

JUDICIAL SERVICE COMMISSION



SPEECH BY THE HONOURABLE MR JUSTICE

LUKE MALABA,

CHIEF JUSTICE OF ZIMBABWE,

ON THE OCCASION OF THE OFFICIAL OPENING OF THE

2019 LEGAL YEAR

THEME: CONSOLIDATING THE RULE OF LAW

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Salutations.

INTRODUCTION

Mr Acting Prosecutor-General, Mr Attorney-General, and Advocate Matinenga, it is my pleasure to welcome you all to this occasion which marks the beginning of the 2019 Legal Year. The ceremony has become a permanent feature on the legal calendar. It presents an avenue through which the Judiciary can account to the public for what it has done in the administration of justice during the past year.

Much as the occasion presents the Judiciary with an opportunity to reflect on the events of the past year, highlighting the successes scored and the challenges encountered, there is the need to outline to the nation the Judiciary's plans and hopes for the coming year. This is done in an effort to allow stakeholders and the public to participate in the Judiciary's programmes, with full knowledge of the fact that judicial authority is derived from the people.

On 30 July 2018 Zimbabwe held harmonised general elections. Allow me, on behalf of the entire Judiciary, to congratulate His Excellency the President and the two Vice Presidents for the ascendancy to the high offices they occupy following those elections.

May I also publicly congratulate the Honourable Mrs Justice Elizabeth Gwaunza on her appointment as Deputy Chief Justice of Zimbabwe and Commissioner of the JSC in the past year.

It is equally appropriate for me to congratulate the Honourable Ziyambi Ziyambi for his reappointment as Minister of Justice, Legal and Parliamentary Affairs.

THE RULE OF LAW AND THE JUDICIARY

The theme for this year is **Consolidating the Rule of Law**. It is extracted from the Judicial Service Commission's Strategic Plan and builds onto the theme of access to justice, which was the JSC's mantra in 2018. The rule of law is the foundation of any democratic society and is essential to the cohesion of a community.

The rule of law is one of the guiding principles of the administration of justice. It is the oxygen of the system, without which it would become dysfunctional. The purpose of discussing the rule of law here is to show how its requirements impact on the administration of justice, to the extent that it must be taken into account when decisions relating to the administrative and judicial functions of the courts are made and implemented. Every decision made in the interests of the administrative and judicial functions of the courts must be justifiable on the basis of consistency with the rule of law. There should be no room for arbitrariness in institutionalised decision-making.

The other purpose of discussing the rule of law is to show the basis on which everyone who has cause to do so must deal with the Judiciary.

There are, of course, many characteristics or aspects of the rule of law. We refer here to those that are relevant for the purposes of the address. Zimbabwe is a constitutional democracy in which the supremacy of laws is recognised and accepted as the fundamental principle of governance. In its elementary sense, the rule of law simply implies that no-one is above the law and that all existing laws must be respected by everyone. Individuals, corporate entities, the State and all its organs are subject to the law and are all equal before the law. The concept provides a framework for the orderly and objective relationship between citizens and the State and among the citizens themselves.

The cohesiveness of the law ensures that not only rights, particularly what are commonly referred to as “fundamental rights”, are enforced but that there is an equal respect for other people’s rights as well. The law and the administration of justice seek to achieve a just and proper balance of divergent interests of citizens. The starting point is an acceptance that everyone is equal before the law. No person, group of persons or organisation can claim to be above the law nor to enjoy any preferential treatment by the courts. This is key to the notion of respect for the rights of other persons.

It is important to identify the role players in the process of upholding the rule of law in the country. That family includes all the three arms of the State, namely the Executive, the Legislature and the Judiciary. More particularly, it is the Judges/magistrates, prosecutors, court staff and all sectors of the State’s legal apparatus such as the Police, Prison Services and the Anti-Corruption Commission. The courts are the last line of defence to the concept of the rule of law. They are the final arbiters and the vanguard that holds together the system of justice. The courts must therefore always take the lead in upholding the rule of law. Put simply, the Judiciary is the *sine qua non* of the concept of the rule of law.

It is critical to the proper operation of the rule of law that courts apply only the rule of law and its spirit in determining legal disputes. It is critical also that they do so independently of any outside influences, whether the Government, the authorities, the public or the parties.

