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THE RELATIONSHIP BETWEEN TAX TRIBUNALS AND TAX AUTHORITIES.A COMPARATIVE STUDY BETWEEN ZAMBIA AND INDIA.

BY:

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2025

DECLARATION

I declare that this dissertation entitled, **THE RELATIONSHIP BETWEEN TAX TRIBUNALS AND TAX AUTHORITIES**. **A COMPARATIVE STUDY BETWEEN ZAMBIA AND INDIA** which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's Degree at the University of Lusaka is my original work and it has not been previously submitted for the award of a degree at this university or any other tertiary institution. I understand what plagiarism entails and I'm aware of the university's policy in this regard. Thus, where people other peoples work is cited. I have duly acknowledged. The errors or omissions in this work are solely mine.

………*Fulayi*……………… **13th November,2025**

LOVENESS FULAYI **DATE**

SUPERVISOR'S RECOMMENDATION

I, MR NJAVWA SINKAMBA, recommend that this dissertation, prepared under my supervision by **LOVENESS FULAYI**, entitled **THE RELATIONSHIP BETWEEN TAX TRIBUNALS AND TAX AUTHORITIES.A COMPARATIVE STUDY BETWEEN ZAMBIA AND INDIA,** be accepted for examination. I have checked it carefully and I'm satisfied that it fulfils the requirement pertaining to the format laid down in the regulations governing directed research.

13th November,2025

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MR NJAVWA SINKAMBA

(Supervisor)

DATE

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DEDICATION

I dedicate this work first and foremost to the Lord Almighty, whose boundless grace, Wisdom, and strength have carried me through every challenge and triumph of this journey. To Him be all the glory, honor, and praise.

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ABSTRACT

This thesis was on the relationship between tax tribunals and tax authorities. A comparative study between Zambia and India. The purpose of this study was to conduct a comparative analysis of the relationship between tax authorities and tax tribunals in Zambia and India with the aim of evaluating the degree of independence and impartiality of tax tribunals in both countries, by identifying structural, legal and procedural challenges and lastly proposing recommendations. The objectives of this study included to analyse the legal and institutional frameworks governing tax tribunals and tax authorities, secondly to evaluate the extent of independence and impartiality of tax tribunals in both countries, particularly in relation to appointment procedures, finding and administrative control, then lastly to identify the best practices and recommendations in the functioning of tax tribunals from both jurisdictions that inform legal and institutional reforms.

The methodology of this research was as follows; this research was a qualitative mode of research as data was gotten from statutes, reports, internet sources, text books, journals and articles and case law.

The major finding of this research lies in the perceived or actual lack of institutional independence and functional autonomy of tax tribunals from tax authorities whose decisions they are meant to review. This poses a threat a threat to principals of natural justice, access to effective legal remedies and protection of tax payer rights. In some instances, tax tribunals appear to function as mere extensions of revenue authorities, rather than as impartial adjudicators, as a result, there is growing concern that tax payers may not be receiving fair hearings, thereby undermining confidence in the tax dispute resolution system.

CHAPTER ONE

1.0 INTRODUCTION

The relationship between tax tribunals and tax authorities is an important aspect of modern tax administration, as it reflects the balance between revenue collection and tax payer rights. In both Zambia and India, the establishment of tax tribunals has been driven by the need to promote fairness, accountability and efficiency in resolution of tax disputes. In Zambia the relationship between the Tax Tribunal (the **"TAT"**) and Zambia Revenue Authority (the **"ZRA"**) is governed by the Tax Appeals Tribunal Act (2009)[1]

The TAT is an independent body that resolves tax disputes between taxpayers and the ZRA. The ZRA is responsible for collecting taxes and administering tax laws and we can see this Section 4 of the Zambia Revenue Authority Act, Chapter 321of the laws of Zambia, while Section 4 of the Tax Appeals Tribunal Act No.1 of 2015 provides a forum for taxpayers to appeal decisions made by ZRA. However, the historical contexts and legal traditions of these countries have influenced the structure and evolution of their respective systems in unique ways.

In Zambia Initially, disputes arising from tax assessments or decisions made by tax authority were resolved through internal administrative channels or by recourse to the ordinary courts. This posed significant challenges including delays in adjudication and lack of technical expertise in tax matters within the general judiciary. To address these shortcomings, the government established the Tax Appeals Tribunal under the Tax Tribunal Act No.1 of 1999[2].The tribunal was created as a quasi-judicial body to provide taxpayers with independent and specialised platform for the resolution of disputes with the ZRA, its formation marked a critical shift towards the institutional separation of adjudicatory and administrative functions in Zambians tax system.

However, in India, the relationship between tax tribunals and tax authorities is governed by various statutes including the Income Tax Act (1961)[3] and the Customs Act (1962)[4].Tax Tribunals such as the Income Tax Tribunal (ITAT) and the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), provide a forum for taxpayers

[1] Act No.1 of 2009
[2] Act No.1 of 1992
[3] Act No. 43 of 1961
[4] Act No.52 of 1962

to appeal decisions made by tax authorities . Tax authorities such as the CBDT and CBIC, are responsible for collecting taxes and administering tax laws.

Tax Appeals Tribunal is governed by its enabling statute and operates independently of, the ZRA, although its decisions can be reviewed by High Court. Its establishment reflects an increasing recognition of the importance of taxpayer rights, legal certainty and the rule of law in tax administration. Nonetheless , the relationship between the Tribunal and the ZRA remains complex ,particularly in areas where administrative discretion and legal interpretation overlap.

1.1 BACKGROUND OF STUDY

This study is rooted in the challenges faced by tax administration in resolving disputes between taxpayers and tax collectors. In Zambia, the tax system has undergone significant reforms including the establishment of the Zambia Revenue Authority and Tax Appeals (TAT)[5].

Similarly, in India, tax authorities have implemented various strategies to improve tax compliance, including leveraging technology and strengthening tax tribunals such as the Income Tax Appellate Tribunal (ITAT)[6].Both countries have established tax tribunals to provide a specialized forum for resolving tax disputes, with the objective of reducing litigation backlogs in regular courts and ensuring speedy resolution of tax related matters.

Despite this, concerns remain about the independence, efficiency and effectiveness of tax tribunals and their relationship with tax authorities. In many cases, tax tribunals are perceived to be under the influence of tax authorities, which undermines the principal of impartial adjudication, Questions arise around their structural independence, the appointment of tribunal members and the execution of their decisions. In Zambia Revenue Appeals has faced criticism for lacking operational autonomy and being under resourced. Similarly, in India the Income Tax Appellate Tribunal (ITAT) has been at the centre of debates regarding executive interference and judicial independence.

[5] Act No.1 of 2016

[6] ibid

Understanding the relationship between tax tribunals and tax authorities is crucial for ensuring that tax disputes are resolved in a very fair and timely manner. Hence this relationship has very significant consequences for tax compliance, as a positive change can foster a voluntary cooperation, while the negative one may lead to enforced compliance. Furthermore, effective tax administration and dispute resolution can contribute to economic growth by promoting a positive business environment. The relevance of this study is highlighted by the importance of tax administration in emerging economies, As these economies continue to grow and develop, the need for an effective tax administration and dispute resolution becomes increasingly important.

1.2 STATEMENT OF THE PROBLEM

The integrity of any tax system depends not only on the laws enacted but also on the mechanisms available for resolving disputes between taxpayers and tax authorities. In Zambia, tax tribunals were established as quasi-judicial bodies to resolve tax disputes independently, efficiently and fairly. However, the effectiveness and independence of these tribunals remain under serious scrutiny due to their complex and often strained relationships with tax authorities.

The central problem lies in the perceived or actual lack of institutional independence and functional autonomy of tax tribunals from the tax authorities whose decisions they are meant to review, this conclusion is coming from a combination of legal principals, case evidence and scholarly critique. This poses a threat to the principals of natural justice, access to effective legal remedies and protection of taxpayer rights. In some instances, tax tribunals appear to function as mere extensions of revenue authorities, rather than as impartial adjudicators. As a result, there is growing concern that tax payers may not be receiving fair hearings, thereby undermining confidence in the tax dispute resolution system.

However, in Zambia, for instance the Revenue appeals Tribunal has been critiqued for its limited independence, stemming from its administrative structure and reliance on the Ministry of finance for funding and appointments. According to an article by **M. Mukuka and J Banda titled 'Zambia Revenue Authority and limits of tribunal**

oversight : The Mopani Copper Mines Case[7] the authors argue that Zambians tax tribunals , particularly the Tax Appeals tribunals(TAT), lack the institutional power and independence to effectively oversee or challenge the Zambia Revenue Authority(ZRA) 's decisions in addition to the Mopani Copper Mines Case Authors highlight how ZRA's broad discretionary powers and tribunals structural limitations resulted in failure to adequately scrutinize the authority's tax assessments . Zambians system suffers from insufficient oversight, lack of precedential authority and weak enforcement mechanisms .

In that light therefore, the purpose of this study is to conduct a comparative analysis of the relationship between tax authorities and tax tribunals in Zambia and India with the aim of Evaluating the degree of independence and impartiality of tax tribunals in both countries, identifying structural, legal and procedural challenges and lastly proposing recommendations. However, the study aims to contribute to legal scholarship on administrative justice in tax law and provide policy insights that can support development.

1.3.0 GENERAL OBJECTIVES

The general objective of this study is to critically examine the nature and dynamics of the connection between tax tribunals and tax authorities in Zambia and India, with a view to evaluating the level to which this relationship affects the independence, efficacy and fairness of tax dispute resolution mechanisms and recommend legal institutional reforms that enhance the autonomy and credibility of tax tribunals in promoting justice and taxpayer confidence.

1.3.1 SPECIFIC OBJECTIVES

The following are specific objectives;

1. To critically analyse the legal and institutional frameworks governing tax tribunals and tax authorities in Zambia and India.
2. To evaluate the extent of independence and impartiality of tax tribunals in both countries, particularly in relation to appointment procedures, finding and administrative control.

[7] M. Mukuka and Banda (2020)' Zambia Revenue Authority and Limits of Tribunal Oversight ;The Mopani Copper Mines Case.

3. To identify best practices and recommendations in the functioning of tax tribunals from both jurisdictions that inform legal and institutional reforms.

