

ENHANCING THE STANDARD OF LEGAL EDUCATION IN ZAMBIA: CHALLENGES AND PROSPECTS

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ABSTRACT

The core of legal education should be to prepare students for the different roles they will assume after law school. This seemingly modest idea, however, actually creates a daunting challenge as lawyers' roles are multifaceted. Where there is little attention paid to legal education, the result is a deterioration of standards thereby affecting the quality of law graduates produced by legal education institutions. It has been asserted that the standard of legal education in Zambia has not attained the required heights but has, on the contrary, over the years, gradually deteriorated. This contention mostly centres on fundamental aspects that legal education institutions have not, over the years, been addressed. To address this perception, accreditation of schools of law has been introduced as a mandatory requirement. It is argued, with optimism, that accreditation could be a panacea. Regrettably, however, accreditation does not appear to fully ameliorate the present state of legal education in Zambia especially that the empowering statute is fraught with frailties. There are, however, some positive aspects which, if addressed properly, would spur legal education to greater heights. The article, therefore, argues that legal education in Zambia is under siege and if the situation remains unaddressed, it could eventually lead to the collapse of legal education, however, the situation is not beyond reprieve.

KEYWORDS: Accreditation; Higher Education Authority; Legal Education; Legal Education Institutions; Zambia Institute for Advanced Legal Education.

INTRODUCTION

Legal education has a fundamental part to play in society. Excellence in legal education helps to shape the quality of the rule of law while the experiences it offers to future lawyers are invaluable. Primary among them is exposure to a wide range of legal subjects that are essential in the practice of law. It also offers law students a supervised, rigorous and disciplined opportunity to learn practical legal skills through clinics, trial practice and negotiation courses amongst others. This represents a superior way to compensate young lawyers who are often confined to run the errands of established lawyers who are often too busy to teach these young lawyers. In a nutshell, legal education is a form of human science that offers beyond techniques, skills and competencies, basic philosophies, ideologies, critiques, and instrumentalities, all addressed to the creation and maintenance of a just society.¹

The development of legal education in Zambia is traceable to 1966 when the University of Zambia was established with the programme of legal education commencing in 1967. The University of Zambia remained the only institution that offered a degree programme in law until 2006. The break of the monopoly has led to an emergence of numerous private and some public institutions offering law programmes at degree level steering debates on the quality of law graduates produced. The standard of legal education has been brought into question with the argument that there has been a deterioration as evidenced by the fact that only one local university is ranked amongst the top 100 in Africa.² It has been contended that the poor quality of graduates in all fields, including law, is the root cause compounded by the liberalisation of university education which has seen 'the mushrooming of universities all over the country.'³ A popular contention is that with the proliferation of institutions offering legal studies at degree level, competition for recruitment into the law programme has intensified and the levels of scrutiny of the entrants somewhat relaxed, leading ultimately to comparatively poor quality of graduates of law. A few contend that, while a private institution may boast of providing state of the art facilities, the primary focus is profit maximization which in turn, compromises the quality.⁴

¹ Eastern Mirror 'Importance of Legal Education' 11 July 2016. Available: <http://www.easternmirrornagaland.com/importance-of-legal-education/> (accessed 7 January 2019).

² According to the rankings of 2019, University of Zambia is ranked at 45 in Africa while Copperbelt University is at 96. See: https://www.webometrics.info/en/Ranking_africa (accessed 6 January 2020).

³ Report of the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs, *Parliamentary Debates*, Friday, 5 July 2013.

⁴ A similar view was expressed about Pakistan in the *Nation* where it was said that 'While the assumption is that private sector helps the state in providing facilities to all those who can afford, one fact that is often overlooked these times is that private sector does not consider people's need as a responsibility. Instead, the industry looks at demand from the angle of profit maximization. Therefore, anyone who had a little capital and some property entered into the business of education. Thus, the result was the mushrooming of all kinds of educational institutions.' See: <https://nation.com.pk/23-Jan-2018/standard-of-legal-education> (accessed 15 January 2019).

Though it may seem like private institutions are the cause, it is not so. Kahn-Fogel, referring to the University of Zambia, laments that, despite the fairly consistent high admissions standards throughout the School of Law's history, the quality and attitudes of matriculating students have declined over time.⁵ Both public and private legal education institutions (LEIs) have contributed to what has been perceived to be the falling standards of legal education.⁶ Scholars like Mumba Malila and Muna Ndulo have expressed concern on the state of legal education in Zambia. Muna Ndulo raises a myriad of issues that affect legal education in Zambia such as training methods which makes lawyers become legal technicians, poor entry qualifications, curriculum rigidity, and poor research capacity.⁷ Mumba Malila similarly questions the quality of students and calls for standardization in law schools, enhancement of admission criteria, putting in place useful pupillage in law firms and reviewing the quality of law lecturers.⁸ Most notably, the Parliamentary Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs also expressed its concern. What is clear, however, is that the emergence of universities providing legal education has not been met with adequate corresponding measures that enhance the quality of graduates produced. This has allowed institutions to embrace their own objectives in their quest to provide legal education.⁹ The Zambia Institute for Advanced Legal Education (ZIALE) (Accreditation of Legal Institutions) Regulations were promulgated in 2013 to enhance the training of law students in legal education institutions; however, these are far from achieving their intended purpose partly due to their inherent weakness and non-operationalisation.

Despite such a laudable effort, it suffices to state that the standard of legal education in Zambia is under siege. Questions surrounding the state of legal education will continually be asked if there are no measures serious taken. It is against this background that the article

⁵ In his research, he reveals that part of the decline in standard is attributable to the failures in the primary and secondary education systems of the country. The end result is production of students that are incapable of university training. See: N.A Kahn-Fogel 'The Troubling Shortage of African Lawyers: Examination of a Continental Crisis Using Zambia as a Case Study' (2012) 33 *U. Pa. J. Int'l L.* 3, pp. 752-754.

⁶ In their defence, criticism has been levelled against primary and secondary education as being inadequate preparation for the rigours of legal studies. Muna Ndulo augments that students in secondary education are not taught on the need for original and critical thought thus posing a problem for the universities to jolt students out of this attitude. See: M Ndulo 'Legal Education in Zambia: Pedagogical Issues' (1985) 35 *Journal of Legal Education* 3 452. Khan-Fogel reiterates that the quality and attitudes of students enrolled in universities have declined in part due to failures in the country's primary and secondary education systems. See: N.A Kahn-Fogel 'The Troubling Shortage of African Lawyers: Examination of a Continental Crisis Using Zambia as a Case Study' (2012) 33 *U. Pa. J. Int'l L.* 3 758.

⁷ M Ndulo 'Legal Education in Zambia: Pedagogical Issues' (1985) 35 *Journal of Legal Education* 3, pp. 451 – 454.

⁸ M Malila 'Orientation address by Attorney General to newly enrolled ZIALE students for the 2013/2014 intake delivered on 30 August 2013' in M Malila *Imperfect Ruminations Rooted in Hope* (2016) 66.

⁹ Hamalemgwa and Mwewa argue that these objectives are not been geared toward the production of lawyers who are 'critically aware of the abject poverty of the majority of the citizenry, the warped nature of the present legal system in the interest of the ruling class and the need to develop a legal system that promotes social development as well as social justice.' See: M Hamalemgwa & C Mwewa 'Critical notes on the legal system of Zambia' 18 September 2014. Available: <https://www.pambazuka.org/governance/critical-notes-legal-system-zambia> (accessed 4 January 2019).

examines the status of legal education in Zambia and argues for the need to adopt measures to enhance it.

CURRENT ISSUES IN LEGAL EDUCATION INSTITUTIONS

The standards of legal education are constantly undergoing scrutiny especially LEIs who provide it. It is generally argued that standards have deteriorated in recent times. Critics have strongly attributed this to the proliferation of universities following the break of the monopoly in the provision of legal education by the University of Zambia. This, however, may not be the sole reason. It is, therefore, necessary that issues that bedevil legal education in Zambia are ascertained and where possible, solutions proposed.

