THE JUDICIARY OF ZAMBIA

REPORT

ON

THE 2018 SOUTHERN AFRICAN CHIEF JUSTICES' FORUM CONFERENCE AND ANNUAL GENERAL MEETING

HELD

AT BINGU INTERNATIONAL CONFERENCE CENTRE IN LILONGWE, MALAWI

28TH – 31TH OCTOBER, 2018

THEME:

"STRENGTHENING JUDICIAL INDEPENDENCE: TOWARDS A SHARED VISION OF JUDICIAL SELECTION AND APPOINTMENT"

Contents

1 INTRODUCTION

The Southern African Chief Justicesô Forum (SACJF) is a voluntary association of Chief Justices from countries in East Africa and Southern Africa, which was established on 7th November, 2003. Its objectives are to promote contacts and co-operation among the judiciaries in the East and Southern African sub-regions; promote the rule of law, democracy and the independence of the courts in the sub-regions; promote and protect the welfare and dignity of judges in the member states; and generally, promote the interests of the judiciaries of member states.

SACJF held its 2018 Conference and Annual General Meeting (AGM) at Bingu International Conference Centre in Lilongwe, Malawi, from 28th to 31st October, 2018. The event was co-hosted by the Judiciary of Malawi, one of the members of SACJF, in conjunction with the Democratic Governance and Rights Unit (DGRU) of the Faculty of Law at the University of Cape Town, the International Commission for Jurists-Africa (ICJ-Africa) and other partners.

The Conference was held under the theme *"Strengthening judicial independence: Towards a shared vision of judicial selection and appointment"*. Its overall objective was to provide a platform for judiciaries in SACJF member states to share best practices, successes and challenges relating to judicial selection and appointment. The aim was to adopt common principles and guidelines that would assist member jurisdictions in the development of legislation, policy and practice on the selection and appointment of judicial officers. This was against the background that at its 2015 annual Conference, SACJF made a firm commitment towards improving both the institutional independence of judiciaries and the decisional independence of judges. It noted that one of the key processes which enhances judicial independence is the selection and appointment of judicial officers. To that end, SACJF adopted a resolution to establish an ad hoc team of Judicial Service Commissions (JSCs) from the region to work towards developing regional principles and guidelines on selection and appointment of judges in Africa. The ad hoc Working Group contemplated by the 2015 resolution drafted the principles and guidelines, and presented them for adoption at the 2018 annual Conference.

The Conference attracted a high number of Chief Justices and senior Judges from judiciaries in East Africa and Southern Africa. It was graced by the Honourable Minister of Justice and

Constitutional Affairs of the Republic of Malawi, Mr. Samuel B. Tembenu, SC, who officiated as Guest of Honour.

The event kicked-off with an opening ceremony during which dignitaries made their speeches. Thereafter, the delegates went into the substantive sessions on the programme, where they discussed various topics which all had a direct relationship with the theme for the Conference. The deliberations culminated into the adoption of the *"Lilongwe Principles and Guidelines on the Selection and Appointment of Judicial Officers"*. The Conference was officially closed by the Chairperson of SACJF, the Hon. Mr. Justice Peter S. Shivute, Chief of Namibia.

This report provides a detailed account of the proceedings during the Conference.

2 OFFICIAL OPENING CEREMONY

2.1 Welcome remarks by the Vice-Chairperson of SACJF, the Hon. Mr. Justice Andrew K. C. Nyirenda, SC, Chief Justice of Malawi

The Conference started with opening remarks by the Vice-Chairperson of SACJF, the Hon. Mr. Justice Andrew K. C. Nyirenda, SC, Chief Justice of Malawi. In his remarks, Chief Justice Nyirenda SC welcomed the delegates to Malawi and to the 2018 SACJF and AGM. He said being able to host the Conference, which brought together brothers and sisters in the legal profession from the region to deliberate on issues of common interest, was a moment of great pride for the Malawi Judiciary. He expressed his appreciation to SACJF for choosing Malawi as its venue for the Conference. He paid tribute to the delegations that made it to the conference stating that it would never have come to be without their presence.

Chief Justice Nyirenda, SC, pointed out that the selection of the theme for the 2018 Conference and the topics around it could not have been better chosen. So too was the excellent choice of seasoned and highly qualified resource persons.

He advised the delegates to bear in mind that as the esteemed resource persons were to take them through the presentations under the theme, they needed to think of themselves not as persons of power, but as servants of the public in the highest and most honourable sense of that term. He therefore implored them not to lose sight of the fact that judging is not a job,

but a calling. It is not a place where one comes to accumulate wealth. Rather, it is a way of life. He stressed that it is imperative that the process of selecting and appointing judicial officers should aim at identifying competent people, as a primary criterion, but it must also identify selfless and responsive individuals.

Chief Justice Nyirenda SC extended his profound gratitude to the government of Malawi, stating that he could not have accepted the high powered Conference to come to Malawi alone, without the support of the Government. He therefore thanked the President of Malawi, Professor Arthur Peter Mutharika, for his support from the moment he presented the request from SACJF to host the Conference.

He further extended his gratitude to SACJF, DGRU, JUTA Publishers, ICJ-Africa, and Hanns Seidel Foundation, for their financial and material support in bringing everyone together. He also thanked the members of the Local Organising Committee under the stewardship of the Hon. Mr. Justice Charles Mkandawire, for working tirelessly in preparing for the Conference. He equally expressed his special thanks to the Coordinator of SACJF, the Hon. Mr. Evaristo Pengele and his entire team at the SACJF Secretariat, for all the ground work and for drawing up an elaborate programme. He said it is only when one read their minutes and reports that one would appreciate the work that went into preparing for the Conference and AGM.

He then called upon the Chairperson of SACJF to make his remarks and request the Guest of Honour to address the delegates and open the Conference.

2.2 Remarks by the Chairperson of SACJF, the Hon. Mr. Justice Peter S. Shivute, Chief Justice of Namibia

In his remarks, Chief Justice Shivute paid tribute to the Guest of Honour, for gracing the occasion with his presence. He said the Ministerôs presence was a clear demonstration of his governmentôs commitment to the mission of SACJF and the values it represents. He thanked the government of the Republic of Malawi, its people and the Judiciary, for accepting to host the 2018 SACJF Conference and AGM. Chief Justice Shivute thanked SACJF for generously providing facilities and a conducive environment necessary for the success of the event. He also paid tribute to the ICJ-Africa and the DGRU, for rendering both financial and technical support in the preparation and hosting of the conference. He emphasized that SACJF valued

their continued support and interest in its work. He equally extended his appreciation to the Local Organizing Committee under the leadership of the Hon. Mr. Justice Charles Mkandawire, and the SACJF Secretariat, for their tireless effort in ensuring that the Conference and AGM took place. He also took the opportunity to congratulate Mr. Justice Mkandawire on his election as President of the Commonwealth Magistrates and Judgesô Association, stating that he had made Africa proud.

Chief Justice Shivute welcomed the delegates to the Conference and thanked them for making time out of their busy schedules to grace the occasion with their presence for the sole purpose of enriching SACJF with their knowledge and experience. He explained that SACJF is a voluntary association of Chief Justices from countries in East Africa and Southern Africa, which was founded on 7th November, 2003 in Johannesburg, South Africa. Its purpose is to promote contacts and co-operation among the judiciaries in the East and Southern African Sub-Regions; promote the rule of law, democracy and the independence of the courts in the Sub-Regions; promote and protect the welfare and dignity of judges in the Member States; and generally, promote the interests of the judiciaries of Member States

He stated that since its inception, SACJF had organized judicial conferences and AGMs of its members. In doing so, SACJF had accorded both judicial and non-judicial officers an opportunity to share their expertise and experiences on issues affecting member jurisdictions while discussing matters of common interest. He said judicial officers who are not Chief Justices also benefit from SACJFôs activities as each Chief Justice is given an opportunity to bring along at least two judges to the annual conference. Additionally, the host jurisdiction is at liberty to bring along judges or judicial officers and officials as SACJF may allow.

The Hon. Mr. Justice Shivute went on to explain that SACJF, through the DGRU organizes regular judicial education programs and courses for all levels of judges in the superior courts, including Chief Justices. This arrangement had been of most benefit for those jurisdictions that do not have skilled persons of their own. In addition, workshops for the support staff were also held from time to time.

He pointed out that perhaps the most important role that SACJF plays is to undertake fact finding missions in member states on issues of concern so as to acquaint itself with the facts on the ground instead of relying on secondary sources of information. He said the objective is

to find ways and means of assisting the member states concerned to overcome any challenges they may be facing which have potential to undermine the good name of the judiciary and to disturb the due administration of justice. SACJF consistently monitors the developments in the region so that if it detects any issues of concern, it proactively sources information and on the basis of that information, issue public statements.

Mr. Justice Shivute noted that a special feature of the 2018 Conference was the second meeting of the Southern African Judicial Administratorsô Association(SAJAA), an Association of judicial administrators in the sub-region, which was being held on the sidelines of the Conference. SAJAA was established in 2017 after a resolution was passed at the SACJF AGM in October 2016, to include judicial administrators as part of a parallel program to the SACJF conference. It was aimed at creating a platform for judicial administrators to explore areas of mutual cooperation, and for the Associationôs activities aligned to the objectives of SACJF.

He disclosed that the theme for the 2018 Conference was formulated in line with the resolution which was passed by SACJF in 2015. In his view, although three years had passed since the resolution was passed, the theme remained relevant and significant to the judiciaries in the sub-region. He noted that an independent judiciary is not merely the inclusion of the rule of law, but is a pre-requisite for the rule of law. Without an independent judiciary controlling the exercise of governmental power, there can be no rule of law. He said the cardinal feature of a democratic system is the doctrine that the judicial branch is independent and judicial officers are protected from any influence or pressure by the ordinance of the State, other outside sources and indeed by colleagues within the judiciary itself.

