

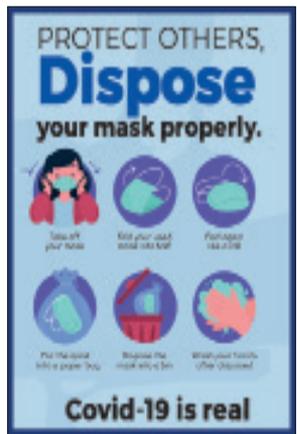
Munlo laid to rest at Chigodi

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Deborah Mbale – Inspiring women and girls

—EveryWoman



Chakwera sustains AIP beneficiaries



PHOTOGRAPH: NATION

Flashback: Small-scale farmers queue to buy farm inputs under AIP

CLEMENT CHINOKO, NEWS ANALYST

President Lazarus Chakwera has reversed Ministry of Agriculture’s decision to reduce the number of Affordable Inputs Programme (AIP) beneficiaries this year, a move that drew mixed reactions from farmers, economic and agriculture analysts.

The President reversed the ministry’s decision in a national address monitored on public broadcaster Malawi Broadcasting Corporation yesterday.

“I will not allow anyone to remove any family or village from the list of beneficiaries of the cheap fertiliser. *Kumeneko ndikutengera boma kuntoso ngati nyama ya galu* (that is taking government for granted),” he said, seemingly distancing himself from the ministry’s decision.

Last month, the ministry announced a reduction of beneficiaries to 2.7 million from 3.7 million.

In a letter to district commissioners, Secretary for Irrigation Sandram Maweru said the decision has been arrived at “due to financial constraints and rising of prices of

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LEGAL AID, MLS TUSSLE

- Bureau wants paralegals to represent clients in court
- MLS fears this would lower legal practice standards

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More than just news



NATION on SUNDAY

COMMENT

All citizens should have access to justice

Legal aid is about providing assistance to citizens who cannot afford legal expenses at any stage of judicial proceedings. The Malawi Constitution, like those of many countries in the world, recognises the concept of equality before the law. This means all citizens—rich or poor, young or old, male or female—are equal before the law and are entitled to equal protection of law.

However, constitutional provisions such as the rule of law, equality and human rights can be frustrated when poverty becomes a barrier to accessing one's legal rights. Hence, the Legal Aid Bureau Act was adopted with the aim of ensuring access to justice and representation before the courts for the poor.

Unfortunately, the Legal Aid Bureau realised that their services have some limitations, especially regarding efficient representation of those seeking justice through the bureau. It thus made a proposal to have the Act amended to allow legal aid assistants to represent the poor, often rural-based and marginalised Malawians that require its services.

It is, therefore, disappointing that the Malawi Law Society is against this proposal, claiming it will compromise the country's legal standards.

We commend the Legal Aid Bureau for pledging to continue pushing for the amendment of the Act in the interest of the disadvantaged in our society.

One of the reasons for limited access to the country's formal justice system is the high legal fees charged by commercial lawyers. With over 70 percent of the country's citizens being poor, it means commercial lawyers remain the preserve of the rich and privileged in cities.

If paralegals are not allowed to defend the poor in magistrate courts, how do we fulfil the constitutional right to a fair trial. Surely, we cannot expect the poor, who have no knowledge of the law, to defend themselves without legal representation. The Law Society needs to realise its role in addressing the chronic neglect of this fundamental right of the majority poor citizens of the country.

An efficient legal aid system can significantly help improve access of the poor and vulnerable to justice, and reduce legal exclusion. We expect stakeholders in the legal system, including the Law Society, to play an important role in taking forward the legal aid culture of Malawi. Their consolidated efforts can effectively ensure access to justice for all, the poor as well as the rich. ■

FRANK NAMANGALE
NEWS ANALYST

Malawi Law Society (MLS) has objected to a Legal Aid Bureau proposal to have its Act amended to allow paralegals represent clients in magistrate courts as it would compromise legal standards in the country.

