

**THE MAGISTRATE'S & JUDGES'
ASSOCIATION OF ZAMBIA**

Newsletter

2022
Edition



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Editorial Message

It's quite a thrill to take my place as the newest and indeed first editor in chief of the Magistrates and Judges' Association of Zambia Newsletter. I have immense pleasure of leading the production of the first issue successfully. Extracting talents, ideas and skills from different adjudicators at different levels and different expertise was not easy and yet very interesting and exciting.

MAJAZ has recorded tremendous achievements in the past that must not go unnoticed. The immediate past National Executive Committee led by Mrs. Fydes Hamaundu meticulously put all pieces together and re-organised the Association throughout the country. We saw the election of Provincial Executive Committees that were consequently funded to each embark on income generating activities to enhance self-sustainability and consequently achieve the objectives of the Association.

Excitingly as you will note in this issue, the association is now getting to its peak with plenty of programmes that capture the essence of our spirit. This issue features the current events and activities as lined up by the National Executive Committee. You will also meet the current MAJAZ President as he explains his vision for the association; and, the New MAJAZ Patron, the Hon. Chief Justice. Most importantly, this issue gives you an opportunity to participate in the long awaited amendment of the MAJAZ Constitution.

Members are invited to write to the Editor phirimupemo@gmail.com for comments, forwarding of articles and suggestions for the next issue.

I look forward to your feedback.

Hon. Idah Phiri-Mupemo
Committee Member - Southern Province

ACKNOWLEDGMENTS

The success of this Newsletter is a result of the contribution of many who both directly and indirectly shared their resources, gifts, talents and wisdom. We are indebted to the Judiciary of Zambia, particularly, the Chief Justice, Hon. Dr. Justice Mumba Malila, SC., and the Chief Administrator, Ms. Nalishebo Imataa for the support rendered throughout the process of making this publication in addition to creating an enabling environment for MAJAZ to thrive.

We also thank the MAJAZ President, Hon. Mr. Justice Charles Kajimanga; the Vice President, Hon. Mr. Justice Mwiinde Siavwapa, and entire MAJAZ National Executive Committee for providing resources and championing the production of this publication. Special thanks further goes to all the MAJAZ members who took time to write and contribute to the contents of this publication.

Finally, we sincerely appreciate the team that tirelessly played critical roles in the actual making of the publication. These include:

- * Hon. Mrs. Idah Phiri-Mupemo (Coordinator/Editor In Chief)
- * Hon. Mrs. Nthandose M. Sakala -Chabala (Editor)
- * Hon. Ms. Mwiinga M. Simaanya (Editor)
- * Ms. Kalumba Slavian (Editor)
- * Mr. Richard Mwansa (Graphics Specialist)
- * Mr. Kakoma Chibwe (Assistant Graphics Specialist)
- * Mr. Elias Makoni (Photographer)
- * Mrs. Sandra Hamayuwa-Simpasa (Secretary/Typist)

AIMS AND OBJECTIVES OF THE MAGISTRATES AND JUDGES ASSOCIATION



Hon. Ms. Mwiinga M. Simaanya

For some time now, our members have struggled with understanding why an association such as our MAJAZ exists, its importance and objectives. This article will strive to enlighten our membership on the benefits of subscribing to MAJAZ and give an over view of the objectives of the association.

The Magistrates' and Judges' Association of Zambia, is an affiliate of the Commonwealth Magistrates' and Judges' Association, and its aims and objectives were meant to be a mirror reflection of the aims and objectives of the Commonwealth Magistrates' and Judges' Association.

The aims and objectives of the Commonwealth Magistrates' and Judges' Association may be generally stated as:-

- 1) *To advance the administration of the law by promoting the independence of the judiciary.*
- 2) *To advance education in law, the administration of justice, the treatment of offenders and the prevention of crime within the Commonwealth.*
- 3) *Disseminate information and literature on all matters of interest concerning the legal process within the various countries comprising the Commonwealth.*

As an affiliate of the Commonwealth Magistrates and Judges Association (CMJA), it goes without saying that the objectives of MAJAZ must be similar and in tandem with those of its parent association.

The aims and objectives of the MAJAZ, as outlined in Article 4 of its Constitution are as follows:-

- a) *To promote within Zambia the interests of the judiciary and to maintain the dignity, honour and traditions pertaining to the judicial office.*
- b) *To safe guard the independence of the Judiciary as an essential requirement of the judicial functions and a guarantee of the human rights and freedom.*
- c) *To enlarge and perfect the knowledge and understanding of the judicial function by research and training.*
- d) *To disseminate information and literature on all matters of interest and concern to judicial officers.*
- e) *To promote the closest possible links between its members.*
- f) *To liaise with the Commonwealth Magistrate and Judges Association and other international legal bodies.*

His Lordship Mr. Justice Timothy Katanekwa in a paper presented at the 2020 MAJAZ Tri-annual General Meeting and Elective conference on the aims and objectives of MAJAZ stated,

“From the outset, it must be appreciated that one of the very fundamental requirements of a free and democratic society which recognises and takes pride in the rule of law is a free and independent judiciary.

The maintenance of judicial independence sometimes proves quite a challenge because in many countries of the commonwealth if not all and including Zambia, Judiciaries are usually the weakest of the three arms of government and usually depend on the goodwill of the other branches of government to be given the opportunity to operate in a free and independent manner. Though the weakness and most vulnerable of the branches of government, the judiciary is expected to be the guarantor and guardian of the rule of law and judicial independence. It was this realization of the weakness of the Judicial branch which led to the birth of judicial associations.

There are many reasons which can be attributed to the weak position of judiciaries vis a vis the other arms of government, but the usual reasons advanced are that judiciaries have no control on either the sword or the wealth of the society, they only depend on their judgments, and ultimately however still rely on the executive branches of government for the enforcement of their judgments”

Justice Katanekwa quotes past CMJA President and emphasizes that due to the “apparent weaker position” of the Judiciary, the role of judicial associations in this modern era is to bring judicial officers together as we are stronger if we stand together; by being active and public voices of the judiciary. Justice Katanekwa also underscores the vital role that judicial associations play in strengthening and defending the independence of the Judiciary and preserving the Rule of Law in modern democracy.

The paper by Justice Katanekwa further brings out the vital role that judicial associations play particularly in Africa where to a great extent, democracy is still in its infancy stage and by large the Rule of Law is either ignored or only observed by lip service.

In Summary, the main business of our MAJAZ is to promote the independence of the Judiciary by; being the voice of the Judiciary whenever the need arises; providing and promoting training for its members; disseminating information and literature amongst its members and liaising with CMJA and other Judicial associations.

Our current MAJAZ NEC is committed to ensuring that all the objectives of MAJAZ are met during its tenure in office and is working earnestly, as will be seen in the other articles published in this Newsletter.

LAUNCHING THE MAJAZ LOGO



The Magistrates and Judges' Association of Zambia (MAJAZ) National Executive Committee is pleased to launch the new MAJAZ logo. At its inception, the then Magistrates Association of Zambia (MAZ) adopted the logo used by the Commonwealth Magistrates and Judges Association (CMJ). The same logo was adopted by the now Magistrates and Judges Association of Zambia (MAJAZ) until the 2020 Tri Annual General Meeting and Elective Conference held at the Avani Resort Hotel in Livingstone when it was decided that a new logo be created specific to MAJAZ.

Designing the new logo was quite an exciting process. Firstly, we considered the nature of the association and concluded that at the

centre of the mandate of every Adjudicator is the administration of justice. In order for any Adjudicator to be efficient and effective in the administration of justice, there must be a delicate balancing of one's well being, judicial independence and both personal and institutional integrity. The significant way to balance this scale is through peer unity and support leading to team building and stress management and continuous capacity building.

This, in our view, is the simplest description of MAJAZ, hence the design of the new logo: A Balanced Scale at the Centre of an Emblem of Unity!

