

JUDICIAL SERVICE COMMISSION

“A Zimbabwe in which world class justice prevails!”



ADDRESS BY

**THE HONOURABLE MR JUSTICE PADDINGTON GARWE,
JUDGE OF THE CONSTITUTIONAL COURT**

**ON THE OCCASION OF THE OFFICIAL OPENING OF
THE 2022 LEGAL YEAR**

HELD ON 10 JANUARY 2022

AT THE HIGH COURT OF ZIMBABWE IN MASVINGO

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**THEME: USE OF TECHNOLOGY TO ENHANCE
EFFICIENCY AND THE RULE OF LAW IN THE
JUDICIARY**

I wish to acknowledge the presence amongst us of the following:

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, on behalf of the Zimbabwean judiciary, I extend a warm welcome to all of you to the 2022 Legal Year Opening Ceremony taking place here at the High Court of Zimbabwe in Masvingo. I consider it an honour to stand before you and address you on this occasion. It is yet that time in our calendar where stakeholders involved in the administration of justice gather to mark the commencement of the legal year. The objective of this event is to create a platform through which the judiciary can account for its activities to the public - from which it derives its mandate - by stating the achievements made and challenges faced in meeting its constitutional obligations in the preceding year. It is also a forum at which the Judiciary outlines its plans for the next twelve months.

I therefore extend a special welcome to all of you. The fact that you have found it befitting to attend this occasion is important and no doubt shows

the confidence with which you attach to the administration of justice in this great country of ours.

As the world looks to 2022 with hope and guarded optimism, we do not forget that we are amidst a global pandemic. It is our hope that the pandemic, which currently seems insuperable, will be overcome. In the meantime, the judiciary will continue to take precautions, some of which have enabled us to host this ceremony physically.

The COVID-19 pandemic has taken a human toll across the globe and our thoughts and prayers are with all those who lost family and friends to the virus. We take this moment to remember all those who were part of our judicial community who passed on in the past year due to the virus.

[*pause*] May their souls rest in eternal peace.

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, this ceremony is occurring concurrently with other opening ceremonies taking place at other courts throughout the country. The main ceremony is being held at

the Constitutional Court in Harare, where the Chief Justice, the Honourable Mr Justice Malaba, is officiating and will officially open the legal year. I believe that the main ceremony is being televised on the national television channel. In Bulawayo, the ceremony is occurring at the Bulawayo High Court and the Deputy Chief Justice, the Honourable Mrs Justice Gwaunza, is presiding. In Mutare, the ceremony is occurring at the Mutare High Court and is being presided over by the Honourable Mrs Justice Makarau, whilst in Chinhoyi the ceremony is taking place at the recently commissioned Chinhoyi courthouse and is being presided over by the Judge President of the High Court, the Honourable Mrs Justice Dube.

During this ceremony, I will share with you the most important activities undertaken in the preceding legal year across the judiciary; the notable accomplishments, the challenges faced and what we in the judiciary intend to do in the next twelve months in order to accomplish our goals.

THIS YEAR’S THEME

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, alive to the fact that each year ushers in a new theme which underpins the vision, operations and work of the judiciary, it is my pleasure to announce that the theme for the judiciary this year is **“USE OF TECHNOLOGY TO ENHANCE EFFICIENCY AND THE RULE OF LAW IN THE JUDICIARY”**.

In an endeavour to deliver world class justice, the judiciary picks a theme that builds on the work undertaken in previous legal years in an effort to further develop and enhance our justice system. The Judicial Service Commission (JSC) has a constitutional mandate of promoting and protecting the independence of the judiciary and holding the institution accountable by ensuring that there is efficient, effective and transparent administration of justice in Zimbabwe as enshrined in the Constitution.

This year’s theme aims to set the wheels in motion for the coming legal year. It calls upon all of us to ask “How can the use of technology enhance efficiency and the delivery of justice?” I therefore turn to briefly address

you on the significance of the chosen theme in the work of the Judicial Service Commission and the Judiciary in 2022.

When we talk of “efficiency” we can, in the simplest terms, equate it to doing better what is already being done. This is of paramount importance for any institution as it facilitates in the progressive realisation of constitutional rights and obligations that institutions owe to the public.

