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LAW ASSOCIATION OF ZAMBIA



PRESIDENTS



THE EDITOR'S INSIGHT

Welcome to the 3rd edition of the *Lawyer's Insight*!

This edition is a Special Independence Day publication. As we reflect on Zambia at 60 years, and LAZ 50 years, we realize that LAZ is shaped by its history. Therefore, we have taken some time to reflect on the leadership of the Association over the years. You will read, over the next few pages (13 to 30), a candid account by our past presidents, of among other things, events that shaped the formation of LAZ; the myriad political, social and legal influences at play at the time; and the future which they hope to see for LAZ. By writing these stories, it is our hope that we will immortalize the rich history of LAZ, for generations to come.



We have also reflected on the role of LAZ in shaping Zambia's jurisprudence at pages 10 to 11. At page 8, we have delved into the topical issue of the existence (or otherwise) of lacunae in the Zambian Constitution. All key events that have taken place in the last couple of months have been covered at pages 33 to 37, such as the launch of the Insolvency Proceedings Handbook; the Annual Prosecutors' Conference; and the launch of the LAZ Prison Decongestion Project. For the tax enthusiasts, we have placed a spotlight on Zambia at 60 years, in terms of tax considerations for the success of intra-African trade at page 39. We close off with LAZ activities in pictures, upcoming events and what to look forward to in the next edition.

We are grateful to our sponsors Stanbic Bank and Zamtel for partnering with us and we encourage other institutions (including law firms) to also come on board. Thank you to the past presidents who took the time to sit with us to share their stories, we truly appreciate you. The Newsletter team had an incredibly exciting time putting this edition together and we hope that you will equally enjoy reading it.

The Lawyer's Insight is a platform for all lawyers to share their insights on issues that matter to them and to the general public. Therefore, all lawyers are invited to contribute by getting in touch with the LAZ secretariat at sakalae@laz.org.zm or directly with the Editor at misozi@novushmlegal.com with the subject "The Lawyer's Insight."

Happy Independence Day and happy reading!

Misozi Hope Masengu
Editor

CALENDAR

January 30th - Submission Deadline



February - Newsletter published
(Special Women's Month edition)



March 30th - Submission Deadline



April - Newsletter published



May 30th - Submission Deadline



June - Newsletter published



July 30th - Submission Deadline



August - Newsletter published



September 30th - Submission Deadline



October - Newsletter published (Special
Independence Celebrations Edition)



November 30th - Submission Deadline



December - Newsletter published
(Special Xmas Edition)

FROM THE PRESIDENT'S DESK

Greetings to the membership.

In the past couple of months, the Association has continued its efforts to strengthen ties with its existing international stakeholders, while creating new ones, in line with our mandate, the founding statute. I paid a courtesy call on the Permanent Representative of Zambia to the United Nations based in New York, His Excellency, Ambassador Dr. Chola Milambo and also on the Zambian Mission to the United States of America based in Washington, DC. We discussed their support to the Lusaka International Arbitration Centre (LIAC), which is championing the use of arbitration and other alternative dispute resolution mechanisms, thereby contributing to national development by infusing efficiencies in dispute resolution. The two are now ambassadors of LIAC. Following my appointment to the arbitration panel of the World Bank's International Centre for the Settlement of Investment Disputes (ICSID), I also had the rare honor to make a familiarization tour of the ICSID and its amazing facilities in Washington, DC. I had great discussions about how ICSID can support our work at the newly established LIAC.

Deeper into the Americas, I led the Zambian delegation attending the International Bar Association (IBA) Annual Conference held in New Mexico, Mexico from 15th to 20th September, 2024. If our bar must reach its full potential, it is critical that we embrace new and modern trends of practicing law. We must therefore, increase our attendance to international conferences. It is amazing to witness the huge numbers of members of other African bars like Nigeria at these events, whom we must emulate.

On the local front, we are happy to report that we are in the process of signing a Memorandum of Understanding (MoU) with the Securities and Exchange Commission (SEC). The MoU will focus on among other things, enhancing the knowledge and capacity of our members on matters pertaining to capital markets, through numerous exchange programmes, webinars and workshops. This is in accordance with our 2024 to 2026 Agenda, to enhance business opportunities for the legal profession, away from traditional litigation. Tied to this, we held our Public Private Partnerships (PPP) seminar earlier this month, an opportunity to upskill

for our members, young and old, which was a huge success. Thank you to our speakers and facilitators for making the event possible. A special shout out to senior Counsel Gary Davies Chibangula-GDC- for his consistency in attending CPD events, keep it up!

As part of our mission to introduce wellness programs for the members, we successfully held the electric sports day, for the first time in LAZ history. This will be an annual event and therefore, we look forward to even more participation from the members in 2025.

In terms of social welfare initiatives, it gives me great pride to announce that we have successfully launched the Prison Decongestion Project on the Copperbelt, which aims to find ways to deal with the increasing challenge of decongesting prisons in the country. Thank you to our Vice President Matilda Chileshe Kaoma, for taking a lead on this cause together with the members of the Public Interest, Human Rights and Criminal Justice Committee. Keep up the good work!

On 11th October 2024, Council and I had our deliberations on various issues and one of our key mandates was to appoint the new members of the Legal Practitioners Committee (LPC), after expiry of their 3 year tenure. We are glad to report that we have ushered in a new LPC, which in our view, is balanced in many respects, including gender, experience and competence. We wish them all the best as they execute their mandate.

Demonstrating its resolve to increase the legal profession's contribution to the climate change agenda, the Council approved the LAZ Climate Change Statement, developed by the Task Force on Climate Change, which captures our settled intention as the legal profession, to do more to support climate change, green initiatives and sustainability. Finally, LAZ will be hosting the African Bar Association (AfBA) Annual Conference from 27th to 31st October, 2024 at Mulungushi International Conference Centre. This will be a melting point of the who-is-who in the African legal sector. We have negotiated a generous discount for all

Zambian and SADC delegates to give us all a chance to attend an international event at our doorsteps. Reach out to LAZ secretariat and register so that you can be part of the team giving our international delegates, a truly African experience in Zambia, the true Africa.

As we reflect on Zambia at 60 years and LAZ at 50 years, we are grateful to our past leaders for their stewardship. We greatly appreciate your efforts.

Happy Independence Day!

Lungisani Zulu
 President of the Law Association of Zambia





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LAUNCH OF THE PIONEERING INSOLVENCY PROCEEDINGS HANDBOOK

On 7th September 2024, the first-ever *Handbook on Insolvency Proceedings in Zambia* was officially launched at the LAZ House by the Ministry of Justice and the Office of the Administrator General and Official Receiver, under the theme “*Promote Understanding and Best Practices in Insolvency.*” The Honourable Minister of Justice, Princess Kasune, MP, officiated the event and in her Key Note address, she hailed the launch as a significant milestone and the first of its kind for the Office of the Administrator General and Official Receiver, the Ministry of Justice and the country as a whole. She emphasized that the *Handbook* is intended to provide clarity and support; and to promote best practices in insolvency proceedings among legal practitioners and businesses.

The Solicitor General, Mr. Marshal Muchende, S.C in his speech, also commended the efforts of the Administrator General and Official Receiver, noting that the *Handbook* represents a major achievement in the development of insolvency law in Zambia. The Solicitor General encouraged lawyers to join the corporate insolvency and business rescue practice, as it is very lucrative and he signaled to the lawyers to open branches on the Copperbelt.

The representative from the Office of the Administrator General and

Official Receiver, stated that the *Handbook* represents a very significant advancement in our legal resource as a country and it provides some practical guidance in insolvency procedures. He also stated that the *Handbook* has been



prepared based on the exposure to numerous insolvency procedures which the Office has worked on in the past. He concluded his speech by stating that it is hoped that the introduction of the *Handbook* will make it easier to practice insolvency law in Zambia.

LAZ was represented by the Vice President, Ms. Matilda Chileshe Kaoma, who welcomed the guests and reaffirmed LAZ's commitment to supporting the work of the Office of the Administrator General and Receiver, underscoring the Association's dedication to promoting sound legal practices.



ANNUAL PROSECUTORS CONFERENCE

by Gloria Mumba-Kalambo



On 16th September 2024, her Honour, the Vice President of the Republic of Zambia, Mrs. Mutale Nalumango, officially launched the three-day *Annual Prosecutors Conference* at the Kenneth Kaunda International Conference Centre in Lusaka. Hosted by the National Prosecution Authority (NPA), the conference took place from the 16th to the 18th of September 2024.

This year's conference, themed "*The*

Pursuit of Prosecutorial Excellence: Interagency Cooperation and Global Alliances," brought together legal practitioners and prosecutors from across the SADC region, with representatives from Namibia, Malawi, and Congo in attendance.

In her speech, LAZ Vice President Ms. Matilda Kaoma Chileshe encouraged participants to make the most of the event, emphasizing the critical role that

prosecutors play in upholding justice. She urged them to use the opportunity to enhance their skills and foster greater cooperation across borders.

Notable dignitaries at the official opening included Namibia's General Prosecutor, Advocate Olyvia Martha Imalwa, Zambia's Attorney General Mulilo Kabesha S.C.; Director of Public Prosecutions Gilbert A. Phiri S.C.; and Justice Minister Hon. Princess Kasune.

LAZ LAUNCHES PRISON DECONGESTION INITIATIVE ON THE COPPERBELT

by **Luchinde Tembo Chilinda**, Convenor of the Public Interest, Human Rights and Criminal Justice System Committee

On 17th October 2024, the Law Association of Zambia (LAZ) launched a groundbreaking Prison Decongestion Program, to address the severe overcrowding crisis in correctional facilities across the country. The launch was officiated by Hon. Elisha Matambo, MP, the Copperbelt Provincial Minister, at Kamfinsa Prisons in Kitwe. The Program aims to, among other things, provide legal representation to detainees facing minor offences and those awaiting trial for extended periods. The initiative also focusses on how to expedite the cases and exploring alternative sentencing options, such as community service, fines or bail. By addressing these cases, LAZ (through its Public Interest, Human Rights and Criminal Justice System Committee), aims to reduce the number of inmates and create a more humane prison environment.

In his speech, the Regional Commanding Officer of the Zambia Correctional Service, Copperbelt Province, Commander Chilombe, stated that currently, the correctional facilities housed a staggering 6,732 inmates against an initial capacity of 2,269. This alarming overpopulation has led to a significant decline in the quality



of nutrition, sanitation, and hygiene, as reported by Geoffrey Mayamba, Executive Director of the Prisoners' Foundation.

LAZ was represented by its Vice President, Ms. Matilda Kaoma Chileshe, who appealed to the courts to consider imposing community work or suspended sentences for minor offences, emphasising the need for alternative forms of punishment. Justice Charles Chanda, Judge in Charge (Kitwe), urged the general public to respect the property

and rights of others, stressing that preventing crime is essential to reducing prison congestion.

The initiative is a collaborative effort between LAZ, the Zambia Correctional Service, the Judiciary, Civil Society, and Law Enforcement Agencies. Through their combined efforts, these stakeholders hope to significantly enhance the well-being of detainees and establish a more just and equitable society for all.

LACUNAE IN THE LEGAL FRAMEWORK OF THE ZAMBIAN NATIONAL ELECTORAL PROCESS – ARE WE MISSING SOMETHING?

by Daniel S. Libati, Esq. LLB, LLM (UNZA), AHCZ



Background

Over the last few weeks, the country has been engaged in a heated debate on whether or not the legal framework for the national electoral process has lacunae or not. This debate was sparked by remarks made by the Republican President, Mr. Hakainde Hichilema, when he officially opened the Fourth Session of the Thirteenth National Assembly on Friday the 13th of September 2024. President Hichilema was quoted as having said that the country needed to reform the Constitution to ensure it truly reflected the aspirations of all citizens. His actual words, in part, were as follows:

“As a country, we still need to reform our Constitutional order to ensure that it truly reflects the aspirations of all citizens. The new dawn UPND government, given the substantial work that has been done in the past, is committed to facilitate a least-cost, efficient, and credible process to address lacunas (sic), omissions, oversights in our Constitution ... Some lacunas can lead us to a situation where we could have no general election for eight years. That’s not a joke. ... Those lacunas sit in the Constitution.” (Mwenya Mofya. “Constitution has lacunas: We may not have elections in 8 or 9 years - HH” News Diggers edition

of Saturday the 14th of September 2024 at page 6)

As expected, the President’s statements have not sat well with a number of stakeholders in the electoral process. The gist of the discomfort appears to stem from a belief that the President’s statements indicate an alleged veiled attempt by the ruling party to prolong its stay in power.

