

“NAMING AND SHAMING AS AN EFFECTIVE TOOL TO CURBING SEXUAL HARASSMENT IN THE MALAWI PUBLIC SERVICE”

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OVERVIEW

Preliminary Observations

Sexual harassment is defined as, “any form of unwanted verbal, non verbal or physical conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated” (S6 Gender Equality Act, 2013 (GEA)).

OVERVIEW

Sexual Harassment as an Offence

“A person who sexually harasses another ...commits an offence and is liable to a fine of one million kwacha (MK1 000 000-00) (equivalent of USD1337) and to a term of imprisonment for five (5) years”.(S6(2) GEA)

OVERVIEW

Government Policy on Sexual Harassment

“The Government shall take active measures to ensure that employers have developed and are implementing appropriate policy and procedures aimed at eliminating sexual harassment in the workplace” (S7 GEA)

OVERVIEW

Policy and Procedures

- a) Entitle all persons who have been subjected to sexual harassment in the workplace to raise a grievance about its occurrence and be guaranteed that appropriate disciplinary action shall be taken against perpetrators;

- a) Entitle a non-employee who has been subjected to sexual harassment to lodge a grievance with the employer of the perpetrator where the conduct giving rise to the complaint has taken place at the workplace or in the course of the perpetrator's employment; (S7 (1(a) and (b) GEA)

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Prosecution of Sexual Harassment

“ A person who has been subjected to sexual harassment need not have exhausted internal sexual harassment procedures before prosecution of the offence can be commenced or civil proceedings can be instituted”. (S7(2) GEA)

OVERVIEW

Sample of Prosecuted Cases

1. Nazombe v Malawi Electoral Commission
2. Chinkondenji v Malawi Stock Exchange
3. Kamkosi v Office of the Ombudsman

Verdict

Court found for the lady claimants
Ordered their reinstatement

OVERVIEW

How decided Cases can be Used to Curb Sexual Harassment and Sex Discrimination

1. Principles may inform content of future legislation
2. Principles may guide national policy
3. Principles may form precedent (authority)
4. Principles may guide public awareness content
5. The cases may be published to name and shame perpetrators e.t.c

OVERVIEW

Naming and Shaming

Act of publicly identifying persons that are either arrestees, suspects or offenders in sexual harassment/ sex discrimination complaints. The publicity achieves the objective of shaming, reprimanding, reproaching, censuring, controlling, influencing and supervising the identified individuals. The associated stigma often deters the offender and would be offenders from reoffending or committing similar offence.

OVERVIEW

Basis of Naming and Shaming

1. Not legally recognized
2. No national policy

BUT

The Constitution of the Republic of Malawi provides that the “State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals-

- (a) Gender equality: To obtain gender equality for women with men through-
 - (i) Full participation of women in all spheres of Malawian society on the basis of equality with men
 - (ii) The implementation of the principles of non-discrimination and such **OTHER MEASURES**’ as may be required; ...”(author’s emphasis)(S13 (a) and

THE SOCIETY HAS **ACCEPTED and EMBRACED** THE CONCEPT OF NAMING AND SHAMING

OVERVIEW

Why Naming and Shaming is more Effective in the Malawi Context

1. Swift result;
2. Cheaper than other modes of sanctions;
3. Communication easier (mass publication, etc.);
4. Understanding easier (local languages, etc.)
5. Information easily accessible (community radios and newspapers, etc.)
6. Punishment in-escapable (the public shame)
7. Government resources saved (time in court, processes and imprisonment etc.)
8. Public money saved in payouts in damages and costs of litigation.
Etc

OVERVIEW

Naming and Shaming **in Action**

THE NATION

BUSINESS NEWS

MONDAY, 9 APRIL 2018



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Zambia's 'unknown' debts face scrutiny

Zambia is facing tough questions over its foreign debt levels from investors who think the real number may be more than double what the government indicates it to be.

Lenders, including Nomura Holdings Inc., believe the State has not come completely clean on how much external borrowing it has undertaken.

This is raising concern the southern African nation may be headed for a similar situation

to neighbouring Mozambique, where hidden debts led to default and the government is seeking to restructure.

"Zambia is in somewhat of a serious predicament of having politically-connected additional 'unknown' loans," Peter Attard Montalto, head of emerging Europe, Middle East and Africa economics at Nomura International in London, said in an e-mailed note.

"The hidden loan problem, in

our view, is likely one of short-term external debt that is at least as big as known external loans and external bonds combined."

