



**UNIVERSITY
OF
LUSAKA**

SCHOOL OF POSTGRADUATE STUDIES

EXPLORING THE FACTORS INFLUENCING THE STATE OF
PHYSICAL INFRASTRUCTURE OF SUBORDINATE COURTS IN THE
REPUBLIC OF ZAMBIA

BY

EMMANUEL MAKUMBA MALI

PHDGL1511229

SUPERVISORS:

PROF. KALOMBO MWANSA

PROF. EUSTARCKIO KAZONGA

Submitted to the School of Postgraduate Studies in fulfilment of the
requirement for the award of a degree of Doctor of Philosophy in
Governance and Leadership of the University of Lusaka

2019

DECLARATION

I, *Emmanuel Makumba Mali*, do hereby declare that this thesis is a result of my own investigation and research, except to the extent indicated in the acknowledgements, references and by comments included in the body of the thesis, and that it has not been submitted in part or in full for any other degree to any other university.

Student's Signature

Date

Supervisor's Signature

Date

Supervisor's Signature

Date

DEDICATION

I dedicate this thesis to my wife Flavia and daughters Rosemary and Flavia.

ACKNOWLEDGMENTS

I would like to first express my deepest gratitude to Almighty God for helping me throughout the preparation of this thesis. I would like to express my profound appreciation to my supervisors Prof. Kalombo Mwansa and Prof. Eustarckio Kazonga for their valuable guidance, encouragement and support throughout the project. Your valuable time spent on reading with prompt feedback, insightful comments and suggestions on drafts is much appreciated.

I would also like to deeply thank Dr. J. Simwinga, Mrs. J. Mwewa, Mr. T. Michelo, Mr. B. J. Kamphasa, Mr. A. Nkunika, Mrs. N. M. Sakala, Mr. S. Chibesa, Mrs. J. Chibesa, Mr. C. Chinyanta, Mr. B. Chirwa, Mr. E. Kangamungazi, Mrs. P. M. Siamubi, Ms. T. C. Banda, Mr. R. Machila and Mr. B. Chirwa for your support. Without your support, this thesis would have not been completed. A big thank you to all my colleagues in the Ministry of Justice and Cabinet Office.

Finally, my heartfelt thanks go to my wife Flavia in connection with her encouragement and support during the preparation of this thesis. My daughters, Rosemary and Flavia who have both been exceedingly patient with irritable Daddy whose ranting is sometimes frustrated during the preparation of this thesis deserve my special appreciation. I am lucky to have you.

TABLE OF CONTENTS

DECLARATION	i
DEDICATION	ii
ACKNOWLEDGMENTS	iii
TABLE OF CONTENTS.....	iv
LIST OF TABLES	vii
LIST OF FIGURES	ix
ABBREVIATIONS AND ACROMNYS	x
ABSTRACT.....	xi
CHAPTER ONE	1
BACKGROUND TO THE STUDY	1
1.0 Introduction.....	1
1.1 Background to the Study.....	1
1.3 Statement of the Problem.....	5
1.4 Research Objectives.....	7
1.5 Research Questions	7
1.6 Significance of the Study	8
1.7 Scope and Delimitation of the Study	8
1.8 Definition of Key terms	9
1.9 The Organization of the Rest of the Report	10
CHAPTER TWO	11
LITERATURE REVIEW	11
2.0 Introduction.....	11
2.1 Literature Review.....	11
2.1.1 Judicial Independence and Autonomy	11
2.1.2 Administrative Capacity	21
2.1.3 Stakeholder Involvement	25
2.1.4 Locality of Subordinate Court.	30
2.1.5 Infrastructure and Judicial Services	32
2.2 Critical Review of Empirical Studies	38
2.3 Knowledge Gap	40
2.4 Summary	41
CHAPTER THREE	42
THEORETICAL AND CONCEPTUAL FRAMEWORK.....	42
3.0 Introduction.....	42
3.1 Theoretical Framework.....	42
3.1.1 Rostow’s Modernisation Theory	42
3.1.2 Trust and Confidence Theories.....	43
3.1.3 General System Theory	45
3.2 Critical Review of Systems Theory	48

3.3	Conceptual Framework	48
3.4	Operationalization of Concepts.....	51
3.5	Research Hypothesis	51
3.6	Summary	52
CHAPTER FOUR.....		53
RESEARCH DESIGN AND METHODOLOGY		53
4.0	Introduction.....	53
4.1	Research Paradigm.....	53
4.2	Research Design.....	56
4.3	Research Strategies	57
4.3	Population	60
4.4	Sample and Sampling Procedures.....	60
4.5	Description of Research Instruments	63
4.6	Description of the Data Collection Procedures.....	65
4.7	Validity and Reliability.....	67
4.8	Description of Data Analysis and Presentation Procedures.....	69
4.9	Ethical Considerations	77
4.10	Summary	77
CHAPTER FIVE		78
STUDY FINDINGS AND DISCUSSIONS		78
5.0	Introduction.....	78
5.1	The General Overview of the Physical State of Subordinate Court Infrastructure.....	78
5.2	Impact of the Current State of Subordinate Court Infrastructure	93
5.3	Discussion and Interpretation of Qualitative Findings	95
5.3.1	Judicial Fiscal Autonomy	95
5.3.2	Judicial Administrative Capacity.....	113
5.3.3	Stakeholder Involvement.....	125
5.3.4	Subordinate Court locality.....	154
5.4	Discussion and Interpretation of Quantitative Findings	156
5.4.1	Judicial Fiscal Autonomy	156
5.4.2	Administrative Capacity of the Judiciary	158
5.4.3	Stakeholder Involvement.....	159
5.4.4	Subordinate Court Locality	161
5.5	Ordinal Logistic Regression Model.....	162
5.6	Discussion of Study Finding.....	167
5.7	Summary	169
CHAPTER SIX.....		171
CONCLUSIONS, CONTRIBUTION AND RECOMMENDATIONS		171
6.0	Introduction.....	171
6.1	Conclusion	171
6.2	Contribution of the Study.....	172
6.4	Recommendations.....	173

6.5	Suggestions for Further Research	176
	BIBLIOGRAPHY	177
	ANNEXES	200

LIST OF TABLES

Table 1:	Operationalisation of Concepts	51
Table 2	Profile of Interviewee	61
Table 3	Profile of Respondents.....	63
Table 4	Cronbach's Reliability Test.....	69
Table 5	Demographic Profile of the Sample	73
Table 6:	The General State of Court House Infrastructure	79
Table 7:	Cross Tabulation: State of Court Infrastructure by Locality	79
Table 8:	Usage of ICT by the Court Facility	83
Table 9:	Cross Tabulation: Usage of ICT by the Court Facility by Locality	83
Table 10:	Existence of Information desk at Judicial Institution	85
Table 11:	Cross Tabulation: Information Desk by Locality	85
Table 12:	Recording Keeping at the Courts.....	86
Table 13:	Availability of Reading Rooms at the Courts	87
Table 14:	Availability of Sanitation Facilities at Court Building	88
Table 15:	State of Sanitation Facilities at Court Building	88
Table 16:	Affordability of the Judiciary System in the Country.....	91
Table 17:	Length of Court Case at Subordinate Courts	92
Table 18:	Accessibility at Courts	92
Table 19:	Accessibility to Court buildings by Disabled	93
Table 20:	Judicial Budget. Locations from 1998 to 2016.....	96
Table 21:	Quotes from Respondents.....	99
Table 22:	Monthly Total Cost to the Employer: Superior and Lower Courts in Rwanda, Uganda and Zambia	107
Table 23:	Cross Tabulation: Judicial Infrastructure by Academic Qualifications	116
Table 24:	Give reasons your answers above.....	118
Table 25:	Zambia Judiciary enjoys Administrative Independence	122
Table 26:	Quality of Services render by Subordinate Courts	124
Table 27:	Access to Justice Programme Finance Report (Million Euro) 2007 to 2011	149
Table 28:	Ranking of Respondent's Priority List	151
Table 29:	Cross Tabulation and Chi-square test for the level of Judicial Fiscal autonomy and level of state of physical infrastructure.....	157
Table 30:	Chi-square Tests for the level of Judicial fiscal autonomy.....	158
Table 31:	Cross Tabulation and Chi-square test for the level of installed with administrative Capacity and level of state of physical infrastructure	159
Table 32:	Chi-square Test for the level of administrative capacity of Subordinate Courts and the level of state of physical infrastructure	159
Table 33:	Cross -Tabulation for the level of stakeholder involvement and level of state of physical infrastructure.....	160
Table 34:	Chi-square for the level of stakeholder involvement and the level of state of physical infrastructure.....	161
Table 35:	Cross Tabulation for the Subordinate Court locality and State of	161
Table 36:	Chi-square test for the subordinate Court locality	162
Table 37:	Coefficient Analysis.....	163

Table 38:	Model Fitting Information	165
Table 39:	Pseudo R-Square.....	166
Table 40:	Tests of Parallel Lines	166
Table 41:	Cross Tabulation Voters and Highest Qualifications.....	210

LIST OF FIGURES

Figure 1:	The Essential Elements of the Systems Theory.....	47
Figure 2:	Conceptual Framework Based on General System Theory.....	50
Figure 3:	Physical Status of Subordinate Courtrooms.....	80
Figure 4:	Case Backlog at the Subordinate Court.....	94
Figure 5:	Courtroom Modernisation.....	95
Figure 6:	Ratio of Judicial Budget to National Budget (%).....	97
Figure 7:	Adequacy of Court funding.....	98
Figure 8:	Functional Budgetary Allocation.....	100
Figure 9:	Judiciary's Recurrent and Capital Expenditure 1998 to 2013.....	102
Figure 10:	Average Basic Salary and Monthly Total Cost to the Employer.....	106
Figure 11:	Monthly Total Cost to the Employer: Superior and lower Courts in Rwanda, Uganda and Zambia (US\$).....	108
Figure 12:	Regression Equation for Capital and Recurrent Expenditure.....	112
Figure 13:	Lower Court Capital Expenditure.....	113
Figure 14:	Responsibility for Court infrastructure (%).....	115
Figure 15:	Judicial Budget Process.....	121
Figure 16:	Ability to Deliver Adequate Court Services.....	123
Figure 17:	Possible Inclusions in the Budget Law (%).....	153

ABBREVIATIONS AND ACROMNYS

ABB:	Activity Based Budgeting
AOJ:	Access to Justice
CSOs:	Civil Society Organisations
EC:	European Commission
FNDP	Fifth National Development Plan
GDP:	Gross Domestic Product
GIZ:	Deutsche Gesellschaft fur Internationale Zusammenarbeit
GRZ:	Government of the Republic of Zambia
ICT:	Information Communication Technology
LAB:	Legal Aid Board
LAZ:	Law Association of Zambia
MDGs	Millennium Development Goals
MMD:	Movement for Multiparty Democracy
MoU:	Memorandum of Understanding
MPSAs:	Ministries, Provinces and other Spending Agencies
OAG:	Office of the Auditor-General
PAN:	Paralegal Alliance Network
PDCCs:	Provincial Development Coordinating Committee
PF:	Patriotic Front
PLEED:	Programme for Legal Empowerment and Enhanced Justice Delivery
R-SNDP:	Revised Sixth National Development Plan
SDGs:	Sustainable Development Goals
SPSS:	Statistical Package for Social Sciences
UN:	United Nations
UNDP	United Nations Development Programme

ABSTRACT

The Judiciary, as the guardian of the Constitution, through its Courts, plays its principle role of administering justice, promoting the rule of law and protecting human rights of individuals, as such it should be housed in proper fit for purpose infrastructure. However, the Judiciary in Zambia, especially at Subordinate Court level, has continued to operate in pre-independence court buildings which are too small and not conducive for the dispensation of justice in the modern era. Though the challenges facing the Judiciary, are visible, there is little empirical knowledge about the factors that account or affect the quality of the entire judicial infrastructure

The study, therefore, examines the factors contributing to the state of physical infrastructure of Subordinate Courts in the Republic of Zambia. It aimed to address four research concerns: (1) to investigate the influence of judicial fiscal autonomy on the state of physical infrastructure of Subordinate Courts; (2) to assess the influence of the administrative capacity of the Judiciary on the state of physical infrastructure of Subordinate Courts; (3) to establish the influence of stakeholder involvement on the state of physical infrastructure of Subordinate Courts; and (4) to determine the influence of subordinate Court locality on its state of physical infrastructure.

A mixed-methods sequential explanatory approach was used to examine the factors influencing the state of physical infrastructure where both quantitative and qualitative data provided deeper insight and explanation to the problem. A total of 350 respondents, purposively drawn from 40 districts, constituted the sample and participated in interviews, focus group discussions and informal interactions. Data was assessed by frequency, moderation and multiple regression analyses on the dependent variables. The Chi-square results from Statistical Package for Social Sciences software package was used to determine associations between variables and determine the p-values.

The findings revealed that there is limited administrative capacity in the Subordinate Courts. The Subordinate Courts are also extremely underfunded. In addition, stakeholders have not been meaningfully involved in the design and management of judicial reforms. This has left the Judiciary without any form of social accountability. The study showed that the variables judicial fiscal autonomy, judicial administration capacity and stakeholder participation had a correlation with the quality of court infrastructure. However, Chi-square analysis suggested there is no relationship that existed between location of the Subordinate Court and the state of its physical infrastructure. The study proposes an Ordinal Logistic Regression Model to facilitate better understanding and analysis of the determinants of judicial transformation.

It recommends that there is need to strengthen the current legal framework to guarantee greater fiscal independence of the Judiciary and provide for fiscal rules to guide the management of the Judiciary Budget. In addition, it recommends the development of a strategy aimed at enhancing the Judiciary's administrative capacity. Lastly, it recommends the development of a comprehensive consultation and collaborative mechanism to ensure greater participation of stakeholders in judicial modernisation and transformation.

KEY WORDS: Judicial Governance, Judiciary, Fiscal Autonomy, Access to Justice, Fiscal Rules, Infrastructure and Subordinate Courts.

CHAPTER ONE

BACKGROUND TO THE STUDY

1.0 Introduction

This study examines the factors contributing to the state of physical infrastructure of Subordinate courts in the Republic of Zambia. In this study, the factors influencing the state of the physical infrastructure of the Subordinate Courts are the independent variables while the state of the physical infrastructure of the Subordinate Courts is the dependent variable. This chapter will present the background to the study, the statement of the problem, the purpose of the study, the objectives of the study, research questions, the significance, scope and delimitation of the study and operational definition of terms and concepts.

1.1 Background to the Study

The Judiciary in any country is the custodian of the Constitution and guarantor of the fundamental rights and freedoms of the people (Shezongo-MacMillan, 2013, pp. 60-65; Singh and Vijay, 2013; Sackville, 2003 pp. 85-111; Nyenti, 2017, pp. 14-16). The institution is not only considered the most sanctimonious pillar of the state but also a foundation on which civilizations are built. Further, the Judiciary, as the guardian of the Constitution, the supreme law of the country, through its Courts, plays its principle roles, among others to administer justice, promote the rule of law and protect human rights and individuals (Sakala, 1999, p.45; Beqiraj and McNamara, 2014, pp.14-34). The judges of the Judiciary are required to perform their duties in a manner that enhances confidence of the peoples in the Judiciary.

Part VIII, Article 120 of the Constitution of Zambia as amended by Act No. 2 of 2016, provides for the Judiciary, consisting of the following Courts: Supreme Court, Constitutional Court, Court of Appeal, High Court, Subordinate Courts, Small Claims Courts, Local Courts and any other court established by an Act of Parliament (Government of the Republic of Zambia, 2016, pp.54-58).

Unlike most institutions, the structure of the Zambian Judiciary is mainly a product of its history. This notion is opined by Hoover, Piper and Spalding (1970b, pp.4-10), who state that an understanding of the Zambian courts system as it exists today is dependent, in a large measure, upon an understanding of its history. Almost every feature of the judicial system today can either be traced back to its historical origin; or can be accounted for as a latter-day attempt to be rid of some offensive aspect of the colonial administration of the courts. From its inception, the judicial system introduced by the British in Northern Rhodesia differentiated between Europeans and native Africans.

Though traditional and tribal courts existed, no official recognition was extended to them. However, customary law was given approximately limited degree of protection as had been provided in the Order in Council of 1899. But specific provision was made in the Order for retention of customary law in civil cases between African litigants even in British courts (Barotseland-North-Western Rhodesia Order in Council, 1899).

A High Court was created with both original and appellate jurisdiction in civil and criminal matters. Magistrates' courts were also created to handle civil and criminal cases. In criminal cases, magistrates had powers to hear and convict persons appearing before them but were expected to commit the matter to the High Court for sentencing (Hoover, Piper and Spalding,1970). The Magistrates' Courts and High Court during the period to independence continued to administer the laws and procedures imported from England.

With the coming of independence in 1964, there came a spate of changes as well in what was now the Zambian judicial system. The country introduced a new constitution which established a Court of Appeal as an addition to the colonial judicial structure. Prior to the 2016, Republican Constitutional amendment, the Zambian Constitution provided for the following composition of the Judicature of the Republic of Zambia as consisting of the Supreme Court, High Court, Industrial Relations Court, Magistrates Courts, Local Courts and such lower Courts (for example the Small Claims Court) as may be prescribed by an Act of Parliament (Government of the Republic of Zambia (GRZ), 2016, pp. 53-60).

Part VIII, Article 120 (1) a, of the Zambian Constitution provides for the establishment of Subordinate Courts. Subordinate Courts Act No. 28 of 1965 and Act No. 11 of 1990, provide for the Constitution, jurisdiction and procedure of Subordinate Courts; to provide for appeals from such Courts to the High Court; and to provide for matters incidental to or connected with the foregoing. It also provides that “there shall be and are hereby constituted Courts Subordinate to the High Court in each District as follows:

- (a) a Subordinate Court of the first class to be presided over by a Principal Resident Magistrate, a Senior Resident Magistrate, Resident Magistrate or a Magistrate of the first class;
- (b) a Subordinate Court of the second class to be presided over by a Magistrate of the second class; and
- (c) a Subordinate Court of the third class to be presided over by a Magistrate of the third class.”¹

It adds that each Subordinate Court shall have the jurisdiction and powers provided by the Subordinate Courts Act No. 11 of 1990 and shall ordinarily exercise such jurisdiction only within the limits of the District for which each such court is constituted. ²

The Judicial Service Commission acting in the name of and on behalf of the President may appoint persons to hold or act in the office of Principal Resident Magistrate, Senior Resident Magistrate, Resident Magistrate or Magistrate of any Class. In addition, the Subordinate Courts Act No. 11 of 1990, Section 17, outlines that all Magistrates have equal power, authority and jurisdiction. This Act also provides that “*the sittings of Subordinate Courts shall usually be held in such buildings within Zambia as the Chief Justice shall, from time to time, assign as Court Houses for that purpose; but, in case a Subordinate Court shall sit in any other building or place, within the limits of its jurisdiction, for the transaction of legal business, the proceedings shall be as valid, in every respect, as if the same had been held in any such Court House*”.

Every Magistrate has power to issue writs of summons for the commencement of actions in a Subordinate Court, to administer oaths, and take solemn affirmations and declarations, and to make such decrees and orders, and issue such process and exercise such powers, judicial and ministerial, in relation to the administration of justice, as shall, from time to time, be prescribed by any written

1 Laws of Zambia, Subordinate Courts Act No. 28 of 1965 and Act No. 11 of 1990

2 The Laws of Zambia, Subordinate Courts Act No. 11, Section 17 of 1990

law or by rules of court. In the exercise of their criminal jurisdiction, Subordinate Courts have all the powers and jurisdiction conferred on them by the Criminal Procedure Code, the Subordinate Courts Act No. 11 of 1990.

Njoki (2013, p.4) and Onyanga, Bwisa and Orwa (2017, p.200), claim that infrastructure matters and it's an essential component of everyday quality of life and business. It also tends to be noticed when its absent, declining or decrepit. Infrastructure is seen as the engine for productivity growth and competitiveness and as a safeguard investment for future economic well-being.

It is from this point of view that this study assesses the factors contributing to the state of physical infrastructure of Subordinate Courts in the Republic of Zambia. Available literature on the factors accounting for the state of the physical infrastructure of the Subordinate Courts in Zambia is inconclusive. Not much research has been conducted to fully explain the state of physical infrastructure of the Subordinate Courts.

To understand the aims of this study, it is important from the onset to define infrastructure. Infrastructure is defined as *“the physical components of interrelated systems providing commodities and services essential to enable, sustain or enhance social living conditions”* (Fulmer, 2009, pp.30-32). From the above definition, we can deduce that infrastructure is an input to production and describes essential facilities, services, and organisational structures needed for a country to operate efficiently. It includes roads, bridges, transport systems, airports, ports, utilities, water, sewerage, etc. These facilities are essential for enabling productivity in the economy (Sappington and Stiglitz, 2004, p.568; Sullivan and Sheffrin, 2003, pp.10-15; and United Nations Charter, 1945).

A distinguishing feature of physical infrastructure is that while the demand-supply gap in case of other factors can be met by importing some of them, the deficiency of infrastructure cannot be made up through imports. This is because physical infrastructure is location-based. The need for relevant physical infrastructure facility can only be met by a country through the development of its capacity. For example, you cannot import power facility, roads, ports, railways or court building

as they have to be built up in the domestic economy (World Bank, 1994, p.10; and Patra and Acharya, 2011, p.18)

There are three distinctive features of infrastructure. The first is that the building of infrastructure requires large and lumpy investment and that infrastructure contributes to output of the investment, normally after a long time, since the gestation period for infrastructure is quite long. Secondly, due to large overhead capital and lumpy investment, the significant economies of scale are found in most of them. Due to the significant economies of scale found in many infrastructure services, they have the characteristics of natural money. The third important feature of infrastructure facilities is that they create externalities. Therefore, these infrastructural facilities are either built or run by the Government and public sector enterprises or if private sector is permitted to make investment in them and run them, they need to be regulated by the Government, so that they should not exploit the consumers (Ghosh and De, 1998, pp.47-48; Bajar, 2013, pp.1-39; and Aschauer, 1990).

In this regard, in the absence of or if any one of its structure is not fully or adequately operational, the entire Judiciary collapses or become compromised. In order for the Judiciary to function it must be housed in good physical infrastructure. In Zambia, the Government is the major financier of court infrastructure. It is, therefore, imperative for citizens to understand the factors accounting for the physical state of court infrastructure in the country.

1.3 Statement of the Problem

The state of physical infrastructure of the Subordinate courtrooms across the country, is appalling, and does not show the normative importance of the institution. The Judiciary, especially at Subordinate Court level, has continued to operate in pre-independence court buildings which are too small and not conducive for the dispensation of justice in the modern era (Shezongo-MacMillan, 2013, p.63; GRZ, 2012, p.15; and The Mast, 11th January, 2017)

Most of the Subordinate Courts are centralised in district central business areas. Most people have to travel approximately 45kilometers to 80 kilometres to the nearest Subordinate Court. The Judiciary is also in need of approximately 200 additional courtrooms for Subordinate Courts across

the country (GRZ, 2016). Approximately, 72 courts across the country need rehabilitation. Due to being small and pre-colonial, structures, the current court structures cannot accommodate e-services.

Government of the Republic of Zambia (2012, p.128) add that many districts do not have proper court infrastructure and are not fit for their purpose. This point is echoed by Justice M. Mwanamwambwa, the Deputy Chief Justice of Zambia quoted by Times of Zambia (30th October 2017) stating that many courts are just improvised rooms within central government administrative buildings. For example, in many rural areas of Zambia³, there is an absence of adequate space, buildings are falling, and there are old and dangerous electrical wiring systems, an absence of adequate heating, water and toilets, and an absence of basic safety measures. The Court rooms are extremely small approximately 20m².

Though the challenges facing the Judiciary, in Zambia, are visible, scholars indicate that there is little empirical knowledge about the factors that account or affect the quality of the entire judicial infrastructure (Shezongo-MacMillan, 2013 and GRZ, 2012). It is also observed that in exploring the factors, prior studies investigate individual factors in isolation from each other (Martin, 2014; GRZ, 2012; Siyo, 2012; Sakala, 1999; and African Rights, 1996). Further, there is a deficit in studies, especially from the developing countries perspective, examining the effect of fiscal autonomy and institutional factors on state of physical infrastructure of the Subordinate courtrooms (European Network of Councils for Judiciary, 2016). In addition, many existing studies have investigated the effects of stakeholder involvement in modernisations and transformation agendas but there are few studies which have assessed the impact of stakeholder involvement in judicial modernisations at micro levels (Kerubo, 2014).

Lastly and more importantly, there is a shortage of studies exploring the combined effect of the factors that influence the development of judicial infrastructure. This gap in literature, indicates a

³ The author visited the following rural areas as a Member of the Legal and Justice Sector Commission: Chinsali; Isoka; Nakonde; Mpika; Mbala; Kasama; Luwingu; Mungwi; Lusaka; Luangwa; Chongwe; Chirundu; Kafue; Ndola; Kitwe; Mufulira; Masaiti; Livingstone, Kalomo, Mazabuka; Chirundu; Chama; Chipata; Katete; Patuake; Mongu; Senaga; Kaoma; Solwezi; Mwinilunga; Kabompo; Zambezi; Mansa, Samfya; Kawambwa; Mwense; Mumbwa; Kabwe; Mkushi and Serenje.

lack of research proposing and validating integrated empirical models in relation to the factors. This limit the understanding of the interplay among various factors affecting the Subordinate Courts in Zambia. This study, therefore, intends to bridge the knowledge gap by critically accounting for the factors (individually and collectively) contributing to the state of physical infrastructure of Subordinate Courts in the Republic of Zambia.

1.4 Research Objectives

1.4.1 General Objective

To explore the factors influencing the state of physical infrastructure of Subordinate Courts in the Republic of Zambia.

1.4.2 Specific Objectives

To achieve the general objective of the study, the specific objectives are identified as follows:

- (a) To investigate the influence of judicial fiscal autonomy on the state of physical infrastructure of Subordinate Courts;
- (b) To assess the influence of the administrative capacity of the Judiciary on the state of physical infrastructure of Subordinate Courts;
- (c) To establish the influence of stakeholder involvement on the state of physical infrastructure of Subordinate Courts; and
- (d) To determine the influence of subordinate Court locality on its state of physical infrastructure.

1.5 Research Questions

This study sought answers to the following questions: how does the:

- (a) level of judicial fiscal autonomy influence the state of physical infrastructure of Subordinate Courts?
- (b) administrative capacity of subordinate courts influence the state of physical infrastructure of Subordinate Courts?

- (c) level of stakeholder involvement influence the state of physical infrastructure of Subordinate Courts in Zambia?
- (d) Subordinate Court locality influence the state of its physical infrastructure?

1.6 Significance of the Study

It is anticipated that the findings and recommendations of this study will go a long way in generating the much-needed information that will be used by various stakeholders in the country to improve on the state of judicial physical infrastructure in the country. Through this study, the assessment results can be guideposts that would help both the Executive and the Judiciary to identify their areas of strengths and weaknesses and make necessary adjustments to fill the gaps in their roles, with regard to judicial physical infrastructure.

The study provides useful insight on how to transform the Subordinate Courts, modernise them and enhance the people's access to justice, given that Subordinate Courts are Courts of first instance. The study findings will also be used to strengthen and enhance the legal framework and administrative capacity of the Judiciary respectively. It also provides a structured approach to infrastructure provision by proposing policy measures aimed at eliminating structural barriers to the development of infrastructure in the Judiciary.

Lastly, the study is expected to add to the existing body of knowledge and act as a stepping-stone for later researchers in similar studies. It can also help future researchers who have the quest for improving access to justice in the country.

1.7 Scope and Delimitation of the Study

This study was focused only on the independent and dependent variables identified; the independent variables are the extent of judicial fiscal autonomy, judicial administrative capacity, and level of stakeholder involvement and the locality of Subordinate Court while the dependent variable is the state of physical infrastructure of Subordinate Courts. This study did not aim to show all the factors that influence the state of physical infrastructure of Subordinate Court; neither did it intend to establish a standard for the required state of physical infrastructure of Subordinate Court.

The study was restricted to Subordinate Courts of Zambia because the researcher had easy access to data collection. The Zambian court system is very broad considering that we have different types of courts that are located across the country. Therefore, when taking an example of only one court structure of law and generalizing the information that it will apply to the other courts, this becomes a limitation.

Lastly the researcher noted that public infrastructure, like in all sectors of the economy, are multi-sectoral and multi-disciplinary in nature and involve different actors. Therefore, the greatest limitation to this study was the cross-sectional nature of data to be investigated. In order to avoid this limitation, the researcher made sure that the data collected focused on the critical factors such as funding, administrative capacity, locality of the court and stakeholder involvement.

1.8 Definition of Key terms

- (a) **Judicial independence** is the concept that the Judiciary should be independent from the other branches of Government (Lunga, 2012, pp.15-22). That is, courts should not be subject to improper influence from the other branches of Government or from private or partisan interests (McClellan, 2000, p. 503; Black, 1979, p.761; Verner, 1984, p.463; Rosen, 1987, p.9; and Van Zyl, 1998, p.38).
- (b) **Subordinate Courts** means a court subordinate to the High Court (Laws of Zambia: Subordinate Courts Act No. 4 2018 (Amendment)). These are Courts of first instance, and they decide all matters except for offences of treason, murder, aggravated robbery, election petitions and all matters that involve the interpretation of the Constitution.
- (c) **Fiscal autonomy** is a guarantee given by the Constitution to certain units of the Government. It is intended as a guarantee of separation of powers and of independence from political agencies. (Hall, Tobin, and Pankey, 2004, p. 43; and Sakala, 1999, p.127).
- (d) **Infrastructure** is defined as the physical components of interrelated systems providing commodities and services essential to enable, sustain or enhance social living conditions (Fulmer, 2009, p.32)
- (e) **Administrative capacity** is broadly used in many contexts (Misener and Doherty, 2009, p.12). It entails running the machinery of a political or economic system and translating political and collective will into actions through management and implementation

(Farazmand, 2009). It is also an aggregation of individual capacities of civil servants, since it is their capacities that ultimately determine service delivery (Mentz, 1997; North, 1992, p.14).

- (f) **Capacity** is generally defined as the ability to perform functions, solve problems, set goals, and achieve objectives (Milio, 2007)
- (g) **Location** is the place where a particular point or object exists. A locality is a human settlement: city, town, village, or even archaeological site (Sandefur and Smyth, 2011, p23; and Baxter and Yoon, 2015, pp. 9-57)
- (h) **Stakeholder** is an entity who has an interest in an organization and whose support is required in order for an organization to be successful (Freeman, 1984, p 23; Reeves, 2004, p.5; and Njoki, 2013)

1.9 The Organization of the Rest of the Report

The remainder of the study is organized as follows: chapter two presents a concise but elaborate literature review on Subordinate Courts and factors accounting for the state of its infrastructure; chapter three outlines the theoretical and conceptual framework; chapter four discusses the research design and methodology; and chapter five focuses on study findings and discussion. Lastly, chapter six presents study conclusion, contribution and recommendations.

CHAPTER TWO LITERATURE REVIEW

2.0 Introduction

This chapter reviews the relevant literature on the Judiciary, Judicial independence, fiscal autonomy, capacity of Judicial administration, stakeholder involvement in infrastructure development and the locality of Subordinate Courts with respect to infrastructure development. In addition, it provides the critical review of empirical studies and knowledge gap, which is the basis of the study by comprehensively evaluating what other scholars had done on the topic under study.

2.1 Literature Review

2.1.1 Judicial Independence and Autonomy

Siyo (2012, pp. 15-22), writing on Judicial Independence in South Africa traces Judicial Independence from England in the seventeenth century. Siyo opines that a discussion about the historical development of Judicial Independence would be incomplete without making reference to the Case of Commendams (1616) and writes that during the proceedings of the matter but before judgment was handed down, King James I summoned the Judges who presided over the matter to his palace.

The King was furious as the Judges had defied his request for a stay of proceedings of the matter. The reason given by the Judges for their refusal was captured in a letter which was penned by the Chief Justice, Lord Coke. Essentially, the Judges stated that “they couldn’t accede to the Kings request because their “oaths of office compelled them to go ahead with the trial.” When confronted by the King, in fear for their lives, all the Judges, except for Lord Coke, reneged on the sentiment they had previously expressed in the letter.

They also confessed that the “form” of their letter had been wrong. Throughout this time, Lord Coke remained unshaken and true to his convictions. Addressing the King, he said “the stay required by your Majesty was a delay of justice and therefore contrary to law and the Judges’

oath.” Angrily, the King then asked the Judges what they would do if the King ever again made a request for stay in proceedings.

All the Judges were unanimous in their response, they all replied, “as his majesty commanded.” When the King posed this question to Lord Coke, he responded by saying “I would do that should be fit for a Judge to do.” Due to his unsatisfactory response, Lord Coke was subsequently removed from office. However, in time, Lord Coke would be vindicated. This Case sets a precedent for what would become a norm in centuries to come.

Although the principle of Judicial Independence has received wide coverage by academics and Jurists alike, it remains a notoriously difficult concept to define. Conceptually, Judicial Independence has been defined in various ways by legal theorists and philosophers. Admittedly, the principle of Judicial Independence is vast and complicated; this creates enormous definitional difficulties (Black, 1979; Verner, 1984, p.463; Rosenn, 1987, p.9; and Van Zyl, 2003, p.2).

This thesis is of the view that the common thread that runs through the above definitions is an acknowledgment that Judicial Independence exists at two levels. Firstly, at an individual level, that is the ability of a judge to impartially and independently apply his or her mind to a matter without undue influence. The second level is at an institutional level, that is, the ability of the judiciary to control the administration and appointment of court staff.

The United Nations (1948) adds that the principle of Judicial Independence is a fundamental element of democracy. There are hardly any States in the world that do not cherish the idea of a Judiciary that is independent from other organs of State. As a result, Judicial Independence features quite prominently in many international legal instruments. On the same matter, notably, Article 26 of the African Charter 40 declares that: “State Parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter (OAU, 1981).”

The issue of Institutional Independence is structural and deals purely with operational matters. Principle one (1) of the “Basic Principles on the Independence of the Judiciary” requires Governments to ensure the independence of the Judiciary through the implementation of the principles in the domestic justice systems (UN, 1985). Moreover, Principle Seven (7) of the Basic Principles states that: “It is the duty of each Member State to provide adequate resources to enable the Judiciary to properly perform its functions.”

Siyo (2012, pp. 15-22), notes that without adequate funds, the Judiciary will not only be unable to perform its functions efficiently but may also become vulnerable to undue outside pressures and corruption. Therefore, there must be judicial involvement in the preparation of court budgets. However, regarding administrative and financial issues, independence may not always be total. This is because the three branches of government, although in principle are independent of each other, are also by nature in some respect dependent on each other, for instance with respect to the appropriation of resources. While this inherent tension is probably inevitable in a system based on the separation of powers, it is essential that in situations where, for instance, Parliament controls the budget of the Judiciary, this power is not used to undermine the efficient working of the latter.”

Siyo, in his study, concluded that Judicial Independence is important for several reasons, given below. It:

- (a) is important for good governance, administration and accountability within a State. The Judiciary function independently from other arms of Government;
- (b) does not only exist for the protection of Judges, but also the protection of the public from arbitrary and abusive State behaviour, the justice system and the rule of law which are central to the functioning of any State; and
- (c) is also important in maintaining public confidence in the Judiciary and the administration of justice, which are critical.

The reasons of importance of Judicial Independence, as outlined by Siyo, are interlinked to good governance, administration and accountability. Judicial Independence, ultimately, leads to an efficient and effective justice system which jealously guards any infringement against the rule of law, which leads to greater public confidence in the judiciary.

European Network of Councils for the Judiciary (2016, pp. 6-23) notes that an independent and accountable judiciary is an essential component of high quality, effective and efficient justice systems, and a prerequisite for a well-functioning European Union area of justice. Adequate funding of the judiciary was a key element in ensuring and safeguarding the independence of the judiciary. The study also noted that funding of the judiciary was an important issue for all of society. In addition, it noted that Courts' budgets have been, and still are in many cases, drafted only on historical costs, and, although important for the court functioning, it has been one of the most neglected subjects in court administration studies.

However, the study noted that in the last decade, some European countries have been developing new approaches to justice systems and court budgeting, using a "performance-based" budget perspective, which relates the courts' budget to the efficiency results, setting specific performance targets. Although fundamental to ensuring transparency, accountability, and proper resource allocation among courts, these approaches have an impact on judicial independence and autonomy, because they may put pressure on judges' productivity and efficiency, to the detriment of quality.

The study made 12 recommendations and the most notable are:

- (a) Budgets will always be subject to Parliamentary scrutiny as they involve the expenditure of public resources. However, the creation of the budget should be systemically and practically free from inappropriate political interference. Courts should not be financed based on discretionary decisions of official bodies but on the basis of objective and transparent criteria.
- (b) To ensure and strengthen the separation of powers, the Council for the Judiciary, or a body on which the Judiciary is represented, should be closely involved and fully informed at all stages in the budgetary process and should have an opportunity to express its views about the proposed budget to Parliament.
- (c) The preparation of the budget for the judiciary, should be wholly or at least partly, under the control of a Council for the Judiciary or of equivalent independent and autonomous bodies.

- (d) Courts must be resourced to a level which enables them to discharge their obligation to provide an effective and efficient system for the delivery of justice. Each State should therefore allocate adequate resources, facilities and equipment to the courts to enable them to function efficiently.
- (e) The maintenance of the rule of law requires long-term financial stability in the funding of the judiciary. Courts should not be funded on an annual basis but should have the certainty of longer-term financial budgets. Funding of courts should be protected from fluctuations caused by political instability.
- (f) Budget transparency involves the extent to which citizens and members of the judiciary or other public groups can access information about and provide and/or obtain feedback on government revenues, allocations and expenditure.
- (g) Judicial independence is a central pillar of any constitutional system. It is fundamental in any democracy that individual judges and the judiciary are independent of all external pressures and improper influence from the other branches of government, including funding bodies. The minimum condition for judicial independence is financial security, i.e. the right to a salary and a pension. In order to retain and attract the highest quality judges and maintain judicial independence, judicial remuneration must always be commensurate with their professional responsibilities, public duties and the dignity of their office.

Sakala, (1999), writing on the autonomy and independence of Judiciary in Zambia reminds us that the concepts of autonomy and independence of the Judiciary, though in the Independence Constitution, were hardly acknowledged until at least twenty years after Independence. The reason given is that “the absence of autonomy was a colonial hang-over as well as a traditional practice. The Judiciary under colonial rule was considered as part of the Public Service. Hence, autonomy of the Judiciary was not considered necessary because a public servant performed both administrative and judicial duties”.

Sakala argues that there was an attitude also by post-independence governments to treat the Judiciary as mere appendages of the state, to be silent ornaments and not to be heard loudly pronouncing any notions of autonomy and independence. But the Judiciary from time to time could

flex its muscles and the Governments, regardless of whether they were one party or multiparty States abhorred judicial autonomy and independence.

In his dissertation, many examples of when the Executive clashed with the Judiciary because the Judiciary ruled against the Executive are given. Some of the cases include the Mulundika case when the Supreme Court struck down a section of the Public Order Act of the law of Zambia which gave powers to the police to in fact superintend over democracy. Parliament reinstated the status quo. Another case given when the Executive were non-pulsed by the Supreme Court was the conviction of Kambarage Kaunda for killing a woman. This murder case was quashed by the Supreme Court (Sakala, p.127). Another case among several is that of the treason trialists whose death penalty conviction and sentence for allegedly inciting a coup against President Kenneth Kaunda, was set aside by the Supreme Court. In each of these cases, the Judiciary did not back down, and President Kenneth Kaunda had to apologize for disparaging the Judiciary and therefore undermining their autonomy and independence.

Judicial autonomy and independence are constitutionally and statutorily protected. However, according to Sakala, Constitutional and Statutory protection of these values has not protected the Judiciary from political attacks and criticisms. He writes that given their autonomy and independence written in the Constitution and various statutes, “the problem seems to be that many times the Judiciary has not been assertive enough”. In addition, he adds that as a result of the lack of adequate self-assertion, the Executive, the Legislature, and the public have not refrained from apparent, direct or indirect interference and attacks on the Judges through derogatory comments, often made in bad taste with clear motive of intimidating the Judiciary in ‘politically sensitive’ cases before and after Judgment. Sakala citing Sir Thomas More wrote that the kernel of Judicial Autonomy and Independence was the attitude of the individual Judge.

Judicial autonomy and independence are not an end in themselves but are a means to promote impartial decision-making and to preserve the supreme law of the land as embodied in most Constitutions against encroachments (ibid, p.267). Indeed, Sakala boldly states that Judicial autonomy and independence is there to preserve multi-party democracy.

Sakala (1999, p.314) states *“the real challenge for the Judiciary today in Zambia in relation to Judicial Autonomy and Independence is whether it will continue with the spirit of asserting these principles which are so noble in the maintenance of the rule of law and good governance. The greatest challenge now is the quality of those who sit in Judgment. The attitude of individual Judges themselves asserting their own independence, particularly in politically sensitive cases, is the fulcrum upon which democracy rests.”*

On the topic of “autonomy and meaning and justification”, Sakala citing the 1991 Constitution of Zambia, as amended in 1996, state that: “The Judicature shall be autonomous and shall be administered in accordance with the provisions of an Act of Parliament.” He writes that the expression “autonomous” is not defined either in the Constitution or in the Interpretation and General Provision Act. According to Allen (1990, p. 73), the term autonomous, inter alia, means self-governing. But historically, and even traditionally, the judicature in Zambia had never been thought to be self-governing. For instance, under colonial rule, the Judges were an integral part of the Executive and performed some administrative duties.

Shetreet (1976, pp.2-15) writes that in England in the sixteenth and seventeenth centuries, the distinction between Judicial and Administrative Duties under the Tudor and the early Stuart regimes was rather obscure just like in Zambia. It would be observed that traditionally an essential function of traditional authority prior to the advent of colonial rule in most African countries, was to administer justice. The total power was vested in the Chief who as himself at once a ruler, judge, maker and guardian of the law. Consequently, traditional African pattern of government did not concern itself with the separation of powers. it could be noted that an autonomous judicature in Zambia implied that the Judiciary managed its own internal administration thereby being delinked from any arm of Government. This was in line with the other organs of Government. The concept of autonomy in relation to the Judicature was linked to the concept of independence of the Judiciary. Although the two terms are not synonymous, they are significantly complementary because the absence of autonomy means incomplete independence.

Shezongo-MacMillan (2013, pp. 60-65), shows that immediately after independence, the concept of judicial autonomy, in the sense of delinking it from public service was never contemplated as

an issue. The Judiciary in Zambia formed the backbone of the Ministry of Justice. Delinking the Judiciary from the Public Service would have meant scraping the whole Ministry. The Judiciary too, depended on the Executive for all its administrative requirements. For instance, for a Judge to travel abroad, permission had first to be obtained from Cabinet Office through the Ministry. Transfers of staff, including Judges, had to be sanctioned by the Permanent Secretary. The Permanent Secretary was the controlling officer of the department as well as the responsible officer for the internal administration. The budget of the Judiciary was prepared by the Ministry and was part of the Ministry budget. The Executive was responsible for providing physical and human resources which included Courthouses, Secretarial and Administrative support staff down to Judge's notebooks, pens and pencils.

Shezongo-MacMillan argues that during this period fiscal autonomy was a farfetched cry. Undoubtedly, this arrangement severely impaired judicial independence and undermined the performance of judicial functions. She writes that the agitation for judicial autonomy in Zambia could be traced to 1983 when Judges started to quest the status quo. This process culminated in the Executive including the issues into the terms of reference of the Commission of a Constitution Inquiry appointed on 8th October, 1990. Among the many Term of References, one was to examine and determine a system of Government that would ensure the separation of powers of the Legislature, the Executive and the Judiciary so as to enhance the roles of these organs (Government of Republic of Zambia, 1990). The Commission's recommendation on the autonomy of the Judicature was that the Judiciary be de-linked from the Ministry of Justice in order to ensure true autonomy and separation of powers. In addition, Shezongo-MacMillan (2013) shows that this process eventually culminated in the inclusion of an Article in the Republican Constitution specifically stating that: "The Judicature shall be autonomous as was outlined in Article 91(3), the Constitution of Zambia as amended by Act No. 18 of 1996. Consequently, Parliament enacted the Judicature Administration Act No. 42 of 1994, which was assented to on 31st December 1994. The Act:

- (a) sealed the final endorsement to the introduction of an autonomous Judicature in Zambia;
- (b) put the Judiciary on a footing like that of Parliament of enjoying total control of all its personnel and finances to facilitate greater output and efficiency;

- (c) allowed for the creation of the post of Chief Administrator, whose functions included day-to-day administration of the Judiciary and controlling the expenditure;
- (d) the Judiciary ceased to be an appendage or a department of a Ministry. It fell under the sole responsibility of the Chief Justice; and
- (e) allowed for a two-tier system of recruitment wherein the Judicial Service Commission recruited professional staff while the Public Service Commission recruited administrative staff of the judiciary and exercised disciplinary powers on them.

It could also be observed, from the above literature, that the Judiciary was now able to plan for itself, prepare its own budget and bargain directly with the Ministry of Finance. In addition, it could also be observed that despite the amendments of the law, the budget was still presented in Parliament through the Minister of Justice. It could be argued that in spite of the Judiciary having massive and elaborate administrative authority, it lacked fiscal autonomy. The Judiciary, as an institution, still depended on the Executive for most of its funding.

Indeed, Sakala (1999) points out that unsympathetic bureaucratic external control of finances allocated to the Judiciary can severely impair judicial independence. This can undermine the performance of the very functions which the independence of the Judiciary is intended to preserve, namely the right of the individual to a speedy trial by an independent Judge. There are situations that have been experienced in Zambia, where a court session has not taken off on account of lack of funds for a Judge or Magistrate to travel to hear cases. Judge Chalwe Mchenga, the High Court Judge, is quoted by Times of Zambia of 6th January, 2014 opining that “often, court delays are laid at the feet of the Judiciary when the real cause can be the lack of funding”.

As a remedy to the above challenge, the United Nations (UN) Principle on Independence of the Judiciary, states that: “it is the duty of each Member State to provide adequate resources to enable the Judiciary to properly perform its functions” (UN, 1985). In addition, it could be argued that, in an ideal situation, the Judiciary should be the institution to determine its own needs and set its priority for meeting those needs out of the resources at its disposal. In short, the Judiciary should have fiscal autonomy to complete judicial autonomy. Funding of the Judiciary is a factor of its independence because it can be emasculated by under-funding even by a Government from the

roof top. Thus, while funding is a threat to the independence of the Judiciary to discharge its functions, the real threat to the independence of the Judiciary lies in a funding procedure which places the Judiciary at the mercy of the Executive.

Kerubo (2014), in her study conducted in Kenya, entitled “Factors Influencing Implementation of Judiciary System Projects In Kenya: A Case of the Judiciary Transformation Framework” writes that prior to the 2010 Kenyan Constitution (Government of the Republic of Kenya, 2010), the Judiciary was recognised as a mere department and had its budget developed and implemented like any other department falling under the vote of the Office of The Attorney General. Funds, therefore, had to be competed for from Treasury just like any other governmental department and once the funds were allocated, they had to be apportioned on a priority basis, thus causing a delay on the potential advancement of the Judiciary.

Further, she writes that Judiciary's finances at the Court levels were handled by the District Treasury in their prescribed Jurisdictions, just like other government Ministries and Departments. The Courts were required to prepare monthly reports that informed Treasury funding profiles. In addition, the District Treasury received the legal deposits which were expected to be refunded to litigants, but retrieval of these funds proved difficult. This delay dented the image of the Judiciary. The study shows that the Kenyan Judiciary was historically under-funded by the Government. However, the Constitution now grants it's financial autonomy through the creation of the Judiciary Fund (Government of the Republic of Kenya, 2010, p.95). Upon the promulgation of the 2010 Kenyan Constitution, Article 160 (1) decrees that: “In the exercise of judicial authority, the Judiciary, as constituted by Article 161, shall be subject only to this Constitution and the law and shall not be subject to the control or direction of any person or authority.” In addition, Article 161. (1), (2) and (3) of the Kenyan Constitution states that: (1) The Judiciary consists of the Judges of the Superior Courts, Magistrates, other Judicial Officers and staff. (2) There is established the office of:

- (a) Chief Justice, who shall be the Head of the Judiciary;
- (b) Deputy Chief Justice, who shall be the Deputy Head of the Judiciary; and

- (c) Chief Registrar of the Judiciary, who shall be the Chief Administrator and accounting officer of the Judiciary; and
- (3) The Judicial Service Commission may establish other offices of registrar as may be necessary”.

The above Articles in the Kenyan Constitution provide a basis for the Judiciary to operate independently devoid of the previous practice that decried a crippled Judiciary. The Judiciary now prepares its own budget and presents it directly to Parliament for approval. It has been further empowered by the establishment of a Judiciary Fund that is an enactment of the Constitution. Whereas the Judiciary planned to mobilize additional resources from development partners, especially in the short run, the objective of the Fund was to wean the Judiciary off development aid. The Kenyan Government was focused in ensuring that the Judiciary was entirely funded by the taxpayer, outlined in Article 206(1) of the Kenyan Constitution (Wendoh, 2010).

However, at the time of the thesis, the Judiciary Fund was not fully operational (ICJ, 2017). The Fund Manager, which is the office of the Chief Registrar, was still in the process of building its own internal capacities to manage the Fund. In addition, it also had to develop and operationalise value-for-money standards, trails and indicators for forensic audit; training of procurement committees at the devolved units; and development of an annual procurement plan.

2.1.2 Administrative Capacity

Capacity is generally defined as the ability to perform functions, solve problems, set goals and achieve objectives (Ellis, 2010, p.1; Milio, 2007, pp. 429-442). Misener and Doherty (2009, pp.457-482) also opine that capacity is “the set of attributes embodied with efficient organisations that provide the mean to effectively accomplish their mission”.

The issue of administrative capacity has become prominent in developing countries (Oyango, Bwisa and Olwa, 2017; Giovannini and Tamburrini 2017; Friesenbichlar *et al.*, 2014; Giordano *et al.*, 2015; Gros *et al.*, 2014; Hechinger, Thijs and Bosse, 2012; Wegener at al 2007; May, 2003). A

growing body of literature suggests that administration capacity accounts, as an independent variable for policy and programme implementation variation.

Heichlinger, Thijs and Bosse (2012, p. 32) opine that administrative capacity creates the pre-condition for making innovation happen in the Public Sector through reform and strengthening of institution, as well as human capital. Ellis (2010, p.1) and Misener and Doherty (2009) discourse that administrative capacity refers to the ability to run the machinery of a political or economic system. Farazmand (2009, p.20) claims that it also refers to the ability to translate political and collective will into actions through management and implementation. North (1992) argues that administrative capacity is an aggregation of individual capacity of civil servants, since it is their capacities that ultimately determine service delivery.

