



Republic of Zambia

**SPEECH BY**

**HIS EXCELLENCY MR. EDGAR CHAGWA LUNGU  
PRESIDENT OF THE REPUBLIC OF ZAMBIA,**

**AT THE OFFICIAL OPENING OF THE COMMONWEALTH  
LAW CONFERENCE**

**TO BE HELD IN LIVINGSTONE, ZAMBIA  
ON TUESDAY, 9<sup>TH</sup> APRIL, 2019**

**STATE HOUSE  
LUSAKA**

- **THE CHIEF JUSTICE OF THE REPUBLIC OF ZAMBIA;**
- **ALL CHIEF JUSTICES AND JUDGES PRESENT;**
- **ALL CABINET MINISTERS PRESENT;**
- **THE ATTORNEY GENERAL OF THE REPUBLIC OF ZAMBIA AND ALL ATTORNEY GENERALS PRESENT;**
- **THE SOLICITOR GENERAL OF THE REPUBLIC OF ZAMBIA AND HIS COUNTERPARTS;**
- **THE DIRECTOR OF PUBLIC PROSECUTIONS OF THE REPUBLIC OF ZAMBIA AND HER COUNTERPARTS;**
- **ALL PERMANENT SECRETARIES PRESENT;**
- **HONOURABLE MEMBERS OF PARLIAMENT;**
- **THE PRESIDENT OF THE COMMONWEALTH LAW ASSOCIATION AND HIS COUNCIL;**
- **THE PRESIDENT OF THE LAW ASSOCIATION OF ZAMBIA AND HIS COUNCIL;**
- **ALL BAR LEADERS PRESENT;**
- **MEMBERS OF THE LAW ASSOCIATION OF ZAMBIA;**
- **INVITED GUESTS;**
- **LEARNED COLLEAGUES IN THIS OUR VERY HONOURABLE PROFESSION;**
- **MEMBERS OF THE MEDIA;**
- **LADIES AND GENTLEMEN:**

I AM DELIGHTED TO BE INVITED TO OFFICIATE AT THE 21ST COMMONWEALTH LAW CONFERENCE HERE IN OUR BEAUTIFUL TOURIST CAPITAL, LIVINGSTONE. ALLOW ME TO WELCOME ALL OF YOU TO LIVINGSTONE IN PARTICULAR AND TO ZAMBIA IN GENERAL.

THE NEWS LAST YEAR THAT ZAMBIA HAD, AGAINST MANY COMPETING COUNTRIES, WON THE BID TO HOST THIS YEAR'S COMMONWEALTH LAW CONFERENCE REACHED ME WITH THE GREATEST OF JOY.

I TAKE THIS OPPORTUNITY TO THANK AND SALUTE THE HARDWORKING TEAM WHICH PUT TOGETHER THE BID THAT HAS UNDOUBTEDLY NOW PLACED ZAMBIA EVEN HIGHER ON THE WORLD MAP IN THE INTERNATIONAL LEGAL SPACE.

THIS IS INDEED A GREAT MILESTONE FOR THE LEGAL PROFESSION IN ZAMBIA, AND COMES ONLY FOUR YEARS AFTER ZAMBIA AGAIN WON THE BID AND HOSTED THE FIRST-EVER INTERNATIONAL BAR ASSOCIATION AFRICAN REGIONAL FORUM IN 2015. AS PRESIDENT, I AM PROUD TO CELEBRATE THESE MILESTONES IN OUR BELOVED NATION.

THE THEME FOR THIS YEAR'S COMMONWEALTH LAW CONFERENCE: "**THE RULE OF LAW IN RETREAT? CHALLENGES FOR THE MODERN COMMONWEALTH**" IS AN APT AND THOUGHT-PROVOKING THEME.

IT IS ALSO TIMELY AS IT IS SET IN AN ERA WHERE POLITICAL DISPENSATION, DIALOGUE AND FULL PARTICIPATION OF RELEVANT INTEREST GROUPS, AND MORE ESPECIALLY WOMEN, IS STEADILY GROWING.

