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Luke Malaba

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Luke Malaba is a Zimbabwean judge and the Chief Justice of the [Supreme Court of Zimbabwe](#)^[1] he was appointed Chief Justice of Zimbabwe by former President [Robert Mugabe](#) with effect from the 27th of March 2017^[2]. Before that he was the acting Chief Justice after the retirement of [Godfrey Chidyausiku](#) at the end of February 2017. Malaba was the first Deputy Chief Justice of the Supreme Court under Constitutional Amendment Act Number 18 in 2008,^[3]

Chief Justice
Luke Malaba



Image via [Judicial Services Commission](#)

Chief Justice

[Incumbent](#)

Assumed office

27 March 2017

Appointed by

Preceded by

Personal details

Born

Education

President [Robert Mugabe](#)

[Godfrey Chidyausiku](#)

1951

LLB. Honours [University of Warwick, UK, 1974];

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LL.B. [University of Zimbabwe, 1982]
University of Warwick, University of Zimbabwe

[Alma mater](#)

Early Career

Malaba got his law degrees in 1974 from the University of Warwick and in 1982 from the University of Zimbabwe. He spent 3 years as a public prosecutor in Bulawayo [1981 -1984], before beginning his career as a magistrate in 1984 at Masvingo. Malaba rose steadily through the ranks of the magistracy and attained the rank of regional magistrate in 1990. He was appointed as a judge of the High Court in 1994. He served as a Judge of the Bulawayo High court from 1994 to 2001. He was elevated to the Supreme Court in August 2001 and became the country's first Deputy Chief Justice in 2008.^[4] Justice Malaba has also held an appointment as a judge of the COMESA Court of Justice.^[5]

Notable Rulings

In a 2013 case in which [Jealousy Mawarire](#) sued President Mugabe compelling him to set the date for the election. The majority ruled in favour of Mawarire's application, which ensured that elections were held by July 31 2013. Malaba was one of the only two dissenters together with Justice Patel.^[4]

After Mike Campbell and a group of white farmers had taken their case to the SADC Tribunal and won in the case Mike Campbell (Pvt) Ltd et al. v. Republic of Zimbabwe, they sought to enforce the orders in Zimbabwe. The SADC Tribunal had ruled that the land reform process was unlawful and a violation of the rule of law. Writing for the Supreme Court in the case, Malaba dismissed the farmers' application, holding that the SADC Tribunal had no jurisdiction over the matter and that the Supreme Court was not obliged to comply with or enforce the orders of the Tribunal.^[4]

Malaba also wrote the judgment in the case where citizens were challenging [ZBC's](#) powers to levy the licence fee. He ruled that ZBC's powers were not unlawful.^[4]

In *Marimo and Another v Minister of Justice, Legal and Parliamentary Affairs and Others* (2006) ZWSC 60 the important question was whether [Chief Justice Chidyausiku's](#) power to appoint judges of the Electoral Court under the Electoral Act was constitutional. Section 162 of the Electoral Act empowered the Chief Justice to appoint judges of the Electoral Court. Following that provision after the 2005 elections, Chidyausiku had handpicked judges but this was challenged by the losing MDC candidates on the grounds that the Electoral Court was a special court and judges had to be appointed in accordance with the provisions for appointing judges.^[4]

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Malaba ruled that this was improper and unconstitutional. Malaba ruled that section 162 of the Electoral Act was inconsistent with the Constitution and declared it invalid and held that Chidyausiku's act of appointing judges on its terms was invalid. In passing judgment Malaba said:^[4]

It must follow, that as the judges were not validly appointed, they had no authority to exercise the judicial power of the Electoral Court at the time they purported to hear and determine the election petitions. In other words, the court in which they sat was not properly constituted and was not a court "established by law." There was a violation of the right guaranteed to the applicants under s 18(9) of the Constitution."^[4]

About Pindula

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References

1. ? [Malaba appointed Chief Justice](#), *Newsday*, 'Published: 29 March 2017 Retrieved: December 29 2017'
2. ? [Court Watch 2017 - Appointment of Chief Justice](#), *Veritas Zimbabwe*, 'Published: March 29, 2017 , Retrieved: March 29 2017'
3. ? [LOSS OF TWO ZIMBABWE SUPREME COURT JUSTICES STRENGTHENS ZANU-PF'S INFLUENCE OVER BENCH](#), *Wikileaks*, *Published: Retrieved: December 03 2016*
4. ? [4.0 4.1 4.2 4.3 4.4 4.5 4.6](#) Alex Magaisa, [The Big Saturday Read: The law and politics of selecting Zimbabwe's new Chief Justice](#), *Big Saturday Read*, *Published: December 03, 2016 , Retrieved: December 03 2016*
5. ? [Court Watch 2016 - 12th December Public Interviews for Four Chief Justice Candidates](#), *Published: November 09, 2016 , Retrieved: December 03 2016*