A study conducted by Milio (2007, pp. 429-442), entitled “*Can administrative capacity explain differences in regional performances? Evidence from structural funds implementation in Southern Italy*” provides evidence to suggest that administrative capacity is positively correlated to implementation. This is also supported by the study by Giovannini and Tamburrini (2017, p. 32) entitled “*the role of administrative capacity for implementing reform: Towards a European Union framework to foster greater convergence*”, in which they point out that inadequate administrative capacity distort economic decisions leading to allocative inefficiencies. Administrative capacity matter for proactive growth. Divergences in the quality of administrative capacity or institution lead to differences in output and productivity. The study was quantitative in nature, using OECD and Eurostat data for 15 European Union Member States. It concludes that the capacity to implement policies correctly depends on the effectiveness of the administrative machinery. Further, it recommends that there was need to pay more attention to the administrative capacity of member States or Government.

Mishra (2011), in the study entitled “*Capacity constraints of civil leadership*” conducted in India, opine that the role and importance of public administration as a tool for ameliorating the living conditions of the people has been accepted since the hoary past. However, the challenge of revitalising the role of public administration in the developmental state is not only complex but multidimensional as there are myriad players, whose interest are pulled in different directions. In

the study, it is argued that administrative system is a by-product of its larger socio-political system and is heavily influenced by its ancient past and expectation in the future.

Martin (2014, p.2), writes that judicial administration is a subject of vital importance not only to those who are engaged in the task of administering justice, but also to the broader community. It is difficult to imagine a society which is not dependent upon the rule of law for its happiness and prosperity. Without the rule of law, there is either anarchy or despotism and of course, the rule of law depends upon the effective administration of justice by the courts created for that purpose. Although most of the literature on judicial administration available is focused on judicial competency and ethics, there is a growing recognition of the importance of the role of court personnel. Non-judicial court support personnel, who frequently make up the bulk of judiciary's employees, are very important to the effective functioning of the of the justice system.

Martin (2014), mentions that courts cannot carry out their functions effectively without non-judicial court support staff. The staff is responsible for administrative and technical tasks that contribute to the outcome of cases and the efficiency of the Judiciary. Perhaps and most importantly, the staff serve as the initial contact point and the dispenser of information to nearly all who come into contact with the judicial system. This initial contact forms citizens' impressions of the system and shapes the confidence that they place in the courts. This role places court employees in an ideal position to promote innovation and help improve services to the public, thereby raising the stature of the court in the public eye.

Of importance to this study, Martin (2014) and Baar (1999) note that among other functions, court personnel or staff manage court facilities, assist with case management, protect evidence, facilitate the appearance of prisoners and witnesses, and perform a variety of other functions that help avoid postponements and ensure a professional and timely adjudication process. In addition, they help Judges conduct thorough legal research and draft decisions, and they ensure that decisions are properly announced and published, thus supporting consistency in decision-making. Court personnel also process and maintain case files to preserve the record for appeal; and promote judicial independence through competent budget and finance controls, and by fostering strong public relations and transparency in court proceedings.

The available literature suggests that all these important functions must be regarded as the joint responsibility of the Judiciary and the Executive if they are to be effectively performed. The above discussion reinforces the views of Lord Justice Thomas (2012) as to the difficulty of assessing where judging begins and administering ends. Most literature concludes that while there are ends of the spectrum of court activities which can be classified as exclusively judicial or exclusively administrative, there is a large range of important functions between those ends of the spectrum.

Kerubo (2014, p.10), writes that the Kenyan Judiciary faces a number of challenges with respect to leadership and management. The key challenges include chronic under-capacity in leadership and management offices; lack of mentorship, ethnicity, excessive centralization, absence of consultation, privatization and personalization of leadership spaces, clientelism, poor attitudes and ethics, discrimination and ethnicity and a weak culture of professionalism in the management of the courts. Other challenges are weak professional cadres at the administrative level, weak financial and human resources policies and operations, absence of a performance management system, poor internal and external communication capacity, lack of professional support services to judicial staff, and a supplier rather than a user driven procurement policy, among others.

In addition, Kerubo (2014), notes that the primary responsibility for the successful and sustainable transformation of the Kenyan Judiciary rests with its leadership, management and staff at all levels and in all capacities. A clear and robust organizational design; a dynamic leadership and management team; and a competent and motivated staff are conditions necessary for a successfully transformed Judiciary. People are the most critical resource in any given organization, since they define the technical capacity and provide the path and channel their energy in achieving the organization's goals.

However, Kerubo citing Sitienei (2010) writes that the Kenyan Judiciary, like most Judiciaries in sub-Saharan Africa's experience with management of its peoples' resource has been wanting and is entrenched with a history of an imbalance in the ratio of judicial officers to administrative staff - skewed towards the latter. On the same subject matter, Alemika, *et al.*, (2009) writes that the majority of Kenyans felt that the Judiciary had been operating with incompetent personnel and as far as they were concerned, there should have been a complete overhaul of the existing staff and a

new recruitment exercise should have taken place. The above sentiments show that historically and to the larger extent the Judiciary in Kenya has had inadequate critical skills required, inadequate motivation, poor remuneration, acute inequalities in remuneration, chronic career stagnation and lack of a clear structure resulting in low productivity and poor delivery of justice.

Organisational capacity is synonymous with the available facilities for use to perform effectively. The indication showed that most judicial buildings were not fitted with basic telecommunication facilities, which currently are a necessity for a functioning office. The Judiciary has had very limited adoption and utilization of information and communication technologies. One of the key challenges is the failure to properly harness and deploy Information Communication and Technology (ICT), including developing the required ICT infrastructure and computerizing the key judicial applications (especially a suitable case management system) leading to poor delivery of services (Kerubo, 2014). The result has been inefficiency and ineffectiveness in the administration of justice.

2.1.3 Stakeholder Involvement

Pillay (2010) and Donaldson and Preston (1995), defined stakeholders as any persons or groups that claim interests in an organisation which implies that all stakeholders are of value and deserve equal treatment. Greenwood (2007) on the other hand argues that the issue of stakeholder identification has become the primary focus in the debate on the nature of the relationship between stakeholders and the organisation. An organisation needs to develop filters to separate important stakeholders from less critical ones otherwise the dialogue would have to include everyone and everything (Pedersen, 2006).

According to Freeman (1984, p.46); Kolk and Pinkse, (2006) and Amaeshi and Crane (2006, p. 247), Stakeholder theory pertaining to managing organisations is concerned with the nature of the relationship between the firm and its stakeholders. The theory is traced back to Freeman's (1984, p. 46) who proposed that stakeholders are "any group and individuals who can affect or is affected by the achievement of an organization's objectives". This definition was particularly important to

this study because it highlights a two-way relationship between the organisation and its stakeholders.

Post, Preston, and Sachs, (2002) and Greenwood (2007), opine that an organisation or institution must be aware of and respond to the various demands of its constituents, including employees, customers, investors and suppliers as well as the local community. Greenwood (2007) argues that instead of focusing on the attributes of organisations and stakeholders, organisations should rather be focusing on the “relationships between organisation and stakeholders”

Stakeholder theory postulates that organisations must engage with stakeholders for normative and instrumental reasons (Ayuso, Rodríguez, and Ricart, 2006; Donaldson and Preston, 1995). Pillay (2010, p.15) citing Ayuso, Rodríguez, and Ricart (2006) and Preble, (2005) outline a normative explanation of relationships between the organisation and stakeholders takes place on an ethical basis suggesting that managers must consider the interests of those stakeholders who have a legitimate stake in the organisation. In normative theory, there is a moral obligation for the organisation to engage with stakeholders. People have a democratic right to participate in the decision-making process (Pillay, 2010, pp.15-25). Instrumental theory, however, consider stakeholders as being valuable in helping the organisations achieve objectives since participation is seen as a means to an end. Accordingly, the organisation achieves its objectives by managing this relationship with stakeholders. Pillay (2010) states that via this approach, organisations address the interests of those that have influence recognizing that managing these interests will ultimately lead to superior performance and superior decisions.

Amaeshi and Crane (2006, p. 249) argue that stakeholder engagement emphasises the need for engagement to be “far reaching, inclusive and balanced.” The literature defines stakeholder engagement as the process of involving individuals and groups that are affected by the activities of the company in a positive way (Pillay, 2010, p.10; Greenwood, 2007; Sloan, 2009). Stakeholder engagement is a “process of seeking realistic stakeholder views on their relationship” the aim of which is to improve an organisation “social and ethical accountability and performance” (Cumming, 2001, p. 45).

Before going on to discuss the evolution of stakeholder involvement, it is desirable to provide a justification for stakeholder involvement in the development process. The discussion is made focusing on three schools of thought. These are the development agency, the political and the capabilities schools of thought on stakeholder involvement or participation for development. Participation was justified as a prerequisite to, and catalyst for, sustainable socioeconomic development and general societal well-being.

The development agency school of thought states that stakeholder involvement is all about building partnerships and ownership from the bottom up and primarily making policies more sensitive to the poor (World Bank, 2000, p. 36). The citizens, especially the poor, are generally the less educated and less organized than other more powerful stakeholders. The poor, although, are more difficult to reach, their opposition can compound the problem of getting development projects accomplished.

Tandon and Cordeiro (1998), on the development school of thought, opine that stakeholder involvement is exactly the process through which the most affected influence and share control of their development initiatives, decisions, and resources. In addition, involving the poor is also very important in ensuring stakeholder ownership, which is key to a project's success. Lisk (1985, pp.15-30) notes, this approach also enables a community to acquire non-material needs related to intangibles of well-being, such as social justice, basic human rights and related freedoms.

The political school of participation, in contrast, argues that stakeholder involvement and participation is a way to facilitate political change in favour of the dispossessed (Blackburn and Holland, 1998; Norton and Stephens, 1995; Robb, 1999). The political school of thought argues that participation holds promise outside the project framework (Thompson, 1995) and for informing national policymakers for planning and implementing large-scale government programmes. They stress the need for better partnerships between primary and secondary stakeholders as participation goes to scale. In this case, a direct community involvement in influencing the decision-making process is anticipated about the socio-economic development and general well-being of the community that makes development programmes better understood, accepted, supported, valued and sustained.

The capabilities school of thought categorizes participation as a process of strengthening the capabilities of people in order to control their own development. In this way, participation of beneficiaries provides a training ground for, and helps to build, a pool of enlightened participatory citizenry (Nelson and Wright, 1995; and World Bank, 2002). This school of thought suggests further that strengthening stakeholders' human, economic, social, and political capabilities is necessary in order to help people control their own development agenda. Social capabilities are defined to include social belonging, leadership, a sense of identity skills and relations of trust. Political capabilities referring to the capacity to represent one's self or others, access information, form associations, and participate in the political life of the community or country. Economic capabilities enable people to acquire and use assets in different ways to increase their well-being. Human capabilities include good health, education, and the production of other life-enhancing skills (World Bank, 2002).

The challenge, however, is how to understand these various schools of thought and find appropriate ways of utilising their processes to enhance communities through their participation in projects. Although they propose and integrate some important elements in participation for development, not much has been discussed on how to take advantage of the historical and socio-cultural perceptions and experiences of the communities. Communities, in the physical world, are typically groups of people held together by some common identity, interest or purpose.

As Chambers (1983, pp.30-42) points out, rural development projects have a high failure rate because the majority of programme officers are external experts and outsiders, who are neither poor nor rural, and thus do not have a true understanding of the issues at stake. Social community realities must, therefore, be recognized to foster unyielding support for development (Kwame, 2009, pp.14 -26).

Emerging from the ideas of Aristotle in the *Politics*, participation is discussed as an essential concept for the development and fulfillment of the human personality (Chambers, 1997). The work of the participation pioneer, Paulo Freire, a famous Brazilian educator in the early 1970s who wrote the *'Pedagogy of the Oppressed'* argues that development can only be achieved when humans are ,beings for themselves, when they possess their own decision-making powers, free of

oppressive and dehumanizing circumstances; it is the struggle to be more fully human. This was based on the conviction that every human being, no matter how ignorant or submerged in the culture of silence, is capable of looking critically at his world, and that provided with the proper tools, he or she can gradually perceive his personal and social reality and deal critically with it.

According to Chambers, participation is where the positivist, reductionist, mechanistic, standardized-package, top-down models and development blueprints are rejected, and in which multiple, local, and individual realities are recognized, accepted, enhanced and celebrated. Whereas Aristotle, Freire, and Chambers argued that participation is the end itself in supporting development projects, other scholars promoted the concept of participation as a means to an end. These are founded in a more institutional approach to participation, which appears with initiatives such as participatory budgeting and participatory poverty assessments (Hickey and Mohan, 2004; Leal and Opp, 2005).

Mosse, (2001, pp.16-35), writing on people's knowledge, participation and patronage, states that Despite people's participation being operationalized differently depending on the context and field in which it is studied and applied, it has become a popular concern among academics, civil society organizations, development partners, United Nations agencies and most government of developing countries. Participation can be viewed both as a means and an end in itself. Mosse, (2001) adds that in most cases, participation has been adopted as an efficient mechanism for delivering a development project and reducing cost, rather than a genuine understanding of a community's needs. In demonstrating the limitations of participation, Mosse argues that "participation no longer has the radical connotations it once had." It has become an act of faith that people believe in and rarely question. The implication therefore is that despite being romanticised by its proponents, participation does not always lead to the claimed benefits.

Three big shifts seem to have characterized the debate on participation between the 1970s, 1980s and 1990s (Laderchi 2001, p.62). Landerchi emphasised that while the 1970s envisioned public participation as an important component of rural development and basic needs strategies, in the 1980s, it became associated with discourses of grassroots self-reliance and self-help. The 1990s, on the other hand, advocated for a much larger scale beyond the boundaries of grassroots

interventions to other spheres of social, economic and political life. Participation become a tool for empowerment and good governance.

Effective stakeholder relationship management is achieved by engaging in dialogue and building relationships with many different groups in order to find better ways of doing business (Preble, 2005). Engagement is the act of managing the relationship between the organisation and different stakeholders in order to enhance the effectiveness of the decisions, strategies and behaviour. An organisation's success depends on creating real dialogue with its diverse stakeholders. (Freeman, 1984). As a result, O'Riordan and Fairbrass, (2008, p. 755) maintain that dialogue is at the core of stakeholder engagement given that the process allows managers to find ways of "evaluating, addressing and balancing stakeholder demands".

Effective participation or involvement of stakeholders may result in desirable outcome, that is, successful completion of infrastructural projects within the given timelines, of the right quality, transparent management, good relationship with partners and consequent achievement of set goals. Ineffective involvement and lack of participation by stakeholders may result in undesirable outcome, that is, incomplete infrastructural projects, misappropriation of public funds, failure to meet educational goals and untimely delivery of essential projects.

2.1.4 Locality of Subordinate Court.

Madu (2007), conducted a study titled "the underlying factors of rural development patterns in the Nsukka region of Southeastern of Nigeria", whose objective was to analyse the patterns and underlying factors of rural development in the Nsukka region of southeastern Nigeria. The case study identifies leading and lagging communities with a view to making appropriate recommendations for even development. To achieve this aim, 35 rural communities were randomly selected and their scores on selected infrastructural facilities were used to ascertain the pattern of rural development. Madu opines that the availability of rural infrastructure is a good proxy indicator of the level of rural development in Nigeria. The data for the research were obtained from both primary and secondary sources. Specifically, a census of rural infrastructure facilities was conducted in the 35 communities selected.

The computation of rural development level was based on the availability of infrastructure facilities in each community. This was done for the following reasons: First, the research emphasizes the spatial pattern of rural development. Second, the more available the facilities are in an area, the greater their accessibility. This is because the use of a facility is influenced by the distance between a household and the facility. Specifically, within a hierarchy of central places, access to services will vary according to distance from the service centre, since cost, time, and effort tend to increase with distance (Madu citing Halseth and Ryser, 2006). Third, although infrastructural facilities are not ends in themselves, they are means to achieving broader development goals. Therefore, the more available they are in an area, the more they contribute to the goal of development, which invariably leads to greater living standards (Madu citing Fishbein, 2001). The result of the analysis of the distribution of infrastructural facilities shows that disparity exists among the rural and urban communities. Madu's study shows that locality (rural or urban) does influence the quality and availability of basic physical infrastructure.

Urban bias has been presented as a major impediment to rural development because it perpetrates discriminatory policies which create and perpetuate disparities between urban and rural areas and consequently the development of urban areas at the expense of rural areas. Urban bias proponents, among them Lipton (1977), argue that many developing nations implement infrastructural development which disproportionately favour urban areas at the expense of rural areas. The Government enacts such policies because of pressure from elitist urban-based groups.

Lipton (1977), argues that urban bias focuses on the advantages that urban dwellers receive as a result of government policy which he suggests consciously directs investment to urban areas at the detriment of rural areas. This bias, according to the argument, encourages significant investment in urban public services and infrastructure, concentrating public employment and infrastructure in the cities and artificially increasing the value of manufactured goods to encourage diversity away from agricultural production. A direct result of this apparent bias has been the encouragement of out-migration for rural dwellers to attain some of the perceived benefits accorded to urban areas. Lipton argues that in terms of this perceived bias, the most important conflict in developing countries is between the urban classes and the rural classes. The urban classes, according to Lipton,

hold the power, in terms of skills of articulation and organisation, to distort the allocation of resources in their favour. In order to rectify this perceived bias, Lipton calls for a shift of resources and investment to the rural sector. Lipton's thesis is criticised for being a generalization at both the macro scale and micro scale. In other words, at the macro scale, it is argued that the generalisation of “urban bias” makes it impossible to apply equally in all developing countries (Gilbert and Gugler, 1987). Empirical evidence from World Bank Reports show that the urban bias thesis does not particularly apply to India (the country on which the thesis was based). Lipton point out that in India in the 1960s living conditions of the urban poor were bad as compared to their rural counterparts. For instance, between 1960/61 and 1967/68 private consumer expenditure of the bottom 20 % of rural Indians was steady while that of the bottom quintile of urban poor deteriorated. The living standards of the urban poor declined rather than those of the rural poor. Most African and Latin American countries have also displayed neglect of the urban poor.

In this regard, the urban bias theory is narrowly focused since it draws evidence from few Asian countries and poorly represents Africa, Latin America and the Middle East. Furthermore, Lipton fails to examine structural conditions, such as ideological orientation, that result in low urban bias in some countries while in others it is very high. It is held that in socialist countries such as China, there is low urban bias. This might mean that development ideology can affect the extent of bias, which Lipton does not explore (Paine, 1978).

2.1.5 Infrastructure and Judicial Services

Infrastructure development has become a much-debated topic since scholars from various countries have utilised the aspect of infrastructure development as a parameter and index to measure the ability of each country to compete globally (Manggat, Zain and Jamaluddin, 2018, pp 647-658; Olufemi, Olatunbosun, Olsode and Adeniran, 2013, pp.431-452; Opawole, Jagboo, Bababola and Babatunde, 2012; United Nations, 2011). This is mainly because, access to basic, adequate facilities is viewed as strongly related to the wellbeing of general population in any country.

The World Development Report (1994), mentions that most economists regard infrastructure to consist of investments in various types of physical assets and services. These investments can be

differentiated from standard capital stock based on industry features or ownership. Specifically, infrastructure investments are characterised by economies of scale and externalities; hence they are typically publicly owned. The World Development Report includes the following services in the category of economic infrastructure:

- (a) Public utilities: power, telecommunications, piped water supply, sanitation and sewerage, solid waste collection and disposal, and piped gas.
- (b) Public works: roads and major dam and canal works for irrigation and drainage.
- (c) Other transport sectors: urban and inter-urban railways, urban transport, ports and waterways, and airports.

In addition, the World Bank (1994), states that infrastructure is also sometimes used as an umbrella term capturing the “social overhead capital” of a community. A wide range of institutions play a decisive role in supporting economic and social infrastructure and in ensuring that economic growth is sustainable in the long term. In this study the matter of infrastructure development, is related to the provision and improvement of basic amenities in rural areas. The World Bank argues state that definition of infrastructure should include human capital investment, research and development capital and health services. It adds that economic infrastructure varies by size, purpose, usage and organisation of project aspects such as ownership, financing, monitoring and evaluation. Projects may be in the public sector, private sector or some form of public-private partnership. Some investments can yield higher returns in accordance with it’s capital goods characteristics, while others may provide immediate satisfaction like consumption goods.

The World Bank argue that infrastructure facilities in a country are capable of yielding services and commanding scope that can vary from the global to the local and can also cut across the rural-urban divide. Some facilities may be single purpose, such as Defense infrastructure while others are designed for multiple uses, like a rural road. The spill-over from users to non-users is a fundamental feature of infrastructure and indirect benefits may surpass limited direct benefits.

Most studies on infrastructure development focus on the growth of commercial sectors which is synonymous to economic development (Ndulu, 2006; Calderon and Serve, 2008; Calderon, 2009, Egbetokun, 2009; United Nation, 2011). The advancement in the aspect of basic infrastructure was

an accelerator for the growth of societies which in turn will give a positive impact for the quality of life for the community. The impact of infrastructure development was related to the quality of social services especially in the aspect of education, health and the quality of life of the people in general. The discussion above is in tandem with the study by Calderon (2009) and Egbetokun (2009) who conclude that the basic infrastructure is an integral part of the rural development strategies because the infrastructure development is integrated with all other aspects, including agriculture, education, health, nutrition, electricity and clean water, which subsequently be developed as well.

Manggat, *et al.*, (2018, pp 647-658), conducted a survey with the view of establishing a relationship between social wellbeing and provision of complete infrastructure facilities. This survey was conducted in Malaysia. In the study, it was claimed that there is a huge demographic gap between the population living in the urban and rural areas, with respect to educational, income, gender and ages, as well as language and race. The gaps are closely related to accessibility aspects and the level of quality of life of the community, most notably those who live in the rural areas. Several factors have been identified as causing the said gaps. The main factor explaining variable is infrastructure development. Urban areas are often synonymous with adequate infrastructure facilities unlike rural areas that are still hampered with limited, inadequate infrastructure facilities. Basic infrastructural facilities such as roads, clean water supply and communication are the main keys to the wellbeing of a community, notably those in the rural areas.

Infrastructure development has two stages, each with multiple sub-stages. The first stage, ending with the physical completion of the infrastructure, encompasses selection of the type and location of a project, other planning, design and feasibility/impact studies, and the actual construction. This stage is also referred to as infrastructure construction. Stage two, the infrastructure services stage includes not only the stream of benefits derived from the physical infrastructure over time, but also the management and oversight thereof, including maintenance, setting and collection of user fees.

Hilton (2004), points out that poverty reduction requires economic growth which, when accompanied by sound macroeconomic management and good governance, results in sustainable and socially inclusive development. The impacts of infrastructures on economic growth and

poverty reduction occur in a multiplier way. This includes first-round effects followed by subsequent impacts. The first-round impacts on poverty reduction are more direct, while the subsequent effects, realised through fiscal and private spending channels, are broader and more general.

In the first stage, there are two initial impacts of development of infrastructure that could lead to poverty reduction through economic growth. These are the supply-side and the demand-side effects. On the supply side, improved infrastructure services in terms of costs, availability and reliability could create, at least, two types of linkage effects: Through this channel new investment is generated by an enhanced business climate. Attraction of foreign direct investment and domestic investment could promote industrial growth and generate jobs and income at the newly invested firms and in related industries/ services-through increased procurement of local inputs and services. The other channel is economic activation effect. This is a channel through which new economic opportunities are opened and productivity of the existing economic activities is enhanced-even without additional investment.

On the demand side, it is possible to expect the effective demand effect of infrastructure construction. This is a channel through which jobs and income are generated by implementing the project itself. In the social dimension, better infrastructure services (particularly, the availability of transport and power supply) could increase access to basic social/public services and thus improve the living conditions of the poor. Improved access to infrastructure services can also free up significant amounts of time as rural family members, especially women and girls, spend a large part of their day collecting of water and firewood. Easy access to potable water and energy results in saving time that can be used for economically productive activities, as well as educational or leisure activities (Calvo *et al.*, 2002).

Infrastructure can play an important role in empowering people, linking isolated communities to the rest of the world-giving poor communities' greater access and influence over political and local decision-making processes. Markets work much better when information is widely available. Rural infrastructure services such as roads, radio, telephones and internet connections can directly improve communications and enhance poor people's access to information. Electrification can also

be important for broadening access to electronic communication and radio. As an indirect benefit, well delivered, quality infrastructure is likely to attract better teachers, better agriculture extension agents, and open the door to industrial or agro-industrial development. The influxes are like many windows opening again on the outside world. They bring with them outside influences, new ideas and stimuli, correcting information asymmetries and result in profound changes in mental attitudes (Pouliquen, 2000).

Onyango *et al.*, (2017, pp. 200-214) writing on the critical factors influencing the implementation of public infrastructure projects in Kenya, states that infrastructure projects play a big role in societies in terms of meeting the development needs of the economy and more so in transforming the quality of life of citizens. The government is the single largest implementer of public infrastructure projects thus there is need to ensure that these projects are fully implemented and the factors that have the greatest influence identified to ensure their influence is taken into consideration during the project life cycle. The specific objectives of Onyango *et al.*, (2017)'s study were to determine the influence of:

- (a) government policies on implementation of public infrastructure projects in Thika Sub-County, Kiambu Kenya;
- (b) funding process on implementation of public infrastructure projects in Thika Sub-County, Kiambu Kenya; and
- (c) participatory planning process on implementation of public infrastructure projects in Thika Sub-County, Kiambu Kenya

The research sought to ascertain the validity or otherwise of the following hypotheses:

- H₀₁: Government policies do not influence implementation of public infrastructure projects in Thika Sub-County, Kiambu Kenya.
- H₀₂: Funding process do not influence implementation of public infrastructure - in Thika Sub-County, Kiambu Kenya.
- H₀₃: Participatory planning processes do not influence implementation of public infrastructure projects in Thika Sub-County, Kiambu Kenya.

The target population of the study was 650 project consultants and the project direct beneficiaries. However only a sample size of 242 was drawn. The study used descriptive survey research design to obtain the data and both qualitative and quantitative research approaches were used. It is noted from the study that the data was collected using self-administered questionnaire and analysed using the descriptive and inferential statistics and the results presented using tables. The study used theories namely institutional, participatory development theory and System for its theoretical framework. Onyango *et al.*, (2017)'s regression equation had three variables, namely government policies, funding process and participatory process to implementation of public infrastructure projects showed that.

$$Y = \beta_0 + \beta_1 \text{ Government Policies} + \beta_2 \text{ Funding Process} + \beta_3 \text{ Participatory Planning} + \epsilon$$

Where:

β_0 is the regression constant, β_1 , β_2 and β_3 are regression coefficient; and

ϵ is the model error term which indicates its significance.

The regression equation was:

$$Y = 0.192X_1 + 0.642X_2 + 0.245X_3 \quad P < 0.001$$

Where:

X_1 = Government Policies;

X_2 = Funding Process; and

X_3 = Participatory Planning

Onyango *et al.*, (2017) shows that the two variables namely Government Policies and Public infrastructure implementation had a statistically significant relationship. On the other hand, funding process and public infrastructure projects implementation also had a statistically significant relationship. With regards to participatory planning process and public infrastructure projects implementations, there was a statistically significant relationship between the two variables. Given the above, the study made the following recommendations:

- (a) Public infrastructure project implementers must take into considerations all the government policies in place and comply with all policies to ensure that the project is sealed from the direct or indirect influence of these policies;
- (b) To ensure that public infrastructure projects are geared towards full implementation, the funding process should be taken into consideration with specific outlines on the main funding source, the minor and the emergency funds for the project; and
- (c) To overcome the risk associated with non-involvement of stakeholders during the implementation process, the public infrastructure project should have a mechanism in place that ensures that a participatory planning process is in place and involves all those that the project affects directly and indirectly.

2.2 Critical Review of Empirical Studies

The studies referred to in the literature review focused on the following themes namely Judicial independence and financial autonomy; administrative capacity of the Judiciary; stakeholder involvement in the administrative affairs of Judiciary and Judicial infrastructure.

The studies provide data and evidence for legalistic justification for Judicial Independence, historical factors explain the evolution of judicial independence. There is very little data on fiscal autonomy of the judiciary and the consequential implication thereof. This could be observed from the studies by Sakala (1999) Siyo (2012); Kerubo (2014); European Network of Councils for the Judiciary (2016) that the focus is on providing the legalistic justification for judicial independence, historical development of the concept of Judicial independence and a generalised factors accounting for the state of the Judiciary, with respect to its challenges. The researchers with exception of Sakala (1999) do not focus on the Zambian Judiciary. This thesis builds on the judicial historical developments outlined by Sakala's study to solidify its argument. The study tries to fill this gap in knowledge. It provides baseline data on the level of funding to the Judiciary and the gaps that have emerged due to its limited fiscal autonomy status.

With respect to the administrative capacity of the Judiciary, there are very few studies which focus on this subject matter. Martin (2014); Kerubo (2014) and Milio (2007) provide a general

explanation on the importance of enhancing the administrative and institutional capacity of the Judiciary but the studies do not link to infrastructure development but focus more on operational efficiency. The studies point to the need for Judicial leadership that is dynamic, but the studies do not provide the status of administrative capacity. The studies do not comprehensively focus on the capacity of non-judicature and the nature of skills needed in a functioning Judiciary. This study also fills the knowledge gap by providing data on the available competences in the Judiciary with respect to planning and budgeting.

Stakeholder involvement and judicial infrastructure are aspect of judicial governance which are rarely studied, especially in developing countries. Hence the thesis focuses on aspect of defining the concept and the adopted norms of applying these themes. The literature defines stakeholder engagement as the process of involving individuals and groups that are affected by the activities of an institution in a positive way (Pillay, 2010; Greenwood, 2007; Sloan, 2009). This study shows that the literature is limited on the role of stakeholder's involvement in the modernisation agenda of the Judiciary. Most Studies conducted on the topic of access to justice and separation of powers do not dwell on the impact of and lack of infrastructure on judicial and justice sector. Most of the literature dwells more on legal aspects of access to Justice. It is noted from the foregoing studies that the literature on accessibility to justice is generally devoted to the characteristics of the system rather than to the characteristics of the population, which is likely due to the overemphasis on the geographical constraints of communities. Most of the literature has focused on aspects aimed at strengthening of the judicial system, promoting capacity building and empowerment at the judicial and community level, tackling underlying structural and social obstacles, such as stigma, lack of access to education and social exclusion. There are limited studies on Judicial governance. Most of these studies are unpublished. This study provides the baseline information and provides a justification for enhanced judicial accountability and operational transparency.

As for infrastructure development the major focus of most studies is on providing an understanding on the relationship between infrastructure development and economic development (Manggat, Zain and Jamaluddin, 2018; Olufemi, Olatunbosun, Olsode and Adeniran ,2013; Opawole, Jagboo, Bababola and Babatunde, 2012; United Nations, 2011; Calderon, 2009; Egbetokun, 2009; Calderon and Serve, 2008; Hilton, 2004; Sullivan and Sheffrin, 2003; Calvo *et al.*, 2001; Leipziger,

2003 and World Development Report, 1994). In addition, most studies provide analysis of the importance of infrastructure for service and commercial related sectors. The focus on commercial sectors is justifiable because access to basic facilities is viewed as strongly related to the wellbeing of general population in any country. Infrastructure development is also the key aspect that is used to measure leader's performance in a country. There are limited studies on Judicial infrastructure and how the development of judicial infrastructure relates to legal provisions in the country's constitution.

2.3 Knowledge Gap

The study is of the view that though Sakala (1999) writing on autonomy and independence of Judiciary in Zambia, could be considered by many, as one of the most comprehensive and informative literature on Judicial administration in Zambia. It, however, does not adequately champion the question of how to mitigate the challenge of placing the Judiciary at the mercy of the Executive regarding Judicial funding and infrastructure development. The study is biased towards individual independence of Judges and less on institutional independence and its impact on infrastructure development of the judiciary. Sakala also examines the concept or variable "Judicial Independence" in isolation from other variables that affect the quality of judicial infrastructure.

Martin (2014) and Kerubo (2014) and European Network of Councils for Judiciary, (2016) focus on one of the factors, namely judicial autonomy but the literature is conducted in European and Kenya respectively. For the European Network of Councils for Judiciary, (2016), the findings are solely based on the political and socio-economic context of developed countries. Kerubo (2014) focuses on Kenya, more especially on post 2010 Kenyan Constitution Amendment era. Martin (2014) 's study focuses on Judicial administration and the study is purely qualitative based on United Kingdom as case study. Given, foregoing, it's difficult to generalise the findings because a case study methodology was adopted. Due to the narrow focus on European Countries, it gives the study limited representation with respect to the study sample, hence it is impossible to generalise the funding (Creswell, 2014). Secondly, the studies are not comprehensive. Statistically representative surveys or similar exercises were not fully conducted. Therefore, the reported

concerns and challenges to judicial autonomy, administrative and stakeholder involvement are not based on thorough and exhaustive research.

This thesis generates non-legalistic literature, since legalistic literature, in itself, is not sufficient and comprehensive. non-legalistic literature does not consider existing asymmetries of literature with respect to information gaps on power and power structures within the Judiciary. Access to Justice through Courts is a much broader concept, which involves more than just Court access but also building judicial infrastructure closer to the people. The availability of quality infrastructure is a proxy indicator of the level of development. However, this study is alive to the fact that the level of development across space depends on dynamic processes involving complex physical, economic, and social variables in each society and on the strength of each variable. This complexity makes it necessary to analyse the various factors contributing to development levels. Such analysis can explain the factors underlying the variations, providing a basis for policy intervention. The current body of literature on judicial infrastructure in Zambia lacks such an analysis. This study was intended to help fill the gaps outlined above.

2.4 Summary

This chapter presented literature review that is relevant to the study. The review shows that many countries, in particularly developing countries, are still struggling to achieve judicial financial autonomy as well as a functional and technically sound judicial administrative structure. Stakeholder involvement is important in the modernisation agenda. The literature has also shown that the rural-urban dichotomy discussion, with respect to access to justice and judicial infrastructure development, was not conclusive.

CHAPTER THREE

THEORETICAL AND CONCEPTUAL FRAMEWORK

3.0 Introduction

This chapter provides the theoretical basis of the study by comprehensively evaluating what other scholars had done on the topic under study. Further, it outlines the theoretical and conceptual framework for the study. The theoretical framework presented in this section is the Systems theory. Its overall aim is to make the study findings more meaningful, acceptable to the theoretical constructs in the research field and ensure generalizability. In addition, the chapter outlines a conceptual model that attempts to address the research problem and research questions and provide the requisite answers.

3.1 Theoretical Framework

The study considered the following theories namely Rostow' Modernisation, Trust and Confidence and the General System. The theories were considered given their inherent theoretical strength in explaining the growth and development of institutions, peoples' confidence and trust in institutions and the systematic approach to explaining how institutions operate and evolve.

3.1.1 Rostow's Modernisation Theory

Todaro and Smith (2003) and Rostow (1960) opine that Modernisation Theory states that development in developing worlds can be attained through following the processes of development that are used by currently developed nations. Rostow (1960) postulated a five-stage model of development that will be able to apply to all the countries.

According to Rostow, the "Traditional Society" is the first stage in the model, which is associated with the country that has not yet developed but the majority of the people are engaged in subsistence agriculture and more investments are channeled in services or activities such as military and religion. The "Pre-condition for takeoff" is the second stage. In this stage, a society undergoes a process of change for building up of conditions for growth and takes off. The "take

off”, the third stage, is characterised by dynamic economic growth which is due to sharp stimulus in the economic and political life of a country. The “drive to maturity”, is the fourth stage, which is concerned with the extension of modern technology over other sectors of the economy or society. Drive to maturity stage refers to the period when a country has affectively applied the range of modern technology to the bulk of its resources (Rostow, 1953). The “age of high mass consumption” is the fifth and final stage, in this stage, the leading sectors in the society shift towards durable consumers goods and services.

This theory is important in the sense that it is concerned with the idea that a country is able to develop economically by focusing on the resources that are in short supply in order to expand beyond local industries to reach global market and finance the country’s further development to bring about economic growth.

3.1.2 Trust and Confidence Theories

There are at least three schools of thought on how to explain the erosion of citizen confidence in public institutions: those that focus on the social psychological features of individuals; those that look to the cultural environment of individuals, groups, and communities; and those that concentrate on governmental performance.

(a) Social-Psychological Explanations

One school of thought treats trust and institutional confidence as basic aspects of personality types. Erickson (1950) and Gordon (1961) are of the view that feelings of inner goodness, trust in others and oneself, and optimism form a “basic trust” personality trait that is formed in the first stages of psychological development because of the mother-baby feeding experience. Basic personality traits, it is argued, influence many aspects of behaviour. Ramond (1965) argues that people’s psychological history influences their incline to be more distrustful, cautious of others, and pessimistic about social and political affairs in general. In this regard, trust is an affective orientation that forms part of our basic personality and is largely independent of our experience of the external political world. The presence of trust would mean that members would feel that their own interests would be attended to even if the authorities were exposed to little supervision or

scrutiny (Seligman, 1997). Trust and confidence studies tend to concentrate heavily on the individual characteristics of trusters and cynics, and rarely on the social and political circumstances that are associated with levels or trends in trust. If the social-psychology view is right about trust as a character trait, then one would expect a close association at the individual level between social trust and confidence in public institutions.

(b) The Social and Cultural Model

Posing as an alternative to the Social-Psychological Model, some social theorists hold that the ability to trust others and sustain cooperative relations is the product of social experiences and socialization, especially those found in the sorts of voluntary associations of modern society that bring different social types together to achieve a common goal (Rose, Mishler and Haerpfer, 1997). The theory goes back to Alexis de Tocqueville and John Stuart Mill, both of whom emphasized the importance of voluntary associations and social engagement as training grounds for democracy (ibid, pp.85-111). This model essentially argues that individual life situations and experiences—especially higher education, participation in a community with a cooperative culture, and involvement in voluntary activities create social trust and cooperation. This in turn helps create strong, effective, and successful social organizations and institutions, including political groups and governmental institutions in which people can invest their confidence (Easton, 1965, p.50).

(c) The Institutional Performance Model

The Institutional Performance Model focuses on the actual performance of government as the key to understanding citizens' confidence in government. Trust and confidence are regarded as neither personality traits nor as the direct products of social conditions that are associated with a democratic culture or well-developed social capital (Easton, 1965). Instead, because all citizens are exposed to government actions, confidence in political institutions is likely to be randomly distributed among various personality types and social types. Government institutions that perform well are likely to elicit the confidence of citizens while those that perform badly or ineffectively generate feelings of distrust and low confidence. The model posits a relationship between confidence in political institutions and social trust. This is because confidence in political institutions is the product of governmental performance in much the same way that estimations of

the trustworthiness of others, and willingness to trust them, are based on the experience of how others behave.

3.1.3 General System Theory

This study also considers the General System Theory of Ludwig von Bertalanffy (1950, p.42). Von Bertalanffy, who is the “founder” of General Systems Theory as a discipline, relates this approach to his biological standpoint which is also known as that of organismic biology.

General Systems Theory, as the name implies, is the study of the general features of systems. It is one way of studying how things interrelate. It looks at order and disorder, patterns, complexity, and change over time. Speaking generally, a system can be just about anything we can identify, analyse and discuss. A system is “any definable set of components” (Ingram (2007, p.2; and Maturana and Varela 1980, p.138).

A system consists many parts which make up the whole. Taken separately these individual parts are not as effective as when they are assembled into a working system. Such is the observation found among early writers using a system approach. The adage “a system is greater than the sum of its parts” grew out of this observation. The Judiciary is made up of parts (i.e. the Courts), which interact with each other continuously. Each Court structure also has subsystems which interact within the larger system. It should also be mentioned that all the subsystems and elements can also be viewed independently as systems themselves.

General Systems Theory (hereafter “systems theory”) provides a unifying scheme useful in examining general features of how things interrelate. Systems theory has been applied to topics ranging from cosmology to ecology to economics. The reason for this broad applicability is that it can quantify the fundamental physical features of our universe that we describe using terms such as entropy, probability, and topology.

The System’s theory is based on the notion that real systems are open to, and interact with, their environments, and that they can require qualitatively new properties through emergence, resulting

in continual evolution. Rather than reducing an entity to the properties of its parts or elements, the Systems Theory focuses on the arrangement of and relations between the parts which connect them into a whole (ibid, p.30)

Von Bertalanffy (1969); Checkland (1981); Flood and Jackson (1991) and Ng, Maull and Yip, (2009), contend that a system is a complex and highly interlinked network of parts exhibiting synergistic properties the whole is greater than the sum of its parts. It is a collection of integrated parts acting together to achieve some goal which exists in the environment. An organisation determines its system, which is independent of the concrete substance of the element (e.g. particles, cells, transistors, people etc.). Thus, the same concepts and principles of organisations underlie the different disciplines in physics, biology, economics, sociology, etc. providing a basis for their unification. Systems concepts include environment, input, output, process, state, hierarchy, goal-directedness and information.

At the core of the System theory, since inception, has been the distinction between open, closed and isolated systems. In an open system there is exchange of energy, matter, people and information with the external environment, whereas in a closed system there is no exchange of information and matter, just exchange of energy. In addition, in isolated systems there is no exchange of elements.

Systems thinking has come to be associated with the highly rationalized technological and institutional systems of the late twentieth century, and the concept of system has become synonymous with control and totalization.

(a) Justification for adopting the General Systems Theory

This study adopted the General Systems Theory. The Systems theory is relevant in that the theory is about systematically discovering a system's dynamics, constraints, conditions and elucidating principles (purpose, measure, methods, tools, etc.) that can be discerned and applied to systems at every level of nesting, and in every field for achieving optimized equi-finality. It stresses the fact that all organizations are made up of subsystems, which must work together harmoniously in order

that goals of the overall system can be achieved. It recognizes the fact that conflicts can arise within a system, and that such conflicts can lead to sub-optimization and that, ultimately, can even mean that an organization does not achieve its goals.

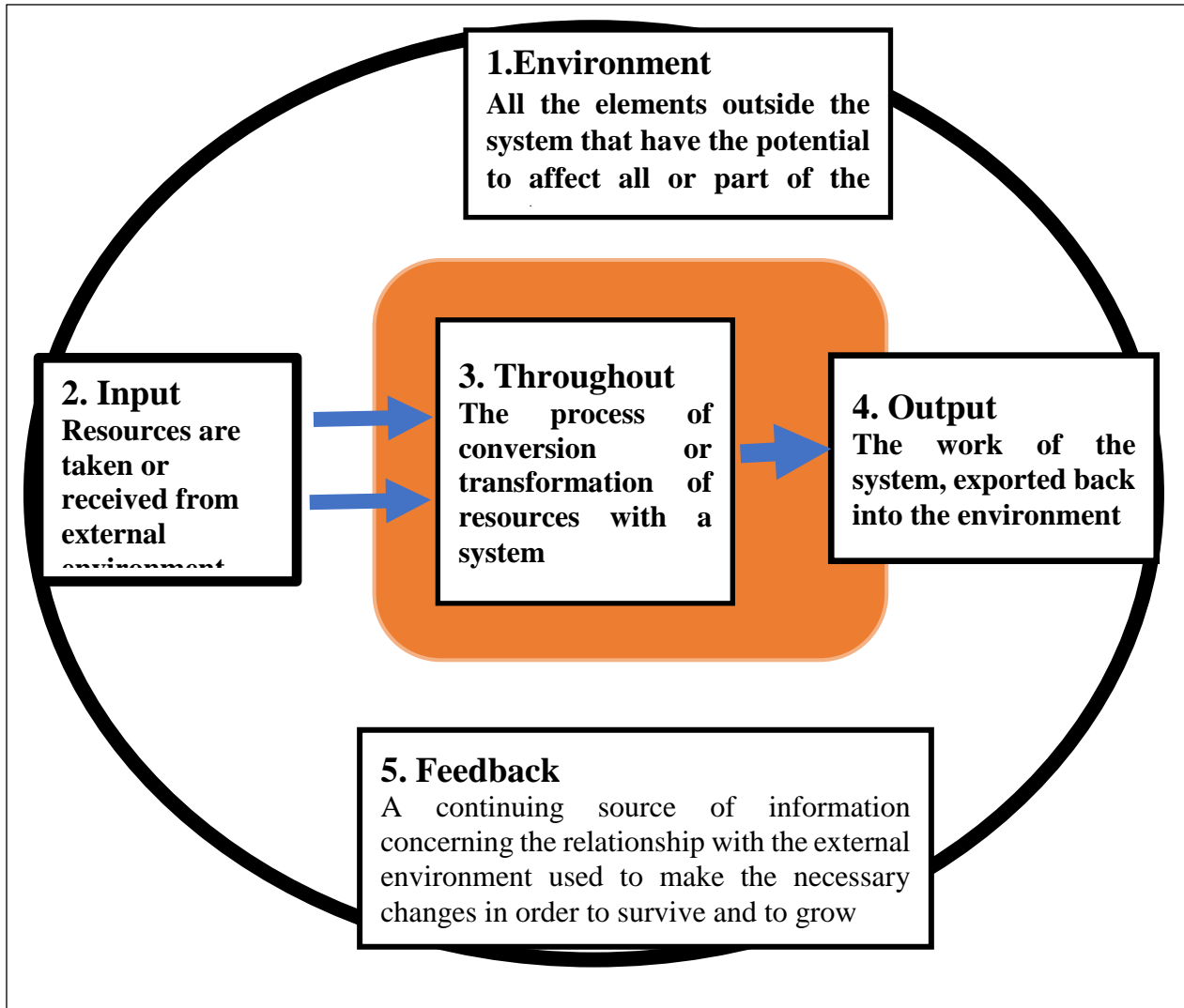


Figure 1: The Essential Elements of the Systems Theory

Source: Kramer (1977, p.5)

In relation to this study and with respect to corporate governance, a system refers to a set of different independent parts working together in an interacted manner to accomplish a whole. For instance, the Judiciary is formed by different courts, departments, sections and units composed of

Judges, Magistrates, Court Justices and Judicial Staff which are independent but working together to achieve a common goal with the aim of turning the organisation vision's into reality.

3.2 Critical Review of Systems Theory

Kramer (1977, p.25), claims that the Systems theory is not a theory in the traditional sense of the word, as in "the theory of relativity". Rather, it is a school of thought united by common concerns and tools of analysis, as are philosophy, sociology or psychology, for example. For that reason, it is sometimes called "systems thinking" or "the systems approach". The diverse writings on Systems Theory are united by the technique of using concepts from thermodynamics, mathematics, and other "hard sciences" to provide rigour in other areas of investigation.

Ingram (2007, p. 20) also argues that System theory has its weakness, in that it does not offer specific tools and technique for practicing managers. It is criticized as being too abstract and vague, so it cannot be applied into practical problems. It is also argued that the theory does not adequately address power and social inequalities and their causes.

The Systems theory is appropriate for this study as the theoretical framework, because the transformation and modernisation agenda of Subordinate Court's infrastructure is not just dependent on the Judiciary and the departments within it but also on how well the different branches of Government and stakeholders at all levels cooperate in carrying out their responsibilities. Failure on any of the segments of government and stakeholders adversely affects the efficiency and effectiveness of the Subordinate Court and eventually the entire judicial system.

3.3 Conceptual Framework

Below is the conceptual framework of the study. The structure presented below best explains the natural progression of the phenomenon under consideration (Camp, 2001). It links the various concepts, empirical research and systems theory in order to promote and systemise the knowledge espoused by the researcher (Peshkin, 1993). Further, it presents in a simpler manner an integrated way of looking at the problem under study (Liehr and Smith, 1999). A statistical perspective

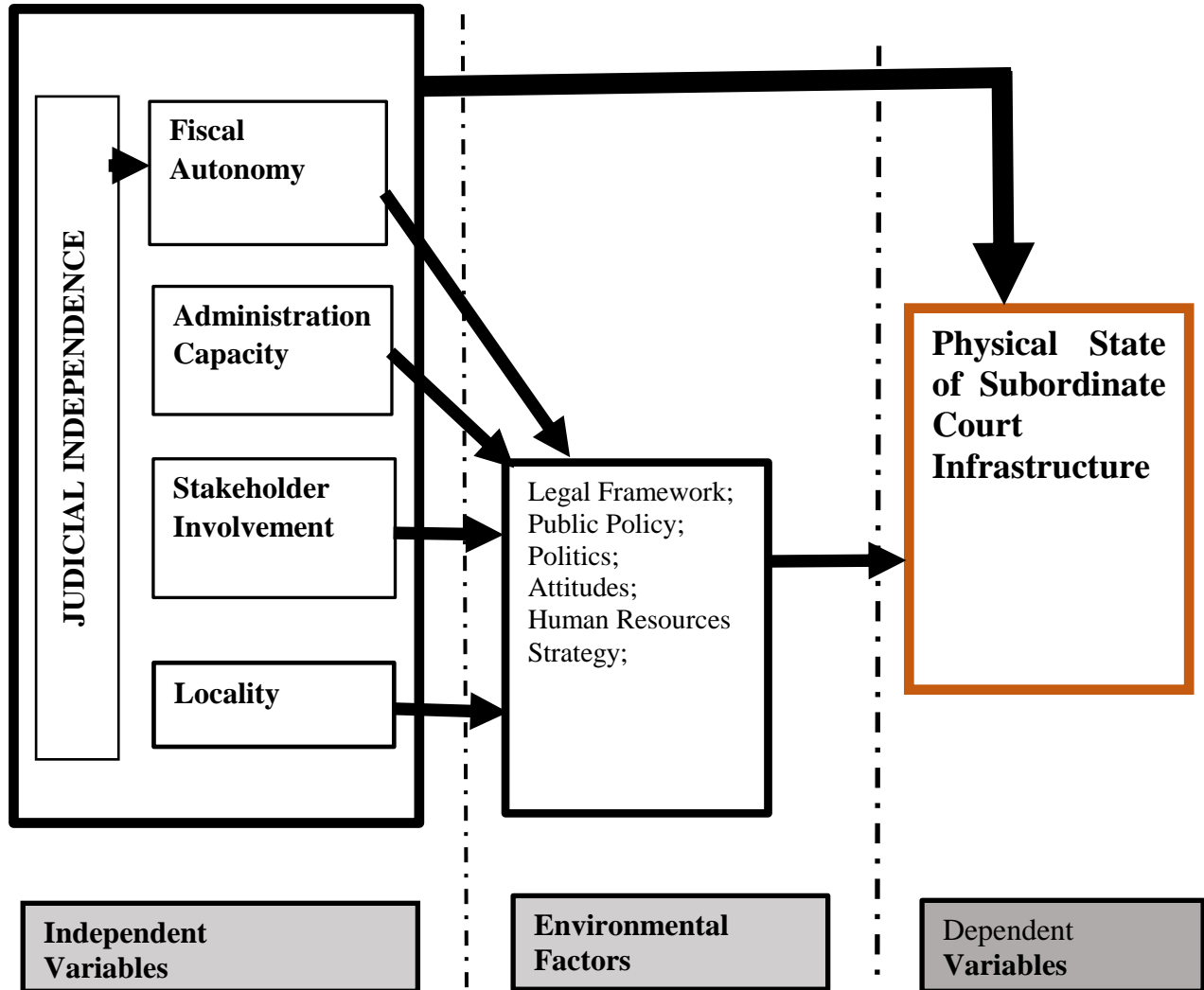
describes the relationship between the main concepts of a study. A conceptual framework is a logical structure designed to provide a picture or visual display of how ideas in a study relate to one another (Miles and Huberman, 1994, p.18).

