

**An assessment of records management at the courts
of law in Zambia: the case of court registries'
contribution towards access to justice**

By

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A Dissertation submitted to the University of Zambia in partial
fulfillment of the requirements for the award of the degree of
Master of Library and Information Studies

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Lusaka

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DECLARATION

I hereby declare that the attached dissertation, “**An assessment of records management at courts of law in Zambia: the case of court registries’ contribution towards access to justice**”, is my own original work. All sources or materials used or quoted in the text have been fully identified in the text by indicating the author, date of publication, and page number(s). Full details of sources or materials used or quoted in the text have also been provided in the reference section.

Signature

(Pumulo Nabombe)

Date

DEDICATION

I dedicate this dissertation to my family. To my wife Agnes for the encouragement and companionship she has given me in the twenty two years of our marriage. To my children: Kuyewa, Mubita, Chuma, Mwape, Lumbi and Mbonabi for their 'silent' support.

CERTIFICATE OF APPROVAL

This **DISSERTATION** of **PUMULO NABOMBE** is approved as fulfilling the requirements for the award of the degree of **Master of Library and Information Studies (MLIS)** by the University of Zambia.

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OPERATIONAL DEFINITIONS OF TERMS USED

The following terms used in this study have these meanings:

Active records: in the study refer to court case records that are still being used or referred to by court officials in the administration of justice.

Closed case file: in the study refers to a case file closed after a court case has been disposed off.

Court of law: refers to a tribunal having power to deliver judgment in civil or criminal matters.

Inactive records: in the study refer to court records that were no longer referred to and were supposed to be permanently destroyed or transferred to the archives.

Judiciary: refers to the Judiciary of the Republic of Zambia whose main concern was the administration of justice.

Records center: refers to secondary storage facilities in courts of law where closed case files that were not referred to regularly are stored.

Record: refers to any document valuable enough to be retained by the court of law.

Records management: refers to the management of and control of court records from the time of their creation or origination, storage, use, transfer, and disposition.

Registry: refers to a place where active court records are stored in the courts of law.

Registry clerk: refers to a clerical worker at the courts of law whose primary function is to perform routine duties under supervision such as sorting and filing case records.

Records management risks: in the study refer to risks associated with the process of records management from the time a record is created, used, stored and disposed off.

Risk: in the study refers to the possibility that court records might be exposed to harm or might be lost.

Semi-active records: in the study refer to records that are no longer active but were referred to from time to time.

ABSTRACT

This study assessed records management and how it contributed towards the process of accessing justice in the courts of law in Zambia. Specifically, the research's objectives were to assess records management infrastructure and facilities; to examine court registries compliance with records management legislation, policy, and standards; assess the quantity, quality, and job satisfaction of registry staff; and to investigate risk factors in managing court records. Primary data relating to research objectives was collected using the triangulation method (comprising of a survey questionnaire, focus group discussions, face-to-face interviews, participant observations, and secondary sources). Out of a target population of 54 registry clerks earmarked for the study, 43 took part in the study representing 79.6% participation. The study sample was selected using the purposive sampling method. Research findings showed that the general lack of infrastructure development in the courts of law has contributed to the congestion in court registries. Secondly, court registries' failure to comply with regulations stipulated in the National Archives Act of Zambia had contributed to bad records management in the court registries. Thirdly, findings showed that court registries lacked guidance on how to manage records due to lack of a records management policy and the failure to apply internationally recognised records management standards. Research findings also showed that over staffing in registries, lack of a clear policy on in-service training, and dissatisfaction with work context factors might have influenced poor work culture and morale among registry clerks. Lastly, research results showed that while administrative risks in the court registries had negatively affected the records management function, reputation risks had eroded public confidence in the courts of law and court registries in particular.

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LIST OF ACRONYMS

ESARBICA	Eastern and Southern Regional Branch of the International Council on Archives
BSAC	British South African Company
GRZ	Government of the Republic of Zambia
ICT	Information and Communication Technology
LAZ	Law Association of Zambia
TOZ	Times of Zambia
NAZ	National Archives of Zambia
SPSS	Statistical Package for the Social Sciences

CHAPTER 1

INTRODUCTION

1.0 Overview

Chapter one is a general introduction to the study as a whole. It provides an insight into the background on the development of the Judiciary in Zambia and subsequently the development of court registries. The chapter includes an outline of the study.

1.1 Background of the study

1.1.1 The making of Northern Rhodesia

Northern Rhodesia became a British protectorate through a series of concessions concluded between African chiefs and European traders. King Lewanika of the Lozi people signed a treaty in 1890 and the following year the British government placed Barotseland, and the land up to Nyasaland in the east and to Katanga and Lake Tanganyika in the north under the Charter of Rhodes' British South Africa Company (BSAC). The territory was administrated as two different units namely North-Western Rhodesia and North-Eastern Rhodesia. The Colonial Office in Britain acted as a distant supervisor and made Harry Johnston in Nyasaland as their local representative (Gann, 1960:62).

Much of the British presence in Nyasaland was financed by Rhodes. He worked closely with Johnston and his successors (Alfred Sharpe became one) and used them as emissaries. Their Nyasaland troops were also used as enforcers, particularly in North-Eastern Rhodesia. North-Eastern and North-Western Rhodesias were considered by Rhodes and his colonisers to be a "tropical dependency" rather than a northward extension of white-settler-controlled southern Africa (Gann, 1960:72). In 1911 the BSAC merged the two territories (North Western Rhodesia and North Eastern Rhodesia)

as Northern Rhodesia (Ndulo, 2002:1809).

An attempt to unify the administration of the two Rhodesian territories was made by the British South Africa Company. The attempt foundered because of opposition from the Southern Rhodesian colonialists. They were concerned about taking responsibility for a large undeveloped area. They were also concerned about the Northern Rhodesian practice of employing natives in administrative posts. This split in opinion between the BSAC and the settler community in Southern Rhodesia resulted in the establishment of an Advisory Council in 1898. The Council became a conduit through which settler opinion could be communicated (Hensman, 1900:133).

In 1923 a request for a responsible government by the settler community in Southern Rhodesia, resulting from popular opinion was granted following a judgment by the Privy Council that the land in Southern Rhodesia belonged to the British Crown. This left Northern Rhodesia in a difficult position since the British South Africa Company had believed it owned the land in both territories. Some settlers in the northern territory suggested that the ownership in Northern Rhodesia be similarly referred. However, the British South Africa Company insisted that its claims were unchallengeable and persuaded the British to instead enter into direct negotiations over the future administration of Northern Rhodesia. Later a settlement was achieved by which Northern Rhodesia was given protectorate status under the British government (Momba and Phiri, 2011:1).

Herbert Stanley was appointed Governor on 1st April, 1924 and Northern Rhodesia became an official Protectorate of the United Kingdom. Livingstone became the protectorate's capital and which was later moved to Lusaka in 1935. A Legislative Council was established on which the Governor of Northern Rhodesia sat *ex officio* as Presiding Officer. Since no procedure existed at the time for holding elections, the initial council consisted entirely of nominated members. Members to the Council divided between the official members who held executive posts in the administration of the

Protectorate, and the unofficial members who held no posts (Momba and Phiri, 2011:1).

1.2 The development of the Judiciary in Northern Rhodesia

The development of the judiciary as we know it today could be traced to 1889 when the British South African Company (BSAC) was given the power to establish a police force and administer justice within Northern Rhodesia. In this initial arrangement, the Company was instructed by the Colonial Office to have regard for the native's customs and laws of their tribe or nation in cases where African natives appeared before courts. An Order in Council of 1900 created the High Court of North-Eastern Rhodesia which took control of civil and criminal justice; it was not until 1906 that North-Western Rhodesia received the same. In 1911 the two were amalgamated into the High Court of Northern Rhodesia.

In conformity with the laws of England and Wales, the High Court of Northern Rhodesia in 1924 was made subordinate to it. This meant that all United Kingdom statutes in force on August 17, 1911 were given application to Northern Rhodesia, together with those of later years if specifically applied to the Protectorate. In addition native law and customs were applied, where Africans were parties before courts, except where such laws were repugnant to natural justice or morality or inconsistent with any other law in force. British common law became the basis of the administration of Northern Rhodesia, unlike Roman Dutch law which applied in South Africa (Walker, 1963:673).

1.3 The Judiciary in post-colonial Zambia

Zambian law in general is derived from a number of sources which include native customary laws, the common law of England, and the various laws (both colonial and post independence) enacted by Parliament.

The first law that ever existed in Zambia was the indigenous law of the tribes generally referred to as customary law. Customary laws form an important part of the Zambian law as the great majority of Zambians still conduct most of their personal activities in accordance with and subject to customary laws. The customary law systems are largely

tribal in origin and to a greater extent operate only within the area occupied by the tribe. They cover disputes in which at least one of the parties to the dispute is a member of the tribe. Customary law is largely relevant and limited to the area of personal law, in regard to matters such as marriages, inheritance, and traditional authority. It has little application to commercial, contracts, constitution or criminal law (Ndulo, 2002:1811).

Like most other former British colonies, Zambia is a common law jurisdiction. The common law system of judicial administration was first introduced by the British through the 1889 Royal Charter. The Royal Charter entrusted the administration of the country to the British South African Company (BSAC) authorizing it to administer justice (Hoover, Piper and Spalding, 1984:47).

The Judiciary is one of the three wings of Government (The Executive, Legislature, and Judiciary). Article 91(1) of the Constitution of Zambia establishes a unified court system. The constitution defines the organization and jurisdiction of the various courts of law and provides for the administrative supervision of the courts by a Chief Administrator on behalf of the Chief Justice. The Constitution also provides for the establishment of various courts under article 91(1) which defines the composition of the Judicature of the Republic of Zambia as consisting of the Supreme Court, High Court, Industrial Relations Court, Magistrates Courts, Local Courts and such lower courts (for example the Small Claims Court) as may be prescribed by an Act of Parliament (Ndulo, 2000:1812).

The Chief Justice, Supreme and High Court Judges are appointed by the Republican President upon ratification by Parliament. Under article 91(3) of the constitution, the Judicature is an independent arm of the government to be administered in accordance with the Judicature Administration Act. The Judiciary in Zambia is also said to have both constitutional and institutional independence as it has power over its procedural environment in which cases are heard and decisions are rendered (Kunda, 1998:29).

The President of Zambia, on the recommendation of the Judicial Service Commission, appoints a Chief Administrator who is responsible for the day to day running of the

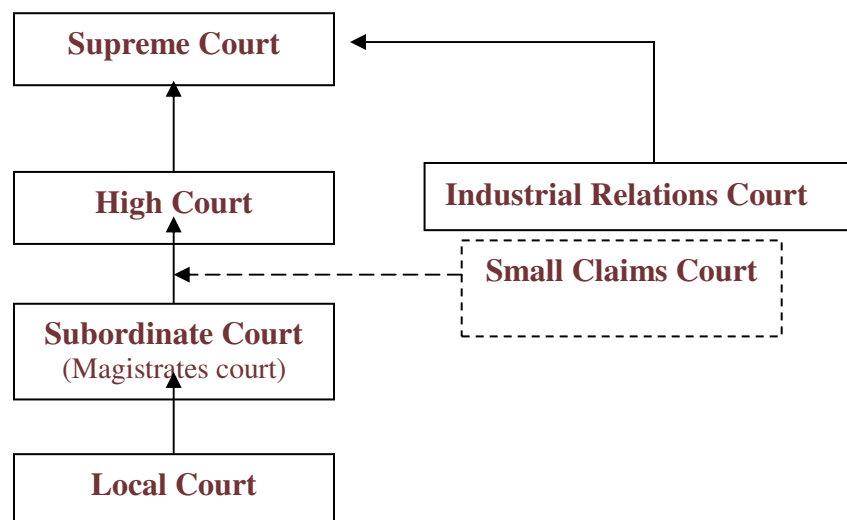
Judicature and the implementation of resolutions of the Judiciary Service Commission. The republican President, after consultation with the National Assembly, appoints the Chief Justice and Supreme and High Court Judges. The Judiciary Service Commission on behalf of the President appoints the Chief Administrator, Registrar, Magistrates and other senior court officials (Ndulo, 2002:1810).

The objectives of the Judiciary are: to provide a forum for the peaceful, fair and prompt resolution of civil claims and family disputes, criminal charges and charges of juvenile delinquency, disputes between citizens and their government, and challenges to government actions; supervise the administration of estates of decedents, consider adoption petitions, and preside over matters involving the dissolution of marriages; provide legal protection for children, mentally ill persons and others entitled by law to the special protection of the courts; and to regulate the admission of lawyers to the Bar (Judiciary of Zambia, 2010:2).

1.3.1 Court systems in Zambia

The court system in Zambia comprises the Supreme Court, High Court, Industrial Relations Court, Subordinate Court, Small Claims Court and Local Courts.

Figure 1: Structure of the court systems in Zambia



Source: Ndulo (2002). Figure 1 shows the structure of the court systems in Zambia.

a) The Supreme Court of Zambia

The Supreme Court of Zambia, created by Article 91(2) of the constitution, is the final court of appeal for Zambia. The Chief Justice and the Deputy Chief Justice are members of the Supreme Court. The Supreme Court of Zambia Act, No. 41 of 1973 of the Laws of Zambia, grants appellant and original jurisdiction to the Supreme Court. The court has jurisdiction to hear and determine appeals in civil and criminal matters as provided in the Act and such other appellate or original jurisdiction as may be conferred upon it by, or under, the Constitution or any other law (Supreme Court of Zambia Act, 2005).

b) The High Court of Zambia

The Constitution Act and the High Court Act, No. 41 of 1960 of the Laws of Zambia provide for the existence of the High Court of Judicature in Zambia. The President of Zambia acting in accordance with the advice of the Judicial Service Commission appoints judges of the High Court subject to ratification by the National Assembly. The constitution gives the High Court, except for matters reserved for the Industrial Relations Court, unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law, and such jurisdiction and powers as may be conferred on it by its constitution or any other law. In addition to these broadly stated powers, various other laws and provisions in the constitution specify particular types of actions the High Court may hear. The court is also given broad jurisdiction in the areas of probate and marriage law. The criminal jurisdiction of the High Court is also stated in broad terms. The Criminal Procedure Code says that, subject to other provisions, the court may try any offence under the Penal Code and any other written law. In addition, the High Court hears appeals from the Subordinate Courts (High Court of Zambia Act, 2005).

c) The Industrial Relations Court

The Industrial Relations Court has jurisdiction over employment and industrial disputes. The court may be viewed in some aspects as a quasi-judicial body. This is because not

all its members hold judicial qualifications. The chairperson and the deputy chairperson are the only ones required to hold judicial qualifications. The members of the court are appointed by the president (Industrial Relations Court Act, 2005).