The features of the rule of law and the administration of justice referred to, namely equality, fidelity to the law and judicial independence, are fundamental to the proper operation of the law.

The Judiciary is by its nature as an arbiter of disputes, placed in an invidious position where it must make decisions where one side wins and the other loses. The process does not allow for a stalemate.

The demands the rule of law makes on the administration of justice are for the protection of the rights of litigants to procedural and substantive fairness. Once a court has given all the parties to proceedings an opportunity to present their case, assessed the evidence and made a finding of facts, interpreted and applied the relevant law governing the resolution of the dispute in a reasoned judgment, it will have acted in accordance with the law. The rule of law demands in the circumstances that the decision of the court be respected. A party does not have to agree with the decision. He or she or it does not have to denigrate the person of the judicial officer.

It is against this background that I call upon all litigants and the general population to respect legal processes and legal decisions. It does not matter how much you agree or disagree with the decision arrived at by the court. That decision-making by the court is the foundation upon which the concept of the rule of law is built. The concept has inbuilt self-correcting mechanisms which allow anyone who is aggrieved with the decision of a court to appeal against that decision to a higher court. That higher court may confirm the decision of the lower court or set it aside. Court decisions are not and will not be set aside by insulting judicial officers who make the decisions and denigrating their offices. The decision will not be set aside on the basis of unfounded accusations against the judicial officer. Court decisions may only be challenged by following proper legal processes such as appeal or review. This is the bedrock of the concept of the rule of law. Let us all respect our constitutional agencies and institutions. It is us Zimbabweans who put them in place.

I must hasten to mention that Judges are not immune to criticism. Their decisions must be scrutinised, commented on and even criticised. Our system encourages that the scrutiny, comments or criticism must remain professional, impersonal and constructive. If that is observed, it develops the jurisprudence of the country because the criticism ceases to be mere criticism and becomes a contestation of ideas between and amongst intellectuals.

Constructive criticism implies knowledge and understanding of the law prescribing the standard against which the legality of the conduct in dispute was to be measured. It involves setting out the requirements of the law and pointing out the errors committed by the court in its findings of the facts in issue or in its interpretation or application of the law to the facts of the conduct. That criticism of the decision of a court can be made without being scurrilous about the judicial officer. Comments which degenerate into confrontational or personal insults on judicial officers have no place in this jurisdiction.

Distinguished Guests, Ladies and Gentlemen, I make these remarks with a view to caution both State and non-State actors to observe the sanctity of the rule of law. All of us, regardless of whether we are rich or poor, weak or powerful, exalted or disgraced, have a role to play in upholding the rule of law.

The Judiciary itself is subject to the Constitution. The independence, impartiality and effectiveness of the courts are central to the rule of law. The role of the Judiciary in administering justice hinges on these three pillars of the rule of law. The courts are accountable to the people of Zimbabwe and must always act in a transparent manner in order to achieve that. It is right to remind ourselves of this fundamental feature of our legal system.

We assemble here at the annual opening of the legal year, this year and every year, to acknowledge the importance of the rule of law in the proper administration of justice.

The law is a result of the will of the people. It is a reflection of what the people wish to be governed in terms of. It must therefore be respected. The Judiciary is created to ensure that all conduct by everyone is in terms of that law. The courts are the watchdog of the Constitution and all other laws founded on the Constitution.

The absence of the rule of law has serious ramifications for any country. It leads to arbitrariness and anarchy. Such a state of affairs in the end threatens democracy because the rule of law is the cornerstone of any democratic state. The government of the day loses its legitimacy; investors and visitors alike shun countries which do not respect the rule of law. That in turn detracts from national development to the disadvantage of the common citizen.

Opening of the Anti-Corruption Courts

Distinguished Guests, Ladies and Gentlemen, I have previously commented that corruption is the antithesis of the rule of law. If the rule of law is the oxygen to the administration of justice, the system must have it all the time. Corruption has the effect of cutting the connection with the rule of law, thereby choking the administration of justice. The clear and loud message is that the Judiciary does not tolerate any form of corruption.

In the course of 2018 I presided over the opening of specialised anti-corruption courts at Harare and Bulawayo. The courts were operationalised as a pilot project. They are also a symbol of the Judiciary's commitment to fight corruption together with other stakeholders. I must add that the stakeholders have all fully embraced this initiative and have in their respective institutions also taken various steps to aid in the fight.