The conceptual framework presented here is therefore informed by the literature review and it is also informed by a variety resources, both formal and informal. It aims to touch upon every aspect related to mediated environments and to be as comprehensive as possible. The conceptual framework comprises eight categories, which are:

- (a) Fiscal autonomy (rules, legal structure and division of power);
- (b) Administrative capacity (subject and division of labour);
- (c) Stakeholder involvement (rules);
- (d) Location (presence);
- (e) Physical state of subordinate court infrastructure (objects);
- (f) Legal Framework (rules);
- (g) Politics
- (h) Public Policy (Rules);
- (i) Attitudes (subject); and
- (j) Human Resource Strategy (Rules).

Within the conceptual framework, each of these eight categories is further broken down into separate elements, each affecting the experience of mediated environments. These sub-categories are formed by drawing on, and combining where necessary, existing typologies in the literature. The collection of categories and sub-categories are shown in Figure 2. Each of these aspects is explored in more detail within the remainder of this chapter.

Figure 2: Conceptual Framework Based on General System Theory



Source: Author (2019)

Figure 2 above, shows arrows in the conceptual framework in order to make it easier to follow the logic. The above information is provided in Table 1 below, which also gives the measurement scale used.

3.4 Operationalization of Concepts

Table 1: Operationalisation of Concepts

Variable	Indicator	Measurement	Scale of Measurement
State of Subordinate Court infrastructure	<ul style="list-style-type: none"> • size of Court room • Dilapidated Court rooms • No sanitation • No ICT • No accessibility structure for the disabled 	Dimension of success	Nominal and Ordinal
Administrative Capacity	<ul style="list-style-type: none"> • Ability to prepare infrastructure plans and budgets; • Ability to coordinate infrastructure programmes • Ability to manage funds • ICT provisions 	Dimension of success	Nominal and Ordinal
Stakeholder involvement	<ul style="list-style-type: none"> • Existence of dialogue platforms; • Constructive dialogue • Existence of strategy 	Dimension of success	Nominal and Ordinal
Location	<ul style="list-style-type: none"> • Rural • Urban • Distance 	Dimension of success	Nominal and Ordinal

Source: Author's Computations from Research Data Collected (2017)

3.5 Research Hypothesis

Given the gaps in knowledge identified from literature review and the theoretical and conceptual framework outlined in section 3.3 and 3.4 respectively, the study aimed at testing the following hypotheses:

Hypothesis 1:

H₀: There is no relationship between judicial fiscal autonomy and the state of physical infrastructure of Subordinate Courts.

H_a: There is a relationship between judicial fiscal autonomy and the state of physical infrastructure of Subordinate Courts.

Hypothesis 2:

H₀: There is no relationship between administrative capacity of Subordinate Courts and the state of physical infrastructure of Subordinate Courts.

H_a: There a relationship between administrative capacity of Subordinate Courts and the state of physical infrastructure of Subordinate Courts.

Hypothesis 3:

H₀: There is no relationship between stakeholder involvement in Subordinate Courts affairs and the state of physical infrastructure of Subordinate Courts.

H_a: There is a relationship between stakeholder involvement in Subordinate Courts affairs and the state of physical infrastructure of Subordinate Courts.

Hypothesis 4:

H₀: There is no relationship between subordinate Court locality and the state of its physical infrastructure.

H_a: There is a relationship between subordinate Court locality and the state of its physical infrastructure.

3.6 Summary

This chapter discussed the importance of theoretical and conceptual frameworks in a research. It also presents study hypotheses. It outlined enough justifications on why their inclusion in a research is indispensable because they heightened the quality of a research. The theoretical framework for the study is the Systems theory. It has been shown that it attempts to widen the lens through which we examine and understand organizational behavior. Based on the gaps in knowledge identified from the literature review and the theoretical framework, the chapter also outlines the study hypotheses.

CHAPTER FOUR

RESEARCH DESIGN AND METHODOLOGY

4.0 Introduction

This chapter presents the methods and instruments that were used to conduct the study. It presents research design, study population, sampling techniques, sources of data, data collection methods and instruments, presentation and interpretation of findings and the limitations faced during the study.

4.1 Research Paradigm

Research philosophy represents a set of beliefs which points to strict guidelines and principles on how research should be conducted (Mwiya, 2015; Burns and Burns, 2008; Saunders *et al.*, 2009). Consequently, it is an overarching term that refers to how new knowledge is developed in a field and what the nature of that knowledge is. According to Creswell (2014); Saunders *et al.*, (2009); Guba and Lincoln (1994); Kuhn, (1970), philosophy has four constituent elements: epistemology, axiology, ontology and assumptions about the nature of human behavior.

In brief, epistemology focuses on whether knowledge can, is or should be generated objectively or subjectively. Axiology considers judgements of value that guide choice among various alternative steps in the process of social enquiry. Ontology considers the nature of knowledge and phenomena as to whether they exist objectively or subjectively. Assumptions about the nature of human behaviour focus on how the ontological difference between social phenomena and objects of investigation in natural sciences should be taken into account when conducting research (Mwiya, 2015; Creswell, 2014; Crotty, 1998; Denzin *et al.*, 2008; Guba, 1990; Guba and Lincoln, 1994; Kuhn, 1970; Lincoln and Guba, 2000; Mertens, 2009; and Neuman, 2009).

Saunders *et al.*, (2009), opine that despite several differences in terminology, there are four research philosophies namely positivism, interpretivism, realism and pragmatism. Below, the study discusses the origins, advantages and disadvantages of each of the research philosophies.

(a) Positivism

This has its origin from “positive philosophy” coined by August Comte in the 19th century (Compte, 1975; Remenyi *et al.*, 1998). Positivism seeks to explain what happens in the social world by searching for causal relationships between its constituent parts. It also entails employing and extending existing theory to develop hypotheses. The hypotheses developed become the basis for fact gathering that provides the basis for subsequent testing. The result is confirmation, in whole or in part, or rejection of the hypotheses. Positivism also embraces highly structured, systematic and objective methods (nomothetic methods) in order to facilitate research replication and generalisability of findings. The emphasis is quantifiable observations that lend themselves to statistical analyses (Popper *et al.*, 1972; Gill and Johnson, 2002; McAuley *et al.*, 2007; Baker, 2003; Remenyi, 1998). Gill and Johnson, (2002), argue that positivism lacks recognition, which is the focus is on human action. It should be noted that human action has an internal logic of its own. This internal logic should be explored in order to understand why an individual behaves in a particular manner, but positivism does not adequately explain this aspect.

(b) Interpretivism

Interpretivism on the other hand adequately captures the internal logic aspect of human action. It allows researchers to grasp the subjective meaning of social action (Saunders *et al.*, 2009; Bryman and Bell, 2011; Weber, 1947). Interpretivism is about understanding individuals’ interpretation, meaning and understanding of the environment around them and how the environment forms the basis for their actions. The disadvantage of interpretivism is that it is difficult to generalise the findings to the larger population, in spite of the richness of the study findings (Blumer, 1986 and Rose, 1962).

(c) Realism

Mwiya (2015); Bhaskar (2008); Bryman and Bell (2011); Johnston and Smith (2010); and Saunders *et al.*, (2009), hold that realism is reality whose existence is independent of people’s knowledge and description of it. They all argue that social scientists should direct their attention to examine and understand this reality. Realism is similar to positivism in two aspects, which are

that both paradigms suggest that: social sciences can and should apply the same kinds of approach and methods for collection, analyses, understanding and explanation of data; and there is an external and objective reality to which scientists should direct their attention.

Saunders *et al.*, (2009), also add that there are two major forms of realism that are often contrasted, namely empirical realism and critical realism. Empirical realism asserts that through use of appropriate methods, reality can be understood while critical realism recognises the reality of the natural order or the pattern of events and discourses of the social world. In this regard, scientists have a duty to systematically identify the entities responsible for an event and to describe the generative mechanism.

(d) Pragmatism

According to Cherryholmes (1992), Patton, (1990), Creswell (2014) and Saunders *et al.*, (2009) Pragmatism is mainly concerned with what is applicable to find a solution for a research problem. It calls on researchers to focus on the research problem and then use all relevant and necessary research paradigms, approaches and methods to comprehensively understand the research problem. It is this philosophy which underpins the use of mixed research strategies and methods (Saunders *et al.*, 2009).

(e) Justification for adopting the Emancipatory Paradigm

This thesis is based on the transformative or emancipatory paradigm. The transformative paradigm adopts the stance that social reality is historically bound and is constantly changing, depending on social, political, cultural and power based factors (Neuman, 1998 and Mertens, 2009). This study is of the view that reality is out there to be discovered and that theories and a historical orientation help to unmask the deep structures that are unobservable. The interdisciplinary ontology of this research required unique epistemological choices, and a combination of methods and techniques from the legal and the social sciences. Hence, both the quantitative and the qualitative approaches were used, according to the needs of each phase and stage (data collection, analysis, or inference). In all respects, this thesis implemented a concurrent mixed methods research design (Creswell *et al.*, 2003).

4.2 Research Design

A research design is a blueprint or detailed plan of how a research study is to be conducted (De Lin, 1976, pp.10-15). According to McMillan and Schumacher (2001, p.9), a research design shows which individuals will be studied, as well as when, where and in which context. Saunders *et al.*, (2009) and Goddard and Melville (2004) add that a research design is the process by which social science theories are generated, evaluated and justified. There are generally two approaches to research, namely induction and deduction. Below is a detailed discussion on inductive and deduction approaches.

(a) Inductive Approach

Goddard and Melville (2004), opine that Inductive Approach starts with the observations and theories are proposed towards the end of the research process as a result of observations. It involves the search for pattern from observation and the development of explanations for those patterns through series of hypotheses. Mwiya (2015), adds that if research follows a sequence that starts with specific observations, followed by description and analysis of data collected to determine if there are patterns emerging as a basis for explaining what is observed, then the approach is inductive. Given the foregoing, induction starts from the specific and proceeds to the general. It assumes that what is valid for the observed cases may also be valid for the whole population. Mwiya (2015), argues that the weakness of Induction Approach is that it is difficult to say for sure to what extent the findings can be generalised because of limitations in sample size.

(b) Deductive Approach

Deductive Approach starts with using existing theory, developing hypotheses, collecting and analysing data in order to test, refute or confirm the hypotheses (Burns and Burns, 2008; Saunders *et al.*, 2009). Deductive inference means using formal logic to deduce conclusions from given premises (Popper, 1959). The advantage of this approach is that it tells researchers whether their conclusions are valid or not. Its major weakness is that it may not be able to provide the in-depth rationale for human behavior.

Creswell, (2014); Saunders *et al.*, (2009) and Blundel, (2007) argue that Induction Approach and Deduction Approach are not mutually exclusive but complement each other. It is possible that a deductive study may unearth some unexpected and hard to explain result which could then be explored by using an Inductive Approach.

(c) Justification for the Research Approach

In this study, Inductive Approach is used because the topics is new and there is limited literature on the Judiciary with respect to factors affecting the quality of judicial infrastructure. Thus, it was more appropriate to use the Inductive Approach to collect and analyse data. It also offered a good way of reflecting on the theoretical themes the data (Creswell, 2014 and Mwiya, 2015).

However, in order to comprehensively complete the cycle, the deductive quantitative approach was used to test the relationship between judicial physical infrastructure quality with each of the variables: fiscal autonomy, administrative capacity, participation of stakeholders and locality of Subordinate Court and also to test the Ordinal Logistic Regression Equation established in the study. Currently, the Judiciary in Zambia is under-researched, hence it was vital to have an in-depth understanding of the research issues.

4.3 Research Strategies

Saunders *et al.*, (2009) and Creswell, (2014), opine that a research strategy is a detailed overall plan for conducting a study. It guides a researcher in planning, executing, and monitoring the study. This strategy also informs the research of the methods and techniques to be employed in data collection and analyses. Below is a detailed discussion of the two main research strategies, namely quantitative and qualitative strategies.

(a) Quantitative Research Strategy

Quantitative research strategy emphasises quantification (numbers) in the measurement, collection and analysis of empirical data. This may require a deductive approach where the focus is theory testing (Saunders *et al.*, 2009). This strategy not only incorporates the practices

and norms of the natural scientific model but also embodies a view of social reality as an external, objective reality.

(b) Qualitative Research Strategy

Qualitative research is a strategy that emphasises narrative experiences and accounts of social actors rather than quantification of empirical data. This predominantly relies on an inductive approach where the focus is on theory building. This strategy rejects the practices and norms of the natural scientific model. Instead, the strategy emphasises on the ways in which individuals interpret their social world. This strategy embodies a view of social reality as a constantly shifting emergent property of individuals' creation (Bryman and Bell, 2011). Thus, it stresses the importance of understanding social phenomena through gathering subjective viewpoints or meaning held by relevant individuals.

(c) Mixed Methods Strategies

Webb *et al.*, (1966) and Creswell (2014) recognise that qualitative and quantitative methods should be viewed as complementary rather than rival, this recognition led to the adoption of mixed methods. Mixed methods build on the strengths and weaknesses inherent in each single method. It also allows for convergent validation or the development of analytic density and more importantly methodological triangulation. Triangulation is about examining a research issue from different angles (Denzin, 1970). In this regard, Methodological Triangulation is the use of more than one method for data collection. This use of two or more research strategies greatly reduces the uncertainty of misinterpreting data (Webb *et al.*, 1966). It also assures internal consistency or reliability and validity. In order to ensure reliability and validity, there are three types of strategies which could be adopted namely: concurrent triangulation; explanatory sequential triangulation; and exploratory sequential triangulation (Creswell, 2014).

(i) Concurrent Triangulation Strategy

This strategy involves collecting both qualitative and quantitative data concurrently and then comparing the results to determine if there is convergence or difference. This comparison is also known as confirmation, disconfirmation, cross validation, or corroboration (Creswell,

2014; Morgan, 2007). The overall purpose is to provide comprehensive analyses of the research problem by comparing integrated information during the interpretation of the overall results.

(ii) Explanatory Sequential Triangulation Strategy

This strategy is characterised by the feature that the collection and analyses of quantitative data (phase 1) informs the collection and analyses of qualitative data (phase 2). Phase 2 builds on the initial results of phase 1 and its purpose is to provide a follow up in-depth explanation and interpretation of specific, especially unexpected results. The challenge with this strategy is the choice of specific results to further explore and the unequal sample sizes for each phase.

(iii) Exploratory Sequential Triangulation Strategy

This strategy involves qualitative data collection and analyses at phase 1, followed by quantitative data collection and analyses at phase 2. The primary purpose of this strategy is to explore a phenomenon, then quantitatively test elements of an emergent theory resulting from the qualitative phase in order that qualitative findings can be generalized. This strategy can also use qualitative results to develop, build or identify an instrument that best fits the context under study (Creswell and Clark, 2007). The challenges with this strategy have to do with the sample selection for both phases as well as the qualitative findings to focus on as a basis for the quantitative research (Creswell, 2014).

(d) Justification for adoption of the Research Strategy

The research strategy chosen for this study was Exploratory Sequential Triangulation Strategy. In this study qualitative data is collected and analysed in the initial stages of the study. This was followed by the application of quantitative data collection and analysis techniques. The priority was given to the qualitative aspect of the study, and the findings are integrated during the interpretation phase of the study. The whole essence was to explore factors contributing to the physical state of judicial infrastructure in Zambia, using expert interviews and focus group discussions, then using the emerging themes and information, a questionnaire was developed and administered later to the sampled respondents. Qualitative research provided in-depth understanding of judicial governance in Zambia. To facilitate qualitative research, insights based on the knowledge and experiences of relevant stakeholder groups were sought through

in-depth interviews. The interviews were facilitated by a semi-structured questionnaire as data collection instrument (Annex 2). Interviews allowed the researcher to get clarification from respondents' responses, though the interviews were costly due to travel cost and time. A questionnaire based on the literature review and expert input (for content validity) was constructed. The questionnaire was revised based on comments and suggestions from these specialists, especially those from the Judiciary and academia. This was done in order to ensure that the questions were not only clear but relevant to the study. Quantitative research has not been intensively used by researchers in judicial governance in Zambia.

4.3 Population

Population refers to an entire group of persons or elements that have at least one thing in common. Lin, (1976, p.10) defines target population as the set of individuals, cases or objects with some observable characteristics, to which a researcher wants to generalize the results of the research. The population is the total number of public officers operating at district level. The 2015 Government of the Republic of Zambia Staff Assignment Report placed this figure to be at an average of 150 officers per district, with only 105 districts operational, this translated approximately to 15,750 officers (GRZ, 2015).

4.4 Sample and Sampling Procedures

This is the process of drawing a study sample from the study population. The main purpose is to obtain a representative group to enable the researcher get information about a study population. According to Saunders, Lewis and Thornhill (2007, pp.34-37), the population is divided into several sub populations, which are then subdivided into other sub-populations until observation units are selected.

Orna (2004, pp.3-11) mentions that a sample represents the larger population and is used to draw inferences about that population. According to Orna (2004), the technique used should ensure that it is the representative of a population and not biased in any way. However, the larger the sample, the smaller the sampling error and thus Orna (2004) recommends that a minimum sample of 20%

of the total number of subjects is adequate for educational research of less than a thousand participants, which translate to a minimum 200 participants.

Given the population of 15,750, the minimum required representative sample size would be 300, at confidence level of 95% and margin of error of 5% (Saunders *et al.*, 2009, p.212 and p.585). To reduce the likelihood of low response rate, 350 questionnaires were delivered, and this yielded an actual sample of 295.

(a) **Qualitative Study: Sample**

The interviews were conducted in November 2014. A non-probability purposive sample was employed to select 15 respondents. The non-probability purposive sampling also ensures a mix representing the key stakeholder groups. Table 2, below, shows the profile of interviewed participants.

Table 2 Profile of Interviewee

Portfolio	Age (range)	Sex
1. Royal Highness Mwata Kazembe from Luapula Province	Above 50 years	Male
2. Induna- Barotse Royal Establishment;	Above 50 years	Male
3. Dean -School of Law, University of Zambia	Above 50 years	Male
4. Head of Economics Department, University of Zambia	41-50 years	Male
5. Secretary General -Judicial and Allied Workers Union of Zambia;	41-50 years	Male
6. Senior Planner -Ministry of Works and Supply;	31-35 years	Male
7. Senior Parliamentary Counsel	36-40 years	Female
8. President - Law Association of Zambia	41-50 years	Male
9. Chief Executive -Civil Society for Poverty Reduction	36 -40years	Male
10. Director -Jesuit Centre for Theological Reflection	41-50 years	Male
11. Director - Caritas Zambia	41-50 years	Male
12. Director -Paralegal Alliance Network	36 - 40 years	Female
13. Executive Director -Transparency International Zambia	36- 40 years	Male
14. Executive Director -Economics Association of Zambia	36-40 years	Male
15. Executive Director -Non-Governmental Organizations Coordinating Council	36-40 years	Female

Source: Author's Computations from Research Data Collected (2017)

The above individuals, shown in Table 3, were selected following the criteria below:

- (a) utilisation of the political approaches to capacitate and organise citizens to demand a voice and better service delivery in their respective sectors;
- (b) seek to influence political institutional and the public administration at national, provincial, district and constituency levels. This factor would aid to gauge the relative contribution, leveraging of resources and level of influence of the organisation from both national and district levels;
- (c) diversity of their character: professional, trade union, grass root movement and faith- based organisations; and
- (d) the organisation acknowledgement receipt of large sums of donor support.

This purposive sampling of Government Officials, Professional bodies/association and Civil Society Organisations was useful because it enabled the researcher to get practical experience on the subject matter and clear any doubts that would have led to wrong conclusions. These informal discussions enabled the researcher to obtain off the record data and was able to triangulate the data collected using other research tools such as the questionnaire and focus group discussions (Kerlinger, 1973).

(b) Quantitative Study: Sample

In this case, there were 350 participants who were selected for the study. Stratified random sampling was used so that the participants would not be from the same province and district. The study targeted 35 respondents per province, this added up to 350 respondents because the country has 10 provinces. To be able to draw valid inferences from a sample in relation to its respective population, the researcher used both purposive and stratified random sampling. Stratified random sampling was conducted by stratifying the country into provinces; each province was then segmented into districts. In each province, the study then selected three towns purposively based on urban, pre-urban and rural segmentations. This ensured that each member of the population had

an equal chance of being selected in the main sample.⁴ Thus the 35 questionnaires were distributed as follows at district level:

Table 3 Profile of Respondents

Respondents at District	Number
Subordinate Court Officials	2
local Government Officials;	2
Legal Aid Board Official; two (2	2
District Constituency officers;	2
Civil Society Organisations representatives;	5
Traditional leaders (Headmen);	2
Communication, Coordination and Cooperation	2
Ministry of Home Affairs (i.e. Police, Prisons and Drug Enforcement Commission);	3
Total Respondents	20
Randomly selected respondents from Districts	15
Total Respondents per Districts	35
Total Respondents for the country (10 Provinces)	350

Source: Author's Computations from Research Data Collected (2017)

Referring to Table 3, nearly all the respondents were selected based on their official portfolios, except for the 15 randomly selected respondent, where the basis was to have a fair and balanced representation of the youth, women, disability and marginalised groups.

4.5 Description of Research Instruments

According to Borg and Gall (1989, p.430), questionnaires and interviews are the most common instruments for data collection in research. In this study, both questionnaires and structured interviews were employed for data collection.

⁴ This enabled the research to distribute the questionnaires in the following towns, namely: Chinsali; Isoka; Nakonde; Mpika; Mbala; Kasama; Luwingu; Mungwi; Lusaka; Luangwa; Chongwe; Chirundu; Kafue; Ndola; Kitwe; Mufulira; Masaiti; Livingstone, Kalomo, Mazabuka; Chirundu; Chama; Chipata; Katete; Patuake; Mongu; Senaga; Kaoma; Solwezi; Mwinilunga; Kabompo; Zambezi; Mansa, Samfya; Kawambwa; Mwense; Mumbwa; Kabwe; Mkushi and Serenje.

(a) Questionnaire

According to Lin (1976, p.13) a questionnaire is a document in which a list of questions appears for a formal social survey enquiry. There are two types of questionnaires: the open-ended questionnaires where the respondents are free to give detailed answers or opinions, and the closed ended where the respondents are given alternatives and asked to choose the appropriate one. In the second category, respondents are not free to give unwanted details.

(b) Interview

An interview is a very popular method of data collection. If properly conducted, it can provide a rich source of information. Interviews can be structured or unstructured and can be used in various situations. In structured interviews, normally the interviewer has a list of questions for the interviewee, while in an unstructured interview the interview takes the form of discussions. In this case, the researcher leads the conversation by identifying a number of topics and allowing the interviewee to talk about them (Krishnaswami, 2002, p.23). The structured interviews were employed because of the following advantages (Slacks, *et al.*, 1997, p.3; Milne, 2006, p.34):

- (a) When the interviewee lacks in reading skills, the subjects would then struggle to interpret the questions if they were to be written down and there might be a communication breakdown that results in invalid data;
- (b) When researchers ask difficult questions. The participants have the chance to seek clarity;
- (c) Opportunities to establish rapport unlike when they just read a text;
- (d) Researchers can probe and follow questions up;
- (e) Interviews typically produce a higher response rate;
- (f) Attention is focused on a given issue;
- (g) Detailed information is gained on issue discussed;
- (h) Insight into declarative knowledge used is provided;
- (i) General rules and problem-solving strategies can be uncovered; and
- (j) A representative sample is possible.

(c) Non-Participant Observations

The researcher used non-participant observation, whereby the author remained detached from the situation but recorded the happenings (Kerlinger, 1973). The researcher:

- (a) Observed Court sessions;
- (b) Attended High Court Opening Sessions;
- (c) Attended Commonwealth Magistrate Judges Association Conferences held in Zambia;
- (d) Attended Access to Justice Programme Meetings under the Ministry of Justice;
- (e) Toured Subordinate Court facilities; and
- (f) Attended Legal and Justice Sector Reforms Commission Public Hearing in Districts.

(d) Focus Group Discussion

This is a qualitative research method in the social sciences, with a particular emphasis and application in the developmental programme evaluation sphere. Focus Group Discussions are a predetermined semi-structured interview led by the researcher or session moderator (Lin, 1976). The researcher asks broad questions to elicit responses and generate discussions among the participants. The researcher's goal is to generate the maximum amount of discussion and opinions within a given time period.

4.6 Description of the Data Collection Procedures

There are two types of data: primary and secondary data (Saunders, Lewis and Thornhill, 2007, pp.34-37). The commonly used methods of primary data collection are interviews, questionnaires, observations and focus group discussions. The primary data collection method is the most suitable for this study and entails the use of questionnaires and interviews. This is due to its advantage of allowing the researcher to get firsthand information from the correspondents. In this case, however, the researcher used interviews, questionnaires, observation and focus group discussions.

(a) Questionnaire

Questionnaires were administered to 350 citizens. The questionnaires had both open ended and closed ended questions. Close-ended questions deal with numerical values while open-ended questions allow for explanation and expression of feelings.

(b) Interviews

The study interviewed 15 participants, as outlined in Table 3. The interviewees were selected using Purposive Sampling (Kerlinger, 1973). In addition, the researcher also had the opportunity to interview six (6) Judicial Officers from Uganda, Malawi and Zambia, who happened to be in Zambia attending a five day Commonwealth Magistrates and Judges Association Conference which was held in Livingstone, Zambia from 22nd to 26th September, 2014.⁵ The Judges and Magistrates were purposively sampled. The goal was to triangulate the information and assist in framing questions for interviews and focus group discussions.

The researcher also took advantage of the presence of Judicial staff from Kenya, Rwanda and Zimbabwe who participated in the two weeks long seminar on modernisation of governance systems and governance capacity for developing countries which was held in Beijing, China in August, 2017. The selected interviewees from Malawi, Kenya, Rwanda, Uganda and Zimbabwe were purposively selected by the researcher because of the following reasons; the respondents:

- (a) were from Commonwealth Countries which have similar historical, political, economic and judicial structures and legal systems like that of Zambia;
- (b) had an average of more than ten years' experience in Judicial Administration;
- (c) were willing to share their experiences in Judicial reforms especially those from Rwanda and Kenya. Rwanda and Kenya have both made tremendous progress in economic development and Judicial Administration in the sub-Saharan region (Obondo, 2012);
- (d) had massive knowledge in Access to Justice (Obondo, 2012); and
- (e) had extensive understanding of Subordinate Court systems, structures and challenges.

⁵ See the 18th Commonwealth Magistrates and Judges Association Conference Annual Conference Report, The Challenges of the Modern Era, Livingstone, 2015. Retrieved from <https://www.cmja.org/conferences.html>. The 18th Conference was attended by some 215 judicial officers attended the Conference from 35 jurisdictions of the Commonwealth. The judicial officers included unpaid Justices of the Peace, Paid Magistrates, Tribunal Judges, High Court Judges, Appeal Court Judges, Supreme Court Judges and many Chief Justices. In addition, one Judge from the International Criminal Court in The Hague also attended the Conference.

(c) Focus Group Discussions

Two Focus Group Discussions (FGDs) sessions were held in each of the selected Provinces. They were held in North-Western, Western and Muchinga Provinces. The three Provinces were purposively selected because the questionnaire response rate was less than 50%. Muchinga Province was also selected because it did not have a fully-fledged Administrative structure because it was recently established as a provincial capital.

The FGD comprised 10 respondents drawn from: Subordinate Courts, Local Administration, Traditional Authorities and Civil Society Organisations. The FGDs enabled the researcher to triangulate the information obtained from the interviews and questionnaires. The respondents were also selected at provincial or district levels. In North-Western Province FGDs were held in Solwezi and Mwinilunga Districts. In Western Province, the FGDs were held in Mongu and Senanga while in Muchinga Province FGD were held in Chinsali and Isoka Districts. The Traditional Leaders were selected based on their availability or proximity of the Chiefdom to the District Civic Centre or Subordinate Court.

4.7 Validity and Reliability

Lin (1976) and Creswell (2005) add that validity is the degree to which the sample of test items represents the content the test is designed to measure. Reliability refers to the consistency of measurement and is frequently assessed using the test–retest reliability method (see Smith, 2003, p. 2; Tobin and Begley, 2004, p. 389).

In this study, a pilot study was carried out to pretest and validate the questionnaire and the interview guide. The pilot group, of 10 participants, was randomly selected from the University of Zambia, main campus, to fill the questionnaire. The interview guide was also pre-tested by interviewing randomly selected members of Caritas Zambia volunteers in Lusaka. This helped refocus both the questionnaire and interview guide. Content validity which was employed by the researcher measured the degree to which data collected using a particular instrument represented a specific domain or content of a particular concept.

In addition, the study sought opinions of experts in the field of judicial administration, governance and leadership, in order to enhance the validity of the research instruments used in the study. Furthermore, the questionnaires and interview guides which were used were developed through a rigorous quality assurance process.

It is also important to note that the Focus Group Discussions drew participants from Subordinate courts, local administration, traditional authorities and Civil Society Organisations, this enabled the researcher to triangulate the information obtained from the interviews and questionnaires. This facilitated the necessary revision and modification of the research instrument thereby enhancing validity and reliability.

Reliability is increased by including many similar items on a measure, by testing a diverse sample of individuals and by using uniform testing procedures. The researcher selected a pilot group of ten (10) individuals from the target population to test the reliability of the research instrument. The pilot data was not included in the actual study. The pilot study allowed for pre-testing of the research instrument. The clarity of the instrument to the respondents enhance the instrument's validity and reliability. The pilot study enabled the researcher familiarise with the study area and its administration procedure as well as identifying items that required modification. The result helped the researcher to correct inconsistencies that arose from the instruments so that they capture what was intended.

Conformability or objectivity refers to how neutral the findings are in terms of whether they are reflective of the subjects and the inquiry and not a product of the researchers' biases and prejudices (Smith, 2003, p.2; Tobin and Begley, 2004, p. 389). In this study, proof was shown on how the findings emanated from qualitative and quantitative data. Problems that were encountered were identified and explained.

(a) **Diagnostic Tests-Cronbach's Reliability Tests**

Since the study used Likert scale in determining the extent to which infrastructure is influenced by variables such as locality of Subordinate Court, stakeholder's participation, administrative

capacity and financial autonomy, it was necessary to establish the reliability of these variables. Thus, a Cronbach’s reliability test was carried out. This was meant to ensure consistency of the items, or the questions describing each of the variables. A reliability coefficient of at least 0.7 was accepted as recommended by Creswell (2005).

Table 4 Cronbach's Reliability Test

Variables	Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	No. of Items
Stakeholders’ Participation	.749	.758	3
Administrative Capacity	.791	.793	3
Locality of Subordinate Court	.286	.164	2
Fiscal Autonomy	.642	.642	3

Source: Author’s Computations from Research Data Collected (2019)

Cronbach’s reliability test results indicated in Table 4, show that the questions under the section of “stakeholders’ participation” in the questionnaire had reached acceptable reliability level with a Cronbach α value of 0.749. In additions, the test indicated a reliability Cronbach alpha value of 0.791, which was significantly high, signifying reliability of the questions or items describing the variable “Administrative Capacity”. With Regard to “Locality of Subordinate Court”, the results of the test indicated a very low reliability Cronbach alpha value of 0.286, implying that the questions in the questionnaire under this section were not reliable. The new result of the reliability test shown in the table 4 indicates a Cronbach Alpha value of 0.642. This value was an acceptably high value, and therefore these three questions were maintained in the questionnaire under the antecedent of “fiscal autonomy” variable.

4.8 Description of Data Analysis and Presentation Procedures

(a) Quantitative Data Analysis

Neuman (1997, p. 297) add that a researcher provides tables, graphs and charts to give the reader a condensed picture of the data. The author goes on to say that in the analysis of quantitative data,

the researcher must organise and manipulate the quantitative data to get them to reveal things of interest about the social world. In this study, graphs and tables have been used to present data. The data is coded before computing it. Coding data, according to Neuman (1997, p.295), means "systematically reorganizing data that is computer readable". He asserts that the coding procedure is a set of rules stating that certain numbers are assigned to variable attributes.

After coding, the accuracy of the coded data is checked (cleaning data) and afterwards it is entered into the computer (capturing data). Statistical package, the Statistical Programme for the Social Sciences Version 21, was used to analyse responses from the questionnaires. Descriptive statistics included the frequency distribution tables and percentages. The second one consisted the analysis of the relationship, using the Chi Square test, between the independent variables and the dependent variables.

The Chi-square test is used to verify the possible relationship between two categorical variables. In this test a two-way table is created and the observed counts are compared to the expected counts of the cells. According to Moore and McCabe (2003, p. 624) "The chi-square statistic is a measure of how much the observed cell counts in a two-way table diverge from the expected cell counts." Therefore, the Chi-square tests the following hypothesis:

- H₀:** Row and column variables are independent – there is no relationship between the state of physical infrastructure with each of the variable: fiscal autonomy, administrative capacity, participation of stakeholders and locality of Subordinate Court.
- H_a:** Row and column variables are not independent – there is a relationship between the state of physical infrastructure with each of the variable: fiscal autonomy, administrative capacity and participation of stakeholders and locality of Subordinate Court.

If the difference between expected and observed counts is large, there will be enough evidence against the null hypothesis (small P-value) and in favor of the alternative one. The Chi-square distribution approximates the normal approximation for a binomial distribution. The approximation is more accurate as the cell counts increase. In order to validate the test, it is necessary that at least 80% of the expected cell counts must be greater than 5, with the exception

of 2 x 2 tables where all four expected cell counts have to be 5 or more. Because it is not always possible to achieve the required cell counts, cells are combined or excluded for some tests (Moore and McCabe, 2003).

(b) Actual Data Collection and Demographics of the Sample

In order to obtain data from the Judiciary, Provincial and District Administrative Officers, a letter was sent through the Permanent Secretary, Ministry of Justice. Since the number of respondents was only 350 in total, this translated to 35 respondents per province. Only 4 districts, were randomly selected per province. The 35 respondents per province were selected from the 4 districts, for purposes of comparative analysis. The questionnaires were disseminated to the respondents through the local authority officers and also through a study assistance engaged per province.

The questionnaire was disseminated to the respondents in their offices since selection was due to their official positions. The respondents were required to complete the questionnaires and return them to the assistant or local authority focal point upon completion without discussing with officer. This approach minimised not only the likelihood of answering to please the researcher but also the pressure to answer in a manner that is socially desirable (Saunders *et al.*, 2009).

In addition, 5 respondents from each district selected to avoid bias with regards to age, sex and disability, given that these were not selected based on their official position. These were randomly selected from academic institutions, markets, churches and civil society organizations. Including all available students made the sample a better representation of the population. With this approach, the actual sample generated only 295 respondents. This resulted into 96 percent response rate in a period of 2 years.

Table 5, Demographic Profile of The Sample, represents the demographic and socio-economic characteristics of the Sample Population, focusing on age, sex, educational background and locality. Demographers and other social scientists have special interest in the age structure of a population, not only because it is a fundamental measure of population growth, but also as an instrument that helps to understand the relationship within the community and the way various

activities are undertaken. While the age structure has enormous implication on the management of various resources and administrative functions, sex has influence on the prioritisation of the various services and participation in various activities in society. As such, age and sex were taken into consideration during this and the respondents who were included in this study were both grown-up and mature.

Further, Table 5, shows that 200 male respondents sampled responded to the questionnaire and only 94 female respondents sampled were able to respond to the questionnaire. This imbalance was resolved by holding focus group discussions with more women groups under Caritas Zambia. The focus group discussions were used to triangulate the data obtained from the questionnaires.

In addition, Table 5 show that approximately 65 % of the respondents were with range of below 26 to 35 years. The study shows that 25 % of the respondents were above 40 years of age, this is in tandem with the demographic structure of Zambia (ZDHS, 2018). This confirms that the country is a youthful.

The study asked the level of formal education of the respondents because of the assumption that knowledge is fundamental in understanding the sources and nature of problems as well as devising mechanisms of solving them. Knowledge is also very important in the understanding of judicial governance, autonomy and separation of powers. In this study, the term education was used to refer to formal education, which is provided in school under a well-organized curriculum; as opposed to informal education which does not entail a systematically organized syllabus.

Table 5 Demographic Profile of the Sample

		Frequency	Percent	Valid Percent	Cumulative Percent
Sex	Male	200	68.0	68.0	68.0
	Female	95	32.0	32.0	100.0
	Total	295	100.0	100.0	
Age	Below 26	119	40.5	40.5	40.5
	26-30 Years	37	12.6	12.6	53.1
	31-35 Years	30	10.2	10.2	63.3
	36-40 Years	31	10.5	10.5	73.8
	41-50 Years	45	15.3	15.3	89.1
	Above 50 Years.	32	10.5	10.5	99.7
Education	Primary School Certificate	20	6.8	6.8	6.8
	Secondary School Certificate	116	39.5	39.5	46.3
	College Certificate	34	11.6	11.6	57.8
	College Diploma	45	15.3	15.3	73.1
	University Degree	67	22.8	22.8	95.9
	University Masters	13	4.1	4.1	100.0
Occupation	Employed	147	50.0	50.0	50.0
	Unemployed	85	28.9	28.9	78.9
	Self Employed Person	27	9.2	9.2	88.1
	Other	30	10.2	10.2	98.3
	Not Stated	6	1.7	1.7	100.0
Locality	Central Province	24	8.2	8.2	8.2
	Copperbelt Province	27	9.2	9.2	17.3
	Eastern Province	29	9.9	9.9	27.2
	Luapula Province	14	4.8	4.8	32.0
	Lusaka Province	33	11.2	11.2	43.2
	Muchinga Province	48	16.3	16.3	59.5
	North Western Province	10	3.4	3.4	62.9
	Northern Province	70	23.8	23.8	86.7
	Southern Province	27	9.2	9.2	95.9
	Western Province	13	4.1	4.1	100.0
	Central Province	24	8.2	8.2	8.2
	Copperbelt Province	27	9.2	9.2	17.3

Source: Author's Computations from Research Data Collected (2017)

The respondents were grouped into seven categories of educational levels, that is, Primary, Secondary, Certificate, College diploma and University and master's degree. Table 5 illustrates the distribution of educational levels of the respondents and shows that most of the respondents had only reached secondary school level, which accounted for 39.5 percent of the respondents. This was in line with the original assumption that a respondent with a minimum of a Secondary School Certificate would have information on the judicial system of the country. Only 6.8 percent of the respondents had no Secondary School Certificate.

The data shows that half of the respondents who answered the questionnaire were in employment and only 28.9 percent were not employed. Triangulation, through interviews and focus group discussions, showed that most of the respondents who claimed to be self-employed are mainly involved in agriculture related activities and street vending.

The data, in Table 5, show that the largest number of respondents were from the Northern Province and the lowest number from the North-Western Province. The explanation is that the study initially focused on two Provinces namely the Northern Province and Muchinga Province as case studies but with further reflection and consultation, the scope of the study was broadened to include all the ten Provinces to have a comprehensive national perspective. However, more interviews and focus group discussions were held in: North-Western Province (Solwezi and Mwinilunga Districts); Western Province (Mongu and Senanga); and in Muchinga Province (Chinsali and Isoka). The focus group discussions and interviews held added value to the research. In Lusaka Province, interviews were held in Chongwe, Luangwa and Kafue Districts. The research interviews were also held in the City of Lusaka.

(b) Qualitative Data Analysis

Neuman (1997, p. 327) is of the view that social researchers systematically collect and analyse empirical evidence to understand and explain social life. He goes on to say that when data was in the form of words, sentences, and paragraphs rather than numbers, researchers need to use different research strategies and data collection techniques. Data analysis involved examining, sorting, categorizing, evaluating, comparing, synthesizing, and contemplating the coded data as well as the

raw data (Neuman, 1997, p. 427). The interview instrument was analysed by identifying the most common trends into themes.

In this study memoing was employed. Johnson (2006, p. 2) explains that memoing is the act of recording reflective notes about what the researcher (fieldworker, data coder and/or analyst) is learning from the data: Memos accumulate as written ideas or records about concepts and their relationships. Memos may differ substantially in style and manner (Lin, 1976). Data is transcribed by typing the text from interviews into word processing documents. It is also read by the researcher line by line and divided into meaningful analytical units. This process is termed coding and it is defined by Johnson (2006, p.2) as "marking the segments of data with symbols, descriptive words, or category names. In this study data, was coded using descriptive statistics.

The researcher used the memos to focus on subjective meanings, definitions, metaphors, symbols, and descriptions of specific cases. Against this background, coding becomes imperative. The researcher will now analyse data by organizing it into categories based on themes and concepts. The following types of coding were used in this study:

- (a) Open coding: the researcher locates the themes and assigns initial codes or labels in order to streamline the mass of data. The researcher looked at the critical terms and noted them. The researcher was aware that he had the opportunity to create new themes in the subsequent analysis; and
- (b) Axial coding: the second stage of the coding process involved looking for the categories or concepts that cluster together. Axial coding stimulates thinking about the linkages between concepts or themes and it also raises new questions. In this study, some of the themes were dropped and existing ones were examined in more depth. In this way axial coding helped reinforce the connections between evidence and concepts/theme

The successive method of qualitative data analysis was employed. Using this method, the researcher started with research questions and a framework of assumptions and concepts/themes. The researcher probed data to establish how the themes fitted the evidence and reveals features of the data. In this way new themes were created to fit the evidence better. Neuman (1997, p. 425)

suggests that the said method is termed successive approximation because the modified concepts/themes and the approach approximate the full evidence and are modified over and over to become successively more accurate.

4.8 Logistic Regression Model

This study was guided by the Ordinal Logistic Regression Model. This is a statistical analysis method that can be used to model the relationship between an ordinal response variable and one or more explanatory variables (Armstrong *et al.*, 1989; Cliff, 1996; and Bender *et al.*, 2000). The Model assumptions are that the dependent variables are ordinal and one or more independent variables are continuous, ordinal or categorical (including dichotomous variables). However, ordinal independent variables are treated as being either continuous or categorical. The Ordinal Logistic Regression Equation is presented as:

$$\text{Logit (P Y)} = \text{Log}_e \left[\frac{P(Y)}{1-P(Y)} \right] = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 \dots + \beta_k X_k$$

$$\text{If } Y^* = \ln \left[\frac{P(Y)}{1-P(Y)} \right]$$

Then the linear regression model is given as:

$$Y^* = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \dots + \beta_k X_k$$

The above is transformed into:

$$P(Y) = \frac{e^{Y^*}}{e^{Y^*} + 1}$$

Where:

- $\frac{P(Y)}{1-P(Y)}$ is the odds ratio of the probability of an event happening to the probability that it will not happening;
- P(Y) is the probability that a given Subordinate Court has a particular quality of physical infrastructure;
- Y is the quality of Subordinate Court infrastructure;
- β_0 is the intercept;
- $\beta_1, \beta_2, \beta_3, \beta_4 \dots \beta_k$ are regression coefficients;

- $X_1, X_2, X_3, X_4 \dots X_k$ are independent variables; and
- e is the base of natural logarithms equal to 2.71828.

4.9 Ethical Considerations

The respondents were assured of data confidentiality and were given free way to participate voluntarily in the provision of information. The researcher ensured that informed consent was obtained from each respondent. The respondents were given a form to read, complete and sign for consent, kindly refer to **Annex 3**, the Informed Consent Form, on page 205. However, in this study informed consent was more than a completed Form, it was mainstreamed in the entire process, given the nature of the institution under review. Informed consent process was taken as a dialogue of the study's purpose, duration, risks, and benefits. The respondents were free to withdraw if the nature of questions was contrary to their values and principles.

4.10 Summary

This chapter has presented the methodology used in the study. It described the research design, the research area, the population sample and sampling techniques, and the data collection and analysis methods. To avoid bias from utilising one methodology, this research purposely employed a concurrent triangulation strategy. The strategy was intended for model testing and in-depth understanding of the research problems from the Zambian context. The survey questionnaires were used as the main instruments in the collection of data because of their advantages. Both descriptive and inferential statistics were employed to verify the factors influencing the state of physical infrastructure of Subordinate Courts in Zambia. Qualitative procedures, including systematic coding and categorization via content analysis were used to analyse responses to the individual interview questions. The next Chapter presents the analysis and interpretation of data as collected from the different respondents.

CHAPTER FIVE

STUDY FINDINGS AND DISCUSSIONS

5.0 Introduction

This chapter presents the findings, analysis and discussion of the findings that were obtained through questionnaires, interviews, observation, consultations and informal discussions with selected respondents and informants. The section is presented as follows, first it gives a general overview of the physical state of the Subordinate Court Infrastructure. Second, it presents qualitative data findings. Thirdly, it presents quantitative data findings and an empirical model. The qualitative and quantitative data findings outlined below are based on the objectives of the study as outlined in Chapter one.

5.1 The General Overview of the Physical State of Subordinate Court Infrastructure

The study investigated the state of judicial infrastructure in Zambia. It examined the fundamental element of the Judiciary, the Courtroom. It also evaluated the impact Courtroom infrastructure on Court performance. The findings will contribute to the debate on how to confront the challenges faced by the Judiciary in Zambia. It will also contribute ideas on what could be done to help the country enhance access to justice and improved judicial services to its population. As stressed in Chapter one (1), Section 1.3, on page 6, the findings focus on the Subordinate Courts.

(i) Courtrooms not fit for Purpose

Approximately 76.2% of Subordinate Courts, are not able to effectively fulfil their mandate, as the Courtrooms are not fit for their purpose. Table 6 shows that approximately 15% of the respondents claimed that the Court infrastructure was very poor while 35% claimed it was just poor and 41.5% claimed it was average.

Table 6: The General State of Court House Infrastructure

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Poor	43	14.6	14.6	14.6
	Poor	59	20.1	20.1	34.7
	Average	122	41.5	41.5	76.2
	Good	47	16.0	16.0	92.2
	Very Good	15	5.1	5.1	97.3
	Not Stated	6	2.0	2.0	99.3
	Not Applicable	2	.7	.7	100.0
Total		295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

Table 7 shows the state of Court infrastructure by locality in this regard, urban verses rural. The results show that 17% of urban respondents were of the view that the infrastructure was “very good” compared to 14% of the rural respondents. Approximately 15% of the urban respondents claimed it was “poor” compared to 17% of the rural respondents. As for “very poor”, Table 7 shows 7% for urban respondents compared to 8% of the rural respondents.

Table 7: Cross Tabulation: State of Court Infrastructure by Locality

		Where is your location?			
		Urban	Rural	Not Stated	Total
Infrastructure	Very Good	22	21	0	43
	Good	29	29	2	60
	Average	50	66	6	122
	Poor	19	27	1	47
	Very Poor	7	8	0	15
	Not Stated	4	4	0	8
Total		131	155	9	295

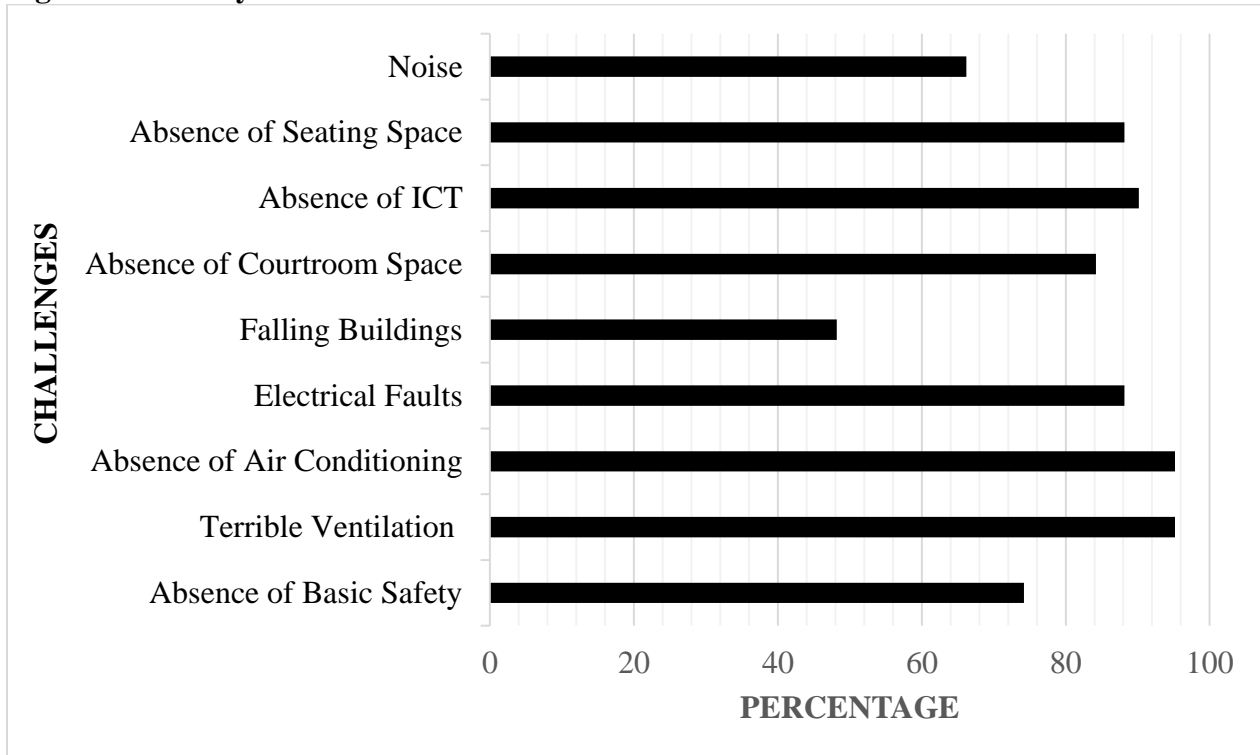
Source: Author's Computations from Research Data Collected (2017)

The observation tours to 40 sampled districts⁶ in all the 10 provinces in the country, showed that most urban and rural Districts courtrooms had challenges, as presented in Figure 3. The definition

⁶ The Author visited the following rural areas as a Member of the Legal and Justice Sector Commission: Chinsali; Isoka; Nakonde; Mpika; Mbala; Kasama; Luwingu; Mungwi; Lusaka; Luangwa; Chongwe; Chirundu; Kafue; Ndola; Kitwe; Mufulira; Masaiti; Livingstone, Kalomo, Mazabuka; Chirundu; Chama; Chipata; Katete; Patuake; Mongu; Senaga; Kaoma; Solwezi; Mwinilunga; Kabompo; Zambezi; Mansa, Samfya; Kawambwa; Mwense; Mumbwa; Kabwe; Mkushi and Serenje.

of terrible state (or poor) state of Courtrooms with respect to general infrastructure was obtained from Focus Group Discussions.

Figure 3: Physical Status of Subordinate Courtrooms



Source: Author's Computations from Research Data Collected (2017)

From the field visits and focus group discussions, it was observed that 72% of the Courts in the country had a rectangular or square configuration. The courtrooms were generally small, with an approximately 20m² surface area. Approximately 84% (246) of the respondents were of the view that the courtroom space was insufficient.

It was also observed that the courtrooms had a structure which focused more on the dominance of the Subordinate Magistrates, as the main actor, having a Centre Bench location in the courtroom. Further, it was observed that that the centre bench location provided the much-required symbolic importance of the Subordinate Magistrate and helped to maintain the symmetry in the courtroom, by creating an axis with the gallery and entrance that adds to the symbolic function. However, this structure reduced the seating capacity of the Court. Further, approximately 88% (258) of the respondents were of the view that the courtroom seating capacity was not adequate. Lack of space

for the separation of parties has serious consequences for professional honesty in the work of Courts and public safety. Most importantly, these undermine the respect of citizens for the judicial system and the supremacy of the law.

