

SCHOOL OF LAW
OBLIG ESSAY
1994/95

THE CAUSES OF DELAYS IN DISPOSING OF
CRIMINAL CASES IN MAGISTRATES COURTS IN
ZAMBIA: A CASE STUDY OF MAGISTRATES
COURTS IN THE NORTH - WESTERN PROVINCE
OF THE REPUBLIC OF ZAMBIA

BY
JUSTINE MUKOLWE

SPR
LLB
MUK
1995
C.1

U N Z A

1995

(i)

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

I recommend that the obligatory essay prepared under my supervision by Justine Mukolwe entitled "The Causes of Delays in Disposing of Criminal Cases in Magistrates Courts in Zambia: A Case Study of Magistrates Courts of the North-Western Province of the Republic of Zambia" be accepted for Examination. I have read it carefully and I am satisfied that it fulfils the requirements pertaining to format as laid down in the regulations governing obligatory essays.

Stephen L. Ruedisili
Mr. Stephen L Ruedisili

Nov. 16, 1995
Date:

B.A. J.D.

(iii)

DEDICATION

To my beloved wife Grace, and children, namely Carol, Naomi and Brian. Your long years of suffering, patience and endurance have finally made me come to an end of this laborious law degree programme.

I Love you all.

ACKNOWLEDGEMENTS

I would like to thank most sincerely my Supervisor Mr. Steve Ruedisili, for his dedication and skillful advice that he gave me during the time I was writing this essay. Other thanks go to Mr. Kenny Mwanangumbi, Senior Resident Magistrate, for the information that he gave me without which the writing of this essay would have been difficult. I am also indebted to my relatives for the moral and material support they render to me during my whole Law Programme at UNZA.

Finally, I would like to thank Mrs Mukelabai, the Deputy Registrar, of LPI, Lusaka and Ms. Judith Shampule for the tirelessly patiently and cautiously typing this essay.

To all the above mentioned, I wish you God's blessings.

TABLE OF CONTENTS	PAGE
Supervisor's Certificate:.....	(i)
Submission:.....	(ii)
Dedication:.....	(iii)
Acknowledgements:.....	(iv)
Table of Contents:.....	(v)
Table of Cases:.....	(vi)
Table of Statutes:.....	(vii)
Introduction:.....	1-6B

CHAPTER ONE

Composition of Magistrates Courts in the North - Western Province	7-17
---	------

CHAPTER TWO

Hearing and Determination of Cases in Magistrates Courts in Zambia:.....	18-25
--	-------

CHAPTER THREE

Causes of Delays in Disposing of Cases in Magistrates Courts in the North-Western Province:.....	26-86
--	-------

CHAPTER FOUR

Recommendations for Minimising Delays in Disposing of Criminal Cases in Magistrates Courts:.....	87-103
Bibliography:.....	104

<u>THE TABLE OF CASES</u>	PAGES
PEOPLE V GEORGE CHAPONDA.....	97-98
PEOPLE V KOMBA KABWE:.....	22-23
PEOPLE V JOSEPH KATI KI:.....	22-23

TABLE OF STATUTES

Immigration and Deportation Act Chapter 122 of Laws of Zambia.

Firearm Act Chapter 111 of Laws of Zambia.

Penal Code Chapter 146 Laws of Zambia

Criminal Procedure Code Chapter, 160 of Laws of Zambia

Juveniles Act Chapter 217 of laws of Zambian Consitution Act of
1991

National Parks and Wild Life Act No. 10 of 1991

INTRODUCTION

The question of delays in disposition of criminal cases is of great concern to Zambia and its accused persons. For example, an accused by name of Mr. Emmanuel Zwao, complained to me that he had over stayed in remind prison. He said that he had stayed for 3 months without being tried.¹ At that time the Senior Resident Magistrate, Mr. Mwanangumbi was sick. This happened when I visited Solwezi State Prison earlier this year. The officer -in-charge at Solwezi State Prison, Mr. Kyabu L.² indicated that prisons are congested if cases are not disposed of quickly.

Also, during the Magistrates and Judges seminar at Siavonga dated 21st to 22nd March, 1989, Judge Florence Mumba (Mrs) said,

"It is important for a judge to bear in mind that criminal cases should be disposed of within the minimum period possible to allow the accused to know his fate within the shortest possible time. Usually cases collapse because of non - availability of witnesses or exhibits and sometimes serious charges are reduced to minor ones to which the accused persons plead guilt".³

In view of this problem I carried out research into the causes of delays in disposal of criminal cases in the Subordinate courts in Zambia's North - Western Province. I make recommendations for change in the resolution of criminal cases in such Magistrates Courts. (See map X Page 6 (a)

In my research, I physically checked the case records from box file to box file and interviewed Clerks of Courts, Magistrates, Police officers, Prison officers and Statistical officers. I checked the case records because such an examination is a good method of gathering data because of its accuracy. When a case is being heard every event which happens during the court proceedings is recorded in the case record. For example, if the case is adjourned to a certain date, the reason for the adjournment is written down in the case record. A case may be adjourned to 20th October, 1995 for summoning the witnesses for trial. In such a case, the adjournment on the case record itself will indicate, "adjourned to 20th October, 1995 for calling witnesses for trial." In other words, the cases record will show the reason why the case is being held up because a Magistrate records whatever is happening with the case. I also conducted interviews with the important players who affect the disposal of criminal cases in the magistrates courts in the North - Western Province. I interviewed the Senior Resident Magistrate about the number of magistrates in the North- Western province, their ranks and their jurisdiction because these matters affect the manner in which cases are resolved.

Police prosecutors were interviewed over why some cases did not proceed. Police prosecutors are the ones who know why some trials cannot take place.

In my research I covered the following areas, Solwezi, Mwinilunga, Kasempa, Mufumbwe, Kabompo and Zambezi. I carried out research in these areas because it is in these place in which

I wanted to establish the causes of delay in the resolution of criminal cases so that I can make recommendations for change in case disposal. (see Map A Page 6(B))

This research paper has four chapters. In Chapter I, I discuss the composition of Magistrates Courts in the North - Western Province and their Criminal jurisdictions. I also discuss the problem of transport and magisterial compensation. In chapter II, I examine the statutory provisions for hearing and determination of cases in Subordinate Courts.

In Chapter III, I examine the causes of delays in disposal of criminal cases in Magistrates Courts in the North -Western Province.

In Chapter IV, I make recommendations for change in the manner of disposing of criminal cases in the Magistrates Courts in the North - Western Province.

CONCLUSION

It is my sincere hope that the research I carried out will assist in improving disposal of criminal cases in the Subordinate Courts in the North - Western Province.

Quick disposal of cases is as important as affording the accused a fair trial. Quick disposal of cases will assist in

decongesting the courts of cases. The court can then deal with cases properly because it has a manageable number of cases. Quick disposal of cases will also assist in decongesting the prisons as well. Often the prison may have many remandees who may not be eligible to be given bails. If their cases are disposed of in time, there will be less congestion in prison.

END NOTES

1. Personal interviews with the accused Mr. Zwao on 11th September, 1995 Solwezi at 11.00 hours.
2. Personal interviews with Officer-in-Charge, Prisons Solwezi on 11th September, 1995 at 11.00 hours.
3. Judges and Magistrates Seminar at Siavonga dated 21st to 22nd March, 1989.



6(B)

MAP "A"

DISTANCES BY AIR

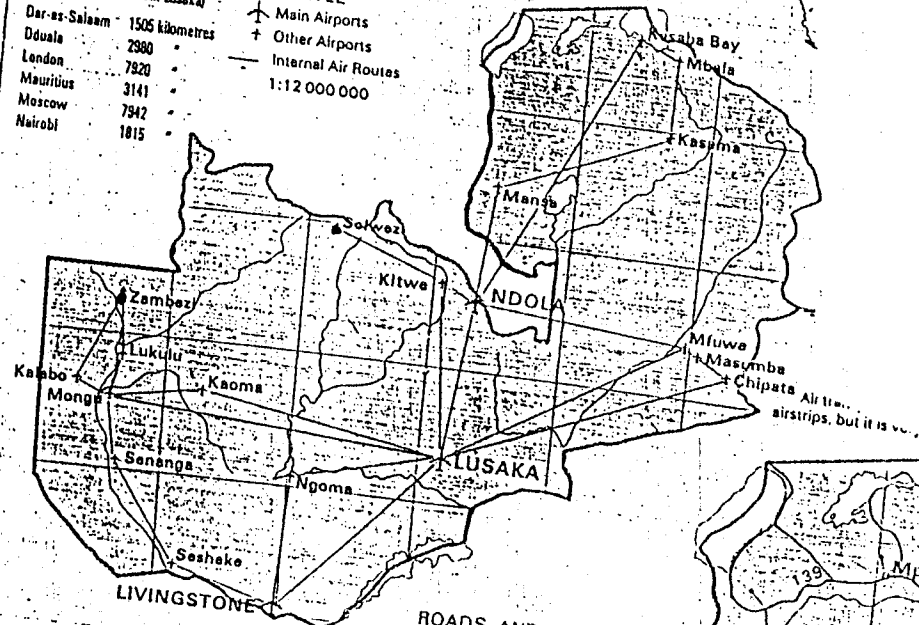
(scheduled flights from Lusaka)

Dar-es-Salaam	1505 kilometres
Duala	2380
London	7920
Mauritius	3141
Moscow	7942
Nairobi	1815

AIR TRAVEL

- ✈ Main Airports
- ✈ Other Airports
- Internal Air Routes

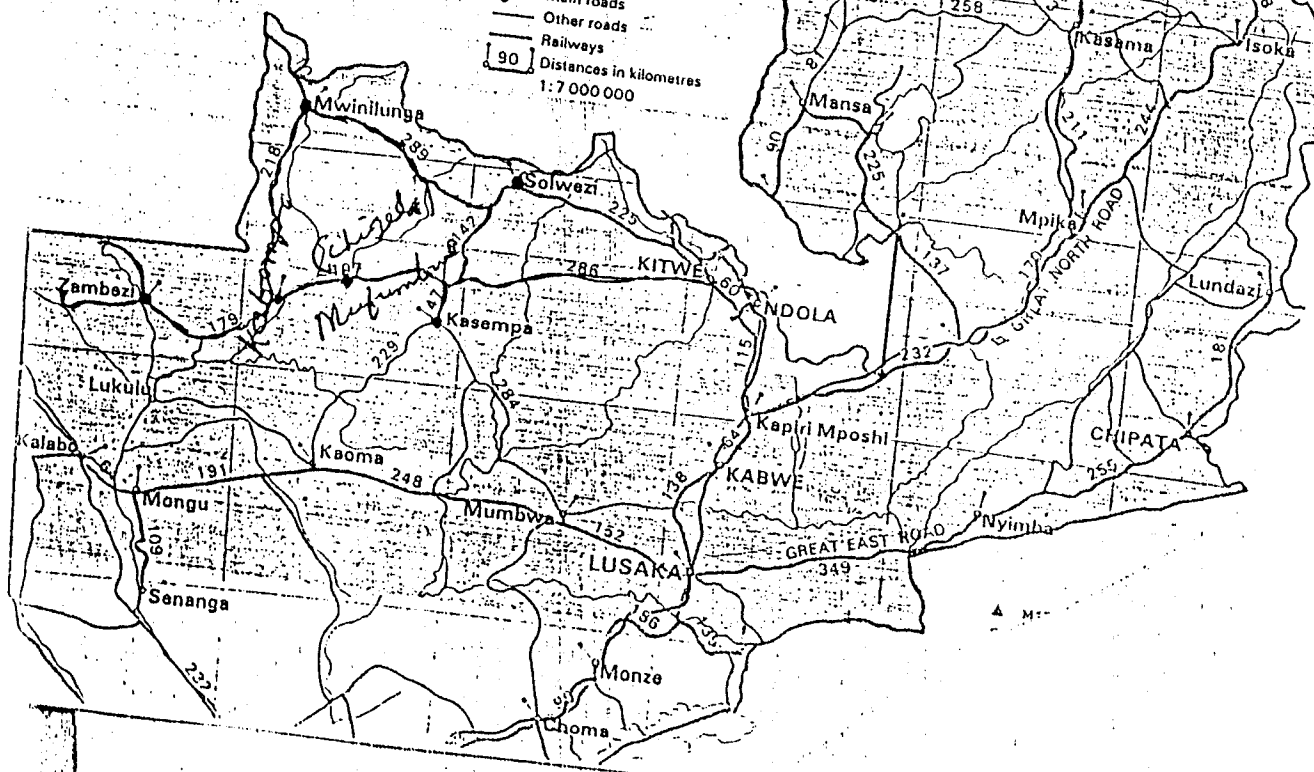
1:12 000 000



ROADS AND RAILS

- Main roads
- Other roads
- Railways

90 Distances in kilometres
1:7 000 000



CHAPTER 1

SUBORDINATE COURTS IN THE NORTH WESTERN PROVINCE

In my analysis I begin with the composition of inferior magistrates courts in the North Western Province. The composition of magistrates courts in the North Western Province is relevant because of its impact on case disposal. The Subordinate Courts Act Chapter 45 of Laws of Zambia Section 3, under which all Subordinate Courts are created, provides that there shall be three classes of magistrates court in each District.¹ (Section 3 of the Subordinate Courts Act Chapter 45 of Laws of Zambia requires that each district shall have three classes of magistrates.² The law requires that at each district there be Magistrates of the First Class; a Magistrate such as a Principal Resident Magistrate, or a Senior Resident Magistrate or a Resident Magistrate, or a Magistrate Class I. The law also requires a Magistrate of the Second Class and a Magistrate of the Third Class.³ I discovered that the composition of Magistrates Courts in the North - Western Province is poor. In some districts, there are no magistrates at all, while in other you only find one magistrate at a station. There are 6 districts in the North-Western Province, namely, Solwezi, Mwinilunga, Kasempa, Kabompo, Mufumbwe, (formerly called Chizela) and Zambezi.⁴ (See map B Page (17))

In the North Western Province, the situation regarding composition of magistrates courts is as follows:⁵

- a) There is no Magistrate at Mufumbwe.⁶
- b) There is one Magistrate at Zambezi. He is a Magistrate Class I.⁷
- c) There is one Magistrate at Kasempa. He is a Magistrate Class I.⁸
- d) There is one Magistrate at Kabompo. He is a Magistrate Class II.⁹
- e) There is one Magistrate at Mwinilunga. He is a Magistrate Class II.¹⁰
- f) There are two Magistrates at Solwezi. There is one Senior Resident Magistrate and one Magistrate Class II.¹¹

Thus, there are only 6 Magistrates in the North Western Province instead of the 18 Magistrates required by Law.

