



# SOUTHERN AFRICAN CHIEF JUSTICES FORUM

**MEETING OF CHIEF JUSTICES FROM SOUTHERN AND EAST AFRICA  
HELD IN WINDHOEK, NAMIBIA, ON 11 - 13 AUGUST 2005**

**THE SOUTHERN AFRICAN JUDGES COMMISSION:**

**A SUMMARY OF THE ESTABLISHMENT AND OPERATIONS OF THE  
COMMISSION**

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## **A SUMMARY OF THE ESTABLISHMENT AND OPERATIONS OF THE COMMISSION**

**(INCLUDING A FINANCIAL REPORT ON THE COMMISSION'S ACTIVITIES SINCE 1 OCTOBER 2003 UNTIL PRESENT)**

### **1. BACKGROUND**

**The Southern African Judges Commission (“the Commission”) is an association of Chief Justices of the Southern African region established to facilitate, among other things, closer cooperation and liaison among judges, in particular, the Chief Justices in the region.**

**The first meeting of the Chief Justices was held in Zanzibar, Tanzania, on 21-22 July 2003. It was at this meeting that the Chief Justices of the Southern African region agreed to the establishment of the Commission.**

**The Commission's founding document was adopted on 7 December 2003 at an official signing ceremony in Benoni, Johannesburg. The Chief Justices and Senior Judges of the following countries in the region agreed to participate in the Commission and have duly signed or ratified the said founding document:**

- 1.1. the Republic of Angola,**
- 1.2. the Republic of Botswana,**
- 1.3. the Republic of Kenya,**
- 1.4. the Kingdom of Lesotho,**
- 1.5. the Republic of Malawi,**
- 1.6. the Republic of Mauritius,**
- 1.7. the Republic of Mozambique,**
- 1.8. the Republic of Namibia,**
- 1.9. the Republic of the Seychelles,**
- 1.10. the Republic of South Africa,**
- 1.11. the Kingdom of Swaziland,**
- 1.12. the United Republic of Tanzania,**
- 1.13. the Republic of Uganda,**
- 1.14. the Republic of Zambia, and**
- 1.15. the Republic of Zimbabwe.**

**The Commission has elected a Management Committee which is comprised of a chairperson, Chief Justice Arthur Chaskalson of the Republic of South Africa, a deputy chairperson, Chief Justice Barnabas Samatta of the Republic of Tanzania, and the third member, the Chief Justice of Zambia who was represented at the meeting by Chief Justice E. L. Sakala.**

The founding document provides that the Commission shall be domiciled, and its headquarters located, in the Republic of South Africa unless determined otherwise by a majority of the members of the Commission. The Secretariat of the Commission is based at the Constitutional Court in Johannesburg, Republic of South Africa.

## **2. THE COMMISSION' S OBJECTS**

**2.1. The objects of the Commission are as follows:**

**2.1.1. to promote contact and co-operation among the courts in the southern African region;**

**2.1.2. to promote the rule of law, democracy and the independence of the courts in the region;**

**2.1.3. to promote and protect the welfare and dignity of judges in the member countries;**

**2.1.4. to establish a website at which judgments of the highest courts in the region can be collected;**

**2.1.5. to provide assistance to courts and to promote cooperation among judicial training institutions;**

**2.1.6. to arrange colloquia at which links between courts in the region can be strengthened and matters of common interest discussed;**

**2.1.7.                    to maintain contact and exchanges with other institutions in Africa and elsewhere having similar objects;**

**2.1.8.                    to encourage the publication and dissemination of judgments of the superior courts and the use of information technology; and**

**2.1.9.                    generally to promote the interests of the judiciaries of member countries and, where it is considered appropriate to do so, of any other country in the region.**

**2.2.                    It is the intention of the Commission to conduct its operations in such manner as facilitates and fosters co-operation with the Venice Commission.**

### **3.        OPERATIONAL PLANS: PROJECTS**

**As you all aware, certain events in the Southern African region highlighted the need for effective interaction among members of the judiciary, particularly Chief Justices in the respective jurisdictions in the region.**

