



JUDICIARY

Annual Report 2017/18

Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartially, dignity, accessibility and effectiveness of the courts. An order or decision issued by a court binds all persons to whom and organs of state to which it applies.







APP	Annual performance plan	NOC	National Operations Committee
AU	African Union	NPA	National Prosecuting Authority
AVR	Audio Visual Remand	OCJ	Office of the Chief Justice
CCJA	Conference of Constitutional Jurisdictions of Africa	PEEC	Provincial Efficiency Enhancement Committee
DCS	Department of Correctional Services	RAF	Road Accident Fund
DEEC	District Efficiency Enhancement Committee	REEC	Regional Efficiency Enhancement Committee
DoH	Department of Health	SAC-IAWJ	South African Chapter of the International Association of Women Judges
DoJ&CD	Department of Justice and Constitutional Development	SAJEI	South African Judicial Education Institute
DPCI	Directorate for Priority Crime Investigation	SAPS	South African Police Service
DSD	Department of Social Development	SuCA	Superior Courts Act 10 of 2013
DPW	Department of Public Works	WCCJ	World Conference on Constitutional Justice
EXCO	Executive Committee		
GCB	General Council of the Bar of South Africa		
ICT	Information and Communication Technology		
JAIT	Judiciary and Administration Information and Communication Technology		
JCOM	Judicial Communications Committee		
JCFMC	Judicial Case Flow Management Committee		
JOC	Judicial Oversight Committee		
JSC	Judicial Service Commission		
LSSA	Law Society of South Africa		
MSP	Master Systems Plan		
NALC	National Advisory Library Committee		
NBEB	National Bar Examination Board		
NCIC	National Court Infrastructure Committee		
NCSS	National Council for Correctional Services		
NEEC	National Efficiency Enhancement Committee		



Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartially, dignity, accessibility and effectiveness of the courts. **An order or decision issued by a court binds all persons to whom and organs of state to which it applies.**

PART A: GENERAL INFORMATION	6
1. Foreword by the Chief Justice	8
2. The South African Judiciary	12
PART B: STRATEGIC OVERVIEW	14
1. The Judiciary of South Africa	16
2. Regulatory framework in the judicial environment.....	18
2.1. The Constitution.....	18
3. Norms and Standards for the performance of judicial functions.....	20
a. The Judicial Service Commission and Regulations	20
4. Disclosure of Judges' registrable interests.....	21
4. Judges Remuneration and Conditions of Employment Act, and Regulations...	21
5. The South African Judicial Education Institute Act.....	23
PART C: GOVERNANCE FRAMEWORK OF THE JUDICIARY	24
1. Heads of Court and its subcommittees	26
2. Stakeholder forums	36
Part D: COURT PERFORMANCE	42
1. Overview.....	43
2. Key performance indicators	45
3. Performance of the Superior Courts for	
the period from 1 April 2017 – 31 March 2018.....	47
3.2. Reserved judgments	48
PART E: SEMINARS FOR JUDGES	52
1. The South African Judicial Education Institute	54
PART F: JUDICIAL APPOINTMENTS, RETIREMENTS AND VACANCIES	58

PART A

GENERAL INFORMATION





**The judicial authority of
the Republic is vested
in the courts.**



Our constitutional democracy is one that comprises three co-equal and functionally independent arms of the State. None is thus supposed to be overtly or subtly managed by the other. It is all about checks and balances as opposed to the virtual and overstretched dependency of one on the other, which could inadvertently result in the one being in effect dependent on the other. All arms of the State are creatures of the Constitution and how we carry out our constitutional mandates is more a function of our respective constitutional prescripts than institutional preference or sheer tradition.

A practice developed during the apartheid era in terms of which the Judiciary accounted to public representatives in Parliament, and by extension to the public, through the agency of the Minister of Justice. Even Parliamentarians knew that whenever they needed information about the Judiciary all they had to do was to channel questions to them through the Minister. And the Judiciary would in providing its response follow the same channel. This practice so entrenched itself that it found easy passage into the truly democratic constitutional dispensation that accounts for the Judiciary that is now in place.

The leadership of the higher courts analysed the situation from a constitutional perspective, identified the inappropriateness of accounting the traditional way and resolved to delink the accounting responsibilities of the administrative office – the Office of the Chief Justice (OCJ) –

from those relating to court performance, which is a shared section 165(6) responsibility of the Judiciary. For reasons I need not go into, while we acknowledge that judicial independence is inextricably linked to judicial accountability, we are satisfied that we bear a direct responsibility to account to the nation ourselves, as is the case with jurisdictions like Kenya, Singapore and many other comparable and progressive constitutional democracies.

That is why we set up a Judicial Accountability Committee to work out the modalities for our accountability. And the materialisation of this “Judicial Accountability Session” is a direct product or consequence of the sterling job that Committee has done under fairly tight time frames. For that, we will be eternally indebted to them.

The purpose of the “Judicial Accountability Session” and the report is to explain to the nation how we have served them in the recent past, what challenges we confront and how we seek to address them, barring those that are incapable of being resolved only by the Judiciary without meaningful intervention by other arms of the State or the cooperation of sister institutions within the broader justice system, like funding and additional functions.

When we began to work together as this judicial leadership team, we identified some of the court performance-related challenges that demanded our urgent attention. To this end, we set up the “Judicial Caseflow Management Committee”. Its strategic mission is to craft, refine and implement time-tested case flow management models to facilitate a speedy more efficient and effective delivery of service to the public. Implementation has taken place and the professional consumers of our services, particularly at the higher court levels, have for some time now been speaking glowingly about the beneficial effect of judicial case management as implemented.

Case flow management works hand in glove with the "Norms and Standards" that the Chief Justice, working with the collective leadership of the Judiciary, is required by section 165(6) of the Constitution and section 8 of the Superior Courts Act to develop and adopt.

In our Norms and Standards that have been operational for several years now, we prescribe for ourselves the same judicial case flow management system mentioned above. It restores the control and management of cases back to Judicial Officers and ensures that we progressively work our way out of the counter-productive practice of enrolling matters for hearing just because a request for a set down was made, even when they are far from ready for trial. Matters are in many instances now and will in all respects going forward, be enrolled only if all the essential preparatory steps, including full investigations in criminal matters, have been taken to avoid delays.

Because court-annexed mediation has not been successfully introduced by the Ministry in the Magistrates' Court, the leadership of the Judiciary with the facilitation of the South African Judicial Education Institute (SAJEI) embarked on a training programme for Judicial Officers on a win-win court-annexed mediation system during the first two weeks of July. Pilot projects are in the pipelines in both the Pretoria and Johannesburg High Court and Magistrates' Court. A highly skilled mediator, a Judge of many years, has been identified to help with the implementation of this programme and to even train the trainers.

We are also working on formalising our working relationship with community-based justice centres which are run by well-trained para-legals. We even invited some of them to a National Efficiency Enhancement Committee (NEEC) meeting where they enlightened the broader leadership of the Judiciary more about what they are about, what they have achieved in collaboration with the

Judiciary, what challenges they face and how they could be overcome. These centres are essential access to justice facilitating instruments that need our financial and logistical support.

Reality also sunk in that we will never be as effective as the public is justifiably entitled to expect us to be as long as there was no mechanism in place for interaction with key role players in the justice system. That realisation led to the establishment of the NEEC which is chaired by the Chief Justice. It comprises all the Heads of Court, the NPA, SAPS, Correctional Services, Public Works, Justice and Constitutional Development, Health, Legal Aid South Africa, Social Development, Road Accident Fund, the organised legal profession, the OCJ and others. We have through this vehicle been able to raise with each other the challenges we pose to or hurdles we place on the path of others in their attempts to serve the nation and together propose remedial action. And this has been most helpful. The NEEC has its provincial equivalents chaired by the Judges President.

We have also been able to get SAJEI to be fully operational. It has trained and continues to educate all Judicial Officers and Traditional Leaders for the proper execution of their judicial functions. To facilitate further transformation of the Judiciary, we offer training to aspirant Judicial Officers, and to all other Judicial Officers – the newly appointed ones and even others who have been on the Bench for years – on an ongoing basis. We have even begun to publish a highly informative and professional journal that deals with matters of great interest and significance to the broader legal family.

We set up a Committee that has helped us develop the appropriate court-automation system. It will help us implement electronic-filing and electronic record-keeping, performance-related and hearing-related data capturing, information dissemination or access to information relating to cases and all other matters that affect court operations.



Allied to this are strenuous transformative and cost-cutting efforts to secure our own judgments electronically and make them freely accessible to ourselves together with statutes, and such other material we consider to be essential tools of trade without which judicial functions cannot be effectively carried out. Funding for these exceptionally effective cost-saving measures is a serious challenge. But, our National Library Advisory Committee and the Law Reporting Project Committee have done very well in this connection. We, however, like all other users, continue to pay a high premium to access the product of our labour – our judgments produced by us at great expense to the State. We all need to get our priorities right as a State.

Committees have been set up to identify and cause to be addressed challenges relating to court infrastructure, security, remuneration, and court order integrity. The latter has the extremely urgent task of arresting the emerging trend of generating fraudulent court orders. Mechanisms have been developed to stem the rising tide of these criminal activities which seem to be too stubborn to challenge even to the police to whom these matters have been reported. Courts continue to be woefully unsecured. For example, the apex

court is only secured by security personnel armed with batons. Unfortunately, as with many issues of great importance, the Judiciary is not only the only Arm of the State but to my knowledge also the only institution that cannot acquire its own library materials, effect changes it considers appropriate, cause effective security measures to be implemented, extremely under-resourced to the point of inadvertently rendering the capacities necessary for the speedy, effective and efficient delivery of justice to all our people. We also continue to explore effective measures through which to communicate what we do and share information as generously as the foundational values of our democracy – transparency and accountability – require of us to do.

Where the Judicial Code of Conduct has been flouted, we have taken steps to refer conduct that is reasonably suspected to constitute misconduct to the Judicial Service Commission. There has indeed been inordinate delays in finalising matters that appear to be sufficiently serious to warrant impeachment. Protracted and several court challenges impeded the speedy finalisation of those matters. Otherwise, almost all matters that did not require the establishment of the Judicial Conduct Tribunal to assess the possibility of

impeachment were finalised within a reasonable period. And they constitute the overwhelming majority of the complaints we receive. Otherwise, our system for monitoring reserved judgments and part-heard cases has proved to be efficient wherever it is properly implemented.

We will continue to innovatively explore other measures for the enhancement of efficiency and effectiveness. The full implementation of judicial case management, the introduction of a win-win free court-annexed mediation and court modernisation would go a long way to improve court performance.

I am indebted to the collective leadership of the Judiciary, the Committee and all our structures as well as the OCJ for the professional cooperation and selflessness displayed.

We remain deeply concerned that over 615 prosecutorial posts remain unfilled in the NPA owing to budgetary constraints and that the budget of the courts is woefully inadequate compared to what is required to have a Judiciary that is comprehensively efficient and effective in its operations.

A realignment of the higher and lower Judiciary, their structural and functional unification and the implementation of an administrative model that is truly consistent with institutional independence have become imperative.

Our performance report reveals that we have done well but much more still needs to be done. There are systems in place and several others identified to improve court performance, judicial and institutional or administrative independence so that South Africans have meaningful access to courts and that quality justice is speedily, effectively and efficiently delivered to all.

Mogoeng Mogoeng

Chief Justice of the Republic of South Africa

Section 165 of the Constitution provides that the judicial authority of the Republic is vested in the courts, which are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.

All persons and organs of State are barred from interfering with the functioning of the Courts and organs of State, through legislative and other measures, are instructed to assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.