By His Lordship Hon. Mr. Justice Mwiinde Siavwapa

MAJAZ IN ACTION - PRACTICAL ASPECTS

*A part of the paper presented at the 2020 MAJAZ Tri-Annual General Meeting
and Elective Conference*

MAJAZA's primary concern is that of independence of the Judiciary and continued legal education for judicial officers. By independence of the Judiciary we mean the independence of the institution, and that of individual judicial officers. MAJAZ is an affiliate of the Commonwealth Magistrates and Judges Association.



His Lordship Justice Timothy Katanekwa

Over the years, I have noticed that in our country Zambia, there is very little interaction among judicial officers and sometimes even among those of the same Courts and based at the same Stations. This little or lack of interaction contributes to the fragility of the judiciary in that, sometimes there is no common position among judicial officers on various issues. In its endeavour to promote the interests of the judiciary and to maintain the dignity, honour and traditions pertaining to the judicial office, the Zambia Magistrates and Judges Association has worked very hard to enhance co-operation among judicial officers and other different stakeholders.

It may interest you to know that MAJAZ has over the years been involved in trying to ensure that the conditions of service for the judicial officers are good. As an example, in 1990 MAJAZ started consulting with other commonwealth countries on the conditions of service, and in the process it became obvious that the Zambia Judiciary was not well remunerated or looked after, and there was need to engage the Zambia Government to persuade them to adopt accepted international practices. This process was later escalated and it was what led to current conditions which the Judges are now enjoying.

On independence of the Judiciary, MAJAZ was known to be very active and had a policy of speaking out in instances when independence of the Judiciary was threatened. Attacks on independence of the Judiciary take many forms and it is necessary to always evaluate issues in contention, and when appropriate speak and make the position of MAJAZ known.

This is so because public voice helps the Judiciary and judicial officers, and when you are silent, the stronger arms of government take advantage of you, and it may be harder to correct certain situation after decisions have been made and a weak Judiciary is a threat to justice.

Though MAJAZ has previously been active, there have been instances when its silence has been very loud. I will give a few examples when I personally thought that the voice of MAJAZ should have been heard.

When President Mwanawasa, for political expediency appointed Ministers from opposition parties, a case was brought to Court challenging the legality of such action, and a judge gave an injunction. The President later berated the judge at a press conference and there was total silence from MAJAZ. It is of interest that we should remember we are in multiparty democracy and under such a dispensation there are legitimate questions as to whether a president can appoint a minister from another party, without consulting such other parties, an act which in effect undermines multi-partism.

It should be remembered that politics is about policies and not individual persons, and if you want to work with the opposition, there should be some agreement on the basis of engagement, and when that has not been done, it is my firm conviction and belief that the issue of appointing a minister from a different political party without consultation is a justifiable question.

Another sad example is the way our former Chief Justice Mr. Justice E. Sakala was removed from office despite having a valid contract. It must be remembered that institutions are made up of individuals, and if we acquiesce to an individual being humiliated, we are allowing the humiliation of an institution.

Another issue which made my heart bleed was learning through the press that his Lordship Mr. Justice Chirwa was being denied his rightfully earned benefits and even had to engage Counsel to get what was due to him. I personally felt that our association should have been heard on the issue because, although the retired judge is an individual, an attack on him represented an attack on the Judiciary, more so that retirement is the most preferred and inevitable mode of exit for every judge.

I must say for now that I am relieved because I have learnt that our Association, through the current leadership, has come to life again and they are working hard for the welfare of their members. It was through their liaison with the administration that we now have sports day in the Judiciary and 12 days occasional leave for magistrates and research advocates. Further it is through their effort together with the judiciary administration that the 2020 tri-annual conference took place. In continued legal education of judicial officers, I must say MAJAZ has done fairly well and needs to be supported.

During the time I was chairman, as an association we were at one time able to organise a training workshop for their Worshipships at Siavonga with the help of Canada Fund, and with the co-operation of the Central Administration. Further in conjunction with the Commonwealth Judges' and Magistrates' Association we developed a training programme and held successful joint training workshops between the Judiciaries of Zambia and Malawi. I am sure many of their Lordships and Worshipships may not even have been aware that such training programmes were actually MAJAZ's initiative.

The Association as we have seen has a number of very useful benefits and therefore, it is an association worth belonging to.

Unfortunately, in Zambia some of their Lordships and Ladyships have tended for many reasons to look down on the Association and shun it thus in a way limiting the Association capacity to build links between members. My plea in this regard is to ask the Patron, of the Association, Hon. the Chief Justice to encourage the judges, especially those of the Superior Courts to join, and for MAJAZ itself to involve their Lordships and Ladyships in its activities at all levels. One such way is to run an active journal.

With regard to Liaison with the Commonwealth Magistrates' and Judges' Association and other international bodies, as I have already shown, our Association has been doing this, and the presence of His Lordship Mr. Justice Charles Mkandawire the current CMJA President is testimony of this.

In conclusion I would like to say the Judiciary needs a strong and vibrant MAJAZ, to ensure conformity with the tenants of independence of the Judiciary and monitor the continued legal education of its members to ensure they are current in their knowledge.



GETTING TO KNOW THE MAJAZ PRESIDENT

...He said he believed that this is one way he would make his contribution,
small as it may be!" ASPIRE TO INSPIRE...

Hon. Mr. Justice Charles Kajimanga

Q - Please tell us a little about yourself

Ans - I am Justice Charles Kajimanga, a Judge of the Supreme Court. I obtained my bachelor of laws degree from the University of Zambia (UNZA) in 1983. In 1984, I was admitted to the Bar as the best graduating student. Later in 1993, I obtained an LLM degree from Cornell University in the United States of America. I am also a Chartered Arbitrator, the first Zambian to be conferred with this lofty status.

Q- For how long have you worked in the judiciary and in what capacities? It would also be good to know your career background before joining the Judiciary.

Ans - I was appointed Judge of the High Court in August 2002. I started on the General List and was later transferred to the Commercial List where I spent most of my years in the High Court. In March 2015, I was appointed Judge-In-Charge of the Lusaka High Court and in December of the same year, I was appointed Judge of the Supreme Court. By August this year, I will have worked for 20 years in the Judiciary. While in the High Court, I was appointed Chairman of the Small Claims Court Committee and spearheaded the establishment of the Small Claims Court. The Court currently operates at Lusaka, Ndola and Kitwe.

Prior to joining the Judiciary, I first worked for the Legal Services Corporation, a statutory body which was created to provide legal services to parastatal companies and quasi-judicial institutions. This was my first employment in 1985 after my admission to the Bar.

I thereafter worked for the Zambia Cooperative Federation as a Board Secretary and Legal Counsel from 1987 to 1995.

In 1995, a colleague and I set up a law practice under the name and style of Charles and Charles Associates. Thereafter, we split and I formed Kajimanga and Company which I managed until I joined the Bench in 2002.

Q- What inspired you to contest for MAJAZ Presidency and what is your vision for MAJAZ and how do you plan to achieve them?

Ans -I contested for MAJAZ presidency because of my passion for the aspirations of the Association. I believed that this is one way in which I could make my contribution to the Association, small as it may be. Apart from Justice Phillip Musonda, I was one of the first judges to join the Association. The perception at the time was that MAJAZ was for Magistrates only. However, I contested and was elected as a Committee Member in the Judge Chinyama led Executive. At the time, Judge Chinyama was a Magistrate and I was a Judge.

My vision is simply to see that MAJAZ rises to greater heights as a relevant Association for Adjudicators. I believe that if we carry out the objectives of our Association as set out in the Constitution, the Association will be relevant to its members and the Judiciary. This requires, as we have started, constant engagements with the Judiciary in fostering our shared objectives such as 'Independence of the Judiciary' and 'Training', upon which the Judiciary places value.

Plans??? *The plans I have are not necessarily individual plans but those of the National Executive Committee. Our priority is to undertake many training activities before the end of our term. We also plan to increase our membership, specifically by encouraging our Judges to join the Association. We will continue sensitizing and encouraging them to join MAZAJ. If this happens, we will have achieved an important milestone. Together, we can achieve a lot for the Association.*

Q - What are some of the setbacks/challenges you have experienced so far and how did you address them?