What has happened since the President’s address?

Since his address to Parliament, a number of key stakeholders have expressed themselves either in support or against the sentiments uttered by President Hichilema.

Key among such stakeholders have been the Law Association of Zambia (LAZ), the Electoral Commission of Zambia (ECZ), the Academia, the Church and Civil Society. In the exercise of its statutory duty provided for in Section 4 of the Law Association of Zambia Act, Chapter 31 of the Laws of Zambia, LAZ had the following to say:

"It is LAZ's position that while there might be some lacunae in the Constitution of Zambia (Amendment) Act No. 2 of 2016, the date for holding a general election is cast in stone. ... LAZ is aware of the provisions of Article 52(6) of the Constitution ... This provision may appear to render credence to the Republican President's concern about its potential impact to cause a postponement of the elections, however, it does not affect the date of a general election." (Ulande Nkomeshya. "No constitutional provision permits any organ to cancel general election date – LAZ" News Diggers edition of Monday the 16th of September 2024 at page 2)

Whilst the position of LAZ shed quite some light on the law in relation to the date of a general election, it did little to address the wider issues around the legal framework on the national electoral process and whether or not there are indeed lacunae with regards to the same. However, in what appeared to be a defence of the Republican President, the ECZ Chairperson, Mrs. Mwangala Zaloumis, S.C. is quoted as having stated, in part, that:

"The Commission has observed that the discussions have focused on sub-articles as opposed to the whole Article 52. ... There are other provisions in the Constitution and the Electoral Process Act that need to be addressed in order to ensure the smooth implementation of the electoral process. These include provisions such as delimitation ... (lack of) qualifications and disqualifications for ... mayor/council chairperson ... independent candidates." (Mwiche Nalwimba." (Article 52 not good: It can be used

to disrupt elections – ECZ". News Diggers edition of Friday 20th of September 2024 at page 4).

A full reading of the speech by the ECZ Chairperson reveals that there appear to be challenges with the legal framework for the national electoral process. In her speech posted on the ECZ's social media platform she identified concerns around delimitation, lack of qualifications or disqualifications for the office of mayor/council chairperson, provisions relating to independent candidates, and the definition of campaign period (Speech by the ECZ Chairperson during the orientation of the ERTC on Stakeholder Engagements viewed at <https://www.facebook.com/share/p/NedjQA5RMPezwse1/?mibextid=oFDknk> on 29th September 2024)

If indeed there are lacunae in the legal framework for the national electoral process, a question that arises is as to whether or not the country has developed jurisprudence that could help guide stakeholders. According to Academician Dr. O'brien Kaaba from the University of Zambia:

"Although the article (Article 52) seems to have caught popular imagination following the presidential speech, it has been the subject of debate for many years for those working in the electoral field and has already generated a sizeable amount of jurisprudence from the Constitutional Court. ... in the case of Governance Elections Advocacy Research Services Initiative Zambia Limited v Attorney General and Electoral Commission of Zambia 2022/CCZ/0020, the Constitutional Court ... noted, another strand of Article 52(6) could still cause the cancellation of an election. That is, where a candidate sponsored by a political party resigns after the close of nominations but before the holding of an election" Mwenya Mofya. "There's nothing immunising presidential elections from the uncertainty of Article 52 – Kaaba" News Diggers edition of Wednesday

the 18th of September 2024 at page 6).

Where to from here?

If at all there is some credence to be given to the allegations against the ruling party emanating from the President's statements in his speech to Parliament, it begs the question as to whether or not the public will have a say on this very important matter of public importance or not. To this end, it is worth noting that the ECZ Chairperson recently announced the appointment of the Chairperson of the Electoral Reform Technical Committee (ERTC), in the name of Mr. Rabbison Chongo. (Mwiche Nalwimba. "Article 52 not good: It can be used to disrupt elections – ECZ". News Diggers edition of Friday 20th of September 2024 at page 4). Prior to the said announcement the ERTC appears to have done some work. So much so that it was previously reported that:

"The ERTC established by ECZ, is undertaking a review of Zambia's electoral laws and processes aimed at enhancing the electoral process. ... As part of this review, the ERTC invites all interested members of the public, including Civil Society and Faith-Based organisations, the Church, Political Parties, and other electoral stakeholders, to make written submissions on electoral reforms. This is a valuable opportunity for stakeholders to contribute to shaping the future of the electoral process". (Mwiche Nalwimba. "Electoral Reform Committee Calls for Written Submissions". News Diggers edition of Wednesday 11th of September 2024 at page 10).

From the foregoing, it appears that nothing is cast in stone, yet. As such, there will be need for our Association, LAZ to keep a keen eye on the ERTC and the work that it is doing.

THE ROLE OF LAZ IN SHAPING ZAMBIA'S JURISPRUDENCE

by **Chanda Chungu** – Lecturer, University of Zambia

The Law Association of Zambia's ("LAZ" or "the Association") mandate is eshrined in section 4 of the Law Association of Zambia Act, Chapter 31 of the Laws of Zambia. The LAZ mandate is to *inter alia*, seek the advancement of the rule of law and the rights and liberties of its citizens, as well as furthering the development of the law as an instrument of social order and social justice. LAZ is also responsible for protecting the public from legal practitioners who flout the rules of the profession. Since its creation in 1973, the Association has played a pivotal role in using the courts as a means to getting clarity on critical aspects of the law. The purpose of this article is to highlight the crucial role that LAZ has played over the years, as we reflect on Zambia at 60 and LAZ at 50.

The Discipline of Legal Practitioners

A crucial part of the jurisprudence relating to LAZ has been the discipline of its members, the legal practitioners. In *Robson Malipenga v. The Law Association of Zambia* (2018) Z.R. 102, the Supreme Court cautioned that preliminary investigations are a pre-requisite before a case of professional misconduct is forwarded to the disciplinary committee.

In *M (A Practitioner) v. Law Association of Zambia* 1999/HP/1649, the Association played a role in clarifying the position of the law that an erring legal practitioner's Practising Certificate may be suspended to protect the unsuspecting public and clients who could be harmed by a practitioner who has violated the rules of the profession. In addition, the court agreed



with the Association that the discipline of legal practitioners is necessary to protect the sanctity of the profession.

Recently, the Court of Appeal in *Arnold Chikoli v. The Law Association of Zambia* CAZ Appeal No. 186/2022 noted that the Legal Practitioners' Committee(LPC) can and should only suspend a legal practitioner where a prima facie case of misconduct has been established. In both the *M (A Practitioner)* and *Arnold Chikoli* decisions, it was clarified that a practitioner must be subjected to swift, effective and

efficient adjudication of any professional misconduct issue. In as much as there is a need to protect the profession and the public, it is necessary to guard against keeping practitioners in limbo as to their fate by delaying the determination of allegations laid against them.

Public Interest Litigation

The Supreme Court in the case of *Law Association of Zambia v. The Attorney General* SCZ Appeal No. 08/2014 dealt with the Association's attempt to challenge

the constitutionality of sections 5 and 6 of the Public Order Act, following decisions by the Police to refuse a number of public meetings and processions to proceed for various reasons. It was held that the police cannot and should not be permitted to use lack of personnel nor manpower as a ground for denying a public gathering, purely as a mechanism to deny the right to hold a meeting. According to the Supreme Court, when the Police refuse a public meeting or demonstration to take place, the reason proffered must be valid and substantiated, linked to a legitimate failure to police the meeting, with a reasonable alternative date in the near future suggested.

Furthermore, the Association in 2016 referred a matter to the Constitutional Court challenging the position of Deputy Ministers under the new Constitutional dispensation and a decision by members of the Cabinet and Provincial Ministers to stay in office, receiving remuneration and to enjoy certain benefits, despite the dissolution of Parliament. The case, *Steven Katuka (suing as Secretary General of the United Party for National Development) and Law Association of Zambia v. The Attorney-General and Others* CCZ Selected Judgment No. 29 of 2016, confirmed that the role and position of Deputy Ministers had been abolished following the amendment to the Constitution. Further, it was held that following the dissolution of Parliament, three (3) months before the national election, the said Ministers, Deputy Ministers and Provincial cabinet members illegally stayed in office. As a result, the Ministers were ordered to repay all salaries received during the said period.

Relating to the tabling of the infamous Constitution of Zambia (Amendment) Bill No. 10 of 2019, the Association was at the forefront in challenging its propriety in the case of *Law Association of Zambia and Chapter One Foundation Limited v. The Attorney General* 2019/CCZ/0013. The case, which sought to review the process leading up to the adoption of the amendment to the Constitution produced two differing positions as the Judges were not unanimous in their decision. The majority of the court held that there is no provision in the Constitution that gives

It was also held that the power and authority to amend the Constitution derives from the people and the manner in which any changes to the Constitution are made must protect the values of the population.

power to second-guess the contents of a Bill or declare it unconstitutional. It was also held that a court cannot intervene with Parliament's law making powers unless it is shown that the process falls short of the formalities prescribed in the Constitution. Lady Justice Munalula gave a dissenting judgment, to the effect that the court has jurisdiction to review the initial decision and process to enact or amend the Constitution. It was also held that the power and authority to amend the Constitution derives from the people and the manner in which any changes to the Constitution are made must protect the values of the population.

The final decision that showcased the Association's contribution to Zambia's jurisprudence was that of *The Law Association of Zambia v. The Attorney-General* 2021/CCZ/0051, which dealt with the interpretation of the law once seats by Members of Parliament have been nullified. In that case, the Speaker of the National Assembly ordered all MPs whose seats had been voided by the High Court to refrain from attending any sitting, pending appeal. The Constitutional Court was emphatic that an MP is entitled to remain in Parliament and attend sittings, pending determination

of his/her appeal against nullification before the Constitutional Court. Put differently, a Member of Parliament whose election has been nullified by the High Court and appeals to the Constitutional Court retains the seat in Parliament pending the hearing and determination of the appeal.

Miscellaneous contributions to jurisprudence

In addition to what has been outlined above, the Association has contributed in other ways to the body of jurisprudence. The Supreme Court in *Remmy Kabanda Kaindu Mushota v. Law Association of Zambia* (1985) Z.R. 146 (S.C.) guided that where the Association takes a decision through the wrong body/committee, the appropriate committee may ratify the decision that has already been done in the name of the organisation.

Further, in *John Sangwa v. The Legal Practitioners Committee of the Law Association of Zambia* SCZ Appeal No. 121/2013, the Supreme Court affirmed the position that where a contract or law prescribes arbitration as the mode of dispute resolution, parties must resolve their matter using arbitration. Given the nature of the profession, the Law Association of Zambia has embellished a rule that disputes must be referred to arbitration to ensure disputes are dealt with privately, outside the public fora of the courts. To that end, the Supreme Court affirmed the Association's position that arbitration should be used for issues relating to practitioners.

Conclusion

The role of the Law Association of Zambia as a public protector and a defender of the Constitution, cannot be underestimated. The Association has shaped critical areas relating to safeguarding the profession and safeguarding the rule of law by pursuing public interest litigation. It is hoped that there shall be a proliferation of LAZ's efforts in safeguarding its section 4 mandate.

