



**LAW ASSOCIATION OF ZAMBIA
STAKEHOLDERS -SEMINAR PROGRAMME**

Venue: Fringilla Lodge, Chisamba-Zambia

Friday, 26th April, 2011

**SPEECH BY SOLICITOR GENERAL
Mr. Mybanga M. Kondolo**

President Law Association
Members of the Law Association
Honoured Guests
Ladies and Gentlemen

It is my pleasure to be here today at this stakeholders seminar focusing on access to justice and legal aid.

These are important cornerstones of a democratic society. At the recent SADC meeting in Livingstone attended by heads of states, his Excellency the President of Zambia pointed to the upheavals in the Northern part of this continent and used this as the basis to stress the need to respect human rights and the rule of law.

I believe the unrest that started in Northern Africa earlier in the year and quickly spread to other countries in the Arab world has taken us all by surprise. And imagine that it all started with a young boy in Tunisia who was not allowed to sell his products at the market or on the street and who then made the ultimate sacrifice and set fire to himself because he had no way of making a living and no where to take his grievances.

Ladies and Gentlemen,

What kind of message does that send? Well, it has certainly shaken the leaders of autocratic societies. And it may very well pave the way for a new revival of democracy as the least bad way of organizing society, just as it was the case after the fall of the Berlin wall in 1989.

Now what are these concepts of “access to justice” and “rule of law” that we frequently refer to but rarely stop to consider the implications of?

Well, in my view the overall rationale for paying attention to access to justice and the rule of law in Zambia – just as in any other country - is the strong linkage between good governance, democracy, safety of people, security of goods and access to justice on the one hand and poverty reduction on the other. This is because a fair and predictable justice delivery system creates the preconditions for economic agents to engage in

production, trade and investment, thereby expanding poor people's employment opportunities and income. However, an effective and efficient justice delivery system may not necessarily be geared towards protecting the interests of the poor. Legal systems are the product of power relations and typically focus on protecting the interests of those with political strength and representation. So even if the legal system is well run, poor people may very well face difficulties in accessing it.

Ladies and Gentlemen,

Access to justice in real terms must therefore be assessed on different levels, including:

Effectiveness and efficiency of justice delivery agencies – this relates to the capacity of the agencies to deliver quality services within a reasonable period of time

Physical access – how close the users are to law enforcement agencies

Access in financial terms – how affordable legal services are to the users

Access in technical terms – how comfortable users are with the legal language and procedural requirements. This also relates to the treatment of users by the law enforcement personnel as well as their representation by experts in law and its techniques and their ability to afford them, i.e. cost.

Ladies and Gentlemen,

There is a dynamic relationship between the four. How close or far the law enforcement institution is from the user becomes irrelevant if it is too expensive for them to utilise it in terms of fees or too slow and cumbersome. On the other hand, effective, efficient and affordable law enforcement institutions that are too far from the users also constitute a constraint to access. Furthermore, if the process of accessing justice through law enforcement institutions is too slow or technically complex for the user, it will inhibit the initiative of prospective users regardless of how affordable and physically accessible they are.

Access to justice is a service and like any other service it needs to be delivered effectively and efficiently. Government institutions are delivering this service both in relation to criminal justice and civil justice, commercial justice and administrative justice. But we in government have to recognize that the institutions that have been established with the responsibility to deliver services in these areas are not always able to do so to the expectations of the people who are demanding these services.

It is a challenge to strike a balance between the supply and demand side of access to justice and rule of law issues.

Ladies and Gentlemen,

To address this challenge we have been working in government and through programmes like the access to justice programme to strengthen coordination and communication between the government agencies involved in criminal justice such as

the Police, LAB, DPP, Judiciary and Prisons. There are very positive signs of improved performance and improved working relationships between these agencies both on a national level with structures in place for the design and implementation of agreed and prioritized activities and at the policy level for decision making and direction and at the local level with the establishment of so called CCCI chapters in five areas (Livingstone, Lusaka, Kabwe, Ndola and Kitwe). These are Initiatives for improved Communication, Coordination and Co-operation between the criminal justice agencies representing the supply side.

But gradually, as this concept of the three C's is taking root, opportunities for establishing linkages to civil society representing the demand side of justice delivery are also being recognized.

As a step towards increased dialogue between the formal justice sector representing the supply side of service delivery and civil society organisations representing the demand side, a mapping of legal aid service providers has been undertaken. The aim of this initiative has been to look into the possibility of establishing a network of legal aid service providers who might then be in a stronger position to enter into a fruitful dialogue with the formal Access to Justice Sector with its agreed structures at both national and local levels. AtoJ has worked closely with the existing Paralegal Advisory Network (PAN) and the Law Association Zambia (LAZ) in this regard. The mapping exercise has led to agreement to develop a legal aid policy. But not just a legal aid policy as defined by GRZ through the LAB, but a broad based legal aid policy that also takes into consideration the perspective of civil society based legal aid service providers and LAZ.

Ladies and Gentlemen,

The legal aid baseline survey that has been completed - and that is presented today – will provide input to this legal aid policy just as a comprehensive Access to Justice Situation Analysis conducted by the Access to Justice Programme will do.

So, I see strong indications of opportunities being developed for a closer working relationship between all players involved in justice delivery whether state or non-state.

I am extremely encouraged by these initiatives and opportunities not only because I believe in them but also more fundamentally because they are necessary to avoid the kind of unrest we are seeing in the Northern part of the continent at the moment.

Ladies and Gentlemen,

I wish you every success with your conference. I trust your deliberations are useful and positive outcomes are achieved.

Thank you for listening.