2.1 Student Training

The training of students has traditionally been aimed at preparing them for the practice of law. The legal profession, however, interacts with different other fields making it a multifaceted one.¹⁰ A modern law curriculum should ideally take the reality of an increasingly multidisciplinary approach into account as does some legal training programmes in some developed jurisdictions. In the United States, for example, the American Bar Association Accreditation Standards require a law school to ‘maintain an educational program that prepares its students for admission to the bar, and effective and responsible participation in the legal profession.’¹¹ This would imply that the primary emphasis of LEIs should be to provide a legal education that prepares students to pass a bar examination and upon completion, such students become effective and responsible participants in the legal profession.

Legal Education Institutions and their schools of law must ensure that their aims, objectives, and mission statements consider this aspect. Some schools of law have their objectives drawn from those of the institution in which they exist.¹² The rationale for such is to give focus and purpose of the programme offered. Other schools of law, however, do not have their own objectives or mission and it can be assumed (rightly or wrongly) that the institutional ones apply in default.¹³ The challenge in doing so lies in the fact that university missions are broad

¹⁰ Increasing legal training is now being blended with training in other disciplines such as politics, economics, forensic science, journalism, and accountancy. This is in full realization of the need to produce a well-rounded and knowledgeable legal cadre.

¹¹ ABA Standard 301(a).

¹² For example, the mission of the University of Zambia School of Law states that the ‘School’s mission, in line with the University’s mission, of providing relevant innovative and demand-driven higher legal education for sustainable socio-economic development. See: <https://www.unza.zm/schools/law/about> (accessed 15 January 2019). The University of Lusaka’s School of Law aims to ‘incorporate traditional law that every student ought to learn as well as contemporary and emerging issues that lawyers are bound to meet in the competitive world of business of the 21st Century.’ See: <https://www.unilus.ac.zm/SOL.aspx> (accessed 15 January 2019).

¹³ Zambia Open University <http://zaou.ac.zm/index.php/about-zaou/vision-mission/> (accessed 16 January 2019); University of Africa <https://www.universityofafrica.net/about-the-uoaf> (accessed 16 January 2019); ZCAS University <http://www.zcas.ac.zm/zcasu/> (accessed 16 January 2019); Cavendish University Zambia

making it for one to ascertain the essence of the law programme offered. In yet other instances, some universities do not have schools of law and their law programmes are fused into other schools or institutes.¹⁴ The problem of not having a school of law cannot be overemphasized. It can, however, be stated that, where the Bachelor of Laws program sits in a school other than law, there is every danger that the programme would not receive the required attention.

2.3 Training Method

The method of training of students at most schools of law has adopted teaching styles from the British tradition which stresses formalism. Teaching is not conducted through the Socratic method which emphasises cooperative argumentative dialogue between individuals, asking and answering questions that stimulate critical thinking while drawing out the underlying presumptions. Instead, students are taught through the lecture method and assigned textbooks and/or cases to read. These may, in some LEIs, be supplemented by tutorials. Such an approach tends toward the memorisation rather than critical reasoning in arriving at legal conclusions. This inhibits the development of students' critical reasoning skills necessary to be fully effective as practitioners, for practitioners are unlikely to encounter the precise situations students learn in the classroom, and even if they do, they are unlikely to remember what they learned.¹⁵

The Socratic method tends to close the gap between theory-based curricula and practice. This enables law graduates to be better prepared for the rigours of the bar admission course at ZIALE. Unfortunately, most schools of law in Zambia have embraced the British tradition of lecture delivery which has, unfortunately, not evolved quick enough to embrace the ever-changing dynamics of the legal profession. It has, therefore, become less obvious what needs to be taught in legal education and how it should be taught.¹⁶ The Pearce Report on Australian law schools emphasizes a diverse law course with an all-embracing approach. It must provide an intellectual base for life-long critical reflectiveness about legal institutions. The law courses should expose students to an understanding of the processes and functions in a society of law

<https://www.cavendishza.org/index.php/about-us/about-cavendish-university-zambia> (accessed 16 January 2019); LIUTEBM University <http://liutebmuniversity.org/aboutus.htm#philosophy> (accessed 16 January 2019); Mulungushi University <http://www.mu.ac.zm/index.php/vision-statement> (accessed 16 January 2019); Northrise University <https://www.northriseuniversity.com/about/> (accessed 16 January 2019); Copperstone University <https://copperstoneuniversity.edu.zm/index.php> (accessed 16 January 2019).

¹⁴ Copperstone University <https://copperstoneuniversity.edu.zm/index.php/portfolio> (accessed 16 January 2019); LIUTEBM University <http://liutebmuniversity.org/programmes.htm#undergraduate> (accessed 16 January 2019); ZCAS University <http://www.zcas.ac.zm/zcasu/course-list-table/law-courses/> (accessed 16 January 2019); University of Africa <https://www.universityofafrica.net/academic-programs/faculty-of-law-and-humanities> (accessed 18 January 2019); and, Mulungushi University <http://www.mu.ac.zm/index.php/school-of-business-studies> (accessed 16 January 2019).

¹⁵ N.A Kahn-Fogel 'The Troubling Shortage of African Lawyers: Examination of a Continental Crisis Using Zambia as a Case Study' (2012) 33 *U. Pa. J. Int'l L.* 3, pp. 754-755.

¹⁶ M Ndulo 'Legal Education in Africa in the Era of Globalization and Structural Adjustment' (2002) 20 *Penn State International Law Review* 3 498.

and legal institutions, modes of social control, and moral and political outlooks.¹⁷ The unfortunate event would be where there is rigidity or resistance by LEIs to embracing other courses that enhance students' knowledge.¹⁸ An LEI should not view these courses as being more expensive or as a ploy by recently qualified lecturers to showcase their achievement. The reality, however, is that most LEIs have not embraced other courses and where some have, it is to a minimal extent. Some LEIs have modelled their curricula on traditional courses with minimal or no room for other courses. This has restricted the ability of students to possess diverse knowledge thereby shackling them. There should be a deliberate effort by the LEI to evolve and embrace other courses. Beyond this, there should be a re-assessment of the teaching methods and evaluating their effectiveness in ensuring a well-trained law graduate.

Beyond teaching, schools of law can blend the theory taught with the practice of the law through guest lectures and internship. Guest lectures by practising lawyers invited to give practical aspects or provide students with deeper insights can be conducted and provide an opportunity for such guest speakers to spot active, enthusiastic, and hard-working students whom they may provide internship. Internships afford students with an opportunity to hone their skills making them better. In this regard, internships must be made mandatory for undergraduate students in their penultimate years. During the internship, a minimum number of hours of practical contact with clients ought to be set. This would allow a student to have an interface with real clients in a firm during their vacation.¹⁹ To ensure student's full participation, schools of law could apportion a percentage of the continuous assessment grade to the internship. This would make it imperative that schools of law partner with law firms.

2.3 *Distance Learning*

Distance learning is a method of teaching which is employed to teach a student who is not physically present in a classroom. It is described as 'a process to create and provide access to learning when the source of information and the learners are separated by time and distance, or both.'²⁰ It is a method of learning that is specially designed for students that may not be able to participate in the full-time study due to other commitments or exigencies. Its flexible nature allows students to pursue their legal studies without attending regular classes. The programme is intended to enhance discipline, purpose, and ability of students to work independently as there is no direct contact with the lecturer. It could be argued that distance learning can teach students skills and competencies of developing professional skills such as

¹⁷ D Pearce, E Campbell, & D Harding 'Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission' (1987) 108.

¹⁸ The use of 'other' courses is aimed at distinguishing the traditional courses (i.e. Legal Process, Torts, Contract, Criminal Law, Constitutional Law, Family Law, Company Law, International Law, Civil and Criminal Procedure) from courses like Environmental Law, Capital Markets, Insolvency Law, Insurance Law, Refugee Law etc.

¹⁹ Although it may be argued as laborious and infeasible by a School, implementing it would be worthwhile.