But the bureau's director Masautso Chamkakala has argued that MLS objection is premised on inaccurate information, saying the bureau will continue pushing for the amendment to the Legal Aid Bureau Act.

In a proposal addressed to the Legal Affairs Committee of Parliament dated April 7 2021, the bureau wants limited right of audience for legal aid assistants, popularly known

as paralegals, in particular in subordinate courts that deal with matters that are within their competence levels.

The bureau argues that most criminal matters in subordinate courts are prosecuted by non-legal practitioners who do not even possess the minimum legal qualifications that legal aid assistants have.

Paralegals are those with a certificate or diploma in law and in some cases, degree holders that are not admitted to the bar.

Reads the proposal in part: "[These are] courts which are largely manned by judicial

Vehicle tax evasion haunts institutions

CLEMENT CHINOKO
NEWS ANALYST

Tax evasion syndicates have driven some institutions and individuals on the verge of losing multimillion kwacha vehicles they purchased on the black market with the belief that import duty was paid, *Nation on Sunday* has established.

Chibuku Products Limited, Civil Society Education Coalition (Csec) and Senior Chief Malemia of Nsanje have confirmed in separate interviews that they are among the owners of 174 vehicles Malawi Revenue Authority (MRA) has put up for auction between this month and September.

The unsuspecting victims only learnt that the first owners evaded duty after the Malawi Revenue Authority (MRA) impounded the vehicles.

Despite evading duty, the fraudsters managed to secure dubious tax payment documents to fool the Directorate of Road Traffic and Safety Services (DTRSS) to register the vehicles.

Like in a movie, the vehicle dealers cannot be traced and the new owners are battling with tax authorities who are demanding millions of kwacha as duty and penalties for tax law violations.



Malemia: I appealed but nothing changed

In response to a questionnaire on Monday, Chibuku business development, corporate and legal affairs manager Gloria Zimba said they bought two vehicles in 2018 and the owner provided all documents to prove that all due processes to import and register the vehicles were followed.

The vehicles bought at

We bought two vehicles in 2018 and the owner provided all documents to prove that all due processes to import and register the vehicles were followed

K15 million each were a Toyota Hilux registration DA 3103 and a Mazda Double Cabin registration CP 5679.

She explained: "Indeed, we had bought the vehicles for our managers in September 2018. We made all the payment transactions through the bank on trust that these vehicles indeed had duty fully paid."



Makwecha: We are still investigating

Nearly a year later, Zimba said MRA wrote her company demanding K33 million as duty and penalties.

"In June 2019, we got a letter from MRA demanding duty of K25 million plus penalty of K7.9 million. We appealed against this to MRA. On the appeal response, only the penalty was waived," she said.

Zimba blamed the scam on MRA and DTRSS for not setting up robust systems to wade off fraudsters.

She said: "We feel the system was loose as [the man who sold us the

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Law Society rejects Legal Aid proposal



Chamkakala: We will keep on pushing

officers that possess the same legal qualifications as legal aid assistants."

Currently, legal aid assistants are not allowed to undertake legal representation even in situations where the case is being prosecuted by a lay magistrate.

The bureau, in the proposal, says it has 35 legal aid assistants who offer legal support to the needy, 20 State advocates (prosecutors), 419 Malawi Police Service prosecutors and five prosecutors at Anti-Corruption Bureau (ACB).

But MLS, in a response addressed to the Legal Aid Bureau dated June 14 2021, copied to all the stakeholders the bureau copied its proposal

to, says it does not support the idea of amending Section 14 of the Legal Aid Bureau Act.

Reads the MLS letter in part: "The society's appreciation of the Legal Aid Bureau situation is that it is facing capacity challenges to an increased case load. In terms of Section 4 and 31 cited earlier, the technical expertise required to handle the load before courts is that of legal practitioners. This technical standard must not be compromised because of current operational challenges.

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MRA speaks on vehicle tax evasion

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vehicle] was able to have all vehicle sale documents, including blue books, change of ownership, clearance with the aid of internal parties at both MRA and Road Traffic Directorate.”