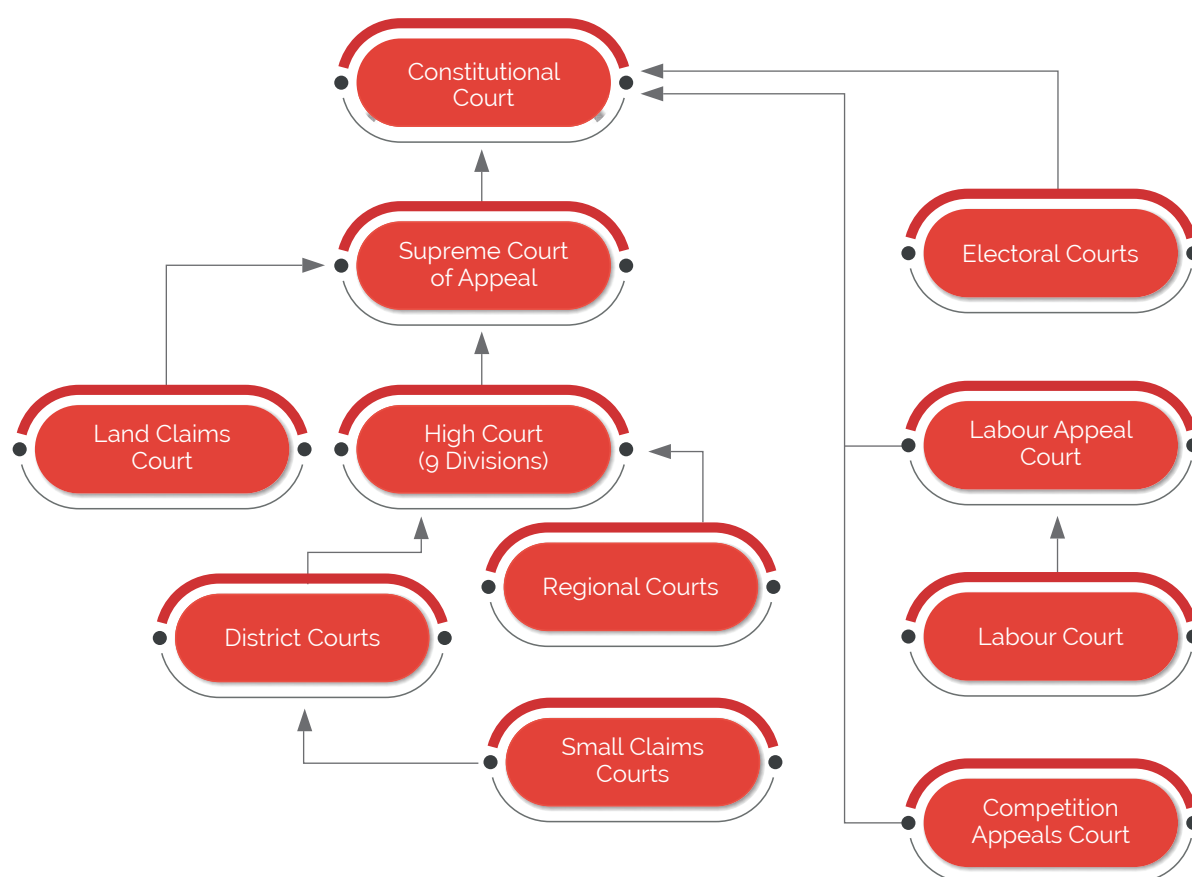
An order or decision issued by a court binds all persons to whom and the organs of State to which it applies.

The Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and monitoring of Norms and Standards for the exercise of the judicial functions of all courts.

Section 166 of the Constitution lists the courts as follows:

- i. The Constitutional Court;
- ii. The Supreme Court of Appeal;
- iii. The High Courts, including any high court of appeal that may be established by an Act of Parliament to hear appeals from High Courts; and
- iv. The Magistrates' Courts and any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Courts or the Magistrates' Courts.:

The Hierarchical Court Structure for the South African Courts can be graphically depicted as follows:



The Chief Justice is the Head of the Judiciary, as well as the Head of the Constitutional Court. SuCA defines "Head of Court" in context, as the following:

- i. For the Constitutional Court, it means the Chief Justice;
- ii. For the Supreme Court of Appeal, it means the President of that Court;
- iii. For any Division of the High Court, it means the Judge President of that Division; and any court of a status similar to the High Court, the most senior Judge of such court.

Each Head of Court is further supported by a Deputy.

The overall responsibility of managing judicial functions and overseeing the implementation of the Norms and Standards, vests in the Chief Justice as Head of the Judiciary in terms of section 165 (6) of the Constitution and section 8(2) of SuCA.

SuCA stipulates that the management of the judicial functions of each court is the responsibility of the Head of that Court. The Judge President of a Division is also responsible for the coordination of the judicial functions of all Magistrates' Courts falling within the jurisdiction of that Division. The Heads of the various courts, must manage the judicial functions and ensure that all Judicial Officers perform their judicial functions efficiently.

The OCJ was established to:

- Ensure that the Chief Justice is able to properly execute his mandate as both the Head of the Constitutional Court and the Head of the Judiciary;
- Enhance the institutional, administrative and financial independence of the Judiciary; and
- Improve organisational governance and accountability, and the effective and efficient use of resources.

The mission of the OCJ, led by the Secretary-General, is to provide support to the Judiciary to ensure effective and efficient court administration services.

The OCJ therefore provides court administration and support services to the Superior Courts, to ensure its effective and efficient administration.

This is accomplished by managing the administration of Superior Courts through:

- Managing and funding of their activities and operations;
- Providing administrative and technical support to them;
- Assisting the Chief Justice in monitoring their overall performance; and
- Enhancing judicial stakeholder relations.



PART B

STRATEGIC OVERVIEW





The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.

The Constitution of the Republic of South Africa, 1996, provides that South Africa is one sovereign democratic state founded on, amongst others, the values of human dignity, the achievement of equality and the advancement of human rights and freedom.

The State consists of three Arms namely: The Judiciary, Legislature and the Executive. These three Arms perform separate, yet integrated roles and duties in the running of the affairs of State in a constitutional arrangement which is commonly referred to as the doctrine of separation of powers. An important aspect of this doctrine, is judicial independence, which comprises functional and institutional independence.

The Judiciary has an obligation to demonstrate the relevance and significance of the Constitution of the country, and support the Constitution, as well as its laws and institutions. It is also obliged to:

- Maintain credibility and instil confidence in its ability to set strategic priorities;
- Develop a plan to deliver on its objectives within reasonable time frames, where practicable; and
- Ensure that South Africa has the necessary fundamentals in place to enable access to justice.

Experience has taught us though that it is not necessarily the complex and highly sophisticated, but often the simple and practical solutions that address issues in our systems the most adequately. Point of departure is to identify the challenges that prohibit the Judiciary from executing its constitutional mandate efficiently and effectively. Questions that one should ask for example include:

- Is there proper judicial self-governance in the area of court administration; and
- Do they control their own processes and procedures?

The identification and exchange of best practices and the setting of measurable targets for court performance essentially aim to ensure that the Judiciary regains control of litigation and court processes.

Throughout the world, the Judiciary remains accountable to the people for the power and authority bestowed upon it. In many African and other democracies, the Judiciary has led this process, developed a Strategic Plan for the implementation of its vision, set targets for measuring its performance and developed ways to report on its work to the public it serves.

Historically, there were no accountability mechanisms to allow the South African Judiciary to report on court performance and other matters related to the exercise of its constitutional mandate. Traditionally, Judges accounted through their judgments with the Executive reporting on their judgments, court performance and related budget matters.

As our democracy matures and develops and the principle of Judicial independence becomes more crystallised, it becomes necessary for the Judiciary to develop its own system of accounting for the state power endowed upon it.

In addition to the judicial functions, the role of the Chief Justice as Head of the Judiciary is accompanied by various administrative tasks. To perform these tasks, the Chief Justices had to predominantly rely on support from the National Executive. The administration of the courts was therefore managed by a department within the National Executive branch of government. This Executive-based court administration raised concerns regarding the independence of the Judiciary.

A process was defined to implement this judicially-based court administration, which consists of the following three distinct phases:

Phase 1: The establishment of the OCJ as a national department located within the Public Service to support the Chief Justice as Head of the Judiciary;

Phase 2: The establishment of the OCJ as an independent entity, similar to the Auditor-General; and

Phase 3: The establishment of a structure to provide judicial-based court administration.

In the rollout of phase 1, the President of the Republic of South Africa provided for the establishment of the OCJ as a new, national department, through Proclamation 44 of 2010.

Subsequently, the former Chief Justice S Ngcobo established the Committee on Institutional Models in 2011, to make recommendations on appropriate working models for an institution to support the Chief Justice as Head of the Judiciary.

Following the work of the Committee, a report was produced and submitted to the Executive in 2013. The report was titled: *Capacitating the Office of the Chief Justice and Laying Foundations for Judicial Independence: The next Frontier in our Constitutional Democracy: Judicial Independence*.

One of the recommendations of the report was that, as part of phase 2, a Judicial Council is established to exercise oversight functions for an independent court administration as a common way of balancing independence and accountability. The Council will

also be responsible for judicial policy formulation and setting of Norms and Standards. This will enable the Chief Justice to share responsibility and accountability for judicial governance with other persons, including other members of the Judiciary.

Another recommendation of the report was that the OCJ should function within a judicial governance system founded within a Judicial Council. The composition of the Judicial Council should be extensive and amongst other comprise Judges, Regional and District Court Magistrates, a member of civil society, a university law teacher, the Minister for Justice and Correctional Services, and a person designated by the Chapter 9 Institutions.

The report further sought to provide a conceptual basis to inform legislative measures required for the establishment of the proposed independent and Judiciary-based court administration. It determines that the Judicial Council will assist the Chief Justice in policy-making, as well as a Courts Advisory Body, to enhance the independence and accountability of the Judiciary.

In its initial phases after delinking from the DoJ&CD, reporting on judicial functions was integrated in the planning and reporting processes of the OCJ. The time has now come for the Judiciary to take the lead on accounting to the public on its work, and on how it exercises the power and authority that the State has endowed on it. The Judiciary should be responsible for setting its own performance indicators and targets for the purposes of accountability; evaluation of its performance and identification of areas that require improvement.



2.2 The Constitution

Section 165(2) of the Constitution provides that the Judiciary is independent and subject only to the Constitution and the law. Section 165(6) of the Constitution of the Republic of South Africa, 1996 read with section 8(2) of SuCA, provides that the Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and monitoring of the Norms and Standards for the exercise of judicial functions of all courts.

Schedule 6(16)(a) of the Constitution provides that as soon as it is practical after the Constitution took effect, all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with the view to establish a judicial system suited to the requirements of the new Constitution.

Section 85 vests the Executive Authority in the President, which he or she exercises together with other members of the Cabinet.

Section 92(2) of the Constitution provides that members of the Cabinet, collectively and individually, are accountable to Parliament for the exercise of their powers and the performance of their functions.

Section 197(1) of the Constitution establishes national government departments in the public service and it provides that public service "must loyally execute the lawful policies of the government of the day."

Section 55 mandates the National Assembly to provide for mechanisms to maintain oversight of the exercise of Executive Authority, the implementation of legislation, and any organ of State. Section 239, the definitions section of the Constitution, in its definition of "organ of state" specifically stipulates that an organ of State does not include a court or a Judicial Officer. This clearly excludes the Judiciary from the National Assembly's oversight power.

Section 8(3) stipulates that the Chief Justice may issue written protocols or directives, or provide guidance or advice to Judicial Officers in respect of Norms and Standards for the performance of judicial functions.

Section 8(4) provides that any function or power in terms of section 8(3) vesting in the Chief Justice may be delegated to any other Judicial Officer.

Section 9 provides that Superior Courts may have recess periods. This is determined by the Chief Justice in consultation with the Heads of Court, to enable Judges to conduct research and attend to outstanding or prospective judicial functions that

may be assigned to them. During each recess period, the Head of each court must ensure that an adequate number of Judges are available in that court to deal with any judicial functions that may be required, in the interests of justice, to be dealt with during that recess period.

In terms of the SuCA regulations relating to criteria for determining the number of Judges to be appointed to the Supreme Court of Appeal and the Divisions of the High Court of South Africa, factors such as court performance statistics and information relating to the performance of judicial functions must be considered when determining the number of Judges to be appointed at the court.



In February 2014, the Chief Justice, pursuant to the constitutional imperative contained in section 165 of the Constitution and in section 6 of SuCA, enacted Norms and Standards for the performance of judicial functions with the unanimous support of the Heads of Court.

These Norms and Standards seek to achieve the enhancement of access to quality justice for all, and affirm the dignity of all users of the court system by ensuring the effective, efficient and expeditious adjudication and resolution of all disputes through the Courts, where applicable.

Section 6 (i – iii) of the Norms and Standards stipulates that:

- i. The Chief Justice as the Head of the Judiciary shall exercise responsibility over the monitoring and evaluation of the performance of each Judicial Officer, as well as the monitoring and implementation of Norms and Standards for the exercise of leadership and judicial functions of all courts;
- ii. Everything reasonably possible should be done to ensure that Judicial Officers have all the resources and tools of trade available, to enable them to perform their judicial functions efficiently and effectively. Reporting is an essential and integral part of ensuring effective monitoring and implementation of the Norms and Standards. All Judicial Officers shall submit data on their performance and the workflow of cases for collation and analysis, after which a comprehensive report will be compiled by the Head of Court; and
- iii. The report must be submitted to the Head of a Court who, in the case of Regional and District Courts, will submit it to the Judge President concerned for further submission to the Chief Justice, to assess the functioning and the efficiency of the courts. Each Head of Court must monitor and evaluate the performance of the Judicial Officers serving in his or her court on a daily basis, to ensure optimal utilisation and productivity.

a. The Judicial Service Commission and regulations

The Judicial Service Commission (JSC) is a constitutional body responsible for judicial appointments, headed by the Chief Justice as informed by the Constitution and the JSC Act, Act 9 of 1994.

The JSC has powers in terms of the Constitution to determine its own processes. The practice has been that interviews for Judicial appointments are conducted in public.

The JSC has established a Judicial Conduct Committee (JCC) to deal with complaints on Judicial Conduct. The Code of Judicial Conduct serves to assist every Judge in dealing with ethical and professional issues and to inform the public of the judicial ethos of the Republic.

Disclosure of processes relating to complaints, is an example of the balance between judicial independence and dignity, and the overriding principles of transparency and accountability as required by the JSC Act.

In terms of the JSC Act, complaints against members of the Judiciary must be based on, inter alia, the performance of a Judge, against set standards. These performance statistics and information on the performance of judicial functions can only occur through reporting and accountability.

