



JOASA



NEWSLETTER

President's greetings



Dear Colleagues

My term as president of JOASA has come to an end and I would like to thank each and everyone of you who stood by me during this period. It has been a challenging time for JOASA and I would like to thank the members for continuing to pay subscriptions in order that we as an association may continue to represent you in the best way possible and also expose you to continued training programs in conjunction with Justice College.

The Annual General Conference this year will take place on 28 August at Emperors, Gauteng. It will commence at 09h30.

I wish the new President and Vice President all the very best for their

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Please send all interesting cases to the Vice President and Webmaster
Vincent Ratshivumo:
VRatshivumo@justice.gov.za

Bereavements

Mr Mathebula Regional Magistrate in Tzaneen passed away in May. A memorial service was held on Thursday, 13 May 2010, at Thulamahashe and the church service was held at the Presbyterian Church Thulamahashe on Saturday, 15 May 2010.

JOASA extends its sincere condolences to the family and friends of Mr Mathebula.

Ms. Mzamo Nolubabalo, a magistrate attached to the Stellenbosch district in Western Cape passed away after a short illness. A memorial service was held at the Stellenbosch Magistrate Court on 30th June at 14h00 and Judge Le Grange (ex President of JOASA) and Chief Magistrate of Cape Town, Mr M M Dimbaza were special guest speakers.

JOASA extends its sincere condolences to the family and friends of Mzamo Nolubabalo.

term and know that JOASA will continue to soar to greater heights.

I thank the entire membership and NEC for their support.

JOASA Greetings

Dario Dosio

President of JOASA

Mr Maflika passed away in July and a memorial service was held on 8 July at the TTA Hall. The funeral took place on 10 July at Moruleng (Rustenburg) Ramolope Section.

JOASA extends its sincere condolences to the family and friends of Mr Maflika.

Contact e-mail addresses of the provincial chairpersons:

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EASTERN CAPE	Mr N. Joemath	NJoemath@justice.gov.za
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PROVINCIAL TRAININGS AND AGM'S

Eastern Cape



Chairperson Eastern Cape Mr. Nazeem Joemath

The Chairperson of the Eastern Cape reports as follows:

“On the 30th April 2010 JOASA EC hosted a workshop entitled “The Magistrates perspective on the practical implications of the Child Justice Act”

The workshop was conducted by our special guest, justice college lecturer, Joe Ngelanga and was attended by 38 delegates. All delegates expressed gratitude for this valiant effort made by JOASA to empower the magistracy with resolutions to address practical problems experienced with this act. The venue was Mpongo Private game reserve. Sanlam partly sponsored the workshop. The workshop started at 14h00 with registration and ended at 18h30 with a spit braai. A successful JOASA Eastern Cape AGM was also held during this workshop.

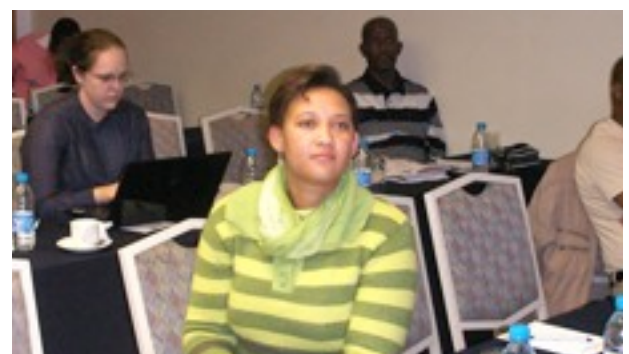
Delegates who attended the training



Delegates who attended the AGM***Free State***

On the 14th and 15th May, JOASA held a National Credit Act training in Bloemfontein.

The training was the same as presented in Umchlanga and George. The delegates who participated found it most beneficial. This was the last of a series of trainings conducted by JOASA in conjunction with Justice College and the National Credit Regulator.