The court has power, authority, and jurisdiction to examine and approve collective agreements; to inquire into and make awards and decisions in any matters relating to industrial relations that may be referred to it; to interpret the terms of awards and agreements; and to generally inquire into and adjudicate on any matters affecting the rights, obligations, and privileges of employees, employers, and representative organizations (Ndulo, 2002: 1814).

d) Subordinate Courts

The Subordinate Courts Act, No. 28 of 1965 and Act No. 11 of 1990 of the Laws of Zambia provide for the establishment of courts subordinate to the High Court in each District. Subordinate courts are presided over by magistrates appointed by the Judicial Service Commission. The jurisdiction of the subordinate or magistrates' court depends on its class rating and the type of magistrate sitting. The magistrates' are classified into three classes namely a Subordinate Court of the first class (presided over by a principal resident magistrate, a senior resident magistrate, resident magistrate, or a magistrate of first class), a Subordinate Court of the second class is presided over by a magistrate of second class and a Subordinate Court of the third class is presided over by a magistrate of the third class. Therefore, subordinate court jurisdictions vary between classes, not only in amount of money they might charge for an offence but also as to types of cases that can be tried. For example, only a first or second class subordinate court may entertain an application for an amendment order. However, all subordinate courts may hear certain actions grounded in marriage and family law. Certain other types of cases in those areas are restricted to the higher Subordinate Courts (Subordinate Court of Zambia Act, 2005).

The Criminal Procedure Code also grants to subordinate courts a limited type of civil jurisdiction for awarding a judgment for the value of property illegally obtained by a

public employee. Criminal jurisdiction also varies according to the type of magistrate and class of court. The primary restrictions are stated in terms of sentencing limits as well as restricting the types of offences that the court may try (Ndulo, 2002:1812).

e) Small Claims Court

The small claims court was established in 1992 under the Small Claims Courts Act (Cap 47) of the Laws of Zambia. The court has no prescribed jurisdiction as such and would be situated in such areas as the Chief Justice may consider necessary, having regard to the needs of a particular area. The Judiciary Commission appoints such number of officers as the commission may consider necessary for the administration of the small claims court. A legal practitioner of not less than five years standing would be appointed as a commissioner. A commissioner sitting alone could constitute a small claims court. The jurisdiction of a small claims court is limited to liquidating claims that do not exceed such sum as the Chief Justice may by statutory instrument specify.

A small claims court has jurisdiction in respect to causes of action including: (a) proceedings for the delivery of movable or immovable property whose value does not exceed the amount specified; (b) proceedings for debts that are due and payable; (c) proceedings for rentals that are due and payable in respect of any premises; (d) proceedings for possession against the occupier of any premises where the right of occupation per month does not exceed the sum that the Chief Justice may by statutory instrument specify; (e) proceedings relating to or arising from out of a cheque or an acknowledgement of debt signed by a debtor; and (f) counterclaims in respect of any proceedings mentioned under section 5(1) of Cap 47 of the Laws of Zambia (Kerrigan, Matakala, Mweenya, Dinda, and Moller, 2010: 72).

f) Local Courts

The lowest level of the Zambian court systems are the Local Courts as established under the Local Courts Act of 1966. The Local Courts are categorized into classes (for example, class one, two, and three). Their jurisdiction is limited according to the grade that the court warrant assigns to them. The main workload of the local courts is the law

relating to non-statutory marriages. The Local Court Act, CAP. 29, section 6 (1) states that local courts are presided over by local court magistrates who may sit as individuals or with such number of local court magistrates as may be prescribed by the Chief Justice in the court warrant (Kerrigan, Matakala, Mweenya, Dinda, and Moller, 2010: 69)

1.4 Court registries

The Zambian judiciary system provides for provision of court registries at the Supreme, High and Subordinate Courts. Section 28 of the Supreme Court Rules, Part 1, Subsection 4 states that “(1) The registry shall be situated in Lusaka, (2) Proceedings in the Court shall be instituted in the Registry, and (3) All documents and proceedings filed subsequently to the institution of any proceedings in the Court shall be instituted in the registry”. Part VIII of the High Court Act, No. 13 of 1994 provides for the establishment of district registries and appointment of District Registrars. Functions performed by the court registries include registering new court cases, opening of new court case files, filing court records, movement of files, protection of records from hazards such as rain/water, dust, fire, humidity, rodents and theft, and safe transfer of court records from one court jurisdiction to another. Though the public has the freedom to access court records, in practice, active court records can only be accessed by those authorized by the court.

The Judiciary has two types of registries. These are the administrative registries and court registries. Administrative registries include the personnel registries (all personnel files of judiciary staff are managed and stored here), finance and accounts registries, and the planning registry. ‘Court case’ registries are of two types namely civil and criminal registries. Civil registries deal exclusively with all civil matters while criminal registries deal with criminal matters before the courts of law.

Subordinate and High Court registries are distinctively divided into civil and criminal entities. For the sake of convenience the civil or principal registry is sub-divided into the civil and commercial registry. This means that all civil case related records are managed

from the civil registry, criminal records from criminal registry, and commercial records from the commercial registry, respectively. The Supreme Court does not have separate registries but one that combines both criminal and civil case matter records.

Officers responsible for the records management function at courts of law include the Chief Registry Officer, the Senior Registry Officer, Registry Officers, Assistant Registry Officers and Registry Clerks. Registry Clerks are subordinate to Assistant Registry Officers.

1.5 Statement of the problem

In the past decade, the Government of Zambia went into partnership with cooperating partners such as the Danish Government to improve access to justice in the country. The project(s) included, among others, infrastructure improvement in the Police, Prisons Service and the Judiciary.

In the Judiciary, the Access to Justice Project commenced in 2007 in which one of its objectives was to improve record keeping and information management within and across justice agencies (Kerrigan, Matakala, Mwenya, Dinda, and Moller, 2010: 9). Among other things, the project equipped registries with modern records storage equipment. Despite the efforts made by the Access to Justice Programme, records management in court registries are still in a deplorable state. Incidences about court files or records missing, mutilated, stolen, hidden or being misfiled are still a common feature. Case records are still not produced on time when needed by the court justices; as a result adjournments are the order of the day; accused persons are still being incarcerated without trial because case records can not be found, criminal cases are discontinued and dangerous criminals are set free because case files or records have been lost; and the innocent have been jailed and denied justice because evidence has been tempered with (Kerrigan, Matakala, Mwenya, Dinda, and Moller, 2010: 68). Such incidences are in violation of Article 18 of the Constitution of Zambia which guarantees citizens' equal access to justice.

Therefore, the purpose of the research was to assess records management systems and practices at court registries in order to identify problems and risk areas that may hinder access to justice at the courts of law in Zambia.

1.6 Objectives and research questions

Aim and objectives

The aim objective of the study was to assess records management in general and how it contributed towards access to justice at the courts of law in Zambia. Specific objectives of the study were to:

- a) Assess records management infrastructure and storage facilities in courts of law;
- b) Examine court registries' compliance with records management legislation, policy, and international records management of standards;
- c) Assess staff levels in registries, their competences and satisfaction with work context factors;
- d) Investigate risks affecting court records management; and

1.7 Significance of the study/expected outcomes

Expected outcomes from the study include a contribution to the body of knowledge on the subject of records management in general and the management of court records in particular. Secondly, it is hoped that the study will help in creating awareness on the importance of good court records management in the process of access to justice in our courts of law. Thirdly, it is also hoped that the study will alert registry staff, litigants, lawyers and the general public on the consequences of engaging in corruption or bribery in court registries.

1.8 Format of the study

Chapter two provides an overview of literature on records management theories; the access to justice process in the courts of law; records management infrastructure, legislation, policy and standards; staff quantity, quality and their job satisfaction; and risks that might affect institutional records management.

Chapter three identifies and explains the research design, type of research, the study's target population, sampling procedure, data collection methods used in collecting primary data, research methodology, identification and measurement of variables, statistical analysis, limitations of the study, and ethical considerations.

Chapter four presents research findings. The chapter involves presenting data into meaningful tables showing frequencies and percentages. Narratives are also given to findings from focus group discussions, face-to-face interviews, participant observations, and secondary sources of information.

Chapter five discusses and interprets research findings as presented in chapter four. The chapter provides a link between study objectives, research questions, problem statement, literature reviewed, research findings, research assumptions, and recommendations.

CHAPTER 2

REVIEW OF LITERATURE

2.0 Overview

Chapter two provides a review of literature related to the study. The literature reviewed relate to records management theories; access to justice in courts of law; records management infrastructure and facilities; issues in records management legislation, policy, and standards; staff quantity, quality and job satisfaction; and risk factors in records management.

2.1 Records management theories

There are various opinions concerning records management theories. According to Buckland (1990:346) some records management practitioners argue that there are well defined and established theories governing records management practice. He adds that some theories or models supporting records management practice belong to allied disciplines or sciences and are used whenever the need for action founded on principles manifest itself. Two of the most well known theories or models in the field of records management include the records life cycle and the records continuum models.

2.1.1 Records life cycle model

The records life cycle concept was founded and invented by the National Archives of the United States of America in the 1930s (Hare and McLeod, 1997: 5; Penn, Penix and Coulson, 1994:12) in response to the ever increasing volume of records produced by public institutions. The life-cycle concept of the record is an analogy from the life of a biological organism, which is born, lives and dies. In the same way a record is created, used for so long as it has continuing value and then disposed by complete destruction or transfer to an archival institution.

The effective management of records throughout their life cycle is a key issue in public institutions. Without it vast quantities of inactive records would clog up expensive office space, and it would virtually be impossible to retrieve important administrative, financial and legal information. Public Works and Services (2002:5) are of the opinion that such a situation would, among other things, undermine the accountability of the state and endanger the rights of the citizen.

2.1.2 Records continuum model

As we have seen earlier on, the life cycle concept has defined limits which begin at creation and end at disposal. The distinct characteristic would not be applicable to records in the electronic environment. Barry (1994:2516) notes that records in an electronic environment are dynamic and recursive in nature and may exist in more than one stage of the life cycle simultaneously. This means that electronic records may not necessarily follow a serial path from creation to disposal. For example, they may be re-appraised at the disposition time and therefore re-appear in an earlier stage (such as the record active stage). Therefore, recent developments in electronic records management systems could be said to have caused a paradigm shift in which a record did not necessarily need to follow the 'records management cycle'.

Cox (1997:242) asserts that electronic records management systems have dictated a change in the core concept and the need to replace the life cycle with the continuum. Upward (1996:43) notes that the records continuum is the whole extent of a record's existence. While the life-cycle principle recognises the cyclic nature of paper records the 'records continuum concept' suggests that four actions continue or recur throughout the life of a record and that they cut across the traditional boundary between records management and archival administration. These actions according to Upward include identification of records, intellectual control of records, provision of access to records, and their physical control.

2.2 Access to justice at courts of law

Access to justice is a broadly conceptualized phenomenon. Ngondi-Houghton (2006:5) mentions that access to justice begins from the inclusion within the embodiment of rights in the law; awareness of and understanding of the law; and easy availability of information pertinent to one's rights; equal rights to the protection of one's rights by the legal enforcement agencies; easy entry into the judicial justice system; easy availability of physical legal infrastructure; and affordability of the adjudication engagement. He also mentions cultural appropriateness and a favourable environment within the judiciary system; timely processing of claims; and timely enforcement of judicial decisions as other important concepts in the access to justice process.

Roper and Miller (1999:14) reiterate that within the legal context records serve several functions such as support for legal rights and obligations within the legal system, provide evidence or proof that a particular activity took place, and contribute to accountability in organisations and in government.

According to Bolshakov (2006:39) there are a number of factors that contribute to poor functioning of access to justice mechanisms. These include judicial independence, corruption, judicial capacity, public participation procedures, public support, legal uncertainty, judiciary inconsistency and use of precedence, timeliness of procedures, and protection of persons exercising their rights among others. Matibini (2006:19) cites poverty and existing institutional arrangements as other major barriers to accessing justice in Zambia. He also adds that some of the perceived reasons for limited access to justice in Zambia include incidents of bribery on the part of individuals facing criminal offences, cases taking too long to dispose off and corruption among judiciary staff.

2.3 Records management infrastructure and storage facilities

Twining and Quick (1994:20) assert that many institutions in Africa have serious problems of storage in relation to costs, space, physical conditions or accessibility. They also add that these problems are exacerbated by increases in the volume of records

produced, storing records in inappropriately places and preserving records for far too long. Mnjama (2003:94) attributes some of the poor state of records management keeping in Kenya to lack of adequate storage facilities.

2.4 Records management legislation

According to Thurston (2007:190) most African countries' archival and records management legislations were similar to that of their former colonial masters and have remained unchanged for years from the time they were enacted. Abioye (2007:56) points out that the enactment of the law in Nigeria has been a realisation of more than three decades of agitation to have a more robust law that would take care of the challenges of archives administration and records management in that country.

In his study Kemoni (1998:62) observes a number of weaknesses in the Kenyan Public Archives and Documentation Services Act which include the limited power of the Director in regard to acquisitions and preservation of private records (considered to be private property). Secondly, the Director had no power over the issuing disposition authority (which was in the hands of a minister to which the department is responsible). Thirdly, he/she was not responsible for the survey and appraisal of records belonging to security agencies. Fourthly, he/she was not responsible for issuing records management circulars without reference to higher authority, and can not enforce record creating agencies to play a role in managing records created within their institution.

In Zambia, the National Archives Act (NAC) has not seen much review since inception in 1969. There is need for urgent review of the Act. The weaknesses in the NAC have been compounded by the inflexibility of the legislation in the face of the changing nature of records and archives in an electronic age.

2.5 Records management policy

Cook (1999:15) argues that good records management begins with establishing policies, procedures and priorities before records are even created. According to Wamukoya (2007:15) records management constitute a form of management policy

which ensures that records are part of a system in which information flows logically and systematically within the organisation, satisfying the needs of creators, users and custodians.

Thurston (2007:190) mentions that most African countries developed and implemented records management policy on an ad hoc basis. An and Fiao (2004:34) state that there were no national strategies and policies purposely targeting records management in China. They add that as a rule many organisations in China have archival policies for semi-current and non-current records management, but few policies and procedures for current records management. Wamukoya (2007:19) points out that bad records management is compounded by a number of factors such as the lack of national policy on records management, lack of records management standards, lack of records management guides/manuals, and lack of trained staff in records management who should provide guidance or assistance to institutions.