Zimba explained that they commenced a legal case against the seller, but he disappeared after

a warrant of arrest was issued against him.

On his part, Csec executive director Benedicto Kondowe explained that their car in question, a Toyota Hilux, was confiscated after MRA discovered that duty was not paid when it was imported.

He said in an interview: “A certain donor gave us money to

buy an already registered vehicle. We found one and we bought it. Four years later, MRA confiscated it, saying it evaded tax.

“We were innocent buyers and did not commit any crime. Our expectation was that MRA will take to task the first owner and not us. The duty is just excessive so we won’t bother redeeming it.”

Senior Chief Malemia told

Nation on Sunday that he bought a Mitsubishi Hover from someone within the country and he was told that he has to pay K2 million as duty which after negotiations was reduced to K1 million.

He explained: “I used it for eight years before it was impounded on grounds that duty was not paid.”

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Legal Aid, MLS scuffle over Act

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“There is a growing number of legal practitioners being admitted to the Malawi Bar. The trend is likely to grow, given the disbandment of the University of Malawi by which we understand, more universities will be offering [law] degrees.”

MLS argues that it is not prudent to lower standards for legal representation of legally aided persons by allowing less qualified persons to represent them in court.

Argues the society further: “It is the considered view of the Law Society that...given the state of affairs as Legal Aid Bureau, the best is to prepare the Legal Aid Bureau to accommodate and retain as many legal practitioners as possible by making the terms and conditions of service competitive.

“The social status of the needy should not be entrenched by offering them, in the name of legal aid, less than the technical standard prescribed by the regulating right of audience before courts in the country.”

MLS president Patrick Mpaka, a signatory to the response, said in an interview the society maintains its position, arguing they cannot lower legal standards when locally and internationally there are always calls to up standards of legal practice.

But in a separate interview on Friday, Chamkakala said MLS’s stance was premised on inaccurate information, including assumptions that the development would lower standards and that the legal aid assistants would ‘eat’ into the market for legal practitioners.

He said their proposal has the backing of the Ministry of Justice, Judiciary and the Legal Affairs Committee of Parliament.

The bureau, in its proposal to the Legal Affairs Committee of Parliament, argues that if it were to be true of legal aid assistants [not being competent] then, no lay prosecutor should be allowed to prosecute nor should a lay magistrate preside over any matter as they would all not provide a service to the standard of a legal practitioner.

The bureau argues in the proposal: “Secondly, it has

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Munlo laid to rest

FRANK NAMANGALE
NEWS ANALYST

Scores of people descended on Chigodi on the outskirts of Blantyre yesterday to pay their last respects to former Chief Justice Lovemore Munlo, who was buried with full military honours.

High Court judges and justices of Appeal, led by Chief Justice Andrew Nyirenda, came out in large numbers to bid farewell to their fallen colleague.

Minister of Justice and Constitutional Affairs Titus Mvalo represented President Lazarus Chakwera while Brigadier General Vincent Moyo, who is 93 Brigade Commander, represented Commander General Vincent Nundwe.

Munlo died at Queen Elizabeth Central Hospital Thursday, just over a week after the death of his brother Mbuya Isaac Munlo, a former Ministry of Foreign Affairs principal secretary, at the same hospital.

Chakwera ordered that the former Chief Justice be buried with full military honours, a rare feat accorded to uniformed military persons or, at the pleasure of the President, to private individuals who have served their nation diligently.

In his eulogy, Nyirenda said Munlo had a long and illustrious career prior to his appointment as Chief Justice, serving with



PHOTOGRAPH: ABEL IKILONI, MALAWI NEWS AGENCY

Munlo was buried with military honours

remarkable distinction in various high profile positions both locally and internationally.

He said: “He goes as a friend, wonderful colleague and a truly fallen hero. Our nation has lost a true and distinguished son of the soil.”

On his part, Mvalo described Munlo as an iconic person who provided excellent services beyond his profession.