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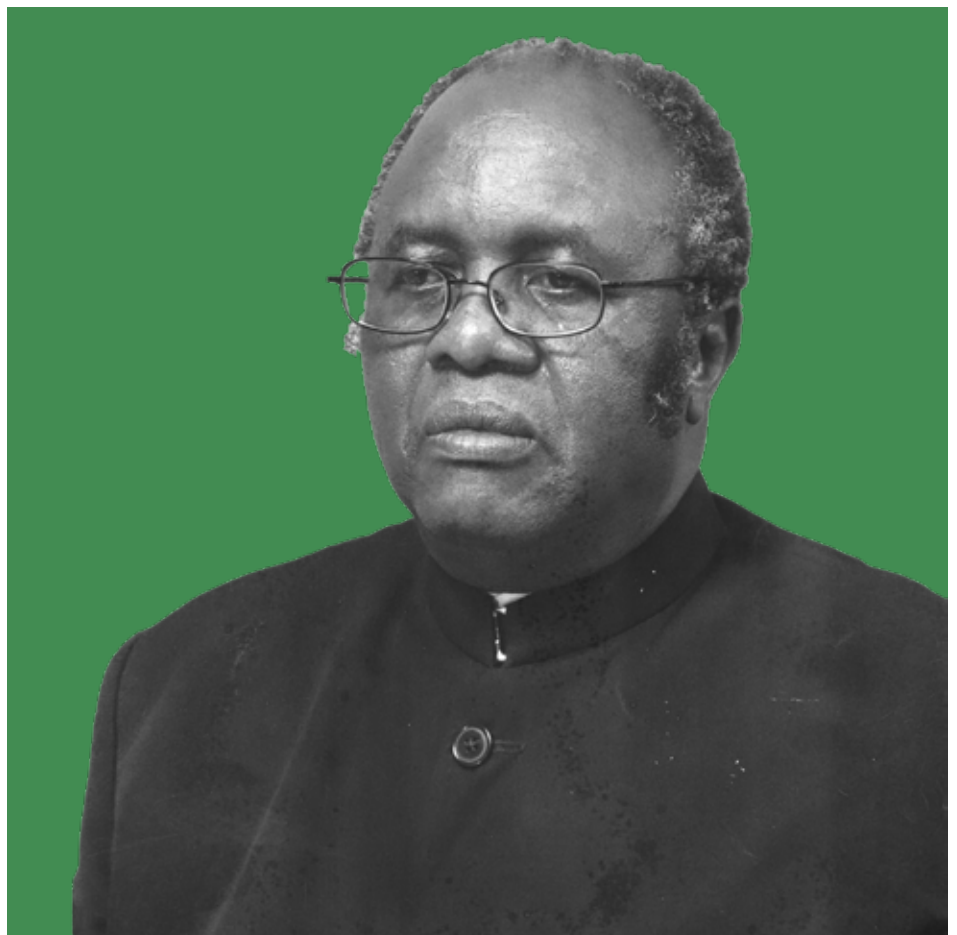
REFLECTIONS OF THE PAST LAZ PRESIDENTS - THEN AND NOW (1973 TO 2024)

THE HON. MR JUSTICE MATHEW NGULUBE, S.C

By Misozi Hope Masengu

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: I like to think back on how the Association started. If you remember, we had the Law Society, which was led and controlled by “Bazungu” (white people). They made it extremely difficult for our black lawyers to join the profession, especially to go into private practice. I am very happy to say that I was there when the Law Society was killed and the Law Association born. In fact, the whole Law Society survives as the Legal Practitioners’ Committee (LPC), as it was reduced into the LPC. All the work they were doing is reduced to what the LPC does now. I recall, I was very happy, I was there for the last meeting of the Law Society – which also happened to be the first meeting of the Law Association of Zambia (LAZ). At that point in time, we had decided that every lawyer, every practitioner, every judge, student, everybody who is a lawyer, must be able to join the Law Association of Zambia. And the



meeting place at that time used to be the Ridge Way Hotel.

So we had the last meeting of the Law Society and the first meeting of

the Law Association, even the judges and the *Bazungus* were in attendance. Leo Baron, who was the Deputy Chief Justice at the time, was also there if you recall. They were all there. Some

of them even helped in drafting the Law Association of Zambia Act. If my memory serves me, I think we elected the late Bruce Munyama as the first LAZ president. FitzPatrick Chuula, S.C was the Vice at the time, then he took over as Chairman. Then came Edward Jack Shamwana, who was president for a very long time, he was president forever and ever! I took over from Shamwana and then Dr. Rodger Chongwe took over from me.

I was at some stage in government service, but by that time when we had the first meeting of the Law Association, I had gone into private practice. I was the Managing Partner of a law firm called Lisulo and Company. Lisulo was a famous politician, he even ended up as the Prime Minister of the country in those one-party days. But by the time I was becoming the Chairman of the Association, I didn't have long to stay in private practice. What interrupted my stay was that my arm was twisted (I was bullied and threatened) into accepting to be the Deputy Chief Justice of Zambia in February 1982. Then I had to give up, because other Judges said

but it doesn't look good for Judges to participate in the activities of the Association, especially when it comes to disciplining lawyers. So, Judges eventually pulled out of the Association informally and quietly.

Q: When you look back at your tenure in office, what are you most proud of?

A: During my time as Chairman, we introduced the 3-year rule, that you cannot appear in the Supreme Court unless you have been practicing for 3 years. What happened was that somebody was called to the bar on a Friday, and on a Tuesday, he was in the Supreme Court and had no clue what to do. The Judges said this cannot go on and so, I constituted a small committee of the members of the Association, including judges such as Judge Gardner, to make recommendations on the same.

I also introduced the legal aid project, that every lawyer must take up at least one case every year. That is how we started - this was in the late 70s and

early 1980s, thereabout. This is what happened before you now set up your own full time legal aid offices. I was very happy about this. This decision was introduced on the back of my experience at the legal aid, earlier on in my career. I had been asked to run legal aid when the director at the time was sick. At that time, legal aid was not employing lawyers, its main role was to find lawyers to handle cases at government cost and to pay them- I managed to run it successfully with help from a lot of small firms.

Edward Jack Shamwana (who was the Chairman before me) had established a precedent of answering politicians. So, we carried on with that spirit also. I recall at one time, the late president KK attacked the late Chipimo at a dinner. I stood up in his defence and said "The President is talking rubbish" and it made the newspaper headlines the next day. At that time, UNIP had decreed that we should not refer to ourselves as presidents, because there was only one president, and that is why we referred to ourselves as "Chairman." I was later arm twisted into becoming the Deputy Chief Justice. Dr. Rodger Chongwe, S.C took over from me and he carried on with the same spirit.

Q: What sort of LAZ would you hope to see in the future?

A: You must be interested in what is going on in the country. It is you the lawyers that must defend the law. It is up to you as lawyers to see conspiracies and schemes. We grew up in an era where we had to be suspicious. I don't know if you remember the *Christine Mulundika* case. For passing that Judgment, an attack was launched against me. Lucy Sichone, Fred Mmembe and other people, had to go into hiding for defending me as the Chief Justice. But you must remember that there are consequences to being independent and standing your ground.

During my time as Chairman, we introduced the 3-year rule, that you cannot appear in the Supreme Court unless you have been practicing for 3 years.

DR. RODGER CHONGWE, S.C

(Spoken through the words of his wife Gwenda)

By Misozi Hope Masengu

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: At that time, LAZ was a “boys” club and they worked really hard to make it grow into a big and respectable Association which you see today. Rodger decided to lead the Association because he thought it was a good idea. He was very hardworking and ambitious. He was not commercially oriented, he always wanted to do things that would be helpful to society.

Q: When you look back on your tenure in office, what are you most proud of?

A: Rodger had a very good relationship with people that were involved in the struggle, from across the borders with fellow African countries. He also had good relations internationally. If you recall, he was the President of the Commonwealth Lawyers' Association, elected in New Zealand. He was also the President of the African Bar Association.

During his tenure as Chairman, he also focussed alot on human rights and defending the rule of law. I recall that LAZ funded a book that was authored by Mr. Muna Ndulo, “Human Rights in Zambia” and this was shared with various institutions.

Fun Fact: Mrs. Gwenda Chongwe is a graphic designer by profession. She designed the first logo of the Law Association of Zambia, at no cost.



MR. ALI HAMIR, S.C

By Misozi Hope Masengu

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: I recall that I only became active in the affairs of the Association in July 1973. Before then, I was with legal aid, which was under the Ministry of Labour and Social Services at the time. Later, it was moved to Ministry of Justice (previously legal affairs).

The election was highly contested, I remember there were 4 other candidates contesting. The difference was that the bulk of the voters were from members that actually attended. The proxies were not as many. All the lawyers knew each other, we were around 400 to 500 lawyers at that time. Today you don't know each other, so you need to advertise yourselves. I don't remember ever giving a campaign speech to be president. Maybe I was also a bit fortunate, because I took on a role at ZIALE. I taught civil procedure and domestic relations. So, I was fortunate in knowing the young lawyers who were my students and so that perhaps helped.

Q: When you look back on your tenure in office, what are you most proud of?

A: I think the courage of lawyers during difficult times. You know, when you had a state of emergency, people were often scared, but the lawyers in our time were not. We had a lot of lawyers who were in trouble at the time. For instance, Edward Shamwana was charged with treason; Mundia Sikatana was also charged with treason, but acquitted.

We had a program on television where lawyers would appear and address some concerns from the public. We had to pay for the televising. So, I made a deal with Citibank, that I would provide lectures to the bank on banking law for 10 weeks. In exchange, the bank would pay for the entire TV program. So, I lectured for 8 weeks and I asked my two late partners at the Firm, Aziz Adam, S.C and Solly Patel to deliver lectures on Bills of Exchange and on mortgages respectively, to



for the last 2 weeks. So, Citibank sponsored the whole TV program. LAZ is different from our time. In our time, we had no resources as an Association, as the fees for renewal of practicing licenses was very little. It was about K40, then K30 would go to the compensation fund and K10 is what we would use to run the Association. There was no way we could have afforded to sponsor a lot of activities

Q: What do you think you could have done better?

A: It is difficult to say. I think we did our best, even though we had very limited resources. So, we couldn't do much, we could not for instance, build any buildings. But this was the case for other professions as well. I remember we worked with others such as architects, accountants, engineers etc and together, we had acquired a building on Cha Cha Road called Professional Centre, where we used to have meetings, as well as parties. I am not too sure what happened to that building later.

Q: What are your thoughts on the role of (and performance) of LAZ now versus in your time?

LAZ has gained a lot of prominence over the years, because the members are all graduates to start with. They serve the people – they take care of other people and keep abreast of developments because it affects their careers. LAZ has made great strides in helping to charter the course of the country. If you recall in 1991, lawyers were involved in the transition from a one party to a multi-party state. That prominence can be seen through the election of lawyers as presidents, e.g we had Levy Mwanawasa and Edgar Lungu as presidents, which shows the confidence of the public in lawyers.

Q: What sort of LAZ would you hope to see in the future?

I would like to see the Association get stronger and stronger and participate more effectively, especially now that we have resources. For lawyers not to be viewed or labelled as interested primarily in accumulating money and to be affluent and wealthy, you have to interact with the poor members of the community. The spirit of helping indigents has always been with the Association in some form. I see now that it is even mandatory to taken on pro bono cases.

MR. SAKWIBA SIKOTA, S.C 1993 to 1996

By Ken Khanda

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: The Chairman of LAZ then, was Mr. Isaac Chali (later to become judge) who indicated that he was not going to seek re-election. A group of lawyers in Lusaka had a meeting at which they decided that there was a need for a LAZ President from Lusaka, as both the Chair and deputy had been from the Copperbelt for some time. A colleague who was in the meeting told me the following day, that amongst the names suggested was my name. He then went on to convince me to formally put my name forward.

The campaign was then born and various lawyers went round lobbying. The hardest place for the campaign was on the Copperbelt, who wanted 'one of their own.' I had taken on a number of human rights and political cases which did not portray me as the government's 'best friend.' The State decided that they would like a friendlier person and for the first time in LAZ history, the State decided to sponsor all State and Legal Aid Advocates to be transported and housed on the Copperbelt where the AGM was being held. What the State did not know is that some of my campaigners were some of the very lawyers employed by the State.

Q: When you look back on your tenure in office, what are you most proud of?

A: The composition of the LAZ Council was a source of pride, as we managed to get the old senior lawyers to put their names forward and therefore, we had names like State Counsels, Edward Jack Shamwana and Willa Mung'omba and other senior lawyers. This made us have good and wise counsel. It made my work very easy.

The other success was the decision to look for property to house our offices which led us to find No. 1 Lagos Road, where we later established our first self-owned secretariat.

We played a critical role in the run up to attempts to get a good constitution in 1995



and 1996. To this end, there was a meeting between the opposition presidents, which originally was supposed to be attended by President Chiluba as well, who backed out at the last moment. The issue of who would chair the meeting was troublesome with even the clergy being rejected by one party or the other. Eventually, everyone settled on me as LAZ Chairman, to Chair it. I therefore, chaired the meeting which included even former President Kaunda.

It is during our tenure that the construction of the Magistrates' complex (next to the prisons) was mooted. The successive Council to ours, years later managed to get both government and the Nordic donors to buy in and fund the project.

Q: What do you think you could have done better?

A: I feel more could have been done more in terms of legal aid provision, and getting it to be a condition of license renewal.

Q: What are your thoughts on the role of (and performance) of LAZ now versus in your time?

A: LAZ is doing more now in terms of provision of legal aid and also in continuing legal education. The role of LAZ remains the same, and it is set out in Section 4 of the Law Association of Zambia Act. By pursuing these objectives, LAZ plays a vital role in shaping the country's legal landscape and promoting justice and human rights. The Association is doing very well in terms of having greater and quicker consultations with members of the profession. There is a WhatsApp group of State Counsel to which the LAZ President is a part.