***Magistrates who attended the training***

Mpumalanga

The Chairperson of Mpumalanga, Mark Botha reports as follows:-

“On 29 May 2010, Mpumalanga held its Provincial General Conference. The conference was hosted by JOASA in partnership with the JSE. Even though the attendance was not what was expected, as many people who promised to attend did in the end not, the conference was a real success.

It started off with Chris Sturgess of the JSE setting out the basic composition of the JSE and then more specifically giving a detailed overview of the commodity derivatives market in South Africa. It was very informative when he explained in simple terms what Hedgers and Speculators in fact are and what is meant by terms such as Futures Contracts. After Chris finalized his presentation, the man who in fact organized this whole venture, Waldemar Budeli of the JSE, gave an in depth explanation of what the JSE in fact is. He explained its history and current status; its role players and the influence these role players have on share trading. He also dealt with what shares are and how its trading and value is influenced by different factors.

The atmosphere was very relaxing and in the end the time was really just too short to deal with everything that was to be known about the JSE.

Afterwards the JOASA meeting proceeded and one of the resolutions taken by the members was that we should embark on a team building weekend for all JOASA members in Mpumalanga to revitalize the organization. The elections of the new office bearers rounded off the proceedings, bringing to an end a very enjoyable day.”

Magistrates who attended the Mpumalanga JSE training workshop



The new PEC of Mpumalanga (seated left to right) B. Madonsela (Additional Member), G. Strydom (Treasurer), P Sibuyi (Chairperson), B. Lesufi (Additional Member), S Du Plessis (Secretary), M Botha (Additional Member)

North West

JOASA North West held its Annual General Meeting on the 14th of May 2010 at the Mayoral Chambers in Potchefstroom.

The Chairperson of North West reports as follows:-

“The AGM was attended by 47 magistrates from all over North West Province, some travelling from Taung and Temba.

The occasion was graced by the presence of the JOASA’s President, Dario Dosio who addressed the attendants on PARMED and also shed light on the progress regarding the implementation of a single judiciary.

Justice Constance Mocumie delivered a profound and challenging address on “Challenges Facing Magistrates Appointed As Judges” in which she emphasized the shortcomings in respect of the lack of experience in civil litigation, barriers of language etc.

In keeping with tradition, the delegates had a party after the event.”

Magistrates who attended the AGC



Chairperson of North West Johan Jantjies and Justice Constance Mocumie



Gauteng - Training on Human Trafficking

On 12 June , JOASA Gauteng held a successful training on Human Trafficking at the Glenburne lodge. The training was conducted by Resh Mehta and Martha Swai.

Emphasis was placed on woman trafficking and the three phases that exist which amount to human trafficking, namely, 1). The recruitment phase, 2). The transportation phase, and 3) The exploitation phase. The consequences of human trafficking was discussed and how it contributes

to the violation of human rights. The differences between human trafficking and migrant smuggling was discussed.

It is clear that the crime of trafficking has become a global phenomena. The US Trafficking in Persons report for 2008 estimated that approximately 800 000 people are trafficked globally each year.

International trafficking of human beings has also become one of the most extremely



profitable businesses of organized crime. The methods of coercion and control mechanisms were discussed eg, debt bondage, isolation, use of violence and fear, substance abuse, voodoo and cameras.

A real film showing the whole process from recruitment, to transportation and exploitation was shown to the delegates. This was very disturbing and it is hoped that more Magistrates will be exposed to this serious phenomena which has increased in South Africa.



Chairperson of Gauteng, Xhanti Zeka

Magistrates who attended the training



The Presenters



Martha Swai



Resh Mehta



Training on “Judging Environmental Crime”

JOASA in conjunction with Justice College and the Department of Environmental Affairs did a training on environment law at the Joburg Theatre complex, Johannesburg on 14 August 2010.



Environment means the surroundings within which humans exist and is made up of, the land, water, and atmosphere. Mark Jardine is an inspector in environmental issues. There is a lot of Rhino poaching and elephant ivory hunting which is covered much in the newspapers, however, there is a whole other scope of environmental crimes that need urgent attention

The conference was opened by Joe Ngelanga from Justice College who introduced presenters to the Magistrates who attended, and then he also introduced the Magistrates to the presenters.