Mr. Justice Shivute noted that the freedom of judges has a close relationship with judicial appointments because the mechanism for appointment of judges is directly related to the impartiality, integrity and independence of judges. He said it was well accepted that an open selection process of judicial officers is a precondition to an independent and accomplished judiciary. It therefore followed that a democratic state formulated on the rule of law is enjoined to put in place constitutional and legislative frameworks to ensure that the process of selecting and appointing judicial officers is not compromised.

According to Chief Justice Shivute, it is a primary responsibility of each jurisdiction to ensure that judges are selected and appointed on the basis of their competence, integrity and impartiality while taking into account the need to have, as far as is practicably possible, a balanced structure of judicial officers. Fundamental to this principle is that consideration must be made to reflect the racial and gender composition of a given society, while not compromising considerations such as formal qualifications, competence and integrity of persons appointed to be judges. He said this was a dilemma which judiciaries were expected to handle with caution as judicial leaders.

He observed that mechanisms for selection of judicial officers are influenced by the history, social and political culture and values of a given society. However, it is important that whatever mechanism is employed in selecting judges, the common practice is that such a process must be transparent and open to public scrutiny. Challenges impeding the judiciary, especially in selecting and appointing judicial officers, come from many sources and take many forms. Influence from political and special interest groups has the potential to undermine the appointment of judges. This is because sometimes political considerations could be made without meeting the right criteria for appointment, and this destroys the publicôs view of a fair, independent and impartial appointment process and leads many to question the legitimacy of the judiciary.

Chief Justice Shivute also observed that the idea of appointing judges based on seniority rather than competence had the potential to overlook talented junior legal practitioners. This was because if a specific individual or organization enjoys an exclusive privilege in selecting and promoting judges, it would lead to a misuse of the power of appointment in that other private interests would be pursued to the detriment of the judiciary. In light of the challenges, Mr. Justice Shivute was optimistic that through collective effort, the challenges could be turned into opportunities. He said judging from the topics which were planned for discussion during the Conference, the delegates would have the opportunity to reflect on the challenges and adopt practice guidelines that would serve as a model for the region and beyond. He urged the delegates to actively participate during the proceedings.

Mr. Justice Shivute concluded his remarks by calling upon the Guest of Honour to open the Conference.

2.3 Address by the Guest of Honour, the Hon. Mr. Samuel B. Tembenu, SC, Minister of Justice and Constitutional Affairs of Malawi

In his address, the Guest of Honour conveyed to the delegates a message of best wishes and special welcome to Malawi, from His Excellency the President of Malawi, Professor Arthur Peter Mutharika. He said the President would have loved to grace the occasion with his presence but it had not been possible for him to do so due to other national engagements of equal importance. The President had therefore assigned him to convey his felicitations and message of goodwill to the Chairperson of SACJF and the other delegates who attended the Conference. The Hon. Minister applauded SACJF for coming up with an apt theme for the Conference. He observed that the Conference would afford the heads of judiciaries in the member countries an opportunity to re-examine whether judicial independence had been translated into the greater good for those who come to the courts seeking justice.

Mr. Tembenu SC went on to espouse the doctrine of judicial independence and its facets. He explained that judicial independence entails the ability of the judiciary to do its work without interference from the other branches of government. He said courts should not be subject to improper influence from other branches of government or partisan interests. According to him, it was now easy to uphold judicial independence and insulate the judiciary from the influence of the other branches of government, as there is democratic rule in most countries and a proliferation of civil society organizations. He however stated there are other areas from which pressure could come from other than the Executive or Parliament. For instance, the growing popularity of public interest litigation had opened up a window for pressure against judicial independence. The other external pressure is corruption. Therefore, there was need for vigilance because as societies evolve, other fronts that could be a threat to judicial independence were likely to be opened.

The Hon. Minister noted that the role of an independent Judiciary in upholding the rule of law is essential in a democracy. That in Malawi, the Constitution recognizes the concept of judicial independence and the government was fully committed to according independence to the Judiciary. It is for that reason that the Constitution establishes the JSC and all matters to do with appointment, remuneration and discipline of judges fall within its mandate. He said the government of Malawi had made provision for acquisition of new motor vehicles for all

judicial officers. He noted that it is imperative that appointments to judicial office must be based on merit.

State Counsel Tembenu went on to state that although judicial independence comes at a price, judges are duty bound to provide society with the highest possible standards of service and commitment. According to him, what ultimately protects the independence of the judiciary is the trust and confidence of the society in which the judges serve.

On the relationship of the Judiciary and other arms of government, the Hon. Minister stated that just as the judiciary should be recognized and respected as an independent arm of government, it must accord reciprocal recognition to the executive and the legislature. It is only when all the three arms of government work in tandem in their respective roles, that they would successfully drive the development agenda of their nations. The checks and balances should not be an obstacle to the work of the other two branches of government. He noted that judicial independence is often-times demonstrable in matters of judicial review of administrative action. However, in an overly exercise of judicial independence, there is lack of judicial restraint. He was of the view that in cases of a purely political nature, judges should be slow in converting political or policy issues into legal questions.

The Hon. Minister noted that one cannot talk of judicial independence without speaking about judicial accountability. The two principles are inseparable in that accountability is a pre-requisite of independence. Independence is granted by society. He observed that a judiciary that does not want to be accountable and has no eye for societal needs will not gain the trust of the society and will ultimately endanger its independence. He further noted, that judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity. In underscoring this point, he cited the Commonwealth (Latimer House) Principles, and the allied Bangalore Principles of Judicial Conduct.

State Counsel Tembenu explained that judicial independence starts with the manner in which judicial officers are appointed and the independence of the individual judge. He therefore emphasized the importance of appointing professionally competent persons with proven integrity for judicial office. Further that although the systems and mechanisms for judicial appointment differ from one jurisdiction to another, whatever mechanism used should be transparent. According to him, transparency in the mechanisms for judicial appointment is of

paramount importance as it ensures the appointment of the best-qualified persons. He emphasized that judicial appointments should be made on merit otherwise the foundation of the judiciary would be irretrievably compromised. He expressed hope that the guidelines which SACJF would come up with would assist in identifying judicial officers with cardinal values of wisdom and prudence, high moral courage, moderation, patience and justice. He also implored the delegates to make every effort to remove barriers that could impede the consideration of women. The Hon. Minister wished the delegates fruitful deliberations and declared the 2018 SACJF Conference and AGM officially open.

2.4 Introduction of the theme and keynote address by Dr. Justice Alfred Mavedzenge, Representative of the ICJ-Africa and the DGRU of the Faculty of Law at the University of Cape Town

Dr. Mavedzenge introduced the theme for the Conference and noted that the African human rights architecture acknowledges the important role of lawyers and judges in the preservation and maintenance of the rights of citizens. In this regard, he referred to the Constitutive Act of the African Union which identifies the respective democratic values, human rights, the rule of law and governance as one of the founding principles of the AU. On the principle of judicial independence, he pointed out it is a concept derived from the principle of separation of powers, which demands that power should not be concentrated in a single organ but should be shared between the legislature, the judiciary and the executive; with each of these three branches checking against abuse of power by the other branches. To this end, one of the roles of the judiciary is to ensure that the other branches of government comply with the law. He observed that the judiciary performs its function by adjudicating over disputes that are brought by citizens and other organs of the state and in order to perform this function effectively, the judiciary must be independently constituted with independent judicial officers.

Dr. Mavedzenge noted that the African Charter on Human and Peopleôs Rights; and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa; govern the right to equality for all before the courts. These instruments provide that everyone is entitled, without undue delays, to a fair and public hearing by a competent, independent and impartial tribunal established by law. He further noted, that the African continent is guided by the Grand Bay (Mauritius) Declaration and Plan of Action of 1999, which recognises that the development of the rule of law, democracy and human rights calls for an open, accessible

and impartial judiciary which can deliver justice promptly and at an affordable cost. He observed that such a system requires a body of professional and competent judges and lawyers. He said that the African Commission had also adopted a Resolution on the Respect and the Strengthening on the Independence of the Judiciary, which calls upon African States to amongst other things, repeal all legislation which is inconsistent with the principle of judicial independence.

He went on to state that the concept of judicial independence is explained in the Banglore Principles of Judicial Code of Ethics as a principle which requires judicial officers to exercise judicial functions independently on the basis of the judgeôs assessment of the facts and in accordance with the consensus understanding of the law free of any extraneous influences, inducements, pressures, threats or interference. Quoting from the former Chief Justice of the Republic of South Africa, the Late Ishmael Mohammad, Dr. Mavedzenge said judicial independence is simply the duty of judges to perform a function of judicial adjudication with the application of their own integrity without any actual or perceived, direct or indirect interference from or dependence on any other person or institution.

Dr. Mavedzenge explained that the contemporary thinking, as evidenced by new constitutional transformations adopted across Africa, goes deeper than the traditional definition of judicial independence by explaining terms such as duress, pressure or interference. The modern constitutions do this by providing for the qualification process for judges and in the process dispatch the idea that a judge should be brave and disciplined. He observed that although these were important qualities for a judge to have, they are not in themselves sufficient; there was need to have safeguards in place to preserve and protect the independence of judges.