**The developments in Swaziland, for example, indicate how this interaction may contribute positively to the solution of problems in the region. This followed the threatened dismissal of the Chief Justice and two of his colleagues if they refused to withdraw a matter that was before the Court and which involved the King of Swaziland. The crisis deepened when all the Judges of the Court of Appeal resigned following an announcement by the**

Prime Minister that certain orders made by that Court would be ignored and not be implemented as it had allegedly exceeded its powers. The Commission sent a delegation of three Chief Justices to Swaziland on 16 – 18 September 2003, with the object of facilitating discussions between the judiciary and the seat of the King. Discussions and negotiations are still being conducted with the aim that the matter should come to an amicable solution to all parties concerned.

### **3.1 Events during 2005**

#### **3.2.1 Entebbe, Uganda, 4 – 5 February 2005**

**A.** The Conference on Modernising the Judiciary was held on 4-5 February 2005 in Entebbe Uganda, under the auspices of the Southern African Judges Commission (the Commission). The conference was attended by the Chief Justices of Botswana, Kenya, Lesotho, Mauritius, Namibia, South Africa, Swaziland, Seychelles, Tanzania and Zimbabwe and the Deputy Chief Justice of the Republic of South Africa. Also in attendance were judges and magistrates of the Courts of Judicature in Uganda, the Secretary General of the Venice Commission, Mr. Gianni Buquicchio, Ms Fiona Flanagan, the Director General and Senior Legal Advisor of the Attorney General's Office in Ireland, and Mr. Schnutz Durr, the Head of the Constitutional Justice Division of the Venice Commission.

**B.** Opening and welcoming addresses were delivered by the Honourable Chief Justice of the Republic of Uganda, Justice Odoki, the Secretary General of the Venice Commission, Mr. Gianni Buiquicchio, and the Chairperson of the Commission and Chief Justice of the Republic of South Africa, Justice Arthur Chaskalson.

C. The Honourable Minister of Justice and Constitutional Affairs, Attorney General Dr. Khiddu Makubuya welcomed the conference participants on behalf of the Department of Justice of the Republic of Uganda and reaffirmed the ministry's support for the judiciary and the Commission's initiatives. He then introduced the Prime Minister, who was the guest speaker for the opening ceremony.

D. In his address, the Honourable the Prime Minister, Professor Apolo Nsibambi noted that a conference of this nature was essential to judicial systems in the ever-growing global village. He emphasised that a judicial system dominated by archaic procedures and equipment can lead to injustice. He urged the Chief Justices to assist their institutions to move to new, modern and scientific methods of managing cases and dispute resolution procedures, and encouraged them to search for solutions to problems through the regional blocks, as this would be in line with the ideals of bodies such as the African Union.

E. A highlight of the first day of the conference was the launch of a book, *the Search for a National Consensus*, authored by Chief Justice Odoki. The guest speaker at the launch was Chief Justice Chaskalson. The book is Chief Justice Odoki's insider account of the making of the 1995 Constitution of Uganda. Among the audience were Members of Parliament, members of Kitua Cha Khatiba, the Irish Ambassador to Uganda, the South African High Commissioner, former members of the Uganda Constitutional Commission, judges attending the conference of the Southern African Judges Commission, the Secretary General of the Venice Commission, judges from the Courts of Judicature and members of the media.

F. The first working session of the conference dealt with "The Role of Information Technology in Modernising Judicial Systems" and the subject of discussion on the next day was "Challenges in the Establishment of a Regional Judicial Training Institute". Both topics are key to the improvement of delivery of justice in our courts and in facilitating

communications, cooperation and coordination among judicial officers in the region.

**G.** The discussions on the role of information technology in modernising judicial systems identified the following key issues:

**(1)** Inadequate use of information technology, more particularly due to the following factors:

**(a)** Lack of adequately equipped libraries with access to electronic as well as printed legal literature and judgments.

