



REPUBLIC OF NAMIBIA

OFFICE OF THE JUDICIARY

CONFERENCE AND ANNUAL GENERAL MEETING OF THE SOUTHERN AFRICAN CHIEF JUSTICES FORUM (SACJF)

23-25 SEPTEMBER 2021

“The Judiciary and Technology in Africa”

OFFICE OF THE JUDICIARY'S SPECIAL EDITION



SOUTHERN AFRICAN CHIEF JUSTICES FORUM





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THE SOUTHERN AFRICAN CHIEF JUSTICES' FORUM (SACJF)

Theme: *The judiciary and technology in Africa*



The 2021 Southern African Chief Justices' Forum (SACJF)

The Southern African Chief Justices' Forum (SACJF), hosted a two-day conference that took place in Victoria Falls, Zimbabwe, on 23 - 24 September 2021, under the theme, 'The judiciary and technology in Africa'. The conference co-hosted by the Republics of Zambia and Zimbabwe provided an engagement platform of deliberation on the enhancement of the administrations of justice in the various jurisdictions.

The Forum allowed representatives to share experiences on topics like; Perspectives of the African Court on Human and Peoples Rights on the use of technology and online service in pandemic times, African Judiciaries and the Fourth Industrial Revolution, Refugee law, Climate litigation: cases and trends, State of judiciary project update, the use of technology and online services- the perspective of the EACJ and Digital Courts: Zimbabwe Experience.

The Forum also touched on their needs and expectations in terms of capacity building support, advisory services, tools, networking opportunities and other resources and how best to meet them.

In his presentation, Professor Richard Susskind shed light on the subject - Justice in the digital age. The Professor, credited as the original architect of the idea of online courts, is the president of the society for computers and law and has worked on technology for lawyers since 1981.

He has professorships at Oxford, London and Strathclyde universities and has been strategy and technology advisor to the Lord Chief Justice of England since 1998.

On the first day of the conference, after hearing from the Professor, delegates reflected on the online challenges and successes of the region's justice systems in responding to Covid-19, with input from the judiciaries of individual countries as well as regional courts.



HIS EXCELLENCY PRESIDENT OF THE REPUBLIC OF ZIMBABWE, DR. EMMERSON D. MNANGAGWA, OFFICIATED AT THE 2021 SOUTHERN AFRICAN CHIEF JUSTICES' FORUM



His Excellency President of the Republic of Zimbabwe, Dr. Emmerson D. Mnangagwa, giving his speech at the 2021 Southern African Chief Justices' Forum (SACJF).

The South African Chief Justices' Forum (SACJF) provides a formal platform, structure and framework through which the Chief Justices of Eastern and Southern Africa and Africa at large are able to collectively reflect on critical issues on justice delivery and adopt action plans to address those issues in a systematic and sustained way in order to strengthen justice delivery in our region.

In his opening remarks, His Excellency President of the Republic of Zimbabwe, Dr. Emmerson D. Mnangagwa, applauded the organisers of the conference for holding the conference under the theme- "The judiciary and technology in Africa".

His Excellency noted that one of the effects of the Covid-19 pandemic was the disruption of court services. "I urge you, Chief Justices and Judges here present to strengthen your resolve towards ensuring the protection of the fundamental rights of access to justice for the general populace, especially the disadvantaged and the vulnerable, including women, children and the youth."

His Excellency further said that "this should however not detract from the very important role played by the courts in the protection of fundamental human rights of the people, especially the poor and the vulnerable, such as the disabled, women and children".

"The need to respect the independence of the Judiciary, however, does not in any way imply that Judges shall not be accountable. Judicial independence is guaranteed as the essence of the rule of law on condition that the principles of transparency and accountability are observed in the performance of judicial functions. An accountable and transparent Judiciary is one that people have confidence in and is free of corruption, expeditiously deals and finalises matters in courts," His Excellency said.

"Security in the face of cyber-crime, which may threaten the efficacy and credibility of the systems must be at the forefront as you develop means and ways of deploying computer-based technology in the administration of justice".

His Excellency President of the Republic of Zimbabwe, Dr. Emmerson D. Mnangagwa, He advised that the use of Information Communication Technology (ICT) is a key strategic focus of the government of Zimbabwe and that it underpins the economic blueprint of Vision 2030, in which Zimbabwe aims to have an upper middle class by the year 2030.