THE THEME IS EFFECTIVELY REFLECTED IN NOT ONLY GOVERNANCE SYSTEMS, LAWS AND REGULATIONS, BUT ALSO IN THE LEGAL OPERATORS OF THE SYSTEMS THEMSELVES AT DIFFERENT LEVELS OF GOVERNANCE INTERFACE.

I AM ALSO DELIGHTED TO SEE FROM THE PROGRAMME, AN ARRAY OF VERY IMPORTANT LEGAL TOPICS WHICH WERE CAREFULLY SELECTED BY A HARD WORKING PAPERS COMMITTEE.

THE PROGRAMME COMPRISES FIVE STREAMS OF EXTREMELY IMPORTANT CONTEMPORARY AND PIVOTAL TOPICS AFFECTING THE RULE OF LAW; THE ADMINISTRATION OF JUSTICE AND THE PRACTISE OF THE LAW, NOT ONLY IN THE COMMONWEALTH BUT WORLDWIDE.

THE TOPICS RANGE FROM CONSTITUTIONALISM; HUMAN RIGHTS AND THE RULE OF LAW; CORPORATE AND COMMERCIAL LAW; THE LATIMER HOUSE PRINCIPLES; BREXIT AND ITS IMPLICATIONS; THE LEGAL AND JUDICIAL PROFESSION; COMMONWEALTH RESPONSES TO INDIGENOUS RIGHTS AND ASPIRATIONS AND MANY OTHER LEGAL TOPICS AND ISSUES.

UNDOUBTEDLY, A FOUR DAYS' CONFERENCE MAY NOT BE A LONG ENOUGH PERIOD TO EXHAUST THESE VERY IMPORTANT TOPICAL ISSUES.

NONETHELESS, IT IS MY SINCERE HOPE THAT THE TOPICS WHICH WILL BE DISCUSSED DURING THIS CONFERENCE WILL STIMULATE FURTHER DISCUSSIONS AND INNOVATIONS WITHIN THE LEGAL AND JUDICIAL PROFESSIONS AND BEYOND.

## **DISTINGUISHED DELEGATES:**

THE IMPORTANCE OF ADHERENCE TO THE RULE OF LAW CANNOT BE OVER EMPHASISED. IDEAS ABOUT THE RULE OF LAW HAVE FROM TIME IMMEMORIAL BEEN CENTRAL TO POLITICAL AND LEGAL THOUGHT SINCE THE FOURTH CENTURY.

MECHANISMS, PROCESSES, INSTITUTIONS, PRACTICES, OR NORMS MUST ALL BE SEEN TO SUPPORT THE EQUALITY OF ALL CITIZENS BEFORE THE LAW, SECURE A NON-ARBITRARY FORM OF GOVERNMENT AND MORE GENERALLY, PREVENT THE ARBITRARY USE OF POWER.

THE RULE OF LAW IS AN AUTHORITATIVE LEGAL DOCTRINE OR PRINCIPLE, WHICH SUGGESTS THAT ALL PEOPLE AND INSTITUTIONS ARE SUBJECT TO, AND ACCOUNTABLE TO LAW THAT IS FAIRLY APPLIED AND ENFORCED; THE PRINCIPLE OF GOVERNMENT BY LAW AND NOT BY MEN; ADHERENCE TO DUE PROCESS OF LAW.

SIMPLY SAID, THE RULE OF LAW IMPLIES THAT THE CREATION OF LAWS, THEIR ENFORCEMENT AND THE RELATIONSHIPS AMONG LEGAL RULES ARE THEMSELVES LEGALLY REGULATED, SO THAT NO ONE, INCLUDING THE MOST HIGHLY PLACED OFFICIAL, IS ABOVE THE LAW.

OVER THE YEARS, IF NOT CENTURIES, THE CONCEPT OF THE RULE OF LAW HAS COME UNDER INTENSE SCRUTINY AND DEBATE.

QUESTIONS HAVE BEEN ASKED ABOUT WHAT THE PHRASE, "RULE OF LAW" MEANS AND WHETHER IT IS EVEN APT FOR CONSIDERATION, GIVEN ITS ALMOST OBVIOUS MEANING.