2.6 Records management standards

There are certain standards that should be followed in managing records and these include two of the International Organisation for Standardisation (ISO) standards, the ISO 27001 and the ISO 15489 that are in use world wide. The ISO 27001(2005:5) mentions three key information security requirements as (which might compromise an organisation's information assets) confidentiality, integrity, and availability. The ISO 15489 (2001:7) defines a good record as one with characteristics of usability, authenticity, integrity, and reliability.

Musembi (2005:1) points out that poor records management at courts of law may result in compromising the administration of justice. Schrinel (1983:106) reasons that the success or failure of nearly every court function (such as case processing, statistical reporting, dispute resolution, personnel and financial management) will be evidenced by the proper or improper control of its records. Thurston (2005:2) argues that dysfunctional records management undermines legal and judiciary reform. For example, decisions are made without full information about cases, and the absence of systematic

recordkeeping and controls leaves scope for corruption or collusion between court officials and lawyers, court time is wasted, delays are created, and the judiciary's standing is lowered. Secondly, effective records management are essential because of the large volume of records passing through a typical court system, records sensitivity and time pressures on courts. Griffin and Roper (1999:70) propose that in order to improve case file tracking systems in institutions basic records tracking tools such as file location cards, file movement sheets, file transfer slips, and records census forms should be used.

Thomas, Schubert and Lee (1983:162) suggest that the outcome from establishing record centres in institutions include effective storage and retrieval systems and comprehensive records transfer and storage programmes. They also mention that proper processes in moving closed records from active storage to semi-active should be established. This process should include documenting the movement of records using transmittal lists which should accompany the movement of records transferred from the registry to the records centre. The purpose of the transmittal form is to record the transfer of specific records for storage in record centres. Cook (1999:19) notes that records centres are the vital link between the records, archives institution and the organizations that create and use records. Wamukoya (2007:19) notes that records management has been frustrated by organisations creating and storing useless and unnecessary paperwork out of 'fear' that they might destroy important documents through accidental destruction.

Thomas, Schubert and Lee (1983:160) suggest that in order to prevent the loss of records in case of a disaster, institutions should identify those records which were considered vital in the access to justice process and such records should be digitised, produced in multiple copies and kept in secure facilities within the institution or entrusted to trusted off site facilities. Similarly, the U.S. National Archives and Records Administration (1999:25) propose the use of special protective measures for vital records preservation. These include using fire-rated filing equipment for storage;

constructing onsite vaults; transferring records to offsite storage; duplicating the records at the time of their creation, such as computer "backup" tapes, using existing duplicates as vital record copies; or microfilming vital records.

Thomas, Schubert and Lee (1983:185) note that records management manuals are important training guides for both old and new employees. They also mention that new employees who used records management manuals quickly became oriented to the records management programme and learnt the records management procedures more quickly. Ricks, Swafford and Gow (1992:528) found that records management manuals are useful in standardising procedures, establishing responsibility, assisting in employee training and providing for updates of policies and procedures.

2.7 Records management staff: quantity and quality

In their study, Ganster and Dwyer (1995:7) found out that, at the group level of analysis, groups that are adequately or over staffed appeared to be more productive than understaffed groups. On the other hand they also found out that at individual level of analysis, staffing sufficiency showed a significant and negative indirect effect on performance.

In regard to quality of staff in the work place, Clark (2000:757) points out that in-service training within social service training is recognised as a key means through which staff are provided with the necessary knowledge and skills to improve overall agency performance and achieve the objectives of social policy. Therefore, it may be argued that the quality of any records management program is directly related to the quality of staff responsible for records management (World Bank (2009:3).

2.8 Staff satisfaction with work context factors

Blum and Naylor (1986:364) define job satisfaction as a general attitude of the workers constituted by their approach towards wages, work conditions, control, promotion related with the job, social relations in their work, recognition of talent, personal characteristics, and group relations apart from their work life.

In his study Syptak (1999:26) reasons that work related interactions come about where employees are given reasonable amounts of time to socialize such as during lunch breaks. Other schools of thought argue to the contrary and posit that inter-worker relations at work do not always result in job satisfaction but could instead lead to job dissatisfaction among employees (Herzberg, 1968:53).

Klitgaard (1988:43) argues that bribery tended to arise in situations where officials who occupied certain positions resented receiving little pay and therefore believed that they deserved to receive extra payment for performing services to the public. He also adds that where punishment for engaging in corrupt behaviour was lax or where supervisors appear to encourage such behaviour, there is a high likelihood that workers would engage in corruption or bribery. Similarly Tanzi (1998:18) points out that while high wages might reduce bribery, high wages might also lead to demands for higher bribes on the part of those who engaged in the vice. Tanzi also reasons that high wages have a tendency to raise the opportunity cost of losing one's job. On the other hand he also argues that high wages might also eliminate the greed on the part of some officials.

Blanchflower and Oswald (2000:16) posit that people who declare their jobs as being secure have also a much higher probability of reporting themselves happy with their work. Bechmann, Binz, and Scheunberg (2007:3) reported that many workers considered job security as the most desired attribute in a job. Popoola (2009:204) notes that employees with higher job satisfaction are more likely to exhibit absolute loyalty to the organisation by preventing incidences such as sale of secret information to unauthorised persons and leaking of official information to the public.

Young, Worchel and Woehr (1998:339) report that promotion satisfaction, among other things, has significant positive correlation with organisational commitment among public service employees. Rauch and Evans (1999:6) posit that politically motivated hiring, patronage, nepotism, unclear rules on promotions and hiring contribute to the 'poor quality' of an organization.

Burns, Ferris and Liatsopoulos (2009:17) link the problem of poor staffing and inappropriate training in organisations to lack of money or inadequate funding. Millar (2001:457) advise that when planning a records management project it is necessary to consider the number of staff needed, the tasks they would undertake, their particular qualifications and the requirements for their promotion through the civil service ladder. On the other hand Tella, Ayeni, and Popoola (2007:4) note that staff training was an indispensable strategy for motivating workers.

2.9 Risks in managing records

2.8.1 Operational and administrative risks

Lemieux (2010: 201) identifies four categories of risks in records management and these are administrative, records control, legal/regulatory, and technological risks. Millar (1999: 36) argues that there is a very close relationship between governance issues and records management. Muthaura (2003:302) reasons that a properly functioning public service is a reflection of the integrity and accountability of its records management system. Abdulai (2009:3) argues that freedom of information laws provide a practical mechanism for achieving the good governance principles of transparency, accountability, and public participation.

Moloi and Mutula (2007:291) posit that the effectiveness of any records management system can be deduced from the systematic control of the creation, receipt, maintenance, use and disposition of records including the process for capturing and maintaining evidence of information about business activities and transactions in the form of records. They also point out that sound records management collectively enhance transparency, accountability and good governance. Twining and Quick (1994:7) reason that valuable legal records were being lost through deliberate destruction as a matter of policy, random or arbitrary destruction by those responsible for them, or by operation of nature, fire, revolution, neglect or oversight.

Kemoni and Ngulube (2008:303) attribute the bad state of records management in institutions to a general neglect of registries in most government institutions, a lack of

support from senior officers, an absence of records management committees, lack of training opportunities for registry staff and inadequate staffing. In their studies Githaka (1996:7), Kemoni and Ngulube (2008: 303) mention the lack of interest to finance records management as a hindrance to implementation of records management programmes in some institutions. On the other hand Makondo (2002:81) asserts that donor supported projects often lack sustainability and that they tend to create a dependency syndrome on those who receive the aid.

Thurston (2007:191) stresses that the growing crisis in public sector records management in Africa coincided with two significant global developments. These were a recognition that governments must streamline their operations in order to reduce budget deficits and the realisation that computerisation in public administration was a fundamental means of enhancing the control of key resources and improving efficiency. Wamukoya (2007:20) argues that automation (computerisation) of the records management function brings to an organisation the benefits of reduced storage costs, improved records retrieval due to greater search, access, and computational abilities, quicker response time, the ability to calculate and manipulate data in ways not possible before and much improved generation facilities. However, he points out that the production and use of electronic records in many African countries were not supported by policies, standards, or procedures developed by institutions to regulate the management of electronic media. In spite of these concerns, the Law Association of Zambia (LAZ) President was optimistic that the computerization of the Judiciary would strengthen the way cases were handled at courts of law as well as ensuring speedy access to justice by members of the public (Nkolombo, 2010:1). Lomas (2010:192) argues that as technology changes and new ways of working evolve there will be new risks in managing records.

Mnjama (2005:457) reveals that while many governments have already embarked on e-governments, the underlying issues relating to e-records readiness had not been addressed. He adds that many of the attendant problems associated with electronic records such as the legal admissibility of electronic records, the speed at which they

can be altered without trace, their dependence on hardware and software which are constantly changing are issues yet to be resolved. Mutiti (2001:58) identifies the lack of adequate technical expertise as one of the major constraints hampering the development of electronic records management programmes in Eastern and Southern Africa. Burns, Ferris and Liatsopoulos (2009:18) recognise the need for a government (in African) to first assess whether its legal system, physical infrastructure, collecting, processing, storing, and disseminating procedures were adequate for electronic records as well as making sure that staff were appropriately trained in electronic records management.

Thurston (2007:196) notes that in many African countries power supplies are erratic, electronic records storage equipment are not easy to obtain, technicians and repair services are not always available, environmental conditions are often not suitable for the efficient storage of electronically generated information, and resources are not available to set up specialised electronic records units which could ensure that the records are available over time. She also adds that the legality of the electronic record will depend upon the ability to maintain it in such a way that its authenticity is not lost.

Stuart and Bromage (2010:221) stress that the concept of the original, authentic, and reliable record (including electronic records) should remain a fundamental principle for organisations regardless of where records are being created and managed. Similarly, Iacovino (1998:65) and MacNeil (2000:91) point out that records and archives are fundamental aspects of law and as such records evaluation should be considered not only for accessibility and business purposes but also for accountability, reliability, and evidential requirements.

2.8.2 Reputation risks

Kemoni (1998:55) identifies issues relating to integrity and accountability in records management to include a breakdown of discipline, ineffective supervision, weak management structures, corruption/bribery and non delivery of services. Nsambu (2008:67) reveals that corruption in Uganda has not only invaded judicial seats but that

it has also found fertile ground in the court registries in that without a tip a file may be lost and never make its way to a hearing. He also adds that bribery at courts of law in Uganda has not only made justice unaffordable but ruined the capacity of the justice system to fight corruption and to serve as a beacon of independence and accountability. According to Iruoma (2005: 37) in Nigeria corruption in the court registry is said to be a big impediment in not only accessing justice but also in the timeliness of court proceedings. He adds that court registry officials often times are unwilling to perform their duties except when bribed. For example some officials in Nigerian courts are said to outrightly demand payments for things which should ordinarily be free of charge.

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

3.0 Overview

Chapter three describes the research design, type of research, and the target population. The reader is also introduced to detailed procedures in sampling, data collection, the research process and the statistical analysis method used in the study. Issues relating to limitations of the study and ethical considerations are also looked at.

3.1 Research design

The study is a non experimental qualitative research design. The choice of the research design was influenced by the type of research, the target population, sampling method, data collection methods, and the research process among others. These were structured in a manner that would amplify the statement of the problem, research objectives, as well as to provide answers to the research questions.

3.1.1 Type of research

The survey method was chosen for the study in order to assess records management in the courts of law. The survey research method is a non-experimental, descriptive research method. Surveys are useful when a researcher wants to collect data on phenomena that cannot be directly observed (such as opinions on risk of corruption and bribery in court registry). Other advantages that the survey method had were that it was economical, allowed for the collection of a reasonable amount of data from the study population, and also facilitated standardization of the data collected.

One disadvantages of the survey method was its artificiality. For example, artificiality was seen when respondents were asked the same questions and their responses were the same. Secondly, responses to closed questions lacked the full sense of natural setting (for example asking closed questions).

3.1.2 Target population and study sample

For the survey the research study targeted a population of 54 registry clerks from the Subordinate/Magistrates, High Court and Supreme Court registries to participate in the research survey.

The study selected a study sample of 43 registry clerks. The selected sample represented 79.6% of the target population who took part in the study. In addition five Assistant Registry Officers from the courts participated in the face-to-face interviews, while a Senior Human Resources Officer from the Judiciary and a Head of Documentation Unit (Cabinet Office) took part in the walk-in interviews.

3.1.3 Sampling method

Purposive sampling method was used to select research participants (Registry clerks from the Supreme Court, High Court and Subordinate Courts in Lusaka) who took part in the survey. Similarly, purpose sampling was used to select participants (who included registry supervisors) for the focus group discussions and walk-in interviews. As it is with non-probability sampling designs, the purposive sampling method did not involve random selection of the study sample.

The researcher chose purposive sampling method because it was found to be inexpensive and it also allowed the researcher to collect data much faster because the study sample was readily available. For example, participants in the survey, focus group discussions and face-to-face interviews (apart from the head of the documentation centre at Cabinet Office) were mainly drawn from the Supreme Court, High Court and Subordinate Courts within Lusaka.

3.2 Data collection methods

Primary data was collected using self administered questionnaires, focus group discussions, face-to-face interviews and participant observations. Secondary data was derived from official documents such as the Government of Zambia Establishment Register, Judiciary payroll and Statutory Instruments.

3.2.1 Structured self-administered questionnaire

A self-administered questionnaire was used as a research instrument. The questionnaire was used to collect primary data relating to the research objectives. The rationale for using a self administered questionnaire was that it was cheap, easy to administer, enabled the researcher to pose a number of research questions in a short time and received appropriate answers within a short time period.

The questionnaire was divided into six sections. The first section dealt with socio-demographic items on the respondents who took part in the survey. The second section of the questionnaire sought to bring forth responses on opinions about the contribution of records management to the process of accessing justice in courts of law. The third and fourth sections were set to induce responses on infrastructure, records storage facilities, and general records management practices in court registries. The fifth and sixth sections sought to elicit for responses on registry clerks perception of work context factors and risks in managing court records.