1.3.2 RESEARCH QUESTIONS

1. What are the legal and institutional frameworks governing the establishment and functioning of tax tribunals and tax authorities in Zambia and India?
2. To what extent are tax tribunals in Zambia and India independent from tax authorities in terms of appointment, procedures, administrative control and financial autonomy?
3. What comparative lessons or best practices can be drawn from India and Zambia to strengthen the autonomy and effectiveness of tax tribunals?

1.4 SIGNIFICANCE OF STUDY

This study holds the importance in enhancing the understanding and effectiveness of tax dispute resolution mechanisms in developing countries. In Zambia, the Revenue Appeals faces problems related to inadequate funding and potential executive influence, which may compromise its autonomy and effectiveness. This condition emphasizes the need for reforms to bolster the tribunal's independence. In comparison, India's Income Tax Appellate Tribunal (ITAT)[8] operates under the Ministry of Finance to protect impartiality.

In spite of this operational advantage, issues related to interruptions and administrative blockages still disturb its presentation.

However, by conducting a comparative study of these two countries , the study aims to identify best practices and areas requiring development. The insights gained will be instrumental for policy makers, legal practitioners, and scholars in formulating strategies to enhance the independence, efficiency, strengthening these institutions contributes to fairer tax systems , improved tax payer confidence, and more effective revenue collection.

[8] ibid

1.5 SCOPE OF STUDY

This study is limited to a comparative legal analysis of the relationship between tax tribunals and tax authorities in Zambia and India, focusing on the institutional, legal and functional dimensions of that relationship. It examines the degree of independence tax tribunals enjoy from tax authorities whose decisions they are tasked with reviewing, particularly with regard to appointments, funding, case management and enforcement of decisions. However, the scope does not cover ther dispute resolution mechanisms like courts of general jurisdiction or arbitration but concentrates specifically on statutory tax tribunals as quasi-judicial bodies. The study is comparative and analytical, not empirical, but may reference reported case statistics and tribunal performance.

1.6 DEFINATION OF KEY TERMS AND ACRONYMS

TAX AUTHORITY-A tax authority is a government agency responsible for administering and enforcing tax laws, including the assessment, collection and audit of taxes. As per the OECD Glossary of tax terms [9] defined a tax authority as the official governmental organisation entrusted with tax administration, in Zambia, this refers to the Zambia Revenue Authority (ZRA); in India, it refers to bodies like the Income Tax Department under the Central Board Taxes (CBDT).

TAX TRIBUNAL-This is a quasi-judicial body established by statute to resolve the disputes between taxpayers and tax authority, typically operating with more flexibility, expertise, and speed than ordinary courts. According to the United Nations Handbook On Selected Issues In Administration Of Tax Disputes (2013)[10] defined Tax Tribunals as independent bodies created to provide efficient and impartial adjudication in tax matters, often staffed by legally or technically trained adjudicators.

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[9] OECD, *glossary of Tax Terms*(2020*)* http://.www.oecd.org/ctp/glossaryoftaxterms.htm accessed 16 April
[10] International Monetary fund, *Administration on Tax disputes (*IMF Legal Department 2013) https://www.imf.org/.external/np/leg/tlaw/2013/eng/tdisputes.pdf

INDEPENDENCE OF TRIBUNALS-The independence of tribunals refers to the structural and functional autonomy of adjudicative bodies from external influences, particularly from executive branch, ensuring impartial and fair decision making.

1.7 LITERATURE REVIEW

A review on the literature between tax tribunals and tax authorities between Zambia and India, this literature review provides a critical appraisal of scholarly work relevant to this topic, evaluating sources, gaps, and outlining the structure of the review. However, the relationship between tax tribunals and tax authorities is a critical aspect of tax administration, and comparative study between Zambia and India.

However, **Kelvin Mpembamotos 2013 study titled; An Evaluation of the Revenue Appeals Tribunal [11]** critiques the legal and institutional structure of the Revenue Appeals Tribunal (RAT), pointing out that lack of operational autonomy limits its capacity to act as an impartial arbiter in disputes with the Zambia Revenue Authority (ZRA). This directly aligns with the theme on how tribunals struggle with independence when situated under ministries (like Finance) or lack resource control, in addition the study emphasizes administrative delays, inadequate staffing and limited capacity as non-legal barriers to effective adjudication.

An article by Mukuka, **M and Banda**. **J**. (**2020**)[15] highlights the challenges faced by Zambians Tax Tribunal (TAT) in asserting its independence from ZRA.

The authors argue that the TAT 's structural and operational ties to Ministry of Finance compromise its ability to function as an impartial adjudicator in tax disputes. This contrasts with India's Income Tax Appellate Tribunal (ITAT) which operates under the Ministry of Law and Justice, thereby enjoying greater economy, this article also discuss procedural shortcomings within the TAT, such as delays in case resolution and limited technical expertise, which hinder the effectiveness. These matters contribute to a perception of bias and inadequacy, discouraging taxpayers from looking for redress through proper networks. In contrast, India's

[11] Mpembamoto, Kelvin. (2013).An Evaluation of the revenue Appeals Tribunal. University Of Zambia.
[15] Mukuka M, & Banda, J. (2020). Zambia Revenue Authority and the limits of tribunal

ITAT is noted for its efficient processes and tax payer –friendly approach, which promote its reliability and efficiency.

However, **the case of Mopani Copper Mines PLC vs Zambia Revenue Authority [2020] ZMSC146** [12] this case underlines the problems faced Tax tribunals in declaring their autonomy and complexities involved in deciding tax disputes involving international cooperation's. The Supreme Court's decision emphasizes the importance of vigorous transfer pricing documentation and acquiescence with local tax laws. It also demonstrates the judiciary's role in keeping the decisions of tax authorities when they are grounded in through audits and legal provisions.

Furthermore, **the UNDP & ATAF (2020) REPORT**[13] underlines that Zambians Tax Appeals Tribunal, though legally established as a quasi-judicial body, continues to lack full operational autonomy, particularly due to its administrative situation under the Ministry of finance. The UNDP and ATAF emphasize that structural setup compromises the perceived and actual neutrality of the tribunal, especially when handling disputes involving the ZRA, looking at this report, it primarily focused on tax tribunals with limited attention to the relationship between tax tribunals and tax authorities.

However, when it comes to India we have different scholars and the first one is **M**. **Naniwadeker** 's **2017 article "Income Tax Appellate Tribunal**[14] **Naniwadeker** analyses the procedural set of the income Tax Appellate Tribunal(ITAT)and finds it to be user-friendly , that efficient and relatively informal, which encourages taxpayer participation .He notes that the ITAT often serves as the final level of factual adjudication , with limited appeals allowed on points of law –this ensures both finality and speed .In addition **Chaturvedi and Rao 's 2021 article** [15]these authors argue that the income tax appellate tribunal(ITAT)in India benefits from well-structured legal institutional framework that promotes judicial independence . By being placed under Ministry of Law and Justice, instead of the of the Ministry Of Finance. ITAT enjoys a degree of autonomy that protects it from

[12] [2020]ZMSC146

[13] United Nations Development programme(UNDP)& African Tax Administration Forum(ATAF).(2020)

[14] Nanwadeka,M. Study in Tribunal Justice(2017)

[15] Chaturvedi, A, Rao P (2021) Judicial independence in Indian Tax Tribunals.

executive overreach or bias in favor of revenue authorities, In contrast with Zambia Tax Appeals Tribunal (TAT), which operates under the Ministry of Finance , raising concerns about potential conflicts of interest and compromised neutrality ,as noted by **Mpembamoto**(**2013**).In addition these two authors also highlight how judicial appointments ,tenure security and separation of powers within the Indian tribunal system bolster the independence of tax adjudicators . The article also emphasizes the role of the judiciary in protecting these safeguards through past rulings. However, we clearly see that most of these studies have focused more on developed countries, with limited research on emerging economies.

In addition, **Rikard Larsson** (**OECD**,**2020**) [16] highlights that in developing countries, tax tribunals often lack the financial and institutional independence needed to fairly adjudicate disputes with powerful revenue authorities. He uses Zambia as a case study to show how placement of tribunals under ministries of finance can create conflicts of interest.

However, a scholar **Kamari**, **G**e**etha**[17]examines their structure, functioning and the extent of judicial independence, offering valuable insights for comparative analysis.

Furthermore, the **OECD REPORT**[18]provides a global benchmark for assessing the design, operation and effectiveness of tax dispute resolution systems offers comprehensive synthesis of international standards that resonate strongly with the thematic issues raised in both Zambia and Indian contexts. The report emphasizes the serious role of institutional independence, procedural efficiency and taxpayer access to justice in ensuring the credibility of tax tribunal, there are several gaps and limitations that need to be addressed, one of them is that the literature has primarily focused on the role tax tribunals in resolving tax disputes, with limited attention to the relationship between tax tribunals and tax authorities.

This study aims to address these gaps by providing a comparative analysis of the relationship between tax tribunals and tax authorities in Zambia and India, by examining the structures, functions and effectiveness.

[16] Rikard Larsson (OECD, 2020)

[17] OECD, Making Dispute More Effective. Action 14(OECD publishing 2020) https;//doi.org/10.1787/08a4369een

[18] Kumari, P. Geetha (2002) Administrative Tribunals in Kerala; A study. University of Kerala.

1.8.0 METHODOLOGY

1.8.1 RESEARCH APPROACH

This research will employ qualitative research methodology taking doctrinal and comparative legal research approach to examine the structural, legal and functional relationship between Tax tribunals and Tax Authorities in Zambia and India .It also seeks to interpret legal texts, judicial decisions and institutional practices.

1.8.2 RESEARCH DESIGN

This research will adopt an integrated approach, primarily focusing on library as well as desk research for data collection and the data analysis process entails a critical and thorough review and description of applicable legal provisions.

1.8.3 SAMPLE SIZE

The research will be targeted at all persons with credible knowledge and expertise on the subject matter.

1.8.4 SAMPLING TECHNIQUE

This research adopts a purposive sampling technique, selecting legal materials, statutory instruments and judicial decisions based on their relevance to the research problem.

1.8.5 ETHICAL CONSIDERATIONS

In order to conform with ethical with ethical requirements of research , first permission will be sought from UNILUS research ethics committee , second , permission will be sought from Tax Tribunals , third permission will be sought from individual research subject lastly , researcher will endeavour to follow academic writing requirements like referencing and acknowledgement of other peoples work.