ITS ORIGINS ARE CREDITED TO GREAT PHILOSOPHERS AND THINKERS OF CENTURIES PAST, PARTICULARLY **ARISTOTLE**, AN ANCIENT GREEK PHILOSOPHER AND SCIENTIST WHO IS STILL CONSIDERED ONE OF THE GREATEST THINKERS IN POLITICS, PSYCHOLOGY AND ETHICS, WHO IS QUOTED AS HAVING SAID:

***"IT IS BETTER FOR THE LAW TO RULE THAN ONE OF THE CITIZENS, SO EVEN THE GUARDIANS OF THE LAWS ARE OBEYING THE LAWS."***

CLOSER TO OUR TIME, PROFESSOR A. V. DICEY, A VENERIAN PROFESSOR OF ENGLISH LAW AT OXFORD, IS OFTEN CREDITED FOR COINING THE PHRASE, "**THE RULE OF LAW**". HIS DEFINITION OR DESCRIPTION OF THE CONCEPT CAN BE FOUND IN HIS BOOK TITLED, ***AN INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION***, WHICH WAS PUBLISHED IN **1885**. IN HIS PUBLICATION, PROFESSOR DICEY GAVE THREE MEANINGS TO THE RULE OF LAW, WHICH ARE SUMMARISED AS:

1. NO MAN SHOULD BE PUNISHED OR CAN LAWFULLY BE MADE TO SUFFER IN BODY OR IN GOODS EXCEPT FOR A DISTINCT BREACH OF THE LAW ESTABLISHED IN THE ORDINARY LEGAL MANNER BEFORE THE ORDINARY COURTS OF THE LAND;

2. NO MAN IS ABOVE THE LAW, EVERY MAN WHATEVER HIS RANK OR CONDITION, IS SUBJECT TO THE ORDINARY LAW OF THE REALM AND AMENABLE TO THE JURISDICTION OF THE ORDINARY TRIBUNALS. IN OTHER WORDS, NO ONE IS ABOVE THE LAW AND EVERY PERSON IS SUBJECT TO THE SAME LAW ADMINISTERED IN THE SAME COURTS; AND
3. FUNDAMENTAL RIGHTS OF THE PERSON SUCH AS PERSONAL LIBERTY, FREEDOM OF ASSOCIATION AND ASSEMBLY ARE ROOTED IN NATURAL LAW AND NOT DEPENDENT ON ANY ABSTRACT CONSTITUTIONAL CONCEPT DECLARATION OR GUARANTY.

FURTHERMORE, ONE OF THE MOST INFLUENTIAL JUDGES OF THE 20TH CENTURY, FORMER MASTER OF THE ROLLS, LORD TOM BINGHAM, IN HIS BOOK, ***THE RULE OF LAW***, ALSO ADDS TO THE DISCOURSE ON WHAT THE RULE OF LAW REALLY MEANS. IN ESSENCE, HE POSITS THAT THE CRUX OF THE RULE OF LAW IS THAT:

***ALL INDIVIDUALS AND ALL ORGANISATIONS WITHIN THE STATE, WHETHER PUBLIC OR PRIVATE, ARE BOUND BY AND ENTITLED TO THE BENEFIT OF LAWS PROSPECTIVELY PROMULGATED AND PUBLICLY ADMINISTERED IN THE COURTS.***

THE RULE OF LAW, AS PROPOUNDED BY PROFESSOR DICEY AND OTHERS, IS STILL ONE OF THE VERY IMPORTANT PRINCIPLES REGULATING MOST, IF NOT ALL, COMMONWEALTH COUNTRIES.

ALTHOUGH MODERN LAWS HAVE MODIFIED OR EVEN DENIED SOME OF THE IMPORTANT PARTS OF THE RULE OF LAW AS PROPOSED BY PROFESSOR DICEY AT THE START OF THE 19TH CENTURY. THE PRINCIPLE, ESPECIALLY, ITS FIRST TWO DEFINITIONS, IS EMBRACED BY ALL COMMONWEALTH COUNTRIES AND THE INTERNATIONAL COMMUNITY AND ZAMBIA IS NO EXCEPTION.

NOTWITHSTANDING, THE APPARENT UNDERSTANDING OF THE MEANING OF THE DOCTRINE OF THE RULE OF LAW, THERE IS AN ABUNDANCE OF EXAMPLES OF THE BREAK DOWN IN THE NORMATIVE LAWS OF COUNTRIES IN THE WORLD TODAY.