It was also observed that the centre bench structure of most courtrooms in Zambia created unused spaces on one half of the courtroom, which the 88% (250) of the Subordinate Courts turned into Exhibit store spaces. During the study, it was reported that most courtrooms were experiencing regular breakings. This was reported in Isoka, Mansa, Luwingu, Mongu and Monze. This information was also confirmed by District Police Stations. A respondent in Isoka is quoted saying: *“Court case exhibits were stolen from the Courtroom, which is normally used to store these exhibits and the case was reported to Police. The real challenge is that this Local Court has no secure storage room”*.⁷

Approximately 48% (141) of the respondents reported falling Court buildings mainly on account of age and design. Most of the Subordinate Courts structures country wide were pre-colonial. It was also observed during the study that other than the size, design and age, the court structures were poorly finished and furnished and to a larger extent conveying the inability of the government to nurture authority and impose the rule of law. It was observed that the operational areas of the court clerks and court reporters in the courtroom, with respect to existing furniture, eroded their self-respect and esteem.

The conditions mentioned in Figure 3, make it difficult for Court actors to work efficiently, ethically and effectively. Approximately 80% (235) of the Judicial Officers interviewed claimed that most courtrooms in habited Court actors to perform certain critical roles during court sessions. It was mentioned in nearly all rural and urban Subordinate Courts, that due to poor lighting and continuous load shading by the electricity provider (i.e. ZESCO Limited), it was difficult for them to read legal documents during sessions, examine deposition testimony, examine documentary evidence and monitor facial expressions of the witness and the Lawyer; and take notes.⁸ In towns,

⁷ Interview held in Isoka.

⁸ See Ministry of Energy, Ministerial Statement (Lusaka: GRZ Printers, 2016). It should be mentioned that the study was undertaken during the period when the entire country was faced with massive electricity supply rationing due to low water levels at the main hydro electricity supply dams

where alternative power sources like Generator sets are used, the noise output made it difficult for the Magistrate to listen clearly to spoken words from lawyers and witnesses. It also made it very difficult for Magistrate to give verbal instruction in the courtroom. In other towns, it is the noise from motor vehicles since the Court structures are in Central Business Areas.

It was observed that in Isoka, a district in Muchinga Province, 50 years after independence Local Court sessions were held under a tree; if the Magistrate Court had a session on the same day and time. It was also observed that the Local Court premise in Isoka was a former Open-Air prison. The Local Court Justice uses an office which has no window and has a rough floor. The Subordinate Officials were at the time of the research renting offices from the Ministry of Agriculture.

(ii) Usage of basic Information, Communication Technology (ICT) by Courts

The absence of basic Information, Communication Technology (ICT) was noted as challenge, reference made to Figure 3. Approximately 90% (264) of the respondents reported the absence of ICT as a challenge. Table 8 shows that 76% (226) of the respondents claimed that the usage of information technology in the Court facility was “very poor”. It was generally observed that the current state of Judicial infrastructure was not able to aid the provision of e-services.

During the study, most Judicial staff contended that the current Court infrastructure was not able to accommodate the use of ICT to provide public services, to improve managerial effectiveness and to promote democratic values; as well as regulatory framework that facilitates information intensive initiative and foster the knowledge society. The current infrastructure due to age and design prohibited the installation of ICT. It was observed from field visits and FDGs that the current state of the judicial infrastructure could not allow e-information sharing, e- consultation or e- decision making.

Table 8: Usage of ICT by the Court Facility

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Poor	76	25.9	25.9	25.9
	Poor	78	26.5	26.5	52.4
	Average	73	24.8	24.8	77.2
	Good	46	15.6	15.6	92.9
	Very Good	5	1.7	1.7	94.6
	Not Stated	13	4.4	4.4	99.0
	Not Applicable	3	1.0	1.0	100.0
	Total	295	100.0	100.0	

Source: Author’s Computations from Research Data Collected (2017)

Table 9 is a cross tabulation of usage of ICT by the Court facility by locality (urban vs. rural). The Table shows that 18% (52) of the urban respondents claimed it was “very poor” compared to 25.9% (76) of the rural respondents. 41% (120) of the urban respondents claimed it was “poor” compared to 26% (76) of the rural respondents. As for “good”, 11% (32) of the urban respondents compared 14.83% (44) of the rural respondents. 7% (21) of the rural respondents claimed it was “very good” compare to none in the urban areas.

Table 9: Cross Tabulation: Usage of ICT by the Court Facility by Locality

What is the state of courtroom with respect to general infrastructure?								
	Very Poor	Poor	Average	Good	Very Good	Not Stated	Not Applicable	Total
Urban	27%	61%	38%	16%	0%	5%	0%	147%
	18%	41%	26%	11%	0%	3%	0%	100%
Rural	41.54%	61%	54%	42.33%	0.00%	47.89%	0%	50%
	38.00	38.25	32.63	21.8	10.88	5.44	0	147.00
Total	25.9%	26%	22.20%	14.83%	7.40%	3.70%	0%	100%
	58.46%	39%	46.20%	57.67%	100%	52.11%	0%	50%
Total	65	99.25	70.63	37.8	10.88	10.44	0	295
	22.11%	34%	24.02%	12.86%	3.70%	3.55%	0%	100%
	100%	100%	100%	100%	100%	100%	100%	100%

Source: Author’s Computations from Research Data Collected (2017)

Inadequate space in the Courtroom has serious consequences for professional honesty in the work of Courts and public safety, which the use of Information and Communication Technology (ICT)

could adequately resolve. Most importantly, this inadequacy undermined the respect of citizens for the judicial system and the supremacy of the law.

It was observed that most rural Courts were still using typewriters. It was also observed that Stenographic machines were being used in Lusaka, Kitwe, Livingstone and Ndola. But due to power load shedding, most Courts had resorted to shorthand methods. This made it difficult for the court reporters to perform their duties effectively. The Court reporters have a duty to maintain the accuracy of the transcripts. They need to be able to hear everything that is said clearly and preferable be able to see the face of the person speaking. From the interviews, it was established that 87% of the respondents, mainly Court officials, find it difficult to perform their respective tasks due to the courtroom size, geographical location and absence of necessary audio equipment. The Court Officials find it difficult to listen clearly to others' spoken words; monitor facial expressions for better speech comprehension and read from electronic projections.

Regarding lawyers who have a prominent role to play in the courtroom, in that like the Magistrates and Court reporters, they must read legal documents; read from electronic projections; examine documentary evidence; monitor facial expressions; take notes; listen clearly to others' spoken words; verbally present information and convincing arguments to other actors. However, 65% of the lawyers interviewed claimed that nearly all courtrooms except for Lusaka Magistrate Court Complex, the High and Supreme Court, where not designed for court function. The courtrooms lacked the necessary audio and visual installations and equipment.

(iii) Information Desks

The data shows that most Judicial Institutions have information desks. Table 10 shows that 38.8% (114) of the respondents claimed that the Court facilities had information desks. However, what was unique is that approximately 25.5% (75) of the respondents did not know of the existence of these information desks.

Table 10: Existence of Information desk at Judicial Institution

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	114	38.8	38.8	38.8
	No	97	33.0	33.0	71.8
	Don't know	75	25.5	25.5	97.3
	Not Stated	7	2.4	2.4	99.7
	Not Applicable	1	.3	.3	100.0
Total		295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

Table 11 shows that 34% (50) of the urban respondents claimed the court buildings had information desks compared to 36% (38) of the rural respondents. Nearly 29% (42) of the urban respondents claimed there was no information desk compared to 27% (39) of the rural areas.

Table 11: Cross Tabulation: Information Desk by Locality

		Does the Court building have an information desk?					Total
		Yes	No	Don't Know	Not Stated	Not Applicable	
Urban		50	42	55	0	0	147
		34%	29%	37%	0%	0%	100.00%
Rural		56.82%	51.85%	44.00%	0.00%	0.00%	50.00%
		38.00	39	70	0	0	147.00
Total		25.9%	26.53%	47.62%	0.00%	0.00%	100.00%
		43.18%	48.15%	56.00%	0.00%	0.00%	50.00%
Total		88	81	125	0	0	295
		29.93%	27.55%	42.52%	0.00%	0.00%	100.00%
		100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Source: Author's Computations from Research Data Collected (2017)

It can be observed from Table 11 that 42.52% (125), of the respondents did not know that information desks existed at the Court facility, of this 47.62% (70) were rural respondents and 37% (55) were urban respondents. During field visits, it was observed that many Court facilities had a Counter where people would go to obtain information. This implies that the Judiciary had

not adequately informed the people on the availability and purpose to that effect of the Information Desks.

(iv) Record Keeping

During field visits, it was observed that although Court registries appeared to be in good physical condition, they were not purpose-built and suitable for the storage of paper, electronic, and other recording formats. The researcher toured new records centre built from steel containers in Lusaka, Ndola, Chansali, Solwezi, Livingstone and Chipata. In addition, the steel containers are not ventilated and have terrible lighting system. The containers are not air conditioned and do not have fire monitoring and fire mitigation system.

As shown in Table 12, most of the respondents (51.7%) (152) were of the view that Court facilities were recording data manually and only 5.8% (17) of the respondents were of the view that it was automated. Approximately 27% (79) of the respondents did not know.

Table 12: Recording Keeping at the Courts

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Manual	152	51.7	51.7	51.7
	Automated	17	5.8	5.8	57.5
	Both Manual and automated	41	13.9	13.9	71.4
	Don't Know	79	26.9	26.9	98.3
	Not Stated	4	1.4	1.4	99.7
	Not Applicable	1	.3	.3	100.0
Total		295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

In addition, Cross tabulation of “Record Keeping at the Courts” and “Locality” data shows that rural areas had a larger number of respondents reporting that the Court facilities were recording data manually. It was also observed that urban areas had a larger number of respondents reporting that their Court facilities were automated.

(v) Court Security

The data shows that approximately 74% (217) of the respondents claimed that most courtrooms did not have security features to provide basic safety to both the court Actor and gallery. The Security officers, mainly from the Zambia Police Force, in the Courtroom had the duty of maintaining law and order. They play a prominent role in presenting witnesses in custody. Their main tasks include monitoring people in courtrooms and escorting criminal defendants in and out of the courtroom and protecting all court participants, including the public and defendants.

(vi) Reading Rooms

Table 13 shows that 54% (159) of the respondents claimed that Court facilities do not have rooms dedicated for reading court documents. It is clear from the forgoing that the various courtroom actors do not adequately perform their noble task of presiding over proceedings; maintaining order; rule over admissibility and legality of evidences; and giving instructions to the other court actors mainly due to the existing infrastructure.

Table 13: Availability of Reading Rooms at the Courts

	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	63	21.4	21.4	21.4
No	159	54.1	54.1	75.5
Don't know	62	21.1	21.1	96.6
Not Stated	9	3.1	3.1	99.7
Not Applicable	1	.3	.3	100.0
Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

(vii) Sanitation Facilities

In this study, sanitation refers to the provision of facilities and services for the safe disposal of human urine and faecal excreta. It was observed that 66% (194) of the respondents claimed that the Court buildings had sanitation facilities. Table 14 also shows that 19% (56) did not have such facilities.

Table 14: Availability of Sanitation Facilities at Court Building

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	194	66.0	66.0	66.0
	No	56	19.0	19.0	85.0
	Don't know	37	12.6	12.6	97.6
	Not Stated	6	2.0	2.0	99.7
	Not Applicable	1	.3	.3	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

However, with respect to the quality or state of the sanitation facilities, it was observed that 46% (90) of the sanitation facilities were below average. Visitation to the Court facilities in the Provinces showed that the Court buildings lacked toilets or running water. Most of the toilets were Ventilated Improved Pit latrines (VIPs).⁹

Table 15: State of Sanitation Facilities at Court Building

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very bad	44	22.4	22.4	22.4
	Bad	46	23.8	23.8	46.3
	Average	55	28.6	28.6	74.8
	Good	29	15.0	15.0	89.8
	Very Good	6	3.1	3.1	92.9
	Not Stated	12	6.5	6.5	99.3
	Not Applicable	2	.7	.7	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

(viii) Congestion in Court Rooms

The small, congested, unventilated courtrooms pose a health risk to the courtroom actors, staff and the gallery. Zambia ranks among the top 10 countries in the world in terms of Tuberculosis (TB) prevalence. Tuberculosis is a serious disease caused by the germ *Mycobacterium Tuberculosis* and/or *Mycobacterium bovis*. *Mycobacterium Tuberculosis* causes most Tuberculosis in humans

⁹ The Ventilated Improved Pit latrine (VIP) is a pit latrine with a black pipe (vent pipe) fitted to the pit and a screen (fly screen) at the top outlet of the pipe. VIP latrines are an improvement to overcome the disadvantages of simple pit latrines, e.g. fly and mosquito nuisance and unpleasant odors (https://en.wikipedia.org/wiki/Pit_latrine).

(WHO, 1999). *Mycobacterium bovis* is part of the tuberculosis family, primarily a disease of cattle but may affect other animals as well as humans.

Tuberculosis can hurt a person's lungs or other parts of the body. However, TB can be prevented. *Mycobacterium Tuberculosis* is carried in airborne particles, or droplet nuclei, that can be generated when a person with TB sneezes, coughs, or speaks (WHO, 2016, p.4). The infectious droplet nuclei are an estimated 1-5 microns in diameter, and normal air currents can keep them suspended and airborne for days. Infection, which is usually asymptomatic, occurs when a susceptible person inhales droplet nucleus containing *Mycobacterium Tuberculosis* and the organisms reach the alveoli of the lungs. Once in the lung, the organisms are taken up by the alveolar macrophages and may spread further throughout the body. Disease, which is usually accompanied by focal and generalized symptoms, may develop soon after infection; in most persons, however, an immune response is generated within 2-10 weeks after infection that limits further multiplication and spread of the tubercle bacilli. Some of the bacilli may remain dormant and viable for many years. Persons with latent infection do not have symptoms of active TB and are not infectious (WHO, 1999, p.7).

Tuberculosis is common and widespread in prisons due to overcrowded cells and poor ventilation facilitating transmission (Muntingh and Tapscott, 2009, pp.25-46). Between 1995 and 2000, approximately 2,397 inmates and 263 staff died of AIDS related illnesses in the country's prisons (Simoooya, *et al.*, 2001, pp.1741-1744). The Human Rights Watch Report, (2010) describes the poor and inadequate conditions within Zambian prisons including limited or no HIV/TB testing or treatment, lack of medical infrastructure and staff, and limited access to basic necessities such as soap, as the major drivers for spread of TB in the correctional facilities.

According to Reyes (2007) and SADC (2016), overcrowded Zambian prisons are dangerous incubators of deadly infectious multi-drug-resistant tuberculosis. Large numbers of pre-trial detainees are often detected with TB. The overcrowding problem is primarily the result of the high number of prisoners awaiting trial, at the time of study, estimated at two third of the prisoner population (Joanne, 2010). Many detainees had "sat in remand prison without access to the Courts for months, in some cases years" (Times of Zambia, July 2016, p.4).

The number of prisoners awaiting trial is affected by the increasing length of time it takes for a case to go to trial, and bail practices that leave many imprisoned for no other crime than being poor. Thus, the prisoners, who mainly, tend to have a background of poverty and poor health, and most prisoners are youths (ages of 18 and 35). This category of prisoners is normally unable to fulfil bail conditions. This translate into approximately 15, 000 pre-trial detainees returning to courtroom each year, resulting in the transfer of illnesses, infections, and diseases. As more and more people are sent to prison, more and more of them are dying before serving out their sentences. Research into the death records at various prisons throughout Southern Africa has found that approximately 90% of deaths in prison are the result of TB and HIV/AIDS (SADC, 2016).

Concern of the study was not only being directed at the risk of TB transmission in prisons, but also at the potential impact of prisoners on TB transmission outside of prison especially in small, poorly ventilated and congested courtrooms. According to WHO (1990) the probability that a person who is exposed to Mycobacterium Tuberculosis will become infected depends primarily on, among others:

- (a) the concentration of infectious droplet nuclei in the air, which is influenced by the number of organisms generated by the TB patient; and
- (b) the amount of ventilation in the area of exposure and duration of exposure.

Exposure is high in Zambian Courts because the Courts are relatively small and enclosed spaces; lack adequate ventilation to “clean” the environment through diffusion or removal of infectious droplet nuclei and re-circulation of air containing infectious droplet nuclei is limited. It was observed that approximately 95% of respondents interviewed claimed that there was a high likelihood that Court Actors such as: the Magistrates; Justices; Court Clerks; Court deputies; Court Reporters and Marshals were exposed to Tuberculosis patients more than 5 hours a day.

Most of the respondents claimed that the exposure to infectious droplet nuclei could be eliminated, if the Courts adopted various environmental control methods (such as maximizing natural ventilation and controlling the direction of airflow) by opening window or the use fans to control the direction of air flow. It was claimed that annual budgets do not allocated enough resources for

items like fans, air and conditioning equipment. It was noted from interviews that approximately 35 % of Judicial Officers have had Tuberculosis or were undergoing Tuberculosis treatment in the past 5 to 10 years.¹⁰ This has had a negative impact on performance and contributed to court delays.

(ix) Affordability of Court Services

Table 16 shows that 45 % (84) of the respondents were of the view that the judiciary system in the country was not accessible with respect to affordability.

Table 16: Affordability of the Judiciary System in the Country

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Poor	38	12.9	12.9	12.9
	Poor	56	19.0	19.0	32.0
	Average	135	45.9	45.9	77.9
	Good	51	17.3	17.3	95.2
	Very Good	4	1.4	1.4	96.6
	Not Stated	8	2.7	2.7	99.3
	Not Applicable	2	.7	.7	100.0
	Total	295	100.0	100.0	

Source: Author’s Computations from Research Data Collected (2017)

(x) Quality Court Service Delivery

Table 17 shows that only 10.2 % (30) of respondents claimed that a Court case lasted less than a month; 15% (44) claimed it lasted between one to six months; 5.4 % (16) claimed between six and twelve months and 5.8% (17) between one and two years and 9.9 % (29) claimed it last for more than two years.

¹⁰ Interview with Judicial staff at Provincial level

Table 17: Length of Court Case at Subordinate Courts

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Less than a month	30	10.2	10.2	10.2
	Between one and six months	44	15.0	15.0	25.2
	Between six and twelve months	16	5.4	5.4	30.6
	Between one and two years	17	5.8	5.8	36.4
	More than two years	29	9.9	9.9	46.3
	Not Stated	2	.7	.7	46.9
	Not Applicable	156	53.1	53.1	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

(xi) Accessibility of Subordinate Court infrastructure

The study also shows that the greatest major obstacle to access to the Subordinate Court is the physical inaccessibility. Most of the Subordinate Court are centralized in District Central Business Areas. Poor people, consequently, must travel long distances to access Courts located in the nearest growth center or District. Even those with Subordinate Court within their vicinity must travel long distances to access Superior Courts.

Table 18: Accessibility at Courts

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Poor	86	29.3	29.3	29.3
	Poor	47	16.0	16.0	45.2
	Average	110	37.4	37.4	82.7
	Good	35	11.9	11.9	94.6
	Very Good	7	2.4	2.4	96.9
	Not Stated	7	2.4	2.4	99.3
	Not Applicable	2	.7	.7	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

It was observed that most of the people had to travel approximately 45 to 80 Kilometers to access Subordinate Court. This is also in tandem with the 2016 Auditor General's Report, which alluded that the Zambian Judiciary was short of 86 courtrooms across the country (GRZ, 2016) It is claimed that the Judiciary needed close to 200 additional courtrooms for Subordinate Courts across the country. There was also mention that approximately 72 Courts needed modernization (GRZ,

2016). This limits access to justice and contributes to the loss of trust and confidence in the system by citizens. In some areas people have reported that police officers were behaving and acting as judicial officers.¹¹

Table 19: Accessibility to Court buildings by Disabled

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	137	46.6	46.6	46.6
	No	106	36.1	36.1	82.7
	Don't Know	41	13.9	13.9	96.6
	Not Stated	7	2.4	2.4	99.0
	Not Applicable	3	1.0	1.0	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

Table 19 shows that 46.6% (137) of the respondents were of the view that the disabled had physical access to the Court building while 36.1% (106) of the respondents claimed the disabled did not have access. Cross-tabulation between “Accessibility to Court buildings by Disabled” and “Locality” data show that the following Provinces namely: Eastern, Western, Northern, North-Western, Muchinga, Luapula, Southern and Central had a larger number of respondents reporting that the disabled had physical access to the Court building while respondents from Lusaka and Copperbelt provinces reported that the disabled did not have access.

5.2 Impact of the Current State of Subordinate Court Infrastructure

The information presented in Section 5.1, specifically Figure 3: on “Physical Status of Subordinate Courtrooms”, singularly or combined reduced citizen’s access to Justice. The mechanism was through the:

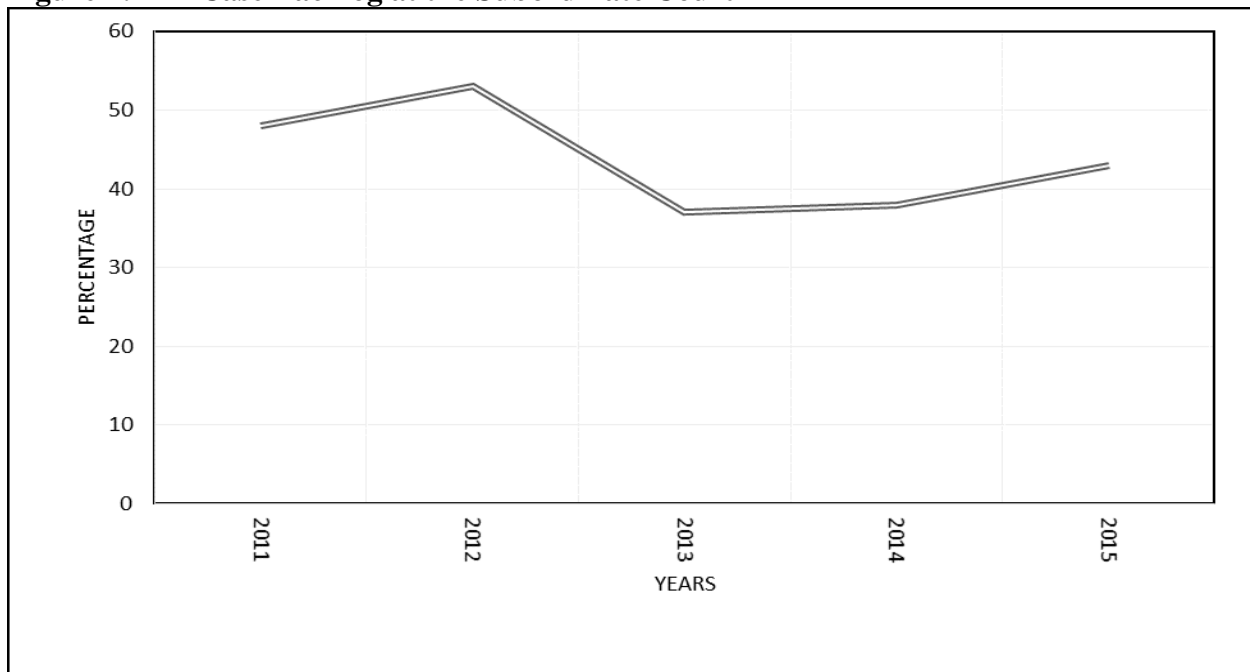
- (a) reduction of office working hours;
- (b) Absenteeism of judicial officers;
- (c) Reduction of court session times;
- (d) Reduction of court circuits;

¹¹ Legal and Justice Sector Reform Commissioner Petitioner in Mpika aired on ZNBC on 17th August 2017. Retrieved from <https://www.lusakatimes.com/2015/07/17/luwingu-petitioner-urges-govt-to-improve-enrolment-of-law-students-at-ziale/>

- (e) Adjournment of matters before the Court;
- (f) Huge Case Backlog (Times of Zambia, 2017);
- (g) Delayed Judgement (Times of Zambia, 2012, 2013 and 2017);
- (h) Administrative and petty corruption (U4, 2008; and Times of Zambia, 2014);
- (i) Decline in the legitimacy of the Courts (Afrobarometer, 2015); and
- (j) Reduction in citizens' trust in the Judiciary from 62% to 59% (Afrobarometer, 2015).

There are limited studies conducted on the behavioural aspects of judicial staff, hence there is inadequate data to quantify absenteeism of judicial officers and reduction of office working hours in the country. Court case backlog, in this research, is used as a proxy indicator to show the magnitude of the above challenges. Figure 4 shows that case backlog trend is on the upswing.

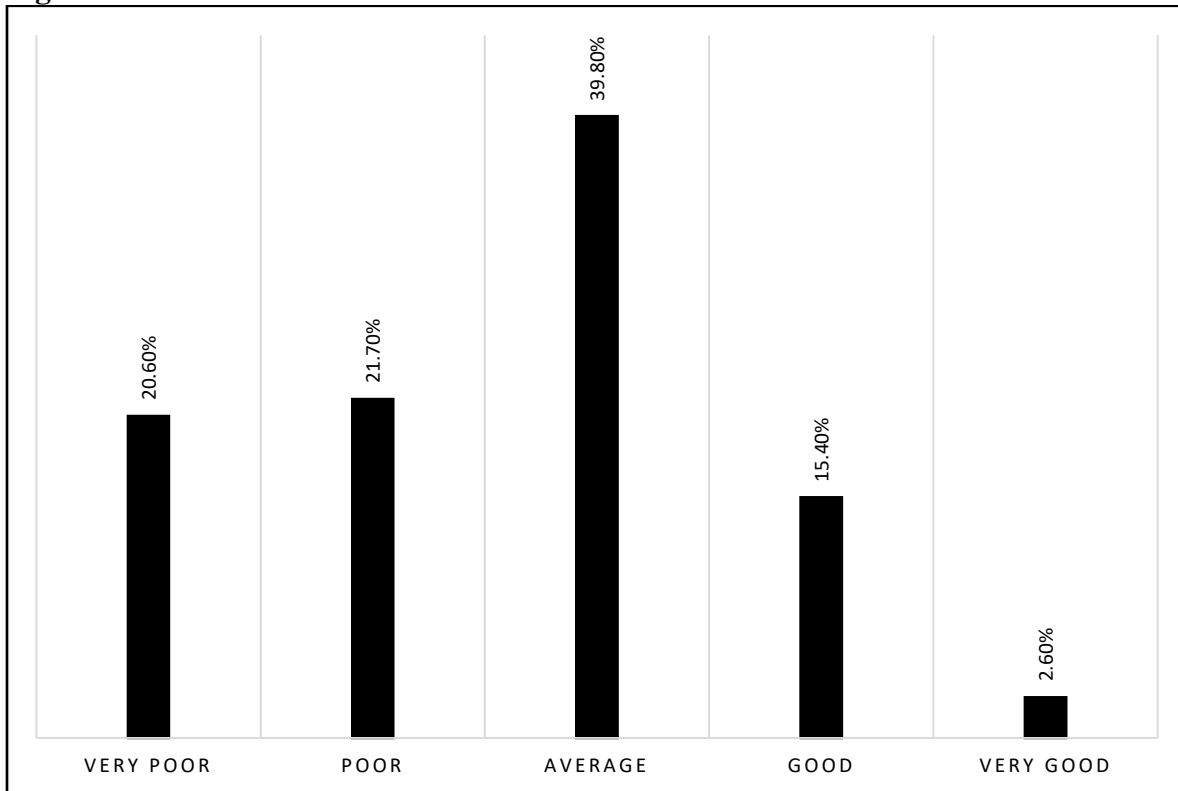
Figure 4: Case Backlog at the Subordinate Court



Source: Author's Computations from Research Data Collected (2017)

It was observed that approximately 58% (170) of the respondents were of the view that the Subordinate Courts required modernisation. This, to an extent, showed that the physical state of judicial infrastructure in the country needed to be improved to reflect the importance of the sector in the socio-economic development of the country.

Figure 5: Courtroom Modernisation



Source: Author's Computations from Research Data Collected (2017)

5.3 Discussion and Interpretation of Qualitative Findings

5.3.1 Judicial Fiscal Autonomy

(a) Funding Trend to the Zambian Judiciary

Approximately 75% (220) of the respondents claim that the myriad of problems facing the Zambian Judiciary can be pinned on the limited budgetary allocation to the judiciary. The illustration shown in Table 20, outlines that total budgetary allocation, in absolute terms, to the Judiciary for the last decades has been less than 1% of the total Zambian National budget.

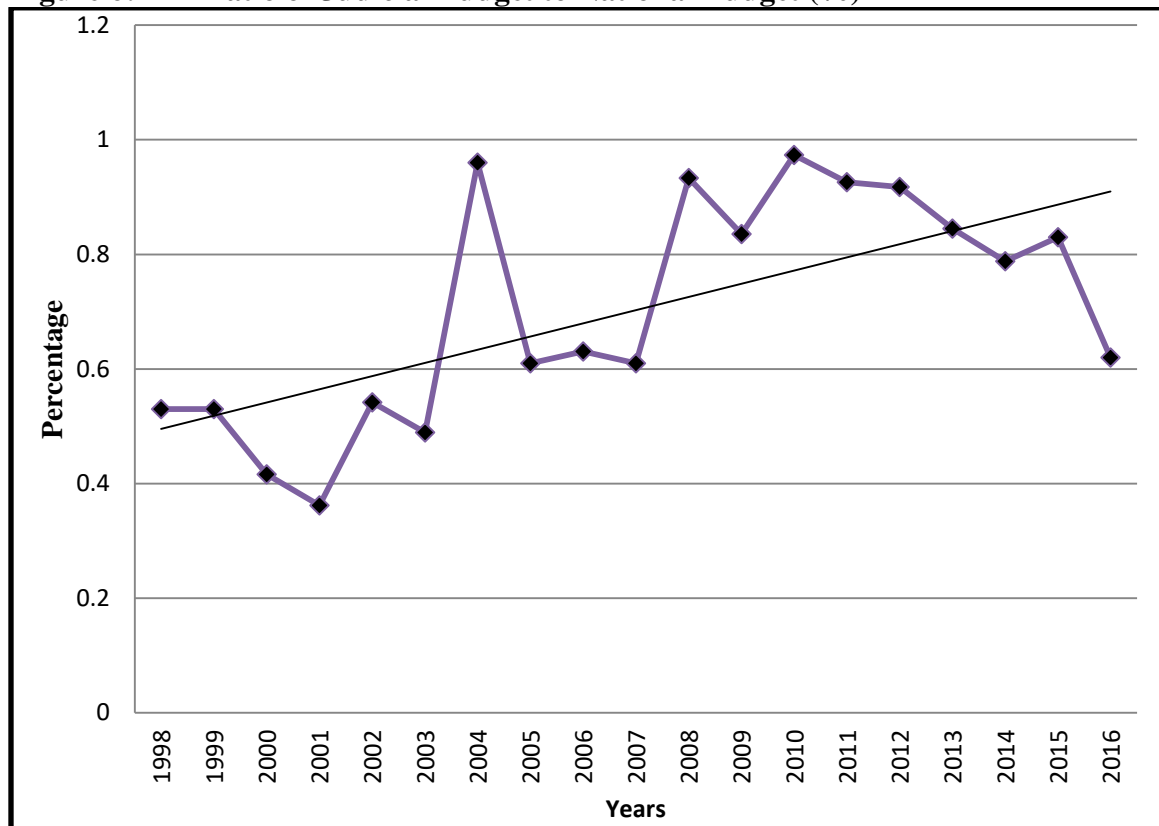
Table 20: Judicial Budget. Locations from 1998 to 2016

Year	Judiciary Budget (ZMK)	Total National Budget (ZMK)	%
1998	10,441,111,016.00	1,969,835,591,270.00	0.53
1999	10,334,639,017.00	1,968,334,692,270.00	0.53
2000	13,575,208,011.00	3,261,961,793,194.00	0.42
2001	18,153,636,191.00	5,015,050,011,500.00	0.36
2002	33,192,095,287.00	6,126,413,342,488.00	0.54
2003	33,905,348,073.00	6,931,510,010,143.00	0.49
2004	86,317,971,280.00	9,036,305,385,466.00	0.96
2005	59,306,587,695.00	9,779,025,370,413.00	0.61
2006	68,446,370,651.00	10,854,099,494,289.00	0.63
2007	77,431,119,776.00	12,691,948,512,384.00	0.61
2008	128,419,920,971.00	13,761,400,894,438.00	0.93
2009	127,666,999,977.00	15,279,037,268,316.00	0.84
2010	162,752,648,014.00	16,717,767,817,120.00	0.97
2011	189,486,588,990.00	20,466,782,658,432.00	0.93
2012	254,196,402,890.00	27,698,281,929,835.00	0.92
2013	272,218,433,000.00	32,212,160,279,000.00	0.85
2014	336,253,998,000.00	42,682,034,134,000.00	0.79
2015	304,712,289,000.00	36,801,215,215,000.00	0.83
2016	316,562,188,000.00	51,150,112,508,000.00	0.62

Source: Ministry of Finance. Estimate of Revenue and Expenditure, Zambia

Table 20 shows that not until 2004, the percentage allocation to the Judiciary was below the average percentage of 0.58. After 2004, it increased reaching 0.97 percent of the budget in 2010, the highest it has ever been since independence, as observed in the Trend line in Figure 6, below.

Figure 6: Ratio of Judicial Budget to National Budget (%)



Source: Estimate of Revenue and Expenditure, Zambia

According to U4 Report (2015), Judiciary Insider (2015) and USAID, (2009) the trend line is similar for most African Countries with regard to Judicial funding. The countries cited by U4 are Malawi, Ghana, Zimbabwe, Lesotho, Swaziland, Mali, Uganda and Ivory Coast.

With reference to Table 29, Figure 7 and Summary Output for Regression Analysis at **Annex 5**, the funding model for the annual Judiciary budget with respect to Zambia’s annual National Budget is given by regression equation:

$$Y=956,765,452 +0.007 X_2 \qquad P < 0.001$$

Where: X_2 is the National Budget.

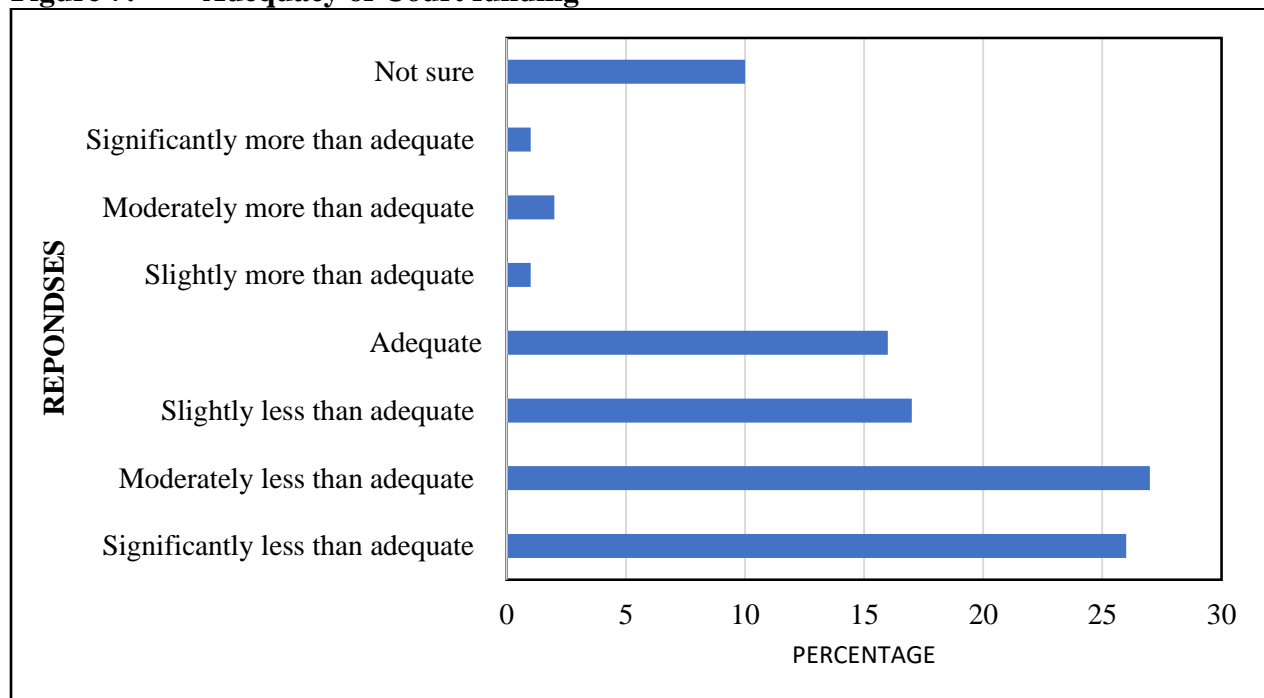
The above regression equation means that when all other factors are constant, a unit increase in the perceptive value of annual National Budget would yield a ZMK 956,765,452.00 increase in

Judicial Budget. From the Summary Output for Regression Analysis at Annex 5, on page 205, the study establishes a correlation coefficient of 0.940 which is a very strong positive correlation depicting a near perfect linear dependence between two variables.

(b) Adequacy of Judicial Budget

Approximately 70% (206) of the respondents overwhelmingly revealed that Courts, especially the Subordinate Court, in their districts are less than adequately funded. Figure 7 shows that 26% of the respondents claimed that court funding was “significantly less than adequate” and 28% of the respondents claimed that it was “moderately less than adequate”. Approximately 17% of the respondents claimed it was “slightly less than adequate” and only 16% claimed it was “adequate”. Less than 5% of the respondents claimed it was above adequate.

Figure 7: Adequacy of Court funding



Source: Author’s Computations from Research Data Collected (2017)

Figure 8 above shows that only 16 % (47) of the respondents were of the view that finances for Courts were enough. It was also observed that only 3% (8) of the respondents claimed that finances were above adequate. In addition, it was observed that 70% (206) of the respondents provided the reasons mentioned in Table 21 below. The reasons have been categorised into four thematic areas

for easy of analysis. They have been accompanied by selected quotes that represent the four challenges.

Table 21: Quotes from Respondents

CHALLENGES	CATEGORY	QUOTES
1	Case backlog and delay in handling cases.	<ul style="list-style-type: none"> • “Judges and Magistrates do not have the time and resources to comprehensively follow up case and complete them as scheduled”; and • “Courts are seriously congested. This congestion of court causes cases to be delayed for significant periods of time. Victims of crime are forced to come to court again and again, only to find that their cases have been rescheduled due to congestion. Defendants are held in custody for significant periods of time when their cases are repeatedly rescheduled due to calendar congestions.”
2	Insufficient number of court officials and low wages for Subordinate Courts.	<ul style="list-style-type: none"> • “Cases are adjourned routinely because Judiciary does not have enough judges to meet the demand. Lack of confidence in the judicial system”; and • “Inadequate staffing levels for the clerk of Courts office and other court system departments”.
3	Lack of Court equipment and lack of overall facility maintenance.	<ul style="list-style-type: none"> • “Lack of updated Court equipment, Courtrooms and buildings”; • “Inadequate courthouse security, insufficient number of courthouses especially in the urban areas”; and • “Insufficient general funding to judicial physical infrastructure”.
4	Increase in Corruption.	<ul style="list-style-type: none"> • “Corruption increase in the Courts”; • “Expensive for the poor people to access Justice”; and • “Political involvement.”

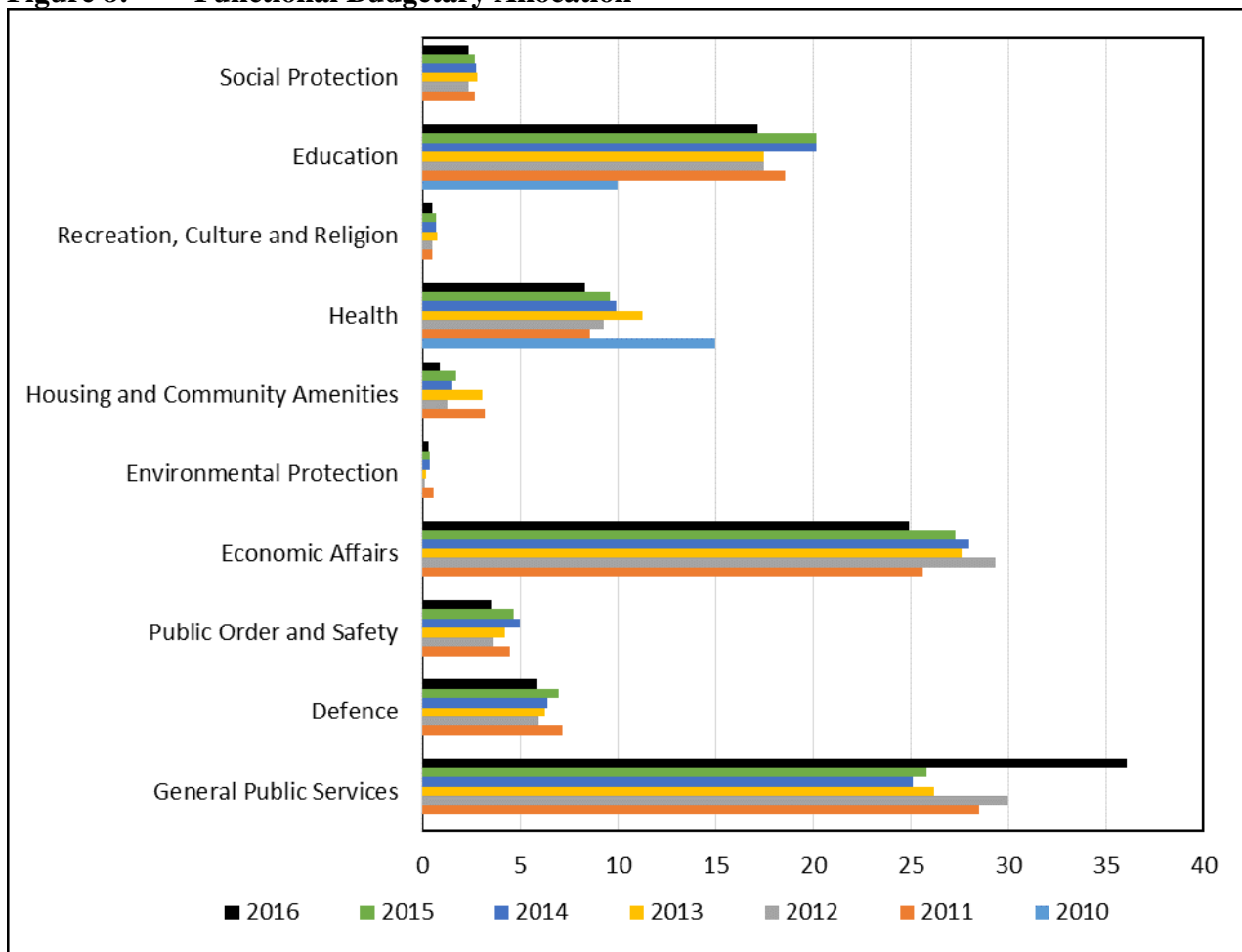
Source: Author’s Computations from Research Data Collected (2017)

(c) Budgetary Allocations to Priority Sectors in Zambia

Though Zambia is a resource constrained economy, some sections of the economy, such as road and rail infrastructure, electricity, education, health and water supply have witnessed relative levels

of modernisation and transformation in the last two decades (Leiderer and Faust, 2011, p.127). These sectors of the economy have enjoyed substantial budgetary increments and political will from both the politicians and the public (Saasa, 2010, p.10). A review of the Revised Sixth National Development Plan (2012) and the 2015 Zambia Economic Report show that the budgetary allocation for the Education Sector stood at 20.2 percent of the budget allocation in 2014 and 2015, representing an increase of 53 percent when compared to the 2013 allocation, with notable expenditures towards the construction of Secondary School infrastructure across the country, operations and expansion of infrastructure in universities and colleges and operational grants for universities, student tuition and bursaries (GRZ, 2012).

Figure 8: Functional Budgetary Allocation



Source: Author’s Computations from Research Data Collected (2017)

As reflected in Figure 8, the 2010 budget allocation to the Health Sector stood at 15% of the Budget. However, on average the Health Budget has been 9.9% of the national budget since the early 2000. The notable expenditures have been towards drugs and medical supplies, procurement of specialized medical equipment and for infrastructure development in the Health Sector. Public Order and Security accounted for 5% of the budget mainly for the maintenance of law and order under the Zambia Police Service budgetary vote. Recently approximately ZMW27.2 Million was allocated for the procurement of digital forensic equipment and a mobile forensic laboratory, among others. ZMW21.9 Million was allocated to improving prison infrastructure. Furthermore, ZMW 22.6 Million was allocated to prison farms (GRZ, 2012).

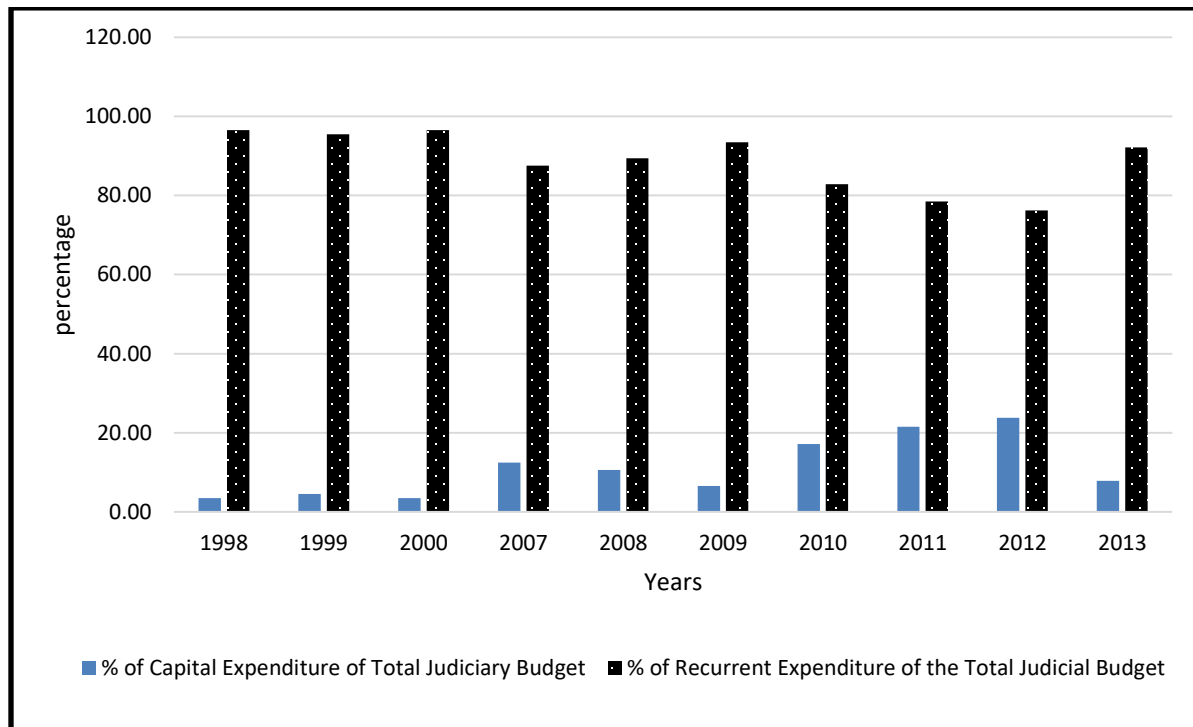
Under Economic Affairs, the Agriculture Sector accounts for an average of 6 percent of the national budget. However, its share has in the recent past increased from 5.8% to 7.2% of the national budget in 2014. Agriculture provides the main support for Zambia's rural economy, and because of this, growth in the Agricultural Sector is the clearest avenue through which poverty reduction can be achieved in Zambia. Close to 67% of the Zambian population depend on agriculture, primarily through smallholder production for their livelihoods and employment (GRZ, 2017). Zambia recognizes agriculture as one of the key priority sectors in achieving sustainable economic growth and poverty reduction as outlined in the Sixth National Development Plan (SNDP) and the National Agricultural Investment Plan (NAIP).

Since the 1990s, Zambia's budget has been tailored towards reducing poverty directly. Zambia has a Gini coefficient estimated at 0.575, implying that levels of social inequality are among the highest in the world. Poverty levels stand at 63%, with extreme poverty at 42%, rising to 70% in certain rural provinces where most of the population relies on subsistence agriculture (Saasa, 2010, pp.10-24). As was outlined in the earlier sections, Zambia's Poverty Reduction Strategy Paper prioritised investments in key economic sectors, with special focus on agricultural and rural development (GRZ, 2002). This includes the creation of rural employment opportunities through the promotion of large-scale enterprises; strengthening linkages of small-scale farmers to commercial markets; and enhancing the provision of social services such as education, health and sanitation.

(d) Judiciary's Recurrent Expenditure and Capital Expenditure

Planners from the Ministries of Finance and National Planning claim that the 1% annual budgetary allocation to the Judiciary was adequate to operate and modernise the Judiciary.¹² It was argued that the reason why the annual budgetary (i.e. the 1% allocation) was not adequate could be attributed to the level of inequity and the lack of priority setting within the Judiciary.

Figure 9: Judiciary's Recurrent and Capital Expenditure 1998 to 2013



Source: Author's Computations from Research Data Collected (2017)

Figure 9, a review of historical funding data to the Judiciary, shows that the Recurrent Expenditure as a percentage of the Judiciary was an average of 88.9% (GRZ, 2010). This indicates that the Zambian Judiciary Budget is approximately 90% salaries, payment of overheads, travelling, entertainment and lodge allowances compared to other Ministries, Provinces and Spending Agencies, which average below 50% (IMF, 2015). While 90% of Judiciary budget is recurrent expenditure of Subordinate, Local Courts Administrators in Southern, Western and Muchinga Provinces, especially the rural Courts, revealed that most Courts did not have basic stationary and

¹² Interview with Officers from Ministry of Finance, Budget Office held in Lusaka, November 2016

other office essentials.¹³ It was also observed during field visits that most of the Subordinate Courts did not have Bond paper, Photocopier, Toner, Toilet paper, Fans, Tables, Filing Cabinets, Utility Vehicle, Curtains, Fridges, Furniture, Laptops and Computers, Law Text Books and Office Desk and Chairs. This was attributed to low funding levels by the Executive.¹⁴

Some of the rural Court Clerks interviewed blamed the Provincial Courts for not disbursing resources to the lower Courts especially those in the rural areas. The Provincial Courts blamed the lower Court administration for not submitting financial request in time due to capacity constraints. Some respondents at Provincial Level, wondered why the Local Courts and Subordinate Courts were complaining when the system had allowed them to use locally generated resources to cover recurrent expenditure. They also claimed that the Subordinate Courts had access to Court fees, miscellaneous charges, surcharges, court costs and fines and penalties collected, as per Standing Orders these were to be retained to be used locally.¹⁵

It was observed that most of the Subordinate Courts were using Court fees, miscellaneous charges, surcharges, Court costs and fines and penalties collected to supplement the limited budget disbursed to lower Courts for recurrent expenditure (GRZ, 2012). It was observed that while Lower Courts in urban areas were collecting close to K20, 000.00 per month, while similar Courts, in the rural areas, would only collect close to K5, 000. 00 per month. It was argued by all Court Clerks that these amounts were not enough to support Court operations. There are jurisdictions in Africa with similar arrangement, where Courts return 15% of internally generated funds.