Section 7 Criminal Procedure Code Chapter 160 of Laws of Zambia provides that the Principal and Senior Resident Magistrates have the power to sentence the accused up to 9 years imprisonment.¹² The Resident Magistrate has the power to sentence the accused up to 7 years imprisonment.¹³ A Magistrate Class I has the power to sentence the accused to a maximum of 5 years imprisonment.¹⁴ A Magistrate of the Second Class and Third Class¹⁵ have the power to sentence someone up to 3 years imprisonment.

Thus, the only place where all cases are triable by the Magistrates Courts can be handled properly is the Solwezi Magistrate Courts.¹⁶ There is only one Senior Resident Magistrate at Solwezi and the whole of North - Western Province.

He has sentencing power up to 9 years imprisonment.¹⁷ He can handle stock theft cases and other offences in which the law has prescribed minimum mandatory sentences because his sentencing power is high. In the case of stock theft, (Chapter 146) for instance, the Senior Resident Magistrate is the only Magistrate who has power to handle it.¹⁸ Where an accused, is charged with stock theft and is a first offender the minimum mandatory sentence is 5 years imprisonment. However, where the accused is the second or subsequent offender the minimum mandatory sentence is 7 years imprisonment. The Senior Resident Magistrate's powers of sentencing is above 7 years imprisonment. Therefore, he can handle any stock theft case.¹⁹

Magistrates Class II at Kasempa and Zambezi only have power to sentence the accused to a maximum of 5 years imprisonment. A Magistrate Class I cannot handle stock theft case in which the accused is a second or subsequent offender because in such a case the offender is liable to a minimum of 7 years imprisonment, which is above jurisdiction of Magistrates Class I, II, and III.²⁰

Thus, a Magistrate Class I cannot be given stock theft case to try because he is not allowed to know whether the accused is a first or second or subsequent offender because previous convictions are not produced at the trial.²¹ When the accused is taken before the court of law he is presumed to be innocent until he is proved guilty or he pleads guilty.²² This is so because if the accused's previous conviction are produced at the trial such production will prejudice his case.²³ What I mean by prejudicing the case is that production of the previous convictions at the

trial will have the effect on the mind of the judge or magistrate when it comes to decide the question as to whether or not the accused should be found guilty. The magistrate or a judge may think that since he was guilty of another offence of stock theft, he must have also committed the offence which is before the court.

The production of previous convictions at the trial does not assist in proving the charge with which the accused has been charged. Therefore production of previous convictions at the trial is generally disallowed because:

- a) Such production of previous convictions works against the presumption of innocence as provided for under Article 18 of Zambian Constitution Act No 1 of 1991.
- b) Production of previous convictions does not assist in proving the charge against the accused.²⁴

However, in certain cases production of previous convictions is allowed to be produced at the trial. For example, previous convictions can be produced at the trial where (a) the accused gives evidence of his own good character or (b) where he asks prosecution witnesses questions tending to show that he is of good character.²⁵

The previous convictions will be produced because such production is relevant in showing that the accused is a person of bad character. A previous conviction will rebut the accused's

assertions that he is of good character. Therefore, if the accused is charged with stock theft case at Zambezi, Kasempa, Mwinilunga, Kabompo and Mufumbwe, the Senior Resident Magistrate must be called to hear such a case. A Magistrate Class I may not hear that case because the accused may be a second or subsequent offender in which case a Magistrate Class I has no jurisdiction to try the case in question.²⁶

Even if the senior Resident Magistrate is called to handle stock theft cases or other offences above the jurisdiction of magistrates class I, II, and III in other districts, he may not go there as soon as possible. He has no vehicle at his station and no magistrates have vehicles at all. There is only one tar road in the entire Province. This is the road from Solwezi to Mwinilunga. The road from Solwezi to Zambezi via Mufumbwe (formerly called Chizela) and Kabompo is a gravel road. The road which branches from the Solwezi- Zambezi road going to Kasempa is also a gravel road. (See map "B" page 17)

The distance from Solwezi to Zambezi is 518 kilometres while that from Solwezi to Mufumbwe is 235 Kilometres. The distance from Solwezi to Kabompo is 339 Kilometres while the distance from Solwezi to Kasempa is 189 Kilometres. The distance from Solwezi to Mwinilunga is 289 Kilometres. (See Chart 1 page 16 and also Map "B" Page 17). Therefore the Senior Resident Magistrate may not hear cases at other stations because of transport problems.²⁷

Additionally, the Senior Resident Magistrate may not go to other stations to hear stock theft cases due to financial

problems. He may not have money to buy food and pay for accomodation when he goes out to other stations for work. When he goes to other places for work he is required to buy his own food.²⁸ Magistrates at the station where he is going for work are not obliged to provide food and accomodation for him. Therefore, such magistrates can provide the Senior Resdident Magistrate with food and accomodation only if they are willing to do so. Therefore, it is incumbent upon the Judiciary to provide the Senior Resident Magistrate with money to buy food and pay for his accomodation when he goes to other stations for work.

Salaries of magistrates are very low. They range from K80,000 to K200,000 per month. Magistrates cannot afford to go for work to other stations without being paid a subsistence allowance.²⁹ The Government has introduced a cash budget to assist in economic recovery. Therefore the Government is only spending the money that is available. It is not allowing the departments to borrow money.³⁰ According to budget officer, Mr. Mwansa G. the approved budget for the Judiciary for 1995 financial year is K4.1 billion. However, the Judiciary has not yet been paid all this money because the Government has no money.³¹

CONCLUSION

Magistrates Courts in the North - Western Province have not been composed in the way the Subordinates Courts Act provides. Subordinate Courts Act Chapter 45 Laws of Zambia provides that there shall be 3 classes of subordiate Courts in each district with no exceptions. The composition of Magistrates Courts

affects case disposal because some cases will not be handled quickly due to the present composition of magistrates court in the province.

Lack of a complete number of magistrates in North -Western Province creates the problem that in the case of illness there may not be a Magistrate to hear cases. If Magistrates Courts had the proper number of magistrates another one could take over in case of illness.

The present composition of Magistrates Courts in the North-Western Province is poor. It certainly has negative effect on the case disposal. The effect which the present composition of Magistrates Courts in the province will be discussed in Chapter III.

END NOTES

1. Section 3 Chapter 45 Subordinate Courts Act.
2. Ibid.
3. Interviews with Senior Resident Magistrate Mr. Kenny Mwanangumbi, at Solwezi on 21st September, 1995 at 14.00 hours.
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. Ibid.
9. Ibid.
10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Personal Interviews with Mr. Mwanangumbi, on 12th September, 1995 at 14.00 hours.
17. Ibid.
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid.
22. Ibid.
23. Ibid.

24. Article 18 of Zambian Consitution Act No. 1 of 1991.
25. Personal interviews with Mr. Mwnangumbi Senior Resident Magistrate at Solwezi on 12th September, 1995 at 14.00 hours.
26. Ibid.
27. Ibid.
28. Ibid.
29. Ibid.
30. Chart for distances from Solwezi to other Districts is attached to this Chapter.
31. Ibid.
32. Personal interviews with Mr. G. Mwansa Budget Officer, at Ministry of Finance, Lusaka on 18th September, 1995 at 14.00 hours.
33. Ibid.

CHART 1

CHART FOR DISTANCES FROM SOLWEZI THE PROVINCIAL HEADQUARTERS FOR NORTH-WESTERN PROVINCE TO ZAMBEZI, MUFUMBWE (FORMERLY CALLED CHIZELA) KABOMPO, KASEMPA, MWINILUNGA.

FROM	TO	DISTANCES IN KILOMETRES
SOLWEZI	ZAMBEZI	518
SOLWEZI	MUFUMBWE	235
SOLWEZI	KABOMPO	339
SOLWEZI	KASEMPA	189
SOLWEZI	MWINILUNGA	289

M. A F "B"

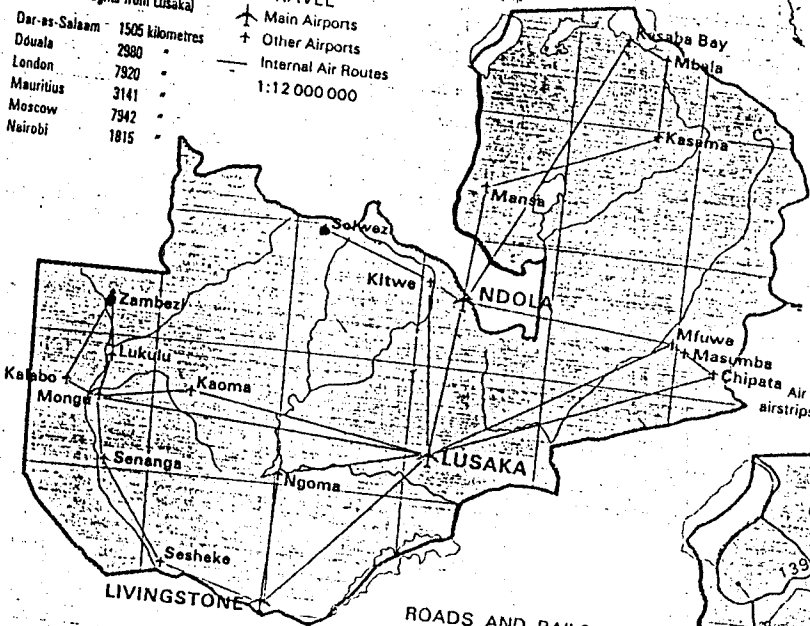
DISTANCES BY AIR (scheduled flights from Lusaka)

Dar-es-Salaam	1505 kilometres
Douala	2980
London	7920
Mauritius	3141
Moscow	7942
Nairobi	1815

AIR TRAVEL

- ✈ Main Airports
- ✈ Other Airports
- Internal Air Routes

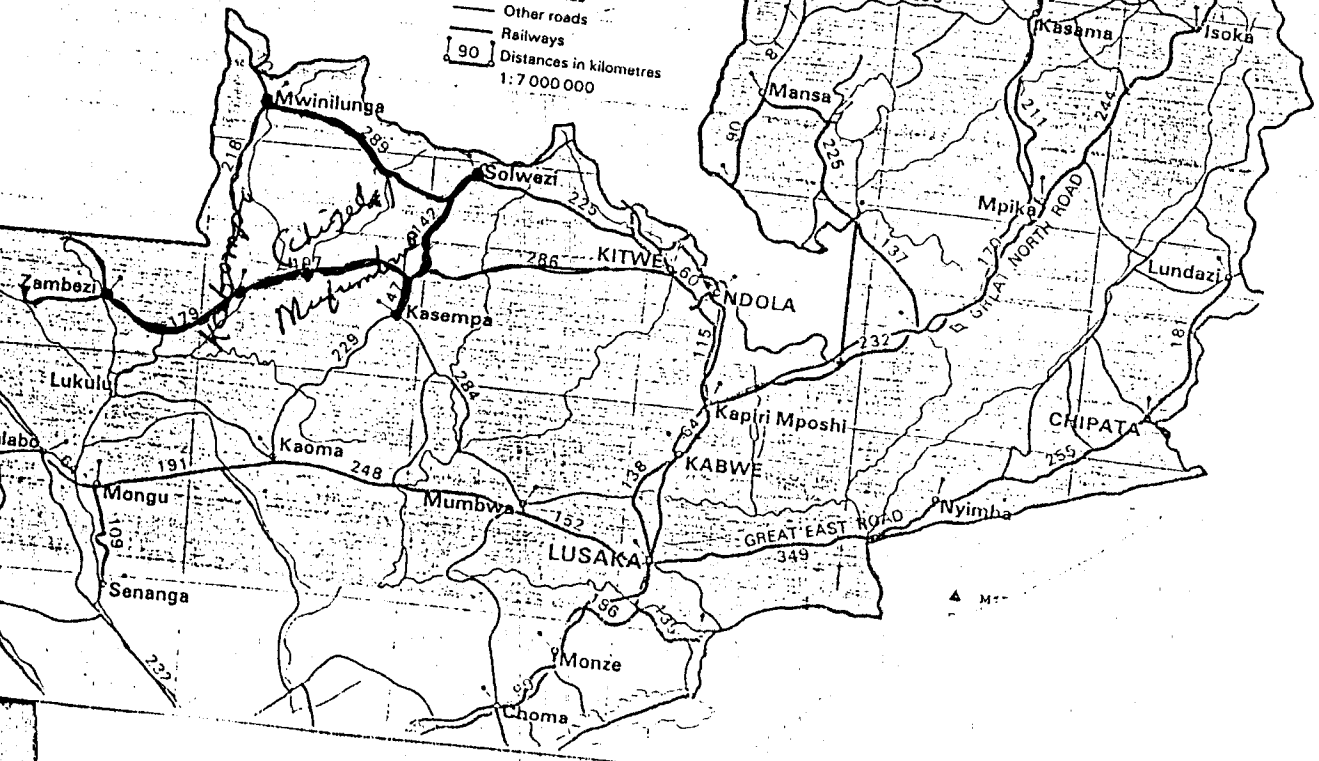
1:12 000 000



ROADS AND RAILS

- Main roads
- Other roads
- Railways

Distances in kilometres
1:7 000 000



KEY FOR MAP B ON PAGE 17

Red line = Tar Road from Solwezi to Mwinilunga.