Q: What sort of LAZ would you hope to see in the future?

A: It would be nice to see LAZ continue on the path of meeting the objectives of the Law Association of Zambia Act. We have the question of settling on a people driven Constitution - this is very important for LAZ to take the lead in. The adherence to the Rule of Law and independence of the judiciary have to be jealously guarded by LAZ.

MR. JUSTICE MICHAEL MUSONDA, S.C 2002 to 2004

By Kalumba Slavin

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: The atmosphere was charged. My main challenger, Nelly Mutti, S.C the now Hon. Speaker of the National Assembly, was on the verge of making history as the first female LAZ president had she won. This was 2002, fresh off the contentious President Chiluba third-term debate, and the political landscape was fraught with tension. The election was as much about the legal profession as it was about the political climate of the time.

Q: When you look back at your tenure in office, what are you most proud of?

During my tenure from 2002 to 2004, we confronted a number of critical issues. One of our key achievements was safeguarding the credibility of the judiciary. I distinctly remember when President Mwanawasa suggested that he could ignore Judge Nyangulu's decision which infamously became known as the "Malaria Judgment," because according to him, it was wrong. The President's view was clearly a direct threat to the judiciary's independence.

I remember that I had just gotten off the plane from Abuja when I started getting questions on the matter. I remember that was a Sunday. I phoned Darlington Mwape, who was the President's Legal Adviser at the time, and I told him that the President was sending a wrong message to the country, especially that he himself was a senior lawyer who held the rank and status of State Counsel. I asked Mwape profound questions, which he could not answer and he decided to refer me to the President himself, who I spoke to on phone. I bluntly told the then President that it was wrong for him to suggest that the judgment of the court could be ignored. I reminded him that as he knew, for as long as a judgement is not set aside, it remains valid and binding.

Another defining moment was when we



as LAZ defended Mr. John Sangwa and Mr. Robert Simeza, who were targeted for deportation by the Executive, on account of their professional activities as lawyers for people that the Executive considered unpopular at the time. I personally took measures to protect them, even clandestinely holding meetings with them at my home while we fought the deportation. I even went to the extent of reporting the Zambian Government to the International Centre for the Independence of Judges and Lawyers in Geneva, which protects and defends Lawyers and Judges worldwide. I said lawyers must not be punished on account of defending clients. I was actually featured several times on BBC on this issue. On account of our efforts, our colleagues were not deported. This was a clear demonstration that lawyers cannot be

punished for defending or acting for their clients.

I also advocated for a system where the remuneration of emoluments for Judges was taken away from the Office of the President to Parliament, and to a situation where increments to Judges' salaries were triggered automatically. Maintaining it at the Office of the President meant that the judges were open to the whims and caprices of the Presidency.

When people who were facing cases which were infamously known as "plunder of national resources" LAZ repeatedly educated and issued statements urging the media and other public opinion makers to desist from continuously commenting upon those ongoing cases or suggesting that the

people who were facing those offences were guilty even before they had had their day in court. LAZ was concerned that pressure was being exerted on Magistrates before whom these cases were pending, to decide these matters on the basis of public pressure or public clamour. These cases were actually misdemeanors and yet they were being projected as being more serious than even treason! Mind you, there was no such crime as “plunder of national resources” under our laws. What we had was abuse of authority of office. Some sections of the media were exerting pressure on Magistrates to convict in these cases by sensationalizing their reportage.

At the same time, we worked closely with the Oasis Forum. I remember that Mr. Mutembo Nchito, S.C was attacked for representing a client, in a bid to simply intimidate him, or force him to abandon his client. The greatest professional crime that a lawyer can ever commit is to refuse to take instructions or to withdraw from acting for a client on account of fear of repercussions from the Executive arm of Government.

When I delivered my exit speech, you could have heard a pin drop. I was sitting right next to President Mwanawasa, and I made it clear that as LAZ, although we were proud that one of our number held the highest Office in the land, it was not our place to sing praises to those in power or join his praise singers. Rather, our role was always to ensure that the President always acted

constitutionally and respected all institutions of governance and always acted in a manner which reflected the honour and dignity of the Office. LAZ was always going to criticize in order to ensure that the President remained on the right track and stayed away from any inappropriate temptations which that Office can induce. That moment stands out because I emphasized that our duty was to the nation, not necessarily those who held positions of authority - we owed our loyalty to the people and the rule of law.

Q: What do you think you could have done better?

A: Looking back, there's always room for improvement. LAZ was incredibly strong during my tenure, and we worked tirelessly to defend the constitution and resist any attempt to subvert constitutional and legal institutions. We openly criticized Parliament when necessary, and our efforts earned us admiration, even beyond Zambia. The region was quoting us as an example. However, there's always more that could have been done. We set a high standard, but continuous improvement is key.

Q: What are your thoughts on the role of (and performance) of the LAZ now versus now?

A: LAZ has an important statutory mandate. It is not like any other NGO. You need a strong and resolute one that must tirelessly defend the Constitution regardless of the

consequences to themselves - they owe it to the people of Zambia.

At one time, the MMD government had attempted to decimate the remedy of judicial review. They wanted to completely annihilate the remedy of judicial review. They passed a law that was just waiting for presidential assent, that the granting of leave or permission to institute judicial review proceedings shouldn't operate to stay the decision complained against.

Thanks to our campaign, this law failed. As a result, the remedy of judicial review remains available to Zambians. This remedy of Judicial Review, who's most important role is to control the use of public power is very crucial and has been described as the greatest invention of the common law.

LAZ also strenuously opposed the narrow-minded decision to make the offence of motor vehicle theft unbailable. LAZ can certainly do better. I did say at the Bar bench conference that Lawyers must be courageous. Zambia does not need timid and weak lawyers. Under the one-party state people were detained under the then existing state of semi-emergency pursuant to the preservation of public security act and the regulations thereunder, which empowered the President to detain people without trial.

This profession has evolved over time and it has done so much, thanks to the people who were bold to play a role in its evolution. Had lawyers been timid, Mr. Chiluba would have gone on to win the third term bid. The legal profession is a leading public profession that should stand for the people - to defend democracy, the rule of law, and institutions of governance.

Q: What sort of LAZ do you hope to see in the future?

A: I would like to see a strong LAZ, a LAZ that is courageous, one which remembers its integrity and supreme role in the country. It is from LAZ that the Bench is drawn. This profession has evolved because of those who dared to stand firm, and it must continue to do so in the future. The strength and integrity of LAZ are not negotiable—they are essential for the defense of the constitution and the rule of law in Zambia.



MR. JUSTICE WILLIAM SMITH MWEEMBA 2004 to 2007

By Kalumba Slavin

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day).

A: I had been Honorary Treasurer of LAZ for seven (7) years from April 1997 to April 2004 before standing for and being elected President. I took over the LAZ Presidency from Mr. Michael Musonda, S.C now the Hon. Deputy Chief Justice of the Republic of Zambia, with whom I had a good and cordial working relationship. There were no tense events leading up to my being elected President, because most members of the Association considered that I deserved to be elected to the position, having been on the LAZ Council for 7 years and before that, on the Professional Purposes Committee for 3 years. Apart from this, I had ensured that LAZ finances were properly accounted for and that audited financial statements were presented to all 7 Annual General Meetings.

Q: When you look back at your tenure in office, what are you most proud of?

A: I am most proud of the time when between December 2000 and April 2007 as President of LAZ and Chairman of the Oasis Forum, we campaigned against and stopped the late Frederick T.J. Chiluba's bid to have the Zambian Constitution amended so that he could stand for a third term in office as Republican President. The Leadership that LAZ provided to the Oasis Forum which comprised of LAZ, the Council of Non-



The actions of the Oasis Forum protected democracy in Zambia and showed the political class that the people of Zambia were ready to stand up to them if they attempted to undermine the central tenets of democracy.

Governmental Organizations in Zambia, the Church Mother Bodies - the Evangelical Fellowship of Zambia, the Christian Council of Zambia and the Zambia Conference of Catholic Bishops was in line with Section 4 (l) of the LAZ Act, which provides that LAZ must seek the advancement of the rule of law and of the rights and liberties of the individual. It was also in furtherance of LAZ's duty to protect the Constitution of Zambia as by law established. The actions of the Oasis Forum protected democracy in Zambia and showed the political class that the people of Zambia were ready to stand up to them if they attempted to undermine the central tenets of democracy.

Q: What do you think you could have done better?

A: I could have done better by pushing for better conditions of practice and particularly remuneration of employed legal practitioners or advocates. LAZ should have introduced the minimum salary scale for advocates employed by law firms, private companies and parastatal companies during my tenure. I am happy to note that the 2023 LAZ Council introduced a minimum salary scale.

Q: What are your thoughts on the role of (and performance) of LAZ then versus now?

A: The role of LAZ now and in my time has remained the same as the objects for which it was established under section 4 of the LAZ Act. With respect to promoting the reform of the law, both by the amendment of existing law and by the re-formulation, codification or restatement of particular branches of the law, LAZ performs well as was the case during my time. However, much of this happens when LAZ is called upon to participate in legislation. More needs to be done on its own initiative. I don't for instance, understand why in the year 2024, the law governing the Sale of Goods and Partnerships in Zambia should be the English Sale of Goods Act, 1893 and the Partnership Act, 1890 respectively. Clearly LAZ has failed to promote research in the development of the law in relation to the influence of commercial and technological development on society. E-Commerce ought to be part of a modern statute governing the Sale of Goods.

In April, 2006 I, on behalf of LAZ signed the Memorandum of Understanding between the South London Law Society (SLLS) and



LAZ whose main areas of activity were Professional Co-operation and the Access to Justice in Zambia Project. The Access to Justice in Zambia Project included support for annual Access to Justice Stakeholder Meetings, Bar-Bench Conferences and other activities related to annual strategic planning on Access to Justice and Legal Aid. The first Bar-Bench Conference was held on Thursday 20th March, 2008 at Protea Hotel Chisamba and it was sponsored by the SLLS and the British High Commission in Zambia. I consider that LAZ ought to have continued with its Co-operation with SLLS under the Revised Memorandum of Understanding signed in April 2010 by Mr. Stephen Lungu S.C as President of LAZ. As in my time, LAZ has continued to advocate for and protect the independence of the Judiciary.

Q: What sort of LAZ do you hope to see in the future?

A: For the future, I hope to see a LAZ which is vibrant and has a leadership which ensures that the objects for which the Association was established are all fulfilled.

All objects stated in Section 4 of the Act should be attained. LAZ should further the development of law as an instrument of social order and social justice and as an essential element in the growth of Zambian society.

LAZ must protect governance institutions and see to it that the Commonwealth Latimer House Principles on the Separation of Powers are adhered to. This is so because the Zambian Parliament, Executive and Judiciary are guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and entrenchment of good governance based on the highest standards of honesty, probity and accountability. LAZ should also work towards getting the Zambian Parliament and Government to recognize the role that civil society plays in the implementation of commonwealth fundamental values and the two organs of state should strive for a constructive relationship with civil society to ensure that there is broader opportunity for lawful participation by the citizenry in the democratic process

MR. ELIJAH BANDA, S.C 2007 to 2009

By Luchinde Tembo Chilinda

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day).

A: It was a memorable day and going back a little I was coming from 16 years as Secretary and Governor of the Legal Practitioners Committee, 4 years as Law Association of Zambia Vice President 2003 to 2007 so I was quite ready to call time and rest.

I was attending a firms retreat in Chisamba when my partner Nchima Nchito informed me that the returning officer, now Justice Abha Patel had accepted my candidature for the position of LAZ president. It turned out that Copperbelt lawyers led by now Justice Chulu had resolved to file the nomination. They suspected that if I was informed, I would decline to stand.

In short, I served as LAZ President from 2007-2009. I went on to serve as Vice President and President of the Pan African Lawyers Union (PALU), finally retiring in 2017.

Q: When you look back at your tenure in office, what are you most proud of?

A: It was an honor and privilege to serve as President. I recall with pride that we refocused on the profession strengthening the National Legal Aid Clinic for Women, we strengthened international linkages especially with the South London Law Society. We developed a robust relationship with the British or UK Embassy and with whom we obtained funding for the Paralegal Programme. If I am not mistaken, they funded and facilitated the holding of the first ever BAR-BENCH conference. This I am truly proud of.

At this time, the Southern African Development Community Lawyers Association (SADCLA) was not as robust as it is currently. However, under our watch, we mobilized 70-80 Zambian lawyers to attend the conference in Dar es Salaam. This high level of attendance changed the trajectory of the SADCLA I think, forever.