Most of the respondents were greatly concerned about the reliance of the Judiciary on Court fee collection for Court operations. It was argued that the reliance on Court fees enhanced the appetite by the Judiciary to increase and charge citizens for any court service offered resulting in the negative impact of denying citizens access to Justice. Further, it was argued that neither Courts nor specific court functions should be expected to operate exclusively from proceeds produced by fees and other court charges.

¹³ Interviews and field visit month of November and December 2015

¹⁴ Interviews and field visit month of November and December 2015

¹⁵ Interviews and field visit month of November and December 2015

Access to justice and the Courts of law is a fundamental right of every citizen. The need for Governmental revenues must be carefully counterbalanced with the public's access to the Courts. By increasing the financial burden of using the Courts, excessive fees or miscellaneous charges tend to exclude citizens who have neither the monetary resources available to the wealthy nor the governmental subsidies for the poor. Fees and other court charges cannot preclude access to the Courts and should be waived for indigent litigants.

Most of the respondents were concerned with the fact that community members were seeing the Court staff as tax collectors, which was not right. Justice Kenan Tilombe Manda is quoted saying: *“it would be sad if the Court was perceived a toll booth to collect money to run and maintain the Judiciary. It is axiomatic that the core functions of our Government are supported from basic and general tax revenues.”*¹⁶

Justice Manda strongly argued that Government exists and operates for the common good based upon a common will to be governed, and the expense thereof is borne by general taxation of the governed. Courts, as a core function of Government, should be substantially funded by general government revenues. It is as illogical to expect the Judiciary to be self-supporting through user fees as it would be to expect the Executive or Legislative branches of government to be funded through user fees. It is clear from the above discussion that the Zambian Judicial bureaucrats have used discretion to maintain their independence. It could be observed that this has been attained at the cost of limiting access to justices and judicial confidence.

(e) Judicial Salaries as a share of Recurrent Expenditure

Approximately 75 % (220) of the respondents claimed that the 1 percent of national budget allocated to the Judiciary was sufficient for Court operations and modernisation and that there was no need for court fees, except most of the Judicial budget was allocated to budgetary items related to salaries, wages and allowances. This was also a major argument of the respondents from the

¹⁶ Interview with Justice Kenan Tilombe Manda High Court of Malawi, held in 10th March 2016, in Johannesburg, South Africa. This was during the Regional Level 2 Advocacy Dialogue on HIV in Prisons from the 9th to 10th March 2016

Ministry of Finance and Ministry of Justice. It was opined that while it is arguable that the judicial staff need decent salaries, there was need for a balance.¹⁷

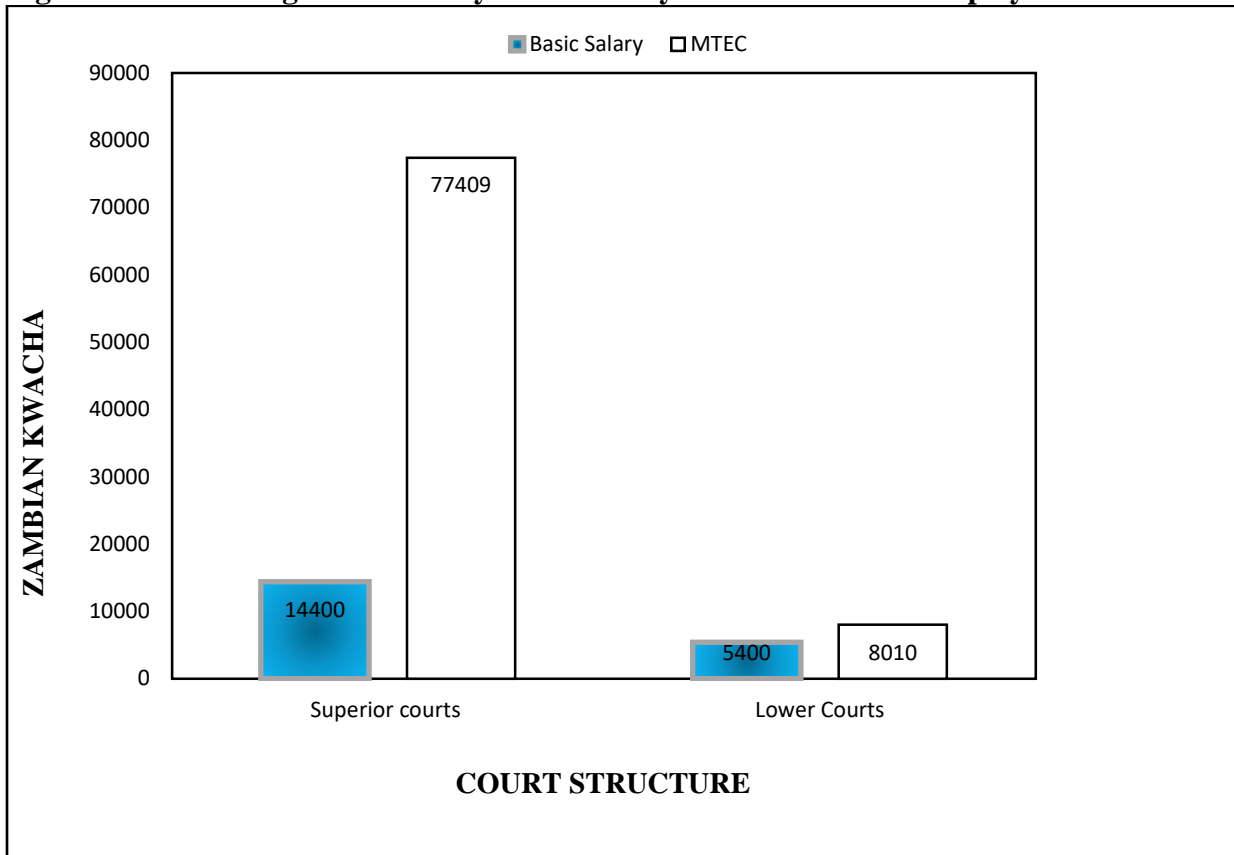
A detailed review of Financial Reports showed that close to 90% of the disbursed funds were directed towards meeting the salaries and conditions of service requirements within the Judicature. It was observed that the Monthly Total Cost to the Employer (MTCE) comprising the basic salary first and foremost plus the following:

- (a) Driver Allowance;
- (b) Domestic Servant Allowance;
- (c) Personal to Holder Vehicle;
- (d) Retirement Gratuity;
- (e) Special Retirement Benefits;
- (f) Tax Exemption Allowance;
- (g) Leave Travel Benefits;
- (h) Call / Landline Phone Allowances;
- (i) Electricity and Water Allowances;
- (j) Security Allowances;
- (k) Responsibility Allowances;
- (l) Non-Private Practice Allowances;
- (m) Recruitment and Retention Allowances;
- (n) Fuel Allowances;
- (o) Contribution to Public Service Pension Fund, Council Property Tax; And
- (p) Housing Allowances.

The high Monthly Total Cost to Employer contributed hugely to the wage bill for the Judiciary especially for the Superior Courts. In the mainstream civil service, the Government had scrapped off a number of allowances under the Public Service Transformation Programme initiated in 2012 and the adoption of Austerity measure in 2014 by the Government (IMF, 2015).

¹⁷ Interview with Ministry of Finance planners in November 2017

Figure 10: Average Basic Salary and Monthly Total Cost to the Employer



Source: Author’s Computations from Research Data Collected (2017)

Figure 10 shows that there is a wide gap between the MTCE for the Superior Court (comprising Supreme, Constitution, Court of Appeal and the High Court) and Lower Courts (comprising the Magistrate and Local Courts). Magistrates, especially in the lower Courts, struggle to divide their pay to accommodate the necessities of life: food for their families; shelter; transportation; and education for their children. The salaries and conditions of service of local Court Magistrates and support staff are inadequate and demotivating.

A similar comparison was conducted for Rwanda and Uganda, as shown in Table 22. Uganda was selected because of its common history with Zambia. Both are former British colonies and have similar government structures. The Republic of Rwanda, located in Central Africa, was selected based on its advancement in socio-economic reforms and Judicial Reforms. Rwanda has also made a lot of progress in Judicial modernisation in Africa (APRM Secretariat, 2006).

Table 22: Monthly Total Cost to the Employer: Superior and Lower Courts in Rwanda, Uganda and Zambia

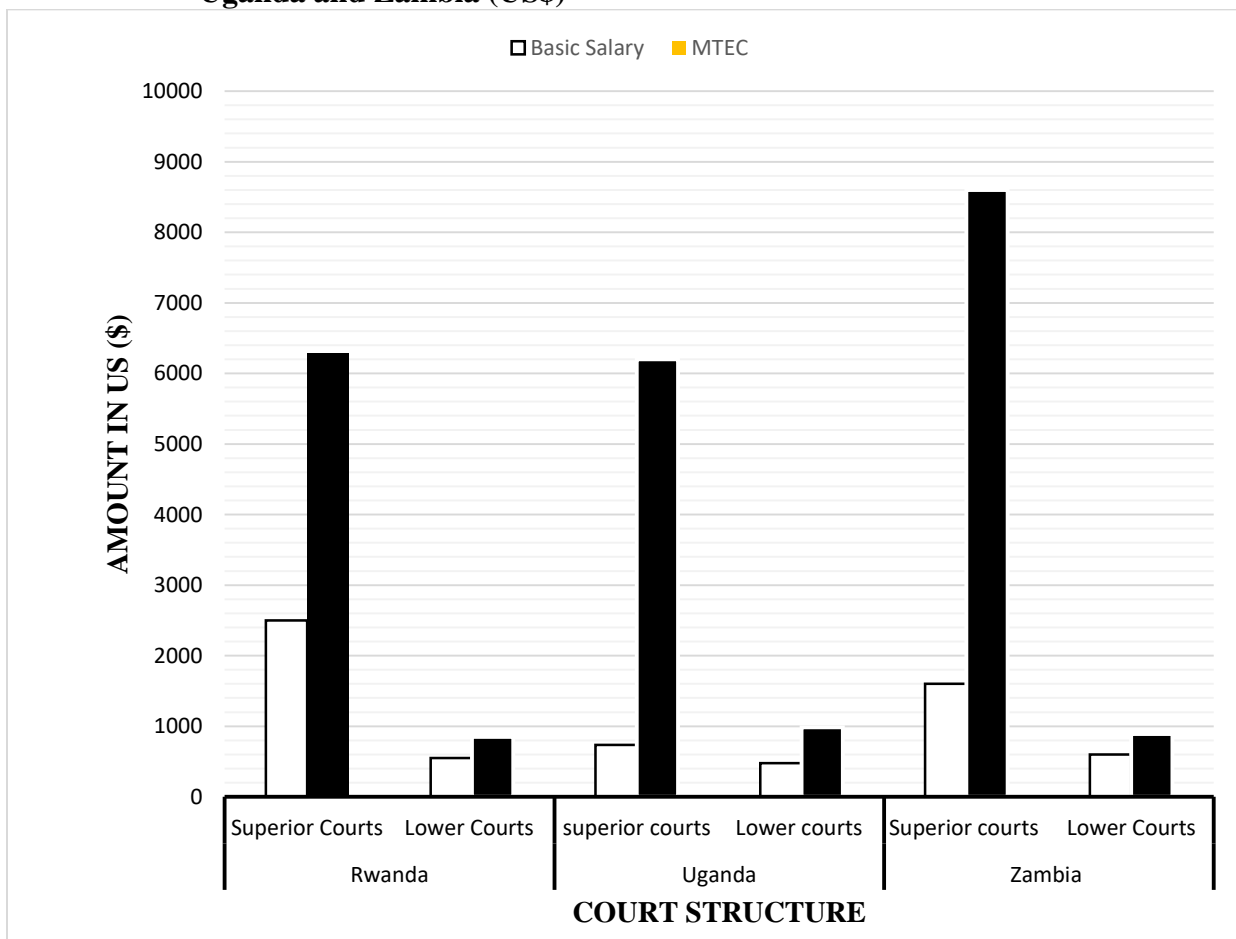
Emoluments Elements	<u>RWANDA</u>				<u>UGANDA</u>				<u>ZAMBIA</u>			
	Superior Courts		Lower Courts		Superior Courts		Lower Courts		Superior Courts		Lower Courts	
	Tick	US\$	Tick	US\$	Tick	US\$	Tick	US\$	Tick	US\$	Tick	US\$
Basic Salary	√	2500	√	550	√	734	√	475	√	1600	√	600
Housing allowance	-	-	-	-	√	611	-	300	√	1600	√	100
Council property rates	-	-	-	-	-	-	-	-	√	6	-	-
Contribution to Pension	√	1250	-	-	-	-	-	-	√	800	√	50
Gratuity	-	-	-	-	√	20	-	10	√	-	-	-
Fuel allowance	√	500	√	300	-	-	-	-	√	600	-	-
Recruitment and Retention allowance	-	-	-	-	-	-	-	-	√	1200	√	125
Non-Private Practice allowance	-	-	-	-	-	-	-	-	-	-	-	-
Responsibility allowance	-	-	-	-	-	-	-	-	-	-	-	-
Security allowance	√	700	-	-	√	-	-	-	√	450	-	-
Water allowance	√	46	-	-	√	-	-	-	√	30	-	-
Electricity Allowance	√	120	-	-	√	-	-	-	√	70	-	-
Cell/ Landline Phone allowance	√	120	-	-	√	-	√	-	√	75	-	-
Leave Travel benefits	-	-	-	-	-	-	-	-	√	20	√	15
Tax Exemption (Gratuity)	-	-	-	-	-	-	-	-	√	-	-	-
Tax Exemption (allowances)	-	-	-	-	-	-	-	-	√	1200	-	-
Special Retirement Benefits	-	-	-	-	√	-	-	-	-	-	-	-
Retirement Gratuity	-	-	-	-	√	-	-	-	-	-	-	-
Personal to Holder Vehicle	√	1000	-	-	√	-	-	-	√	700	-	-
Non-Taxable (Judges)	-	--	-	-	√	-	-	-	√	-	-	-
Domestic Servants Allowances	√	50	-	-	√	-	-	-	√	70	-	-
Medical Allowance	-	-	-	-	√	667	-	200	-	-	-	-
Furniture Allowance (office)	-	-	-	-	√	4168	-	-	-	-	-	-
Domestic Driver Allowance	-	-	-	-	√	-	-	-	√	180	-	-
Monthly Cost to Employer		6286		850		6200		985		8601		890

Source: Author's Computations from Research Data Collected (2017)

It was noted that the average Basic Salary for the Superior Court was higher for Rwanda compared to Zambia and Uganda. However, the MTEC was higher for Superior Court in Zambia than Rwanda and Uganda. Subordinate Courts, using the Purchasing Power Parity was similar.

The high MTEC by the Superior Courts had contributed to the lower Courts lacking the necessary tools and requirements needed to enhance access to justice such as: basic legal materials; judgments of Superior Courts; commentaries needed for consistent and well-founded decision-making; and adequate court structures.

Figure 11: Monthly Total Cost to the Employer: Superior and lower Courts in Rwanda, Uganda and Zambia (US\$)



Source: Author's Computations from Research Data Collected (2017)

Approximately, 75% (220) of the respondents claimed that the lower funding of the Subordinate Courts contributed to increased petty corruption in Zambia (Theobald, 1990). This is also in

tandem with Shezongo-MacMillan (2013, pp.60-65) who claim that Petty Corruption has been on the increase in the Judiciary in Zambia especially at Subordinate level. Former Magistrate Scrivener Mulubwa is also quoted as having stated that *“corruption has seriously compromised the integrity of the Subordinate Courts”* (The Post, 2012, 21st February, p.2).

Shezongo-MacMillan (2013) points out the seriousness of corruption in the Judiciary by stating that: *“Corruption in the Judiciary, especially in the Subordinate Courts, is real and could not be considered as a perception. The negative effects of judicial corruption cannot be overemphasized. It denies citizens, especially poor citizens, access to justice; it hurts economic growth by delaying cases and favouring politically connected firms. It is a reality that there is corruption in the Zambian judicial system and that it must be fought to instill confidence in the process”*.

The sentiment is echoed by acting Chief Justice Lombe Chibesakunda, who is quoted in the Times of Zambia, Times of Zambia, 22nd March 2013 and 23th September 2014) opining that *“It was about time Local Court Magistrates and Court Clerks were made to realise that justice was not for sale. Local Court and Subordinate Court staff must know that despite the difference in procedure, the local Courts were as much part of the Judiciary as any other court. She added that Local Courts can no longer afford to work in isolation and with impunity”*.

The Law Association of Zambia in 2015 praised the Chief Justice for openly stating that corruption was on the increase in the Judiciary and renewed its commitment towards working with the Judiciary to tackle corruption in the Judiciary. If corruption was allowed to continue in the Judiciary, it will affect the Zambian society negatively and reverse all the positive economic gains achieved (Chisanga, 2015).

The Anti-Corruption Commission (ACC) had also recorded several reported corruption cases especially at the lower Court levels. Anti-Corruption Commission issued a statement on 30th December 2015, that a Lusaka Local Court Senior Magistrate was convicted and sentenced to three years imprisonment with hard labour for corrupt practices involving K5,000 (Times of Zambia, 1st January 2016).

Acting Chief Resident Magistrate Aridah Chulu convicted Kaputo Modest Ng'andwe, 43, of House no. 14700/M Libala South, Lusaka for soliciting a bribe of K5, 000 in a divorce matter he was presiding over. Details of the offence were that Mr. Ng'andwe on dates unknown did solicit a sum of K5, 000 as an inducement or reward and received K1, 500 gratification from Mwaba Munkondya to pass judgement in his favour. The Anti-Corruption Commission in October 2013 arrested and charged Ng'andwe with corrupt practices by public officer contrary to Article 19 (1) as read with Article 41 of the Anti- corruption Act No. 3 of 2012. (ACC Press Statement, 2013)

Mr. Henry Aongola, aged 35, a Solwezi Magistrate was arrested for corruptly receiving K7000. It was alleged that in April 2010, the Magistrate corruptly received money from Ms. Joyce Nshindo as an inducement to pervert the course of justice in a criminal case concerning her son Justine Lukanga. Justine was facing a charge in the Magistrate's Court (ACC Press Statement, 2010).

The Drug Enforcement Commission arrested Magistrate Wendy Juliet Tembo of Shimukunami in Lufwanyama District for being in possession of K7, 900 counterfeit notes (DEC 2018). The above situation was not only occurring in Zambia. A desk review showed that it was an upward trend in most of sub-Saharan Africa. For instance:

- (i) Ghana: Ghana's Judicial Council removed 20 Justices of the lower court from office following their indictment in judicial corruption scandal exposed by Investigative Journalist Anas Aremeyaw Anas;¹⁸
- (ii) Uganda: the Judiciary was ranked among the top two most corrupt government institutions in the country just behind the Uganda Police Force.¹⁹ The lower Courts were cited as the most corrupt organs of the Ugandan Judicial system, with approximately 44% of citizens claiming they had to pay a bribe to obtain access to justice (Afrobarometer Survey, 2015; Bertelsmann Stiftung's Transformation, 2016 and The Uganda Judiciary Magazine, 2015).
- (iii) Rwanda: Rwanda is ranked among countries with the least corrupt justice system by Transparent International and the Global Competitiveness Report (2014). However, Transparent International-Rwanda's annual records show increasing numbers of lower

¹⁸ See <http://brutallyuncensored.com/judiciary-corruption-in-ghana-a-complete-waste-of-anas-aremeyaw-anas-time-resource/>

¹⁹ Interview with Principal Magistrate Robert Mukanza during the 18th Commonwealth Magistrates and Judges Association Conference, The Challenges of the Modern Era, Livingstone, 24th September, 2015.

Courts officers dismissed from the Judiciary due to corruption. In 2011, ten were sacked over corruption related practices and the number increased to 40 in 2015.

(f) Judiciary's Capital Expenditure

In Zambia, annually, less than 10 percent of the judicial budget is allocated to court capital expenditure. Capital expenditure taken as expenditure that results in the acquisition or construction of a fixed asset (land, building, vehicle, equipment) or enhancement of an existing fixed asset. Historical funding figures confirm this dismal situation.

For instance, in 2012, the Executive only disbursed ZMK 34,705,000,000.00 out of ZMK 63,100,000,000.00 which was budgeted for institutional development under capital expenditure for the Judiciary Headquarters (GRZ, 2013). There was no Capital Expenditure budgetary allocation for the Supreme Court. Only ZMK10,000,000,000.00 was allocated to the rehabilitation of the High Court in Lusaka. In the Budget only, ZMK 20,100,000,000.00 and ZMK 18,000,000,000.00 were allocated for the Subordinate Courts and local Courts respectively and only 55% of the budget was disbursed.

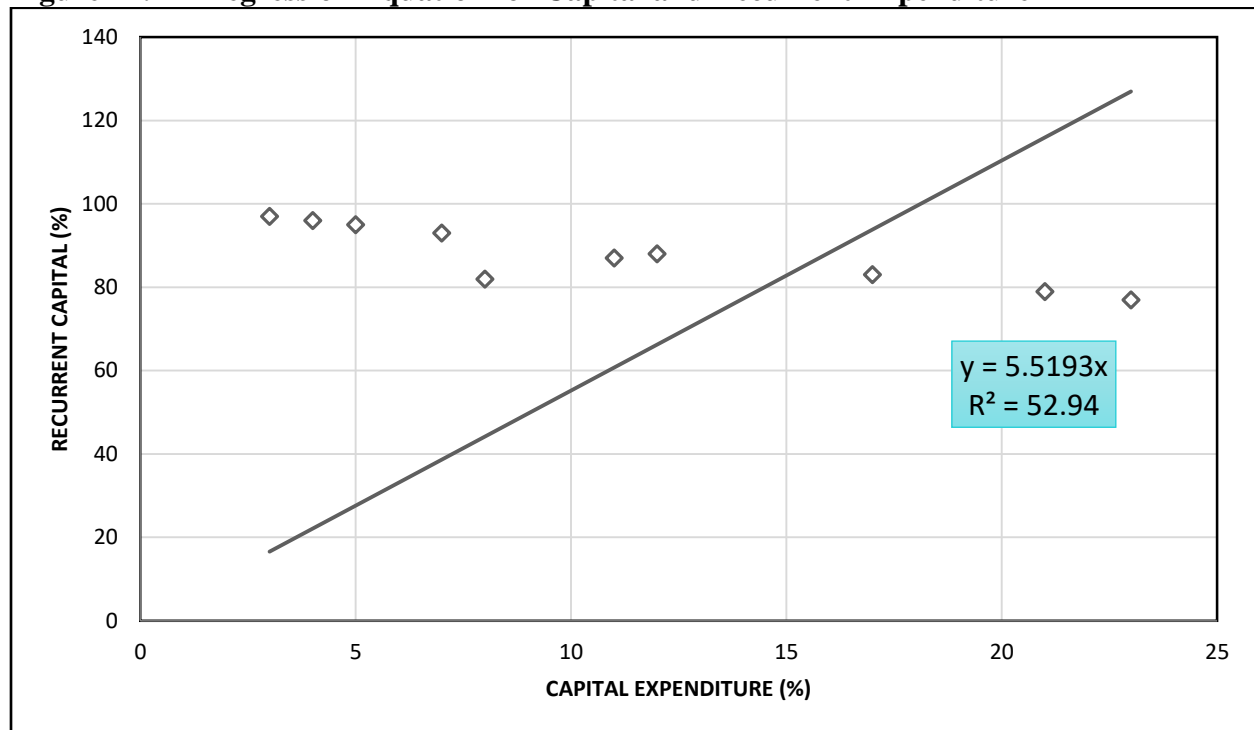
In the same financial year, the Small Claims court and the Industrial Relations Court had allocation of 500,000,000.00 each but only 267,000,000.00 was disbursed in 2012. The Sherriff of Zambia had only 300,000,000.00 allocated but only received ZMK 150 million budgets for capital expenditure. Thus, the Judiciary only received ZMK 34,705,000,000.00 out of the ZMK63,100,000,000.00 approved budget.

In comparison to Health and Education Budget, which was allocated ZMK2,758,080,222.00 and ZMK683,635,152,192.00 respectively, of which ZMK 358,371,932,576.00 and ZMK 1,791,859,662,880.00 respectively was allocated to the Capital Budget, relatively higher than of the Judiciary. The Health Capital budget was 14% of the total Health Budget. The Education Capital Budget was 20% of the total Education Budget. In comparison to the Judicial Budget, both the Health and Education Budget received close to 79% disbursement.

It was noticed that the budget submission for 2016, did not have capital infrastructure inputs. The reason was that the Ministry of Finance's Call Circular stipulated that the budgets should not

include capital infrastructure (GRZ, 2015). The Courts use incremental budget system. The Judicial Budgeting has in the last five decades been incremental, not only in the amounts allocated for purposes, but also in the adjustments made from time to time in its operating rules and procedures.

Figure 12: Regression Equation for Capital and Recurrent Expenditure



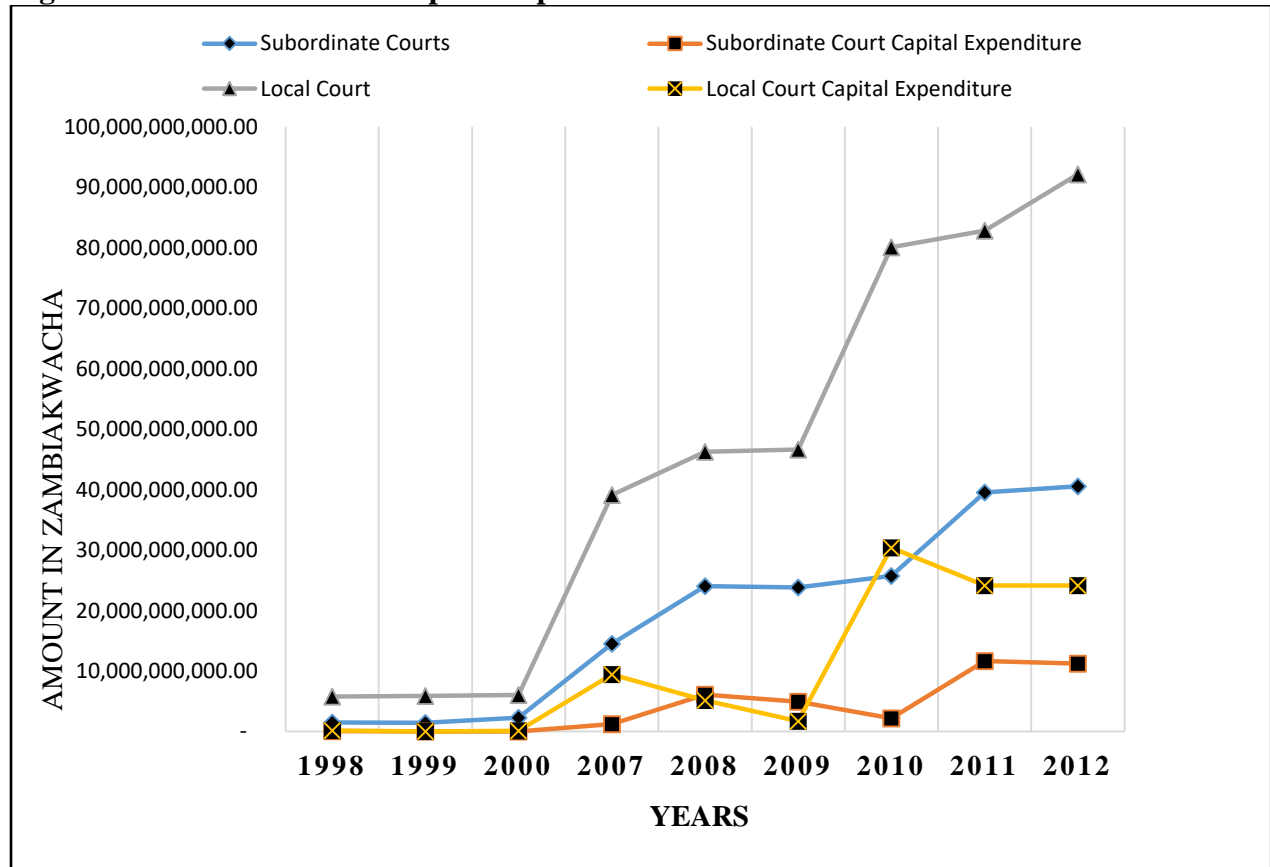
Source: Author's Computations from Research Data Collected (2017)

Referring to Figure 12 and 15, showing the ratio of Judicial Capital Expenditure with respect to Judicial Recurrent Expenditure and Regression Equation respectively. The study shows that capital expenditure is approximately 5.52 times lower than recurrent expenditure as noticed from regression equation $Y=5.5193X$ where Y is recurrent expenditure and x is capital expenditure as a percentage of the national budget. R-squared is approximately 53. This means that 53% of the variation in the output variable could be explained by the input variables.

Figure 13 shows that the expenditure allocated to lower court structures is low but has been increasing significantly. It can be noted there was an increase in budget allocation after 2000 and substantially after 2006, with the introduction of Activity Based Budget. It can be argued that during this period, the Ministry of Finance and National Planning was able to calculate, and

segregate funds allocated to the Judiciary for recurrent expenditure and capital expenditure. It can be noted from Figure 16, that while the total expenditure was increasing significantly the budget component for capital expenditure was not increasing significantly over the period under review.

Figure 13: Lower Court Capital Expenditure



Source: Author's Computations from Research Data Collected (2017)

5.3.2 Judicial Administrative Capacity

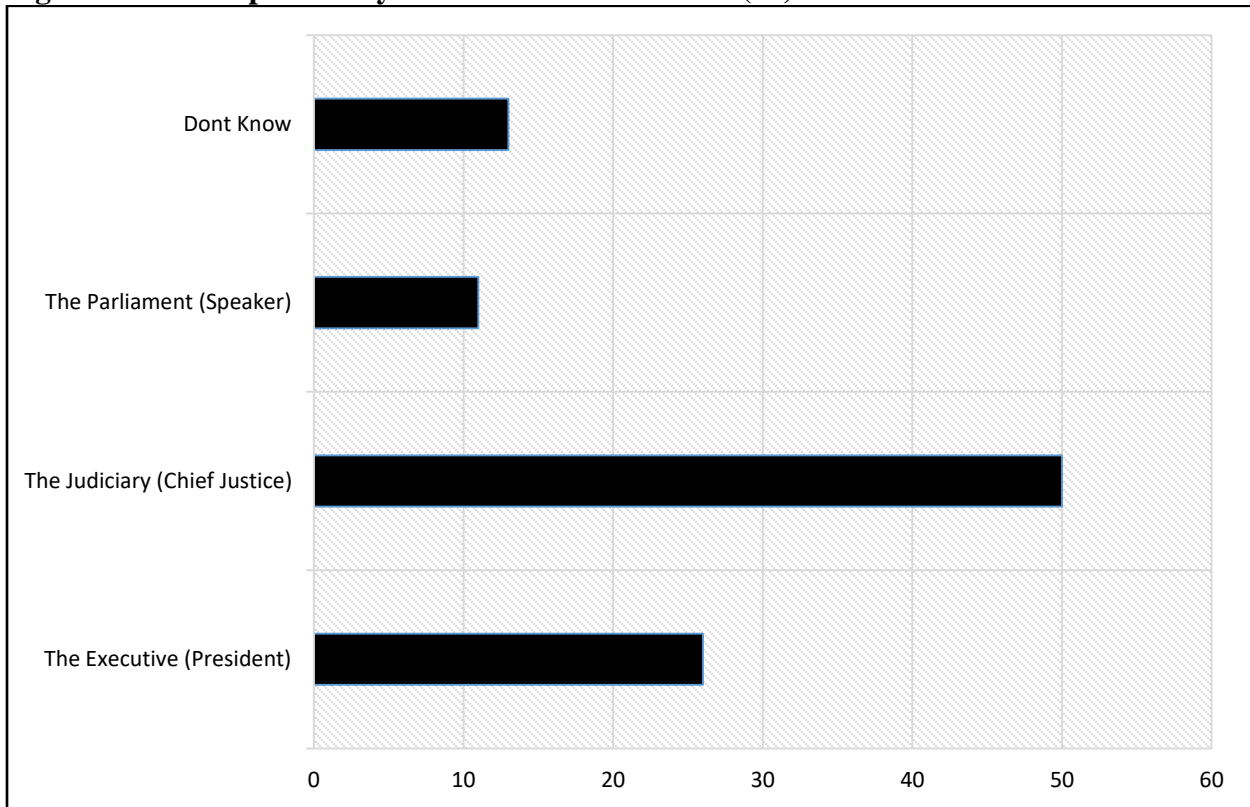
Since 1994, following the enactment of the Judicature Administration Act. No.42. of 1994, Section 6(3) (e), the Zambian Government has been preparing five-year Strategic Plans (GRZ, 1995). However, these documents had remained secret and not shared with the general populace. This contrasts with Kenya and South Africa, where the Judiciary sufficiently shares its strategic plans by display them normally at front entrances of Court buildings. In Zambia, for the last two decades, the Judiciary Strategic Plans have remained in-house and are not shared with the general populace.

The Strategic Plans have been prepared through a closed participatory approach, with consultations and involvement only within the Judiciary. External stakeholder involvement is very limited.

A review of several Judiciary Strategic Plans for the periods 1999-2003; 2005-2010; and 2011-2016 showed that the Strategic Plans, like any other Zambian Strategic Plan, followed the standard format containing: an outline of the vision or preferred future, mission, key functions, core values and strategic objectives as well as strategies. The plans would further also include chapters on the broader national development agenda, situational analysis, the strategic objectives, plan implementation framework, funding requirements and sources. The final chapter is normally on monitoring and evaluation. Globally, institutions undertake planning efforts not because they are easy to do, but because they are hard to do without, this is no exception to the Judiciary (Hays, 1993, pp.50-57). A review of the Strategic Planning consultative processes showed that the Supreme and High Court Judges had little involvement in the process. Just like the Directors of private companies cannot stand aloof from the corporate management, Supreme and High Court Justices can neither avoid nor keep aloof from the planning and budgeting for court infrastructure development. Court planning can only be successful when Judges recognise the need to plan and effectively participate in the process.

Further, the research showed that the focus of the Plans, over the last decades, was on recurrent expenditure and less or minimal on capital expenditure. It was argued by most of the respondents within the Judiciary that this observation, was in conformity with the stipulations in the Judicature Administration Act of 1994. The Act states that: “*Government shall provide, equip and maintain such courthouses, offices, lodges and other buildings as may be necessary for the purposes of the Judiciary*”. These aspects mentioned in the Judicature Administration Act of 1994, Article 6. (3)(e) and (12) are left as the responsibility of the Executive.

Figure 14: Responsibility for Court infrastructure (%)



Source: Author's Computations from Research Data Collected (2017)

Figure 14 shows that only 50% (147) of the citizens were of the view that the Judiciary was responsible for their Court infrastructure. Approximately 26% (76) perceived the Executive to be responsible for Court infrastructure. The study also showed 11% (32) were of the view that Parliament was responsible for court infrastructure, through there Member of Parliament. What is also novel is that 13% (38) of the citizens did not know which organ of Government was responsible for building and maintaining Court infrastructure.

Table 23: Cross Tabulation: Judicial Infrastructure by Academic Qualifications

		Who should be responsible for building Court Infrastructure?						
Highest Qualification		The Executive (President)	The Judiciary (Chief Justice)	The Parliament (Speaker)	Don't Know	Not Stated	Not Applicable	Total
	Highest Qualification	Primary School Certificate	4	9	5	1	1	0
		20.0%	45.0%	25.0%	5.0%	5.0%	.0%	100.0%
		5.4%	6.3%	16.1%	2.6%	14.3%	.0%	6.8%
Secondary School Certificate		31	50	13	19	2	1	116
		26.7%	43.1%	11.2%	16.4%	1.7%	.9%	100.0%
		41.9%	35.2%	41.9%	50.0%	28.6%	50.0%	39.5%
College Certificate		9	18	4	3	0	0	34
		26.5%	52.9%	11.8%	8.8%	.0%	.0%	100.0%
		12.2%	12.7%	12.9%	7.9%	.0%	.0%	11.6%
College Diploma		13	22	5	4	1	0	45
	28.9%	48.9%	11.1%	8.9%	2.2%	.0%	100.0%	
	17.6%	15.5%	16.1%	10.5%	14.3%	.0%	15.3%	
University Degree	13	38	3	10	2	1	67	
	19.4%	56.7%	4.5%	14.9%	3.0%	1.5%	100.0%	
	17.6%	26.8%	9.7%	26.3%	28.6%	50.0%	22.8%	
University Masters	4	5	1	1	1	0	12	
	33.3%	41.7%	8.3%	8.3%	8.3%	.0%	100.0%	
	5.4%	3.5%	3.2%	2.6%	14.3%	.0%	4.1%	
Total	74	142	31	38	7	2	295	
	25.2%	48.3%	10.5%	12.9%	2.4%	.7%	100.0%	
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	

Source: Author's Computations from Research Data Collected (2017)

Table 23 shows that 6.8% (20) of the respondents who were holders of primary school certificate, of these 20% (4) claimed that the building court infrastructure was the responsibility of the Executive. In addition, 45% (9) of the holders of Primary School Certificate claimed that the building court infrastructure was the responsibility of the Judiciary. Approximately 25% (5) of primary school certificate holders claimed that the building court infrastructure was the responsibility of Parliament.

Table 23 also shows that 40% (116) of the respondents who were holders of Secondary School Certificate, of these 26.7% (31), claimed that the building court infrastructure was the responsibility of the Executive. In addition, 43.1% (50) of the holders of secondary School Certificate claimed that the building court infrastructure was the responsibility of the Judiciary.

Approximately 12% (13) of Secondary School Certificate holders claimed that the building court infrastructure was the responsibility of Parliament.

In addition, Table 23 shows that 12% (34) of the respondents who were holders of College Certificate, of these 26.5% (9), claimed that the building court infrastructure was the responsibility of the Executive. In addition, 52.9% (18) of the holders of College Certificate claimed that the building court infrastructure was the responsibility of the Judiciary. Approximately 12% (4) of college certificate holders claimed that the building court infrastructure was the responsibility of Parliament.

Table 23 indicates that 15% (45) of the respondents who were holders of College Diploma, of these 29% (13), claimed that the building court infrastructure was the responsibility of the Executive. In addition, 49% (22) of the holders of College Diploma claimed that the building court infrastructure was the responsibility of the Judiciary. Approximately 16% (5) of College Diploma holders claimed that the building court infrastructure was the responsibility of Parliament.

In addition, Table 23 shows that 19.4% (13) of the respondents who were holders of University Degree, of these 19.4% (13), claimed that the building court infrastructure was the responsibility of the Executive. In addition, 56.6% (38) of the holders of University Degree claimed that the building court infrastructure was the responsibility of the Judiciary. Approximately 5% (3) of University Degree holders claimed that the building court infrastructure was the responsibility of Parliament.

Table 24, outlines some of the reasons which respondents claimed for selecting the responsible organ for judicial infrastructure. Approximately 20.7% (61) of the respondents claimed that it is the Republican President because the Republican President is the head of Government and that it's his/her responsibility to build court infrastructure. Nearly 30.6% (90) claimed that it is Chief Justice because she/he is the Head of the Judiciary therefore it was her responsibility to build court infrastructure. Approximately 0.3% (1) claimed it was the Judiciary because it ensures the independence of the Judiciary.

Table 24: Give reasons your answers above

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Head of Government therefore responsible for the Courts	61	20.7	20.7	20.7
	Head of the judiciary therefore responsible for the Courts	90	30.6	30.6	51.4
	Independence of the branch of government	1	.3	.3	51.7
	It's the Executive responsibility	16	5.4	5.4	57.1
	lack of information	26	8.8	8.8	66.0
	Not Stated	89	30.3	30.3	96.3
	Parliament makes laws	2	.7	.7	96.9
	Responsible for legislation thus responsible for Courts	9	3.1	3.1	100.0
	Total	295	100.0	100.0	

Source: Author's Computations from Research Data Collected (2017)

Table 23 shows that the level of education did not influence one's level of knowledge of who was responsible for building and maintenance of Judicial Infrastructure. The ideal situation is that most of the highly educated would know whose responsibility it was to build court infrastructure but this was not the case as observed from Table 23. However, the Zambian law is very clear because the Judicature Administration Act of 1994, Section 6(3) (e) and (12) provides that the Executive shall provide, equip and maintain such Courthouses, offices, lodges and other buildings as may be necessary for the purposes of the Judiciary.

It was observed that there is no comprehensive mechanism to compel the Ministry responsible for physical infrastructure or Works and Supply, with plan and budget for Court infrastructure. A historical review of National Development Plans showed that prior to the enactment of the Judicature Administration Act of 1994, Court infrastructure was under a Department in the Office of the Republican Vice-President. The technocrats, under the Office of the Republican Vice-President, had the responsibility of planning, budgeting and monitoring the building of Court infrastructure.

It was observed that the Judiciary did not have a functioning Planning and Budgeting organ or department. The function of planning was under the office of the Chief Administrator who delegated it to Court Clerks and Judicial Accountants. It was also observed that there was no strategic mechanism to link the Ministry responsible for public works and Judiciary with respect to building and maintenance of Judicial infrastructural. Further, there is no formal arrangement for the building and maintenance of Judicial infrastructure. There was no strategic coordinating mechanism to link the priorities of Ministries responsible for public works and infrastructure with Judiciary with respect to Judicial infrastructural.

It was further observed, that the Subordinate and Local Court views were not feasibly expressed in the strategic plans. Most of the Magistrates interviewed felt that the strategic planning process in the Judiciary was open in principle but closed in the sense that individuals from the High Courts would always use seniority to challenge Lower court input. It was argued that seniority in the Judiciary, like in the military, was strictly adhered to. Approximately 80% of the respondents claimed that there was no proper plan in the Judiciary. The opinions of some senior Superior Court Staff were highly respected even if the ideas had no merit. A Magistrate is quoted saying: “*When a Senior Court Judge speaks then debate is over*”²⁰

It was observed that lower Courts did not have comprehensive plans. Most of the correspondents claimed that Subordinate Courts would only plan for just one or only a few of the Judicial or court components annually. This was mainly attributed to the perception that Courts do not generally change the way in which they conduct their business; such organisational changes are more often the results of legislation or the unplanned (and sometimes unintended) results of case law or economic trends.

(a) Judicial Budget Process

It was observed that the Judicial Budget process was guided by the Executive. The Judiciary budgeted like any other Ministry, Province and Spending Agency (MPSAs). It followed the budgeting process outlined in the National Planning and Budgeting Policy (GRZ, 2012). It

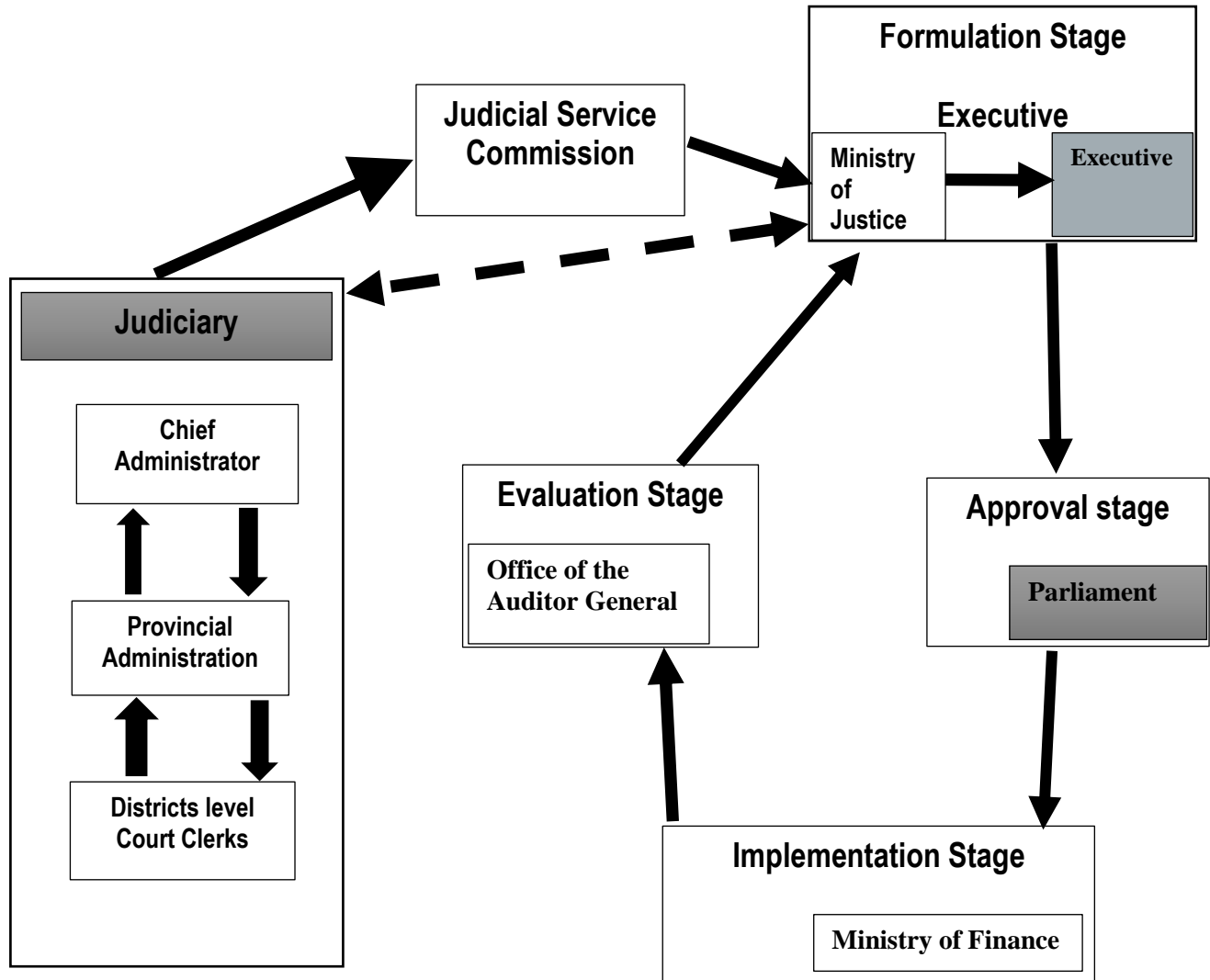
²⁰ Interview with a Magistrate, Lusaka; and Interview with Principal Magistrate Robert Mukanza during the 18th Commonwealth Magistrates and Judges Association Conference. The Challenges of the Modern Era, Livingstone, 24th September, 2015.

commences with the Judiciary preparing a Budget Framework Paper (BFP) which outlines the judicial income and expenditure framework based on a Budget Call Circular sent to all critical stakeholders from the Ministry of Finance. It was further observed that the Budgeting Officers in the Judiciary, comprising the Accountants and Clerk of Courts, normally used the Call Circular and previous budgets to prepare the Budget Framework Paper because there was no mechanism for District Court Clerks to consult or debate budgetary inputs.

With respect to the process, it was observed that upon receipt of the budget submission from the ten provinces the Chief Administrator consolidates the submissions and submits them to the Ministry of Justice. The Ministry of Justice has the role of ensuring that judicial budget submission is in line with the Call Circular, so that they can present and defend it in Parliament. The Judiciary consolidated budget, like any other budget submission is subjected to discussion and budget adjustments. The Chief Administrator, like for the other MPSAs, is invited to appear for budget hearing.

After this stage, the Judiciary budget, like from all MPSAs, is consolidated, in readiness for submission to Cabinet for debate, adjustments and creation of the Estimate of Expenditure and Revenue (commonly called Yellow Paper) for presentation to Parliament. At this stage, it is the duty of the Executive and the Legislature to create the proper and necessary environment and infrastructure to allow the Judiciary to discharge its obligation to meet the demands of access to justice and speedy disposal of cases. The Minister of Finance and the technical staff in the Budget Department have the role of ensuring that the judicial estimates are within the expenditure ceiling and that the proposed projects are within the policy framework and match up with the government development agenda.

Figure 15 Judicial Budget Process



Source: Author’s Computations from Research Data Collected (2017)

(b) Limited planning and budgeting Capacity

From the foregoing, it has been observed that the Judiciary did not have a department solely responsible for planning and budgeting. The Chief Administrator, using the powers as the Controlling Officer, appoints officers mainly from the Accounts Department to act as Budget Focal Point Officers. It was further observed that for the Subordinate Courts, the Court in-charge at the District level, mainly the Clerk of Courts, at District level, receive the guidelines and commence preparation of Subordinate budgets for submission to the provincial budget focal points, who are mainly the Provincial Accountants. It could be argued that while the Chief Administrator initiates

the budget process with general budget guidelines, but it is the lower-level units that drive and determine the process.

It was observed and echoed by many respondents that the participatory nature of the budget process at the lower level was very good because it enhanced employee morale and job satisfaction. It also fostered a “team-based” management philosophy that has proven to be very effective for the Subordinate Courts. However, there was frustration from the lower Court structures due to lack of coordination and limited consultation. It was observed and verified that the clerk of Court ‘s planning and budgeting skills were very inadequate and varied across the country. Most of the Clerk of Courts had no prior training or academic qualification related to planning and budgeting. It was observed that 80 percent of the Clerk of Courts had no training in basic budgeting. It was further observed that the Judiciary has had limited funds to organise in-house training in planning and budgeting. It was observed that there was lack of expertise on the part of the Clerk of Courts in matters of preparing budgets.

(c) Adequate Administrative Independence

It was observed from the data that only 25.2% (74) of the respondents had the opinion that the Zambian Judiciary did not enjoy administrative independence. It was observed that 70.7% (208) of the respondents claimed it did not enjoy administrative independence.