In terms of Article 10(2) of the Code of Judicial Conduct, a Judge must deliver all reserved judgments before the end of the term in which the hearing of the matter was completed, but may in respect of a matter that was heard in two weeks of the end of that term; or where a reserved judgment is of a complex nature or for any other cogent and sound reason and with the consent of the Head of the Court, deliver that judgment during the course of the next term.

Judges are legislatively required to disclose their

registrable interests to the Registrar of Judges' Registrable Interests, to enhance transparency, accountability of and public confidence in the Judiciary. The Registrar is the custodian of the register of Judges registrable interest.

Section 6(2) (c) of the JSC Act, 1994, requires the JSC to submit a written report to Parliament for tabling. The report must amongst others, include information regarding all matters relating to the Register of Judges' registrable interests as reported by the Registrar.

Regulation 5 of the Regulations Relating to the JSC Act, 1994: Disclosure of Registrable Interests (the Regulations, requires the Registrar to furnish the JSC with the names of those Judges in active service who have disclosed interests of their family members.

Regulation 3 requires newly appointed Judges to disclose their registrable interests within 30 days of their appointment as Judges.

In 2017/2018, a total of eighteen (18) Judges were appointed and they all disclosed their registrable interests within the time prescribed by the Regulations.

The disclosed interests have since been captured in the Register of Judge's Registrable Interests as per section 3 (3) of the Regulations and Judges have been provided with individual entries to the register relating to them.

After making the first disclosure, a Judge may at any time disclose to the Registrar or inform the Registrar of such amendments as may be required (Regulation 3(4).

However, every year in March, Judges in active service must inform the Registrar in writing whether the entries in the register are an accurate reflection of that Judge's registrable interests and if applicable, make such further disclosures or amendments as may be required.

In March 2018, there were 249 Judges in active service, of whom 247 made their disclosures on time. The two Judges who did not disclose, are unable to do so, due to currently being ill and on sick leave. They will be requested to disclose as soon as they are able to do so.



Judges Remuneration and Conditions of Employment Act, and Regulations

The Judges Remuneration and Conditions of Employment Act 47 of 2001, with related regulations, govern the employment benefits of Judges. The Independent Commission for the Remuneration of Public Office Bearers makes recommendations concerning the salaries, allowances and benefits of Judicial Officers.

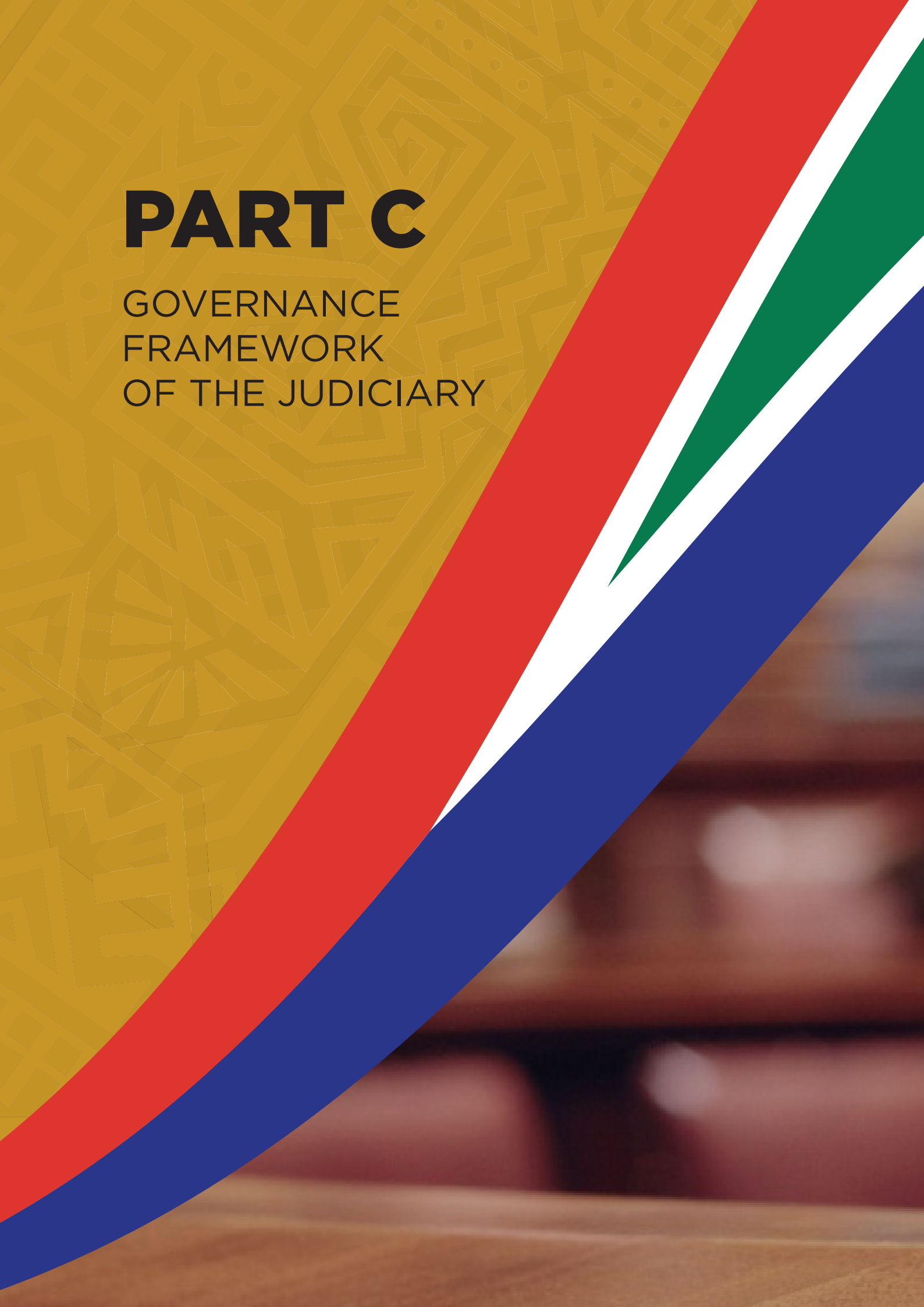


The SAJEI was established to promote the independence, impartiality, dignity, accessibility and effectiveness of the courts through continuing judicial education as provided for in the South African Judicial Education Institute Act 14 of 2008. The institute commenced with training in January 2012.



PART C

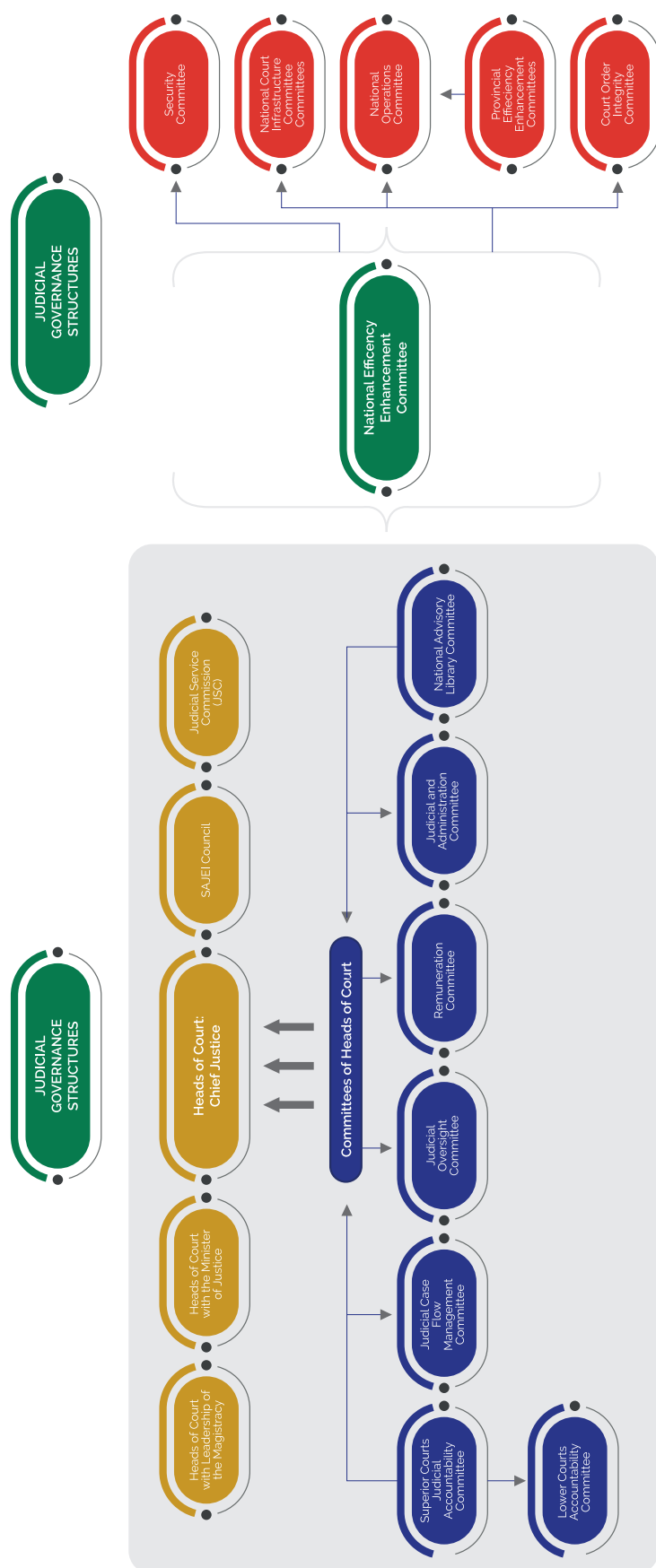
GOVERNANCE FRAMEWORK OF THE JUDICIARY





**No person or organ of state may
interfere with the functioning
of the courts.**

1. Judicial Governance Structures



a. Heads of Court (Superior Courts)**(i) Terms of reference and purpose**

The Heads of Court meeting allows for the judicial leadership of the Superior Courts to discuss and make resolutions that affect the Judiciary and the Courts. The Heads of Court meeting is an important channel for communication between leaders of the Superior Courts. This channel of communication has, since the enactment of the Superior Court Act, become increasingly important and the OCJ must provide the research, administrative, financial and other support that it requires for its activities.

The Heads of Court have set up subject-matter committees that evaluate and recommend national policies and legislation on all aspects of judicial administration, to fully prepare it for a Judiciary-led Court Administration. The Heads of Court appoint and mandate Judges to serve on the committees. These committees are assigned to develop policy on such matters as budget, judicial case flow management, court performance reporting, automation and technology and court efficiency on both a national and a provincial level.

(ii) Composition

The meeting is chaired by the Chief Justice and attended by the Judges President of the Superior Courts, or a Judge delegated to attend on their behalf. The Secretary-General of the OCJ, the CEO of SAJEI, and selected OCJ Executive Committee (EXCO) members also attend the meeting in support of the Heads of Court.

(iii) Resolutions, achievements and actions

On 27 August 2015, the Chief Justice and Heads of Court, as representatives of the Judiciary, met with the President and members of the National Executive. This historic meeting, a first-of-its kind in our democracy, was convened at the request of the Chief Justice. Its purpose was to discuss matters of mutual concern directed at enhancing the working relations between these two Arms of the State and to strengthen our constitutional democracy. The Judiciary and the Executive each reaffirmed their commitment to the independence of the Judiciary, the rule of law and the separation of powers, all of which underscore our constitutional democracy. They also reiterated their commitment to the institutional integrity of all Arms of the State, the Executive, Judiciary and the Legislature. The meeting lay the foundation for future engagements between the Arms of State.

In February 2003, the Heads of Court established a committee tasked with preparing a report on the usage of the various official languages of the country in the courts, to determine whether there are any issues with its usage and offer recommendations, if necessary.

The view of the Heads of Court is that changes are necessary in the use of the various official languages in the courts, as not all languages are currently afforded the same status. Only English and Afrikaans enjoy the status of official languages and the other nine are handled in exactly the same manner as foreign languages.

This question that arises is how can the need for an increase in the usage of all official languages in the courts be recognised, when only Judges who speak a certain language end up adjudicating cases where the parties involved are from the same language group? Instead, an appropriate balance must be struck among the various cultural interests by addressing the need for factors such as the following :

- Providing for our constitutional imperatives on official languages, whilst taking practicality and expense into cognisance;
- Developing and advancing the official indigenous languages;
- Ensuring fair trials and hearings to make sure justice is served,
- Accommodating reasonable and legitimate expectations of all language groups in our country, within the severe constraints of various resources.

The Committee recommended that, for reasons of practicality, English should be regarded as the language of record for all courts. This should not deny the litigant, witness or legal practitioner the right, where practicable, to address the court in the language of his or her choice. In instances where a language other than English is used during the court proceedings, it must be translated contemporaneously into English. Where contemporaneous translation is not available, the court record, or portions of the court record in a language other than English, must be translated into English.

At the Heads of Court meeting held in March 2017, it was decided that the recommendation that English be the language of record at the Superior Courts must be implemented.

