

**REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS AND GENDER MATTERS ON THE ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION (AMENDMENT) BILL (N.A.B NO 20 OF 2009) FOR THE THIRD SESSION OF THE TENTH NATIONAL ASSEMBLY, APPOINTED ON 22<sup>ND</sup> JANUARY 2009.**

Consisting of:

Mr S Sikota, MP (Chairperson); Mr B E Chimbaka, MP; Mr B Sikazwe, MP; Mr K Kakusa, MP; Mr L H Chota, MP and Major R M Chizhyuka, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA.**

Sir,

Your Committee have the honour to present their Report on the Zambia Institute of Advanced Legal Education (Amendment) Bill (N.A.B. 20/2009) referred to them by the House on Tuesday 14 July 2009.

**Functions of the Committee**

2. In addition to any other duties conferred upon them by the Honourable Mr Speaker, or any order of the House, your Committee may consider any Bills referred to them by the House.

**Meetings of the Committee**

3. Your Committee held six (6) meetings to consider the Zambia Institute of Advanced Legal Education (Amendment) Bill N.A.B. 20/2009.

**Procedure adopted by your Committee**

4. Your Committee, in considering the Bill, requested written submissions from various stakeholders who also appeared before them and made oral submissions.

**Objects of the Zambia Institute of Advanced Legal Education (Amendment) Bill (N.A.B. 20/2009)**

5. The object of this Bill is to amend the Zambia Institute of Advanced Legal Education Act so as to:

- (a) revise the composition and functions of the Council of the Zambia Institute of Advanced Legal Education;
- (b) establish an Accreditation Committee to approve schools of law acceptable for the purposes of admission to the Institute; and

- (c) provide for matters connected with or incidental to the foregoing.

## **CONSIDERATION OF THE ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION (AMENDMENT) BILL (N.A.B. 20/2009)**

### **Background**

6. The Zambia Institute of Advanced Legal Education (Amendment) Bill, 2009 seeks to amend the *Zambia Institute of Advanced Legal Education Act, Cap 49* of the Laws of Zambia, so as to revise the composition and the functions of the Council of the Zambia Institute of Advanced Legal Education; establish an Accreditation Committee to approve schools of law acceptable for the purposes of admission to the Institute and provide for matters connected with or incidental to the foregoing.

### **Salient features of the Bill and ramifications**

7. Your Committee wish to highlight the following salient features of the Bill as set out below.

#### **Clause 2: Amendment of Section 2**

Clause 2 of this Bill, seeks to amend Section 2 of the Act by introducing the definition of the term “Accreditation Committee”. This is a Committee proposed to be established under Section 10 A of the Act.

#### **Clause 3: Amendment of Section 4**

Clause 3 of the Bill seeks to amend Section 4 by deleting and replacing paragraphs (e) and (f) to remove the restriction on the approval of qualifications of law degrees only from University of Zambia and also remove the restriction relating to qualifications obtained by foreign students only to universities with reciprocal arrangements with Zambia. The proposed amendments thus seek to be more inclusive by providing for the accreditation of law schools at both private and public universities and set criteria for accreditation as well as provide for foreign students who may not have obtained qualifications from institutions without reciprocal arrangements.

#### **Clause 4: Amendment of Section 5**

Clause 4 provides for the amendment to Section 5 to enlarge the membership of the Council and to make the membership more representative of the various stakeholders in legal education. The proposed amendment to this section seeks to include among others, a representative of the Zambia Institute of Chartered Accountants, a dean and one senior lecturer each from the law school from a public and also from a private university nominated by the Minister responsible for education and a magistrate who is admitted as a legal practitioner.

**Clause 5: Insertion of new Section 10**

Clause 5 provides for the insertion of a new Section 10A which establishes the Accreditation Committee of the Council. The members of the Committee include, a representative of the Examinations Council of Zambia, a representative of the Ministry responsible for Education, a dean and one senior lecturer each from a law school of a public and a private university, a representative of the National Institute of Public Administration and a representative from the Zambia Centre for Accountancy Studies.

The essence of this proposed amendment is to establish and empower the Accreditation Committee to approve schools of law and other such institutions within or outside Zambia whose training in law will be acceptable for the purposes of admission to the Institute. This means that in addition to the recognition of law degrees from private universities the approval of the law schools will ensure a minimum standard of legal education.

**Clause 6: Insertion of new Part IV A**

Clause 6 seeks to amend the Act by inserting a new Part IV A to provide for offences relating to examinations. In the recent past, the poor performance of students taking the Legal Practitioners Qualifying Examination as well as reports of leakage of examination papers has been a source of concern to the legal fraternity and other stake holders.

Under Clause 6, the proposed section 20A provides for oath of secrecy. The Council shall require a person performing the work of the Council or engaged in the conduct of an examination or the handling of an examination paper to take an oath of secrecy. The proposed section also provides that a person who does or omits to do an act in contravention of the section shall be liable upon conviction to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period of three years, or to both.

