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Miranda Team

HARARE

Ephraim Ncube (Harare Magistrates' Court)
Rufaro Marira (Labour Court)
Steven Gwatsvaira (High Court)
Anxious Mbalanga (Chitungwiza Court)
Wadzanai Mugadza (Master's Office)
Francisca Malaba (Master's Office)

BULAWAYO

Phillip Makondo (Magistrates' Court)
Nqobile Mlotshwa (Labour Court)
Musiiwa Manase (High Court)

MASVINGO

Rungano Victor Mahamadi (Magistrates' Court)

MANICALAND

Rumbidzayi Zimunya (Mutare Magistrates' Court)

MASHONALAND CENTRAL

Holder Mangumbi (Bindura Magistrates' Court)

MASHONALAND WEST

Takesure Gora (Chinhoyi Magistrates' Court)

MATABELELAND SOUTH

Servious Dube (Gwanda Magistrates' Court)

MASHONALAND EAST

Tendai Nzou (Marondera Magistrates' Court)

EDITOR'S MEMO



Welcome to our first quarter's issue of The Miranda for the year 2017.

In this issue we keep you abreast of changes in the Judiciary and developments being made to improve the justice delivery system.

We also have stories on the opening of the 2017 legal year in various provinces.

Justice Godfrey Chidyausiku retired as Chief Justice at the ripe age of 70, while Deputy Chief Justice Luke Malaba is now Acting Chief Justice.

Enjoy your read.

A large, elegant handwritten signature in black ink that reads "D. Nemukuyu". The signature is written in a cursive style with a large, decorative initial "D".

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From the Secretary's Desk

Justice Rita Makarau

Secretary of the Judicial Service Commission

The publication of this edition coincides with the end of the first term of 2017. On 9 April 2017 the Superior Courts will go on vacation and when they reopen, winter will almost be upon us. The wheels of time do not stop turning and as they continuously turn, they bring with them change. Sometimes the change is small and goes by unfelt. Sometimes it is fundamental and is felt all round. Like the retirement of the former Chief Justice Godfrey Chidyausiku on 1 March 2017. This is change that will be felt all around even by some of us who never got the opportunity to meet him in person. His vision and personal drive gave us our unique identity as JSC. We cover the retirement of the former Chief justice extensively in this issue. We also welcome and heartily

congratulate the Chief Justice (Designate) Deputy Chief Justice Malaba on his elevation. As we eagerly await his formal assumption of the office, we in the JSC pledge our unwavering support to him. We are also confident that under his guidance, we will climb to greater heights of efficiency and professionalism as we continue to strive towards the delivery of world class justice.

I was recently in the Midlands Province and the levels of enthusiasm and dedication to duty that I witnessed were quite impressive. Keep it up Midlands Province and, well done resident magistrates at Mvuma and Shurugwi! You stood heads above (all other) shoulders in the management of your stations and clarity of vision. Well done once again!

To all, I say, please do enjoy your Passover and /or Easter holidays!

CON COURT SCOOPS AWARD

MIRANDA WRITER

THE Constitutional Court of Zimbabwe has been recognised internationally with an award for passing a landmark judgment that outlawed child marriages.

The court's judgment was handed down last year in a case in which two Harare women, Loveness Mudzuru and Ruvimbo Tsopodzi were challenging the constitutionality of the law that allowed children below 18 to marry. Acting Chief Justice Luke Malaba, sitting with eight other judges of the Constitutional Court, declared unconstitutional any unions involving children below 18 years.

Women's Link Worldwide, a Rwanda-based organisation, honoured Zimbabwe's apex court for a brilliant judgment that was well-received world over.

On behalf of the Constitutional Court, Acting Chief Justice Luke Malaba received the award in Rwanda during a five-day Colloquium on Women and Girls Rights to Good Health that he attended between March 28 and April 2017.

Judicial Service Commission issued a statement informing the nation of the milestone.

"The Acting Chief Justice is attending a Colloquium on Women and Girls Rights to Good Health, hosted by a Rwandese organisation called Women's Link Worldwide.

"While in Rwanda, the Acting Chief Justice will receive on behalf of the Constitutional Court, an award celebrating the Constitutional Court judgment in *Mudzuri Vs Tsopodzi and Others* case number CCZ 12/15, which outlawed child marriages," reads the statement.

After the Colloquium, the Acting Chief Justice



Acting Chief Justice Malaba

proceeded to for a conference for Chief Justices of Africa.

In the famous judgment, Acting Chief Justice Malaba ruled that the supreme law of the country sets 18 years as the age of majority, hence no child should marry before that age.

The landmark judgment was delivered at a time African countries were clueless on how to ban child marriages. Several workshops and conferences have been convened throughout the continent by organisations like SADC Parliamentary Forum to try and find solutions on how to save the children from abusive and unconstitutional child marriages.

Some children have been victims of their parents' religious beliefs that allowed their marriages at tender ages.

