

**REMARKS BY THE HONOURABLE MR JUSTICE
LUKE MALABA, CHIEF JUSTICE OF ZIMBABWE, ON THE
OCCASION OF THE OFFICIAL LAUNCH OF THE
UNIVERSITY OF ZIMBABWE LAW JOURNAL ON
12 OCTOBER 2018 AT THE UNIVERSITY OF ZIMBABWE**

SALUTATIONS:

- 1 The Dean of the Faculty of Law;
- 2 Law Lecturers;
- 3 Legal Practitioners;
- 4 Other members of Academia;
- 5 Ladies and Gentlemen.

When the University of Zimbabwe extended to me the invitation to write the foreword to the **University of Zimbabwe Law Journal** I felt very honoured. I feel even more honoured and excited to witness and preside over this seminal occasion to mark the official launch of the **University of Zimbabwe Law Journal (“the Journal”)**.

The launch of the **Journal** comes at a time in Zimbabwe when there is need for a convergence of ideas in the legal fraternity. In this regard, all stakeholders in the administration of justice, the academia and

students alike must come together to assist with the development of the country's jurisprudence.

Allow me, Ladies and Gentlemen, to add that there is nothing better for me as the Chief Justice than to work with a Judiciary and legal profession which engage in vibrant debates on contemporary legal issues that affect our nation.

I therefore fully subscribe to the initiative taken by the University of Zimbabwe, firstly, to come up with the idea of putting together a Law Journal and secondly, to draw articles for

that Journal from contributors of varied legal backgrounds. I notice that the articles in this inaugural publication came from members of the academia, practising lawyers, members of the Judiciary and others. That aspect typifies the richness and diversity of the debate of legal issues in Zimbabwe.

The **Journal** is not confined to one field of law. It is my hope that in your future publications you will acknowledge the critical role played by student lawyers and find room to accommodate their articles in the **Journal**.

This event particularly excites me because it

further strengthens the Judiciary's relationship and association with the academia. The value of that relationship is often underestimated by many, yet it is the bedrock of the development of every country's jurisprudence. The Judiciary embraces the **Journal** as a welcome addition to our libraries. When Judges preside over matters in court, they base their decisions on submissions made by the litigants. They unfortunately are not accorded the benefit of comments from sources who are not party to the litigation before the court. When packaged in recognised legal compendia like

this **Journal**, such outside whispers become easy for Judges to accommodate in court judgments.

Ladies and Gentlemen, law journals provide organised fora for persons outside litigation to critique court decisions through academic commentary. Such platforms insulate legal commentators from accusations of denigrating the dignity of the Judiciary. The courts fully accept that academic commentary is invaluable to the development of jurisprudence. The Judiciary is not immune to criticism, as long as it remains within the bounds

of professionalism and keeps the decorum expected of members of the profession. Unwarranted insults on the person of judicial officers do not form part of constructive criticism.

Constructive academic commentary puts together judicial decisions in particular fields of law, draws out the general principles implied in such decisions and, most importantly, suggests different approaches to identified areas of weakness.¹ A perusal of the articles contributed in this volume vindicates my assessment that

¹ M. Bastarache, "The Role of Academics and Legal Theory in Judicial Decision-Making" (1999) 37 *Alberta Law Review* 739.

the work accords a platform for constructive criticism of the Judiciary by the outside world. With that the Judiciary will become wiser.

The **Journal** equally assists practising lawyers. Some of the current articles highlight the inconsistencies which occur in interpreting the law.

There are instances where a legal gap has arisen but an opportunity for the courts to correct it has not yet arisen. This is so because the courts only wait until a case is brought before them to decide and pronounce themselves on the law. In the meantime, legal

scholars may identify the problem and suggest possible remedies to the benefit of the courts.

For the law student, the **Journal** is an invaluable addition to his or her reading material.

It would be remiss of me not to mention the benefits which accrue to the Legislature from the **Journal**. The articles invariably highlight areas where there are gaps in the law. That raises awareness of legislators to the need to give certainty to the law. By continually raising the red flags to the law-maker, the inconsistencies in the interpretation of the law

become, with the passage of time, minimal.

To the University of Zimbabwe, the publication of the **Journal** sets the tone and pace for all the law schools around the country. Such trends can only help improve the standards of legal education.

Allow me, Ladies and Gentlemen, to also take this opportunity to exhort all legal practitioners, legal academics and judicial officers to embrace the culture of writing. In that regard, I wish to state that I am indeed heartened to realize that in this inaugural publication lawyers from various sectors,

including judicial officers, spared their time to contribute articles.

Ladies and Gentlemen, I also wish to implore the gatekeepers of this publication to avoid publishing articles which are based on abstract and arid endeavors of jurisprudence in disregard of those which offer a more practical and grounded mode of juristic scholarship. The law is a practical and living phenomenon. Academia must therefore avoid sacrificing practical relevance at the altar of theoretical indulgence. Theory must always be aligned to the need to feed the hunger of

society for justice. The judicial system should not prefer logical consistency over substantive justice.

All current and future contributors must ensure that the quality of articles carried in the **Journal** remains high. That assists in the development of Zimbabwean jurisprudence.

As I said in my preface to the **Journal**, it is my fervent hope that the new initiative will not suffer the ignominy of its predecessor, **The Zimbabwe Law Review** which, for some reason, sank into oblivion and left a void, which has taken all these years to fill.

With these remarks, I am honoured, Ladies and Gentlemen, to declare the **University of Zimbabwe Law Journal** officially launched.

I THANK YOU!