

JUDICIAL SERVICE COMMISSION

“A Zimbabwe in which world class justice prevails!”



ADDRESS BY

**THE HONOURABLE MR JUSTICE LUKE MALABA,
CHIEF JUSTICE OF ZIMBABWE**

**ON THE OCCASION OF THE INAUGURAL MEETING
OF THE
THE NATIONAL COUNCIL ON THE
ADMINISTRATION OF CRIMINAL JUSTICE IN
ZIMBABWE**

ON

14 FEBRUARY 2023

LADIES AND GENTLEMEN,

May I take this opportunity to welcome you all to the inaugural meeting of the newly formed National Council on the Administration of Criminal Justice in Zimbabwe (“the National Council”).

The criminal justice system is governed by certain core values that guide it. The 2013 Constitution makes provision for a fair trial within a reasonable time before an independent and impartial court or tribunal. The criminal justice system is expected to deliver quality justice timeously, efficiently and impartially. Its stakeholders are expected to be competent in the way in which they carry out duties. There must be certainty in proceedings and promotion of independent decisions, integrity and individual rights. In order to achieve these attributes, there must be efficient criminal justice mechanisms to thrash out operational challenges and a plan of action.

The formation of the National Council has been necessitated by concerns about the worrying number of criminal matters in all categories and at all court levels that remain unresolved for long periods of time. Among others, there is a marked increase in murder, rape, corruption and armed robbery cases. These

matters are not being dealt with timeously by the courts. Accused persons remain on remand for years on end. A large number of accused persons have been awaiting indictment to the High Court for trial for periods exceeding three years. Corruption cases are moving slowly.

There is a chronic problem of overcrowding at the prisons. A number of issues arise. Despite an increase in the population and the rate of crime, prison facilities have largely remained the same. There is need to investigate the real cause of the problem of overcrowding in the prisons and to take corrective measures.

The bottlenecks in the criminal justice system call for an effective multi-sectoral approach for their resolution. Whilst there are in place stakeholder committees at district and provincial levels that routinely meet to address issues besetting the criminal justice system, there is no effective cooperation and coordination at higher levels of decision-making of the activities of the different players in the criminal justice system. The problems besetting the criminal justice sector remain.

Each of the different stakeholders performs functions independent of the other and hence the system is fragmented. The stakeholders do not always know what the other

stakeholder is doing and why. Inefficiency, conflicts and tensions are inevitable.

It is this state of affairs that has given rise to the need for the formation of a National Council on the Administration of Criminal Justice with the mandate to coordinate and oversee the processes of the entire criminal justice system in Zimbabwe and address the issues at hand. A well-managed and coordinated criminal justice system is envisaged.

The criminal justice system comprises representatives of different institutions through which an offender passes from the time he or she is arrested, prosecuted, convicted by a court and ultimately punished. The National Council includes heads of institutions who are policy and decision makers in the criminal justice sector. The selection of heads of institutions is to ensure that the National Council can have meaningful discussions and have decisions made at high level. The stakeholders are all policy makers and are in a position to make decisions that impact the envisaged change.

The National Council comprises the following *ex officio* members -

1. The Judge President of the High Court of Zimbabwe – (Chairperson);
2. The Prosecutor General – (Deputy Chairperson);
3. The Head of the Bulawayo High Court;
4. The Head of the Criminal Division, Harare High Court;
5. The Chairperson of the Zimbabwe Anti-Corruption Commission;
6. The Secretary for Justice, Legal and Parliamentary Affairs;
7. The Secretary of the Judicial Service Commission;
8. The Secretary of the Law Society.
9. The Chief Magistrate;
10. The Commissioner General of Police; and
11. The Commissioner General, Zimbabwe Prisons and Correctional Services.

Objectives of the National Council

The objectives of the National Council may be summarised as follows -

- to ensure coordination and efficiency;

- overall administration of criminal justice, including identification of problems, challenges or issues that impede proper and due administration of criminal justice;
- to have supervisory and advisory roles regarding the administration of justice;
- to implement practical solutions that enhance the speedy and due administration of criminal justice;
- to detect and circumvent serious miscarriages of justice that result from the improper administration of the criminal justice system;
- to preserve fundamental human rights and freedoms;
- to superintend all the criminal courts in order to ensure that any problems that arise therein are dealt with decisively;
- to ensure that criminal matters are tried expeditiously;
- to research issues affecting the criminal justice system and to recommend appropriate remedies;
- to render advice to the Minister of Justice, Legal and Parliamentary Affairs and other authorities on suggested reforms to the criminal justice system; and

- to ensure compliance with international instruments and conventions on the administration of criminal justice in Zimbabwe.

The 2013 Constitution makes provision for coordination and cooperation of the different players in the criminal justice system and endorses the approach that has been taken. All players in the criminal justice system should collaborate and cooperate with each other. The National Council was created for the purpose of putting measures in place to ensure that the criminal justice system improves and works efficiently and effectively. Practices and policies need to be adopted which make the administration of the criminal justice system respond to the needs of the people. It is hoped that the National Council will devise strategies and measures to resolve problems faced by the criminal justice delivery system.

A criminal justice system that delivers swift justice is what is required. There is a need for meaningful interaction and a coordinated approach between the different stakeholders. What each stakeholder does affects the others. It is important that all stakeholders are informed about each other's expectations.

As part of the envisaged intervention, stakeholders will be required to confront the incessant backlogs in the criminal justice system, the delays in investigating matters, and the setting down of matters for trial. There must be certainty of trial dates. The criminal justice system can work better if stakeholders interrogate the causes of the problems it faces together.

All the challenges faced by the different stakeholders and the criminal justice system as a whole should be brought to the attention of the National Council. A coordinated approach to the prosecution of criminal matters is necessary. This approach must be evident from the time an accused is arrested by the police or the Zimbabwe Anti Corruption Commission, placed on remand, and tried by the courts.

Stakeholders should be mindful of the situation at prisons when offenders are remanded in custody and should be knowledgeable about the challenges prison authorities are facing.

Legal practitioners who defend offenders are officers of the court. They must act in terms of the law and in the interests of the criminal justice system. The priority ought to be to ensure

that matters are expeditiously dealt with and in accordance with the law.

Each stakeholder will remain independent and its role respected. The cooperation envisaged does not denote interference with the independence of another stakeholder. Cooperation does not entail subordination of stakeholders to any higher authority. No one stakeholder is at the helm. The focus will be on the problems faced by the criminal justice system. All stakeholders are pursuing the same goal and must work together towards the achievement of that goal.

The Government has always supported the Judiciary in its objective to serve the interests of justice. A criminal justice system is envisaged where every stakeholder inputs positively into the system and enforces measures to help it achieve its intended objectives.

The advantages of a multi sectoral approach of a coordinated criminal justice system are numerous. In addition to improved communication, cooperation and coordination of the criminal justice system, there will be improved decision-making. There will be a clearer understanding of problems the criminal justice system faces, thereby facilitating a better resolution of the problems.

Society is concerned about the lack of coordination amongst the key stakeholders in the criminal justice system. It is a collective responsibility to build trust in the criminal justice system. The National Council should improve public confidence in the criminal justice system's processes.

It is hoped that there will be continuous liaison and engagement amongst all stakeholders. The consultation and interaction of the stakeholders will be done through meetings. It is expected that there will be periodical feedback and evaluation of efforts undertaken to ensure the success of the National Council.

I thank you.