Others were even handed over to elder men as a form of traditional appeasement in murder cases.



Chief Justice Godfrey Chidyausiku responds to questions from the public at the farewell dinner.

On a personal level, I would rather go into sunset and sink into oblivion. But on a national level you feel that you represent a certain amount of institutional memory, which the country can use. If opportunities come national duty will take preference than my personal preferences, but otherwise I prefer going farming.

“ ”

CHIDY AUSIKU

bids farewell in style

MIRANDA WRITER



IT'S a pleasure to grow food for people rather than sending them to prison," quipped Retired Chief Justice Godfrey Chidyausiku on his retirement day.

The statement, coming from a man who had spent 16 years at the helm of the Judiciary, drew roars of laughter from hordes of friends, relatives, colleagues and guests who graced his farewell dinner in Harare on February 28.

The man was on his comical best while flanked by his sweetheart, Farai Chidyausiku, who could not also resist the edge to laugh.

A question on what he would do after retirement enlisted this response which showed that he too is a human being not inert to sharing jokes and kisses with others as we wade through this journey of life.

Guests packed the plush restaurant where the farewell dinner was held,

attesting to his greatness.

It was a full house.

Large screens were set up, beaming farewell messages from his acquaintances and relatives. Resplendent in a white jacket with black piping, a matching bow-tie and matching pair of trousers, a rather emotional Retired Chief Justice Chidyausiku, sat among guests flanked by his wife and siblings, brimming with the excitement of a winner.

Smiling intermittently and at times laughing in a dignified manner while following proceedings to mark his departure as head of the Judiciary, he stood out as towering personality.

Precisely, what more would he want, having served the Judiciary, for that long?

"It is a pleasure to grow food for people rather than sending them to prison," he said to a deafening applause from the house, when asked what his plans were after retiring.

"On a personal level, I would rather go into sunset and sink into oblivion. But on a national level you feel that

you represent a certain amount of institutional memory, which the country can use. If opportunities come national duty will take preference than my personal preferences, but

otherwise I prefer going farming."

Rtd Chief Justice Chidyausiku singled out the role he played in the land reform programme as a major achievement in his career as Chief Justice.

Plucked from a generation that fought the liberation struggle to correct colonial land imbalances, the learned Chief Justice showed no regret on the landmark decision he made on the land case, which ended up at the disbanded SADC Tribunal in Namibia.

"The most satisfying thing to me is the role that I played in the land reform programme," he said. "Some people believe the Judiciary was not independent because some of the judgments were perceived to be in favour of the Government.

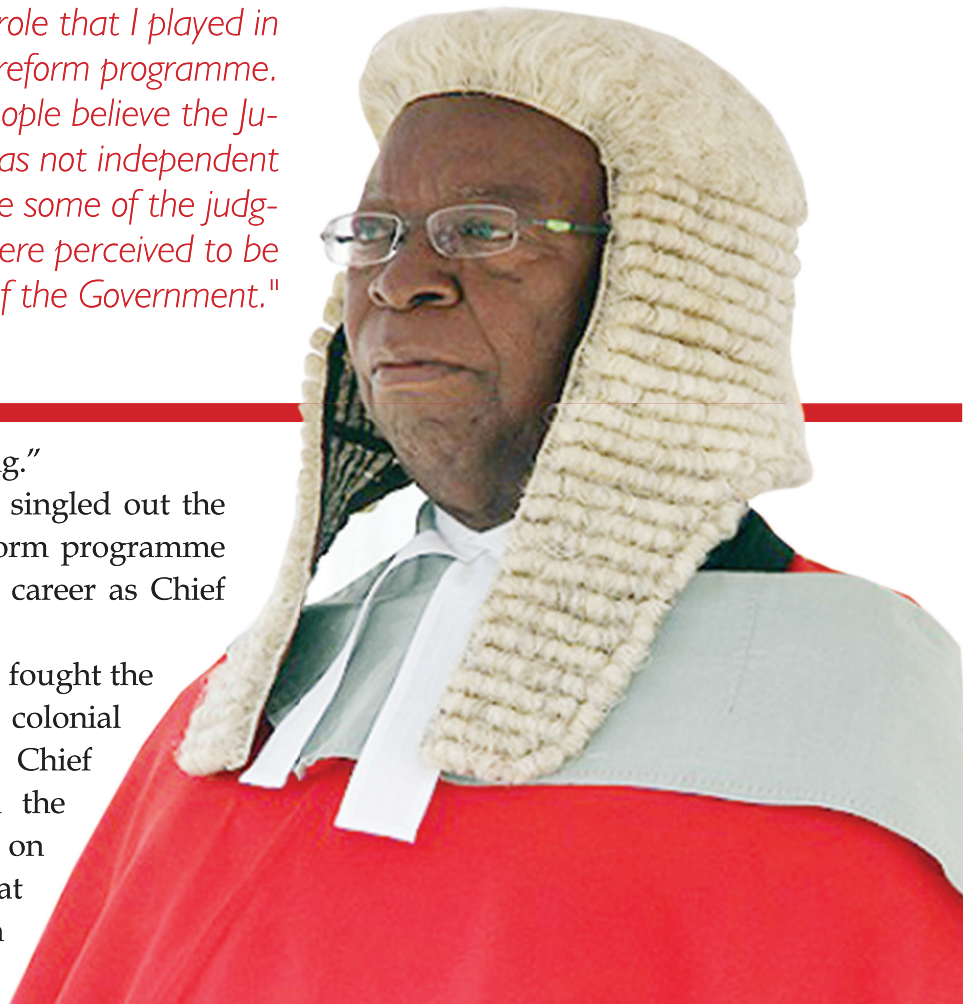
"But the real reason is, I belong to that generation that fought for this country. And that is what really impressed my perception, not that I wanted to please anybody."

