

# Judiciary Newsletter



Issue No. 2 | 2024

## Judiciary of Zambia ***The Adjudicator***





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- Hon. Mr. Justice Kelvin Muzenga
- Hon. Mr. Justice Charles Zulu
- Hon. Lady Justice Bubile Lungu Shonga
- Mr. Sangwani Nyimbiri
- Mrs. Idah Phiri Mupemo
- Mrs. Kalumba Chisambisha-Slavin
- Mr. Ian Hamalabbi
- Ms. Chishala Nkalamo
- Mr. Champemba Chileshe
- Mr. Elias Makoni

# The Adjudicator



## FOREWORD

Welcome to the second edition of The Adjudicator, the Judiciary of Zambia's newsletter. It is with great pride that we continue this vital initiative, a testament to our commitment to fostering effective communication within our institution. The establishment of this newsletter by the Advisory Committee on Public Relations and Information has proved to be a crucial step in ensuring that the flow of information within the Judiciary is consistent, comprehensive, and accessible to all.

As we advance, The Adjudicator continues to serve as a bridge, closing the information gap by keeping members of the Judiciary informed of the latest developments within our institution. It also strengthens the bonds between colleagues, provides a platform to share perspectives on matters that impact us all, and highlights the dedication of our Court staff in their daily roles.

We must remain committed to publishing this newsletter on a quarterly basis, with each edition giving readers latest information on the happenings within our institution and beyond. In keeping with our efforts towards sustainability and embracing modern technology, the e-version of The Adjudicator remains our primary format. This approach allows for a more cost-effective, easily distributable, and widely accessible publication across the country.

I urge each of you to take an active role in continuously contributing to this newsletter. The Committee must strive to reach out to as many of our staff as possible to submit articles. When staff members contribute to the newsletter, they take an active role in shaping the content and direction of the publication. This sense of ownership not only increases engagement but also fosters a stronger sense of community. Staff feel more connected to the institution and to each other, knowing that their voices are heard and their experiences are valued.

In this edition, an update is given on a myriad of activities and initiatives undertaken by the judiciary such as the launch of the Anti-GBV fast track courts and our recent engagements with traditional leaders. We also have a piece dedicated to appreciating the service of

Hon. Mr. Justice Jones Chinyama who retired in June this year. Having browsed through this edition, I can confirm that there are several other pieces that make for interesting reading.

To the avid readers of this publication, your continued support and engagement are essential to the success and growth of the publication. The Adjudicator is a collective voice of the Judiciary, and it is our shared responsibility to ensure its quality and relevance. I would like to extend my sincere gratitude to the members of the Advisory Committee, the Editorial team, and all those who have contributed to this edition. Thank you for your unwavering dedication and service to the Judiciary

*Dr. Justice Mumba Malila, SC.  
Chief Justice*



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## Editorial Note

Dear colleagues, on behalf of the Advisory Committee on Public Relations and Information, and the editorial team, I welcome you to this edition of The **ADJUDICATOR**.

It is with great pride that we present a compilation of significant milestones, achievements, and reflections that underscore our continuous journey towards justice, excellence, and community engagement.

In this edition, we are pleased to feature the launch of Gender-Based Violence (GBV) User-Friendly Fast Track Courts in Chinsali, Mansa, and Kasama. These courts mark a pivotal advancement in our commitment to providing expedited and sensitive handling of GBV cases. By prioritizing the needs of survivors, we aim to foster a judicial environment that is both supportive and efficient, ensuring that justice is accessible to all.

The Hon. Chief Justice, recognizing the vital role of traditional justice systems in our communities, engaged traditional leaders to bridge the gap between customary practices and formal judicial processes. Read further for a more inclusive and comprehensive approach to justice. Further, the safety and security of our adjudicators are paramount in maintaining the integrity and effectiveness of our judicial system. The Magistrates and Judges Association of Zambia (MAJAZ), in this edition expresses concerns regarding inadequate security measures for our judicial officers.

We also proudly celebrate the elevation of five distinguished legal professionals to the Inner Bar. Their exemplary dedication, legal acumen, and unwavering commitment to justice have earned them this prestigious recognition.

This edition features the recent Labour Day Awards, where members of our judiciary were honored for their exceptional service and contributions. These awards highlight the tireless efforts and dedication of our staff, who continually strive to uphold the principles of justice and integrity. Their achievements inspire us all to maintain the highest standards in our professional endeavors.