Ans - Allow me to instead talk about the challenges faced by the Association. The major one is the perpetual complaint from some of our members particularly Local Court Magistrates, that they are marginalized. Sadly, conditions of service are not part of our objectives and so the solution has been to continue sensitizing and explaining the objectives of the Association and where appropriate, taking the complaints to the relevant authorities. For example, we will soon be paying a courtesy call on the Chief Justice who is our Patron. As we do so, we shall bring this issue of conditions of service out. Further, we understand that there is a draft law on this subject in which Local Court Magistrates are also included. We shall endeavour to look at it with a view to making contributions.

Q - How do you want to be remembered as a one-time MAJAZ President?

Ans - Of course, a President of MAJAZ does not work alone; he or she works with and through the National Executive Committee. And so, I want us to be remembered as a NEC which, inter alia, achieved for the first time, an important objective of the Association – training, during its tenure of office.

Q - Anything you want to say to your members?

Ans - Finally, I just wish to encourage all my members to support the Association. It is theirs and so they can either make it succeed or fail. With our concerted efforts however, I am confident that we can achieve a lot together in fulfilling the objectives of our Association.





THE MAJAZ PATRON

*Introducing the MAJAZ Patron
The Hon. Mr. Justice Dr. Mumba Malila, SC*

Q - Who is Dr Mumba Malila, SC? Kindly tell us a little about yourself.

Born over half a century ago in the sprawling township of Matero to Norman Malila (late) and Alice Kasonso Kaseba (late), the 4th of seven siblings, Mumba Malila is a very unassuming fellow. He started his primary education at Matero Boys' Primary School, went to Kafue Secondary School, the University of Zambia, and later proceeded to Cambridge University for postgraduate study. And against all odds, ended up being the Attorney General of Zambia twice and now the Chief Justice of Zambia.

Q - You are very senior in the legal profession with admirable experience in various areas of the profession. How would you describe your experience on the bench in light of your background?

I would describe it as uniquely colorful, typified by leaps and jumps. As you may be aware, I had no judicial experience when my appointment to the Supreme Court was made. I guess the wealth of experience acquired over 25 years (at that time) in my other engagements within the legal profession, more than compensated for that. In particular, my membership and chairmanship of the Legal Practitioners' Disciplinary Committee, which stretched for a period of about 8 years, gave me a lot of grounding in collective decision making and writing down rulings of the Committee. I had also been a member of the African Commission on Human and Peoples Rights for six years. This eleven member African human rights body makes decisions as a collegiate and one member must steer the decision through the deliberations of the Commission in any particular matter. This is very much like the practice the Supreme Court employs too. As an academic who had written scholarly articles in peer reviewed journals before joining the bench, I found writing judgments in the appeal court particularly interesting and less onerous than writing academic articles. For these reasons, it was easy for me to find my feet quickly and settle comfortably in the Court. Additionally most of the judges in the Supreme Court at the time I joined were amiable individuals who did everything possible to help me settle in. The then Chief Justice, Hon Ireen Mambilima,

in a way helped me to sharpen my administrative horizons by appointing me to chair some standing and ad hoc committees.

It was in short an experience-filled and enjoyable 7 years as an ordinary judge. I think God has been gracious to me and has been smiling at me throughout, for how else can one explain the somewhat unusual leaps or frog jumps that have characterized my progression in the Judiciary?

Q - Magistrates and Judges appear to be uncertain of you considering that unlike most of them who started as Magistrates or High Court Judges, you joined the Judiciary as a Supreme Court Judge and you are now Chief Justice. How does this sit with you?

Yes, I can understand the feeling by some adjudicators that I may not quite resonate with their views of the Judiciary as an institution and their individual aspirations because I am technically an 'outsider'. The point is that I may indeed have been from outside the Judiciary in 2014 when I became judge, but who did not come from outside the Judiciary at some point?

On a general note, I think that adjudicators should consider the Judiciary fortunate that it has, for a leader, a person of vast experience who intimately understands how Government works, having been the Government's Chief Legal Advisor and an ex officio Cabinet Member for six years; someone who has lectured law in universities and at ZIALE, practiced law in private, served as corporation counsel, and served also on a diverse range of public bodies including the Judicial Service Commission, the Zambia Law Development Commission, the Zambian Human Rights Commission, the Citizen's Economic Empowerment Commission, the board of the Zambia Public Procurement Authority, the Council of Law Reporting etc., and who has moreover chaired many other statutory bodies like the Council of the Zambia Institute of Advanced Legal Education, the Legal Practitioners' Disciplinary Committee and the Anti money Laundering Authority. I have also been a member of the Judiciary's Policy Committee for over seven years.

Additionally with my regional experience as Member and Vice Chairperson of Banjul based African regional human rights body, the African Commission on Human and Peoples' Rights, and the experience gained from my membership of the Executive Council of the SADC Lawyers Association and, lately, from my position as a recognized UN expert on the United Nations Working Group on Arbitrary Detention, my career and professional journey is possibly the only case of its kind. Adjudicators, especially Magistrates, should have the

assurance that with this all-round experience I am well placed to make a positive difference to the Judiciary.

I think also that because well over half of the current crop of superior court judges were my students in Law School at the University and so were a good number of Subordinate Court Magistrates, they know all too well that I value hard work and meritorious achievement and, above all, that I am allergic to mediocrity. This should define our engagement and aspirations in the Judiciary for as long as I remain at the helm.

Q - Do you have any plans to systematically meet individual adjudicators or in groups to get their views on the operations of the Judiciary?

Yes, as much as humanly possible I will attempt to meet with individual adjudicators. I have already intimated that I was fortunate to have known many of the adjudicators either from university or as professional colleagues. I am thus well acquainted with a number of them personally. It will, however, be useful to have a professional discussion on a one on one basis with as many of them as possible. Since assuming office as Chief Justice, I have tried, as much as possible, to meet adjudicators at all levels collectively. You may be aware that in May 2022, I did, in the company of Hon Justice Kajimanga, President of this Association, undertake a familiarization and inspection tour of Northwestern Province and took the opportunity to meet our lower courts adjudicators in Solwezi, Mwinilunga, Zambezi, Kabompo, Mufumbwe and Kasempa.

In the company of the Hon Deputy Chief Justice, Michael Musinda, I also met, in June 2022, our Copperbelt based High Court Judges (Ndola and Kitwe). Still in June 2022, together with the Judge in Charge Livingstone and the Chief Registrar, I met with some Livingstone based Magistrates of the Subordinate and Local Courts. Later the same month I met, in the company of some Registrars, with Lusaka based Magistrates to exchange views on how to improve our work environment.

I plan to meet with Lusaka based High Court Judges and Court of Appeal Judges soon. In the meantime I continue to meet with individual judges from various courts on an individual basis. It is my intention to continually engage with adjudicators.

Additionally I have intentions to meet with our support staff who, as you know are critical to our operations. Thus far I have met with the representatives of our Court Reporters to appreciate their challenges. I have also met with representatives of JAWUZ.

Q-As Patron of MAJAZ, how do you think MAJAZ can be more vibrant and relevant?

I think that although MAJAZ appears to have, over the years, attracted the membership or active participation of largely lower courts adjudicators, it has great potential to attract the society of all adjudicators. First, the Association must succeed in selling itself to all its potential members. I think, and I might be wrong, that some adjudicators who must be fully paid up members of MAJAZ have not quite understood what the Association stands for, what they stand to benefit from membership and whether its existence is necessary at all.

Second, and this is related to the first point, it is critical that the Association clearly defines and sets forth the tangible benefits available for its individual members. This cannot be an easy thing as there is a perceptible divide between adjudicators in the Superior Courts and those in the lower courts. Because to many adjudicators MAJAZ is viewed as some sort of pressure group (like a union) to advocate for improved conditions of service, Superior Courts adjudicators, whose conditions of service are governed by an Act of Parliament, invariably may not see much use in belonging to the Association because of the misperception about its purpose as a body designed to fight for their conditions of service.

To make it more vibrant, the Association needs to think through and implement a strategy that will translate the many benefits it offers into visible gains for its individual members; a strategy that will harmonise the divergent interests of adjudicators, particularly between those in lower courts and those in superior courts. I can immediately think of a structured mentorship program supported by the Association, and a motivation outreach programme, especially for members in remote places.

