



SOUTHERN
AFRICAN
CHIEF JUSTICES
FORUM

SACJF STRATEGIC PLAN FINAL DRAFT
DRAFT STRATEGIC PLAN 2016-2019

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ABBREVIATION AND ACRONYMS

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| ACHPR | African Charter on Human and People's Rights |
| AHPRC | African Human and People's Rights Courts |
| ACDEG | African Charter Democracy, Elections and Governance |
| AGM | Annual General Meeting |
| AU | African Union |
| AUC | African Union Commission |
| CCJA. | Conference of Constitutional Jurisdictions in Africa |
| CPARBG | Commonwealth Principles on the Accountability of and the Relationship between Branches of Government |
| EAC | East African Community |
| EU | European Union |
| ICJ | International Commission of Jurists |
| ICCPR | International Covenant on Civil and Political Rights |
| IT | Information Technology |
| ITS | Information Technology System |
| ICMS | Integrated Court Management Systems |
| ODA | Official Development Assistance |
| OSISA | Open Society Initiative of Southern Africa |
| MDGs | Millennium Development Goals |
| SACJF | Southern African Chief Justices' Forum |
| SADC | Southern Africa Development Community |
| SADCT | Southern Africa Development Community Tribunal |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| VC | Venice Commission |
| WCCJ | World Conference on Constitutional Justice |

FOREWORD

BY CHIEF JUSTICE PETER SHIVUTE, CHAIRPERSON OF THE SOUTHERN AFRICAN CHIEF JUSTICES FORUM

After valiant struggles against colonial domination and apartheid, various African countries gained independence and freedom and adopted the principles of self-rule and constitutionalism. The advent of independence and freedom left African nations with the promise of a prosperous continent, stronger democracies, enhanced socio-economic development and good governance. In recent times these countries have adopted progressive and democratic constitutions which invariably embody guarantees for human rights, with the judiciary given the pivotal role of protecting and enforcing those rights. The role of the judiciary within its constitutional mandate is to uphold the rule of law and to dispense justice according to law. One hallmark of national constitutions in the Southern and Eastern African regions is the power of judicial review given to the courts to review both executive and legislative action for constitutionality and compliance with the law, which is an important tool for constitutionalism. This is in compliance with Article 26 of the Africa Charter on Human and People's Rights (ACHPR), which places a duty on State parties to guarantee the independence of the courts. The African Union spear-heads Africa's development and integration agenda and is tasked with, amongst other things, the objective to promote and protect human and peoples' rights in accordance with the provisions and ethos of the ACHPR and other relevant human rights instruments. The contribution of the Judiciary is eminently significant not only at the national level but also at the continental and regional levels as well. Courts such as the Africa Court, the ECOWAS Community Court of Justice and the East Africa Court of Justice now play an important and sometimes decisive role through the determination of rights and freedoms for the African peoples.

In recognition and amplification of the important role that judiciaries play within the regions, the Southern African Chief Justices Forum (the Forum) was established in 2003 to, amongst other things, uphold the rule of law, democracy and the independence of the courts and to promote contact as well as co-operation among the courts in the regions of its operation. Although the Forum has been in existence for over a decade, it has hitherto been operating without a Strategic Plan. I am pleased to announce that this untenable state of affairs is about to come to an end. The Strategic Plan is proposed for adoption at this conference to institutionalize the Forum as a transformed, independent, integrated and united institution which promotes the rule of law, fundamental human rights and good governance, in order to ensure the prosperity, equality, peace and security of all citizens. Once adopted, the Strategic Plan will enable the Forum to commit to, amongst other values, promoting the rule of law and delivering accessible, quality and timely justice to all. The Strategic Plan also aims at terminating the existing culture of making decisions on an *ad hoc* basis. It is also geared towards adopting a unified policy-making

procedure to enhance formulation of an organisational structure and implementation and monitoring of the Forum's programmes. Amongst other issues, the Strategic Plan endorses the resolution that the Forum will no longer be entirely dependent on strategic partners for financial assistance to fulfil and to deliver on its mandate. In this regard, each member country is expected to meaningfully contribute financially to enable the Forum to be vibrant, financially independent and self-sustaining. Part of the Strategic Plan is to integrate with strategic partners to create a communication strategy and formal relationships within the regions in order to advocate, strengthen, and position the influence of the Forum in the regions of its operation and beyond and to ultimately create a united continental judicial structure. I therefore recommend this draft Strategic Plan for your consideration and commit it into your hands for adoption.

Windhoek
21 August 2015

EXECUTIVE SUMMARY

This document sets out the draft Strategic Plan for the Southern African Chief Justices Forum (SACJF/ Forum) for the period 2016-2019. Development of this Strategic Plan has included consultations amongst the Chief Justices of the region, through a Committee consisting of Chief Justices of South Africa, Namibia, Botswana, Zambia and Seychelles to look at the challenges that are facing the Forum and Judiciaries in the Southern and East African regions and suggest possible solutions with an implementable programme of action. The leadership of the Chief Justice of the Republic of South Africa, Chief Justice Mogoeng Mogoeng in working with a technical committee comprising the staff of the Office of the Chief Justice of South Africa and the Africa Programme of the International Commission of Jurists is acknowledged. The draft strategic plan was then presented by the SACJF Chairperson, Chief Justice Shivute to the Annual General Meeting of the SACJF at Victoria Falls, Zimbabwe for validation and adoption on 29 August 2015.

The Committee observed that the Forum has been in existence since 2003 but without a Strategic Plan even as its influence in the Eastern and Southern African regions grew. It was therefore imperative to develop a Strategic Plan for the Forum which sets out the forum's Vision, Mission and goals and how the Forum plans to implement its strategic objectives. The Strategic Plan for the SACJF is a medium term plan which sets out the Forum's key activities for a four (4) year period running from 2016-2019, within the available resources. The Strategic Plan consists of the Strategic Overview; Pillars and Strategic Objectives; and Monitoring and Evaluation Framework.