I am gratified by the collaboration of all arms of the State in fighting corruption. The unrelenting stance taken by the Executive in the fight against corruption is refreshing. It

demonstrates political will for Zimbabweans to coalesce against the scourge. Whilst society rightly demands results overnight, it may not be possible in a country which respects and is bound by the rule of law. In our constitutional democracy, everyone is afforded equal protection of the law. Everyone suspected of having committed an offence is innocent until proven guilty. It is necessary therefore to follow due process after the arrest of a person suspected of engaging in corruption.

I also wish to exhort the investigating and arresting agencies to thoroughly investigate cases before referring them to the National Prosecuting Authority. I further encourage the National Prosecuting Authority, through the Acting Prosecutor-General, to expeditiously attend to dockets and bring them to court for trial. Prosecutors and legal practitioners must never forget their duties towards the courts. They are, above all, officers of the court. They owe it to the Constitution and to the nation to ensure fair presentation of cases, ethical conduct in the courts and to assist the courts to arrive at just decisions. I have made myself clear to all judicial officers both privately and publicly that we need to deal with matters that come before the courts expeditiously and impartially. I do so again today! I expect matters that come to our courts, including and particularly corruption related matters, to be dealt with without delay. Corruption is the complete opposite of the rule of law. The nation cannot talk about promoting the rule of law in a country riddled with cases of corruption. I have to that end requested the Acting Secretary to ensure that we open anti-corruption courts in Masvingo, Mutare and Gweru during the course of 2019.

Distinguished Guests, Ladies and Gentlemen, as the Judiciary we maintain our stance that cases of corruption must be dealt with decisively within the confines of the law by the courts. This does not in any way imply trampling upon the rights of those accused of corruption and related offences. It simply requires lawyers, Judges and magistrates to take cognisance of the

harmful effects of the scourge of corruption on the livelihoods of all Zimbabweans. If we do not coalesce around this scourge, we all stand to be doomed as a nation.

Corruption is not an ordinary crime. It is complicated because in most instances it involves clandestine transactions between willing parties. It is perpetrated by sophisticated and well-resourced individuals. These extraordinary offenders therefore require extraordinary ways to stop them from further compromising the administration of justice. This realisation is what informed the JSC's decision to streamline corruption related offences from the normal run of cases in the courts. It further motivated us to select a group of magistrates and to adequately prepare them for the task of adjudicating over the matters. The magistrates underwent a series of training courses, which I believe have fully equipped them with the skills that they will use to efficiently deal with corruption cases. What remains to be completed are efforts to galvanise the magistrates' resolve to resist any attempts to induce them to subvert the administration of justice.

THE ROLE OF THE JUDICIAL SERVICE COMMISSION IN ENHANCING THE ADMINISTRATION OF JUSTICE

Distinguished Guests, Ladies and Gentlemen, in my address at the opening of the 2018 legal year I promised stakeholders, litigants and other court users that the JSC would roll out an aggressive programme premised on the need to take judicial services closer to the people.

In a number of respects, the JSC lived up to that promise. A number of initiatives were vigorously pursued in the course of the year. The JSC relentlessly implemented and completed the majority of the projects as briefly described below. The nature and scale of the operations show a transformative approach that absorbs the light of change.

Distinguished Guests, Ladies and Gentlemen, public confidence in the Judiciary is the yardstick by which any Judiciary's worth can be measured. A proper judicial system must be viable, responsive and fair.

There can be no compromise as far as the rule of law is concerned. It is not something from which there can be any deviation, nor can there be any room for bargaining in relation to it. It operates all the time, not just part of the time. The rule of law is an end in itself and stands alone as one of the important institutions contributing to the success and future wellbeing of any democratic society.

In an effort to uphold the rule of law, the JSC - which is the administrative arm of the Judiciary - is constantly seeking ways to make judicial services more accessible and simplified for all members of society. In that regard, the JSC is doing all it can to ensure that there is both a quantitative and qualitative provision of justice by removing all barriers which obstruct the rule of law.

An area which has been of great concern relates to the rules of courts. Rules regulating the procedure of most of our courts had not been reviewed for decades. They had in many instances become obsolete. They were fragmented and difficult to use. That is unacceptable in any modern jurisdiction. It is imperative that rules of court are simplified. They must be non-legalistic to allow litigants without legal training to use them without hindrance. It follows therefore that the rules of the various courts must complement each other. It was against that background that the JSC embarked on a review of the rules of all the courts.