Blantyre Synod General Secretary, Billy Gama described Munlo as a person who put God

first and served God in many ways.

During his career, Munlo served as minister of Justice and attorney general in 1993 and 1994, a time when the country was transitioning into a democracy after Malawians voted against the then one-party regime of Malawi Congress Party.

He also worked as deputy minister of External Affairs (1992 to 1993); High Court judge (1990 to 1992); director of public prosecutions (1984 to 1987);

senior State advocate (1980 to 1984); and State advocate (1976 to 1980). He was appointed Chief Justice in 2008, and served in that capacity until 2013.

Among other international positions, Munlo worked as registrar at the United Nations International Criminal Tribunal in Rwanda until 2007.

Munlo obtained an honours in Law from the University of Malawi and a master of Law from the University of London in 1989.

He was 71. ■

Govt retains AIP beneficiaries at 3.5m

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fertiliser”.

But the President said he will not allow that to happen as he holds farmers in high esteem and would deal with anyone abusing them.

The President also took a swipe at agro-dealers for hiking prices of fertilisers from about K20 000 to K30 000 a 50 kilogramme bag.

Meanwhile, Farmers Union of Malawi chief executive officer Jacob Nyirongo has welcomed the decision to maintain the number

of beneficiaries.

“Sustaining last year’s beneficiaries is a good move and we really appreciate the President’s stand. Our concern, however, is that government is focusing on maize only. Our wish is that it should be extended to legumes because these crops have nutrition and economic benefits.”

“As farmers, we are confused. Did the President approve the decision to reduce the beneficiaries or not? We are surprised because the President spoke as if he was not part of the

decision,” observed Nyirongo.

Government has this year reduced the budget allocation for AIP to K140.2 billion from K160 billion in the 2020/21 National Budget.

Meanwhile, economic expert Tobias Milwad in an interview yesterday said maintaining the 3.7 million may result in government raising its debts.”

AIP—a social facility that allows needy farmers to buy farm inputs at subsidised prices—is Tonse Alliance flagship election campaign promise. ■



PHOTOGRAPH: NATION

Nyirongo: Extend AIP to legumes

MRA speaks on impounded vehicles

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However, MRA head of corporate affairs Steven Kapoloma in an interview on Thursday blamed the buyers for purchasing “dubiously-cleared vehicles”, saying they did not consult the tax authorities to verify if the vehicles were in their system.

He said most of the people who evaded tax started selling the vehicles after MRA integrated its system with that of DTRSS in which all vehicles were expected to be checked in the

MRA system before they get certificates of fitness and other traffic documents.

Kapoloma dismissed allegations that MRA staff might have been part of the syndicate that was issuing fake duty clearances, saying it was done by outsiders.

“Unfortunately, some Road Traffic officials could not differentiate between fake and real duty clearances. So, they ended up registering these vehicles. But with the current system, we will not have such incidents again,” said Kapoloma.

In a separate interview, DRTSS spokesperson Angelina Makwecha said they were still investigating the matter.

MRA’s auction notice posted on its website said the vehicles being sold are those that have overstayed and whose owners have failed to pay duty.

The tax authority is “poised to recover due tax revenues as well as ensuring that MRA stations are not congested with uncleared goods and vehicles which creates space challenges for new imports.” ■



PHOTOGRAPH: NATION

Kapoloma: Verify vehicles with MRA

Legal Aid wants paralegals to represent clients in court

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been argued that allowing paralegals generally and legal aid assistants specifically would ‘eat’ into the market for legal practitioners. This argument lacks understanding of what market the proposal is focusing on.

“As statistics will show, these are matters that are hardly attended to by legal practitioners across the country. The bureau’s service is to the people who cannot afford a private legal practitioner. The bureau attends to people that would, otherwise, be without legal representation.”

Meanwhile, outgoing Legal Affairs Committee of Parliament chairperson Yusuf Nthenda said the Legal Aid Bureau has a valid proposal to fight for legal aid assistants’ right to audience in subordinate courts.

