



REPUBLIC OF ZAMBIA

REPORT

OF THE

**COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS,
GENDER MATTERS AND CHILD AFFAIRS**

ON THE

LEGAL PRACTITIONERS (AMENDMENT) BILL, N.A.B. NO. 20 OF 2013

**FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY, APPOINTED ON 26
SEPTEMBER, 2013**

Printed by the National Assembly of Zambia

REPORT

OF THE

**COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS,
GENDER MATTERS AND CHILD AFFAIRS**

ON THE

LEGAL PRACTITIONERS (AMENDMENT) BILL, N.A.B. NO. 20 OF 2013

**FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY, APPOINTED ON 26
SEPTEMBER, 2013**

**REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE,
HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS FOR THE
THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY ON THE
LEGAL PRACTITIONERS (AMENDMENT) BILL, N.A.B 20 OF 2013
APPOINTED ON 26TH SEPTEMBER, 2013**

Consisting of:

Mr J J Mwiimbu, MP, Chairperson; Mrs A M Chungu, MP; Mr M A Malama, MP; Mr J M Kapyanga, MP; Dr L M Kaingu, MP; Mr S Mushanga, MP; Mr M J B Ng'onga, MP; and Mr B M M Ntundu, MP.

The Honourable Mr Speaker

National Assembly

Parliament Buildings

P O Box 31299

LUSAKA

Sir,

Your Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs has the honour to present its Report on the Legal Practitioners (Amendment) Bill, N.A.B 20 of 2013, referred to it on Friday, 13th December, 2013.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other Order of the House, your Committee is mandated to consider any Bill that may be referred to it by the House.

Meetings of the Committee

3. Your Committee, in considering the proposed legislation, held four meetings and interacted with various stakeholders and examined in detail all the submissions presented before it.

Procedure adopted by the Committee

4. In order to acquaint itself with the ramifications of the Bill, your Committee sought both written and oral submissions from different stakeholders. The list of witnesses who appeared before your Committee is at Appendix II of this Report.

Objects of the Legal Practitioners (Amendment) Bill, N.A.B 20 of 2013

5. The object of the Bill is to amend the *Legal Practitioners Act*, Cap 30 of the Laws of Zambia so as to permit the advertising of legal services.

Background

6. The *Legal Practitioners Act*, Cap 30 of the Laws of Zambia, prohibits the advertising of legal services. However, various countries have relaxed the prohibition on advertising of legal services, partly due to globalisation. The proposed amendment is, therefore, in keeping with international best practices with regard to advertising of legal services by legal practitioners.

Specific Provisions of the Bill

7. Clause 2 seeks to amend section 52 of the *Legal Practitioners Act*, which sets out the kinds of conduct that constitute professional misconduct, in order to exclude advertising of legal services from

constituting such misconduct. This is in order to permit the advertising of legal services by legal practitioners in a regulated manner.

CONCERNS RAISED BY STAKEHOLDERS

8. Stakeholders who interacted with the Committee were unanimous in their support for the Bill. They indicated that Zambia was one of the few jurisdictions that did not permit legal practitioners to advertise. In the current era of globalisation where law firms were in competition not only from local, but also international business, advertising through vehicles such as websites, legal journals and directories had become necessary in order to become more competitive. However, the stakeholders recognised that the legal profession was a noble profession and legal practitioners must at all times be seen to act with etiquette and decorum. In this regard, a blanket permission to advertise may result into some distasteful advertising and ambulance chasing. However, they noted that the newly adopted Legal Practitioners Rules, made pursuant to the *Legal Practitioners Act*, at Section 16, stated as follows:

“16. (1) A practitioner may advertise in a manner that is sober, factually true and such advertisement must not be of a kind that is-

- (a) false, misleading or deceptive;*
- (b) in contravention of any other legislation;*
- (c) vulgar, sensational or otherwise as would be considered to bring the legal practitioner, the legal profession or the court into disrepute or ridicule;*

(2) A legal practitioner shall not be precluded from advertising under sub-rule (1) by reason only that the legal practitioner is employed in the public service”.

Furthermore, it was suggested that additional provisions in the Rules should take into account that once legal practitioners are allowed to advertise:

- a) they should be free to respond to public or private tenders for legal professional business;
- b) they should be allowed to produce, publish or distribute brochures in connection with their business;
- c) they should do so in their own names and not pseudonyms and without prior permission from the Law Association of Zambia or its Committees; and
- d) they should be allowed to appear in the media to discuss any matter legally allowable.