As I indicated in my remarks in January 2018, the Constitutional Court Rules are in place and operational. They now regulate the filing of matters in the Constitutional Court. The Court, legal practitioners, litigants and the public immensely benefited from the promulgation of the Constitutional Court Rules.

The Supreme Court Rules and the Labour Court Rules have also been gazetted. I am aware of comments made by judicial officers, registry staff, legal practitioners and self-acting litigants regarding the new rules in both those courts.

The new Magistrates' Court Rules will become operational on 1 February 2019. The magistrate's court is a court that is visited by the many indigent and vulnerable members of our society. Almost 90% of litigation in this country happens in that court. I need to emphasise the importance of simplified rules in that court. It is my fervent hope that litigants will find the new Rules easier to use than the previous ones once they become operational.

The High Court Rules have been extensively debated by stakeholders. The process is being concluded. I am confident that they will be submitted for consideration by the Attorney General's Office during the first half of 2019.

I wish to express my sincere gratitude to the Minister of Justice, Legal and Parliamentary Affairs, the Office of the Attorney General, the Law Society of Zimbabwe and other stakeholders who partnered with the JSC to review the rules of the various courts.

THE SUPERIOR COURTS

The opening of a new High Court station at Mutare on 7 May 2018 ranks as the pinnacle of the access to justice initiatives in 2018. It was a culmination of a long but necessary journey. The

opening of that station went a long way in reducing distances travelled by litigants in Manicaland and some parts of Mashonaland East and Masvingo to access the services of the High Court. We now have a complement of two Judges deployed at the station with effect from 1 January 2019.

In the last quarter of 2018, I also commissioned three new courtrooms at the High Court in Bulawayo. The expansion of the courthouse allows for the deployment of more Judges to the station and in the process will improve the turnaround time of cases in the courts. It is my wish that, once the number of Judges allows, we will be able to deploy more Judges to that court during the course of this year.

Appointment of magistrates

Distinguished Guests, Ladies and Gentlemen, in my address at this occasion last year, I advised that one of the challenges that militated against service delivery in the courts was the shortage of judicial officers and their support staff. I am pleased to announce that the JSC finally managed to recruit 233 critical officers on a phased basis over the period July to November 2018. In addition, ten magistrates were promoted to the post of regional magistrate. The recruited officers included sixty magistrates, assistant registrars, court interpreters, clerks of court among others. Fifty-seven of the new magistrates have since been deployed to various stations across the country where they have alleviated the shortages that existed.

I must also highlight that in line with section 17 of the Constitution, a huge portion of the recruited staffers were female. We do not have statistics, but the JSC may have possibly set a new record by becoming the first public institution to employ more females than males. The ratio of females to males in the JSC now stands at **53.6 % to 46.4 %**. The females do not

simply come in numbers but in quality as well. Out of the **64** Judges in the country, **34** are men whilst **30** are women. Out of the **249** magistrates, **128** are female whilst **121** are male.

Rehabilitation of Court Stations

Mount Darwin and Lupane Courthouses

The JSC approved the construction of new courthouses at Mount Darwin and Lupane. Lupane Magistrates' Court unfortunately represents the vestiges of the courts' past. It is still operating from the District Administrator's complex together with other Government departments.

At Mount Darwin, members of staff operate from a bedraggled building with a sagging roof whilst crammed in the few offices available. There is a single courtroom, which is shared by the three magistrates at the station. Magistrates therefore preside over some of their cases in chambers. This obviously detracts from quality service to litigants and other court users. It is unacceptable.

As a result, the JSC had no choice but to embark on the construction of courthouses at the two stations despite the forbidding economic outlook. Pre-commencement work is already underway at the two stations with a target to complete both structures by June 2019.

Chinhoyi Magistrates' Court

The construction of the massive court complex at Chinhoyi Magistrates' Court, which had been dormant for more than ten years, has been resuscitated. Significant progress towards its completion was made during the course of the year. When successfully completed the court will become one of the biggest courthouses in the country. It is my sincere hope that the facility will enhance the administration of justice in Mashonaland West Province.