Subsequent to a meeting between the President, the Chief Justice and the Minister of Finance regarding the present economic situation in the country, the Heads of Court are of the view that

the Judiciary should play an active role to address the crisis by implementing cost-saving initiatives. The Heads of Court tasked the Remunerations Committee with the drafting of a proposal on cost-cutting measures which could be implemented. The resolution on cost containment was passed on 3 April 2016, following consultation with the Judiciary, and it was implemented with immediate effect.

b. Judicial Accountability Committee: Superior Courts

(i) Terms of reference and purpose

The Chief Justice and the Heads of Court resolved that the Judiciary should be responsible for setting its own performance indicators and targets for the purpose of accountability; evaluation of its performance and identification of areas that require improvement.

The Heads of Court resolved to set up a sub-committee on Judicial Planning; Reporting and Accountability to address the following issues, inter alia:

- (a) Actions Judges should take do to improve court performance;
- (b) The most effective methods for collating statistics;
- (c) Effective ways of communication of the Judiciary's work to the public (progress made; the challenges experienced and the resources required); and
- (d) Measures to best ensure that targets are reviewed on an ongoing basis.

(ii) Composition

Judge President M Leeuw chairs the committee and its membership consists of: Judge J Shongwe; Judge President D Mlambo and Judge President E Makgoba. The committee may request officials from the OCJ to assist and support the work of the committee. Acting Judge President C Musi was added as a member, following his appointment by the Chief Justice to coordinate court performance

information for the Magistrates' Courts. Court Administration provides logistical and secretarial support to the committee and also assists with content and research.

(iii) Resolutions, achievements and actions

The Judicial Accountability Committee (JAC) is responsible for drafting and reviewing of the performance indicators for the Judiciary. The Head of each Court was consulted during the drafting process, and the inputs from the Judges was incorporated. The process culminated in a workshop on judicial accountability in December 2017, where the indicators and targets were adopted.

The indicators, reported in Part D of this report are as follows:

- i. Percentage of cases finalised by the Constitutional Court;
- ii. Percentage of cases finalised by the Supreme Court of Appeal;
- iii. Percentage of cases finalised by the Competition Appeal Court;
- iv. Percentage of cases finalised by the Electoral Court;
- v. Percentage of cases finalised by the Labour Court and Labour Appeal Court;
- vi. Percentage of cases finalised by the Land Claims Court;
- vii. Percentage of criminal cases finalised by the High Court;
- viii. Percentage of civil cases finalised by the High Court;
- ix. Number of cases in the High Courts which have been on the roll for more than 12 months (criminal case backlog); and
- x. Percentage of reserved judgments finalised in all Superior Courts.

The indicators were informed by the Constitutional provisions, Superior Court Act, legislative mandate

and functions, the Judicial Norms and Standards; and the strategic and operational priorities of the Judiciary. The performance targets define a specific level of performance that the Courts should aim to achieve within a given time period.

The monitoring of these indicators will assist with establishing a baseline on court performance and allow the Judiciary to review the indicators and set targets. Every Quarter, the Committee meets to monitor and evaluate the performance information, to prepare a report for the Chief Justice

c. Judicial Accountability Committee for the Magistrates' Court

(i) Terms of reference and purpose

At the March 2017 meeting of the Chief Justice and the leadership of the Magistracy, the Chief Justice expressed his wish to receive reports on court performance at the Magistrates' Courts at Regional and District Court level for criminal matters; civil matters or any other matter. He requested for these reports to specifically contain the following information:

- (a) Number of cases received by all Magistrates' Courts;
- (b) Number of cases finalised;
- (c) Number of cases not finalised;
- (d) Reasons for not finalising the cases;
- (e) Status of the backlogs; and
- (f) Period of said backlogs.

(ii) Composition.

Acting Judge President C Musi was mandated to coordinate all court performance related matters of the Regional and District Courts. A committee was established that consists of Acting Judge President Musi as chair and representatives from the Regional Court Presidents' Forum; representatives from the

Chief Magistrates' Forum; officials from the OCJ; Officials from the DoJ&CD; and a representative from the Magistrates' Commission.

(iii) Resolutions, achievements and actions

The committee developed draft indicators for the Regional and District Courts. Members of the Magistracy were consulted on these indicators and it will be discussed in a workshop, prior to implementation in 2019.

d. Meeting of the Chief Justice with the leadership of the Magistracy

The Chief Justice, and the Heads of Court with the leadership of the Magistracy, meet bi-annually to allow the judicial leadership of the Superior Courts, Regional Courts and District Courts to discuss and make resolutions on matters of mutual interest.

The meeting is chaired by the Chief Justice. The Judges President of the Superior Courts, the Regional Court Presidents and the Administrative Heads of the District Courts are all present at the meeting. The Secretary-General of the OCJ, the CEO of SAJEI, and selected OCJ EXCO members attend the meeting in support of the Heads of Court as well as officials of the DoJ&CD.

The meeting facilitated the consultation process with the Judiciary on the ongoing rationalisation of the magisterial districts programme undertaken by the Ministry. The meeting further created a platform for engagement on processes for the appointment of Acting Judges and consultation on regulations and legislative amendments that affect the Judiciary.

e. Judicial Case Flow Management Committee

(i) Terms of reference and purpose

The Judicial Case Flow Management Committee (JCFMC), was established in 2011 and serves as a subcommittee of the Heads of Court. Its purpose is to develop the necessary strategies and take the

necessary steps to implement management of the flow of civil cases by Judges in the Superior Courts. Its objectives are to ensure that the assignment and allocation of cases to a Judicial Officer occurs at the earliest available opportunity. It is the responsibility of that Judicial Officer to manage the flow of that case in an efficient and effective manner, and ensure its speedy finalisation.

(ii) Composition

The committee is chaired by the now retired Deputy President of the Supreme Court of Appeal, Justice KK Mthiyane, with Judge S Majiedt as Deputy Chair. Each Division of the High Court, as well as the Constitutional Court, Supreme Court of Appeal, and the Labour and Labour Appeals Court, is represented on the committee. Officials from the OCJ, the DoJ&CD are also members of the Committee. The JCFMC reports to the Heads of Court and meets quarterly, or as often as deemed necessary.

(iii) Resolutions, achievements and actions

The committee drafted court rules to facilitate judicial case flow management. The purpose of these draft rules is to provide the courts with procedures that will ensure the just and expeditious resolution of the real issues in civil proceedings with minimal expense and resources. This is amongst other accomplished by monitoring the progress of individual proceedings against predetermined timelines, and intervening when a proceeding is not progressing satisfactorily.

These rules were submitted and adopted by the Rules Board for Courts of Law, and are awaiting the signature of the Minister of Justice and Correctional Services for implementation.

The JCFMC also embarked on a project to consolidate all practice directives and commenced with the compilation of a draft Uniform Practice Directives for the consideration of the Chief Justice, that is in line with the Norms and Standards.

f. Judicial Oversight Committee

(i) Terms of reference and purpose

The Judicial Oversight Committee (JOC), which is a Heads of Court sub-committee, was established to assist the Heads of Court in exercising oversight over the OCJ Executive Committee (EXCO) between the Heads of Court meetings. It also acts as advisory body to the OCJ EXCO.

The powers of the JOC are to act in accordance with the directives of the Heads of Court and consider the following in relation to the OCJ:

- (ii) Quarterly financial reports;
- (iii) Quarterly performance information reports;
- (iv) The annual report;
- (v) Strategic plans;
- (vi) Annual performance plans (APPs);
- (vii) Internal audit reports; and
- (viii) The budget of the OCJ as prepared by management.

The committee must also consider reports from the OCJ business units and oversight bodies such as the ARC and the Auditor-General of South Africa (AGSA); and deal with any other issues emanating from the Heads of Court resolutions.

(ix) Composition

Members of the JOC include the following: Justice K Mthiyane; Judge President M Leeuw; Judge President D Mlambo; Judge President M Molemela; and Judge President E Makgoba.

(x) Resolutions, achievements and actions

The JOC established a Sub-Committee to investigate the following:

- The number of Judges that are required on the judicial establishment of every Division of the High Court and Specialised Courts;
- The impact of the existing judicial establishment on the workload of the courts and other related matters; and

- The frequency of appointment of acting Judges in the Divisions of the High Court and Specialised Courts.

The sub-committee presents the outcome of the research work or study, including recommendations for approval to the JOC and for consideration to the Heads of Court.

Key activities

The following recommendations were made to the Heads of Court:

- Approval of the OCJ 2016/2017 annual report;
- Approval of AGSA's audit findings for the OCJ's 2016/2017 financial year;
- Approval of the OCJ's first quarter court performance report for the 2017/2018 financial year; and
- Presentation of the OCJ funding and budget challenges to the Executive Authority.

The following recommendations were made to OCJ management:

- A report must be presented to the JOC on how internal- and external audit findings relating to the 2016/2017 financial year are being addressed in all affected courts;
- Information must be requested from the Judges President on the number of Judges that are currently required in their respective Divisions or Specialised Courts. This information must be included as part of the OCJ budget submission to National Treasury;
- The number of additional capacity (Judges) that is being used in the circuit courts on an acting basis must be determined. This must be included in the final reconciliation as part of the OCJ budget submission to National Treasury;
- The JOC sub-committee must be supported to conduct the relevant research work or a study on issues that the sub-committee was mandated to deal with;

- A report must be prepared to inform the Heads of Court sub-committee on Judicial Accountability on questions that the OCJ is required to answer when appearing before the Portfolio Committee on Justice and Correctional Services (Portfolio Committee) on court performance reports; and
- The JAC must consider the report and provide guidance to the Heads of Court on the matter.

g. National Advisory Library Committee

(i) Terms of reference and purpose

The National Advisory Library Committee (NALC) was established to review the current library services operations, make recommendations for improvements and monitor implementation to ensure effective and efficient management of library services in all Courts. The committee reports to the Heads of Court.

(ii) Composition

This committee is chaired by Judge President M Leeuw and comprises the following members: A Judge and librarian from the Constitutional Court;

- A Judge and librarian from the Supreme Court of Appeal;
- A Judge and librarian of each Division of the High Court;
- A Regional Court President;
- A Cluster Head (District Courts);
- An OCJ official;
- DoJ&CD officials;
- A representative of the State Attorney;
- A representative of the South African Law Reform Commission;
- A State Law Advisor;
- A representative of Justice College;
- An official from the Master's Office; and
- Representatives of the Lower Courts libraries.

The library Services have been provided by the DoJ&CD as a shared service since the transfer of the Superior Courts in October 2014. The management of library services resides within the Court Services Branch of the DoJ&CD.

The DoJ&CD procure the library services through a tender process which remains valid for a period of three years. The services are procured from Lexis Nexis; Juta and Sabinet. The branch manages the outsourced library services contracts through the monitoring of the service level agreements (SLAs) entered into with the contracted service providers.

The library services (print, online and electronic) are provided to the Constitutional Court, Supreme Court of Appeal, all Superior Courts, Magistrates' Courts, Family Advocate Offices, State Law Advisers, Justice College, National and Regional Offices, South African Law Reform Commission and the OCJ. The primary users are Judicial Officers, State Attorneys, State Law Advisors and Law Researchers.

Each main court and office has its own library facility. The libraries in the courts have Library Committees which are chaired by a Judicial Officer. These committees oversee and monitor the governance and management of library functions.

h. Law reporting project

(i) Terms of reference and purpose

The Heads of Court resolved that a Law Reporting Unit must be established for the Judiciary to curb escalating cost arising from the commercialisation of the law reports and to provide library services which are easily accessible to the Judiciary.

The mandate of this unit will be to establish inhouse law reporting for use by the Judiciary. This will facilitate the institutionalisation of law reporting by the Judiciary and the publication of law reports.

(ii) Composition

The committee was mandated by the Heads of Courts and SAJEI Council to investigate the feasibility of establishing such a unit. To assist with this task, a project manager was assigned to the OCJ by the DoJ&CD for a period of six months, from 1 April 2018.

(iii) Resolutions, achievements and actions

This project is ongoing and a benchmarking exercise has already been conducted. To date, the team has accomplished the following:

- Consolidation of the research information collected;
- Refinement of the draft concept note; and
- Production of the draft preliminary benchmarking report with recommendations which will be presented to the Heads of Courts for further input and approval.

Upon approval of the benchmarking report by the Heads of Courts, the project plan will be implemented.

i. Judicial Communications Committee

(i) Terms of reference and purpose

At the Heads of Court meeting in 2015, the Chief Justice identified the need for the establishment of a committee of Judges to develop a communication strategy for the Judiciary, and to directly deal with communication matters relating to the Judiciary and all other matters relating to its functions, constitutional mandate and independence. This led to the founding of the Judicial Communications Committee (JCOM)

(ii) Composition

Judge President D Mlambo was nominated to head this committee and instructed by the Heads of Court to identify other Judicial Officers to engage the media on matters relating to the Judiciary. The Committee is supported by the

Spokesperson for the Judiciary and officials of the OCJ Communications Unit.

(iii) Resolutions, achievements and actions

The JCOM developed a communication strategy for the Judiciary. It furthermore developed a protocol for effectively dealing with media activities and engagements affecting the Judiciary. In addition, the Committee was mandated to control, mitigate and manage risk to the organisation, as a result of communications activities.

