

A PAPER ON DEVELOPING AND STRENGTHENING
VIALE SOLO PRACTICE

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DEVELOPING AND STRENGTHENING VIABLE SOLO PRACTICE

CHAPTER I:

1.0 INTRODUCTION

This presentation by its very nature is basically a practical experience with some theoretical perspectives. It comprises both domestic and international approaches by way of drawing practical experiences.

The presentation constitutes of four chapters. Chapter one is introduction, chapter two seeks to lay a legal foundation and mandate of who is an Advocate in a Tanzanian legal context, scope of operation and his/her day to day challenges coming into his/her way in undertaking his professional legal duties.

Chapter three seeks to deal with the practical aspect of a solo practice and the necessary principles to be observed for one to be able to build and sustain a successful solo practice.

Chapter four is a conclusion which basically summarizes the principles to be strictly followed when one is building a solo practice, how to handle clients and how to strengthen a sustainable solo legal practice.

CHAPTER II:

2.0 LEGAL FOUNDATION OF LAW PRACTICE IN TANZANIA.

Legal practice by an advocate is regulated by the **Advocates Act, Cap 341 R.E 2002** (hereinafter to be referred to as the Advocates Act).

In terms of Section 2 of the **Advocates Act**, an Advocate is defined to mean any person whose name is duly entered as an advocate upon the Roll. The said Roll of Advocates is kept by the Registrar of the High Court and pursuant to the guiding regulations the order of entry of such names has to be in accordance with the precedence of such persons as among themselves. In effect the said order of entry determines the seniority of advocates. In other words Advocates shall take precedence among themselves according to the order of entry of their respective names on the Roll provided that the Attorney – General shall take precedence over all other advocates.

The **Advocates Act** recognizes two categories of persons entitled to practice as advocates.

The first category covers those advocates recognized as advocates in connection with the duties of their offices. **Section 3** of the Advocates Act provides;

3. (1) *Every officer to whom this section applies shall, in connection with the duties of his office, be entitled to practice as an advocate in the High Court or in any court subordinate thereto constituted under the Magistrates' Courts Act and to perform any of the functions which, in England, may be performed by a member of the Bar as such or by a solicitor of the Supreme Court of Judicature as such, and provided, be subject to the provisions of this Act.*

(2) *The officers to whom this section applies are –*

(a) *the Attorney – General, Parliamentary Draftsmen and State Attorneys, and any person duly qualified holding office in the Attorney – General's Chambers;*

(b) *the Legal Secretary Income Tax Department;*

(c) *any person duly qualified holding office in any municipality established under the Local Government (Urban Authorities) Act or any township authority established under the Local Government (District Authorities) Act;*

(d) *the Registrar – General, Administrator – General, Public Trustee, Official Receiver, Commissioner for Lands and any person duly qualified holding office in the office of the Registrar – General, or of the Administrator – General, or of the Official Receiver or the Land Officer;*

(e) *any person duly qualified holding office in such parastatal organization as the Minister may, by order published in the Gazette, designate for the purposes of this section.*

- (3) *For the purposes of this section “person duly qualified” means a person who is the holder of one of the professional qualifications set out in paragraph (a) of subsection (1) of section 8.*

The second category covers those who upon fulfilling the Statutory prescribed conditions apply to the Chief Justice for admission. The relevant **Section 8** of the **Advocates Act** Provides;

8 - (1) *A person may apply to the Chief Justice to be admitted as an advocate –*

(a) *if he holds one of the following professional qualifications, that is to say –*

(i) *if he is the holder of a degree in law granted after examination by the University of East Africa or the University of Dar es Salaam by such other university or other institution as may be recognized by the Council for the purposes of this section;*

(ii) *if he is a legal practitioner (by whatever name called) and thereby has a right of audience before any court having unlimited jurisdiction in civil and criminal matters in any Commonwealth country or in any other country designated by the Minister for the purposes of this section;*

(iii) *if he is a Solicitor of the Supreme Court in England, Northern Ireland or the Republic of Ireland, a Writer to the Signet, a Solicitor in the Supreme Court of*

