



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

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

**ON THE**

**SUPERIOR COURT (NUMBER OF JUDGES) BILL N.A.B. NO. 16 OF 2016**

**FOR THE**

**FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY  
APPOINTED ON 24<sup>TH</sup> SEPTEMBER, 2015**

**PRINTED BY THE NATIONAL ASSEMBLY OF ZAMBIA**

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## TABLE OF CONTENTS

ITEM	PAGE
1. Membership of the Committee	1
2. Functions of the Committee	1
3. Meetings of the Committee	1
4. Procedure adopted by the Committee	1
5. Background	1
6. Objects of the Bill	2
7. Salient Provisions of the Bill	2
8. Submissions from Stakeholders	3
9. Committee's Observations and Recommendations	3
10. Conclusion	3
Appendix I - List of Officials	5
Appendix II – Witnesses	6

**REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS ON THE SUPERIOR COURT (NUMBER OF JUDGES) BILL, N.A.B. NO. 16 OF 2016, FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON 24<sup>TH</sup> SEPTEMBER, 2015**

Consisting of:

Mr C Mweetwa, MP (Chairperson); Mr H Kunda, MP; Mr B M Ntundu, MP; Ms V Kalima, MP; Mr M A Malama, MP; Ms M Miti, MP; Mr M Kapeya, MP; and Mr S Masumba, MP.

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

Sir,

Your Committee has the honour to present its Report on the Superior Court (Number of Judges) Bill, N.A.B. No. 16 of 2016, for the Fifth Session of the Eleventh National Assembly referred to it by the House on Wednesday, 20<sup>th</sup> April, 2016.

**Functions of the Committee**

2.0 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 Bills that may be referred to it by the House.

**Meetings of the Committee**

3.0 Your Committee held three meetings to consider the Superior Court (Number of Judges) Bill, N.A.B. No. 16 of 2016.

**Procedure adopted by the Committee**

4.0 In order to acquaint itself with the ramifications of the Bill, your Committee sought both written and oral submissions from stakeholders. The stakeholders who appeared before your Committee are listed at Appendix II.

**Background**

5.0 The *Constitution of Zambia (Amendment) Act* No. 2 of 2016 of the Laws of Zambia, established additional courts in the Judiciary. Article 120 of the Constitution provides that the Judiciary shall consist of the superior courts namely: the Supreme Court; Constitutional Court; the Court of Appeal; and the High Court.

In this regard, the Superior Court (Number of Judges) Bill, 2016, prescribes the number of judges for the afore-stated superior courts.

## **Objects of the Bill**

6.0 The objects of this Bill are to prescribe the number of judges for the Supreme Court, Constitutional Court, Court of Appeal and High Court and to repeal and replace the *Supreme Court and High Court (Number of Judges) Act, 1976*.

## **Salient Provisions of the Bill**

7.0 The salient provisions of the Superior Court (Number of Judges) Bill, N.A.B. No. 16 are set out hereunder.

### **Clause 2**

This clause prescribes thirteen as the number of judges of the Supreme Court. The number includes the Chief Justice and the Deputy Chief Justice. Clause 2 is in line with Article 124 of the Constitution which prescribes thirteen as the minimum number of judges on the Supreme Court.

### **Clause 3**

This clause provides that the number of judges in the Constitutional Court, including the President and Deputy President, shall be thirteen. Under Article 128 of the Constitution, the Constitutional Court has original and final jurisdiction to hear matters relating to the Constitution, the President, Vice President or an election of a President. In addition, the Court has jurisdiction to hear and determine appeals relating to election of Members of Parliament and Councillors; and whether a matter falls within the jurisdiction of the Constitutional Court. Clause 3 is in line with Article 127 (c), which prescribes thirteen as the minimum number of judges for the Court.

### **Clause 4**

This clause provides that the number of judges for the Court of Appeal shall be nineteen, including the Judge President and the Deputy Judge President. Article 131 provides that the Court of Appeal has jurisdiction to hear appeals from the High Court, other courts and quasi-judicial bodies. An appeal from a decision of the Court of Appeal shall lie with the Supreme Court. Unlike the Supreme Court and Constitutional Court, the Constitution does not provide for a minimum number of judges for the Court of Appeal.