Blue lines = Gravel Roads from Solwezi turn off to Kasempa, to Zambezi via Mufumbwe and Kabompo.

CHAPTER 2

HEARING AND TERMINATION OF CRIMINAL CASES IN SUBORDINATE COURTS

INTRODUCTION

In this Chapter, I discuss the statutory provisions relating to hearing and determination of cases in magistrates courts. This is important because the statutes indicate the manner in which cases should be resolved. You can only know whether or not there is a delay in disposition of cases after comparing the text of the law with what is actually happening in the Subordinate Courts.

The manner in which cases should be heard in magistrates courts has been provided for in the Laws of Zambia. Article 18 (i) of Zambian Consitution, Act No. 1 of 1991,¹ provides that the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law. Sub - Article 9 also discusses fair hearing within a reasonable time. The language of the article shows that when a case is taken before the court of law, parties must be given fair hearing and the hearing of the case should be as soon as possible.

The first thing Article 18 shows is that cases are taken to a court of law so that justice can be done to both parties. When parties appear in court they should be afforded a fair opportunity to prove or defend their cases promptly. Parties should be given a chance to call the evidence they can afford to call. There should not be intimidation of parties or bias in favour of one party. The court should be impartial when hearing the case.

Section 99 of Criminal Procedure Code Chapter 160 of Laws of Zambia provides that that no personal attendance of the accused is required in cases where the accused is charged with a minor offence and he pleads guilty in writing, unless the accused fails to pay fine or does not admit the previous convictions in writing.² The purpose of this provision is to quickly dispose of cases because the law dispenses with the need for personal attendance of the accused in most instances.

Section 6 of Subordinate Courts Act Chapter 45 of Laws of Zambia makes a provision for magistrates to sit at same time in different courtrooms where there are many magistrates and courtrooms at a station.³ This provision is also meant for quick disposition of cases. For example at Chikwa Magistrates Courts, Lusaka there are 8 magistrates and 3 courtrooms. Three Magistrates can sit at one time in different courtrooms. Therefore three magistrates will dispose of cases at the same time which would have not been possible if there had not been a provision to sit at the same time.⁴

Section 199 of Criminal Procedure Code Chapter 160 Laws of Zambia provides that if the complainant is notified about the time and place for the hearing of his case but he/she deliberately fails to appear in court the court shall dismiss the charge unless the court thinks fit to adjourn the case to wait for the compliant.⁵ This section indicates that when complainants have cases pending before courts of law they should be willing to resolve cases quickly. They should not let such cases drag on. If a complainant is unwilling to continue he must

discontinue the proceedings so that the accused is left alone.

Section 200 of Criminal Procedure Code Chapter 160 of Laws of Zambia⁵ provides that in a case where the complainant appears in court alone the court can still go ahead with the trial provided that the attendance of the accused has been dispensed with and the crime with which the accused is charged is not a felony. If this provision was meant to delay cases, the court was not going to be given power to go ahead with the trial. However, such powers have been given to the court so that cases where attendance of the accused has been dispensed with and the accused is not charged with a felony matters should be resolved quickly even where the accused is not in attendance.

Section 204 of Criminal Procedure Code Chapter 160 of Laws of Zambia provides that when the accused is called upon to plead to the charge the accused shall be convicted upon his own plea of guilty there and then. If he does not admit the truth of the charge or does not plead to the charge but he remains silent, the court shall enter a plea of not guilty for the accused.⁶ In the case where the accused has pleaded guilty, the court will find the accused guilty there and then and sentence the accused on the spot. In the case where the accused has denied the truth of the charge, the court shall commence the trial according to the provisions of Section 205 of Criminal Procedure Code Chapter 160 of Laws of Zambia.⁷

The provisions of Sections 204 and 205 Criminal Procedure Code Chapter 160 Laws of Zambia show that when cases are taken

before courts of law they are supposed to be resolved quickly. This is particularly true where the trial commences on the very day when matter is taken before the court of law.

Section 202 of Criminal Procedure Code Chapter 160 of Laws of Zambia provides that the court in its discretion can adjourn the case if it is not practicable to finish it on the very day it is taken before the court.⁸ However, the section only permits the adjournment of fifteen days in the case of the person who is in custody and an adjournment of thirty days in the case of person who is on bail or police bond.⁹ In the case of a juvenile offenders, the adjournment can be for a maximum period of up to twenty-one days. This is a mandatory provision, not a guide line or an option. This indicates that the cases should be disposed of as soon as practicable. Delays in the disposition of case are not allowed at all.

When the accused pleads guilty to the charge the prosecutor must outline the facts of the case and the accused must be asked if the facts of the case are correct. If the accused admits that the facts are correct, then the court will find the accused guilty upon his own plea of guilty. After the court has found the accused guilty, then the prosecutor will be asked to state whether or not the accused has previous convictions. After that disclosure, the accused will be asked to say something in mitigation of his sentence and then he will be sentenced.

During my research into causes of delays, I came across two different types of cases. There were cases which were not

delayed and those which took a long time to be resolved. Since at this time I am examining the statutory provisions which state that the cases should be resolved as soon as possible, I will cite some cases as examples of those cases which did not take a long time to be resolved. The cases which I present are merely illustrative examples.

The two cases which I will take as examples of cases which did not take a long time to resolve are from Solwezi and Mwinilunga Magistrates Courts. In case No. 20/20/90 The People V Komba Kabwe,¹⁰ The accused was charged with breaking into a building and committing a felony. He was arrested on 24th July, 1990. He appeared in Court on 10th August, 1990. He pleaded guilty to the charge the matter was resolved on the very day it was taken before the court. There was no delay in disposing of this case. In Komba Kabwe Case,¹¹ the accused pleaded guilty and the case was resolved quickly as Section 204 Criminal Procedure Code Chapter 160 Laws of Zambia provides.

In case No. 21/74/93 The People Joseph Katiki the accused was charged with theft.¹² He was arrested on 10th December, 1993. He appeared in Court on 14th December, 1993. He denied the charge. The matter was adjourned to 20th December, 1993 matter when was heard. The case was disposed of on 6th January, 1994. The disposal of this case was not delayed. In this case, the adjournment which the court granted to the prosecution was of 7 days. Therefore, it was in line with Section 202 Criminal Procedure Code Chapter 160 Laws of Zambia which states that when granting an adjournment, the adjournment should not exceed

fifteen days or thirty days depending on whether or not accused in custody or police bond.

This case illustrates that the law has put a time limit on courts powers to grant adjournment of a case if it is not finished within a day when it is taken before the court of law. Therefore the law requires that the accused should be given a fair trial and that cases should be resolved quickly when they are taken before courts of law as illustrated by Komba Kabwe Case.¹³ Additionally, adjournment of cases should be within a specified limit of time as illustrated by Joseph Katiki case.

CONCLUSION

In this chapter, I examined the provisions which govern the manner in which cases should be handled. The provision in the constitution shows that cases should be; (a) afforded fair hearing (b) should be dealt with quickly and (c) that hearing of a case must be done impartially by independent court. The problem is that the time within which cases should be resolved is not indicated. What one person thinks to be reasonable may differ from what another person thinks to be reasonable or unreasonable. Thus, what amounts to a reasonable time now becomes subjective. There is no consensus on the time limit. Someone, for example, may say that three months is unreasonable while another one may say disposition of cases within three months time is reasonable.

Although the intention of legislature is to have cases resolved quickly, urgent resolution of cases may not be achieved because no time limit is given within which to dispose of the cases. The other problem is that the Article 18 does not indicate the consequences of failure to deal with cases within a reasonable time. Therefore, compliance with the article 18 may not be achieved at all.

In the next chapter it will be seen that most cases take a long time to be resolved.

END NOTES

1. Article 18 of Zambia Constitution, Act No. 1 of 1991.
2. Section 99 Criminal Procedure Code Chapter 160 Laws of Zambia.
3. Section 6 Subordinate Courts Act Chapter 45 Laws of Zambia.
4. Section 199 Criminal Procedure Code Chapter 160 Laws of Zambia.
5. Section 200 Criminal Procedure Code Chapter 160 of the Laws of Zambia.
6. Section 204 Criminal Procedure Code Chapter 160 of Laws of Zambia.
7. Section 205 Criminal Procedure Code Chapter 160 of Laws of Zambia.
8. Section 202 Criminal Procedure Code Chapter 160 of Laws of Zambia.
9. Cases No. 20/20/90 People v Komba Kabwe.
10. Ibid.
11. Case No. 21/74/93 People v Joseph Katiki.
12. Komba Kabwe case.
13. Joseph Katiki case.

CHAPTER 3

CAUSES OF DELAYS IN DISPOSAL OF CRIMINAL CASES IN SUBORDINATE COURTS IN THE NORTH-WESTERN PROVINCE

INTRODUCTION

I carried out a survey into the causes of delays in case disposal in the Subordinate Courts of Zambia's North-Western Province. In my research, I physically checked the case records from box file to box file because everything that goes on during the criminal proceedings in magistrates courts is recorded on the case record. I did this with all the districts in the Province. The districts of North-Western Province include Solwezi, Kasempa, Mufumbwe, Mwinilunga, Kabompo and Zambezi. In my research, I also came across cases which had not been delayed. In some of those cases in which there had been no delay, the accused persons had plead guilty quickly. In other cases, the accused persons had pleaded not guilty but they had not been delayed in disposal because the trial taken place within a reasonable time.

In some cases, the accused persons were found guilty, while in others they were acquitted. In certain cases the charges were withdrawn by the prosecution and the complainants. My research task was to find out the causes of delays in disposal of criminal cases in the Subordinate Courts in the North-Western Province. Therefore, I was interested in those cases which had been delayed so that I could discover the reasons for their delay. The

reasons for adjournment of cases are recorded by magistrates in the case record. If one wants to know why a case has not been disposed of quickly one simply reads the case record. In picking the cases which were delayed, I picked those cases whose disposal has been delayed for at least 4 months. I picked cases whose disposal has been delayed for 4 months and above because I felt that it is only in those cases in which delay would be considered unreasonable. Therefore, the cases which appear in this chapter are those whose disposal were delayed for 4 months or greater. The data which I collected is tabulated and analysed below. I will start with the Solwezi magistrates courts.

SOLWEZI MAGISTRATES COURTS

(see Main Chart A Page 61-62)

I carried out a survey into causes of delays in disposal of criminal cases in Solwezi magistrates courts from 1990 to 1995. I have picked this period 1990 to 1995 because I wanted to find out causes of delays in cases disposal in magistrates courts on cases which have been disposed of in recent years. I did not pick the period prior to 1990 because some of the problems which were affecting case disposals at that time may have been resolved. If such problems has not been resolved, they will be traced from the data which will be traced from the data which I have collected. It was my belief that cases which have been disposed of within a period of five years will be sufficient to show most serious problems which affect the quick delivery of justice.

I reviewed all cases in Solwezi district covering the period from 1990 to 1995. Some cases were disposed of quickly while other were delayed. Among the cases which were delayed, I found 43 cases which were delayed for 4 months and above. The breakdown of cases was as follows:

1. There were 4 cases of breaking into a building and committing a felony. They were delayed for an average period of 8.5 months. One case was delayed due to non-availability of exhibits while three other cases were delayed due to police failure to bring witnesses to court. Two accused persons were found guilty while the cases against the remaining two accused persons were withdrawn for non-availability of witnesses. All 4 accused persons were in custody while the cases were still going on.
2. There were 9 cases of theft by public servant. These cases were delayed for the average period of 12 months. 3 cases were delayed because the defence attorneys failed to show up whenever the cases came up for trial. 6 cases were delayed due to non-availability of witnesses. Accused persons were found guilty while two accused persons were acquitted. All the accused persons were on bail while their cases were going on.
3. There were two cases of assault occasioning actual bodily harm. They were delayed for average period of 4.5 months due to non - availability of witnesses. All the accused persons were found guilty. During the proceedings they

were on bail.

4. There were 4 cases of house-breaking and theft. They were delayed for the average period of 7.5 months. All 4 accused persons were found guilty. All 4 accused persons were in custody while their cases were going on. Three cases were delayed due to non-availability of witnesses while one case was delayed due to lack of proper interpreter
5. There were 4 cases of murder. They were delayed for average period of 7 months because of the non-issuance of committal certificates by the Director of Public Prosecutions. All 4 accused persons were in custody while the accused were waiting for committal to High Court for summary trial.
6. There were 2 cases of causing death by dangerous driving. These cases were delayed for average period of 7.5 months due to the non-issuance of committal certificates by the Director of Public Prosecutions. The accused persons were in custody before committal to High Court for trial.
7. There were 4 theft cases. They were delayed for average period of 11 months due to non-availability of witnesses. 2 accused persons were found guilty while one was acquitted. One case was withdrawn due to non - availability of witnesses. During the proceedings in these cases one accused was in custody while 3 were on bail.

8. There was on stock theft case. It has been delayed up to day due to non-availability of witnesses. The case is still pending. The accused is on bail. It started on 10th March, 1995
9. There was one case of false claim by a public officer. It was delayed for 8 months due to non-availability of fiat from Director of Public Prosecutions to prosecute the accused. The charge was withdrawn due to non-availability of Fiat from Director of Public Prosecutions.

Fiat is a document issued by Director of Public Prosecutions indicating that the person named in the document should be prosecuted for the offence which is stated in the document. This happens if the case with which the accused is charged is one of the offences in which the Director of Public Prosecutions is required to give consent for prosecuting the accused person.

10. There was one case of malicious damage to property. It was delayed for 9 months because the magistrate who was handling the case was on study leave. The magistrate Mr. Sinkende, started handling this case before he went to the University of Zambia for further studies. After hearing evidence of two witnesses, he went to the University. The Senior Magistrate was not allowed to re-allocate this case to another Magistrate. Partly heard cases are re-allocated to other magistrates only by the High Court. The accused in this case was found guilty. During the proceedings the

accused was on bail. A partly heard case is a case in which a Magistrate or a Judge has heard some of the witness who have been called to give evidence.