During his 16 year-tenure at the helm of the Judiciary, he has made an unexampled impact on the evolution of the Judiciary.

He worked indefatigably and courageously to transmute the Judiciary from a state of doldrums to vibrancy and regrowth.

From his first day at the pinnacle of the judiciary, Justice Chidyausiku not only led by example but has also carried a huge saddle of much-needed reform and development work. He has done so with humility in the face of palling economic obstructions and in the best practices of service

"The most satisfying thing to me is the role that I played in the land reform programme. Some people believe the Judiciary was not independent because some of the judgments were perceived to be in favour of the Government."





to the public and the legal profession.

It is no hyperbole to say that today Zimbabweans have witnessed a magnificent shift during his tenure and this has greatly heightened the plane of public confidence in the country's justice delivery system.

After all, Justice is settled in public confidence. He strongly believed the discipline tinctured in him by his parents and his elder brother Paul Chidyausiku is fundamental for his success story. He thanked his family for supporting him and ensuring that he was able to balance work and family matters.

"I had the fullest cooperation from my wife, children, brothers and relatives. I want to thank them from the bottom of my heart," he said. He also valued the support of all the men and women on the bench which he said was steadfast during his marvelous career as Chief Justice.

"Without their support I would not have been able to have achieved the milestones," he said.

The retired Chief Justice also gave credit and acknowledgement to the support rendered by administrative staff who enabled the courts to

function with the efficiency for which they are now known for.

Speaker after speaker at the glittering function rumbled in an enthusiastically glowing manner of the man who had been stirring the judicial ship for more than a decade and half.

For Acting Chief Justice Luke Malaba, who was his deputy then, it was difficult to accept that after all these years of association time had come where he had to bid Chief Justice Chidyausiku farewell upon your retirement from the bench.

"In bidding you farewell Chief Justice we celebrate the illustrious professional life you have led we recognized in you a great man and indeed a legal luminary," said ACJ Malaba.

"You are a man whose sterling contributions to the development of this country and the judiciary is there for those with unbiased minds to see."

Under Chief Justice Chidyausiku's stewardship spanning over 16 years, ACJ Malaba said, the judiciary transformed significantly to become a force to reckon with in the region both in terms of the quality of its administration and jurisprudence.

"We are grateful that you leave for us a legacy of a judiciary system founded on the values of independency, accountability, integrity and respect for the rule of law," he said.

"We thank you for your selfless dedication...and wish you well in the new life after retirement. On behalf of my dear wife Eunice and indeed on my own behalf I say thank you for warm and cordial relationship I have had with you as your deputy. "On behalf of all the members of the judiciary, the judges and all the magistrates wish to express our gratitude for your abled leadership that you have afforded us. We all wish to continue benefiting from your wisdom in office.

"However, everything that begins has an end and it is therefore in this context that we all wish you well in your retirement that you well deserve. Farewell CJ."

Other high profile figures who paid tribute to Rtd Chief Justice Chidyausiku included Vice President Emmerson Mnangagwa who oversees the Justice, Legal and Parliamentary Affairs Ministry and Finance and Economic Development Minister Patrick Chinamasa.

GO WELL, SAY REGIONAL CHIEF JUSTICES

MIRANDA WRITER

CHIEF Justices of southern African countries this quarter bade farewell to a founding member of the Southern African Chief Justices' Forum (SACJF), Retired Chief Justice Godfrey Chidyausiku, whom they described as a champion of judicial independence. Justice Chidyausiku retired from the bench on February 28 at the ripe age of 70. He had served as Chief Justice of Zimbabwe since 2001.

Rtd Chief Justice Chidyausiku left a mark in the region for being instrumental in the formation of SACJF. He was known for valuable contributions during SACJF summits and providing wise counsel to colleagues. His colleagues in the region described him as a champion of judicial independence.



Said Zambian Chief Justice Mrs Irene Mambilima:

"As one of the founding and truly dedicated members of SACJF, you have contributed immensely to foster incorporation and promote judicial independence in our region. Always remember that you will continue to be a member of this big judicial family. We will constantly be knocking on your door to ask you to share your vast judicial experience with the serving judges."