The questionnaire was distributed to the 43 registry clerks who participated in the study. Prior to conducting the survey permission was sought through a letter from the Directorate of Research and Post Graduate Studies at the University of Zambia (on behalf of the researcher) to the Deputy Director of court operations in the Judiciary. After permission was granted the researcher met Assistant Registry Officers at participating courts to brief them on the purpose of the research. The researcher later met research participants in their respective registries and explained the purpose of the study. Ethical considerations of the study were also explained to the participants. The participants were also given a chance to ask questions before questionnaires were administered to them.

a) Administering the questionnaire

Questionnaires were distributed to registry clerks/research participants. With the help of staff registers obtained from court clerks, the researcher took note of those present and those who were absent. This procedure was repeated at all registries. The researcher

waited for the participants in respective registries as they completed the questionnaire. This was done in order to minimize incidences where participants would discuss their responses or fail to answer all questions in the questionnaire. It took about 15 minutes on average to fill in the questionnaire. The exercise was carried out in the afternoons when registry clerks were less busy with their court work. It took three days to complete the exercise.

b) Collection of the questionnaires

Questionnaires were collected at the end of the exercise on the same day on which they were distributed to the research participants. The completed questionnaires were then checked for completeness. Incomplete questionnaires were noted (each questionnaire had a serial number which in turn was also reflected against an individual participant's name) and followed up later where need to do so arose. In cases where the questions were not fully answered, participants were approached and requested to complete them. Consequences on the study outcome for not responding to all questions in the questionnaire were also explained to participants by the researcher.

c) Data analysis

Data analysis included, among other things, editing questionnaires for completeness, coding of responses, determining the relationships between variables, and statistical analysis.

i. Editing the questionnaire

The process of questionnaire editing began in the field. The editing process involved three aspects namely checking for completeness, checking for accuracy, and checking for uniformity. Checking for completeness was carried out to ensure that each question was answered. In some cases, incompleteness was solved by filling the gaps from memory (For example, where certain aspects of the respondents were known such as gender).

ii. Data coding

The first step in the analysis of the collected data involved coding the data. The data collected from respondents using the questionnaires were pre-coded using numerical values or codes. For example, for responses to the Gender (Sex) variable, male = 1, female = 2. Numerical values were also used to code responses in Likert scales. For example 1= Strongly Agree, 2 = Agree, 3 = Not Sure, 4 = Disagree, 5 = Strongly Disagree.

iii. Identification and measurement of variables

The research framework, in Figure 2 below, is a representation of how court registries interacted with the internal and external environments. The assumption of the study was that internal and external environments had an influence on court registries in ways that would either enhance or inhibit (create a barrier) access to justice at courts of law.

The dependent variable in the research frame work is *access to justice at courts of law*. Other things being equal, access to justice at courts of law might be enhanced or hindered by *moderator variable* or risk factors acting on the independent variable (court registries).

The independent variable was *records management in court registries*. All things being equal, it was assumed that the way court records were managed in courts of law might affect the processes of access justice at the courts of law.

Figure 2: Conceptual framework of the research

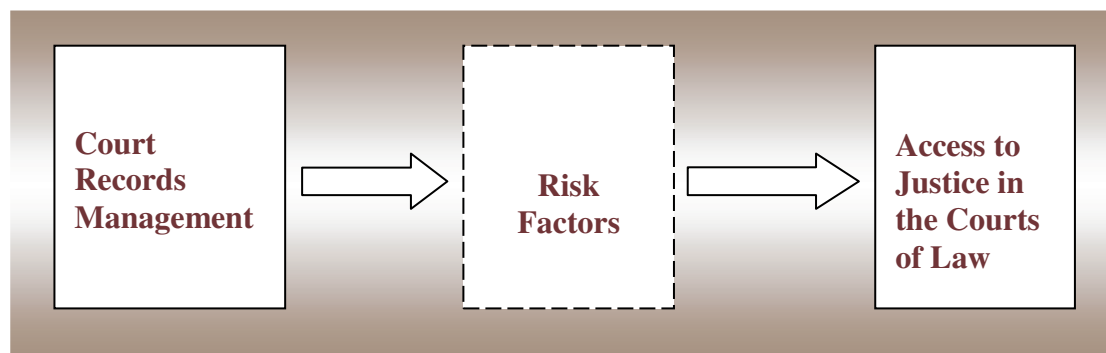


Figure 2 is a depiction of the conceptual framework of the research. It shows how access to justice in the courts of law might be hindered by risk factors (in court records management).

d) Statistical analysis

Primary data collected using self administered questionnaires was analyzed electronically using the Statistical Package for Social Sciences (SPSS) version 16.0.2 - 2008. SPSS was preferred by the researcher because of its user friendly aspects. The software enabled the researcher to process the data into value frequency tables. The value tables were used for exploratory analysis, identification of trends, proportions, distribution of values and for making visual comparison of relationships among variables.

The statistical analysis yielded frequencies and descriptive statistics. Descriptive statistics enabled the researcher to come up with concise descriptions and inferences on the study sample's bio-data characteristics; respondents' perceptions about the registries contribution towards the process of accesses to justice in the courts of law; provision and infrastructure development in the courts' records management, records maintenance and control; staff quantities, quality, and their satisfaction with work context factors; and the risks (in records management) that might affect the process of access to justice in the courts of law. Research findings (yielded from the statistical analysis) were also used in crafting the recommendations on improving records management at the courts of law.

3.2.2 Focus group discussion

The focus group comprised five registry supervisors drawn from the Subordinate, High and Supreme Courts. Discussion questions were prepared in advance by the researcher and were presented to the group for discussion. Responses were recorded by the researcher in a note book.

3.2.3 Face-to-face interviews

Face-to-face interviews were carried out with the Senior Administrative Officer in the Judiciary and the Head of the Documentation Unit at Cabinet Office. The interview questions were prepared in advance by the researcher. Responses from the face-to-face interviews were recorded in a note book.

3.2.4 Participant observations

The researcher visited court registries and made observations of the infrastructure housing registries and secondary storage facilities, storage equipment used in storing active and closed case files. The researcher also made observations on the documentation, filing, file classification, file storage and retrieval processes, file movement and tracking systems, processes in transferring closed case files to secondary storage, storage of closed case files, and retention and disposal procedures. The researcher also made observations on routine activities in registries. The researcher also went to see the installed digital equipment at the Supreme and High Courts in Lusaka. The observations made by the researcher were recorded in a note book.

3.2.5 Secondary sources of information

The researcher examined the 2010 Government of Zambia Establishment register, the 2010 Judiciary payroll and the National Archives Act (of 1995) in the Laws of Zambia. The information obtained from the secondary sources was recorded in a note book.

3.3 Limitations of the study

The study focused on a relatively new emerging phenomenon in Zambia, that is, how records management might affect access to justice at courts of law. Undoubtedly, this represents a challenging task for research regardless of the more specific interests that the study may have. In this study, the phenomenon of the contribution of records management towards access to justice at courts of law has been studied from a rather

narrow localized perspective. The restriction of the study to the Subordinate, High and Supreme Courts of Lusaka naturally brought forth many limitations as far as the generalizations of study results were concerned.

Negative reporting on the judiciary in the local media during the study period might also have affected the study results. For example, some respondents might have been influenced by assertions about corruption among judiciary officers and perceived interference in court cases by politicians. Some of the respondents might have been alive to the fact that they were the subject under scrutiny. It was, therefore, assumed that such developments might subsequently have, directly or indirectly, affected the how research participants responded to questions. The study should also have included a questionnaire to solicit for responses from actual users of court registries services such as lawyers, judges, magistrates and litigants. A country wide study could, however, not be conducted because of the limited funds available to the researcher. However, some of the limitations and gaps observed in the study might be seen as possible avenues from which future research could be conducted under a similar theme.

3.4 Ethical considerations

Permission to conduct research at the courts of law was obtained from the Deputy Director - Court Operations in the Judiciary. Before the questionnaire was distributed the overall purpose of the research was explained to the Deputy Director and later on to the research participants. Research participants were also informed that they were free to participate in the research or not to. The research participants were also assured of confidentiality. For example, they were asked not to indicate their names or any personal particulars on the questionnaire. Research participants were also assured that the data collected from the questionnaire would be treated as collective responses from all the respondents. The researcher made sure that the research would not pose any physical or psychological danger to the respondents, for example, by avoiding emotional questions.

CHAPTER 4

FINDINGS AND ANALYSIS OF DATA

4.0 Overview

Chapter four presents the research findings from the questionnaire, focus group discussions, face-to-face interviews, participant observations, and secondary sources of information. The findings are presented in tabular format, photographic images, and narrative format. Data obtained from questionnaires was analysed using the Statistical Package for the Social Sciences (SPSS) software.

4.1 Demographic attributes of participants in the research survey

Twenty four 24 (55.8%) male and 19 (44.2%) female participants took part in the research survey. In terms of respondents' ages, 2.3% (one) respondents were in the age range 19-23 years, 13(30.25%) were in the age range 24-28 years, 11(25.6%) were in the age range 29-33 years, 12 (27.9%) were in the age range 34-38 years 6 (14%) were in the age range 39-43.

Research findings on the level of education attainment showed that 21(48.85%) were school leavers or had no professional qualifications in records management or related subjects, 16 (37.2%) had certificates in records management and six (14%) graduated with diplomas in records management or similar studies.

Research findings on work experience showed that 21(48.8%) research participants had work experience in the range of 0-5 years, 14(32.6%) were in the work experience range of 6-10 years, seven (16.3%) were in the range 11-15 years, and one (2.3%) person was in the range 21-25 years of work experience.

Table 1: Demographic attributes of research participants who took part in the survey.

Variables & Responses	Frequency	Percent
Gender		
Male	24	55.8%
Female	19	44.2%
Total	43	100%
Age		
19-23	1	2.3%
24-28	13	30.2%
29-33	11	25.6%
34-38	12	27.9%
39-43	6	14.0%
Total	43	100%
Marital status		
Married	26	60.5%
Single	16	37.2%
Divorce	1	2.3%
Total	43	100%
Education qualification		
Diploma	6	14.0%
Certificate	16	37.2%
None	21	48.8%
Total	43	100%
Work experience		
0-5	21	48.8%
6-10	14	32.6%
11-15	7	16.3%
21-25	1	2.3%
Total		100%

Table 1 shows demographic results of the research participants who took part in the survey.

4.2 Contribution of records management towards access to justice at courts of law

When respondents were asked about their opinions on whether court registries contributed to the process of access to justice at courts of law, 83% of the respondents reported that they fully understood the important role of court registries in access to justice in the courts of law, 7% did not understand the role of court registries, 7% were not sure while 2.3% of the respondents did not give their opinion.

Table 2: Access to justice at court registries

Responses	Frequency	Percent
Yes	36	83.7%
No	3	7.0%
Not sure	3	7.0%
No response	1	2.3%
Total	43	100%

Table 2 shows results on responses from research participants on whether records management played an important role in the process of accessing justice at courts of law.

4.3 Records management infrastructure and facilities development

4.3.1 Registry infrastructure

The researcher's observations were that although court registries appeared to be in good physical conditions, they were not purpose-built and suitable for the storage of paper, electronic, and records in other media and formats.

4.3.2 Record centre infrastructure

The researcher observed a general lack of (or suitable) record centres at all the courts taking part in the study. The researcher was shown a room set aside for the records centre at the Subordinate Court complex. The 'records centre' lacked shelves and as a result records were scattered all over the floor due to lack of shelves.

The researcher observed a new records centre built for the Supreme Court and High Court. The structure consisted of four steel containers and an office for staff. However, the records centre was not purpose-built for the storage of records. It did not have a ventilation system, had no lighting system, it was not air conditioned, had neither fire monitoring nor fighting systems and did not offer protection from intense heat absorbed by the steel containers.

Figure 3: The newly constructed records centre to cater for the Supreme and High Courts



4.3.3 Records storage facilities: equipment

When respondents were asked about whether there was enough storage space for active court records 20(46.5%) of the respondents were of the opinion that there was enough space, 19 (44.2%) were of the view that there wasn't enough storage space for active records while 4 (9.3%) were not sure.

Table 3: Storage space for active files in the court registries

Responses	Frequency	Percent
Yes	20	46.5%
No	19	44.2%
Not sure	4	9.3%
Total	43	100%

Table 3 shows responses on the adequacy of records storage space in court registries meant for the storage of active case files. When respondents were asked about whether active court records were kept together with closed case files in registries, 30(69%) of the respondents were of the opinion that some active and closed case files were kept together, 10 (22%) were of the view that active and closed records were never kept together in registries and 4 (9%) said they were not sure.

Table 4: Storage of active and closed court files in registries

Responses	Frequency	Percent
Yes	30	69.%
No	10	22.%
Not sure	4	9.%
Total	43	100%

Table 4 shows responses on records storage in court registries where active and closed case files were kept together.

Table 5: Adequacy and suitability of records storage facilities

Variables & responses	Frequency	Percent
Adequacy		
Yes	34	79.1%
No	8	18.6%
Not sure	1	2.3%
Total	43	100%
Suitability		
Yes	30	69.8%
No	10	23.2%
Not sure	3	7.0%
Total	43	100%

Table 5 shows respondents' assessment of the adequacy and suitability of the storage equipment. When respondents were asked about the adequacy of records storage equipment in their respective registries results showed that the majority of the respondents (79.1%) were of the view that the records storage equipment were adequate, 18.6% of the respondents were not of the view that the equipment was adequate and 2.8% were not sure.

When respondents were asked about the suitability of records storage cabinets, results showed that 69.8% of the respondents were of the view that the shelves were suitable for the storage of active records, 23.2% were of the view that they were not suitable, and 7% of the respondents were not sure.

The researcher observed that new records storage equipment (steel shelves) were recently installed in court registries (see figure 4 below). However, the size of files used in the High Court and Supreme Court could not fit well in the steel cabinets designed to hold A4 files (see figure 5 below) and the files tended to get torn as a result.

Figure 4: Part of the records storage equipment at Lusaka High Court criminal registry



The figure 4 shows part of the newly installed storage equipment at the criminal registry at the High Court in Lusaka.

Figure 5: Effects of storing large size court files in cabinets designed to hold A4 files in the High Court principal registry.



Figure 5 shows legal size files failing to fit properly in the newly installed storage equipment in court registries.

4.4 Compliance with the National Archives Act

The researcher observed that very little was mentioned in the National Archives Act (Chap 175) Number 44 of 1969 amended in 1994 of the Laws of Zambia concerning the management of records in electronic media such as microfilms, discs, and magnetic tapes among others. The researcher also observed that Part III of the National Archives Act, subsections 2(a), (e), and (f) on the functions of the Director of the National Archives were not implemented by court registries as required by the Act.