²⁰ M Bušelić 'Distance Learning: concepts and contributions' (2012) *Oeconomica Jadertina* 24.

self-study, planning and organizing, time management, problem-solving, responsibility, hard work, and creativity.²¹

On the reverse, distance learning may be costly for students where they are required to submit physical copies and be constantly online. It may also be time-consuming in terms of timely delivery of materials either by the student to the university or vice versa. The study of law requires verbal articulation. Students in distance learning are not afforded an opportunity to work on oral communication skills. In some instances, degrees obtained through this mode may not be easily accepted by employers. In the study of law, the concern is the effectiveness of employing distance learning in so far as training of quality lawyers is concerned.

In Zambia, most LEIs have embraced distance learning, however, they are riddled with numerous issues that cast doubt on the quality of legal education given to a distance student. For instance, some LEIs lack educational tools and materials required in the study of law by the distance learning method such as modules or electronic resources. This leaves student to rely on notes which may not only be obsolete but also bereft of adequacy and relevance. There are some LEIs that have embraced the Moodle learning platform for distance learning. Moodle is a learning platform that is designed to provide educators, administrators and learners with a single robust, secure and integrated system to create personalised learning environments.²² The platform offers several tools intended to make a course more effective by providing easier ways to share and upload materials, hold discussions and chats online, give surveys and quizzes, collect and review assignments, and record grades. The lecturers do not need to be tech-savvy to operate the Moodle. They need, however, to be flexible and sensitive to student' diverse responses, approaches and needs, guiding them through the learning process instead of being instructive in telling them what should be done.²³ It is asserted that Moodle enhances distance learning through, among others, increased interactions between the lecturer and the learner. it is unfortunate, however, that some LEIs are yet to embrace Moodle.

In distance learning, the duration of the programme must ordinarily be longer than full time. In many LEIs, the duration of the distance programme is the same as that of full time. The depth of coverage, however, is not the same. This has created an impression that distance learning is an easier learning option for students that seek to avoid the rigorous training in full time. Similarly, in most LEIs, the contact time for covering each module or course is between 12 and 16 hours on average. This is inadequate and potentially could result in lecturers watering down the course or not covering all aspects with sufficient depth. Although students would manage to pass the course, their level of understanding and articulation would remain low. This poses a further challenge as such students may struggle to deal with

²¹ VP Mahlangu 'The Good, the Bad, and the Ugly of Distance Learning in Higher Education, Trends in E-learning' Mahmut Sinecen, IntechOpen, 4 April 2018.

²² [https://docs.moodle.org/38/en/About Moodle](https://docs.moodle.org/38/en/About_Moodle) (accessed 27 January 2020).

²³ AJ Harding, J Hu, & M de Visser (eds.) *Legal Education in Asia* (2017) 217.

the rigorous training for purposes of getting admitted to the Bar.²⁴ The result is the training of half-baked lawyers who may not be ready for the profession.

In most LEIs, trainers for full-time students are the same as those for distance learning. These trainers are not, for the most part, equipped with special training on the delivery of distance learning. This results in the short-changing of students. Coupled with this is that, though distance learning is mostly akin to mature students, the reality is that some LEIs have young students who ordinarily must be in full time. The problem is not only how to train such young persons but also how to dissuade them from enrolling in the distance. Most, if not all LEIs, do not have policies which prescribe a criterion for acceptance in distance learning e.g. age.

The challenge perhaps is ensuring the quality of legal education through distance learning. While LEIs may have quality assurance policies, there seems to be a lack of committed and qualified cadre of quality assurers and experts with the relevant distance-learning qualifications.²⁵ A culmination of these issues leads to a perception that training a law student through distance learning is a façade and a ploy by LEIs to maximise their profits given the relatively low cost of managing the program. It is suggested that LEIs, in the absence of proper measures that enhance the training of law students through distance learning, abandon offering the law programme on distance learning. Further, LEIs must consider prolonging the distance training course from four to six years. This will allow students more time with fewer courses than them carrying the same course load as full-time students. The LEIs can also consider requesting students to submit their proof of full-time employment at enrolment or registration. This will curb the enrolment of young persons into distance learning.

2.4 Curriculum

Curricular design or format reflects the perspective about law and the objective of legal education. It may also be a projection of lack of imagination or endeavour which overhauling, redrafting or modernising of the curricular, to make it socially relevant, involves. Whatever be the objective of a particular school of law, there is no escape from the fact that technocratic legal education is vital though it cannot and should not pre-empt the entire field.²⁶ A good programme of legal education should give students skills and experience that enable them to address legal problems effectively by thinking critically, consider multifaceted approaches to the law and what it should be, and use a reasoned argument as a way of

²⁴ In Zambia, a person who desires to practice law must attend the Legal Practitioners Qualifying Examinations (LPQE) course at the Zambia Institute for Advanced Legal Education (ZIALE) and pass all the heads (or courses) before a petition for admission to the Bar can be lodged.

²⁵ VP Mahlangu 'The Good, the Bad, and the Ugly of Distance Learning in Higher Education, Trends in E-learning' Mahmut Sinecen, IntechOpen, 4 April 2018.

²⁶ Menon (ed.) 'Legal Aid and Legal Education: A Challenge and Opportunity' *Essays on Clinical Education for the Law Student in a Service Setting*, Student Legal Services Clinic, University of Delhi, 1974 58.

persuading others.²⁷ Dean Pound espouses that law curriculum must consider certain aspects, namely:

(1) The primary purpose of preparing for practice of the profession, not overlooking the diversity of local law and procedure and bearing in mind the manifold activities which practice in the large city of today may involve; (2) to train competent business advisers as to the legal side of business, industrial, and public-service enterprises; (3) to train future judges; (4) to train future legislators; (5) to train future teachers of law and law writers; (6) to train those upon whom the public will rely for sound advice and criticism as to legislation and the legal aspects of political affairs; and (7) to carry on investigations of the problems of legal adjustment of human relations and of how to meet those problems effectively.²⁸

These conditions greatly broaden the purposes of a sound curriculum in legal education. The Second Schedule of the ZIALE (Accreditation of Legal Institutions) Regulations, concerning the curriculum, prescribes fourteen core courses and a minimum of three electives.²⁹ Unlike the standard core courses, a school of law is allowed a minimum of three electives. Electives give flexibility to an institution to capture the modern trends of legal education. Rigidity or inflexibility to adopt modern trends of legal education can limit the ability of students to appreciate the broader spectrum of the study of law. Whereas some institutions have or may be willing to restructure or modernise their curricula to meet the modern trends of legal development, still others may be struggling with red-tape leading to non-implementation. As has been aptly stated by Dayal, 'most intractable problems of improving legal education relate more to implementation than planning curriculum.'³⁰ Although a better selection and organization of courses would be a good indicator, this would hardly yield any positive result if the methodology continues to be inadequate, library materials are insufficient, research is non-existent, and the review is not done in the perspective of the local environment.

Most schools of laws' curricula have courses that are essentially British-oriented, a fact that is attributable to the colonial past. While this is appreciated, it has the potential to 'lock' the minds of students who may be unable to see the application and relevance to Zambia (of what). Schools of law must, therefore, consider the local environment, culture and heritage in designing their curricula. This has seemingly been absent. Such an approach would allow

²⁷ P Gewirtz & J Prescott 'Point of Order—Why Legal Education Matters' 12 July 2010. Available: <http://english.caing.com/englishNews.jsp?id=100149077&time=2010-06-01&cl=111&page=all> (accessed 7 January 2019).

²⁸ D Pound 'Present Tendencies in Legal Education' American Bar Association *Annual Review of Legal Education for 1935* p. 1, 7.

²⁹ The core courses are Legal Process, Law of Contract, Law of Tort, Commercial Law, Criminal Law, Constitutional Law, Law of Evidence, Land Law, Family Law, Administrative Law, Jurisprudence, Company Law, Moot Court, and Obligatory Essay— reg. 9.

³⁰ S Dayal 'Dynamics of Development: Legal Education and Developing Countries' in M Ndulo (ed.) *Law in Zambia* (1984) 100.

students to relate and to properly appreciate the law thereby enhancing the development of their legal skills.