**(b)** Lack of sufficient computerisation of court systems, including court registries.

**(c)** Lack of proper equipment: computer hardware and software, printers, scanners, photocopiers and recording machines.

**(d)** No established website to facilitate the dissemination of information in various aspects of the judicial systems.

**(2)** Bringing the courts in line with modern technological developments will require funds to maintain the project and commitment from the participating courts to see the projects through in their own judiciaries.

**(3)** There is a need to encourage all judicial officers to use computers, but restricting their supply only to those who will utilize them.

**(4)** Training should be continuous. The fact that trained personnel may leave for greener pastures is inevitable. IT experts in institutions should be encouraged to pass on their knowledge to as many people as possible within the establishment to equip more people with the knowledge and expertise.

**(5) The Venice Commission liaison officers in the different member countries should continue to submit cases for publication on the CODICES database. This database is accessible via the website of the Council of Europe.**

**H. The conference discussed the challenges in the establishment of a regional judicial training institute. The following issues emerged:**

**(1) There is an emerging view amongst the members of the Commission that the respective judiciaries should try to establish and strengthen their own national judicial training institutions, rather than attempting to establish a regional judicial training institute. This view was based on various problems involved in the establishment of such a structure, such as finding a location for the institute, having a consistent supply of donor funding, having an administrative body which will run the institution and the permanent staff to provide the training, to state but a few of the problems.**

**(2) The Commissions encourages the respective judicial training institutions to conduct their operations in cooperation and with the assistance of each other, to the extent that such cooperation will be practicable.**

**(3) The training of the courts' support and administrative staff is imperative. Well-trained support staff is invaluable to the efficient running of a court.**

**(4) There is a need to bring the various heads of the various judicial training institutions in the region together for discussions on how best to**

assist the other judiciaries, which are yet to establish their own training institutions, and discussion on matters that are related to judicial education and training.

I. Against this background, the Commission resolved as follows:

(1) The secretariat of the Commission shall continue with preparations for the set up and eventual launch of the Commission's official website, subject to the continued supervision of the management committee.

(2) The Chief Justices shall put the secretariat of the Commission in contact with the heads of the judicial training institutions in their respective judiciaries, or such person as may be nominated by the Chief Justice for that purpose. Such heads of training institutions must meet to compile an inventory of what each institution does, for circulation to all the Chief Justices. The meeting must take place during June or July 2005 and a report prepared for circulation before the next meeting of the Commission in August 2005.

(3) The next meeting of the Commission shall be the Commission's Annual General Meeting. The AGM will be held during the first half of August 2005, in Namibia, subject to the approval of the Namibian government, at a date agreed upon by the management committee.

J. The Conference expressed its gratitude to the Chief Justice of Uganda, the Venice Commission and the Norwegian Government for the organisation of this conference and providing delegates with the opportunity to exchange views on the role of information technology in modernising judicial systems and the challenges in the establishment of a regional judicial training institute.

### **3.1.2 Johannesburg, South Africa, 24 -25 July 2005**

**The Conference on Judicial Training Institutions in the Southern African region, as sanctioned by the meeting of the SAJC in Entebbe, Uganda, earlier in the year, was held on 24 – 25 June 2005 at the Constitutional Court of South Africa in Johannesburg, South Africa.**

**Delegates from Angola, Lesotho, Mauritius, Malawi, Namibia, Swaziland, South Africa, Uganda, Zambia and Zimbabwe met over two days and discussed the state of judicial education within the countries in the region. Each delegate gave a presentation on the state of judicial education in their respective country / judiciary. From these presentations certain strengths and shortcomings were identified, and possible solutions to achieving maximised capacity building and breaching the shortfalls were proposed. Such proposals were tabled and a report will be submitted to the SAJC during the AGM in Namibia.**

### **3.1.3 Windhoek, Namibia, 11 -13 August 2005**

**The SAJC”s Conference on the Independence and Accountability of the Judiciary and the annual general meetings will be held in Windhoek, Namibia on 11 – 13 August 2005. On the agenda for this AGM shall be:**