Table 25: Zambia Judiciary enjoys Administrative Independence

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	74	25.2	25.2	25.2
	No	208	70.7	70.7	95.9
	Not Stated	10	3.4	3.4	99.3
	Not Applicable	2	.7	.7	100.0
	Total	295	100.0	100.0	

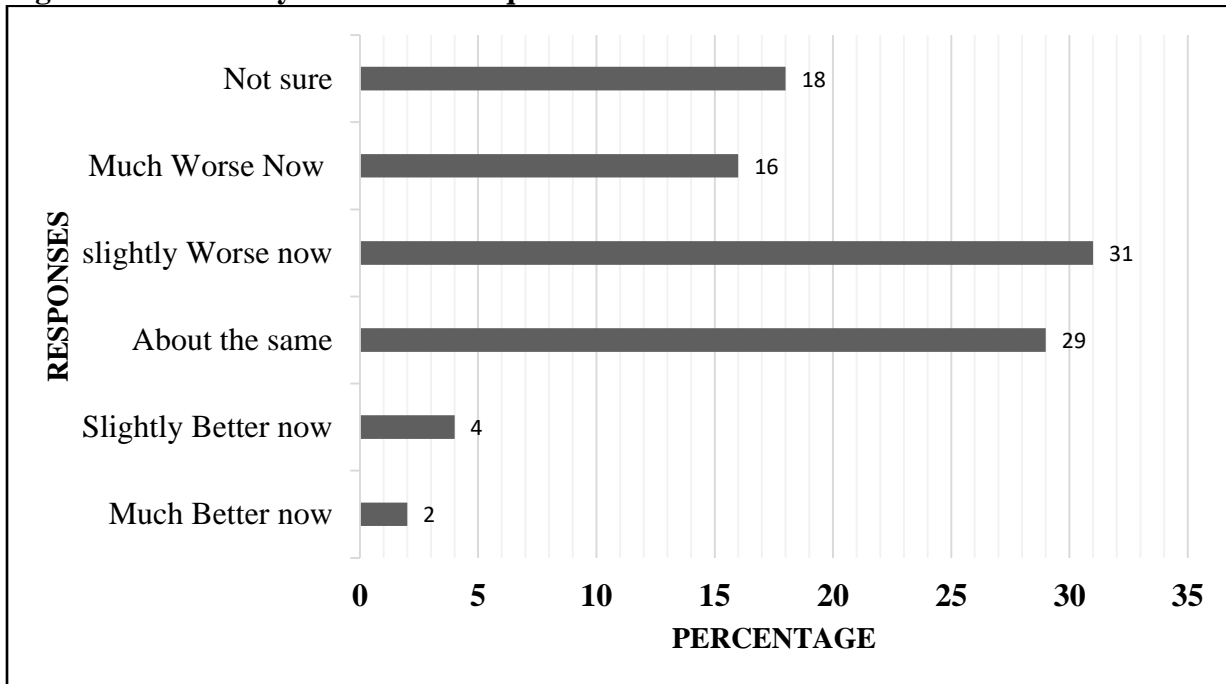
Source: Author’s Computations from Research Data Collected (2017)

(d) Ability to deliver Adequate Services

Approximately 47% of the respondents were of the view that the current levels of budgetary allocation for the Subordinate Courts contributed to the inability of the Court to meet the needs of the community. The respondents were also of the view the situation had become much worse off.

It was observed that 16% of the respondents were of the view that it was slightly worse off compared to the last five years. Approximately 29% were of the view that the performance was the same. It was also noted that 2% and 4% were of the view that it was “much better” and “slightly better now” respectively. Reference is made to Figure 16.

Figure 16: Ability to Deliver Adequate Court Services



Source: Author’s Computations from Research Data Collected (2017)

Table 26 shows 13% (39) of the respondents claimed that the quality of services rendered by the Subordinate Courts was “very poor”. Approximately 20% (58) of the respondents claimed that the quality of services rendered by the Subordinate Courts was “poor”. In addition, approximately 51% (149) of the respondents claimed that the quality of services rendered by the Subordinate Courts was “average”. Table 26 shows that 13% (37) of the respondents claimed that the quality of services rendered by the Subordinate Courts was “good”. It can be noted that 1.4% (4) of the respondents claimed that the quality of services rendered by the Subordinate Courts was “very good”.

Table 26: Quality of Services render by Subordinate Courts

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Poor	39	13.3	13.3	13.3
	Poor	58	19.7	19.7	33.0
	Average	149	50.7	50.7	83.7
	Good	37	12.6	12.6	96.3
	Very Good	4	1.4	1.4	97.6
	Not Stated	5	1.7	1.7	99.3
	Not Applicable	2	.7	.7	100.0
	Total	295	100.0	100.0	

Source: Author’s Computations from Research Data Collected (2017)

On several occasions, the Judges of the Supreme Court of Zambia have alluded to the negligible budgetary allocation to the Judiciary and the negative impact it has had on the branch of Government. Justice Mumba Malila is quoted as having said “*The negligible budgetary allocation witnessed in the past decades is grossly inadequate to meet the requirements of the judiciary such as to improve infrastructure*” (Malila, 2018). These words are also echoed by the Ugandan Hon. Chief Justice; Bart Magunda Katureebe who says, “*underfunding the Judiciary weakens the rule of law and increase corruption*” (Katureebe, 2018).

Many scholars have opined that the challenges caused by the historical underfunding of the Judiciary shows that the Zambian Judiciary is not financially autonomous (Sakala, 1999). The financing arrangement for the Judiciary is such that the institution is funded, like any other Government Ministry or Department, by the Ministry of Finance. It is also subject to ceilings set by the Ministry of Finance. Further even after approval of the budget by Parliament, the funds are not released in full. As a result, the Judiciary has failed to not only meet its mandate but more importantly to modernise itself (Shezongo-MacMillan, 2013, p.58). This study, among others, intends to build a case for different budgetary mechanism which strikes a balance between the fiscal realities of the country and the budgetary needs of the Judiciary. As one revered Judge, Learned Hand, said in 1951: “*If we are to keep our democracy, there must be one commandment: thou shalt not ration justice.*”

Several Chief Justices and Judges in sub-Saharan Africa have voiced out on the issue of underfunding. U4 Report (2008) claims that the underfunding of the judicial system threatens the

fundamental nature of the tripartite system of government. In Ghana, Chief Justice Wood (2016) agrees with the Senator for California and a member of the United States Senate Committee on the Judiciary, Ms. Dianne Goldman Berman Feinstein, who thinks that the judicial branch must start explaining itself more forcefully to legislators and if that doesn't work, she thinks it may be time to ask voters directly for money. This could be achieved by imposing higher fees and fines on litigants. This, however, Justice Wood (2016) argues, threatens the idea of equal right to justice.

(e) Minimum Courtroom Standard

It was observed that Zambia, like many developing countries, did not have laid down minimum Courtroom standard, to the building of Courtrooms in the country. The current standard used to determine a Court structure is based on the available budgetary allocation or Cooperating Partner specification. Respondents from the Ministry of Works and Supply and the Judiciary mentioned that currently, the Judiciary staff had very little say with regard to the designing and the building of Court infrastructure.²¹The Ministry of Works and Supply, departments responsible for building public infrastructure had the mandate, to solicit building design working with the Procurement Committee at the Judiciary. The selected Court structure designs were based on the available budgetary allocation and allocated plot size. The Judiciary did not participate in the design determination process.

5.3.3 Stakeholder Involvement

In order to investigate the extent to which stakeholder involvement in judicial reforms influences the state of physical infrastructure of Subordinate Courts, the researcher selected some Civil Society Organisations operating in Zambia for interviews, Focus Group Discussions and in-depth organisation and programme review.

It was observed from the respondents during interviews and Focus Group Discussions held at provincial and district level that:²²

²¹ Interviews with Planners in the Ministry of Works and Supply held in December 2016

²² Focus Group Discussions held with Caritas Zambia teams in October 2016

- (a) in spite of increase in the number of civil society organisations operating in the country, there was no civil Society institution solely established to promote the modernisation agenda of the Judiciary;
- (b) while civil society in Zambia had promoted good governance through policy analysis and advocacy; monitoring of state performance and the action and behaviour of public officials; building social capital and enabling citizens to identify and articulate their values, beliefs, civic norms and democratic practices; mobilizing particular constituencies, particularly the vulnerable and marginalized sections of masses, to participate more fully in politics and public affairs; and development work to improve the wellbeing of their own and other communities they had not mainstreamed or integrated judicial reforms or modernisation agenda in their activities and programmes both at national and local level;
- (c) most CSOs had not taken up advocacy work around the Judiciary because of the non-availability of donor finances. It should be emphasised that Donor Financing in Zambia has in most cases significantly shaped the agenda setting of CSOs and to a larger extent the activities of many CSOs in Zambia. It was observed that civil societies had in the last two decades aligned their work to donor funding priorities. Most civil society organisations had aligned their programmes to support the development programmes in education, health, agriculture, energy, water and social services (Kaputo and Nkombo, 2010);
- (d) most CSOs had the tendency of aligning activities to donor priorities. With the observed impacts of SAPs implementation in Zambia, donor priorities were related to poverty reduction rhetoric, environment and climate change issues; and
- (e) Civil society voice has its roots in the negative social impacts of the implementation of the Structural Adjustment Programmes in Zambia and later in the debt relief campaigns in the late 1990s (Mumba, 2004; and Endo, 1996). The campaigns by different civil society actors, in particular Caritas (formerly Catholic Commission for Justice Development and Peace), JCTR and Jubilee-Zambia were instrumental in raising citizens' consciousness on poverty issues and shaping the CSPR initial programmes (JCTR, 2000).

(i) Case Studies on Selected Civil Society Institutions

Findings from case studies on selected Civil Society Institutions, reveal the following:

1. The Civil Society for Poverty Reduction

The Civil Society for Poverty Reduction (CSPR) was established in 2000, as a civil society anti-poverty advocacy network, with over 70 organisations working for pro-poor development in different parts of Zambia. Its role is primarily to ensure that civil society effectively and meaningfully participates in the design, formulation, implementation and monitoring of the National Development Plans (NDP) to ensure government provides a means by which Zambia can effectively strategize on reducing the escalating levels of poverty. Since inception, CSPR has:

- (a) coordinated and collaborated civil society's participation in the NDP and thereby ensuring wider participation from all stakeholders;
- (b) disseminated and exchanged information on issues of poverty reduction in general, and the NDP in particular, to local and international partners;
- (c) been the representative voice of civil society in lobbying government to exercise greater responsibility and good governance and thus extend the necessary political will and commitment to poverty reduction activities; and
- (d) strengthened lateral learning among civil society and therefore build financial and technical capacities among civil society and other stakeholders for them to fully engage in the PRSP development.

At the time of the study, CSPR's Vision was *"to see a Zambia where its entire people enjoy all basic needs"*. Its mission was *"to actively and effectively contribute to poverty reduction and pro-poor development in Zambia through generating and sourcing evidence based data, advocacy for responsive policy formulation and implementation; promotion of community participation and civic engagement in development processes, mobilisation and coordination of CSOs for the provision of a platform and knowledge sharing at all levels"*.

It was observed that CSPR flag carrier was the Budget Execution and Service Delivery Barometer which has been in use since 2009. The tool was intended to rate the Zambian government's

performance on service delivery and budget execution in the six sectors chosen namely: Agriculture; Education; Health; Infrastructure (Roads and Bridges); Water and Sanitation, and Social Protection. The Barometer measures government performance based on several indicators as perceived by citizens on budget implementation and service delivery. The Barometer serves the purpose of being an important advocacy tool for fostering increased budgetary allocation and spending in the social sectors of the economy and more prudent utilisation of funds for the benefit of the poor to ensure that Government is meeting their real needs.

Since its inception in 2009, the Barometer had scored some success. For instance, the Ministry of Finance has been quite enthusiastic about it and has invited CSPR to be more involved in the Ministry's Monitoring and Evaluation Unit. The other ministries such as the Ministry of Community Development and Social Services have opening engaged with CSPR on the findings of the Barometer and finding solutions to the identified weaknesses in policy implementation and monitoring (CSPR, 2016)

However, it was observed that none of CSPR Budget tracking activities focused on the Judiciary Budget. It was also observed that even when budgetary allocation to the Judiciary, under the Judicial infrastructure, was classified in the National Budget, as Poverty Reduction Programme Two (PRP 2) during the period 2000 to 2010, CSPR never tracked budget allocation to the Judiciary. This observation was also in tandem with the CSPR Budget Tracking Activity Report of 2003 (CSPR, 2003). CSPR has traditionally never focused on Judicial Budget tracking and monitoring. There has never been a debate by CSPR network members on why CSPR does not involve itself in Judicial Budgets.

2. The Jesuit Centre for Theological Reflection

The Jesuit Centre for Theological Reflection (JCTR) is a research, education and advocacy team that promotes studies and actions on issues linking Christian faith and social justice in Zambia and Malawi. JCTR began in 1988 as a project of the Zambia-Malawi Province of the Society of Jesus (Jesuit) and is similar in orientation to other Jesuit social centers around the world.

At the time of the survey, its mission statement was “*to foster from a faith-inspired perspective a critical understanding of current issues*”. Guided by the Church's Social Teaching that emphasises dignity in community, the JCTR mission is to generate activities for the promotion of the fullness of human life through research, education, advocacy and consultation. JCTR promotes an enculturated faith, gender equality and empowerment of local communities in the work of justice and peace and the integrity of creation (JCTR, 2016). In the spirit of exposing the plight of the poor and raising their concerns, JCTR produces the Basic Needs Basket (BNB). This is with the recognition that the average person is struggling to afford even the most basic of monthly commodities. The BNB exposes this household struggle to meet basic needs by comparing the findings with average take-home wages and general household incomes.

At the time of the survey, it was observed that the Basic Needs Basket was the most cited statistical tool for various purposes in Zambia. It got regular and wide dissemination (published in newspapers, NGO newsletters and periodic reports, cited in scholarly studies, and circulated in government offices, international organizations, embassies, trade unions and businesses). Some trade unions brought the monthly food basket into their wage negotiations in arguing for increases to meet basic needs.

Further, it was observed that since its inception JCTR had conducted research on key social issues relating to the cost of living, national budget analysis, social implications of debt servicing, accessibility of healthcare and education, and integrity of local democracy. However, it was observed that JCTR has not involved itself in judicial modernisation but has focused more on political issues such as hunger, Structural Adjustment Programme and civic education.

3. Caritas Zambia

Caritas Zambia is a Catholic Organization that is an integral structure of the Zambia Episcopal Conference (ZEC). The Episcopal Conference (or Bishops Conference) is a permanent grouping of Bishops of a given nation that jointly exercises certain pastoral functions on behalf of the Christian faithful of their nation. This they do to promote the greater good which the Church offers humankind, especially through forms and programmes of the apostolate which are fittingly adapted to the circumstances of the time and place.

In order to effectively carry out its mandate of evangelisation, ZEC has established operational structures among which are Episcopal Commissions, the Catholic Commission for Justice and Peace (CCJP) and the Catholic Commission for Development (CCD). The Bishops' Conference is served by a National Secretariat (the Catholic Secretariat) which anchors the work of various Commissions under the Conference. For a long time, the Commission for Justice and Peace and Commission for Development were anchored and animated from the Catholic Secretariat Departments of Justice and Peace and Development respectively. In 2000, ZEC undertook a process to review and restructure the Catholic Secretariat. One of the outcomes of this process was the decision to merge the two departments of Justice and Peace and Development into a semi-autonomous Church Social Centre called the Catholic Centre for Justice, Development and Peace (CCJDP). In 2007, CCJDP was renamed Caritas Zambia but continued to be at the service of the Episcopal Conference and the Commissions of Justice and Peace and Development. The legal status of Caritas Zambia is thus held within the legal status of the Zambia Episcopal Conference (Caritas Zambia, 2007). At the time of the study, Caritas Zambia strategic issues were clustered around five main areas which also formed Caritas Zambia programmes namely:

- (a) Economic and Social Accountability Programme : A programme designed to promote the establishment of a State that was transparent, accountable and responsive to people's needs.
- (b) Democracy and Governance Programme : The aim of this programme is to have a Zambian society which upholds tenets of democracy (promotes participation, rule of law, and respect of human rights).
- (c) Livelihoods and Climate Change Adaptation Programme: The aim of the programme was to have improved livelihoods (increased income, food security and nutrition).
- (d) The Church and Society Programme: The aim of this programme was to have a Church that influences the State to fulfill its responsibility to eradicate poverty, respect human rights and uphold the rule of law for all.
- (e) Organisation Development Programme: The aim of this programme was to have Caritas Zambia's organisational capacity and sustainability increased.

It was observed that from the early 1990s, the Catholic institution's national budget analysis and advocacy work has not focused on judicial budget. A review of Caritas Zambia 's publications

showed that the institution did not involve itself with the non-legal activities of the Judiciary. The study showed that the closest Caritas Zambia has been involved in the promotion of Judicial modernisation has been through the Church and Society Programme (CSP)'s Access to Justice Programme. Through this programme Caritas Zambia has empowered the Justice, Peace and Development Commissions with skills and knowledge to support citizens to access justice and claim their rights. It has also in the process trained more 1500 paralegals since 2006. This work is conducted under the Paralegal Alliance Network (PAN), reviewed below.

4. Paralegal Alliance Network

The Paralegal Alliance Network (PAN) is a network of Civil Society Organization that provides legal aid through collaboration among its members to contribute to equitable access to justice for all the people of Zambia. In 2000, four (4) CSO institutions involved in legal aid service namely: Zambia Civic Education Association (ZCEA); Legal Resources Foundation (LRF); Young Women's Christian Association (YWCA); and Caritas Zambia (CZ) signed a Memorandum of Understanding establishing PAN. It was established to provide a framework for improved communication, coordination and cooperation among legal aid service providers.

At the time of the study, PAN had become an umbrella organization for Legal Aid Service Providers (LASP's) in Zambia with 10-member organizations (Caritas, Legal Resource Foundation, ZCEA, Eastern Province Women Development Agency, YWCA, PRISCCA, JWOP, Land and Development Agency, In But Free, Transparency International Zambia, Southern Africa Center for construction Conflict Resolution and Development with the Legal Aid Board and the Law Association of Zambia being ex-officio members. It was also observed that PAN's mandate had also expanded to: improvement of the provision of legal aid, especially legal education and legal advice; capacity building of LASPs and standardization of paralegal training; policy and advocacy specifically towards formal recognition of paralegals and their role in the justice system; and strengthening of institutional structures of PAN.

It was observed that since 2003 PAN conducted advanced legal course training capturing 2000 individuals to practice paralegal work (GIZ, 2004). Further, poor Zambians were opting to approach trained paralegals to enhance their chances of access to justice. The GIZ study also

showed that the paralegals were filling in the gap created by the low levels of legal aid provision by the government.²³ However, it was observed that although Paralegals are not formerly recognized in the Zambian justice system they still enjoy significant support from all stakeholders and are actively collaborating with state counterparts and the judiciary hence the importance of their role in the justice system cannot be over emphasised.²⁴

Generally, with respect to the study goal, it was observed that PAN as a network, restricts its work to promoting legal aid provision to the poor. Though it works closely with Legal and Justice Sector institutions, it does not directly raise the issues surrounding the state and poor working conditions of Judiciary staff.

5. Transparency International Zambia

Transparency International Zambia (TIZ) is a chapter of the global civil society organization – Transparency International dedicated to the fight against corruption and the promotion of transparency and accountability in the discharge of public functions. TIZ is a non-profit making non-governmental organization with a registered office in Lusaka and has been in existence since June 2000. In January 2001, it was registered under Registration Number 46295 as a ‘Company limited by guarantee’ with the Registrar of Companies. TIZ abides by the guiding principles of Transparency International globally but has adopted its own vision, mission and core values to guide its operations.

At the time of the study, TIZ had a professional membership of 50 individual and a full time Secretariat, with 15 employees, headed by the Executive Director to manage the day-to-day operations of the organisation. Its vision is: *“a Zambia anchored on citizens and institutions of integrity”* and its mission statement is to be *“a leading anti-corruption crusader contributing to the development of a Zambian society based on a culture of transparency and accountability through the promotion of good governance and zero tolerance to corruption”* (TIZ, 2017). The

²³ Interviews with PAN Executive Director, interview held in February 2016 at PAN Offices, near UTH

²⁴ It should be noted that at the time of the review Zambia was in the process of developing a Legal Aid Policy of which one of the outcomes of this policy would be the formal recognition and inclusion of paralegals into the justice system.

main goal of TIZ was to contribute to the reduction of corruption in Zambia through the following general organisational objectives:

- (a) to effectively and efficiently play the role of a watchdog institution against corruption as well as be catalytic in the promotion of integrity and good governance in Zambia;
- (b) to promote constructive debate and dialogue among various actors on the issue of corruption, good governance and integrity in Zambia;
- (c) to develop sustainable coalitions for the purposes of joint action and enhance information sharing among various stakeholders; and
- (d) to develop the organisational and human capacities of various actors to effectively deal with issues of corruption, good governance and integrity.

It was observed that TIZ, as leading anti-corruption civil society crusader in Zambia has not had a comprehensively focused on judicial reform and modernisation. It has an ad-hoc programme, which analyses at the trend of corruption in the Judiciary, mainly with the publication of the Country TIZ Corruption Perception Index Report (BTI, 2016).

6. The Non-Governmental Organizations Coordinating Council

The Non-Governmental Organizations Coordinating Council (NGOCC) is an umbrella organization coordinating and strengthening member Non-Governmental Organisations (NGOs), Faith Based Organisations (FBOs) and Community Based Organisation (CBOs) addressing gender and development through capacity building, networking, communication and advocacy. NGOCC was established by a few Zambian women NGOs in 1985 after the United Nations Conference on Women held in Nairobi, Kenya. With more than 30 years of its existence, NGOCC has grown from being a co-coordinating body to a focal point for women issues in Zambia. Therefore, NGOCC in the recent years has been viewed as a torchbearer in advancing the work of the women's movement.

At the time of the study, NGOCC had a membership of 104 organizations of which 47 are Non-Governmental Organizations (NGOs) and 57 are Community Based Organizations (CBOs). Out of the 104 Member Organizations (MOs), 47 are in Lusaka province while the rest are spread

across the country in all the 10 provinces of Zambia. Its vision is: *“a society where women fully participate and benefit from social, economic, cultural and political development”*. Its mission is: *“to champion women’s empowerment and gender equality and equity through coordinated institutional and capacity development to members, advocacy and linkages with local and international partners.”*

It was observed that NGOCC had produced several publications on gender-based budgeting and reviews of national policies from a gender perspective. However, none of the documents reviewed had a component of Judicial Budget analysis, reform or modernisations.

7. Economics Association of Zambia

Originally established in the 1960s as the Lusaka Economics Club, the Economics Association of Zambia (EAZ) is a non-partisan body whose membership includes experts in the areas of economics, business administration and allied fields. In 1985, the Association was registered as a Non-Governmental Organisation (under the Societies Act, Cap. 105) and has since continued to serve as a forum for the articulation of economic and other developmental issues.

According to its Constitution, the Association aims to promote the socio-economic development of Zambia and the world at large by undertaking research, training, education, publication and consultancy in the field of economics and related disciplines. Specifically, the Association’s Constitution provides for the following functions:

- (a) to promote and sustain research interest in the discipline of economics, business administration, applied statistics and other related disciplines;
- (b) to promote high standards of professional conduct in these disciplines;
- (c) to provide a forum for regular professional discussion on theoretical and practical issues relating to these disciplines through conferences, workshops and seminars;
- (d) to publish and disseminate economic and other related literature;
- (e) to participate in the development of sound national, regional and international economic and other related policies;

- (f) to contribute to the socio-economic development of Zambia and the world at large through the establishment of active and strong networks among similar professional associations and individuals;
- (g) to regular exchange of experiences, ideas and research results in order to promote coordinated solutions of national, regional and international problems; and convening of regular conferences and seminars on emerging issues and challenges;
- (h) to undertake consultancy work to ensure the financial sustainability of the Association;
- (i) to invest in viable business ventures as well as undertake fund-raising activities from local and international sources;
- (j) to initiate and arrange training programmes in techniques of economic policy formulation, economic diplomacy, development of business plans, environmental auditing and impact assessment as and when demand for these services arises; and
- (k) to do all such acts as are necessary to foster socio-economic development in Zambia and the world at large.

At the time of study, EAZ's mission was: *'to contribute to economic and social development through the promotion and advocacy of sound economic policies'*. It was observed that despite EAZ rich history in economic forecasting, budget analysis and sound economic analysis input in national policy making process, it has not included Judicial budgets in its analysis. As an Association it has neither held a public debate on the financial and economic impact of access to Justice or Judicial modernizations.

8. The Law Association of Zambia

The Law Association of Zambia (LAZ) is a professional corporate body established by the Law Association of Zambia Act, Chapter 31 of the Laws of Zambia, with a membership of more than 800 legal practitioners (LAZ, 2015). At independence, in 1964, there were very few Zambian lawyers and numbers have stayed low partly due to failures in the Zambian Legal Academy and obstacles to Bar Admission (Sakala, 1999). The Association was founded in 1973 and brings together all practicing members of the legal profession. Prior to this, the Association was called the Law Society of Zambia. The Association's membership comprises:

- (a) all Lawyers who have acquired a Practicing Certificate issued by the Legal Practitioner’s Committee of LAZ;
- (b) Associate members (Learner Legal Practitioners admitted to the Zambia Institute of Advanced Legal Education); and
- (c) Honorary members who are conferred such status by the Council of LAZ.

Being a corporate body, the Association can sue and be sued and is competent to enter into any contractual obligations of its choice. The Association’s main policy-making body is the Annual General Meeting (AGM), comprising all registered members of the Association, which membership presently stands at Eight Hundred (800). Since its formation, LAZ has and continues to be involved in regional and global initiatives with the intention of exposing its membership to cutting edge developments in the law and in practice. This is intended to ensure that standards of practice in Zambia are based on international standards and best practices.

At the time of the study, LAZ’s vision was: “to be the torch bearer of justice and the rule of law by enhancing the legal profession” and its Mission was: “to promote and protect member’s common interests, social justice and rule of law through proactive service” (LAZ, 2015). Its objectives were:

- (a) to further the development of law as an instrument of social order and justice and as an essential element in the growth of society;
- (b) to provide a means by which lawyers, whatever their field of activity, can participate together fully and effectively in the development of society and its institutions;
- (c) to encourage lawyers as individuals to join actively in the life of, and identify themselves with people and to utilize their skills and training in their service;
- (d) to promote the education of lawyers at all stages and levels, with particular emphasis on the broadening of such education;
- (e) to consider the qualifications of lawyer and to make recommendations to the Government thereon;
- (f) to maintain and improve the standards of conduct of all members of the legal profession;
- (g) to consider legislation related to legal aid and other ways of securing representation for persons who for any reason are unable to secure it, and to make recommendations to the

Government thereon; and to establish machinery for the provision of legal aid in addition to that provided by the Government;

- (h) to cooperate with the representative bodies of other professions and other institutions;
- (i) to promote research in the development of law in general and particularly in relation to;
- (j) to promote the reform of the law, both by the amendment of and the removal of the imperfections in the existing law, by the re-in formulation, codification, or restatement of particular branches of the law;
- (k) to participate when called upon in draft legislation, and to strengthen the machinery for the critical examination of its legal quality;
- (l) to seek the advancement of the rule of law and the rights and liberties of the individual;
- (m) to promote the improvement and reform of the judicial and administrative systems, including tribunals and their procedure;
- (n) to represent, protect and assist members of the legal profession in regard to their conditions of practice, remuneration and otherwise;
- (o) to protect and assist the public in all matters touching on and ancillary or incidental to the legal profession; and
- (p) to do all such other things as may be conducive to the attainment of the foregoing objects or any of them.

It was observed that LAZ had not effectively advocated for the modernisation of the Judiciary. LAZ had not adhered strictly to its objective of providing: “a means by which lawyers, whatever their particular field of activity, can participate together fully and effectively in the development of society and its institutions.” However, it was observed that Lawyers have called for enhanced access to justice and delivery of justice, for a fully independent judiciary that is impartial and progressive, as individuals and not through LAZ. However, they argue that Courts do not move themselves, they need to see bold and proactive clients and lawyers taking up challenging cases that touch on issues of the rule of law, constitutionalism and good governance (Kaaba, 2015).

It was also observed that though LAZ and other critical stakeholders were behind the call for the Legal and Justice Sector reforms. The reforms did not receive the support of the entire LAZ and the legal fraternity in the country.²⁵

9. The Legal and Justice Sector Reforms Commission

The Legal and Justice Sector Reforms Commission was established by the Zambian Government in 2014 with the goal to undertake a comprehensive review of the state of the legal and justice sector in Zambia in order to develop strategies and mechanisms to facilitate its transformation and modernization so that it is better able to meet the current and future needs of the Zambian citizens.

According to Chomba (2014) the Government envisaged a modern legal and justice sector which was more efficient, affordable, accessible, accountable, fair and able to deliver timely results in a cost-effective manner at the end of the reform process.²⁶ A legal and justice sector which meets the needs of citizens also creates an environment favourable for the economic growth, investments expansion and poverty reduction. The mechanisms for ensuring rapid and effective resolution of disputes between commercial entities are particularly important. Equally important for the sustainable growth are the systems used to regulate and protect property rights and ensure the security of the legal reports.

Historically, the reform of the legal and justice sector has permanently been a recurring agenda item for the attention of the authorities of the Republic of Zambia. This has included substantial institutional changes and amendments to the legal framework. In addition, efforts have been made under Access to Justice Programme to pursue the reform agenda in a wider context. However, this was focused only on five criminal justice institutions which include the Judiciary, Prisons, Police, Nation Prosecution Authority and Legal Aid Board. Despite substantial institutional changes, such as reforms of the Zambia Prisons Service and Zambia Police Service as well as amendments to the legal framework, no integrity of the justice system has been achieved yet.²⁷ The reason is that the

²⁵ Former Justice F. Chomba interview held in November 2016

²⁶ Honourable Former Justice F. Chomba (2014) Opening Speech at the Launch of the Legal and Justice Sector Reforms Commission, Government Complex, Lusaka

²⁷ With the amendment of the Zambian Republic Constitution now referred to Zambia Correctional Service; refer to Article 193 (1)

changes have not led to the strengthening of the justice system or ensuring equitable, fair and accessible justice system.

The justice sector is faced with following: Courts that are not well managed, promotion of judges and prosecutor which is not sufficiently transparent, inadequate quality of the services provided, absence of effective mechanisms of accountability of the justice sector actors, complex pre-court phase, absence of effective mechanisms to ensure a child friendly justice, and the perception of the corruption spreading throughout the justice sector is alarmingly high.²⁸

Under these conditions, the reform of the legal and justice sector could not be approached in a fragmentary way. It is for this reason that the Patriotic Front Government assigned high priority to improving the legal and justice sector as part of its public-sector transformation and modernisation programme by setting up a Commission of Inquiry (Times of Zambia, 2014). The Commission is required to make recommendations aimed at initiating reforms in the legal and judicial system. The resultant reformed legal and judicial system would have to respond efficiently and effectively to enhance the social and economic programmes in the development of the country.

The Commission has a national responsibility as underscored by Section 2 of the Inquiries Act, Chapter 41 of the Laws of Zambia which in sub-Section (1) empowers the President “to issue a Commission appointing commissioners to inquire into any matter in which an inquiry would, in the opinion of the President, be for the public welfare. The Commission’s Terms of Reference as outlined in the Statutory Instrument number 22 of 2014 in line with Section 2 of the Inquiries Act, Volume 4, Cap. 41 of the Laws of Zambia are to inquire into the:

- a) existing organizational structure of the legal and justice system so as to identify the challenges faced by the legal and justice system institutional framework;
- b) inter-relationship and coordination between the various legal and justice institutions so as to identify the constraints in the sector and make recommendations to enhance the efficiency and effectiveness of the legal and justice delivery system;
- c) accessibility and affordability of justice by the citizens;

²⁸ Honourable Former Justice F. Chomba (2014) Opening Speech at the Launch of the Legal and Justice Sector Reforms Commission, Government Complex, Lusaka

- d) culture of enhancing human rights by law enforcement agencies in conjunction with the Judiciary and other stakeholders;
- e) judicial structure and system which is independent and accountable to the citizens;
- f) system of legal training, education and practice;
- g) system of recruitment, appointment and promotion of judicial officers and revocation of such appointments;
- h) operation, administration and management of the legal aid system;
- i) system of declaration of assets by judicial officers;
- j) practice of delivery of unanimous judgments by the Supreme Court of Zambia; and
- k) any other matters related or incidental to the above.

It was observed that the Terms of Reference were broad enough and had the potential to allow for the undertaking of a comprehensive review into the state of the legal and justice sector in Zambia in order to develop strategies and mechanisms to facilitate its transformation and modernization so that it is better able to meet the current and future needs of the Zambian citizens.

At the time of the study the Commission had held public sittings in all the ten provinces.²⁹ Some of the submissions received and published in the media were as follows, with respect to terms of reference “a”, “b”, and “d”.³⁰ The Petitioners submitted that:³¹

- (a) the Judiciary should create the Office of the Administrator to deal with administrative issues. It was further submitted that the office of the Administrator should be senior to the office of the Resident Magistrate;
- (b) the Resident Magistrate must concentrate on Court cases only and not on Court Administration;
- (c) the budgetary allocation for Magistrates should be increased so that the operations of Magistrates could be enhanced. The Petitioners regretted the lack of transport and other

²⁹ More than 1000 citizens had submitted to the Legal and Justice Sector Reforms Commission; LJSRC Secretariat 2016, Government Complex

³⁰ Statutory Instrument No. 22 of 2014

³¹ A Summary of submissions covered by the Times of Zambia and Daily Mail 2014, 2015 and 2016 by Chulu Kabanda. Mr. Kabanda Chulu was a Journalist attached to the Commission.

necessities for Magistrates. Petitioners suggested that Magistrates (who are University graduates) should be given more powers to handle some of the cases that were currently being referred to the High Court. It was also submitted that Local and Subordinate Court Justices and Magistrates respectively should not be allowed to sit as individuals during court sittings;

- (d) the funding to the Judiciary be improved to enhance its efficiency and effectiveness in carrying out its mandate. It was heard that adequate funding to the Judiciary would enable them address constraints such as: Magistrates to travel and hear cases in instances where the Magistrate to recuse oneself;
- (e) there is need to review the Local Court set up and rename it as “People Civil Cases Court”. The petitioner also submitted that the Subordinate Court be renamed as “The Justice and Rule of Law Court”;
- (f) some Local Courts Presiding Justices presided on land matters when they do not fully understand traditions. It was suggested that the Local Courts in rural areas must be manned by the indunas except those in urban areas;
- (g) there was need to build staff houses for Local Court officers especially in the rural areas to motivate them;
- (h) the Traditional Courts should be recognised as part of the judiciary, as they settle disputes among citizens in villages. Petitioners submitted that the traditional courts should be formalised and be made part of the Judiciary. They further submitted that traditional Courts be courts of record and that these records be submitted to the Ministry of Justice and the Ministry of Chiefs and Traditional Affairs. They suggested that the Traditional Court Secretaries should be absorbed in the mainstream Judiciary;
- (i) the Local and Subordinate Courts should not have jurisdiction over matters that have already been determined by Traditional Courts. It was submitted that appeals from higher Traditional Courts should lie to the High Court. Further, it was submitted that Traditional Court officers should be supervised and trained within the Judicial structures. Some petitioners expressed concern about the current practice where Chiefs appoint indunas who at times do not even know the customs of the chiefdoms. They further submitted that the Traditional Courts should employ school leavers as Court Clerks. It was suggested that

- Traditional Courts should keep records through the proposed clerks to be appointed. It was further suggested that these clerks can be paid from the money raised from the court fees;
- (j) the Traditional Court system was inherently corrupt due to the requirement to provide gifts before cases were heard. It was further submitted that in conventional courts presentation of gifts to judicial officers amounted to corruption yet the same was tolerated under the traditional court system. The Petitioners claimed that the system of paying gifts to traditional court system impeded the poor from accessing justice;
 - (k) there are conflicts between Local Courts and Traditional Courts since inception of Local Courts (Local Courts Act of 1996). The petitioners submitted that the Traditional Courts feel that the Local Courts have usurped their powers and resulting in numerous complaints and attempts to control and take over these Courts all along. The petitioner further submitted that since local courts deal with matters such as Intestate Succession, Matrimonial and Statute Laws of Tort, Defamation, Contract, etc., such matters cannot be adequately handled by traditional courts;
 - (l) the country should modernise and “Zambianise” the Judiciary, particularly the Judge’s attire such as the wigs and costumes which the petitioners opined were outdated. The Petitioners claimed that the current Court attire intimidated citizens. It was submitted that the country’s Judiciary should have its own character. There is need for a client friendly environment in the court;
 - (m) the ‘Picture of Jesus’ should be hanged in every Court across the court room so that the Judge can be seeing it when making Judgments;
 - (n) there was need to introduce use and installation of cameras or CCTV in the courts of law. They submitted that this would make cases run faster and more smoothly because the pressure would be on the Prosecutors to prove their cases. Petitioners also argued that the use of CCTV / Cameras would help eradicate abuse of human rights by police and prison officers. Some petitioners however, submitted that a law should be enacted which will determine what cases should or should not be heard in camera;
 - (o) the country should introduce a jury system to help with fighting what they termed as “rampant corruption” in the Judiciary especially in high profile cases. Petitioners observed that sometimes, judges come up with seemingly irrational verdicts that were not compatible with what was heard in court and lacked professionalism;

- (p) there was inadequate infrastructure for the judiciary, Police Force and Prison Services. They submitted that in most of the districts these facilities were either missing or dilapidated. Petitioners submitted that the Government should acknowledge the legal and justice sector was critical to the development process of the country through increase in budgetary allocation;
- (q) need to increase in the number of magistrates in Zambia to enhance efficiency in the Judiciary and promote the timeous disposal of cases. Petitioners expressed concern on low staffing levels at Courts especially the Local and Subordinate Courts. Petitioners submitted that Subordinate courts in most districts were being manned by only one Resident Magistrate. They noted this created challenge if the Resident Magistrate was away from duty or on personal problems. Petitioners submitted that there was need to have a policy on recruitment of lay Magistrates to complement Resident Magistrates. They indicated that this would help to address the challenge of low staffing levels of Magistrates in the districts. There is need to have all districts served by Magistrates as there are some districts which have visiting Magistrates;
- (r) the Local Courts in most districts were not being manned. Petitioners noted that this had adversely affected the operations of the Judiciary resulting in the closure of some local courts around the country. Petitioners submitted that there was need to have a policy on recruitment to replace the retired and deceased officers. It was stated that this measure would help to address the challenge of low staffing levels of Local Court Magistrates in the Districts;
- (s) the judicial institutions were in most cases especially in rural area inaccessible due to long distances. It was proposed that the Judiciary should emulate the education sector in reducing distances. There was need to build more court facilities especially in the rural areas.
- (t) the local courts should be extended to ward level, reflecting the district population and distances. This was premised on the fact that distance to the nearest court structure, court congestion and case overload were all among major hindrances to accessing Justices timely;
- (u) the most infrastructure in the justice system was built during colonial times, court rooms were very small and not adequately ventilated, court buildings were very dilapidated whilst

Local courts being built do not meet modern standards. Several petitioners proposed that Government builds sufficient modern court infrastructure and renovates the old ones to avert delays occasioned by lack of Court rooms;

- (v) there was need to ensure that salaries and working conditions in the Judiciary were harmonised to bridge the gaps between the Judges and the lower ranks including the Magistrates. Petitioners recommended that there should be a reasonable difference. They further justified the submission by arguing that qualifications between the magistrates at subordinate and Judges at higher courts are the same and that Magistrates equally handle a lot of cases;
- (w) the judicial officers especially those from the Local Court are too harsh (hostile) to their clients/people who require judicial services. They thus, recommended that the Government should enact a law, which should lead to a creation of an institution to monitor local court justices and their operations. It was further suggested that the ACC should open offices at Court premises to curb corruption, which was on the increase in the courts. This would assist to protect the integrity of the Court;
- (x) there was a lot of injustice and lack of professionalism in the manner Local Courts dispensed Justice. Other petitioners submitted that Local court staffs lacked knowledge on judicial processes and procedures, and were, as such, unable to provide members of the public with information on how to process cases beyond the Local Courts;
- (y) there was prevalent corruption in the handling of Court cases. Some petitioners submitted that there were instances in the Zambian court system where Magistrates and Judges manipulated evidence in the judgement to justify the ruling especially in situations where they have an opinion that someone is guilty but there is no incriminating evidence. Other petitioners submitted that there is high level of corruption amongst local court officials especially in rural areas which petitioners attributed mainly to lack of close supervision. Further, petitioners recommended that the local court justices must be transferred from time to time. Furthermore, some petitioners submitted that corruption was on the increase because of the many young people currently employed in the judiciary. They submitted that there was need to employ people above 40 and increasing retiring age of local justices to be 85 years. Some petitioners submitted that the Judiciary should be well funded to reduce corruption in the Judiciary. It was further suggested that workshops should be

conducted for officers to address the vice of corruption, and that corrupt officers be visited by the law;

- (z) the Local Court Magistrates should be people with either a degree or diploma in law. It was further submitted that the Judiciary should be allowed to employ Zambia Institute of Advanced Legal Education (ZIALE) failures as Local Court Magistrates, because they already had Bachelor of Laws Degree. It was submitted a person who holds no more than a GCE Level Certificate and was aged between 35 to 45 years should not qualify for appointment as a Local Court Justice. Other petitioners were of the view that some local court Justices were too young to fully understand customary matters they presided over. The petitioner was of the view that this age group was prone to corruption and immature acts according to national statistics. It was also submitted that the entry age for magistrates should be 50 years as it is not proper for “juveniles” to resolve matters that involve elderly parties. It was suggested that the judiciary should go back to the old system of recruiting people of ages between 45 years and 65 years. This age group had experience and wisdom to handle cases out of all age groups in the country. It was also observed that this age range had knowledge about traditional norms and values; and
- (aa) It was submitted that there were low staffing levels in the Judiciary which had impacted negatively on the discharge of the mandate of the Judiciary. A petitioner submitted that the Local Court had inadequate members of staff, who were working under poor working conditions and lacked training in judiciary management.

10. The Judiciary and Allied Workers Union of Zambia

The Judiciary and Allied Workers Union of Zambia (JAWUZ) is an independent body representing the views of a unique group working in a unique branch of Government. It was established in 2009 as a break away Union from the Civil Service Union of Zambia, which was deemed not ably and effectively representing the views and demands of Judiciary workers. At the time of the study, JAWUZ had a membership of over 3580.³² It was observed that JAWUZ:

- (a) was still considered an infant organization which was still finding its feet in the trade union arena despite being 7 years in existence;

³² Interview with Mr. Peter Mwale, Secretary General for the JAWUZ, November 2016, at Lusaka Magistrate Complex.

- (b) was still in negotiations with judicial management on the need to institutionalise a forum for effective and meaningful engagement with judicial management. It was also observed that since the establishment of the Union, management has been very supportive to the work of the Union;
- (c) had since inception engaged with Judicial Management in Judicial reforms. However, to maintain good working relationship and in line with its nature and respect to its values, JAWUZ does not involve or inform the Media. The Union and Judicial Management had formed a Joint Technical Committee which spearheaded strategic programmes such as the formulation of judicial strategic plans, review of policies and the development of workplace manuals such as the Gender workplace policy and the HIV/AIDS workplace policy. It was also mentioned that the Technical Committee was instrumental in the negotiations towards the abandonment of the public service payroll by the Judiciary;

It was noted during the study that:

- (a) 75% of Union members were not satisfied with their union as an organization representing their interests because it was not effective organizationally and not able to deliver improved working conditions;
- (b) the Union was not involved in the annual planning and budgeting process of the Judiciary;³³
- (c) the Union did not collaborate with other Civil Society Organisations because it is still in its infancy and learning how to collaborate with other Civil Society Organisations. It was also noted by JAWUZ Management and Membership that their Union had found it very difficult to find a civil society organisation interested in the welfare of the Judiciary. However, many Civil Society Organisations, professional bodies and the Church were concerned with the antagonistic behaviour of JAWUZ towards other professional and civil society organisations who had a different opinion from it and the Judiciary. It was argued that JAWUZ had a defensive approach and had always attacked and accused LAZ and other civil society organisations. CSPP director during interview mentioned that JAWUZ

³³ Interviews with JAWUZ members in Lusaka, Chongwe, Kafue, Ndola, Kitwe, Mufulira, Livingstone, Choma, Kalomo, Sesheke, Mongu, Senega, Kaoma, Chipata, Nyimba, Sinda, Petuake, Kabwe, Mumbwa, Solwezi, Mansa, and Kasama.

had this general belief that our institutions had this goal to ruin the integrity and independence of the Judiciary.³⁴

Reference was made to several occasions when LAZ and JAWUZ clashed on a number of judicial administration issues. One case in point is when JAWUZ took a swipe at LAZ for using the media to call for reforms in the Judiciary. The Daily Mail Newspaper quotes the JAWUZ Management calling on LAZ to engage stakeholders to improve and expand service delivery to the public in the dispensation of justice as opposed to speaking through the media.³⁵ It demanded that LAZ desists from issuing negative statements as it had the potential to destroy and ruin the integrity and independence of the Judiciary. It further added that it was unfair for LAZ, as a professional body, to call for the dismissal of any perceived corrupt Judges and Magistrates through the media on unsubstantiated facts knowing that such officers cannot defend themselves through the press. It also argued that LAZ was fully aware of the challenges faced by the Judiciary and LAZ leadership should not use their positions to seek for jobs in government. The Newspaper adds that while this was unfair for LAZ to isolate itself from the challenges facing the Judiciary, JAWUZ must realise that LAZ and lawyers have a role in the society.

American Bar Association (2004) opines that lawyers are the foot soldiers of our Republican Constitution. A lawyer is and must ever be the high priest at the shrine of justice. This religious metaphor reflects the view of the lawyer's special role in the administration of justice. The religious metaphor was developed in the context of viewing Courts as the 'shrines of justice' and lawyers, as the ministers of the "Courts of justice robed in the priestly garments of truth, honor and integrity". Even in a secular context, the statement still captures the essence of the role of an advocate in the mechanism of administration of justice in the society.

The study noted that JAWUZ, as an infant Union, was learning from similar institutions in Africa such as the Judiciary Staff Union of Nigeria (JUSUN). It was noted that since its establishment JUSUN has grown both in size and credibility. It was learnt that JAWUZ had been twinning

³⁴ Interview with CSPR member in Lusaka

³⁵ Daily Mail Newspaper of 1st December 2015

JUSUN to learn and enhance its capacity. However, at the time of the study, it was observed that JAWUZ was not an effective voice for the Judiciary and allied workers.

(a) Role of Cooperating Partners

With regard to the role of Cooperating Partners, it was observed that since 1964 most of the Cooperating Partners had been supporting the following sectors: Wealth creation; climate change; Governance and Security; Elections; Corruption; Education; Reproductive Health, Malaria; HIV/AIDS; Health; Water and Sanitation; Poverty; Hunger and Vulnerability; Humanitarian; support to MDG implementation.³⁶

It was argued by Mutesa (2006) that most of the donors select priorities areas of support based on their engagement with civil society. Most society groups operating in Zambia have in last decade prioritised issues around poverty. Thus, many donor country strategies focused on poverty and governance. The issues of access to justice and judicial independence are not reflected in the many donor country strategies.

The study noted that most of the Cooperating Partners (CPs) operating in Zambia supported programme and activities that contribute to the country's development plan. Most of the support under the governance Article went to increasing adherence to democratic governance principles and achieving full participation of women and men in development processes.

Further, it was also observed there was a limited number of Cooperating Partners supporting the justice sector when compared to other sectors. Even those CPs involved in access to justice such as the Germans, the Danish and the European Union, their intervention was small-scale and fragmented. It was observed that the European Union and Germany are the main actors in the sector (GIZ, 2016).

A review of Donor Development Strategies showed that only the European Union, through its Lusaka Office, had resources for Judicial Reforms and Modernisation. The Union, under the 10th

³⁶ See Ministry of Foreign Affairs, 2015- 2017 Country Strategy for Development Cooperation with Zambia (Finland, 2016) Retrieved from <http://formin.finland.fi/public/download.aspx?ID=138016&GUID=%7B64D8F405-6976-4CB8-9B45-716143EDF35F%7D>

EDF, financed the Access to Justice Project with an amount of ZMK84 million through a Delegation Agreement with Gesellschaft für Internationale Zusammenarbeit (GIZ).³⁷ The purpose of the action was to improve justice delivery for all and enhance respect for and protection and fulfilment of human rights. However, 80% of the respondents claimed that the scope of the programme was narrow and did not address critical judicial infrastructure challenges.

A review of the Budget and Expenditure of the Access to Justice Programme, as outlined in Table 27, showed that no funding was allocated for infrastructure for the Judiciary. However, mention was made of houses for Justices (Government of the Republic of Zambia, 2012). It was noted that the proposed budget for the building of the Justice Houses was not adequate hence the activity was not commenced.

Table 27: Access to Justice Programme Finance Report (Million Euro³⁸) 2007 to 2011

Programme component	Budget	Expenditure	Under	%
Improved coordination/communication	12.0	7.6	4.4	37
Increased competence of personnel	11.2	6.6	4.6	41
Improved access to justice for vulnerable	17.2	11.8	5.4	31
Improved legislative process and policy	5.2	4.3	1.0	18
Increased public awareness of human rights	1.1	0.8	0.3	27
Improved record keeping and information management	7.7	3.2	4.6	59
Programme management strengthened	2.2	1.3	0.9	42
Total	56.6	35.5	211	37

Source: Government of the Republic of Zambia(2012)

Most of the respondents were concerned that the Programme for Legal Empowerment and Enhanced Justice Delivery (PLEED)³⁹, had departed from the initial design of Access to Justice programme. The respondents were concerned that the initiatives designed under the Access to Justice were ignored. Most of the respondents wondered if the Programme for Legal Empowerment and Enhanced Justice Delivery, designers had referred to 2012 Ministry of Foreign

³⁷ GIZ, interview with Programme Officers

³⁸ 1 Euro = ZMK12

³⁹ See the GIZ. Description of the Action-Programme for Legal Empowerment and Enhanced Justice Delivery (PLEED, 2015)

Affairs of Denmark Evaluation Reports which recommended that a new successor programme should:

- (a) adopt justice sector wide approach;
- (b) have justice sector reform strategy;
- (c) better links between the technical and the political level, and
- (d) more Zambian Government funding (Ministry of Foreign Affairs of Denmark, 2012).

Approximately 75% of the respondents interviewed were of the view that the scope of the programme was limited only to criminal aspects ignoring civil and traditional justice. With respect to Judicial Modernisation, they claimed that PLEED had ignored infrastructure challenges of most justice sector institutions. However, nearly all respondents claimed that PLEED had a great potential to develop a platform to facilitate Civil Society engagement in the Justice sector.

(b) Citizens Ranking of Priorities

Since the 1990s, Zambia's budget has been tailored towards reducing poverty directly. Zambia has a Gini coefficient estimated at 0.575, implying that levels of social inequality are among the highest in the world. Poverty levels stand at 63%, with extreme poverty at 42%, rising to 70% in certain rural provinces where most of the population rely on subsistence agriculture (Saasa, 2010, pp.10-24). As was outlined in the earlier sections, Zambia's Poverty Reduction Strategy Paper prioritised investments in key economic sectors, with special focus on agricultural and rural development (GRZ, 2002). This included the creation of rural employment opportunities through promotion of large-scale enterprises; strengthening the linkage of small farmers to commercial producers and agribusinesses and strengthening social services in education, health and sanitation.

The Judiciary was not among the priority list of the PRSP (Mpepo, 2003). Since 2001, the Judiciary has not enjoyed budgetary increases or political will despite the visible challenges it faces. The argument has been that the Judiciary is not a direct poverty reducing area. It is for this reason that over the years the Judiciary budget has accounted for less than 1% of the budget as observed above.