2.5 Enrolment Criteria

Every LEI has a criterion for acceptance of applications by persons wishing to study law. This criterion should, at the barest minimum, conform to the ZIALE (Accreditation of Legal Institutions) Regulations namely: (a) a degree from a recognised university; (b) at least five ordinary level credits or better, including English and Mathematics; (c) a minimum of three 'A' levels which should include English; and (d) a full academic year in humanities or social science programme which includes English.³¹ Notwithstanding this, students who graduate from some universities are said to be of low calibre. The Parliamentary Committee observes that this could be due to the non-compliance to the entry requirements by private universities or laxity in their admission criteria which results in the production of 'poor quality of graduates'.³² Dickson Jere reiterates that some law graduates 'were denied entry into ZIALE because they failed to produce full grade 12 certificates.'³³ This brings out questions such as (a) *how can a person hold a law degree without the barest entry requirements?* and, (b) *how did such a person enter university?* The answer to this is twofold; first, the lack of compliance to the minimum entry requirements by the LEI; and second, admission of students by some private universities directly into their schools of law without satisfying themselves that such students are cut out for the profession ahead of them. It is required that private universities offering the law degree introduce 'stringent measures in their selection process for aspiring law students.'³⁴ The regulator must ensure the adoption of stringent measures in its selection process and continually monitor adherence to set standards during the whole study period of the students.

While some students may meet the entry, requirements set under the ZIALE (Accreditation of Legal Institutions) Regulations, the problem is the age of the applicant. The Regulations do not prescribe the age of the applicant neither is it a consideration by universities. It is not in doubt, that unlike a few years ago, most applicants today are quite young and struggle to comprehend concepts in law.³⁵ This places a challenge on the schools of law regarding how such a person can be effectively taught the law. Besides age, other factors have also been identified as a challenge with young students– technological advancement that seemingly sways them away from academics, poor reading culture, and lack of interest in reading. It is

³¹ Third Schedule, Reg. 19.

³² Report of the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs, *Parliamentary Debates*, Friday, 5 July 2013.

³³ <https://www.themastonline.com/2018/03/19/ziale-needs-reforms-jere/> (accessed 6 January 2019).

³⁴ Report of the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs, *Parliamentary Debates*, Friday, 5 July 2013.

³⁵ Prior to 2011, the education system was such that a person generally entered university at the age of 20. This, however, is no longer the case as students aged between 16 and 17 now qualify to enter universities, an age which is deemed 'young'.

suggested that LEIs, most of which lack a foundation year, must create one. This is not only a requirement under ZIALE (Accreditation of Legal Education Institutions) Regulations but also a way to enhance the calibre of students that enter university at a young age.

Schools of law must also be cognizant to the fact that the trainer and trainee are in different generations and as such, a lecturer must not insist on applying the method of teaching they were subjected to during their study of the law as the same may not be effective to the student of today. This entails that schools of law must conduct a needs assessment to know the nature of the students they have admitted and their needs. This would ameliorate the situation while aiding the school to modify its approach to teaching. Schools of law must also embrace events such as public lectures in which notable persons, that students can relate to, are invited to deliver lectures through an interactive session. This helps students to draw inspiration and generate inner interest to be great. The net effect is to nurture in them a positive attitude towards their academic progress and ultimately, a craving for better performance.

2.6 *Academic Quality*

A legal education institution must maintain adequate qualified academic and support staff. The minimum qualification for a person to lecture in the undergraduate level is a Master of Laws degree. At postgraduate level, proven past masters level experience is required in addition to holding of a Master of Laws degree.³⁶ Although not a requirement, holding of a practising certificate is invaluable. The quality of the academic staff reflects on the quality of the graduates. Opining that the quality of lecturers must be confronted as a matter of urgency, Mumba Malila augments:

In my humble submission, there should be something terribly wrong with a system that expects law students taught by law teachers who have no more than a basic degree in law with a modest classification and who have never in their lives written any publishable scholarly paper and who may furthermore be in bad stead with the legal profession, to impart quality knowledge and values to students.³⁷

Where there is a higher quality of lecturers, this should translate to a higher quality of graduates. The quality of lecturers is gauged by their level of education as well as their academic research prowess. It is, therefore, crucial that lecturers possess the barest minimum of a master's degree as anything less than it is unacceptable. In the past, it was reported that some universities had retained ill-qualified lecturers to teach their undergraduate students.

³⁶ As above.

³⁷ M Malila 'Orientation address by Attorney General to newly enrolled ZIALE students for the 2013/2014 intake delivered on 30 August 2013' in M Malila *Imperfect Ruminations Rooted in Hope* (2016) 66–67.

Such a situation is regrettable and unthinkable that a person that does not possess a minimum of a master's degree would be lecturing a student pursuing a law degree.

Beyond holding of a Master of Laws degree, the academic staff must aspire for a doctorate. A doctorate 'graduates' a master's holder from being a mere lecturer to a researcher. It exposes a person to numerous aspects that go beyond the traditional lecturing. It also opens up their academic links to other international scholars with whom they can exchange ideas on legal practices. Institutionally, it enhances the quality of the school of law while adding value to the students. It is regrettable that, despite there being 1600 legal practitioners in 2019, only 2 are professors and 18 hold a doctoral degree.³⁸ Although a few possess a master's degree, a number of them are not in academia.

The publication of scholarly works is a must for an academic. Where there is not publication, the School is not only bereft of legal materials, but most regrettably, the development of its lecturers is hampered. It is, therefore, unthinkable to have a lecturer who does not publish. Schools of Law partly bears a responsibility to foster academic publications by making such a tool for evaluation where a lecturer either seeks an appointment, recommendation, or contract renewal. This will obligate lecturers to publish.

The possession of masters or doctorate or indeed publication are necessary for enhancing the quality of the academic staff. This, however, may not be effective where lecturers' knowledge and teaching methods remain archaic. It is, therefore, necessary that LEIs must ensure that their lecturers undergo some form of training in their field of expertise and on teaching methods in legal education. This not only broadens a lecturer's knowledge base but also, equips them with modern trends in legal education. Institutions must also create a forum where their lecturers can exchange notes and, in the process, cross-fertilise ideas to enhance and harmonise the quality of students across LEIs.

2.7 Learning Environment

The school of law must create a conducive learning environment which must not be limited to physical infrastructure. While LEI reserve the 'right' to accept any applicant provided they meet the requirements, there is an implied limit on the number. Before 2006, when legal education was monopolised by the University of Zambia, the School of Law placed a cap on the number of students it would admit. This not only ensured that the School returns the best students but also that the lecturer-student ratio is balanced. Post-2013, the ZIALE (Accreditation of Legal Institutions) Regulations put the academic full-time staff and student ratio, at the most, at 1:15.³⁹ Where the ratio is beyond 1:15, this would restrict the time spent with the students which ultimately affects their output. It is not clear from the ratio whether

³⁸ This is according to the Law Association of Zambia List of Practitioners for 2019. The list available on the Association's website <http://www.laz.org.zm/members/> (accessed 6 January 2020).

³⁹ Reg. 9, Third Schedule, ZIALE (Accreditation of Legal Institutions) Regulations.

this is per class or all the classes. Regardless, the reality is that most schools of law admit a lot of students whose numbers are not in tandem with that of full-time academic staff. Although it is expected that schools of law cap their enrolment numbers, this is not the case as there is no sanction by the regulator for failure to do so. The result is bloated classes with lecturer-student ratios that are astronomical. Surely, in such instances, students are robbed of the benefits of close discussion and skills training in counselling and advocacy.⁴⁰ Also, lecturers that end up teaching large classes tend to be stressed, have little room for research and innovation, and hardly have enough time for student engagement to enhance the learning outcomes of students.⁴¹

The Regulations emphasize full-time academic staff. The reality is that most institutions operate with part-time staff which is problematic in that such persons may not devote their full attention to their students given their other commitments. In situations where the part-time staff is unavailable, efforts to cover the lost time may result in students being short-changed. Where a LEI is bereft of full-time academic staff and relies on part-time staff, this affects the well-functioning of the School thus affecting the quality of students produced. Schools of law must take deliberate steps to retain full-time academic staff.