Mutasa, Concession, Chipinge, Plumtree, Beitbridge, Guruve and Karoi Magistrates Courts

During the course of 2018 the circuit courts of Mutasa in Manicaland and Concession in Mashonaland Central were upgraded to resident magistrates' courts. Resident magistrates and support staff have already been deployed to these courts and they are now fully functional. Chipinge, Plumtree, Karoi, Beitbridge and Guruve were given regional court status. Regional magistrates to man the stations were appointed and deployed to the respective stations. Whilst the regional magistrate to be deployed to Guruve has been identified, the facilities at the station require a major upgrade before regional court operations can commence. I have been advised that the National Prosecuting Authority has many cases that are awaiting set down at Bindura and that the only regional magistrate in the Province is overwhelmed with cases that require the jurisdiction of a regional court. To mitigate this challenge, I have directed the Chief Magistrate to send the regional magistrate earmarked for Guruve to assist at Bindura until the upgrades at Guruve are completed.

Operations and performance of the courts

The performance of all magistrates and Judges in 2018 was very pleasing. That in turn contributed to the good performance of all the courts generally.

The Constitutional Court

Distinguished Guests, Ladies and Gentlemen, before I turn to the performance of the Constitutional Court and Supreme Court, allow me to congratulate the Honourable Mrs Justice Lavender Makoni and the Honourable Mr Justice Francis Bere on their elevation from the High Court to the Supreme Court and Constitutional Court in May 2018. Their addition to the benches of the two courts is a welcome addition in view of the workload the courts are grappling with.

In the Constitutional Court the trend projected in 2017, continued. The number of cases filed in the Court further dropped from **70** in 2017 to **59** in 2018. The court opened the year with **68** pending cases. It received **59** cases to make a total of **127** cases. It completed **85** cases which reduced the backlog of cases in that Court from **68** in 2017 to **42** at the end of 2018. Needless to say, the number of cases received by the court are still far higher than expected in an apex court.

The Supreme Court

The Supreme Court opened the year with **459** cases. It received **914** new cases to make a total of **1 373**. The court finalised **935** cases and closed the year with a backlog of **438** cases. Given the number of Judges in that court, and the reality that they double up as Judges of the Constitutional Court, the output of the court remains very satisfactory.

The High Court

Distinguished Guests, Ladies and Gentlemen, the High Court opened 2018 with **4 596** cases. It received **22 130** new cases to make a total of **26 726** cases. The court then finalised **23 300** of that total to close the year with **3 789** pending cases. Honourable Judges of the court worked extremely hard to reduce the number of cases pending in that court from **4 303** in 2017 to **3 789** at the end of 2018. This hard work is in keeping with the clear trend that has been witnessed in the High Court in the last couple of years. It is anticipated that in 2019, when the Commercial Division of the court becomes functional, better performance still can be attained. What remains clear is that the Judges of that court are overworked. More Judges are required to lessen the burden on the Judges' shoulders.

The Labour Court

The figures from the Labour Court clearly show that the output of the court remains quite satisfactory. The court commenced 2018 with **856** cases. It received **2 787** new cases to make a total of **3 643** cases. Of those, the court completed **3 199** cases to close the year with **444** pending cases. Now that the court is moving into a more spacious building, it is my fervent hope that the Senior Judge of the court will put in place new measures to further enhance performance of both Judges and the registry staff.

The Administrative Court

The Administrative Court remains a one Judge court. The court continues to receive a fair amount of work. It received a total of **63** cases, after opening the year with **39** cases. That made a total of **102** cases. The Judge then finalised **76** cases to close the year with **26** cases pending in the Administrative Court.

The Magistrates' Court

The magistrates' court received **211 477** cases after opening the year with **3 845** cases. That brought the total number of cases to **215 322**. Out of that total, **210 084** cases were completed to end the year with a backlog of only **5 238** cases. The hard work which all magistrates put in cannot be ignored. They are all complimented for the good work.

Quality justice

All the courts, in their hierarchy, have successfully stemmed the tide of rising backlogs, which was one of the biggest challenges to the proper administration of justice. The achievement of that objective should not be an excuse for the courts to sit back. Instead, it must spur every judicial officer to strive to improve the quality of the courts' output. That quality is, more often than not, demonstrated through the judgments that are delivered by the courts. I therefore wish to take this opportunity to implore all judicial officers to be alive to this new trajectory that the

Judiciary is taking. We must all ensure that quality justice prevails in the various courts which we preside over. I make the call even louder to all Judges of the superior courts who, in terms of section 176 of the Constitution, have the extra responsibility to model the country's jurisprudence by developing the common law for the sustenance of the rule of law.