THE IMMEDIATE AND MOST NOTICEABLE INTERNAL CONFLICTS, LOSS OF LIFE, REVENUE AND NATURAL RESOURCES ARE BUT A FEW INSTANCES WHICH CAN BE CITED AS A CONSEQUENCE OF THE BREAKDOWN IN THE RULE OF LAW.

WITH THE FOREGOING BRIEF EXPOSE ON THE RULE OF LAW, IT REMAINS FOR DELEGATES OF THIS PRESTIGIOUS CONFERENCE TO DEBATE AND DISCUSS WHETHER THE RULE OF LAW, AS IT MAY BE UNDERSTOOD IN MODERN TIMES IS INDEED IN RETREAT AND IN ANY EVENT, WHAT CHALLENGES AND OPPORTUNITIES EXIST FOR THE MODERN COMMONWEALTH.



## **DISTINGUISHED DELEGATES:**

IT IS MY SINCERE HOPE THAT THE DELIBERATIONS AT THIS CONFERENCE WILL FILTER INTO INSTITUTIONS OF GOVERNANCE WITHIN THE COMMONWEALTH AND POSITIVELY IMPACT DECISION MAKING, POLICY IMPLEMENTATION, TRANSPARENCY AND ACCOUNTABILITY BY THOSE THAT GOVERN AND INDEED BY THE GOVERNED.

LET ME ALSO STATE THAT LEGAL PRACTITIONERS PLAY AN ESPECIALLY IMPORTANT ROLE IN THE EFFECTIVENESS OF ADHERENCE AND OBSERVANCE OF THE RULE OF LAW. THEY ARE NOT ONLY THE DRAFTERS OF THE LAW, THE PROMPTERS OF NECESSARY REVISION AND THE DISSEMINATORS OF LEGAL KNOWLEDGE, BUT ALSO THE EDUCATORS OF THE RULES AS THEY STAND.

BY CONDUCT, TO THE OBSERVING COMMUNITY, THEY ARE THE OFFICERS OF THE COURTS WHO MUST PLAY A PIVOTAL ROLE IN ADVOCACY FOR NOT ONLY THE PAYING CLIENTELE, BUT TO THOSE WHO WOULD OTHERWISE BE UNABLE TO REPRESENT THEMSELVES.

IN THIS REGARD, I AM DELIGHTED TO NOTE THAT THERE WILL BE A SESSION IN THE CONFERENCE ON PRO BONO LEGAL SERVICES IN THE COMMONWEALTH.

LORD DENNING ONE OF THE MOST CELEBRATED ENGLISH JUDGE OF THE 20TH CENTURY, SAID OF AN APT AND EFFICIENT LAWYER, AS ONE WHO TAKES UP THE CHALLENGE TO INFORM THE COURT, EVEN IN THE INSTANCE THAT INFORMATION HELD MAY WORK AGAINST HIS CLIENT. THIS IS IN ORDER TO SAFEGUARD THE BODY OF PRECEDENT AND THE DEVELOPMENT OF RECITE-ABLE LAW. THIS IS A ROLE THAT CANNOT BE IGNORED OR UNDERPLAYED.

THE RULING PATRIOTIC FRONT GOVERNMENT OF ZAMBIA IS LARGELY AWARE OF THIS ROLE OF LAWYERS IN THE MODERN COMMONWEALTH, A COMMONWEALTH THAT IS LIKE THE REST OF THE WORLD GRAPPLING WITH CHALLENGES OF CORRUPTION, HUMAN TRAFFICKING, CHILD MARRIAGES, SEXUAL HARASSMENT AND EXPLOITATION OF WOMEN.

THE CHALLENGES ALSO INCLUDE OTHER FORMS OF HUMAN EXPLOITATION, SELF-ACTUALISATION AND SELF-IDENTIFICATION, FREEDOM OF EXPRESSION, CRYPTO CURRENCY, COMMERCE, CYBERCRIME, ANTI-MONEY LAUNDERING, TERRORISM AND TECHNOLOGICALLY SUPPORTED CRIMES ON ONE SIDE. THESE CHALLENGES ARE NOT UNIQUE IN ANY WAY TO ANY ONE REGION.

