

**JUDICIAL SERVICE COMMISSION**

**“A Zimbabwe in which world-class justice prevails!”**



**OPENING REMARKS BY  
THE CHIEF JUSTICE OF ZIMBABWE**

**THE HONOURABLE MR JUSTICE LUKE MALABA**

**ON THE OCCASION OF  
THE JUDGES' SYMPOSIUM – END OF FIRST TERM 2022**

**AT  
GREAT ZIMBABWE HOTEL, MASVINGO  
31 MARCH 2022 – 3 APRIL 2022**

**THEME: ENHANCING THE RULE OF LAW THROUGH  
EXPEDITIOUS DELIVERY OF JUSTICE.**

## **Salutations and welcome remarks**

As per custom, I would like to begin this keynote address by acknowledging the presence of esteemed delegates who have graced this occasion.

1. The Deputy Chief Justice, Honourable Justice Elizabeth Gwaunza, and the Judges of the Constitutional Court in attendance;
2. The Senior Judge of Appeal, Honourable Justice Antonia Guvava, and the Judges of the Supreme Court in attendance;
3. The Judge President of the High Court, Honourable Justice Mary Zimba-Dube and Judges of the High Court;
4. Senior Judge of the Labour Court, Honourable Justice Euna Makamure, and Judges of the Labour Court and the Administrative Court of Zimbabwe;
5. The Head of the Judicial Training Institute of Zimbabwe, Dr Rosalie Katsande;
6. The Secretary of the Judicial Service Commission, Mr W T Chikwana and members of the JSC Secretariat;
7. And all our invited guests and resource persons.

## **Introduction**

The adage we meet to part and part to meet certainly rings true in respect of our periodic end of term Judges symposiums. It is my delight to welcome you all to our convention for the 2022 End of First Term Symposium.

It is no coincidence that the Symposium is being held at the conclusion of the first term of the year. This occasion serves to allow us to take a break from our exertions during the infancy of the current legal year. However, more importantly, this momentary pause is a moment for reflection as we take stock of our progress since the beginning of the judicial year. It affords us an opportune moment to chart our successes with the benchmark we set for ourselves at the turn of the calendar year. Let me make this admission that even Judges are not immune to the new year fervour. As such, we are keen participants in the ritualistic exercise of setting goals and objectives we aim to fulfil at the conclusion of each year.

It is at this juncture that I offer a brief admonishment. It is not simply

enough to draw up a list of important and high-sounding objectives without following through on their fulfilment. It is common knowledge that part of the journey is the end. However, reaching that destination requires a conscientious and painstaking approach. This is where the end of term Judges symposium fits in the grand scheme of the Judiciary's work.

The discontinuity from the arduous and gruelling demands of the bench offers a welcome respite for all Judges. Nonetheless, it is not meant to afford an opportunity to rest on our laurels. As custodians of the law, our primary duty is incessant and constant. The break in proceedings, as I adverted to earlier on, enables us to align our course with our stated objectives.

Part of the realignment is through the acquisition of knowledge and skills that help us better dispense our justice function. Ours is a constitutional obligation, as such one can never make light of the importance for judicial officers to continuously attain novel and innovative solutions in carrying out their duties. It is with this motive

in mind that the engaging judicial topics and themes for discussion at these forums have been curated. Learning is a continuous cycle and an interactive process. Therefore, the selected panel of presenters which consists of experienced Judges and the foremost minds in legal academia will also draw from your contributions.

### **Theme**

The running theme for this convention is titled **“ENHANCING THE RULE OF LAW THROUGH EXPEDITIOUS DELIVERY OF JUSTICE”**.

The rule of law is one of the most extensively canvassed topics in legal jurisprudence. The rationale for this state of affairs is simple at best. It forms the cornerstone upon which the entire legal system rests. Without the acceptance of the rule of law, there is no merit in any discussion of a legal system.

A conclusive definition of the concept is notoriously difficult to capture in a single sentence. However, in layman’s terms, it relates to the

supremacy of the law over the state and all persons. The Judiciary's role is to ensure that this standard is protected and enforced on an equal footing regardless of the standing of the persons or institutions involved. The gravity of this obligation imparts a responsibility on every one of us to ensure that our justice function is dispensed in an expeditious manner.

Whilst our present theme relates to the rule of law, we are focused on the avenues through which it can be enhanced. Our mantra as the Judicial Service Commission relates to the delivery of world-class justice for all. It denotes the achievement of a standard of the highest calibre, that is comparable on a global scale. It is thus incumbent upon us to decipher and develop new methods that can be utilised to expedite the delivery of justice.

One such model that currently looms over legal jurisdictions the world over in the 21<sup>st</sup> century is the adoption of information technology in court processes. Through our Integrated Electronic Case Management System – “the I.E.C.M.S.” platform, we have taken initial steps to

embrace its unique qualities in the enhancement of the delivery of justice.