Table 28: Ranking of Respondent's Priority List

Priority	Frequency of Respondents (Dichotomy Group tabulate at value)	Rank	Responses
		N	(%)
Employment		78	27.2
Health		56	19.5
Poverty		21	7.3
Water Supply		1	3
Infrastructure/ Roads		7	2.4
Judiciary		3	1.0
Education		43	15.0
Food Shortage		3	1
Economic Management		28	9.8
Electricity		7	2.4
corruption		14	4.9
Agriculture		12	4.2
Wages / Salaries		10	3.5
Housing		4	1.4
Total		287	100%

Source: Author's Computations from Research Data Collected (2017)

Given Zambia's scarcity of resources and the variety of demands placed on those resources and the levels of poverty in the country, it is difficult to argue that the Judiciary should be given a blank check to satisfy its resource needs. The Executive and the Legislature have the responsibility to the citizenry to carefully consider the entire budget demands, to allocate funding so that it meets the highest needs of the state, and to ensure that appropriated funds are spent in a competent and prudent manner. This responsibility, at times, has caused the Executive and the Legislature to take budgetary actions that are unfavourable to the Courts, while the authority to control judiciary budgets provides Executive with an awesome power that could be used to interfere with Court prerogatives, actions such as those mentioned previously are not necessarily an attack on judicial independence. For instance, such actions limit the recruitment of Court clerk; purchase of vehicles for Court Justices; stationary, etc. all to free up resources for other development priorities.

The problem for Judiciary and in particular the Courts is that they have few allies in the political arena. This lack of a strong constituency places the Courts at a disadvantage when competing with the Executive for resources. The Executive has little incentive to divert resources to the judiciary at the expense of direct poverty reducing or political driving projects that might benefit their constituents directly. This creates a bigger problem given that the Zambian Constitution and

subsidiary laws do not compel the Executive to disburse budgetary resources to the Judiciary. Zambia does not have a law to provide for greater independence, fiscal responsibility, accountability, and efficiency in the Judiciary.

Part VIII, Article 122 and 123 of the Republican Constitution of Zambia as amended by Act No. 2 of 2016, provides for operational autonomy of the Judiciary. It reads:

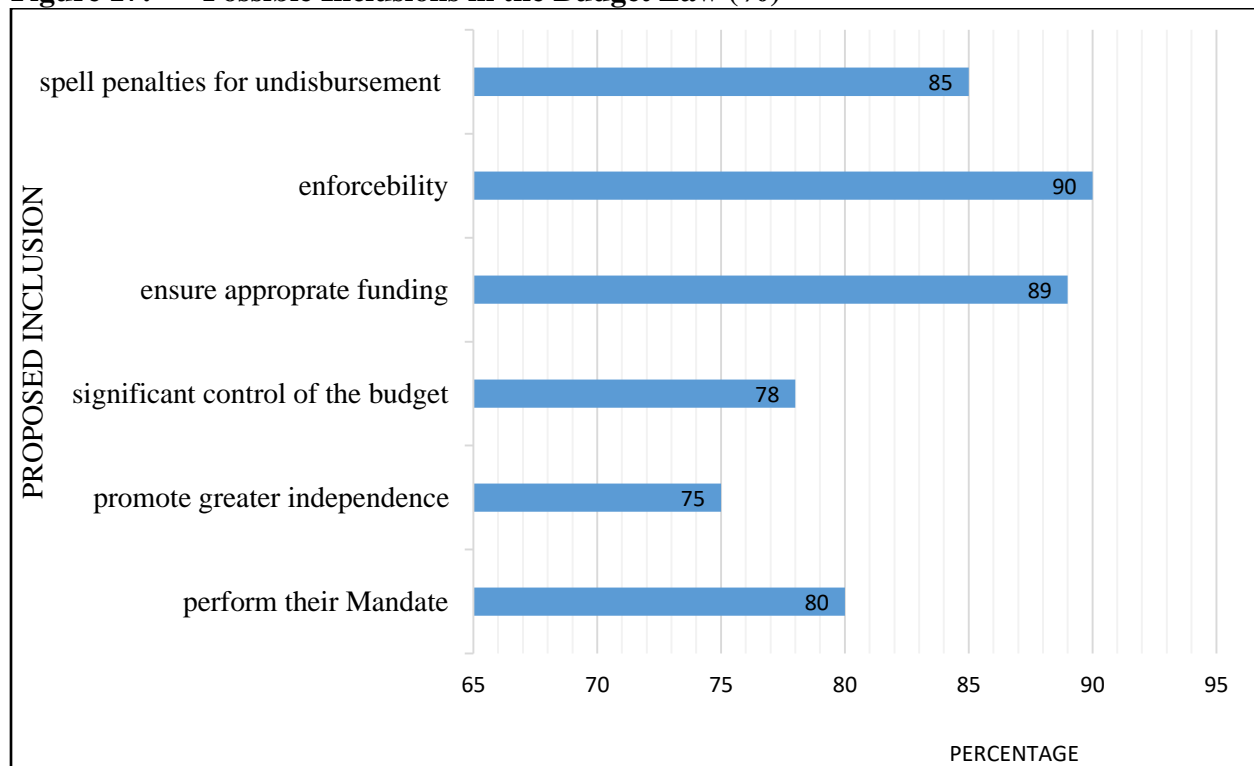
- “122. (1) In the exercise of the judicial authority, the Judiciary shall be subject only to this Constitution and the law and not be subject to the control or direction of a person or an authority.*
- (2) A person and a person holding a public office shall not interfere with the performance of a judicial function by a judge or judicial officer.*
- (3) The Judiciary shall not, in the performance of its administrative functions and management of its financial affairs, be subject to the control or direction of a person or an authority.*
- (4) A person and a person holding a public office shall protect the independence, dignity and effectiveness of the Judiciary.*
- (5) The office of a judge or judicial officer shall not be abolished while there is a substantive holder of the office.*
- 123. (1) The Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.*
- (2) The Judiciary shall be adequately funded in a financial year to enable it effectively carry out its functions.”*

However, these provision in Article 122 and 123 of the Republican Constitution are inadequate because these sections do not provide for avenues which the Judiciary should follow when the Executive under funds it. Close to 70% of the respondents interviewed claimed that there was need for a Budget law which strongly supports and protects financial autonomy of the Judiciary. The overall purposes of the law should be to enable Judges to independently and effectively carryout adjudicative functions, improve administrative processes and budgetary management.

Figure 16 show that 75% of the respondents proposed for a budget law which promoted greater judicial independence. Approximately 78% of the respondents proposed a budget law which provided significant control of the budget by the judiciary. The legal framework should also provide for significant control of the Judiciary over its own budget. The Figure also indicates that 89% of the respondents proposed a budget law that ensured the allocation of appropriate and enough funding to the judiciary. It was proposed that the budget law should provide stable, long-

term, balanced and appropriate financing of the judiciary power to secure its constitutional and legal independence and autonomy. It was further added by respondents that the proposed Budget law should provide and ensure that a determined “fixed” percentage of the total budget is allocated to the Judiciary and it should be disbursed according to the law. It was observed that 85% of the participants in focus group discussions supported the idea of a Budget law which spelt out penalties to Treasury Authority if judicial funds are not disbursed in the prescribed manner.⁴⁰

Figure 17: Possible Inclusions in the Budget Law (%)



Source: Author’s Computations from Research Data Collected (2017)

Approximately 90% of the respondents proposed that the Budget law should have specific measures for accountability of Executive branch officials for failure to execute budget allocation rules regarding financing of the Judiciary should be established in law.

(c) Citizens budgetary Priorities

The cross-tabulation data in Table 41 at Annex 4, on page 211, shows that citizens ranking of Judicial modernisations was low. The citizens are more concerned with daily economic struggles.

⁴⁰ Focus Group Discussions held with Caritas Zambia Teams in October 2016

These responses are shaped by economic status at both the individual and the community level. The table also shows that individuals with lower school qualifications are far more likely to prioritise unemployment, education, health, water supply, and food shortage relative to individuals with higher academic qualification who are much less concerned with (formal sector) unemployment.

The Table shows that the major challenges facing the Judiciary is not the inability to delivery justice effectively, fairly and efficiently; poor staffing levels; lack of professional capacity; poor staff morale due to poor working conditions; low salaries at the lower levels; inadequate infrastructure such as shortage of court rooms but the incapacity to enjoy the public goodwill.

The Afrobarometer (2015) confirms that the top priorities that citizens want their governments to address from the 34 countries surveyed including Zambia were, ranging from the highest priority to the lowest, as follows; 1) Employment; 2) Health; 3) Poverty; 4) Water supply; 5) Infrastructure / roads; 6) Education; 7) Food shortage; 8) Crime/Security; 9) Management of the economy; 10) Electricity; 11) Corruption; 12) Farming / agriculture; 13) Wages/salaries; and 14) Housing (Afrobarometer Survey (2015)).

5.3.4 Subordinate Court locality

Approximately 80% (20) of the respondents interviewed indicated that in rural communities, public transportation was typically non-existent. In cases where public transit was available, it was often irregular and unreliable, or offered only to specific populations such as the elderly or disabled. As such, travel to access Court services within a rural or in neighbouring urban areas can be time consuming and expensive. These costs also exacerbate the social problem since, many of these people are living on a low income and are already struggling to make ends meet.

Focus group discussions with traditional leaders revealed that for many rural people, the mere cost of transport to a court was prohibitive. A court case inevitably involved more than one trip as proceedings are frequently postponed due to a variety of reasons, such as the absence of a key witness or the failure of one party to obtain critical documents.

In many rural areas, potential litigants had to travel over 40 to 80 kilometers at a cost of over K200 (US\$ 20) round trip to the Subordinate Court. An accused who has been freed on bail must report every two weeks at the Subordinate Court until his or her trial, which usually occurs several months after he or she has been charged. In every rural district, the cost of transport for these biweekly trips was overwhelming.

It was also mentioned that because the trip (on a gravel road) inevitably takes the major portion of the day, the person must also make provision to spend the night on the way. Transportation, in some areas was irregular and non-existent during the rainy season from November to March in some districts.

It was added that numerous cases in the rural areas were of default judgement being entered against litigants who tried but failed because of transport problems to appear in court on the designated day. An accused in a criminal case may be charged with contempt of court and fined ZK\$20, if the bus fails to keep to its schedule, which was not uncommon. Consequently, many people drop cases or never institute claims they may have because of lack of money. For instance, an example is given of a woman, who had to pay K200.00(US\$ 20) for a road trip from Rufunsa District to Chongwe District in order to collect ZK500.00 (US\$50) per month awarded to her by the Chongwe Subordinate Court for child maintenance⁴¹.

Interestingly, the Government of the Republic of Zambia has attempted to address the transportation challenge by heavily investing in public transportation infrastructure. As a result, there has been an improvement in the delivery of services to rural areas. It is the case that when roads are improved, service delivery will be improved.

It was also observed that most of the respondents were of the view that the infrastructure development perspective was a new genuine and appropriate method to uplifting the socio-economic status and people's standard living both the urban and rural areas. Physical infrastructure is at the very heart of the economic and social development of an area.

⁴¹ Focus Group Discussion

Most of the respondents, especially from rural areas, were of the view that resource allocation between towns and rural areas reflected urban priorities and was not solely based on equity and efficiency. They argued that rural areas had great potential for more economic growth. The respondents affirmed that urban areas got the best Courthouses, best magistrates and more and financial resources than rural areas.

The respondents were of the view that urban bias was driven by the politicians who reside in urban areas and make policies to suit themselves, in the urban area. It is quite evident that, since independence in 1964, the Zambia government allocation of public resources has been biased against rural development. As a result of this the living conditions in the urban areas have consistently improved while those in rural areas have generally shown signs of deterioration in the last four decades.

5.4 Discussion and Interpretation of Quantitative Findings

This section presents the quantitative findings and verifies the Null hypotheses, which are:

- (a) There is no relationship between judicial fiscal autonomy and the state of physical infrastructure of Subordinate Courts.
- (b) There is no relationship between administrative capacity of Subordinate Courts and the state of physical infrastructure of Subordinate Courts.
- (c) There is no relationship between stakeholder involvement in Subordinate Courts affairs and the state of physical infrastructure of Subordinate Courts.
- (d) There is no relationship between subordinate Court locality and the state of its physical infrastructure.

5.4.1 Judicial Fiscal Autonomy

In determining the relationship between judicial fiscal autonomy and state of physical infrastructure of the Subordinate Court, a Chi-Square test of dependence was carried out, with a null hypothesis stating, “There is no relationship between judicial fiscal autonomy and the state of physical infrastructure of Subordinate Courts”. Table 29 is a cross tabulation between the two

variables “fiscal autonomy” and “infrastructure quality”. Findings reveal that of the total respondents who indicated that judiciary enjoyed financial autonomy, 20.4% (22) of them rated the quality of infrastructure as very good, while 21.3% (23) rated the infrastructure as good. Approximately 19.4% (21) and 6.5% (7) of the people who said that judiciary enjoyed autonomy rated the infrastructure quality either as poor or very poor respectively. Table 30 also reveals that 22% (66) of the respondents were of the view that the judiciary does not enjoy fiscal autonomy. Approximately 41% of the respondents remained neutral.

Table 29: Cross Tabulation and Chi-square test for the level of Judicial Fiscal autonomy and level of state of physical infrastructure

		state of physical infrastructure of Subordinate Courts					Total
		Very Good	Good	Average	Poor	Very Poor	
Does the judiciary enjoy fiscal autonomy?	Yes	22 20.4%	23 21.3%	35 32.4%	21 19.4%	7 6.5%	108 100.0%
	No	15 22.7%	17 25.8%	22 33.3%	10 15.2%	2 3.0%	66 100.0%
	Neutral	14 11.6%	20 16.5%	65 53.7%	16 13.2%	6 5.0%	121 100.0%
Total		51 17.3%	60 20.3%	122 41.4%	47 15.9%	15 5.1%	295 100.0%

Source: Author’s Computations from Research Data Collected (2019)

The Chi-Square test for the above variables relationship revealed a large Chi-square value of 15.851, with a P-value of 0.045. Based on this result, the Null hypothesis (H_0), stating that there was no relationship between the two variables was rejected. Thus, the study concluded that there is a relationship between judicial fiscal autonomy and the state of physical infrastructure of Subordinate Courts in Zambia. Further that this relationship was significant at 5% level of significance as shown by the P-value of 0.045. See table 30 below.

Table 30: Chi-square Tests for the level of Judicial fiscal autonomy and level of state of physical infrastructure

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	15.851 ^a	8	.045
Likelihood Ratio	15.899	8	.044
Linear-by-Linear Association	.921	1	.337
N of Valid Cases	295		

a. 1 cells (6.7%) have expected count less than 5. The minimum expected count is 3.36.

Source: Author’s Computations from Research Data Collected (2019)

5.4.2 Administrative Capacity of the Judiciary

In determining the relationship between administrative capacity and state of physical infrastructure of the Subordinate court, a Chi-Square test of dependence was carried out, with a null hypothesis stating, “There is no relationship between administrative capacity and the state of physical infrastructure of Subordinate Courts. Table 31 is a cross tabulation between the two variables “administrative capacity” and “infrastructure quality”. Findings revealed that of the total respondents who indicated that judiciary was installed with administrative capacity, 22.5% (31) of the respondents rated the quality of infrastructure as very good, while 24.6% (34) rated the infrastructure as good. Further, 19.5% (21) and 4.3% (6) rated the quality as either poor or very poor respectively. Table 32 also indicate that 2.4% (7) of the respondents claimed that the judiciary had no installed administrative Capacity. It also shows that 51% of the respondents remained neutral. Refer to Table 31 below.

Table 31: Cross Tabulation and Chi-square test for the level of installed with administrative Capacity and level of state of physical infrastructure

		state of physical infrastructure of Subordinate Courts					
		Very Good	Good	Average	Poor	Very Poor	Total
Is the judiciary installed with administrative Capacity?	Yes	31	34	46	21	6	138
		22.5%	24.6%	33.3%	15.2%	4.3%	100.0%
	No	6	0	0	1	0	7
		85.7%	.0%	.0%	14.3%	.0%	100.0%
	Neutral	14	26	76	25	9	150
		9.3%	17.3%	50.7%	16.7%	6.0%	100.0%
Total		51	60	122	47	15	295
		17.3%	20.3%	41.4%	15.9%	5.1%	100.0%

Source: Author's Computations from Research Data Collected (2019)

The Chi-Square test for the above variables relationship revealed a large Chi-square value of 38.975, with a P-value of 0.000. Based on this result, the Null hypothesis (H_0), stating that there was no relationship between the two variables was rejected. Thus, the study concluded that the quality of physical infrastructure was influenced by the level of administrative capacity in the subordinate courts in Zambia. Further that the relationship between these variables was significant at 1% level of significance as shown by the P-value of 0.000. See table 32 below.

Table 32: Chi-square Test for the level of administrative capacity of Subordinate Courts and the level of state of physical infrastructure

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	38.975 ^a	8	.000
Likelihood Ratio	35.143	8	.000
Linear-by-Linear Association	9.076	1	.003
N of Valid Cases	295		

a. 5 cells (33.3%) have expected count less than 5. The minimum expected count is .36.

Source: Author's Computations from Research Data Collected (2019)

5.4.3 Stakeholder Involvement

To establish if there was any association between quality of infrastructure and stakeholder's participation in the Judiciary administration, a chi-square test of dependence was carried out

between the two variables. The objective was to determine whether quality of infrastructure was associated with stakeholders’ participation. Findings reveal that 31.7% (33) of the respondents that indicated that judiciaryinvolved stakeholders’ participation, in administrative activities rated the infrastructure as very good while 27.9% (29) rated the quality as good. Further, approximately 7.7% (8) of the respondents who claimed that the judiciary involve stakeholders’ participation in its administration matters rated infrastructure as poor, while 2.9% (3) rated it as very poor. Approximately 48% (142) of the respondents remained neutral to the question “Does Judiciary involve stakeholders’ participation in its administration?” Refer to Table 33, for detailed findings.

Table 33: Cross -Tabulation for the level of stakeholder involvement and level of state of physical infrastructure

		State of physical infrastructure of Subordinate Courts					Total
		Very Good	Good	Average	Poor	Very Poor	
Does Judiciary involve stakeholders’ participation in its administration?	Yes	33 31.7%	29 27.9%	31 29.8%	8 7.7%	3 2.9%	104 100.0%
	No	6 12.2%	8 16.3%	15 30.6%	15 30.6%	5 10.2%	49 100.0%
	Neutral	12 8.5%	23 16.2%	76 53.5%	24 16.9%	7 4.9%	142 100.0%
Total		51 17.3%	60 20.3%	122 41.4%	47 15.9%	15 5.1%	295 100.0%

Source: Author’s Computations from Research Data Collected (2019)

The Chi-Square test for the above variables relationship revealed a large Chi-square value of 48.650, with a P-value of 0.000. Based on this result, the Null hypothesis (H_0), stating that there was no relationship between the two variables was rejected. Thus, the study concluded that the quality of physical infrastructure was associated with stakeholders’ participation in the administration of the Judiciary courts in Zambia. Further that the relationship between these variables was significant at 1% level of significance as shown by the P-value of 0.000. Refer to Table 34 below.

Table 34: Chi-square for the level of stakeholder involvement and the level of state of physical infrastructure

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	48.650 ^a	8	.000
Likelihood Ratio	46.848	8	.000
Linear-by-Linear Association	24.213	1	.000
N of Valid Cases	295		

a. 1 cells (6.7%) have expected count less than 5. The minimum expected count is 2.49.

Source: Author's Computations from Research Data Collected (2019)

5.4.4 Subordinate Court Locality

A cross tabulation presented in Table 35 reveal that the majority of respondents from urban area in excess of 38.2% (50) rated the quality of infrastructure as average. Approximately 19.8% (26) of them rated it as very good while 22.1% (29) rated it as good. The rest of the respondents from urban area, in excess of 19.8% (26) rated it as either poor or very poor. Further, findings of the cross tabulation revealed that 16.1% (25) of the respondents based in the rural areas rated the quality of their courts infrastructure as very good while 18.7% (29) rated it as good. The rest in excess of 22.6% (35) rated the court infrastructure either as poor or very poor. Refer to Table 35, for detailed findings.

Table 35: Cross Tabulation for the Subordinate Court locality and State of physical infrastructure

		State of physical infrastructure of Subordinate Courts					Total
		Very Good	Good	Average	Poor	Very Poor	
Where is the Court location?	Urban	26 19.8%	29 22.1%	50 38.2%	19 14.5%	7 5.3%	131 100.0%
	Rural	25 16.1%	29 18.7%	66 42.6%	27 17.4%	8 5.2%	155 100.0%
	Not Stated	0 .0%	2 22.2%	6 66.7%	1 11.1%	0 .0%	9 100.0%
Total		51 17.3%	60 20.3%	122 41.4%	47 15.9%	15 5.1%	295 100.0%

Source: Author's Computations from Research Data Collected (2019)

The Chi-Square test of dependence for the above variables' relationship revealed a smaller Chi-square value of 5.362, with a p-value of 0.718. Based on this result, the study failed to reject the null hypothesis (H_0), stating that there was no relationship between the two variables. Thus, the study concluded that there was no association between the subordinate court locality and the state of physical infrastructure in the judiciary. This was proven by the large p-value 0.718, which was greater than the significant level of 0.05, or 5% significant level. Refer to Table 36.

Table 36: Chi-square test for the subordinate Court locality and state of physical infrastructure

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	5.362 ^a	8	.718
Likelihood Ratio	7.157	8	.520
Linear-by-Linear Association	.282	1	.595
N of Valid Cases	295		

a.5cells (33.3%) have expected count less than 5. The minimum expected count is 0.46

Source: Author's Computations from Research Data Collected (2019)

In this regard, the study fails to reject the Null Hypothesis, hence it could be said that the Subordinate Court locality does not influence the state of its physical infrastructure, given the results shown in Table 36.

5.5 Ordinal Logistic Regression Model

The study employed an Ordinal Logistic Regression Model to examine the influence of fiscal autonomy, administrative capacity, participation of stakeholders and locality of a given Subordinate Court on the state of physical infrastructure of Subordinate Courts in the Republic of Zambia. The model is adopted because the dependent variables had ordered responses which were not numerical in nature. Logistic models are generally known for their appropriateness in predicting qualitative variables that are binary or dichotomous in nature.

Since this study was analysing the determinants of the quality of physical infrastructure of the Subordinate Courts, in the Judiciary, which took two values namely 1 for good quality and 0 for

poor quality the Logistic Regression Model was appropriate. The Model is useful in estimating the odds of an individual rating the state of physical infrastructure of a Subordinate Court as good or poor. Considering a standard Ordinal Logistic Regression equation given as:

$$\ln \left[\frac{P(y)}{1-P(y)} \right] = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 \quad \text{Equation 1}$$

Rewritten as:

$$\ln(P(y)) - \ln(1-P(y)) = \text{logit } p(y) = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4$$

Where:

- Ln is the natural log equal to $\log_e p$;
- P is the probability of an individual estimating the odds of an individual rating the state of physical infrastructure of a Subordinate Court as good or poor and is within the range 0 and 1;
- β_0 is the intercept;
- $\beta_1, \beta_2, \beta_3, \beta_4 \dots \beta_k$ are regression coefficients;
- $X_1, X_2, X_3, X_4 \dots X_k$ are independent variables; and
- e is the base of natural logarithms equal to 2.71828.

If Y^* is equal to $\ln \left[\frac{P(y)}{1-P(y)} \right]$

Where $\frac{P(y)}{1-P(y)}$ is the odds ratio of the probability of an event happening to the probability that it will not happen. Therefore, the Linear Regression Function will be given as:

$$Y^* = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4$$

Where:

- X_1 = Stakeholder Participation;
- X_2 = Location of Subordinate Court;
- X_3 = Administrative Capacity; and
- X_4 = Judicial Fiscal Autonomy

Table 37: Coefficient Analysis

Coefficients Model ^a						95% Confidence Interval	
	Estimate (β)	Std. Error	Wald	df	Sig.	Lower Bound	Upper Bound
Constant	316			1	0.00		
Stakeholder	.961	.220	19.131	1	.000	.530	1.392
Location	.001	.007	.026	1	.872	-.013	.015
Administrative Capacity	.378	.201	3.541	1	.040	.772	.016
Fiscal Autonomy	0.030	.131	.054	1	.038	-.286	.226

a. Predictors: (Constant) fiscal autonomy, administrative capacity and participation of stakeholders and locality of Subordinate Court

b. Dependent Variable: the state of physical infrastructure of Subordinate Courts.

Source: Author's Computations from Research Data Collected (2019)

Referring to Table 37 and β estimates, the Linear Regression Function is:

$$Y^* = 316 + 0.96X_1 + 0.001X_2 + 0.38X_3 + 0.03X_4 \quad \text{Equation 2}$$

Thus, the mathematical formulation of the Proportional Odds Model is given as:

$$P(Y) = \frac{e^{316 + 0.96X_1 + 0.001X_2 + 0.38X_3 + 0.03X_4}}{e^{316 + 0.96X_1 + 0.001X_2 + 0.38X_3 + 0.03X_4} + 1} \quad \text{Equation 3}$$

Where: “e” is the base of natural logarithms equal to 2.71828; and P (Y) is the probability of an individual estimating the odds of an individual rating the state of physical infrastructure of a Subordinate Court as good or poor and is within the range 0 and 1.

From Table 37, the Ordinal Logistic Regression Model depicts that when fiscal autonomy, administrative capacity and participation of stakeholders and locality of Subordinate Court have a null value, the state of judicial infrastructure implementation would yield 316. The intercept corresponds to $\text{logit}[P(y) \leq 316]$. It is the log of odds believing that the Subordinate Court physical Infrastructure is of low quality versus believing that the he Subordinate Court physical

Infrastructure is of high quality. This therefore means that when all other factors are constant, a unit increase in the perceptive value of stakeholder participation, the log of odds would yield 0.96 increase in the quality of judiciary infrastructure. A unit increase in perceptive value of fiscal autonomy, administrative capacity and locality of Subordinate Court the log of odds would yield 0.001, 0.38 and 0.003 respectively. By using the intercept (β_0) and regression coefficients (β_1 , β_2 , β_3 and β_4), which are the slope values, using the model, we can estimate the desired probabilities given the perception of an individual and citizens.

(a) Model Fitting Information

The log likelihood ratio Chi-Square test, reveals a large Chi-Square value of 69.423, and p -value equal to 0.000, indicating that the full model with four (4) predictors provided a better fit than the null model with no independent variables in predicting cumulative probability for state of subordinate court physical infrastrcuture. This also implies that the Ordinal Logistic Regression model includes predictors that improve the model, as shown in Table 38.

Table 38: Model Fitting Information

Model	-2 Log Likelihood	Chi-Square	Df	Sig.
Intercept Only	316.393			
Final	246.970	69.423	8	.000

Source: Author’s Computations from Research Data Collected (2019)

(b) Goodness of fit

The Null hypothesis for the global goodness of fit is that the model fits the data well. Results from the output indicated that the significance value for both the Pearson and the Deviance was not statistically significant with P values 0.068 and 0.727 respectively, which are both greater than 0.05. As such, we fail to reject the Null hypothesis. This result is “good” for our study as it indicates that the model fits the data well.

The Nagelkerke pseudo R-squared value is 0.222 as shown in Table 39. This indicates that 22.2% of the variations in the outcome variable is explained by the changes in the predicators or independent variables, which is a substantial influence. However, the R² is small, suggesting that the

relationship between the response variable, physical infrastructure of Subordinate Court and four predictors, is small.

Table 39: Pseudo R-Square

Cox and Snell	.210
Nagelkerke	.222
McFadden	.082

Source: Author’s Computations from Research Data Collected (2019)

(c) Test of Parallel Lines

The test of Parallel lines involves testing whether the relationships between the independent variables are holding across the ranks on the dependent variable. With the Null hypothesis indicating that the location parameters (Slope coefficients) are the same across response categories, the output table for the test of parallel lines was not statistically significant. Because the significant value is 0.076, which is essentially greater than 0.05, we fail to reject the Null hypothesis, implying that relationships between the predictor variables are holding across the ranks of the dependent variable. Reference made to Table 40.

Table 40: Tests of Parallel Lines

Model	-2 Log Likelihood	Chi-Square	df	Sig.
Null Hypothesis	286.176			
General	266.609	19.567	12	.076

The Null hypothesis states that the location parameters (slope coefficients) are the same across response categories.

Source: Author’s Computations from Research Data Collected (2019)

Given the foregoing, especially Tables, 37, 38, 39 and 40 shows that the Model is appropriate for analysing the data since the p-value of Chi-squared score test for overall model is insignificant at 5% level of significance indicating proportional odds assumption is not violated. All the considered variables were found significant in the Model, with the exception of the variable “Locality of the Subordinate Court” which has a p-value equal to 0.872 greater than the significant

level of 0.05. This show that only “Locality of the Subordinate Court” violates the vital assumption of the Model which may lead to invalid results. However, the variable “location of the Subordinate Court” showed a non-statistically significant relationship with the state of physical infrastructure in the Republic of Zambia. The final regression outputs as presented in Table 37, reveals that fiscal autonomy, level of stakeholder participation and administrative capacity were statistically significant in varying the likelihood of improved infrastructure, with p-values that were less than 0.05.

5.6 Discussion of Study Finding

The findings of this study have provided evidence for the belief that the modernisation of Subordinate Court infrastructure, like any other infrastructure development, is influenced by certain factors. The study constructed four objectives which were to determine the influence of judicial fiscal autonomy, administrative capacity; stakeholder involvement; and Subordinate Court locality on the quality of Subordinate Court physical infrastructure.

From the study findings it is evident that the variables judicial fiscal autonomy, administrative capacity; stakeholder involvement have an influence on the state of Judicial physical infrastructure and its modernisation agenda. On the other hand, the study shows that there is no significant statistical relationship between the locality of the Subordinate Court and the state of physical infrastructure.

The study findings confirm similar findings by Onyango *et al.*, (2017, p.208) who while investigating the critical factors influencing the implementation of public infrastructure projects in Kenya revealed that there was a significant statistical relationship between the critical factors: government policies, funding process and participatory planning process and the implementation of public infrastructure projects.

It also confirms the study findings by Robey and Holmstrom (2001, p.19) who while studying transformation of municipal governance in a global context’ contends that infrastructure development projects implementations are dynamic, evolving and change in response to

environmental changes which might include government policies and procedures, the sources of finance and the participation of the locals in its initial plans.

In addition, the study findings, with respect to the factor ‘Stakeholder Involvement’ are in tandem with Mohan (2008, p.45)’s study ‘Participatory Development’ which outlined that government procedures, rules and regulations and including the source of finance for the project and the participation of the local population in the activities of the project from its inception to completion are needed for success.

The study, however, does not confirm urban bias, as theorised by Lipton (1977). Urban development bias proponents argue that many developing nations implement infrastructural development which disproportionately favour urban areas at the expense of rural areas. However, from the present study the locality of the Subordinate Court does not influence the quality of the court’s infrastructure.

Over and above, the study findings confirm the General System theorists like Bertalanffy (1972) who asserts that public infrastructure projects implementation success depends largely on the various processes that include the funding process, administrative process, bureaucracy and stakeholder involvement.

The study findings seem to suggest that there is need for the Government of the Republic of Zambia to enhance judicial financial autonomy, if the judicial reforms and modernisation of the judiciary are to be achieved. The availability of quality infrastructure is an appropriate proxy indicator of the level of development and modernization in a country. Hence, adequate allocation of funding contributes immensely to the outcome and quality of any given infrastructure project in the country. There is need to refine the funding allocation and process if the Judiciary has to quicken the development and modernisation of the Subordinate Courts.

The study has also shown the relevance of stakeholder involvement in the modernization of court infrastructure. This revelation calls for the need to design and implement the process through which stakeholders can shape, share and control over development initiatives. Eberlie (2003, p.2)

calls this institutionalised participation where he argues that “participation and stakeholder involvement” has to be rights-based, has to be integrated in the political structures of the country. It also needs legitimacy and is inconceivable without capable stakeholders who have the capacity to be deeply involved in the process. Despite an increase in the number of Civil Society Organisations operating in the country, there is no civil society institution solely established to promote the modernisation agenda of the Judiciary.

Critical to Judicial reforms and modernisation of its infrastructure is the aspect of administrative capacity. The study found that the integral critical factor in judicial infrastructure must include the enhancement of installed technical and human resources capacity to plan, budget and monitor programmes (Otieno *et al.*, 2010). It was observed that generally, Subordinate Court Officials were committed to providing good services, but their work environments made it very difficult and, in most cases, impossible, to serve all clients as they ideally should. Thus, most of them developed patterns of practice, routine and simplification that help them to deal with high demand for their services, work dynamics such as the chronic shortage of workspace, congested Courts, limited resources and huge caseload. The study findings, to a larger extent, confirms Lipsky (2010, pp. 297-314)’s work on street level bureaucracy. It should be noted that Judicial staff adopted patterns and routines of work often to a large extent ranging from reduction of working hours; court session times and absenteeism of judicial officers; reduction of court circuits, corruption to delayed judgements. These factors singularly or combined reduce citizens’ access to Justice.

5.7 Summary

The results revealed that the Zambian Subordinate Court have continued to operate in pre-independence buildings which are too small, dilapidated and not only uncondusive for the dispensation of justice in the modern era but also pose a health risk to courtroom actors. There is limited administrative capacity in the Judiciary. In addition, there was need to actualise judicial financial autonomy provided for in the Republican Constitution. It has also shown the financial inequality within the Judiciary where resources do not reach the lower ends. Stakeholders have not been fully and meaningfully involved in the design, implementation and monitoring of judicial reforms in Zambia. This has left the Judiciary with no monitors or any form of social accountability

mechanism. Over and above, the study showed that the variables financial autonomy, administrative capacity, participation of stakeholders influenced the quality of court infrastructure. However, the locality of Subordinate Court had no influence on the state of its physical infrastructure.

CHAPTER SIX

CONCLUSIONS, CONTRIBUTION AND RECOMMENDATIONS

6.0 Introduction

This chapter presents the conclusion, contribution to knowledge, recommendations and suggestions for further research. The first section advances conclusions drawn from the study findings. The second section gives the study contribution to knowledge advancement. The third section outlines the recommendations drawn from the conclusion. The fourth section puts forward possible areas for further research.

6.1 Conclusion

From the findings, the study revealed that the Zambian Subordinate Court has continued to operate in pre-independence buildings which are too small, dilapidated and not only uncondusive for the dispensation of justice in the modern era but also pose a health risk to courtroom actors. It is also revealed from the study that while the country is resource constrained, some sections of the economy have witnessed relative high levels of modernisation and transformation in the last two decades.

It also reveals that there is limited administrative capacity in the Subordinate Courts. The system does not have installed technical capacities to plan and budget. The challenges facing the Subordinate Courts are caused by the historical underfunding of the Judiciary by the Executive. It has also shown the inequality within the Judiciary where resources do not reach the lower ends of the institutions especially the Subordinate Court structures, which are closer to the people. The Subordinate Courts are perceived to be highly corrupt, plagued by seemingly insurmountable backlogs, and much less skilled personnel with very low salaries and poor conditions of service. Further, it has shown that stakeholders have not been fully and meaningfully involved in the design, implementation and monitoring of judicial reforms in Zambia. This has left the Judiciary with no monitors and any form of social accountability mechanism. The study has shown that the

negative implications of a failing Judiciary are enormous, ranging from increase in case backlog, corruption, and increased prison populace.

With respect to the study hypotheses, the findings have revealed that there is a correlation between the financial autonomy and the quality of court infrastructure in a given locality. It has also shown that there was a correlation between the administrative capacity and the quality of court infrastructure. In addition, the study has indicated that there was a correlation between the participation of stakeholders and the quality of court infrastructure in a given locality. Finally, the study has provided evidence that there is no relationship between location of the Subordinate Court and the state of its physical infrastructure.

6.2 Contribution of the Study

Given the foregoing, it can be observed that this thesis has made contribution to the field of governance and leadership. The three main contribution of this study are:

- (a) The discipline of judicial governance is still at theory building stage. Consequently, researchers and administrators in the Judiciary have little methodological guidance on how to deal with the interplay of factors that determine the quality of judicial physical infrastructure. Empirical research in the field of judicial governance continues to reflect a rather narrow paradigm. There is need for more quantitative studies that contribute to our search for increased understanding of the phenomena. In order to strengthen its theoretical base, this thesis offers a contribution in that direction by undertaking to study the interdependence of fiscal autonomy, administrative capacity, stakeholder involvement and locality of judicial organ using exploratory sequential triangulation strategy.
- (i) Without a comprehensive and deeper understanding of the structural, functional and resource requirements and the other causes of the deficits in Judicial physical infrastructure, the success of any form of judicial modernization and transformation is questionable. The contribution of this thesis is to improve understanding of the social and

economic context by Judicial administrators and the Executive on how the environment shape the process of transformation process or success of any interventions in the Judiciary.

- (ii) By making explicit the interplay of the factors: fiscal autonomy, administration, stakeholder involvement and locality of the Subordinate Court on physical infrastructure development, the third contribution of the study is the offer of the Ordinal Logistic Regression Model. This model facilitates better understanding and analysis of the determinants of judicial transformation, especially at micro level. The Model is useful in estimating the odds of an individual rating of the state of physical infrastructure of a Subordinate Court as good or poor given its geographical locality, stakeholders participation, administrative capacity and the fiscal autonomy of a given Judiciary.

6.4 Recommendations

Based on the study findings and conclusion presented above, the study recommends the following:

Judicial Financial Autonomy

- (i) There is need for the Zambian Government to ensure that Articles 122 (3) and 123, of the Republican Constitution are upheld. These Articles guarantee the independence, including financial independence, of the Judiciary. Article 122(3) provides that: “the Judiciary shall not, in the performance of its administrative functions and management of its financial affairs, be subject to the control or direction of a person or an authority”. Article 123 provides that: “the Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances”.
- (ii) There is need to enact a Judicial budget law, so that the politicians and citizens do not lose focus of the core priorities of the Judiciary. The law should also outline fiscal policy rules to guide on how the Judicial Budget would be designed, allocated and disbursed to the Courts. The Judicial budget law should be structured in such a way that it combines a primary anchor- a percentage of the budget to be disbursed to the Judiciary annually; a limit on emoluments; recurrent expenditure; and a limit on capital expenditure. Given the high labour intensity of Judicial services, a 65% share of the Judicial Budget could be allocated to Gross Emoluments; 15% to Recurrent Expenditure and 20% to Judicial Capital

- or Development Expenditure. This also in line with current international practices as outlined by OECD. This task should be carried out by the Ministries of Justice and Finance.
- (iii) The law should allow Judiciary, through the Judicial Service Commission, to directly submit its Budget to Parliament with an information copy submitted to the Executive. The Executive, through the Ministry of Finance, must submit an Advisory Report to Parliament on the proposed Judicial budget. This task should be carried out by the Ministries of Justice and Finance.
 - (iv) There is need to ensure that Courts are not used as revenue Centres by the Executive. Budget law mentioned in (ii) above should allow for full retention of all the Revenue generated for Court operations. Each Court must ensure that the generated revenue is directed to Court purposes only. This task should be carried out by the Ministry of Justice and the Judicial Service Commission.
 - (v) Judiciary should also develop a minimum Courtroom infrastructure standard which could adopt e-Government initiatives. This should guide the building or modernising of courtrooms. The minimum courtroom standards should make it possible to determine the minimum budgetary requirement for courtroom modernisation. The Standard should also promote the building of Court infrastructure that provides for long-term value to the Judiciary, courthouse occupants, community in which they reside, and Zambian taxpayers. It must also maximize value to the country by balancing the aesthetic, health requirements, functional, and security requirements of courthouse design with the budget realities of initial construction cost and the long-term life cycle cost of owning and operating institutional buildings. The Standard must ensure that infrastructure is user friendly, gender sensitive and accessible to differently abled people. It should ensure that the Court facilities have electricity and alternative means of electrification. It should be able to accommodate Information Technology and Communication innovations.
 - (vi) There is need for the Judiciary to ensure that the Subordinate Courts are closer to communities and chiefdoms. There is need to reduce the distance of local Courts to less than 5 -10 Kilometres to the court user. There is need to refurbish and reconstruct some rural Courts and the provision of suitable facilities such as acoustics and reverberation, mechanics and electrics, thermal-atmospherics, automation, electronics, e-platforms and ventilation for the proper functioning of courtrooms.

Administrative Capacity

- (vii) There is need to develop a strategy to enhance administrative capacity of the Judiciary to plan and budget for Court infrastructure development. The Judiciary should establish planning and budgeting departments in all provincial centres. It should also develop a strategy to enhance technical capacities of its human resource in rural areas to adequately plan, budget and account for the allocated funds.
- (viii) There is need for the Judiciary to establish a Department for Judicial Infrastructure which will be responsible for overall coordination of building and maintenance of judicial infrastructure across the country.

Stakeholder involvement

- (ix) In order to overcome the risks associated with the non-involvement of stakeholders, there is need to design a mechanism to ensure the participation of stakeholders in judicial modernisation. Civil Society Organisations should also be able to collaborate with the Judiciary through a well-defined platform to lobby Parliament for increased budget allocation and disbursements. They should also be able to design and conduct judicial education programmes in communities.
- (x) The Civil Society Organisations should play an important role in enhancing access to Justice, through the promotion of research aimed at promoting access to justice and modernising the Judiciary.

Judicial Management and Leadership

- (xi) The development and modernisation of judicial infrastructure is best undertaken by the Judiciary itself, in accordance with its limitations and possibilities, through a consultative process involving all stakeholders. However, this will not be easy given that the Judiciary, specifically the Courts, are conservative systems that house deeply entrenched interests and discourage outside interventions. Thus, effective management and strong leadership of the process is just as important as the result.

6.5 Suggestions for Further Research

The researcher suggests the following areas for further research based on the outcome of the research work:

- (a) A study on the influence of devolution of Subordinate Courts should be carried out to establish how devolution affects infrastructure development; and
- (b) A study on the management of Subordinate Courts should be carried out to ascertain the proper way of managing Subordinate Court services.

BIBLIOGRAPHY

A. BOOKS

- Adler, M. and Asquith, S. (1993). **Discretion and Power**. London: Heinemann.
- African Rights (1996). **Justice in Zimbabwe**, African Rights.
- Ajibola, D. Van Zyl, (1998). **The Judiciary in Africa (Juta)**. Cambridge: Cambridge University Press.
- Akintoye, A., (2015). **Developing Theoretical and Conceptual Frameworks**, Jedm.oauife.edu.ng. (Accessed on the 22nd February2017).
- Allen R.E., (1990). **The Concise Oxford English Dictionary of Current English**, the Eighth Clarendon Press, Oxford.
- Altman, D. G. (1999). **Practical statistics for medical research**. New York, NY: Chapman and Hall/CRC Press.
- Armstrong, B. G., and Sloan, M. (1989). **Ordinal regression models for epidemiological data**. American Journal of Epidemiology, 129(1), 191-204.
- Aschauer, D.A., (1990). **Why is infrastructure important? Federal Reserve Bank of Boston**. New England, Economic Review, 21- 48.
- Aschauer.D.A. (1989). **Public Investment and Productivity Growth in the Group of Seven**, Economic Perspectives, Vol 13, No 5.
- Bajar, S., (2013). **The Infrastructure-Output Nexus: Regional Experience from India. The Economics of Infrastructure Provisioning: The (Changing) Role of the State**. CES Venice Summer Institute Workshop, Italy.
- Bender, R., & Benner, A. (2000). **Calculating ordinal regression models in SAS and S-Plus**. **Biometrical Journal**. 42(6), 677-699
- Black, Duncan, (1958). **The Theory of Committees and Elections**, Cambridge: Cambridge University Press.
- Black's Law Dictionary, (1979). New York: West Publishing Co.
- Bryman, A., Bell, E., (2011). **Business Research Methods**. Oxford University Press, Oxford.
- Burns, R.B., Burns, R.A., (2008). **Business Research Methods and Statistics using SPSS**. SAGE Publications Ltd.

- Calderon, C. and Serve, L., (2008). **Infrastructure and Economic development in Sub-Saharan Africa.** Policy research working paper 4712. Washington, DC: World Bank.
- Camp, W. G. (2001). **Formulating and Evaluating Theoretical Frameworks for Career and Technical Education Research.** Journal of Vocational Educational Research. Vol. 26 (1) pp.27-39.
- Carter, William Griffiths, and George Judge (2001). **Undergraduate Econometrics,** John Wiley and Sons, New York, 2001.
- Chanda, D., (1995). **The Movement for Multi-Party Democracy in Zambia: Lessons in Democratic Transition.** In: L.M. Sachikonye (ed.) Democracy, Civil Society and the State: Social Movements in Southern Africa. Harare: SAPES.
- Cherryholmes, C.H., (1992). **Notes on Pragmatism and Scientific Realism.** Educational Researcher 21 (6), 13-17.
- Chigunta, F., (2010). **Evaluation of the Implementation of the Paris Declaration in Zambia,** Lusaka: Zambian Government Printers.
- Clark, B.W., Davis, C.H., Harnish, V.C., (1984). **Do Courses in Entrepreneurship Aid in New Venture Creation?** Journal of Small Business Management 22 (2), 26-31.
- Clarke, K.A., (2005). **The Phantom Menace: Omitted Variable Bias in Econometric Research.** Conflict Management and Peace Science 22 (4), 341-352.
- Clausen B., Kraay A. and Nyiri Z., (2011). **Corruption and Confidence in Public Institutions: Evidence from Global Survey.** New York: World Bank.
- Cliff, N. (1996). **Ordinal Methods for Behavioral Data Analysis.** Mahwah, NJ: Lawrence Erlbaum Associates.
- Ferron, J., Yi, Q. and Kromrey, J.D. (1997). **NNCORR: A SAS/IML program for generating nonnormal correlated data.** Applied Psychological Measurement, 21, 64.
- Combe C., (2014). **Introduction to Management,** Oxford, UK: Oxford University Press.
- Creswell, J., Plano-Clark, V., (2011). **Designing and Conducting Mixed Methods Research, (Ed.).** Thousand Oaks: Sage.
- Creswell, J.W., (2009). **Research Design: Qualitative, Quantitative, and Mixed Methods Approaches.** SAGE, London.

- Creswell, J.W., (2014). **Research Design: Qualitative, Quantitative, and Mixed Methods Approaches**. SAGE, Los Angeles, Calif.
- Creswell, J.W., Clark, V.L.P., (2007). **Designing and Conducting Mixed Methods Research**. Wiley Online Library.
- Crotty, M., (1998). **The Foundations of Social Research: Meaning and Perspective in the Research Process**. Sage.
- CSPR (2001). **Poverty Reduction Strategy Paper for Zambia - A Civil Society Perspective**, Lusaka: CSPR.
- Denzin, N.K., (1970). The Research Act in Sociology: A Theoretical Introduction to Sociological Methods. Meaning and Perspective in the Research Process. Sage.
- Denzin, N.K., (1978). **The Research Act: A Theoretical Introduction to Research Methods**. Meaning and Perspective in the Research Process. Sage.
- Denzin, N.K., Lincoln, Y.S., (2011). **The SAGE Handbook of Qualitative Research**. Sage.
- Denzin, N.K., Lincoln, Y.S., Smith, L.T., (2008). **Handbook of Critical and Indigenous Methodologies**. Sage.
- DiMaggio, P. J., and Powell W. W., (1991) "Introduction." In the New Institutionalism in Organizational Analysis. Chicago: University of Chicago Press,
- Dixon J., Gulliver, A., Gibbon D. and Hall, M., (2001). **Farming Systems and Poverty: Improving Farmers' Livelihoods in a Changing World**. Washington, DC: World Bank.
- Drucker. P. F., (1973). **Management: Tasks, Responsibilities, Practices**. New York: Harper and Row.
- Flora Pandya and Suresh Maind, (2016). **Availability of Infrastructural Facilities and Its Impact on Economic Growth in India**, Working Paper Series Working Paper-21, World Bank.
- Fulmer Jeffery E., (2009). **What in the World is Infrastructure**, Infrastructure Investor: Kansas.
- Gloppen, S. (ED.), (2010). **Courts and Power in Latin America and Africa**. Basingstoke: Palgrave MacMillan.

- Goddard, W. and Melville, S. (2004) "Research Methodology: An Introduction" 2nd edition, Blackwell Publishing;
- Grindle, M.S. and Hilderbrand, M. E., (2000). **Building Sustainable Capacity in the Public Sector: What can be done?** 1995, in Schacter, M., **Public Sector Reform in Developing Countries Issues, Lessons and Future Directions**, Canada, Ottawa: Institute of Governance.
- Guadagno, F., (2012). **The Determinants of Industrialisation in Developing Countries, 1960-2005**, Working Paper UNU-Merit and Maastricht University.
- Guba, E.G., Lincoln, Y.S., (1994). **Competing Paradigms in Qualitative Research.** Handbook of Qualitative Research. 2, 163-194.
- Gujarati, Damodar N., (1999). **Essentials of Econometrics**, 2d ed., McGraw-Hill, New York, Hill,
- Ihonvbere, J.O., (1996). **Economic Crisis, Civil Society, and Democratization: The Case Zambia**, Asmara: Africa World Press.
- Inglehart, Ronald (1997). **Modernisation and Postmodernisation**, Princeton: Princeton University Press.
- International Commission of Jurists (2007). Best practice guide for judicial independence and accountability in Kenya: **A handbook of core texts, declarations, and comparative experiences**, Nairobi: Kenyan Article of the International Commission of Jurists.
- International Commission of Jurists Kenya (2005). **Judicial Independence, Corruption and Reform**, International Commission of Jurists, Nairobi.
- Jubilee Zambia (2000). **What Good Can Debt Relief and PRSP Do? The Case of Zambia**, Lusaka: JCTR.
- Kerlinger, F. N., (1973). (2nd ed.) **Foundations of Behavioural Research**, New York: Holt, Rinehart and Winston, Inc.
- Kiage, P., (2010). **Essentials of Criminal Procedure in Kenya**, Oxford: Law Africa Publishing Ltd.
- Kuhn, T.S., (1970). **The Structure of Scientific Revolutions**, Chicago/London.
- Landis, J. R., and Koch, G. G. (1977). **The measurement of observer agreement for categorical data.** Biometrics, 33, 159-174.

- Lango Benard Onyango, Henry Bwisa, George Orwa. **Critical Factors Influencing the Implementation of Public Infrastructure Projects in Kenya: A case of Thika Sub-County, Kiambu County Kenya.** International Journal of Scientific and Research Publications, Volume 7, Issue 5, May 2017. ISSN 2250-3153. www.ijsrp.org
- Liehr P. and Smith M. J. (1999). **Middle Range Theory: Spinning Research and Practice to create Knowledge for the New Millennium.** Advances in Nursing Science, Vol. 21 (4):8191.
- Lin, N., (1976). **Foundations of Social Research.** New York: McGraw-Hill Book Company.
- Lipsky, M., (1971). **Towards a Theory of Street Level Bureaucracy,** In Urban Affair Quarterly 6 London: Saga Publication.
- Lipsky, M., (2010). **Street Level Bureaucracy: Dilemmas of the Individual in Public Services.** London: Russell Sage Foundation.
- Luse, A., Menecke, B., and Townsend, A., (2012). **Selecting a Research Topic.: A Framework for Doctoral Students.** International Journal of Doctoral Studies, 7,
- Mali, E., (2007). **The 10th European Development Fund in Zambia- We decide, you own, A Zambian Perspective,** Belgium: Euro Step Press.
- Manggat, I., Zain, R., and Jamaluddin, Z. (2018). **The Impact of Infrastructure Development on Rural Communities: A Literature Review.** International Journal of Academic Research in Business and Social Sciences, 8(1), 647–658.
- Mertens, D. (2009). **Transformative research and evaluation.** New York: The Guilford Press.
- Mertens, D.M., 2009. **Research and Evaluation in Education and Psychology: Integrating Diversity with Quantitative, Qualitative, and Mixed Methods.** Sage.
- Miles, M. B., and Huberman, A. M., (1994). **Qualitative Data Analysis: An Expanded Source Book** (2nd ed). Newbury Park, CA: Sage.
- Muntingh, L and Tapscott, C., (2009). **HIV/AIDS and the Prison System.** In P. Rohleder *et al.* (eds.): **HIV/AIDS in South Africa 25 Years On: Psychosocial Perspectives.** New York: Springer.