4.5 Compliance with records management policy

Findings from face-to-face interviews with the Head of the Documentation Unit (Cabinet Office) showed that Zambia as a country did not have a written national policy on records management. Similarly, during an interview with the Senior Human Resource Officer in the Judiciary also showed that the Judiciary did not have a written institutional policy on records management.

4.6 Compliance with records management standards

The researcher observed that court registries did not follow any specific records management standards. Instead registry staff put into practice what they had learnt on the job or from the National Institute of Public Administration. Focus group discussions with registry supervisors showed that they were ignorant about records management standards such as the ISO 15489 and ISO 27001.

4.6.1 Filing and classification systems

Research findings showed that alphanumeric methods were used in classifying court records according to their nature and use. For example, a case file bearing the code HP: 2008:001 would be interpreted as a case in the Lusaka High Court in which HP stands for the geographic location of the court (Lusaka High Court), followed by the year

(2008) in which the case was first registered in the Lusaka High Court, and 001 was the first case in 2008.

The researcher observed that files were stored and arranged on shelves according to the year in which a case was initiated and then alphabetically by the name of appellant or defendant.

The researcher also observed a records filing practice (At the Subordinate Court criminal registry) where loose records were filed by simply stapling them together and then put in a folder without fastening them with file fasteners.

4.6.2 File retrieving and tracking

Table 6: File/records retrieval and tracking in court registries

Variables & Responses	Frequency	Percent
Retrieval of active records		
Yes	34	79.1%
No	8	18.6%
Not sure	1	2.3%
Total	43	100%
Tracking of active case files		
Yes	30	69.8%
No	10	23.2%
Not sure	3	7.0%
Total	43	100%
Tracking of semi-active and inactive records		
Yes	7	16.3%
No	33	76.7%
Not sure	3	7.0%
Total	43	100%

Table 6 depicts a summary of responses on the effectiveness of records retrieval and tracking systems used in registries and 'record centres'. When asked whether it was

easy to retrieve active records from court registries results showed that 79.1% of the respondents were of the view that it was easy to retrieve active records, 18.6% were of the view that it was a difficult task and 2.3% of the respondents were not sure.

The researcher observed that 'in-coming registers' were used as records retrieval tools for locating and retrieving court files from the cabinets. The researcher also observed that out-going registers in the court registries were also used as record tracking tools. The use of in-coming and out-going registers was found to be cumbersome, ineffective and time consuming.

Results from the focus group discussion with registry supervisors revealed that active case files were sometimes kept longer than was necessary by those who borrowed them and it was often difficult to trace the whereabouts of such files especially if they were moved to several locations or offices within the court system.

When asked whether it was easy to track active case files 69.8% of the respondents were of the opinion that it was sometimes difficult to track active case files, 23.2% were of the view that it was not difficult to track active case files and 7% were not sure.

When asked whether it was easy to track closed case files 76.7% of the respondents were of the view that it was sometimes difficult to track closed case files, 16.3% of the respondents reported finding no difficulties to track closed court files while 7% were not sure.

Results from focus group discussions with registry supervisors showed that it was almost impossible to locate and retrieve closed case files because there were no provisions or systems (at the time of the study) for managing closed case files in court registries. The files were simply kept in store rooms on floors at the Subordinate, High and Supreme Courts (See figure 6 below).

Figure 6: Bundles of closed case files piled up on the floor in a store room at the Lusaka High Court.



Figure 6 shows how files were heaped on top of each other in store rooms without any formal of arrangement. The researcher also observed that there were a few copies of the records management manual in court registries and as a result only a few registry clerks have used the manual in their work. The researcher also observed that the manuals were not comprehensive and put more emphasis on the management of paper records and excluded the management of electronic records.

4.6.3 Managing closed case files

The researcher observed that procedures in appraising records and moving closed case files from court registries to secondary storage areas were neither clear nor consistent. Records were simply packed in boxes or tied into bundles and taken to whatever room (Including holding cells as shown in Figure 7 below) was available within the court premises. The researcher also observed that closed files sent to secondary storage were neither accessioned nor allocated location numbers.

Figure 7: A holding cell at the Lusaka High Court used for the storage of closed case files in the Lusaka High Court



Figure 7 shows files closed case files in one of the holding cells at the High Court Building.

Figure 8: Sorted closed case files in a High Court store room



Figure 8 shows files in a store room tied together and labelled for identification. The files were sorted out waiting to be moved to the new records centre (Shown in Figure 3 above).

Figure 9: Closed case files piled on to top of each other in one of the High Court store rooms.



Figure 9 shows closed case files in one of the High Court store rooms. The files have been kept like this for more than four years.

4.6.4 Responsibility in managing court records

Observations by the researcher showed that no one in the court registries was directly responsible for the management of semi-active and inactive files in the store rooms. At the Subordinate Court the researcher observed that convicts (Commonly referred to as 'members of the community' by court staff) from the nearby Lusaka Central Prison were used to search for closed case files (as part of 'doing hard labour') in the store room used for storing closed case files. After such searches files were never returned to their respective bundles but instead left scattered all over the floor.

The researcher observed that records retention and disposal guidelines were none existent at court registries. This meant that registry employees were more or less at 'liberty' to destroy records they deemed to be 'un important'.

4.7 Records management staff

Findings from the 2009 Establishment register and 2010 Judiciary payroll register showed that the hierarchy of records management staff included the Chief Registry Officer as the most senior official followed by the Senior Registry Officer, Registry Officers, Assistant Registry Officers and Registry Clerks. Registry Clerks reported directly to Assistant Registry Officers also known as Registry Supervisors. Findings on records management hierarchy and staffing levels were derived from the 2009 Establishment register and the current Judiciary payroll register.

Table 7: A summary of records management staff in the Judiciary of Zambia

Officers	Establishment	Actual	Variance
Chief Registry Officer	1	1	0
Senior Registry Officer	1	0	-1
Registry Officer	10	4	-6
Assistant Registry Officer	5	5	0
Total	17	10	-7

Table 7 shows staffing levels of positions for the Chief Registry Officer, Senior Registry Officer, Registry Officers and Assistant Registry Officers in the Judiciary. The establishment register showed that while the positions of the Chief Registry Officer and Assistant Registry Officers were filled, positions of the Senior Registry Officer and six of Registry Officers were indicated as vacant in the establishment register at the time the research was being conducted.

Table 8: Registry clerks staffing levels in court registries in Lusaka.

Registry	Establishment	Actual	Variance
Subordinate court registries			
Civil	7	14	(+7)
Criminal	7	14	(+7)
High Court registries			
Civil	3	7	(+4)
Criminal	3	7	(+4)
Commercial	2	6	(+4)
Supreme Court registries	6	6	0
Total	28	54	+26

Source: GRZ (2010). Establishment register. Lusaka: Government Printers.

Table 8 depicts staffing level derived from the 2009 Government Establishment Register and the 2010 Judiciary payroll register. Research findings (Derived from the 2009 Government Establishment Register and the 2010 Judiciary payroll register) showed that at the Subordinate Courts the civil court registry had a staff establishment for seven (7) registry clerks, and the actual number of registry clerks was fourteen (14). The criminal court registry had an establishment of seven (7) registry clerks and the actual number of registry clerks was fourteen (14). These figures gave positive variances of seven (7) for both the civil and criminal registries at the Subordinate Court registries (Government of the Republic of Zambia, 2010:34).

At the High Court the civil registry had a staff establishment of three (3) registry clerks and the actual number of registry clerks was seven (7). The criminal court registry had an establishment of three (3) registry clerks and the actual number of clerks was nine.

These figures gave positive variances of four and six respectively for the two registries. The Supreme Court registry had a staff establishment of six (6) registry clerks and the actual number of registry clerks was six (6).

4.8 Satisfaction levels with work context factors

4.81 Levels of satisfaction with inter-worker cooperation

When respondents were asked about whether they were satisfied with inter-worker cooperation aggregate results showed 86% of respondents were generally satisfied, 9.3% of the participants said they were dissatisfied and 4.7% were undecided.

When respondents were asked about whether they were satisfied with their worker-supervisor cooperation 56.0% of the respondents said they were generally satisfied in their cooperation with their supervisors, 30.0% were dissatisfied and 14% of the respondents did not state their opinions.

Table 9: Levels of satisfaction with inter-worker and worker-supervisor cooperation

Variables & Responses	Frequency	Percent
Inter-worker cooperation		
Very satisfied	9	20.9%
Satisfied	28	65.1%
Not sure	2	4.7%
Dissatisfied	4	9.3%
Very dissatisfied	0	0%
Total	43	100%
Worker-supervisor cooperation		
Very satisfied	7	16.0%
Satisfied	17	40.0%
Not sure	6	14.0%
Dissatisfied	7	16.0%
Very dissatisfied	6	14.0%
Total	43	100%

Table 9 shows results on respondents' satisfaction with inter-worker and worker supervisor cooperation at the work place.

4.8.2 Levels of satisfaction with salary and fringe benefits

When respondents were asked about their satisfaction with salary and fringe benefits the majority of the respondents (86.0%) reported that they were not satisfied, 9.3% were satisfied and 4.7% were not sure.

Table 10: Levels of satisfaction with salary and fringe benefits

Variable & Responses	Frequency	Percent
Salary and fringe benefits		
Very satisfied	0	0%
Satisfied	4	9.3%
Not sure	2	4.7%
Dissatisfied	28	65.0%
Very dissatisfied	9	21.0%
Total	43	100%

Table 10 shows results on registry staff's satisfaction with salary and fringe benefits.

4.8.3 Levels of satisfaction with job security

When asked about their job security aggregate results showed that 58% of the respondents were not satisfied with their job tenure or security, 21% reported satisfaction with their job security and 21% of the respondents were not sure.

Table 11: Levels of satisfaction with job security

Variable & Responses	Frequency	Percent
Job security		
Very satisfied	1	2.0%
Satisfied	8	19.0%
Not sure	9	21.0%
Dissatisfied	13	30.0%
Very dissatisfied	12	28.0%
Total	43	100%

Table 11 shows results on registry staff's satisfaction with their job security.

4.8.4 Levels of satisfaction with prospects for promotion and in-service training

When respondents were asked about satisfaction with prospects for promotion in the Judiciary 69.7% of the respondents indicated that they were generally not satisfied, 7% reported satisfaction with prospects for promotion while 23.3% were unsure about such prospects.

When asked about the prospects for in-service training in the Judiciary 65.1% of the respondents were dissatisfied with in-service training in the Judiciary, 9.3% were satisfied and 25.6% were not sure.

Table 12: Levels of satisfaction with prospects for promotion and in-service training

Variables & Responses	Frequency	Percent
Prospects for promotion		
Very satisfied	1	2.3%
Satisfied	2	4.7%
Not sure	10	23.3%
Dissatisfied	21	48.8%
Very dissatisfied	9	20.9%
Total	43	100%
In-service training		
Very satisfied	4	9.3%
Satisfied	0	0%
Not sure	11	25.6%
Dissatisfied	19	44.2%
Very dissatisfied	9	20.9%
Total	43	100%

Table 12 shows results on respondents' satisfaction with prospects for promotion and in-service training in records management.

4.9 Risks in managing court records

4.9.1 Storage of active and closed case files

When asked whether active and closed case files were stored together in court registries 88.4% of the respondents reported that active and closed case files were often kept together in court registries, 6.9% were of the opinion that they were never kept together while 4.7% were not sure how active and semi-active records were kept.

Table 13: Storage of active and closed case files in registries

Responses	Frequency	Percent
Yes	38	88.4%
No	3	6.9%
Not sure	2	4.7%
Total	43	100%

Table 13 shows responses to whether active and closed case files were kept together in court registries. Observations by the researcher showed that courts of law lacked purpose-built registries. For example, the court registries did not have fire sensors, humidity checking equipment, and overhead water sprinklers among others.

4.9.2 Misfiling of court records

When asked whether court records were often misfiled, a significant 54% of the respondents were of the opinion that it was common to misfile court records, 39.5% were doubtful and 7% of the respondents were not sure.

Table 14: Misfiling of court records

Responses	Frequency	Percent
Strongly agree	5	12.0%
Agree	18	42.0%
Not sure	3	7.0%
Disagree	13	30.0%
Strongly disagree	4	9.0%
Total	43	100%

Table 14 shows results on perceptions about misfiling of records in court registries by registry staff.

4.9.3 Misplacement of court records

When asked whether court records were often misplaced in court registries significant aggregate results (56%) of the respondents were in agreement that records were often misplaced, 33% were in total disagreement and 11% of the respondents were not sure

whether records were often misplaced in court registries or not.

Table 15: Misplacement of court records

Responses	Frequency	Percent
Strongly agree	6	14.0%
Agree	18	42.0%
Not sure	5	11.0%
Disagree	12	28.0%
Strongly disagree	2	5.0%
Total	43	100%

Table 15 represents responses on court records misplacement at court registries.

4.9.4 Theft of court records

When asked about the extent of court records being lost as a result of theft in court registries a significant 51.1% of the respondents were in agreement that court records often got lost through thefts, 41.9% disputed these assertions and 7% were not sure.

Table 16: Theft of court records

Responses	Frequency	Percent
Strongly agree	5	11.6%
Agree	17	39.5%
Not sure	3	7.0%
Disagree	15	34.9%
Strongly disagree	3	7.0%
Total	43	100%

Table 16 shows results on responses on theft or missing of court case files in court registries.

4.9.5 Vandalism of court records

Table 17: Vandalism of court records

Responses	Frequency	Percent
Strongly agree	6	14.0%
Agree	17	39.5%
Not sure	6	14.0%
Disagree	13	30.2%
Strongly disagree	1	2.3%
Total	43	100%

Table 17 shows results on perceptions about vandalism of court records in court registries. When asked about deliberate mutilations or vandalism of records in court registries 53.5% (strongly agreed and agreed) of the respondents reported that it was quite common to find court records that were mutilated or vandalized, 32.5% (disagreed and strongly disagreed) of the respondents were in disagreement with the claim that court records were often deliberately vandalized while 14% were not sure.

4.9.6 Disaster preparedness

In a face-to-face interview the researcher was informed by the Senior Administrative Officer that the Judiciary had neither a policy nor programme on disaster preparedness. The researcher observed that air conditioners were recently installed in registries to control fluctuations in temperature. However, it was found that all registries lacked humidity, fire and water detecting systems. In other words, active as well as closed case files were not adequately protected from hazards such as fire, floods and humidity as well as to everyday threats such as mould, rats and roaches, dust, dampness and vandalism because of the poor handling and unsuitable environments under which the records were stored.