In the judicial context, efficiency may be conceptualised as a goal. This is evident from the mission statement of the Judicial Service Commission, which partly states the Commission’s goal as being to “provide administrative support to the Judiciary for an efficient and effective justice delivery system that inspires public trust and confidence in the rule of law.” Efficiency, as a goal, is anchored in the legal framework to which reference has just been made and the strategic plans of the Judicial Service Commission. This is a collective goal of all members of the Judiciary, members of staff and other stakeholders in the justice delivery system. We must all approach 2022 with the collective goal of efficiency in mind. A judicial system that is characterised by inefficiency is anathema to good

governance and has deleterious effects on the administration of justice. It subverts the rule of law.

One of the pillars of the rule of law and the cornerstone of the justice system lies in accessibility of the legal system to all. The rule of law encompasses the principle that all persons, institutions and entities, both public and private, including the government itself, are accountable to laws that are publicly proclaimed. The rule of law is thus foundational to a cohesive society. The justice delivery system thus has an integral role to play in the preservation of the rule of law. As a judiciary we remain committed to the rule of law in Zimbabwe and I am confident that the Masvingo community shares my sentiments.

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, our theme this year is predicated on the use of technology as a means of enhancing efficiency and the rule of law. The use of new technology is intended to enhance access to justice and productivity in the justice system. This year will therefore see a paradigm shift from the traditional processes and

modes of operations of the courts towards a more digitalised system incorporating an increased use of the computer and internet-based operations. Work is currently in progress to instal an electronic case management system in the Constitutional Court, Supreme Court and the Commercial Division of the High Court. This system will, in due course, be rolled out at all the courts throughout the country.

There is a relationship between the use of technology and the rule of law and between technology and efficiency. Over time members of our society have become attuned to technology as part of their way of life. The judiciary therefore must keep abreast of these developments by incorporating the use of digital tools as a solution to the problem of access to justice. In addition to this, technology will make tasks easier to complete and, more importantly, will reduce the time taken to file process with court registries and expedite the operations of court registries. These technological tools are the least reliant on the relative competence and speed of the members of staff employed in registries in the courts. Consequently, there will be uniform and guaranteed efficiency throughout

the court registries. Thus, technology will significantly shorten the time taken to file process, to make entries in the registry, to index, paginate and prepare records of proceedings, as well as to set down cases for hearing.

All of these advances will tremendously help not only to enhance the rule of law but also in enabling activities crucial to the rule of law to continue remotely when the need arises. Technological development will also aid in safeguarding the rule of law by creating a system in which there is equal access to justice; elimination of discrimination; increased transparency and creation of a stable and just future for all.

An efficient technology-driven Judicial Service is a medium-term goal in the current strategic plan of the Judicial Service Commission.

THE INTEGRATED ELECTRONIC CASE MANAGEMENT SYSTEM – “THE I.E.C.M.S.”:

That said, I now proceed to share with you one of the newest innovations that is underway in the Judiciary and is the theme for this year’s legal calendar. The flagship activity taken to enhance efficiency and the rule of

law is the integrated electronic case management system or in short the I.E.C.M.S. The system is in its first phase of implementation and will be coming to your province in due course.

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, the integrated electronic case management system, as implied by its name, is a web-based electronic tool that we will rely on for the management of a case filed in a court. Essentially, it is an electronic filing system, also known as e-filing.

Access to justice is a fundamental component of the rule of law. Technology can make legal services more accessible to all. The ability to access high quality legal services that are timely and affordable is a key part of realising this right.

Furthermore, in this era of COVID-19, this development will surely enhance efficiency. It is convenient, when regard is had to all the restrictions that the nation has experienced, which include limitations on travel and prohibition of gatherings. The pandemic has also made people

more apprehensive about gatherings and this has a chilling effect when it comes to court attendances. With this new system, the need for physical interactions and appearances at court are curtailed and the filing of documents can be done remotely through the use of e-filing systems, virtual hearing platforms and other tools. The other benefits of this new system are that it will be cost-effective in that those who live in the rural areas will not have to incur extra costs to travel long distances to urban centres; it will be less time-consuming and, more importantly, it will be accessible to all.

I must assure members of the public that the Judicial Service Commission has put in place adequate measures to remove the challenges that some litigants may face in utilising the electronic case management system. These will include the setting up of booths at all court stations countrywide to assist litigants who have no access to electronic gadgets or the internet, and the appointment of trained staff members to help litigants. The Chief Justice has urged all stakeholders namely, legal

practitioners, the National Prosecution Authority, the office of the Attorney-General, the Zimbabwe Anti-Corruption Commission, the Zimbabwe Republic Police and Zimbabwe Prisons and Correctional Service to be well-acquainted with the I.E.C.M.S. else they get left behind. They are stakeholders and will need to be fully conversant with the system for it to be effective in our justice delivery system.

