



REPUBLIC OF ZAMBIA

THE JUDICIARY

CALL DAY ADDRESS

BY

THE HONOURABLE CHIEF JUSTICE

OF THE

REPUBLIC OF ZAMBIA

DR. MUMBA MALILA, SC

20TH JANUARY, 2022

SALUTATIONS

Allow me, from the outset, to congratulate you on your admission to the Bar. On behalf of the Judiciary, and indeed on my own behalf, I warmly welcome you to the noble legal profession.

Your being called to the bar today, at this solemn ceremony, marks the culmination of many years of hard work, commitment and fortitude. I am alive to the fact that your relentless efforts may have been punctuated with worry, uncertainty and anguish. But that is all over now. You have reached the goal that you have been yearning for. You are now justified to savour this gratifying moment in your life as you embark on a professional career in law.

I must hasten to remind you not to lose sight of the fact that your admission to the bar is not just memorable for you. It is also an unforgettable day for your lecturers, friends and families who, during the long and gruelling years of toil and study in law school and at the Zambia Institute of Advanced Legal Education (ZIALE), have devotedly and staunchly helped and supported you in various

ways. They, too, are entitled to share in the pride, joy and satisfaction of this special day. Allow me to, on your behalf, extend my appreciation to them.

To you, the newly admitted advocates, it is my fervent hope that you will keep the plain meaning of the oaths that you have just taken, rooted in your minds. Many before you, myself included, have taken these oaths and have diligently lived by them. The Oath of Allegiance you have taken today speaks to the faith and true loyalty to the Constitution of Zambia and the Office of the President of Zambia; the Oath of Office represents a sworn commitment to conduct your practice honestly and fairly. Its import is that as an advocate, you will use all of your learning and judgment to be faithful to your clients and to the court.

At the same time, keep in mind that an advocate has a paramount duty to the court and that as an officer of the court you should, at all times, assist in the administration of justice. Therefore, let these oaths be your constant guide in your practice.

You are now fully admitted members of the Zambian Bar. You will no longer be confined to a degreed lawyer without the capacity to move the court from the Bar, or one who fearlessly represents litigants in all courts of Zambia, save the Local Court and the Small Claims Courts.

May I remind you that the profession that you have now become a member of is probably the oldest organised profession in our country. It is anchored on uprightness and trust. Honesty and integrity are the hallmarks of this profession. If you feel that the ideals of the profession are difficult for you to adhere to, you might as well enter other less demanding avocations. Be warned that the profession has not shied away from ejecting those of its members that have found themselves on the wrong side of the ethical divide. Once your name is struck off this very roll that you have signed this morning, it is impossible for you to be welcomed back to the honourable legal profession.

In order to ensure that you remain on the right side of the ethical pendulum, as newly admitted members of the Zambian bar, the

best starting point for you is to acknowledge that you owe a duty to society to endeavor to give back to it what it has contributed to shape your lives. Your decision to offer yourselves as legal practitioners, to the service of the public, to the legal profession; to your clients; and to the courts in which you will practice – places a grand responsibility on you. Each of these constituencies expects you to exhibit a high degree of respectability and decency in both private and professional lives.

I dare say that as advocates, you must do everything necessary to ensure that, through your individual and collective conduct, the profession continues to earn the trust of the public. Insist on showing the highest ethical conduct, which conduct should include hard work. An allergy to all forms of corruption and misconduct should be the clarion call for you. When you noticeably lack in these qualities, it is not only you that will stand to lose; the entire legal profession will lose face.

As legal practitioners, you will have huge responsibilities towards your clients who will rely almost entirely on your skill and

judgement in taking what will sometimes be life or death decisions. You should therefore prepare to earn and enjoy the esteem broad spectrum of clients which may include of big corporations, wealthy individuals, widows, orphans, divorcees and similarly circumstanced or otherwise legally aggrieved persons whose affairs and securities will be in your capable hands.

