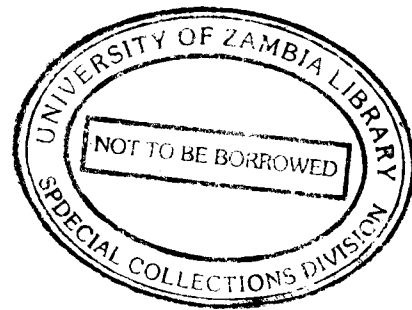


**THE LEGAL PROFESSION:
PERCEPTIONS AND
MISCONCEPTIONS**



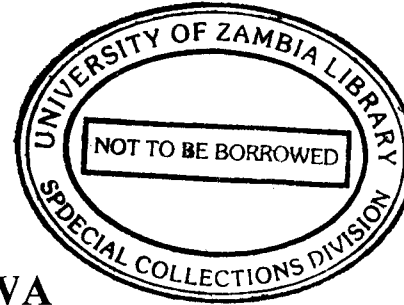
BY

MWIZUKANJI NAMWAWA

**THE LEGAL PROFESSION:
PERCEPTIONS AND
MISCONCEPTIONS**

BY

MWIZUKANJI NAMWAWA



An obligatory essay submitted to the University of Zambia in partial fulfillment of the requirements for the award of the degree of Bachelor of Laws (LLB)

University of Zambia

Faculty of Law,

Lusaka.

2005.

THE UNIVERSITY OF ZAMBIA

FACULTY OF LAW

I recommend that the obligatory essay prepared under my supervision by **Mwizukanji Namwawa** entitled **The Legal Profession: Perceptions and Misconceptions** be accepted for examinations. I have checked it carefully and I am satisfied that it fulfills the requirements relating to format as laid down in the regulations governing obligatory essays.



PROFESSOR PATRICK MVUNGA
(Supervisor)

17 / 01 / 2006
DATE

Dedicated to...

My beautiful mother, Violet Namutenda, by far the strongest woman in the entire world. Your strength and courage inspires me to reach greater heights. You have shown me that everything is possible mum. You are truly amazing. God is with us.

And my dear father, James Chanda Simwawa. Dad you have taught me that failure is never an option and without your wisdom I would never have come this far. Thanks for teaching me that education is the pathway to success... this essay is for you.

I love you

Mwizukanji Namwawa

WORDS OF WISDOM

“True we build no bridges. We raise no towers. We construct no engines. We paint no pictures. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men and women’s burdens and by our efforts we make possible a peaceful life”

JOHN DAVIS (former United States Solicitor General)

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May God reward all these people for their help.

Mwizukanji Namwawa.

ABSTRACT

The legal profession is one, which is held in high esteem and is often referred to as a noble and learned profession. However, the image of the lawyer is tainted by the many perceptions and misconceptions held by many ordinary people. The lawyer is usually perceived as a crooked and greedy person, motivated solely by the profit motive. The problem that follows therefore is how to reconcile this position with the notion that the lawyer is an honest and learned breed, fighting for justice and spearheading the cause of the poor.

Law orders the fabric of society and society demands that the law and lawyers must operate within the context of the environment in which they work. In a developing country like Zambia, the lawyer's role must be fashioned to answer the immediate needs of the people, which it serves so that they can come to trust and respect the law as working for them and answering to their needs.

This essay tries to find out why the lawyer has such a tainted image by looking at numerous factors such as legal education, provision of free legal services as well as the professional conduct of lawyers in Zambia. The aim is to try to understand the merits or demerits of this negative position by discussing the extent to which the lawyer by his conduct contributes to this ill repute.

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CHAPTER ONE

1.0 INTRODUCTION

The importance of a system of law and a race of lawyers that all can trust and respect has always stood high on the scale of civilised values and certainly today it stands no less than before. However today we find that the popular image of the lawyer is not very flattering. The lawyer is seen as someone who will argue that white is black and that black is white according to who pays him; whose only interest is money; charging exorbitant fees and leading his client to litigation even when he knows that he will lose; the fighter who for money's sake will appear on behalf of the worst criminal even when he is aware of his client's guilt. Moreover, he is viewed with a tinge of envy perhaps because he earns a high income and appears to have easier access to the seats of social and political power.

It has therefore been the fashion over the ages to criticise and ridicule the law and lawyers. Bentsi Enchill recognizes the unflattering image of the lawyer and gives the example of Ghana where a notion exists that when a lawyer dies he is buried face down to improve his chances of getting into heaven.¹ Bentsi Enchill further adds to this negative perception by stating that:

¹ ZLJ. 1971. The Lawyer's calling in Africa. p. 5

“The great Protestant reformer, Martin Luther preached in the 16th Century that one could not be a good lawyer and a good Christian. Shakespeare wrote that all lawyers should be killed; Thorstein Veblen, that the lawyer is exclusively occupied with predatory Fraud ... was the master Christ not reported to have declared “woe unto ye lawyers?”

There is also the Marxist condemnation of lawyers as simply the mercenaries of the properties classes, which springs from the contention that law is a class weapon used by the rich to oppress the poor through the device of making justice too expensive.²

All these perceptions are highly contradictory of a profession, which prides itself on being noble; nobility itself being a virtue of honesty, courage and good character. This old unfavourable image of the lawyer gives the legal profession the onerous task of proving that criticisms directed at it are not valid. However despite the efforts of the legal profession to police itself, not everyone is satisfied with the results. Lawyers are still perceived as isolated arrogant and unaccountable people.³ In fact it is not uncommon in some circles to find that the word “Lawyer” is synonymous with the word ‘Liar.’ Regardless of whether the accusation is true or not, the existence of the popular belief presents a serious problem. This is aggravated by the perception that lawyers are an arrogant breed who remain aloof and detached from the people whom they purport to serve. The lawyer is for this reason perceived to be one solely out there to advance his or

²(1977). The Legal profession in Nigeria. p. 113

³ Myren, A. (1988). Law and Justice. p. 52

her own personal interests in an environment where the majority of the population is illiterate and living in desperate conditions of poverty. These criticisms can however be dispelled through a mechanism for achieving independence without isolation, arrogance and lack of accountability coupled with the use of legal jargon and the abuse of power through adherence to a strong professional ethic.

1.1 BRIEF BACKGROUND

There must be a justification for perceiving the legal profession as one, which is noble, and it is with this that we are concerned. It must be understood that the legal profession began with a dual bar system consisting of barristers and solicitors. Barristers were the landed gentry drawn from the upper class and therefore prided themselves on belonging to a noble class. They thought it was unseemly to mix with the lower classes as a result of which it was the solicitors who mingled with the clients. Moreover, the barristers were trained in a separate institution called The Inns Of Court where they were taught the manners and etiquette befitting of people who professed to belong to a class of nobles. Until the early 1970's, a barrister had to study at the Inns of Court, but afterwards the Inns started requiring a University degree.