11. There were 6 cases of burglary and theft. These cases were delayed for average period of 9 months due to non - availability of witnesses. Four defendants were found guilty. Two cases were withdrawn against the two accused persons for lack of witnesses. During the proceedings all 6 accused persons were kept in custody.
12. There was one case of theft from person. It was delayed for 6 months due to non-availability of witnesses. The case was withdrawn for lack of witnesses. The accused was in custody during the case.
13. There was one case of forgery. It was delayed for 11 months for non - appearance of defence counsel in court during court proceedings. The accused was acquitted. He was on police bond during the proceedings.
14. There was one case of uttering. It was delayed for 7 months due to non -availability of witnesses in court. The accused was found guilty. He was on bail during the proceedings.
15. There was one case of fraudulent false accounting. It was delayed for 9 months because of the non-appearance of defence counsel in time. The accused was acquitted.

During the court proceedings the accused was on police bond.

16. There was one case of failure to pay statutory Contributions to Zambia National Provident Fund. It was delayed for 4 months due to that the accused was not summoned in time. The charge was withdrawn due to the fact that the accused was not summoned.

MWINILUNGA MAGISTRATES COURT

(see Main Chart B page 63-64)

There were 12 cases which were delayed for at least 4 months in being disposed of from 1990 to 1995. The breakdown of the cases was as follows:

1. There were 4 stock theft cases. These cases were delayed for average period of 12.5 months. Magistrate Class II, Mr. Ndhlovu had no jurisdiction to hear stock theft cases because he cannot sentence an accused to 5 years imprisonment. He can only sentence an accused to a maximum of 3 years imprisonment. In stock theft cases, the minimum penalty for the first offender is 5 years imprisonment and for the second or subsequent offender the minimum sentence is 7 years imprisonment. Mr. Ndhlovu invited the Senior Resident Magistrate at Solwezi to go and hear these case.¹ The Senior Resident Magistrate had transport problems because there is no vehicle at Solwezi Magistrates Courts. He also had the problem of raising money for food and accomodation.² When the Senior Resident Magistrate goes to

places such as Kasempa, he books a room at the rest house because the Judiciary does not have its own rest houses for visitors. The Senior Resident Magistrate did not go to Mwinilunga quickly. Therefore in this case, the cases were not disposed of in time. There were three problems which surrounded the late disposition of these cases. If the Magistrate Mr. Ndhlovu had jurisdiction, he was going to dispose of them quickly. If the Senior Resident Magistrate had his transport and money he would have gone to Mwinilunga as soon as possible.³ Therefore the delay in disposing of these 4 cases were:

- (a) lack of jurisdiction by Magistrate Class II Mr. Ndhlovu.
 - (b) lack of transport by Senior Resident Magistrate
 - (c) Lack of money by Senior Resident Magistrate for food and accomodation
2. There were two cases of theft. They were delayed for average period of 6.5 months due to non - availability of witnesses in time. One accused person was found guilty and the other one was acquitted. The two accused persons were in custody during proceedings.
3. There were one case of burglary and theft. This case was delayed for 8 months due to non - availability of witnesses. The charge was withdrawn due to non - availability of witnesses. The accused was in custody during the proceedings.

4. There were two cases of assault occasioning actual bodily harm. They were delayed for average period of 7.5 months due to non - availability of witnesses. One accused was found guilty. The other case was withdrawn for lack of witnesses. During the proceedings the accused persons were on police bond.
5. There was one case of theft by Public Servant. The case was delayed for 8 months due to non - availability of witnesses. The accused was found guilty. He was on police bond during the proceedings.
6. There were two cases of breaking into a building and committing a felony. These cases were delayed for average period of 7.5 months due to non- availability of exhibits in time. The accused persons were found guilty. One accused was in custody during the proceedings while the other one was on police bond.

KABOMPO MAGISTRATE COURTS

(see Main Chart C page 65-66)

There were 23 cases from Kabompo whose disposal were delayed during the 1990 to 1995 period and also those which were delayed for at least 4 months. The breakdown of cases was as follows:

1. There was one case of obtaining money by false pretences. It was delayed for 6 months due to lack of witnesses. The accused was found guilty. He was in custody during the proceedings.

2. There were 3 cases of theft. They were delayed for average period of 8 months due to non-availability of witnesses. All defendants were found guilty. They were in custody during the proceedings.

3. There was one case of burglary and theft. It was delayed for 12 months due to lack of witnesses. The accused was found guilty. He was in custody during the court proceedings.

4. There were two cases of unlawful possession of prescribed trophy. The case were delayed for average period of 7 months due to:
 - (a) Lack of jurisdiction by Magistrate Class II Mr. Gona.
 - (b) lack of transport by the Senior Resdient Magistrate
 - (c) Senior Resident Magistrate had no money for food and accomodation at Kabompo rest house.⁴ Mr. Gona had jurisdiction to sentence accused to a maximum of 3 years imprisonment. The offence of unlawful possession of government trophy is a mimimum penalty of 5 years imprisonment. It is above the jurisdiction of a Magistrate Class II. The Senior Resident Magistrate did not go to Kabompo in time to hear such cases due to lack of transport and non - payment of subsistence allowance. The two accused persons were found guilty. They were on bail during the court proceedings.⁵

5. There was one case of murder. It was delayed for 5 months because of the non-issuance of the Committal Certificate by Director of Public Prosecutions. The accused was in custody before committal to High Court for trial.
6. There was one case of aggravated robbery. It was delayed for 4 months due to non issuance of Committal Certificate by Director of Public Prosecutions in time. The accused was in custody before committal to High Court for trial.
7. There were two cases of theft by public servant. They were delayed for the average period of 6 months due to the non-availability of witnesses. The defendants were both found guilty. They were on bail during the trial.
8. There were two cases of stock theft. Mr. Gona had no jurisdiction to try them.⁶ Senior Resident Magistrate had transport problem and no money to pay for the room at Kabompo rest house and buy food⁷ so he did not go in time to Kabompo. As a result, the cases were delayed for average period of 8 months. The charges were withdrawn when the Senior Resident Magistrate went to Kabompo. The cases were with drawn due to non-availability of witnesses. During the proceedings the accused were kept in custody.
9. There was one case of assault occassioning actual bodily harm. It was delayed for 5 months due to the non-availability of witnesses. The accused was acquitted. The accused was on bail at the time.

10. There was one case of escaping from lawful custody. The case was delayed for 6 months due to the non-availability of witnesses. The accused was found guilty. During the proceedings the accused was in custody.
11. There was one case of forgery. It was delayed for 6 months due to lack of witnesses. He was found guilty. He was in custody during the proceedings.
12. There were two cases of house-breaking. They were delayed for average period of 9.5 months due to lack of witnesses. The accused persons were found guilty. They were in custody during the proceeding.
13. There was one case of causing death by dangerous driving. It was delayed for 4 months due to non - issuance of Committal Certificate by Director of public prosecutions. The accused was in custody during committal proceedings.
14. There was one case of uttering. It was delayed for 6 months due to lack of witnesses. The accused was found guilty. He was in custody during the proceedings.
15. There was one case of unlawful possession of examination papers. The case was delayed for 7 months due to the non-availability of witnesses. The accused was found guilty. He was on bail during court proceedings.

ZAMBEZI MAGISTRATES COURT

(see Main Chart D page 67-68)

There were 28 cases which were delayed in being disposed of during this period 1990 to 1995 and whose disposal was delayed for at least 4 months. The break down of cases is as follows:

1. There were 7 stock theft cases. These cases were delayed for average period of 10.5 months due to a lack of jurisdiction by Local Magistrate Mr. Ngona. He is a Magistrate Class II. He had to call Senior Resident Magistrate Miss Catherine Chinaka. She had jurisdiction to try stock theft cases. She did not go to Zambezi in time due to transport problems and lack of money for food and accomodation.⁸ When Mr. Silavwe took over Solwezi as Senior Resident Magistrate that was when such cases were resolved. It also took time for him to go to Zambezi due to transport problems and non-payment of the subsistence allowance. Three accused were found guilty while two were acquitted. The two cases were withdrawn for lack of witnesses.
2. There were two cases of unlawful possession of a government trophy. The case were delayed for average period of 12 months due to the non-availability of witnesses. They were found guilty. They were on bail during court proceedings.
3. There were 4 cases of theft. They were delayed for average period of 7 months due to the non-availability of witnesses. One accused person was found guilty while one was

acquitted. The two remaining cases were withdrawn for lack of witnesses. During the proceedings the accused persons were in custody.

4. There was one case of house-breaking and theft. The case was delayed for 7 months for non-availability of witnesses in time. The accused was found guilty. During the proceedings the accused was in custody.
5. There was one case of giving false information to a Public Officer. This case was delayed for a period of 8 months due to that Magistrate Mr. Ngosa went on transfer to Kabwe from Zambezi.⁹ He failed to go back to Zambezi to complete this case due to transport problems and non-payment of subsistence allowance. The accused person was found guilty. He was on bail during the proceedings.
6. There were two cases of threatening violence. These cases were delayed for average period of 8.5 months due to that Magistrate went to Kabwe on transfer from Zambezi. He failed to go back to complete these cases in time due to transport and non-payment of subsistence allowance.¹⁰ One accused person was found guilty. The other case was withdrawn for non-availability of witnesses. The accused persons were on police bond during the proceedings.
7. There were two cases of assault occasioning actual bodily harm. These cases were delayed for an average period of 9.5 months due to non-availability of witnesses. They

were found guilty. The accused persons were on bail during court proceedings.

8. There was one case of failure to pay statutory contribution to Zambia National Provident Fund. It was delayed for 6 months due to that Magistrate went on transfer to Kabwe.¹¹ He failed to go back to Zambezi to complete this case due to transport and non-payment of subsistence allowance. The accused was found guilty. The accused was on Summons during the court proceedings.
9. There was one case of unlawful possession of ammunition. The case was delayed for 6 months due to non-availability of witnesses. The accused was found guilty. The accused was on bail during the Court proceedings.
10. There was one case of breaking into a building and committing a felony. The case was delayed for 6 months due to non-availability of witnesses. The accused was found guilty. The accused was in custody during the trial.
11. There were two cases of theft by Public Servant. They were delayed for an average period of 4.5 months due to non-availability of witnesses. One accused was found guilty and the other was acquitted. They were on bail during the trial.

12. There were two cases of failing to report to the nearest immigration officer upon entry into Zambia. These cases were delayed for average period of 7.5 months due to the fact that the Magistrate went to Kabwe on transfer. He failed to go back to Zambezi to complete this case because of transport and non-payment of subsistence allowance problems.¹² The two accused persons were found guilty. They were in custody during the trial.
13. There was one case of failing to render assistance to the injured person. The case was delayed for 5 months due to non-availability of witnesses. The accused was on summons during trial.
14. There was one case of obtaining money by false pretences. It was delayed for 4 months for lack of witnesses. The accused was found guilty. He was on bail during trial.

KASEMPA MAGISTRATES COURTS

(see Main Chart E page 69-72)

They were 52 cases in Kasempa whose disposition was delayed for 4 months or more. The breakdown of cases is as follows:

1. There were 3 cases of assault occasioning actual bodily harm. They were delayed for average period of 7.5 months due to lack of witnesses. One accused was acquitted. Two cases were withdrawn for non - availability of witnesses. the accused person were on bail during the trial.

2. There were two cases of unlawful possession of ammunition. The matter were delayed for average period of 4.5 months for lack of witnesses. The accused were found guilty. They were bail during the trial.
3. There was one case of of disorderly conduct at the police station. It has been delayed for non - appearance of defence counsel whenever case comes up for trial. The case is still pending up to date. The accused is on summons.
4. There were two cases of doing greivous bodily harm. These cases have been delayed for average period of 9 months due to non - availability defence counsels. Cases are still pending to date. The accused persons are on bail.
5. There were five cases of theft. They were delayed for an average 7 months due to the non-availability of witnesses. During the proceedings two accused persons were on bail while 3 accused persons were in custody. 3 accused persons were found guilty. Two cases were withdrawn due the lack of witnesses.
6. There was one case of hunting game animals. It was delayed for 5 months due to non - availability of witnesses. The accused was found guilty. He was on bail during the trial.
7. There was one case of insulting language. It was delayed for 8 months due to non - availability of witnesses. The accused was found guilty. During the trial the accused was

on bail.

8. There are two cases of theft by public servant. They have been delayed for average period of 8 months due to non - appearance of defence counsels at the trials. The cases are still pending to date. The accused persons are on bail.
9. There were 6 cases of causing death by dangerous driving. They were delayed for average period of 6.5 months due to the non - issuance of committal certificates to commit the accused person to High Court for trial. The accused person were in custody before committal to High Court for trial.
10. There were 7 cases of unlawful possession of government trophy. They were delayed for average period of 6 months due to the non-availability of witnesses. All the accused persons were found guilty. The accused persons were on bail during the trial.
11. There was one case of threatening violence. The case was delayed for 4 months due to the non availability of witnesses. The accused was acquitted. The accused was on bail at the trial.
12. There was one case of entering a dwelling house. It was delayed for 9 months due to a lack of witnesses. The charge was withdrawn for a lack of witnesses. During the

proceedings the accused was in custody.

13. There were two cases of murder. They were delayed for average period of 7 months due to the non-issuance of committal certificates by Director of Public Prosecutions to commit the accused persons to High Court for trial. Before commitment to the High Court the accused persons were in custody.
14. There was one case of theft by agent. The case was delayed for 4 months due to non - availability of witnesses. The case was withdrawn for lack of witnesses. During the trial the accused was on bail.
15. There were 6 cases of breaking into a building and committing a felony. These cases were delayed for an average period of 11 months due to a lack of witnesses. The accused persons were found guilty. During the trial all the accused persons were in custody.
16. There two cases of entering game management area without a permit. They were delayed for average period of 11 months due to a lack of witnesses. Charges were withdrawn due to the non-availability of witnesses. During the trial the accused were on bail.
17. There was one case of driving while under the influence of intoxicating liquor or drugs. The matter was delayed for 4 months due to the non-availability of witnesses. The

accused was found guilty. He was on summons during the trial.

