



JOASA



NEWSLETTER



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Contact e-mail addresses of the provincial chairpersons:

Province	Chairperson	e-mail
EASTERN CAPE	Mrs T. Olivier	TOlivier@justice.gov.za
FREE STATE	Mr T.J Mamburu	ThMamburu@justice.gov.za
GAUTENG	Mr X Zeka	XZeka@justice.gov.za
KWAZULU NATAL	Mr A. Ntshangase	ANtshangase@justice.gov.za
LIMPOPO	Mrs B Dzivhani	BDzivhani@justice.gov.za
MPUMALANGA	Mr M. Essa	MEssa@justice.gov.za
NORTH WEST	Mr B. Chulu	BChulu@justice.gov.za
NORTHERN CAPE	Mr F. Erasmus	FErasmus@justice.gov.za
WESTERN CAPE	Mr P. Govender	PGovender@justice.gov.za

President's greetings



Dear Colleagues,

I look forward to seeing you at the AGM which will be held on the 31st of October. The theme of the conference will be "Deconstructing violence against women and children - a leadership initiative undertaken by Judicial Officers". This topic was chosen due to the fact that the 16 days of activism against gender violence will take place in November and by holding this conference we hope that we as judicial officers may impact greatly on this cause.

JOASA Greetings

Dario Dosio
President of JOASA



NATIONAL OFFICE BEARERS



*President
Dario Dosio*



*Vice President
and Webmaster
Vincent Ratsibvumo*



*National Secretary
Mosidi Moleleki*



*National Treasurer
Colleen Collis*



*Assistant National Secretary
Nozipho Mncube*



*Assistant National Secretary
Justice Zeenat Carelse*

AGENDA OF EVENTS



Annual General Conference

The Annual General Conference will be held at the Parktonian hotel, Johannesburg, on the 31st of October at 16h00.

There will be a training that will commence on Saturday the 31st of October which will be entitled “Deconstructing violence against women and children - a leadership initiative undertaken by Judicial Officers”.

There will be accommodation provided for 120 delegates. If you are interested to attend, please contact your provincial chairperson by no later than the 9th of October.

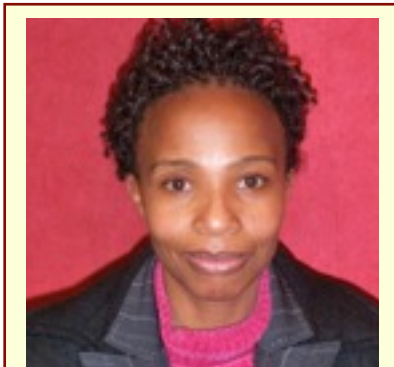




SECRETARIAT

The secretariat ensures that the interests of members is dealt with and resolved. Please continue to keep the National Secretary and the provincial secretaries informed of your work related concerns in order that we may seek ways to address these issues.

The e-mail address of the National Secretary is MMoleleki@justice.gov.za
The two assistant secretaries are: Zeenat Carelse ZCarelse@justice.gov.za
NMncube2@justice.gov.za



*National Secretary
Mosidi Moleleki*

TREASURY

The National Treasurer, together with the national auditor, will be training the treasurers of all 9 provinces on the 21st of November. This is in order to bring the accounting principals of all 9 provinces in line with the standards adopted by the national treasurer of JOASA.



*National Treasurer
Colleen Collis*

EVENTS THAT HAVE BEEN HELD IN THE VARIOUS PROVINCES

Limpopo Province

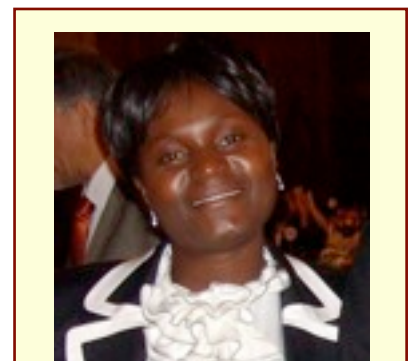
The Chairperson of Limpopo reports as follows:

The AGM in Limpopo was held on the 18th September 2009. It was well attended. Mr Justice Mamburu from Free State province was an observer. The AGM was held at Vuwa Lodge in Polokwane.