The point to note is that from the inception, lawyers have been an isolated breed deemed to have been picked from the cream of society and are as a result adorned in a gown of superiority. This class structure was inherited by British colonies and Dependencies and Zambia being a British protectorate did not escape this legacy. Zambia has a common

law system derived from the law of England due to its colonial history under British rule. Much of the law has been codified over the past decades and is published in the 'Laws of Zambia'. However where Zambian law is silent on a particular issue, the current law of England applies. Similarly, when arguing a legal point, decisions of the United Kingdom and other common law courts are persuasive in the Zambian courts. In the Supreme Court, when dealing with criminal matters, law and procedure accord closely with the law and practice observed in the Court of Criminal Appeal in England. In civil cases, the English rules of procedure apply whenever there is no appropriate local statute.⁴ Moreover, you find lawyers in Zambia behaving much in the same way as their counterparts in Britain. For instance, Zambian lawyers are also required to adorn themselves in the white wig as well as the long flowing gown each time they appear before superior courts, even though the climates in the two countries differ by far.

1.2 SCOPE OF STUDY

The aim of this paper is to delve into the depths of why the lawyer has earned himself such a tainted image. From the foregoing, it is evident that the lawyer needs to revise his role in order to answer the immediate needs of the society which he serves, bearing in mind the very important fact that Zambia is a developing country and a lot of the features in the British legal system will not necessarily answer the problems prevailing in our country today.

⁴ **THE ZAMBIAN LEGAL SYSTEM**. <http://web.amnesty.org/library/index/>

Friedman notes that the lawyer in the Western world has been a defender of the established order and of vested interests for the simple reason that in a society dominated by commerce and industry, the individual and corporate owners of property and of business enterprises have been the lawyer's principal clients. Correspondingly, the role of the lawyer has generally been more important in the realm of private rather than of public law.⁵ Friedman further considers that:

“The lawyer’s role will have to shift from his pre-dominant pre-occupation with the defence of private interests. One is a need to participate more and more actively in the steadily growing role of public law. The lawyer must increasingly consider himself as part of a team involved in the long term planning process in which systems require the integration of the lawyer’s skills with those of the economist, the social worker, the scientist, the engineer, the industrial manager and so on. He must see himself more and more as a participant in the community planning process. While this may be a relatively less prominent role than in the past, it is socially perhaps a more vital one.”⁶

⁵ (2003). Law in a Changing Society. Pg 519

⁶ *ibid.* pg 20

It follows therefore that the lawyer must be a guardian of justice especially in the relations between public authority and private interests. There are many occasions on which it will be the lawyer's function to act as a brake on the zeal of politicians and social reformers who will tend to ride over interests that may stand in their way.

This situation has frequently occurred particularly in developing countries, which on gaining independence have been impatient to transform their traditional bound societies into developing and industrialized societies. The tendency has often been to use legislative sovereign power to dispose of private and national interests.

1.3 THE ROLE OF THE LAWYER

It has been argued that one of the factors which distinguishes a profession from a trade or commercial activity is the spirit of public service. The body of men and women who constitute the profession should exercise their skill and knowledge for the benefit of the public rather than for personal gain.⁷ The validity of this assertion will be discussed at a later stage in this paper. Presently our concern is to identify the ways (if any) in which the lawyer contributes to his ill repute. A good starting point would be to discuss the role, which the lawyer plays in the society in which he or she operates.

In a speech which is of particular relevance to our discussion Dr. Kenneth

⁷ Mukelabai, Mukelabai. Meeting the challenges of the legal profession. Pg 39

Kaunda expressed the following sentiments:

“In a young developing country, the failure of the lawyer to play a full part in the national and local affairs is more than just a pity; in a society where so few have received any education at all, far less professional qualifications, it becomes the duty of all those who are more fortunate to use their knowledge and skills not just for the benefit of their clients, but for the advancement of the whole society. The lawyer in a developing country must be something more than a practicing professional ... The lawyer must go out beyond the narrow limits of the law because while law is an instrument through which society is preserved, in its shape and character, is the reflection of that society.”⁸

Dr. Kenneth Kaunda pointed out that the ill attitude of the people towards the law and lawyers had to be eradicated. Without law, the whole structure of society would collapse, but equally without respect of the people for the law, society is doomed.⁹

⁸ ZLJ. 1971. The Functions of The Lawyer in Zambia. Pg 2

⁹ *ibid* pg 5

The question therefore is how do we win this respect? It would appear that the answer lies in earning the people's respect for the law and lawyers by providing Laws, which reflect their needs and aspirations. The people must recognize the law as being their law and lawyers as being officers of that law, upholding it with respect, accountability and nobility. Dr. Kaunda observed that when society and its instruments of social order have reached that position of mutual understanding and respect, then we can truly say that we have passed another milestone along the road towards the Zambia for which we strive.

1.4 CONCLUSION

As a way of concluding this chapter, perhaps it is important to mention that the emphasis of this chapter has been to highlight the necessity for the lawyer to look beyond the narrow defense of a specific interest to the wider social economic and political implications of a problem. His challenge therefore means that he cannot be content to be a craftsman. His technical knowledge will supply the tools, but it is his sense of responsibility for the society in which he lives that must inspire him to be a jurist as well as a lawyer.

CHAPTER TWO

LEGAL EDUCATION

1.0 INTRODUCTION

The fact of belonging to a noble profession is a fact drilled into the minds of law students from the inception by their lecturers within the University walls. Nevertheless, much has happened within the university environment during the last decade. There have been pressures to take on much larger numbers of students with the law school having to double its intake of students whilst not making similar adjustments to staff members, library facilities and other learning resources. These changes are undoubtedly bound to affect the learning environment and this chapter launches an investigation into how this situation impacts on the calibre of law students graduating from the University of Zambia. After all, how do we discuss the product without first analysing the factory from which it is manufactured.

There is a universal appreciation that education is at development's very heart. Legal education no doubt has a significant role to play in helping expedite the economic development of a nation. Not only does it promise to the graduate a personal escape from the chains of poverty, it also helps much in the creation of a vibrant civil society that should pioneer development plans. This fact is a very important one especially when

viewed in the light of poverty-stricken nations determined to pull themselves out of the quagmire. The pressure on the University Law School has been to recruit more students, and with this increased student population, there has been no corresponding increase in resources so that class sizes have grown and more demands are made on lecturers as well as tutors. This state of affairs is hardly conducive and illustrates to a large extent why the standard of lawyers graduating from the University has so often been referred to as '*half baked*.' The one thing that students learn how to do very well is how to pass exams and once this feat has been achieved, even the knowledge they have acquired is equally forgotten. Such a strategy is not a true test of intelligence but one that seeks to inquire into a person's capacity to reproduce memorized material. Surely, these are not the kind of lawyers we want roaming our streets and representing the voice of the people. A culture of hardwork and integrity must be instilled into the law student from the inception so that only those students who live up to the standard graduate from the University and are admitted to the Bar.