Similarly under the same Clause 6 the proposed section 20B prohibits the disclosure of examination questions. The provision creates an offence in respect of disclosing an examination question or information relating to the contents of an examination paper. The section provides for a fine not exceeding five hundred thousand penalty units or imprisonment for a term not exceeding five years or to both in respect of the offence.

The proposed section 20C under Part IV A prohibits the unauthorised possession of examination paper or information. With respect to this provision, a person who, without lawful excuse, has in the person's possession or control an examination paper, or information relating to contents of an examination paper commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

In addition a person who assists or causes to assist an examination candidate to obtain or gain an unauthorised possession of an examination paper commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

In addition section 20D of Clause 6 provides for offences related to the loss or misuse of examination papers. Where a person who has in the person's possession or control an examination paper or information relating to the contents of an examination paper, recklessly or negligently loses an examination paper or uses the information in a manner prejudicial to the

proper and fair conduct of an examination, the person commits an offence and upon conviction, is liable to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Furthermore section 20E of Clause 6 deals with disclosure of interest in examination or examination paper. This provision obliges a person engaged in the conduct of examinations or performing work connected with examinations and who is directly or indirectly interested in a private capacity in an examination or examination paper, or if the spouse, child, friend or relative is a candidate in an examination, to disclose such an interest before the commencement of that persons duties commits an offence. Contravention of this section attracts a fine, upon conviction not exceeding one hundred thousand penalty units or to imprisonment of a term not exceeding one year, or to both.

Similarly the proposed section 20 F provides for the nullification of an examination or examination results. Under this section, the Council is empowered to suspend or nullify the whole or any part of an examination where the Council is satisfied that there has been an irregularity in the course of an examination. The Council is, in addition empowered to nullify the results of a particular candidate where there is reasonable cause to believe that the candidate's examination results have been obtained by irregular means.

### **Concerns raised by stakeholders**

8. Stakeholders who appeared before your Committee raised the concerns set out below. The Zambia Institute of Advanced Legal Education (Amendment) Bill was in response to the liberalization of the education sector through the University Act No. 11 of 1999. The spirit of the Bill is to embrace both the private and public institutions to enroll for the Legal practitioner's qualifications course offered by the Zambia Institute of Advanced Legal Education.

The proposed amendment is seeking to introduce the concept of accreditation through the establishment of the accreditation committee. The introduction of accreditation is a welcome move as it would provide a monitoring mechanism that would ultimately lead to the improvement of the education being offered in such institutions of learning and enhance the quality of education.

However, foreign institutions would not require to be accredited but only their qualifications would be assessed to ensure their suitability for enrolment at the institute. This is a good move as it will ensure that only properly qualified students are allowed to enter the institute.

Secondly, the establishment of the accreditation Committee is to have an independent monitoring and evaluation of qualifications and training institutions for purposes of enrolment into ZIALE. This is an improvement on the previous arrangement where reference was made to the University of Zambia Law School.

Most stakeholders were in total support of the proposed amendments as they sought to open the Zambia Institute of Advanced Legal Education to law graduates from private universities in line with liberalized education sector under the University Act No. 11 of 1999.

Some stakeholders, however, had objection on the constitution of the Accreditation Committee. They objected to the proposal to have a representative from the Zambia Centre for Accountancy Studies (ZCAS) and instead proposed the Zambia Institute of Chartered Accountants (ZICA).

This was because ZICA is a body that regulates accountants in education and practice and is also involved in the accreditation of training providers of accountancy education, but ZCAS is one of the accredited Institutions. In their view, having ZCAS on the Accreditation Committee would not capture the principle applied in the accreditation of training providers in Zambia.

Most stakeholders noted that the proposed amendment did not provide for the process of accreditation (accreditation criteria and methodology) and had entirely left the accreditation process in the hands of the council for ZIALE. There was a concern that the council may be discriminating between or among universities if no standards of accreditation were laid down by the Act.

It was, therefore, proposed that the standard of accreditation be provided for in the amendment, and if that was not possible, it was proposed that, entry examinations be introduced at ZIALE through which students may be admitted on merit other than by accreditation.

The stakeholders felt that accreditation was likely to prejudice certain universities because of individual negative perceptions of council members.

They further proposed that, provision of the format for accreditation should be submitted through a statutory instrument by the Attorney-General's Chambers to create awareness to the stakeholders.

#### **(1) Accreditation Committee**

Some stakeholders proposed the following amendments:

- (i) nominations from the private and public universities should be done by the respective institutions and approved by the Minister under (e) and (f);
- (ii) (g) and (h) should be deleted as both institutions were not offering university courses;
- (iii) the Accreditation Committee should not be part of the ZIALE Act but should be a totally independent body, this body should also be responsible for vetting other qualifications from foreign universities as well. The body should have general and not specific powers;
- (iv) regulations for the Accreditation Committee should be provided under subsidiary legislation; and
- (v) the Accreditation Committee should be empowered to issue clearance certificates.