SACJF chairman, who is also Namibian Chief Justice Pete Shivute hailed Rtd Chief Justice

Chidyausiku for a sterling contribution to the regional forum.

"You have played a pivotal role in the growth and development of this organisation. Am very proud of the role you played in consolidating that growth. "You are retiring at a time when the SACJf is on a sound financial footing. I cannot thank you enough for the sterling contribution you made to the forum," he said.

Chief Justice Shivute also expressed gratitude to Rtd Chief Justice Chidyausiku's contribution in fostering cordial relations between Zimbabwe and Namibia.

"I wish to thank you once again for the cordial relationship that exists between our two judiciaries. I wish to thank you for all the work you have done in strengthening that relationship. You are a true leader, a decisive and a visionary leader," he said.



Retired Chief Justice Mohammed Othman of Tanzania, who is friends with Justice Chidyausiku, said his friend brought respect to the Zimbabwean judiciary during his tenure.

"Chief Justice Chidyausiku brought a lot of respect

to the judiciary of Zimbabwe, measuring from where the Zimbabwean judiciary now stands. "We are proud of the country's apex court and the Supreme Court," he said.



Chief Justice Andrew Nyirenda of Malawi said the retired judicial officer, being the oldest member of SACJF, provided guidance and inspiration to younger colleagues.

"I wish to express my indebtedness to you for the guidance and inspiration to us Chief Justices of the region.

"It has been a humbling and enriching interaction with Chief Justice Chidyausiku. I have no doubt that you will continue to be available to us whenever we need your wise counsel," he said.



Ugandan Chief Justice Bart Katureebe described Rtd Chief Justice Chidyausiku as a defender of the judicial independence.

"You have been a fierce defender of the independence of the judiciary who advocated for rule of law.

"I hope you will remain available to the judiciary and assist in training and mentoring younger judicial officers," he said.



Chief Justice Bheki Maphalala of Swaziland said Rtd Chief Justice Chidyausiku served Zimbabwe and the regional forum with honour and dignity and that he will be missed.

"I have no doubt that your country and indeed, the region will miss your contribution, humility and strong personality in dealing with pertinent issues relating to administration of justice, rule of law and independence of the judiciary," he said.



Chief Justice Nthomeng Majara of Lesotho said Rtd Chief Justice Chidyausiku will be remembered for his milestone achievements.

"Honourable Chief Justice Chidyausiku, I sincerely believe your sterling and dedicated leadership which was evidenced by many achievements you made towards the development of the judiciary will be missed by Zimbabweans and the region," she said.

Chief Justice Adelino Muchanga of Mozambique had this to say:

"I would like to congratulate you for reaching this important milestone as Chief Justice of Zimbabwe. I take this opportunity to thank you for the cooperation between our judiciaries. It has been an honour and great privilege to have worked with you over the years. My best wishes are with you for a happy retirement."

VIOLENT CRIMES DOMINANT IN MBERENGWA



Mrs Evia Matura

MIRANDA WRITER

MBERENGWA Resident Magistrate Mrs Evia Matura has expressed concern at the rate at which people in the mining community were committing violent crimes.

Mrs Matura said crime rate in the area was generally on the low side but about 90% of the cases received annually are violent crimes that include murder, assault, rape and domestic violence.

In an interview, Mrs Matura attributed the violence to illegal gold panners who are always fighting.

“This is a mining community that is dominated by illegal gold panners.

“Most of them commit the offence under the influence of dagga. Such people are violent by nature and they are the ones who give us a lot of work here,” said Mrs Matura.

The Resident Magistrate added that at times they receive cases of illegal possession of drugs and gold.

Mberengwa Magistrate’s Court receives an average of 600 criminal cases per year.

One magistrate is stationed there with a single clerk of court and an accounting assistant.

There is also one office orderly, an interpreter and a general hand.

Commenting on the backlog of cases, Mrs Matura said his station was clean except for some pending 17 cases, which she does not have jurisdiction to handle.

“We have only 17 live records that we cannot handle here because of jurisdictional reasons. These are murder cases that can be tried by the High Court as well as rape cases that require a regional magistrate.

“But on cases that we can deal with here, we have no backlog to talk about. We deal with cases as they come,” she said.

Mrs Matura applauded the Judicial Service Commission for its efforts to improve the employees’ conditions of service.

“We wish to extend our gratitude to the JSC in its endeavour to improve our conditions of service.

“Recently we received a set of sofas and a refrigerator for the Resident Magistrate’s office. “We also received visitors’ chairs. We really appreciate that,” said Mrs Matura.

2017 1ST QUARTER IN PICTURES







JSC publishes world class Law Reports

BY STEPHEN GWATSWAIRA

IN a milestone development, the Judicial Service Commission has published its own law reports that capture landmark judgments and guide courts in arriving at correct legal decisions.