I am convinced that if such projects were structured as intended to build capacity and enhance access to Justice, they would attract willing takers and funders. Your Executive may have to consider investing in developing a strategic plan and a project proposal of sorts around these things.

My advice is that the Executive needs to embark on an aggressive marketing campaign to boost the visibility of the Association and should utilize every opportunity to sell itself among superior courts adjudicators.

Q- What is your advice or encouragement to Adjudicators who are non-members of MAJAZ?

My advice to all adjudicators who are not yet members of MAJAZ is that they must, without delay, seek to subscribe to membership of this important body. To non-members the Association may appear unattractive with benefits derivable from membership not being clear, but that should give them impetus to join and change things from within. It does not help anyone to stand aside and watch an institution that even from its name alone should concern them, failing to make a positive impact to their professional well being.

One of the core objectives of MAJAZ is to protect judicial independence. However, judicial independence cannot be guaranteed or seen to be guaranteed if the Judiciary does not enjoy financial autonomy as this is an impediment on the doctrine of separation of powers and indeed the rule of law. What plans do you have to rectify the status quo?

Indeed judicial independence has many facets. We often talk of institutional independence which really speaks to freedom from control or interference of the judiciary from the other two arms of government. We also discuss personal independence of adjudicators as non interference in their decision making. What is not often talked about is financial autonomy. I think this is an important

batter which though constitutionally provided for, has seen slow implementation because people seem to be reluctant to venture into unknown territories.

Financial autonomy for the Judiciary would mean that once approved, the budget of the Judiciary should be the business of the Judiciary to implement without having to appear to be begging from the Executive each time it wishes to undertake any of its projects. There is obvious and understandable discomfort in giving the Judiciary this autonomy for various reasons, capacity to administer finances seemingly without recourse to executive controls being considered as an issue. The assumption is that there is need for control to prevent possible abuse or misuse of public funds appropriated to this non-elected body from taxpayers' resources. The conversation around financial autonomy is healthy and must continue. The attainment of that autonomy remains work in progress.

Q - When you were Attorney General one of the notable things was that you testified against sitting ministers who were members of the same cabinet as you. What is your advice to Adjudicators who often times find themselves handling matters involving high profile people?

That's right, I did testify against two Ministers in tribunals constituted under the Parliamentary and Ministerial Code of Conduct Act. In one case I was asked to explain the circumstance around the advice I gave to a Minister as Chief Legal Advisor to the Government. I advised against proceeding with a contract that I did not consider was legally safe and in the best interests of the Republic. The minister opted to ignore the advice and went ahead with the contract.

In another case a Minister took decisions affecting the tourism industry that had far reaching legal and financial consequences without consulting my office as Attorney General. In both cases my testimony was on the factual aspects of what transpired which was not, in any event, in dispute. The alternative would have been for me to concoct the evidence to conceal what actually transpired. I chose to be truthful.

The issues on which I testified had nothing to do with collective responsibility. They had everything to do with disregard of laid down legal procedures and practices.

I think that although my approach in these two cases may have annoyed some people, and in one case it literally cost me my job, at the right time I was vindicated for sticking to the truth. The lesson is that it is always honorable to do the right thing. The truth, as they say, shall set you free. Justice is blind to status. The rule of law means that everyone must be subject to the same law and procedures. Adjudicators must fear no one in their work. As long as they do the right thing they will be vindicated.



Q - MAJAZ is thrilled with plans to introduce the Judicial School in the Judiciary because one of the objects of MAJAZ is to enlarge and perfect the knowledge and understanding of the judicial function by research and training. In this regard, would you lend support to MAJAZ being allocated a seat on the Board of the Judicial School?

I am equally thrilled about the Judicial College. As you are aware continuous professional development for adjudicators is acknowledged the world over as the cornerstone of an accessible, efficient, and forward-thinking justice system. As our world constantly evolves, so too does the justice system. To keep adjudicators in step with the ever-shifting landscape, in the law it is crucial have a variety of training programs for them so that they are at the forefront. Our support staff such as Court Clerks, Marshalls Interpreters, Court Reporters and other, equally need training and refresher courses. Presently our training programmes are unstructured and done on a needs dictating and resources permitting basis. This is mainly through the Advisory Committee on Training. A need was identified to have our induction sessions and training done *through a judicial college as is the case in many jurisdictions. We are now way ahead in establishing a judicial college as a statutory body and a number of programs for training trainers have been undertaken.* I certainly would wish to see representation at all levels of adjudicators on the governing board so that all voices of our adjudicators sing from the same hymn book.

Q - From as far back as the time of Chief Justice Mathew Ngulube, members of the lower bench have been calling for improved conditions of service as there is no clear framework by which their conditions of service are reviewed from time to time, evidenced by the wide disparity in salaries between Judges and Magistrates. This is because, unlike Judges, Magistrates have no legislation governing their conditions of service. What deliberate policies do you intend to put in place to improve the conditions of service for Magistrates of the Local Courts and the Subordinate Courts?

I entirely sympathize with adjudicators in the lower judiciary for their relatively uncompetitive conditions of service. If we have to keep our adjudicators away from the temptations to engage in bad vices that come their way as they adjudicate disputes, the system must reward them well for their labour. For many years, as you have pointed out, the suggestion has been made that the conditions of this category of adjudicators, like their counterparts in the superior courts, should be regulated by an Act of Parliament. Regrettably, these calls have over the years fallen on hard ground.

As you no doubt are aware, Parliament recently passed the Emoluments Act which creates the Emoluments Commission whose responsibility it will be to determine emolument for all public service workers including those in adjudication. One of the objectives of the Commission is to harmonize emoluments for public service workers doing comparable work. This Commission is yet to be operationalised. We shall continue to make representations for improved conditions for all our staff.

Q - Currently, the Judiciary has several young Adjudicators that have joined the system. Kindly share some words of wisdom to this new cadre of Adjudicators.

The young adjudicators are the future of the Judiciary. My advice to them is that first, they should exercise patience. Their dreams on the bench may take a while to be realized. They should however be consoled that they have all the time ahead of them. Rome was not built in a day, and God's time is always the best. Second, they need to maintain a good name for themselves and begin to build a good reputation. They should avoid the temptations and lures of quick bucks and a lavish lifestyle which is beyond their emoluments and lawful income. They must always be concerned about professionalism and integrity. When they allow their names to be dented through vices such as corruption it becomes very difficult in some cases impossible to redeem themselves. They should guard against creating wrong perception whenever possible. Finally I think young adjudicators must always try to better themselves professionally wherever possible. Professional stagnation can lead to frustrating experiences in future. The world is changing everyday and there is need to keep abreast with developments. They should view leaning as a continuous process.

Q - How would you like to be remembered as Chief Justice and MAJAZ Patron?

When my time as Chief Justice is over, I want to be remembered as a professional who strove to build a legacy of hard work and integrity; a straight shooter who called a spade a spade; a stickler to the truth and to professionalism. I want to be remembered as leader who championed meritocracy and insisted on quality work and on the highest standards being observed in the judiciary. Yet I also want to be remembered for my simplicity and accommodating disposition; a mentor to many and a role model to young professionals.

MAJAZ EVENTS AND ACTIVITIES

DID YOU KNOW...???

1. That the National Executive Committee (NEC) has reduced the number of its physical meetings each year to save money; and the money saved has been invested in activities such as bonds and fixed deposits which will enable the association to achieve the planned events/activities?
2. That the NEC is Funding Provincial Executive Teams for their Operations/Business Ventures?
3. That the NEC is organizing Professional Trainings for all members at every level starting with members on the lower bench?
4. That the MAJAZ Constitution is undergoing review to make it responsive to the current needs of the Association? A Constitution Review Committee (CRC) led by Judge Charles Zulu has since produced a Draft which was handed to the President. The Draft will be tabled before the National Executive Committee and will be circulated ahead of the Tri-Annual Conference for Adoption.
5. That the NEC is paying a courtesy call on the Chief Justice, Minister of Justice and the Secretary to the Cabinet(include dates) to discuss issues for the progression of the association?
6. That the NEC is working tirelessly to improve the property in Chalala in order to increase its value and consequently increase the proceeds from it? A drilling company has since been shortlisted to work on the hand pump, and if need b, to replace it or drill another borehole and install a submersible pump.
7. That the NEC is printing T-Shirts for every member of MAJAZ? Distribution is nearly complete and soon, all members will receive MAJAZ branded chitenge wrappers.
8. That MAJAZ contributes a K3,000.00 towards the funeral when a member dies?