The Forum has ensured that its priorities and strategic goals are aligned to those of the regional economic communities as well as the African Union (AU). The African Union Commission (AUC) is spearheading the implementation of the AU priorities which include peace and security, development, integration and cooperation; shared values and institution and capacity building. The AUC seeks primarily to improve the quality of life of the Continent's citizens through integration, cooperation and development. It strives to promote unity, solidarity, cohesion and cooperation among the peoples and States of Africa, while developing new and stronger strategic partnerships worldwide for Africa's sustainable development. Amongst other strategic partners in the continent to collaborate with in fostering active participation, is the Conference of Constitutional Jurisdictions in Africa (CCJA) which has a strategic positioning and role in the North and West African regions given the shared vision of establishing a united Judicial continental structure.

Part A of the plan gives the strategic overview, establishes the strategic positioning, sets out the Vision, Mission, Values and principles of the SACJF, the strategic goals, situational analysis and environmental scan, stakeholder analysis and the Strength, Weakness, Opportunities and Threats (SWOT) analysis.

Part B deals with the pillars and strategic objectives which are informed by the Forum's mandate as per the Maputo Conference in July 2012 with a reflection on the mission, stakeholder analysis, and situational analysis and SWOT analysis. The Forum has identified five (5) broad intervention pillars namely: access to quality justice; Independence, accountability and transformation of the Judiciary; Judicial Education and Training; Shared values; and Development, integration and cooperation.

Part C of the Plan deals with the Governance, Implementation, Monitoring and Evaluation framework.

PART A: STRATEGIC OVERVIEW

INTRODUCTION

The struggle against colonialism and racial dominance by African peoples was fuelled by the aspirations of the people in the region for post-colonial societies that were equal and where human rights and freedom would flourish. The attainment of political freedom has not translated in many cases to economic freedom and opportunities as well as the social upliftment of the peoples of the continent who suffered domination for long centuries and remain marginalised. The post independent African states have constitutions that establish a system of separation and balance of powers with three distinct, independent but interdependent branches of government namely the Executive, the Legislature and the Judiciary. These branches of government play different roles as societies are transforming themselves to give practical expression to the political independence. Conscious of the enormity of the responsibility that the Judiciaries have, to contribute to the improvement of the lives of the people in their regions, eleven Chief Justices from Southern and Eastern Africa regions and three senior judges met in South Africa in 2003 and adopted the Constitution establishing a body of Chief Justices then called the Southern African Chief Justices Commission in order to provide leadership in strengthening good governance, the rule of law and observance of human rights in Eastern and Southern Africa.

The Southern African Chief Justices Commission later changed its name to the Southern African Chief Justices Forum (SACJF). The SACJF/Forum has a responsibility to promote and protect human rights and entrenching the rule of law and separation of powers in the Southern and Eastern African regions. The Chief Justices want to work with African governments to ensure that among others, adequate resources are provided for the judicial system to operate efficiently and effectively without any undue constraints which may hamper the independence of the Judiciary as well as to ensure that the interaction, if any, between the Executive and the Judiciary does not compromise judicial independence. The Forum is acutely aware of the role that the Office of the Chief Justice as leader of the judicial branch of government plays in strengthening the independence, impartiality and accountability of the Judiciary. Without an independent Judiciary, there cannot be effective separation of powers that is necessary for effective checks and balances. It is through playing the role of checks and balances that the Judiciary enforces the principle of equality before the law, protects human rights and fundamental freedoms.

It is now universally accepted that for societies to better protect human rights and the rule of law, they need to establish independent, impartial and accountable Judiciaries. It is not possible for societies to guarantee access to quality justice and offer real and effective remedies in situations where rights are violated, unless there is an independent, impartial and functioning Judiciary. Judicial independence is frequently associated with the ideals of democracy, individual freedom, social and economic justice. Leading international organizations including the ICJ view judicial independence as

an essential component of the rule of law, the concept of the rule of law reflecting the idea that law must be just (i.e. in accordance with human rights norms) and the contents of the law and its enforcement mechanisms are able to guarantee the enjoyment of peoples' rights including protection against the arbitrary exercise of power; whether from the State or from non-state actors. The Forum is aware that the independence of the Judiciary is not for the benefit of the Judges themselves, but the people that the Judiciaries serve. It is therefore important that public confidence in the Judiciary be maintained at all times. It is not possible to maintain public confidence in the Judiciary unless the Judiciary is not just independent, but is also accountable, impartial, competent, effective and efficient in the discharge of justice. The Judiciary also needs to be accessible and operate with integrity.

As an association of Chief Justices who constitute the equivalent of a body collective of a branch of government, the Forum is aware of the thrust by the African Union (AU) to work towards an Africa that is integrated, prosperous and peaceful. **The Constitutive Act of the African Union** sets out in Article 4(m) that it is a principle of the AU to 'respect...democratic principles, human rights, the rule of law and good governance'. The Forum is further aware that the AU has adopted important treaties that impose on states the duty to establish functional and independent Judiciaries. For example article 26 of the **African Charter on Human and Peoples Rights (ACHPR)** provides that states parties to the present charter shall have the duty to **guarantee the independence of the courts**. In amplifying on the need for a fair and public hearing in Africa, the African Commission on Human and Peoples Rights elaborated further in the **Principles and Guidelines on the Right to a fair Trial and Legal Assistance in Africa** in article A (1) as follows;

"In the determination of any criminal charge against a person, or of a person's rights and obligations, everyone shall be entitled to a fair and public hearing by a legally constituted competent, independent and impartial judicial body".

The majority of if not all the AU member states from Eastern and Southern Africa have signed and ratified other international instruments that guarantee the independence and impartiality of the courts. These instruments include the **Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights** among others.