The Commission's editorial team, headed by Justice Rita Makarau (JA), has published its inaugural edition of the Zimbabwe Law Reports 2015 (Volume 2), which is currently on the market.

Since time immemorial, judicial officers and lawyers relied on third parties, who got important judgments for free, compiled them into volumes of the Law Reports before selling them.

Ironically, judges used to buy their own judgments in form of law reports.

Such a circus is now a thing of the past.

Officially opening the 2017 legal year, the now Retired Chief Justice Godfrey Chidyausiku launched the Zimbabwe Law Reports 2015 (2).

Justice Chidyausiku described the development as a milestone.

"The Judiciary in Zimbabwe has up to last year never produced its own law reports. Judges write judgments which others take for free because they are public documents.

"These third parties compile the judgments into law reports which are then sold back to the

Judges. In 2016 I made a bold decision that the Judicial Service Commission must take over the process of compiling law reports on behalf of the Judiciary," he said.

The Rtd Chief Justice said he set up an Editorial Board that he chaired, with Acting Chief Justice Luke Malaba as deputy.

Judge President George Chiweshe, the Senior Judge in the Labour Court Justice Gladys Mhuri, and the President of the Law Society of Zimbabwe sit on the same board.

The Editorial Board, according to Justice Chidyausiku, appointed an editorial team headed by its Editor-in-Chief Justice Makarau.

The first edition of the JSC Law Reports covered judgments handed down during the period stretching from 1 July 2015 to 31 December 2015. Justice Chidyausiku described the edition as "world class".

"It has 124 judgments and, in my view, it is truly world class. I wish to thank the editorial team for a job well done. I have quickly perused through the Law Reports and note that it lists cases from other jurisdictions which were either applied or referred to in the reported decisions," he said.

Copies of the law reports are available for \$50 each and order forms can be collected from the JSC head office or any other offices of the Commission.

JSC GOES GENDER SENSITIVE

... appoints 3 female magistrates

BY STEPHEN GWATSWAIRA

THE Judicial Service Commission (JSC) has appointed three female magistrates as part of measures to improve gender parity and ease pressure on the under-staffed magistrates' bench.

Ms Amanda Muridzo, Ms Isabel Nyoni and Ms Perseverance Makala took their oaths of office at the Harare Magistrates' Courts at a ceremony presided over by Chief Magistrate Mr Mishrod Guvamombe.

The trio's appointment brings to 97 the number of female magistrates countrywide.

At least 103 male magistrates are in post.

The Constitutional Court bench now has six men and six women.

The Labour Court bench has 11 women and four men.

Law Society of Zimbabwe (LSZ) president Mr Misheck Hogwe expressed satisfaction with

efforts being made to improve gender parity and noted: "The gender ratio today is very encouraging. This is in line with the Constitution that requires, among other things, that State and non-State institutions ensure gender parity in their operations. The Constitution requires judicial appointments to be gender inclusive."

Ms Muridzo, who was born on January 8, 1988, in Gweru, holds a Law degree from Limpopo Turfloop Campus.

Armed with a Law degree from the University of Venda in South Africa, Ms Nyoni was born in Harare on January 21, 1989.

Ms Makala hails from Mutare and was born on September 19, 1988.

She holds a Law degree from Midlands State University.

The three once served as judges' assistants at the High Court before proceeding to the Harare Magistrates' Courts for in-house magistrates' training.



Three new magistrates take oaths of office before Mr Guvamombe

INFORMATION KIOSK HAILED



Mr John Matamba, information kiosk assistant

MIRANDA WRITER

LAWYERS have hailed the Judicial Service Commission (JSC) for setting up an information kiosk at the High Court to help track the progress of their cases electronically.

The kiosk is part of the Commission's case management system that has seen the installation of digital court roll screens on the walls at the superior courts in Harare.

A click of a button will show the status of every court case without the hassle of booking physical files. Gone are the days when litigants at the High Court would queue to request physical files in the morning and get them late in the afternoon after a tiresome searching process.

Law Society of Zimbabwe president Mr Misheck Hogwe welcomed the development.

"It is a positive development. It is good for tracking the progress of matters and it is time-saving. Information Communication Technology is the way to go," he said.

However, Mr Hogwe urged the Commission to improve on the system and introduce electronic

filing.

"We should not end there. In other jurisdictions, there is e-filing and we must improve and adopt such systems for more convenience," said Mr Hogwe.

Harare lawyer Mr Wellington Pasipanodya of Manase and Manase Legal Practitioners had this to say: "We welcome the development.

It is moving with the time. However, the system should be online and accessible to everybody at the click of the button.

"We must access the system in the comfort of our offices without travelling to the High Court and paying parking fees," said Mr Pasipanodya.

Mr Phillip Nyakutombwa of Nyakutombwa Mugabe Legal Counsel described the development as progressive. I use that facility very often. It is very reliable. It is only that the files are limited to the recent years. When you want information as far back as 2012, there will be challenges.