Historically, the Judiciary of South Africa has never had a dedicated communication function, which has resulted in fragmented and limited contact with its various communities and stakeholders. It is within this context that one of the interventions identified in the communications strategy for the Judiciary, was the need to establish a newsletter for the Judiciary.

The purpose of the newsletter is to inform members of the Judiciary of the latest judicial developments; to act as a platform for the Judiciary to share views on general judicial matters and to profile the work of members of the Judiciary. To date, three (3) editions of the Judiciary Newsletter have been published, which can be viewed at: <https://www.judiciary.org.za/index.php/news/newsletter>

j. Judiciary and Administration ICT Strategy Steering Committee

(i) Terms of reference and purpose

The Judiciary and Administration Information and Communication Technology (JAIT) Strategy Steering Committee was established in 2013. The purpose of the Committee is to provide direction and oversight over the use of information technology (IT) as a strategic enabler of an effective and efficient Judiciary and its Administration, to improve access to justice.

The JAIT Strategy Steering Committee was tasked to prioritise major IT-enabled initiatives in line with the strategic direction of the Judiciary and its Administration and to monitor and evaluate the

implementation and business benefits realisation of major IT initiatives on behalf of the Judiciary and its Administration. The committee reports directly to the Heads of Court.

(ii) Composition

Judge President D Mlambo chairs the JAIT Strategy Steering Committee and its membership consists of: Judge T Gorven, Judge E Molahlehi, Regional Court President M Djaje, Chief Magistrate A Motlekar, officials from the Office of the Chief Justice and DoJ&CD responsible for ICT and court administration management.

(iii) Resolutions, achievements and actions

The committee provided strategic guidance on the development and implementation of an ICT strategy for the Judiciary. The OCJ ICT MSP outlines the manner in which technology is and will be applied to improve efficiency in court administration. The priorities identified in the MSP are:

- i. An electronic filing solution;
- ii. A case management solution;
- iii. A court performance solution;
- iv. An electronic human resource management solution for Judges;
- v. An information security framework; and
- vi. An infrastructure upgrade.

An e-Filing project was initiated as one of the projects prioritised in the ICT Strategy. This initiative has become a flagship project to modernise the Courts and digitise justice systems. The JAIT Strategy Steering Committee oversees progress made on the e-Filing project and the piloting of the Electronic Court Filing System at the two High Courts planned for the 2018/2019 reporting period.

The committee will also oversee the implementation of a Wi-Fi solution for the courts, to ensure that there is connectivity throughout the critical areas of the court premises and that users without network points have access to the network. This project will be piloted in the 2018/2019 reporting period.

The JAIT Strategy Steering Committee furthermore oversaw the development and management of enhanced websites for the Constitutional Court and Supreme Court of Appeal. These sites contribute towards granting access to detailed information relating to the Judiciary

k. National Court Infrastructure Committee

(i) Terms of reference and purpose

At the meeting between the Chief Justice, Heads of the Superior Courts and leadership of the Magistracy that was conducted in October 2016, serious concerns were raised regarding the state of infrastructure at the courts. The meeting resolved that a committee must be established to monitor and advise on all infrastructure projects at all courts and prepare a comprehensive report relating to all infrastructural challenges affecting Superior Courts and Lower Courts nationally for the Chief Justice.

This led to the establishment of the National Court Infrastructure Committee (NCIC). The facilities function (provision and maintenance) was retained by the DoJ&CD, along with all the funding and resources to manage facilities and infrastructure challenges in the OCJ. The Department of Public Works (DPW) is responsible for infrastructure capital maintenance and the budget for such is with that department.

(ii) Composition

The committee is chaired by Judge President D Mlambo and consists of the following members: Judge President M Leeuw, Judge President F Legodi, Regional Court President M Djaje, Chief Magistrate D Nair and the Secretary-General of the OCJ, as well as officials from the OCJ and DoJ&D who are responsible for facility management. The DPW was invited to the committee after the NEEC meeting in March 2017.

(iii) Resolutions, achievements and actions

The committee prepared a comprehensive report relating to all infrastructural challenges affecting Superior Courts and Lower Courts nationally for the Chief Justice and the Heads of Court. This enabled the Heads of Court to effectively monitor court-related infrastructure projects and to provide input on the prioritisation of projects to improve access to justice.

The committee met with the Constitution Hill Development Company to discuss the possibility of the Judiciary becoming involved in the planned development at the Constitution Hill site, through administrative support from the OCJ. This engagement was part of an ongoing discussion about the best location for the Head Office of the Judiciary.

l. Security Sub-committee

(i) Terms of reference and purpose

The Security Sub-committee was established by the Heads of Court due to concerns raised by the Judiciary relating to security at the Superior Courts and for Judicial Officers. The establishment of the committee was approved by the meeting of the Heads of Court convened during April 2016 and was placed under the leadership of Judge President Jappie as Chairperson.

The committee is mandated to address the general challenges from the respective Divisions where security as a service has an influence on the effective and efficient functioning of the courts. The committee must furthermore make recommendations and advise the Heads of Court on matters pertaining to security at the courts.

(ii) Composition

The Committee is made up of the following members: Judge President A Jappie, Deputy Judge President D Van Zyl, Judge R Hendricks, Judge S Mothle, Judge H Cele, a representative of the Regional Court Presidents' Forum, a representative

of the Chief Magistrates' Forum; a senior official of the DoJ&CD responsible for security matters, and officials from the OCJ.

(iii) Resolutions, achievements and actions

The committee regularly meets with the South African Police Service (SAPS) to discuss challenges related to accessing the services of SAPS during emergencies, when hearing urgent matters late at night and the security provided by close protectors who are allocated by SAPS. SAPS further committed to assist with the compiling of the OCJ Security Policy.

Judges previously raised concerns regarding the fact that they are not issued with official Judicial Identification Documents. The implication thereof is that Judges often experience challenges when entering official facilities for meetings, and notably when inspecting correctional centres. The committee undertook a benchmarking exercise and designed a Judicial Identification Document in consultation with Government Printers. The draft designs were presented to and adopted by the Heads of Court for implementation.

m. Remuneration Committee

(i) Terms of reference and purpose

The Remuneration Committee, chaired by Judge President Waglay, consolidates inputs from the Judiciary on matters concerning the salaries, allowances and benefits of Judges. These recommendations are then considered by the Heads of Court and adoption thereof is commissioned to the Independent Commission for the Remuneration of Public Office Bearers. Amongst that of other public office bearers, this commission annually publishes recommendations in the Government Gazette on the salaries, benefits and allowances of Judges, the upper limits of their salaries, benefits and allowances, and the resources which are necessary to enable Judges to perform the office bearer's functions effectively.

(ii) Resolutions, achievements and actions

At the meeting of the Heads of Court that was convened on 3 April 2016, the recommendations of the Remunerations Committee to implement cost containment measures was adopted. This resolution was implemented immediately, but it is not to be considered as an abandonment of the Judges' existing terms and conditions of employment. The resolution merely constitutes a temporary compromise and if the State's economic environment improves, the Heads of Court will reconsider this resolution and make a decision on whether Judges should revert to their original terms and conditions or whether the current position should be maintained for an extended period. This resolution was communicated to the Judges as well as the Minister of Justice and Correctional Services. The resolution involves the capping of the Judges' and acting Judges' benefits for travel-, chamber- and vehicle allowances. The measures also cap rates of rental of vehicles and accommodation. It was further resolved that Judges should not utilise the services of assessors except in exceptional circumstances where a single assessor may be appointed, with approval for such appointment by the Judge President of the Division. As part of the cost containment measures initiated by the Judiciary, Judges also forfeited salary increases for the 2016/2017 period. These cost-cutting measures have resulted in savings of approximately R12 million per annum.

2. Stakeholder forums

a. National Efficiency Enhancement Committee

(i) Terms of reference and purpose

The NEEC was established to prioritise and improve the efficiency and effectiveness of the justice system to ensure the delivery of quality justice to all. The NEEC is mandated to join the leadership of the Judiciary, the Executive Authority and other stakeholders at the highest level, to collaborate to improve performance and outcomes in the delivery of such quality justice. The NEEC must address the identified shortcomings in the justice system and develop improvement- and implementation plans to enhance the level of performance of each stakeholder.

(i) Composition

The NEEC is chaired by the Chief Justice and comprise the following members: The Heads of the Superior Courts, the Regional Courts' Presidents, the Administrative Heads of the District Courts, the OCJ, the DoJ&CD; the National Prosecuting Authority (NPA), the General Council of the Bar of South Africa (GCB), Law Society of South Africa (LSSA), Legal Aid South Africa, the Department of Social Development (DSD); SAPS, DPW, Department of Health (DoH), Department of Correctional Services (DCS), the Road Accident Fund (RAF), and the Sheriffs Board.



(i) Resolutions, achievement and actions

The NEEC successfully oversaw the development of criminal pre-trial directives for the Regional Courts and was briefed on programmes relating to alternatives to non-custodial sentencing. The NEEC also developed norms and standards, protocols and directives on the usage of the Audio Visual Remand (AVR) system at the Courts. The objectives of these directives are to:

- Ensure a uniform approach with regard to audio visual postponements;
- Ensure that audio visual postponements are utilised where possible, unless the interest of justice dictates otherwise;
- Promote effective use of the systems;
- Prevent unnecessary delays relating to appearance in instances where accused persons are remanded in custody at correctional facilities;
- Minimise the inconvenience to such accused persons;
- Advance the utilisation of modern technology that may improve efficiency of the courts; and
- Improve case flow management.

When concerns were raised about the capacitation levels of interpreters at the Courts, the NEEC established a committee to investigate this matter and to make recommendations. This committee made recommendations as follows:

- Training of interpreters;
- Development of testing tools on language skills; and
- Management of foreign language interpreters.

The committee also engaged tertiary institutions on the development of accredited courses for interpreters at the courts.

b. Provincial Efficiency Enhancement Committees

(i) Terms of reference and purpose

The PEECs, established in 2013, duplicate the structure of the NEEC at provincial level and are chaired by the Judge President. Represented at the PEEC, are the same stakeholders who constitute the NEEC membership, but are represented by the leadership of each province. PEECs were mandated to monitor the following:

- (a) Challenges: Addressing challenges identified by stakeholders in the province;
- (b) Addressing the NEEC priorities and concerns: Priorities and concerns addressed and attended to by the PEEC must best be referred to the NEEC for further action and resolution. These priorities were identified through the addition of the following standing items on all PEEC agendas:
 - o Training initiatives of all stakeholders: The need for training and inhouse training programmes at court or Division level, identified by the NEEC as a priority, should be implemented by the PEEC;
 - o Use of the AVR system: Monitoring of the use of the AVR system, as well as the identification of challenges in the implementation of the system;
 - o Case flow management: Challenges must be identified and interventions must be recommended;
 - o Remand of detainees in custody for longer than two years: The DCS and Legal Aid South Africa are currently sharing reports on the status of these with all PEECs; and
 - o Statistics of court performance by all stakeholders.

- (c) Resources and capacity: Identify and address resource and capacity requirements/constraints in the province;Improvement plans: Develop improvement- and implementation plans to enhance the level of performance required of each stakeholder;Escalation: Where the PEEC is unable to resolve challenges or constraints identified by stakeholders and any other shortcomings, bottlenecks or efficiencies relating to the proper functioning of the Courts, these should be escalated for the attention of the NEEC;Policy amendments:
- (d) The PEECs were also been mandated to recommend policy amendments or developments to the NEEC where necessary.

At the NEEC meeting in March 2017, it was resolved that PEECs must prepare reports annually on the progress, achievements and challenges experienced by the respective PEECs. Following the reports from the PEECs, as well as the NEEC's focus to reduce the number of remand detainees at correctional centres,

the following priorities were identified:

- (a) Detainees who have been awaiting trial for longer than two years: Statistics on the remand detainees awaiting trials in courts are presented to the PEECs by the DCS and Legal Aid South Africa. Each PEEC must report on the reduction in the number of detainees who have been awaiting trial for longer than two years identified at the beginning of the year. The tracking and reporting on progress made will also indicate the correlation between the number of remand detainees and the backlogs at the various courts;
- (b) AVR utilisation: Statistics are presented to the PEEC by the Leadership of the Magistracy. The statistics of utilisation must be tracked and reported on to indicate trends. The stakeholders who are responsible for this, are the Judiciary, DCS and NPA;
- (c) Infrastructure challenges must be identified and resolved;The
- (d) number of training initiatives aimed at

- improving court performance undertaken by stakeholders must be reported on; and
- (e) Court performance progress: Each PEEC must report on areas of improvement in court performance which can directly be ascribed to interventions identified and implemented at the PEEC. This priority will be unique to each PEEC and will be at the discretion of the PEEC chaired by the Judge President.

The PEEC structures were replicated on District and Regional Court level and are known as the District Efficiency Enhancement Committee (DEEC) and Regional Efficiency Enhancement Committee (REEC).

(ii) Resolutions, achievements and actions

Quarterly PEEC meetings are held in each province. The monitoring of remand detainees led to the adoption and implementation of initiatives to alleviate overcrowding at correctional centres. The PEECs also facilitated the following:

- Training of Judicial Officers on mediation;
- Adoption of case flow management directives in the Regional Courts; Responses to draft legislation such as the Traditional Courts Bill; and
- Discussions on the possible expansion of the AVR system for the High Court.