We bid a heartfelt farewell to Hon. Mr. Justice Jones Chinyama, who retired after a distinguished career



unwavering dedication and significant contribution to the judiciary. His legacy of fairness, wisdom, and integrity will continue to inspire future generations of judicial officers. We extend our best wishes for a fulfilling and well-deserved retirement.

In this issue, we take a retrospective look at the evolution of the Judiciary of Zambia from 1964 to 1991. This historical perspective provides valuable insights into the foundational developments and milestones that have shaped our judicial system. Understanding our past is essential as we continue to build a robust and dynamic judiciary.

Our Health and Wellness Corner continues to offer valuable tips and resources for maintaining physical and mental well-being. A healthy judiciary is fundamental to the effective administration of justice. We encourage all members to prioritize their health, embracing wellness as a key component of their professional and personal lives.

And finally, with deep respect and solemnity, we commemorate the life and legacy of Zambia's first indigenous Chief Justice. His pioneering spirit and profound impact on our legal system have left an enduring legacy. His contributions to justice and the rule of law will be remembered and honored by all who follow in his footsteps.

The team and I trust that you will find this edition both informative and inspiring. Together, let us continue to uphold the principles of justice, integrity, and excellence that define the Judiciary of Zambia.

**Hon. Mr. Justice Kelvin Muzenga** -  
Chairperson of the Advisory  
Committee on Public Relations and  
Information

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## Advisory Committee on Public Relations and Information



**Hon. Mr. Justice  
Charles Zulu -  
Member**



**Hon. Mr. Justice  
Kelvin Muzenga -  
Chairperson**



**Hon. Lady Justice  
Bubile Lungu  
Shonga - Member**



**Mr. Sangwani  
Nyimbiri - Member**



**Mr. Timothy Daka -  
Member**



**Mrs. Idah Phiri  
Mupemo - Member**



**Mrs. Kalumba  
Chisambisha-Slavin  
- Secretary**

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## Launch of The GBV And User-Friendly Fast Track Courts

Gender-Based Violence (GBV) continues to plague societies worldwide, often manifesting within family settings where it is most insidious. This deeply troubling issue not only diminishes the severity of the offences but also perpetuates cycles of abuse. In response to this pressing challenge, the Judiciary of Zambia, in collaboration with the United Nations Development Programme (UNDP) and with backing from the governments of Sweden and Ireland, has taken significant steps to address GBV through the establishment of three user-friendly Fast Track Courts in Mansa, Kasama, and Solwezi.

These launches, which took place during Phase II of the GRZ-UN joint programme on GBV, were honoured by the presence of Chief Justice Dr Mumba Malila, SC. The initiative came as a critical response to the alarming rise in GBV cases and the urgent need for enhanced court procedures and infrastructure.

Chief Justice Malila mentioned that GBV frequently occurs in family environments, and the attempt to resolve these matters as mere family issues diminishes their gravity and

and contributes to repeated occurrences.

On behalf of UNDP and its partners, Mr James Wakiaga, the UNDP Resident Representative, reiterated the organisation's unwavering support in the fight against GBV. He stressed that gender equality is a fundamental aspect of the 2030 development agenda, achievable only if women and girls are liberated from violence and are empowered to pursue leadership roles.

Phase II of the GRZ-UN joint programme builds on its successful precursor, which saw the creation of the first Anti-Gender Based Violence and User-Friendly Fast Track Court in Kabwe in 2016. This was followed by additional courts in Lusaka, Chipata, Ndola, Mongu, and Choma. The current phase extends to new locations including Solwezi, Kasama, Chinsali, and now Mansa.



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## The Judiciary Engages Traditional Authorities

The Judiciary of Zambia boasts approximately 529 Local Courts and over 60 Magistrates' Courts, dotted across the country. In these bustling courtrooms, a quiet struggle unfolds daily as magistrates and court staff face numerous challenges, including interference from Traditional Leaders who summon judicial officials, dictate case handling, and influence court decisions. These issues threaten the integrity and efficiency of justice delivery, highlighting the urgent need to work in harmony.

Recognising these significant challenges, the Judiciary of Zambia took a step to foster better understanding and cooperation between the formal judicial system and traditional dispute resolution mechanisms. This effort culminated in a consultative meeting with Traditional Authorities at the Mulungushi International Conference Centre to address the critical issues hampering effective justice delivery.

Opening the meeting, His Lordship the Hon. Chief Justice Dr Mumba Malila, SC, reaffirmed the Judiciary's dedication to upholding the rule of law and ensuring efficient and equitable justice across the nation. He emphasised the Judiciary's vision to provide accessible justice in line with international standards, as outlined in the Sustainable Development Goals, and highlighted the complementary roles that formal court structures and traditional dispute resolution mechanisms play in dispensing justice.