One area of concern to the Forum is access to quality justice to all and in particular to traditionally disadvantaged and marginalised sections of society such as women, children and indigenous minorities. Many women, children and some indigenous minorities remain largely outside of the effective protection of the law and the courts. This needs to be changed. The AU has taken leadership and provided some policy framework to guide access to justice for women in Africa. The **Protocol to the African Charter on the Rights of Women in Africa** provides in Article 8 that women and men are equal before the law and shall have the right to equal protection and benefit of the law. It goes further to provide that States Parties shall take all appropriate measures to ensure: a) effective access by women to judicial and legal services, including legal aid; b) support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid; c) that women are represented equally in the judiciary and law enforcement organs; and d) reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

General Issues

The Forum is an excellent platform through which the Judiciaries in Eastern and Southern Africa can develop shared judicial values around core concepts of judicial independence, impartiality, competency and accountability. It is also a useful vehicle through which the Judiciaries can develop common programmes on continuous professional development of the bench, sharing of new knowledge, dealing with threats to independence of the Judiciary, supporting each other in areas of

mutual assistance, platform of professional networking and exchange of ideas and a forum through which the Judiciary can engage the political leadership on matters of concern to the Judiciaries. This strategic plan will make the Forum better prepared to intervene if necessary on some issues of concern to African Judiciaries such as threats to Judicial independence, tackling impunity in Africa, synergy between domestic tribunals and international tribunals in matters of justice especially international justice, the relations between the political leaders (Executive collective) and supra-national judicial organs including enforcement of decisions of supra-national bodies in domestic spheres, the appointment process of Judges to domestic and supra-national tribunals, the identification of support that may be needed by domestic Judiciaries as is the case with the South Sudan Judiciary among others. The Forum can also play an active role to initiate possible fact-finding missions to situations warranting greater understanding and development of actionable and implementable recommendations to restore confidence in justice administration.

The Forum Resources and Partners

Although the Forum has started receiving contributions from member jurisdictions, it does not have adequate resources to carry out its own programmes or to employ its own staff. It relies heavily on partners and domestic Judiciaries for support to carry out its own activities. This not only inhibits its ability to roll out systematic and sustained programming but also makes it dependent on partners even as it strives to advocate for greater independence of the judicial organ in Eastern and Southern Africa.

In carrying out its ad hoc programming, the Forum has had a relationship with a number of partners such as the International Commission of Jurists, the Open Society Initiative of Southern Africa, the domestic Judiciaries hosting events, the Konrad Adenauer Stiftung, UNDP and the Venice Commission among others. While these have been useful relations, there has not been a deliberate thinking through and assessment of who the strategic partners of the SACJF are and should be after a proper stakeholder analysis. The strategic planning process has now given the Forum proper opportunity to reflect on strategic partners so that the Forum can increase the influence and importance of the SACJF in the socio-economic political sphere of Eastern and Southern Africa. Through this process the SACJF has identified certain key strategic partners such as the Conference of Constitutional Jurisdictions of Africa (CCJA) and the Office of the Legal Counsel at the African Union Commission (OLC-AUC) as necessary to work with in addition to the existing partners.

The Forum Organisation in General

The Chief Justices have over the years elected a Chairperson to head the SACJF starting with CJ Chaskalson (RSA), then CJ Pius Langa (RSA), then CJ Nganunu (Botswana) then CJ Earnest Sakala (Zambia), then CJ Odoki (Uganda) and now CJ Shivute (Namibia). The SACJF has had 3 coordinators in Tererai Mafukidze seconded by the Chief Justice of South Africa, Matthew Zulu and now Charles Zulu both seconded to the SACJF by the Chief Justice of Zambia. The coordinators have not been full time employees of the SACJF and work as full time employees elsewhere. The SACJF has office space given to it by the Zambian government at the request of the Chief Justice of Zambia. The SACJF has no policy procedures and largely operates on an ad hoc basis with the strong involvement of the Executive Council on day to day decisions if and when made. In short the SACJF has neither institutionalised itself nor considered strategically if there is merit to institutionalise. This strategic planning process has given the SACJF an opportunity to adopt a plan of action that may result in institutionalisation and better organisation. The process has also given the SACJF an opportunity to formulate an Organisational structure which comprises of the AGM, the Executive Council; and Committees as determined by the AGM from time to time to focus on such key delivery areas as Judicial Independence and Conduct; the SACJF Strategic Plan Implementation; and the continuous professional development and Training of judicial officers among others. The SACJF AGM will establish an Implementation Committee of three (3) Chief Justices that will report quarterly on its activities to the Executive Council.

The Forum Programmes

The main activities of the SACJF have been the holding of a seminal Annual General Meeting, an annual conference on the rule of law and justice administration, and an annual training for court registrars and supporting staff. Despite having an increased load of programmes the SACJF had never developed a proper strategic plan until now. This reduced the SACJF's ability to provide strong leadership and sustained programming that allows it to take its position as the prime institution for the development of shared judicial values in Eastern and Southern Africa as well as for the strengthening and defending of the independence of the Judiciary as an important branch of government.

The SACJF has adopted some resolutions and positions on critical matters in some of their meetings but there has been serious incapacity to follow up on recommendations and implement them. There is no viable mechanism of follow up on the implementation of the SACJF decisions. In short the SACJF has no monitoring and evaluation framework and it is hoped that the adoption and implementation of this strategic plan will result in the capability to implement and monitor programmes. In this regard the newly established Organisational structure of the SACJF makes provision for an Implementation Committee, which will focus on the implementation and monitoring of programmes and projects as identified in the Implementation matrix.

SACJF Strategic Positioning

The SACJF is the only organised formation of Chief Justices that is operational in Eastern and Southern Africa. As an organisation of Chief Justices, it is unique in that it is a sum total of judicial leaders who are recognised statutorily and policy wise as the heads of Judiciaries in different jurisdictions. As the SACJF becomes more active and present in the environment, there is no doubt that it bodes well for the strengthening of judicial independence and capacity in Eastern and Southern Africa. This will contribute towards greater access to quality justice to all in Africa. Currently the SACJF has no formal relationship with the formal Regional bodies such as the Southern African Development Community (SADC), or the East African Community (EAC) and the AU. It would need to identify the feasibility of such formal recognition in order to influence policy in the regions. There is no other rule of law voluntary organisation in the Southern and Eastern Africa that has a better strategic positioning to exert maximum influence on judicial conduct as well as strengthening judicial independence and access to justice. There is a need for integration with other Regional bodies such as the CCJA which has a strategic positioning in the Western and Northern Africa and the AU. There is a need for collaboration with the CCJA to ensure the establishment of a continental structure which will be the voice of the African continent. The AU is a continental structure which occupies a strategic position in the African continent and which primarily seeks to improve the quality of life of the Continent's citizens through integration, cooperation and development.