He further observed that the concept of judicial independence is often thought of as a political concept, in that the need to enhance or safeguard judicial independence is often thought of as part of political reforms to enhance the enjoyment of democratic and political freedoms. However, it also was critical to think of the enhancement of judicial independence as indispensable to the economic development of a country. Political leaders were preoccupied with reforms to enhance the ease of doing business in order to attract domestic and foreign investors. Nevertheless, few investors would be willing to invest their capital in jurisdictions where cases would not be heard independently and impartially or where corruption is rife

because judiciaries are not independent and impartial to enforce the law and stamp out corruption. He emphasized that judicial independence is critical for economic development.

Dr. Mavedzenge disclosed that the programme for the 2018 Conference was a combination of the extensive work of SACJF and the stewardship of the DGRU. The programme would begin with discussions on the standards to be put in place to ensure judicial independence. It was carefully thought-out to include a discussion for reformed judicial appointment processes and would conclude with proposals for the reforms. He expressed hope that the delegates would have the opportunities to develop a regional approach in this regard.

3 SESSION ONE

3.1 KEYNOTE ADDRESS ON WHETHER THE SELECTION, APPOINTMENT AND REMOVAL OF JUDGES CAN BE FREE FROM POLITICS AND POLITICAL CONTROVERSY

The topic for discussion under this session was whether the selection, appointment and removal of judges can be free from politics and political controversy. The Keynoter was the Hon. Mr. Justice Jose Igreja Matos, President of the European Association of Judges and Advisory Board Member of the Global Judicial Integrity Network. The session was chaired by the Hon. Mr. Justice P. S. Shivute, Chief Justice of Namibia and Chairperson of SACJF.

3.1.1 Keynote address by the Hon. Mr. Justice Jose Igreja Matos

The Honourable Mr. Justice Matos started by commending SACJF for its work in protecting the independence of the judiciary and in promoting the rule of law. He noted that the selection and appointment of judges is a sensitive task in a constitutional democracy. He pointed out that previously the norm in common law jurisdictions was that judicial appointments were made by a government minister. However, this had since changed. The modern trend was that a judicial appointment commission, with a broad membership typically composed of judges, lawyers and lay representatives, makes judicial appointments.

According to him, a fundamental instrument providing for the essentials of judicial independence in the commonwealth is the Cape Town Principles on the Role of Independent Commissions in the Selection and Appointment of Judges. He disclosed that in Europe, there is no standard procedure for judicial appointments on account of the different legal traditions. However, generic guidelines had been established. He observed that Opinion No. 10 of 2007

of the Consultative Council of European Judges (CCJE) indicates that it is essential for the maintenance of the independence of the judiciary that the judicial appointment process and the promotion of judges should be independent. He stated that there is requirement for transparency in the selection of candidates so that society is able to ascertain that an appointment is based on qualifications, integrity, independence, impartiality and efficiency. He said the final choice should be based exclusively on merit as opposed to subjective reasons such as political association. He pointed out that in 2016, the First Study Commission of the International Association of Judges found that the process of judicial selection must incorporate a selection criterion which is transparent and not secret.

Mr. Justice Matos stated that the need for transparency demands that vacancies should be publicly advertised and the judicial selection process should involve some form of objective criteria. He emphasized that these recommendations were important although international standards do not stop the executive or legislator to make judicial appointments. He said it is preferable that the selection appointment should be carried out by an independent body so that political considerations are not made in the process. He admitted that in certain systems, the executive has influence on judicial appointments but such systems did not work well in practice because of the long standing culture of judicial independence. He however noted that new democracies did not have a chance to develop such traditions and therefore, explicit constitutional rules and legal provisions are required as a safe guard from political abuse.

Mr. Justice Matos noted that there are new democracies in Europe whose practices were in conflict with established legal traditions. For instance, the Court of Justice of the European Union had recently directed Poland to call off judicial appointments to the Supreme Court citing the risk of serious and irreparable damage to the judiciary. In America, the National Judicial Council reported serious doubts of the autonomy of the judiciary in relation to the appointments of senior justices. According to him, the worst case was in Turkey, where the executive took total control over the body responsible for judicial appointments and there was unrest after appointments were made. This had impacted on the independence of judges. He further stated that judges in Guatemala were facing charges of rigging judicial appointments to the Supreme Court. Similar situations had arisen in Colombia, Puerto Rica and Peru where he had occasion to visit. He observed that in the United States of America where judges are voted to the Supreme Court bench, the recent appointment of a Supreme Court judge had illustrated the divisions based on political lines.

Mr. Justice Matos explained that judicial selection and appointment procedures that are not impartial lead to the violation of international law such as the International Covenant on Civil and Political Rights (ICCPR), which states that everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. He said one of the United Nationsô Basic Principles is premised on the independence of the judiciary. It was therefore important that SACJF had developed guidelines on selection and appointment of judges which are aimed at protecting the independence of the judiciary. In his view, this was a historical moment because the guidelines would have an impact at a global level. He observed that the draft guidelines showed that all the best international standards which had been incorporated in a harmonic, comprehensive and holistic manner. Transparency was predominant in all phases of the selection and appointment process. For instance, the draft guidelines provided that there must be appropriate records of each stage of the process available to interested parties. The independence and impartiality of the appointing authority was firmly and unequivocally stated. He noted that judicial integrity is a relevant factor in assessing candidates aspiring to be judges and the guidelines considered the significance of an irreproachable ethical commitment. The other fundamental topics which were addressed in an innovative manner are issues pertaining to diversity, the procedure for interviews and the matters relating to conflict of interest.

Mr. Justice Matos said that the Global Judicial Integrity Network would provide SACJF with the assistance in publishing and assimilating the guidelines. One of the main purposes of the Global Judicial Integrity Network is to connect regional judicial initiatives in order to amplify the results. He explained that the Advisory Board of the Global Judicial Integrity Network had developed the work plan of the key activities for 2018 and 2019, to be pursued with relevant partners. The work plan was developed based on conclusions and recommendations at the launch of the Global Judicial Integrity Network which took place in April, 2018, in Vienna, Austria. One of the activities was to support the assimilation of good practice guidelines on the selection and appointment of judges. He stated that the Global Judicial Integrity Network in its sessions had requested for the work plan in order to support SACJF in the development of the implementation mechanisms. Therefore, the Global Judicial Integrity Network could promote and critique the guidelines by presenting them to other countries and referring them to the United Nations Special Rapporteur on the Independence

of Judges and Lawyers in its next report on judicial appointments. He further indicated that the European Association of Judges was also prepared to support SACJFôs efforts.

Plenary

During plenary, it was noted that a country may well have a good legal framework providing for the selection and appointment of judicial officers, but the major challenge is enforcement.

4 SESSION TWO

4.1 COMPARATIVE SESSION OF PRACTICAL EXPERIENCES IN JUDICIAL SELECTION AND APPOINTMENTS

This was a comparative session in which Chief Justices or their representatives were given the opportunity to share successes and challenges in the selection and appointment of judicial officers in their respective countries. The session was a platform for them to not only share best practices in judicial selection and appointment, but to ventilate as well. It was chaired by the Hon. Mr. Justice Mohamed Chande Othman, former Chief Justice of Tanzania. In this session, Chief Justices took turns to make presentations as outlined below.

4.1.1 Presentation by the Chief Justice of Botswana, the Hon. Mr. Justice Terence Rannowane

In sharing the process of judicial selection and appointment in Botswana, Chief Justice Rannowane explained that in terms of the Constitution of Botswana, a person qualifies to be appointed as a Judge of the High Court if he has a law degree and must have practiced law for 10 years. He said there is no minimum age set for appointment of judges in Botswana although the maximum age required for a person to be appointed a judge is 70 years. He further stated that the appointment of the Chief Justice and the President of the Court Appeal is at the sole discretion of the President. According to him, the appointment of judges in Botswana is a matter of public importance because once a judge is appointed, the country is stuck with him for a long time. This is because the position of a judge is constitutionally entrenched. He explained that in terms of the Constitution, a judge may only be removed from office for inability to perform or for misbehaviour. He stated that the President is empowered to appoint a Tribunal to inquire into a judgesô misconduct and advise the President on whether the Judge ought to be removed.

Mr. Justice Rannowane explained further, that the appointing authority is the President but can only do so in accordance with the recommendations of the JSC. He stated that in a decided case, the Court of Appeal held that the President is obliged and bound to follow the recommendations of the JSC. He said the JSC is an independent body, set up in terms of the Constitution for the appointment and discipline of judicial officers. It regulates its own procedures and is not under the direction of anyone. The JSC is composed of the Chief Justice who is the chairperson, the President of the Court of Appeal, the Attorney General, the Chairperson of the Public Service Commission, a representative of the Law society and a member of the public nominated by the President. The secretary of the JSC is the Registrar. He stated that the decisions of the JSC are by majority.

He stated that the judicial selection and appointment process in Botswana is in line with modern standards involving public advertisements. The JSC receives numerous applications but only qualified persons are invited for interviews. The shortlisted candidates appear before the JSC for interviews which are conducted privately to ensure that serious candidates do not have their private matters discussed in the public domain. The applicants are required to fill in a declaration form which covers all areas of concern and interest.

Chief Justice Rannowane pointed out that comparatively, it was mostly young men and women who make applications for judgeship. Senior attorneys shy away even though they are more suitable and qualified, for fear of the embarrassment of having their private matters probed. According to him, the whole process is perceived to be intrusive. In order to address this challenge, the JSC invites senior attorneys who may be interested to join the bench to send their CVs without making applications. He pointed out that the other challenge is that the JSC in Botswana is under staffed. This becomes a problem when the applications come through and there is lack of personnel to sort them out. This creates a situation where unqualified persons are shortlisted and invited for interviews. He however emphasized that although the process is not perfect, the JSC ensures that qualified individuals are appointed.