- A. The report on the state of the Judicial training institutions**
- B. A progress report on the implementation of some of the projects proposed by the members of the SAJC in the needs assessment reports**
- C. The presentation of the Commission’s operations and the financial statements**

- D. The election of the new management committee of the SAJC**
- E. Selection of the date and hosting country of the SAJC's next AGM**

### **3.2 Events during 2004**

#### **3.2.1 Rosebank, Johannesburg, 20 March 2004**

The first meeting that the Commission held during 2004 was on 20 March 2004, in Rosebank, Johannesburg. The meeting was held at the conclusion of the Judges Conference on Judging in a Democracy, during the 10 Years of Democracy Celebrations and the Inauguration of the Constitutional Court. In addition to pursuing the objects set out in paragraph 2 of this report, the Commission noted:

**A. The administrative staff and support staff in some the superior courts in some of the countries in the Southern African region are not as efficient as they should be. This is mainly due to the fact that most of these staff members are not adequately trained to do their duties to the best of their abilities. This leads to a situation where papers are not filed properly, procedures are not adhered to and other technical problems on the part of the court's staff hinder the smooth running of the judicial process. This means that by the time that a particular matter appears before a particular Judge, the Judge must then first address the problems that are apparent from the documents prior to actually getting to deal with the matter. Most of the times, the problems are of such a nature that the court registrar and his/her assistant should have been able to see the fault and have it corrected prior to the matter being set down. The countries that were**

earmarked for a programme of skills development and training were Swaziland, Botswana and Malawi.

B. There is a need of making the disadvantaged aware of their right to have access to the courts and in turn making the courts accessible to them. This could be achieved by establishing a system of legal aid clinics in the communities that have such a need. The countries that were earmarked as being in need of such an awareness campaign were Malawi and Botswana.

C. The continued existence and sustainability of the Commission was a concern to all the Chief Justices. The Commission's continued existence and success in achieving all its objectives is wholly dependant on the availability of funds to run the proposed programmes and any future programmes that may arise.

D. Conferences will be held later in the year in Botswana, on issues pertaining to good governance, human rights and the rule of law, and possibly in Malawi as well, where there is a particular concern relating to the separation of powers which could lead tension between the courts and the executive. A conference will be held in 2005 in the Seychelles in co-operation with the Venice Commission, which has secured funding for this conference.

### **3.2.2 Kasane, Botswana, 5 – 7 July 2004**

A regional conference on Human Rights, Independence of the Judiciary, the Rule of Law and Access to Justice was held in Kasane, Botswana on 5-7 July 2004. The conference was attended by chief justices and judges from Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Uganda, the United Kingdom, Zambia

and Zimbabwe. Also in attendance were the *Procureur General de la Republique Democratique du Congo*, the Attorney General of Botswana, the UNDP Resident Representative, the Ombudsman, the Chairperson of the Law Society of Botswana and resource persons from within and outside the SADC region.

Discussions at the conference focused on the related themes of human rights, the rule of law, judicial independence and access to justice, recognizing the importance universally accorded to these principles for the consolidation of democracy. The conference observed that the commitment of SADC Member States to these principles is reflected in their signature, accession and ratification of various international and regional instruments, as well as in the SADC treaty.

Against this background, the conference identified a number of key issues, and made the following resolutions:

A. On international and regional instruments, the conference underscored the need for these to be adopted and incorporated into domestic law to ensure their application in the courts, and emphasized that parliament and the executive must play a leading role in this regard. The conference expressed its conviction that judicial officers have a critical role to play in the translation of regional and international human rights instruments into real benefits for the people of SADC by enforcing them in the courts.