The new PEC members are as follows:

- 1. Chairperson: Mrs Benedict Dzivhani-Matlhape
- 2. Secretary: Mr Rameetse
- 3. Treasurer: Mr Kellerman
- 4. Additional member: Mrs Kellerman
- 5. Additional member: Mrs Raborifi-Nchabeleng

Members expressed their confidence in the organisation and are looking forward to the National AGM.



*Chairperson of
JOASA Limpopo*

Northern Cape

On the 31st of July the Annual General Conference of the Northern Cape took place in Kimberley.

The provisional members of the PEC (still to be ratified at the AGC on the 31st of October) are:

- CHAIRPERSON: F. ERASMUS
- SECRETARY: C. HENDRICKS
- TREASURER: L. ROACH
- ADD MEMBERS: M. QOMOYI



Free State Province

Report on Free State province AGM

On the 31 July 2009, JOASA Free State held its AGM at University of the Free State, Old Vista Campus, in **Mangaung**.

The new executive members are: Mr Justice Mamburu (Chairperson); Ms Carmen Parks (Secretary) and Mr. Buti Zulu (treasurer).

The chairperson, in his report, asked members of JOASA to be positive, supportive and believe in JOASA. He emphasized that JOASA is made up of characteristics such as resilience, faith and inventiveness whenever it is faced with difficult times-there is enough evidence of this recorded in the history of JOASA. It is also an association that has and shall never shy away from taking up its member's causes.



INTERNATIONAL CONFERENCES

THE (AFRICAN REGION) - INTERNATIONAL ASSOCIATION OF JUDGES CONFERENCE HELD IN ALGERIA 27 June to 1 July 2009)

The African Region group of the International Association of Judges met in Algiers, Algeria from the 27th of June to the 1st of July. The conference was held in the conference hall of the Supreme Court of Algeria.

According to the Statute of the International Association of Judges, the Central Council may admit national associations or groups as members of the association.

The Judicial Officers Association of South Africa (JOASA) is a national organization and is recognised by the International Association of Judges (IAJ) and accordingly is a member.

Only one association or national representative group of each country may be admitted to the International Association of Judges.

The International Association of Judges was founded in Salzburg (Austria) in 1953 as a professional, non-political, international organization.

The main aim of the Association is to safeguard the independence of the judiciary, as an essential requirement of the judicial function and guarantee of human rights and freedom.

The organization consists of 69 national associations or representative groups from five continents.

The IAJ has four Regional Groups:

- the European Association of Judges (38 Countries)
- the Ibero-American Group (14 Countries)
- the African Group (12 Countries)
- the Asian, North American and Oceanian Group (9 Countries)

The IAJ has four study-commissions, dealing respectively with

- judicial administration and status of the judiciary;
- civil law and procedure,
- criminal law and procedure,
- public and social law.

On the basis of national reports, the members of the Commissions study problems of common interest to the justice process in every



View of Algiers, Capital City of Algeria

country of the world, on a comparative and transnational basis.



Left to right: D. Dosio; Fatoumata Diakiti- Vice President of the IAJ and President of the African Regional Group; V. Ratshibvumo

The Association has consultative status with the United Nations (namely the International Labour Office and the U.N Economic and Social Council) and with the Council of Europe.

There have been 50 Central Council meetings since 1953. The first occurring in 1953 in Salzburg, Austria and the last one in Yerevan, Armenia in 2008.

The objects of the Association are as follows:

- a. to safeguard the independence of the judicial authority, as an essential requirement of the judicial function and guarantee of human rights and freedom,
- b. to safeguard the constitutional and moral standing of the judicial authority,
- c. to increase and perfect the knowledge and the understanding of Judges by putting them in touch with Judges of other countries, and by enabling them to become familiar with the nature and functioning of foreign organisations, with foreign laws and, in particular, with how those laws operate in practice,
- d. to study together judicial problems, whether these are of regional, national or

universal interest, and to arrive at better solutions to them.

These objects are to be pursued by the following means:

- a. by the organisation of conferences and meetings of Study Commissions,
- b. by the establishment of cultural relations,
- c. by promoting and enhancing friendly relations between Judges of different countries,
- d. by furthering mutual assistance between national associations and groups,
- e. by encouraging exchange of information and by facilitating professional and vocational visits by Judges to other countries.



Left to right; Fatoumata Diakiti; Justice Cagney Musi, JOASA's Ambassador to the IAJ

Members may establish Regional Groups within the framework of the International Association of Judges, if the Central Council does not oppose, in order to promote the objects of this Association, where this is best done in a regional context, and in order to promote regional cooperation in areas pertaining to the judiciaries of the member states, conforming to the principles and objects of the International Association of Judges.