### **Clause 5**

This clause prescribes sixty as the number of judges of the High Court. The High Court shall have unlimited and original jurisdiction in civil and criminal matters. In addition, it shall have appellate and supervisory jurisdiction over the lower courts.

### **Clause 6**

This clause repeals the *Supreme Court and High Court (Number of Judges) Act*, which currently prescribes the number of judges in the Supreme Court and High Court. Therefore, since the number of judges in the Supreme Court and High Court will now be provided for in the *Superior Court (Number of Judges) Act*, it is imperative to repeal the *Supreme Court and High Court (Number of Judges) Act*.

## **Submissions from Stakeholders**

8.0 All the stakeholders who submitted to the Bill fully supported its enactment. The stakeholders submitted that the introduction of the new courts will help in the speedy dispensation of justice.

## **Committee's Observations and Recommendations**

9.0 Your Committee makes the observations set out below.

1. The Superior Court (Number of Judges) Bill brings into effect the provisions of Part VIII of the Constitution with regard to the establishment, jurisdiction and composition of the superior courts.
2. Having thirteen judges for the Constitutional Court will help in the speedy delivery of justice in relation to constitutional matters.
3. Increasing the number of judges in the Supreme Court from the current eleven to thirteen is a positive development in view of the workload of the Court.
4. Considering the jurisdiction of the Court of Appeal, the prescribed number of nineteen judges will help the Court in the speedy and effective dispensation of justice.
5. Increasing the number of High Court judges from the current fifty to sixty is a positive development in view of the increased workload of the High Court. Your Committee envisages that having more Judges will assist to clear the back log of cases in the High Court.
6. The introduction of new courts will help in the speedy dispensation of justice. Your Committee is, however, concerned that the available court and office infrastructure is not sufficient to cater for the increase in the number of courts and judges that have been created by the Constitution.

Your Committee, therefore, implores the Executive to ensure that steps are urgently taken to address the lack of infrastructure.

In light of the above, your Committee urges the House to support the enactment of this non contentious piece of legislation.

## **Conclusion**

10.0 Your Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions; and to thank you, Mr Speaker, for affording it an opportunity to scrutinise the Bill. Your Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly and the permanent witnesses from the Ministry of Justice.

We have the Honour to be, Sir, your Committee on Legal Affairs, Governance Human Rights, Gender Matters and Child Affairs mandated to consider the Superior Court (Number of Judges) Bill, N.A.B. No. 16 of 2016, for the Fifth Session of the Eleventh National Assembly.

Mr C Mweetwa, MP

(Chairperson)

Mr H Kunda, MP  
(Member)

Mr B M Ntundu, MP  
(Member)

Ms V Kalima, MP  
(Member)

Mr M A Malama, MP  
(Member)

Ms M Miti, MP  
(Member)

Mr M Kapeya, MP  
(Member)

Mr S Masumba, MP  
(Member)

April, 2016  
**LUSAKA**

**APPENDIX I**

### **List of National Assembly Officers**

Mr S C Kawimbe, Principal Clerk of Committees  
Ms M K Sampa, Deputy Principal Clerk of Committees  
Mr F Nabulyato, Committee Clerk (SC)  
Ms C Musonda, Committee Clerk (FC)  
Mrs D Mukwanka, Assistant Committee Clerk  
Mrs M K Siwo, Assistant Committee Clerk  
Mr S Samuwika, Assistant Committee Clerk  
Mrs A S Lloyd, Stenographer  
Mr C Bulaya, Committee Assistant  
Mr M Chikome, Parliamentary Messenger

**WITNESSES**

**Ministry of Justice (Permanent Witness)**

Mr G Muntengwa, Parliamentary Counsel

**Law Association of Zambia**

Mr E Mwitwa, Vice President

Prof M P Mvunga, Member

Ms S Kateka, Hon Secretary

**University of Zambia, School of Law**

Ms C Tembo, Lecturer/Researcher

**Judicial Service Commission**

Mr M Zulu, Secretary

Mr E Pengele, Deputy Secretary

Ms E Zimba, Senior Research Officer

Ms A M Sitali, Judge