4.1.2 Presentation by the Representative of the Chief Justice of Lesotho

The representative of the Chief Justice of Lesotho explained that judicial appointments in Lesotho are made by the JSC. The JSC is composed of 5 members: the Chief Justice who is the Chairperson, the Attorney General who represents the government, one Judge, a member

of the Public Service Commission and the Registrar of the High Court who is the secretary of the JSC. He said the JSC is also responsible for the removal of judicial officers.

He stated that the requirements for appointment to the office of judge are that a candidate must have a law degree or at least have 5 years of experience. However, judges are required to retire at the age of seventy-five. He said that the Chief Justice identifies suitable persons to be appointed judges and submits the names to the JSC which determines the suitability of such a choice or candidate. No interviews are conducted and no applications are made.

On successes, he explained that the success of the model used in Lesotho lies in the fact that it does not entrench the predominance of a particular sector as eligible for elevation to the higher bench because candidates can also be chosen from a broad sector, such as members of the Law Society or the judiciary. Candidates are chosen from anywhere. He noted that this system insulates the candidates from the perception that they are political appointees. Hence the war of attrition that was underway in Lesotho between the judiciary and the executive.

He went on to point out that the singular most challenge in Lesotho stems from the perception that the JSC is under represented as there is lack of representation from a broad spectrum of society. He said the perception also stems from the fact that the Chief Justice is appointed by the Prime Minister and it is felt that there is always a political influence at play when searching for suitable candidates. He stated that the most common criticism of the Lesotho model was that it is not transparent as there no advertisements for judicial positions and no interviews are conducted.

4.1.3 Presentation by the Chief Justice of Malawi, the Hon. Mr. Justice A. K. C. Nyirenda SC

In his presentation, Chief Justice Nyirenda said the real questions for Malawi had been around the composition of the JSC and the operational procedures that the JSC uses in the appointment of judicial officers. He said the Constitution of Malawi vests the JSC with the authority to regulate the affairs of judicial officers. The JSC is composed of the Chief Justice, who is the Chairperson; the Chairman of the Civil Service Commission; a Justice of Appeal or Judge of the High Court; a Magistrate and; a Legal Practitioner. He stated that the problem was that the composition of the JSC is narrow and not representative of critical sections of the Malawi society.

Mr. Justice Nyirenda SC explained that Judges of the High Court and Justices of the Supreme Court of Appeal are appointed by the President on recommendation of the JSC. Out of the nominations that the JSC makes of persons suitable for appointment as Judges and Justices of Appeal, the JSC itself selects those that should be recommended to the President for appointment. He further stated that Magistrates are appointed by the Chief Justice on recommendation of the JSC.

He pointed out that the powers and functions of the JSC are set out by the Constitution. However, it was envisaged that the functions of the JSC would be better regulated by an Act of Parliament but that had not been done yet. He noted that fortunately, the Constitution allows the JSC to exercise such other powers as are reasonably necessary for the performance of its duties. Therefore, the JSC mostly relies on that power to regulate its affairs in the absence of an Act of Parliament. He said the JSC had taken advantage of the enabling provisions of the Constitution to invite nominations from all sections of the legal fraternity and after that extensive consultations are done before appointments are made. He stated that the appointing authority engages in further background check of those recommended.

Chief Justice Nyirenda was of the view that the Constitutional framework on its own had so far worked fairly well, but Malawi could have done better with a more inclusive JSC and an Act of Parliament in place.

4.1.4 Presentation by the Chief Justice of Namibia, the Hon. Mr. Justice P. Shivute

In his presentation, Chief Justice Shivute said the President of Namibia appoints judges to the Supreme Court and the High Court on the recommendation of the JSC. The JSC recommends the appointment, promotion, suspension or removal of judges from office. He stated that the JSC is composed of the Chief Justice, Deputy Chief Justice, Attorney-General, and two members of the legal profession nominated by designated organisations. He explained that the designated organisations are provided for under the JSC Regulations as being: the Chief Justice, the Judge-President of the High Court, an organisation representing the interests of lawyers, and the MagistratesôCommission.

He stated that when a vacancy occurs in the Supreme Court or the High Court, the Chief Justice as the head of the Supreme Court, or the Judge-President as the head of the High

Court, informs the JSC of the occurrence of the vacancy. The JSC informs the designated organisations of the vacancy and invites them to submit nominations by a specific date. The designated organisations submit names of candidates for possible appointment as Judges. He further stated, that the Chief Justice or the Judge President compiles a list of suitable persons and submits it, together with a detailed curriculum vitae prepared by the candidate, to the JSC. The JSC invites candidates for an oral interview or for both oral and written interviews. Thereafter, the JSC recommends the suitable candidates for judicial appointment to the President. The President either appoints or rejects the recommendation on a good cause. If rejected, the matter is referred back to the JSC. He said that judges of the High Court may be promoted to the Supreme Court by the President, on recommendation of the JSC.

Chief Justice Shivute went on to state that Magistrates in Namibia are appointed by the Minister of Justice on the recommendation of the Magistratesô Commission. The MagistratesôCommission consist of a Judge of the High Court, who is the chairperson; the Chief Magistrate; one divisional or regional court magistrate appointed by the Minister of Justice; one staff member of the Ministry of Justice designated by the Minister of Justice; one suitable person designated by the Public Service Commission; one teacher of law appointed by the Minister of Justice from a list of two teachers of law nominated by the Vice-Chancellor of the University of Namibia. He said the Minister of Justice, on recommendation of the MagistratesôCommission, appoints, promotes or removes magistrates from office.

He explained that when a vacancy occurs, the Magistratesô Commission approves the recruitment of a magistrate and advertises the vacant position. Candidates for entry level positions are subjected to both written and psychometric tests, while those considered for promotion are only subjected to an oral interview. He however disclosed that there was a Bill in place to make the Chief Justice appoint magistrates, instead of the Minister of Justice.

On the successes, Mr. Justice Shivute said that Namibia has a judicial appointment procedure which is open and independent of external and internal influence. He also stated that Namibia has an aspirant JudgesôTraining Programme in place, which is meant to prepare magistrates and lawyers for possible appointment to be High Court Judges. Acting Judges are also appointed to help the Supreme Court and High Court to expeditiously deal with their work.

On the challenges, he explained that finding suitably qualified and experienced candidates was challenge in Namibia. There was a perception held by senior legal practitioners that the Judiciary has poor conditions of service. He therefore said there was need for the continuous review of the conditions of service for judicial officers. He further pointed out that equitable gender representation was also a problem and there was need to ensure that there is gender parity. The other problem is the absence of a judicial training institution in Namibia.

4.1.5 Presentation by the Chief Justice of Seychelles, the Hon. Mrs. Justice Mathilda Twomey

In her presentation, Chief Justice Twomey explained that the Constitution of the Seychelles establishes the Constitutional Appointments Authority (CAA), which is responsible for recruiting, interviewing and making recommendations to the President for the appointment of Justices of Appeal, Judges and other Constitutional office holders. The Constitution provides that the CAA should be independent in the performance of its functions and not be subject to the direction or control of any person or authority. However, its members are selected equally by both the ruling party and the opposition. She explained that the CAA is composed of 5 members who are appointed to serve for a period of 7 years. She said a person is qualified to be a member of the CAA if the person is a citizen of Seychelles who (a) has held judicial office in a court of unlimited jurisdiction or (b) has proven integrity and impartiality and has served with distinction in high office in the government of Seychelles or under the Constitution or in a profession or vocation.

Chief Justice Twomey stated that although the Constitution suggests that the members of the CAA should be judges or persons of judicial status, no judge had ever been appointed to the CAA. The requirements of proven integrity and impartiality were being broadly interpreted. For instance, an active member of the ruling party chaired the CAA from 1993 to 2007. She disclosed that the most recent appointments to the CAA comprised of the Secretary General of an opposition party, a former presidential running mate of the leader of the opposition, a previous member of the ruling party and a former head of the agency of the executive. The incumbent chairperson of the CAA is a retired vendor who had never held any office in the government. The membership of the CAA had also included an attorney at law despite the fact that the Supreme Court is the one that disciplines lawyers. She noted that the failure to the prove integrity and impartiality had resulted in complacency and acceptance of different standards altogether. She said the involvement of political parties in the appointment of

members of the CAA had attracted the attention of the international community. Concerns had been raised by the African Commission on Human Rights and the SACJF Fact Finding Mission to the Seychelles in 2018, that Seychelles needed to reconsider the composition of the CAA to deal with the perception that it lucks independence.

According to her, there were two practical problems created by the current practice of appointing members to the CAA. The first is concern is the political nature of appointing members to the CAA, which undermines the process even if its members are balanced equally from the opposite poles of the political spectrum. She stated that if members of the CAA included judges or persons proven integrity, the perception could be eliminated. Therefore, there was need to appoint persons with a high level of skill in law, such as the Attorney General. She noted that appointing persons without legal expertise undermined the ability of the CAA to determine the competence of applicants to perform the functions of judge and can lead to the appointment of inappropriate persons.