Contact hours between students and lecturers is a crucial factor in enhancing standards. According to the ZIALE (Accreditation of Legal Institutions) Regulations, 1680 hours is prescribed as the minimum contact hours.⁴² These hours do not, however, include consultation with lecturers which is one of the key aspects of imparting knowledge to students as it helps students address grey areas. It is expected, however, that lecturers create consultation hours outside their normal teaching hours. It is, thus, incumbent on universities to ensure that lecturers afford students time for consultation. The challenge, however, is where a university is bereft of full-time lecturers and as such, relies more on part-time lecturers who often have other engagements making it difficult for students to have access to them.⁴³ In such an instance, a school of law must create a mandatory schedule for consultation of at least one day per week for each course.

Enhancing the learning environment requires the measurement of the quality of teaching which should, in part, be assessed by the students.⁴⁴ Student surveys and lecturer evaluation form an integral part of quality assurance. To be effective, it needs to be tailored to the goals of the education process and should assess the teaching performance and lecturers' critical

⁴⁰ TL Shaffer 'Four Issues in the Accreditation of Law Schools' (1982) 32 *Journal of Legal Education* 224 – 235 at 228

⁴¹ H Moono 'Explaining the reclassification all Zambian Universities as Colleges by Oxford University' *Lusaka Times* 25 October 2018. Available: <https://www.lusakatimes.com/2018/10/25/explaining-the-reclassification-all-zambian-universities-as-colleges-by-oxford-university/> (accessed 7 January 2019).

⁴² Reg. 9, First Schedule.

⁴³ Although numerous reasons have been advanced for engagement of part time lecturers by universities, it is not the best method to employ.

⁴⁴ M van de Kasteelen 'Faculty Management: A Matter of Balance' in D Ikawa & L Wortham (eds.) *The New Law School: Re-examining Goals, Organization and Methods for A Changing World* (2010) 39.

thinking and commitment.⁴⁵ The process of evaluation would help curb rigidity among lecturers who have either taught for a long time and are accustomed to the old teaching methods having no desire of their own to change, and those who do not practice nor seem to appreciate the changes in the legal system that require a new type of lawyer. In most LEIs, the student surveys and lecturer evaluations are not done. In some, where this is done, there is student apathy to evaluate their lecturers on the pretext that it may jeopardize the relationship with their lecturers. Unfortunately, where the LEI is bereft of a mechanism that assures confidentiality, the students' fears may as well be justified. It is incumbent on schools of law to conduct lecturer evaluation and take appropriate steps where the teaching is below par. The ZIALE (Accreditation of Legal Institutions) Regulations must be amended to obligate LEIs to ensure evaluation and a report submitted to them.

2.8 Library

A library is central to legal education. It plays a unique and fundamental role in moulding the quality of the legal system due to its unique collection and services. It is also a part of the legal effort at the other end of the process protecting the availability and quality of legal information at a reasonable cost and ensuring open and equal access to legal information for everyone.⁴⁶ The President of the Association of American Law Schools underscores their pertinence by stating thus, 'in the examination of law schools, no shortcoming appears more conspicuously and unmistakably than deficiencies in the library.'⁴⁷

The ZIALE (Accreditation of Legal Institutions) Regulations oblige every LEI to provide a functional library area that has adequate sitting space, stack area dedicated for legal education and training, and an information and communication technology area.⁴⁸ The capacity must be such that it accommodates the number of students. If students have to sit on the floor during lectures or fight for a chair during library hours, then the university's carrying capacity has been exceeded.⁴⁹ In such a situation, a university needs further investment or to restrict entry so as to ration its capacity. The failure to do so would be a production of low calibre students.

Universities must invest heavily in their libraries which would also save as a hub for foreign researchers. To the furthest extent possible, a library must comply with international library

⁴⁵ M Vidaicu, N Hriptievski & M Mutu-Strulea 'The Need for a New Law Professor in Moldova' in D Ikawa & L Wortham (eds.) *The New Law School: Re-examining Goals, Organization and Methods for A Changing World* (2010) 98.

⁴⁶ Geeta College 'Role of Libraries and Librarians in Legal Education' 29 June 2017. Available: https://medium.com/@geetacollegepanipat_72854/role-of-libraries-and-librarians-in-legal-education-d350fc707b90 (accessed 7 January 2019).

⁴⁷ Algler 'Legal Education and the Association of American Law Schools' (1927) *6 American Law Review* 59.

⁴⁸ Reg. 9, Third Schedule.

⁴⁹ H Moono 'Explaining the reclassification all Zambian Universities as Colleges by Oxford University' *Lusaka Times* 25 October 2018. Available: <https://www.lusakatimes.com/2018/10/25/explaining-the-reclassification-all-zambian-universities-as-colleges-by-oxford-university/> (accessed 7 January 2019).

standards and have qualified personnel, a library policy, and a development strategy.⁵⁰ It should stock at least five core titles per unit being used at the ratio of one copy to five students, journals, periodicals, encyclopaedias, and books of general knowledge. Further, a current minimum of Zambia Law Reports, Zambia *Gazette*, Commonwealth Law Reports, All England Law Reports, and a complete set of Laws of Zambia must be maintained. Lastly, it must have adequate sitting capacity, internet facilities, and adequate lighting and ventilation.⁵¹ The concern, however, is the extent of conformity of LEIs with the set minimum requirements. While some LEIs may have a library, its adequacy and near conformity to the set standards would leave much to be desired. Training of a student is enhanced where a library conforms to international standards, has adequate study materials, facilities and space. Notwithstanding that most schools of law may have subscribed to e-journals, accessibility to such resources is limited partly due to lack of awareness by students of their existence. It is, therefore, the duty of universities to orient their students on how to access such materials. The access must, in any case, be facilitated by university subscription or affiliation.

The ZIALE (Accreditation of Legal Institutions) Regulations obligate LEIs to set aside at least five per cent of the total recurrent budget for the purchase of legal materials.⁵² While this may be a novel way to ensure a sound library, it is an aspect that may certainly be frowned upon by LEIs for two reasons: *first*, LEIs may not be comfortable with disclosing their financial status to the regulator; and *second*, the running costs of the programme may outweigh the profit thereby significantly making the five per cent a negligible figure to acquire the necessary materials. Regardless of the position taken by an LEI regarding this requirement, compliance remains imperative failing which the Accreditation Committee can order the LEI to discontinue providing legal education on grounds of incompetence.⁵³ While enforcement carries, this potentially allows some schools of law to continue operating a dysfunctional, ill-stocked, and deficient law library. It is incumbent on LEIs to maintain a school of law library separate from the main library as is the case in most universities. A separate school of law library enables focus, dedication and effective development in so far as legal education is concerned.⁵⁴

2.9 Technology

It is no exaggeration to state that technology has transformed almost every sphere of our lives. It has revolutionized the way, the ease, and the speed as well as the time with which activities are conducted. The legal profession is known for its conservatism and traditionalism which many believe must be preserved to maintain the prestige of the profession.

⁵⁰ As above.

⁵¹ As above.

⁵² Reg. 9, First Schedule.

⁵³ Reg. 14(1)(b).

⁵⁴ This is the norm in other countries e.g. The University of Pretoria, despite having a main library stocked with legal materials, also has the OR Tambo Library dedicated purely to the School of Law.

Technological advancement has, however, put a strain on this ideology by bringing in a new dimension to both the teaching and practice of law.⁵⁵ In 2016, the Parliamentary Committee observed that the curriculum in universities was outdated, irrelevant, and had failed to keep pace with technological advancement. This compounded poor teaching methods which included a heavy reliance on memory and repetitious exercises instead of analytical and critical activities.⁵⁶ The observation by the Committee fortifies the pertinence of information technology, which if properly utilised, would enhance both the teaching and the practice of law.

The utilisation of technology reduces queues for access to a limited number of books in the library. It also enables institutions to utilise library space that would otherwise be taken up by textbooks. Unlike in the past where library space would be taken up by physical text and materials, LEIs can embrace electronic resources and tools. It is unacceptable that a LEI is bereft of electronic resources such as Lexis Nexis or KAS Legal or tools such as projectors, computers or printers. The reality, however, is that some LEIs do not have electronic resources nor access to such other than modules stored in softcopy. In such circumstances, it is wishful thinking to expect a properly trained graduate. As the world evolves technologically, LEIs must also move along especially that such resources are easier to access, maintain, update and store.