1.8.6 RESEARCH OUTLINE

CHAPTER ONE, stands as an introduction for this research, it introduces the research topic and discuss the statement of the problem and the approaches adopted to achieve the purpose of the research.

CHAPTER TWO, will critically analyse the legal institutional frameworks governing Tax tribunals and Tax Authorities in Zambia.

CHAPTER THREE, will incorporate International Conventions and Comparative analysis, while keeping focus on Tax tribunals and tax authorities in Zambia and India.

CHAPTER FOUR, will evaluate the extent of independence and impartiality of Tax Tribunals in both countries particularly in relation to appointment, procedures and finding administrative control.

CHAPTER FIVE, it will summarize the discussion in the preceding paragraphs. It will also identify best practices and Recommendations in functioning of Tax tribunals from both jurisdiction

CHAPTER TWO

LEGAL AND INSITUTIONAL FRAMEWORKS GOVERNING TAX TRIBUNALS AND TAX AUTHORITIES IN ZAMBIA AND INDIA.

2.0 INTRODUCTION

The efficacy of any Tax system rest not only on the simplicity of substantive tax laws but also on the strength of the institutions tasked with their administration and decision. The Zambia and India, tax authorities and tribunals play a significant role in insuring that Tax requirements are equally.

This chapter will highlight the Legal and Institutional frameworks governing Tax Tribunals and Tax Authorities in Zambia and India, it will further underscore a comparative examine of these frameworks and provide critical insights into how institutional strategy influences transparency, responsibility and access to justice.

2.1 ZAMBIAN TAX TRIBUNAL

The **Tax Tribunal Act**, **2015**[19] establishes the Tax Appeals Tribunal (TAT), which is the principal legislation establishing the Tax Tribunal Act (TAT). The Act repealed and re-enacted the former Revenue Appeals **Tribunal** Act of 1998[20], thereby continuing the institution under a new framework.

It clearly outlines the composition of the tribunal, including appointment of a chairperson and members, supported by a Registrar and provides sittings at times and places determined by the chairperson. The Tribunal benefits from both legal and technical expertise when determining complex tax disputes. In addition, the act establishes the office of the registrar, who serves as the principal administrative office of the Tribunal, responsible for case registration, management of records, issuing notices, and insuring compliance with procedural timelines.

The Act defines the Jurisdiction of the Tribunal as hearing appeals against decisions of the Commissioner-General of the Zambia Revenue Authority under various tax laws. It also lays down procedural rules for filling, hearing and determination of cases,

[19] Act No.1 of 2015
[20] Act N. 11 of 1998

which are now supplemented by the **Statutory Instrument No.37 of 2022(Procedure rules)**[21] that introduced modern elements such as standardized forms, electronic fillings and virtual hearings.

Furthermore, the Act provides for an appeal route from Tribunal directly to the Supreme Court of Zambia on questions of law or mixed law and fact, ensuring that Tribunals decisions are subject to judicial oversight while maintaining its role as specialized forum for tax disputes.

2.2 TAX AUTHORITIES

On the executive side, the Zambia Revenue Authority Act, 1993[22] establishes the Zambia Revenue Authority (ZRA) as the central tax administration body. The Act consolidated and transferred powers that were previously fragmented across separate revenue departments – such as Customs and Excise, Income Tax, and Sales Tax-into a single, Semi-autonomous authority. The ZRA functions under the general supervision of a Governing Board, which gives oversight of policy operation, accountability, and tactical direction, while daily procedures are accomplished by the Commissioner-General.

The ZRA to assesses, collect, and account for Revenues on behalf of the government of Zambia and to enforce agreement with all revenue laws. It also grants the Authority powers of inspection, investigation, collection. Structurally, the ZRA demonstrates the Semi-autonomous Revenue Authority (SARA) model, balancing operational freedom with accountability to the Ministry of Finance. Its institutional framework complements the Tax Appeals Tribunal by giving the administrative decisions that may be challenged before the Tribunal.

2.3 INDIA TAX TRIBUNAL

The principal tax tribunal in India is the **Income Tax Appellate Tribunal** (**ITAT**)[23], established in 1941 and now governed by the Income-Tax-Act, 19461[24] particularly under Sections 252-255. The ITAT is a specialized, quasi-judicial body that hears appeals against the orders of the Commissioner of Income -Tax (Appeals){CIT(A)] and

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[21] Statutory Instrument No. 37 of 2022
[22] Cap.321
[23] Income Tax Appellate Tribunal
[24] Income Tax Appellate Tribunal

certain other authorities under the Act. It is considered the second Appellate authority in Indian's direct tax dispute resolution system. The composition of ITAT benches typically includes one Judicial member (a person qualified to be a judge and one Accountant Member (an experienced Accountant), reflecting a blend of legal an technical expertise. The president of the ITAT regulates the constitution of benches and allocation of cases under Section 255(5)[25].

The ITAT operates independently of the executive Tax administration of the Executive tax administration with its own registry, benches located across major cities in India, and strong tradition of specialized Jurisprudence, often called the "MOTHER TRIBUNAL" due to its long-standing role in shaping Indian tax law.

2.4 INDIA TAX AUTHORITY

On the executive side, direct Tax administration is overseen by the **Central Board Of Direct Taxes** (**CBDT**) [26] , a statutory authority created under the Central Boards Of Revenue Act, 1963[27]. The CBDT functions under the Department of Revenue, Ministry of Finance, and is the apex body responsible for policy formulation, legislative proposals, and administration of the Income -Tax Department (ITD). The CBDT is directly accountable to the government of India but enjoys functional autonomy in Administration including power to enforce compliance, conduct investigations, and prosecute tax evasion cases. However, Section 4 of the CBDT[28]authorises the Central Government to make rules regulating the transaction of business by Board, safeguarding that any performances or orders done in accordance with such rules are deemed valid acts of the Board itself.

Structurally, the CBDT and ITAT represent two distinct but complementary institutions; the CBDT frames and enforces tax policy through the ITD, while the ITAT provides an independent adjudicative forum to resolve disputes between taxpayers and the tax administration.

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[25] ibid
[26] Central Board of Direct Taxes (CBDT)
[27] Central Boards of Revenue Act, 1963
[28] ibid

2.5 COMPARATIVE ANALYSIS

A tribunal's ability to deliver impartial tax adjudication depends not only on its statutory mandate but also on the institutional guarantees that shield it from executive dominance. Appointment procedures, Length and Security of tenure, and the degree of ministerial control are decisive in this regard. The following comparative discussion Zambia and India will examine how each jurisdiction structures these safeguards, where weaknesses lie, and how courts and statutes have responded to these challenges.

Zambia's tribunal laws are established mainly by specific Acts of the Parliament (e.g Lands **Tribunal** Act 2010[29], **Tax Appeals Tribunal Act 2015**)[30] and procedural rules prescribed by authorities like the Chief Justice. Tribunals usually have three members, including a chairperson or deputy and their proceedings are recognized as judicial under the **Penal Code**. **Appeals**[31] ie to the Supreme Court. The Constitution of Zambia does not explicitly mention tribunals but provides for courts that include the Supreme Court, High Court, and Industrial Relations court alongside statutory Tribunals.

In dissimilarity, India's tribunal system has clear **Constitutional** backing under **Articles 323A** (**introduced by the 42nd Amendment in 1976**)[32], allowing parliament and state legislatures to establish tribunals deciding various disputes, including taxation, administrative service matters, land elections and more. Members are chosen by independent committees relating judiciary members, with strong protections to safeguard judicial independence. Tribunals have limited jurisdiction, with only Supreme Court able to override their decisions.

Appointment Process: In Zambia the **Tax Appeals Tribunal Act**, 2015[33] **,** the minister of Finance chooses TATS members. Three legal practitioners (10+ years standing) must be appointed on the recommendation of the Judicial Service Commission; accountant members must be qualified per Zambian institute of Chartered Accountants (ZICA). The Minister appoints the chairperson and Voce

[29] Lands Tribunal Act ,2010 (Zambia)
[30] Tax Appeals Tribunal Act no. 1 of 2015
[31] Penal Code (cap 87 of The Laws of Zambia)
[32] Constitution of India
[33] Act No. 1 of 2015

chairperson from among the legal practitioner members. The Act prescribes who recommends but also does not fix a statutory timeline for making or renewing appointments.

However, in India members of the Income Tax Appellate Tribunal (ITAT) are appointed by the Central government. Statutorily, the ITAT is constituted with as many judicial and accountant members as Central Government and the government appoints its leadership (President/ Vice President). Appointments pipelines since the Finance Act 2017 have run through Search-cum-Selection (SCSC). Courts have repeatedly scrutinized these committees for a lack of judicial dominance; The Supreme court in *Rojer Matthew*[34] condemned the 2017 rules for side lining the judiciary and required fresh, compliant rules. The 2020 rules continued to vest significant say with the executive secretaries, drawing further criticism.

In Contrast both countries comprise the executive at the point of appointment. India uses Search-Cum-Selection (SCSCs) with judicial partaking on paper but has struggled with executive-heavy compositions in practice whereas Zambia rages ministerial choice via JSC/ZICA inputs but leaves critical authority (and timing with the Minister).

Tenure and Security: In Zambia the Tax Appeals Tribunal Act[35] fixes four years, renewable once. That cap provides clarity but also creates churn risk; and because the Act does not impose deadlines for (re) appointments, vacancies or renewals can lag, threatening continuity. (The statute itself sets the four-year/ one-renewal framework.

In India, the fixed terms have been persistent fault line. The Tribunals Reforms Ordinance/Bill, 2021 set four-year terms with a minimum -age bar-provisions the Supreme Court struck down, directing longer tenure (around five years) with re-appointment possibilities to preserve independence and institutional memory.

In comparison India's short tenures have been repeatedly judicially contested while Zambia's are statutorily short but settled -yet susceptible to uncertainty from delayed (re)appointments.

[34] ZAMBIALAWS.COM
[35] Tax Tribunal Act, (Act no. 1 of 2015)

Executive Influence: In Zambia the Minister appoints all members and chooses the Chairperson from the Legally qualified members. While professional/ Constitutional checks exist (JSC recommendation for lawyers; ZICA qualifications for accountants), the Ministers residual discretion and lack of binding timelines can skew leverage toward the executive (e.g. through appointment pacing or leadership selection). Procedural rules (202) refine filling / registry practice but do not materially dilute ministerial appointment powers. [36]The fact that the Minister of Finance appoints all members and chooses the Chairperson gives the Executive a gatekeeping role in shaping the Tribunals Composition. Even though there are professional filters (e.g JSC recommendation for legal members; ZICA qualifications for accountants), these are eligibility or qualification checks, not decisive appointment powers. In addition, the absence of binding timelines for appointments or renewals gives the Minister leverage through appointment pacing: Vacancies can be allowed to persist, weakening the Tribunals operational capacity, or reappointments can be timed in way that influences perceived loyalty.