Scotland, or a person admitted or deemed to have been admitted as a solicitor under the Solicitors (Scotland) Act, 1933, of the United Kingdom, or if he is the holder of any similar qualification which is accepted by the Council as professional qualification for the purposes of this subparagraph; and

(b) Subject to the provisions of subsection (2), if either

(i) he has complied with such requirements (whether relating to instruction or examination or otherwise) as to the acquisition of professional experience as may be specified in regulations made hereunder by the Council; or

(ii) he has been in continuous practice as an advocate in Kenya, Uganda or Zanzibar during the five years immediately preceding his application.

(1A) The Council may exempt any person from all or any of the requirements specified under subparagraph (i) of paragraph (b) of subsection (1).

(2) Every application made under this section shall be by petition to the Chief Justice in such form and manner and on payment of such fee as may be prescribed.

(3) Upon an application being made under this section and upon proof to his satisfaction of the qualification and suitability of the applicant, the possession by the applicant of an adequate knowledge of the language of the Court, and upon production of such testimonials as to character as he may require, the Chief Justice shall, unless cause to the

contrary is shown to his satisfaction, by writing under his hand and in such manner and form as he may, from time to time, think fit, admit the applicant as an advocate.

(3A) There shall be endorsed on each certificate of admission issued by the Chief Justice words to the effect that the certificate in itself is not a licence to practice as an advocate.

(4) The Registrar, upon production of an admission certificate signed by the Chief Justice, and on payment to the Registrar of the prescribed fee, shall enter on the Roll the name of the person so admitted.

(5) Nothing in this section shall prejudice or affect the qualification or status of any person who immediately before the commencement of this Act was qualified to practice as an advocate according to the law then in force.

(6) All reports and communications under this section shall be absolutely privileged.

So, for an advocate to qualify and thus be allowed to practice as such he/she has to have in his/her possession a valid business licence, his/her name should be on the Roll, and he/she has to have in force a practicing certificate.

Therefore it is quite in order for an advocate who has in force a practicing certificate to practice as an advocate in the High

Court or in any Court Subordinate thereto constituted under the **Magistrates' Court Act** and may perform any of the functions which an advocate is allowed to perform under the law.

Pursuant to **S.66** of the **Advocates Act**, a person duly admitted as an advocate shall be an officer of the High Court and shall be subject to the Jurisdiction thereof. For validity of his practicing certificate, fees for admission of an advocate has to be paid to Tanganyika Law Society (see **S. 68 A** of the **Advocates Act**.)

It is also worthy noting that every advocate who has in force a practicing certificate is mandatorily a member of Tanganyika Law Society. Under the **Notaries Public and Commissioners for Oaths Act, Cap 12 R.E 2002**, a practicing advocate is entitled to perform all the functions of a notary public and commissioner for Oath in Mainland Tanzania and levy fees accordingly.

All the foregoing clearly shows that an advocate is an Individual, a natural person who is expected to perform his functions as a person. However on commercial/business considerations two or more advocates can form under the relevant law a partnership of their legal business.

CHAPTER III:

3.0 PRINCIPLES OF SOLO PRACTICE

A solo practice can be described as an individual advocate who carries on a legal business practice on his own account as opposed to him having partners. Theoretically Solo Practice sounds like a small business but in practice this may not be so, a sole practitioner may employ any number of employees and thus becomes a big establishment.

3.1 JUSTIFICATION

The key feature of the Solo legal practice is that, he usually makes all the decisions and takes all the profits or stands all losses.

There are several reasons which attempt to justify solo practice. In his book titled. "*The legal profession in Tanzania, the law and practice*" **Dr. Fauz** argues that one of the reasons why very few lawyers work in firms is because of their desire of maintaining their independence. The author argues further that lawyers have a strong inclination to being their own bosses. According to him a partnership would entail some loss of freedom by each of the partners.