DESPITE THESE CHALLENGES, COMMONWEALTH COUNTRIES ARE ALSO OVERFLOWING WITH THE PROMISE OF VIBRANT YOUTHS; TECHNOLOGICAL INNOVATION; JOB OPPORTUNITIES; ENTREPRENEURSHIP; AND PEACE AND STABILITY;

IN ADDITION, IS A QUICK AND FAIR JUSTICE SYSTEM; ABUNDANT SOVEREIGN NATURAL RESOURCES AND THE UNDAUNTED, UNRELENTING AND UNWAVERING ZEAL OF HER PEOPLE TO PURSUE JUSTICE IN SPITE OF OUR CHALLENGES.

## **DISTINGUISHED LADIES AND GENTLEMEN:**

MY GOVERNMENT IS DETERMINED TO ENCOURAGE PROFESSIONAL ASSOCIATIONS OF LAWYERS TO PROMOTE PROGRAMMES AIMED AT INFORMING THE PUBLIC ABOUT THEIR RIGHTS AND DUTIES UNDER THE LAW.

IN ADDITION TO THIS, THE IMPORTANT ROLE OF LAWYERS IN UPHOLDING AND PROTECTING FUNDAMENTAL LIBERTIES, WITH SPECIAL ATTENTION GIVEN TO THE POOR AND OTHER DISADVANTAGED AND MARGINALISED PERSONS TO ENABLE THEM ENJOY THEIR LIBERTIES.

MY GOVERNMENT ALSO SEEKS TO ENSURE THAT IN ALL CASES IN WHICH THE INTERESTS OF JUSTICE SO REQUIRE, ALL PERSONS BE ENTITLED TO A LAWYER OF EXPERIENCE AND COMPETENCE COMMENSURATE WITH THE NATURE OF THE OFFENCE ASSIGNED TO THEM. THIS WILL ENABLE ACCESS TO AND PROVISION OF EFFECTIVE LEGAL ASSISTANCE AT NO COST WHERE RESOURCES ARE LACKING TO PAY FOR LEGAL SERVICES.

THE ZAMBIAN GOVERNMENT IS ALSO COMMITTED TO SEEING THAT EDUCATIONAL INSTITUTIONS ENSURE THAT LAWYERS HAVE APPROPRIATE EDUCATION, TRAINING AND ARE MADE AWARE OF THE IDEALS AND ETHICAL DUTIES OF THE LAWYER, AND OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS RECOGNISED BY NATIONAL AND INTERNATIONAL LAW.

## **LADIES AND GENTLEMEN:**

IN THE SAME WAY, MY GOVERNMENT IS DETERMINED TO HOLD ACCOUNTABLE A LEGAL PROFESSION WHICH SHALL, AT ALL TIMES, MAINTAIN THE HONOUR, DIGNITY AND INTEGRITY OF ITS PROFESSION, AS ESSENTIAL AGENTS OF THE ADMINISTRATION OF JUSTICE. THE NEED FOR A VIBRANT, INDEPENDENT AND PROFESSIONAL LEGAL PROFESSION CANNOT BE OVEREMPHASISED. AS MARK TWAIN POSITED:

***“AS LONG AS THE WORLD SHALL LAST THERE WILL BE WRONGS, AND IF NO MAN OBJECTED AND IF NO MAN REBELLED, THOSE WRONGS WOULD LAST FOREVER”.***

I URGE THE LEGAL PROFESSION AND JURISTS IN THE COMMONWEALTH TO TAKE UP THE MANTLE TO SEE ANY CHALLENGES IN THE MODERN COMMONWEALTH AS OPPORTUNITIES FOR GROWTH AND FURTHERANCE OF THE RULE OF LAW.

WHERE WE NOTICE INEFFECTIVE SAFE GUARDS FOR THE GUARANTEE AND PROTECTION OF MINORITY RIGHTS FOR EXAMPLE, I BESEECH YOU TO SEE AN OPPORTUNITY TO ESTABLISH A MECHANISM FOR PRO BONO SERVICES THAT MEET THIS CHALLENGE EVEN BEFORE IT OCCURS.

