

REMARKS

BY

THE HONOURABLE MR JUSTICE L MALABA,

CHIEF JUSTICE,

ON THE OPENING OF THE SECOND TERM

JUDGES' SYMPOSIUM

AT

TROUTBECK INN RESORT, NYANGA

ON 4 AUGUST 2017

Honourable Judges and distinguished resource persons and delegates, I wish to welcome you all to the 2017 Second Term Symposium.

Time passes rapidly when you are busy. It seems like only a few days ago when I addressed Judges and delegates at the end of the 2017 First Term Symposium in Masvingo. The truth, however, is that another whole term has come and gone.

In Masvingo I mentioned that the Judicial Service Commission (“the JSC”) and the International Commission of Jurists (“the ICJ”) have a Memorandum of Understanding, in terms of which it was agreed that the ICJ would assist the JSC in ensuring that at the end of every term Judges would retreat to engage each other and discuss operations of their respective courts.

The organisation of this particular symposium is, however, different and was fairly taxing on the JSC. Due to funding constraints on their part, the ICJ was not able to assist with any funds. The JSC and I,

however, place a high premium on Judges' symposia and we could not allow this term to end without this retreat.

I also mentioned in Masvingo that I intended to work closely with the heads of all the courts and encourage them to be proactive in the management of their courts. I emphasised that I would devote a good part of my time, energy and the JSC's resources towards improving performance of the courts generally and the performance of each Judge, without interfering with his or her decisional independence. We all agreed on the performance measurement criteria. In this regard, I have, on a monthly basis, been analysing the statistical evidence on the performance of each court and individual Judges. Where the performance of the court and/or the Judges is good, I have passed on my commendation through the heads of the courts. Where I have felt that there was a need for improvement, I have equally expressed myself clearly to the heads of the courts. I hope you have all received my messages.

I am happy to advise that the response from all Judges has been tremendous. The Judge President of the High Court and the Senior

Judge of the Labour Court made numerous visits to their stations outside Harare in line with our agreement to be more hands on in the supervision of Judges. There has been a marked improvement in the output of all courts.

As has become customary, a fuller discussion of the performance of the courts and Judges will be undertaken in the segment reserved for that exercise during the symposium.

On the administrative front, the Acting Secretary is undertaking visits to all JSC institutions throughout the country on my behalf. The purpose of these visits is to assess all JSC operations, the state of infrastructure, office and court equipment and the performance of staff. So far, her team has visited the Midlands and Matabeleland South Provinces. They have, in some instances, discovered situations which, if made public, would be an embarrassment to all of us. Where necessary and possible, they have taken immediate steps to intervene and address the administrative issues.

Significant progress has been made in this regard, with one of the highlights being the improvement of the facilities used by the Labour Court in Gweru. Once again I wish to applaud all Judges, the JSC Secretariat and support staff for the good work done in the short space of time that I have been Chief Justice. More remains to be done and we will continue working together towards our goal of improving on quality service delivery all round.

Honourable Judges and distinguished delegates, you all remember that at one time an elaborate presentation was made on the topic of judicial case management. Extensive debate on the advantages and disadvantages of the system followed that presentation. One lesson drawn from that debate is that the Judiciary has no choice but to move with the times and embrace technology. Based on that observation, I made a decision that we must take case management on board. Shortly after I took that decision, the Judicial Laws Amendment (Ease of Settling Commercial and Other Disputes) Act 7 of 2017 was enacted. This has vindicated my decision to embrace technology because, in addition to creating specialised Divisions of the High Court, the new

law also makes provision for the virtual sitting of courts and other technology aided proceedings of the courts.

Developing and installing our own integrated electronic case management system is one of the strategies that we will employ to combat the threat of ever increasing backlogs in the courts.

In pursuit of that strategy, I commissioned a committee headed by the Honourable Justice Dr. Tsanga, with clear terms of reference to undertake a comprehensive study of our systems and recommend an appropriate case management system by the end of 2017. We await their recommendations with much anticipation and hope.

Honourable Judges and distinguished delegates, in all this hard work I acknowledge the challenges which Judges face. The workload in the High, Supreme and Constitutional Courts is not commensurate with the establishment of Judges in those courts. In fact, if left unchecked it may get to a point where it may threaten the health of Judges. The processes to recruit more Judges were initiated by the JSC. The actual appointment of Judges is the prerogative of the President.

Until the appointments are made, the burden of having to hear and determine those cases that would otherwise have fallen on the newly appointed Judges shall continue to fall on each of us in our respective courts.

Honourable Judges and distinguished delegates, allow me to also take this opportunity to thank both internal and external resource persons who will lead us in the stimulating discussions lined up for this symposium. I notice from the programme that there are topics which range from the health and welfare of Judges to the nuts and bolts of Judges' work in the courts.

As usual, I urge all of you not to forget that this is also an occasion to unwind and forget the rigours of court work. It is my fervent belief that at the end of it we will all relax and draw lessons which will assist us in executing our functions better.

With these few remarks I declare the 2017 Second Term Symposium officially open and wish all of you fruitful deliberations.