She said the Judiciary was at the whims of the CAA due to the lack of representation and consultation. She disclosed that the relationship between the judiciary and the members of the CAA had deteriorated in the past months. The CAA had even recommended her removal from office and a tribunal was established to investigate her for alleged misconduct, but the tribunal did not find any misconduct on her part. She emphasized that there was need to have members of the CAA with expertise in legal matters in order to appropriately identify acts of misbehaviour. She further observed that there was no restriction on the powers to set up tribunals where the CAA considered that the conduct of a judge ought to be investigated. She lamented judicial officers had been recruited against her recommendations and those of the Bar. She said one judge was promoted to the Supreme Court from the Court of Appeal, meanwhile his diary was full of unfinished cases. She stated that the process of selecting judicial officers adopted by the CAA lacks transparency. The CAA lacked impartiality and proper knowledge about judicial selection and appointment. For instance, there are no specific skills required from candidates who are appointed as judicial officers. Magistrates are promoted to superior courts without any consultation as to their suitability for higher judicial office. She said these examples demonstrate how the integrity of the judiciary gets compromised when the authority which appoints judges is not independent. She stated that these shortcomings had exposed the judiciary in the Seychelles to vulnerabilities.

Chief Justice Twomey however stated that despite all the challenges, excellent individuals had also been appointed to the Seychelles bench. She said there were judges with high integrity in the Supreme Court despite all the flaws in the appointment process.

4.1.6 Presentation by the Chief Justice of Tanzania, the Hon. Mr. Justice Prof. I. H. Juma

In his presentation, Chief Justice Juma explained that Magistrates and Judgesô Legal Assistants (JLAs) in Tanzania are appointed by the JSC, while the Chief Registrar and the Registrars are appointed by the President in consultation with the JSC. He said the JSC publishes the advertisements to invite applicants and short-lists the candidates for interviews. Oral and written interviews are conducted by a Sub-Committee of the JSC, which proposes names to the JSC. Then the JSC deliberates on the names, after which the successful applicants are sent to the Chief Court Administrator to facilitate their employment. He noted that the advantage about this selection and appointment process is that it is open and transparent. The other advantage is that it is wholly controlled by the Judiciary through the JSC. However, its weakness is that it is difficult to appoint the required number of magistrates because there is a requirement to obtain prior approval from the Central Establishment. The other problem is that there is no strict probationary period before magistrates are confirmed to their positions. He further pointed out that there is a weak internal vetting system within the Judiciary to continuously vouch ethical issues.

Chief Justice Juma explained further, that Judges are appointed by the President after consulting the JSC. To be appointed a Judge in Tanzania, one must have law degree and must have been a Magistrate; or an advocate in the public service or private practice; or possess qualifications for enrolment as an advocate; or has possessed those qualification continuously for a period not less than ten years. If there are vacancies, the Chief Justice consults the President as appointing authority, on budgetary matters. The JSC then invites the Justices of Appeal, Judges of the High Court, the Attorney General and other stakeholders to propose names of persons with demonstrated competence, experience, suitable persons for appointments as Judges of the High Court. The vacancies are advertised and a Sub-Committee of JSC receives nominations and seeks information about the individuals from referees before short-listing. The JSC deliberates on the shortlisted names and recommends to the President, who subjects them to vetting by executive organs. Thereafter, the successful candidates are appointed by the President. He said the process is designed to ensure that the

Judiciary is diversely represented by nominees from the academia, legal practitioners, public and private sectors; and is representative of the various sector of the Tanzanian society.

He however pointed out that the challenge was that the JSC relies heavily on the information about the nominees which is either provided by their nominators or is extracted from the nomineesô curriculum vitae or oral and written interviews. Also, nominators at times do not recommend their best, in that they solve their internal problems by ókicking-upô their nominees. The JSC also relies on executive organs for information about the ethical behaviors of the nominees.

Chief Justice Juma explained that Justices of Appeal in Tanzania are appointed by the President after consulting the Chief Justice, from amongst persons who qualify to be appointed Judges of the High Court of Tanzania or from amongst persons who qualify to be appointed Judges of the High Court of Zanzibar in accordance with the laws applicable in Zanzibar. The JSC is not involved in the appointment of Justices of Appeal. If there are vacancies, the Chief Justice requests the sitting Justices of Appeal to suggest names of Judges of the High Court with demonstrated competence, experience, integrity suitable persons for appointments as Justices of the Court of Appeal. The Chief Justice also consults the members of the JSC on suitable names.

He further explained that the Chief Justice is appointed by the President without any direct involvement of the JSC, from amongst persons who possess qualifications to be appointed as Justices of Appeal. He noted that the Constitution is crafted in such a matter that the appointment of the Chief Justice is an exclusive prerogative of the President as long as his choice is from persons who possess qualifications to be appointed a Justice of Appeal. This prerogative of the President extends to the tenure of a Chief Justice, in that he can remove the Chief Justice and has no obligation to justify his decision to anyone.

4.1.7 Presentation by the Deputy Chief Justice of Uganda, the Hon. Mr. Justice Alfonse C. Owiny-Dollo

Sharing the Ugandan experience, Deputy Chief Justice Owiny-Dollo explained that in terms of the Constitution of Uganda, the JSC advises the President on the appointment of Judges. The President deliberates on the names of the candidates sent by the JSC, and if he approves, the President sends them to Parliament, for vetting. If Parliament declines to approve the

names of the candidates, the President cannot appoint the persons who have been rejected by the Parliament. He explained that the Chief Justice does not sit on the JSC. The JSC is composed of two Justices, the Attorney General, representatives of the Public Service Commission, the Uganda Law Society and a representative of the members of the public. The Constitution of Uganda gives the JSC the mandate to determine the mode of selecting judges and other judicial officers. There are no definite rules providing for the method of accepting applications. The JSC either invites suitable candidates to make written applications or members of the public to nominate suitable candidates to be appointed, depending on the management of the JSC at a particular time. He said the current Chairperson of the JSC preferred nominations from the public, while the JSC preferred written applications from candidates. The Chief Justice also nominates suitable candidates from the Judiciary.

On the challenges, Mr. Justice Owiny-Dollo explained that while there are checks and balances provided by the President and the Parliament, the involvement of the President in conducting background checks was a problem because the JSC did not have the capacity to screen the candidates. Only the President gets to know the background of the candidates. The other problem he identified was that there is a lack of a proper evaluation system in that although the Chief Justice plays a prominent role in appointment judicial officers at different levels of the court system, there is no way of determining which level of the court system a candidate should be appointed to. He further stated that there was no clear policy on marginalised groups. The procedures do not clearly provide for the inclusion of minority groups in order to bridge disparities such as gender disparities. The end result was that there were more judicial officers from one part of the country. For instance, all the former Chief Justices and Deputy Chief Justices of Uganda hailed from along the equator. There were also arguments that the selection and appointment process is not transparent in that members of the public are not given an opportunity to connect with the candidates. The interview of candidates conducted by the JSC is done in camera and is not subjected to public scrutiny.

Mr. Justice Owiny-Dollo said that the selection and appointment process in Uganda has a number of successes. The involvement of Parliament is a huge milestone because previously, Parliament had no role in the appointment of judges. There is also gender and regional balance in the appointment of JSC members as stipulated in the Constitution. He pointed out that although the selection and appointment of judicial officers in Uganda is not free of

criticism, it strives to adhere to international principles and best practices on selection of judicial officers.

4.1.8 Presentation by the Chief Justice of Zambia, the Hon. Mrs. Justice Irene C. Mambilima

In her presentation, the Chief Justice of Zambia, Mrs. Irene C. Mambilima explained that the selection and appointment of judicial officers in Zambia is done through the JSC. She said the JSC is composed of the Chairperson who must hold or qualifies to hold high judicial office or has held high judicial office; a judge nominated by the Chief Justice; the Attorney-General; the Permanent Secretary responsible for the public service management; a magistrate nominated by the Chief Justice; a representative of the Law Association of Zambia; the Dean of a Law School of a public higher education institution; and one member appointed by the President. She stated that for a person to qualify for appointment as a Judge, that person must be of proven integrity and must have been a legal practitioner, in the case of the:

a) Supreme Court, for at least fifteen years;
b) Constitutional Court, for at least fifteen years with specialised training or experience in human rights or constitutional law;
c) Court of Appeal, for at least twelve years and;
d) High Court, for at least ten years.

She explained that the process of appointment of Judges starts with a candidate lodging an application for appointment with the JSC, which scrutinises the application. The JSC sends the name of the candidate to law enforcement and security agencies for vetting. If the candidate passes the vetting process successfully, the JSC interviews the candidate to determine their suitability for appointment as a Judge. In assessing the suitability of applicants for Judgeship, the JSC follows some guidelines called ñBasic Criteria for the Selection of Judgesò, which were originally developed in the early 1990s by the JSC. Judges in Zambia may be appointed from Registrars and senior magistrates, by way of promotion subject to interviews, the public service, and from amongst legal practitioners from private practice. She said the JSC considers a candidateôs relevant legal experience and competence, professional training and special qualifications, integrity and professional conduct, impartiality traits and social relations. It also looks at the personality of the candidate, maturity and supervisory qualities.

She pointed out that one of the major positives of the process in Zambia is that it allows for the participation of key stakeholders. All the three arms of government play important roles in the process. The ratification process is also quite robust as it is preceded by the scrutiny of a candidate by a Parliamentary Select Committee, which invites submissions from key stakeholders in the justice sector. In addition, the JSC consists of representatives of the Law Association and the Academia. The presence of the representative of the Law Association is aimed at providing an opportunity for the Law Association to have a say on the suitability of applicants for Judgeship. Having the representative of law teachers is designed to give the JSC a person who may be better placed to evaluate the academic capabilities of applicants.