18. There was one case of arson. It was delayed for 8 months due to non - availability of witnesses. The accused was found guilty. He was in custody during the trial.
19. There was one case of remaining in Zambia after expiry of a Visa Permit. It was delayed for 6 months due to the non-availability of witnesses. The accused was found guilty. The accused was in custody during the trial.
20. There was one case of theft by servant. It was delayed for 9 months due to the non-availability of defence counsel. Case is still pending to date.
21. There were two cases of unlawful wounding. They were delayed for the average period of 7.5 months due to the non-availability of witnesses. One accused was found guilty. The other case was withdrawn due to lack of witnesses. During the trial, the accused persons were both on bail.
22. There was one case of malicious damage to property. It was delayed for 9 months due to the non-availability of witnesses. During the trial the accused person was on bail. The accused was found guilty.
23. There were two cases of theft from person. The cases were delayed for average period of 6.5 months due to non -

availability of witnesses. The accused persons were found guilty. During the trial they were in custody.

MUFUMBWE MAGISTRATES COURTS

(see Main Chart F page 73-76)

During the period 1990 to 1995 a total number of 67 cases were delayed for an average period of 8 months due to the non - availability of magistrate at Mufumbwe Magistrate courts. At Mufumbwe Magistrates Courts there is no Magistrate and all 67 cases were delayed because of this problem. Only Magistrates from Kasempa, Kabompo and Solwezi go to Mufumbwe to hear cases.

OBSERVATIONS

According to the statistics I have just outlined, the first thing they tell us is that there are a total number of 225 cases which were delayed from 1990 to 1995.

DELAY BY DISTRICTS

(see Chart A Page 77)

1. Mufumbwe Magistrates Courts had 67 cases which were delayed out of the total number of 225 cases which were delayed during 1990-1995 period. The 67 cases represent 39.7% of the total number of 225 cases which were delayed during the 1990-1995 period.
2. Kasempa had 52 Criminal cases which were delayed out

of the total number of 225 cases which were delayed during 1990-1995 period. 52 cases represent 23.1% of the 225 cases which were delayed during 1990-1995 period.

3. Solwezi Magistrates courts had 43 cases which were delayed out of 225 total number criminal cases which were delayed during 1990 - 1995 period. 43 cases represent 19.1% of 225 cases which were delayed in 1990 - 1995 period.
4. Zambezi Magistrates Courts had 28 criminal cases which were delayed out of the total number of 225 cases which were delayed during the 1990 - 1995 period. These 28 cases represent 12.4% of 225 cases which were delayed during 1990 - 1995.
5. Kabompo Magistrates Courts had 23 criminal cases which were delayed out of a total number of 225 cases which were delayed during 1990 - 1995 period. 23 cases represent 10.2% of 225 cases which were delayed during 1990 - 1995 period.
6. Mwinilunga Magistrates Courts had 12 criminal cases which were delayed out of 225 which were delayed during the period of 1990 - 1995. These 12 cases represent 5.2% of 225 cases which were delayed during 1990 - 1995 period.

These statistics also tell us that more cases were delayed due to non - availability of witnesses during the 1990 - 1995 period more than any other grounds.

II

GROUND OF DELAY

(see Chart B Page 78)

1. Delayed cases due to witness problem were 90 representing 40% of 225 cases which were delayed during 1990 - 1995 period.
2. There were 67 cases which were delayed on grounds of non - availability Magistrate at Mufumbwe representing 39.7% of 225 cases which were delayed during 1990 - 1995 period.
3. There were 23 cases which were delayed on grounds of a Subsistence Allowance problem representing the approximate percentage of 10.2% of 225 cases which were delayed during the 1990 - 1995.
4. There were 23 cases which were delayed on grounds of transport problems representing approximately 10.2% of 225 cases which were delayed during the 1990 - 1995 period.
5. There were 17 cases wwhich were delayed on grounds of Committal Certificate problem representing approximately 7.55% of 225 cases which were delayed during the 1990 - 1995 period
6. There were 6 cases which were delayed because of transfer problems representing 2.66% of 225 cases which were delayed during the 1990 -1995 period.

According to the statistics the seven problems of lack of witnesses, non-availability of Magistrate at Mufumbwe non payment of Subsistence Allowance, lack of Transport, lack of Committal Certificat, lack of defence attorneys, and delayed Transfers were the most significant ones on which cases were delayed during the period 1990 - 1995

The less serious problems on which cases were delayed are as follows:

1. There was one case which was delayed because of an exhibit problem representing approximately .44% of 1990 - 1995 period.
2. There was one case which was delayed because of problems with getting a proper interpreter. This problem represent .44% of 225 cases which were delayed during 1990 - 1995 period.
3. There was one case which was delayed because of a magistrate's illness representing .44% of 225 cases which were delayed during 1990 - 1995 period
4. There was one case which was delayed because of a Fiat problem representing .44% of 225 cases which were delayed during 1990 - 1995 period.
5. There was one case which was delayed because of a Summon problem representing .44% of 225 cases which

were delayed during 1990 -1995 period

6. There was one case which was delayed because of Study Leave of a magistrate representing .44% of 225 cases which were delayed during the 1990 -1995 period.
7. There was one case which was delayed because of a social welfare problem representing .44% of 225 delayed cases during 1990 - 1995 period.

III LENGTH OF DELAYS

(see Chart C page 79)

1. The delays because of jurisdiction have taken an average period of 10.5 months for such cases to resolve.
2. The delays because of transport problems took an average period of 10.5 months for those cases to finish.
3. The cases which were delayed on the grounds of problems with subsistence allowance took an average period of 10.5 months to finish.
4. The delays on the grounds of non-availability of defence counsel took the average period of 9.6 months for such cases to be disposed of.
5. The cases which was delayed on the ground of a magistrate study leave took 9 months to finish.

6. The delays on ground of witness problems took an average period of 8.2 months to finish.
7. The delays on ground of non-availability of magistrate at Mufumbwe took an average period of 8.1 months to finish.
8. The delay on ground of non-issuance of Fiat took 8 months to finish.
9. The delay on ground of an exhibits problem took 8 months for case resolution.
10. The delay on the grounds of a transfer problem took an average period of 8 months for the accused person to have their case heard.
11. The delay on the grounds of a Social Welfare report took 7 months for the case to finish.
12. Delay on the grounds of Committal Proceedings took an average of 7 months for the accused to be committed to High Court for trial.
13. The delay on the grounds of illness took 6 the case months to finish.
14. The delay on the ground of interpreter problems took the case 5 months to finish.

15. The delay on the ground of Summons took the case 4 months.

According to these statistics, the cause of the longest delay are problems of jurisdiction, transport, and payment of subsistence allowance. The cause which caused the shortest delay is failure to summon the accused in time.

The offences which took a longest time to finish are stock theft cases. They are cases delayed on grounds of:

- (a) jurisdiction
- (b) transport and
- (c) non - payment of subsistence allowance.

Statistics tell us that that there is greater jurisdictional problem in Zambezi and Mwinilunga districts than in any other place in the North - Western Province. In Zambezi there were 7 stock theft cases, in Mwinilunga there were 4 stock theft cases, while, in Kabompo, there were two stock theft cases. In Solwezi, there was one stock theft case. In Kasempa and Mufumbwe, there were no stock theft cases. According to the statistics, the most likely delayed offences in all Magistrate Courts in the North - Western Province are theft by public servant, common thefts assault occasioning actual bodily harm, burglary and theft, house - breaking and theft, breaking into building and committing a felony and obtaining money or goods by false pretences.

There are more stock theft cases in Zambezi and Mwinilunga than any other place. There are more cases of unlawful possession of government and prescribed trophies in Mufumbwe and

Kasempa than in any other district. The reasons are that there are more heads of cattle in Zambezi and Mwinilunga than in any other place in the North - Western Province.¹³ There is Jivundu National Park, Mufumbwe and Lunga National Park in Kasempa. Thus, you have many cases of unlawful possession of government trophy and prescribed trophy committed by poachers.¹⁴

IV PERSONS IN CUSTODY DURING 1990-1995 PERIOD

(see Chart D page 80)

Statistics also show that during the period 1990 - 1995 there were 93 accused persons in custody representing 41.33% of 225 cases which were delayed during the 1990 - 1995 period. These accused persons stayed in prison for an average of at least 4 months. In some cases, prisoners stayed for over 12 months in remand prison. Kasempa had 22 accused persons representing the 42.30% of the 52 delayed cases in Kasempa district during the period 1990 - 1995. Solwezi had 21 accused persons in remand representing 48.83% of 43 delayed Solwezi cases during the 1990 - 1995 period. Mufumbwe had 19 prisoners representing 28.35% of 67 delayed Mufumbwe cases during 1990 - 1995 period. Zambezi had 14 accused persons in remand out of 28 cases which were delayed during 1990 - 1995 period. This number represents 50% of 28 delayed cases during 1990 - 1995 period. Kabompo had 12 accused persons in remand representing 52.17% of 23 Kabompo cases which were delayed during 1990 - 1995.

Mwinilunga had 7 accused persons in remand representing 58.33% of 12 Mwinilunga delayed cases during the 1990 - 1995 period.

V DISPOSTION OF DELAYED CASES DURING 1990-1995

The statistics also tell us that there were 139 accused persons who were found guilty representing 61.77% of 225 delayed cases during 1990 - 1995 period.

A. CONVICTIONS

(see Chart E page 81)

Mufumbwe had 47 accused who were convicted representing 70.1% of 67 delayed cases during 1990 - 1995 at Mufumbwe. At Kasempa, 27 accused persons were found guilty representing 51.9% of the 52 delayed cases for period 1990 - 1995. Solwezi had 22 convictions representing 51.1% of 43 delayed cases during 1990 - 1995 period, while Zambezi had 17 convictions representing 60.7% of 28 delayed cases during 1990 - 1995. Kabompo had 16 accused persons convicted out of 23 delayed cases during 1990 -1995 period representing 69.56% of 23 delayed cases. Mwinilunga had 10 convictions representing 83.3% of 12 delayed cases during 1990 -1995 period.

B. ACQUITTALS

(see Chart F page 82)

There were 24 accused persons who were acquitted representing 10.6% of 225 delayed cases during 1990-1995 period. Zambezi had 7 accused persons acquitted representing 25% of 28

delayed cases during 1990 - 1995 period. Mufumbwe had 6 accused persons acquitted representing 8.9% of 67 cases delayed during 1990 - 1995 period. Solwezi had 6 acquittals representing 8.6% of 23 delayed cases during 1990 - 1995 period. Kabompo had 2 acquittals representing 8.6 % out of 23 delayed cases during 1990-1995 period. Kasempa had 2 acquittals representing 3.8% of 52 delayed cases during 1990 - 1995 period. Mwinilunga had one acquittal representing 8.33% of 12 delayed cases during 1990 - 1995

C. COMMITTAL PROCEEDINGS

(see Chart G page 83)

Statistics further show that 21 accused persons were committed to High Court for summary trial out of 225 delayed cases during the 1990 - 1995 for a total percentage of period 9.3%. Kasempa had 8 cases committed to High Court for trial representing 15.3% of 52 delayed cases during 1990 - 1996 period. Solwezi had 8 cases committed to High Court representing the 18.6% of 43 delayed cases during 1990 - 1995 period. Mufumbwe had 4 cases committed to High Court for trial representing 5.9% of 67 delayed cases for 1990 - 1995 delayed caases. Kabompo had 3 cases committed to High Court representing 13.04% of 23 delayed cases during 1990 - 1995 period. Zambezi and Mwinilunga had no cases committed to High Court for trial out of their delayed cases.

D.

WITHDRAWALS

(see chart H page 84)

The statistics further reveal that 32 cases were withdrawn representing 14.2% of 225 cases which were delayed for 1990 - 1995 period. Kasempa had 12 cases withdrawn representing 23% of 52 delayed cases for 1990 - 1995 period. Mufumbwe had 8 cases withdrawn representing 11.9% of 67 delayed cases during 1990 - 1995. Solwezi had 8 cases withdrawn representing 18.6% of 43 delayed cases during 1990 - 1995 period. Zambezi had two cases withdrawn representing 7.14% of 28 delayed cases during 1990 - 1995 period. Kabompo had two cases withdrawn representing 8.69% of 23 delayed cases during 1990 - 1995 period. Mwinilunga had no cases withdrawn out of its 12 delayed cases during 1990 - 1995 period.

E.

PENDING CASES

(see Chart I page 85)

Statistics also that there were 10 pending cases representing 4.4% of 225 delayed cases during 1990 - 1995 period. Kasempa had 6 pending cases representing 11.54% of 52 delayed cases during 1990 - 1995 period. Mufumbwe had two pending cases representing 3% of 67 delayed cases during 1990 - 1995 period. Solwezi had one pending case representing 2.3% of 43 delayed cases during 1990 - 1995 period. Zambezi had one pending case representing 2.3% of 28 delayed cases during 1990 - 1995 period. Kabompo and Mwinilunga had no pending cases during the 1990 - 1995 period.

F CASES WHERE THE DEFENDANT IS ON BAIL

(see chart J page 86)

Statistics further indicate that 130 accused persons were on bail representing 57.7% of 225 cases which were delayed during 1990 - 1995 period. Mufumbwe had 48 accused persons on bail representing 71.6% of 67 delayed cases during 1990 - 1995 period. Kasempa had 30 accused persons on bail representing 50.7% of 52 delayed cases for 1990 - 1995 period. Solwezi had 22 accused persons on bail representing 51.1% of 43 delayed cases during 1990 - 1995 period. Zambezi had 15 accused persons on bail representing 54.3% of 28 delayed cases during 1990 - 1995 period. Kabompo had 9 accused persons on bail representing 39.13% of 23 delayed cases during 1990 - 1995 period. Mwinilunga had 4 accused persons on bail representing 33.33% of 12 delayed cases during 1990 - 1995 period.