However, in India the Executive influence has surfaced in (i) SCSC compositions and (ii) control over service conditions. Two judicial landmarks are key, the first one is in the case of *Rojar vs South Indian* [37] struck down the 2017 Tribunal Rules for undermining judicial primacy in appointments and service conditions. In addition, the case of *Madras Bar Association* vs *Union* of *India*[38] invalidated fresh limits e.g four-year term; 50-year minimum ang, directed longer tenure and tighter, judiciary-respecting appointments mechanics.

In contrast India shows strong judicial pushback against executive exaggeration (including the NTT being struck down), while Zambia entrenches Consultative safeguards.

However, Zambia relies on parliamentary statutes to establish specializing in different domains without explicit constitutional recognition while India embeds tribunal structure in its Constitution with comprehensive legal provisions to promote tribunal independence and limit court interference. In addition, India has a broader and more

[36] CORPUS.CO.ZM
[37] Rojar vs South Indian
[38] Madras Bar Association vs Union of India

hierarchical tribunal system with Constitutional backing, while Zambia's tribunals are newer and more narrowly constituted by statute.

This Comparison shows that while Zambia's tax tribunal is relatively newer and focused, specifically on tax appeals with a clear statutory and procedural framework, India has longer established tribunal system with a broader quasi-judicial design facing ongoing challenges in independence and structural reforms. Both legal frameworks highlight judicial oversight but differ in mechanisms for appointment and guard from executive interference.

2.6 THE FUNCTION OF THE JUDICIARY IN SAFEGUARDING TRIBUNAL INDEPENDENCE

The role of the judiciary in safeguarding tribunal independence in Zambia and India involves protecting their autonomy from executive and legislative interference, while upholding judicial oversight to support rule of law and Constitutional principles.

Article 118(2)a-e, of the Constitution[39] mandates judicial and Quasi-judicial bodied to be independent and impartial, the judiciary highlighted the importance of tribunal independence as part of overall judicial independence, calling for budgetary autonomy to stop executive control over tribunals. In addition, Courts in Zambia also serve as appellate forums for tribunal decisions, thus acting as a safeguard to ensure tribunals act within their mandate.

Furthermore Section 21 of the Tax Appeals Tribunal[40] allows appeals from the Tax Appeals tribunal to the High Court, this appellate role ensures tribunals remain accountable within constitutional boundaries. The courts have also emphasized the need for tribunal members 'security tenure and transparent appointments, reducing political interference.

The other role of the judiciary is ensuring access to justice and Fair hearings, Article 118(2)(c) of the Constitution[41] states that justice must be delivered without delay and with equal protection before the law, In addition to this case of **Attorney General vs**

[39] Article 118(2) Constitution
[40] Act, No. 1 of 2015
[41] ibid

Roy Clarke [42] held that tribunals, like Courts , must follow principles of natural justice(fair hearing , impartiality).

The other Role of the Judiciary is Checking Abuse of Delegated Power, Tribunals derive jurisdiction from statutes; Courts ensure such delegation does not usurp core judicial power, and addition to this, the case of **Nkumbula vs Attorney General** [43] this case emphasized that delegation of power to Quasi-judicial bodies cannot override constitutional safeguards.

Furthermore, the other role of the Judiciary is that it has Supervisory jurisdiction and Corrective Role, Article 133(2)(b) of the Constitution [44] states that the High Court has supervisory jurisdiction over all subordinate courts and tribunals . This enables courts to review not only tribunal decisions but also administrative functioning, ensuring independence and legality. Last but not the least the other role of the judiciary is Protection Against Arbitrary Removal Of Members and the authority is Article 143-144, of the Constitution[45], which sets out the procedure for removing judges and tribunal members ensures protection from executive interference. Courts have read these safeguards broadly to cover quasi-judicial officers.

However in India the judiciary has a role to form the basic structure and Judicial Review, and this was stated in the case of **Kesavananda Bharati vs State Of Kerala** [46] and in this case they stated that judicial independence is part of the basic structure , Tribunals must also be insulated accordingly , in addition to this , the case of L. Chandra Kumar vs Union Of India , this case brought out the principal that judicial review of tribunal decisions by High Court is a basic feature ; Judiciary prevents tribunals from becoming executive tools.

The other role of the Judiciary in India is to ensuring Tribunals Institutional Capacity, courts have directed governments to provide infrastructure and adequate resources for tribunals to function independently. and this was stated in the case of **Rojar Matthew vs South Indian Bank ltd** , and in this case the supreme court stressed adequate facilities , staff and budgets judicially enforceable obligations .

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[42] Attorney General vs Roy Clarke(2008) Z.R. 38(SCZ)
[43] Nkumbula vs Attorney General (1972) ZR 111(SCZ)
[44] ibid
[45] ibid
[46]Kesavananda Bharati vs State Of Kerala (1973) 4SCC 225

Last but not the least the other role of the judiciary in India is to Prevent Excessive Executive control, and this was stated in the case of **Madras Bar Association vs Union** of **India**[47], this case highlights the struck down provisions fixing short tenures (4 yeas) for tribunal members as unconstitutional, reinforcing security of tenure as part of the independence.

2.7 CONCLUSION.

In in conclusion the comparative examination of legal and institutional frameworks governing tax authorities and Tax tribunals in Zambia and India reveals a common aspiration; to balance the executives mandate, to collect revenue with the taxpayers right to an independent and fair forum for resolution. Both Jurisdictions formally separate Tax Administration from adjudication through distinct statutes and institutions. In Zambia, the Zambia Revenue Authority Act, 1993 empowers ZRA as a semi-autonomous authority, while the Tax Appeals Tribunal Act , 2015 establishes the TAT as specialized body with a direct appellate route to the Supreme Court . In India, the Central Boards of Revenue Act, 1963 creates the CBDT as the apex policy and administration authority , whereas the Income-Tax Act, 1961 constitutes the ITAT as a quasi-judicial forum , with appeals proceeding to the High Court and eventually the Supreme Court.

Despite these operational parallels, the relationship between authority and tribunal unfolds differently. Zambia's framework is more compact, with fewer appellate layers , but also more vulnerable to resourcing constraints and executive influence through appointments and budgeting. India's system by contrast, is more elaborate, with multi-layered appellate supervision and greater jurisprudential depth, but also burdened by volume , delays, and debates over tribunal independence following Tribunals Reforms Act, 2021.

[47] ibid

CHAPTER THREE

INCORPERATING INTERNATIONAL CONVENTIONS AND COMPARATIVE ANALYSIS ON TAX TRIBUNALS AND TAX AUTHORITIES IN ZAMBIA AND INDIA.

3.0 INTRODUCTION

This chapter aims to assess how international tax Conventions, particularly the Double Taxation Avoidance Agreement (DTAA) between Zambia and India, influence the operations independence, and dispute resolution mechanisms of tax tribunals and tax authorities in both Jurisdictions. The study reflects how treaty duties, grounded instruments such as the **OECD Model Tax Convention** (**2022**)[48] And the United Nations **Model Double Taxation Convention between developed and developing countries** (**2021**)[49] . enlighten and form the connection between local tax institutions, specifically, the study scrutinises the role of the Mutual Agreement Procedure (MAP) under Article 25 of the OECD Model convention, which encourages intergovernmental cooperation and steadiness in determining cross-border tax arguments, and assesses how these international standards impact national approaches to fairness, transparency, and institutional freedom.

Furthermore, the discussion is shown by the principles found in the Vienna **Convention on the law of Treaties** (1969), in Article 26[50] ,which brings the principle of ***Pacta Sunt Servenda*** which means the duty of states to perform treaty obligations in good faith. By situating the Zambian and Indian practises within this broader international comparative context, the chapter however seeks to regulate the extent to which the global tax norms and bilateral instruments contribute to, or compel, the independence, efficiency, and credibility of domestic tax dispute resolution frameworks. The, this inquiry offers insight into how international cooperation and treaty duties meet with national legal systems to form the balance between administrative control and judicial over sight in tax adjudication.

[48] OECD Model Tax Convention (2022)
[49] Model Double Taxation Convention between developed and developing countries(2021)
[50] Convention On the law of treaties (1969)

3.1 The Legal and Institutional Framework Governing Tax Tribunals and Tax Authorities Under International Conventions

The connection between Tax Tribunals and Tax authorities cannot be unstated exclusively through the lens of local legislation; it is gradually shaped by the impact of international tax conventions, global standards of administrative justice and Mode of treaties. Both Zambia and India, as members of the international community and participants in bilateral and multilateral tax cooperation, have integrated aspects of these conventions into their domestic tax dispute resolution systems. The incorporation of such frameworks provides not only foundation for harmonization and cooperation but also imposes expectations regarding independence, impartiality and procedural fairness in the administration of tax justice.

At the international level, the **OECD Model Tax Convention** on Income and On **Capital** (**2022**)[51] aids as a principal reference point for structuring tax relations between states. While neither Zambia nor India is bound by the OECD Model per se, both jurisdictions draw upon its principles when negotiating bilateral tax agreements, including the Zambia- India Double Taxation Avoidance Agreement (DTAA). The OECD Model, in **Article 25 on the Mutual Agreement Procedure**[52]**,** emphasizes the necessity for the skilled authorities to involve in cooperative dispute resolution when conflicts rise concerning the clarification or application of tax treaties. This mechanism not only supports predictability and consistency in cross-border taxation but also ramblingly influences domestic adjudicative bodies by creating standards of fairness, neutrality, and mutual respect between tax administration.

Similarly**, the United Nations Model Double Taxation Convention between Developing and Developed Countries (2021)[53]** plays an important role in guiding developing countries like Zambia and India in determining equitable tax relationships. Unlike the OECD Model, which primarily replicates the interests of capital-exporting states, the UN Model highlights source-based taxation and safeguards for developing economies. Importantly, **Article 25** of the UN Model mirrors additional emphasis on the protection of the taxpayer rights and equitable dispute resolution processes.