The other reason that has encouraged Solo Practice is the nature of the work itself. While two or more advocates may work as a team in a firm but professional liability attaches to each and every one of them individually. Advocate - Client relationship is a very personal liability. Solo Practitioners also desire to avoid conflicts particularly when it comes to monetary consideration. The problem of lack of faith in each other among partners and the liability to fairly share out both the burden and the proceeds of the firm has been blamed for the collapse of some of the firms that have only operated for some time before dying away.

3.2 BUILDING, DEVELOPING, STRENGTHENING A SUCCESSFUL AND SUSTAINABLE SOLO LAW PRACTICE

Before commencing a solo law practice, one must address his mind to the question: Why? The answer to this may fall into one of two categories: (1) you have to, or (2) you want to. Those falling into the first category may simply be unable to obtain employment as lawyers, or the options available may not allow them to utilize their legal training and skills. Faced with this situation, one must either start his own practice or obtain employment outside of the field of law.

The main advantages of solo practice are freedom and independence, limited only by economic needs and responsibilities assumed to clients and the courts. Lawyers who choose to go into solo practice should be prepared for a few years of lean earnings, non-billable time, and perhaps more than a few frustrations. If you who can manage to get through the first two or three years, have utilized good public and client relations techniques, and provide the highest level of client service and work product, you should be on your way to a fulfilling practice. Lawyers contemplating such a practice also need to be aware that it takes serious undertaking for sole practitioners to become wealthy from the practice of law. Otherwise most will survive economically, but, on the average, sole practitioners are at the bottom of the earnings ladder.

Surveys of law practice economics almost universally report that most of successful solo practice are the one with a good number of employees.

3.3 GETTING ORGANIZED

Commencing a solo law practice does necessarily have to mean renting an office, acquiring furniture, books, phones and computers, hiring a secretary and Clerk to the chambers. The up-front costs alone from such an approach are prohibitive for most people today. There are a variety of office alternatives available that need to be considered.

For example, you could rent space with other lawyers who are practicing on their own and share or maintain separate support staffs. Larger firms with excess leased space often rent out unoccupied offices, with receptionist and secretarial services negotiable.

Sharing space entails risk. All participants need to get along. Before you move into a shared office, know the nature of your colleagues' clientele; it may not be compatible with yours. Criminal defendants and elder law clients or small business owners, for example, may not be compatible. Be certain that the privacy of your office, desk and files will be respected.

Ensure that the office sharing arrangement does not give the unintended impression of a partnership. The names of the respective practices should be kept as separate as possible. Have (or print on your own office laser printer) your own letterhead. Acquire your own business cards. You may want to provide your own private fax machine in your private office. If you do not have a private line, instruct the receptionist to answer the phone with "law offices". Never refer to your office sharers as "partners".

A trend among some sole practitioners is to work out of an office in your home. If the nature of your intended practice does not call for a regular stream of client traffic, this approach could reduce the rent overhead. When you do need to confer or

take a deposition, for example, a conference room could be reserved at an office suite that is designed for such purposes.

Another trend that is occurring today is often referred to as the virtual law firm. These are networks of solo or small law firms that refer clients among one another. Often, some type of referral fee or fee sharing arrangement is in effect. Given today's available computer technology, these virtual law firm networks could include members located across town, across the county, or across the world.

3.4 TECHNOLOGY

Anyone contemplating opening a solo law practice (or entering any law practice for that matter) needs to learn and use modern computer technology effectively. If your practice dictates extensive travel on behalf of clients, or if your personal work habits call for working both at your home and at the office, you may want to acquire and learn to use a laptop.

Portable computer technology today is extremely powerful and important. Just ensure that your portable computer includes all the necessary accessories.

One of the important tools of your "trade" will be the ability to produce high quality printed work product. If you don't already have word processing software, consider the new Microsoft Office suite of programs.

Other software you may want to consider for producing specially-formatted work product is the preprinted Judicial Council Forms. If your practice dictates use of these specialized forms, they can be a tremendous time-saver and aid in producing a high quality work product.

If time forms the basis of determining your legal fees for clients, you will need a basic client accounting program. One of the more popular programs used by solo practitioners is called Time Slips. Properly used, this program can produce high quality client invoices and provide fundamental client accounting information (hours worked, work in progress,

accounts receivable, etc.). Analyze your requirements, acquire and learn to use this software early in your practice.