In this regard, the conference:

i) Undertook to ensure, through concerted action and cooperation between SADC judiciaries, the promotion of human rights, judicial independence, the rule of law and access to justice;

ii) Urged SADC member states to adopt and incorporate regional and international human rights instruments into their national laws to facilitate their application by the courts;

iii) Urged courts in SADC member states where incorporation of international and regional instruments has not been effected, to utilize international customary law and the Bangalore Principles, to remove ambiguity and uncertainty from national constitutions, legislation and common law;

iv) Urged courts in SADC member states to draw the attention of the appropriate authorities to any inconsistencies between their national laws and international and regional instruments.

v) Encouraged SADC member states to promote a human rights culture through sensitization and training of, among others, officers in all three arms of government, and stakeholders including the media and civil society organizations, on the provisions of regional and international human rights instruments, building upon the efforts of existing judicial training institutions;

vi) Urged the executive in SADC member states to establish, strengthen, and promote national human rights institutions such as commissions and the office of the ombudsman, with powers to investigate and take appropriate action on human rights abuses;

**B.** The conference emphasized the importance of observing the rule of law and the principle of separation of powers for the realization, protection and promotion of human rights. It noted with concern the tension that

often exists between the executive and the judiciary, especially with respect to judicial review of administrative action.

The conference therefore resolved that SADC Member States be urged to respect the rule of law and acknowledge the duty of the courts to review the actions of the executive and legislature, by consistently obeying court orders even where they are against them.

C. With regard to access to justice, the conference expressed its concern that despite documented commitments and efforts to bring justice to the people at national level, access to the courts and legal services remains beyond the reach of many SADC citizens, especially the disadvantaged and marginalized groups. This situation is partly due to the complex nature of the plural legal systems of SADC member states, and the use of language with which ordinary people are unfamiliar. The conference also recognized that among others, poverty and gender inequality hinder access to justice in most SADC Member States.

The conference therefore resolved that:

i) Where access to justice requires legal representation and advice, legal assistance should be provided through *pro bono* and *pro deo* mechanisms in appropriate cases, the use of paralegals and by promoting the use of participatory and alternative dispute resolution mechanisms;

ii) There is a need to review the dual legal systems of SADC member states and encourage all courts to be aware of, and apply human rights standards to cases before them;

iii) Research should be undertaken in SADC Member States into the customary and common law systems, with a view to identifying their strengths and weaknesses within the context of human rights issues, and finding ways of improving the quality of their services;

iv) The status of specialist courts and their judicial officers should be enhanced in order to avoid the creation of unwarranted perceptions of hierarchies within the judiciary;

v) Judiciaries in the region should consider moving, where appropriate, towards uniformity of values, standards, and procedures in order to achieve harmony and consistency;

vi) Sentencing approaches should be reviewed, with a view to incorporating, among others, principles of restorative justice.

### **3.3 Events during 2003**

2003 saw the establishment of the SAJC's secretariat and the signing of the SAJC's founding document. Chief Justices and Senior Judges from the Republic of Angola, the Republic of Botswana, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of the Seychelles, the Republic of South Africa, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe met in Johannesburg, South Africa, on 6 – 8 December 2003. The meeting was chaired by the Chief Justice of the Republic of South Africa, the Honourable Justice Arthur Chaskalson.

The meeting had a dual purpose, firstly to launch the Southern African Judges Commission, and secondly, to consider and effect a needs assessment and planning for the development of national, sub-regional and regional programmes of work for the implementation of the outcome of the United Nations Environment Programme (UNEP) Global Judges Symposium, within the framework of the UNEP Governing Council decision 22/17(II(A)).

The Chief Justices and the other Judges adopted and signed the Constitution of the Southern African Judges Commission, whose objects include: (a) the promotion of contact and co-operation among courts in the southern African region; (b) the promotion of the rule of law, democracy and the independence of the courts in the region; and (c) the promotion and protection of the welfare and dignity of judges in the member countries.

The Southern African Judges Commission is an association of Chief Justices of the Southern African region established to facilitate, among other things, closer cooperation and liaison among judges, in particular, the Chief Justices in the region. This was the second meeting, the first having been held in Zanzibar where the Chief Justices agreed to the establishment of the Commission.