... Now that you know, feel free to submit your questions, comments contributions or expectations to the Editor. Submit your write-up via email to phirimupemo@gmail.com or nchimunyasimaubi@gmail.com



OVERVIEW OF THE MAJAZ CONSTITUTION

By Hon. Nchimunya Simaubi

INTRODUCTION

The Magistrates' and Judges' Association of Zambia (MAJAZ) is a non-profit, professional society registered under section 7 of the Societies Act, Chapter 119 of the Laws of Zambia. It was previously known as the Magistrates' Association of Zambia (MAZ) but later transformed itself to include Judges of the Superior Courts in Zambia and hence the name change to MAJAZ. Being a registered society, MAJAZ has a Constitution that has undergone several amendments in the past with the most recent being in 2009.

SALIENT FEATURES OF THE MAJAZ CONSTITUTION

The Constitution of MAJAZ is a 20 paged document of 66 Articles covered in ten parts as follows:-

- Part 1 – Articles 1 to 4** which address the name, address, interpretation and objects of the Association;
- Part 2 – Articles 5 to 10** address Membership in the Association, including subscriptions, termination, rights, rights and renewal of membership as well as honorary members who include the Attorney General, Director of Public Prosecutions and the President of the Law Association of Zambia, among others;
- Part 3 – Articles 11 to 25** establish the National Executive Committee, the Disciplinary Committee, the Editorial Board, Provincial and District Executive Committees their composition, duties and powers;
- Part 4 – Articles 26 to 29** addresses the duties and powers of the President/Chairperson, National Secretary and National Treasurer together with their deputies. It is note-worthy that Art. 29 clothes the NEC and PEC to assign any member to any duty that is in the interest of the Association;

Part 5 – Articles 30 to 46 deals with Meetings, and is perhaps the most extensive of all parts. Arts. 30 to 36 provide for the Annual General Meeting, Triannual General meeting and Extra-ordinary General Meeting with their respective delegates, quorums and notices; Arts. 39 to 46 provide for meetings of the NEC and PEC with the requisite notice and quorum;

Part 6 – Articles 47 to 55 relates to Elections in the Association and provides for the officers to conduct the elections, the conduct of the elections, the nomination process and disqualification of a candidate, among other things;

Part 7 – Articles 56 to 61 looks at the Funds and Assets of MAJAZ by providing for the mode of acquiring funds, signatories to bank accounts, loans, auditing and a petition to audit the books of account;

Part 8 – Articles 62 to 64 provide for the amendment, rules and interpretation of the Constitution. Of interest, is Art. 63 which vests the NEC with the power to make Rules as it deems necessary for the smooth running of the Association and that such rules shall be binding on all the members provided they are not in derogation to the Constitution and must be communicated to the members by the National Secretary;

Part 9 – Articles 65, provide for Standing Orders on the proper Conduct of meetings of the Association including the requisite notices and how each delegate shall be addressed; and

Part 10 – Article 66 provides for Affiliation of MAJAZ to the Commonwealth Magistrates' and Judges' Association (CMJA) and other local and international organisations in furtherance of its aims and objectives provided they are not in conflict with the interests of the CMJA.

PLANS FOR AMENDMENT

At its executive meeting held in October 2021, the National Executive Committee ratified a five member Constitution Review Committee (CRC) to be

headed by the Hon. Mr. Justice Charles Zulu, High Court Judge, to review the MAJAZ Constitution with the aim of drafting one that will reflect the needs of the Association and be more inclusive.

Other members of the CRC are:

- Ms. Matakala Likando, Kalomo Resident Magistrate;
- Mr. Moses M. Phiri, Chipata Magistrate;
- Mr. Dennis B. Mpundu, Ndola Provincial Local Courts Officer; and
- Mr. Peter Geza, Nakonde Presiding Local Court Magistrate.

The Office of the National Secretary is the Secretariat of the CRC.

During the tenure of the immediate past President of the Association, Mrs. Fydes Masosa Hamaundu (April 2017 to December 2020), efforts were made to revive MAJAZ by recruiting more members, especially Judges of our Superior Courts. This effort paid off as seen by the attendance of 25 Judges of the Superior Courts at the Tri-Annual General Meeting held in December 2020. Most of these Judges had just applied to join the Association. In this regard, there is need to amend the Constitution so as to provide for equitable representation of all levels/strata of the Judiciary at national, provincial and district levels. Further, Research Advocates, who are a new cadre of judicial officers under the Research Unit headed by the Registrar of the Supreme Court, have also expressed interest in joining the Association. Therefore, it becomes imperative that **Article 3(a)** of the Constitution is amended to include Research Advocates, some of whom are former Magistrates.

Members are thus invited to make their views known of any possible amendments to be made to the Constitution by writing to the National Secretary on the following address:

The National Secretary,
Magistrates' and Judges' Association of Zambia,
C/O The Judiciary of Zambia,
Court of Appeal
P. O. Box 50015
Lusaka
Or send an email to: nchimunyasimaubi@gmail.com



JUDICIAL INDEPENDENCE

News from the MAJAZ 2020 Tri-Annual AGM and Elective Conference

By Hon. Idah Phiri-Mupemo

“We must not allow ourselves to succumb to any form of pressure or influence, whether internal or external...” Late Chief Justice Ireen Mambilima advised MAJAZ.

The Judges and Magistrates Association of Zambia (MAJAZ) held its Tri-Annual General Meeting and Elective Conference from 16th to 18th December, 2020 at the Avani Resort Hotel in Livingstone. The Conference, which was held under the theme **“Improving Institutional Capacity for Effective Service Delivery,”** was attended by over 124 delegates among them 29 Honourable Judges. The event was graced by the late Honourable Chief Justice of the Republic of Zambia, Mrs. Justice Irene C. Mambilima and the Commonwealth Magistrates and Judges Association (CMJA) President, Hon. Mr. Justice Charles Mkandawire.

Mrs. Fydes Hamaundu, the then President of MAJAZ welcomed the delegates. She noted that the aim was to equip participants with tools to enable them carry out their duties effectively. She underscored that the aim of the Association was to safeguard independence of the Judiciary as a guarantee of human rights. As part of the success story, Mrs. Fydes Hamaundu highlighted the presence of MAJAZ in all ten (10) provinces of Zambia. Mrs. Fydes Hamaundu, however,



Late Chief Justice Ireen Mambilima

bemoaned the challenges faced such as low membership numbers amongst Judges and poor conditions of service for magistrates of the Subordinate and Local Courts.

The Honourable Mr. Justice Charles Mkandawire, President of the Commonwealth Magistrates' and Judges' Association (CMJA) presented his speech. He encouraged the Judiciary of Zambia to continually develop in areas such as

publication of Annual Reports, the use of information technology and a change of cultural practice, as it strives for better service delivery. He said that citizens expected the judiciary to operate as a service and could hold the institution accountable for delayed delivery of judgments and poor service delivery. He bemoaned the barriers in access to justice such as backlog, antiquated court facilities, inadequate funding and poor infrastructure. Hon. Mr. Justice Charles Mkandawire noted the need to be considerate of victims of GBV and differently abled people in infrastructural developments.

Lady Justice Irene C. Mambilima, the late Honourable Chief Justice of the Republic of Zambia, during her opening speech, stated the role that Judges and Magistrates played in being at the apex of the core mandate of the Judiciary; which is to adjudicate fairly and competently on matters brought before it. She emphasized the importance and necessity for continuous training and skills development, played an important role in this regard.

