



Malawi Judiciary

**KEYNOTE ADDRESS**

**BY**

**THE HONOURABLE THE CHIEF JUSTICE RIZINE R.  
MZIKAMANDA, SC**

**AT**

**THE INDUCTION OF NEWLY APPOINTED JUDGES**

**AT**

**SUNBIRD MOUNT SOCHE HOTEL, BLANTYRE  
24<sup>TH</sup> JULY, 2023**

## 1. Salutations

## 2. Introduction

This induction seminar has been long coming. Your Ladyships and Your Lordships have been on the job for months now. Be that as it may, I must express my delight that this induction seminar is here at long last. Accept my warm and hearty congratulations once again for your well-deserved appointment to the High Court bench as High Court Judges. You are welcome to the High Court bench and you have my best wishes as you execute your duties in that position.

3. My address this morning will cover a wide range of matters that I believe are important for you to bear in mind as you embark in your careers as High Court Judges. You may have picked up some of the attributes of an ideal judge as you got on the job training from your colleagues who have been on the job for a while. The focus of this address is on attributes of **“The Ideal Judge”** which you must strive to be at all times.
4. My starting point is the Constitutional Mandate of the Malawi Judiciary. Section 9 of the Constitution sets out the role of the judiciary as follows:

*“The judiciary shall have the responsibility of interpreting, protecting and enforcing this Constitution and all laws and in accordance with this Constitution in an independent and impartial manner with regard only to legally relevant facts and prescriptions of law.”*

This provision emphasizes the separate status, function and duty of the judiciary in the Constitution that entrenches the doctrine of Separation of Powers among the three branches of State. The independence of the judiciary is further given

prominence in section 103(1) of the Constitution which provides that:-

*“All courts and all persons presiding over those courts shall exercise their functions, powers and duties independent of the influence and direction of any other person or authority.”*

This means that the Constitution entrenches both institutional and individual independence of the judiciary in the administration of justice in Malawi.

5. The point must be made that our society is firmly founded on the Rule of Law. The judiciary is the bulwark in the protection and upholding of the rule of law and the Constitution. The judiciary has the Constitutional prominence in holding together society and ensuring societal order, peace and security through the administration of justice in accordance with the law. As neutral arbiters in dispute resolution and constitutional interpretation, Judges play a critical role in the consolidation of democracy and good governance. The judiciary has as important role in curbing mob justice and other forms lawlessness.
6. Your Ladyships and Your Lordships have joined a highly demanding service of adjudicators who wield enormous powers at law and sit highly above legal practitioners and other Court users in the administration of justice. With this enormous judicial power, comes enormous responsibility for which you are duty bound to ensure that the nobility of the profession of law is preserved. Society expects, and is entitled to, nothing less than the highest levels of professionalism, integrity and hard work by holders of the judicial office. It is no secret that society has expressed dissatisfaction in the delays and backlogs that continue to characterize the delivery of justice in this country. That phenomenon is not a recent invention as some cases remain outstanding sometimes

for a decade or more. While we continually put measures in place to address the problem of backlog and delay, we are relieved that Your Ladyships and Your Lordships have added on to the number of judicial officers in position so that you may contribute to efforts of backlog and delay reduction. Judging is serious and quite engaging business, sometimes not understood even by members of the legal profession. Some of you have come from the legal profession and should be able to appreciate the enormity of the task of judging, just as colleagues who have joined the bench from the legal profession have been able to observe over the years.

7. As to the recruitment process that resulted in your selection and appointment, be informed that it was rigorous and aimed at appointing only the most deserving to be High Court Judge. You will recall that you did apply to be Judge along with the cohort that was appointed before you. You remained on a list that, according to governing rules, was valid at the time of your selection and appointment in a process that endeavoured to maximize diversity not only as to gender, but also as to professional background, experiences and ability. You do not owe your appointment as judge to any individual or group of individuals but to the entire society of the Malawian people. No one should ever come to you and say it is because of them that you are now judge. Your selection and appointment recognized your being most suitably qualified among the so many who were also qualified. You were selected and appointed on the belief that you are fit and proper individuals in possession of the required education, training and experiences, more so than any other individuals who had made the list. To be an ideal judge, you will have to exude the necessary competences and behaviours that are above board.
8. Your conduct and character will be expected to be beyond reproach. Your standards as judicial officers are above the standards applicable, not only to ordinary

persons, but also above those of colleagues in the legal profession. You will be expected to abide by our restrictive Judicial Code of Conduct. You will have to forgo certain behavioural patterns you may have enjoyed being engaged in before the appointment. Now that you are an embodiment of justice in our society, you will have to abandon petty behaviours and indiscretions which you hitherto might have taken pleasure in engaging into.

9. This takes me to the sacred oath of allegiance and the oath of office that you took and subscribed to before the President of the Republic. To be an ideal judge, you will at all times remain true to the oaths that you took at that very solemn ceremony before the appointing authority. Yours was a dignified and much publicized occasion, witnessed by the President, myself, some members of your families, a number of dignitaries and the media who broadcast the event to the nation. That was a significant turn in your life and career. You ought to remember it throughout your career as a judicial officer. Administer justice to all manner of people, without fear or favour, ill-will or affection. Remain true to the oaths that you took and subscribed to in all your judicial dealings.
10. Skills and abilities are important attributes to the ideal judge. You shall endeavor, where appropriate, to leverage the diverse life skills, experiences and education acquired overtime to enable you work as a judge. It will be expected that you perform your duties as judge with the highest skill, competence and diligence. You should also endeavour to enhance your professional skills, competences and diligence throughout your career as judge.
11. In the administration of justice, the judicial officer must make a decision, however difficult that may appear. There is no room for indecision. And timely decision

making is an important attribute of the ideal judge. The decision must be sound, practical and timely on the basis of the law and legally relevant facts. There can be no doubt that Your Ladyships and Your Lordships possess highly developed intellectual analytical and decision-making skills. The ideal judge must possess the ability to keep an open mind while hearing all sides of an argument, remaining impartial while demonstrating good judgment even in the face of actual or perceived conflict of interest, or in the face of the most fierce criticism.