THE JUDICIAL TRAINING INSTITUTE OF ZIMBABWE

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, some of you will be aware that the Judicial Service Commission recently launched its 2020-2025 Strategic Plan. A key component of that plan is the establishment of the Judicial Training Institute of Zimbabwe. That institution has now been established and became operational in 2021. Operating under the auspices of the Judicial Service Commission, the Institute facilitates and promotes the training and capacity building of all staff members within the Judicial Service, including Judges and Magistrates.

The establishment of the institution is a fulfilment of one of the requirements of the Constitution, namely that the Judiciary should take all reasonable steps to maintain and enhance professional knowledge, skills and personal qualities. The Institute successfully organised and ran a number of programmes for Judges, Magistrates, Research officers and Research Assistants during 2021.

INFRASTRUCTURE DEVELOPMENT

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, as part of its objective to improve access to justice and the administration of justice in general, the Judicial Service Commission has been involved in a number of infrastructural developments. These include the newly completed courthouse at Mount Darwin, the refurbishment of Bristol House which will accommodate the Commercial Division of the High Court and which will be officially opened during the course of this year and the impressive Chinhoyi courthouse which has since been officially opened by His Excellency, the President of Zimbabwe.

Construction of courthouses continues at Lupane and Gwanda. The courthouse at Gwanda will be a multi-purpose one that will house various departments of the Judicial Service Commission. Unfortunately, progress on the project was stymied by the inefficiency of a previous contractor. This has been corrected and work has resumed on the site.

I am aware that Masvingo High Court Building is small and that there is a serious shortage of office space. At some stage there will be need for the expansion of the court premises so that the court can fully discharge its mandate. This is a matter I believe the Judicial Service Commission is fully aware of but, out of an abundance of caution, I will also ensure that the extent of the problem is once again brought to the attention of the Judicial Service Commission so that the matter can continue to receive some priority.










ANNUAL STATISTICS FOR MASVINGO PROVINCE:

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, I now comment on issues nearer home and more specifically the statistics for Masvingo as a province for the year 2021. An unfortunate development is that one of the three judges who were manning the Masvingo High Court has now been transferred to Harare. This, sadly, means considerable pressure on the two remaining judges who must continue to deal with all the civil and criminal cases, as well as criminal reviews. One hopes that the situation will be addressed shortly so that the court can continue to operate normally. The judges had been working hard and I hope that the temporary loss of one of the judges will not see a rise in outstanding cases in the High Court.

DISTINGUISHED GUESTS, LADIES AND GENTLEMEN, allow me now to share with you the statistics on the performance of the courts in the province during the period under review.

The statistics of the Masvingo High Court in 2021 are nothing less than evidence of hard work and an unparalleled dedication to duty by the three Judges who were manning this Court. The statistics, starting with civil matters, are as follows:







HIGH COURT CIVIL DIVISION:

NATURE	CASES RECEIVED B/F 1/1/21	TOTAL	COMPLETED	PENDING 31/12/21	BACKLOG STATUS
PTCs	1	31	32	29	3 
UNOPPOSED DIVORCE	2	90	92	91	1 
UNOPPOSED EXCLUDING DIVORCE	1	48	49	43	6 
ORDINARY CHAMBER APPLICATIONS	1	81	82	78	4 
OPPOSED MATTERS	4	50	54	37	17 
CIVIL TRIALS	2	14	16	11	5 
URGENT CHAMBER APPLICATIONS	2	46	48	47	1 
CIVIL APPEALS	5	46	51	46	5 
GRAND TOTAL	18	406	424	382	42 

The court had **18** outstanding matters from the year 2020 and received **406** matters bringing the total work load to **424** matters. **382** matters were completed leaving a backlog of **42** matters by the end of 2021.