HONORABLE CHIEF JUSTICE PETER SHIVUTE ELECTED AS CHAIRPERSON OF SACJF



Hon. Chief Justice Mr. Justice Peter S Shivute, rising as he is applauded by the members of SACJF in congratulating him as he was elected as the Chairperson of SACJF

During the Annual General Meeting (AGM) held on 24 September 2021, Hon. Chief Justice Peter Shivute was elected as Chairperson of the Southern African Chief Justices' Forum (the Forum). He will serve as Chairperson for the next two (2) years. Chief Justice Shivute took over the reign from Hon Chief Justice Andrew K.C. Nyirenda SC, Chief Justice of Malawi, who was elected as Chairperson in 2018.

Hon. Chief Justice Peter S. Shivute is a past Chairperson of the Forum, a position he held for 3 consecutive terms, from 2015 to 2018. Chief Justice will be deputised by Hon. Chief Justice Prof. Ibrahim H. Juma, Chief Justice of the United Republic of Tanzania.



The AGM also adopted the Strategic Plan 2022-2026 of the Forum. This document outlines the dynamic road map that the Forum will take to transform into a more self-reliant strategic enabler in promoting the administration of justice, consolidating democratic progress, bridging the justice gap, defending the rule of law and contributing to economic prosperity in the East and Southern Africa (ESA) region.

Building on the achievements of the past five years while making strategic choices among competing priorities and in light of external realities and internal capacities and resources, the 2022-2026 Strategic Plan establishes the Forum's direction for the next five years; sets out the goals and objectives in line with its uniqueness and comparative advantage and also strives to consolidate the significant gains made under the previous Strategic Plan. It also sets out the vision and mission of the Forum.

PERSPECTIVES OF THE AFRICAN COURT ON HUMAN AND PEOPLES RIGHTS ON THE USE OF TECHNOLOGY AND ONLINE SERVICE IN PANDEMIC TIMES: *Challenges and Opportunities*

By Grace Wakio Kakai and Meredith Lwanga Amia



When the Covid- 19 Pandemic struck, the Court had partially utilised technology in its operations, particularly in the management of the judicial procedure.

It had installed an Electronic Case Management System (ECMS) to facilitate internal case management and had only started utilising it. Although this system had an e-filing component to enable the public file their applications and pleadings and enable service of process, this specific module had not yet been operationalised.

The ECMS was being used for the internal processing of matters, filed in 2019 and 2020. Cases filed prior to 2019 were being processed through both the ECMS system and manually, while the Registry was working to digitize the backlog.

In view of the challenges faced in accessing information and in cognisance of the logistical challenges parties were facing due to the pandemic, the Court suspended the computation of time limits from 1 May 2020. This initiative was undertaken to ensure that the process was fair and parties are given ample time to respond to each other's pleadings.

The Court developed and adopted the Practice Directions of Holding Virtual Sessions on 2 June 2020. Since its June Session in 2020, the Court started holding virtual sessions and meetings. To date, the Sessions have been held in a virtual format. The main challenge faced is the lack of human interaction during deliberations. Another concern with virtual sessions has been ensuring the confidentiality of deliberations during the virtual sessions and so far, this has been maintained.

As a result of the pandemic and in compliance with global public health guidelines and standard operating procedures (SoPs), the Registry started working on a rotational basis in order to decongest its office premises. This took some time for the staff to settle down, re-orient themselves and adjust to working from home.

This also necessitated the Court to provide the necessary technological tools, and access to internet and on the part of the staff, to create a sufficiently conducive environment to conduct work functions from home.

The challenges and observations listed above led to non-implementation of some of its activities particularly those which involved physical meetings such as sensitization activities to Member States and other thematic meetings.

Certainly, one cannot deny that despite its consequences, the Covid -19 pandemic has provided an opportunity for the Court to amend, develop and refine its working methods. Some of the initiatives employed include:

- Development and revision of governing instruments
- Virtual Sessions and Virtual Public Hearings
- Virtual meetings
- Flexibility in working methods of Registry and Court

The Covid-19 Pandemic has greatly changed the modus operandi of the workplace universally. It is no longer work as usual as workers have been forced to adopt to new work styles and methods to implement their functions across all sectors.