For Zambia, Africa's second biggest copper producer, external debt is key. It is been the main stumbling block in sealing a \$1.3 billion loan from the International Monetary Fund (IMF) it needs to bolster foreign exchange reserves that fell to a seven-year low in November.

The government has been on

an infrastructure spending spree over the past five years.

That has seen external loans soar to \$8.7 billion at the end of December from \$2 billion in 2011.

The government wants to restructure Chinese State-backed loans, and now also wants to "reprofile" the \$3 billion in Eurobonds it borrowed between 2012 and 2015, Finance Minister Margaret Mwanakatwe told reporters in Lusaka, the capital.

— BLOOMBERG



PHOTOGRAPH: BLOOMBERG

Zambia to restructure loans: Mwanakatwe:

PENSIONS: RBM TO NAME AND SHAME DEFAULTERS

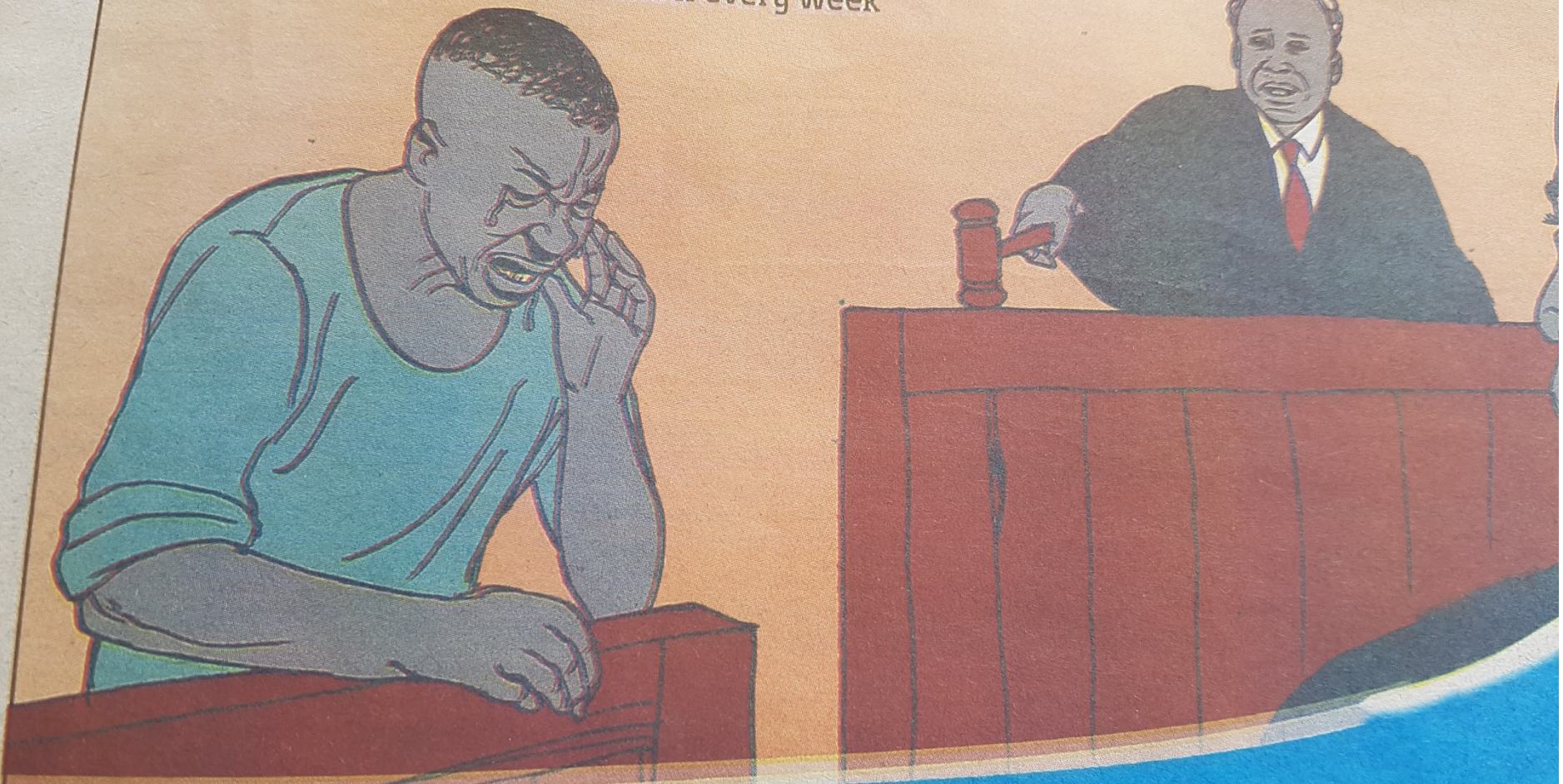
JOHN KASALIKA
STAFF WRITER

ZIM wants mining firms to list

Zimbabwe wants mining companies operating in the country to list the majority of their shares on the local exchange, stirring uncertainty among investors as it seeks to attract the world's biggest

IN THE COURTROOM

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Court coverage is not just about Cashgate and other high profile cases. For a different court room experience that includes surreal life of marriage and societal challenges, lookout for the fully dedicated page that caters for interesting but often underreported matters in court.