The PEECs also commented on and provided input into the standard operating procedures for court orderlies.

c. National Operations Committee

(i) Terms of reference and purpose

The purpose of the National Operations Committee (NOC), is to establish task teams to execute the mandate of the NEEC and to develop improvement plans for the implementation of the objectives of the NEEC. The NOC is furthermore required to

perform an oversight function over the activities of the task teams and the PEECs and report progress to the NEEC.

(ii) Composition

The NOC is chaired by Judge Erasmus and consists of the following members: The Heads of Court, the Regional Court Presidents, District Courts, officials from the OCJ, DoJ&CD, SAPS, NPA, DPW, DCS, DSD, DoH, the General Council of the Bar of South Africa (GCB), Legal Aid South Africa, LSSA and RAF.

(iii) Resolutions, achievements and actions

The NOC prepares detailed reports for consideration by the NEEC and was instrumental in the drafting and adoption of pre-trial conference directives for the Regional Courts. The objectives of these Practice Directives are to improve the efficiency and effectiveness of court and case flow management and eliminate unnecessary and unreasonable delays in court proceedings.

In April 2015, the NEEC adopted a resolution which served as a reminder and strongly encouraged all Judicial Officers to undertake visits to correctional centres to monitor and inspect its conditions. The Judiciary was granted statutory inspection authority in terms of subsections 99(1) and (2) of the Correctional Services Act 111 of 1998 that stipulate the following:

- 1) A judge of the Constitutional Court, Supreme Court of Appeal or High Court, and a magistrate within his or her area of jurisdiction, may visit a prison at any time; and
- 2) A judge and a magistrate referred to in subsection (1) must be allowed access to any part of a prison and any documentary record, and may interview any prisoner and bring any matter to the attention of the Commissioner, the Minister, the National Council or the Inspecting Judge.

The objectives of these prison visits include the following:

- i. To create an opportunity for Judges to familiarise themselves with prison conditions and the mechanics of prisons. Judges are ultimately the sentinels of the application of the Constitution in the correctional system and being well-informed is critical to fulfil this role; To help monitor and improve prison conditions. Judges cannot substitute the job of the judicial inspectorate in prisons, but as the inspectorate's report itself indicates, Judges' visits contribute significantly towards ensuring humane conditions and efficient, clean administration. As such, the Inspecting Judge for Prisons welcomed this initiative of the Constitutional Court; To enable Judges to serve where necessary and appropriate to enable them to provide feedback to the inspectorate, the National Commissioner, the Minister and the Parliamentary Portfolio Committee; and To enable individual prisoners to submit reports and lodge complaints to the visiting judge on the spot, confidentially where appropriate, and to relay this to SAPS, the National Director of Public Prosecutions, or to Legal Aid South Africa for action.

To assist with the implementation of this resolution, the NOC drafted a guide on Correctional Centre visits for all Judicial Officers. This assists Judicial Officers to conduct inspections, record observations and findings about the correctional centre and compile a report accordingly. Other purpose of these visits include to enquire about issues that the correctional facility staff and offenders have or are experiencing, and to observe the whole administrative system of a particular centre.

Reports are presented to the Judge President of the Division as soon as it is completed, as well as to the OCJ, who in turn may share the information with the NEEC and its NOC, the Minister of Justice and Correctional Services, the National Commissioner of Correctional Services, the Provincial Commission

of Correctional Services, the National Council for Correctional Services, and the Judicial Inspectorate for Correctional Services.

d. Court Order Integrity Committee

(i) Terms of reference and purpose

At the meeting of the NEEC, concerns were raised about the prevalence of fraudulent activities relating to court orders at both the Superior and Magistrates' Courts. This is a serious threat to access to justice and undermines the very integrity of the judicial system and the public confidence in the courts. A fraudulent court order in the wrong hands can cause great injustice and harm.

In response to this grave matter, the NEEC established a committee to:

1. Identify patterns and processes employed by the perpetrators in an effort to assist the focus of investigations on a national scale;
2. Ensure early detection of patterns of corruption at all stakeholders which negatively impact on the efficacy of the justice system;
3. Advise on steps to capacitate the courts and stakeholders in an effort to eradicate the scourge of fraudulent court orders; and
4. Advise on the requirements an automated court system will have on addressing these concerns.

The committee was also mandated to investigate the possibility of educating the public on court processes and creating public awareness on the steps that must be taken to eradicate these fraudulent practises.

(ii) Composition

Judge President D Mlambo chairs the committee and the following members were appointed to the committee: A representative of the Heads of Court, the chairperson of the NOC; a representative of the leadership of the Magistracy, a representative of SAPS; OCJ officials; a representative of the DoJ&CD; representatives of the organised legal profession and a representative of the NPA.

(iii) Resolutions, achievement and actions

Considering the significant impact fraudulent court orders have on access to justice in society, as well as the syndication of activity aimed at undermining the integrity of court orders, the committee engaged both SAPS and Directorate for Priority Crime Investigation (DPCI) on the issue. As a result, the production of fraudulent court orders was identified as a national priority offence and the DPCI was tasked with the investigation thereof.

The committee further recommended the introduction of a court order template, with standard identifying features and use of the Judiciary emblem. A unique court stamp, with unique features that prohibit fraudulent duplication, was designed for use at all Superior Courts. These recommendations were approved by the Heads of Court and has since been implemented.



PART D

COURT PERFORMANCE





Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.

Across the globe, the Judiciary remains accountable to the people for the power and authority bestowed upon it. Historically, there were no accountability mechanisms to allow the Judiciary to report on court performance and other matters related to the exercise of its constitutional mandate. Traditionally, Judges accounted to the Executive for their judgments, court performance and related budget matters.

As our democracy has matured and developed, and the principle of judicial independence has become more crystallised, it has become necessary for the Judiciary to develop its own system of accounting for the state power endowed upon it.

In its initial phases, after detaching from the DoJ&CD, reporting on judicial functions was integrated in the planning and reporting processes of the OCJ. The Chief Justice raised a concern at the Heads of Court meeting convened on 2 October 2016 that the draft OCJ 2017/18 APP, including the OCJ strategic plan for 2015/2016 – 2019/2020, contained 'performance indicators', under programme two (namely; Judicial Support and Court Administration), that relate to court performance.

The Heads of Court resolved that the Judiciary, as self-contained, responsible Arm of State, can set 'performance targets' on court performance for the purpose of monitoring its own performance.

The performance of the Judiciary should not be assessed through "executive tools of planning and evaluation" which Parliament as an Arm of State is also not subjected to comply with.

As a result, 'performance indicators and targets' relating to Judicial functions has been delineated

from the OCJ planning documents since 2017/2018.

The reporting mechanism developed by the Judiciary will allow the Judiciary to account to the public and provide the public, the other Arms of State and interested stakeholders access to information from such reports when required.

The 2017/2018 APP for the Judiciary was developed and it defines and identifies performance indicators and targets for the various courts. The performance Indicators and targets are measures that allow for monitoring of performance on one or more aspect of the overall functions and mandates of the Judiciary. The performance indicators for the Judiciary are informed by:

- Constitutional provisions, SuCA, and legislative mandate and functions;
- Judicial Norms and Standards; and
- Strategic and operational priorities.

The performance targets define a specific level of performance that the courts should aim to achieve within a given time period and are informed by:

- The baseline figures based on previous reports/current performance;
- The available resources (budget, human resources, etc); and
- The Norms and Standards.

The purpose of the court performance monitoring report is to provide progressive updates on the implementation of the Judiciary APP, with specific reference to monitoring delivery against set quarterly performance targets. The report below provides an overall picture of the Superior Courts' performance for the period from 1 April 2017 to 31 March 2018.

2.2 Judgments and disclosures

Performance indicators		Performance target 2017/2018
2.1.1	Percentage of reserved judgments finalised in all Superior Courts	70%
2.1.2	Percentage of disclosures for serving Judges' Registrable Interests submitted by 31 March	100%
2.1.3	Percentage of disclosures for newly appointed Judges' Registrable Interests submitted within 30 days of appointment (if any)	100%

2.3 Constitutional Court

Performance indicators		Performance target 2017/2018
2.2.1	Percentage of cases finalised	70%

2.3 Supreme Court of Appeal

Performance indicators		Performance target 2017/2018
2.3.1	Percentage of cases finalised	80%

2.4 High Court

Performance indicators		Performance target 2017/2018
2.4.1	Number of cases in the High Courts which are on the roll for more than 12 months (criminal case backlog)	100
2.4.2	Percentage of criminal matters finalised	65%
2.4.3	Percentage of civil matters finalised	56%

2.5 Labour Courts and Labour Appeal Court

Performance indicators		Performance target 2017/2018
2.5.1	Percentage of labour matters finalised	56%

2.6 Land Claims Court

Performance indicators		Performance target 2017/2018
2.6.1	Percentage of land claims matters finalised	56%

2.7 Competition Appeal Court

Performance indicators		Performance target 2017/2018
2.7.1	Percentage of Competition Appeal cases finalised	80%

2.8 Electoral Court

Performance indicators		Performance target 2017/2018
2.8.1	Percentage of electoral cases finalised	90%



Performance of the Superior Courts for the period from 1 April 2017 – 31 March 2018

1.1. Judicial indicators

Performance Indicator	Total cases	Finalised	%
PROGRAMME PERFORMANCE INDICATORS			
Percentage of cases finalised by the Constitutional Court	437	295	68%
Percentage of cases finalised by the Supreme Court of Appeal	235	223	98%
Percentage of cases finalised by the Competition Appeal Court	6	4	67%
Percentage of cases finalised by the Electoral Court	5	5	100%
Percentage of cases finalised by the Labour Court and Labour Appeal Court	427	287	64%
Percentage of cases finalised by the Land Claims Court	330	227	66%
Percentage of criminal cases finalised by the High Court	15,293	10,411	72%
Percentage of civil cases finalised by the High Court	152,944	106,936	72%
Number of cases in the High Courts which have been on the roll for more than 12 months (criminal case backlog)	100	167	
Percentage of reserved judgments finalised in all Superior Courts	4,165	3,184	76%

In the reporting period 1 April 2017 to 31 March 2018 the Supreme Court of Appeal finalised 1104 applications for leave to appeal out of the 1487 applications received. This is in addition to the 223 finalised appeals as indicated above.

1.2. Reserved judgments

Reserved judgments are monitored to measure the compliance with the set Judicial Norms and Standards and the Code of Judicial Conduct.

Paragraph 5.2.6 of the Judicial Norms and Standards stipulates that judgments in constitutional, criminal and civil matters should generally not be reserved without a fixed date for handing down. Judicial Officers have a choice to reserve judgments sine die where circumstances are such that the delivery of a judgment on a fixed date is not possible. The Judicial Norms and Standards state that Judicial Officers should make every effort to hand down reserved judgments no later than three (3) months after the date of the last hearing.

Article 10(2) of the Code of Judicial Conduct provides that:

"A Judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed, but may –

- (a) in respect of a matter that was heard within two weeks of the end of that term; or
- (b) where a reserved judgment is of a complex nature or for any other cogent and sound reason and with consent of the head of the court, deliver that reserved judgment during the course of the next term".

The report provides an indication of progress made in the implementation of the Norms and Standards and the Code of Judicial Conduct in relation to the reserved judgments.

In the reporting period, a total of 1154 reserved judgments were carried over from 31 March 2017. There was a total of 5355 (4201+1154) reserved

judgments (including those carried over) for the period from 1 April 2017 to 31 March 2018. A total of 77% (4148 of 5355) judgments were delivered during this period. 74% (3053 of 4148) of the reserved judgments were delivered within three months. As indicated in Part A below, as at 31 March 2018, a total of 1207 judgments remained reserved with a total of 839 (70%) being reserved for longer than three (3) months.

The key findings of the report can be summarised as follows:

1. In the reporting period from 1 April 2017 to 31 March 2018, a total of 1154 reserved judgments were carried over from 31 March 2017. A total of 5355 (including the 1154 carry-over from 31 March 2017) judgments were reserved during this period and a total of 4148 judgments were delivered. 74% (3053 of 4148) of the reserved judgments were delivered within three months in alignment with the Norms and Standards;
2. As at 31 March 2018, a total of 1207 judgments remained reserved with a total of 839 (70%) being reserved for longer than three (3) months), in alignment with the requirements of the Norms and Standards;
3. From 1 April 2017 to 31 March 2018, more judgments were delivered and as a result the judgments reserved increased from an opening balance of 1154 to a closing balance of 1207; which constitutes a 5% increase; In terms of the Judicial Code of Conduct during the second, third and fourth terms; 49% (1950 of 3986) of judgments were reserved and delivered before the end of term; In terms of the Judicial Code of Conduct during the second, third and fourth term, 69% (403 of 583) of judgments were reserved two weeks before the end of term and delivered before the end of the next term.