VISION, MISSION, VALUES AND PRINCIPLES.

Vision

A transformed, independent, integrated and united Judiciary which promotes the rule of law, fundamental human rights, democracy and good governance to ensure prosperity, equality, peace and security of all citizens.

Mission

Providing a formal platform, structure and framework through which the Chief Justices of Eastern and Southern Africa and Africa at large are able to collectively reflect on critical issues on justice delivery and adopt action plans to address those issues in a systematic and sustained way in order to strengthen justice delivery in the region(s). In particular the SACJF commits to;

- Protect and promote democracy, justice, the rule of law, and fundamental human rights as enshrined in the African Charter on Human and Peoples Rights and other instruments that have

been adopted by the AU and its member states such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights.

- Advance access to the courts by all citizens, especially women and children, by collaborating with governments and civil society to educate and empower them on their rights.
- Promote provision of state funded legal aid schemes in different jurisdictions.
- Work with the AU, AU sub-regional bodies and AU member states to secure the institutional independence of the African Judiciaries legislatively and functionally.
- Strive to ensure transformed, learning, accountable, effective and efficient Judiciaries through the establishment of Judicial training Institutes, the development of Judicial Code of Conduct, and a system of Monitoring and Evaluation.
- Further strive to promote good governance and eradicate corruption.

Values and Principles

The values and principles which guide and govern the functioning and operations of the SACJF are:-

- Promotion of the Rule of law
- Delivery of accessible quality justice to all
- Good governance and shared values.
- Transparency , independence, Impartiality, Integrity and accountability
- Promotion of a culture of human rights, freedom, tolerance and peaceful co-existence
- Democratic good governance

Strategic Goals

The strategic goals of the SACJF can be identified as follows:-

- To promote contact and co-operation among the courts in the Eastern and Southern African region.
- To promote good governance, the rule of law, democracy, the independence and accountability of the courts in the region;
- To promote and protect the welfare and dignity of Judges in the member countries
- To arrange colloquia at which links between courts in the region can be strengthened and matters of common interest discussed.
- To generally promote the interests of the Judiciaries of member countries and, where it is considered appropriate to do so, of any other country in the Regions.
- To engage, influence and foster relations with Judiciaries in other regions in the African continent, with the ultimate aim of strengthening an African Judicial continental structure.
- To promote strategic partnerships for leveraging sustainable sources of funding and comparative advantages.
- To foster active participation in the African Union to achieve it's objective of ensuring Africa's integration and sustainable development.
- To promote effective cooperation and collaboration with global structures such as the Venice Commission, the European Union, United Nations.
- To promote access to quality justice and gender equality.

LEGISLATIVE AND OTHER MANDATES

The establishment of the SACJF is in terms of the founding Constitution of the SACJF as a voluntary association of Chief Justices from Eastern and Southern Africa. The SACJF as a juristic person is capable of acquiring rights, incurring obligations, entering into binding legal transactions and can sue and be sued in its own name. The establishment of the SACJF has been inspired by the provisions on democracy and good governance, human rights and the rule of law as contained in a number of AU instruments and international instruments that AU members states have adopted including;

- African Charter On Human And Peoples Rights
- The African Charter on Democracy, Elections and Governance
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic Social and Cultural Rights
- Commonwealth Principles on the Accountability of and the relationship between the three Branches of Government

The relevant provisions of the African Charter On Human And Peoples Rights on obligations of the AU members states to establish independent and impartial tribunals are found in article 26 which provides that states parties to the present charter shall have the duty to **guarantee the independence of the courts** and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present charter. Further the SACJF was conscious of the requirements of Article 7 of the African Charter on Human and Peoples Rights which provide as follows:

*1. Every individual shall have the **right to have his cause heard**. This comprises: (a) The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) The right to be presumed innocent until proved guilty by a competent court or tribunal; (c) The right to defense, including the right to be defended by counsel of his choice; (d) The right to be tried within a reasonable time by an impartial court or tribunal.*

The relevant provisions of **the African Charter On Democracy, Elections And Governance Article 3** which imposes an obligation on African governments to implement the provisions of the charter in accordance with the principles inter alia of respect for human rights and democratic principles and separation of powers. **Article 10** of the **African Charter On Democracy, Elections And Governance** impose an obligation on African governments to entrench the principle of the supremacy of the constitution in the political organization of the State and to protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society. **Article 27** of the **African Charter On Democracy, Elections And Governance** impose a duty on African states to advance political, economic and social governance, and to commit themselves to undertaking regular reforms of the legal and justice systems; improving public sector management; and improving efficiency and effectiveness of public services and combating corruption.

The Universal Declaration of Human Rights in Article 10 states that “[e]veryone is entitled ... to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”. The International Covenant on Civil and Political Rights, provides in article 14.1 that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law,

SITUATIONAL ANALYSIS AND ENVIRONMENTAL SCAN

Legal

The regional and international human rights law legal regime imposes a duty on the states in Eastern and Southern Africa to establish independent and impartial courts so as to entrench the rule of law and ensure legal protection of human rights and fundamental freedoms. It is also true that all countries in Eastern and Southern African region have adopted constitutions that contain bills of rights and entrench human rights and fundamental freedoms. They also entrench the right of people within the regions to be guaranteed equal protection of the law and to have their matters tried in public by independent and impartial tribunals. In all these countries, the judicial authority is vested in the courts and the Judiciary which is established as a separate branch of government. In terms of the principle of constitutionalism in these countries, the people in these countries are entitled to an independent and impartial Judiciary as a non-derogable right.