Mrs. Justice Mambilima however stated that one of the key challenges in Zambia is that the Chief Justice is no longer the Chairperson of the JSC and does not sit on the JSC. She said the Chief Justice was the Chairperson of the JSC until 2014 when the Service Commissions Act was amended. It is not clear why the Chief Justice was removed from chairing and being part of the JSC. This is notwithstanding that the JSC is charged with extensive powers over the Judiciary and its members of staff. She explained that the contradiction radiates from the fact that while the above extensive administrative powers are deposited with the JSC, the Constitution designates the Chief Justice as the head of the Judiciary. It also gives the Chief Justice, among other functions, responsibility for the administration of the Judiciary and power to make rules and give directions necessary for the efficient and effective administration of the Judiciary. She said the Chief Justice as head of the Judiciary should not have been removed from being part of the JSC. The Chief Justice should effectively participate in the process of choosing persons that would be suitable to serve on the Bench because the Chief Justice knows the needs of the Judiciary better. She observed that the current set up had inherent potential for friction and destabilisation of the Judiciary if the Chairpersonship is held by a person who decides to pull in the opposite direction from that of the Chief Justice.

She noted that save for the absence of the Chief Justice on the JSC, the process for selecting and appointing Judges in Zambia had substantially been working very well.

4.1.9 Presentation by the Representative of the Chief Justice of Zanzibar

In his Presentation, the Representative of the Chief Justice of Zanzibar stated that Zanzibar is a part of the United Republic Tanzania, whose Chief Justice had already made an elaborate presentation. However, Zanzibar has its own Judiciary and only shares the Court of Appeal with Tanzania and the appointments to the Court were covered by the Chief Justice of Tanzania. He explained that appointment of judicial officers to the ordinary court system in Zanzibar, and the Kadhiôs courts, which deal with Islamic personal matters; are made by the JSC. The JSC is composed of six members: a Judge of High Court who is chairperson, representatives of the Attorney General and the Law Society, the Chief Kadhi, one member appointed by the Chief Justice and one member appointed by the Public Service Commission.

He explained that the process of appointing magistrates and Kadhis is the same as Tanzania. The JSC advertises the vacancies and conducts interviews, after which the successful candidates are appointed by the Chief Justice. To be appointed a magistrate, one must have a law degree and the Kadhis must have a qualification in Islamic religion. He explained that to be appointed a judge of the High Court, a candidate must have been practicing law for at least 7 years. The JSC deliberates on the names of the candidates and recommends the suitable candidates to the President, who appoints Judges. He noted it is not clear how the JSC comes up with the names of the candidates it recommends to the President.

He further explained that the main challenge is that it is not known how the JSC identifies the names of the candidates, deliberates and recommends to the president. In the case of the magistrates, the problem is that even after the candidates have been selected and shortlisted, the names are submitted to the Government Security office for vetting. The Judiciary does not have a vetting system for those to be appointed Magistrates. He stated that this was a challenge because the Government Security office is not composed of lawyers, and sometimes political considerations are made. According to him, the danger was that candidates who have affiliations with the ruling party can be appointed Magistrates and those who have affiliations with the opposition would probably not make after going through the Government Security office. He lamented that Zanzibar equally has difficulties in finding qualified persons to be appointed as magistrates and judges. He further stated that there is no institution for training judges and magistrates in Zanzibar.

4.1.10 Presentation by the Deputy Chief Justice of Zimbabwe, the Hon. Mrs. Justice Elizabeth Gwaunza

In her presentation, Deputy Chief Justice Gwaunza explained that the process of appointing judges in Zimbabwe starts with a declaration of a vacancy by the JSC, on the advice of the Chief Justice. Vacancies are advertised in national newspapers of wide circulation. The advertisement indicates the vacant positions, the number of vacancies, the requisite qualifications and calls upon members of the public to nominate suitable candidates and submit their nominations to the JSC. The nomination forms are made available in all provincial magistrate courts to ensure that members of the public from all parts of the country have access to them. The forms can also be downloaded from the JSC website. A deadline is given to the members of public to submit their nomination forms and the CVs of the nominated candidates. The secretariat of the JSC compiles a list of all the Candidates who meet the constitutional requirements in terms of age, experience, and qualifications and submits it to the JSC.

Mrs. Justice Gwaunza explained that the JSC is composed of the Chief Justice who is the chairperson, the Deputy Chief Justice, the Judge President of the High Court, a Judge of the High Court, the Attorney General, lawyers and people from other professional backgrounds. She stated that the names of the candidates shortlisted for the interview are published in the press in order for the public to comment on their suitability. The comments from the members of the public are taken into account during interviews and candidates are forewarned in cases where there are adverse comments either from the public or the Law Society. The Law Society is particularly consulted since it receives complaints from members of the public about legal practitioners. She stated that interviews are conducted in a place that is open to the public although the members of the public are not allowed to actively question the candidates. After the interviews, the JSC deliberates on the suitability of the candidates interviewed and shortlists the successful candidates. She further explained that the law requires that for each vacancy to be filled, the JSC must submit three names to the office of the President. The President then appoints one person to take up the vacancy. If the President is not satisfied with any of the candidates, he can request the JSC to submit other names.

Deputy Chief Justice Gwaunza explained that the advantage with this process is that it recognises that the selection and appointment of judges is a public issue which must not only

be done publicly but should also involve public participation. It puts the public at the centre stage in as far as the nomination of candidates is concerned.

She however pointed out that the problem emanating from this was that sometimes candidates arrange for nominations by distributing nomination forms to their clients, friends and relatives. She further explained that the challenge with holding interviews in public is that questions relating to allegations of improper behaviour if not properly handled could leave the public with a perception that a candidate is not a fit and proper person to be a judge. The other problem she identified is that the process has no mechanism for filtering out chancers even though they may not suitable to be judges. She observed that the process is too long that it becomes difficult to treat candidates equally since the standard questions would at the end of the day be in the public domain. She also noted that the atmosphere is intimidating considering that hundreds of people watch the interviews and it can be quite unnerving to the candidates. This results in candidates with potential to fail to articulate issues leading to a perception that they are unsuitable. In her view, a person does not necessarily need to be a good public speaker to be a good judge. However, the intimidating nature of the public process and the personal nature of the questions asked during the interviews, discourage candidates who could be good judges. She however stated that the public process is a commitment to the transparent appointment of judges.

5 SESSIONS THREE AND FOUR

5.1 TOWARDS ADOPTION OF GUIDELINES ON JUDICIAL SELECTION AND APPOINTMENT

In session three, the ad hoc Working Group assigned to develop guidelines on the selection and appointment of judicial officers, and Mr. Chris Oxtoby of the DGRU; explained the methodology which the Working Group used in its research in developing the guidelines. The Working Group started by giving an overview of its background and composition. It then highlighted the activities that it conducted during its research and the method it adopted. Thereafter, it presented its findings and the draft guidelines to the delegates and elicited for their feedback. By and large, the delegates welcomed the drafted guidelines and made comments regarding specific provisions in the draft guidelines which needed to be re-visited.

Session four was basically a plenary feedback session to incorporate the comments of the delegates into the final guidelines which were to be adopted at the end of the Conference. Both sessions three and four were chaired by the Hon. Mr. Justice Andrew K. C. Nyirenda, SC, Chief Justice of Malawi and Vice-Chairperson of SACJF. During the two sessions, the ad hoc Working Group and Mr. Chris Oxtoby explained the guidelines to the delegates.

5.1.1 Presentation of draft Guidelines by the Working Group and Mr. Chris Oxtoby

Speaking on behalf the Working Group, Mr. Oxtoby explained that at its 2015 annual Conference, the SACJF adopted a resolution to establish an ad hoc team of JSCs from the region to work towards developing regional principles and guidelines on selection and appointment of judges in Africa to be presented to the SACJF for discussion and adoption at its 2017 annual Conference. He said the DGRU from which he was coming from participated at the 2015 annual Conference and undertook to conduct research into the judicial selection and appointment processes followed by countries in the SACJF grouping. The ad hoc team contemplated by the 2015 resolution was established. The working group was chaired by the Hon. Mrs. Justice Makarau of the Supreme Court of Zimbabwe, and included the Hon. Chief Justice Twomey of the Seychelles, and retired Chief Justice Othman of Tanzania. The working group met in Johannesburg in April 2018 to develop an initial draft of the guidelines. He stated that the document was circulated among the members of the Working Group for further comments and input.

According to him, the draft principles and guidelines were based on the DGRU research. He pointed out that the Working Group had taken into account international and regional declarations and instruments relating to judicial appointments.

Mr. Oxtoby explained that the research began with desktop research to provide a scoping study of the systems of judicial appointment in the target countries. Based on this initial research, a set of in-depth questions were developed, to be administered to subjects in the second phase of the project. Ethics approval was obtained from the Ethics Committee of the Law Faculty at the University of Cape Town. DGRU researchers then conducted interviews with subjects in Botswana, Kenya, Malawi, Namibia, Seychelles, Tanzania, Uganda and Zimbabwe. The subjects interviewed for each jurisdiction were: a member of the JSC; a member of the organised legal profession, particularly someone who had been engaged with the selection and appointment process; a judge who had recently been appointed, i.e. had recently been through the selection and appointment process; and a member of a civil society

organisation who had been engaged with the selection and appointment process. He said these subjects were selected to provide a broad range of perspectives. In some instances, researchers were put in touch with more than one subject for a particular category. These additional subjects were also interviewed.

Mr. Oxtoby went on to explain that the completed research formed the basis for several stakeholder engagements. These were:

(a) a panel discussion at the 2016 Southern African Development Community (SADC) Lawyersô Association Annual General Meeting in Cape Town;
(b) a presentation and discussion at the DGRUôs 2016 SADC Judgesô Forum in Malawi;
(c) a presentation at a session of the SACJFôs 2016 Annual General Meeting in Windhoek;
(d) a presentation at the SACJF Annual General Meeting in Swakopmund, co-hosted by the UNODC; and
(e) a panel discussion at the launch of the United Nations Office on Drugs and Crime (UNODC)ôs Global Judicial Integrity Network in Vienna in April 2018.