To achieve that objective, continuing professional development of judicial officers will again take centre stage in 2019. Continuing professional development of judicial officers is a process which has been accepted globally. Judicial officers have no choice but to embrace it. In Zimbabwe, the Constitution enjoins every member of the Judiciary to take reasonable steps to enhance his or her knowledge and to keep abreast of developments in the law. During the course of the year all judicial officers will be exposed to various forms of training within and outside the jurisdiction. In line with that objective, I am pleased to announce that during the first week of February Zimbabwe will host Judges from other SADC countries in Victoria Falls who will be trained on human rights issues. A number of Zimbabwean Judges will also attend that training.

Separation of Bulawayo and Matabeleland North Provinces

In the course of 2018 the JSC instructed its Acting Secretary to undertake visits to all Provinces in the country for purposes of assessing operations and the state of repair or disrepair of infrastructure and equipment. One of the major highlights of the visits was the realisation that the geographical size of Matabeleland North Province detracted from its efficient administration. For instance, the distance from Bulawayo, where the Province was headquartered, to some of the stations was in excess of 400 kilometres. This created administrative headaches for the JSC.

In an effort to lessen the burden, synchronise the JSC's operations with the Government's thrust for devolution and improve administration of the courts, the JSC approved the separation of Bulawayo Metropolitan Province from Matabeleland North Province. I am happy to advise that the administrative aspects of that separation are now complete, whilst the legal declarations to create the Province of Bulawayo Metropolitan and its satellite stations should also be complete shortly.

CHALLENGES

Budgetary support

I have illustrated above all the work that the JSC carried out in 2018. In addition to undertaking these projects the JSC provided adequate support to all the courts across the country. Funding is required on a daily basis to service circuit courts in all parts of the country. Huge amounts of money are also needed to fund payment of witnesses who come to testify in the courts. Yet without these witnesses, courts are not able to conduct trials.

Significant resources must be availed to enable the JSC to procure stationery, furniture and equipment for use in the courts. As everyone is aware, the country experienced economic challenges but the courts remained functional. All this would have been insurmountable without the support from Treasury. I wish to publicly acknowledge the efforts by Treasury in timeously releasing funds for court operations during the period under review. Budgetary support to the Judiciary is a requirement for the attainment of the rule of law which cannot exist when the courts are not fully operational. We may not have received enough funding to meet all our objectives and aims, but the JSC put to good use the little it received to ensure that the courts remained operational.

As we move into 2019, I acknowledge that the economic situation has not improved. I also acknowledge the policy statements and austerity measures directed by the Ministry of Finance and Economic Development and appreciate that the Judiciary will not be spared from these. It is however important for Treasury to take note of the following fundamentals.

The Judiciary, because of its nature and unlike the other two arms of State, is unable to and has no means of aggressively pushing for increased budgetary allocations. This is the reason why the JSC tries to live within the means allocated to it. It will therefore be a self-defeating exercise for Treasury to attempt to unnecessarily ring-fence the JSC's budget and stifle the Judiciary from accessing its budgeted funds timeously. Any such measures are a threat to the independence of the Judiciary and to the rule of law. An independent Judiciary is one that receives enough funding to run the courts in order to protect the rights of citizens. It is only a Judiciary that is truly independent which decides matters impartially without fear, favour or prejudice; and is impervious and immune to extraneous influences. It is only a truly independent Judiciary which can withstand the pressure exacted by the demands of the principle of the rule of law.

Distinguished Guests, Ladies and Gentlemen, the doctrine of separation of powers, upon which our constitutional democracy is premised, specifically embraces the independence of the Judiciary. That independence includes financial independence. It is important in this context that the Judiciary is able to access funds allocated to it in the budget timeously in order to execute its constitutional mandate. Anything contrary to this will negatively affect court operations. Unfortunately, that in turn may be interpreted as interference and is certainly a threat to the rule of law.