The Court is by no means an exception and has endeavoured to change with the times. These developments have created a much-needed opportunity for it to adopt to new workstyles to ensure continuity of its business operations. The Court will strive to grow with and ensure that it rises above the challenges and transforms into a human rights court that conforms to these contemporary challenges.

AFRICAN JUDICIARIES AND THE FOURTH INDUSTRIAL REVOLUTION

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By Mariya Badeva-Bright, AfricanLII and Laws.Africa

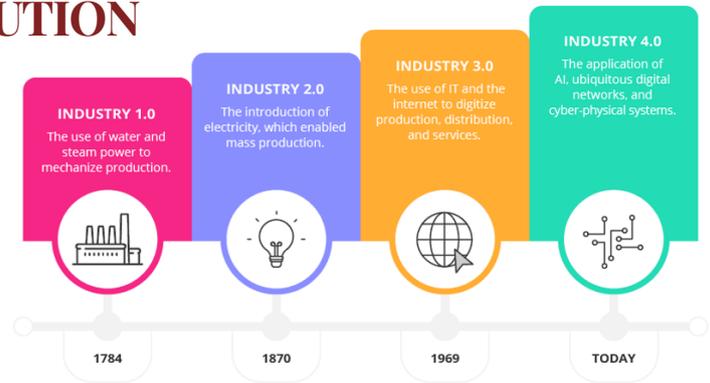
The Fourth Industrial Revolution (4IR) is a new era of innovation in technology, one that is enhancing human-machine relationships, unlocking new market opportunities, and fuelling growth across the global economy.

Countries around the world are adopting game-changing technologies such as artificial intelligence (AI), robotics, cloud computing, and the Internet of Things (IoT). Most importantly, the 4IR doesn't consider any of these technologies in isolation. Instead, it encompasses a fusion in which these high-powered technology tools integrate with our physical world, qualitatively transforming the way we lead our lives and conduct business.

When you think of the 4IR, think of ubiquitous computers, interconnected digital devices, intelligent robots, autonomous vehicles, gene editing, 3D printing, including of organic matter, and even human-technology integration and enhancements. An effective way of understanding what the 4IR is about is to consider it in the context of the previous three industrial revolutions.

Though Africa hasn't digitally transformed as quickly as other developing and developed regions have, there have been significant improvements in information and communications technology.

For example, many would agree that African countries have lead in developing applications for mobile services, particularly in fintech, and that the continent hosts ICT services generating millions of jobs and economic value for the region.



There is no doubt that digitization has helped us increase efficiency and growth. At best, however, our public sectors, including the Judiciaries we operate within, are still operating within the framework of the third industrial revolution and the digitisation of production and services.

However, continental and national executive and academic leadership has been forward-thinking and recognised the need to prepare our societies for the 4IR. In fact, regional organisations and national governments are promoting the 4IR. Research hubs in government, academia and non-profit organisations are working on studying the emerging issues as well as defining the parameters of policy and laws establishing a conducive and equitable environment for the 4IR in Africa.

Judiciaries in Africa must engage with the 4IR and help shape future developments in the justice sector.

I very broadly propose that this engagement could take place in at least four ways:

- Anticipate change, shape policy.
- Capacitate, train and upskill
- Capable administration and solid infrastructure
- Data is the new oil

Creating and maintaining an appropriate data infrastructure, court processes and judgments data, alongside sensible and contextualised data and AI policies, is something fully achievable today, that will set African judiciaries on the path to full participation in the fourth industrial revolution.

WHAT IS “ACCESS TO JUSTICE”?

UNDP defines “access to justice” as- The ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards.

People need remedies to protect themselves from possible harm caused by others when involved in disputes or conflicts of interest. Remedies are measures that redress this harm, for instance through restitution or compensation. When remedies are guaranteed by law or by customary norms, they are called legal remedies.

Justice remedies are legal remedies that typically involve a third party (the justice institution or mechanism), whose functioning is also regulated by norms, in settling the dispute. For instance, when an employer gives compensation to an employee in case of inappropriate dismissal, though he or she is giving a legal remedy, it is an economic remedy and not a justice one. However, if the decision to compensate was taken by a justice institution or as a result of its mediation, it becomes a justice remedy.

Justice systems serve to recognize people’s entitlement to remedies when these are in dispute. For this reason, they are particularly important in the context of power inequalities, when people’s inability to claim remedies through other means may put their well-being at risk.