On the question of acquittals and withdrawals I would not say people were wrongly put in jail before they were acquitted or charges were withdrawn against them. Such acquittals and withdrawals could have been due to failure by the police to bring witnesses to court, for instance if witnesses had shifted to unknown places. Therefore the evidence against such accused persons may be insufficient to prove charges beyond all reasonable doubt against them. In some cases the prosecution may offer no evidence because they have failed to bring witnesses to court. They may also withdraw the charge where they fail to bring witnesses to court. The question whether or not people are wrongly kept in jail will depend on circumstances of each case.

However, it is disturbing that out of a total of 225 cases, 56 cases are either dismissed outright or the defendants are acquitted. To have 20.44% of your cases resolved in such a fashion, while 41.33% of your defendants are in jail for an average stay of approximately 10 months presents a thorny human rights problem. Additionally, it is appalling that it takes an average of 7 months for a case to be transferred to the High Court for hearing on a committal certificate. To have 17 defendants simply waiting in jail for the correct Court to hear the case is inexcusable.

CONCLUSION

There are various factors which affect case disposal in the Subordinate Courts in the North Western Province. Some of the causes of delay such as transport and jurisdiction which have arisen as a result of the poor composition of Magistrates Courts in the Province, while others, such as witness problems, have arisen independently of the poor composition of such courts.

Therefore, it is important that we start looking for solutions to solve such problems so that delays in the system are minimised. From this discussion, we can conclude that Courts are not always to blame for the delay in case disposal. In most cases, it is the state which fails to make arrangements for quick disposition of cases. Defence counsels are also key players in causing the delays in the administration of justice. However, blaming persons for such delays is not particularly helpful. What is important is to find solutions for such problems so that each and everyone benefits from them.

In the next Chapter, I will propose possible solutions which will assist in minimising the delays in case disposal in the Subordinat Courts in the North - Western Province.

END NOTES

1. Interviews with Senior Resident Magistrate Mr. Mwanangumbi, on 11th September, 1995 at 14 hours.
2. Ibid.
3. Ibid.
4. Interviews with Senior Resident Magistrate Mr. Mwanangumbi on 11th September, 1995 at 1400 hours.
5. Ibid.
6. Ibid.
7. Ibid.
8. Interviews with Senior Resident Magistrate Mr. Mwanangumbi on 11th September, 1995.
9. Interviews with clerk of court Mr. Chiponge at Zambezi on 7th September, 1995 at 1500 hours.
10. Opcit.
11. Ibid.
12. Interviews with clerk of court Mr. Chiponge at Zambezi on 7th September, 1995 at 1600 hours.
13. Interviews with Senior Resident Magistrate Mr. Mwanangumbi on 11th September, 1995 at 1400 hours.
14. Interviews with Senior Resident Magistrate Mr. Mwanangumbi on 11th September, 1995 at 1400 hours.

KEY FOR MAIN CHARTS. PAGES 61-76

G = Guilty
A = Acquitted
C = Committal proceedings
W = Withdrawn Cases
P = Pending Cases
B = Bail or Police Bond
C = Custody (Remand Prison).
X = Not Applicable.

SOLWEZI	43 CASES	1990-1995	BREAKING INTO A BUILDING AND COMMITTING A FELONY	4
			THEFT BY PUBLIC SERVANT	9
			ASSAULT OCCASIONING ACTUAL BODILY HARM	2
			HOUSE BREAKING AND THEFT	4
			MURDER	4
			CAUSING DEATH BY DANGEROUS DRIVING	2
			THEFT	4
			STOCK THEFT	1
			FALSE CLAIM BY PUBLIC OFFICER	1
			MALICIOUS DAMAGE TO PROPERTY	1
			BURGLARY AND THEFT	6
			THEFT FROM PERSON	1
			FORGERY	1
			UTTERING	1
			FRAUDULENT FALSE ACCOUNTING	1

PERIOD DELETED		REASON FOR DELAY									
6-11 MONTHS	EXHIBITS - 1 CASE WITNESSES - 3 CASE	2	X	X	2	X					
10-14 MONTHS	DEFENCE COUNSEL - 3 CASES WITNESSES - 6 CASES	7	2	X	X	X					
4-5 MONTHS	WITNESSES	2	X	X	X	X					
7-8 MONTHS	WITNESSES - 3 CASES 1 CASE PROPER INTERPRETION	4	X	X	X	X					
5-9 MONTHS	COMMITTAL CERTIFICATE	X	X	4	X	X					
5-10 MONTHS	COMMITTAL CERTIFICATE	X	X	2	X	X					
9-13 MONTHS	WITNESSES	2	1	X	X	X					
6 MONTHS	WITNESSES	2	1	X	1	X					
8 MONTHS	FIAT FROM D.P.P.	X	X	X	X	1					
9 MONTHS	STUDY LEAVE	1	X	X	X	X					
8-10 MONTHS	WITNESSES	4	X	X	X	2					
6 MONTHS	WITNESSES	X	X	X	X	1					
11 MONTHS	DEFENCE COUNSEL	X	1	X	X	X					
7 MONTHS	DEFENCE COUNSEL	X	1	X	X	X					

STATION	TOTAL NUMBER OF CASES	PERIOD	NO OF CASES
MWINILUNGA	12 CASES	1990-1995	4
		THEFT	2
		BURGLARY AND THEFT	1
		ASSAULT OCCASIONING ACTUAL BODILY HARM	2
		THEFT BY PUBLIC SERVANT	1
		BREAKING INTO A BUILDING AND COMMITTING A FELONY	2

[illegible]

STATION	TOTAL NUMBER OF CASES	PERIOD	NO. OF CASES
KABOMPO	23 CASES	1990-1995	
		OBTAINING MONEY BY FALSE PRETENCES	1
		THEFT	3
		BURGLARY AND THEFT	1
		UNLAWFUL POSSESSION OF PRESCRIBED TROPHY	2
		MURDER	1
		AGGRAVATED ROBBERY	1
		THEFT BY PUBLIC SERVANT	2
		STOCK THEFT	2
		ASSAULT OCCASSIONING ACTUAL BODILY HARM	1
		ESCAPING FROM LAWFUL CUSTODY	1
		FORGERY	1
		HOUSE BREAKING	2
		CAUSING DEATH BY DANGEROUS DRIVING	1
		UTTERING	1
		UNLAWFUL POSSESSION OF EXAMINATION	1

6 MONTHS	WITNESSES	1	X	X	X	X	X	1
4-12 MONTHS	WITNESSE	3	X	X	X	X	X	3
12 MONTHS	WITNESSES	1	X	X	X	X	X	1
6-8 MONTHS	JURISDICTION/TRANSPORT/ SUBSISTENCE ALLOWANCE	2	X	X	X	X	X	X
5 MONTHS	COMMITTAL CERTIFICATE	X	X	1	X	X	X	1
4 MONTHS	COMMITTAL CERTIFICATE	X	X	1	X	X	X	1
5-7 MONTHS	WITNESSES	2	X	X	X	X	X	X
6-10 MONTHS	JURISDICTION/TRANSPORT/ SUBSISTENCE ALLOWANCE	X	X	2	X	X	X	X
5 MONTHS	WITNESSES	X	1	X	X	X	X	X
6 MONTHS	WITNESSES	1	X	X	X	X	X	1
6 MONTHS	WITNESSES	1	X	X	X	X	X	X
9-10 MONTHS	WITNESSES	2	X	X	X	X	X	2
4 MONTHS	COMMITTAL CERTIFICATE	X	X	1	X	X	X	1
6 MONTHS	WITNESSES	1	X	X	X	X	X	1
7 MONTHS	WITNESSES/SOCIAL RELEASE REPORT	1	X	X	X	X	X	X

ZAMBEZI

28 CASES

1990-1995

STOCK THEFT

7

UNLAWFUL POSSESSION OF GOVT TROPHY 2

THEFT 4

HOUSE BREAKING 1

GIVING FALSE INFORMATION TO PUBLIC OFFICER 1

THREATENING VIOLENCE 2

ASSAULT OCCASIONING ACTUAL BODILY HARM 2

FAILURE TO PAY STATUTORY CONTRIBUTION TO Z.N.P.F. 1

UNLAWFUL POSSESSION OF AMMUNITION 1

BREAKING INTO A BUILDING AND COMMITTING A FELONY 1

THEFT BY PUBLIC SERVANT 2

FAILURE TO REPORT TO THE NEAREST IMMIGRATION OFFICER 2

FAILURE TO RENDER ASSISTANCE TO INJURED PERSON 1

OBTAINING MONEY BY FALSE PRETENCES 1

PERIOD DELETED	JURISDICTION, TRANSPORT SUBSISTENCE ALLOWANCE	3	2	X	2	X	7
6-15 MONTHS							
10-14 MONTHS	WITNESSES	2	X	X	X	X	X
6-8 MONTHS	WITNESSES	1	1	X	2	X	1
7 MONTHS	WITNESSES	1	X	X	X	X	1
8 MONTHS	TRANSFER OF MAGISTRATE, TRANSPORT, SUBSISTENCE ALLOWANCE	1	X	X	X	X	X
7-10 MONTHS	TRANSFER OF MAGISTRATE, TRANSPORT, SUBSISTENCE ALLOWANCE	1	X	X	1	X	1
8-11 MONTHS	WITNESSES	2	X	X	X	X	X
6 MONTHS	TRANSFER OF MAGISTRATE, TRANSPORT, SUBSISTENCE ALLOWANCE	1	X	X	X	X	X
6 MONTHS	WITNESSES	1	X	X	X	X	X
6 MONTHS	WITNESSES	1	X	X	X	X	1
4-5 MONTHS	WITNESSES	1	1	X	X	X	X
7-8 MONTHS	TRANFER OF A MAGISTRATE, SUBSISTENCE ALLOWANCE	X	1	X	X	X	1

ASSAULT OCCASIONING ACTUAL BODILY
HARM 3

UNLAWFUL POSSESSION OF AMMUNITION 2

DISORDERLY CONDUCT 1

THEFT 5

DOING GRIEVOUS BODILY HARM 2

HUNTING GAME ANIMALS 1

INSULTING LANGUAGE 1

THEFT BY PUBLIC SERVANT 2

CAUSING DEATH BY DANGEROUS DRIVING 6

UNLAWFUL POSSESSION OF GOVT TROPHY 7

THREATENING VIOLENCE 1

ENTERING A DWELLING HOUSE 1

MURDER 2

THEFT BY AGENT 1

BREAKING INTO A BUILDING AND
COMMITTING A FELONY 6

Period		Number of cases									
		A	B	C	D	E	F	G	H	I	J
6-9 MONTHS	WITNESSES	X	1	X	2	X	3	X			X
4-5 MONTHS	WITNESSES	2	X	X	X		2	X			X
10 MONTHS	DEFENCE COUNSEL	X	X	X	X		1				X
6-8 MONTHS	WITNESSES	3	X	X	2		2	X			3
7-9 MONTHS	DEFENCE COUNSEL	X	X	X	X		2				X
5 MONTHS	WITNESSES	1	X	X	X		X				X
8 MONTHS	WITNESSES	1	X	X	X		X				X
6-10 MONTHS	DEFENCE COUNSEL	X	X	X	X		2				X
4-9 MONTHS	COMMITTAL CERTIFICATE	X	X	6	X		X				6
5-7 MONTHS	WITNESSES	7	X	X	X		X				X
4 MONTHS	WITNESSES	X	1	X	X		1				X
9 MONTHS	WITNESSES	X	X	X	1		X				1
6-8 MONTHS	COMMITTAL CERTIFICATE	X	X	2	X		X				2
4 MONTHS	WITNESSES	X	X	1	X		X				X
10-12 MONTHS	WITNESSES	6	X	X	X		X				6

KASEMPA	52 CASES	1990-1995	DRIVING UNDER INFLUENCE OF LIQUOR	1
			ARSON	1
			REMAINING IN ZAMBIA AFTER PERMIT HAS EXPIRED	1
			THEFT BY SERVANT	1
			UNLAWFUL WOUNDING	2
			MALICIOUS DAMAGE TO PROPERTY	1
			THEFT FROM PERSON	2

[illegible]

MUFUMBWE	67 CASES	1990-1995	BREAKING INTO A BUILDING AND COMMITTING A FELONY	4
			THEFT	4
			ASSAULT OCCASIONING BODILY HARM	4
			UNLAWFUL POSSESSION OF GAME MEAT	2
			UNLAWFUL POSSESSION OF PROHIBITED ARTICLE	4
			HOUSE BREAKING	5
			ESCAPING FROM LAWFUL CUSTODY	1
			THEFT BY PUBLIC SERVANT	6
			UNLAWFUL POSSESSION OF AMMUNITION	5
			GIVING FALSE INFORMATION TO PUBLIC OFFICER	2
			INSULTING LANGUAGE	1
			UNLAWFUL POSSESSION OF TROPHY	3
			HUNTING GAME ANIMALS	3
			MURDER	2
			UNLAWFUL POSSESSION OF FIREARM	3

PERIOD DELAYED	REASON FOR THE DELAY	G	A	C	W	P	B	C
4-10 MONTHS	NO MAGISTRATE AT MUFUMBWE	3	X	X	1	X	X	4
4-5 MONTHS	I BID	2	X	X	2	X	3	1
4-9 MONTHS	I BID	X	1	X	3	X	3	1
9-12 MONTHS	I BID	1	1	X	X	X	2	X
6-8 MONTHS	I BID	1	2	X	1	X	4	X
7-10 MONTHS	I BID	4	X	X	1	X	X	5
5 MONTHS	I BID	1	X	X	X	X	X	1
4-11 MONTHS	I BID	3	1	X	X	2	4	2
6-9 MONTHS	I BID	5	X	X	X	X	5	X
4-5 MONTHS	I BID	2	X	X	X	X	2	X
6 MONTHS	I BID	X	X	X	X	X	1	X
6-12 MONTHS	I BID	3	X	X	X	X	3	X
5-9 MONTHS	I BID	3	X	X	X	X	3	X
6-7 MONTHS	I BID	X	X	2	X	X	X	2