Her Ladyship encouraged adjudicators to join the Association, not only to meet and interact with fellow professionals but also to take advantage of conferences such as the 2020 Tri-Annual General Meeting and Elective Conference to widen their knowledge base. She quoted Principle 9 of the United Nations basic principles on the independence of the Judiciary (UN Basic Principles) in encouraging such associations which states:

“Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.”

She ended by urging the MAJAZ Executive to attract members to the association by demonstrating that there were benefits in belonging to the Association. She was elated to note that a good number of members had been recruited from superior courts and the local court bench in the recent past. Later when closing the conference, the late Chief Justice urged Judges and Magistrates to jealously guard their judicial independence while at the same time remain accountable to the people of Zambia on whose behalf, they exercised judicial authority. The late Hon. Lady Justice Irene C. Mambilima, in her own words, emphasised that –

“We must not allow ourselves to succumb to any form of pressure or influence, whether internal or external, even as steps are being taken to improve our general wellbeing at all levels as well as the working environment. Even when faced with judicial stress or ethical dilemma, in whatever form, I urge you to find the most suitable ways of dealing with it, so as not to compromise your judicial standing.”

It was at this conference that the current National Executive Committee, led by Hon. Mr. Justice Charles Kajimanga was elected. Delivering his acceptance speech, incoming MAJAZ President Hon. Mr. Justice Charles Kajimanga, paid

tribute to the immediate past President Mrs. Fydes Hamaundu and those who led the Association before her, namely, Hon. Mr. Justice Jones Chinyama and Hon. Mr. Justice Timothy Katanekwa. The Hon. Justice Charles Kajimanga, who sailed through unopposed, thanked the members for showing confidence in him and promised that he would not take the trust and faith lightly.

Hon. Mr. Justice Kajimanga traced his interest in MAJAZ to the year 2006, saying he joined the Association at a time when Judges were shunning it. He assured that his passion for MAJAZ was as strong that day as it was then. He was confident that the new National Executive Committee members were equally dedicated and passionate. He stated that Mrs. Fydes Hamaundu and her team deserved special commendation for bringing to life an association that was almost moribund. He pledged to continue where they had left off in pursuit of achieving the ideals and objectives of the Association. He expressed gratitude that the outgoing members had extended an open-door policy. Turning to his team and the general membership, Hon. Mr. Justice Kajimanga had this to say:

“Our work begins today. The task ahead is monumental but not insurmountable. With dedication, I am optimistic we will achieve milestones. We will no doubt face challenges as we traverse the three years journey. (But) I leave you with these words together we can overcome and together we will overcome.”

At the same conference, presentations were made on the aims and objectives of the Commonwealth Magistrates' and Judges' Association and the aims and objectives of the Magistrates' and Judges' Association of Zambia (MAJAZ). In addition delegates also took time to deliberate on issues of Judicial Independence, Conditions of Service and how to cope with Judicial Stress. Other topics discussed were the Judicial Code of Conduct and the Judicial School.

NATIONAL EXECUTIVE TEAM (NEC) 2020-2023



PRESIDENT

Hon. Mr. Justice Charles Kajimanga
(Judge of the Supreme Court)



VICE PRESIDENT

Hon. Mr. Justice Mwiinde J. Siavwapa
(Judge of the Court of Appeal)



SECRETARY

Hon. Nchimunya Simaiba
(SRA, Court of Appeal)



VICE SECRETARY

Hon. Emmanuel Lubeta
(Senior Local Courts Officer)



TREASURER

Hon. Nthandose M. Sakala Chabala
(PRM Lusaka)



VICE TREASURER

Hon. Exilda Nsungu Chanda
(RM Lusaka)



CM - Lusaka Province
Hon. Albert Kamiji Mwaba
(RM Lusaka)



CM- Southern Province
Hon. Idah Phiri-Mupemo
(PRM Choma)



CM- Northern Province
Hon. Oswald M. Chibalo
(PRM Kasama)



CM- North Western Province
Hon. Lomuti Mtonga
(RM, Mwinilunga)



CM- Copperbelt Province
Hon. Griford Kanyama
(PLCO, Kitwe)



CM- Central Province
Hon. Mwiinga Simaanya
(RM, Mkushi)



CM- Luapula Province
Hon. Moses Mulenga
(Mag II, Mansa)



CM- Western Province
Hon. Jane N. Ngabwe-Sifali
(SRM, Mongu)



CM- Muchinga Province
Hon. Julius Malata
(PRM, Muchinga)



CM- Eastern Province
Hon. Simon Chande Nkhoma
(SPLM, Kasenengwa)

**PROVINCIAL EXECUTIVE TEAMS (PECs)
2020-2023**

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NAME	POST
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Hon. Mr. Gibson Kasangili	Vice Secretary
Hon. Ms. Susan Mangalashi	Treasurer
Hon. Ms. Dorothy Nakawala	Vice Treasurer
Hon. Ms. Catherine Mumba	Committee Member - Kabwe
Hon. Ms. Edah Mayuya	Committee Member - Mkushi
Hon. Mr. Dickson Katebe	Committee Member - Chisamba
Hon. Mr. Suwe Nyirenda	Committee Member - Serenje
Hon. Mr. Malupande Mwila	Committee Member - Kapiri
Hon. Mr. Phillip Mpundu	Committee Member -Mumbwa

COPPERBELT

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Hon. Elizabeth Banda (Vacant)	Vice President
Hon. Royd Chinda	Secretary, - (Vacant)
Hon. Inutu Kaliye	Vice Secretary
Hon. Malota Phiri	Treasurer
Hon. Boas Mpundu	Vice Treasurer
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Hon. Allan Ngobola	Committee Member
Hon. Muyunda Mwindi	Committee Member

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Kabili Litiya	Committee Member
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Hon. Ethel Moyo	Committee Member
Hon. Remmy Kabengele	Committee Member
Hon. Jamson Ng'ona	Committee Member

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Hon. William Nyoni	Secretary
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Hon. Esther Mulomba-Kanyama	Vice Treasurer
Kabili Litiya	Committee Member
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Hon. Peter Geza	Secretary
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Hon. Charles Chanda	Committee Member - Kaputa

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Hon. Charles Chinyama	Secretary
Hon. Kaputo M. Mutebela	Vice Secretary
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Hon. Ivans Yikona	Committee Member - Kasempa
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Hon. Gladson Nkumba	Committee Member - Mwinilunga

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Hon. Mufalali Mwiya	Vice Secretary
Hon. Mulambwa Astridah	Treasurer
Hamweenda	Vice Treasurer
Hon. Katanekwa Nalikando	Committee Member –
-	Committee Member -
-	Committee Member-
-	

JURISDICTION

The Granting of Letters of Administration

By Hon. Idah Phiri-Mupemo

It has often been argued that the jurisdiction of the Local Court when dealing with an estate of a deceased person (succession) depends on the value of the estate whereas the jurisdiction to grant letters of administration (an order of appointment) does not. The implication of this argument is that the Local Court can grant an order of appointment in respect of an estate of any amount but cannot distribute that estate if the value is above K50.00. This position was held to be incorrect and unlawful.

Section 36 of the Local Court Act Chapter 29 of the Laws of Zambia provides that

“36. (1) Subject to the provisions of section thirty-eight, a local court, may, on the application of any interested person, grant letters of administration of the estate of a person who has died intestate and whose estate fails to be administered and distributed in accordance with the Interstate Succession Act or under customary law.”