Mr. Oxtoby disclosed that the feedback from the said engagements had been incorporated into the further development of the principles and guidelines. He further explained, that the principles and guidelines were drawn with the understanding that:

a. judicial appointments are a contentious issue in many jurisdictions across the world.
b. no two countries use exactly the same judicial selection and appointment process.
c. given the varied political, economic and social backgrounds of SACJF member states, it was not an easy task to attempt to prescribe uniform appointment guidelines for the various jurisdictions in the SACJF grouping.

He noted that the jurisdictions making up the SACJF had varying constitutional and legislative provisions governing the selection and appointment of judicial officers. Further that the various jurisdictions also had different bodies involved in the selection and appointment of judicial officers, and the Working Group was aware of the complexities arising from the terminology used in the different jurisdictions. Therefore, the implementation of the principles and guidelines would take place subject to national law.

Mr. Oxtoby stated that from its research and consultations, the Working Group had compiled the principles and guidelines to assist jurisdictions in the development of legislation, policy and practice on the selection and appointment of judicial officers. According to him, the overriding purpose of the guiding principles and best practices was to safeguard the independence and integrity of the judiciary. He said the Working Group was cognisant that judicial independence is ensured through the integrity of the selection and appointment process along with security of tenure of judicial officers. This process also enhances public confidence and trust in the administration of justice.

Mr. Oxtoby went to explain the terms that had been used in the guidelines and the general structure of the document. The first part of the document was an introduction and background to the guidelines. The second part listed the underlying general principles which informed the specific guidelines, and could serve to provide broad guidance for all aspects of the selection and appointment process. The third part set out the specific principles and guidelines, accompanied by an explanation of both the principles and guidelines, including descriptions of best practices based on the underlying research. The guidelines were listed under the relevant underlying principles, although some principles were applicable to multiple guidelines.

Mr. Oxtoby said that the DGRUôs work on the guidelines was done in partnership with the ICJ-Africa, and with the support of the Hans Seidel Foundation.

After the presentation of the guidelines by the Working Group, there was a plenary session in which delegates were invited to give their feedback. The delegates deliberated on the provisions of the guidelines and made various suggestions to the Working Group, regarding clauses that needed to be changed or reframed. The purpose of the plenary session was to incorporate the comments of the delegates into the final guidelines which were to be adopted at the end of the Conference.

6 SESSION FIVE

6.1 KEYNOTE ADDRESS ON THE LINK BETWEEN RIGHTS TO A FAIR TRIAL, INDEPENDENCE OF THE JUDICIARY AND THE SELECTION OF JUDGES IN AFRICA: PERSPECTIVES FROM THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

The fourth session was a keynote address centred on the link between the rights to a fair trial, independence of the judiciary and the selection of judges in Africa. It was addressed from the perspective of the African Commission on Human and Peopleôs Rights. The Keynote Speaker was Advocate Faith Dikeledi Pansy Tlakula, a former Chairperson of the African Commission on Human and Peopleôs Rights and its Special Rapporteur on Freedom of Expression and Access to Information in Africa. The session was chaired by the Hon. Mr. Justice Terence T. Rannowane, Chief Justice of Botswana.

6.2 Keynote address by Advocate Faith Dikeledi Pansy Tlakula

In her keynote address, Advocate Tlakula explained the relationship between the right to a fair trial, the independence of the judiciary and the selection of judges, using international and regional legal instruments. She stated that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law, aimed at the proper administration of justice. It is provided for in Articles 10 and 11 of the Universal Declaration for Human Rights (UDHR), as well as, Article 14 of the International Covenant for Civil and Political Rights (ICCPR). She explained that the elements of a fair trial are: the right to be tried by a competent, independent and impartial tribunal established by law; the right to a fair hearing; the right to a public hearing; the right to be tried without undue delay and within a reasonable time; the right to defend oneself in person or through a lawyer of oneôs choice; the right to be present at oneôs trial; the right not to be compelled to testify against oneself or to confess guilt; the right to call, examine, or to have examined, witnesses; the right to free assistance of an interpreter; the right to a reasoned judgment; freedom from ex post facto laws; and the principle of *ne bis in idem*, or prohibition of double jeopardy. She added that the United Nations Human Rights Committee General Comment No. 32 of 2007 is interpretative of Article 14 of the ICCPR.

She explained that the independence of the judiciary is a component of the right to a fair trial. She stated that in recognition of the relationship between judicial independence and the right

to a fair trial, the Commission on Human Rights in 1994, in Resolution 94/41, appointed a Special Rapporteur on the Independence of Judges and Lawyers. This was due to the frequent attacks on the independence of judges, lawyers and court officials at that time. She noted that the mandate of the Special Rapporteur also requires him to apply a gender perspective to his work. She noted that since the Special Rapporteur was appointed, he had been advocating for the establishment of Judicial Councils which were to play a pivotal role in ensuring judicial independence and accountability.

Advocate Tlakula also noted that the United Nations (UN) had adopted soft laws on judicial independence, such as the Basic Principles on the Independence of the Judiciary adopted in 1985. There other important global initiative aimed at strengthening judicial independence is the Universal Charter of the Judge which was adopted by the International Association of Judges (IAJ) Central Council in 1999, and was updated in 2017. She observed that the Universal Charter of the Judge provides for the establishment of the Council of the Judiciary or another independent body which must deal with the composition of the Council and its competence in relation to the recruitment, training, appointment and discipline of judges. She stated that the other important instrument was the Bangalore Principles of Judicial Conduct. She noted that in 2016, the UN formally introduced its Compendium of Standards and Norms relating to the administration of criminal justice. In addition to its normative framework, the UN in 2005 adopted the Convention Against Corruption which imposes an obligation on state parties to strengthen judicial integrity.

She went on to explain that in his latest report submitted to the 38th Session of the Human Rights Council in 2018, the Special Rapporteur on the Independence of Judges and Lawyers dealt with the establishment of independent Judicial Councils and their composition; their duties and responsibilities, which should include the selection, appointment and promotion of judges, the administration of courts, budget control, disciplinary proceedings against judges. She pointed out that Special Rapporteur recommended that the UN should develop a set of principles on the establishment, composition and functioning of Judicial Councils and must do so after consultation with relevant stakeholders. The countries that had not done so should establish Judicial Councils that protect and promote the independence of the judiciary. The Special Rapporteur further recommended that to guarantee the independence of the judiciary from the legislature and the executive, countries should show the self-governance of the

judiciary. The Judicial Councils should be established under the Constitution and should be provided with adequate human and financial resources.

She also noted that the Special Rapporteur recommended that the composition of Judicial Councils should include lay persons, lawyers, law professors and jurists. Active politicians or members of the legislative and executive should not be members of the Judicial Council. The composition of the Judicial Councils should be gender sensitive. The Judicial Council should elect its chairperson from amongst its members. However, neither the Chief Justice, the President of the Supreme Court nor the Minister of Justice should serve as ex-officio member of the Judicial Council or should be appointed as Chairperson. She however observed that these recommendations were interesting because in most countries, bodies appointing judicial officers are composed of politicians, Chief Justices and Presidents of Supreme Courts.

Advocate Tlakula further explained that the right to a fair trial in the African human rights system is provided for under the African Charter on Human and Peopleôs Rightsô which provides for the right of an individual to have his case heard. The right comprises of the right to appeal, the right to be presumed innocent until proven guilty, the right to defence and the right to be tried within a reasonable time. She noted that the most important feature of the African Charter is that it imposes a duty on state parties to guarantee the independence of the court. It also provides for other rights related to a fair trial.

She also pointed out that the African Commission on Human and Peopleôs Rights had over the years adopted a number of resolutions on the right to a fair trial and the independence of the judiciary. As far back as 1992, the Commission adopted a Resolution on the Right to Recourse and Fair Trial, in which it recommended that state parties should create awareness of the accessibility of the recourse procedure and provide the needy with legal aid. In 1996, the African Commission also adopted a Resolution on the Respect and Strengthening of the Independence of the Judiciary, in which it calls upon state parties to repeal all legislation which is inconsistent with the respect for the independence of the judiciary, especially with regards to the appointment and promotion of judges.

Advocate Tlakula noted that the features of a fair trial applicable to all court proceedings are, a public hearing and an independent tribunal. She observed that the impartiality of judges is contained in the independence of the courts. Hence, there was need to establish independent

bodies or administrative mechanisms for monitoring all judicial officers and the public reaction to the justice system. It was her further submission to the Conference that judicial officers must be provided with adequate resources to enable them to execute their functions independently, and the judiciary must be consulted on the preparation of its budgets.

Plenary

During plenary, it was emphasized that in order to guarantee a fair trial, judges must be independent. To have independent judges, the composition of the judicial appointment authority should be well balanced to reflect the diversity of society.

7 SESSION SIX

7.1 PANEL DISCUSSION ON IMPLEMENTATION OF THE GUIDELINES – UNPACKING PRACTICAL WAYS TO MAKE IMPLEMENTATION DOABLE AND FINDING SOLUTIONS TO THE CHALLENGES

The sixth session was a panel discussion focused on the implementation of the guidelines which SACJF was to adopt. The panellists unpacked the practical ways in which the implementation of the guidelines could made doable, and suggested solutions to the challenges relating to the selection and appointment of judicial officers. The Panellists during this session were: the Hon. Mrs. Justice Sanji Monageng, former Judge of the International Criminal Court in the Hague, Netherlands, and member of the International Association of Women Judges and the ICJ; the Hon. Mr. Justice Cagney Musi, Judge President of the Free State High Court and Vice President of the International Association of Judges; and Ms. Tatiana Balisova from the United Nations Office on Drugs and Crime. The session was chaired by the Hon. Mrs. Justice Elizabeth Gwaunza, the Deputy Chief Justice of Zimbabwe.