However, the coexistence of these two systems sometimes leads to overlap and conflicts, necessitating the consultative meeting to foster constructive dialogue between the Judiciary and Traditional Authorities to address the operational challenges hindering effective justice delivery.

Article 118 of the Constitution of Zambia mandates the Judiciary to administer justice through its established court system while recognising the validity of traditional dispute resolution mechanisms, provided they adhere to constitutional principles and do not conflict with established law. Despite their complementary nature, these systems often intersect, particularly at the level of Local Courts and Magistrates' Courts, leading to potential conflicts. The Chief Justice acknowledged that the relationship between the Judiciary and Traditional Authorities needs to be symbiotic, but experience has shown that it is sometimes tumultuous.

The interactive meeting was designed to facilitate face-to-face interactions between the Judiciary and traditional leaders, allowing them to present observations and concerns hindering justice delivery. The goal was to make suggestions and recommendations for improvements in law and practice, ensuring peaceful coexistence and enhanced efficiency between the two justice systems.

Following the deliberations, the meeting resolved that:

### 1. Guidelines for Magistrates conducting site visits on traditional land:

The Hon Chief Justice should establish guidelines to address grievances that some Magistrates conduct site visits on traditional land without the knowledge or presence of the traditional authorities concerned.

### 2. Recruitment of Magistrates and court staff:

The recruitment and staffing of courts should be left to established systems within the Judiciary.

### 3. Amendments to the Local Courts Act and the Intestate Succession Act:

The Ministry of Justice be encouraged to expedite the process of amending these Acts as they relate to the administration of estates.

### 4. Creation of a chamber in the House of Chiefs for succession disputes:

Steps be taken to create a chamber in the House of Chiefs with exclusive and final jurisdiction on succession disputes.

### 5. Traditional leaders as appellate tribunals:

The Judiciary and traditional justice system shall strive to work harmoniously and eradicate misunderstandings.

### 6. Misconduct by Magistrates:

Erring Magistrates should be reported to relevant authorities instead of being disciplined directly by traditional leaders.

### 7. Training and sensitisation of traditional leaders:

Arrangements should be made to sensitise traditional leaders on the Judiciary's mandate and the interface that ought to exist between the two institutions.

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**8. Tabling of the Traditional Courts Bill before Parliament:** A recommendation shall be made for the tabling of the Traditional Courts Bill before Parliament.

**9. The possibility of traditional courts being allowed to deal with cases involving allegations of witchcraft:** A study of the Witchcraft Act Chapter 90 of the Laws of Zambia be undertaken before any proposal is made to amend the Act.

**10. Interference by traditional leaders:** Traditional authorities should desist from interfering with court processes established by law.

**11. Promoting communication between the Judiciary and traditional authorities:** Regular engagements and communication between the Judiciary and traditional authorities should be promoted.

**12. Degree holders sitting as Local**

**Court Magistrates:** A study be undertaken to ascertain how and to what extent the administration of justice is being affected by degree holders working as Local Court Magistrates.

**13. Proposed resumption of the process to codify customary law:** A recommendation be made to codify certain aspects of customary law.

Through these resolutions, the Judiciary of Zambia aims to enhance the harmony and effectiveness of justice delivery, ensuring that both formal and traditional mechanisms work together for the benefit of all Zambians.





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## MAJAZ Bemoans Inadequate Security

### *Late Kenyan Magistrate Monica Kivuti*

In an era where security concerns increasingly permeate every facet of society, the safety of those entrusted with upholding justice must be paramount. Yet, the Magistrates and Judges Association of Zambia (MAJAZ) has recently brought to light a troubling reality: the inadequate security measures provided to magistrates and judges. This stark revelation comes in the wake of a series of distressing incidents that have laid bare the vulnerability of those who play a crucial role in the justice system.

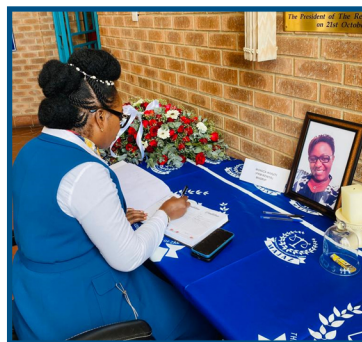
The importance of robust security for the judiciary cannot be overstated. Judges and magistrates operate at the heart of legal proceedings, making decisions that significantly impact individuals and communities. The gravity of their role demands not only respect but also protection, ensuring that they can perform their duties without fear for their safety.

