



SOUTHERN AFRICAN CHIEF JUSTICES FORUM

SAJC Conference on "Modernising the Judiciary" (Entebbe, Uganda, 4-5 February 2005)

Prime Minister,

Honourable Chief Justices,

Honourable Judges,

Ladies and Gentlemen,

Friends,

I am pleased to welcome you here on the shores of the majestic Lake Victoria. I would like to thank Chief Justice Odoki for having taken the timely initiative to invite us to this Conference of the Southern African Judges Commission on "Modernising the Judiciary". Our topic is highly important as a modern judiciary is the key to deliver justice to everyone. The rule of law remains a mere principle on paper if the people cannot see the judiciary active on their behest. Modernising the judiciary has many aspects relating *inter alia* to the use of information technology, court procedures and training.

Information technology is probably the point which springs to mind first. The drafting of judgements is a cumbersome task if it cannot be done with the help of computers. However, maybe even more important than the efficient "typewriter" functionality of computers are nowadays their communication features.

Paper publication of judgements is often hampered by high printing costs and the slow procedure to edit book series. Web-sites offer a much cheaper

alternative for such publication and have the advantage of practically immediate access to the public – admittedly the part of it which has access to the web. However, even if not everyone has access to the Internet, more and more people do and the high costs for buying official digests often prevent the interested public to have access to this information even further limiting access to these paper resources.

A large publication of judgements is also very much in the interest of legal certainty. Lawyers have easier access to the knowledge on how the courts have decided in similar, previous cases and will build upon such precedents thus contributing to a well known body of judge made law. Obviously, the decisions of the highest courts hold the key to this issue and their publication via the Internet needs to be tackled first. As you know, not all courts represented in the Southern African Judges Commission have web-sites already. The Venice Commission offered access to its CODICES database for judgements with relevance in the constitutional field including human rights issues. So far, we have received summaries of decisions from Malawi, Mauritius, Mozambique, the Seychelles, South Africa, Uganda and Zambia from the liaison officers appointed by your courts. More effort needs to be made to provide a fuller and more complete picture of the SAJC case-law in constitutional matters. The constitutional issues covered in the CODICES database obviously do not cover all aspects of civil and criminal jurisdiction and - depending on the availability of financing this project - we consider to offer our services also for other important case-law until the courts have acquired the capacity to do so themselves.

Another aspect of communication is the facility to communicate by e-mail both within the judiciary and with the public. Fluid communication within the judiciary, between judges, court officials, prosecutors and lawyers can considerably help to increase the efficiency of the court system. The availability of e-mail communications with the public necessarily also entails the question of the validity of the lodging of documents via this new means of communication. Procedural rules may need to be adapted to take into account such new facilities. Some courts accept e-mail depositions if they are later followed by a signed copy of the original text, the date of reception being that of the original e-mail message. Such procedural

questions need sufficient attention as over time more and more people will have some kind of access to the Internet and the need to simplify communications will be felt ever more.

As concerns changes to procedures, you may wish to know that the Council of Europe of which the Venice Commission is a part has adopted a number of texts in this respects. I only cite the Recommendation concerning measures to prevent and reduce the excessive workload in the courts – R(86) 12, the Recommendation concerning the simplification of criminal justice – R(87)18, - Recommendation on the independence, efficiency and role of judges – R(94)12, and the Recommendation on the management of criminal justice – R (95) 12. You may also find of interest the recently published report on “European judicial systems 2002”. You can find these texts on the Council’s web-site but I also have brought a copy with me. While these texts were elaborated in Europe, some of the recommendations made may also serve as inspiration for your courts.

Tomorrow, the Chief Justices will discuss about judicial training. Ms Flanagan, the Director General of the Attorney General's Office of Ireland and member of the Venice Commission will report to you about this issue from an Irish viewpoint.

Honorable Justices,

Ladies and Gentlemen,

As I mentioned already, the Venice Commission is about to set up another programme of co-operation with the constitutional and supreme courts in the Southern African region united in the Southern African Judges Commission. The programme should have a triple goal:

1. to encourage regional exchange and mutual support, especially where these courts come under pressure from other branches of power in their own country.

2. to enable an exchange of case-law between the courts allowing them to support their judgements by referring to precedents from other courts in the region and

3. to identify ways for efficient training.

This programme depends of course on the availability of sufficient funds. We count on our meeting today and tomorrow to get sufficient feed-back and input from the chief justices or their representatives in order allow us to promote the programme efficiently with the donor countries concerned.

I wish to all of us a successful Conference.