Some other financial considerations for the solo practitioner, in addition to the office space, staffing and technology factors discussed above, includes insurance. The practitioner will need to carry malpractice (errors and omission) insurance and premises liability insurance, in addition to personal health/medical insurance.

3.5 THE CLIENTS

The mechanics of establishing a solo law practice, such as discussed above, is the easy part. The difficult part of succeeding in a solo practice lies in attracting a client following that promptly pay their bills, and having a sufficient volume of well-paying clients to keep the practitioner comfortably busy working on client matters.

A successful law practice today entails marketing your legal services. Until recent times, many lawyers did not think of themselves as having to market their services without being unethical. Many successful firms, however, have used ethical marketing principles and techniques for many years. Among such practices which lawyers trying to build a practice would be wise to emulate are:

- Develop a plan for your new business and establish goals.
- Determine how you can arrange to meet the people you want for clients.
- Produce the highest quality client service. The best source of work is from a satisfied client. Some tips to be observed for satisfaction of a client are;
 1. Return all phone calls promptly.
 2. Keep your clients informed;
 3. Communicate with them.

4. Acquire and learn to use modern technology (be connected to internet).
5. Ensure that your written work product is neat and clean,
6. Representative of the image you want to portray.
7. Keep your promises and meet your deadlines.
8. If you promise a draft to the client by next Tuesday, deliver it by next Tuesday.
9. Be considerate of clients.

Lawyers must learn to sell themselves. Of course this is easier for some than others. Some people are born leaders who radiate ability and competence. Others are not so fortunate, but most lawyers can learn to compensate for the absence of natural skills traits.

The first step is self-confidence. You cannot inspire others nor convince them of your ability unless you feel certain of yourself.

Undertake *pro bono* legal services for clients. Your services will not only benefit the community, but will provide experience and exposure to leaders and other executives who are in a position to hire you to represent them in the future. Such exposure can be invaluable to the growth of your practice. You should provide *pro bono* services on an ongoing basis.

Clients and prospective clients will notice the way you dress and the way you look in the context of your surroundings. You will be well advised to avoid extremes and to look the way your clients expect their lawyer to look.

Always pay attention to what clients look for in lawyers, particularly lawyers in solo practice and small firms.

Generally, clients want to work with lawyers who are available to do their work and who are affordable. In other words, most clients are looking for good working lawyers.

Be aware that clients, particularly clients of smaller firms, are not always capable of judging the quality of legal work they are getting, but they are fully capable of judging how effectively the service was rendered.

Solo practitioners must be prepared to specialize by area of law or client group. Increasingly complex laws and regulations, continued changes in them, and achievement of practice efficiencies by more and more large and small firms are all signs that no law firm, particularly a small one, can afford to be "all things to all people".

Solo practitioners should not feel pressured to accept any work that comes in the door. Such an attitude is a breeding ground for malpractice.

CHAPTER IV

4.0 CONCLUSION

In conclusion, what does building a successful solo law practice all mean? It probably means learning how to be a lawyer first.

Develop and plan for your practice and establish goals. Budget your time. Establish practice management systems. Maintain accurate client and financial records.

Treat your clients properly, and always with respect.

Do your client work accurately and timely. Don't talk down to your clients. Always return their phone calls the same day. Charge them fairly for the work and service that you provide. Become the very best lawyer at your speciality. Write and speak frequently. Make other lawyers and prospective clients aware of your specialized services.

Recognize the competition. Learn from them whenever possible. Treat them as equals and don't trash them as it can reflect negatively on you. You may be able to cultivate your competitors as a source of referrals, particularly if a conflict should arise.

Be an asset to your community, both the legal community and where you live. Contribute back to your profession. Stay active in local, Region, and Tanganyika Bar association.

Network unceasingly. Learn to use modern technology effectively. Work hard and enjoy your work. Your enthusiasm will carry over to your clients and prospective clients.