In an interview Friday, he said there have been several consultative meetings on the matter with Malawi Institute of Legal Education and other stakeholders.

Said Nthenda: “What the bureau is asking for is limited audience in the subordinate courts where cases are presided over by lay or graded magistrates. The system we have is too rigid. On August 26 2021, we have another meeting with the Solicitor General and obviously, we will have time to discuss this issue further.”

He has since been replaced by Peter Dimba as chairperson of the Legal Affairs Committee.

The Legal Aid Bureau has 35 legal aid assistants who support 25 lawyers. The 35 are not allowed to represent clients--a situation they describe as unfair, especially because the Malawi Police Service, Office of the Director of Public Prosecutions and the Anti-Corruption Bureau have paralegals with limited right of audience.

Malawi has about 500 practising lawyers and due to high poverty levels, not many citizens can afford a commercial lawyer for representation. The Legal Aid Bureau, therefore, provides free services to ensure poor citizens have access to justice. ■

Govt intervenes in MHC tenants’ eviction

LUCKY MKANDAWIRE
NEWS ANALYST

Government yesterday intervened in the eviction of over 15 families from houses that Malawi Housing Corporation (MHC) constructed on privately-owned land at Ngumbe in Blantyre.

The MHC tenants were on Friday given up to 9am yesterday to vacate the houses after the land owners, Costas and Samantha Scordis, obtained a High Court order restraining any activity on the land, including occupancy of the houses.

But yesterday morning two Cabinet ministers and a deputy minister rushed to the area to stop the process before MHC obtained an order varying the injunction obtained by the Scordis family.

First to visit the disgruntled tenants was Deputy Minister of Lands Abida Mia who arrived at the place at 7.40am and assured them that they would not be kicked out of the houses because government was handling the matter.

Said Mia: “Do not panic. Be assured that you will not be evicted from the houses so keep on staying in them because government is looking into the issue.”

After an hour and a half, Minister of Lands Kezzie Msukwa and his Homeland Security counterpart Richard Chimwendo Banda turned up with the same message, saying the matter was being settled amicably between the parties.

Said Msukwa: “I am aware that laws are applicable in this country so I ensured that, without



PHOTOGRAPH: LUCKY MKANDAWIRE

Abida Mia (R) addressing some of the tenants

necessarily having to be against the law, last night I engaged the lawyer who served you with the notice to vacate the houses to come to an amicable solution not a legal solution. We agreed that the eviction should be withheld until we conclude the discussions.”

Briefing journalists after addressing the MHC tenants, Msukwa said government, MHC and representative of the Scordis family would continue discussing the issue within the week.

On his part, Chimwendo Banda ordered the police to no longer go to the area, saying it was strange that they were involved in the service of the court order on the tenants.

Several tenants described the manner in which they were treated as “harsh, cruel and

inhumane”, saying their rights were violated.

In an interview, Phokoso confirmed discussing the issue with government saying “whatever happened is what was agreed by the parties”.

Said the lawyer: “I spoke to the Minister of Lands, Deputy Minister of Lands and the Minister of Justice Titus Mvalo and it was agreed that the matters be settled out of court within the next 14 days.

“Further, we agreed the current tenants and occupants remain on the land as discussions are ongoing and that Malawi Housing Corporation obtains a variation order in court allowing the tenants on the ground to remain.”

Later yesterday, MHC obtained the order directing that an interim order of injunction obtained by

Phokoso be varied without the claimant to vacate MHC tenants.

The Scordis family claims it owns the freehold land and had been using it under Chitseko Estate and also Kuseli Kumvenji Estate for several years.

Before constructing the houses, MHC management is said to have ignored a professional advice against proceeding with the project due to the ownership issues and that is what compelled the Scordis family to drag it to court in 2018 demanding a permanent injunctive order stopping it and its agents from claiming ownership of the land, trespassing and encroachment and building of houses.

The family further demanded MHC and its agents to remove any structures built on the 53-hectare land. ■