[51] OECD Model Tax Convention on Income and Capital
[52] Mutual Agreement Procedure
[53]United Nations Model Double Taxation Convention between developing and developed countries.

Through this lens, both Zambia and India are encouraged to ensure that their tax tribunals function not merely as extensions of tax administration but as impartial arbiters capable of balancing state revenue with tax payer protections.

In addition**, the Vienna Convention on the Law of Treaties (1969**) provides the predominant legal framework governing the clarification and application of international tax treaties. **Article 26 of the Convention**[54], summarising the doctrine of Pacta Sunt Servenda, commands that every treaty in force must be performed by the parties in good faith. This principle has significant consequences for tax tribunals and tax authorities, as it emphasizes the duty of states to respect and to give effect to the provisions of tax treaties within their local legal systems. Moreover **Article 31 of the same Convention**[55] outlines the general rule of the treaty interpretation, requiring that terms be interpreted in good faith and in accordance with their ordinary meaning, context and purpose. These explanatory principles are particularly relevant to tax tribunals, which often plays a crucial role in resolving ambiguities rising from the application of bilateral tax agreements.

In both Zambia and India, the domestic legal frameworks governing tax tribunals reflect, to varying degrees, the influence of these international instruments. Zambia's tax dispute resolution mechanisms, largely grounded in the **Income Tax** Act and Tax **Appeals Tribunal Act**. **No**.1 **of 2014,** demonstrates a growing recognition of international best practices, particularly concerning independence and procedural fairness. Similarly, India's Income Tax Appellate Tribunal (ITAT), established under the Income- Tax Act of 1961, operates within a structure that aligns with international norms of adjudicative independence and administrative accountability. In both cases, the integration of treaty-based dispute resolution procedures, including Map and arbitration mechanisms, illustrates the dynamic interplay between domestic authority and international obligation.

Thus, the legal and institutional framework governing the interaction between tax tribunals and tax authorities in Zambia and India is not confined to the national statutes but is deeply embedded in a broader network of international norms and conventions.

[54] Vienna Convention on the Law of Treaties (1969)
[55] ibid

These instruments collectively seek to ensure that tax dispute resolution is characterized by transparency, neutrality and legal certainty, these essential features for maintaining investor confidence, promoting voluntary tax compliance, and safeguarding the rule of law in fiscal governance.

3.2 The Influence of the Zambia -India Double Taxation Avoidance Agreement (DTAA) on the Relationships Between Tax Tribunals and Tax Authorities.

The Zambia-India double Taxation Avoidance Agreement (DTAA) , signed in 2011 and entering into force in 2012 , represents significant step in the fiscal cooperation between the two countries. The treaty seeks to eliminate double taxation and prevent fiscal evasion with respect to taxes income. Beyond its immediate purpose of facilitating cross-border investment and trade, the DTAA also has profound implications for the institutional relationship between tax tribunals in both jurisdictions. It establishes not only substantive tax rules but also procedural standards that influence how tax disputes are managed, interpreted, and adjudicated at the domestic level.

At its core, the DTAA provides a legal framework for cooperation between the competent authorities of Zambia and India, typically the respective commissioners of taxes or their delegates in resolving disputes arising from the interpretation or application of the agreement. Article 25 of the DTAA [56] mirrors the Mutual Agreement Procedure (MAP) provision in the OECD and UN Conventions, allowing taxpayers to seek redress when they believe they are being taxed contrary to the provisions of the treaty. This procedure requires tax authorities to engage in direct dialogue and negotiation to resolve interpretative conflicts without resorting immediately to judicial or quasi-judicial processes. Consequently, the MAP mechanism serves as a bridge between the executive function of tax administration and the quasi-judicial role of tax tribunals, creating a framework of cooperation that shapes the overall dispute resolution landscape.

In practice, the existence of the DTAA has influenced how both Zambia and India structure their tax dispute resolution mechanisms. In India , the Central Board of Direct Taxes(CBDT) has established internal procedures to facilitate MAP cases, in

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accordance with Article 25 of its tax treaties and India's requirement under **OECG G20 Base Erosion and Profit Shifting** (**BEPS**) **Action 14 standards**[57] , which call for effective and timely resolution of treaty-related disputes. The Indian Income -Tax Appellate Tribunal (ITAT) has, in turn, recognized the legal force of treaty provisions and the need for uniformity between domestic tax rulings and international duties. Judicial decisions such as **Azadi Bachao Andolan vs Union of India**[58] highlights the binding nature of DTAAs and their interpretive priority under **Article 90 of the Indian Constitution**[59]**,** which allows the government to enter into international tax treaties. These precedents affirm tax tribunals must understand domestic tax law in harmony with India's treaty commitments, thereby strengthening the influence of international tax instruments on adjudicative processes.

However, in Zambia, the DTAAs influence is more emerging but increasingly significant. The Zambia Revenue Authority (ZRA), as the competent authority, has the mandate to apply the provisions of the treaty and engage in mutual agreement procedures with its Indian counterpart. The Tax Appeals Tribunal (TAT), established under the Tax Appeals Tribunal [60] , has begun to consider the inferences of international tax obligations in its determinations, especially in matters involving cross-border taxation and transfer pricing. Although Zambian jurisprudence on the DTAA remains limited, the treaty indirectly shapes the TATs role by requiring administrative decisions to align with Zambia's international commitments, consistent with the constitutional principal that treaties duly ratified by parliament form part of domestic law. This evolving dynamic underscores how international agreements can influence not only tax policy but also the adjudicative culture within domestic institutions.

Furthermore, the DTAA has promoted a more cooperative approach between the tax authorities of Zambia and India, reducing the likelihood of conflicting assessments and fostering mutual administrative assistance. The inclusion of provisions on **exchange of information** (**Article 26**) **and non-discrimination** and non-discrimination (Article 24) strengthens transparency and ensures that taxpayers are treated equitably regardless of nationality or residence. These provisions have procedural implications

[57] OECG G20 Base Erosion and Profit Shifting
[58] Azadi Bachao Andolan vs Union of India (2003) 263 ITR 706(SC)
[59] Indian Constitution
[60] Act no.1 of 2014

for tax tribunals, as they often form the basis for appeals concerning discriminatory tax treatment or administrative overreach. Thus, while tax tribunals retain their adjudicative independence, their decisions increasingly operate within a framework shaped by international obligations and bilateral administrative cooperation.

From a broader perspective, the Zambia-India DTAA serves as a conduit through which international norms , derived from the OECD and UN Models ,are domesticated within the tax systems of both countries. It fosters convergence in procedural fairness, administrative cooperation, and interpretive consistency, all of which influence the balance of power and interaction between tax tribunals and authorities. However, this influence is not without tension. While DTAAs enhance predictability and encourage cooperative dispute resolution, they may also constrain the autonomy of domestic tribunals, particularly when the international obligations require deference to administrative agreements reached under the MAP. This potential limitation raises important questions about the scope of judicial independence and the need for clear procedural safeguards to ensure treaty-based cooperation does not erode the tribunals impartial adjudicative role.

3.3 THE IMPACT OF INTERNATIONAL STANDARDS ON THE INDEPENDENCE AND EFFECTIVENESS OF TAX TRIBUNALS.

Section 4.**3 of the International tax Standards**[61] Particularly those under the OECD Model Tax Convention, the UN Model Convention, and the OECD/G20 BEPS Action 14 Framework, have significantly influenced the independence and effectiveness of tax tribunals in Zambia and India. Those Global instruments promote impartial, transparent and efficient Tax dispute resolution, setting benchmarks that both countries have sought to follow.

A central tenet of these international instruments is the recognition that dispute resolution must be independent from tax administration to ensure fairness and taxpayer confidence. The OECD Model Convention emphasizes neutrality and impartiality in handling of cross-border tax disputes, While BEPS Action 14 explicitly calls for effective timely resolution pf dispute through independent mechanism. This standard has influenced India’s tax dispute infrastructure significantly. The **Income-**

[61] International tax Standards

tax **Appellate Tribunal** (**ITAT**) operates as an independent quasi-judicial body separate from the tax administration, and its autonomy is protected the Income-Tax Act, 1961, and judicial precedent such as **Union** of **India vs** R. **Ghandi**[62] which affirmed that tribunal members performing judicial functions must enjoy structural and functional independence akin to the judiciary.

However, in, Zambia's influence of international standards is more gradual but discernible. The establishment of Tax Appeals Tribunal[63] was itself inspired by international principals of administrative justice and judicial independence, as reflected in the African Tax **Administration Forum** (ATAF) guidelines and the UN Model Convention. Although Zambia is not a member of the OECD, it has shown commitment to international cooperation on tax matters through instruments such as the **Multilateral Convention** on **Mutual Administrative Assistance** in Tax Matters (MAC) and various bilateral DTAAs, including the one with media. These frameworks underline transparency, mutual help, and fair treatment, principles that underpin the TATs order. However, the practical understanding of freedom in Zambia's tax tribunal system airs organisational challenges.

The TAT functions managerially under the Ministry of Finance and National Planning, which also superintends the Zambia Revenue Authority (ZRA) which is the primary tax-collecting body. This institutional closeness raises valid alarms about professed or actual bias, mainly in cases where government revenue interests are directly at stake. Whereas the Tax Appeals tribunal Act assurances independence when making decisions, the nonappearance of clear financial and administrative self-sufficiency can compromise the tribunals efficiency. However global standards predominantly those brought out in **BEPS Action** 14 **and the UN model Convention**[64] , highlight that dispute resolution bodies must be unrestricted from administrative control to function credibly. Zambia's hard work to reinforce tribunal freedom therefore signify a continuing process of aligning local institutions with these evolving international customs.

[62] Union of India vs R. Ghandi
[63] Act no.1 of 2014
[64] BEP Action 14 and the UN Convention

From a comparative point of view, both Zambia and India highlight the transformative potential of international standards in shaping local adjudicative frameworks. India's ITAT demonstrates how constant engagement with OECD and BEPS standards can institutionalize independence and competence, while Zambia's TAT reproduces an evolving line of reform prejudiced by similar principles. The merging of these customs encourages procedural fairness, improves investor confidence, and pays to the perception of both countries as reliable tax jurisdictions. Yet, the extent of execution varies significantly, India's mature tribunal system profits from strong constitutional and judicial protections, while Zambia lingers to develop its institutional capacity and normative alignment with international levels.