Under its “Access to Justice Programme,” the Democratic Governance and Rights Units of the University of Cape Town (DGRU) regularly evaluates the state of the judiciaries in Southern Africa. The purpose of this programme is to assess the capacities of the courts to administer justice efficiently and effectively, identified existing challenges and collaborate with stakeholders to address these challenges.

As part of this programme, the DGRU conducted a scoping study to establish the impact of the Covid-19 pandemic on the administration of justice by courts.

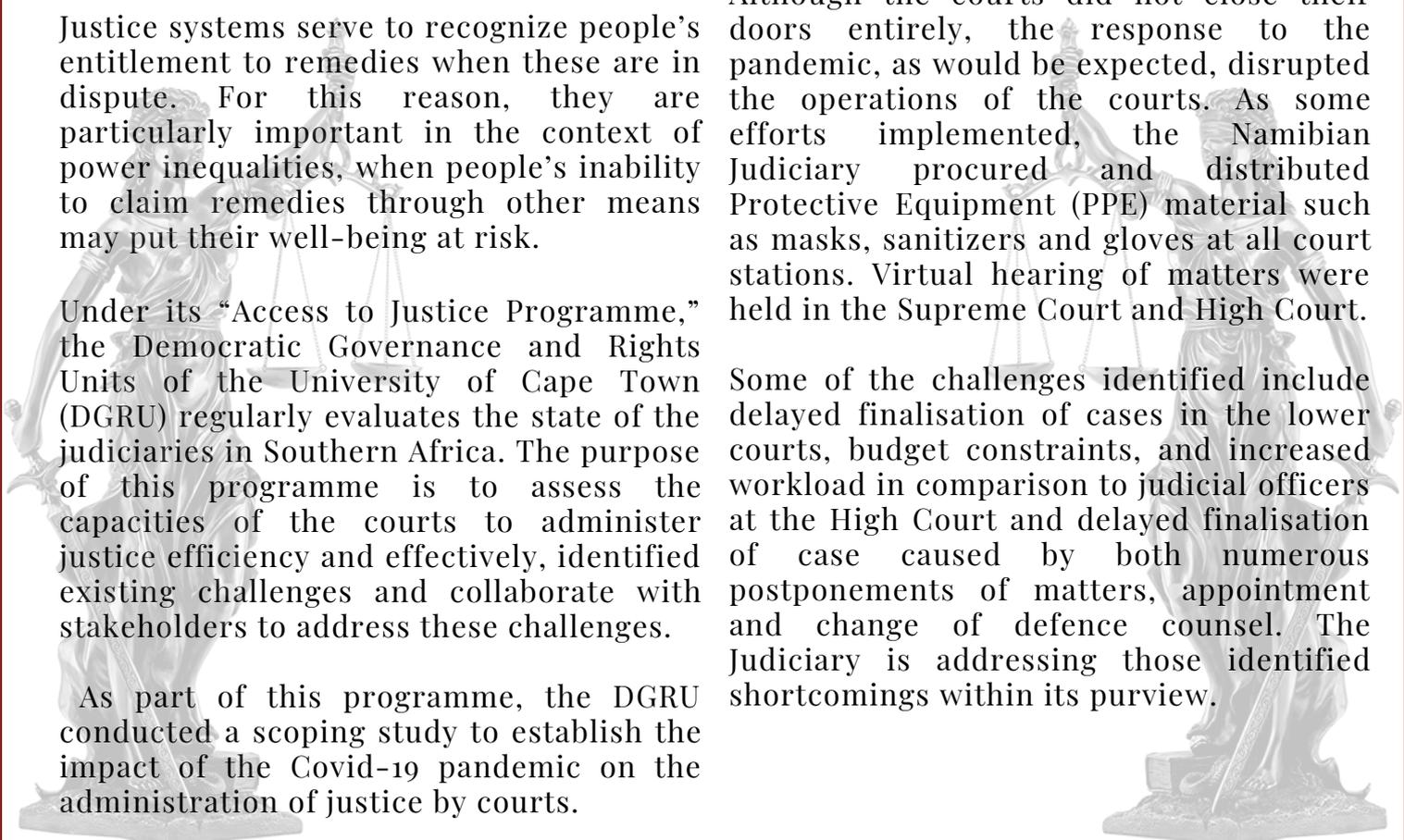
Various stakeholders including judicial officers, legal practitioners and members of the public were interviewed. The pilot exercise focused on the Republics of Malawi, Namibia and South Africa. The findings of the Report on Malawi and Namibia were presented to the delegates during the Conference.