Q: What do you think you could have done better?

A: Two terms of one year each is certainly not enough to do one's best to perfection. We did our best, guided by Section 4 of the LAZ Act, but one always feels some things could have been done more comprehensively. Of course, my successor Stephen Lungu S.C shared my vision and undertook most of the unfinished work. The year following the end of my term



saw a delegation of 50 lawyers tour London, under collaboration with the South London Law Society.

Q: What are your thoughts on the role of (and performance) of LAZ then versus now?

A: I think we performed well. For us, the focus was the profession and section 4 of the Act guided our activities. This trajectory has continued though styles and areas of emphasis may differ. The Law Association of Zambia now is a more mature organisation. Numerically it is stronger. The Law Association of Zambia now continues to be a respected voice and stakeholder in governance issues. This is how it should be.

Q: What sort of LAZ do you hope to see in the future?

A: It is my hope that the Law Association of Zambia will continue to be the gold standard for professions and professional associations not only in Zambia, but beyond. It is my hope and prayer that the current trend where our seniors are not very involved will be reversed. We need our seniors back for the benefit of the young generation of lawyers.

MR. STEPHEN LUNGU, S.C 2009 to 2011

By Sonia Shamwana Chinganya

Q: Let us go back in time to the day when you were elected as President of LAZ (Walk us through this and the tense events leading up to this day)

A: Let's see, the events leading up to the election or my election as the president of LAZ. One of the things that we did is, we created a small group that was responsible for coordinating the campaigns and putting together a structure of the kind of LAZ that we needed to have. The elections were quite competitive, there was only one other person who was vying for the same position of president. And I must say that he too had a very robust campaign strategy. One of the things that were clear during our campaigns was that there was no maligning, no insults. Our campaigns were very clean and we were looking at issues as opposed to people. And the issue was who would provide the best services, as one would want to put it, during that particular time. And I remember I actually prepared my nomination way before because I knew I was going to leave the country and I left it with the person who was recommending my nomination. I left the country and whilst I was away, I got a call from the person who was competing against me that he had decided that he was going to fight for the presidency.

I think during our time, we didn't have this feeling of, you know, whatever it takes, or looking down upon others and trying to find fault in the other person so that one would win. We were just there talking about what we would do and I remember we even requested during the AGM to be given a slot to talk about what we see as our vision for the Association. Unfortunately, we were never allowed. The voting went well and we started waiting for the results. I was in a relaxed



mood during that day, because one of the things that I knew at least at the back of my mind was that if I don't win, I knew that LAZ was still going to be in safe hands because my opponent was equally a capable person to lead the Association. It was not surprising that at the next election, he won and became the next president of LAZ.

I was not present when the counting was being done and that was because I was Vice President of the Association and at the gala dinner the guest of honor was the late Rupiah Banda who had been invited by the LAZ President at the time. As you know, the LAZ President has got the prerogative of inviting the guest of honor and that prerogative is left for the President alone and no one else. So, we needed to go and have a meeting with the guest of honor to give him the program of the evening, and so when the

counting was finished, I was actually in that meeting with the then LAZ President, Elijah Banda, S.C and others such as the late Mr. Mbindu, Dr. Ovas Banda and others. During the meeting, I kept wondering at the back of my mind, what the results were. As we were leaving the meeting, the Republican President's advisor for Press at the time, Dickson Jere walked in, together with the President's medical doctor then, Dr. Shallen Desai. What surprised me is that Dickson Jere just came and shook my hand and then I looked at him and he gave me a thumbs up, so I knew it was good news. was like does that look like good news but then then then i walked away and of course it turned out that he knew before i did that um that i had um won the i'd won the elections as president of lars and of course that changed a serious dimensions in my life

Q: When you look back on your tenure in office, what are you most proud of?

A: One of the proudest moments was the fact that I was allowed by the Association to lead it. I established very good rapport with the government of the day; the Judiciary and the Legislature and we managed to let everybody know what LAZ stood for. When lawyers prosecuting a particular criminal case were being intimidated by the police or being threatened from doing their job, I got up and I placed myself as a friend of the Court and put it on record that LAZ would not allow any lawyer to be precluded from doing his/her job. Anybody who unnecessarily criticized the Judiciary, we got up and defended the Judiciary. At one point I remember the late President Michael Sata (then in the opposition) made a comment saying “does it mean that Lungu works for the Judiciary because every time he is protecting this Judiciary.” But there was a simple reason for that, and the reason is that the Judiciary cannot get up to protect itself, it cannot get up to speak for itself, it needs people to speak for it. And who are better people to speak for it than the Law Association of Zambia?

Another thing that people may not know, is that for the first time during my tenure, we managed to have the HIV and AIDS Work Policy implemented. Yes, it does exist. Of course, it's been put in the shelves. We collaborated with the Minister of Health, Professor Nkandu Luo and she came and launched it from LAZ House. LAZ used to receive a lot of implements from the Minister of Health for distribution to lawyers. Well, of course, you know what happened along the way. These things just fell into the cracks.

Q: What do you think you could have done better?

A: I guess speak more for lawyers. Speak more to protect the judiciary and the rule of law. I think with respect to this question, that

is all I can say.

Q: What are your thoughts on the role of (and performance) of the LAZ now versus now?

A: One thing that I can say is that I think as the record would show, there's more that we used to do with respect to the protection of the rule of law than is being done now. I think that's what I can say. For somebody who's been a lawyer, if you were to ask senior lawyers, they would tell you what the difference in the performance of LAZ now and the performance of LAZ then. Before us, the kind of LAZ that was there before us was very militant, extremely militant. I mean these were lawyers that would get up when something is not right and they could rob as lawyers and go and sit by the courts in protest. Can it be done now? I doubt it. Could it have been done during my time? I

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Q: What sort of LAZ would you hope to see in the future?

A: LAZ has become divided – it's us versus them. I do not know when people started believing that being a senior lawyer in LAZ is a crime and that senior lawyers are not wanted in LAZ. That is not the LAZ we need. We need a LAZ that realizes that in every profession that you go in, everybody starts from a particular position. Nobody gets into the profession as a senior lawyer. We build years of practice to become a senior lawyer. So it's very disheartening to hear a lawyer of three years at the bar saying, “those people” referring to senior lawyers. What we don't know is without senior lawyers, there will be no LAZ, because they'll be no one learn from. This divide should be put to rest. At the end of the day, we're all lawyers - the law that we read is the same. There's no law that is for senior lawyers and junior lawyers. But if the leadership of LAZ is promoting this division, then you've got a problem. It starts with leadership. If that is not changed, then this will perpetuate. And we're forgetting that today I'm a junior lawyer. Tomorrow, I'm going to be a senior lawyer.

I want to see a future where it doesn't matter how many years you are at the bar, you are respected and you respect others. Have you ever noticed why participation from senior lawyers in most activities is almost next to none? It is because of the same principle that has been inculcated in junior lawyers for the dislike of senior lawyers. But we grew up as junior lawyers. We loved going for meetings where we would sit and listen to senior lawyers talk. We were learning. How are we going to learn if we do not respect the same people that we found in the profession? The same people that have been teaching us how to practice the law. If it doesn't change, that is what is going to affect the practice of the law.

MR. MUSA MWENYE, S.C April 2011 to December 2011

By Misozi Hope Masengu

Q: Let's go back in time to the day when you were elected as President. Walk us through this day and the tense events leading up to the day.

A: My participation in LAZ started way before my presidency, as Council member and Honorary Secretary (HS). At the time I was HS, Elijah Banda, S.C was the president of LAZ. I had the privilege of spearheading, for that period, the advocacy around constitutional reform and it was extremely heated. We had to do a lot of interaction with the public, but also agitation with those who were in power, led by the late Republic President, Levy Patrick Mwanawasa.

Later on, I stood for LAZ President in 2009 and I think I lost by 33 votes. Prior to this, I had left LAZ to go to the UK on a short career break. So, I lost the presidency and then became Honorary Secretary of the Legal Practitioners' Committee (LPC). But I think that was fortuitous, because I then had the opportunity to stand again in 2011, at a very contentious time, when we had very contentious elections, between the Patriotic Front (PF) of Michael Sata and the Movement for Multi-party Democracy (MMD) of President Rupiah Banda. If I recall correctly, that LAZ election was attended (directly or by proxy) by about 80% of LAZ members. I secured 70% of the votes and became president.

What motivated my standing as president, was not only service to LAZ, but also my history in the civil society circles. And the position that LAZ occupies in effectively advancing its objectives under section 4 of the LAZ Act, which tie in very nicely with the civil life of the nation in terms of advancing civil liberties and advocating for good governance in Zambia.



Yes, there were a lot of people who discouraged me from contesting the presidency for the second time in 2011, they said "what if you lose?" and I said "what if I win?" Interestingly, when Stephen Lungu, S.C won, I stood up, gave him a hug and said "congratulations, I'll support you" and there was a loud applause in the audience. On Monday morning, we had coffee at my office and that is how I agreed to serve as Honorary Secretary of the LPC and I supported him in his role as President. I think that was the beauty of the LAZ of then.

Q: When you look back at your tenure in office, what are you most proud of?

A: I think for us, it is the voice that we carried in the nation as LAZ. LAZ was a voice (and I'm sure to some extent still is), that everyone listened to, and we carried on that tradition very strongly at the time.

Also, many people may not know, that it was my administration that started the LAZ House Project and I think the drawings for the LAZ House were done at that time. The one who led that project was the then Honorary Treasurer, Kafula Mwiche. It is a moment of pride for me to see that future presidents continued with the project to a place where it has now been completed.

Also, we were the administration that

commenced the modernization process of LAZ (I started this when I was serving as the Honorary Secretary of the LPC). For example, simple things like the Practicing Certificate (PC) were done by graphic artists by hand and it would take 3 months to get your PC. The current PC that you use now, I personally designed it. I also commenced the digital printing of the PCs, so that you have them within 2 days essentially. So it was simple, small things like that, that had a great impact. Of course, you will be aware that I was LAZ president for just a few months, I left to be Solicitor General soon after that.

Q: What do you think you could have done better?

A: Perhaps we should have hastened the internal modernization of LAZ a bit more.

But I have seen that it has taken route and we are moving in the right direction. Whether it could have been done safely at the time, I am not sure.

Q: What are your thoughts on the role of (and performance) of LAZ then versus now?

A: Perhaps one can argue that we are comparing apples and oranges, because of the eras that we live in. I have met lawyers at court in recent times, dressed in tight trousers and no socks (they call these “hidden socks” 😊). So, times have changed, there is a new breed of lawyers out there that need to be chaperoned by the Association.

But, the lawyers who were there before us, have a sense of nostalgia about the LAZ of

then, because of the weight the LAZ voice carried in those days. When LAZ spoke, the nation shook. Whether or not that is the state now, I am not sure. Perhaps the reason is simple, in those days, when we were faced with competition between clarity and diplomacy, we always chose clarity. I recall an incident when the current Deputy Chief Justice, Justice Michael Musonda, S.C was President of LAZ, at a LAZ Gala dinner that was graced by the then Republican President, Levy Patrick Mwanawasa. Whilst standing next to the President, the DCJ in his speech, bluntly told President Mwanawasa that LAZ would never keep quiet and would freely criticize him and sound the alarm when the house was on fire!

Q: What sort of LAZ do you hope to see in the future?

A: I think LAZ should continue being relevant to the public. Lawyers anywhere in the world are considered to be elite, and elites anywhere in the world are usually despised, unless they are doing a public good. Your public relevance is an important aspect of self-preservation as lawyers and this is in my view, the major reason for section 4 of the LAZ Act. When lawyers become insular in their outlook, they shrivel and open themselves to regulation.

The reason why lawyers in this country have been continued to be admired and loved, is because LAZ has spoken for those who cannot speak for themselves; and it has advocated for the rights of the vast majority of people in this country. The minute we stop doing this, we cease to be relevant to the public in the wider sense, and we revert to being viewed as self-serving and money hungry lawyers. So, LAZ must continue being relevant to the public and it must continue to speak for the voiceless. LAZ must freely and clearly advance the cause of those who are weak against the government.



MR. GEORGE CHISANGA 2014 to 2016

By Matilda Kaoma Chileshe

Q: Let's go back in time to the day when you were elected as President. Walk us through this day and the tense events leading up to the day.