TYPE OF CASES.		
MUFUMBWE	67 CASES	1990-1995
UNLAWFUL WOUNDING		
		3
NAMING A PERSON TO BE A WITCH		
		1
ASSAULT WITH INTENT TO STEAL		
		1
CAUSING DEATH BY DANGEROUS DRIVING		
		2
ARSON		
		1
ENTERING A NATIONAL PARK WITHOUT A PERMIT		
		1
MALICIOUS DAMAGE TO PROPERTY		
		1
PROFESSING KNOWLEDGE OF WITCHCRAFT		
		1
CAUSING GRIEVOUS BODILY HARM		
		2
OBTAINING MONEY BY FORCE PRETENCES		
		1
CRIMINAL TREEPASS		
		1
THREATENING VIOLENCE		
		1
UNLAWFUL POSSESSION OF WIRE SNARES		
		2

7-8 MONTHS	I BID	3	X	X	X	X	3	X
5 MONTHS	I BID	1	X	X	X	X	1	X
7 MONTHS	I BID	1	X	X	X	X	1	X
5-6 MONTHS	I BID	X	X	2	X	X	X	X
8 MONTHS	I BID	1	X	X	X	X	X	X
9 MONTHS	I BID	1	X	X	X	X	1	X
4 MONTHS	I BID	1	X	X	X	X	1	X
4 MONTHS	I BID	1	X	X	X	X	1	X
7-11 MONTHS	I BID	2	X	X	X	X	2	X
9 MONTHS	I BID	1	X	X	X	X	1	X
12 MONTHS	I BID	1	X	X	X	X	1	X
6 MONTHS	I BID	1	X	X	X	X	1	X
6 MONTHS	I BID	1	X	X	X	X	1	X

DELAY BY DISTRICTSSUB-CHART A

DISTRICT	NUMBER OF DELAYED CASES FOR 1990-1995 PERIOD	PERCENTAGE OF DELAYED CASES FOR 1990-1995 PERIOD	TOTAL NUMBER OF DELAYED CASES FOR 1990-1995 PERIOD
MUFUMBWE	67	39.7	225
KASEMPA	52	23.1	225
SOLWEZI	43	19.1	225
ZAMBEZI	28	12.4	225
KABOMPO	23	10.2	225
MWINTILUNGA	12	5.2	225

GROUNDS OF DELAYSUB-CHART B

TYPE OF PROBLEM FOR THE DELAY	NUMBER OF CASES DELAYED	PERCENTAGE OF DELAYED CASE	TOTAL NUMBER OF CASES DELAYED DURING 1990-1995 PER
-WITNESS	90	40	225
NON AVAILABILITY OF MAGISTRATE AT MUFUMBWE	67	39.7	225
SUBSISTENCE ALLOWANCE	23	10.2	225
TRANSPORT	23	10.2	225
COMMITTAL CERTIFICATE	17	7.55	225
LAWYERS	12	5.33	225
TRANSFER	6	2.66	225
EXHIBITS	1	.44	225
INTERPRETER	1	.44	225
ILLNESS	1	.44	225
FIAT	1	.44	225
SUMMONS	1	.44	225
STUDY LEAVE	1	.44	225
SOCIAL WELFARE REPORT	1	.44	225

SUB- C H A R T CLENGTH OF DELAYS

<u>TYPE OF PROBLEM FOR THE DELAY</u>		<u>AVERAGE PERIOD OF DELAY IN INFORMATION IN MONTHS 1990-1995 PERIOD</u>
JURISDICTION		10.5
TRANSPORT		10.5
SUBSISTENCE ALLOWANCE		10.5
DEFENCE COUNSEL		9.6
STUDY LEAVE		9
WITNESS		8.2
NON AVAILABILITY OF MAGISTRATE - MUFUMBWE		8.1
FIAT		8
EXHIBITS		8
TRANSFER		8
COMMITTAL CERTIFICATE		7
SOCIAL WELFARE REPORT		7
ILLNESS		6
INTERPRETER		5
SUMMONS		4

PERSON IN CUSTODY DURING 1990-1995 PERIOD

SUB-CHART D

DISTRICT	ACCUSED PERSONS IN REMAND PER DISTRICT	PERCENTAGE OF ACCUSED PERSON IN REMAND	TOTAL DELAYED CASES PER DISTRICT DURING 1990-1995
KASEMPA	22	42.3	54
SOLWEZI	21	48.3	43
MUFUMBWE	19	28.35	67
ZAMBEZI	14	50	28
KABOMPO	12	52.17	23
MWINILUNGA	7	58.33	12
TOTAL	93	41.33	225

DISPOSITION OF DELAYED CASES 1990-1995 - CONVICTIONS

SUB-CHART E

DISTRICTS	ACCUSED PERSON CONVICTED PER DISTRICT	PERCENTAGE OF ACCUSED CONVICTED PER DISTRICT	TOTAL CASES DELAYED PER DISTRICT DURING 1990-1995 PERIOD
MUFUMBWE	47	70.1	67
KASEMPA	27	51.9	52
SOLWEZI	22	51.1	43
ZAMBEZI	17	60.7	28
KABOMPO	16	69.6	23
MWINILUNGA	10	83.3	12

TOTAL	139	61.77%	225
-------	-----	--------	-----

DISPOSITIONAL DELAYED CASES 1990-1995 - ACQUITTALS

DISTRICT	NUMBER OF ACQUITTALS PER DISTRICT DURING 1990-1195 PERIOD	PERCENTAGE OF ACQUITTALS PER DISTRICT 1990-1995	TOTAL NUMBER OF CASES DELAYED PER DISTRICT 1990- 1995 PERIOD
ZAMBEZI	7	25	28
MUFUMBWE	6	8.9	67
SOLWEZI	6	13.9	43
KABOMPO	2	8.9	23
KASEMPA	2	3.8	52
MWINILUNGA	1	8.33	12

TOTAL	24	10.6%	225
-------	----	-------	-----

SUB-CHART - G

DISPOSITION OF DELAYED CASES 1990-1995 COMMITTALS

DISTRICT	NUMBER OF COMMITTALS PER DISTRICT OUT OF DELAYED CASES DURING 1990-1995	PERCENTAGE OF COMMITTALS	TOTAL NUMBER OF DELAYED CASES PER DISTRICT DURING 1990-1995 PERIOD
KASEMPA	8	15.3	52
SOLWEZI	8	18.6	43
MUFUMBWE	4	5.9	67
KABOMPO	3	13.04	23
ZAMBEZI	NIL	NIL	28
MWINILUNGA	NIL	NIL	12
TOTAL	21	9.3%	225

SUB-
DISPOSITION OF DELAYED CASE 1990-1995 - WITHDRAWALS - C H A R T H

DISTRICT	NUMBER OF WITHDRAWN CASES PER DISTRICT DURING 1990- 1995 PERIOD OUT DELAYED CASES	PERCENTAGE OF WITHDRAWALS	TOTAL NUMBER OF DELAYED CASES PER DISTRICT DURING 1990-1995 PERIOD
KASEMPA	12	23	52
MUFUMBWE	8	11.9	67
SOLWEZI	8	18.6	43
ZAMBEZI	2	7.14	28
KABOMPO	2	8.68	23
MWINILUNGA	NIL	NIL	12
TOTAL	32	14.2%	225

DISPOSITION OF DELAYED CASE 1990-1995 - PENDING CASES SUB-CHART I

DISTRICT	NUMBER OF PENDING CASES PER DISTRICT DURING 1990-1995 PERIOD	PERCENTAGE OF PENDING CASES	TOTAL NUMBER OF DELAYED CASES PER DISTRICT DURING 1990-1995
KASEMPA	6	11.54	52
MUFUMBWE	2	3	67
SOLWEZI	1	2.3	43
ZAMBEZI	1	2.3	28
KABOMPO	NIL	NIL	23
MWINILUNGA	NIL	NIL	12

TOTAL	10	4.4%	225
-------	----	------	-----

CASES WHERE THE DEFENDANT IS ON BAIL

SUB-CHART J

DISTRICT	NUMBER OF ACCUSED ON BAIL PER DISTRICT OUT OF DELAYED CASES DURING 1990-1995 PERIOD	PERCENTAGE OF PERSON ON BAIL	TOTAL NUMBER OF DELAYED CASES PER DISTRICT DURING 1990-1995 PERIOD
MUFUMBWE	48	71.6	67
KASEMPA	30	50.7	52
SOLWEZI	22	51.1	43
ZAMBEZI	15	54.3	28
KABOMPO	9	39.13	23
MWINILUNGA	4	33.33	12
TOTALS	130	57.7%	225

CHAPTER 4

RECOMMENDATIONS FOR MINIMIZING DELAYS IN DISPOSING OF CRIMINAL CASES IN SUBORDINATE COURTS

INTRODUCTION

The purpose of carrying out my research was to discover the reasons why there are delays in disposal of criminal cases in Magistrates Courts in the North - Western Province. In this Chapter I make recommendations to minimise such delays. The causes of delays were discussed in detail in Chapter Three. In making recommendations, I start with procedural matters first. I then deal with magisterial changes and finally with other important changes in the disposition of criminal cases.

PROCEDURAL MATTERS

(a) CHANGES IN ADJOURNMENTS

On the issue of non - availability of witnesses, I recommend that the prosecution be given only three adjournments, each one consisting of one month. If the prosecution fails to bring witnesses on four occasions, the case should be dismissed. However, the dismissal of the charge should be without prejudice because the prosecution may have genuine reason for failing to bring witnesses to court.

In cases where the witness is sick or is abroad more than three adjournments may be allowed to give the prosecution more of chance to secure the attendance of their witnesses in court. This does not mean that the police should use illness of the witness or his being abroad for dragging on the case forever. In the case where the witness is sick, the prosecution can only be allowed three adjournments after which the charge should be withdrawn, without prejudice leading to the discharge of the accused. If the prosecution has other witnesses whose evidence can prove the charge without calling the sick witness, they can go ahead with the trial. On the other hand if the sick witness is the key witness, the prosecution should withdraw the charge and re-start it when such a witness gets better. I have recommended the withdrawal of the charge without prejudice where the key witness is sick because the prosecution has a reasonable excuse for their failure to bring witnesses to court.

In the case where the witness is abroad and the prosecution fails to bring such a witness to court within 6 months time, the charge should be dismissed. However, the dismissal of the charge should be without prejudice because the prosecution may fail to secure attendance of such witnesses for some reasonable excuse. For instance, a witness may still be pursuing studies. This is a good solution because it will give ample time for the prosecution to prepare their case well and it indicates what will happen if the prosecution fails to bring witnesses to court within a specified time.

(b) COMMITTAL PROCEEDINGS

When a person who is charged with an offence which is not triable by the magistrates courts they start appearing in Magistrates Court awaiting the committal certificate from the Director of Public Prosecutions to commit the accused to the High Court for summary trial. A committal certificate is a document which is issued by the Director of Public Prosecutions for committing the accused to High Court for summary trial in terms of Section 254 of the Criminal Procedure Code Chapter 160 of Laws of Zambia. ¹ I recommend that law be changed to require the issuance of a committal certificate within two weeks of the accused's appearance in court, if not then the accused will be discharged. This is good solution because the Director of Public Prosecutions will be forced to issue committal certificates quickly, fearing that if he does not do so the accused person will be discharged and the police will have a task of looking for the person again. At the moment the law does not stipulate within how much time a committal certificate must issue. Thus, you find that the accused persons stay in remand prisons for over one year or more. Many adjournments are granted to the prosecutions pending the issuance of committal certificates for committing the accused to High court for trial. ²

(c) GRANTING OF BAIL

I recommend that conditions of granting of bail change so that where the case is not disposed of within 6 months time the accused should be released on bail. Release of the accused on

bail will assist the accused in minimising the hardships he is going through. When the accused is released on bail he is at least able to move freely which is not the case if he is in custody. He is able to work if such release is secured. Releasing of accused on bail may not necessarily mean that his case will finish quickly. It will be used for the purposes of securing his liberty while the state is looking into the means for dealing with his case. Granting of bail to the accused will also assist the state in reducing the costs of feeding the remandees.

Granting of bail to the accused persons cannot apply to all cases. In some cases, the accused persons may be persons of no fixed abode. In such a case, it is difficult to trace the accused person if he/she fails to re-appear in court. Hence, such an accused person should not be granted bail because it is likely that he/she may not come back if he/she is released on bail.

The other occasion in which accused person should not be granted bail is when an accused is charged with a serious offence such as aggravated robbery. The reason is that in serious offences such as aggravated robbery the penalty is heavy. The penalty for aggravated robbery is up to 15 years imprisonment. In the case where the accused is charged with aggravated robbery in which the fire-arm was used, the sentence is the death penalty. If the accused is released on bail he would flee the jurisdiction because he would be scared of the penalty. So granting of bail to such a defendant would be like giving a chance to him to run away.

(d) DETENTION DURING PRESIDENT'S PLEASURE

I recommend that whenever someone is detained in terms of Section 161 of Criminal Procedure Code Chapter 160 of Laws of Zambia there should be a constant reminder to the Office of President to release the detained person so that the case should, be resumed as soon as possible. When one is detained at President's pleasure he is usually forgotten. This was even discussed at Siavonga during Magistrates and Judges Seminar of 21st and 22nd March 1989 by former Chief Justice, Mr. Annel Silungwe.³

Detention during President's pleasure occurs where an accused who is charged with an offence which is punishable with death or imprisonment fails to plead or make proper defence. The accused is detained for treatment with a view that when he gets better he would be taken back to court to stand trial because in such a case he is able to plead or make proper defence to the charge.

