



THE LAW SOCIETY OF ZIMBABWE

STATEMENT ON THE OFFICIAL OPENING OF THE 2019 LEGAL YEAR BY THE HONOURABLE CHIEF JUSTICE LUKE MALABA.

The Law Society of Zimbabwe (LSZ) would like to congratulate the Chief Justice on the successful official opening of the Legal Year on the 14th January 2019. This is an important occasion for the country as it provides an opportunity for the Judiciary to review its performance, giving a public account of such performance whilst setting standards for the ensuing year. Judicial authority is derived from the people of Zimbabwe thus the opening of the legal year remains a symbolic surrender by the judiciary to public scrutiny.

The Law Society associates itself with the 2019 Judicial Service Commission theme, **Consolidating the Rule of law**. There could be no better theme for the JSC in particular, and the country in general. Of the three branches of government, it is the Judiciary that carries the greatest burden to ensure that Rule of Law prevails. The Rule of Law is the hallmark of any civilized and democratic society. The Law Society applauds the Chief Justice for such a theme and anticipates the incorporation and reflection of this theme in all systems of justice delivery. The Law Society equally calls upon the other two organs of the State to reverberate this theme in execution of their functions.

The Law Society further congratulates the Chief Justice for a sustained improved case clearance rate in most of the courts. From the Chief Justice's speech, the Law Society notes that the performance of the courts in general, is steadily improving. The efforts and commitment of all judicial officers for maintaining such record of high performance are laudable.

The Law Society agrees with the Chief Justice on the need to sharpen on the quality of judgments. To this end, the Law Society hails the Chief Justice for taking a new trajectory and paradigm shift towards quality justice. Such an approach is progressive and timely as in the past years the focus has been on clearing of backlogs. The legal profession anticipates the timely delivery of well-reasoned and written judgments. Thus the Law Society appeals to the judicial officers, mostly in the superior courts, to embrace the tone set by the Chief Justice and avoid delivering of an avalanche *ex tempore* judgments as has been the case in the past. They should also avoid reserving judgment indefinitely. The need to hand down written judgments in order to provide precedents and develop the legal jurisprudence cannot be overemphasized. Members of the profession are equally called upon to play their part in the development of a sound legal jurisprudence through presenting lucid and well researched arguments.

In the same spirit, the Law Society would like to express its disquiet over the manner sections of the judiciary have been handling cases of violence and looting arising from the events of last week. There is an unmistakable paradigm shift in the manner that the accused are being treated. The fast-tracked trials, routine denial of bail, routine dismissal of applications, blatant disregard of the constitutional provisions relating to the right to fair trial, are causing alarm within the profession. We do not believe that all the cases being brought to courts are similar in facts, circumstances and evidence to warrant the uniform treatment being witnessed. **Justice must not only be done but must be seen to be done.** The courts ought to be exemplary in respecting the rule of law. Whilst there are legal remedies available to accused persons by way of appeals or review applications, this should not be an excuse for the courts to routinely make decisions that are manifestly wrong. The principles of law should be the only consideration in handling these matters and no other extra legal considerations should be brought to bear.

The Law Society applauds the Chief Justice and the JSC for coming up with Anti-Corruption courts to effectively combat corruption. However, the Law Society urges the JSC to fully resource these courts to make them more effective. Corollary to this, the Law Society calls upon the National Prosecuting Authority, Zimbabwe Republic Police and ZACC to execute their duties with probity and integrity, and avoid rushing to institute criminal proceedings without necessary and adequate investigations and preparations having been undertaken.

The Law Society affirms the importance of collaboration by all stakeholders for effective and efficient delivery of the justice as noted by the Chief Justice. To this end, the Law Society applauds the Chief Justice for maintaining dialogue with the profession particularly through the Joint Bar – Judicial Colloquium. The dialogue continues to yield positive reforms in the administration of justice.

The Law Society takes this opportunity to call upon all its members and stakeholders in the justice delivery system to reaffirm their commitment to rule of law.

The Law Society remains committed to Justice and the Rule of Law.

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