A: The time leading up to my "selection" was not preceded by any tense moments or events. I say selected because fortunately for me, when I declared intent to contest the Presidency, no other Lawyer stood up to offer me contest. Perhaps the Profession was satisfied with how I had deputised my predecessor, Mr. James Banda with whom we had embarked on the ambitious program of modernisation and strengthening of LAZ. It must have been felt that the Profession needed continuity on the robust agenda which we had started.

Q: When you look back at your tenure in office, what are you most proud of?

A: I am very proud of having partly achieved the target of starting the construction of the LAZ House. This was a success story for the Profession because when Council had earlier announced the wish to construct a new structure as part of modernisation, the membership originally received the announcement with disdain and mixed feelings. This was especially because Council indicated that the funds for the construction was to be met by a levy on members which would be part of the subscription fees. There was disquiet among the membership with some members declaring aggrieved status and indicating the wish to sue the Profession. After Council indicated that the alternative source would be approaching Government which had indicated willingness to assist, this alternative was violently responded to by the Profession especially by senior members of the Bar because of the old cherished unwritten rule that LAZ would under no circumstances have recourse to any sitting Government for financial



assistance. The belief is that this would highly compromise the duty of LAZ to act as a check on Government in accordance with the provisions of section 4 of the LAZ Act. Thus, when this matter was put to a vote, the Profession unanimously voted in favour of payment of the building levy.

We also participated in the Constitutional transformation that the Country underwent under my tenure. The Country had laboured to enact what everyone called "the People driven Constitution" and after a lot of work nationwide, this process was frustrated because of political patronage. LAZ still remained with its role of Town Crier, calling on Zambians to demand that the Government gives them the Constitution as promised in the run up to the 2011

Presidential and General Election. In the events that followed LAZ, participated in the enactment of the Constitution (Amendment Act) No. 2 of 2016, which addressed various governance challenges that the Country had faced for decades. Of interest to the Profession was the work that we had to undertake to embed the Court of Appeal and the Constitutional Court into the structure of the Superior Courts of our Judicature.

Q: What do you think you could have done better?

A: One major task I had given myself and the Council I led was to transform LAZ and bring it abreast with International Best Practices on the Regulation of the Legal

Profession. Considering the number of years I had practiced law, I had observed that LAZ was growing exponentially in terms of admissions to the Bar. Over time, it was becoming increasingly difficult to regulate the profession especially at the level of the Legal Practitioners' Committee (LPC) and even at the Disciplinary Committee (DC) levels. I had grown the fear that the Profession was quickly losing confidence in the eyes of the judging public given the number of cases that were ending up at the LPC and DC. In order to address these shortcomings, I took interest in the works of the Bar Issues Committee of the International Bar Association (IBA) and attended a good number of seminars where I established that the challenges of legal professions responding to growth was not unique to LAZ. With lessons I picked up, I led Council into beginning to suggest ways in which we could make self-regulation of LAZ more effective and more responsive to the needs of members of the public who are the consumers of legal services. One major change I suggested to the Profession was the replacement of the current LAZ Compensation Fund which was threatened with depletion with a more modernised and robust Fidelity Fund which most Bar Associations had actually implemented using models suggested by the IBA. In 2015, we were fortunate to get the membership buy in when after a very educative presentation to the Conference on the Fidelity Fund, the AGM resolved to mandate Council to work on replacing the Compensation Fund with the Fidelity Fund which is actually an insurance scheme with wider ranges of investment of funds in order to enhance the capacity to meet claims by clients who fall victim of unscrupulous lawyers' misconduct. At the time of leaving office, we had done significant works on the creation of the Fidelity Fund but I have noted that successive Councils after my Council have not finalised this work despite it being an AGM Resolution. This is one deliverable I would have loved to see completed before handing over Office to my successor.

Q: What are your thoughts on the role of (and performance) of LAZ then versus now?

A: I honestly think that over the years, LAZ has diminished its role as a Watchdog and Vanguard for the rule of law and social justices as demanded of it by section 4 of the LAZ Act. It seems to me that the Profession has allowed itself to sink into the abyss of politicisation of almost every sector of our Society. When it comes to matters of the Rule of Law, Human Rights, Constitutionalism, governance and social justice, members of the public will always look to LAZ for counsel and direction. In order to do this effectively, LAZ needs to take a unified and apolitical position and speak audibly to the Nation without fear of any recrimination. From my experience, this can only be done if Council is properly supported and even guided by the membership. I have repeatedly maintained that the President as Leader for the time being, has no personal opinion. He or she has to speak the mind and position of the Profession. This, he or she can only do if accorded an opportunity to consult widely among members on the subject matter on which the LAZ opinion is considered necessary. Unfortunately when those who have the privilege of being consulted begin to engage the Presidency and Counsel from different sides of the "political divide" it presents challenges for the President and Counsel to be of help to the Nation.

I enjoyed the benefit of counsel of many members of LAZ who found it fit to help me craft a LAZ position on any matter that demanded our advice to the Nation. I wasn't shy to reach out to senior members of the Bar especially State Counsel when I was confronted with a critical issue which was causing concern to the Nation. If circumstances demanded I would even consult among fairly junior Counsel whose views I considered important to enable my Council frame up a position before making a public statement. I have the expectation that the current Council should be able to take such steps when addressing matters of public importance. I also have the expectation that the members must take

the solemn duty espoused in section 4 and be available to the President and Council for assistance in order for LAZ to continue to effectively discharge this important mandate.

Q: What sort of LAZ do you hope to see in the future?

A: I hope to see a LAZ that continues to remain the most admired self-regulatory Professional Body in the Nation. I would urge LAZ to continue investing in responding to growth of the Profession by periodically reviewing its Regulatory Codes so that we can maintain our Professional stature and prevent the Bar from sliding into a market place where there is no professional regulation. I would also urge LAZ to continue its role of being the guiding light to the Nation in the observance of the Rule of Law, Human Rights, Constitutionalism and Social Justice. Finally, I would like to see LAZ take a strong position as the defender of the Judiciary. It is a known fact that Judges and even junior adjudicators have no capacity to defend themselves against public aggression and interference from other wings of Government under the Principle of Separation of Powers. Only a strong Bar can rise to the defence of the institution of the Judicature. To this end, I wish to commend both LAZ and the Judiciary on the resumption of the Bar Bench Conference, where matters of mutual concern can be raised and redressed. This is the platform that gives the Bar and opportunity to understand the intricacies of the operation of the Bench and thereby enhances the ability of the Bar to be the effective defender of the Bench. Like Justice P.N. Bhagwati the former Chief Justice of India remarked at the first ever Bar Bench Conference held at Mulungushi International Conference in 1990, "the Bar and the Bench are integral parts of the chariot of justice. Occasionally, its important for the Bar and the Bench to retreat to a secluded place where the parts of the chariot can be properly serviced and oiled in order to ensure that the chariot continues to effectively deliver justice for the members of the public who are the ultimate consumers of justice"

MS. LINDA KASONDE 2016 to 2018

By Melody Mayaka, LLB, LLM,
Legal Manager - First National Bank

Q: Let's go back in time to the day when you were elected as President. Walk us through this day and the tense events leading up to the day.

A: What do I remember of the day? I certainly remember the lead up to it. It was exhausting. It seemed as if I had been campaigning for a while because it had been about six months of campaigning, directly and indirectly. I do remember very clearly the actual gala dinner. I remember having decided that I was just surrendering the outcome to God. I remember feeling a sense of calm as I waited for the results to come out and when they did, the room just exploded. I was like, wow! so that was nice. I received lots of congratulatory messages, not just from the LAZ members, but further afield; including the Republican President and opposition leaders at the time, which I thought was very interesting.

Q: When you look back at your tenure in office, what are you most proud of?

A: During the roughest times, I told myself that whatever happens, there's no way I'm going to quit, because it was too important to do so. I recognized the importance of being the first woman in that position and I just decided that whatever it took, I was going to complete my term. Probably, that's the biggest accomplishment for me. The second thing is, almost immediately, the first big step that LAZ took was to sue the ministers for overstaying after the dissolution of parliament. At the time, people thought "what are these people going on about?"; we were ridiculed all over social media and mainstream media for daring to believe that we could be successful and so, when the Judgment came out in our favour, it was such a gratifying feeling of affirmation that we were on the right path.

Q: What do you think you could have done better?



A: Obviously I'm not perfect, but I believe that I did my best in the circumstances with what I knew then and with the tools that I had. I always say to people that there's no such thing as a wasted experience. You either win or you learn, as Nelson Mandela said. I'm not sure I would have done anything differently, but perhaps what I didn't fully appreciate were the consequences of our actions. I believe that we stood for the right things, we said the right things, we did the right things, but not everyone is going to appreciate that because people have different perspectives. So, for example, because of the period we were in during my tenure, the political environment required that we prioritise managing the rule of law issues over things that lawyers value from the Association, i.e., the welfare of the members. I still think we did prioritise the members' interests, it's just that because everything was so overshadowed by the political time we were in, the members may

not have felt that way. And also, people resented the fact that we appeared to be in conflict with the government of the day. So, perhaps what I would do differently would be to ensure that people felt that I had heard and considered their different perspectives.

Q: What sort of LAZ would you hope to see in the future?

A: I think that LAZ should always adhere to its mandate. As I mentioned earlier, it's not just to regulate the profession or look after the welfare of the members. There's also a wider duty to the nation to provide guidance on national legal issues and to take firm positions on these things. I don't subscribe to the idea of neutrality. We should never be neutral. We should be non-partisan and impartial. That's a different thing. But when the time comes, we should always stand for the right thing.

MR. EDDIE MWITWA 2018 to 2020

By Chanda Chungu, LLB, LLM
- Lecture, University of Zambia

Q: Take us through your decision to run for President and the events leading up to your election.

A: I made a decision to run for President on my call day, 9th January 2004 when current DCJ Michael Musonda came to address us. When I heard him speak, I was inspired. My target was to get the level of a legal practitioner who had an excellent track record and knowledgeable. In 2016, I was elected as Council member and subsequently Honourary Secretary and Vice President. My election as President in April 2018 was uncontested and thus I did not have to campaign. But I do believe that my three and half years of service as Council member spoke for itself.

Q: When you look back at your tenure in office, what are your proudest achievements?

A: We managed to host the Commonwealth Lawyers Association Conference, for the first time in Zambia. This conference brought together lawyers across the Commonwealth to convene in the country. Under my Presidency, we also started construction on the LAZ House, which was concluded by the subsequent regime. We also fought and challenged the enactment of the Constitution (Amendment) No. 10 of 2019; and on the political front, we did a lot in terms of legal reform and protecting the rule of law.

Q: What do you think you could have done better?

A: I wish we dedicated more time to uplifting the welfare of legal practitioners, rather than fighting political battles. We could not avoid the political issues that arose during the time, but I wish we did more to protect the interests of our members.

Q: What are your thoughts on the role of (and performance) of LAZ now versus in your time?

A: LAZ plays a huge role in ensuring that legal practitioners who are admitted to the bar have truly earned their qualifications and are able to contribute to the profession. We have a President who is very experienced to



rise to the challenges of our time. The current LAZ Council are on the right track, as far as I can tell; especially in terms of protecting the Constitution and issuing statements of public interest. The idea to have the Senior Lawyers Committee is also commendable, as these lawyers should not be left out and their wisdom should not be ignored.

Q: What sort of LAZ would you hope to see in the future?

A: I was the first LAZ President to call more than 300 lawyers to the Bar in one week - the biggest call in history. This was the beginning of mass call days and now, we have so many junior practitioners. As such, the terrain of the legal profession has changed. This has made it difficult to ensure that all lawyers have competent qualifications and jobs. LAZ should navigate this to protect the sanctity of the profession. The economic outlook must be something LAZ should also look into, coupled with legislative developments as the country continues to evolve.

DID YOU KNOW?



1. That **Dr. Rodger Chongwe, S.C** previously served not only as LAZ President, but also held the prestigious positions of President of the Commonwealth Lawyers Association (CLA) and the African Bar Association (AFBA)?



2. That it was under the leadership of former LAZ President, **Justice Mr. Mathew Ngulube, S.C** that the Legal Aid Scheme was introduced?



3. That the LAZ logo (yes, the one with the tree) was designed by the wife to **Dr. Rodger Chongwe, S.C.** She is a graphic designer by profession.



4. During Zambia's one-party state era, the late **President Dr. Kenneth Kaunda** restricted the use of the title "President" as he was the one and only President of Zambia. As a result, leaders of professional bodies such as were referred to as "Chairperson" instead of "President."