Political

While African states have all become independent and free from colonialism and racial domination, the majority of African people still remain marginalised from active participation in their countries' civic affairs, with little voice in shaping their own destiny. They have not fully enjoyed the benefits of political freedom often facing repression and lack of full enjoyment of fundamental rights and freedoms. The AU still has too many countries with restrictive legislation on human rights and fundamental freedoms. Far too many countries still find themselves with weak institutions that do not function independently and to the benefit of the African people. Often some courts have been undermined and are unable to offer real protection to people faced with oppression. In some sad cases the courts and the legal profession have been used as instruments of oppression and not legal protection of human rights. In many instances elections have not been free and fair and have resulted in conflict and serious violations of human rights. It is important that the judicial institution takes its place in deepening, consolidating and defending democracy and people participation in the civic affairs of their countries. Corruption and its pervasive impact on governance and equitable utilisation and distribution of resources in Africa is a ghost that needs to be exorcised. The SACJF also needs to take into account the impact on access to quality justice of geo-political and geo-economic factors and the shift from unipolarism to a multipolarism on the globe.

Socio-economic

While Africa is rich in natural resources and wealth the sad reality is that the majority of Africans remain wallowing in abject poverty and that in some situations business and commercial interests have contributed to the violations of the rights of African people. The continent has been pervaded by a climate of impunity including economic impunity. This strategic plan like the one for the AU is being finalized at a time of multiple shocks to the global economy. The current global economic crisis is the most serious since the Second World War, with Africa shouldering a disproportionate burden of the adverse effects of the crisis. While Africa is not quite as strongly exposed to the risks of the global economic crisis, as is Asia, there will, however, be significant indirect effects if Official Development Assistance (ODA) is curtailed and exports, foreign direct investment and Diaspora remittances are reduced. Furthermore, the situation will worsen if commodity prices remain volatile and other economies adopt inward looking and protectionist policies. There is therefore need to develop and stabilize the financial markets in Africa¹. The SACJF is also acutely aware that the courts have been slow in protecting Socio-Economic rights often citing the principle of non-justiciability owing to the fact that in a number of countries the national bills of rights are weak on identifying economic, social and cultural rights as fundamental human rights at the same pedestal as civil and political rights. The courts have also not taken leadership to hold to account those economic actors who abuse or are complicit in the violation of human rights. With the demand for African natural resources such mineral resources, this has converted Africa into an arena of extraction and with weak governments at the trade negotiations table, it is increasingly being left to the Judiciary to use courts to hold to account those who abuse or are complicit in the violation of the rights of others.

Socio-Cultural

During the past ten years, Africa made significant progress in social and economic development. Despite the improvements, the world's second largest and second most populous Continent is still in a development crisis. Thirty-four (34) African countries feature among the 50 least-developed countries on the United Nations' list; and African countries occupy the bottom 20 spots on the UN index for quality of life. In much of the Continent, a third of the people are underfed and more than 40 per cent live in conditions of poverty. The opportunity offered by Africa's human potential is being wasted by high mortality rates which could be prevented, such as deaths among children and mothers resulting from HIV/AIDS, drug and alcohol abuse, crime and violence, among others. In much of Africa, 1 out of 22 women falls victim to maternal mortality, compared to 1 out of 8,000 in industrialized countries. Diseases such as HIV/AIDS (Africa is most affected by this pandemic);

¹ Paraphrased from the AU strategic plan

tuberculosis and malaria erode economic growth and undermine human development. There are 50 million African migrants, one in three worldwide. Africans are burdened by lack of basic infrastructure and access to health services, low levels of education and illiteracy and by gender inequalities. The Continent's population is growing fast, and is expected to spiral from an estimated 924 million in 2006 to 1.3 billion by 2025 and 2 billion in 2050 at current annual growth rate (2.7%).

The current global economic crisis coupled with the general rise in oil, energy and food prices, unemployment and fragile peace and security, have led to low levels of progress towards attaining the MDGs targets. Despite economic growth, Africa's performance in terms of the MDGs targets remains slow and MDGs unattainable before the world moves towards Sustainable Development Goals from 2016 onwards. According to the 2007 AfDB/OECD report, some progress was made in achieving the MDGs targets as these data demonstrate: Gender equality: 40%, Hunger: 40%, Access to water: 40%; Primary education: 25%, Maternal mortality: 20%, Tuberculosis: 17% and Child mortality: 15%. Indeed, more needs to be done if Africa is to fully attain the MDG targets or achieve the soon to be adopted Sustainable Development Goals (SDGs).

These challenges should not dampen African nations' determination to change things for the better. Many African governments and societies, working in concert with the international community, are progressing towards achieving the development targets set in the Millennium Development Goals (MDGs), including advances in health, literacy, equality and nutrition. There is renewed commitment by African governments, coordinated by the African Union, to work together to transform the Continent for the better. The AUC's social development endeavors are built on a human-centred approach that seeks to promote human rights, human dignity and social justice, foster employment, alleviate poverty and improve access to social services; thus, enhancing the quality of life of the people, particularly the vulnerable and marginalized groups.

Technological

A number of jurisdictions have not taken advantage of the digital revolution and the new technology that is available that can help to improve the court's effectiveness and efficiency in rendering justice. New information technologies (IT) can and indeed have improved judicial performance in many jurisdictions on such matters as case management and electronic filing. However of concern are the low levels of IT literacy on the part of a significant number of Judges in the regions. While the movement towards ICTs must be encouraged the SACJF needs to be cautioned against the fact "that records management functionality was often overlooked in records system design, with the result that the integrity and longevity of the electronic records that the courts are now creating, and will rely upon in the electronic environment, are in jeopardy."²