The Constitution was adopted on 7 December 2003 at an official signing ceremony. The Chief Justices and Senior Judges of the above-mentioned countries have agreed to participate in the Commission and have duly signed the Constitution at the ceremony. The Commission has elected a Management Committee which is comprised of a chairperson, Chief Justice Arthur Chaskalson of the Republic of South Africa, a deputy chairperson, Chief Justice Barnabas Samatta of the Republic of Tanzania, and the third member, the Chief Justice of Zambia who was represented at the meeting by the Deputy Chief Justice David Lewanika.

**With regard to environmental issues, the Chief Justices and the other Judges discussed the capacity building requirements of judicial officers of their respective countries for promoting the rule of law in the area of environment and sustainable development, and how these efforts could be further enhanced through regional and sub-regional cooperation. At the conclusion of the two day meeting, the Chief Justices and Judges unanimously adopted the following conclusions and recommendations.**

**A. They endorsed the Johannesburg Principles on the Rule of Law and Sustainable Development adopted at the UNEP Global Judges Symposium held in Johannesburg on 18 – 20 August 2002, which were presented to the World Summit on Sustainable Development (WSSD) as a contribution to the deliberations at the WSSD.**

**B. They reaffirmed once again their conviction expressed by the Judges at the Global Judges Symposium that:**

**a. “the Judiciary, well informed of the rapidly expanding boundaries of environmental law and aware of its role and responsibilities in promoting the implementation, development and enforcement of laws, regulations and international agreements relating to sustainable development, plays a critical role in the enhancement of the public interest in a healthy and secure environment;**

**b. the lack of knowledge, relevant skills and information in regard to environmental law is one of the principal causes that contribute to the lack of effective implementation, development and enforcement of environmental law;**

**c. there exists an urgent need to strengthen the capacity of judges, advocates, prosecutors, legislators and all persons who play a critical role at national level in the process of implementation, development and enforcement of environmental law, including multilateral environmental agreements (MEAs), especially through the judicial process.”**

**C. They expressed the need for closer co-operation among the Chief Justices of the member countries on matters of mutual concern and to encourage the harmonisation and modernisation of the various domestic statutes on the environment, paying due regard to the principle of sovereignty.**

**D. They emphasised the need to create awareness of international environmental legal norms and their application in the domestic sphere.**

**E. They noted further that obstacles to access to environmental justice include the rules of standing and their interpretation by judicial officers. They called for the revision of such rules and for the preference of interpretations that enhance rather than restrict access.**

**F. They noted with concern the devastating impact that the HIV / Aids pandemic has had on the people of all countries in the region. They noted also the generally accepted principle of environmental law that everyone has the right to an environment that is not harmful to their health and well-being. Given the extent of the pandemic and its implications for all countries in the region, they called for an increased awareness of the vital importance of respecting and upholding laws and measures directed to securing a healthy environment, as part of the strategy adopted to combat the pandemic.**

**G. Chief Justices and Judges expressed their deep appreciation to the Executive Director of UNEP for the several measures that he has taken to implement the outcome of the UNEP Global Judges Symposium within the framework of Governing Council decision 22/17(II(A)). They also commended UNEP for convening the meeting of Chief Justices and Senior Judges of Southern Africa for the purposes of assessing the specific capacity building needs of each country, and for developing needs-responsive, practical and effective plans of activities for strengthening the capacity of judges and to carry out their judicial functions in the area of environment and development.**

**H. They called upon the Executive Director of UNEP to expeditiously implement the national, sub regional and regional plans of work that they have developed during the meeting to enable judiciaries in their respective countries to contribute effectively to the development, implementation and enforcement of environmental law, and thereby contribute towards the realisation of the goals of environmental protection, sustainable use of natural resources and environmentally sustainable development.**

**I. The recommendations prepared by the Chief Justices and other Senior Judges in respect of each of their countries as well as for the sub-regional and regional cooperation will be submitted by the Chair of the Southern African Judges Commission to the Executive Director of UNEP.**