3.4 CONCLUSION

This chapter has shown that the relationship between tax tribunals and tax authorities in Zambia and India is increasingly influenced by international tax conventions and global standards of fairness, independence, and efficiency. The Zambia-India Double Taxation Avoidance Agreement (DTAA) has enhanced cooperation and consistency in tax administration but also raised questions about maintaining tribunal independence. Global instruments such as OECD and UN Model Conventions, and the Vienna convention,' methods to tax dispute resolution. India's Income-tax Appellate Tribunal demonstrates strong compliance with these norms, while Zambia's Tax Appeals Tribunal continues to evolve toward full institutional economy. In General, this chapter concludes that effective domestic application of international standards is important for attaining fair, transparent and reliable tax decisions in both countries.

CHAPTER FOUR

EVALUATING THE INDEPENDENCE AND IMPARTIALITY OF TAX TRIBUNALS IN BOTH COUNTRIES, PARTICULARLY IN RELATION TO APPOINTMENT PROCEDURES, FINDINGS AND DECISION-MAKING AND ADMINISTRATIVE CONTROL.

4.0 INTRODUCTION

The reliability of any adjudicative body lies fundamentally on its freedom and impartiality. In the tax context, these abilities are mainly serious because tribunals sit at the connection of two contending necessities; the States revenue interest, enforced by influential tax authorities, and taxpayers' rights to fairness, equality due process. If a tribunal is seen as bound to the policymaking, its ability to command sureness and deliver justice is compromised, no matter how well-crafted its statutory framework may be.

This chapter assesses independence and impartiality of tax tribunals in Zambia India, concentrating on the three things which are Appointment Procedures, Findings and decision making and Administrative control.

4.1 INDEPENDENCE AND IMPARTIALITY

Independence and impartiality in Tribunals are essential principles ensuring fair and just adjudication of disputes. Independence means that a Tribunal and its members function free from outside interference or influence, particularly from government or parties involved, allowing them to decide cases based merely on law, facts and integrity. Impartiality is defined as the unbiased state of mind of decision-makers, safeguarding they do not favour any party and deliver reasonable results. The Supreme court of Canada explained these concepts in **Valentine vs The Queen**[65] ; both independence and impartiality are essential for justice and public confidence in the legal system. Without independence and impartiality cannot be ensured, and the public must be confident that the decisions are made without undue influence. In addition, the case of **Zambia Revenue Authority vs Fellimart Investment Limited**[66] the decision in this case underscores how the tribunals decisions are subject to judicial

[65] Valente vs The Queen

[66] Zambia Revenue Authority vs Fellimart Investment Limited SC(Appeal No.174/2014)

review, which indirectly places checks on its independence and ensures its decisions meet certain standards of impartiality. It helps demonstrate that the tribunal is not wholly autonomous but part of a legal architecture where oversights exists, important when assessing, independence.

Similarly, the **United Nations Human Rights Committee**[67] noted that impartiality means judges must have no pre-conceived notions and must not promote the interest of any party, while independence protects the judiciary from interference by the state organs or private individuals in performing judicial duties.

4.2 Appointment procedures

In Zambia, members of Tax Appeals Tribunal (TAT) , including the chairperson and vice-chairperson , are chosen by the Minister of finance in in accordance with the **Section 4 of Tax Appeals Tribunal**[68] which highlights , The chairperson and Vice-chairperson should be legal practitioners of at least ten years of standing . The judicial Service Commission (JSC) commends competent legal practitioners for selection thus presenting a limited degree of judicial oversight. Members hold office for fixed terms (five years renewable once) and might only be removed on stated grounds such as incapability or delinquency, following an independent investigation.

However, the executive authority (Minister) formally makes the appointments, the JCS's recommends role offers some insulation from direct political influence, particularly concerning the chairperson and Vice-chairperson. However, because the final appointment power rests with the Minister, the system remains partially executive-measured, which may pose risks to perceived institutional independence.

However, in India, the Tribunals reforms Act, 2021 provides that the chairperson and members of a tribunal are appointed by the Central Government on the recommendation of a Search-Cum-Selection Committee (SCSC); the act sets out the SCSC membership (which includes a judge of the supreme court or a nominee of the

[67] United Nations Human Rights Committee
[68] Act No.1 of 2015

CJI, two central government Secretaries, the relevant Department Secretary as member-secretary and other members specified.

Historically and practically, appointments the Income-Tax appellate tribunal (ITAT) have been made by the central government (Ministry of Law/ Finance)- judicial members are drawn from judges /retired judges or senior lawyers, and technical / accountant members from chartered accountants/IRS officers – with executive formally making the appointment. (official ITAT appointment notices and Ministry pages reflect central government appointment role.

Limits on executive Control; The supreme court has been vigilant about appointments affecting judicial independence. In the case of **Madras Bar Association vs Union of India**[69] the court struck down or red down several provisions of the governments rules/ordinances that had tried to rigidly fix ages/tenures and to alter the composition /process in ways that could reduce 'judicial dominance 'of selection. The court ordered (inter alia) that advocates with 10+ years eligible for judicial membership, that selection /eligibility rules must preserve judicial primacy in appointments, and criticised provisions that would allow excessive executive control or undue delay.

Ongoing tensions in practice, although the 2021 Act formally creates a SCSC (intended as a buffer), critics and some judgements have pointed out that the presence of senior executive officers on the committee, statutory re-enactments of certain executive powers, and the governments ultimate appointment power create risk of executive influence (and delays) unless the SCSC and the CJIs role are implemented strictly to secure judicial input.

In conclusion, Zambians appointment process remains executive -centric with advisory input from the JSC, while Indian's system, though also executive in form, is judicially moderated through the search-cum-selection committee and reinforced by constitutional jurisprudence mandating tribunal independence. Consequently, Indians model provides a stronger structural safeguard against political or departmental influence, especially **post-Madras Bar Association** rulings.

[69] Madras Bar Association vs union of India

4.3 Administrative and Institutional Control of Tax Tribunals.

The institutional framework that safeguards the independence of tax tribunals classically involves several key elements; administrative autonomy, have control over their own seal, budgetary independence, and vibrant separation from tax revenue divisions or authorities whose results they review.

In Zambia the Tax Appeals Tribunal (TAT) in Zambia works under the Tax Appeals Tribunal Act[70] which creates it as a separate statutory body instructed to adjudicate disputes arising from results of the commissioner General of the Zambia Revenue Authority (ZR A).

Institutional Framework and Administrative Autonomy, **section 3(1) of the Tax Appeals Tribunal** Act[71] establishes the tribunal as a body corporate with perpetual succession and common seal, signifying its corporate and administrative autonomy. The tribunal has the power to sue and be sued, to own property, and to perform acts necessary for the discharge of its functions, in addition section 4 of the same act provides for appointment of staff, but these are often seconded from or financed through the Ministry of finance, which limits the Tribunals full independence in administration.

Budgetary and financial control, The Tribunals budget is funded through appropriations under the Ministry of finance and its accounts are subject to audit by the Auditor General under the **Section 10 Public Finance Management Act**[72]. The lack of separate vote in the national budget means the tribunal is administratively dependent on the same Ministry that supervises the Revenue Authority (ZRA). This creates a potential conflict of interest and undermines perceptions of institutional independence. Independent budget control means tribunals have the resources needed to function effectively, including adequate staffing, infrastructure, and technological support, insulated from political or departmental interference. Although the tax appeals tribunal (TAT) is funded through the Ministry of finance, this does not completely exclude the idea of the tribunal ‘financing itself’. What it really means is

[70] Tax Appeals Tribunal Act No.1 of 2015
[71] ibid
[72] Public Finance Management Act, 2018

that, while the tribunal cannot generate or retain funds independently under the current law, it can still supplement its operations through fees and charges, provided those funds are properly accounted for through the national but system. **Under section 10 and 29 of the Public Finance Management Act**[73], all public revenue, including tribunal fees, must be paid into the consolidated fund. The tribunal can only use this money once parliament appreciates it. To reconcile these two aspects the tribunal can collect its own operational revenue (fees, costs etc) but those funds must go through the governments financial system for transparency.

4.4 Separation from the revenue authority

Structural separation from tax collection or revenue department is an essential safeguard. Tribunals are typically established as separate bodies within administrative or judicial framework. Although the Tribunal adjudicates disputes involving the ZRA, both bodies fall under the Minister of Finances portfolio, which can blur institutional boundaries. In the case of **the people vs The Tax Appeals Tribunal**, **ex parte ZRA**[74] , the High court reaffirmed that the tribunals decisions are binding and not subject to Ministerial direction, reinforcing quasi-judicial independence, even administrative control lies within the same ministry.

In addition, Zambia's framework provides for legal personality and procedural autonomy, but administrative dependence on the Ministry of Finance (Which also oversees the ZRA) constraints the Tribunals practical independence. Its budgetary reliance and staff secondments risk departmental influence, despite statutory language granting autonomy.

However, In India tax adjudication is performed mainly by the Income Tax Appellate Tribunal (ITAT), established under section 252 of the Income Tax Act[75], overtime, the ITAT has been subject to extensive judicial scrutiny to ensure administrative and institutional independence from executive.

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[73] ibid

[74] The People vs Tax Appeals Tribunal

[75] Income Tax Act

4.5 **Institutional Framework and Administrative Control in India**

The ITAT is not of the Ministry of Finance but functions under Department of legal affairs, Ministry of Law and Justice, as per the Allocation of **Business** Rules[76]. This separation from tax-collecting department (Central Board of Direct Taxes, CBDT) ensures a functional and institutional divide between adjudication and revenue administration. However the president of the ITAT exercises control over members , benches , postings and administrative functioning , with minimal interference from the executive, and this was brought out in the case of Union of **India vs R**. **Gandhi**[77]**.**

4.6 Budgetary and Financial Autonomy

Although the ITAT's budget is allocated through the Ministry of Law and Justice, it operates under a distinct budget head and maintains independent accounting and audit systems. The Supreme Court in the case of **Madras Bar Association vs Union of India**[78] observed that tribunals must enjoy administrative autonomy similar to courts **and** directed the government to ensure that tribunal secretariats are separated from the parent ministries to prevent control by litigant departments.