Her Ladyship Hon. Justice Mwamba Chanda, President of MAJAZ and Judge-in-Charge of the Family and Children's Division, highlighted this critical issue during the opening of a book of condolences for Kenya's Magistrate Monica Kivuti. Tragically, Magistrate Kivuti was shot on 13th June 2024 following her decision to deny bail to the wife of a police officer—a harrowing event that underscores the ever-present threats faced by members of the judiciary.

Justice Chanda's address drew attention to the disturbing incidents of attacks and break-ins at the homes of magistrates and judges. The current security measures, she pointed out, fall short of what is required.

The implications of such insecurity are profound. The loss of a judge or magistrate while performing their duties is not just a personal tragedy but a severe blow to the judicial system as a whole. The integrity of justice is jeopardised when those who administer it are forced to work in fear. Magistrates and judges have sworn to deliver justice impartially and without fear, yet they are now compelled to carry out their roles with fear.

Supporting this urgent call for change, His Lordship Hon. Justice Edward Musona, Vice President of MAJAZ and Judge-in-Charge of the Industrial Relations and Labour Division, echoed Justice Chanda's concerns. He described the situation as a wake-up call, cautioning that if immediate measures are not taken, Zambia could face a similar tragedy to that experienced in Kenya.



*MAJAZ President Signing the Book of Condolences at Lusaka Magistrate Complex*



*MAJAZ Vice President Signing the Book of Condolences at Lusaka Magistrate Complex*

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## Five Legal Luminaries Called to the Inner Bar

The recent appointment of five senior members of Zambia's legal fraternity to the Inner Bar is not just a recognition of individual excellence but a celebration of the legal profession's critical role in our society. On 13th March 2024, these distinguished lawyers were conferred with the prestigious rank of State Counsel, marking a significant milestone in their illustrious careers.

The newly admitted State Counsel, appointed on 16th February 2024 and sworn in by Republican President His Excellency Hakainde Hichilema, were:



**Ms Mutti Kashumba Butete Nelly, SC, MP,**  
Speaker of the National Assembly



**Hon Mr Mwiimbu Jack Jacob, SC, MP,**  
Minister of Home Affairs and Internal Security



**Mrs Zalumis Ifunga Mwangala Frances, SC,**  
Chairperson of the Electoral Commission of Zambia



**Mr Musa Abdulla Arshad, SC,**  
Managing Partner of Musa Dudhia & Co.



**Mrs Chibiya Sakala Emily Kondwa, SC,**  
Vice Chairperson of the Judicial Service Commission

These legal luminaries have consistently demonstrated dedication and excellence in their respective fields. Their elevation to the Inner Bar is a testament to their significant contributions to the legal profession and the advancement of the law in Zambia. This honour is not merely a personal achievement but a reflection of their unwavering commitment to public service and legal integrity.

The title of State Counsel is a national legal honour of the highest rank, symbolizing exceptional abilities as advocates. It is a public recognition of the many years of hard work, dedication, and contribution to the legal profession. However, with this honour comes a profound responsibility. State Counsel are expected to guide and offer dispassionate legal services when called upon, serving not only the legal community but also the nation.

The inclusion of three women among the five new State Counsel is particularly commendable, highlighting a significant step towards gender balance in the upper echelons of the legal profession. This development is a positive indicator of the progress being made in ensuring equal opportunities within the legal field.



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## Capital Markets Tribunal Leaders Reappointed



Mr. Maybin Muyawala - Member



Mrs. Chanda Nkholoma  
Tembo - Chairperson



Mr. Bonna Kashinga – Member

The capital markets in Zambia, like those in many emerging economies, face a myriad of challenges and disputes. Issues such as regulatory compliance, market misconduct, and investor grievances frequently arise, necessitating a robust mechanism for resolution. Ensuring the integrity and stability of these markets is critical for fostering investor confidence and promoting economic growth.

The Capital Markets Tribunal, established under the Securities Act No. 41 of 2016, plays a pivotal role in addressing these issues within Zambia's financial landscape. This specialised body was created to tackle the unique challenges and disputes that emerge in the country's securities industry. Since its inception in 2021, the tribunal has been instrumental in maintaining market integrity and resolving conflicts.

The tribunal's mandate is extensive. It includes hearing and determining appeals from decisions made by the Securities and Exchange Commission, addressing cases of misconduct in the securities market, and handling other issues specified in the Securities Act. By ensuring disputes are resolved justly and efficiently, the tribunal safeguards the interests of all market participants, fostering a fair and transparent market environment.