#### **(2) Council**

The provision relating to the composition should be amended so that (i) and (j) nominations should be by the university and approval by the Minister.

### **(3) Offences relating to examinations**

- (vi) On 20 (E) (I), the scope was too wide as it would be difficult to define “*friend*.”
- (vii) Under 25 (2), a candidate whose results have been nullified should not be allowed to rewrite the examinations afterwards.
- (viii) On 20D and 20E, the failure to report the loss of the examination papers and also the failure to disclose interest was what should be criminalised.

### **Committee’s Observations and Recommendations**

9. Your Committee, from the outset, wish to state that they support the Bill. They commend the Government for bringing it to Parliament, albeit late, but very important piece of legislation.

Your Committee thus, are of the view that the Zambia Institute of Advanced Legal Education (Amendment) Bill, N.A.B 20/2009 should be supported by the House.

Further, your Committee recommend that the Accreditation Committee should be set up as soon as possible to monitor and evaluate standards so as to avoid lowering the standards of education at ZIALE.

They further recommend that this concept should be extended to all learning institutions.

### **Conclusion**

10. In conclusion, your Committee wish to express their gratitude to you, Mr Speaker for not only appointing them to your Committee, but also for granting them the opportunity to scrutinise the Zambia Institute of Advanced Legal Education (Amendment) Bill (N.A.B. No.20 of 2009). Your Committee also wish to thank the Office of the Clerk of the National Assembly for the support rendered to them throughout their deliberations. They are indebted to all the witnesses who appeared before them for their co-operation in providing the necessary briefs despite the short notice. Your Committee are hopeful that the observations and recommendations contained in this report will go a long way in helping the House make a decision on the Bill.

We have the honour to be, Sir, your Committee mandated to scrutinise the Zambia Institute of Advanced Legal Education (Amendment) Bill (N.A.B. 20/2009).

Mr S Sikota, MP  
**(Chairperson)**

Mr B E Chimbaka, MP  
**(Member)**

Mr B Sikazwe, MP  
**(Member)**

Mr L H Chota, MP  
**(Member)**

Mr K Kakusa, MP  
**(Member)**

Major R M Chizhyuka, MP  
**(Member)**

July 2009  
**LUSAKA**

Mr S Sikota, MP  
**CHAIRPERSON**

## **APPENDIX I**

### **LIST OF OFFICIALS**

#### **National Assembly**

Mr S Kateule, Principal Clerk of Committees  
Mr G Lungu, Deputy Principal Clerk of Committees  
Mrs M K Siwo, Assistant Committee Clerk  
Mrs D Mukwanka, Assistant Committee Clerk  
Ms C Musonda, Assistant Committee Clerk  
Mr C Chiwota, Assistant Committee Clerk  
Mrs J M Phiri, Personal Secretary  
Ms C Mtonga, Typist  
Ms H Namuchimba, Typist  
Mr R Mumba, Committee Assistant  
Mr S M Likunyendo, Parliamentary Messenger  
Mr C Bulaya, Committee Assistant

**PERMANENT WITNESS**

**Ministry of Justice**

Mrs M M Katongo, Senior Parliamentary Counsel  
Mrs Y K Chirwa, Senior Parliamentary Counsel

**WITNESSES**

**Law Association of Zambia**

Dr O M M Banda, Honorary Treasurer  
Prof P Mvunga, SC

**Zambia Law Development Commission**

Mrs A C Nhekairo, Director  
Mr S Mwapela, Senior Research Officer

**Ministry of Education**

Mrs L E L Kapulu, Permanent Secretary  
Mrs N C Mwale, Administrative Officer – Parliamentary  
Mr K V Mvula, Acting Chief Education Officer  
Mr G C Mulenga, Senior Education Standards Officer

**Magistrates and Judges Association of Zambia**

Mr E Mwansa, Secretary

**University of Zambia, School of Law**

Dr M Munalula, Dean

**University of Lusaka, School of Law**

Mr P Chifwanakeni, Rector  
Mr G M Kanja, Director of Programmes

**Zambian Open University, School of Law**

Dr Y Chondoka, Dean – Law and Social Sciences  
Mrs F Mandhu, Head of Department – Law

**Cavendish University, School of Law**

Dr P Kalifungwa, Director – Academics  
Mrs M Sichone, Marketing and Sales Manager  
Rtd Judge K Chanda, Lecturer

**Zambia Institute of Advanced Legal Education**

Dr N Simbyakula, Director

**Zambia Institute of Chartered Accountants**

Mr H Kabeta, Chief Executive Officer  
Mr C Mutale, Finance Manager

**Judicial Service Commission**

Mr E L Musona, Secretary

**Member of Parliament**

Mr M Kapeya, MP