Independence and Transformation of the Judiciary

The interference in Judicial Independence largely by the Executive Branch of States does not only compromise the rule of law but threatens hard-fought democracies of member states from the colonial and racist regimes. Whilst the independence of the Judiciaries is well documented and articulated in the constitutions of member countries, the challenge has always been the implementation due to interference by the Executive in the affairs of the courts and lack of Institutional Independence to ensure the Judiciaries in the regions have their own self-governance entities legally proclaimed with dedicated budgets, infrastructure and other resources. A Judiciary that is truly representative and informed by the demographics of each member state is sensitive and relevant to gender, socio-economic and cultural aspects in the adjudication of cases. It is therefore important that the SACJF member states through their Chief Justices lead the transformation agenda

² Managing Records as Reliable Evidence for ICT/ e-Government and Freedom of Information in East Africa: International Records Management Trust: September 2011

of the Judiciaries in the regions by ensuring that more women are appointed as Judges and other positions of judicial leadership. In order for SACJF to achieve and sustain its strategic objectives and integrated programmes, it is imperative that priority be given to both the independence and transformation of the Judiciary in the East and Southern Africa. The current statistics in the member states in the regions suggest a need for intervention through a consolidated programme of action. In this regard SACJF has a pivotal role to play in assisting the Judiciaries in the East and Southern Africa regions to firstly engage internally to be able to meaningfully engage with other branches of member States (i.e the Executive and the Legislature) to attain the true independence of the Judiciary.

STAKEHOLDERS ANALYSIS

The SACJF has a wide spectrum of stakeholders and partners who jointly contribute to or can be affected in some way by the SACJF vision and mission. These stakeholders include the organized legal profession, civil society groups, Justice cluster partners, Ministries of Justice and Constitutional Development and Regional and International bodies such as the SADC and African Union, The African Human and People’s Rights Court, The Venice Commission and the International Commission of Jurists, the United Nations Development Programme (UNDP) and the ordinary people of Africa who yearn for justice. The SACJF needs to make a proper assessment of who these stakeholders are and what their stake is in relation to the SACJF. Some of the stakeholders are both potential strategic allies and competitors on both programme thrust and resource mobilisation. It is important that there be leadership in the SACJF that harnesses the potential for allies and shields the institution from needless competition and manipulation

STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS ANALYSIS

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| <p>Strengths</p> <ul style="list-style-type: none"> ▪ The ability to coordinate interaction between Chief Justices as heads of Judiciaries in the regions for the purpose of identifying challenges negatively impacting on justice delivery systems in the region. ▪ Providing Chief Justices with platforms to collectively outline plans and share best practices which are intended to shape and organize the Judiciaries within the regions towards a stronger judicial independence, attainment of rule of law and effective administration of justice. ▪ The Strategic positioning and mandate of the SACJF at the local and regional levels. ▪ Recognition of SACJF by other stakeholders including regional economic communities. ▪ Convening Capacity of judicial leaders and all judges in the region. ▪ Influence over and access to high offices. | <p>Weaknesses</p> <ul style="list-style-type: none"> ▪ Lack of statutory and institutional powers to entrench and enforce the Forum’s mandate and cooperation at the local, regional and global ▪ Ad hoc programming therefore no long terms partnerships ▪ Lack of administrative, human resource capacity (inadequate staffing), funding and infrastructure to execute its mandate. ▪ Absence of founding strategic plan and implementation of programmes. ▪ Under-performing domestic Judiciaries exposed by generalised delays in justice delivery including the late delivery of judgments, many and protracted postponement of cases; lack of access to quality justice by the poor, rural communities and indigent litigants. ▪ Interests of individual judiciaries not attended to due to lack of funding ▪ Weak institutional independence of the SACJF member countries. ▪ Absence of a strong and well established continental Judicial structure to maximize collaboration and cooperation with strategic partners on the continent such as AU, AUC. ▪ Lack of interest in or absence of an implementation mechanism for the SACJF resolutions. |
| <p>Opportunities</p> <ul style="list-style-type: none"> ▪ The strategic positioning and mandate of the SACJF at the local and regional levels. ▪ Cooperation and sharing of best practices among the Judiciaries ▪ Creation of an ideal structure with the potential of sustainable financial and other material resources, through collaboration with other bodies on the continent and globally ▪ To establish a united and powerful body with the capacity to protect and defend the institutional values and principles of the Judiciary, its integrity, image and independence in the African continent. ▪ Judicial transformation through the appointment of more women judges and citizens of jurisdictions to the bench. ▪ Establishment of a domestic and regional Judicial Training Institute to capacitate and empower Judicial Officers. ▪ Use of new technologies in the courts | <p>Threats</p> <ul style="list-style-type: none"> ▪ Interference by the Executive in the functions of Judiciaries in the regions ▪ Lack of independent funding and resources due to organizational deficiency and other competing interests. ▪ Delays and inefficiencies in the justice system leading to lack of public confidence in the courts. ▪ Failure to uphold constitutional values in a significant number of members states. ▪ Corruption and poor governance. ▪ Inadequate commitment on the part of some members to the values of the SACJF ▪ Weak institutions of protection including Judiciaries in members states ▪ Lack of proper control of court documents in domestic Judiciaries resulting in lost records and need for collective approach to improve systems. |

PART B: PILLARS AND STRATEGIC OBJECTIVES

Pillar I Access to Courts

Strategic Objective 1: Access to Quality Justice

To enhance the delivery of accessibility of quality justice to all, the East and Southern Africa jurisdictions must remove the obstacles which hinder access to courts, some of those obstacles have proved to be high litigation costs, complex laws and court procedures, lack of infrastructure and court buildings in the rural areas.

Strategic Objective 2: State Funded Legal Aid Schemes

The solution lies in encouraging governments to adopt and implement State funded Legal aid schemes so as to assist the needs of indigent litigants. Organized legal professions (Bar Councils, Law societies, and civil organizations) ought to be encouraged to render more pro bono legal services for the benefit of the poor or underprivileged persons.

Strategic Objective 3: Rights of Women, Children and Gender Equality

The specific needs of women and children must be catered for in the entire chain of justice delivery and more women are to be educated and empowered with regards to their rights by conducting outreach programmes focusing on family law services i.e. domestic violence, maintenance services and Children's court services and gender based violence

Strategic Objective 4: Case Flow Management

To encourage member Judiciaries to establish case flow management structures in their countries to ensure a stakeholder integrated approach to case flow management. Initiating administrative and legislative measures, including the introduction of performance monitoring and evaluation mechanisms, and development of judicial norms and standards to monitor case backlogs, delays in delivering judgments and institutional court performance.