JURISDICTION

Some Magistrates such as Magistrate Class II and III have no jurisdiction to try cases whose minimum mandatory sentences are above their jurisdictions. For example, magistrates Mr. Ndhlovu at Mwinilunga Magistrates Court is a Magistrate Class II. He has no jurisdiction to try stock theft cases because his sentencing power is below the minimum mandatory sentence of stock

theft case. Mr. Ndhlovu has only powers to sentence an accused up to 3 years imprisonment while with stock theft case the minimum mandatory sentence for the first offender is 5 years imprisonment which is above the jurisdiction of Magistrate Class II.

Therefore, I recommend that Parliament alter all minimum mandatory sentences for all offences triable by Magistrates Court. The sentences, for example of stock theft cases, should be made entirely discretionary. For instance, the penalty for stock theft should read "liable to 15 years imprisonment". The sentence should not read "not less than 5 years imprisonment and not more than 15 years imprisonment". This means that you cannot pass sentence of less than 5 years imprisonment for that offence. This also means that a Magistrate has no discretion in the passing of the sentence. Now if sentences in all offences triable by magistrates are left at the discretion of Magistrates, then all Classes of Magistrates will have power to handle all cases triable by Magistrates Court quickly and pass sentences which are within their powers. This also can assist the accused where for example the accused is the first offender, he has pleaded guilty and the subject matter of the charge has been recovered from him. There is no reason to sentence him to 5 years imprisonment in such a case. The statutes which should be amended are those which indicate minimum mandatory sentences, for instance Section 275 of the Penal Code Chapter 146 of the laws of Zambia which created the offence of stock theft.⁴ The amendments to such statutes will give magistrates the discretion in passing the sentence for the offences whose sentences have

been altered. A greater use of discretion and increased flexibility will a great benefit to the system and the accused.

I also recommend that the classes of magistrates be abolished. They are not necessary. Abolition of classes of magistrates will assist in the problem of jurisdiction. For example, at the moment, a Magistrate Class III has no jurisdiction to accept a plea of guilty from a juvenile offender. If the classes of magistrates were abolished, this problem would not arise because pleas of guilty from a juvenile offender will be accepted and cases will be concluded in time. Where the juvenile offenders appears in court before a magistrate of third class, even if the juvenile offender pleads guilty to the charge, the magistrate of third class is obliged to conduct a trial. A magistrate class III is not allowed to accept plea of guilty.

I recommend that Section 64 (3) of Juveniles Act chapter 217 of Laws of Zambia⁵ be amended so that all magistrates start accepting pleas of guilty from juvenile offenders. This solution is good, because when a juvenile offender pleads guilty to the charge before a Magistrate Class III, that magistrate can dispose of the case as quickly as when an adult accused person pleads guilty to the charge.

MAGISTERIAL CHANGES

(a) STAFFING OF MAGISTERIAL POSITION

In some places such as Mufumbwe, there are no magistrates. As a result of non - vailability of a

magistrate at Mufumbwe cases are delayed. Therefore I recommend that the Judiciary should send a magistrate to Mufumbwe and other places where there are no magistrates. Mufumbwe magistrates court is only visited by magistrates from Kasempa, Kabompo and Solwezi. These magistrates need transport to go to Mufumbwe to hear cases. They also need money to buy food and pay for accomodation at Mufumbwe rest house. Therefore if the Judiciary sends a magistrate to Mufumbwe it will solve several problems. The Judiciary will solve the problem of paying subsistence allowance to magistrates which it is facing now. It will also solve transport problem for magistrates to go to Mufumbwe to hear cases. At the moment the department is facing a problem of providing transport for going to Mufumbwe to hear cases. The department can transfer one magistrate from the stations where there are many magistrates. For example there are many magistrates at Chikwa Magistrates Courts. The department can transfer one of the 8 magistrates who are at Chikwa magistrates court to Mufumbwe Magistrates courts.

(b) TERMS AND CONDITIONS

I recommend that terms and conditions of service of magistrates should be determined by an Act of Parliament just like those of judges. The reasons are that both magistrates and Judges do the same job. The difference is that judges hear more serious charges than those which are triable by magistrates. There should not be discrimination

when it comes to the question of how terms and conditions of magistrates and judges are determined. It is also important that terms and conditions of magistrates are determined by an Act of Parliament. Thus, if the government fails to comply with the provisions of the Act, the government can be challenged and taken to court. Presently, the government cannot be sued by magistrates over their terms and conditions service because there is no law which state how such terms and conditions should be. Judges salaries are determined by section 4 of Act No. 41/1993.

(c) MAGISTERIAL DISCHARGE

I recommend that the Judicial Service Commission should state clearly the terms upon which the magistrate can be retired on public interest. At the moment, the terms upon which the magistrate can be retired on public interest are not clearly defined. It is simply provided that the Judicial Service Commission will act upon recommendation from the Registrar of the High Court stating that the magistrate named in the recommendation should be retired in the public interest. It is difficult to challenge such a report from the Registrar of the High Court because the terms upon which magistrate should be retired on public interest are not known. The Registrar of the High Court is a human being like any one else. He can recommend that a certain magistrate be retired in the public interest without sloving that he has done something

wrong but just because he has personal differences with the magistrate in question.

The Registrar of the High court has unchallengeable powers regarding retiring magistrate to Judicial Service Commission for retirement in the public interest. If the terms upon which magistrate can be retired on public interest are known, then it is easy to challenge such powers. The Judicial Service Commission should also define the circumstances in which the magistrate will be considered to have misconducted himself. The term "misconduct" is not defined by Judicial Service Commission presently. Thus, the Registrar of the High court can say whatever he/she thinks would amount to misconduct.

(d) SALARIES OF MAGISTRATES

I recommend that the government, even though the economy is bad, should improve salaries of magistrates. At the moment, salaries of Principal Resident Magistrate, Senior Resident Magistrate, Resident Magistrate, Magistrates Classes I, II, III range from K80,000 to K200,000 per month. A person getting this amount of money is not comfortable. In order for him to go for work at other stations, he must be paid subsistence allowance. He would use subsistence allowance to buy food and pay for accommodation. If the government gives magistrates for instance, salaries ranging from K500,000 to K700,000, even if they are not paid Subsistence allowance, they can afford to pay for food and

accommodation when they go out for work. They can also

afford their own transport. Therefore, if salaries of magistrates are improved the government can do away with payment of subsistence allowance at the moment is one of the causes of delays in case disposal.

(e) TRANSFERS AND LEAVES

When magistrates are transferred from one section to another, they usually leave partly heard cases at their old stations. Partly heard cases are those cases in which magistrates have started hearing testimony and taken down evidence. For instance where "A" is charged with theft and a magistrate hears evidence of witnesses without finishing it, the case is called a partly heard case. What happens is that when a magistrate goes on transfer and leaves partly heard cases behind, he faces transport problem to go to his old station to complete his partly heard cases. He may also fail to go back because he had no money to pay for food and accommodation.

Therefore, in such a case, in order to dispose of a partly heard cases" quickly, I recommend that such partly heard cases should be transferred to other magistrate. In the case of the People v George Chaponda⁶, it was held that High Court has the power to transfer a "partly heard case" from one magistrate to another such transfer of cases from one magistrate to another will assist the Judiciary because it will not spend as much money as it would have had the case not been transferred to another magistrate. The

problem is that at the moment it is only the High court which has power to transfer partly heard cases from one magistrate to another. Therefore, I recommend that senior magistrates be given powers to allocate partly heard cases from one magistrate to another magistrate.

In the case where magistrate goes on study leave or vacation leave, there should be transfer of his partly heard cases to another magistrate. This will assist in having matters resolved in time. When one is on vacation or study leave the time when he will resume work is not known. When one is on study leave the programme he is pursuing may require him to do some research during the vacation. He may not report for work. When one is on vacation leave he may extend his leave. For instance, Mr. Nyampare at Kasempa extended his vacation leave from 30th April, 1990 to 30th August, 1990 to attend to his wife who was sick. Thus his extension of vacation leave meant delay in the disposal of "partly heard cases." In the People v George Chaponda⁷ it was held that "partly heard cases" can be transferred from magistrate who started it to another one.

In the case of illness of magistrate or prosecutor, I recommend that his cases should be allocated to another Magistrate or Prosecutor. I recommend that the Judicial Service Commission should continue sending magistrates to the station where one magistrate is sick to avoid delays in case disposition. For instance, the High court sent Mrs Nyoni to Solwezi in place of Mr. Kenny Mwanangumbi who was sick.⁸ The cases were disposed of in time and were not delayed.

4. OTHER IMPORTANT CHANGES IN THE DISPOSITION OF CRIMINAL CASES

(a) DISCIPLINING OF DEFENCE ATTORNEYS

Sometimes defence counsels contribute to the delay in disposition of cases. For instance, in the People v Nkonde Lastone,⁹ the defence counsel was not appearing in court whenever the case was called up for trial. He said that he was too busy in the High Court. I recommend that all the defence counsels who purposefully delay their appearance be reported to the Law Association of Zambia by Magistrates. Some clients may not know the procedures of how to report such lawyers.

Therefore magistrates should report such actions on behalf of accused persons. I also recommend that an increase in fines for contempt of court for failure to appear in court on the appointed dates. This solution of reporting lawyers who are defaulting is important because lawyers will fear being fined for contempt of court and fear losing their practicing certificate. Thus, they will be appearing before courts of law whenever they are required. If they find that they have more clients than they can properly handle, they should be telling those clients who come later to go to other lawyers who still have the chance to handle their cases properly. They should not be accepting any client who approaches them.

6. SOCIAL WELFARE REPORTS

I recommend that social welfare officers should prepare reports on juvenile offenders who have been convicted so that such cases can be disposed of quickly. When juvenile offenders appear in court and are convicted of criminal offences, the court asks social welfare officers to prepare reports regarding the background of the juvenile offender and the circumstances which led the juvenile offender to the commission of the offence. This report is called the social welfare report. Social welfare reports are important because they help the court to determine the way in which it can deal with the offender. If the social welfare officer does not do his work in time he should be dismissed for failure to do his work. However, he cannot be dismissed if he has failed to do his work due to some reasonable excuse such as illness.

(c) PROSECUTIONS

I recommend that prosecutors should inform the magistrate about the number of witnesses they are calling in a particular case so that when adjourning the case the magistrate can give it a free day for its quick prosecution. If the prosecution is planning on calling many witnesses it is good that the magistrate be informed in advance so that he adjourns the case to a date on which there are no other matters. In such a case, the magistrate will then be able to finish the complicated case involving many witnesses because there are no other cases on that day.

(d) USE OF INTERPRETERS

I recommend use of other members of staff other than interpreters in interpreting to the accused. The reason is that sometimes the interpreters may not understand the language which the accused understand while other members of staff understand it. These people who understand such a language should be used to interpret. In the People V Kasongo Luapula the driver was used for interpreting in Swahili language which the accused understand well. The interpreter did not understand Swahili language. As a result of the assistance which the driver gave in interpreting into Swahili, the case was disposed of in time.

Normally interpreters are ones who are supposed to interpret in courts of law. However, it has been found that sometimes a person may be charged whose language the interpreter does not understand. In such a case, if the court decides to wait for the interpreter who understands that language the disposal of such a case can be delayed.

CONCLUSION

Quick disposal of criminal cases is as important as taking the accused before the court of law. Delays in disposition of criminal cases have negative effects for a number of different reasons. Delays in case disposition affect both the state and the accused person. Therefore, nobody benefits from the delays in disposal of cases. The crime rate is increasing together with the increase in population. For example, in 1990 total number

of Criminal cases reported to the police in the North-Western Province was 1401 and in 1994, it was 4366.¹⁰ The increase in crime rate was 593 cases per annum. The population in 1990 was 387,552 and in 1995 it is 396,466.¹¹ The population growth rate is 1,485 people per annum. This shows that crime rate is increasing faster than the population grows. Therefore, it is imperative at this time to put measures in place to minimise delays in the delivery of justice. If we do not do that now, we will have a have a severe problem when this problem grows.

The problem in the delivery of justice is partly caused by economic difficulties which the Zambia is going through and partly due to poor composition of the courts. Thus we have to work hard towards the improvement of the situation. The problem is not for the government alone to resolve. Members of the public have also a role to play. For instance, members of the public can contribute blocks for building new courtrooms where there are more magistrates then courtrooms. If we just wait for the government alone to resolve problem affecting delivery of justice it may take a long time because the government has no money. Members of the public can also donate fuel for the magistrate to go to some place to hear cases. Courts are there because of people. Hence, people for which judicial system has been put in place should come in to assist the government where they could.

The war against delays in the delivery of justice has to be won if our judicial system is to achieve its goals of dispensing with justice impartially and fairly.

END NOTES

1. Section 254 of Criminal Procedure Code Chapter 160 of Laws of Zambia.
2. Case No. 3v/22/93 The People v Morgan Bwalya.
In this case it took 6 months for accused to be committed to the High Court for trial.
3. Magistrates and Judges Seminar at Siavonga, dated 21st to 22nd March, 1989.
4. Section 275 Penal Code Chapter 156 of Laws of Zambia.
5. Section 64 (3) of Juveniles Act Chapter 217 of Laws of Zambia.
6. (1973) S.J.Z. page 26.
7. Opcit.
8. Interviews with Mr. Kenny Mwanangumbi, Senior Resident Magistrate, Solwezi on 11th September, 1995 at 9.00 hours.
9. Case No. 20/18/92.
10. Interview with Inspector Daka, Prosecutor.
11. Interviews with Mr. Banda Provincial Statistic Officer North-Western Province.

BIBLIOGRAPHY

L.K. Young Magistrates Handbook, (Lusaka, Government Printer (1968))

Muna Ndulo, Law in Zambia (Lusaka Government Printer, (1970))

JOURNALS AND ARTICLES

"Magistrates and Judges Seminar," 21st to 22nd March 1989,

"Delays in Administration of Justice" a paper presented at Seminar for Law Association of Zambia on 10th March, 1992 by Mighty Ngandwe.