5. The late **Edward Jack Shamwana** (a legal practitioner in Zambia and founder of the law firm namely, Shamwana & Co) was part of a group of people that planned the first coup to overthrow the government of the late Dr. Kenneth Kaunda? The coup failed and the late Shamwana was arrested in 1980 and spent 10 years in prison.



LAZ QUIZ WINNER GETS **ZMW1,000**

Get ready to test your knowledge and win big! We're excited to bring you a fun and challenging quiz in this month's newsletter, designed EXCLUSIVELY for university students. Here's your chance to prove your smarts, and the best part? There's a prize of K1,000 for whoever gives the most popular answer! To win, simply participate by answering the quiz and get your friends involved—retweet or repost the quiz. The answer with the most likes and reposts will take home the prize. Don't miss out on this exciting challenge!

Question 1:

In which year was the Law Association of Zambia (LAZ) established?

Question 2:

Who is the current President of the Law Association of Zambia?

Question 3:

Which document serves as the supreme law of Zambia?



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LAZ ACTIVITIES LATELY... PRESS STATEMENTS

THE NEW DAWN GOVERNMENT MUST TAKE SERIOUSLY THE UN EXPERTS REPORT

On 30th August 2024, the LAZ Council expressed deep concern over a recent report by the United Nations (UN) Special Rapporteur, highlighting multiple infringements on fundamental freedoms in Zambia. The report pointed to arbitrary arrests, detentions and restrictions on peaceful assemblies and protests, particularly targeting opposition political leaders, activists, and human rights defenders. LAZ called on the government to uphold the rights guaranteed under the Zambian Constitution, including the freedom of assembly and expression for all citizens, regardless of political affiliation. LAZ also emphasized the importance of immediate government action to address the situation. It urged the government to “deescalate tensions” by safeguarding constitutionally guaranteed rights and creating a safer civic space. Furthermore, LAZ reiterated its commitment to supporting progressive reforms, including legislative changes to the Public Order Act and the Penal Code, in order to protect the human rights and dignity of all citizens.



LAZ WARNS FAKE LAWYERS OF IMPRISONMENT

On 13th September 2024, the LAZ Council issued a Press Statement condemning an incident in which Felix Mujibelo impersonated a qualified Advocate at the Monze Subordinate Court. Mr. Mujibelo, unlawfully appeared in court to represent two clients accused of stock theft. He pleaded guilty to charges of impersonation and has been sentenced to six months imprisonment with hard labour. LAZ strongly condemned this behavior, emphasising that only duly licensed Advocates accredited by the Association are permitted to offer legal services or represent clients in court. The Press Statement read in part as follows:

“We urge members of the public to exercise caution when seeking legal services, including conveyancing, debt recovery, legal advisory, and litigation services. Only registered Advocates, duly licensed by LAZ, are authorised to offer legal services and represent clients in Court pursuant to Section 42 as read with 43 of the Legal Practitioners Act, CAP 30 of the Laws of Zambia, 1973.”

To prevent further incidents, LAZ encouraged the public to verify the credentials of their legal representatives through the Association’s website or by contacting the LAZ Secretariat; and that any suspected cases of legal impersonation should be reported to the authorities or through LAZ’s official complaint channels.

LAZ DOES NOT SUPPORT THE DISCIPLINING OF ANY JUDICIAL OFFICER FOR EXERCISING THEIR DUTY

On 26th September 2024, the LAZ Council issued a Press Statement expressing grave concern over the recent suspension of the three Constitutional Court Judges by the President of the Republic of Zambia, His Excellency Dr. Hakainde Hichilema. The Judges namely, Justices Anne Sitali, Mungeni Mulenga and Palan Mulonda, were suspended following a recommendation from the Judicial Complaints Commission (JCC).

LAZ acknowledged the constitutional provisions under Articles 143 and 144, which allow for the discipline of judicial officers, however, it emphasized that judicial officers should not face disciplinary measures for executing their constitutional duties, such as adjudicating disputes and delivering judgments. LAZ stated that the judicial authority in Zambia, as stated in Articles



118 and 119 of the Constitution, is derived from the people and should be exercised justly and without interference. The Press Statement read in part as follows:

“LAZ is particularly concerned that the complaint lodged before the JCC on 27th May 2024, borders on, among other things, the conduct of the three judges in the due exercise of their duties as Judges. LAZ is also concerned that the fresh complaint before the JCC is based on similar complaints against the three Judges, which the JCC has previously dismissed.”

The Association also cautioned that all stakeholders must ensure the matter is handled in accordance with the rule of law, constitutionalism and judicial autonomy.

LAZ SUPPORTS THE LAUNCH OF THE ZAMBIA PARLIAMENTARY CAUCUS ON POST-LEGISLATIVE SCRUTINY

The Law Association of Zambia (LAZ) played a pivotal role as a key stakeholder at the official launch of the Zambia Parliamentary Caucus on Post-Legislative Scrutiny, which took place on 19th September, 2024. The event was officiated by Honourable Malungo A. Chisangano, MP, First Deputy Speaker of the National Assembly. During her address, Honourable Chisangano emphasized that the launch marked a significant step forward in the nation's efforts to strengthen legislative processes. She highlighted that the Caucus, in collaboration with parliamentary committees, will ensure that enacted laws are effectively implemented and achieve their intended objectives to best serve the interests of the Zambian people.

The Association fully supports the establishment of the Caucus, recognizing the importance of monitoring and evaluating the impact of enacted legislation to ensure it delivers the desired outcomes for the nation.



LAZ AT THE UNILUS CAREER DAY

The Law Association of Zambia (LAZ) was in attendance at this year's University of Lusaka (UNILUS) Career day, held on 20th September 2024 at the UNILUS campus. LAZ was represented by the Honorary Secretary, Mr. Arnold Kaluba and the Honorary Treasurer, Mrs. Womba S. Kankondo, who engaged with the law students at the university. They shared valuable insights on leveraging legal education for successful careers, and also highlighted the importance of LAZ in the legal profession in Zambia.



THE LAZ PRISON DECONGESTION PROJECT



On 18th September 2024, members (on the Copperbelt) of the Public Interest, Human Rights and Criminal Justice System Committee of LAZ, were hosted by the Copperbelt Regional Commander at his office, accompanied by his Deputy and the Legal Officer. The Commander was overjoyed by the presence of LAZ and gave thanks to the Presidential directive to decongest our prisons. In his remarks, the Commander stated that his record reflected that he had 6,645 inmates and indicated that this number fluctuates depending on the circumstances. The Commander stated that he was hopeful that with the LAZ Prison Decongestion program, various issues will be addressed, such as: cause listing of inmates who have been in prison for a long time; frequent adjournment of cases; having the immigration department critically look in the issue of deportation of inmates who have served their time; and also assistance with community sensitization to prevent stigma of former inmates.

COURTESY CALL BY THE SECURITIES AND EXCHANGE COMMISSION (SEC)

by Arnold Kaluba, Honourary Secretary

On 27th September 2024, the Securities and Exchange Commission (SEC) paid a courtesy call on the Law Association of Zambia (LAZ), to discuss avenues for collaboration between the two strategic institutions. Firstly, the two institutions noted the growing need for legal practitioners to enhance their knowledge capacity on matters pertaining to capital markets. Through numerous exchange programmes, coupled with webinars and workshops, legal practitioners can leverage the collaborative potential with the SEC and enhance the capacity of legal practitioners. A memorandum of understanding (MoU), which has been earmarked for negotiation between SEC and LAZ will, amongst other things, outline the actual parameters of collaboration between the parties. Further, given the fact that legal instructions pertaining to capital markets have typically been undertaken by a selected few law firms, it is hoped that bridging the knowledge gap in the area of capital markets, generally, will capacitate legal practitioners and optimally enhance the business potential among law firms.

A memorandum of understanding (MoU), which has been earmarked for negotiation between SEC and LAZ, will outline the actual parameters of collaboration between the parties.

COURTESY CALL BY THE HIGHER EDUCATION LOANS AND SCHOLARSHIPS BOARD ON THE LAW ASSOCIATION OF ZAMBIA

by Arnold Kaluba, Honourary Secretary

On 25th September 2024, the Higher Education Loans and Scholarships Board (HELSB) paid a courtesy call on the Law Association of Zambia (LAZ), to discuss avenues for collaboration between the two critical institutions. Recognising the role that HELSB continues to play in the provision of loans to undergraduate students in various public universities in Zambia, HELSB and LAZ discussed the possibility of collaboration, which would introduce the provision of loans, through the creation of a revolving fund for graduate lawyers (as Associate members of LAZ), to enable them attend studies at the Zambia Institute of Advanced Legal Education (ZIALE). The two institutions recognised, for example, that the current fee structure for law

graduate lawyers seeking to attend postgraduate studies at ZIALE has become increasingly prohibitive. Further, the two institutions demonstrated their unwavering commitment to fostering the provision of continuous professional development (CPD) Programmes for the LAZ membership. The two institutions have since actively commenced formal negotiations, which will potentially culminate in the execution of a memorandum of understanding (MoU), to record the respective commitments of the parties. HELSB remains a critical and key stakeholder in ensuring enhanced access to postgraduate study by graduate students, as well as continuous professional development (CPD) programmes by legal practitioners.

LAZ SUCCESSFULLY HOLDS THE PPP SEMINAR



Lawyers must position themselves to play a critical role in ensuring the success of these partnerships.

On 15th October 2024, the LAZ President, Mr. Lungisani Zulu officially opened the highly anticipated seminar on Public Private Partnerships (PPP) in Zambia, held at the Southern Sun Hotel, Lusaka. The President emphasized the importance of PPPs in driving Zambia's development agenda and urged the legal fraternity to take a keen interest in this area. He stated that "PPPs are key to unlocking growth and building essential infrastructure in sectors such as Energy, transport, border security, and social services. Lawyers must position themselves to play a critical role in ensuring the success of these partnerships."



The expert speakers, included Suhayl Dudhia, Yobe Mwalula, and facilitator Kaumbu Mwondela, who covered to the regulatory framework of PPPs in Zambia, as well as the critical success factors and dispute resolution mechanisms which are vital for PPP projects in Zambia.

The seminar provided a great platform for lawyers to deepen their knowledge and become active contributors to Zambia's infrastructure and economic development.



LAZ AND NCHITO AND NCHITO DONATE TO THE JUDICIARY

On 18th September 2024, LAZ in partnership with Nchito & Nchito Advocates, officially donated a high-capacity scanner to the Chief Registrar, Mr. Exnorbet Zulu at the Judiciary's Principal Registry. LAZ was represented by the Honourary Secretary, Mr. Arnold Kaluba and the Honourary Treasurer, Mrs. Womba S.Kankondo, whilst Nchito and Nchito Advocates was represented by Mrs. Ngosa Simachela, a Partner at the Firm. The donation is intended to enhance document management and improve efficiency within the Judiciary.



THE LAW ASSOCIATION OF ZAMBIA CLIMATE CHANGE STATEMENT

Noting that on the 9th of December 2016, the Republic of Zambia ratified the Paris Agreement to the United Nations Framework Convention on Climate Change whose objective is to hold the increase in global warming to “well below 2°C” and to pursue efforts to limit the increase to 1.5°C above pre-industrial levels;

Recognising the consensus within the scientific community that climate change poses an urgent and existential threat to human and animal life on the planet;

Accepting the climate science reports including the work and findings of the Intergovernmental Panel on Climate Change that climate change is anthropogenic and that substantial and immediate and long-term actions are required to mitigate its impacts;

Recognising that the impacts of climate change has disproportionately negative effects on those who have least contributed to it and particularly the poor living in developing countries

Acknowledging the fundamental role historically played by lawyers in influencing positive change in society, through law reform including by supporting their clients and their employers and that such influence can be leveraged in addressing climate change;

Recognising the essential role of the legal profession in the advancement of the rule of law, human rights and the promotion of access to justice, which are vital elements in the growth of society but are threatened by the impacts of climate change;

Acknowledging the growing expectations for lawyers to play a leading role not only in upholding the rule of law but also in supporting responsible and enlightened governance in an era of climate change;

Mindful that lawyers are required to act in accordance with professional conduct rules of their jurisdiction, including upholding their clients’ interests as reflected in their respective Bar Associations rules;

Noting the International Bar Association’s Climate Crisis Statement made on the 5th of May 2020:

Resolves to:

1. *Urge* lawyers, while acting in accordance with the prescribed rules of professional conduct and upholding the rule of law, to take an active climate conscious approach to matters arising in the course of their daily law practice by inter alia:
 - 1.1. *having regard* to the likely impact of any dispute or matter arising in law practice on climate change;
 - 1.2. *undertaking* climate-related dispute

resolution including through litigation and alternative dispute resolution mechanisms such as negotiation, mediation and arbitration on behalf of the poor and vulnerable who are most negatively affected by impacts of climate change and to endeavour where possible, to do so on a pro-bono or reduced fee basis in order to ensure affordable access to justice for those so affected;

- 1.3. *advising* corporate clients on the advantages of voluntary disclosure of the climate-related risks associated with their business operations (including supply chains) and encouraging them to disclose the said risks in their reports to regulators, investors and other relevant stakeholders at every stage of their operations including assessment, monitoring, management and mitigation of such risks;
- 1.4. *further advising* corporate clients on:
 - a) the potential risk and liability as well as reputational damage that may be caused by business activities that have a negative contribution to climate change; and
 - b) how they can contribute to addressing climate change while pursuing their business objectives.
- 1.5. *engaging* with current and future national law development and policy making efforts for addressing climate change, the protection of human rights of those most affected by it and the implementation of rules and policies in accordance with the climate commitments made under international treaties and domestic law;
- 1.6. *advancing* legal education and building capacity within their law firms on climate-related matters in recognition of the inescapable effects of climate change on law practice;
- 1.7. *adopting* practical steps where possible, to reduce the environmental impact of their law practice and implement measures which support positive change in the work place and mitigate their contribution to climate change including; adoption of sustainable practices such as placing greater reliance on electronic storage of files, maintaining an energy-efficient office infrastructure, use of digital technology and making climate-friendly travel and procurement

choices; and

- 1.8. *reporting* on efforts made to combat climate change and the outcomes of such efforts to the LAZ Task Force on Climate Change.