2.1 INTERVIEWS

In order to get a deeper insight into the effects of this problem, the author of this essay embarked on a process of talking to some of the lecturers in the School of Law on this subject. It seemed that the most pertinent questions needing answers are how the School is coping with increased enrolments as well as why there has been a sudden influx of students wanting to come to the University and study law. Enrolment figures at the

University indicate that numbers in the School of Law have shot up from a total of 139 students in 1995 to 467 in 2005,¹ showing that enrolments have more than tripled over the past ten years.

On the question of increased enrolments, one lecturer and Assistant Dean Carlson Anyangwe lamented that there has been three classrooms since the inception of the Law School, and the situation has remained the same to date. Consequently, classrooms are over crowded, staff members are not enough and ultimately, student teacher interaction is seriously limited. Professor Anyangwe further noted that the legal profession is currently very attractive owing to the popular (but not always realistic) perception that lawyers earn a high income and appear to have easier access to the seats of social and political power. Reading law gives to some a particular social status, which elevates them to a position perceived to be superior and perhaps even noble. This notion of course dates back to the dual-bar system fashioned out in England, but the question whether or not all lawyers are noble, is one yet to be ascertained in this essay. Nonetheless, lawyers have an advantage in that they are seen to have specialist knowledge over which they have a monopoly. According to professor Anyangwe, lawyers are a necessity seeing as they are the ones to whom society turns for a resolution of the many problems that plague it.

Another lecturer and tutor Mr. Simon Kulusika observed that the present capacity of the Law School cannot cope with the increased numbers. In the current situation it is not possible for a lecturer to pay attention to individual needs. People believe that law is a

¹ University of Zambia. Enrolment Summary. Academic Office.

rewarding profession and according to Mr. Kulusika, this goes back to the profit motive where most believe that law is the key to prestige and wealth. But as was rightly observed by the lecturer, this is clearly not the ideal element that should motivate students to study law. A situation where we have “get rich quick” lawyers roaming the streets is not exactly one that will drive this young democracy to a destination of economic development. This could answer the question why we have so many lawyers setting up private practices in urban areas most notably Lusaka’s Cairo Road. Asked whether the standard of students graduating from the Law School has fallen, Mr. Kulusika was quick to say no. He pointed out that the situation must be taken in its totality; the whole country is suffering from economic malaise and unfortunately the country’s many problems are reflected on individuals in all fields or professions. He further observed that the School does its best to provide all the necessary leadership and material, but that the problem is worsened by the fact that there is no culture of reading in this country and law students as well as lawyers themselves are no exception to this generalization. Mr. Kulusika having so observed the question that follows therefore is how can it be possible to reconcile the positions that increased enrolments are negatively affecting students and teaching staff alike and yet in the same breath maintain that this has not affected the standard of graduates from the Law School. Surely the two go hand in hand and one must affect the other in one way or another. Judges are constantly complaining about the half-baked character of newly admitted practitioners. It is our stance that inevitably, a link must be drawn between legal education, and the standard of lawyers graduating from the Law School.

Professor Alfred Chanda, presently the Dean of the School of Law pointed out that increased enrolments have not been as a result of lowering the qualifications for entry into the Law School. First year admissions and completion entry qualifications into the Law School have remained the same. The Dean further noted that though the number of classrooms has remained the same over the years, the rooms have nonetheless been renovated in order to accommodate more students. Moreover the recently introduced evening programme has brought in an extra number of students who are enrolled on a part time basis. According to Professor Chanda, the problem of increased enrolments is not one that is unique to the Law School alone. Each year, over sixty thousand students complete grade twelve and with only two Universities in the country, the dilemma is where do the rest go?

The entire University has therefore had to cope with increased numbers whilst not recording a corresponding increase in learning facilities. Notably, among the schools with high levels of enrolment are, Education, Humanities and Social Sciences which means that the number of students who would ordinarily apply to get into the law school has increased and the School has consequently been forced to squeeze in more than it can handle. Professor Chanda admitted that this situation has affected him as a lecturer as there is too much work for each individual lecturer or tutor. Tutorials are undoubtedly difficult to conduct because classes are too big and tutors find it hard to mark assignments and return them to students on time for them to compile their continuous assessment before they write their examinations.

As already observed, library facilities are inadequate to cater for the many students currently relying on them. This situation is aggravated by the fact that the reading materials available are out-dated a situation made worse by the fact that most books and law reports have missing pages, having been torn out by very students for their individual use. Nonetheless, Professor Chanda rightly observed that alternatives exist. The Law School has a computer room, which all students are free to access at a fee of ten thousand Kwacha per semester. Whereas this innovation is a commendable effort on the part of the Law School, the number of computers currently available cannot cater for the large number of students demanding use of the computers. In addition to this, the School has a book project whereby Lecturers are writing textbooks relevant to the Law School and so far books have been written on Family Law, Labour Law, Human Rights and Legal Process. The problem as observed by the Professor, is that students do not buy books and whereas some genuinely cannot afford, most just opt not to buy and prefer to photocopy. It is indeed strange phenomenon to find such a blatant breach of copyright laws in the Law School; being a training ground for the legal brains whom society will look up to for guidance.

One of the biggest problems in the Law School is of course one of staff. The school is unable to provide attractive conditions of service and Professor Chanda lamented that as a result, there are currently only sixteen permanent members of staff. This has many implications; for instance, there is heavy dependency on part time lecturers who are not even paid enough to motivate them. Very few lawyers think of taking up teaching as an option and unfortunately, Zambia is surrounded by countries with more attractive

conditions of service the implications of which are obvious. The Dean noted that there is need to improve funding of the University. He lamented that the University is dependent on government funding` which is not always forthcoming. However in the School of Law, the evening programme has helped with generation of income as these students are self-sponsored and therefore pay their fees directly to the School.

2.2 THE CURRICULUM OF THE LAW SCHOOL

Another important aspect of legal education is one, which answers the question whether the present law school curriculum adequately prepares students for their future role as lawyers. This part of the essay is intended to pose questions about the content, style and objectives of legal education in order to facilitate a discussion. In deciding what should be taught in the Law School, attention needs to be paid to what is happening in the legal profession.²

For instance, in the run up to the examination season, it is a familiar scene to see students making a list of cases and struggling to remember them. They know that they will be asked to apply them quickly, but rather mechanically as they will not be given enough time to critically discuss each case. Speed and efficiency is the name of the game. Moreover, the bulk of the cases and principles of law that are mastered by the students

² Prof. Avron Sherr. **Educating The Lawyer**. 2001. <http://ials.sas.ac.uk>

are learned solely for the purposes of clearing the examinations and once this feat has been achieved most of this knowledge is quickly forgotten. There is a lot to be said about this mode of examinations and education in the context of continuing education for legal practitioners. But should this also be the mainstream model for University education? The needs of students seem quite different from those of practitioners. Firstly, there is a number of law students who do not pursue legal careers after graduation. After the examinations, as already mentioned, they will forget the cases on their lists. Secondly, even those who pursue a legal career will have some time ahead of them before they actually start using the law. In the meantime, the law may change quite radically. Is it really important for students to be trained to apply so many English cases?