Technology also offers the possibility of global scholarly exchanges that may occur with relative ease.⁵⁷ This affords access to legal materials from around the world, especially that there are databases that collect legal materials that were previously hard to find and extremely costly to acquire. For schools of law to utilise technology, there is a need for funding. For private institutions, the cost is transferred to the student. This may affect the popularity of the programme due to it being costly. The converse, however, may be true— it may attract more students due to the abundance of such resources. As for public universities, the acquisition of technology may require funding from the government. This may impede its progress; however, these universities must find an innovative way of harnessing their resources thereby reducing their full dependence on the government. It, therefore, should be the responsibility of the regulator to ensure that schools of law possess the barest minimum technology.

⁵⁵ IA Olubiyi, AJ Olaniyan & N Odiaka 'The Role of Technology in the Advancement of Legal Education and Practice in Nigeria' 27 November 2015.

Available: <https://www.researchgate.net/publication/280566346> (accessed 8 January 2019).

⁵⁶ Parliamentary Committee on Education, Science and Technology *Report for the First Session of the Twelfth National Assembly*, 6 October 2016, 16.

⁵⁷ M Ndulo 'Legal Education in Africa in the Era of Globalization and Structural Adjustment' (2002) *20 Penn State International Law Review* 3 499.

2.10 Infrastructure

Legal education institutions must possess physical facilities that support the legal education programme— classrooms or lecture rooms, library, moot courtrooms, and recreational and sanitation facilities. The ZIALE (Accreditation of Legal Institutions) Regulations require that a building used or intended to be used as part of the physical facility is safe for public habitation and kept in a good state. The classrooms, lecture halls, and moot courtrooms must be adequate in size, ventilated, and well illuminated. Writing surface for each seat and a place to set books and papers must be provided by the institution.⁵⁸

It is undoubted that most institutions, in their quest to provide the highest quality of education, ensure that the facilities in their schools of law are well managed. In these institutions, however, these facilities are more tilted towards academic than the social life of students. In other words, facilities such as sports courts, pitches, athletics tracks, and swimming pools and gyms, which are necessary for enhancing the social life of students, are lacking.⁵⁹ This deprives students of participating in extra-curricular activities thereby robbing them of the university/college experience. Institutions must aim to develop facilities that can enhance the students' wholesome development. It is startling that some LEIs that do not have their own facilities lease inadequate and improper facilities that are less than appropriate for student training. This has led the regulator, the Higher Education Authority, to reject programme accreditation. It is suggested that the Authority must go beyond this by deregistering such institutions.

Appropriateness of infrastructure is also a source of concern. While institutions may boast of modern infrastructures, such as, for the most part, not all-inclusive. Students that have physical disabilities need special attention and where the facilities do not accommodate them, this deprives them of proper education. Under the Persons with Disabilities Act, the Act places an obligation on the Minister to ensure that rules, guidelines and measures relating to access to quality education in higher education 'on an equal basis with others' are put in place.⁶⁰ While the Act empowers the Minister to put in place 'rules, guidelines and measures', these are only luridly referred to and have not been specifically prescribed. Further, the Act does not state measures that would amount to 'inclusive' at all levels especially in HEAs.

The reality, however, is that LEIs admit students that have a disability. Where a student is deaf, the communication might be sign language. In a situation where the lecturer does not know sign language, a student may need their interpreter to articulately convey the 'lecture' and without distortion. It may also be such classroom space is given to the interpreter which raises the cost on the student. While this may not be a concern in public institutions, it may

⁵⁸ Reg. 9, Third Schedule, ZIALE (Accreditation of Legal Institutions) Regulations.

⁵⁹ E Mudenda 'University, college facilities vital for quality learning' *Zambia Daily Mail* 25 August 2017. Available: <http://www.daily-mail.co.zm/university-college-facilities-vital-for-quality-learning/> (accessed 8 January 2019).

⁶⁰ Section 22(2)(b).

be so in a private which may result in denying deserving students an opportunity to learn. Where a student is blind, the materials needed may have to be in braille, however, these may not be available in a LEI. A student with hearing impairment would be affected when undertaking Mooting and Advocacy Skills as there are no facilities in local institutions yet that aid such persons.⁶¹ Currently, no rule or regulation prescribes how this could be handled, notwithstanding, institutions must ensure that the necessary facilities are in place as they admit such students.

The admission of students with a disability requires screening and identification as it enables the institution to determine the specific nature and extent of disability to ascertain how effectively to teach law to students with a disability. An institution must, therefore, possess or have access to facilities for assessment of the disability or the extent thereof. Except for the University of Zambia, no known university has such facilities. The lack of such facilities does not, however, preclude a university from requesting a specialised health facility such as the University Teaching Hospital to conduct an assessment.⁶²

2.11 *Legal Research*

Research generally involves the ability to analyse problems, determine the information needed and effectively communicate results obtained. Legal research is a process of problem-solving involving a careful examination of facts and an understanding and familiarity with the nature and tools of the resources to implement an effective research design. It underpins a lawyers' ability to function competently and provide adequate representation to the client.⁶³ The development of the law is also dependent on fruitful research conducted by schools of law. The quality and quantity of the research are what is required as it positively impacts on the pattern of legal education, the quality of law graduates, and national policies, plans and legislation.⁶⁴ It also contributes to a better understanding of the development of legal scholars who, without research, may be short of adequate knowledge to impart to law students as the standard of teaching is dependent on the amount of research work undertaken in schools of law.

The first step for schools of law is the preparation of textbooks and teaching materials based on the indigenous needs incorporating national perspectives, legislation, judicial decisions

⁶¹ Mooting and Advocacy Skills or Moot is mandatory course in all LEIs. The course tests the articulation skills of students through simulation of court scenarios and require a student to make oral presentation of their cases and respond to questions posed by panelists or 'judges' in a timely and prescribed manner.

⁶² The University Teaching Hospital has the required facilities; however, these do not adequately cater for the majority of persons that may need to be assessed. Further, the assessment centres are overwhelmed resulting in persons that are suspected of having a disability being enrolled into an institution without undergoing the required assessment.

⁶³ V Lawal 'Legal Research and Legal Education in Africa: The Challenge for Information Literacy' (2007) *Starr Workshop Papers* 5.

⁶⁴ S Dayal 'Dynamics of Development: Legal Education and Developing Countries' in Muna Ndulo (ed.) *Law in Zambia* (1984) 102.

and other writings in the related fields.⁶⁵ Most textbooks in libraries are done by foreign authors who base their writing on their jurisdiction which is not the same as Zambia. Where the research is done on Zambia and textbooks produced, this would gradually dispense with the prescription of textbooks written by foreign authors and enrich legal knowledge that currently exists locally. While research may be seen as a cost by an LEI, it actually aids the ranking of the institution on a global scale thereby increasing its visibility. It could also be a tool for income as the university would be able to attract funding thereby leading to better research. For instance, in South Africa, research outputs and publications entail more funding to a university by the State. The government could adopt a similar approach which could further enhance the quality of education. The effect also spirals to offer scholarships or research grants to students thereby further enhancing the research base of the institution.

2.12 *Legal Clinic*

A legal clinic is a tool that can be used to hone the advocacy skills of students given that the teaching of law may be in the abstract without much practicality. In a law clinic, a law student is expected to demonstrate the ability to function as a lawyer after going through the academic component of the programme and incrementally learning from experience, while carrying out simulated and real-life lawyering activities and services under the supervision of qualified lawyers.⁶⁶ The end product is a student who has been trained to become competent and community service conscious.

In Zambia, a legal clinic is limited to offering legal aid services to surrounded communities. It is managed by the students and without the close supervision of the institution.⁶⁷ Regrettably, training through legal clinics is not a priority of institutions. This is in stark contrast to countries like South Africa, Nigeria, Kenya, and Uganda that have embraced clinical legal education as a mode of blending practice and theory. Writing on South Africa, Du Plessis posits that a clinic must have a clear mission that integrates knowledge of the law and practical legal skills. The mission of the clinic is the foundation upon which the curriculum, teaching methods and assessment will be constructed.⁶⁸ If the clinic is not integrated into the core curriculum and teaching of law, it is vulnerable to being undermined due to ideological opposition and changing educational fashions.⁶⁹ The observation is correct considering that clinics established by local institutions are bereft of clear mission, proper rules, and effective procedures. The clinics are not part of the curriculum and run 'independently' by students

⁶⁵ As above.