The Presidents of the Various Associations forming part of the African Region of the IAJ and two representatives of the central Council: (1) Giacomo Oberto - Deputy Secretary General of the IAJ (2) Nsambayi Mutenda Lukusa - President of the Court of Appeal and President of the Syndicate of Magistrates of the Democratic Republic of Congo (3) Adnen Heni - President of the Association of Magistrates of Tunisia (4) Abdoulaye Ba - President of the Union of Magistrates of Senegal (5) Ousmane Baydo - Magistrate - République of Niger (6) Dario Dosio - President of the Judicial Officers Association of South Africa (7) Max Carette - Honorary Counciller - Court of Appeal Antwerp (8) Mostafa Fares - President de 'Amicale Hassania des Magistrats du Maroc (9) Madode Onésime Gérard - President de l'Union Nationale des Magistrats du Benin (10) Assouma Aboudoa - President de la Corte Constitutionnal - Togo

“The ambassador to the IAJ from JOASA is Justice Musi.

Justice Musi reports as follows:

REPORT ON THE MEETING OF THE AFRICAN REGIONAL GROUP OF THE INTERNATIONAL ASSOCIATION OF JUDGES (IAJ)

[1] The African Group of the IAJ held its 14th annual meeting at Algiers on the 28 and 29 June 2009. The “meeting” which was organised by the Algerian Association of Judges (AAJ) can be divided into three parts viz the formal part, the meeting and the conference.

[2] The formal part

Delegates were addressed by Ms Fatoumata Diakite (The Vice President of the IAJ and Chairperson of the African Group), Mr José Maria Bento Company (President of the IAJ), the Algerian Minister for Justice and the Chairperson of the AAJ.

[3] The chairperson of the AAJ welcomed all the delegates and shared his views about the relationship between the judiciary and media. He emphasised that the media has an important role to play in communicating our judgments. He pointed out that the media, as the fourth sphere of the state, is very powerful and should be harnessed to enhance judicial independence.

[4] Ms Diakite thanked the President of Algeria and the Minister for Justice for allowing the meeting to be held in their country. She briefly outlined the objectives of the IAJ. She informed the delegates that it is important that more countries join the IAJ. Benin and the Democratic Republic of Congo (DRC) will be accepted as members in 2009. Gabon, Angola and Congo Brazzaville will probably be accepted in 2010. She reaffirmed that the independence of the judiciary is not a luxury for judges but a guarantee that the rights of people will be protected by an independent and courageous judiciary.

[5] The President of the IAJ stated that it represents 75 countries, which translates into 75 000 judges. It was established in 1953. He also referred to the independence of the judiciary and the need for the judiciary to interact with the media. According to him the

judiciary has an important role to play in creating political dialogue and finding solutions to societal problems.

[6] The Minister for Justice welcomed the delegates. He pointed out that judicial links between countries is just as important as political links. He said that an independent judiciary is vital for political stability.

Governments therefore have a duty to make sure that the independence of the judiciary is protected and promoted. He pointed out that:

Court processes and judgements should be clear and understandable

Information technology should be used so that litigants can track and trace documents filed in their cases

More judges should be appointed to deal with the increasing workload. (Algeria has increased the number of judges by 50% since 1999).

Codes of ethics should be adopted and adhered to by judges.

The judiciary and the media should assist each other in searching for the truth and justice.

The media must respect confidentiality/privacy.

The media should report accurately.

Judges should not be over sensitive, especially when they are criticised in the media.

[7] The meeting of the African Group

7.1. The meeting, which took the form of a feedback session, started on 28th June 2009 at 11h30.

7.2. The minutes of the meeting held at Yerevan in 2008 was adopted.

7.3. The Chairperson of the African Group reported that:

she attended the meeting of the Tunisian Association of Judges:

The Presidency committee, which includes the secretariat and all five vice presidents, had a meeting to prepare and discuss issues to be discussed at the next meeting in Marakesh, during October 2009.

She attended the Ibo American Group meeting. Mozambique and Angola are interested to join the IAJ. Brazil offered to engage them because they are all Portuguese speaking countries.

The financial situation of the group was set out. (This info is contained in the minutes of the group which was sent to JOASA's President).