"I have had the benefit of using the facility and in this technological age, it is indeed a progressive way of dealing with inquiries," he said.

"We welcome the development. It is moving with the time."

BY ANXIOUS MBALANGA

IN my eight years of practice as a Karateka, I learnt an indispensable fact that a good fighter is only as good as his heart's condition. Once, during the second round phase in the Japanese Ambassador's cup, I faced a technically superior, quicker and unpredictable opponent who knocked me over not once, not twice but thrice, in three minutes.

Fast forward it...I won that match.

How?... My tired opponent threw in the towel, apparently incapacitated by a weak cardiovascular. For all that I lacked throughout that battle, my relentless heart compensated for it.

It continued pumping.

Inspired by that experience, I look at it on a grander scale. Our Magistrates' courts are fighters in their own right, putting up a spirited fight which resonates with the Judicial Service Commission's quest for world class justice. By an inconspicuous, ever rhythmic heartbeat that reverberates from the Clerk of Court's office, the courts are kept battling, striving for that win which by each daybreak nears within reach. As we demystify this office, we examine how the modern Clerk of Court has kept the blood flowing and tackling the dynamic tasks born of modern day trends of administration of justice. Once a profession labelled among the nonprofessional occupations, the Clerk of Court was simply known as a files clerk.

The term "files clerk" denotes exclusive preoccupation with files and nothing else. But alas, the game has changed taking a new complexion.

Maintenance and domestic violence litigants among others, approach the courts with emotions, a situation that calls for crème de la crème of personality, and high levels of professionalism from the men and women on the front desk of the courts. Any official communication that is made to the courts or litigation is made through the clerk of court.

The same office is the first port of call for all those seeking assistance from the courts.

This makes these court officials the intermediary buffer between the public and the courts. This is considerably a powerful position.

D.V.A litigants given their violent circumstances approach the courts with fragilities, despair and in need of urgency. This calls for what most term "professionalism" but I prefer to call it "people skills".



Ms Shylate Tafirenyika, clerk of court Harare

CLERK OF COURT, HEART OF JUDICIARY

Professionalism alone can be stoic, cold, inanimate, plastic and can even leave a client unsatisfied.

When I was being put through the paces of a Clerk of Court at Chitungwiza Magistrate's Courts, one thing caught my eye. When one of my colleagues was dealing with clients who needed protection orders the rapport was almost tangible.

It was then that I discovered that a Clerk of Court needed to be in touch with a client's feelings first and more importantly to be a good listener.

Concerning the growth of the legal fraternity, the clerk of court dons an added feather on the cap, when it comes to mentoring law students who are periodically attached to the office.

When law students are attached to our courts to experience the practical ambience of law they are rotated into three important departments namely prosecution, the magistrate's bench and the clerk of court.

Nothing beats that feeling when those future judges, magistrates and lawyers thank us for all that we would have imparted, admitting that they return to law school as different people.

After all is said and done, the Clerk of Court's office remains an integral part of the Magistrate's Court that can either build or destroy the reputation of the courts.

MBERENGWA COURT: *Home of quality*

“The flowers, lawn and other plants are watered regularly and the premises is cleaned time and again to maintain the high standards already set . . . ,”

MIRANDA WRITER

“The government is not your salvation. The government is not your road to prosperity. Hard work will take you far beyond what any government programme can ever promise,” said Mia Love, an American politician.

The motivational phrase could have been the driving spirit behind former Mberengwa Resident Magistrate Mr Tavengwa Sangster, who mobilised his staff to complement the Judicial Service Commission’s (JSC) efforts to build quality court structures.

JSC, with the assistance of the Royal Danish Embassy, completed the construction of a new courthouse in Mberengwa last year but Mr Sangster and his team, out of their own initiatives, went a step further to beautify the premises.

Out of the 30 newly-constructed Magistrates’ Courts countrywide, Mberengwa has arguably the best maintained premises.

Wonderful things can be achieved with teamwork.

Using limited resources, the magistrate exchanged his robe for a work suit to clean up the premises after the construction of the new courthouse.



Doing what they know best

With a common purpose, Mr Sangster’s staff joined the clean-up, earning Mberengwa Magistrate’s Court a good name countrywide. Leftover bricks were used to make a pavement that stretches from the pedestrian gate to the public shade and toilets.

The staff also utilised extra concrete stones to make a bigger driveway that runs from the main gate to the car park.

A makeshift shade that was previously used by Masimba Construction builders as a kitchen during the construction period was turned into a vehicle parking shade.

As if that was not enough, Mberengwa Magistrate’s Court staff planted fruit trees, hedge and indigenous trees in the yard, giving the court a beautiful look.

The pavements and driveways were constructed with expertise.

Mr Sangster said his team did the work without assistance from JSC.

“When Masimba Construction was finalising the court structure, we approached them with a request for the unwanted bricks and other material.