It was expected that the enforcement of these provisions would ensure that the integrity and decorum of the profession was maintained and would prevent abuse of the new provisions permitting advertising.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

9. Your Committee notes that the legal profession is of great importance to the economic, social and political well being of society. Further, it is a noble profession and there is need to preserve its dignity and decorum, hence the argument hitherto in support of the ban on advertising of legal services. However, it is also noted that legal services are a commodity like any other and as such, consumers need to be informed of the service they are seeking to procure. Advertising will, therefore, result in important benefits to the consumers who will be able to make more informed decisions about which of the available legal service providers would best meet their needs based on their expertise. This is laudable and must be supported. The above notwithstanding, your Committee notes that advertising of legal services without

restrictions would result in some undesirable practices, such as advertisements that are meant merely to undermine competitors rather than appealing to clients and informing them of the type of services being offered and expertise of the practitioners. In regulating such advertising, clear regulations on the parameters of advertising should be worked out and clearly communicated to all legal practitioners. A mechanism to monitor adherence to these regulations should also be put in place, preferably through the Law Association of Zambia. In this regard, your Committee is pleased to note that the Legal Practitioners Rules have been revised in light of these proposed amendments. Your Committee recommends that the submissions made by stakeholders be taken into account in further revising the Legal Practitioners Rules.

Subject to the above, your Committee recommends that the Legal Practitioners (Amendment) Bill, N.A.B 20 of 2013 be supported by the House.

CONCLUSION

10. Your Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Mr Speaker, for affording it an opportunity to study the Bill. Your Committee also appreciates the services rendered by the office of the Clerk of the National Assembly during its deliberations.

We have the honour to be, Sir, your Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs mandated to consider the Legal Practitioners (Amendment) Bill, N.A.B 20 of 2013.

Mr J J Mwiimbu, MP

(Chairperson)

Mrs A M Chungu, MP

(Member)

Mr M A Malama, MP

(Member)

Mr J M Kapyanga, MP

(Member)

Dr L M Kaingu, MP

(Member)

Mr S Mushanga, MP

(Member)

Mr M J B Ng'onga, MP

(Member)

Mr B M M Ntundu, MP

(Member)

January, 2014

LUSAKA

APPENDIX I

PERMANENT WITNESSES

MINISTRY OF JUSTICE

Mrs Y K Chirwa, Senior Parliamentary Counsel

LIST OF OFFICIALS

NATIONAL ASSEMBLY

Mr S M Kateule, Principal Clerk of Committees

Ms M K Sampa, Committee Clerk (SC)

Mr F Nabulyato, Committee Clerk (FC)

Ms C Musonda, Assistant Committee Clerk

Ms C T Malowa, Assistant Committee Clerk

Mrs S M M Mwale, Personal Secretary II

Mrs G M C Kakoma, Stenographer

Ms S E Mwale, Stenographer

Mr C Bulaya, Committee Assistant

APPENDIX II

LIST OF WITNESSES

CABINET OFFICE

Mr R Msiska, Secretary to the Cabinet

Mrs Y K Chirwa, Senior Parliamentary Counsel

LAW ASSOCIATION OF ZAMBIA

Mr G K Chisanga, Vice President

Ms L Kasonde, Honorary Secretary

MAGISTRATES AND JUDGES ASSOCIATION OF ZAMBIA (MAJAZ)

Mr C K Lunda, President

ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION (ZIALE)

Mr E Mulembe, Director

Mr R Chibuye, Deputy Director

UNIVERSITY OF LUSAKA

Prof Sinjela, Dean – School of Law

Dr Kaulule, Dean – School of Business and Economics

TRANSPARENCY INTERNATIONAL ZAMBIA

Mr G Lungu, Executive Director

**SOUTHERN AFRICA CENTRE FOR THE CONSTRUCTIVE
RESOLUTION OF DISPUTES (SACCORD)**

Mr B Chembe, Executive Director

Mr O Chibuluma, Information Officer

Ms H Tumaini, Programme Officer

UNIVERSITY OF ZAMBIA

Prof E T Mwase, Deputy Vice Chancellor

Prof M M Munalula, Dean – School of Law

Dr P Sambo, Assistant Dean – School of Law

Ms F Kalunga, Lecturer