The first presenter was Mark Jardine from the Department of Environmental affairs.



like; erosion which is causing damage to dunes in heritage sites and dumping sites where old computers are dumped, (called e-waste sites). This is dangerous as computers have a high amount of metal. Various acts have been created to address these issues. He explained various acts which are available, and even though they are effective, the implementation of them is not that effective. The number of criminal offences has increased.

Training on “Judging Environmental Crime”

He stated that there are about 1000 green scorpions which are the inspectors. They are graded into 5 categories, grade 1 are senior officials who have all powers and slowly it goes down to lesser power.

Mark Jardine stated that it is hoped that dedicated courts will be created to deal with these matters. It will have criminal and civil jurisdiction.

Grant Walters went on to do a discussion on illegal developments in the environment sector.



Jacques du Toit

The slides he presented showed instances of crime waste which were very thought provoking. He explained the impact that the construction of highways, power stations, water dams and mines have on the environment. He also showed how illegal crematoriums are creating havoc to the environment.

Jacques du Toit spoke on Rhino poaching. He stated that to date this year 159 Rhinos had been poached. He stated there are 175 countries linked to CITES (The convention on International Trade in Endangered Species of Wild Fauna and

Flora). He also showed various slides on how Rhino horns are poached. He also showed slides of how various plants, and animals species are smuggled by humans at the airport.

Frances Craigie spoke on waste related crimes. She stressed that the composition and toxicity of waste is very important. She addressed the seriousness of smoke which causes air pollution arising out of chemical fires. She spoke about Operation Ferro which was a flagship project to monitor steel, iron and ferro-alloy related industries. She showed various slides of a steel plant showing fugitive emissions which were being emitted from the whole building. This flagship project caused the company to insert a system whereby the emissions were being re-directed in such a way that it did not cause any more harm to the community of Vereeniging. She spoke that other areas like refineries, cement industries, and paper/pulp factories were being investigated. Various slides pertaining to foundries causing serious pollution were shown. She also addressed waste issues.



Frances Craigie



INTERNATIONAL ASSOCIATION OF JUDGES

The African Regional Meeting of the IAJ

This was held in Cotonou, Benin from July 22nd until July 24th.

The theme of the conference was “The Judicial time and the emergency”. The conference was held at the Benin Marina Hotel. The conference opened on Thursday 22 July with an address from the National President of the Association of Magistrates from Benin, Mr Madoda Gerard Onesime. He addressed the concerns arising from long delays incurred in the courts before cases are finalized.

Fatoumata Diakite, the President of the African Regional Group and the first Vice President then addressed the group by thanking his excellency, the President of the country for having accepted to host the meeting and also for the kind sponsorship. She briefly outlined the history of the meetings of the IAJ namely, that the meeting in 2005 in Niger addressed the theme, “ “

June 2006, in Yaounde, Cameroon, the theme was “The penal law in Africa”

April 2007 in Abidjan, in the Ivory Coast, the theme was “Justice and economic development”

March 2008, in Algiers, Algeria, the theme was “Justice and the media”

July 2010, in Cotonou, Benin the theme was “The Judicial time and emergency”.

José María Bento Company, the president of the International Group, thanked everyone who was involved in the planning of the conference.

The President of the Supreme Court of Appeal of Benin, also spoke about the slowness of the Judicial systems and ways in which this could be addressed.

The Minister of Justice, Legislation and Human Rights then addressed the group.

Various papers were then presented.

The first paper was by Giacomo Oberto.

The next paper was from Togo, Mr Wiyao Swana, General secretary of the General Prosecutor.

The next paper presented was by South Africa, Justice Musi.