On the 18th of June 2024, the members of the Capital Markets Tribunal were sworn in following the expiry of their tenure. Her

Ladyship Hon. Justice Judy Zulu Mulongoti, Judge of the Constitutional Court, presided over the ceremony, welcoming back the tribunal members who have been key in ensuring justice within the capital markets. Since its creation, the tribunal has so far dealt with ten cases, with seven already disposed of.



*The sworn members poses for a picture with her ladyship Hon justice Mulongoti between the chairperson (right) and Mr. Maybin Muyawala (left)*

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## Lands Tribunal Members Sworn In

Land disputes in Zambia have long been a thorny issue, arising from unclear land titles, overlapping claims, inheritance conflicts, and illegal land sales, among others. These disputes not only disrupt the lives of individuals but also impede community harmony and economic development.

Recognising the need for a dedicated and impartial adjudicative body, Zambia established the Lands Tribunal in 1996 under the 1995 Lands Act. Since its inception, the Tribunal has played a critical role in addressing these complex issues, ensuring that justice is served in land-related conflicts.

In ensuring the continuity and commitment to resolving land disputes with integrity, Her Ladyship Hon. Lady Justice Annie M. Sitali, Hon. Judge of the Constitutional Court, presided over the swearing-in of seven newly appointed

members of the Lands Tribunal on 7th June 2024. This event, mandated by section 6 of the Lands Tribunal Act, signifies the ongoing role of this adjudicative body in resolving land disputes across the country.

Recognising Zambia as a nation founded on Christian principles, Justice Sitali urged the Commissioners to remember that it is God who entrusts humans with the responsibility to resolve disputes. He, therefore, expects us to administer justice because righteousness and truth are the foundations of the soil.

The newly sworn-in members of the Lands Tribunal were:

- **Shadreck Mbewe** - Chairperson
- **Matidah Chileshe Kaoma** - Deputy Chairperson
- **Francis Chilunga**
- **Joseph Kawangu**
- **Cooper Chibomba**
- **Kantu Flora Mooya**
- **Glenn Mwika**



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## Thoughts On Farming, Retirement and The Judiciary

By Ian Hamalabbi | Court Interpreter

The current countrywide increases in the price of mealie-meal in Zambia do not only spell negatives for the country's food security but also present an opportunity for current and prospective farmers to increase the production of both maize and other possible alternatives. It is imperative for employees of the Judiciary, both individually and as collective units, to embrace the idea of taking up farming as a business, as it provides a legal alternative source of income to help cushion the financial burden common among fixed-income earners.

It is unfortunate to note that the nature of most sources of finance, whether from formalised commercial banks or informal ones such as shylocks (kaloba), has resulted in many civil servants finding themselves in debt traps. Despite being readily available, most of these financial packages come with exorbitant interest rates and/or are structured to encourage consumption, hence leading to indebtedness. It is very difficult for high indebtedness to coexist with justice because a highly indebted individual is vulnerable to corruption, which undermines the very tenets of justice. In this regard, there is a need for judicial workers to seriously consider supplementing their income by engaging in profitable ventures such as farming.

In light of the foregoing, it is proper to hail initiatives put in place by the government to encourage civil servant participation in farming. One such initiative is the Public Service

Agricultural Asset Scheme through the Public Service Micro Finance Company (PSMFC). In this initiative, PSMFC has entered into strategic partnerships with relevant companies to enable civil servants to access borrowing at a lower cost to specifically finance the acquisition of agricultural assets. This scheme is accessible by individual civil servants or even joint ventures, depending on their ability to service the loan. Members of the Judiciary who may wish to consider taking up farming as a business but lack the necessary agricultural instruments are encouraged to look into this scheme to consider their options.

*"In the words of our First Republican President, Kenneth Kaunda, "going back to the land" need not be taken as a call to embrace farming only at retirement when one is old and grey with the best of their years already behind them. Instead, this call should be taken as an urgent call for us to work on the land by embracing farming as a business as early as we possibly can."*

It is a great injustice, both to the individuals themselves and the nation at large, to release retirees after several years of service to the public who, at



the time of retirement, have neither tangible assets to their name nor already established income-generating ventures but to bank on pension benefits which may not even be enough to meet numerous financial obligations. For the judicial worker, the time of retirement should no longer be viewed as that dreadful period to either go and die a miserable death or be a financial burden to children or kin. Instead, retirement should be viewed as a period to relax and enjoy the fruits of investments made in their earlier years.

In conclusion, the initiatives to encourage civil servants not to be dependent on their salaries but to create extra sources of income not only ensure their financial stability after retirement but also have the potential to create employment for other members of society.

