



Malawi Judiciary

OPENING REMARKS

BY

THE HONOURABLE THE CHIEF JUSTICE

R.R. MZIKAMANDA, SC

AT

**THE ORIENTATION SESSION ON THE HIV AND AIDS
(PREVENTION AND MANAGEMENT) ACT NO 9 OF 2018**

FOR THE JUDGES AND JUSTICES OF APPEAL

AT

SUNBIRD MOUNT SOCHE HOTEL, BLANTYRE

30TH JUNE, 2026

1. Salutations

2. It is my pleasure and privilege to preside over the opening of the third and final orientation session on the HIV and AIDS (Prevention and Management) Act No. 9 of 2018. I presided over the second session on 6th November 2025 at Sunbird Livingstonia Hotel in Salima where some High Court Judges were in attendance. The first session was attended by our Magistrates. The current session has targeted the High Court judges who did not manage to attend the Sunbird Livingstonia Hotel session and the Justices of Appeal at the Malawi Supreme Court of Appeal.

3. These orientation sessions were necessitated by the results of a Malawi Human Rights Commission (MHRC) monitoring exercise who researched on the status of compliance and implementation of laws addressing stigma and discrimination based on HIV and AIDS. That exercise, conducted in 2021, harshly and embarrassingly found among others things that Judicial officers showed little knowledge of the HIV and AIDS (Prevention and Management) Act No.9 of 2018 and were deficient in the application of the relevant

provisions. These findings gave room for an interpretation that the legislation was not widely disseminated among key stakeholders in the implementation of the legislation.

4. The HIV and AIDS (Prevention and Management) Act No. 9 of 2018 is an Act that has been in existence for a quite a while now and had been of application in our courts. The Courts have a constitutional duty in that regard as the bulwark of the rule of law.

5. My Ladies and My Lords, your constitutional mandate is clear under section 9. It is

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

This is a sacred mandate that properly locates the Judiciary with the Constitutional architecture that entrenches the doctrine of separation of powers. Where a constitutional responsibility is so clearly expressed in

the supreme law of the land, it should be concerning to Judicial Officers and the entire nation that a specific finding was made by the Malawi Human Rights Commission that Judicial officers showed little knowledge of a law and were deficient in the application of the relevant provisions of the law. We have said it many times before, and we repeat it here, that the Malawi Judiciary welcomes informed criticisms because these feed into our transformative agenda. It is truly my hope that is not an overstatement on the part of the Malawi Human Rights Commission that Judicial Officers showed little knowledge of the law and were deficient in the application of that law. A question might arise that how would a Judicial officer who lacks knowledge and who is deficient in the application of the law be able to professionally and efficiently execute the constitutional mandate, be able to answer to the responsibility for which the Judiciary exists. I believe My Ladies and My Lords are able to understand why I described the finding as harsh and embarrassing.

6. We appreciate the timely intervention by the National Aids Commission and the Judiciary Training Committee

who have collaboratively put up this capacity building orientation session targeting the Judicial Officers who are guardians of our Constitution and who constitute the bulwark of the rule of law. We have every reason to be thankful to the National Aids Commission and the Judiciary Training Committee for their thoughtfulness in coming up with these relevant capacity building initiatives.

7. My Ladies and Lords, we all are acutely aware that the Judiciary plays an important role in the entrenchment of Constitutionalism, the rule of law, democracy and good governance where tenets such as integrity, professionalism, transparency and accountability are strictly adhered to. We, in the Malawi Judiciary, through various policies, reforms and Strategies, are striving to promote and advance constitutionalism, the rule of law and democracy. It is not surprising therefore, that the results of such interventions are bearing fruits. On that note, allow me to say somethings that are not said for various reasons.

8. My Ladies and My Lords may wish to know that the Malawi Judiciary has been ranked among Africa's top performing judicial institutions in public confidence and access to justice according to the 2nd June, 2026 Afrobarometer Report on a survey conducted across 38 African countries. The survey found that 67% of Malawians are confident that they can obtain justice through the courts, placing Malawi third on the continent, and well above the African average of 50%. Further, Malawi also recorded strong levels of public trust in the courts, with 63% of respondents expressing confidence in judicial institutions compared to the continental average of 44%. Furthermore, 56% of Malawians believe that Judges and Magistrates made decisions based on the law rather than on external influence.

9. Similar sentiments were expressed by a localised Afrobarometer report of 2024. On 7th November 2024 Yoneco FM published an article titled "Malawi's Trust in the Judiciary still high - study says." That article which I was able to access on 7th June 2026 said "*A study by Afrobarometer has revealed that 60% of Malawians*

continue to trust the country's Judiciary, despite the recent wave of allegations of corruption involving judges and magistrates.”

Joseph Chunga, Director for the Centre for Social Research and National Investigator at Afrobarometer stated that the current debate surrounding judicial officers does not necessarily reflect a sudden decline in the public's trust in the judiciary.