Allow me, **Distinguished Guests, Ladies and Gentlemen**, to add that it is the JSC, by virtue of the powers reposed in it by the Constitution of Zimbabwe and the Judicial Service Act, which has authority to set conditions of service for judicial officers and members of the Judicial Service. This is always done within the confines of the budget allocated to the JSC. That power was given to ensure that the Judiciary remains independent and need not depend on the benevolence of other State entities. I therefore urge everyone, and particularly Treasury, to allow the Judiciary space to deal with its own financial affairs. On our part, I give my assurance as the Chairperson of the Judicial Service Commission that we will account for every cent when called upon to do so.

Shortage of Resources

The prevailing economic challenges have not spared the Judiciary. The distortions and unmitigated increases in prices of services and commodities stifled operations across all the courts and slowed down progress of various projects. This resulted in the half-built courthouses at Gwanda and Marondera remaining derelict. We can only hope that there will be significant improvement in 2019.

Conditions of service

Conditions of service for members of staff have not improved in a long time. Salaries of judicial officers remain divorced from the reality of the importance of the judicial functions they perform. Efforts to fight corruption must be complemented by awarding judicial officers and their support staff a living wage. I will not tire of calling for a review of conditions of service of all members of staff in the Judicial Service. As provided for in the law, the JSC has a duty to determine the levels of remuneration of its employees within the confines of resources available to it. This does not only serve to remove perceptions of external control but also cushions members of staff from financial hardships and boosts their morale. The achievements

made by the JSC in the last few years are all based on its capacity to cooperate with other Government departments and stakeholders in the administration of justice.

Plans for the future

In Harare, the JSC acquired a more spacious building to accommodate the Labour Court. The Secretariat is in the process of renovating and customising it to fit the needs of the Labour Court. It is the JSC's vision that the Labour Court will move to the new premises in the first half of 2019. The JSC further acquired Bristol House, the building from which the Labour Court is currently operating. Hitherto, the building was being leased at unsustainable rentals. It is now earmarked to accommodate the Commercial Division of the High Court. Its customisation will commence once the Labour Court has relocated.

Distinguished Guests, Ladies and Gentlemen, the establishment of the Commercial Division of the High Court is one of the JSC's priorities during the course of the 2019 legal year. The Judiciary acknowledges the effort by Government to open the country for business. That is an initiative dedicated to improving the state of the country's economy through encouraging the reopening of factories and inviting foreign direct investment. Such initiatives inevitably result in increased commercial disputes. The Judiciary will not be caught napping. Modern infrastructure and systems must be put in place to ensure that such commercial disputes when they come to court are dealt with fairly and expeditiously. This again is the essence of the rule of law. It is a system designed to bring confidence in the court system by business people both within and outside Zimbabwe.

To achieve this, three key processes will be undertaken during the course of this year. Firstly, we will ensure that the process of drafting Rules which will regulate the procedure and other operations of that Division commences without further delay. Shortly, I will, in consultation

with the Judge President of the High Court, set up a Committee made up of judicial officers, registrars and legal practitioners to spearhead the drafting of the Rules. This is in line with the resolution passed during the Bar-Bench Colloquium, jointly hosted in Victoria Falls by the JSC and the Law Society of Zimbabwe.

Secondly, the JSC will commence the renovation and customisation of Bristol House into a state-of-the-art Commercial Court building.

Thirdly, the JSC will finalise the procurement of software for the installation of an Integrated Electronic Case Management System in the Commercial Court. My vision is that when the Commercial Court opens its doors to the public it must be a paperless court. All its processes must be managed electronically.

Distinguished Guests, Ladies and Gentlemen, the Constitution requires a complete separation of the Constitutional Court and the Supreme Court by May 2020. This is a requirement of the law that may not be circumvented. The process will have serious budgetary implications. A separate Supreme Court must exist with its own Judges, registry staff and building. The JSC has already started to put in place administrative measures which will facilitate compliance with the law when the time comes. Renovations of the old Supreme Court building are at an advanced stage. That building is earmarked to house the stand-alone Supreme Court. The JSC Secretariat has vacated the building and relocated to Causeway Building to allow for those renovations. I am confident that the building will be ready for use during the course of the year.