12. As to professional skills, the ideal judge must possess the ability and the willingness to learn at all times. Technological advancement now increasingly used in the justice system should never be avoided in this learning. The ideal judge will spare no effort to effectively manage a heavy workload while working independently without supervision. The ideal judge must possess the ability to work at an appropriate speed for early disposal of matter as she or he handles the stress, pressure and isolation that come with the judicial role. Continually update knowledge of the law and where to find the law must be a priority for the ideal judge.

13. Judicial temperament is another important attribute of the ideal judge. This is the ability to apply the law to the facts and to understand how judicial decision making will affect the human beings or the persons appearing before the Court. Proper judicial temperament needs to be cultivated and exhibited at all times when the ideal judge is performing judicial functions. Calmness, courtesy and a show of attention to the parties are important in the administration of justice.

14. Judicial temperament and a display of good interpretational skills matter a lot in the administration of justice. Patience, open mindedness, courtesy, compassion, empathy, respect, tact, moral courage,

punctuality, firmness, but fair understanding, humility and confidence have all got a place in the administration of justice. Pomposity, arrogant or authoritarian tenderness distort the administration of justice. There is nothing to brag about where a judge is notorious for being as angry judge.

15. The ideal judge will exercise forbearance under provocation. He or she will approach parties with sensitivity and without taking offence, while accepting new knowledge coming to him or her without bias and without undue difficulty or stress. The ideal judge should be able to handle personal stress without unloading it on to others. He or she will not complain all the time and will endeavour to find solutions on every matter that is brought to his or her attention or that which affects him or her.

16. Stressful as the position of a judge is, it is also a position of public trust which must engender public confidence. That is why for the most part court business is in open Court. That is also why the law has inbuilt judicial accountability mechanisms, including the appeal process. That judicial services be rendered transparently for purposes of accountability only goes to reinforce the need for public confidence in the administration of justice. The ideal judge will recognize that criticisms and scrutiny are inherent in the position of a judge. We must accept that position and deal with it accordingly.

17. Judicial conduct and ethical behaviour are to be observed by the ideal judge at all times. Both professional and personal ethics must be observed at all times. Minimum standards are set out in disciplinary rules extensively covered in the Code of Conduct for Judicial Officers. While serving as a judge, you shall not get involved in political activism, be it on or off the bench.

Do not discuss any judgment, yours or of another judicial officer in public and do not criticize colleagues. Do not engage in conduct that would bring the judiciary in disrepute, including getting hopelessly drunk.

18. Courage and integrity are important attributes of the ideal judge. Administration of justice is such a serious matter that it has far reaching implications to individuals, persons and society generally. Situations may arise where powerful individuals may want to influence the outcome of a case. That is when the courage and integrity of the judicial officer comes to the test. The ideal judge will stand firm in defence of the law and will not allow anyone to hold sway in the administration of justice through partiality.
19. Communication skills in the form of superior listening, superior written and superior oral communication skills in English are vital for the administration of justice. They, together with superior interpersonal skills facilitate the proper administration of justice. The ideal judge needs to acquire superior communication skills for application in the administration of justice.
20. The ideal judge will be corrupt-free. The perception that corruption in this country is rampant has extended to the judiciary. It is undeniable that there continue to be cases of corruption in the Malawi Judiciary with some individuals having been prosecuted, convicted and sentenced. I have said in no uncertain terms that corruption in the judiciary will not be tolerated.

The Judiciary has a functional and dedicated Judiciary Institutional Integrity Committee which spearheads anti-corruption efforts in the Judiciary. It is doing commendable work and it has my full support. The ideal judge will join in the anti-corruption efforts in the



Judiciary to ensure that there is no room for corruption in the institution.

21. The ideal judge will endeavour to familiarize himself or herself with the existing Judiciary policies. These include the Judiciary Strategic Plan 2019 – 2024, The Judiciary Training Policy, The Judiciary Anti-Corruption Policy, The Judiciary Communication Policy and others. There are also relevant and applicable Government Policy documents including those produced by the National Planning Commission. A general understanding of how Government machinery works is important for the ideal judge.
22. This induction seminar is intended to familiarize the recently appointed High Court Judges with basic working tools for them to appreciate the work of the judge and how environment in which the judge works impacts that work. I have had a look at the programme for this seminar and the list of resource persons. I am confident that you will have a comprehensive coverage. I implore you to grasp as much as possible for your use on the job.
23. I wish to thank the Chairperson of the Judiciary Training Committee and her Committee for working closely with the Registrar to put up this induction seminar. I am grateful to the resource persons for agreed to take part in this seminar. I thank everyone present and everyone who has played a role in ensuring that this seminar happens.
24. It is now my singular honour and privilege to declare this Seminar officially opened.

I thank you all for your kind attention.