Court	Judicial Norms and Standards			Judicial Code of Conduct	
	Outstanding judgments reserved for longer than 3 months as at 31 March 2018	% Delivered	% Judgments delivered within three months in the period from 1 April 2017 to 31 March 2018	Judgments reserved and delivered within term during terms 2,3 and 4 in 2017, and term 1 in 2018	Judgments reserved within two weeks before end of term and delivered in the next term
Supreme Court of Appeal	14% (2 of 14)	93% (191 of 205)	98% (188 of 191)	61% (119 of 196)	100% (26 of 26)
Limpopo Division, Polokwane	0% (0 of 14)	92% (171 of 185)	94% (160 of 171)	64% (105 of 163)	95% (21 of 22)
Eastern Cape Local Division, Mthatha	67% (8 of 12)	90% (104 of 116)	90% (94 of 104)	58% (59 of 102)	94% (17 of 18)
Eastern Cape Local Division, Bhisho	88% (7 of 8)	85% (44 of 52)	82% (36 of 44)	43% (17 of 40)	100% (3 of 3)
North West Division, Mahikeng	37% (11 of 30)	85% (167 of 197)	86% (143 of 167)	51% (82 of 162)	81% (29 of 36)
Free State Division, Bloemfontein	32% (15 of 47)	87% (310 of 357)	79% (245 of 310)	52% (167 of 324)	70% (38 of 54)
Northern Cape Division, Kimberley	36% (10 of 28)	85% (158 of 186)	77% (122 of 158)	45% (72 of 159)	79% (22 of 28)
Gauteng Local Division, Johannesburg	94% (188 of 200)	77% (673 of 873)	78% (524 of 673)	58% (377 of 645)	66% (68 of 103)
Limpopo Local Division, Thohoyandou	56% (5 of 9)	83% (44 of 53)	75% (33 of 44)	44% (19 of 43)	75% (9 of 12)
KwaZulu-Natal Division, Pietermaritzburg	56% (29 of 52)	80% (210 of 262)	76% (160 of 210)	51% (100 of 196)	68% (19 of 28)
Eastern Cape Division, Grahamstown	69% (68 of 99)	68% (208 of 307)	86% (179 of 208)	46% (117 of 252)	59% (19 of 32)
Eastern Cape Local Division, Port Elizabeth	58% (19 of 33)	74% (94 of 127)	81% (76 of 94)	45% (53 of 119)	59% (17 of 29)
Labour Court Johannesburg	74% (110 of 149)	77% (503 of 652)	61% (308 of 503)	46% (186 of 403)	73% (30 of 41)

	Judicial Norms and Standards			Judicial Code of Conduct	
Court	Outstanding judgments reserved for longer than 3 months as at 31 March 2018	% Delivered	% Judgments delivered within three months in the period from 1 April 2017 to 31 March 2018	Judgments reserved and delivered within term during terms 2,3 and 4 in 2017, and term 1 in 2018	Judgments reserved within two weeks before end of term and delivered in the next term
KwaZulu-Natal Local Division, Durban	64% (34 of 53)	74% (147 of 200)	71% (105 of 147)	50% (70 of 140)	57% (13 of 23)
Labour Court Cape Town	57% (16 of 28)	75% (84 of 112)	62% (52 of 84)	38% (31 of 81)	58% (7 of 12)
Competition Appeal	100% (1 of 1)	89% (8 of 9)	63% (5 of 8)	0% (0 of 4)	75% (3 of 4)
Gauteng Division, Pretoria	94% (221 of 236)	59% (337 of 573)	56% (188 of 337)	40% (121 of 301)	54% (7 of 13)
Labour Court, Port Elizabeth	50% (13 of 26)	82% (120 of 146)	39% (47 of 120)	0% (0 of 87)	73% (11 of 15)
Western Cape Division, Cape Town	31% (21 of 67)	87% (438 of 505)	74% (323 of 438)	46% (185 of 399)	66% (39 of 59)
Land Claims Court	60% (9 of 15)	68% (32 of 47)	47% (15 of 32)	0% (0 of 27)	33% (1 of 3)
Mpumalanga Division, Middelburg Circuit Court	62% (8 of 13)	43% (10 of 23)	100% (10 of 10)	0% (0 of 23)	0% (0 of 1)
Mpumalanga Division, Mbombela Circuit Court	58% (18 of 31)	38% (19 of 50)	74% (14 of 19)	27% (12 of 44)	0% (0 of 5)
Labour Court Durban	58% (11 of 19)	67% (39 of 58)	51% (20 of 39)	0% (0 of 44)	14% (1 of 7)
Constitutional Court	65% (15 of 23)	62% (37 of 60)	16% (6 of 37)	0% (0 of 32)	33% (3 of 9)
Grand Total	70% (839 of 1207)	77% (4148 of 5355)	74% (3053 of 4148)	49% (1950 of 3986)	68% (380 of 560)

The image shows the exterior of a building with a stone-clad wall. A black rectangular sign with white serif lettering is mounted on the wall. To the right, a dark staircase with a metal railing leads up. In the foreground, there is a concrete sidewalk and a low, reddish-brown stone wall. Some green plants are visible behind the low wall.

HIGH COURT CHAMBERS

PART E

SEMINARS FOR
JUDGES





**An order or decision issued
by a court binds all persons
to whom and organs of
state to which it applies.**

In accordance with the SAJEI Act, the institute is led by a council consisting of the following members:

- The Chief Justice as Chairperson;
- The Deputy Chief Justice as Deputy Chairperson;
- The Minister of Justice and Correctional Services;
- A Judge of the Constitutional Court;
- A representative of the Judicial Service Commission;
- The President of the Supreme Court of Appeal;
- Two Judges President and two other Judges;
- Five Magistrates;
- A Judge who was discharged from active service;
- The Director;
- One advocate designated by the GCB;
- One attorney designated by the LSSA; two university teachers of law designated by the South African Law Deans Association (SALDA);
- Two other members who are not involved in the administration of justice, designated by the Minister after consultation with the Chief Justice; and
- one traditional leader designated by the National House of Traditional Leaders.

In terms of terms of section 5 of the SAJEI Act the functions of the Institute are to:

- (a) Establish, develop, maintain and provide judicial education and professional training for judicial officers;
- (b) Provide entry level education and training for aspiring Judicial Officers to enhance their suitability for appointment to judicial office;
- (c) Conduct research into judicial education and professional training and to liaise with other judicial education and professional training institutions, persons and organisations in connection with the performance of its functions;
- (d) Promote, through education and training, the quality and efficiency of services provided in the administration of justice in the Republic;
- (e) Promote the independence, impartiality, dignity, accessibility and effectiveness of the courts; and
- (f) Render such assistance to foreign judicial institutions and courts as may be agreed upon by the council.

In the reporting period from 1 April 2017 – 31 March 2018 the following seminars for Judges were held:

Seminar	Month	Content	No of delegates
Newly Appointed Judges	July	Judicial Ethics; Judicial Case Flow Management; Managing Criminal Trials; Sentencing and Judgment Writing; Unopposed Motions; Opposed Motions; Managing Civil Trials; Electronic Evidence; Appeals; Reviews and Judges Tools of Trade	20
Procurement Law, Liquidation and Business Rescue	July	Constitution and Legislative Framework (National Treasury Guide, PPP Framework and PAJA; Normal vs urgent approach in Procurement cases; Constitutional Imperatives; Overview of Bid Evaluation Process (Qualifying and award phases, Balance between Administrative Justice and Public Interest) ;Introduction to Business Rescue (Relationship to liquidations, Applicable legislations and pitfalls);Practicalities of Business Rescue; Use of Business Rescue in South Africa-challenge encountered (The role of Turnaround Management Association)	48
Advanced Tax	July	Taxation of Companies; Corporations; Corporate Restructuring; Assessed losses; Capital Allowances; Dividend Tax; Trading Stock; Transfer Pricing; Judgment Writing in Tax cases	48
Human Trafficking, Wildlife Trafficking and Money Laundering	January	Nature and extent of Wildlife Trafficking in Africa: Issues and challenges; Complexities in adjudicating Wildlife Trafficking cases; Adjudicating Wildlife Trafficking cases - Regional perspective (panel discussion); Case studies on Wildlife Trafficking; Complexities in adjudicating Human Trafficking cases in South Africa (panel discussion); Case study on Human Trafficking; Adjudicating transnational Human Trafficking cases: Regional perspective; Case study on Human Trafficking; International adoptions and Child Trafficking and Unpacking complex instruments of proceeds from Money Laundering (e.g. Trust, Corporations and Companies)	46

Conference of Constitutional Jurisdictions of Africa

The Fourth Congress of the Conference of Constitutional Jurisdictions of Africa (CCJA), was held in Cape Town from 23 - 26 April 2017. At the Congress, Chief Justice Mogoeng Mogoeng was elected as its President and took over from Madam Marie Madeleine Mborantsuo of Gabon who previously held the position for two years.

The CCJA is an independent institution established by constitutional jurisdictions in Africa to ensure

that the Judiciary in each member state supports and deepens democracy by upholding constitutionalism and the rule of law. At the initiative of Algeria, the African Union (AU) adopted the decision to create an African Constitutional Justice space at the fifteenth session of the Conference of Heads of State and Government held from 25 - 27 July 2010 in Kampala, Uganda. The creation of this space meets the imperatives of:

- Joining African mechanisms of constitutional justice in a continental area to enable them to participate in the domain that is theirs; and

- Promotion and dissemination of universal values and principles of state law, democracy and human rights, enshrined in the preamble to the Constitutive Act of the AU.

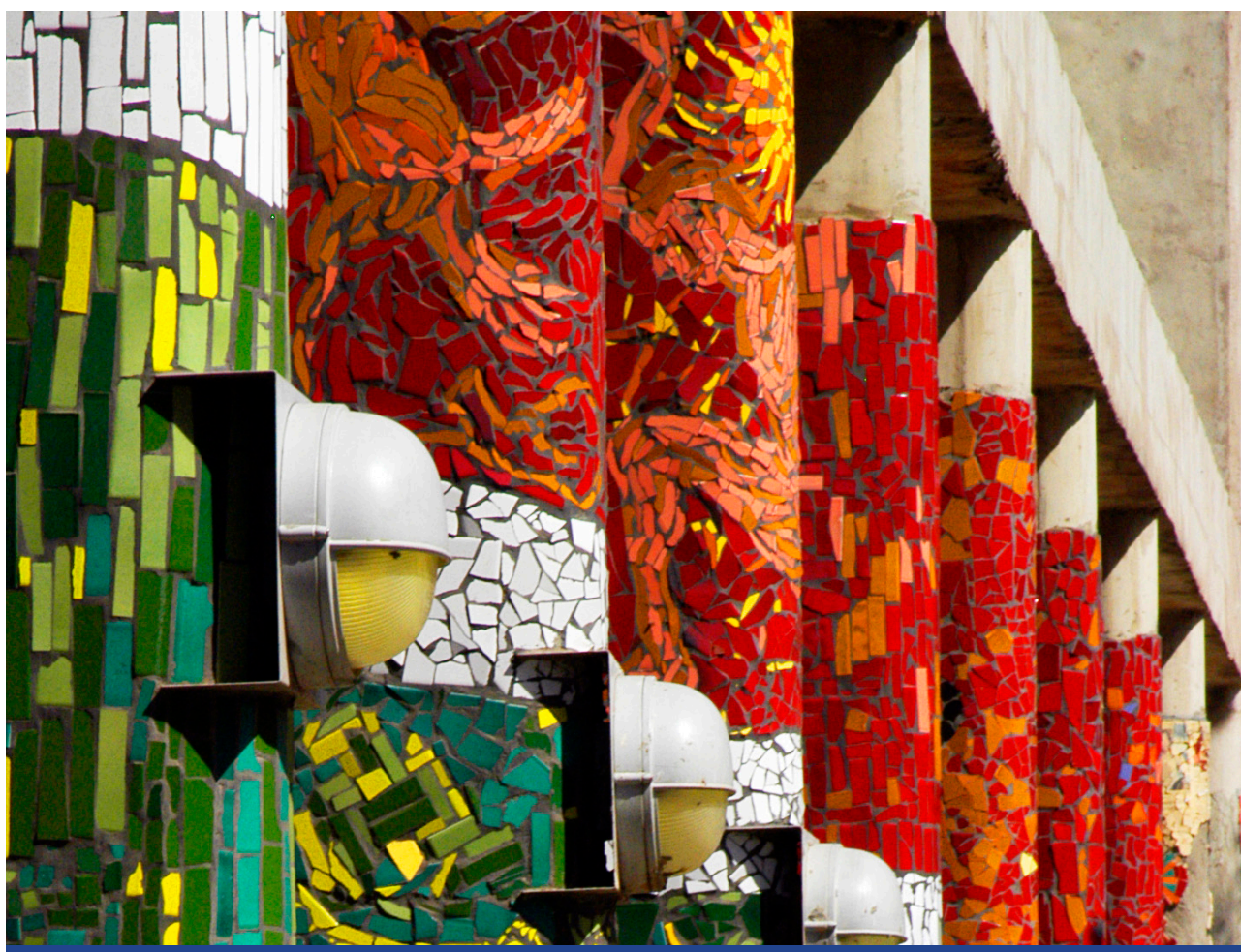
A preparatory meeting that united the presidents of constitutional courts in Africa was conducted on the side, during the Second World Conference on Constitutional Justice held in Rio de Janeiro (Brazil) on 16 January 2011. This meeting occurred at the headquarters of the Constitutional Council of Algeria, from 7 - 8 May 2011.