I must, however, mention that in view of the shortage of Judges' Chambers at Mashonganyika Building I have moved some of the Supreme Court Judges to be housed at the Old Supreme

Court Building temporarily. What remains is the recruitment of more Supreme Court Judges and registry staff who will work in that court. Very soon the JSC will advertise positions of Supreme Court Judges in the media. I have in the same breath directed the Acting Secretary to start engagements relating to the recruitment of registry staff and to procure all equipment and furniture required in that court. The separation of these two courts is therefore another priority area for the year 2019.

Decentralisation of Magistrates' Court in Harare

It has been brought to my attention that there is serious congestion at the two criminal courts at Rotten Row and Mbare which serve the city of Harare. Whilst the city has been expanding and its population increasing over the last decades, there has not been a corresponding increase in court facilities. The facilities at these two criminal courts can no longer cope with the workload coming from the numerous police stations in and around the city. There is therefore a need to increase the number of courts servicing Harare Metropolitan. To that end, I have instructed the Acting Secretary to engage with all the relevant stakeholders including Harare City Council so that we decentralise operations to populous places like as Mabvuku, Tafara, Epworth, Budiriro and others. This decentralisation project must commence in 2019.

Integrated Electronic Case Management System

Distinguished Guests, Ladies and Gentlemen, like every other facet of human endeavour, the administration of justice must keep pace with technological advancements. It is important to utilise the flexibility and ease that technology presents to the administration of justice. In that regard the JSC has taken significant steps in its efforts to introduce an integrated electronic case management system. The Committee of JSC personnel set up to explore the possibilities

of establishing this system produced its report and made recommendations on the appropriate integrated electronic case management system for our jurisdiction.

Currently, the JSC is carrying out the necessary processes to facilitate procurement of the appropriate software in consultation with the Procurement Regulatory Authority of Zimbabwe. Barring budgetary bottlenecks, the first phase of the project must be launched in 2019. Whatever system is ultimately settled for, it will be customised to local needs. It will be based on international best practices and lessons learnt from jurisdictions which have successfully implemented similar systems. The implementation of this project will be on a court by court basis. As I have already indicated, the court which is expected to first benefit from the roll out of the system is the Commercial Division of the High Court. Above all, the electronic management of cases is not simply meant to decorate the courts but to enhance efficiency in the manner cases are managed. It must also deal with the challenge of missing documents and files.

As indicated in my introductory remarks, the theme for 2019 is **Consolidating the Rule of Law**. We remain very confident that Government's efforts in turning around the economic fortunes of the country will bear fruit. In the process the JSC's plans for the year remain as already outlined. The Judiciary fully commits to upholding the rule of law and to put its shoulder on the wheel so that together with other stakeholders the fight against corruption succeeds. To achieve this, more judicial officers must be appointed. Emphasis will be placed on the quality of court work and all services offered throughout the courts, as will the need to keep abreast with technological developments. Introduction of electronic case management systems in the courts is imperative.

Conclusion

Distinguished Guests, Ladies and Gentlemen, these plans, elaborate as they appear, will remain a pipe dream without collective effort. The Judiciary requires the support and cooperation of all stakeholders to achieve these goals. We are ready for the fight ahead of us and are optimistic that court operations will improve significantly.

Distinguished Guests, Ladies and Gentlemen, I acknowledge the support that the Judiciary is getting from stakeholders in the administration of justice. The stakeholders include the Ministry of Justice, Legal and Parliamentary Affairs, the Ministry of Finance and Economic Development, the National Prosecuting Authority, the Zimbabwe Republic Police, the Zimbabwe Prisons and Correctional Services, the Law Society of Zimbabwe, and law based civil society organisations. It is through your cooperation that the courts are able to fulfil their mandate of upholding the rule of law in the country. That common purpose brings us together with a vision to live up to the aspirations of the Constitution.

Throughout the year, the operational requirements and initiatives of the Judiciary have been supported by the Government. The JSC expresses its gratitude for this support. It is important to the administration of justice that the support was forthcoming and, more importantly, that matters relating to the Judiciary are not politicised in any way. Lastly, I want to thank members of the entire JSC family, the Commissioners, the Judges, the magistracy and the Secretariat staff at all levels for a job well done.

Before this formal session closes, I call upon Bishop Chihota from the Methodist Church in Zimbabwe to lead us in prayer for wisdom and guidance from the Lord as we begin our work in the year ahead.

After the prayer, the Court will adjourn.