The findings on the State of the Namibian Judiciary are elaborated in greater detail in the Report, along with challenges faced by the Judiciary.

Key findings include strong constitutional and legislative framework for judicial independence; guaranteed security of tenure for judicial officers; recommendation of candidates for possible appointment as judicial officers done by an independent body created by the Namibian Constitution; the principal of fair trial is also entrenched in the Constitution; reforms such as e-justice and mediation introduced as cost effective and efficiency measures, and proposed reform to extend jurisdiction in matrimonial matters to regional courts.

Although the courts did not close their doors entirely, the response to the pandemic, as would be expected, disrupted the operations of the courts. As some efforts implemented, the Namibian Judiciary procured and distributed Protective Equipment (PPE) material such as masks, sanitizers and gloves at all court stations. Virtual hearing of matters were held in the Supreme Court and High Court.

Some of the challenges identified include delayed finalisation of cases in the lower courts, budget constraints, and increased workload in comparison to judicial officers at the High Court and delayed finalisation of case caused by both numerous postponements of matters, appointment and change of defence counsel. The Judiciary is addressing those identified shortcomings within its purview.



THE CHIEF JUSTICES



HON. MICHAEL MUSONDA
ACTING CHIEF JUSTICE OF ZAMBIA



HON. JOEL LEONARDO
CHIEF JUSTICE OF ANGOLA



HON. TERENCE RANNOWANE
CHIEF JUSTICE OF BOTSWANA



HON. BHEKI MAPHALALA
CHIEF JUSTICE OF ESWATINI



HON. MARTHA KOOME
CHIEF JUSTICE OF KENYA



HON. SAKOANE SAKOANE
CHIEF JUSTICE OF LESOTHO



HON. ANDREW NYIRENDA
CHIEF JUSTICE OF MALAWI



HON. ASRAF CAUNHYE
CHIEF JUSTICE OF MAURITIUS



HON. ADELINO MUCHANGA
CHIEF JUSTICE OF MOZAMBIQUE



HON. PETER SHIVUTE
CHIEF JUSTICE OF NAMIBIA



HON. RONNY GOVINDEN
CHIEF JUSTICE OF SEYCHELLES



HON. MOGOENG MOGOENG
CHIEF JUSTICE OF SOUTH AFRICA



HON. PROF. IBRAHIM HAMIS JUMA
CHIEF JUSTICE OF TANZANIA

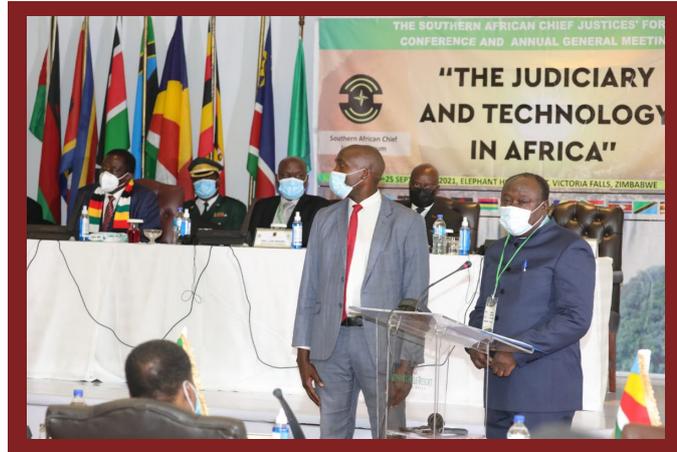


HON. ALFONSE CHIGAMOY OMNY-DOLLO
CHIEF JUSTICE OF UGANDA



HON. LUKE MALABA
CHIEF JUSTICE OF ZIMBABWE

PICTURE GALLERY OF THE CONFERENCE





Republic of Namibia

OFFICE OF THE JUDICIARY

OUR PROMISE

VISION:

To be a world class leader in judicial excellence

MISSION:

To uphold the Constitution by promoting the rule of law through administering justice in a fair, timely, accountable and accessible manner.

OUR VALUES:

Justice for all
Unyielding independence
Service Oriented
Timeliness
Integrity
Competence
Excellence

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