7.1.1 Panel discussion by the Hon. Mrs. Justice Sanji Monageng, the Hon. Mr. Justice Cagney Musi, and Ms. Tatiana Balisova

During the discussion, the Mrs. Justice Sanji Monageng noted that adoption of the guidelines would not amount to much if the guidelines were not implemented effectively. She suggested that in implementing the guidelines states needed to make specific and measurable commitments. The commitments should be monitored:

(i) at the national level through, for example, the establishment of independent internal monitoring bodies;

(ii) through the Periodic Reports that the states parties submit to the African Commission on Human and Peoplesô Rights every year; and

(iii)through the Special Procedures reports to the United Nations Human Rights Council.

With regards to monitoring the implementation of the guidelines, Mrs. Justice Sanji Monageng said states would have to work hard to find ways to change the present mindset, because in most countries the executive played a far too dominant role in the selection and appointment of judicial officers, and it might not be easy to get the executive to buy-in to a monitoring system.

According to her, if the guidelines were to be implemented, funding would be required to train officials. She also said to create the required independence and oversight for successful implementation, plans needed to be realistic and take into account the economic difficulties and realities in different countries. For example, there were divergent approaches which states had adopted in the vetting of judicial candidates, and while vetting was desirable, some steps may be unnecessary and even superfluous given their incremental costs.

Mrs. Justice Sanji Monageng further noted that individual countriesô judiciaries are responsible for training judges who might be appointed to international and regional courts and tribunals. Consequently, these courts, with very high standards, look to the domestic courts for highly qualified judges when seeking nominations and appointments. Therefore, this provided all the more reason why standards at the domestic level needed to also be high.

The Honourable Mr. Justice Musi, noted that Article 2 of the Universal Charter of the Judge, provides that in order to safeguard judicial independence a Council for the Judiciary or another equivalent body must be set up, save in countries where this independence is traditionally ensured by other means. He said the Council for the Judiciary must be completely independent of other state powers. He pointed out that in Italy and France where the notion of Judicial Councils was founded, the membership of the Judicial Councils was dominated by politicians and it was not of any benefit to the judges as did not conform to the principle of judicial independence. He noted that as time went by, the judges started a friendly revolt against this system and it had now changed. Currently, the majority of members of the Judicial Councils in both Italy and France are judges.

Mr. Justice Musi further suggested that whenever a case presents itself, judges must pronounce themselves on the principle of judicial independence and on matters relating to judicial appointment mechanisms. He lamented that in South Africa, courts had had the opportunity to deal with challenges relating to appointment and selection of judges but had chosen to deal with facts and not the legal principles involved. It was his submission that when the opportunity presents itself, judicial officers must use their judgments to sensitize the executive and the legislature about judicial independence and the importance of appointing independent Judicial Councils.

Ms. Balisova proposed the creation of a Judicial Network which can serve as a platform for the exchange of information on judicial matters. She said the internet can be used as a direct channel of communication among judges. According to her, the Judicial Network can explore the means by which the guidelines can be beneficial to the courts at domestic level, particularly by seeking inspiration from other judiciaries. For example, the issue of judicial appointments could be discussed either in person or in virtue meetings. She noted that the guidelines could serve as a useful source of consideration in the work of the Judicial Network and can be referred to when dealing with regional work and general matters across jurisdictions. She pointed out there are diverse models and conditions across the world regarding judicial appointments and selection. Many judiciaries face similar challenges and it might be beneficial for judiciaries to learn from their successful counterparts.

Ms. Balisova noted that one of the Networkôs purposes would be to facilitate the identification of technical assistance needs and the provision of peer to peer support and learning opportunities. According to her, the Judicial Network could serve as a platform about judges and for judges. It can support individual judiciaries that are on a path of strengthening their selection and appointment systems. It can provide space for judiciaries to ask for advice and work together towards developing and growing initiatives.

Plenary

During plenary, it was clarified that the judiciary needs to engage the executive, legislature and other stakeholders for the cross-pollination of ideas. Judiciaries were enjoined to work with other arms of government in implementing the guidelines. It was suggested that Law Reform Commissions could be engaged to investigate and make recommendations pertaining

to possible law reforms. It was emphasized that a Judicial Network can be an open space where judiciaries can share their challenges and work together to overcome them.

8 SESSION SEVEN

8.1 ADOPTION OF PRINCIPLES AND GUIDELINES ON THE SELECTION AND APPOINTMENT OF JUDICIAL OFFICERS

During this session, the ad hoc Working Group and Mr. Oxtoby incorporated the comments from the delegates and presented the final draft Guidelines for adoption. The chairperson for this session was the Hon. Mrs. Justice Mathilda Twomey, the Chief Justice of the Seychelles.

8.1.1 Adoption of the Lilongwe Principles and Guidelines on the Selection and Appointment of Judicial Officers by SACJF

The Chairperson of SACJF, the Hon. Mr. Justice Shivute, proposed the adoption of the Principles and Guidelines on the Selection and Appointment of Judicial Officers. His proposal was supported by other delegates and the guidelines were accordingly adopted. The adopted guidelines titled, *"Lilongwe Principles and Guidelines on the Selection and Appointment of Judicial Officers"*, are attached to this report.

9 CLOSING CEREMONY

9.1 Remarks by the Vice-Chairperson of SACJF, the Hon. Mr. Justice Andrew K. C. Nyirenda, SC, Chief Justice of Malawi

In his closing remarks, Chief justice Nyirenda expressed his delight that delegates had reached the end of the Conference. He pointed out this was very successful Conference of the many that he had attended, but it was more to do with what had been achieved. He said the delegates had left an indelible mark in the history of Malawi and the Malawi Judiciary. The guidelines adopted during the Conference would have Lilongwe as accredited in the heading or the title of the guidelines that would eventually come out. This had left the Malawi Judiciary with a sense of pride and a mark they would always cherish.

On behalf of the Malawi Judiciary and the Malawi, Chief Justice Nyirenda SC, thanked the delegates for having made it to Malawi and staying through to the end of Conference. He was delighted that there was no adverse report received throughout the Conference. He bade farewell to the delegates and expressed hope that the mercies of God would allow the

members of SACJF to congregate again elsewhere within Southern Africa. Mr. Justice Nyirenda SC called upon the Chairperson of SACJF to close the Conference.

9.2 Remarks by the Chairperson of SACJF, the Hon. Mr. Justice Peter S. Shivute, Chief Justice of Namibia

In closing the Conference, the Hon. Chief Justice Shivute noted that the Conference had managed to achieve so much. He therefore congratulated the delegates for having adopted what he said would be ground breaking guidelines. He noted that the guidelines would have intense and wider ramifications. To this end, SACJF would take up the offer made by cooperating partners to publicize the guidelines. According to him, the success of the conference could not only be measured in terms of the discussions that took place during the conference but also by the networks the delegates were able to forge. The contacts which the delegates made, and the things they had learnt outside the Conference were also realized.

The Hon. Mr. Justice Shivute thanked the Malawi Judiciary under the leadership of the Hon Chief Justice Nyirenda, and the government of Malawi and its people for the extensive arrangements that they had put in place so that the Conference could become the success that it was. He thanked the organizing committee for having worked tirelessly to ensure that the conference was a success that it was. He also paid tribute to the to the cooperative partners: DGRU, ICJ and all those who had supported the Conference. He thanked the delegates for having made time to travel to Lilongwe to inspire each other with their contributions.

The Hon. Mr. Justice Shivute went on to congratulate SAJAA for successfully holding its Conference on the sidelines of the SACJF Conference. He noted that members of SAJAA had interestingly agreed to develop guidelines for a code of ethics for Judicial Administrators, just as the Codes of Conduct or Guidelines for judicial officers. They had also agreed to come up with a designed systematic organizational program for judicial administrators. The SAJAA Conference also looked at the discrepancies that exist in organizational structures of SACJF member states and resolved to continue looking at ways to harmonize the structures. Chief Justice Shivute noted that all the resolutions of SAJAA spoke to the mandated objectives of SACJF, and SACJF was proud that the SAJAA Conference was following in the footsteps of its objectives. He thanked the Judicial Administrators for their efforts, stating that it was because of them that SACJF successfully held its Conference. He noted that judiciaries could not exist without them and therefore, they deserved the support of SACJF.

Chief Justice Shivute officially closed the Conference and bade farewell to the delegates.

10 CONCLUSION

SACJF held its AGM on 30th October, 2018, after the Conference was concluded. It was only attended by the Hon. Chief Justices or their representatives. Thereafter, there was a Gala Dinner at which it was announced that the Hon. Chief Justice of Malawi, Mr. Justice Andrew K. C. Nyirenda was elected Chairperson of SACJF during the AGM, while the Hon. Chief Justice of Zambia, Mrs. Justice Irene C. Mambilima was elected Vice-Chairperson.

All in all, the 2018 SACJF Conference and AGM was remarkably successful, because the delegates adopted the Lilongwe Principles and Guidelines on the Selection and Appointment of Judicial Officers. The Principles and Guidelines are a huge milestone, as they will greatly assist SACJF member jurisdictions in the development of legislation, policy and practice on the selection and appointment of judicial officers. The overriding purpose of the guidelines is to safeguard the independence and integrity of the judiciary.