It seems that the real needs of these University students lie not so much in acquiring knowledge of the detailed rules of law but in developing their proper understanding of the subject and in acquiring analytical skills.³ To cater for such needs, law should be taught as a subject of scientific scrutiny rather than a technical and practical subject.

Dr. Koji Takahashi from the university of Southampton observes that the case law and other legal resources should be used not to teach the current rules of law but to illustrate the ways in which the relevant policies are reflected.⁴ For that purpose, they do not necessarily have to be the most up to date rules of any particular domestic law. Foreign

³ Professor David McQuoid-Mason (2001). Access to Justice & the Lawyer. <http://ials.sas.ac.uk>

⁴ *ibid*

laws, older rules of law or draft texts of legislation might provide better illustrations.

According to Dr. Takahashi, there are three merits to this approach and these are:

- a) Future changes in law do not diminish the value of what students have studied.
- b) The students will be better equipped to take on the task of improving laws in the future.
- c) The analytical skills they have acquired could be applied to the law of other jurisdictions.

In the age of globalisation, it is regrettable that legal education is fragmented along the line of national borders.⁵

The task of the lawyer is not just to find the will of the national legislature. Law has conventionally been seen as a framework for social stability and expressing established values. Today, many problems arise which are novel, arising from rapid communication, travel and forms of working or social relationships. More established social institutions have to adopt or be rethought. According to Professor Bell from the University of Leeds, the function of law is to be part of the problem-solving problem rather than to be a set of pre-ordained rules to be applied.⁶ In this context, learning the Law cannot just be about knowing a lot of current national issues. The lawyer is not an encyclopaedia of forms and precedents or of national legal rules. The core of knowing the law is to know how to

⁵ *ibid*

⁶ Professor John Bell. 2001. Legal Education in a Post National World. University of Leeds

make use of legal procedures and ideas to come up with creative solutions to emerging problems. Professor Bell, further notes that the core is:

- a) the ability to analyse issues
- b) ability to listen and understand different ways of conceptualising and evaluating a situation.
- c) ability to discuss and evaluate different value perspectives from which solutions may be taken and
- d) ability to come to decisions and justify them to different national audiences.⁷

According to Professor Anyangwe in the School of Law, the average student graduating from the School of Law is ill equipped for the role of a lawyer. The curriculum needs to take into account a number of elements before it can be considered effective. Students are not involved in the everyday events of the country. This can be achieved by introducing 'street law' educating programmes whereby law students are trained to educate lay people about the law. In a developing country such as Zambia, the Law School can play a crucial role in supplementing the sometimes-rudimentary legal services provided to the poor by the state and in educating ordinary people about the law, human rights and democracy. What sets developing countries apart from developed countries is that law schools in the former have a special duty to serve their communities. This is because, developing countries operate as privileged islands in a sea of scarce resources, particularly when it comes to providing access to justice for the poor.

⁷ ibid

Professor Anyangwe points out that methods of teaching have to take account of the context in which they are to operate. For instance, traditional subjects such as tort and contract need to be taught in a way that is relevant to the needs of a developing country. There is no use of having a law, which makes sense on paper, but is not realistically applicable in the context of the living law. For instance, a course on the law of contract does not often begin with recognition that the contract is a system for organising the reliability of business. A course on contract begins with the details of what constitutes offer and acceptance and ends with how to go about enforcement.

Moreover the law of contract propounds certain principles which are largely inapplicable in a developing country. One such principle is that which stresses on the ‘importance of signature.’ One wonders how this is supposed to reconcile itself with the fact that the majority of the population is pre-dominantly illiterate. To what extent are legal concepts and theories formulated in the background of a more developed nation relevant to our own developing nation? In order for the law to maximize its effectiveness, it must answer to the needs of the society, which it has been called upon to serve; otherwise it runs the risk of becoming irrelevant.

2.3 CONCLUSION

By way of conclusion, it is vital to note that there is need for major reforms in the Law School among them a more restricted intake to reduce student influx and improve the

educational environment. Attention must be paid to the type of teaching practiced in the school. Little attention has been paid to the kind or quality of education, which enable graduates to participate actively in the development process. It is therefore imperative that legal education be tailored to answer the needs of society.

CHAPTER THREE

PROVISION OF FREE LEGAL SERVICES

3.0 INTRODUCTION

The general perception is that lawyers are a crooked breed charging exorbitant fees and motivated solely by the money as a result of which they have thrown away all moral values to the wind. Whatever the true position may be, the fact remains that with escalating poverty levels in Zambia, it is almost unimaginable for an ordinary Zambian to hire the services of a lawyer. It being a young democracy, it is endowed with a lot of human rights violations and crime. The privatisation of many parastatal companies has left many jobless, hence the increase in labour disputes.¹ The government of the Republic of Zambia has a duty to provide legal representation to its people in order for the citizens to have access to justice.

It has been argued that one of the factors which distinguishes a profession from a trade or commercial activity is the spirit of public service. The body of men and women who constitute the profession should exercise their skills and knowledge for the benefit of the public rather than for personal gain. In this regard, the provision of legal aid to indigent litigants should constitute the most outstanding showpiece of every country's legal

¹ Siyauya, Madube. Pasi. Why The Legal Department Cannot Tick. www.lrf.org.zm/Newsletter/march.2003

profession. By providing legal services free or for a token fee to persons who cannot afford to pay an advocate's fee, the legal profession makes freedom and equality before the law more meaningful. There can never be equality before the law when the justice available to the individual depends on his or her financial ability to pay for the services of counsel. By provision of such services the lawyers image is enhanced through showing concern at our fellow citizens who cannot afford the cost of access to justice.

In this area of legal aid, the Law Association of Zambia's objective is to establish a machinery for the provision of legal aid in addition to that provided by government. Such a legal aid scheme is highly called for in view of the fact that Government's Department of Legal Aid has failed to satisfy the increasing demand for legal aid in the country.