4.7 Judicial oversight and functional independence in India

The president of the ITAT, typically a former High court Judge, ensures internal discipline and control over administrative matters. In the case of **ITAT vs V**.**K Agarwal**[79] the court emphasized that the executive cannot interfere with the internal functioning of the tribunal, affirming its quasi-judicial status.

Furthermore**,** the Tribunals Reforms Act, now mandates that service conditions and salaries of members be notified in consultation with the judiciary, not unilaterally fixed by the executive. In Conclusion to this India's model provides greater structural independence through;

1) Administrative separation from the tax department
2) Judicial control over internal management and

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[76]Business Rules
[77] India vs R. Ghandi
[78] Madras Bar Association vs Union of India
[79] ITAT vs V. K Agarwal

3) Constitutional jurisprudence requiring insulation from Executive control. While financial dependence on the government remains, judicial decisions have constitutionally entrenched tribunal independence as part of the doctrine of separation of powers.

In conclusion Zambia's Tax Appeals Tribunal enjoys legal autonomy in theory but remains administratively tied to the Ministry that oversees the revenue authority, undermining institutional independence. In contrast, India's Income Tax Appellate Tribunal benefits from statutory, administrative and judicially reinforced separation from the executive. The Supreme court of India has constitutionalised the independence of tribunals as a facet of the doctrine of separation of powers, ensuring that budgetary and administrative control cannot be exercised by departments that are parties to the disputes before the tribunals.

4.8 CHALLENGES TO INDEPENDENCE AND ACCOUNTABILITY

The first challenge is **Lack of a Central Oversight Mechanism and Accountability Framework;** In Zambia, there is no independent oversight body to evaluate tribunal performance or enforce accountability. Oversight rests mainly with the Minister of Finance, creating circular accountability loop, in addition there is no statutory a code of conduct or independent complaint mechanism exists for tribunal members. However, **Kakusa**[80] commented that advocates for a Tribunal oversight Commission similar to Zambia's judicial complaints commission to ensure ethical and professional accountability independent of ministerial control.

However, India also lacks a National Tribunals Commission, though the Supreme Court has repeatedly called for one **MBA** (**2021**) **and Rojar Matthew** (**2020**)[81] , the court directed the government to establish an independent body to oversee appointments administration of tribunals. However, as of 2025, such a body remains unimplemented, leaving tribunals vulnerable to fragmented oversight and bureaucratic control.

[80] Kakusa
[81] MBA (2021) and Rojar Matthew (2020)

The second **challenge is Administrative bottlenecks, Under-resources and case backlogs;** Lack of judges /members, inadequate registration staff, poor case management systems, and underfunded courtrooms lead to long delays. Delay undermines effectiveness and can push litigants to settle or seek non-judicial remedies, eroding confidence.

The third challenge is **Political interference in appointments, tenure and service conditions.** Executive control over appointment, re-appointment, service conditions or removal creates real and perceived dependence. Members who expect re-appointment (or face arbitrary removal) may be unconsciously biased towards decisions that please the executive; direct intervention in selection also undermines legitimacy.

4.9 CONCLUSION

In conclusion, the independence and impartiality of tax tribunals are foundational to the rule of law and fair administration of tax justice. Key factors ensuring this independence include transparent, merit-based appointment procedures that insulate tribunal members from political influence and provide security tenure. Structural and administrative autonomy including control over budget, staffing and procedures, fortified by clear separation from revenue department, further safeguards tribunal impartiality. These elements collectively promote public confidence that tax disputes will be adjudicated fairly and free from undue influence, which is essential to maintaining trust in both the tax system and broader justice framework.

Effective tribunal requires ongoing commitment to transparent governance and institutional protections that preserve the tribunals autonomy and integrity. Therefore, reforming appointment processes strengthening administrative controls, and legally separating tribunals from tax authorities are crucial steps toward ensuring that tax tribunals serve impartial arbiters in resolving tax disputes, upholding justice, and reinforcing the rule of law.

CHAPTER FIVE

SUMMERIZES THE DISCUSSION IN THE PROCEEDING PARAGRAPGHS, IDENTIFY BEST PRACTICES AND RECOMMENDATIONS IN FUNCTIONING OF TAX TRIBUNALS FROM BOTH JURISDICTIONS.

5.0 INTRODUCTION

Building upon the discussions in the earlier chapters provides a concise summary of key insights derived from the comparative analysis. It highlights how the relationship between tax tribunals and tax authorities. This chapter presents the concluding segment of the study by synthesizing the major findings discussed in the preceding chapters and identifying best practices and recommendations for enhancing the functioning of tax tribunals in Zambia and India.

5.1 GENERAL CONCLUSION

This study set out to conduct a comparative analysis of tax tribunals and tax authorities in Zambia and India, with a focus on institutional independence, procedural fairness, access to justice, and the influence of international conventions on tax dispute resolution. Through a detailed examination of the legal frameworks, administrative structures, and practical operation of the respective tribunals, the research has provided a holistic understanding of how domestic and international factors converge to shape the functioning of tax adjudicative bodies.

The findings reveal that both Zambia and India have made significant progress in developing specialized tax tribunals to promote fairness and efficiency in tax dispute resolution. However, their experience differs considerably in terms of institutional maturity, autonomy, and integration of international Standards. India's Income-tax Appellate Tribunal (ITAT) stands out as a model of structural and functional independence, supported by constitutional safeguards, transparent appointment processes, and consistent judicial oversight.

In contrast, Zambia's Tax Appeals Tribunal (TAT) , while commendable reform initiative , continues to face challenges related to administrative dependence on the Ministry of Finance and Zambia Revenue Authority(ZRA). These structural linkages can compromise the perception of impartiality and limit tribunals ability to function as a fully autonomous adjudicative body. Nevertheless, Zambia's ongoing institutional reforms and its engagement with international instruments such as the Zambia-India Double Taxation (DTAA) indicate a growing commitment to aligning its tax dispute resolution mechanisms with global norms of independence, transparency, and fairness.

Furthermore, the research concludes that the effectiveness of tax tribunals is contingent on the delicate balance between independence and accountability. International conventions can provide guiding principles, but the real test lies in domestic implementation. For Zambia, this means depending reforms to ensure administrative and financial autonomy for its tribunal system while India, it involves maintaining the standards already achieved and adapting them to new global tax challenges. In broader sense, the study highlights the, strong, independent, and transparent tax tribunals are not only essential for resolving disputes fairly but also reinforcing taxpayer trust, promoting voluntary compliance, and upholding rule of law in fiscal governance.

5.2 SUMMARY OF CHAPTERS

This research paper contains five (5) chapters which set out to comparatively examine the, nature, independence and effectiveness of tax tribunals in Zambia and India, with specific attention to their institutional relationship with tax authorities.

5.2.1 CHAPTER ONE

Outlined, the background, objectives, and implication of examining tax tribunals as mechanisms of administrative justice and instruments for supporting fair tax dispute resolution. The chapter recognised the investigation problem, the extent to which institutional design and administrative control distress the impartiality and efficiency of tax tribunals in Zambia and India and framed the inquiry within broader context of access to justice and good governance.

5.2.2 CHAPETER TWO

Brought out the legal and institutional frameworks governing tax tribunals in both jurisdictions. It found that while both countries have established formal mechanisms for tax adjudication, India's Income-Tax Appellate Tribunal (ITAT) has developed more robust institutional structure with clear statutory protections for independence. In dissimilarity, Zambia's Tax Appeals tribunal (TAT), recognised under the Tax appeals tribunal [82], continues to evolve and faces problems connected to administrative and monetary self-sufficiency due to its relation with the Ministry of Finance and Zambia Revenue Authority.

5.2.3 CHAPTER THREE

Highlighted a relative and international, evaluating how conventions such as the OECD Model Double Taxation Convention, and the Zambia -India Double Taxation Avoidance Agreement (DTAA) influence local tax dispute resolution. It underlined that these instruments support fairness, neutrality, and transparency through procedures like the Mutual Agreement Procedure (Map), which raises cooperation between tax authorities. The chapter underscored that international customs have become significant standards for assessing the credibility and freedom of domestic tax tribunals.

5.2.4 CHAPTER FOUR

Critically assessed the extent of independence and impartiality of tax tribunals in Zambia and India, concentrating on appointment procedures, administrative control , and procedural fairness. It stated that while India's ITAT appreciates significant judicial and administrative control, and procedural fairness. It found that while India's ITAT enjoys significant judicial and administrative autonomy, reinforced by constitutional and judicial protections, Zambia's TAT remains institutionally controlled by executive oversight. The chapter further brought out the international frameworks, including BEPS Action 14 and the Vienna Convention on the Law of Treaties, which have shaped potentials for impartial and effective dispute resolution but need strong domestic application to be active.

[82] Act No.1 of 2014

5.3 BEST PRACTICES

From the comparative examination, several best practices can be identified to improve the functioning of tax tribunals in both jurisdictions. The first one is **Institutional Independence** (**India**); The ITAT functions independently from tax administration, with members selected through a clear process supported by clear tenure and remuneration provisions. This model protects decision-making from executive interference and supports impartiality.

Appointments to the ITAT are made through a clear and merit-based process, superintended by a committee that comprises members of the judiciary and senior administrative officials, thereby reducing the scope for political interference. The Tribunal members appreciate secure tenure and non-variable remuneration, which further protects them from exterior influence. This model brings out a robust example of how structural and operative independence can protect impartiality, help taxpayer self-assurance, and improve reliability of tax dispute resolution systems. It is a practice that Zambia could adopt by solidifying legal provisions that promotes the purposeful self-sufficiency of its Tax Appeals tribunals (TAT)

The second practice is **Specialized Expertise (India);** The ITAT's arrangement, which comprises both judicial and accounting members, safeguards that complex tax matters are handled with a stability of legal and practical expertise, a custom that Zambia could adopt to support the practical excellence of its decisions. In addition, this I composition safeguards that complex tax issues, particularly those concerning intricate monetary transactions, transfer pricing, or global tax treaties are brought out with a complete sympathetic of both legal principals and technical realities.

Zambia could adopt this model by increasing the professional variety within the TAT. Including experts from finance, accounting the economics would expand the practical depth and investigative quality of hearing decisions, reduce dependence on external advisors, and promote well-rounded adjudication that balances law and fiscal policy considerations.