⁶⁶ E Ojukwu, S Erugo and C Adekoya *Clinical Legal Education: Curriculum Lessons and Materials* (2013) 10.

⁶⁷ Currently, the University of Lusaka has a law clinic which was created in 2014. The University of Zambia had a Legal Clinic; however, it was shut down after it determined there was insufficient oversight to provide students with meaningful learning experiences. There is no plausible explanation for the non-establishment of legal clinics in other institutions.

⁶⁸ MA Du Plessis 'Clinical Legal Education Models: Recommended Assessment Regimes' (2015) 18 *PER/PELJ* 7 2781.

⁶⁹ J Hall and K Kerrigan 'Clinic and the Wider Law Curriculum' (2011) *IJCLE* 30.

which undermines their immense relevance. Institutions must review their curricula and processes to embrace and implement effective clinics whose foundation is the university curriculum. The Law Association of Zambia must consider licensing law clinics with a condition that students are under the tutelage of the advocate(s) cum lecturer.

ACCREDITATION OF LEGAL EDUCATION INSTITUTIONS

Accreditation is the evaluation and recognition of academic programmes to ensure that they meet the necessary quality requirements.⁷⁰ The rationale is to ensure that academic programmes meet the training standards. In Zambia, accreditation is fairly a new concept that was introduced in 2013. The principal regulator of institutions of learning is the Higher Education Authority (HEA) which accredits Higher Education Institutions (HEIs).⁷¹ In 2015, the ZIALE Act was amended to include the Accreditation Committee and Legal Education Institutions Regulations. These regulations require that Legal Education Institutions accredit their schools of law.

3.1 ZIALE Act (Accreditation of Legal Education Institutions), Regulations, 2015

Accreditation of schools of law is a fairly newer concept which was embraced in 2015. The concept, however, has existed for a long time in some parts of the world. For example, in the United States, the American Bar Association has been accrediting schools of law for over 100 years. In Africa, South Africa and Kenya have embraced the concept for several years now. In the case of Kenya, the Legal Education Act, 2012 enhances the Council of Legal Education (Accreditation of Legal Education Institutions) Regulations, 2009. Section 18 of the Act requires any person or institution offering or intending to offer legal education in Kenya to apply to the Council of Legal Education for accreditation of its Programmes.⁷² As for South Africa, there is no specific accreditation of legal education. The Bachelor of Laws programme is accredited by the Council of Higher Education, just like any other programme.

In Zambia, the ZIALE Act establishes the Council whose responsibility is, among others, to 'accredit law schools at private and public universities and set the criteria for accreditation.'⁷³ The Act establishes the Accreditation Committee whose function is to approve schools of law or such other institutions within or outside Zambia as schools whose training in law will be acceptable training for purposes of admission to the Institute.⁷⁴ The Committee consists of nine members namely a judge (as the Chairperson), a representative from Examinations

⁷⁰ Section 2, Higher Education Act, 2013.

⁷¹ This is notwithstanding the existence of other regulators such as the Technical Education, Vocational and Entrepreneurship Training Act, 1998 and Teaching Profession Act, 2013 which accredit or regulate within prescribes limits.

⁷² A perusal of this Act (especially the Third Schedule) shows similarity with the ZIALE (Accreditation of Legal Education Institutions) Regulations—accreditation requirements for both focus on the library, curriculum, infrastructure and other facilities. It is argued that, save for the change of phraseology, they are very much alike.

⁷³ Section 4(2)(e).

⁷⁴ Section 10(A)(3).

Council of Zambia, National Institute for Public Administration, Zambia Centre for Accountancy Studies, and Ministry responsible for education. Others are the Director of ZIALE (as an *ex-officio* member), a dean and one senior lecturer from the Law School of a public university, and private university.⁷⁵ The members of the Committee hold office for three years from the date of their appointment and are eligible for re-appointment for a further period of three years.⁷⁶

Unlike a dean and one senior lecturer from the Law School of a public or private university who have to be nominated by the Minister of Higher Education, this is not the case with a representative of the National Institute of Public Administration (NIPA) and the Zambia Centre for Accountancy Studies (ZCAS). This implies that, whereas the membership of a representative from NIPA and ZCAS is automatic, that of a public or private university is not as the persons are nominated by the Minister. In the absence of any one of the four members, accrediting of a LEI which should be part of the Committee but for the nomination thereof would raise serious concern given that the other three members are competitors. It could also be argued that, where all the four members are present, there is a possibility of colluding to avoid other LEI to be granted accreditation thereby eliminating possible competition. In order to avert such situations, the Regulations should specify how the applications should be reviewed and inspections are done. There should also be in place a mechanism that allows for the declaration of interest in cases where some of the members that would review applications by LEIs for accreditations are also providers of legal education.

The Regulations require an LEI to apply for accreditation to the Committee.⁷⁷ Where such application is made, the Committee shall evaluate the programme submitted within sixty days.⁷⁸ Where the LEI does not comply with the set requirements, the Committee shall reject the application and inform the applicant within seven days.⁷⁹ An applicant whose application is rejected may resubmit the application for re-evaluation by the Committee within ninety days.⁸⁰ The Committee, if it approves the application as meeting the set requirements, shall award a certificate which shall be valid for five years.⁸¹ The award of the certificate is evidence of accreditation and an LEI shall not alter an accredited programme *without* prior approval of

⁷⁵ Section 10(A)(1). The dean and one senior lecturer from the private and public university are nominated by the Minister responsible for education. Section 10(A)(2) requires the Vice-Chairperson to be elected by the members of the Committee from among their number.

⁷⁶ Section 10(A)(4). Section 10(A)(5) mandates the Council to remove a member if such is (a) absent without reasonable excuse from three consecutive meetings of the Committee of which the member has had notice; (b) ceases to hold the office by virtue of which the member was appointed; (c) adjudged bankrupt; (d) mentally or physically incapable of performing the duties of a member; (e) convicted of an offence under any written law and sentenced to imprisonment for a term of *six* months or more; or (f) declared to be of unsound mind.

⁷⁷ Regulation 5.

⁷⁸ Regulation 6(1).

⁷⁹ Regulation 5(3)(4).

⁸⁰ Regulation 7.

⁸¹ Regulation 8.

the Committee.⁸² During the accreditation process, a member of the Committee is not allowed to participate where such member is a 'dean of a legal education institution, member of staff of a faculty of a legal education institution or is otherwise connected to or interested in the affairs of the legal education institution that is subject of an application for accreditation.'⁸³ It is argued that the rationale for this is to avoid conflict of interest or bias in the evaluation process in circumstances where the dean or member of staff is participating in the accreditation evaluation of their university. Section 10A of the ZIALE Act enlists NIPA and ZCAS as members of the Committee. At the promulgation of the Regulations, the two institutions were not offering Bachelor of Laws degree, but now do following their declaration as universities. Whereas they may not *de jure* be excluded from participating in the evaluation process, they should be precluded from participating by good governance requirements of avoiding conflict of interest especially considering that their participation falls within the exclusion clause of 'interested in the affairs of the legal education institution that is subject of an application for accreditation.'

The Committee has authority to revoke accreditation given to an LEI and for this cause, must issue a notice of intention to revoke the accreditation.⁸⁴ The notice shall specify details of the failure to comply with the standards.⁸⁵ An institution that receives the notice shall remedy the failure within thirty days and make representations to the Committee.⁸⁶ Where the institution fails to remedy, the Committee *may* revoke the accreditation and publish the revocation in a daily newspaper of general circulation.⁸⁷ Where, however, the institution puts in place the necessary measures of compliance to the set requirements, the Committee shall cancel the notice of intention to revoke accreditation.⁸⁸

The Committee is reposed with the authority to order an LEI to discontinue providing legal education or training if the: (a) institution requests to discontinue the accredited programme; (b) Committee determines that the institution is no longer competent to offer legal education or training; (c) institution is served with a revocation order, and (d) institution is not accredited by the Council.⁸⁹ An institution which has been issued with an order of discontinuation is required to submit a discontinuation plan within sixty days of receipt of the order.⁹⁰ Once the order is approved, an institution shall not admit new students and shall

⁸² Regulation 10(1). This implies that an accredited programme can be altered albeit with the permission of the Committee. To alter an accredited programme, an application shall be made to the Committee which shall, within thirty days of receipt of the application, approve it if the proposed alteration meets the set requirements and thereafter, notify the legal education institution in writing— regulation 10(2)(3).