“When we tabled our plans before Masimba Construction, one of the directors appreciated our efforts and authorised that we be given all the leftover bricks and concrete stones.

“The director also instructed one of the foremen on site to guide us technically in a bid to produce quality pavements and driveways for free,” he said.

Mr Sangster said the Zimbabwe Prisons and Correctional Services (ZPCS) provided labour from prisoners.

Forestry Commission and Nyaradzo Funeral Services donated trees.

Mr Sangster said his team’s efforts sought to assist the employer and create a more conducive environment for staff and litigants.

“For any organisation to be successful, there is need to support each other. Yes, the employer renders support to us, but we must play our part in supporting the employer where we can,” he said, adding: “We spend 90 percent of our time at work and for us to be able to enjoy our work and to live comfortably, we must

keep the standards high at the workplace.

“We also did it for the community at large. We just wanted to create a friendly environment for the people who come to court. Courts are generally intimidating, but a well-maintained courthouse makes visitors and litigants feel at home.”

Mr Sangster has since been transferred to Shurugwi.

New Resident Magistrate Mrs Evia Matura has managed to maintain the premises.

Under the leadership of Mrs Matura, lawn has been put on the premises and flowers were planted.

“We have sourced flowers and lawn from the community and as you can see, the yard is turning green.

“The flowers, lawn and other plants are watered regularly and the premises is cleaned time and again to maintain the high standards already set,” she said.

However, Mrs Matura said the station had erratic water supplies which made it difficult to properly maintain plants.

She appealed for donations of flowerpots and cement and tools like hoes, axes and rakes for use at Mberengwa Court.

Mberengwa Court also needs a JSC banner like the ones at most new courts in the country.



Mberengwa Resident Magistrate Mrs Matura (third from left) poses for a photo with her team

JUVENILE PARENTS:

The legal puzzle



BY SLYVIA
CHIRAWU-MUGOMBA

RUDO aged 15 years sits forlornly in the lounge at the house of her boyfriend's parents. Her boyfriend Peter, who is a year older, is attending school nearby.

Barely a few weeks before this, Rudo was attending the same school until her mother noticed that she was pregnant.

Her parents made her pack her belongings and elope to her "husband".

Peter's parents were at a loss for words because they were not sure of how best to handle the situation.

They accepted Rudo, but were not so sure who would look after the unborn child given the fact that Peter was still in school and was fully dependent on them.

Rudo's parents assumed that since Peter had impregnated her, his parents would be responsible for looking after both Rudo and the baby.

The conduct of forcing two people to stay together simply on the basis of a girl falling pregnant falls foul of the ruling in the Mudzuru and Tsopodzi case on child marriage.

In that case, the Constitutional Court ruled that the Constitution of Zimbabwe set the age of 18 years as the minimum age of marriage in Zimbabwe.

The court also ruled that with effect from the 20th of January 2016, no person, male or female may enter into any marriage, including an unregistered customary law Union or any other union including one arising out of religion or religious rite before attaining 18 years.

Furthermore, a section in the Marriages Act that allowed girls to marry at 16 or any related custom or practice is inconsistent with the provisions of section 78(1) of the Constitution.

From the criminal law perspective, the issue of what happens when young people indulge in sexual

intercourse has been provided for in the Criminal Law (Codification and Reform) Act.

The General Laws Amendment Act added a new section to the Criminal Code which states that where sexual intercourse or an indecent act occurs between juveniles both over 12 years but below 16 years, neither of them shall be charged with sexual intercourse or performing an indecent act with a young person except upon a written report of a probation officer appointed in terms of the Children's Act showing that it is appropriate to charge one of them with that crime.

Assuming that Peter was under 16 years at the time of the intimacy with Rudo, then a probation officer must be involved and must come up with a report as to whether there should be a criminal charge and if so who to charge.

However, the issue of who looks after a baby born of an underage couple, like in the case of Rudo and Peter, has been a contentious one.

In Zimbabwe, the Maintenance Act provides that if both parents are alive, they should look after their children, each according to their means.

The law only assumes that parents are always majors but it turns a blind eye on the reality of juvenile parents.

The Maintenance Act makes no distinction between a major and a minor parent. As far as the law is concerned Rudo's parents should continue to look after her while Peter's parents should continue looking after their son regardless of expectations of a new baby.

When the baby is born, the law compels Rudo and Peter to look after it. The reality however is that both are still minors who are wholly dependent on their parents. In the Mudzuru and Tsopodzi case on child marriage, the court stated that a girl who falls pregnant remains a child who, like others, is entitled to parental care and schooling.

Unfairly, the boy in such a scenario, continues with his education while the pregnant girl drops out of school.

The SADC model law on child marriage suggests that a court must make an appropriate order for the maintenance of the offspring of a victim of child marriage by a party to such a marriage, including maintenance orders against the Government or even the parent of the victim of the child marriages (the baby's grandparents) if the court finds it justifiable. Section 25 of the Constitution states that the State and all institutions and agencies of

government at every level must protect and foster the institution of the family.