3.1 IMPROVING THE LAWYER'S IMAGE THROUGH PROVISION OF FREE SERVICES

The practice of law should move away from the age-old perception that lawyers are motivated solely by money. Instead lawyers must exhibit a spirit of public service through provision of free legal services to those who cannot afford to pay for the services of counsel. It must however be appreciated that the legal profession has not been docile in this area of legal work and although the present state of such services is far from adequate, a number of institutions have nonetheless been put in place specifically to provide legal representation for the indigent Zambian.

3.2 THE LEGAL AID DEPARTMENT

The Legal Aid Department was by CAP 34 of the Laws of Zambia created by Parliament in 1966. The aim was to grant effective legal aid at affordable cost in civil and criminal matters to persons whose means are not adequate to enable them obtain the services of private legal representation. The Department has its head office in Lusaka and other offices in Livingstone, Kabwe, Ndola and Kitwe. Its offices at Kasama and Mongu have since been closed due to shortage of professional staff.³

The functions of the Department are to represent clients in criminal and civil matters, to offer legal advice to members of the public and to provide effective legal representation in order to expedite adjudication and dispensation of justice. Others are to formulate appropriate policies and guidelines to achieve effective delivery of legal services.

Normally the Department provides legal representation for indigent defendants. However, the Legal Aid department is not achieving its intended purpose because of the shortage of qualified manpower. Out of an estimated forty lawyers needed for the Department, only about ten are available. Of the ten, half are retired lawyers who are retained on contract basis regardless of their age.⁴ The nature of the work at the Department is so overwhelming and voluminous for the retired officers to undertake

³ Siyauya, Madube. Pasi. www.lrf.org.zm/Newsletter/march.2003

⁴ Siyauya, Madube. Pasi. www.lrf.org.zm/Newsletter/march 2003

effectively. It is evident that the ten lawyers at the Department cannot manage seventy High Court criminal sessions and twenty Supreme Court sessions per year in Livingstone, Lusaka, Kabwe, Ndola, Kitwe, Solwezi, Mongu, Kasama, Mansa, Chipata and Mazabuka. The Legal Aid Department thereby places a high dependency on paralegals that form a formidable link between clients and their lawyers. The downside of this, however, lies in the fact that the current level of paralegal training is inadequate to help a client from the Local Court to the Supreme Court, as should ideally be the case. Furthermore, even though paralegals are easier to recruit and maintain as compared to lawyers, the lack of regulator guidelines and legal provisions governing the existence and operations for paralegals in Zambia hinders their effectiveness.

The Department is unable to fulfil its intended purpose largely due to lack of adequate funding. Furthermore, all seven departments under the Ministry of Justice have problems with funding and the conditions of service which cannot to attract a professional labour force. These poor conditions of service at the Department have also failed to attract young energetic lawyers. Of about twenty lawyers who are admitted to the bar every year from the Zambia Institute of Advanced Legal Studies (ZIALE), the Legal Aid Department only gets one lawyer and sometimes none. If any join the department, they quickly leave due to poor conditions of service. Compared to a few private law firms where lawyers recently admitted to the bar get about K3million besides other allowances, a check at the Legal Aid Department Accounts showed that the new lawyer gets something in the range of K726, 000 as basic salary before tax.

The Department is poorly funded and lacks office equipment. It is also facing an acute shortage of motor vehicles to cover all rural provincial centres every month. The danger with this situation is that there is no career progression on the part of the lawyers that work there. The situation has naturally caused many lawyers to resign making the department a training ground for advocates newly admitted to the bar. The lawyers there are usually tired or fatigued as they do not have enough time to research their cases or even meet with their clients as they are always in court attending to an average of four cases per day.

This has resulted in a notion in the legal fraternity that has even spread to members of the public that lawyers at the Legal Aid Department are of a low calibre and are failures in life.

Realising the problems facing the department, Parliament by Act No 17 of 2000 amended the Legal Aid Act CAP 34 of Zambia and created The Legal Aid Board, headed by a High Court Judge and aimed at running the department independently. The amendments constituted the creation of the Legal Aid Fund from which private legal practitioners would be remunerated for undertaking Legal Aid work. This also makes the department directly answerable to parliament for all its activities. The Law Association of Zambia (LAZ) is assisting the department with the Legal Aid Scheme, under which private practitioners registered by LAZ are taking up cases being handled by the Legal Aid Department at a fee.

3.3 LEGAL RESOURCES FOUNDATION

The creation of the Legal Resources Foundation was the work of Robert Simeza and John Sangwa who are Chairman and Vice Chairman of the Foundation respectively. The need for such an institution was felt in 1991, which was a period of mass agitation for political changes on a scale until then unknown in Zambia's political history. The agitation for change which started late in 1989, and ended with the elections of 1991 was motivated by the need for a new political arrangement emphasizing democracy and the attendant values which include human rights, the rule of law and good governance. It was observed that if these objectives were to be realised the support of government and that of other institutions, which were committed to the promotion of general civil awareness, and the promotion of human rights awareness was needed. It was also established that the realisation of these objectives was being hampered by a number of existing laws with a colonial origin. On the other hand law was seen as a possible tool for social transformation, which could be used to bring about general civil awareness and promote a sound human rights culture in Zambia.

Whereas this organisation has an impressive record for litigating for the underprivileged people unable to meet their own legal costs, its operations are hindered by the problems experienced or faced by the Legal Aid Department as already discussed. There is a shortage of manpower because salaries are low in comparison to other law firms and the workload is overwhelming. A check at the Legal Resources Foundation Head office at Wood Gate House Cairo Road in Lusaka found that only six lawyers are available to

handle the bulk of cases that the organisation is faced with everyday. This is aggravated by the fact that the Legal Resources Foundation is set up in all nine provinces yet lawyers are only present in Lusaka and Livingstone a situation that contributes to the backlog of cases currently being faced.

3.4 LEGAL AID CLINIC FOR WOMEN

Women's issues have always had a special place in society. Even the United Nations had to put in place a declaration that deals with the elimination of all forms of discrimination against women. Zambia, not to be outdone and being a signatory to this declaration has established a number of non-governmental organisations that deal with women's issues. We here focus on the National Legal Aid Clinic for Women (NLACW).

The clinic was established in 1990 in recognition of the vulnerability of women and in order to promote women's rights by fighting against abuses directed at them. The clinic works under the auspices of the Women's Rights Committee of the Law Association of Zambia which contributes some funds. Currently the clinic also looks at children's legal problems. The Director of NLACW Col. Clement Mudenda said the organisation has had a shortage of staff for a while now but that the numbers have increased from two at the beginning and twenty-two today⁵. These employees go to provincial areas where they conduct awareness campaigns on the rights of women and children. Col. Mudenda said cases have been increasing on a daily basis due to the fact that more people now know

⁵Hampande, Delphine. What has happened to the Legal Aid Department? LRF Newsletter. Vol 40. July 2002. P8.

what their rights are and most people have broken the myth of hiding certain legal matters that affect them such as those relating to sexual abuse and domestic violence. However it was revealed that the common problems that the clinic faces are marital.