Strategic Objective 5: Judicial and Legislative Reforms

Judicial and legislative reforms must be undertaken with a view to promote and simplifying laws, court procedures and practice directives to minimize complexities that might undermine substantive justice in both civil and criminal matters.

| Strategic Objective | Activities |
|----------------------------|---|
| Accessibility of courts | <ul style="list-style-type: none">▪ Assist Judiciaries in the Eastern and Southern Africa region to invest in information technology systems in order to improve case flow management and overall efficiency in the justice administration.▪ To assist the Judiciaries in the SACJF to prevail upon their governments to prioritize funding for court buildings and infrastructure development, especially in the poor rural communities.▪ To encourage the Judiciaries of the SACJF to prioritize capacity and resources to be able to deliver on the local, national and regional mandates.▪ Ensuring where possible, practicable and cost effective, the use of local languages in domestic courts and provision of quality language service in all courts. |

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| State funded Legal aid schemes | <ul style="list-style-type: none"> ▪ To encourage member states to engage with their governments and stakeholders with regards to State funded legal aid schemes. |
| Rights of women and children and gender equality | <ul style="list-style-type: none"> ▪ Ensure that member Judiciaries conduct programmes which promote the rights of women and children and which also aim to eliminate gender based violence. |
| Case flow management | <ul style="list-style-type: none"> ▪ Initiating administrative and legislative measures, including introduction of IT based or supported performance indicators and measures to address biased case allocations, delays in the finalization of cases and general administration of justice. ▪ To develop and implement case management systems and projects to enhance efficiency of Case flow management at the courts. |
| Judicial and legislative reforms | <ul style="list-style-type: none"> ▪ To encourage member Judiciaries to establish case flow management structures in their countries to ensure a stakeholder integrated approach to Case flow management. Initiating administrative and legislative measures, including the introduction of performance monitoring and evaluation mechanisms, and development of judicial norms and standards to monitor case backlogs, delays in delivering judgments and institutional court performance. |

Pillar 2 Independence and Transformation of the Judiciary

Strategic Objective 6: Institutional and Individual Independence of the Judiciary

The SACJF seeks to encourage the Judiciaries to rigorously pursue the assumption of administrative functions that affect the Judiciary directly, to strengthen the institutional independence of the Judiciary with adequate financial resources and move away from the Executive run or driven court administration to models that allow the Judiciary to control its own resources, be self-accounting, and autonomous from the Executive and Legislature. Members are also encouraged to periodically report to the SACJF measures taken to strengthen or defend the independence of the judiciary as well as challenges faced.

Strategic Objective 7: Transformation of the Judiciary

We seek to encourage the Judiciary to prioritize the appointment of women and previously disadvantaged groups to the bench and to leadership positions.

| Strategic Objective | Activities |
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| Institutional and individual independence of the Judiciary | <ul style="list-style-type: none"> ▪ Work with and encourage different jurisdictions to develop, adopt and implement judicial codes of conduct informed by the Bangalore Principles in a participatory manner in order to introduce best practices including infusing the reality on Judicial Officers that they have an obligation to be independent, impartial, competent and accountable at a personal level in the discharge of their judicial mandate. ▪ Work with governments to adopt judicial funding models that guarantee adequate funding for the Judiciary and functional institutional independence of the Judiciary. ▪ Work with governments to guarantee the security of tenure of the Judges and adequate remuneration. ▪ Assist Judiciaries of the SACJF to engage with the other branches of government ie. The Executive and the Legislature, for the enhancement of the institutional independence of the Judiciary and for its own dedicated budget, infrastructure and other resources. ▪ Help members to carry out institutional audits and needs assessments so as to get a sense of the policies, work and resources needed to make the judiciaries in Eastern and Southern African judiciaries more independent and impartial. |
| Transformation of the Judiciary | <ul style="list-style-type: none"> ▪ To promote and support the appointment of more women in the Judiciary, including in positions of leadership. ▪ To encourage appointment of previously disadvantaged groups and ensure that the Judiciaries reflect the diversity and demographics in each member state. ▪ To create a platform for Judicial Service Commissions to meet periodically to develop shared values around selection and appointment of judges and judicial officers in Africa. |

Pillar 3 Judicial Education and Training

Strategic Objective 8: Judicial Education and Training

To facilitate the establishment of domestic and regional judicial training institutes for the training of judicial officers and administrative support staff. To develop a uniform curriculum which focuses on efficiency enhancement programmes like judgement writing, trial management, judicial case management, court annexed mediation, adjudication in a constitutional democracy, human rights in justice administration, ethics, judicial independence and accountability, soft skills, IT training and training on quasi-judicial functions.

| Strategic Objectives | Activities |
|---------------------------------|--|
| Judicial education and training | <ul style="list-style-type: none"> ▪ Encourage exchange of judicial training methods amongst member countries of SACJF to capacitate Judicial Officers to deliver efficient Judicial services, including judicial leadership. ▪ Development of an aligned recruitment and training programme for aspirant Judges, and Magistrates newly appointed and in service Judges to be able to deliver quality Judicial |

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| | service (including training and induction of administrative staff). |
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Pillar 4 Shared Values

Strategic Objective 9: Promote good governance, democracy and human rights

| Strategic Objective | Activities |
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| Promote good governance, democracy and human rights | <ul style="list-style-type: none"> ▪ To encourage member states to cooperate in setting up special mechanisms and measures intended to promote good governance and eradicate corruption. ▪ To hold regular symposia on the state of rule of law in Africa or member states ▪ Work with the AU, technical experts and organisations to develop AU standards in key delivery areas such as the selection and appointment process of judges in Africa; the right to a fair trial; the model resourcing framework for AU judiciaries; independence and accountability of judges in Africa; model code of judicial conduct in Africa; principles governing judiciaries in times of crisis among others. |