#### **4. Judicial programmes proposed by members of the Commission**

**The Commission's member states have submitted documents which reported on what each of their respective judiciaries' needs are, in regard to judicial support, assistance and matters relating to the achievement of a well-run judiciary. From these needs assessment documents, we were able**

to table the following issues as judicial programmes which the Commission should prioritise and carry out, in keeping with its objectives:

(Please note that the countries that are typed in *italics and bold* represent the judiciaries of those countries that are earmarked for the programmes which they are listed under)

#### 4.1 Continued legal education and training seminars for judges and magistrates

*The skills development programmes are generally suited to all the member countries of the Commission.*

The judges and magistrates in these states are the major role players: they apply human rights standards to the cases before them. The member states' customary and common law systems should be brought in line with basic human rights standards.

These training seminars are also information sessions for the judges and magistrates to be brought up to date on the insight of some of the landmark cases and judgments within the region. This will be done with the view to achieve harmony and consistency by moving, where appropriate, towards uniformity of values, standards and procedures.

#### 4.2 Recruitment of an adequate number of professionally trained magistrates and judges

*Tanzania*

*Zambia*

*Swaziland – the total absence of a Court of Appeal continues to hamper the administration of justice*

*Uganda*

*Zimbabwe – specifically a shortage in Magistrates*

**4.3 Training for courts' support staff or personnel and judicial administrators. Such training should include case flow management and court management. Also look into the appointment of research assistants to assist the High Court judges, and setting up of alternative dispute resolution methods to alleviate the case backlog and delay in the conclusion of cases.**

*Tanzania*

*Zambia*

*Mauritius*

*Swaziland*

*Malawi*

*Uganda*

**4.4 Introduce and facilitate a computerised system for registries, case management, case records and case reporting. This includes training the staff to use the computerised systems**

*Tanzania*

*Zambia*

*Mauritius*

*Swaziland*

*Malawi*

*Uganda*

**4.5 facilitate better access to justice for the disadvantaged communities by establishing legal aid centres and raising public awareness on the judiciary, as well as improving communications between the judiciary and other stakeholders**

*Mauritius*

*Tanzania*

*Malawi*

**4.6 Set up modern libraries with up to date legal materials and a system which facilitates access to published articles and journals in other libraries.**

*Tanzania*

*Zambia*

*Uganda*

*Zimbabwe*

**4.7 Secure funding from development partners and donors to assist some of the judiciaries to accomplish some of the activities that are necessary to their own jurisdictions, in order to improve the general performance of that particular judiciary. These include the following:**

**(a) Infrastructure: (dilapidated buildings, if any exist; insufficient court space; lack of adequately equipped facilities at the courts; lack of motor vehicles and a proper courier system which in turn leads to poor running, monitoring and supervision of courts)**

*Tanzania*

**Zambia**

**Mauritius**

**Malawi**

**Uganda**

(b) Bursaries and scholarships to enable judges and magistrates to undertake higher academic studies, at Master level (there is a need for specialisation in various areas of law)

**Zambia**

**Malawi**

(c) Local Court Justices: These justices man the Zambian version of traditional Courts. Currently the German Government, through its development agency (GTZ) has undertaken to fund the training workshops for these Local Court Justices in the field of human rights, civil and criminal procedures, etc. this programme is limited to a few provinces. The Zambian judiciary would like to extend this programme to the other provinces.

**Zambia**

(d) Equipment: lack of necessary electronic equipment adds to the poor running of courts. Computers, high volume photocopiers and printers are in short supply. Magistrates require motor vehicles to enable them to do their duties in the circuit courts (due to low income packages, most of them cannot afford to purchase their own vehicles and have to travels vast distances by public transport to preside in circuit courts). Chief Magistrates require the official motor vehicle to enable them to carry out proper supervision of the lower courts.