The clinic also networks with other bodies such as Young Women Christian Association, The Victim Support Unit, Women and Law in Southern Africa and the Legal Resources Foundation. However, the clinic handles a lot of complicated cases from far away, but these are not always finished on time because the clinic lacks a number of facilities, such as transport and money. It is therefore very difficult to carry out investigations in certain cases because of accessibility to the area where it happened.

From the foregoing it is evident that the provision of pro bono legal services in this country leaves much to be desired. The quality of services provided is compromised by the many factors already alluded to. Consequently, for the indigent Zambian, justice is something that it is hard to access and even when it is available it is a process that takes too long because the officers handling the cases are overworked and under paid.

It is clear therefore that the legal profession has made enormous strides in providing a service to the indigent litigant and this effort has undoubtedly helped to emancipate the profession's otherwise negative image. However, one cannot help but lament at the number of inadequacies found in this area of legal work and most stem from the fact that legal practice is organised around the business of business, around the needs of making a living for those who work in the work of the law, and for making profits for those who

can. Legal Aid fees, at least when they arise at all, costs awarded by the Courts, fees for transactional deals are all now predicated upon a clarity that law is a business, and not an altruistic professional past time for the good all rounder who happened to like standing on his or her hind legs in front of a bench.⁶ Consequently, there has developed a distrust for the profession. The legal fraternity is perceived as a group of financially motivated entrepreneurs who have little interest in anything that does not make money.

In the year 2001, the Law Association of Zambia rejected a proposal by the government to amend the Legal Practitioners Act to provide for pro bono work as a precondition for the Bar Association to issue practicing certificates. The Law Association contended that pro bono work has always been voluntary and that the Association is currently running a Legal Aid Scheme with the Norwegian government to provide for the legal representation for those who cannot otherwise afford counsel. The Law Association is also seeking to introduce a professional requirement for all lawyers to under take at least five cases every year for no fee or for a substantially reduced fee.

The Secretary of the Legal Practitioners Committee Mr. Justin Chashi in an interview observed that whereas it is every individual's right to have access to justice, it is government's job to put in place the correct logistics and infrastructure in order to provide legal services that will benefit people as a whole. He pointed out that areas of government which need lawyers lack the incentives to attract the legal brains needed to

⁶ Professor Avrom. **Legal Education and Legal Competence**. Institute of Advanced Legal Studies.
<http://ials.sas.ac.uk>

man them. Furthermore, lawyers like all other professionals invest a lot of time and money in education before becoming qualified. The secretary of the Legal Practitioners Committee asked a very pertinent question; “*Why should lawyers provide a free service?*” It appears that the secretary thought it unfair that the legal profession is constantly being sidelined and condemned because lawyers are unwilling to stay in low paying jobs all in the name of providing pro bono legal services. Although this may be an understandable stance to take on the matter it does little for improving the lawyer’s image. Other professions such as Medicine, Accounts and Economics are not expected to provide free services and it seems rather iniquitous that the legal profession should be marginalised and expected to provide them. Mr. Chashi stated very adamantly that “*nothing in life is free.*” The human condition is designed to advance itself and naturally people are constantly seeking ways of bettering and improving their lives. However, people quite often forget that lawyers are also individuals seeking to make a living as a result of which it will be highly unlikely that they will endure poor working conditions in order to improve or preserve their image. Free legal services continue to be compromised in quality as well as quantity, a situation which when looked at in the context of access to justice is very unfortunate indeed because it means a great number of people are deprived.

3.5 CONCLUSION

In conclusion, although the state of free legal services in Zambia is inadequate, it is nonetheless commendable that lawyers through the Law Association of Zambia have

aided the government's Legal Aid Department in providing free legal aid through such Organisations as The Legal Resources Foundation and The Legal Aid Clinic for Women. Although these services are far from adequate, it is nonetheless worth mentioning that the legal fraternity is making an effort to provide these services in the first place. It must be mentioned however that lawyers must take it upon themselves to take up pro bono cases on a yearly basis to discharge what they owe society which views them as greedy money seekers.

CHAPTER FOUR

PROFESIONAL CONDUCT OF LEGAL PRACTITIONERS

4.0 INTRODUCTION

A former United States Solicitor General, John Davis, is quoted as saying the following about the legal profession:

“True, we build no bridges. We raise no towers. We construct no engines. We paint no pictures. There is little of what we do that the eye can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men and women’s burdens and by our efforts we make possible a peaceful life.”¹

The above emphasizes the intangible nature of the services provided by the legal profession. The Secretary of Law Association of Zambia, Mr. Justin Chashi, noted that it is difficult for people to appreciate things that they cannot see even though these things may directly benefit them. The Secretary was quick to point out rather ironically, that even though the public are quick to condemn lawyers, whenever things go bad, everybody ultimately turns to the lawyer for help.

¹ Justice Peter T. Zarella. Ceremony To Admit New Attorneys. 1ST November 2004. USA.

Lawyers are seen as narrow and sometimes unchallenging, un-enquiring and unimaginative. Scientists seem to see lawyers as lacking in empiricism and having their own brand of rationality. The world of law fashioned as it is by lawyers, judges and drafters of legislation is seen as very different from the natural world of scientific study. But of course they all need lawyers, but they do not really want them as colleagues and academics. They want them as practitioners of law.² Education academics for example, need to be told about the new law of education, scientists want to be told about how to avoid copyright or health and safety problems.

Nonetheless, when all things are said and done, there is need to weigh the merits and demerits of the many perceptions surrounding the legal profession. The preceding chapters have attempted to outline some of the perceptions that have plagued the traditional image of the lawyer. Most striking of all is the perception that lawyers are liars because they can argue both sides of a case. Further is that, lawyers are not interested in the deliverance of justice, but are motivated solely by the profit motive. This part of the paper will look at how the profession tries to police itself so as to ensure that its members conform to an upright standard of behaviour.

² Prof. Avrom Sherr. Legal Education. <http://ials.sas.as.uk>

4.1 REGULATORY FRAMEWORK OF THE LEGAL PROFESSION

One important factor to note is that the legal profession is one that is heavily regulated by rules of conduct and practice. Everything is regulated by law, starting from legal fees, to the lawyer-client relationship.

First of all, in order to uphold the image of the profession, the Law Association of Zambia issues practicing certificates only to those lawyers whom it considers worthy. Candidates must obtain an LLB from the University of Zambia, which requires four years study, or from any internationally recognised University especially in the Commonwealth. Graduates must then complete a course of practical training at the Zambia Institute of Advanced Legal Education (ZIALE) at the end of which there is a bar examination set by the Council of Legal Education. Successful candidates are then admitted to practice.