Even as you practice law in our courts, remember to remain courteous to the Court and opposing counsel. Under our ethics rules, there is a fine line between zealous advocacy of a client and sanctionable conduct. In the 1985 decision in **Re Snyder**¹, the United States Supreme Court noted that everyone involved in the judicial process owes a duty of courtesy to all other participants. As officers of the court, *“the license granted by the court requires members of the bar to conduct themselves in a manner compatible with the role of courts in the administration of justice.”* When lawyers fail to follow this standard, they not only lower the bar for the profession, but they set themselves up for disciplinary action.

¹ (1985) 472 U.S. 634

I must also point out that incompetent or untrustworthy lawyers are a huge liability to consumers of legal services and to the legal profession. I urge you, the newly admitted advocates, to resist the common temptation, among most advocates, to amass wealth, at all costs, in the shortest possible time. This attitude, mostly by new entrants to the profession such as yourselves, tends to confirm the notion that lawyers have certain things in common besides their training; they are generally in a hurry to get rich. Some lawyers tend to place personal comfort above service to society.

In the long run, an impression has been created, rightly or wrongly, that lawyers are destined to be rich; that by the nature of their training. Lawyers should occupy the high economic stratum in society.

When lawyers complete their training and are admitted to the bar, as you have today, most of them have a crisis of expectations. As soon as possible after their admission to the bar, they must be seen to be driving the correct vehicle, wearing the right clothes and patronizing the right social places, commensurate with their newly

acquired status. Even as they begin work in the government service, corporate or private practice, these considerations unfortunately linger in the minds of most of them.

I urge you to be ready and willing to moderate your expectations and place quality and honest service to the public as the premier goal of your professional life at the bar, everything else follows as a matter of course.

Please bear with me if I appear to digress slightly from the purpose of this portentous ceremony. There has been much negative talk about near impossible conditions for concluding successfully and as early as possible the Legal Practitioners' Qualifying Exams (LPQE) at ZIALE so that one progresses to become a full member of the Zambian bar. This malign talk has been spurred even more with the latest LPQE results. You have heard for yourselves, this morning, the concerning statistics shared by the Director at ZIALE.

As you would expect, various theories have been proffered to explain the apparent difficulties that students have in passing their

bar exams. Among them is that there is a deliberate policy to restrict the number of entrants into the legal profession in order to manage the competition among lawyers; that there would be too many lawyers in the country if everyone who deserves to pass the LPQE were allowed immediately to be admitted to the bar. There are also those who claim that the standard of entrants into law schools in various universities has significantly deteriorated owing to various factors that have nothing to do with ZIALE, therefore, by implication, that the standard of entrants into the LPQE course is comparatively lower than used to be the case previously.

I cannot agree without qualification that these claims are accurate, nor can I dismiss them as being improbable. Having sat as Chairperson of the ZIALE Council, in my capacity as Attorney-General at the time, I can confirm that there has never been any policy of exclusion or restriction whatsoever pursued or executed. I would like to believe this is still the position. Deserving students, like the two we have admitted today, are allowed without hindrance to progress to admission to the bar. Those who, for various reasons, are not able to satisfy the examiners in the LPQE that they have

understood the course and therefore ready to join the ranks of legal practitioners in this country, are inevitably bound to experience some slight delays.

I must point out that some of these delays, perceived or actual, are for the sake of the greater good of the legal profession and society at large. It would indeed be irresponsible for ZIALE to certify as fit and proper and to unleash substandard or half-baked lawyers onto unsuspecting members of society. Such lawyers are much a danger to the client's interests and the client's purse as they are to themselves and the legal profession. However, I can only hope that the poor pass rate will improve in future once the root causes are properly identified and addressed.

On that note, once again, on behalf of the Judiciary and indeed on my own behalf, I welcome you to the legal profession and wish well in your diverse career paths you will soon embark on. Congratulations.

Thank You