In particular Government must endeavour within the limits of its resources to provide care and assistance to mothers, fathers and other family members who have charge of children.

The law in Zimbabwe has punitive measures in the event that maintenance is not paid as ordered by the court. These include garnishee orders against someone's salary, attachment of property by a messenger of court or even imprisonment.

Should the law in Zimbabwe follow the suggestions in the SADC model law, questions that arise are "Will it be fair to put the duty to look after a baby on its grandparents who also may not even have enough resources?"

What happens in the event of a default in payment? Will it be fair to arrest a grandparent and prosecute them over maintenance of another couple's child?

Will it be fair to attach and sell property belonging to grandparents over maintenance arrears in respect of a child marriage offspring?

If the Government is ordered to pay and it defaults, which Ministry in government will have its property attached? Who will be prosecuted in the

event of a default?

Given that child marriage is both a social and legal problem, it seems prudent to continue with the dialogue especially from a social protection perspective to get broader consensus on the issue.

The reality is that most grandparents end up looking after the grandchild. They do not even need a court order to do that. From the legal side, it seems the State is the logical choice to assist in looking after the offspring especially in cases where both the mother and the father are minors.

That may also even have its own challenges but it does not take away the responsibility of the State as specified in the Constitution.

When all is said and done perhaps there is need to interrogate the role of the law, whether at all it is necessary to put in place a law regarding maintenance of a child born from a child marriage when both parents are minor children or this should be left as a policy issue.

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ADIEU TO A FINE FELLOW PRECIOUS

BY RUFARO MARIRA

"Death is more universal than life; everyone dies but not everyone lives," wrote A. Sachs in the *Gnomologia* of Thomas Fuller. Such is the truth and feeling one gets when robbed of a loved one. Precious Tendai Chimiti, born on April 22, 1984 in Gokwe, died on January 22 this year at West End Hospital, Harare, after battling fibroids for close to a decade.

In her, the Judicial Service Commission (JSC) lost a dedicated and hardworking registry official who was a source of inspiration and a role model for younger staffers at the High Court. Precious, who



served as an assistant registrar in High Court's criminal registry section, will always remain in many people's hearts because of her dedication to duty.

I am profoundly saddened at the death of Precious, whose body was interred at her family's rural home in Gokwe.

"A prayer warrior" aptly describes Precious. She spent most of her time

reading the Bible and praying with friends.

Ever-smiling, was Precious' hallmark.

She enjoyed laughing and spending time with friends and family. Rarely did she wear a sad face.

She was dedicated to duty and many of us looked up to her for guidance. Precious was a caring and kind character who always put other people's interests ahead of hers.

She is survived by a husband Brian Siyezani. Precious did her primary school education at Machakata Primary School in Gokwe before attending Kwayedza High School in Highfield.

She graduated with an Honours degree in Sociology and Gender Studies from the Women's University in Africa in 2008. Precious worked at the High Court in Harare for eight years. May her dear soul rest in eternal peace.



LEGAL CODEBREAKER NO.3

SET BY MAYOR

Each number in this puzzle represents the same letter throughout.
To the right of the grid are clues to the expressions required.
The clues are not in any particular order and you have to decide where each solution fits.

1	2	3	4	1	5	PUZZLE FEEDBACK WELCOME		6		
4		4		4	7	8	4	9	10	
5		11		12	13	VIA WHATSAPP 0776367719		14		
7	15	2		16		17	4	14	4	
18		14		10	19	20		17	21	
6	7	14		6		18		22	10	4
19		2		21	4	17		7		8
7	17	17	23			3		19	10	4
18	PUZZLE FEEDBACK WELCOME			23		10		4		6
6	2	4	19	24		15		14		4
14	VIA WHATSAPP 0776367719			25		3	12	2	6	18

CLUE	ANSWER
Senior lawyer(8)	
Crate(3)	
USA's spy agency (abb)	
Zimbabwean city(5)	
Information(4)	
Insane(3)	
Published as law(8)	
Gambler's chances(4)	
United Nation's court(abb)	
Animal(5)	
Giving a verdict(7)	
Number(3)	
Industrial relations tribunal(6,5)	
Arrive(5)	
Legal practice company(3,4)	
Decay(3)	
Lawful(5)	
Timid(3)	
JSC Secretary, (Justice)(4,7)	
Through(3)	

WORKING SPACE

1	2	3	4	5	6	7	8	9	10	11	12	13
14	15	16	17	18	19	20	21	22	23	24	25	26

SOLUTIONS FOR PREVIOUS PUZZLE

1	2	3	4	5	6	7	8	9	10	11	12	13
C	H	I	E	F	J	U	S	T	O	N	D	G
14	15	16	17	18	19	20	21	22	23	24	25	26
M	R	B	P	A	Z	L	B	Y	W	K	Q	V