The professional conduct of lawyers is organised under the Legal Practitioners Act. The Act provides Sanctions in cases of misconduct. Zambian lawyers are also governed by other professional codes of ethics such as the Commonwealth and International Bar Association of Conduct. The Anti Corruption Act binds all Zambians public officers, including Judges and lawyers.

Mr. Justin Chashi observed that in the last four years only two lawyers have been disbarred and whereas this may be an impressive record, one wonders whether what

really counts is the number of disbarred members or the number of complaints brought before the Disciplinary Committee on a regular basis. Moreover, it seems rather questionable that the lawyers should form a Disciplinary Committee to discipline and regulate themselves. It seems only fair to conclude that they will try to safeguard the image of their profession by protecting themselves from any kind of public ridicule. Not to say that the Disciplinary Committee does not discipline its members, but the fact is that the situation on the ground paints a rather biased picture and leaves too many questions unanswered.

Honourable Mr. Justice M. Lisimba presented a paper on ‘Professional Conduct And Ethics’ at a Law Association of Zambia workshop in which he stated that:

“The word conduct refers to the actual behaviour of a practitioner and ethics to the rules prescribing that behaviour, that is the rules and conduct recognised and accepted by the legal profession... These are the rules of good manners expected of every practitioner.”³

4.2 IMPROPER CONDUCT

In the above paper Justice Lisimba observed that improper conduct of a practitioner may be classified under three categories. The first is professional misconduct or conduct

³ LAZ Workshop. 28th January 2005. At Ndola.

unbefitting of a practitioner. This is a serious form of improper conduct and may result in the advocate being suspended or removed from the roll. Under the Legal Practitioners Practice Rules, Statutory Instrument No. 51 of 2002, non-compliance, failure, evasion or disregard of these rules without reasonable cause constitutes professional misconduct, or conduct unbefitting of a practitioner.⁴

The second category of improper conduct is, unprofessional conduct, that is conduct, which while amounting to professional misconduct, is not approved by the Court, or the Disciplinary Committee as constituted under section 4 of the Legal Practitioners Act CAP 30 of The Laws Of Zambia.

The third category is a breach of etiquette. This is a breach of professional good manners and the main sanction for that in an extreme case could be exclusion of the offender from membership of the Law Association of Zambia, on the ground that he or she did not conform with the accepted conduct and the traditional behaviour of practitioners who are supposed to be the learned ladies and gentlemen.

The foregoing illustrates the fact that the legal profession has put in place tools which foster adherence to a strong professional ethic among its members. This is not to say that there are no bad lawyers because there are bad seeds in every profession. The point to note is that, if a lawyer should lie then he will be guilty of perjury and the Court is further

⁴ See Rule 4

empowered to suspend an offending lawyer for contempt. Mr. Justin Chashi put it very aptly when he stated that **‘lawyers are not liars’**.

There are mechanisms put in place by law, specifically to ensure that lawyers conduct themselves accordingly. In refuting the assertion that a lawyer will go as far as defending a murderer if the price is right, Mr. Chashi said that it is very rare that an offender will disclose their guilt. Moreover, a cultured lawyer will not take up a guilty case unless the intention is to make a guilty plea.

4.3 JUSTICE DELAYED IS JUSTICE DENIED

In the wake of a decline in the economy, dwindling resources and the ever-increasing growth of population, it has become clear that courts in Zambia are backlogged with cases dating back not just months, but in some cases years. This obviously means that many people are being denied speedy access to justice and justice delayed is justice denied. For example, at the start of the new millennium, the Chief Justice, Matthew Ngulube, as he then was, in an effort to reduce the backlog, made an announcement prohibiting with immediate effect all Judges and Magistrates from making routine adjournments.⁵ Delays necessarily mean expense and so a lengthy case can lead to such high expenses that it is no longer worthwhile for the parties concerned to bring their dispute before the courts. Nevertheless, litigation is the traditional option, chosen almost

⁵ **Justice Ngulube Bans Courts from Routine Adjournments.** *The Post*. 6th January 2000. at 6

instinctively by lawyers as a response to any dispute between their client and another party. Invariably of course it is the middlemen and women, the lawyers who are the true winners as each step in the Court proceedings is another addition to the fees.⁶

Problems in the judicial system are fed indirectly by the economic situation in the country. On the one hand, the present harsh economic situation means more companies and individuals are falling into debt. As a result, deadlines are not met, obligations are unfulfilled, customers are frustrated and invariably litigation ensues in a last ditch effort to recover what little may be had. Add to this the many bankruptcies, redundancies, companies going into receivership or liquidation, an almost endless list of ills that have in fact become a constant reminder of the harsh realities faced by the country. All this must at one time or another pass through the judicial system and this means an increase in the court's caseload.⁷ Moreover, the government's constricted purse means that the courts cannot be maintained as well as they otherwise should be.

4.4 ALTERNATIVE DISPUTE RESOLUTION

Coupled with the delays in the judicial system is the reality that many of the cases brought before the court could quite easily be resolved between the parties without the need to resort to litigation. It follows therefore that a cultural change needs to occur in

⁶ Amelio Pio Young. ADR and its place in the Zambian Judicial System. ZLJ. Vol 32. At 75.

⁷ *ibid*

legal practice through the widespread use of court connected and private Alternative Dispute Resolution (ADR) programmes, which aim to resolve litigation matters which aim to resolve litigation matters as early as possible. ADR is basically an umbrella term used to refer generally to alternatives to court adjudication of disputes, such as negotiation, mediation, arbitration, mini-trials and summary jury trial.⁸

The truth of the matter is that in most cases, litigation will not enhance and is most likely to harm the parties' relationship. Moreover, even when a successful result is achieved in a civil case, that result is often drained of much of its value because of the time lapse, the expense and the economic stress of the litigation process.

The legal fraternity has through the establishment of ADR programmes been able to mitigate some of the problems encountered by litigants in their quest to access justice. These programmes are far more expedient and affordable than the national Court system and are a true representation of the fact that dispute resolution should not always be perceived as a fight between two warring factions. In fact ADR methods such as mediation and arbitration are premised on party empowerment, meaning that the parties themselves are more involved in controlling the direction of the proceedings. This is contrasted with litigation, being an adversarial process, which once the lawyer takes over the case, it more or less takes on a life of its own with little contribution from the parties.

⁸ Ibid at 77

The introduction of ADR shows that the lawyer's concern transcends the desire for personal gain as these programmes help to make access to justice a reality for more people who would otherwise be deprived if their options are to be confined to court room litigation. People are able to benefit from the expediency and efficiency that characterizes ADR and because the process is not adversarial, parties are more likely to preserve their relationship even after the proceedings have been concluded.