Pillar 5 Development, Integration and Cooperation

Strategic Objective 10: Participation and Cooperation with International Courts and Bodies

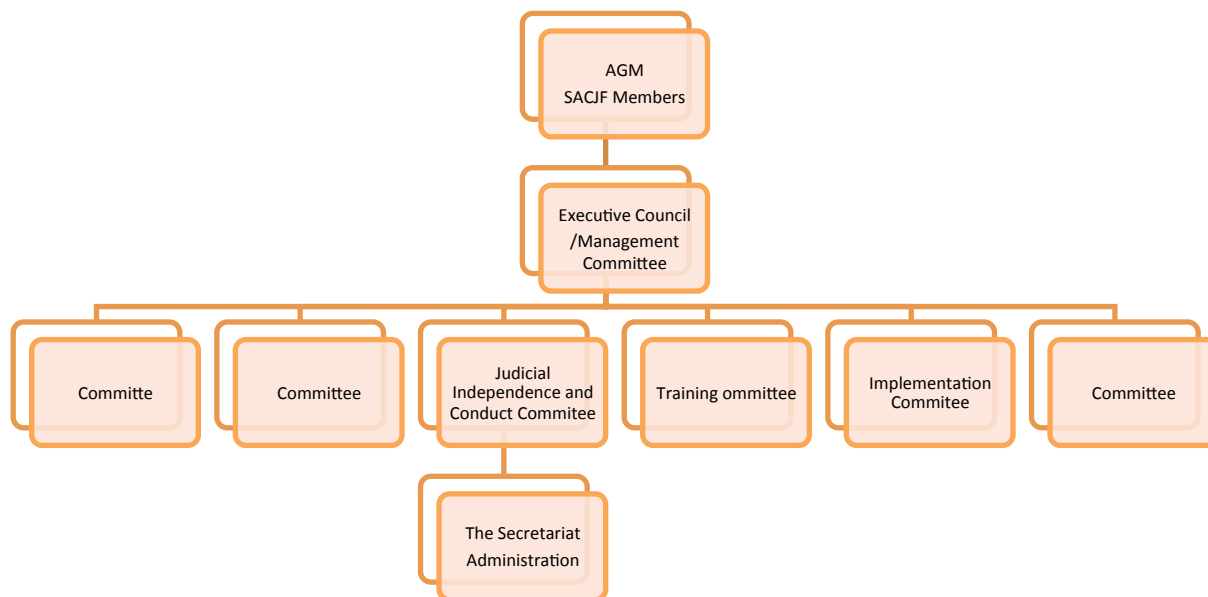
Foster active participation with like-minded judicial strategic partners, especially the CCJA, who has a strategic positioning in the North and West African regions with a common vision of establishing a united judicial continental structure. Develop mechanisms for our active involvement in matters of international justice as well as the selection and appointment of Judges to such tribunals.

| Strategic Objective | Activities |
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| Participation and co-operation with International courts and bodies | <ul style="list-style-type: none"> ▪ The SACJF will encourage members to participate at events of international courts/tribunals and invite judges from international courts/tribunals to participate at SACJF events. |

PART C GOVERNANCE, IMPLEMENTATION, MONITORING AND EVALUATION FRAMEWORK

The Organogram below reflects the SACJF structure with responsible portfolios

ORGANISATIONAL STRUCTURE



Organizational structure that best serves the SACJF

- **The AGM** which is composed of the Chief Justices who are the members of the SACJF.
- **The Executive Council** (Management Committee) elected by the AGM, which serves as the board that supervises implementation of policy and has oversight over the SACF activities in between AGMs and reports to the AGM.
- **The Committees:** The Executive Council has power to set up sub - committees (Committees) as they deem necessary. The committees that the Executive Council may establish include exercising the following critical functions for the success of the SACJF, Audit, Risk and Finance Management, Oversight function; Quality Assurance Control (Monitoring and Evaluation) function; Judicial Independence and Conduct Oversight; Advocacy, Media and Public Relations function; Continuous Training and Professional Development function, Strategy and SACJF Resolutions Implementation and Follow up Function among others. These Committees report to the Executive Council in between the AGM's.
- **The Secretariat** is responsible for the daily administration and operations of the Forum.

The successful implementation of the SACJF Strategic Plan highly depends on the availability of appropriate resources from SACJF member states and development partners. The SACJF will seek to achieve financial stability and programmes implementation capacity through active participation and cooperation of member states as well as Strategic partners in the implementation of its programmes.

Monitoring and Evaluation

Given the mandate of SACJF and its strategic positioning in the regions, whilst financial resources remain a challenge, it is important that member states through the leadership of Chief Justices prioritize deliverable activities within the countries using their allocated budgets. The Executive Council (through its appropriate committee) is tasked to investigate and come up with a proposal

for a funding model which will generate sources of income in order to enable the SACJF to conduct its programmes and activities effectively. The Management Committee or its designate has a critical role to play in monitoring and evaluating performance on the key activities of SACJF within the medium term frame work. The Management Committee has a responsibility to generate performance standards and indicators on each activity.

The Executive Council reports on activities to the AGM while the Implementation committee reports to the Executive Council on a quarterly basis. The Secretariat coordinates the implementation of programmes and projects with regular feedback to the Management Committee. In order for SACJF to achieve its strategic objectives, regular strategic reviews will be done by the Implementation committee. Conferences and colloquium sessions of the SACJF will be structured to incorporate review of strategic activities. The SACJF Executive Council is the highest decision - making body in-between AGM's and has a duty to give strategic direction.

The Executive Council needs to develop an implementation plan that sets out the various strategic objectives and activities, the budget required and responsible persons occupying different SACJF portfolios to drive and champion implementation within a specific timeframe. The Implementation Plan of this strategic plan serves as an important tool to monitor and evaluate performance. The Management Committee working with the Secretariat will focus on urgent, important and doable activities within the short term separating them from the medium to long term activities that need more planning and resources.

END