**Zambia**

*Uganda*

*Zimbabwe*

**4.8 Give full support to the judiciaries and encourage their full independence by lobbying for minimum interference from the executive and legislative arms of the governments.**

## **5. CONTRIBUTIONS BY DONORS**

**NB: A full breakdown of the income received and disbursements made on behalf of the SAJC is attached hereto as Annexure 1**

### **5.1. OSIDEV - Open Society Institute Development Foundation**

**Grant: \$ 63 000.00 / R 500 000.00**

**Date: 1 April 2003**

**The grant was awarded as:**

- § Salary for the legal administrative officer over 3 years**
- § Travel and per diem for the administrative officer**
- § Travel and per diem for the Chief Justices**
- § Incidentals**

**Amount used: R 23,564.18**

**Balance: R 479,435.82**

## **5.2. OSISA – Open Society Initiative for South Africa**

**Grant: ZAR 16 623.70**

**Date: 1 March 2004**

**The amount was awarded to fund the 3-person delegation which was sent to Swaziland on 15 – 18 September 2003, to assess the crisis facing the legal profession and the judiciary in Swaziland.**

**Amount used: all**

**Balance: R0**

## **5.3. Ford Foundation**

**Grant: US \$ 216 000. 00 / ZAR 1, 400, 000.00**

**Date: 21 July 2004**

**The amount was awarded to fund-**

**§ Travel and accommodation costs for the SAJC's Conferences**

**§ The SAJC Website and virtual Library development, maintenance and training**

**§ The assessments of each superior court for court personnel training programmes**

**Amount used: R 149,629.41**

**Balance: R 1,250,370.59**

#### **4.1 Venice Commission**

**The Venice Commission has been instrumental in making most of the meetings and/or conferences held by the Commission possible in the past. It provided funding and other resources for the meetings and discussions held by the Chief Justices prior to the formation of the Commission, when the Chief Justices were still discussing the formation of the Commission and how it would be run, and will provide support for the meeting in the Seychelles.**

**The SAJC is anxious to continue its cooperation with the Venice Commission and will engage in discussions with the Commission to that end.**

#### **6. FUTURE PLANS FOR SUSTAINABILITY**

**The Commission is presently wholly dependant on the donations and grants from national and international organisations and associations for its success and continued existence. The Commission's secretariat is available to render assistance in drafting fund raising proposals for this purpose, should any of the members require such assistance.**

**ANNEXURE 1**

**FINANCIAL STATEMENTS**

**Southern African Judges Commission**

**Income Statement For The Period 1 March 2003 to 31 July 2005**

**Details**

**Amount**

**Income**

**Income**

**Opening Balance as at 01/04/04**

**1,912,348.00**

**Total Income**

**1,912,348.00**

## **Expenditure**

**The Launch of the SAJC: debited from the OSIDEV Funds**

**The Launch of the SAJC: accommodation & conferencing costs**

**14,411.50**

**Ms R. Makhambeni - car hire**

**982.70**

**The Botswana Conference: debited from the OSIDEV Funds**

**World Travel - air fare R Makambeni**

**2,094.80**

**Ms R Makhambeni - Accommodation & Meals**

**4,958.88**

**The Swaziland Expedition: debited from the OSISA Funds**

**Justice Langa/Justice LM Lehohla-overnight accommodation in JHB**

**1,321.11**

**Justice BJ Odoki - travel reimbursement**

**8,539.99**

**Teletransmission fee - Payment to Judge Odoki**

**170.00**

**The Uganda Conference: debited from the OSIDEV Funds**

**SAA Netcare travel - inoculation costs**

**303.00**

**Uganda Hgh Commission - Visa costs - Uganda Conf**

**300.00**

**SAA Netcare - Malaria Medication - Uganda Conf**

**513.30**

**Conference on Judicial Training Institutions: debited from FORD  
FOUNDATION Funds**

**Park Hyatt - Hotel accommodation & airport transfers**

**67,042.74**

**By Word of Mouth - Conferencing and Catering**

**27,313.37**

**World Travel - Airfares**

**55,273.30**

**Administration Costs**

**3,450.56**

**Total Expenditure**

**186,675.25**

**Balance of funds**

**1,725,672.75**