The third practice is **Transparent and Accessible procedures** (**India**) ; India's tribunal procedures underline procedural clarity , available appeal mechanisms and public accessibility of decisions , contributing to accountability and communal trust, a practice that Zambia could adopt. Importantly, the ITAT's judgements are publicly available online, allowing taxpayers, practitioners, and scholars to access and analyse tribunal decisions. This directness not only increases public trust but also encourages consistency in legal interpretation and responsibility among tribunal members.

Such transparency mechanisms could be simulated in Zambia by emerging a digital repository. This would democratize access to tax jurisprudence, promote legal certainty, and support for development of a coherent body of domestic tax law.

The fourth **practice is Adoption of International Standards(both);** Both Zambia and India have incorporated key principals from the OECD and UN models, particularly the use of Mutual Agreement procedures (MAP) and exchange of information mechanisms, promoting administrative cooperation and consistency. The incorporation from these models, reflects their participation in global efforts to prevent double taxation and promote administrative fairness.

In particular, India's implementation of BEPS Action 14 minimum standards, focusing on the timely and effective resolution of treaty-related disputes which sets an example of how adherence to global frameworks can strengthen credibility in cross-boarder taxation. Zambia's gradual incorporation of similar principles into its domestic tax policy shows an increasing awareness of the importance of international cooperation and harmonization in tax dispute resolution.

The other practice is **Gradual Institutional Development** (**Zambia**); Zambia's formation of the TAT signifies an important step toward a more organised and independent tax dispute resolution mechanism. The tribunal formation reflects an obligation to align with global best practices and advance taxpayer assurance.

This development establishes a strong policy commitment to building a specialized, independent forum for determining tax disputes outside the traditional court system. The regular institutional development underlines the importance of incremental reform and capacity-building. Zambia 's experience shows that effective tax justice can be achieved through steady improvements in procedural frameworks, resource allocation , and legal reform , rather than abrupt structural overhauls.

The other practice is **Capacity building and Expertise;** Zambia's establishment of the Tax Appeals Tribunal (TAT) in 2015 marks a significant institutional milestone. The TAT replaced the former revenue Appeals tribunal , reflecting the governments intention to modernize and strengthen its tax dispute resolution architecture. This evolution demonstrates a clear policy commitment to building a specialized, independent forum for resolving tax disputes outside the traditional court system. Although challenges remain such as administrative dependence on the ministry of finance, the creation of the TAT signifies progress toward aligning Zambia's tax justice system with international best practice.

This gradual institutional development underscores the importance of incremental reform and capacity-building. Zambia's experience shows that effective tax justice can be achieved through steady improvements in procedural frameworks, resource allocation, and legal reform , rather than abrupt structural overhauls.

Continuous training programs for tribunal members enhance adjudicative quality, especially given technical complexities like transfer pricing and treaty interpretation. Both countries encourage the development of specialized tribunal panels focused on complex tax matters.

The other practice is **Use of Technology and Case Management;** Adoption of ICT tools for case management improves efficiency and transparency, although Zambia and India are at different stages of integration, with India more advanced in leveraging technology.

Last but not the lest **practice is Integration of International Obligations**. (both) The Zambia-India DTAA exemplifies how bilateral agreements can enhance dispute resolution through collaboration, mutual assistance, and non-discrimination principles, fostering predictability and fairness in tax administration. The DTAA facilitates mutual assistance, non-discrimination, and avoidance of double taxation, thereby reducing the scope for conflicts between tax authorities and providing legal certainty for cross-border investors. Moreover, it reinforces mechanisms such as the Mutual Agreement Procedure (MAP), which encourages cooperative rather than adversarial dispute resolution.

By incorporating these international standards into their domestic frameworks, both Zambia and India demonstrate a commitment to global tax governance principles and to fostering stable, transparent, and investor friendly tax environments. These treaty-based practices not only strengthen bilateral relations but also enhance the credibility and legitimacy of domestic tax tribunals as fair and impartial adjudicators.

In summary, the best practices identified from India and Zambia reveal the strength and credibility of tax tribunals depend on a combination of institutional independence, professional expertise, procedural transparency and alignment with international standards. India's ITAT provides a mature model of independence and professionalism, while Zambia's ongoing institutional development and international cooperation reflect an evolving and progressive approach.

Together, these practices offer valuable lessons for other developing jurisdictions seeking to design or reform their tax tribunals to ensure fairness, efficiency , and conformity with international norms of administrative justice.

5.4 RECOMMENDATIONS

To strengthen the independence, impartiality and effectiveness of tax tribunals in Zambia and India, the following recommendations are proposed; These measures are designed to promote fairness in tax dispute resolution, align domestic framework with international standards, and enhance taxpayer confidence in the integrity of both systems.

5.4.1 The first recommendation is Strengthening Independence; Zambia should further reform tribunal appointment and administrative practices to achieve greater insulation from political and executive control ensuring impartiality and credibility.

5.4.2 The second recommendation is Enhancing International Cooperation; Increased use of mutual agreement procedures (MAP) under treaties and strengthened information exchange between Zambia and India can resolve Cross-border disputes quicker and more effectively. Structured dialogue between tax tribunals and tax authorities, without compromising independence can facilitate better understanding of complex tax issues and improve efficiency.

While maintaining institutional independence, structured and periodic dialogue between tribunals and tax authorities can promote efficiency and mutual understanding of procedural challenges.

Joint forums, policy workshops, or consultative committees could help identify recurring issues in dispute resolution, streamline case management, and clarify areas of legal ambiguity. However, these interactions must be conducted under clear ethical guidelines to avoid any perception of bias or undue influence.

Such cooperation would mirror the collaborative yet independent model seen in India , where informal exchanges between the ITAT and the Central Board of Direct Taxes(CBDT) have improved procedural coordination without compromising judicial autonomy.

5.4.3 Procedural Reforms; Both countries should adopt time-bound adjudication rules to reduce delays and backlogs. They must simplify procedures to improve taxpayer understanding and accessibility, especially for small and medium enterprises.

5.4.4 Institutionalize Continuous Professional Development(both); To safeguard high-quality decision-making and formation with global tax customs, both Zambia and India should institutionalize continuous professional development (CPD) for tribunal members and staff.

Members of tax tribunals should undertake continuing training in international tax law, dispute resolution, and treaty clarification to uphold competence and adapt to developing international standards. Consistent seminars, workshops and exchange programmes, possibly enabled by the OECD, the African Tax Administration Forum (ATAF), and India's National Academy of Direct Taxes, would expand practical knowledge and reliability in decision.

Such programmes would also cultivate a shared understanding of complex tax issues, thereby improving the credibility and predictability of tribunal outcomes.

5.4.5 Implement BEBS Action 14 Commitments (Zambia); Zambia should consider adopting mechanisms aligned with the OECD/G20 BEPS framework, particularly regarding the timely and effective resolution of treaty-related disputes, which would enhance credibility in cross-border tax matters. This could involve establishing clear timelines, transparent procedural rules, and mechanisms for independent review of MAP outcomes. Integration of BEPS principles would not only modernize Zambia's dispute resolution system but also foster trust among foreign investors and treaty partners.

By adopting these mechanisms, Zambia can strengthen its international reputation for fair and efficient tax administration, thereby promoting foreign direct investment and compliance with international tax norms.

5.4.6 Promote Transparency and Publication of Decisions(both); Transparency is a cornerstone of judicial independence and accountability. Both Zambia and India should ensure that tribunal rulings are systematically published and accessible to the public, preferably through online repositories.

Regular publication of tribunal decisions would improve consistency, promote accountability, and serve as a resource for both taxpayers and practitioners. In India , the ITAT already maintains a digital database of its judgements , this practice could replicated in Zambia through collaboration with the judiciary or the law development commission.

Such transparency would also facilitate academic research and comparative jurisprudence, thereby enriching the regional and international discourse on tax adjudication.

5.4.7 Harmonize Domestic law with International Standards(both); Both jurisdictions should review and amend domestic tax legislation to ensure consistency with global responsibilities, particularly in areas of procedural fairness, non-discrimination, and taxpayer rights. Including those found in the OECD and UN Model convention, the Vienna Convention on the law of treaties, and the BEPS framework. The key areas for harmonization include Procedural fairness and the right to a fair hearing, then secondly Non-discrimination between domestic and foreign taxpayers, thirdly Timely and reasoned decision-making then lastly Effective enforcement of tribunal rulings.

For Zambia in particular, such alignment would elevate the credibility of its tax system and attract international investors who rely on predictable and impartial adjudication mechanisms. For India, ongoing reforms could focus on simplifying appellate processes and integrating global best practices into domestic procedures.

5.4.8 Strengthen Appointment and Tenure Protections (Zambia); The process of appointing tribunal members should be transparent and merit-based, with fixed terms of office and protection from arbitrary removal. This would reinforce judicial independence and attract qualified professionals. Currently, the appointment of members by the minister of finance raises concerns about impartiality, especially in cases where the ministry is indirectly involved through the ZRA.

It is recommended that a judicial service commission or an independent selection panel oversee the appointment of tribunal chairpersons and members. Fixed and renewable terms of office, coupled with statutory protection against arbitrary removal, would reinforce institutional stability and attract qualified professionals with expertise in taxation, law, and finance. This model reflects the safeguards embedded in India's Income-tax Appellate Tribunal (ITAT), where tenure security and transparent appointment have strengthened independence over time.

5.4.9 Enhance Administrative and Financial Autonomy (Zambia); The Tax Appeals Tribunal (TAT) in Zambia should be granted full administrative and budgetary independence from both the ministry of finance and the Zambia Revenue Authority (ZRA). At present, the tribunals financial dependence on the ministry risks creating perceptions of influence or bias, particularly since the ZRA, which was one of the main litigants before the tribunal.

Establishing an independent secretariat or oversight commission, similar to India's institutional model, would strengthen the Tribunals autonomy in staffing, budgeting, and case management. A dedicated funding line in the national budget, approved by parliament rather than the executive branch, could further safeguard the tribunals neutrality and enhance public confidence in its decisions.

6.0 Strengthen Monitoring and Evaluation Mechanisms; Finally**,** both countries should establish independent monitoring and evaluation (M&E) frameworks to assess the performance of tax tribunals. Annual reports, stakeholder surveys, and public performance audits could provide objective data on efficiency, caseload management, and user satisfaction.

These evaluations should be made public and used to inform policy and legislative reforms, ensuring that tax tribunals remain responsive to emerging challenges while upholding their independence and impartiality.

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Chapter 4 –	Amend and Proceed	17.10.2025	
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