstly, I would like to thank God

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