Resolves further to:

2. *Support* the work of the Law Association of Zambia Task Force on Climate Change and to encourage lawyers and law firms to actively engage with the programs and activities of the Task Force;
3. *Support* at the international level, the recommendation of the International Bar Association (IBA) as contained in the IBA report on ‘Achieving Justice and Human Rights in an Era of Climate Disruption’ for the creation of an international ad-hoc arbitral body specifically for environmental litigation and eventual establishment of an International Court for the Environment;
4. *Support* at the national level, the establishment of a special environmental court as a means of strengthening environmental and climate protection and enhancing access to environmental justice;
5. *Encourage* lawyers and law firms to engage with law schools and other institutions of higher learning on the subject of climate change and its impacts on human rights and with the development of career paths for lawyers interested in pursuing climate change-related disciplines or enhancing practice areas by prioritising ways in which their law practice can promote climate-related aspects such as Environmental and Social Governance standards, clean energy, sustainable finance law, etc.;
6. *Encourage* development of practical educational tools for qualified lawyers to use in continuing their legal education in climate change and environmental law; and
7. *Promote* legal innovation to impact investors, donors and environmental funders with the view to encouraging them to further engage with and address climate change by providing support to social and environmental entrepreneurs.

September 2024

THE CRUCIAL ROLE OF TAX CONSIDERATIONS IN THE SUCCESS OF INTRA-AFRICAN TRADE: A SPOTLIGHT ON ZAMBIA AT 60

by **Nsatusile Mgone** LLB, AHZ, LLM (Commercial Law)- Tax and Legal Manager, EY Zambia

As Zambia celebrates its 60th anniversary of independence, it stands at a pivotal moment in its economic journey. With the 2025 budget pronouncement made on the 27th of September 2024 by the Hon. Minister of Finance and National Planning, it is clear that Zambia is directing its economic recovery efforts towards increased domestic resource mobilisation. One of the most significant opportunities for Zambia and other African nations is intra-African trade initiatives, with a major stride being influenced by the African Continental Free Trade Area (AfCFTA), which aims to boost intra-African trade by creating a single market for goods and services. The AfCFTA has the potential to significantly enhance and create new, more competitive regional value chains (RVCs), as well as to foster the development of more resilient supply chains, thereby accelerating industrialization, (African Development Bank, 2000).

However, the success of such an ambitious project hinges on careful tax and legal considerations. As legal professionals, we have a key role to play in ensuring that Zambia as a nation and Africa as a continent seamlessly attain their trade objectives. Although intra-African trade poses a number of legal considerations such as dispute resolution mechanisms, intellectual property rights, competition policies, peace and security, as well as people and mobility, this article will specifically explore the importance of tax considerations in intra-African trading with a focus on the AfCFTA and the potential benefits for Zambia.



Intra-African Trade and The African Continental Free Trade Area (AfCFTA) Historically, Africa has established Regional Economic Communities (RECs) like the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), and the Economic Community of West African States (ECOWAS). These RECs have provided advantages to their member countries, including reduced customs duties for regionally produced goods. While these regional groupings have been beneficial, they have not established a unified trading platform for all African nations to engage and reap mutual benefit, (African Development Bank, 2000).

To address this intra-African trading gap,

the AfCFTA which was launched in 2021, is a landmark agreement that seeks to create the largest free trade area in the world, encompassing 54 African countries and an estimated market of about 1.3 billion people. The AfCFTA holds immense potential for boosting intra-African trade, which can drive sustainable development, industrialization, and economic growth across the continent. However, achieving effective African integration faces several challenges. These include the proliferation of RECs, fragmented infrastructure, political rivalries, democratic deficits, colonial legacies, immigration hurdles, terrorism, populism, and economic nationalism. These obstacles complicate efforts to create a cohesive and unified market, hindering the full realization of the AfCFTA's benefits, (Zwanbin, 2023).

Despite these challenges, the AfCFTA remains a transformative initiative with the power to significantly enhance economic integration and prosperity across Africa. By addressing these hurdles through collaborative efforts and strategic policy-making, African nations can unlock the full potential of the AfCFTA, paving the way for a more interconnected and economically robust continent, (Fofack, 2000).

Tax Considerations in Intra-African Trade

By reducing tariffs and non-tariff barriers, the AfCFTA aims to increase intra-African trade and promises to enhance economic integration, stimulate industrialization, and foster sustainable development across Africa, (Fofack, 2000). Taxation plays a critical role in the implementation and success of the AfCFTA. The following are some of the crucial tax considerations that may facilitate smooth intra-African trade and benefit Zambia:

Firstly, the harmonization of tax policies. In order to facilitate smooth trade across borders, African countries need to harmonize their tax policies. This includes aligning Value Added Tax (VAT) rates, Corporate Income Tax rates, and customs duties. Achieving harmonized tax policies is challenging due to differences in political agendas and economic development levels among African countries. However, if accomplished, it would simplify business operations, reduce costs, and provide greater tax predictability for companies working in multiple African countries. Regional tax organizations like the African Tax Administration Forum (ATAF) can play a pivotal role in helping African nations coordinate their tax strategies to serve the collective interests of all member states.

Secondly, enhanced adherence to Transfer Pricing Regulations. With increased cross-border trade, adherence to transfer pricing regulations becomes essential to prevent tax base erosion and profit shifting. Clear and consistent transfer pricing rules ensure that transactions between related entities are conducted at arm's length, thereby protecting tax revenues of the trading nations. It is critical for African countries to sign sharing of information protocols which would allow for the revenue authorities in the various jurisdictions to easily monitor

By participating in the AfCFTA, Zambia can diversify its economy beyond its traditional reliance on copper exports.

compliance paving way for businesses to be more focused on operational trade objectives.

Thirdly, increased Africa specific tax incentives. African governments can use tax incentives to attract specific intra-African investment in key sectors. For instance, Zambia currently offers various tax incentives to promote investment in agriculture, manufacturing, and tourism. These incentives can be extended to sectors that are crucial for intra-African trade with further prescribed rates being reserved for fellow African countries, this would serve as an additional catalyst in promoting trade and thereby boosting economic growth.

Fourthly, efficient customs duties and trade facilitation. Efficient customs procedures and reduced customs duties are vital for the success of the AfCFTA. Streamlined customs processes reduce delays and costs associated with cross-border trade, making African products more competitive. To this end, this article takes cognizance of the efforts of the AfCFTA in facilitating training of customs officers across the African region to ensure all member states are aligned and efficient.

What are the benefits for Zambia and could this be the key to economic growth?

As Zambia marks its 60th year of independence, the nation is presented

with significant opportunities for economic advancement through the AfCFTA, this may be further enhanced if the tax planning is strategically implemented. The potential benefits for Zambia include:

- a) **Economic Diversification:** By participating in the AfCFTA, Zambia can diversify its economy beyond its traditional reliance on copper exports. Increased trade in agricultural products, manufactured goods, and services can create new revenue streams and reduce economic vulnerability.
- b) **Job Creation:** Enhanced trade and investment can lead to job creation in various sectors. This is particularly important for Zambia, where unemployment remains a significant challenge. New jobs can improve living standards and reduce poverty.
- c) **Revenue Generation:** Effective tax policies and increased trade can boost government revenues. These additional funds can be used to invest in critical infrastructure, healthcare, education, and other public services, thereby improving the quality of life for Zambians.
- d) **Regional Integration:** By actively participating in the AfCFTA, Zambia can strengthen its ties with neighboring countries and play a leading role in regional economic integration. This can enhance political stability and foster a sense of unity among African nations.

Conclusion

As Zambia celebrates its 60th anniversary, it has a unique opportunity to leverage trade with African countries through the AfCFTA to drive economic growth and development. However, the success of intra-African trade depends on careful tax considerations. By harmonizing tax policies, implementing robust transfer pricing regulations, offering targeted tax incentives, and streamlining customs procedures, Zambia can maximize the benefits of the AfCFTA. This will not only boost its economy but also contribute to the broader goal of sustainable development across Africa.

REMEMBERING THE SOULS OF OUR DEPARTED MEMBERS

PROF. MICHELO HANSUNGULE

The late Professor Michelo Hansungule died on Friday, 13th September 2024 in Choma, Southern Province. He was laid to rest in Mapanza, Choma on 18th September 2024. Although he was not a member of the Law Association of Zambia, we would like to give him special recognition, as he was a legal luminary and well respected in the legal profession.



MS. BARBARA LOMBE SHAKUMBILA - MBOLOMA

The late Ms. Barbara Lombe Shakumbila - Mboloma died on Sunday, 15th September 2024 at the Ndola Teaching Hospital. She was put to rest on Wednesday, 18th September 2024. She worked for the Legal Aid Board.



LAZ ACTIVITIES IN PICTURES

LAZ president pays courtesy call on the Permanent Representative of Zambia to the United Nations, His Excellency Ambassador Dr. Chola Milambo



LAZ Sports Day and Award Ceremony



LAZ ACTIVITIES IN PICTURES

Environmental Law Subcommittee of the Dispute Resolution Committee



Members of the Law Association of Zambia's engage in a thought-provoking discussion on the preservation of the ozone layer, highlighting the critical importance of the Montreal Protocol in advancing climate action. The event, commemorating the International Day for the Preservation of the Ozone Layer, emphasizes our collective responsibility in safeguarding the environment.

Remembering the Late Barbara Lombe Shakumbila – Mboloma



Solwezi Bar Bench Conference



LAZ President pays a courtesy call on the Zambian Embassy in Washington DC



YOGA and Mental Health Talk



LAZ President takes a tour of the International Centre for the Settlement of Investment Disputes

The LAZ Honourary Treasurer at the Pan African Lawyers Union (PALU) 2024 Annual Conference in Addis, Ababa, Ethiopia



LAZ President with ICDID Secretary General, Martina Polasek



UPCOMING EVENTS

CONFERENCE	DATES	VENUE	THEME
African Bar Association (AFBA) 2024 Annual Conference	27th to 31st October	Mulungushi International Conference Centre Lusaka, Zambia	"Building Credible Legal Frameworks to enhance intra-Africa trade, Project Financing and Industrialization of Africa"
International Bar Association (IBA) 10th World Women Lawyers Conference	23rd to 25th October	The Ritz-Carlton, Toronto, Canada	"Driving Change"
LAZ Annual GALA dinner	December	The Quorum	TBA

LOOK OUT FOR THE CHRISTMAS EDITION IN DECEMBER!

What Tax should Law Firms Pay?

The Road to Silk in Zambia

Kennedy's Satire: The Ambiguity of the Law on Dismissed Employees

Guest Feature - The Journey of Mr. Chifumu Banda, S.C

And much more.

If you would like to join the Editorial Team and be a contributor, please send all expressions of interest to the LAZ Secretariat at sakalae@laz.org.zm. All letters, articles, insights, thoughts and activities should be sent to our Secretariat at the same address with the subject "The Lawyer's Insight."

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