- Mutesa, F., (2005). **The Nexus between Public Resources Management Reforms and Neopatrimonial Politics**, in Eberlei, W, Meyns, P, and Mutesa, F, (eds.), **Poverty Reduction in a Political Trap? The PRS Process and Neopatrimonialism in Zambia**, Lusaka, UNZA Press.
- Mutesa, F., (2006). **Civil society and Governance in Zambia**' Paper presented at a Workshop on **'Civil Society and Governance'** organized by the Institute of Security Studies and Konrad-Adenauer Stiftung. Germany: Institute of Security Studies.
- Neuman, W.L. (1997). **Social research methods: Quantitative and qualitative approaches**. Boston: Allyn and Bacon.
- Neuman, W.L., (2009). **Social Research Methods: Quantitative and Qualitative Methods**. Prentice Hall.
- Njoki, M. N. (2013). **The role of Project Management Information Systems towards the success of a Project: The case of Construction Projects in Nairobi Kenya**. International Journal of Academic Research in Business and Social Sciences.HR MARS, Vol.3, No.9, ISSN: 2222 – 6990
- Olufemi, E. A., Olatunbosun, A. J., Olsode, O. S., and Adeniran, I. G. (2013). **Infrastructure development and its effect on economic growth: The Nigerian perspective**. European Scientific Journal, 9(31), 431-452.
- Oxford Policy Management, (2010). **Evaluation of the Joint Assistance Strategy for Zambia (JASZ)**, London: Oxford Press.
- Oyedele, O. A. (2012). **The challenges of infrastructure development in democratic governance. Proceedings of The Construction Economics and Management**, 1, 1-15. Retrieved from https://www.fig.net/resources/proceedings/fig_proceedings/fig2012/papers/ts01c/TS01C_oyedele_6119.pdf on 30th March 2018.
- Pallant, J., (2010). **SPSS Survival Manual: A Step by Step Guide to Data Analysis using SPSS**. Open University Press.
- Penal Law International, (2000). **Access to Justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice system**, Astron Printers, London.

- Peshkin, A., (1993). The Goodness of Qualitative Research. Educational Researcher, No. 22. London: Saga Publication.
- Premchand, A., (1993). **Public Expenditure Management**, Washington D.C: IMF.
- Preston, P.W. (1988). Rethinking Development. London: Routledge & Kegan Paul Books Ltd.
- Prottas, J. M., (1978). **The Power of the Street-Level Bureaucrat in Public Service Bureaucracies. In Urban Affairs Review**, London: Saga Publication.
- Prottas, J. M., (1979). **People-Processing: The Street-level Bureaucrat in Public Service Bureaucracies**, Massachusetts: Lexington Press.
- Rosenn K. S., (1987). **The Protection of Judicial Independence in Latin America**, 19 Inter-Am. L. Rev.
- Rostow, W.W. (1953). The Process of Economic Growth. London: Oxford University Press.
- Rostow, W.W. (1960). The Stages of Economic Growth: A Comparative Manifesto. Cambridge: Cambridge University Press.
- Saasa, O. and Cloussen, J., (2003). **Harmonisation of Donor Practices for Aid Effectiveness in Zambia**. Lusaka: The Royal Netherlands Embassy.
- Saasa, O., (2002). **Aid and Poverty Reduction in Zambia: Mission Unaccomplished**. Uppsala: The Nordic Africa Institute.
- Saasa, O., (2002). **Poverty Profile in Sub-Saharan Africa: The Challenge of Addressing an Elusive Problem**, in Bond, G.C. and N.C. Gibson, Contested Terrains and Contested Categories: Contemporary Africa in Focus. Colorado: Westview Press.
- Saunders, M., Lewis, P., Thornhill, A., (2009). **Research Methods for Business Students**. Prentice Hall.
- Saunders, M.N., Saunders, M., Lewis, P., Thornhill, A., (2012). **Research Methods for Business Students, 6/E**. India. Pearson Education
- Seligman, A. B., (1997). **The Problem of Trust**, Princeton: Princeton University Press.
- Shezongo-MacMillan J., (2013). **Zambia: Justice Sector and Rule of Law**, AfriMAP/OSISA Johannesburg.

- Sichone, O. B., (1996). **Democracy and Crisis in Zambia'** In: O. Sichone and B. C. Chikulo (eds.) *Democracy in Zambia: Challenges for the Third Republic*. Harare: SAPES.
- Smith P. G, Moss AR., (1994). **Epidemiology of Tuberculosis**. In: Bloom BR (Ed.). *Tuberculosis: Pathogenesis, Protection, and Control*. Washington, DC: AMS Press,
- Sullivan, A. and Sheffrin, M. S., (2003). **Economics: Principles in Action**. Upper Saddle River, New Jersey 07458: Pearson Prentice Hall.
- Terleckyj, N., (1975). **Improvements in the quality of life**, Washington D.C. National Planning Board.
- Theobald, R., (1990). **Corruption, Development and Underdevelopment**, Basingstoke: Macmillan.
- United Nations (2011). **Study on infrastructure for economic development and poverty reduction in Africa**. Nairobi: UN-HABITAT.
- Von Bertalanffy, L., (1952). **Problems of Life: An Evaluation of modern Biological Thought**. London: Watts and Co.
- Von Bertalanffy, L., (1968). **Organismic Psychology and Systems Theory**, Clark University Press. London.
- Von Bertalanffy, L., (1973). **General Systems Theory**, Penguin University Books, London.
- Williams, B., (1988). **Formal structures and social reality**" in Diego Gambetta, ed., *Trust; Making and Breaking Cooperative Relations*. Oxford: Blackwell.
- Woolman, S, *et al.*, (2006). **Constitutional Law of South Africa**. Johannesburg: Juta.
- World Bank, (1989). **Sub-Sahara Africa: From Crisis to Sustainable Growth**, Washington D.C.: The World Bank.
- World Bank, (1991). **Managing Development: The Governance Dimension**, Washington D.C.: The World Bank.
- World Bank, (1992). **Governance and Development**, Washington D.C.: The World Bank.
- World Bank, (1994). **Development Report, Infrastructure, Achievements, Challenges, and Opportunities**, World Bank, Oxford University Press.
- World Bank, (1994). **Governance: The World Bank's Experience**, Washington D.C.: The World Bank.

- World Bank, (2008). Country Strategy Paper. Washington D.C.: The World Bank.
- World Bank, (2008). **Zambia: Growth, Infrastructure and Investments: A Role for Public Private Partnership**, Washington D.C.: The World Bank.
- World Development Report (1994). **Infrastructure for Development**, Oxford University Press, New York.

B. ARTICLES

- American Bar Association, (2004). **Judicial Division, Black Letter. Commission on State Court Funding**, Chicago: ABA.
- Arnold, W., (2014). **The Supreme Court of the United Kingdom (UKSC), an Exploration of the Roles of Judicial Officers and Court Administrators and how the Relationship between them may be Improved and Enhanced: A Case Study**, International Journal for Court Administration, Vol. 2, No. 2.
- Curristine, T., (2005). **Performance Information in the Budget Process: Results of the OECD 2005 Questionnaire**, OECD Journal on Budgeting Vol. 5, 2. OECD.
Retrieved from <https://www.oecd.org/gov/budgeting/43412471.pdf>.
- Dakolias, M. and Thachuk, K., (2000). **Attacking Corruption in the Judiciary: A Critical Process in Judicial Reform**, Wisconsin: International Law Journal.
- Esfahania. H.S. and M. T. Ramyrezb, (2003). **Institutions, Infrastructure and Economic Growth**, Journal of Development Economics, Vol 70, No 2.
- Fulmer Jeffrey, (2009). **What in the world is infrastructure? PEI Infrastructure Investor**, (July/August).
- Ghosh, B. and De, P., (1998). **Role of Infrastructure in Regional Development: A Study over the Plan Period**, Economic and Political Weekly, 33(47-48).
- Ghosh, B. and De, P., (2004). **How do different categories of infrastructure affect development? Evidence from Indian states**, Economic and Political Weekly, 39 (42), 4645 – 4657.
- Hoteling, Harold, (1929). **Stability in Competition**, Economics Journal, XX

- International Commission of Jurists (2017). Kenya, **Baseline Survey of the State of CuCs; Access to Justice and Public Participation** in the Judicial Process: An Analysis of Court Committees in Kenya; Report on Findings. Kenya Article of the International Commission of Jurists. Nairobi.
- International Commission of Jurists (2016). **Access to Justice and Public Participation in the Judicial Process: An Analysis for CuCs in Kenya**, ICJ Kenya.
- Judicial Service Commission, (2013). **Statement on the Independence of the Judiciary, Judiciary**, Judiciary Transformation Secretariat, ICJ Kenya.
- Joanne C., (2010). **Consequences of Injustice: Pre-Trial Detention and Health: Columbia International Journal of Prisoner Health.**
- Looney. R and P. Frederickson, (1981). **The Regional Impact of Infrastructure Investment in Mexico**, Regional Studies, Vol 15, No 4.
- Lungu, G.F., (1986). **The Church, Labour and the Press in Zambia: The Role of Critical Observers in a One-Party State'** African Affairs, Vol. 85. Oxford: Oxford University Press.
- Martin, W., (2014). **Court Administration and the Judiciary – Partners in the Delivery of Justice**, International Journal for Court Administration, Vol. 6, No. 2.
- Mishra R.K (2011). Capacity Constraints of Civil Service leadership, "Institute of Public Enterprise, India. <http://hdl.handle.net/2263/5769>
- Morris. M. D. and P. B. Liser., (1977).**The PQIL: Measuring Progress in Meeting Human Needs**, Overseas Development Council, Communique on Development Issues.
- Reyes, H., (2007). **Pitfalls of TB Management in Prisons**, Revisited. International Journal of Prisoner Health.3 (1). Bingley: Emerald Publishing Group.
- Rose, R., Mishler, W. and Haerpfer, C., (1997). **Social Capital in Civic and Stressful Societies.**
- Simooya O.O., Sanjobo N. E., Kaetano L, *et al.*, (2001). **Behind Walls: A Study of HIV/AIDS Risk Behaviours and Seroprevalence in Prisons in Zambia.** Vol. 15(13):1741-1744.

- Simutanyi, N., (2005). **Parties and Parliament: Relationship between Members of Parliament and Their Parties in Zambia**, Occasional Paper, No. 31, Pretoria: Electoral Institute of Southern Africa.
- The Judiciary Insider, (2015). **Transformation of the Judiciary Priorities**, Magazine Issue 04: Uganda: Judiciary Magazine.
- USAID (2009). **Reducing Corruption in the Judiciary**, New York: USAID.
- Verner, (1984). **The Independence of Supreme Courts in Latin America: A Review of the Literature**, 16 Journal of Latin American Studies.
- Wright, M., (1997). **An Old Nationalist in New Nationalist Times**. Journal of Southern African Studies. Vol. 23 No.2, Retrieved from <https://www.jstor.org/stable/10.2307/i324971>. Accessed on 5th August 2017.

C. REPORTS, WORKING AND CONFERENCE PAPERS

- Benyekhlef, K., Iavarone-Turcotte, C., and Vermeys, N., (2011). **Comparative Analysis of Key Characteristics of Court Administration Systems**, Canadian Judicial Council, Montréal.
- Bhandari, P., (2012). **Refining State Level Comparison in India**, Planning Commission, Government of India, Working paper.
- Catholic Centre for Justice Development and Peace (2004). **The 2004 Budget: Austere for who?** Lusaka: CCJDP.
- European Commission, (2007). **Zambia – European Community 10th European Development Fund Issues Paper**, Lusaka: EC.
- Hallerberg, M., Strauch, R. and von Hagen J., (2009). The Design of Fiscal Rules and Forms of Governance in European Union Countries, In Ayusi-i-Casals, J., Deroose, S., Flores, E. and L. Moulin (eds), Policy Instruments for Sound Fiscal Policies. London: Palgrave Macmillan.
- Hays S.W., *et al.*, (1993). **Handbook of Court Administration and Management**, California, USA: University of California.
- Hill, M. and Hupe P.L., (2007). **Handbook in Public Administration**. Vol.85, No. 2, 2007(279-299). London: Blackwell Publishing Ltd.

- Hirschman. A.O., (1985). **The Strategy of Economic Development**, Yale University Press, New Haven.
- Hoover. E.L, Piper J.C., and Spalding F.O., (1970). One Nation, One Judiciary: the lower Courts of the Zambia. *Zambia Law Journal* 2(1-2): Lusaka.
- Hoover. E.L, Piper J.C., and Spalding F.O., (1970b). The evaluation of the Zambia Court System. *Zambia Law Journal* 2(1-2): Lusaka
- Mikuli and Fox, (2017). Court Administration in the United Kingdom, Working Paper: 10.13140/RG.2.2.15966.02881, Retrieved from <https://www.researchgate.net/publication/316659684> on 30th March 2018
- Ministry of Foreign Affairs of Denmark (2012). Evaluation of the Access to Justice Programme in Zambia, 2006-11, Copenhagen, Denmark.
- Mpepo, B., (2003). **A Poverty Reduction Strategy Paper (PRSP) for Zambia: A civil Society Perspective**, In Chileshe, J. D, Sichingabula H. M, Simwinga, J, (eds.) First Annual Poverty Review Conference in Zambia – Proceedings of the First Annual Poverty Review Conference in Zambia, held at Mulungushi International Conference centre, Lusaka, Zambia.
- Ndulo M., (2012). **Judicial Reform, Constitutionalism, and the Rule of Law in Zambia: From a Justice System to a Just System**, Paper delivered at the Law Association of Zambia Annual General Assembly, Livingstone 27 April.
- Obondo, D., (2012). **Progress on Engagement with Salaries and Remuneration Commission on Proposed Salaries and Allowances for Non State Officers in the Judiciary**, Transformation Workshops, Kenya: Nairobi.
- Saasa, O., (2006). **Use of Conditionality by International Financial Institutions to Encourage Privatization and Liberalization: The Case of Zambia**, Oslo: The Norwegian Ministry of Foreign Affairs.
- Saasa, O., (2010). **Political Economy of Budget Support in Zambia**: Lusaka: Premier Consult Limited.
- Saasa, O. *et al.*, (2000). **Poverty and European Aid in Zambia: A study of the Poverty Orientation of European Aid to Zambia**, Working Paper 138, London: Overseas Development Institute.

Saasa, O., and Jerker Carlsson, (1996). **The Aid Relationship in Zambia: A Conflict Scenario**, Uppsala: The Nordic Africa Institute.

Thomson A., Dennis C., Saasa O., and Gibson S., (2011) **Evaluation of the Joint Assistance Strategy for Zambia (JASZ)**. Copenhagen: Evaluation Department, Ministry of Foreign Affairs of Denmark.

Wendoh, P., (2010). **Towards judicial independence and accountability in Kenya**, Nairobi, Kenya: Kenyan Article of the International Commission of Jurists.

D. GOVERNMENT PUBLICATIONS:

Judiciary Transformation Secretariat, (2013). **Report to the Judicial Service Commission Liaison to the Judiciary Transformation Secretariat**, Kenya: Nairobi, Judiciary.

Judiciary Transformation Secretariat, (2011). **Judicial Service Act, National Council for Law Reporting**, Kenya: Nairobi, Judiciary.

Judiciary Transformation Secretariat, (2012). **Judiciary Transformation Framework**, Kenya: Nairobi, Judiciary.

Judiciary Transformation Secretariat, (2012). **State of the Judiciary Address**, Kenya: Nairobi, Judiciary.

Judiciary, (1994). **The Advisory Task Force on Judicial Performance**, Zambia: Lusaka: Judiciary, The Supreme Court of Zambia.

Judiciary, (2013). **State of the Judiciary and the Administration of Justice Annual Report**, Kenya: Nairobi, Judiciary.

Judiciary, (2013). **Change Process Strategy**, Kenya: Nairobi, Judiciary.

Judiciary, (2014). **Statement on the Financial Prognosis of the Judiciary**, Kenya: Nairobi, Judiciary.

Ministry of Finance and National Planning, (2006). **Vision 2030: A Prosperous Middle-Income Nation by 2030**, Zambia: Lusaka, Government Printers.

Ministry of Finance and National Planning, (2006). **Fifth National Development Plan**, Zambia: Lusaka, Government Printers.

Ministry of Finance and National Planning, (2005). **Second Poverty Reduction Strategy Paper Implementation Progress Report**, Zambia: Lusaka, Government Printers.

Ministry of Finance and National Planning, (2005). **Zambia Aid policy and Strategy**, Zambia: Lusaka, Government Printers.

Ministry of Finance and National Planning, (2004). **First Poverty Reduction Strategy Paper Implementation Progress Report**. Zambia: Lusaka, Government Printers.

Ministry of Finance and National Planning, (2000). **Poverty Reduction Strategy Paper**, Zambia: Lusaka, Government Printers.

Ministry of Finance, (2012). **National Planning and Budgeting Policy**, Zambia: Lusaka, Government Printers.

Ministry of Finance (1968 to 2017). **Annual Estimates of Revenue and Expenditure**, Zambia: Lusaka, Government Printers.

Ministry of Justice, (2012). **Access to Justice in Zambia**, Zambia: Lusaka, Government Printers.

Ministry of National Development Planning, (2017). **Seventh National Development Plan**, Zambia: Lusaka, Government Printers.

Republic of Macedonia, (2007). **Manual for Strategic Planning**. Skopje: Government Printers.

The Judiciary Insider (2015). Transformation of the Judiciary Priorities, Magazine Issue 04: Uganda: Judiciary Magazine.

USAID (2009). Reducing Corruption in the Judiciary, USA: New York, USAID,

E. **NEWSPAPERS**

1. Zambia Daily Mail, 29th March 2010
2. The Post, 21st February 2012
3. Times of Zambia, 22nd March 2013
4. Daily Nation, 10th August 2013
5. Times of Zambia 6th January 2014
6. Times of Zambia 1st July, 2014
7. Times of Zambia, 23th September 2014
8. Times of Zambia, 1st January 2016
9. The Mast, 11th January 2017

10. The Mast, 15th June, 2017,
11. Zambia Daily Mail, 15th June 2017
12. Daily Nation Newspaper, 11th May 2018

F. LEGISLATION

Government of Kenya (2010). The Constitution of Kenya. Kenya. Nairobi, Government Press.

Government of the Republic of Zambia (2016). The Constitution of the Republic of Zambia Is it the amended one? Lusaka: Government Printers,

Republic of Estonia (1992). The Republic of Estonian Constitution. Tallinn: Government Press.

United States of America (1778). The United States of American Constitution, Washington D.C

G. INTERNET SOURCES:

Allport, G. W., (1961). Pattern and Growth in Personality. New York: Holt, Rinehart and Winston.

American Heritage Dictionary, (2009). **Infrastructure, American Heritage Dictionary of the English Language.** Retrieved from <http://education.yahoo.com/reference/dictionary/entry/infrastructure> on January 28, 2012.

Basic Needs basket. (2016). Retrieved from <http://www.jctr.org.zm/> on 20th June 2016

Beijing Statement of Principles of the Independence of the Judiciary, (1995). Retrieved from <http://ebookbrowse.com/beijing-statement-of-principles-on-the-independence-of-the-judiciary-pdf>, on 5th August 2017.

- Calderón, C., (2009). **Infrastructure and Economic Development in Sub-Saharan Africa**, World Bank, Retrieved from http://jae.oxfordjournals.org/content/19/suppl_1/i13.full.pdf, on 2nd April 2012.
- Caritas Zambia. (2016). Retrieved from www.catholiczambia.org.zm/index.php/component/content/?id=57andItemid=67 on 20th June 2016
- Cattell, R. B., (1965). *The Scientific Analysis of Personality*. Baltimore: Penguin Books.
- Coalition for Access to Justice for the Environment, (2004). **Access to Environmental Justice**, Retrieved from http://www.rspb.org.uk/Images/ConservationPlannerAutumn2003_tcm9-132928.pdf, on 25th May 2005.
- Commentary on the Bangalore Principles of Judicial Conduct, (2007). United Nations Office on Drugs and Crime, September. Retrieved from http://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf, on 22nd May 2010.
- Commonwealth Law Conference Report (2017). Retrieved from [http://www.nialsnigeria.org/Editedbookcovers/COURTS%20AND%20BUDGET%20BY%20PROF%20AZINGE%20SAN%20\(1\).pdf](http://www.nialsnigeria.org/Editedbookcovers/COURTS%20AND%20BUDGET%20BY%20PROF%20AZINGE%20SAN%20(1).pdf)
- Council of Europe (1950). *The European Convention on Human Rights*, 4 November 1950 Retrieved from <http://www.hri.org/docs/ECHR50.html> on 22nd May 2010.
- CSPR, (2008). **Poverty Reduction Newsletter (PEN)**, Lusaka: CSPR, Retrieved from <http://csprzambia.org/> on 20th June 2016.
- Drug Enforcement Commission, Press Release, 2018. Retrieved from <https://www.pressreader.com/zambia/daily-nation-newspaper/20180411/281578061241427> , on 4th November, 2018.
- Easton D., (1965). *A Systems Analysis of Political Life*. New York: John Wiley.
- Economics Association of Zambia (2016), Profile. Retrieved from <http://eaz.org.zm/profile/> on 20th June 2016.
- Erikson, E. H., (1950). *Childhood and Society*. New York: Norton.

- European Convention on Human Rights (1998). Retrieved on 30 March 2018 from <http://www.echr.coe.int/Documents/Convention_ENG.pdf. The British legal system incorporated the Human Rights Act 1998.
- Flora Pandya and Suresh Maind (2016), **Availability of Infrastructural Facilities and its Impact on Economic Growth in India is fire**, Working Paper Series, Working Paper-21, 2016. <Http://Iire.In/Ojs/Index.Php> Issue-March 2016, assessed on 20th June 2016
- Gabriel, O. W., (1995). “Political efficacy and trust” in Jan van Deth and Elinor Scarbrough, eds., The Impact of Values. Oxford: Oxford University Press.
- George Chisanga (2015), Law Association of Zambia President. Retrieved from <http://www.laz.org.zm/2015/05/27/1010/7/> on 27th May, 2015.
- Ghana Chief Justice Georgina Theodora Wood Fight judicial corruption - Minority Leader to incoming CJ (Ghana: Accra, Judiciary, 2016) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Fight-judicial-corruption-Minority-Leader-to-incoming-CJ-537500>, assessed on 30th March 2018
- Ghana’s Chief Justice, Georgina Theodora Wood, has appealed to the Central Government, to make funds available, for building new court houses, and for maintenance purposes. Retrieved from <https://www.ghanajustice.com/2017/01/make-funds-available-for-building-new-court-houses-because-most-of-them-are-in-bad-condition-chief-justice-appeals> on 30th March 2018.
- Ginter Jaan, (2010). **Judicial Independence and/or(?) Efficient Judicial Administration**, Juridica International, No. 1, pp. 108-115, Retrieved from <http://www.juridicainternational.eu/index.php?id=14577> on 30th March 2018.
- Hallerberg, M and Guntram W. (2008). Fiscal Institutions: Fiscal Policy and Sovereign Risk Premia in EMU, Public Choice, Vol. 136 issue 3, Retrieve from <https://link.springer.com/article/10.1007/s11127-008-9301-2> on 2nd November, 2011.
- Hardin, Russell (1996). “Trustworthiness”, Ethics. Vol. 107.

- International Bar Association (1982). **Minimum Standards on Judicial Independence**, Retrieved from www.ibanet.org/Document/Default.aspx?DocumentUid...52b1, on 30th March 2018.
- International Bar Association, **Beyond Polokwane: Safeguarding South Africa's Judicial Independence**. Retrieved from www.ibanet.org/Document/Default.aspx?DocumentUid=4c7e8c0f, on 30th March 2018.
- International Commission of Jurists (2017). Strengthening Judicial Reforms in Kenya: Administrative Reforms. (Volume X) Kenya Article of the International Commission of Jurists. Retrieved from <https://www.judiciary.go.ke/download/judiciary-transformation-framework> on 2nd May 2018
- International Monetary Fund (2017). **Article IV Consultation**, Washington DC, IMF. Africa Department, 2017. Retrieved from <https://www.imf.org/en/Publications/CR/Issues/2017/10/25/Zambia-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45358>, on 25th October, 2017.
- IPAR (2011). **The Budget Process in Zambia**, Policy Brief Vol.10, Issue 1, 2011. Retrieved from www.internationalbudget.org/wp-content/uploads/2011/04/newsletter48.pdf, on 2nd May, 2012.
- Loschky J., (2017). Less Than Half in Africa Confident in Their Judicial Systems. Retrieved from <http://www.gallup.com/poll/174509/less-half-africa-confident-judicial-systems.aspx>, on 28th March, 2018.
- Magaisa, A. (2009). Judiciary Must be Financially Independent, Retrieved from <http://blog.newzimbabwe.com/2009/05/amagaisa/judiciary-must-be-financially-independent/comment-page-13/> on 23rd September 2013.
- Newton K., (1999). "Social and political trust", in Pippa Norris, ed., Critical Citizens: Global Support for Democratic Government. Oxford: Oxford University Press.
- Ngondi-Houghton, C., (2006). Access to justice and rule of law in Kenya. Commission on Empowerment of the Poor, Retrieved from <http://www.undp.org/legalempowerment/reports/National>, on 15th February 2011.

- Nkolombo, M., **LAZ Commends Computerization of National Judiciary System**, Zambia Daily Mail, 29th March 2010. Retrieved from: <http://www.daily-mail.co.zm>, on 5th February, 2017.
- Nsambu, H., **Courts among top corrupt institutions**, The New Vision, 2008. Retrieved from: <http://www.newvision.co.ug/PA/8/12/624288> on 5th February, 2017.
- OAU, **African Charter on Human and Peoples Rights, Adopted 27 June 1981 and entered into force 21 October 1986**. Retrieved from http://www.africaunion.org/official_documents/treaties_%20conventions_%20protocols/banjul%20charter.pdf
- OAU, African Charter on Human and Peoples Rights, Adopted 27 June 1981 and entered into force 21 October 1986 available at http://www.africaunion.org/official_documents/treaties_%20conventions_%20protocols/banjul%20charter.pdf on 5th February, 2016.
- OECD, **OECD Budget Practices and Procedures Database**, 2017. Retrieved from the www.oecd.org/gov/budget/ on 10th April, 2018.
- Open Society Initiative for Southern Africa, **Zambians are losing faith in the Judiciary**, 2008. Retrieved from <http://www.osisa.org>, on 10th January 2011.
- Parliamentary Centre (Africa Programme). **The Budget Process in Africa: A Comparative Study of Seven Countries**, The Parliamentary Centre Publication, 2010. Retrieved from www.cpahq.org/CPAHQ/CMDownload.aspx?ContentKey=4525e192-8270, on 2nd May, 2012.
- Rose, R., Mishler, W. and Haerpfer, C., (1997) **Social Capital in Civic and Stressful Societies** Studies in International Comparative Development, Vol. 32 (3). New York: Springer.
- Sackville, R., **Some thoughts on Access to Justice**, Wellington: New Zealand Centre for Public Law, 2003. Retrieved from <http://www.austlii.edu.au/au/journals/FedJSchol/2003/22.html>, on 30th March 2018.
- Salzman, R. and Ramsey, A. (2013). **Judging the Judiciary: Understanding Public Confidence in Latin American Courts**, Latin American Politics and Society,

Retrieved from [onlinelibrary.wiley.com/journal/10.1111/\(ISSN\)1548-2456](http://onlinelibrary.wiley.com/journal/10.1111/(ISSN)1548-2456) on 30th March 2018.

Seligman, A. B., (1997). *The Problem of Trust*. Princeton: Princeton University Press.

Situmbeko, L. C., and Zulu, J. J., (2004). **Zambia: Condemned to Debt: How the IMF and World Bank have Undermined Development**, World Development Movement (WDM) Retrieved from www.wdm.org.uk, on 10th January 2011.

The Constitution of Kenya, (2010). Government Press. Nairobi. Retrieved from http://www.icla.up.ac.za/images/constitutions/kenya_constitution.pdf, on 2nd May 2018

The World Bank (2008) *Budgetary Institutions*. Washington, D.C.: World Bank. Retrieved from <http://siteresources.worldbank.org/PSGLP/Resources/SciavoCampoTheBudgetanditsCoverage.pdf>, on 5th May 2016.

Transparency International Zambia (2016). Retrieved from <http://www.tizambia.org.zm/about-us/who-we-are/> on 20th June 2016

U4 (2015). *Supporting Zambia Judicial Capacity to handle Corruption Cases*, U4, Retrieved from <https://www.u4.no/publications/supporting-zambian-judicial-capacity-to-handle-corruption-cases/pdf>) on 20th June 2016.

UN (1985) *Basic Principles on The Independence of The Judiciary* Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985. Retrieved from <http://www2.ohchr.org/english/law/indjudiciary.htm>; Article 8, International Bar Association Minimum Standards on Judicial Independence, 1982. Retrieved from www.ibanet.org/Document/Default.aspx?DocumentUid...52b1, on 5th February, 2016.

UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948 available at <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>; UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966 available at <http://www2.ohchr.org/english/law/ccpr.htm>; Council of Europe, *The European Convention on Human Rights*, 4 November 1950 available at <http://www.hri.org/docs/ECHR50.html>; OAU, *African Charter on Human and*

Peoples Rights, Adopted 27 June 1981 and entered into force 21 October 1986

Retrieved from

http://www.africaunion.org/official_documents/treaties_%20conventions_%20protocols/banjul%20charter.pdf, on 5th February, 2016.

Weber, D., (2008). Good Budgeting Better Justice: Modern Budgeting Practices for the Judicial Sector, Washington DC. The World Bank. Retrieved from http://siteresources.worldbank.org/INTLAWJUSTICE/Resources/LDWP3_BudgetPractices.pdf, on 10th January 2011.

Williams B., (1988) “Formal structures and social reality” in Diego Gambetta, ed., Trust; Making and Breaking Cooperative Relations. Oxford: Blackwell.

World Health Organisation, (1999). **Guidelines for the prevention of Tuberculosis in health care facilities in resource-limited settings**, Switzerland: WHO, Retrieved from www.who.int/tb/publications/who_tb_99_269/en/, on 30th April 2017.

H. THESIS:

Endo, M., (1996). The Politics of Development and the Stagnation of Civil Society Experiences from Zambia and Botswana, PhD. Thesis, University of York: Southern African Studies.

Grant, C. and Osanloo, A., (2014). Understanding, Selecting and Intergrating a theoretical Frame working Dissertation Research: Creating the Blueprint for ‘House’. Administrative Issues Journal: Connecting Education, Practice and Research, pp. 12-22.

Kaaba O’Brien, (2015). The Challenges Of Adjudicating Presidential Election Disputes In Africa: Exploring The Viability Of Establishing An African Supranational Elections Tribuna, School of Law, Doctor Of Laws (LLD) thesis at the University of South Africa,

Kerubo O. C., (2014). Factors Influencing Implementation of Judiciary System Projects in Kenya: A Case of the Judiciary Transformation Framework. Thesis. University of Nairobi, Kenya.

Lunga Khanya Siyo (2012). Judicial Independence in South Africa: A Constitutional Perspective; School of Law at the University of Kwazulu Natal, Thesis.

- Mumba, M. H., (2004). Marriage of Convenience: State – Civil Society Partnership in the PRSP Process in Zambia. MA Thesis. Hague: Institute of Social Studies.
- Mwansa, L., (1998). Determination of Inflation in Zambia, PhD. Thesis. Sweden: University of Goteborg.
- Mwiya B., (2015). The Impact of Entrepreneurship Education on the Relationships between Institutional and Individual Factors and Entrepreneurial Intention of University Graduates: Evidence from Zambia. PhD. Thesis. University of Wolverhampton. UK.
- Oseko, J. O., (2012). Judicial Independence in Kenya: Constitutional Challenges and Opportunities for Reform. Leicester: University of Leicester.
- Debajyoti Pati, (2004). Maximising the Benefits of Courtroom Poes in Design Decision Support and Academic Inquiry Through a Unified Conceptual Model, United States of America: Atlanta, George Georgia Institute of Technology.
- Sakala, Ernest Linesi, (1999). Autonomy and independence of judiciary in Zambia: Realities and challenges, Zambia: Lusaka, UNZA printers, Retrieved from <http://dspace.unza.zm:8080/xmlui/handle/123456789/929?show=full>, on 30th January,2015.

I. INTERNATIONAL CONVENTIONS, TREATIES AND OTHER RELEVANT INSTRUMENTS:

- Beijing Statement of Principles of the Independence of the Judiciary (1995). Retrieved from https://www.hurights.or.jp/archives/other_documents/Article1/1995/08/beijing-statement-of-principles-of-the-independence-of-the-judiciary-in-the-lawasia-region-beijing-1.html, on 5th February, 2016.
- European Network of Councils for the Judiciary (ENCJ) Report (2016). Funding of the Judiciary 2015-2016 adopted by the General Assembly 3rd June 2016. https://www.encj.eu/images/stories/pdf/workinggroups/encj_2015_2016_report_funding_judiciary_adopted_ga.pdf, on 25th July, 2018.

- United Nations (1985). **Basic Principles on the Independence of the Judiciary**, Retrieved from <http://www2.ohchr.org/english/law/indjudiciary.htm>. on 5th February, 2016.
- United Nations (2012). **International Covenant on Civil and Political Rights**, 16 December 1966. Retrieved from <http://www2.ohchr.org/english/law/ccpr.htm>, on 7 August 2012.
- United Nations (1948). **Universal Declaration of Human Rights**, 10 December 1948.
- United Nations, (1950). Retrieved from <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>. on 7 August 2012.
- Council of Europe **The European Convention on Human Rights**, 4 November 1950 Retrieved from <http://www.hri.org/docs/ECHR50.html>. on 7 August 2012.
- African Charter on Human and Peoples Rights (1981). Retrieved from <http://www.achpr.org/instruments/achpr/>, on 7 August 2012.
- American Convention on Human Rights (1969). Adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969. Retrieved from <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>. on 5th February, 2016.
- United Nations (2007).**Bangalore Principles on Judicial Conduct**, Retrieved from <https://www.un.org/ruleoflaw/blog/document/commentary-on-the-bangalore-principles-of-judicial-conduct/> on 5th February, 2016.
- International Bar Association (1982).**Minimum Standards on Judicial Independence**, Retrieved from www.ibanet.org/Document/Default.aspx?DocumentUId...52b1, on 5th February, 2016.

ANNEX 1 SELF-ADMINISTERED QUESTIONNAIRE



SELF-ADMINISTERED QUESTIONNAIRE

Dear Respondents,

My name is Mali Makumba Emmanuel; I am doing a study on the “assessing factors contributing to the state of Subordinate Courts’ physical infrastructure of the Republic of Zambia” as partial fulfilment of the requirements for the award of the Degree of Doctor of Philosophy (Ph.D) in the School of Graduate Studies of the University of Lusaka.

You have been selected as one of respondents for this survey. You are hereby assured that the responses you give will be confidential and will only be used for the purpose of this study. I would greatly appreciate your participation in this survey, so please answer all the questions to the best of your knowledge and as honest as possible.

Emmanuel Makumba Mali
Ph. D Candidate (PHDGL1511229)
University of Lusaka

QUESTIONNAIRE DETAILS

Questionnaire No:	
Date:	
Locality:	Urban
	Rural

SECTION A- PERSONAL BACKGROUND INFORMATION

1. SEX

- a. Male
- b. Female

2. AGE (At last birthday)

- a. Below 26
- b. Between 26 and 30
- c. Between 31 and 35
- d. Between 36 and 40
- e. Between 41 and 50
- f. Above 50

3. What is your highest qualification?

- a. Primary School Certificate
- b. Secondary School Certificate
- c. College Certificate
- d. College Diploma
- e. University Degree
- f. University Masters
- g. Other

4. Employment Status

- a. Employed
- b. Unemployed
- c. Business person
- d. Other

5. Province of residence

- a. Central
- b. Copperbelt
- c. Eastern
- d. Luapula
- e. Lusaka
- f. Muchinga
- g. North Western
- h. Northern
- i. Southern

- j. Western
6. Are you a holder of a voter's card?
- a. Yes
- b. No
7. If yes, have you ever participated in any election as a voter in the past?
- a. Yes
- b. No
8. Are you a sympathiser of any political party in the country?
- a. Yes
- b. No
9. Do you have any particular reason why you feel attached to that specific political party that you currently sympathise with?
- a. I like the candidate leading this political party and feel inclined to him.
- b. I like their ideologies/developmental agenda.
- c. All my close friends and relatives support this Political party.
- d. I have no particular reason why I sympathise with the party
- e. Other Reasons:
-
-
-
-
-
-
-

SECTION B: DEVELOPMENTAL PRIORITIES

10. From the list below, indicate your top five priorities that you would want any Government that comes into power to address.

Priorities	1 st Priority	2 nd Priority	3 rd Priority	4 th Priority	5 th Priority
a) Unemployment;					
b) Health					
c) Poverty;					
d) Water supply					
e) Infrastructure / roads					
f) Judiciary					

g) Education;					
h) Food shortage;					
i) Crime/Security;					
j) Management of the economy					
k) Electricity					
l) Corruption					
m) Farming / agriculture					
n) Wages/salaries					
o) Housing					

11. Briefly give a reason/reasons why you have chosen the above as your preferred priorities

.....
.....
.....
.....
.....
.....
.....

SECTION C: PUBLIC PERCEPTION OF THE JUDICIARY SYSTEM

12. Do you have easy access to Courts of law in your neighbourhood?

- a. Yes
- b. No

13. Have you ever keenly followed any matter be it a case involving you, your relative/friend or political matter in the Courts of law in Zambia (from start to finish)?

- a. Yes
- b. No

14. If yes to question 13, how long did the matter take to be finally disposed of in court from the time it was reported?

- a. Less than one month
- b. Between one and six months
- c. Between six and twelve months
- d. Between one and two Years
- e. More than two years

15. Were you satisfied with the duration the matter took in Court?

- a. Yes
- b. No

16. What was the outcome of the matter?

- a. Conviction
 - b. Acquittal
 - c. Withdrawal
 - d. Nolle Prosequi
 - e. Case not disposed off
 - f. Lost track of the matter along the way
- | |
|--|
| |
| |
| |
| |
| |
| |

17. Were you satisfied with the outcome of the matter?

- a. Yes
 - b. No
- | |
|--|
| |
| |

18. Briefly give a reason/reasons for answer in question 17

.....

.....

.....

.....

.....

.....

19. Is the Judiciary installed with administrative capacity?

- a. Yes
 - b. No
 - c. Don't know
- | |
|--|
| |
| |
| |

20. Generally, how do you rank the performance of the judiciary system in the country in terms of accessibility?

- a. Very poor
 - b. Poor
 - c. Average
 - d. Good
 - e. Very good
- | |
|--|
| |
| |
| |
| |
| |

21. Generally, how do you rank the performance of the judiciary system in the country in terms of affordability?

- a. Very poor
 - b. Poor
 - c. Average
- | |
|--|
| |
| |
| |

- d. Good
- e. Very good

22. Generally, how do you rank the performance of the judiciary system in the country in terms of quality of services rendered?

- a. Very poor
- b. Poor
- c. Average
- d. Good
- e. Very Good

23. Generally, does the Zambian Judiciary enjoy administrative independence?

- a. Yes
- b. No
- c. Don't know

24. Generally, does the Zambian Judiciary enjoy financial independence?

- a. Yes
- b. No
- c. Don't know

25. Generally, how would you rate the frequency of financial disbursement to the Judiciary?

- a. Very poor
- b. Poor
- c. Average
- d. Good
- e. Very Good

SECTION D: LEVEL OF MODERNIZATION (Is the Court facility fit for purpose?)

26. Approximate distance to the nearest Courts in the residential area

- a. Less than 5 km
- b. Between 6 and 10 km
- c. Between 11 and 20 km
- d. Between 21 and 40 km
- e. More than 41 km

27. Name the type of Court referred to in question 23?

- a) Small Claims Court
- b) Traditional Court

- c) Local Court
- d) Magistrate Court
- e) High Court
- f) Industrial Relations Court
- g) Supreme Court
- h) Local, Magistrate, Industrial Relations, Court
High Court and Supreme Court
- i) High and Supreme Court

28. What is the state of courthouse referred to in question 23 with respect to **general infrastructure**?

- a. Very poor
- b. Poor
- c. Average
- d. Good
- e. Very Good

29. How would you rank the usage of information technology in the Court facility referred to in question 23?

- a. Very poor
- b. Poor
- c. Average
- d. Good
- e. Very Good

30. How is record keeping done at the nearest Court of law?

- a. Manual
- b. Automated
- c. Both manual and automated system
- d. Don't know

31. Does the Court building have sanitation facilities (i.e. toilets)?

- a. Yes
- b. No
- c. Don't know

32. How would you rank the sanitation facilities (i.e. toilets) at the court referred to in question 23?

- a. Very bad
- b. Bad

- c. Average
- d. Good
- e. Very Good

33. Is the entrance to the court building making reference to in question 23 accessible to the disabled?

- a. Yes
- b. No
- c. Don't know

34. Does the Court building have an information desk?

- a. Yes
- b. No
- c. Don't know

35. Does the Court building have a separate facility (i.e. for reading, resting etc.)?

- a. Yes
- b. No
- c. Don't know

36. Who should be responsible of building court infrastructure?

- a. The Executive (President)
- b. The Judiciary (Chief Justice)
- c. The Parliament (Speaker)
- d. Don't Know

37. Briefly give a reason/reasons for answer in question 33

.....

.....

.....

.....

.....

38. Generally, does the Zambian Judiciary involve stakeholders in its judicial administration affairs?

- a. Yes
- b. No
- c. Don't know

ANNEX 2 INTERVIEW AND FOCUS GROUP DISCUSSION GUIDE

- (a) Determine the state of physical infrastructure of Subordinate court?
- (b) Are Subordinate Courtrooms not fit for Purpose?
- (c) Do Courts have the ability to deliver its services adequately?
- (d) What is the impact of the state of Subordinate Courts on access to Justice?
- (e) What are the reasons accounting for the state of the Subordinate Courts infrastructure?
- (f) What are the funding levels to the Judiciary?
- (g) Is the Judicial Budget adequate to meeting Judicial needs?
- (h) Is Judicial modernisations a priority of Government?
- (i) Do the Courts have administrative capacity to resolve the Challenges?
- (j) Who is responsible for Subordinate court infrastructure modernisation?
- (k) Are Subordinate Courts needs a priority of Judiciary?
- (l) How do we resolve the challenges facing Subordinate Courts?
- (m) What is the role of citizens in the process of modernising the judiciary?
- (n) What is the role of civil society in the process of modernising the judiciary?
- (o) What is the role of political parties in the process of modernising the judiciary?
- (p) What is the role of Cooperating Partners in the process of modernising the judiciary?

**ANNEX 3 CONSENT FORM FOR INTERVIEWS AND FOCUS GROUP
DISCUSSION**



INTERVIEW CONSENT FORM

Dear Respondents,

Please consider this information carefully before deciding whether to participate in this research.

- (a) **Purpose of the research:** To examine the factors contributing to the state of physical infrastructure of Subordinate Courts in the Republic of Zambia.
- (b) **What you will do in this research:** If you decide to volunteer for an interview or Focus Group Discussions (FGD), you will be asked to participate in one interview or FGD. You will be asked several questions on the state of judicial physical infrastructure and the causes contributing to the state. The researcher will not tape record interviews or FGD, however, only notes will be taken.
- (c) **Time required:** FGD and interview will only take approximately an hour and 30 minutes respectively.
- (d) **Risks:** You are hereby assured that no risks on your part are anticipated.
- (e) **Confidentiality:** Your responses to questions will be kept confidential at all cost. At no time will your actual identity be revealed. You will be assigned a random numerical code. All notes will be kept in a locked file cabinet and will be destroyed upon completion and approval of thesis by Examiner. I won't use your name or information that would identify you in any publications or presentations.
- (f) **Participation and withdrawal:** Dear respondents, your participation in this study is completely voluntary, and you may refuse to participate at any point of the interview or FGD. You may skip any question during the interview or FGD but continue to participate in the rest of the study.
- (g) **Contact:** If you have questions or concerns, please contact: Emmanuel Makumba Mali, Ph.D Candidate (PHDGL1511229), University of Lusaka, +260950561592, mulipa2013@gmail.com. You may also contact Dr. Kalombo Mwansa (Student Supervisor- University of Lusaka)

AGREEMENT: The nature and purpose of this study have been sufficiently explained and I agree to participate in this study. I understand that I am free to withdraw at any time.

Signature: _____ Date: _____

Name (print): _____

ANNEX 4 CROSS- TABULATION:

Table 41: Cross Tabulation Voters and Highest Qualifications

Are you a holder of a voter's card?			What is your highest qualification?					Total	
			Primary School Certificate	Secondary School Certificate	College Certificate	College Diploma	University Degree		University Masters
Yes	Rank In order of importance ^a	Unemployment	2	24	10	9	19	1	65
			3.1%	36.9%	15.4%	13.8%	29.2%	1.5%	
			10.5%	29.3%	29.4%	23.7%	35.2%	10.0%	
		Health	8	18	4	7	7	4	48
			16.7%	37.5%	8.3%	14.6%	14.6%	8.3%	
			42.1%	22.0%	11.8%	18.4%	13.0%	40.0%	
		Poverty?	5	3	6	2	2	0	18
			27.8%	16.7%	33.3%	11.1%	11.1%	.0%	
			26.3%	3.7%	17.6%	5.3%	3.7%	.0%	
		Water Supply	0	0	1	0	0	0	1
			.0%	.0%	100.0%	.0%	.0%	.0%	
			.0%	.0%	2.9%	.0%	.0%	.0%	
		Infrastructure/Roads	0	4	2	0	0	0	6
			.0%	66.7%	33.3%	.0%	.0%	.0%	
			.0%	4.9%	5.9%	.0%	.0%	.0%	
		Judiciary	0	0	2	0	0	0	2
			.0%	.0%	100.0%	.0%	.0%	.0%	
			.0%	.0%	5.9%	.0%	.0%	.0%	
		Education	1	14	1	7	13	1	37
			2.7%	37.8%	2.7%	18.9%	35.1%	2.7%	
			5.3%	17.1%	2.9%	18.4%	24.1%	10.0%	
		Food Shortage	1	0	0	0	1	1	3
			33.3%	.0%	.0%	.0%	33.3%	33.3%	
			5.3%	.0%	.0%	.0%	1.9%	10.0%	
			0	5	2	6	9	2	24

		Economic Management	.0%	20.8%	8.3%	25.0%	37.5%	8.3%	
			.0%	6.1%	5.9%	15.8%	16.7%	20.0%	
		Electricity	0	1	0	3	1	0	5
			.0%	20.0%	.0%	60.0%	20.0%	.0%	
		Corruption	.0%	1.2%	.0%	7.9%	1.9%	.0%	
			0	3	0	3	3	1	10
		Agriculture	.0%	30.0%	.0%	30.0%	30.0%	10.0%	
			.0%	3.7%	.0%	7.9%	5.6%	10.0%	
		Wages/Salaries	2	4	2	1	1	0	10
			20.0%	40.0%	20.0%	10.0%	10.0%	.0%	
		Housing	10.5%	4.9%	5.9%	2.6%	1.9%	.0%	
			0	5	3	1	0	0	9
		Housing	.0%	55.6%	33.3%	11.1%	.0%	.0%	
			.0%	6.1%	8.8%	2.6%	.0%	.0%	
		Total	0	1	2	1	0	0	4
			.0%	25.0%	50.0%	25.0%	.0%	.0%	
		Total	.0%	1.2%	5.9%	2.6%	.0%	.0%	
			19	82	34	38	54	10	237
No	Rank In order of importance	Unemployment	0	4		4	4	1	13
			.0%	30.8%		30.8%	30.8%	7.7%	
		Health	.0%	15.4%		66.7%	36.4%	100.0%	
			0	6		2	0	0	8
		Health	.0%	75.0%		25.0%	.0%	.0%	
			.0%	23.1%		33.3%	.0%	.0%	
		Poverty?	0	1		0	2	0	3
			.0%	33.3%		.0%	66.7%	.0%	
		Poverty?	.0%	3.8%		.0%	18.2%	.0%	
			0	1		0	0	0	1
		Infrastructure /Roads	.0%	100.0%		.0%	.0%	.0%	
			.0%	3.8%		.0%	.0%	.0%	
		Judiciary	0	1		0	0	0	1
			.0%	100.0%		.0%	.0%	.0%	

		.0%	3.8%		.0%	.0%	.0%	
	Education	1	3		0	2	0	6
		16.7%	50.0%		.0%	33.3%	.0%	
		100.0%	11.5%		.0%	18.2%	.0%	
	Economic Management ⁴²	0	3		0	1	0	4
		.0%	75.0%		.0%	25.0%	.0%	
		.0%	11.5%		.0%	9.1%	.0%	
	Electricity	0	2		0	0	0	2
		.0%	100.0%		.0%	.0%	.0%	
		.0%	7.7%		.0%	.0%	.0%	
	Corruption	0	3		0	1	0	4
		.0%	75.0%		.0%	25.0%	.0%	
		.0%	11.5%		.0%	9.1%	.0%	
	Agriculture	0	1		0	1	0	2
		.0%	50.0%		.0%	50.0%	.0%	
		.0%	3.8%		.0%	9.1%	.0%	
	Wages/Salaries	0	1		0	0	0	1
		.0%	100.0%		.0%	.0%	.0%	
		.0%	3.8%		.0%	.0%	.0%	
	Total	1	26		6	11	1	45

⁴² Economic Management - the management of public resources, finances, income, and expenditure of a community
Felix Mutati, *Zambia tables its economic management seriousness*, (Lusaka, 2017). Retrieved from
<https://www.daily-mail.co.zm/zambia-tables-its-economic-management-seriousness/> on 16th June 2017

ANNEX 5 REGRESSION STATISTIC FOR JUDICIARY AND NATIONAL BUDGET

SUMMARY OUTPUT

<i>Regression Statistics</i>	
	0.970022
Multiple R	39
	0.940943
R Square	438
Adjusted R Square	0.937469
	522
Standard Error	2856152
	1667
Observations	19

ANOVA					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	1	2.20957E+23	2.21E+23	270.8596	7.05E-12
Residual	17	1.38679E+22	8.16E+20		
Total	18	2.34825E+23			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>	<i>Lower 95.0%</i>	<i>Upper 95.0%</i>
Intercept	9567654	10300424	0.092	0.927	2.27E+10	2.27E+10		
National Budget	52	338	886	08	-2.1E+10	10	-2.1E+10	0
	0.007660	0.000465	16.45	7.05E-		0.0086	0.00667	0.00864
	82	482	781	12	0.006679	43	9	3