The researcher also observed that court registries did not appraise their records in order to identify records that were vital and those which were none essential and destined for

permanent destruction. Apart from the principal registry none of the court registries made duplicate copies (the Principal/Civil registry distributes copies to the appellant and respondents lawyers) at the time records were created.

The researcher also observed that court registries did not migrate, microfilm, kept vital records in safe facilities such as vaults (at onsite or offsite facilities) or transfer court records to the National Archives of Zambia Records Centre for permanent storage purposes.

4.9.7 Funding to court registries

The researcher was informed that the records management improvement projects at the courts of law registries were funded by the Danish Government. It was difficult to ascertain from the Judiciary budget how much was allocated to court registries.

Table 18: Judiciary and courts of law annual budgets (2008, 2009 & 2010)

Court	2008	2009	2010
Headquarters	K 41.3bn	K42.5bn	K41.1bn
Supreme Court	K3.0bn	K 4.6bn	K2.7bn
High Court	K3.5bn	K3.2bn	K3.3bn
Subordinate Court	K4.6bn	K4.4bn	K4.6bn
Totals	K52.4bn	K54.7bn	K51.7bn

Source: Derived from the Appropriation Act of Zambia (2008, 2009 & 2010).

Table 18 depicts summary Judiciary budgets for the period 2008 to 2010. Research findings showed that in 2009 the Judiciary headquarters had an increase in budget allocation (K54.7 Billion) compared to budgets in 2008 and 2010 (K52.4 Billion and K51.7 Billion respectively). In the same year (2009) the Supreme Court had an increase in budget allocation of K4.6 Billion compared to those in 2008 and 2010 (K3 Billion and K2.7 Billion respectively). On the other hand the Lusaka High Court saw a budget decline in 2009 (K3.2 Billion) and a slight increase in 2010 (K3.3 Billion). The Lusaka Subordinate Court had favourable budgets in 2008 (K4.6 Billion) and 2010 (K4.6 Billion)

compared to that of 2009 (K4.4 Billion). The study also found out that while budget estimates for the registries were included in the main budgets for the courts, disbursement of the funds to registries were said to be often erratic and inadequate. Therefore, it was difficult to accurately determine how much registries received from the annual budgets.

4.9.8 Technology: digitisation of court records

When respondents were asked whether computerization of some court processes would improve the records management at court registries 62.8% of respondents were confident that computerisation of some court processes would improve records management in court registries, 5% disagreed, 28% were not sure and 5% did not state their opinion.

Table 19: Digitisation/computerization of records management in court registries

Responses	Frequency	Percent
Yes	27	62%
No	2	5%
Not sure	12	28%
No response	2	5%
Total	43	100%

Table 19 (above) portrays responses on the benefits that would be derived from computerization of some court processes. The researcher's observations were that manual systems were used in locating, retrieving, and tracking court records. Computers were merely used for word processing in court registries.

Table 20: Computer literacy among registry clerks

Responses	Frequency	Percent
Advanced	7	16.3%
Intermediate	7	16.3%
Beginner	13	30.2%
None	16	37.2%
Total	43	100%

Table 20 (above) illustrates results on responses to computer proficiency among registry clerks. When asked about the level of computer literacy among registry clerks findings showed that on aggregate a very significant 62.8% of registry clerks were computer literate (with 16.3% at advanced level, 16.3% at intermediate level and 30.2% at beginners' level) while 37.2% of the respondents indicated that they were not computer literate.

4.9.9 Reputation risks: perceptions about bribery in the court registries

When asked about the prevalence of bribery in court registries aggregate results showed that a significant number of respondents (55.8%) were in agreement that bribery in court registries was rampant, 25.5% of the respondents were in disagreement, while 18.6% were not sure.

Table 21: Bribery in court registries

Variable & Responses	Frequency	Percent
Bribery in court registries		
Strongly agree	12	27.9%
Agree	12	27.9%
Not sure	8	18.6%
Disagree	5	11.6%
Strongly disagree	6	14.0%
Total	43	100%
Bribe taking among clerks		
Strongly agree	12	27.9%
Agree	16	37.2%
Not sure	14	32.6%
Disagree	1	2.3%
Strongly disagree	0	0%
Total	43	100%

Table 21 shows responses to perceived acts of bribery at court registries and the involvement of registry clerks in bribery.

When asked whether registry clerks were involved in bribery, results showed that on aggregate 65.1% of the respondents were of the opinion that registry clerks participated in acts of bribery, 2.3% were in disagreement while 32.6% were not sure.

Table 22: Extent of involvement in bribery

Responses	Frequency	Percent
Clerks soliciting for bribes		
Yes	23	54%
No	12	27%
Not sure	8	19%
Total	43	100%
Litigants bribing registry clerks		
Yes	14	32.6%
No	16	37.2%
Not sure	13	30.2%
Total	43	100%
Lawyers bribing registry clerks		
Yes	14	32.6%
No	16	37.2%
Not sure	13	30.2%
Total	43	100%

Table 22 (above) shows results on responses to perceived acts of bribery at court registries among registry clerks, litigants and lawyers representing clients. When respondents were asked whether some litigants conspired with registry clerks to engage in acts of bribery research results showed that 33.0% of respondents were of the view that it was true litigants often enticed registry clerks to engage in acts of bribery, 37% disagreed and 30.0% were not sure.

When asked whether some lawyers took part in bribery research results showed that 32.6% of the respondents were of the opinion that lawyers were involved in acts of bribery at court registries, 37.2% disagreed and 30.2% were not sure.

4.9.10 Perceptions about public confidence in the courts of law

When research respondents were asked about their opinion on the public's confidence in the courts of law, a significant 53% were of the view that the public had confidence in the courts of law, 12% of the respondents were of the opinion that the public had no confidence in the courts of law and 35% were not sure.

Table 23: Public confidence in the courts of law

Variable and responses	Frequency	Percent
Public confidence in the courts of law		
Yes	23	53%
No	5	12%
Not sure	15	35%
Total	43	100%

Table 23 shows responses on respondents' perception about the public's confidence in the courts of law.

4.9.11 Risk mitigating measures

When asked whether punitive measures would help to deter those involved in acts of bribery in court registries, 53.5% of respondents reported that punitive measures would help in minimizing bribery in court registries, 18.6% were in disagreement while 27.9% were not sure.

Table 24 (below) shows responses to internal mitigation and codes of conduct as means for curbing risks in court records management. When asked whether the introduction of codes of conduct for registry staff would help to reduce incidences of bribery in court registries, 58.1% of the respondents were in agreement, 9.3% disagreed while 32.6% were not sure.

Table 24: Internal risk mitigation measures

Variable and response	Frequency	Percent
Punitive measures		
Yes	23	53.5
No	8	18.6
Not sure	12	27.9
Total	43	100%
Code of conduct		
Yes	25	58.1
No	4	9.3
Not sure	14	32.6
Total	43	100%

4.10 Summary of research findings

1. Registry clerks recognised the importance of the records management function in the process of accessing justice in courts of law.
2. Records management Infrastructure and facilities development do not match the rapid developments in modern records management.
3. Court registries have failed to comply with records management requirements as stipulated in the National Archives Act of Zambia, the Judiciary does not have a policy on records management, and it has failed to implement recognised international records management standards at its court registries.
4. Court registries were found to be over staffed, for example, actual levels in registries were found to be higher than those indicated in the establishment register. Registry staff were found to be inadequately trained in records management. The Judiciary lacks a clear policy in-service training.
5. Registry clerks were satisfied with worker cooperation but generally dissatisfied with other work context factors such as salary and fringe benefits, job security, the job, promotion, and in-services training.
6. Court registries were exposed to both administrative/operational and reputation risks in managing courts records.

CHAPTER 5

DISCUSSION AND INTERPRETATION OF FINDINGS

5.0 Overview

Chapter five discusses the research findings based on a general assessment of records management in the courts of law registries in Lusaka. The issues under discussion include the contribution of records management in the process of accessing justice at courts of law; infrastructure and storage facilities used in managing court records, court registries' compliance with the National Archives Act, compliance with institutional and national records management policies and compliance with records management standards; staffing levels in court registries, employee satisfaction with work context factors; and risk factors in managing court records.

5.1 Records management and access to justice

Research findings showed that registry clerks understood and appreciated courts of law registries' contribution towards access to justice at courts of law. Court registries facilitated and controlled the creation, use, storage, retrieval and dissemination of court records within the court system. The importance of records management in courts of law has been amplified by Motsaathebe and Mnjama (2007:176) who have argued that if legal records were not created, maintained and made accessible, citizens might be unable to enforce their rights and consequently justice would be denied. Therefore, the sections that follow assess the role played by records management in the process of accessing justice at courts of law and also look at some of the factors that might enhance or hinder this process.

5.2 Records management infrastructure and facilities development

In relation to infrastructure and records storage facilities research findings showed that courts of law neither had records centres nor storage equipment suitable for the management and storage of semi-active and inactive court files. The general lack of

records centre infrastructure has resulted in a perennial shortage of storage facilities, exposure of court records to hazards including natural disasters, and has contributed to records congestion in registries. Therefore, it was inevitable that purpose-built record centres should be established in all the courts of law if these problems are to be minimised or even eradicated. Other similar studies have also indicated the dangers of lacking purpose-built registries or record centres. For example, in their study Motsaathebe and Mnjama (2007:178) reported a fire at Mahalapye Magistrates Court in Botswana in which all court records were destroyed in 2004 because the court registries were not designed for the purpose of protecting court records from disasters such as fire.

Even though registries were recently installed with new records storage facilities research findings showed that the new records storage equipment were not suitable for the storage of 'legal size' record files. This was indicative of the Judiciary's failure to have taken into account the size of the file jackets when they gave design specifications for storage equipment to the manufacturers or supplier. The consequence has been that legal size files could not fit properly into the shelf slots designed to hold A4 files and as a result they tended to get torn at the edges thereby giving the files a ragged appearance and caused damage to the court records. Secondly, because of the wrong design specifications registries would be forced to replace the legal file jackets with A4 file jackets at a cost. In their study Motsaathebe and Mnjama (2007:183) came across similar findings and noted that in the case of the Botswana High Court registry the metal cabinets were un lockable and thereby compromised the security and preservation of the court records.

5.3 Compliance with the National Archives Act

Even though the Laws of Zambia have provision for legislation on records management an examination of the National Archives Act has shown that it has not been updated since 1994 (National Archives Act, 1995). The delay in updating the Act has, among other things, resulted in records in electronic media to be excluded from the National Archives Act. The implication of this omission might have been misunderstood by court

registry staff to mean that they were ‘not compelled’ by law to manage electronic records. It also appears that failure to update legislation is a ‘regional disease’ that has afflicted many countries. In his study Mnjama (2005:464) mentioned that in the Eastern, Central and Southern region of Africa, it was only Tanzania and Uganda who had enacted new legislation that compelled institutions to manage records in all media and formats from the time of creation to their ultimate disposition.

5.4 Compliance with records management policy

In terms of compliance with records management policy, research findings showed that there were no written policies at national or institutional level concerning records management. Similarly, Motsaathebe and Mnjama (2007:187) revealed that Botswana did not have a national policy for court records management. The study findings imply that courts of law were not guided or compelled by national or institutional policy in establishing and implementing desired records management practices. Secondly, there is a danger that, due to lack of records management policy, court registries could regard court records as ‘not important’ assets to the nation and the Judiciary. Thirdly, it was most likely that the lack of records management policy might perpetuate bad records management practices in court registries. Given the research findings, the Judiciary should consider establishing a records management policy that would give guidance in records management to the courts of law.

5.5 Compliance with records management standards

In addition to the lack of records management policy, research findings have also shown that court registries did not apply established records management standards. In contrast to the *Zambian* situation, Mnjama (2005:461) found that Botswana had witnessed a growing demand for compliance with ISO 15489 in records management in all sectors including the Judiciary. The research findings indicated that the courts’ failure to apply recognised records management standards might explain some of the bad aspects of records management in court registries. For instance, there is no doubt that the courts’ failure to apply standard procedures in records management (such as

records appraisal, retention and disposal of records, management of semi-active and inactive records) had contributed to bad records management in court registries. Therefore, there is need for the Judiciary to introduce and adopt some of the renowned international records management standards for its courts of law. But then, how can court registries hasten compliance with records management standards? Kashweka (2008:21) reasoned that the answer to conformity with records management standards (in Zambia) could only be achieved through the introduction of legislation that would compel public institutions to manage their records in accordance with established records management standards.

5.5.1 Records filing classification

One of the most important records management practices examined by the study was how court registries classified their court records. Research findings showed that all the court of law registries used a similar alphanumeric filing classification system for the court case files. For example, case files were classified and shelved according to the year the cases were initiated and then alphabetically by either name of the contending parties. However, there was a likelihood that alphabetical filing classification system (for example, arranging case files chronologically by year and alphabetically by name) would expose court case files to security risks because a person can directly locate a file from the shelves by simply following the alphabetic arrangement of files. For that reason, the Judiciary should consider changing the filing system from one based on the year and alphabetical arrangement to a numeric based coding system in order to enhance the security of case files in registries. Similarly, Motsaathebe and Mnjama (2007:180) in their study found out that the High Court registry in Botswana used the alphanumeric file classification system which they felt did not enhance the security of court records.

5.5.2 Records tracking

Despite the fact that courts of law have been in existence for a long time, research findings showed that court registries still lacked appropriate file or records tracking

systems. Inadequacies in the records tracking systems in court registries meant that registry staff encountered difficulties in locating case files charged out of the registries at any given time. The situation has been made worse when it comes to tracking closed case files because of the lack of most basic tracking systems in registries or 'store rooms'. Therefore, it was most likely that the failure to track and locate charged out files has often resulted in courts failing to proceed with some appeal cases or cases before courts of law thereby causing adjournments and increased backlog of court cases. In their study, Motsaathebe and Mnjama (2007:173) mentioned that in the Botswana High Court sometimes court cases would not be sent for trial because files were either misplaced or lost due to the failure to properly document file movements from the registries to court officials. Similarly, Wamukoya (2007:19) observed that records tracking systems, applied to records management in African countries, were often outdated and inconsistent with modern systems of managing records.