More than just news

Husband sentenced to 36 months for burning house

EDWARD KABANGO
CORRESPONDENT

The Mtakatika Second Grade Magistrate's Court in Dedza has sentenced a man to 36 months imprisonment for setting a house on fire after he was reprimanded by his wife for stealing her wrappers.

State prosecutor Sergeant Clement Amiel told the court that Hanswell Chiyabwe, 34, stole four wrappers (tenje) belonging to his wife, Alekissina Pasikaziyo, on April 1 this year and was seen by a relative who revealed what happened.

"When Chiyabwe returned home, his wife confronted him

about the missing wrappers but he so was angry to the extent of setting ablaze the family house," Amiel told the court.

People rushed to the scene to help put off the fire but Chiyabwe armed with a panga knife chased everyone until the house was completely burnt to ashes. Properties worth K80 000 were

burnt in the inferno.

Chiyabwe was arrested and charged with the offence of arson to which he pleaded guilty. In mitigation, he asked the court for leniency saying he has a family that looks up to him for support but passing sentence magistrate Felix Phayisa said Chiyabwe needed a stiff punishment since all the

household items were burnt.

He further said if he cared about his family he could not have burnt the house. He said the sentence should be a warning to other would-be offenders.

Both Chiyabwe and his wife come from Njolo Village in the area of Traditional Authority Kachindamoto in Dedza. ■



Possessing illegal currency lands man in court

PETER CHIPANGA
CORRESPONDENT

The Mwanza First Grade Magistrate's Court on April 20 2018 convicted Jafali Juju Ahmed on his own plea of guilty to the charge of illegal possession of foreign currency contrary to Section 25(1)(5) of the Exchange Control Act.

Jafali, 32, was arrested on April 18 2018 at Mwanza Border Post after he was found with 7 500 South African rands without proper documents.

In mitigation, Jafali asked for leniency as he was a first offender and did not waste the court's time by pleading guilty in the first place.

However, the State prosecutor Dovico Makawa asked the court to give the convict a meaningful sentence to deter others, saying the conduct is common along the borders and needs to be checked.

In his determination, magistrate Ranwell Mangazi ordered Juju to pay a fine of K30 000 or in default serve a six months jail term.

Juju, who comes from Mselema village in Traditional Authority Kapoloma in Machinga, paid the fine, and walked free. ■

Four 'bloodsucker' suspects plead not guilty

PATRICK LUNDA
CORRESPONDENT

Four murder suspects in Thyolo have pleaded not guilty to allegedly killing an identified person suspected of being a blood sucker in the district.

The four suspects Joseph Chaka aged 22, Wonderford Hamilton, 37, Rayo Kadulira, 41 and Masutsio Masiba aged 27, all from Khamomera Village in Traditional Authority (T/A) Isabwe in Thyolo appeared before Thyolo Magistrate Court

on April 20 to take plea of the murder charge committed on November 4 last year.

But the four pleaded not guilty before Thyolo second grade magistrate Mtunduwatha Mpasu when the charged were read out to them.

Thyolo Police Station-based State prosecutor Rachel Namwada told the court that the four suspects allegedly murdered a mentally disturbed person suspected to be a blood sucker.

Mwamada said the four were arrested after Police investigations and were brought

to the court to understand the reasons for their arrest.

Magistrate Mpasu said the case would be committed to the High Court as Magistrate Courts have no power to handle murder cases.

"Magistrate courts have no jurisdiction over murder cases. My duty is to commit the case to the High Court and you shall be on remand until the High Court determines this case."

Thyolo district alongside Chiradzulu, Blantyre, Mulanje, Phalombe experienced the barbaric killings of innocent people in the Southern Region

suspected to blood suckers.

At least nine people were killed as tension and anxiety reigned in the districts especially in the rural areas as people were up in arms to execute mob justice on innocent people including tourists, volunteer workers and expatriates.

The situation was brought under control after government enforced security after President Peter Mutharika called for stiffer punishment for the suspects.

Mutharika said blood sucker allegations were baseless and a myth. ■

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