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## Labour Day Awards



The Judiciary of Zambia joined the rest of the world in commemorating the 2024 Labour Day celebrations and awarded deserving employees in various categories. Recognition certificates and chest freezers were presented to the following award recipients:

- **Mr. William Sakala** (IT Unit) - Most Disciplined Employee
- **Ms. Nissie Lungu** (Court Reporter) - Most Reliable Employee
- **Ms. Peggy Bwalya Shamba** (Supreme Court) - Most Hardworking Employee
- **Mr. Derrick Dumbe** (Commercial Court) - Most Reliable Employee
- **Ms. Beatrice Kalonde** (Constitutional Court) - Most Hardworking Employee
- **Mr. Richard Daka** (Sheriff's Office) - Most Hardworking Employee
- **Mr. Patson Njovu** (Administration) - Most Hardworking Employee
- **Mr. Malvin Chisanga** (Accounts) - Most Hardworking Employee

Congratulations to all award recipients! May these awards inspire us to continue striving for excellence in service delivery and enhancing access to justice for all

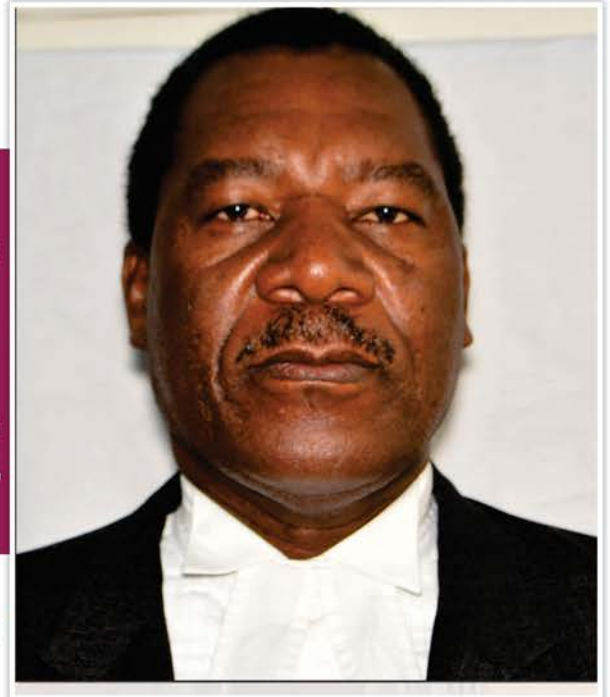
*"Far and away the best price that life offers is the chance to work hard at work worth doing"*  
Theodore Roosevelt



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## Justice Jones Chinyama Retires



*"I take cases as they come without looking at the parties involved..."*

After over three decades of distinguished service, Hon. Mr. Justice Jones Chinyama has retired from his esteemed position as a Judge of the Supreme Court of Zambia. His retirement, effective 10th June 2024, comes upon attaining the age of 65, as permitted by Article 142 (2) of the Constitution of Zambia, which allows judges to retire with full benefits at this age. Notably, the mandatory retirement age for judges in Zambia, according to Article 142 (1) of the Constitution, is 70 years.

Hon. Mr. Justice Chinyama's legal journey is a testament to his dedication and commitment to the Zambian Judiciary. Born and raised in Zambia, he pursued a Bachelor of Laws degree at the University of Zambia and was admitted to the bar in 2000. His career in the Judiciary began much earlier, in 1987, when he served as a Lay Magistrate at various subordinate courts across the country, including Chinsali, Kaputa, Luanshya, and Kafue.

His trajectory within the Judiciary saw him undertake pivotal roles, such as Resident Magistrate and Senior Resident Magistrate at the Mansa Subordinate Court, and eventually becoming the first Principal Resident Magistrate for the Lusaka Subordinate Court at Chikwa. Justice Chinyama's administrative acumen was also recognised during his tenure as Acting Deputy Registrar of the Lusaka High Court from 2005 to 2007, and subsequently as Deputy Registrar of the Ndola High Court from 2007 to 2010.

In 2010, his expertise and dedication were further acknowledged with his appointment as a Judge of the Industrial Relations Court in Lusaka. This role paved the way for his eventual appointment to the Supreme Court on 22nd March 2016, a position he held for eight years.

Among Hon. Mr. Justice Chinyama's notable cases were the Frederick Titus Jacob Chiluba vs The People and Samuel Musonda vs The People. His judicial philosophy, emphasising impartiality and evidence-based decisions, has been a cornerstone of his approach.