Undoubtedly, this provision does grant jurisdiction to the Local Court to grant letters of administration where a person has died intestate. However, Section 43 (2) of the Intestate Succession Act Chapter 59 of the laws of Zambia limits this jurisdiction of the Local Court. It states that

“43. (2) A local court shall have and may exercise jurisdiction in matters relating to succession if the value of the estate does not exceed fifty thousand kwacha.”(un-rebased currency)

Important to note therefore is that the granting of letters of administration cannot be separated from dealing with the estate (distribution); hence, the limit on jurisdiction in Section 43 of the Intestate Succession Act. It follows that both the granting of letters of administration and the distribution of the estate depend on the jurisdiction of the Court. Expressed simply, if the value of the estate of a person who died intestate is above K50.00, then the Local Court has no jurisdiction either to grant the letters of administration in respect of that estate or indeed to deal (distribute) with that estate in any manner whatsoever unless the distribution will be done **entirely in accordance with custom.**

In the case of ***Base Property Development Limited and Neggie Nachilima Chileshe (As Administratrix of the Estate of the Late Michael Dereck Chileshe) and 2 others - Appeal No. 211/2015 (SCZ/8/218/2015)***, the Supreme Court recalled its decision in the case of ***Charity Oparaocha v Winfridah Murambiwa (2004) Z.R. 141*** in which it held that the question of appointment of an administrator goes to the jurisdiction of the Court. The Supreme Court reiterated that

“We said Section 43(2) of the Intestate Succession Act limits the jurisdiction of the Local Court in matters of Succession to estates whose value do not exceed K50,000 (Unrebased). That the deceased's estate had property within and outside Zambia whose value went beyond the jurisdiction of the Local Court and we agreed that probate should have been obtained from the High Court. We refused to fault the trial Judge for having found that the appointment of the appellant by the Local Court as Administrator of the estate of the deceased was null and void. We concluded that the consequence of such a finding was cancellation of the order of appointment post facto... the Local Court had no jurisdiction to issue letters of administration...”

Indisputably, the jurisdiction of the Local Court (and even that of the Subordinate Court) regarding Intestate Succession is far too low in the present day. It has been argued that this poses an injustice to the public now that the High Court has no presence in as many areas as the Local Court. Additionally, the procedures in the High Court are not as simplified for the ordinary person. It appears that the solution lies in amending the law to increase the jurisdiction of Local Courts and render the much needed service to the people especially in the remotest areas.

EXPERIENCE ON THE BENCH

*Retired Supreme Court Justice Mushabati
Shares his most appalling experience
as a Magistrate*



“You must be very intelligent.”

I felt flattered as Retired Supreme Court Judge Mushabati whispered to me. It was exciting to toast my glass of wine with him at the official opening of the 2022 Criminal High Court Sessions in Livingstone. Aware of my excitement, the Retired Judge looked at me and asserted,

“It’s amazing to have very young Magistrates as yourself. I hope you are brave enough to stand your feet even in the face of danger.”

I freaked out and sat upright, looking straight in his eyes. I wondered what that meant.

“I remember in 1981 when I was Resident Magistrate at Luanshya Subordinate Court,” He continued. “I convicted four Accused persons for the offence of Burglary and Theft. Immediately I pronounced the conviction, one of the four jumped from the dock to the bench, right where I was seated.”

I was shocked, I put my glass of wine on the table which I shared with him at that luxurious high table and shook my head. “Oh my God! Unbelievable!” I exclaimed.

“It’s true.” The Judge affirmed. “I was shocked. I didn’t expect it; it happened so quickly. In a split of a moment, the chap was on me. I didn’t know what to do.”

The Judge then moved forward on that comfortable couch and smiled, I guessed to help me relax. And he continued.

“I was lucky because the Prosecutor, Mr. Mukisi (may his soul rest in peace), was very alert. He speedily jumped on to that convict and fell with him towards the entrance to my chambers.”

The Judge went quiet for a second. He cleared his throat and then lowered voice, “I didn't know where to go or what to do. The experience was so traumatizing and I felt defenseless. The chap confessed that all four of them planned to attack me if I convicted them. I was saved because the other three did not do it.”

At that point, I realized the Judge was recollecting his then emotions. I needed to bring him back to the sherry party. I refilled my glass with more wine and raised it at him for another toast.



“That was quite an experience my Lord.” I laughed out loud in pretense, thinking of how to change the topic. He returned the toast. Luckily, a lady who appeared to be in charge of protocol came and ushered the Judge to the Chambers of the Judge in Charge and I remained wondering what I would do if that happened to me.

I learned earlier that day from Retired Judge Mushabati that hard work, integrity and perseverance are critical for Adjudicators who wish to excel in the profession. He joined the Judiciary as a Magistrate Class III on 23rd August, 1971. He then obtained his Law Degree in 1978 and proceeded to the Law Practice Institute(LPI), now ZIALE, where he passed on first attempt in 1979. He rose in rank all the way to Judge of the Supreme Court until 2005 when he retired. After retirement, the Judge served for another 3 years on a contract which ended in 2009.

The Judge boasted of being a paid up member of MAJAZ. He emphasized that Judges and Magistrates are one even in international circles and added, in his words that “Let us shine as MAJAZ. When we pull hands together in one direction, we can achieve anything.” He however advised that MAJAZ should not defend wrong doings.

SUCCESS TIPS

How I passed ZIALE at first attempt

By Hon. Kawama Mwamfuli

1. Familiarize yourself with **ALL** the study material before classes begin
2. The best study material to use is from the latest intake
3. Hit the ground running; study each and every day as soon as class begins in order to stay on top of the workload
4. Practice! Practice! Practice! Practice drafting every day. Take note that most of the heads involve drafting
5. Attend **ALL** classes and record lectures. You can listen to these recordings in your down time
6. Go through past papers to familiarize yourself with the manner in which questions in the exam paper are phrased
7. Attempt to answer the questions in the past papers and request someone who has successfully passed through **ZIALE** to go through your answer
8. Familiarize yourself with the statutes for each head. A good number of questions in the examination papers are from these statutes and some of the documents you are asked to draft in the exam are in the statutes
9. Identify the heads that you excel in and the ones you do not excel in Apportion more study time to the heads that you do not excel in and less time to the heads that you excel in
10. Last but not the least; go to **ZIALE** with an **I CAN PASS AT FIRST ATTEMPT ATTITUDE**. It is important to place high expectations on yourself. Those that go to **ZIALE** with a “can't do” attitude are most likely to fail and those that go with a “can do” attitude are most likely to pass

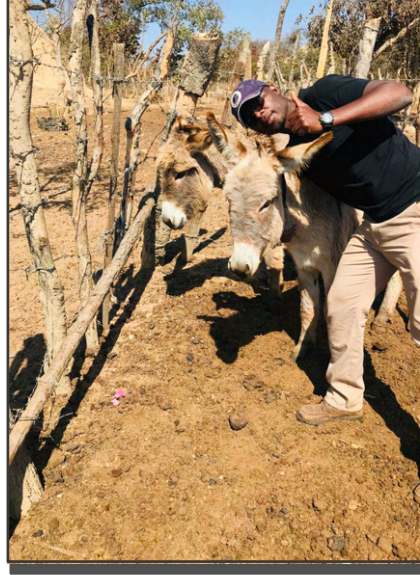


FINANCIAL CORNER

Are you looking for TIPS on how to balance PERSONAL INTEGRITY and FINANCIAL INDEPENDENCE in this noble profession?

...Hon. Ernobert Zulu writes that...

The job of an adjudicator invariably exposes one to innumerable opportunities and privileges. These opportunities are often attracted by the power and authority that adjudicators wield. It's a privilege admired by many. Often times, a lot of people make conscious decisions and effort to fraternize with adjudicators and shower them with gifts in a bid to become the adjudicator's 'blue eyed boys.' Consequently, times abound when temptations lurk and incite one to receive bribes, be it solicited or unsolicited. Given the prevailing economic hardships, the temptations to yield could be high. Imperative to note is that, yielding to bribes ushers one into the realm of corruption which is difficult to escape and erodes one's impartiality and independence. Indulgence in corruption also degrading because the corruptor often develops an overbearing attitude towards those whose services they purchase. They become a demanding paying master whose wishes and instructions are often at variance with law. What makes it worse is that the word NO is often no-longer



entirely within the ambits of a corrupt adjudicator's control. Those who are corrupt and dare using the word NO, do it at the risk of irking their master to opening the ever haunting can of worms. Unless one has a depleted and impotent conscience, it is also difficult to see how a human being, in the title of an adjudicator, so revered by fellow man could betray a people's trust by being corrupt and still live at peace with self. Since impecuniosity is often cited as justification for corruption, I thought I could share a few tips that I learnt along the way from seasoned Adjudicators, and some senior lawyers at the time. Among the many were Hon. Fydes Hamaundu and Hon. Mrs. Chisonga.