⁸³ Regulation 6(3).

⁸⁴ Regulation 12(1).

⁸⁵ Regulation 12(2).

⁸⁶ Regulation 12(3).

⁸⁷ Regulation 12(4)(6).

⁸⁸ Regulation 12(7).

⁸⁹ Regulation 14(1).

⁹⁰ Regulation 15(1). Regulation 15(2) that the plan, which must be submitted to the Council, to state the date on which the institution must discontinue providing legal education or training and shall be effective at the end of the academic year in which the order is issued.

assist its students to transfer to other accredited institutions for purposes of completing their programme.⁹¹

The establishment of the Committee provides a monitoring mechanism that would ultimately lead to the enhancement of the quality of legal education offered in LEIs. The Regulations set out the requirements for accreditation: proper physical facilities, adequate libraries that meet the international library standards, and adequate qualified academic and support staff. Where these are met, the Committee would grant accreditation to a LEI. While the Committee has prescribed requirements that institutions within Zambia should meet to have their schools of law approved, this is not the case for foreign ones which are merely recognised. The danger of the absence of explicit guidelines for recognition and whether such is equivalent to accreditation is a subjection of the process to the vagaries of the Committee such as a perusal of the statement of results of the student issued by a foreign institution. This has the potential to affect the quality, especially where the foreign institution is one which is unknown and/or whose training methods are unknown. Thus, there should be a clear and elaborate mechanism for scrutinising a foreign institution whose certificate is presented to ZIALE.

Accreditation sets the minimum standards that must be attained by a school of law. Where any school of law does not comply, the Committee is mandated to order such an institution to discontinue providing legal education on account of 'incompetence' to 'offer the legal education or training.'⁹² The measure of 'competence' is not easily ascertainable and may be subject to the Committee's opinion which may not always be entirely objective and may in some cases be incorrect. Besides clarifying the aspect of 'competence', the Regulations must be amended to declare that only law graduates from accredited institutions should be considered for attachment and/or potential employment.⁹³ This will certainly have a positive effect and enhance the quality of legal education and calibre of law graduate cum lawyers.

3.2 *Higher Education Act, 2013*

The Higher Education Act was enacted in 2013 to 'provide for quality assurance and quality promotion in higher education.'⁹⁴ It establishes the Higher Education Authority (HEA) whose responsibilities *inter alia* is to regulate higher education institutions and coordinate the development of higher education, promote quality assurance in higher education, audit the quality assurance mechanisms of higher education, and promote the access of students to

⁹¹ Regulation 15(3).

⁹² Reg. 14(b).

⁹³ Considering that currently, there is no Constitutional guarantee of the 'right to education', such an amendment would not raise constitutional debates.

⁹⁴ Preamble. According to section 2, a 'higher education' is a 'tertiary education leading to the qualification of a diploma, Bachelor's Degree, Master's Degree or Doctorate Degree.'

higher education institutions.⁹⁵ An institution is required under the Act to register with HEA.⁹⁶ Registration entails submission of the programmes offered by an institution which are verified and if deemed fit to be run, are approved and a certificate for accreditation given.

The requirement for accreditation of a higher education institution is mandatory except for institutions registered under the Technical Education, Vocational and Entrepreneurship Training Act, 1998, colleges of education accredited under the Teaching Profession Act, 2013 or those established by or under any written law.⁹⁷ The accreditation under the HEA poses two challenges: first, the exemption of institutions established by a statute; and second, the seeming conflict between the regulators. Regarding the first, LEIs that established by law such as ZCAS University, NIPA University, and the University of Zambia are exempt yet sit on the Accreditation Committee established under the ZIALE Act. This leads to a presumption that these institutions are the golden standards for legal education and as such immune from quality assurance processes. Whatever the reason for their exclusion, it is necessary that these institutions undergo a similar process if the quality of legal education is to be enhanced.

Pertaining to the second, the principal regulator for HEIs is the HEA. The ZIALE Act also requires that schools of law accredit their programmes as prescribed by the Accreditation of Legal Education Institutions Regulations. This means that, while the HEA accredits the law programme and the suitability of the HEI to offer it, the Accreditation Committee accredits the school of law. This raises two concerns: first, which one of the two regulators takes precedence over the other? This requires an answer as it would avoid a situation where an institution is fully compliant with one but deemed not to have met the requirements of the other; and second, ZIALE is an institute, which ordinary should be regulated by HEA and yet not, but why should it accredit a degree programme? While it may be argued that under the ZIALE Act, the concern is the school, there is no need for double accreditation of the same programme. This problem could be addressed through cautiously harmonizing the roles of the two regulators.

CONCLUSION

The success of the legal profession hinges partly on the quality of legal education provided. Legal education in Zambia has had its challenges leading to suggestions that there is a decline. In addressing the issue of legal standards and the supposed decline, one must consider whether the break of the UNZA Law School monopoly in legal education is a positive or negative phenomenon in the maintenance of the standard. It must also be considered whether there is a balance between the growing demands for lawyers in the country on the one hand and the relevance of the law curricula offered by LEIs on the other. While the break of the UNZA monopoly has led to a 'mushrooming' of other LEIs, this does not prima facie

⁹⁵ Section 6(1)(d)(e)(f)(h).

⁹⁶ Section 15.

⁹⁷ Section 3.

indicate a negative phenomenon. It has, however, exposed the numerous challenges that have engulfed the legal education in Zambia today. Mumba Malila augments that the number of entrants into law schools, quality of lecturing, availability of teaching materials, and why quality law lecturers remain in the diaspora must be considered in dealing with the supposed decline in standards of legal education 'otherwise we risk attempting to prescribe correct solutions after a wrong prognosis.'⁹⁸ While these issues may not be a sacrosanct indication of the decline in the standards of legal education so as to cause panic and alarm, the need to enhance the legal standards remain paramount.

The LEIs must ensure that the legal education provided is of high quality through, among others, retaining of qualified and competent lecturers, developing of appropriate curricula that encapsulate the growing demands of the country, and ensuring that lecturers retained publish scholarly works. Further, LEIs must take decisive steps to enhance the quality of their academic staff through continuous development, evaluation, and recruitment of senior scholars. While the minimum requirement for teaching law is a master's degree in law, deliberate actions to ensure that their lecturers attain doctoral degrees must be taken.

The infrastructure of LEIs must be adequate and embrace persons with disabilities. It is the responsibility of the institutions to create a learning environment by ensuring that they have sufficient space. It is unacceptable for LEIs to be located in a house or a few rooms without facilities such as a library, conveniences, office space, classroom etc. The regulators, HEA and Accreditation Committee, must deny or de-accredit such institutions that are not compliant.

The regulators, HEA and ZIALE, must have direct involvement in the manner in which institutions and schools of law operate. They must work together and synergise with institutions to ensure that LEIs perform to the expected capacity rather than militating against their growth and innovation. The legislators must harmonization of the role that the HEA plays and the mandate of the Accreditation Committee. This will avoid duplication of work that would result in double accreditation, something undesirable and laborious. Unfortunately, having been established in 2015, the Accreditation Committee is yet to be operationalized. It is advanced that the Committee be operationalized with haste.

⁹⁸ M Malila 'Address delivered by Mumba Malila SC at the National Colloquium on the Future of Legal Education in Zambia held at Holiday Inn Hotel, Lusaka, from 28–30 April 2008 on the theme *Training for Development: are lawyers staying in the Zambian public service?*' in M Malila *Imperfect Ruminations Rooted in Hope* (2016) 120.

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