HIGH COURT CRIMINAL DIVISION:




The statistics for the Masvingo High Court Criminal Division in 2021 are as follows:

NATURE	CASES RECEIVED B/F 1/1/21	TOTAL	COMPLETED	PENDING 31/12/21	BACKLOG STATUS
TRIALS	4	36	40	30	10 
BAILS	3	388	391	391	0 
REVIEWS	3	456	459	459	0 
APPLICATIONS	0	13	13	13	0 
CRIMINAL APPEALS	1	74	75	73	2 
GRAND TOTAL	11	967	978	966	12 

The criminal court received **967** matters. Considering that there were eleven (**11**) outstanding cases, the workload rose to **978**. Of that figure,




966 matters were completed by the end of 2021, leaving a backlog of twelve (**12**) matters.



MAGISTRATE COURT - CRIMINAL

	CASES B/F 1/1/21	RECEIVED	TOTAL	COMPLETED	PENDING 31/12/21	BACKLOG STATUS
CRIMINAL	324	5199	5523	5088	435	
ANTI-CORRUPTION	1	4	5	2	3	
TOTAL	325	5203	5528	5090	438	

The criminal court started the year with **325** pending matters and received **5203** matters in 2021. The total work load increased to **5 528** matters. Of these, **5 090** of the matters were completed and the backlog rose to **438**.

MAGISTRATE COURT – CIVIL

	CASES B/F 1/1/21	RECEIVED	TOTAL	COMPLETED	PENDING 31/12/21	BACKLOG STATUS
CIVIL	46	839	885	846	39	
DOMESTIC VIOLENCE	20	1129	1149	1126	23	
SMALL CLAIMS	2	152	154	142	12	

COMMERCIAL	0	0	0	0	0	
TOTAL	68	2120	2188	2114	74	

The civil court opened the year with **68** matters and received **2 120** matters in the same year. The total work load rose to **2 188** matters. Of these, **2 114** matters were completed. Although the clearance rate was high the backlog rose slightly to **74**.

No doubt, it would have been a positive development had it been possible to also capture the important work that is performed by our customary law courts. Unfortunately, perhaps due to inadequate notice, or disruption occasioned by COVID-19, or both, it has not been possible to get the figures for the customary law courts for 2021. I am hopeful that these figures will be available when we again gather next year on the same occasion.

CHALLENGES FACED:

There was a gradual increase across the board of matters pending before the courts.

In the wake of the outbreak of the COVID-19 pandemic, although doors were not entirely closed, the response to the pandemic, as would be expected, disrupted the operations of the courts. The measures implemented to curb the spread of the virus significantly impacted service delivery as well as the way people live and work.

Naturally, the judiciary and its operations, like that of other government departments and the rest of society, has been affected by the pandemic and the consequential cuts in expenditure necessitated by the outbreak.

The judiciary had to strike a balance between maintaining functional courts whilst managing a public health risk, which we are still trying to understand, with reduced resources. Notwithstanding the hampering of court services by the pandemic, this did not stop court processes and, as an institution, we adapted to the “new normal” and had to be innovative under the circumstances.

CONCLUSION

Allow me, as I conclude, **DISTINGUISHED GUESTS, LADIES AND GENTLEMEN**, to acknowledge and indeed express my gratitude to various institutions that have cooperated and partnered with us during the course of the year and demonstrated their unwavering commitment to the cause of delivering quality justice to Zimbabwe. These include, in no particular order, our parent Ministry, the Ministry of Justice Legal and Parliamentary Affairs, the Ministry of Finance and Economic Development, the Prosecutor-General's Office, the Attorney General's Office, the National Prosecuting Authority, Zimbabwe Republic Police and Zimbabwe Prisons and Correctional Service, civil society organisations involved in the administration of justice, the donor community, the media, legal practitioners, government departments and the public at large. These are all key stakeholders that play a critical role in the administration of justice and, as a judiciary, we are truly indebted to them, for without their cooperation and support the machinery of justice delivery would be severely constrained.

Finally, it would be remiss of me to conclude my remarks without acknowledging the good work that is being done by the judiciary and support staff in the Province. You have done well despite the challenges I referred to earlier. I encourage you to keep up the good work in the current legal year.

I thank all of you for attending this year's Opening Ceremony. It is a very important day in the calendar of the judiciary. I now declare the 2022 Legal Year in Masvingo officially opened.

Before this formal session comes to an end, I call upon [*Insert the name of the nominated representative from the church*] to lead us in prayer and to ask for God's blessings as we, yet again, commence the 2022 legal year. I request that we all stand for the prayers. Immediately after the prayer the court will then adjourn.

I THANK YOU ALL.