5.5.3 Records transfer procedures

Research findings showed that court registries did not have clear procedures in transferring closed case files (by documenting or listing records that were transferred to other storage areas within the court premises) from registries to secondary storage areas such as store rooms. Similarly, Motsaathebe and Mnjama (2007:183) in their research findings mentioned that the High Court of Botswana did not have a records transfer system and that in most cases closed case files were simply removed from registries without following any procedure and dumped on top of filing cabinets or left lying scattered all over the floor in store rooms. Therefore, study findings assume that there was a likelihood that accidental removals or transfer of active court case files might have occurred where such movements were not properly recorded in the court registries. Secondly, failure to document case file movements might have resulted in the misplacement of the case files or records. Thirdly, lack of guidance on decisions to transfer or move closed case files or records from registries might have contributed to the congestion seen in most court registries because closed case files had continued to

occupy storage space meant for active files. It was, therefore, imperative that court registries took measures to establish procedures for the appraisal and transfer of closed case files from registries to designated secondary storage areas, for permanent disposal, or transfer to the National Archives as stated National Archives Act.

In addition to the failure to document the movement of closed case files from registries to secondary storage areas, research findings showed that courts of law did not have strategies for managing closed case files after they have been removed from registries. There was a strong possibility that the lack of strategy to properly manage closed case files could have also contributed to the congestion that had built up in court registries and the cost associated with storing closed case files in registries (For example, more records storage equipment would be required to accommodate both active and closed case files). Therefore, there was need for court registries to keep active and closed case files in separate rooms in order to minimise the congestion in registries and to reduce the cost of storing closed case files. Thurston (2007:190) mentioned that most African countries practiced bad records management and that the absence of good records management systems often slowed down information flow and caused records to pile up in offices, corridors, store rooms and registries.

5.5.4 Records retention and disposal

Another area of concern the research looked at was that of retention and disposal of closed case files or records at courts of law. Research findings showed that the court registries did not apply retention and disposal procedures in managing court records. The lack of records retention and disposal procedures is indicative of the nonexistent policy on records retention and disposal in the Judiciary as a whole and the courts of law registries in particular. From the research findings we might deduce that the failure to apply retention procedures in managing court records and the lack of retention policy would more often than not result in premature disposals of court records deemed to be of 'no value'. Given such a scenario it was crucial that the Judiciary came up with a regulatory policy on the retention and disposal of records as part of the records

preservation programme. In a similar study, Motsaathebe and Mnjama (2007:185) noted that due to lack of records management policy the High Court in Botswana had run out of storage space because it had chosen to retain all the court records it created. Similarly, Schrinel (1983:106) mentioned that many courts of law experienced serious records management problems because of severe limitations of available space resulting primarily from an accumulation of old records that had little value to current operations. Schrinel also argued that the accumulation of records existed, in part, because many courts followed policies of saving everything rather than selectively disposing of records.

Much as the court registries had failed to apply retention procedures or the lack of policy on records retention in managing court records, research findings showed that the National Archives of Zambia (NAZ) were partly to blame for the bad records management experienced by courts of law registries. From the findings we might reason that the National Archives of Zambia had failed to uphold its mandate in guiding good records management practices in public institutions. But then, what could be the reasons behind NAZ's failure to assist public institutions in managing their records? Some of the reasons for NAZ's failure could be gleaned from other researches on the subject. For instance, Motsaathebe and Mnjama (2007:185) in their research found out that congestion in the Botswana High Court registries had been worsened by the refusal of the Botswana National Archives and Records Service to accept new consignments of records from the High Court, citing among other reasons, because of cost implications. Similarly, Abioye (2007:58) blamed the failure by most government agencies mandated to manage the nations' records and archives partly because many African governments chose to place national archives institutions under the supervision of ministries (In the case of NAZ it is supervised by the Ministry of Home Affairs) whose functions had nothing to do with records or archives management. In his research Kashweka (2008:21) suggested that some of the inadequacies exhibited by the National Archives of Zambia were a result of the institution's lack of empowerment to enable it extend its

services to public institutions (such as the Judiciary). Similarly, Hamooya (2009:66) attributed the National Archives of Zambia's failure to help public institutions manage their records to the sheer task of going around the country collecting records and the substantial input required in terms of manpower, transportation, and finance. In addition Hamooya blamed government ministries and agencies' reluctance to transfer records (presumably because of distance and transfer costs) to designated NAZ record centres.

5.5.5 Best records management practices: records manual

The research examined the availability of records management guides and manuals. Research findings showed that although records management manuals were available in the court registries very few registry clerks had access to them. The lack of access to records management manuals would force new registry employees to depend on the experience of veteran registry staff in implementing records management in court registries. As a result there were possibilities that new employees might end up picking bad records management practices in the process. Secondly, access to records management manuals would help new employees to grasp basic records management practices. Thirdly, records management manuals would be useful reference sources for inexperienced registry staff. Lastly, the lack of records management manual might lead to inconsistencies and irregularities in the management practices of registry staff.

5.6 Staffing levels in registries: quantity

The research also sought to examine aspects of the quantity and quality of registry clerks. Research findings showed that staffing levels in court registries were inadequate. For instance, the establishment register showed that there were 28 positions for registry clerks in the Supreme, High and Subordinate Courts. However the actual number of registry clerks in the three courts was 54 (showing a positive variance of 48%). Therefore the research results indicated that the court registries might be overstaffed going by government establishment register. All things being equal, understaffing in registries could have meant that employees were worked, stress, high levels of absenteeism, poor performance, and loss of interest in work.

5.7 In-service training in records management: quality

Research results showed that the quality of registry staff might have been compromised by the lack of in-service training in records management. The lack of in-service training among court registry clerks might have contributed to poor service delivery in courts of law registries.

In their study Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:68) found out that while in-service training programme for the adjudicative personnel (Court Magistrates and Judges) were well coordinated that of support staff (including registry staff) were not. Similarly, Kemoni and Ngulube (2008: 303) attributed the bad state of records management in public institutions to inadequate staffing and lack of in-service training. Similarly, findings by Githaka (1996:7) also showed that the quality of staff was one of the constraints that hampered the development of records management programmes in most public institutions.

5.8 Staff satisfaction with work context factors

Some of the key records management issues the research assessed involved the levels of registry clerks' satisfaction with work context factors and how they might have affected the records management function in the courts of law. The work context factors examined included cooperation among employees, wages and other fringe benefits, job tenure or job security, the job itself, job promotions and in-service training. Dissatisfaction with work context factors might have affected registry clerks' overall job satisfaction.

5.8.1 Satisfaction with worker co-operation

According to the research findings (on inter-worker and worker-supervisor cooperation) registry clerks were generally satisfied with inter-worker cooperation as well as worker-supervisor cooperation or interactions at work. These findings signified the presence of team work and trust among registry clerks and their immediate supervisors. In their study, Koh and Ten (1998:35) pointed out that part of the satisfaction of being employed

was the social contact the job brings. Similarly, Syptak (1999:26) affirmed that employees who were allowed a reasonable amount of time to socialise helped them to develop a sense of belonging and team work.

5.8.2 Satisfaction with wage and fringe benefits

With regard to wages and fringe benefits, research findings showed that registry clerks were generally dissatisfied with their wages and fringe benefits. Research results also showed that registry clerks perceived themselves as being among the least paid employees in the Judiciary. One of the implications of the research findings was that registry clerks' might perceive their 'low' wages (in comparison to that of other colleagues at the same level in the judiciary) as an indication that their work contribution was not appreciated by the Judiciary. In their study Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:66) reiterated that while conditions of service for senior judiciary staff had improved in recent years those for administrative personnel (including registry clerks) had stagnated resulting in many employees perceiving the Judiciary as just a stepping stone to better work opportunities and conditions elsewhere.

5.8.3 Satisfaction with job security

One of the most important factors examined by the study was registry clerks' perception of job security in the Judiciary. Research findings showed that registry clerks were generally dissatisfied with job security. Perceptions about job insecurity might affect registry clerks motivation and happiness.

Research findings also seem to suggest that the judiciary had found problems in filling up some vacant senior positions in the records management hierarchy (See Table 8 in Chapter 4). Perhaps this might be indicative of perceived job insecurity in records management in the Judiciary. For instance, in a similar research by Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:65) it was noted that although three quarters of the positions in the Judiciary were filled, there were difficulties in filling up vacant administrative positions (including those in the records management hierarchy).

5.8.4 Satisfaction with the job

The research also sought to find out how registry clerks perceived registry work in general. Research results showed that some registry clerks despised working as registry clerks. The dislike or resentment for registry work might have emanated from employee 'reshuffles' in the courts of law in which clerks were often moved from one section in the courts of law to another. Dislike for registry jobs might have been a result of the registry clerks finding registry work boring and stressful.

In their study Leka, Griffiths and Cox (2003:5) found out that in situations where job resentments were present, work related stresses were bound to increase especially if workers perceived job contents as being monotonous, under stimulating, meaningless tasks and lacking variety. In addition Bryson (2011:175) observed that job related stress might be minimised by job enrichment in which emphasis was placed on the allocation of increased autonomy and responsibility for work outcomes.

5.8.5 Satisfaction with prospects for promotion

The research considered staff promotion and in-service training as important factors in staff motivation. Research findings showed that registry clerks were generally dissatisfied with prospects for promotion. There were fewer prospects for registry clerks in the hierarchy as all the positions of registry assistants are filled. However, the higher positions have remained vacant for a long time. In their study Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:66) alluded to the research findings and reported that while the career ladder for the adjudicative personnel (Judges and other senior personnel) were reasonably well established those of administrative staff (including registry clerks) were not.

5.8.6 Satisfaction with prospects for in-service training

Research findings showed that registry clerks were not satisfied with prospects of being sent for high training in records management or related subjects. In their study Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:66) pointed out that training programmes for

the adjudicative personnel (Judges and other senior personnel in the Judiciary of Zambia) were reasonably well established those of administrative staff (including registry staff) were not. The lack of training among registry staff might affect service delivery in the court registries. Similarly, Motsaathebe and Mnjama (2007:173) attributed poor records management at the High Court of Botswana to lack of training for records management staff. Motsaathebe and Mnjama added that effective and efficient records management could only be achieved through the use of dedicated and trained staff.

5.9 Operational / administrative risks

5.9.1 Infrastructure development and records storage facilities

Research findings (see 4.9 and Table 13 in Chapter 4) showed that court registries often stored active, semi-active and inactive records together due to lack of record centres and storage shelves. The lack of records control in registries has to a greater extent contributed to congestion, difficulties in retrieving documents and information from registries and cost implications in terms of storage equipment. For example, as the volume of records grows the need for more space and storage equipment (shelves) also grows. In a similar study Motsaathebe and Mnjama (2007:183) observed that the shelves in the Botswana High Court registries were often crowded with active and semi-active records which often resulted in the retrieval of records and information from court registries slow and time consuming. Schrinel (1983:106) reasoned that the success or failure of nearly every court function (such as court case processing or administration) was evidenced by the proper or improper control of its records.

5.9.2 Misfiling, misplacement, theft and vandalism of court records

Research findings (see 4.9 and Tables 14,15,16 and 17 in Chapter 4) showed significant results on registry staff's perceptions that court records were often misfiled, misplaced, stolen and or vandalised. These incidences could be attributed to poor records control in registries. It is also highly likely that these incidences might have

contributed to premature case adjournments, delays or even discontinuations thereby denying justice to the public. Wamukoya (2007:15) alluded to the research findings and mentioned that operational risks were a consequence of the loss of vital records, misplacement of records, wilful or accidental destruction, deterioration through careless handling or bad storage and all kinds of disasters. Similarly, Musembi (2005:1) argued that poor records management at courts of law had often resulted in compromised administration of justice in the courts of law.

5.9.3 Poor handling of closed court records

Research findings (see 4.6 in Chapter 4) showed that the courts of law did not have clear procedures in managing semi-active and inactive courts records. The findings also showed that records retention and disposal schedules were none existent at courts of law. This meant that registry employees were more or less at 'liberty' to destroy records they deemed to be 'un important'. There is a clear danger that vital court records might have been lost or destroyed in the process due to lack of records appraisal procedures. For example, the records retention schedules would have provided guidance in determining persons to sanction the retention or disposal of records, the records to be retained or disposed off, methods to be used in disposing records and durations for records retention in registries and record centres.

5.9.4 Compliance related risks

The failure to regularly review the National Archives Act has led to the exclusion of electronic records from the Act thereby contributing to risk in managing court records. For example, as a result of the exclusion, courts of law registries could be said to be technically not compelled by law to manage such records. Regulatory risk also arose from registry staff's ignorance with records transfer procedures and un familiarity with the National Archives Act. The National Archives of Zambia's failure to provide guidance in records management had contributed to the risk of keeping ephemeral records for fear of destroying 'important documents'. This led to the reduction in storage space and

congestion seen in registries and store rooms. In addition important court records were accidentally and permanently destroyed in the process of trying to create more storage space in registries and store rooms.

Lack of policy at national and institutional level has led to increased risk in the management of court records. For instance, lack of records management policy in the Judiciary might be misunderstood by registry staff to mean that once a court case has been the court records were no longer useful and could therefore be disposed off. The absence of records management policy in the courts of law might also have led to the lack of accountability among the registry staff in as far as management of court records was concerned. For example, there is no policy to guide court registries on matters pertaining to records creation, use, storage, appraisal, transfer, retention and disposal.

Inconsistencies in court records management standards have also increased risk incidences in registries. For instance, lack of or inadequacies in filing classification systems, records tracking systems, records transfer procedures, retention and disposal processes have tended to reduce the security of court records but instead exposed them to thefts and vandalism.

5.9.5 Disaster preparedness programmes

Research findings (see 4.8 in Chapter 4) showed that disaster preparedness programmes were lacking in the courts of law. This means that there were no plans to protect court records in the event that a disaster (whether man made or natural) struck with the potential to damage or destroy records. Since court records are state property they need to be protected. According to the Government of South Australia (2007:9) records can be protected by a number of measures including counter disaster strategies for the prevention, preparedness and response to disasters and the recovery of operations following disaster. The Minnesota Historical Society (2011: 1) adds that basic precautions in disaster preparedness programmes might help in preventing unnecessary loss of valuable records in the instance of a disaster.

5.9.6 Employee related risks

Earlier in the discussion, inferences were made about registry staff being contributors to administrative risks. For example, research results (see 4.7.1, 4.7.2, and Tables 7, 8, 9, 10, 11, and 12 in Chapter 4) alluded to the fact that low levels in terms of quantity, quality and job satisfaction of registry staff might have had an effect on the records management function in court registries. The implication of low level (quantity) of staffing in court registries implied that employees were being over worked. If employees were over worked they might have experienced work related stress. Therefore, work related stress might have resulted in high levels of absenteeism among staff. Secondly, low levels of (quality) training among court registry staff might have resulted in incompetence in executing records management work due to lack of knowledge in records management. Thirdly, high levels of job dissatisfaction with work context factors (such as wages, fringe benefits, job insecurity, and promotion) among court registry staff might have affected the registry's staff's motivation.