I will quote verbatim what two of these my advisors said;

As an adjudicator, the greatest challenge you'll ever face is saying NO to a close relative, friend or colleague whenever they ask for a favour. What has helped me over the years is that I sat my relatives and friends down and explained to them what I stood for, what I could do, and what I could not do. I also made it known to them that what I do at work is not subject for discussion at home or at social gatherings. What you must always remember, is that the power you have is not yours – it is for the people. Also know that your decisions are subject to appeal so put in the best so that when confronted on it, you can stand and defend your decision. Be not taken to the callous act of hiding files so that parties can not appeal your decisions

*Advice from Hon. FM Hamaundu,
in July, 2006*

This profound wisdom ignited in me a desire to try and find ways in which I could make an honest living. A bribe was a NO for me. I learned that it matters the kind of company

you keep. So if you are an Adjudicator that wants to be honest, then the company you keep really matters. It is a decision that may not win one accolades among many, but it will surely afford you a peaceful and fulfilling life.

Often times, the people that want to get to you for bribes get to you through the people with whom you relate. It is therefore important to carefully choose your friends. It is also important to manage your ambitions and expectations because sometimes, requests to do illegal things for a bribe might come from people that have a direct influence over your progression. If you are not financially disciplined and you do not manage your ambitions, you might easily succumb under the pretext that those were instructions from your superiors. While promotions are important and might give one additional income and opportunities, such should not be achieved at the expense of one's moral standing and the wellbeing of others.

Like many young Adjudicators, I was inundated by innumerable financial burdens. I was equally excited about a lot of things like

driving a posh car, wearing fancy clothes, and dining in fancy places. It's an ambition I tried to pursue but my yawning purse was always the hindrance.

On the occasion of my 34th birthday, in 2014, my elder brother bought me a beautiful gift. The gift was a book entitled “The Richest man in Babylon.” This book taught me a lot of things. It delivered practical lessons which impacted on me greatly and I labour to live by the guidance. It is my hope and desire to share those valuable lessons in this corner in the subsequent issues, for now allow me to highlight the following lessons that I have since learnt:

- I have learnt to live within my means
- I have learnt to save 10% of whatever I earn and survive on the 90%
- I have learnt to invest the money I save
- In trying to invest, I learned to seek advice from people already involved in that field
- I have learnt that it is difficult to meet all the things you desire so I learned to differentiate my basic needs from my mere wants or desires

I do not suggest that I am a rich man. Far from it, but I am learning to live on the rules I learned from the “Richest man in Babylon”. What I can confidently state though is that I am learning to invest so as to make it multiply because I have learnt that like a tree, wealth grows from a small seed.

I reckon that financial Independence is very important and if you went to achieve it, you should always remember that wealth, like a tree, grows from a small seed. So learn to live within your means, learn to invest the little you earn and learn to manage your expectations. If you do that, I believe that with time, you will create a fairly comfortable life for yourself. I hope to share more in the subsequent issues.

If you find this Article helpful, please share your “After the Article Story”. Email your story to:

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for publication in the next issue.

MAJAZ SPORTS AND RECREATION CORNER

Let's begin with...

“The Mental Health Benefits of Exercise”



Adjudication is one of the most stressful jobs. Many of us suffer from stress-related illnesses such as hypertension, heart problems, diabetes, arthritis (gout), depression and attention-deficit/hyperactivity disorder (ADHD) among others the older we become on the bench. Well, regular exercise can have a profoundly positive impact and boost your overall health and mood. You don't have to be a fitness fanatic to reap the benefits. Research indicates that modest amounts of exercise can make a real difference. No matter your age or fitness level, you can learn to use exercise as a powerful tool to deal with mental health problems and get more out of life.

Exercise can help provide:

Sharper memory and thinking. The same endorphins that make you feel better also help you concentrate and feel mentally sharp for tasks at hand. Exercise also stimulates the growth of new brain cells and helps prevent age-related decline.

Stronger resilience. When faced with mental or emotional challenges in life, exercise can help you build resilience and cope in a healthy way, instead of resorting to alcohol, drugs, or other negative behaviors that ultimately only make your symptoms worse. Regular exercise can also help boost your immune system and reduce the



Higher self-esteem and great looks. Regular activity is an investment in your mind, body, and soul. When it becomes a habit, it can foster your sense of self-worth and make you feel strong and powerful. You'll feel better about your appearance and, by meeting even small exercise goals, you'll feel a sense of achievement.

Better sleep. Even short bursts of exercise in the morning or afternoon can help regulate your sleep patterns. If you prefer to exercise at night, relaxing exercises such as yoga or gentle stretching can help promote sleep.

More energy. Increasing your heart rate several times a week will give you more get-up-and-go. Start off with just a few minutes of exercise per day, and increase your workout as you feel more energized.



DID YOU KNOW THAT...

* ***Reaping the mental health benefits of exercise is easier than you think?***

You don't need to devote hours out of your busy day to train at the gym, sweat buckets, or run mile after monotonous mile to reap all the physical and mental health benefits of exercise. Just 30-minutes of moderate exercise five times a week is enough. And even that can be broken down into two 15-minute or even three 10-minute exercise sessions if that's easier.

* ***Even a little bit of exercise is better than nothing?***

If you don't have time for 15 or 30 minutes of exercise, or if your body tells you to take a break after 5 or 10 minutes, for example, that's okay, too. Start with 5 or 10-minute sessions and slowly increase your time. The more you exercise, the more energy you'll have, so eventually you'll feel ready for a little more. The key is to commit to some moderate physical activity, however little, on most days. As exercising becomes a habit, you can slowly add extra minutes or try different types of activities. If you keep at it, the benefits of exercise will begin to pay off.

* ***You don't have to suffer to get results?***

Research shows that moderate levels of exercise are best for most people.

Moderate means:

1. That you breathe a little heavier than normal, but are not out of breath. For example, you should be able to chat with your walking partner, but not easily sing a song.
2. That your body feels warmer as you move, but not overheated or very sweaty.

* ***You can find time to exercise during the week or be a weekend warrior?***

A recent study in the United Kingdom found that people who squeeze their exercise routines into one or two sessions during the weekend experience almost as many health benefits as those who work out more often. So don't let a busy schedule at work, home, or school be an excuse to avoid activity. Get moving whenever you can find the time, your mind and body will thank you!

Read more on:

HelpGuide

<https://www.helpguide.org/articles/healthy-living/the-mental-health-benefits-of-exercise.htm>



DEPARTED MEMBERS OF MAJAZ

December, 2020 – August, 2022

We never truly get over the loss, until we meet again....

May Their Souls Rest In Eternal Peace!

Hon. Justice Ireen Chirwa Mambilima

Chief Justice

Hon. Justice Elizabeth Chona Muyovwe

Supreme Court Judge

Hon. Justice Enock Mulembe

Constitutional Court

Hon. Mr. Justice Mwila Chitabo

Constitutional Court

Hon. Richard Chikalanga

RM - Namwala

Hon. Ruth Nangogo Kapulo

Mag. Class 1 - Lusaka

Hon. Alfred Aongola

Western Province

Hon. Mike Mofya

Lusaka Province

Hon. Morgan Ng'ona

Hon. Humphrey Chitalu

PRM – Chipata

Hon. Toza Masililo

Local Court Mag - Livingstone

Hon. Wana Makayi

North Western Province

Hon. Tobias Lusuma

Hon. Elias Kangwa

Hon. Sifaya Muyanbango

Western Province

Hon. George Mulenga

Hon. Nyireda

Serenje Subordinate Court

Hon. Prosper Mwila

RM Kitwe Subordinate Court

Hon. Billy Mlanzi -

Hon. Chitundu Nanyangwe Kalungu

Luanshya Subordinate Court

Hon. Thandiwe Ndolo

Luangwa Subordinate Court

Hon. Stanley Munsanje

Kalomo Local Court

Hon. Dell Siamapa

Mapanza Local Court