IN ZAMBIA, I URGE LAWYERS TO OPERATIONALISE THE LEGAL AID POLICY RECENTLY FORMULATED BY MY GOVERNMENT. TRUE WEALTH WILL ONLY BE MEASURED BY THE LEGACY WE WILL LEAVE BEHIND FOR THOSE WE ASSISTED AND INSPIRED.

WHERE THE PRACTITIONERS THEMSELVES SEE A THREAT FROM WITHIN, WITH THE RISE IN THE NUMBER OF THOSE ADMITTED TO THE HIGHLY SOUGHT OUT BAR, AND THE INEVITABLE RISE OF UNEMPLOYMENT OF ADVOCATES TARGETING THE ALREADY SCARCE CONVENTIONAL LEGAL JOBS, I URGE YOU TO SEE AN OPPORTUNITY TO THINK OUTSIDE THE BOX, AND EXPAND THE REACH OF THE PROFESSION TO AREAS OTHER THAN WHAT IS CONVENTIONAL.

WE MUST INNOVATE AS LAWYERS AND BEGIN TO THINK AS BUSINESS PROFESSIONALS, BUT WITHOUT LOSING THE NOBILITY OF THE LEGAL PROFESSION. LEGAL PRACTITIONERS SHOULD TAKE UP THE CHALLENGES TO BUILD A PRACTICE OUTSIDE THE ORDINARY CORPORATE AND COMMERCIAL REALM OR THE CRIMINAL LAW PRACTICE.

FEED THE GAPS FOR LEGAL EXPERTISE WITHIN THE COUNTRYSIDE OR RURAL AREAS, REACH THE MARGINALISED AND UPCOMING TRADERS, FARMERS, SMALL SCALE BUSINESS PERSONS WHO REQUIRE THIS LEGAL TOUCH, BUT ARE OTHERWISE UNABLE TO ACCESS IT BECAUSE OF PERCEPTION OF THE DISCOURAGING FEES.

LASTLY, I URGE THE PRACTITIONERS THAT INEVITABLY MUST TAKE UP THE MANTLE, TO BE THE WATCH DOG THAT ENSURES THAT THE RULE OF LAW THRIVES. THEY MUST CONSTRUCTIVELY EVALUATE AND KEEP IN CHECK THE EXECUTIVE, JUDICIAL AND LEGISLATIVE ARMS OF GOVERNANCE IN AN EFFORT TO ENSURE ALL ARE ALERT AND ADHERE TO THE TENETS OF THE LAW.

CONSTRUCTIVE CRITICISM IS GOOD IN ANY SYSTEM. I URGE PRACTITIONERS TO SEEK EVEN MORE INNOVATIVE WAYS OF ENGAGING THE THREE ARMS OF GOVERNMENT.

I URGE THEM TO STRAY FROM MERE CRITICISM, BUT INSTEAD TO CONSIDER THEMSELVES AS PARTNERS THAT MUST DIALOGUE AND EVEN PARTICIPATE IN THE DIFFERENT OPPORTUNITIES, TO BRING ABOUT POSITIVE CHANGES IN OUR SOCIETIES. DO NOT SIT ON THE SIDE-LINES, GET INVOLVED.

IN TRUE LEGAL FASHION, I COULD NOT, WITH GOOD CONSCIOUS, DELIVER A KEYNOTE ADDRESS WITHOUT A LATIN MAXIM: “**FIAT JUSTITIA RUAT CAELUM**” WHICH YOU MY LEARNED COLLEAGUES REALISE MEANS, “**LET JUSTICE BE DONE THOUGH THE HEAVENS FALL**”

**DISTINGUISHED LADIES AND GENTLEMEN:**

I WISH YOU ALL A FRUITFUL AND WORTHWHILE CONFERENCE AND I INVITE ALL OF YOU TO TAKE TIME TO EXPERIENCE ZAMBIA’S TOURISM, NOT ONLY HERE IN LIVINGSTONE, BUT IN OTHER REGIONS OF OUR BEAUTIFUL COUNTRY. ENJOY THE CONFERENCE, ENJOY ZAMBIA.

**GOD BLESS YOU ALL.**

**I THANK YOU ALL FOR YOUR ATTENTION.**