4.5 CONCLUSION

Justice M. Lisimba notes in his paper that unfortunately, a number of practitioners prefer to go to court in some instances simply to try and earn a little more money for themselves even though doing so is at the expense of the proper and efficient administration of justice.⁹ It is therefore pertinent that lawyers conduct themselves in a way that is befitting of a group who profess to belong to a profession that prides itself on being noble. Lawyers should guide their clients on how best to resolve disputes *ex curia* and thereby earn themselves the reputation that they are championing the cause of justice and not their purse.

⁹ **Professional Conduct & Ethics**. LAZ Workshop. 28th January 2005. At Ndola.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.0 INTRODUCTION

This essay has discussed the perceptions and misconceptions that have tended to taint the image of the lawyer and the legal profession as a whole. The preceding chapters have endeavoured to delve into the merit and demerits of this popular image by providing a broader view of why the legal profession is perceived the way it is. The following will provide a summary of the problems identified in each chapter and further make recommendations that will help obviate the problems.

The first chapter identifies the fact that the popular image of the lawyer is not a very flattering one, a fact that happens to be contradictory of a profession, which prides itself on being noble. Most of what is deemed law in Zambia is very much a colonial inheritance, based on principles and theories developed in more developed societies. Consequently, lawyers in Zambia behave in much the same way as their British counterparts, even though such traits may not always be suitable within the context of a developing society. The lawyer's role will therefore have to shift from his predominant

pre-occupation with the defence of private interests and the established legal order to a more active participation in the steadily growing role of public law. Law must therefore reflect the needs and aspirations of the people. The people must recognise the law as being their law and lawyers as being officers of that law, upholding it with respect, accountability and nobility. This leads us to the second chapter where we discussed the fact that the law should be all encompassing catering for the needs of all groups of people especially the indigent in a predominantly underprivileged society.

The second chapter delves into legal education in an attempt to ascertain whether the state of legal training contributes to the overall ill repute of the profession. A check at the University of Zambia Law School, found problems of over enrolment, in a Law School which is understaffed, under funded and lacking in resources as well as infrastructure. This obviously has an impact on the quality and of education being offered and ultimately on the character of the law student graduating from the university.

In this regard it is recommended that the Government should improve on its funding of the University especially when viewed in the context of the fact that only two universities are available to accommodate the thousands of pupils graduating from high school each year. This is obviously a sad reality and can be obviated by Government seriously considering the construction of another University in the country.

In the meantime, faced with constraints of limited funding and inadequate infrastructure, the Law School is advised to minimise on its enrolment numbers so as to avoid a

situation where members of staff are over loaded beyond capacity and the classrooms are unbearably over crowded thereby compromising the entire learning process. Most importantly is that more young lawyers should consider coming back to the School to lecture or tutor. There must be in every lawyer a spirit of public service, a loyalty to the community that instils in one a desire to give back to society. After all the greater percentage of lawyers today, owe the foundation of their legal training to the University of Zambia Law School without which their careers would have never taken off in the first place. It is therefore only right that in view of the many problems in the Law School, lawyers themselves should take it upon themselves to come back and teach.

The third Chapter talked about access to justice through the provision of pro bono legal services to the indigent Zambian. Numerous inadequacies were found in this area with many lawyers opting to join private practice in search of greener pastures. The Legal Aid schemes are understaffed and overburdened with a caseload far beyond their capacity. These problems can be obviated, but the issue here is one of funding. As a result, the view that lawyers are money hungry is carried through because the great number of them choose private practice over Legal Aid for the simple reason that the conditions of work are low in the estimation of the lawyers. Consequently, the poor are still to a large extent deprived and the question that needs to be addressed therefore is how do the poor use the law to their benefit?

5.1 LEGAL EMPOWERMENT

Some answers spring from legal empowerment, that is, the use of legal services and related activities to increase disadvantaged groups' control over their lives. Multi-country studies conducted separately by the Asian Foundation (under the auspices of the Asian Development Bank) and the Ford Foundation, as well as current research supported by the Open Society Institute, help explain how non-governmental organisation (NGOs) partner with the poor regarding legal issues in developing countries.¹ These largely qualitative inquiries indicate that many NGOs (and similarly oriented law school programmes) help improve governance and reduce poverty as they address human rights violations (including minority and gender rights) labour and other issues.

Provision of legal services should not be confined to litigation, representation, negotiation, counselling and training. Instead they should integrate that legal work with other efforts that build the capacities and power of marginalized populations, hence the term, 'Legal Empowerment.' These efforts can involve group formation, community development, community organising, paralegal training, political mobilisation and alliance building (with both government and civil society elements if possible).

¹ Golub, Stephen and Kim McQuay Manila. 2001. **Legal Empowerment: Advancing Good Governance and Poverty Reduction at the Asian Development Bank.**

5.2 PARALEGAL TRAINING

Due to the fact that lawyers shun legal aid schemes because of the inadequate standards, Government is urged to come up with programmes that are meant to teach, sensitise people on issues that affect them, like legal matters. One way of achieving this feat is to train and employ more paralegals, these are easier to recruit and maintain as compared to lawyers. However there is need for legal provisions regulating the existence and operations of paralegals in Zambia. Even though they lack formal recognition, they are known to have a very good rapport, public relations and a degree of understanding of local people with their local problems to the extent that their advice is usually wholesomely taken.

Chapter four, delved into the details of how the legal profession is regulated in order to ensure that lawyers conforms to a strong professional ethic. It was found in this regard that the legal profession is one of the most regulated with Legal Practitioners Act as the main tool of regulation. Practitioners guilty of misconduct are liable to suspension and in extreme cases to be removed from the roll.

It is suggested that the Law Association of Zambia should consider an amendment to the Legal Practitioners Act to provide for free legal services as a pre-condition for the Bar Association to issue practising certificates. This is in an effort to reduce the backlog of cases piling up in the legal aid sector and ultimately to make access to justice a true reality for the indigent Zambian, which objective the legal profession should pioneer.

5.3 CONCLUSION

By way of conclusion to this paper, we take note of the need to restore professionalism and civility to the practice of law. Lawyers must take heed of the fact that when they begin their practice of law, they enter the profession with an unblemished reputation. It is therefore worth the effort it takes to build and then maintain that good reputation, as there is no greater asset that any lawyer holds. In any society, a court of law is the civilised alternative to a battleground for resolving disputes. It is therefore wrong to approach the practice of law as if it were a series of athletic contests or a game, the goal of which is to win at all costs because it is a practice that involves matters that go to the heart of personal relationships.

It follows therefore that lawyers and judges alike must demonstrate awareness that they are not players in a game. The lawyer must look beyond protecting his client's interests, but must also see that the truth triumphs over dishonesty and that justice overcomes lawlessness.

The practice of law has historically been referred to as a noble profession. This nobility must be restored through civil treatment of, and respect for everyone and by having a spirit of public service by walking along the road of fairness, courtesy, and simple good manners.

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