Reflecting on his tenure, Justice Chinyama expressed his gratitude for the opportunity to serve, acknowledging both the rewards and the criticisms that came with the role. He encouraged colleagues in the legal fraternity to prioritise the merits of each case and to remain dedicated to the principles of justice.

The Judiciary of Zambia extends its heartfelt appreciation to Hon. Mr. Justice Chinyama for his invaluable contributions to the institution and to Zambian jurisprudence. As he embarks on this new chapter of his life, the Judiciary wishes him a fulfilling and well-deserved retirement.

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## Wellness Corner

The Judiciary of Zambia's focus on health and wellness is an essential component of its commitment to excellence. His Lordship the Hon. Chief Justice Mr. Justice Dr. Mumba Malila, SC, on 30th April 2024 constituted the Advisory Committee on Health and Wellness, mandated to, among other things, promote physical and mental wellness for Judges and members of staff. In order to ensure that adjudicators and staff are in peak condition to deliver justice efficiently and fairly, the following activities have since been undertaken:

### Justice Martin Musaluke's Golf Victory

Justice Martin Musaluke, Chairperson of the Advisory Committee on Health and Wellness, on 21st July 2024, was crowned champion of the 2024 Nomads Annual Golf Tournament, when he beat other participants from Botswana, Eswatini, South Africa, Zambia and Zimbabwe. This momentous win is a shining example of the benefits of physical fitness. Golf demands focus, precision, and endurance, providing a perfect counterbalance to the mental demands of judicial duties. Justice Musaluke's success highlights the judiciary's commitment to promoting enjoyable and healthy activities.



### Judges in the Law Association of Zambia Marathon

On 27th July 2024, numerous judges participated in the Law Association of Zambia Marathon. This event underscored their dedication to physical fitness and resilience. Running a marathon requires rigorous training and mental toughness, traits that are equally vital in judicial work. The judges' participation serves as an inspiration for others in the legal community to prioritize their health.





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## Sports Competition: Ndola vs. Kabwe

The sports competition held in Ndola between teams from Ndola and Kabwe, showcased the importance of teamwork and camaraderie. Engaging in team sports not only provides physical exercise but also fosters communication and strategic thinking. These friendly matches strengthen bonds among judicial officers and promote a supportive and cohesive work environment. Congratulations to the Kabwe team for emerging victorious.



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## Evolution of Zambia's Judiciary (1964-1991)

### Introduction

The decision to abolish the Court of Appeal in Zambia and establish the Supreme Court was influenced by various factors, including the desire to break away from the colonial legacy and create a legal system that better reflected the needs of independent Zambia. The 1964 Constitution, which replaced the colonial legal framework, was criticized for closely resembling colonial-era laws and structures, including the Westminster model of government. This constitution established a presidential system in which the President had significant executive powers, similar to those held by the colonial Governor. This close resemblance to colonial practices raised concerns about the new government's commitment to true independence and democracy.

### Historical Background

Zambia's judicial system was initially influenced by British colonial rule, with the introduction of a Court of Appeal under the 1964 Constitution. This court served as the highest appellate court in the country, replacing the Federal Supreme Court. The Chief Justice became the President of the Court of Appeal, highlighting the court's significance in the legal hierarchy. However, the colonial legacy also had drawbacks, as detailed structures within the judicial system often mirrored ordinary legislation rather than embodying true judicial independence.

### The 1973 Constitution and the Transition to a One-Party State

The 1973 Constitution marked a significant shift in Zambia's political and legal landscape. It established a socialist, one-party state, with the United National Independence Party (UNIP) as the sole legal political party. This constitutional change had implications for the judiciary, as it reinforced presidential rule and centralized power.

The replacement of the Court of Appeal with the Supreme Court was made possible through Article 97(1), of the Constitution of Zambia which was assented to on 25th August 1973. President Kaunda emphasized the importance of the judiciary in reflecting the true image of Zambia and upholding justice in society. He assured that neither the party nor the government would dictate to the judiciary in discharging its functions. The judiciary was seen as a pillar of participatory democracy, responsible for interpreting laws and ensuring justice for all.

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In a statement quoted from the Daily Mail on 19th April 1973, President Kaunda highlighted the significance of the new Supreme Court, stating, "The Judiciary exists for the people and as one of the pillars of our participatory democracy, members of the judiciary should read and be responsive to the needs of the Zambian Society." The Supreme Court now replaced the former Court of Appeal and became the highest court of law in the land. President Kaunda also emphasized that Parliament would continue to be the main source of Zambian Law and the Judiciary its administrative instrument.