The conference was driven and established by Algeria at the Congress of the African Space Constitutional Justice, where they also founded the CCJA, which is now headquartered in Algiers.

In his inaugural speech as the President of the CCJA, Chief Justice Mogoeng Mogoeng stated

just how honoured he was to be selected to serve as the President of the CCJA. "It is with a deep sense of humility and immeasurable gratitude that I assume the responsibility of being President of the Conference of Constitutions of Jurisdictions of Africa. I do so, not naïve about the responsibilities and challenges that this by extension throws my way," he said. He called on African jurors to be fearless in their approach and to stay independent. "Let us avoid anything that has the ability to compromise the independence of the Judiciary," the Chief Justice concluded.

The theme of the conference was: "Promoting the Independence of the Judiciary and the Rule of Law". Various Judges presented on the topic, including members of the South African Judiciary, such as Deputy Chief Justice Zondo, Justice Nkabinde, Justice Cameron and Judge President Mlambo.



EX Officio, International and other Extra-Judicial positions held by Members of The South African Judiciary

The Chief Justice is the President of the CCJA.

The Constitutional Court is a member of the CCJA and the Chief Justice attends meetings of the Executive Bureau of the CCJA and Congress of the CCJA.

The Constitutional Court is a member of the World Conference on Constitutional Justice (WCCJ) and the Chief Justice in his capacity as the Head of the Constitutional Court attends the meetings of the WCCJ.

Deputy Chief Justice R Zondo is the Chair of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State.

Deputy Chief Justice D Moseneke (ret) was appointed to lead mediation between the government and the family members of the Life Esidimeni victims.

Madam Justice B C Mocosca was nominated by the Chief Justice to represent the Judiciary of the Republic of South Africa (RSA) on the International Hague Network of Judges.

Judge S Majiedt is Chancellor of the Sol Plaatje University in Kimberley.

Judge H Saldulker is a Board member of the National Bar Examination Board (NBEB) and a Judge Moderator for the Advocates Examination. She is also member of the South African Chapter of the International Association of Women Judges (SAC-IAWJ) and the Supreme Court of Appeal representative at the Hague Convention.

Judge E Steyn is the Chair of the National Council for Correctional Services (NCCS).

Judge President D Mlambo is the Chairperson of Legal Aid SA and a trustee of the Legal Resources Trust.

Judge President Y Meer is an extraordinary Professor at the University of Stellenbosch.

Judge President D Mlambo, Judge President F Legodi and Judges M Kubushi and B Bam are the Chairperson of the Magistrates' Commission and the Chairpersons of the Military Appeals Court

Judge President F Legodi is the Chairperson of the Magistrates' Commission

Judge V Phatshoane is serving as member of the Sol Plaatje University Council.

Judge President C Musi is the Chairperson of the Independent Commission for the Remuneration of Public Office Bearers.

Judge HMT Musi is the judge for purposes of the regulation of interception of the communication-related Information Act, 2002.

Judge President FD Kgomo (ret) was appointed as Judge to investigate complaints against the DPCI.

Judge R Nugent (ret) is the Chair of the Commission of Inquiry into the Tax Administration and Governance.

Judge J van der Westhuizen (ret) is the Inspecting Judge of Correctional Services.

Judge KK Mthiyane (ret) is the Chair commission of inquiry into remuneration and conditions of service in the public service.

Judge President B Ngoepe (ret) was appointed by the Constitutional Court as referee in terms of section 38 of the Superior Courts Act to report on the matters related to the order in the SASSA case. He is also the Ombud for Tax as well as the Media

PART F

JUDICIAL
APPOINTMENTS,
RETIREMENTS AND
VACANCIES





**An order or decision issued
by a court binds all persons
to whom and organs of state
to which it applies.**

Sections 174 to 178 of the Constitution deal with the appointment of Judicial Officers.

The President as Head of the National Executive, after consulting the Judicial Service Commission and the leaders of parties represented in the National Assembly, appoints the Chief Justice and the Deputy Chief Justice and, after consulting the Judicial Service Commission, appoints the President and Deputy President of the Supreme Court of Appeal.

The other judges of the Constitutional Court are appointed by the President, as Head of the National Executive, after consulting the Chief Justice and the leaders of parties represented in the National

Assembly, in accordance with the following procedure:

- (a) The Judicial Service Commission must prepare a list of nominees with three names more than the number of appointments to be made, and submit the list to the President;
- (b) The President may make appointments from the list, and must advise the Judicial Service Commission, with reasons, if any of the nominees are unacceptable and any appointment remains to be made; and
- (c) The Judicial Service Commission must supplement the list with further nominees and the President must make the remaining appointments from the supplemented list.

The President must appoint the judges of all other courts on the advice of the Judicial Service Commission.

Divisions	Number of vacancies (2017/2018 financial year)	Vacancies filled
Constitutional Court	2	0
Supreme Court of Appeal	1 Deputy President 1 Judge	4
Northern Cape Division, Kimberley	1	1
Eastern Cape Division, Grahamstown	1	2
Eastern Cape Division, Port Elizabeth	0	1
Eastern Cape Division, Bhisho	1	1
Eastern Cape Local Division, Mthatha	0	1
Western Cape Division, Cape Town	1	4
Mahikeng	0	1
Free State Division, Bloemfontein	1 Judge President	4
Gauteng Division, Pretoria	5	5
Gauteng Local Division, Johannesburg	8	1
Limpopo Division, Polokwane	0	0
Limpopo Local Division, Thohoyandou	0	2
Kwazulu-Natal Division, Pietermaritzburg	1	0
Kwazulu-Natal Division, Durban	1	2

Judges discharged from active service from 1 April 2017 to 31 March 2018

In terms of the Constitution, a Constitutional Court Judge holds office for a non-renewable term of 12 years, or until he or she attains the age of 70, whichever occurs first, except where an Act of Parliament extends the term of office.

Section 3(2) of the Judges Remuneration and Conditions of Employment Act legislation always provides that a Judge who:

- holds office in a permanent capacity must be discharged from active service on the date on

which he or she attains the age of 70 years, if he or she has on that date, completed a period of active service of not less than 10 years, or has already attained the age of 65 years and has performed active service for a period of 15 years; or

- may at any time be discharged by the President if he or she becomes afflicted with a permanent infirmity of mind or body which renders him or her incapable of performing his or her official duties; may at any time on their request and with the approval of the President be discharged.

The following Judges were discharged from active service in the reporting period:

Judge	Date of discharge	Court
1. R Pillay	01.06.2017	Supreme Court of Appeal
2. AH Veldhuizen	09.06.2017	Western Cape
3. PB Fourie	14.06.2017	Western Cape
4. NJ Yekiso	25.07.2017	Western Cape
5. JR Murphy	01.08.2017	Gauteng (Pretoria)
6. CT Sangoni	20.08.2017	Eastern Cape (Grahamstown)
7. FD Kgomo	18.08.2017	Kimberley
8. TM Masipa	17.10.2017	Gauteng (Johannesburg)
9. BE Nkabinde	01.01.2018	Constitution Court
10. BJ Moloto	26.01.2018	Gauteng (Johannesburg)

The following Judges are set to retire in the upcoming reporting period:

Surname and initials	Effective discharge date
Judge S Alkema	03.09.2018 Early discharge from active service
Judge NP Willis	01.10.2018 Early discharge from active service
Judge JBZ Shongwe	04.12.2018 Automatic discharge at the age of 70
Judge D Chetty	21.01.2019 Early discharge from active service at age 65 years (section 3(2)(b) President's Minute No. 118. Date: 13.06.2018
Judge CH Lewis	01.07.2019 Early discharge from active service at age 65 years (section 3(2)(b) President's Minute No. 119. Date: 13-06-2018
Judge WL Seriti	22.07.2019 Automatic discharge at the age of 70
Judge MH Rampai	28.07.2019 Automatic discharge at the age of 70
Judge GM Makhanya	09.09.2019 Automatic discharge at the age of 70
Judge JD Pickering	23.09.2019 Automatic discharge at the age of 70
Judge SSD Moshidi	10.06.2019 Automatic discharge after 15 years' active service, at the age of 71
Judge WRC Prinsloo	07.11.2019 In terms of section 3(2)(a) in line with the provisions of section 4(4)
Judge MW Msimeki	10.11.2019 Automatic discharge at the age of 70
Judge C Pretorius	28.12.2020 In terms of section 3(2)(a) in line with the provisions of section 4(4)
Judge NM Mavundla	23.02.2020 In terms of section 3(2)(a) in line with the provisions of section 4(4)
Judge RD Mokgoatheng	16.05.2020 In terms of section 3(2)(a) in line with the provisions of section 4(4)
Judge KGB Swain	21.12.2020 Automatic discharge at the age of 70
Judge HAB Fabricius	06.05.2021 In terms of section 3(2)(a) in line with the provisions of section 4(4)

Superior Courts

Divisions	African		Coloured		Indian		White		Total	Vacancies
	Male	Female	Male	Female	Male	Female	Male	Female		
Constitutional Court	4	2	0	1	0	0	2	0	9	2
Supreme Court of Appeal	7	5	2	0	3	1	5	1	24	2
Northern Cape Division (Kimberley)	1	3	0	1	0	0	1	0	6	1
Eastern Cape Division (Grahamstown)	3	1	1	0	0	0	4	1	10	1
Eastern Cape Local Division (Port Elizabeth)	2	0	0	0	1	0	2	2	7	0
Eastern Cape Local Division (Bhisho)	1	0	0	0	0	0	1	2	4	1
Eastern Cape Local Division (Mthatha)	2	2	0	0	0	1	3	0	8	0
Western Cape Division (Cape Town)	5	3	6	5	2	1	7	3	32	1
North West Division (Mahikeng)	1	3	1	0	0	1	0	0	6	0
Free State Division (Bloemfontein)	5	2	1	0	0	1	3	3	15	1
Gauteng Division (Pretoria)	13	9	0	2	3	0	12	6	45	5
Gauteng Local Division (Johannesburg)	9	6	3	0	2	1	8	5	34	1
Limpopo Division, Polokwane	3	2	0	0	0	0	1	0	6	0
Limpopo Local Division, Thohoyandou	3	0	0	0	0	0	0	0	3	0

Divisions	African		Coloured		Indian		White		Total	Vacancies
	Male	Female	Male	Female	Male	Female	Male	Female		
Gauteng Pretoria (Functioning as Mpumalanga Division, Nelspruit)	1	0	0	0	0	0	0	0	1	
KwaZulu-Natal Division (Pietermaritzburg)	3	3	1	0	2	1	6	0	16	1
KwaZulu-Natal Local Division (Durban)	4	2	1	1	1	3	1	1	14	0
*Land Claims Court	2			1	1	1				
Labour Court	3	3		1			4	2	13	0
**Labour Appeal Court									0	
***Competition Appeal Court									0	
TOTAL	70	46	16	11	14	10	60	26	253	16

- . ** and *** The only permanent position at these courts, is that of the Judge President. The Judges were appointed at these courts, were appointed by way of secondment from a division of the High Court.

MAGISTRATES COURTS

(Including all temporary and contract Magistrates)

POST CLASS	African Male	African Female	Indian Male	Indian Female	Coloured Male	Coloured Female	White Male	White Female	Total
Regional Court President	5	1	0	0	0	1	0	1	8
Regional Magistrate	95	69	13	25	17	11	75	46	351
Chief Magistrate	3	6	1	1	1	1	2	1	16
Senior Magistrate	34	21	5	8	5	5	14	17	109
Magistrate	413	337	62	84	97	83	267	209	1552
Grand Total	550	434	81	118	120	101	358	274	2036
Percentages	27%	21%	4%	6%	6%	5%	18%	13%	100%

In memoriam

A dedication to the memory of our honourable departed colleagues.

We dearly remember our departed colleagues and we pause to honour them for serving the people of the great nation with distinction.

- Judge C Plewman, Supreme Court of Appeal
- Judge PC Combrinck, Supreme Court of Appeal
- Judge President CF Eloff, Gauteng Division
- Judge President MDJ Steenkamp, Northern Cape Division
- Deputy Judge President PJ van der Walt, Gauteng Division
- Judge AA Louw, Gauteng Division
- Judge AP van Coller, Free State Division
- Judge FC Kirk-Cohen, Gauteng Division
- Judge GSS Maluleke, Gauteng Division
- Judge JG Foxcroft, Western Cape Division
- Judge KJ Moloi, Free State Division, died while still in active service
- Judge PH Tebbutt, Western Cape Division
- Judge SK Ndlovu, KwaZulu Natal Division and Judge of the Labour Appeal Court, who died while still in active service









JUDICIARY

Annual Report 2017/18

📍 188 14Th road, noordwyk, Midrand, 1685

Private bag x10, Marshalltown, 2107

☎ +27 (0)10 493 2500

✉ enetshiozwi@judiciary.org.za

🌐 www.judiciary.org.za

📘 South African Judiciary

🐦 @OCJ_RSA

📷 ocj_rsa