We are on the precipice of a new era and this evolution is important especially in a country that is emerging from the throes of the debilitating effects of the Covid-19 pandemic. If any positive lesson can be drawn from the pandemic, it is the need to embrace the transformative effects of technology. Disruptions in the delivery of justice can be overcome by enabling litigants to file processes and access court records using virtual platforms.

Conservatists might sneer at the intrusion of technology into centuries old customs and practices but evolution is the only effective method of enhancing the rule of law. The judiciary can ill afford to be left behind by global trends lest we accept a drop in our standard of the rule of law. Attention has to be given to the prevailing tenor and surrounding circumstances hence the petition for information technology as the next logical stride in the expedition of the justice delivery.

Failure to pay heed to these remarks would lead to the rug being pulled underneath our feet. In as much as reforms such as the renovation of courts and capacitating of libraries amongst others aid the enhancement of the rule of law, it is prudent to take into account the existing state of affairs. Otherwise, their important contributions may be rendered nugatory. It is in light of this that we look forward to the official launch of the I.E.C.M.S platform on 1 May 2022. I will, however, reserve fuller details on the I.E.C.M.S. for the presentation by the Secretary of the JSC – Mr Chikwana.

### **Structure of the symposium**

Reverting back to the business of the day and the subsequent period of our tenure at this convention, the symposium will be structured in the following manner. There are activities and presentations that are set out in the programme availed to you. These presentations run the gamut of topics from the subject of judicial precedent, to our role in sustainable economic development, to the procedure for criminal reviews and to the application of the Labour Court Rules, 2017. The presentations also cut through the cross-sectional hierarchy of our courts, as there are

presentations that are relevant to Judges of all the superior courts.

The inclusion of presentations on specific subjects across the hierarchy of our courts is rooted in the aforesaid purpose of this symposium. For a Judge, learning is an unending activity. It is through continuous learning that our collective capacity to anchor the rule of law is enhanced. Therefore, I urge you to be alive to the importance of the knowledge that you will garner during the course of the next two days.

I am grateful to both internal and external resource persons as well as the organisers for arranging assorted forms of sessions. The scope and objectives of the symposium will be covered in various styles including plenary discussions, delivery of papers on set topics, a debate and breakaway sessions. The single debate that has been included in the programme is intended to address the trending subject, world-over, of judicial attire. The subject is particularly important because judicial attire is not intended for an individual judge but it is a symbol of a judge who interprets and makes decisions according to the law.

Equally appealing are the breakaway sessions, which give individual participants a chance to hone in on the information shared. Having said this, I hasten to point out our experience in previous symposiums is that the only way to derive the highest value out of the programme is through active and collective participation. We must all take part in the proceedings and experience the beauty of our intra-judicial cohesion.

In our midst, are some of the most eminent legal scholars and jurists in our country. They have generously afforded us their time to enable us to learn from them, exchange thoughts with them and in turn, re-examine our knowledge, attitudes and beliefs on the issues at hand. Without pre-empting their biographies, I will simply observe at this point that the presenters and discussants include senior Judges, professors and doctors of law as well as legal practitioners.

I now take the opportunity to say a few words about the crucial developments within the JSC. The work of the JSC benefits the judicial officers who man the courts and the litigants who seek justice from the courts. It would be remiss of me to allow judicial officers to remain

uninformed about any critical development impacting their work.

The foremost update must be on the completion of Bristol House, being the building earmarked to house the Commercial Division of the High Court. The operationalisation of the Commercial Division demanded immense determination, grit and perseverance on the JSC's part. Notwithstanding the hardships faced, I am pleased to let you know that the Commercial Division of the High Court will be commencing its work at its new courthouse in the coming term. Several Judges of the High Court have already been assigned to this division.

With these remarks, I wish to express my gratitude to our stakeholders and the men and women who have worked tirelessly and contributed to this Symposium. Firstly, I acknowledge Dr Rosalie Katsande, the head of the Judicial Training Institute of Zimbabwe, and her team for carrying out all the preparatory work preceding the presentations to be delivered. Since its establishment, the J.T.I.Z. has prominently been a part of every training programme.

In addition, I acknowledge members of staff of the JSC, led by Mr Chikwana, who undertook all the administrative work. Without their sacrificial input, there may possibly be no symposium to talk about. They worked round the clock to ensure that every single thing, from the accommodation to the venue, would be in place and on time. Some members of the JSC are in attendance for the entire duration of our stay to ensure a seamless and memorable programme.

**Honourable Judges and distinguished guests,** I reiterate the need for all of us to make the most out of this Symposium. Take the occasion presented by this forum to critically reflect on difficult areas of practice and take advantage of the presence of the facilitators and colleagues to find effective solutions.

However, I would also like to remind you to briefly unwind from the demanding activities of the courts. The just ended term is one of the few uninterrupted terms that we have had since the onset of the Covid-19 pandemic. It was certainly busy.

I now express my earnest wishes for the success of this symposium and with this, I officially declare the “End of First Term 2022 Judges’ Symposium” opened.

I thank you.

**HON. MR JUSTICE L MALABA  
CHIEF JUSTICE OF ZIMBABWE  
MASVINGO – 1 APRIL 2022**