According to Joseph Chunga

“The trend over time, from 2008 to now show that the lowest moment of public trust occurred in 2017, when perceptions of judicial corruption were at their highest. Since 2019, we have seen a 30 percent decrease in the perception that judges and magistrates are corrupt which is much lower than the figures of 2017. While the debate may be intense now, it's important to recognise that these concerns have been ongoing for some time.”

10. Malawi Judiciary is also performing well at the international level on governance and rule of law. The World Justice Project Rule of Law Index 2025 described

Malawi as second-best performing Judiciary among low-income countries globally and among the leading performers in the Sub-Saharan Africa on key rule of law indicators. This information is on the internet once you click the standing of the Malawi Judiciary globally.

11. The 2026 Freedom House report upgraded Malawi's status from "Partly free" to "free" alongside Bolivia and Fiji, citing competitive elections, growing judicial independence, and the strengthening of the rule of law as evidence of country's continued commitment to democratic governance and constitutionalism. Thus, our efforts to uphold judicial independence and the rule of law continue to receive global recognition.

12. Only about two weeks ago, on 19th June 2026, yours truly received an award on behalf of the Southern and Eastern Africa Chief Justices Forum that yours truly chairs for Good Stewardship in Institutional Innovation in ADR across Africa. That award recognises, among other things, Institutional Innovation in developing practical, scalable and impactful platforms for judicial cooperation, peer

learning, ADR advancement and the integration of people-centred justice systems across Africa.

13. Your Ladyships and Lordships may also wish to refer to a report on the State of the Judiciary in Malawi, Namibia and South Africa (Landmark comparative study) by the Democratic Governance and Rights Unit of the University of Cape Town that placed Malawi Judiciary more favourably than the other two. Others may not want to tell this story because it undermines their negative narrative about the Malawi Judiciary. The Report analysed judicial independence, operational efficiency and public accountability.

14. These findings, My Lords and My Ladies, are key indicators that Malawi Judiciary is heading in the right direction, despite the economic and resource constraints that we always find ourselves in. They are no mean achievements. They deserve to be celebrated. There must be somethings that we are doing right that these research networks and international organisations are seeing and crediting us for things that some domestic observers seem not to see. As a

Judiciary, we focus on our mandate under the Constitution. We must therefore strive to maintain this status and aim to improve ourselves for the better. We will continue to demonstrate our commitment and resolve to transform the way we do business including through capacity building. All these things we do for the efficient and effective administration of justice and for the sake of the people we serve.

15. Regarding the specific area for our attention at this orientation session, allow me to reiterate what I said at the Sunbird Livingstonia Hotel session on 06th November 2025. The Malawi Judiciary has for long time spoken against and acted against stigma and discrimination in relation to HIV and AIDS infected and affected individuals within its ranks. We have used government policies, including the setting aside of a percentage of our budget to support those in need while at the same time fully respecting their privacy. I do hope that the 2% of the budget policy for such support continues to be faithfully observed and complied with. If not, it is time we remind that it be honoured. I am acutely aware that our function as Judicial officers goes

beyond the prevention of stigma and discrimination on grounds of HIV and AIDS within the Judiciary itself. It is much broader than that and extends to entire nation through the application of the relevant laws. We administer justice in the entire nation, to the rich and the poor, urban dwellers or rural population, the knowledgeable or the not so knowledgeable, the vulnerable or the not so vulnerable. Justice is rooted in the public trust and confidence, both of which must be earned, as they are not freely given. When public trust and confidence in the justice system is in short supply, the consequences are dire for the Judiciary and for the nation. As we do capacity building of the type we are on about, we also work towards building public trust and confidence in our courts and the Justice System. I am glad that on these two fronts, Malawi Judiciary is performing well and we are moving forward in the right direction as demonstrated by the enviable international recognition referred to above.

16. Therefore, allow me, My Ladies and My Lords to dutifully appeal to you to take full advantage of this orientation session to acquire the knowledge and skills

that will enable you to fulfill your constitutional mandate when called upon to interpret and apply the (HIV and AIDS Prevention and Management) Act No 9 of 2018. I am confident that you become sufficiently equipped with those skills, knowledge and competences you will be fully confident to do your work and find your job satisfying. You will also be able to fulfill and demonstrate your commitment to the oath of office that you took of administering justice to all manner of people without fear or favour affection or ill-will. Those who remain faithfully to the oath of office do not disappear or turn off phones at a critical time when they would be called upon to preside over cases.

17. It remains for me now to profoundly thank the organisers of this orientation session, National Aids Commission and the Judiciary Training Committee, for job well done. We are most grateful to the National Aids Commission for the financial and technical support towards the realization of this orientation session. I am thankful to the office of the Chief Registrar and those who contributed in different ways towards the realization of this event. To all attendees, thank you for

your time and the show of commitment to our Judiciary transformative agenda through capacity building.

18. I have the honour and privilege to declare this Orientation Session on HIV and AIDS (Prevention and Management) Act No 9 of 2018 for Judges officially open.

I thank you for your kind attention.