5.9.7 Funding

The research results (see 4.8.1 and Table 18 in Chapter 4) showed that inadequate funding from the government might have contributed to operational risks in the courts records management function. While the minimal annual budget requirements for the Judiciary were estimated at K700 Billion, it only received on average K53 Billion as approved annual budgets from 2008 to 2010 (Mukwasa, 2011:1). The annual budget shortfalls appear to have affected the implementation of records management projects more than any other section (As depicted in Figures 6, 7, 8 and 9 in Chapter 4) in the courts of law. A similar observation was also made by Burns, Ferris and Liatsopoulos (2008:14) in their study where they identified the lack of funding as one of the major problem in the implementation of records management in Africa.

The research results suggest that the persistent funding problems experienced by the judiciary might have contributed to the courts' failure to fully implement and sustain records management programmes over the years. In order to offset the risk posed by

inadequate funding to the courts of law the Chief Justice, Honourable Justice Sakala, proposed the introduction of a law that would make the Zambian Judiciary financially autonomous (Kalaluka, 2010:1).

5.9.8 Technology

In terms of technological risk, the digitisation or computerisation of some of the court processes (at the Supreme and High Courts in Lusaka) had brought a number of challenges in managing court records. Research findings (see 4.8.1 and Tables 19 & 20 in Chapter 4) have shown that there were high expectations among registry clerks that digitisation of some of the court processes would improve records management. According to the Chief Justice the objective of digitisation of some of the court processes was to make the justice delivery system affordable, accessible, cost effective, transparent and accountable to the public (Judiciary, 2010:13). However, one of the challenges that the courts might face in the digitised environment was that of technical know how. For instance, the registry clerks might lack knowledge about managing digitised records using data base management systems. Secondly, the courts of law might be unable to sustain the digitised system due to, among other things, the rate at which equipment and software become obsolete. Thirdly, there is danger in the courts failing to migrate digitised records to other media formats (such as print on paper, magnetic and optical media) as a preservation measure. Fourthly, access to digitised court records might also be hindered by coded access requisites such as passwords without which it would be near impossible to open or use electronic files. There is also a danger that electronic files might be damaged due to lack of protection from hackers as well as files being destroyed because of the lack of antivirus software needed to protect digitised files from viruses. Electricity power surges currently experienced in the country might also affect the creation, use and storage of digitised court records.

Lomas (2010:192) raised similar concerns regarding computerised records management systems. He pointed out that as technology changed and new ways of working evolved there was a likelihood that new risks in managing records would arise.

In her study Mutiti (2001:58) identified the lack of adequate technical expertise as one of the major constraints hampering the development of electronic records management programmes in Eastern and Southern Africa. In another similar study Thurston (2007:196) noted that erratic power supply, the cost of equipment and software, maintenance costs and the lack of specialised electronic records units and unfavourable environmental conditions for storage of electronic records were bound to contribute to technological risks in the management of electronic records. In addition Wato (2005:52), Wamukoya (2007:19), Mnjama (2005: 457), Burns, Ferris and Liatsopoulos (2009:17) observed that electronic record readiness in the East and Southern Africa Regional Branch of the International Council on Archives (*ESARBICA*) was inadequate with regard to national policy, legislation, standardisation, authentication of electronic records, staff training in e-records management, physical infrastructure, suitable storage environment, and preservation of electronic records.

5.10 Reputation risks

5.10.1 Perceptions about bribery in court registries

Research findings (see 4.8.2 and Tables 21 and 22 in Chapter 4) showed that there were high perceptions about bribery (real or imaginary) in court registries involving some registry clerks, litigants and trial lawyers. Research findings (see 4.8.2 and Table 24 in Chapter 4) also showed that acts of bribery in registries could be alleviated by introducing harsh measures against perpetrators of the vice. Findings also showed that a code of conduct for court staff could help to deter registry clerks from engaging in bribery.

Perceptions about bribery in court registries were also raised by Justice Fredrick Chomba, the former Judiciary Complaints Authority chairperson and past Supreme Court of Zambia Judge, who observed that the continuous missing of court records had put the entire court system in disarray. He pointed out that some support staff (in registries) actually engaged in bribery and received some monetary gain in order to

facilitate irregularities in the judiciary machinery (Open Society Initiative for Southern Africa, 2008:8). A number of other researches have voiced similar sentiments and argued that judiciary bribery and corruption (in Africa) contributed to poor functioning of access to justice mechanisms in the courts of law (Savoia ,2006:43; Iruoma, 2005:37; Nsambu, 2008:1; and Motsaathebe and Mnjama, 2007:176).

5.10.2 Public confidence in the court registries

Research findings showed that there were perceptions of a general loss of confidence in the court registries which has to a large extent been driven by assertions about bribery in court registries. It would also be assumed that bribery in court registries was often used to circumvent the course of justice in the courts of law.

In a similar research, Kerrigan, Mataka, Mwenya, Dinda and Moller (2010:68) noted that prolonged court cases, rampant reports of missing prosecution files (from court registries) and allegations of corruption have eroded the public's confidence in the Judiciary in Zambia. They also added that as a result of the loss of confidence in the judiciary, the public have often opted to settle disputes outside courts in order to elude the tedious and labourious proceedings that go with accessing justice in the courts of law.

5.11 Conclusions

Research results have clearly shown that court registries were faced with many challenges. Inadequacies in infrastructure and facilities development at the courts of law might affect the management of paper and electronic court records.

The study showed that courts of law's failure to comply with statutory obligations, lack of institutional policies, and the failure to implement recognised international records management standards might have contributed to poor records management in the courts of law.

Findings on the lack of in-service training among registry staff raised some concerns regarding the quality of employees regarding their capacity to implement records management programmes in the courts of law. Consequently inadequacies in the staff capacity might have led to poor service delivery in the court registries. Dissatisfactions with some work context factors might be indicative of poor conditions of service in the courts of law. This raises the need for courts of law to re-design court registry jobs in order to motivate the employees.

The most significant findings to emerge from the research were the risks associated with the court records management function. Going by the research findings these risks have the potential to hinder access to justice in the courts of law which is in violation of Article 18 of the Constitution of Zambia which guarantees citizens' right to accessing justice.

5.12 Recommendations

In order to improve records management in the courts of law registries the Judiciary should:

- a) modernise court registry infrastructure taking into account storage environment requirements for both paper and electronic records such as fire sensors, overhead water sprinklers, air conditioning, and humidity control;
- b) established purpose built record centres at all the courts of law in order to improve the management of semi-active and inactive court records;
- c) compel all court registries to comply with existing records management regulations as stipulated in the National Archives Act of Zambia;
- d) come up with a unified records management policy that would serve as a guide in good records management practices;

- e) adopt an International records management standard that would be used by all court registries in managing their records;
- f) establish disaster management programmes at all the courts of law in Zambia;
- g) compile a records management manual that shall be used both as a guide and a 'training' tool for veteran staff and new entrants to the profession;
- h) come up with clear policies on staff career development and in-service training for all court staff including registry staff;
- i) re-design registry jobs, to take into account job enrichment and enlargement factors, in order to improve registry staff's job satisfaction and morale;
- j) increase budgetary allocations to courts of law and court registries in particular in order to improve registry operations; and
- k) carry out sensitisation programmes on corruption and bribery in court registries through radio, televised appearances, host workshops, posters, and articles in both print and electronic media in order to deter would be offenders and as way to improve the Judiciary's public image.

5.13 Implications for further study

The researcher recommends that future research should look at some of the challenges in court records management such as:

- a) infrastructure and facilities development;
- b) records management legislation, policy and standardisation;
- c) job satisfaction among registry staff;
- d) digitisation of some court processes and preservation of electronic court records;

e) managing risk in the courts of law registries.

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APPENDICES

Appendix 1: An introductory letter to respondents taking part in the survey.

The University of Zambia
School of Education
Department of Library and Information Science
P.O. Box 32379
Lusaka.

Dear research participant,

Re: Invitation to participate in research

I am a post graduate student at the University of Zambia reading for a Master in Library and Information Science. The objective of my research is to assess court records management and how it contributed towards access to justice in the courts of law in Zambia.

You were chosen to take part in the research on the basis of your being part of the records management personnel in courts of law registries. I therefore kindly ask you to complete the questionnaire independently. Be assured that the research is strictly for academic purposes only and that the research findings will be treated with utmost confidentiality and the results from the study will be treated as aggregates of responses from all participants.

If you have comments or queries pertaining to the study, you may reach me on cell: 0977761182, by land line on 254557, or by E-mail: pnabombe@gmail.com.

Yours sincerely,

Pumulo Nabombe
Researcher

Appendix 2: Data collection instrument

QUESTIONNAIRE

Instructions:

1. Tick [✓] against the appropriate option, opinion or view relevant to your given situation or one you agree with;
2. Insert or fill in the given blank spaces as required or where necessary;
3. Respond to all questions fully and honestly;
4. Remember, there are no correct or wrong answers or responses;
5. Your responses will be included and treated as part of aggregate responses from all participating respondents; and
6. Confidentiality will be upheld through out the study.

SECTION A: Demographic data

1. Gender: [] Male [] Female
2. Age: [] years
3. Highest academic qualification obtained in records management:
Degree Diploma Certificate None Other (specify)
[] [] [] []
4. Years of experience in registry work []

SECTION B: Perceptions about court records management's contribution towards access to justice

45. Do you think court registries play an important role in the access to justice process at courts of law?
[] Yes [] No [] Not sure

SECTION C: Records management infrastructure and facilities development

5. Do you think court registries have enough space to store active records?

☐ Yes ☐ No ☐ Not Sure

6. Do you store active case files separately from closed files in your registry?

☐ Yes ☐ No ☐ Not Sure

7. Do you think the shelves in your registry are adequate for storage of active case files?

☐ Yes ☐ No ☐ Not Sure

8. Do you think the shelves in your registry are suitable for storing active case files?

☐ Yes ☐ No ☐ Not Sure

SECTION D: Records management standards

9. Do you think the filing classification system used in your registry is adequate?

☐ Yes ☐ No ☐ Not sure

10. Do you find it easy to locate and retrieve active case files in your registry?

☐ Yes ☐ No ☐ Not Sure

11. Do you find it easy to track and locate active case files within the court system?

☐ Yes ☐ No ☐ Not Sure

12. Do you find it easy to locate and retrieve closed case files from wherever they are stored?

☐ Yes ☐ No ☐ Not Sure

13. Do you think closed case files are well managed?

☐ Yes ☐ No ☐ Not Sure

14. Does your court have a records retention and disposal schedule?

☐ Yes ☐ No ☐ Not Sure

15. Does your court have records management guides/manuals?

☐ Yes ☐ No ☐ Not sure

16. Do you think your court has put up adequate measures to protect court records from disaster?

☐ Yes ☐ No ☐ Not sure

17. How would you describe your knowledge of working with computers?

☐ Advanced ☐ Intermediate ☐ Beginner ☐ None

SECTION E: Satisfaction with work context factors

18. How satisfied are you in your work relations with fellow workers?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19. How satisfied are you in your work relations with your supervisors?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20. How satisfied are you with your salary and other fringe benefits?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

21. How satisfied are you with the job security in the judiciary?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

22. How satisfied are you with prospects for promotion?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
[]	[]	[]	[]	[]

23. How satisfied are you with opportunities for further training?

Very Satisfied	Satisfied	Not Sure	Dissatisfied	Very Dissatisfied
[]	[]	[]	[]	[]

SECTION F: Risk in managing court records

a) Operational/administrative risks

24. In this job it is common to misfile court case records.

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[]	[]	[]	[]	[]

25. In this job it is common to misplace court case files.

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[]	[]	[]	[]	[]

26. In this job it is common to find that some records are missing from case files.

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[]	[]	[]	[]	[]

27. In this job it is common to come across torn court case records.

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[]	[]	[]	[]	[]

b) Reputation risks

28. Acts of bribery often take place at court registries?

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[]	[]	[]	[]	[]

29. Bribe taking is common among registry staff?

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
[<input type="checkbox"/>]	[<input type="checkbox"/>]	[<input type="checkbox"/>]	[<input type="checkbox"/>]	[<input type="checkbox"/>]

30. Do you think some registry clerks solicit for bribes at court registries?

[☐] Yes [☐] No [☐] Not sure

31. Do you think some litigants entice registry clerks with bribes?

[☐] Yes [☐] No [☐] Not sure

32. Do you think some lawyers are involved in bribing registry clerks?

[☐] Yes [☐] No [☐] Not sure

33. Do you think stiff punishment would deter those involved in bribery at court registries?

[☐] Yes [☐] No [☐] Not sure

34. Do you think a code of conduct for registry staff in the judiciary can help reduce incidences of bribery?

[☐] Yes [☐] No [☐] Not sure

35. Do you think the public has confidence in the courts of law in Zambia?

[☐] Yes [☐] No [☐] Not sure

END

THANK YOU FOR TAKING PART IN THE STUDY

Appendix 3: Focus group discussion questions

1. Do court registries apply any recognised records management standards?
2. Are you aware about internationally recognised records management standards such as ISO 154894 and ISO 27001 that court registries could use in managing their records?
3. Do you find difficulties in retrieving and tracking closed case files kept in the various store rooms?
4. Do you have problems with court officers who have a habit of keeping case files longer than was necessary?
5. Who is in charge of managing closed case files at courts of law?

Appendix 4: Face-to-face interview questions

a) Senior Administrative Officer (Judiciary)

1. Does the Judiciary have an institutional records management policy?
2. Does the Judiciary have an institutional policy on records management disaster preparedness?

b) Head of the Documentation Unit (Cabinet Office)

3. Does Zambia have a written national records management policy?
4. Is there a possibility of having a records management policy in the near future?

Appendix 5: Participant observations check list

- [] Buildings housing court registries
- [] Buildings housing record centres
- [] Records storage equipment in registries
- [] Records storage equipment in record centres
- [] Record storage in secondary storage facilities
- [] Routine activities in managing records
- [] Staffing in registries and secondary storage areas
- [] Computerisation of courts

Appendix 6: Secondary sources of information

1. Government of the Republic of Zambia establishment register
2. Judiciary payroll register
3. National Archives Act (Cap 175), Number 44 of 1969 of the Laws of Zambia