President Kaunda further explained the rationale behind ending the recourse to the Privy Council in London, stating, "In the past, there was provision for recourse to the Privy Council in London. This was anachronism because with all the best intentions in the world, we would not expect the Privy Council, eight thousand kilometres away to understand the needs and way of life of the Zambian society. Government therefore decided to put an end to this colonial connection by the creation of this court." He urged the judges of the Supreme Court to exercise the highest degree of integrity and fairness in their rulings, acknowledging the burden placed on them by this decision.

The establishment of the Supreme Court and the abolition of the Court of Appeal reflected the changing dynamics of Zambian society and the need to adapt the legal system to new political realities. These changes were part of a broader process of legal and political transformation in Zambia.

## Role of the Judiciary in the New Political Order

President Kaunda emphasized the importance of the judiciary in reflecting the true image of Zambia and upholding justice in society. He assured that neither the party nor the government would dictate to the judiciary in discharging its functions. The judiciary was seen as a pillar of participatory democracy, responsible for interpreting laws and ensuring justice for all.

## Transition to Multi-Party Democracy (1991)

The one-party state era ended in 1991 with the introduction of multi-party democracy. This transition led to further constitutional changes, including amendments to the 1964 Constitution. The 1991 Constitution strengthened the separation of powers and reduced the dominance of the executive, marking a new phase in Zambia's legal and political evolution.

In conclusion, the creation of the Supreme Court and the abolition of the Court of Appeal in Zambia were part of a broader process of legal and political transformation. These changes reflected the changing dynamics of Zambian society and the need to adapt the legal system to new political realities. The establishment of the Supreme Court marked a significant milestone in Zambia's legal history and played a crucial role in shaping the country's judicial system.



*President Kaunda seated between Chief Justice Mr. Justice Doyle and Deputy Chief Justice Mr. Leo Baron. To Baron's left is Court Judge Mr. J. Gardner. Below the bench are High Court Judges Brendan Cullinan (left), Annel Silungwe, Godfrey Muwo, and Joseph Hughes.*

# The Adjudicator



## Obituary: Chief Justice Emeritus The Hon Mr. Justice A. M. Silungwe

Zambia, becoming the first indigenous person to hold this esteemed position. He remained in that position until his retirement on 30th June 1992. After retiring as Chief Justice, Justice Silungwe continued to serve the judiciary in various capacities. He was appointed as a judge of the Court of Appeal of Seychelles in 1992 and later joined the Judiciary of Namibia as a High Court judge in 1999.

Chief Justice Emeritus Silungwe's illustrious career extended beyond the Bench. He served as a Member of the Judicial Service Commission from 1972 to 1974 and as Chairperson of the Parliamentary Legislative Committee from 1973 to 1975. While he was Chief Justice, Justice Silungwe also served as Chairperson of the Judicial Service Commission, Council of Legal Education and Council of Law Reporting, until his retirement in 1992. He was also a council member of the World Jurist Association from 1977.

He obtained his LL.M degree from the University of Zambia in 1977 and served as a part-time lecturer at UNZA from 1974 to 1980 and at the Law Practice Institute from 1975 to 1981. He was the first Director of the Justice Training Centre (JTC) of Namibia between 1995 and 1999.

Hon. Justice Silungwe was also involved in numerous religious and charitable organisations. He was a Trustee of the United Church of Zambia, a member of the Executive Committee of the Bible Society of Zambia, and held various positions in the Christian Council of Zambia.

Despite health challenges in his later years, Chief Justice Silungwe remained actively involved in national affairs. He chaired the Technical Team appointed by President Sata to draft the current Constitution, contributing to the 2016 Amendment Constitution.

The late Hon. Mr. Justice Annel Musenga Silungwe SC passed away on Sunday, 30th June 2024 at Coptic Hospital in Lusaka

The late Chief Justice Emeritus, Hon. Mr. Justice Annel Musenga Silungwe SC was born on 10th January 1936 in Mbala.

He joined the civil service in 1958 as a Court Interpreter. He went on to train as a lawyer in London and was admitted as a Barrister at Law of the Inner Temple in 1966. Upon his return to Zambia, he was appointed Resident Magistrate in 1967.

He was promoted to Senior Resident Magistrate Class II in 1968, Senior Resident Magistrate Class I in 1970, and Puisne Judge in 1971 at the age of 35. In 1973, he was nominated as a Member of Parliament and appointed as Minister of Legal Affairs and Attorney General, positions he held until 1975. He was also conferred the status of State Counsel in 1974.

On 1st May 1975, at the age of 39, Hon. Justice Silungwe was appointed Chief Justice of

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