Mr Onésime Gérard Madode, President of the National Association of Judges of Benin



The President of the Supreme Court of Appeal of Benin



The Minister of Justice, legislation and Human Rights of Benin



Fatoumata Diakite, the President of the African Regional Group



José María Bento Company



Delegates from South Africa

Ms Colleen Collis (Magistrate Johannesburg and National Treasurer of JOASA), Ms Thule Tu Tonjeni (Chief Magistrate Wynberg), Justice Cagney Musi (Ambassador to the IAJ)

Delegates who attended the conference.



Below please find report from the ambassador of JOASA, Justice Cagney Musi.

“The African Regional Group of the IAJ held its 15th annual meeting from the 22nd to the 24th of July 2010 at Benin.

The theme of the meeting – which is always held with a conference – was “judicial delays and urgency in the finalization of cases”. The conference was held on the 22nd and the meeting on the 23rd and 24th. The minutes of the meeting forms part of this newsletter.

The Minister of Justice and Human Rights who is also the keeper of the Seal of Benin gave the keynote address. He pointed out that Benin attained its independence on 1 August 1960. It

was therefore celebrating its 50th year of independence.

He pointed out that all societies denounce slow justice and demand swift justice. However swiftness is not a mayor preoccupation of those who administer justice. He stated that quality decisions can still be reached in a framework of swift justice. He then highlighted the following:

- Rules and procedures must be adapted towards the speedy finalisation of cases.
- Trials must be equitable.
- Vigilance needed to ensure that the rights of parties are respected.
- Quality decisions are important for confidence in the judiciary.
- Court time must be used efficiently.
- Courts must better organise themselves in order to eliminate time wasting
- Justice and the truth must be sought and found within a reasonable time
- Rural communities must be made part of the mainstream and justice in those areas should be the same as in urban areas. The system has an urban bias.
- The Benin government established an access to justice program, which seeks to overhaul and improve civil procedure in order to achieve access to justice and fight judicial tardiness.

The President of the Supreme Court of Benin emphasised that:

- The law functions in a global sphere.
- Countries should not only be concerned with justice within their borders but also with justice that affects those outside their boundaries.
- If justice is delayed citizens will doubt the capacity and ability of courts to carry out their duty.
- Economic interest and social rights may be negatively affected if justice is delayed.

- If justice is not rendered within a reasonable time the whole system is compromised.

Mr Oberto, the assistant secretary of the IAJ, pointed out that urgency is a process that is managed by the judicial officer. He made the following points:

- Urgency is very important in the Italian judicial system.
- If proceedings take too long the creditor is prejudiced and may lose his right to claim.
- In Italy they have a provisional seizure procedure. In terms of this procedure the plaintiff applies to court to provisionally seize assets which are the subjects of the dispute and which he thinks the defendant might hide or alienate. The provisional seizure measures can be revoked by a judge on application. If at the end of the trial it is clear that the application for provisional seizure was vexatious the defendant has a right of recourse against the plaintiff.
- The court may also grant part of the damages pending the final determination of the damages.
- He also pointed out that in terms of Article 6 of the European Charter of Human Right cases should be finalised within a reasonable time.

Colleagues from Togo, South Africa and Benin delivered short papers on the subject. The papers are available from the secretariat.”

Ms Fatoumata Diakite, the current president of the African Regional Group, and who is also currently the first vice president of the IAJ, will



be finishing her term as President of the African Group at the next world conference on the IAJ which is to be held in Senegal in November 2010.

The African Regional Group proposed Justice Cagney Musi as candidate for the position of the President of the African Group. There was a second candidate, namely Judge Fares Moustapha from Morocco who arranged the African IAJ conference in Morocco in 2008 and also arranged the world IAJ conference in Morocco in 2009.

He did not stand down and will present himself to the Central Council in Senegal in November 2010. Should Justice Musi be elected as President of the African Region Group, the expenses for his future involvement in representing the African Region will be borne by the Central Council and no longer JOASA.

JOASA wishes Justice Musi success for his candidature as President of the African Region of the IAJ.