South Africa will be requested to speak to the Anglophone nations in order to convince them to join the IAJ.

The delegate from Benin indicated that they might host the next meeting of the African Group. He will revert to the Vice President in that regard.

Senegal announced that they want to host the next meeting of the IAJ. The Presidency committee will decide on this issue.

Member countries gave brief reports on developments in their respective countries. Algeria pointed out that they have a law on parity between men and women in all employment sectors. Their judiciary currently has 40% women judges. In the Ivory Coast judges had a problem with the prosecutors general. They lodged a grievance against him and that matter is still under consideration. Morocco launched a charter on Ethics for judges.

In Niger there are problems between the President and the Constitutional Court. The President wants to amend the constitution to serve more terms in order to “complete certain projects”. The constitutional Court ruled that such an amendment would be unconstitutional because it would offend the non-reviewable clauses of their constitution. The President has called on all the members of the Constitutional Court to resign.

In the DRC they have set up a committee to report on the status of judges. In Togo the President of the Constitutional Court spoke out against corrupt judicial officers. All the judges in that country are now against him and have called for his resignation. We reported that the current Minister for Justice is the third such appointee since our last meeting. We informed the meeting about the regulations for the lower court judiciary that are being rewritten. We mentioned that the Judicial Education Institute has been established. We also informed them that judicial officers have successfully taken the Minister for Justice to court in relation to irregular appointments.

[8] THE CONFERENCE

8.1. Representatives of the media and judges delivered papers on the relationship between the media and the judiciary (The papers are in French or Arabic. All the papers will be made available on request). It was clear that the judges, generally, were not satisfied with the way in which cases are reported. The judges *inter alia* pointed out that.

The press get more and more important in open and democratic societies because they have direct access to the public.

Many reporters don't care to get their facts correct.

Articles are written in such a way that it suits media interest.

If a judgment is given against a newspaper that paper will criticise the judgement and the judge.

Reporters are not accountable. Press freedom must be accompanied by responsibility.

In some countries they adopted strict media laws which criminalise negligent reporting or irresponsible invasion of privacy.

8.2 The media representatives pointed out that:

Court reporters are usually inexperienced

The judiciary is over-sensitive

They try their best to report accurately

The proliferation of tabloid newspapers fuels the sensation seeking part of journalism.

Judges should open up and give journalist their views.

The media should not be barred from court proceedings.

The conference resolved that:

Judges should take part in training programmes for journalists.

Judges should explain their judgments to journalists, so that they can report accurately on the issues.

Judges should hold regular joint meetings with representatives of the media.

Judges should make journalists aware of ethical rules of journalists and judges. Ethical codes for journalists must be set up by an independent body.

Inaccurate reporting should be reported to ethics bodies.

Judges should also communicate with editors if reports are inaccurate.

The meeting was very well organised. We express our thanks to the AAJ.”

Justice C.J.Musi

Photos of the African Regional Meeting



(1) Barbara Scolart - Assistant to the IAJ secretary-general (2) Giacomo Oberto - Deputy secretary-general (3) Fatoumata Diakiti - President of the African Regional Group (4) José Maria Bento Company - President of IAJ (5) Maja Tratnik - Honorary President of IAJ

INTERNATIONAL VISITS

THE VISIT BY A DELEGATION OF MAGISTRATES AND JUDGES FROM THE PEOPLE'S REPUBLIC OF CHINA

On the 20th of July 2009 the management of JOASA met with a delegation of Magistrates and Judges who came from China. The purpose of the meeting was to get a proper understanding of how JOASA was formed and all the functions it does. The delegation also wanted to know more about the role that the

Association plays and how membership and eligibility to become a member is conducted.

Heading the delegation was Mr Dai Hongbing, Vice President/Chief Judge, Guangxi High People's Court. There were 19 magistrates and judges.



(1) Vincent Ratshibvumo, (2) Lan Shengchang - Chief Judge, Guangxi High People's Court (3) Colleen Collis (4) Mosidi Moleleki (5) Dario Dosio (6) Dai Hongbing - Vice President /Chief Judge, Guangxi High People's Court

Delegation of JOASA attended a Joint SADC Parliamentary Forum & SADC Tribunal workshop in Gaborone, Botswana from the 23 – 28 August 2009

The theme of the Workshop was “Advancing Rights based Law on HIV across SADC Jurisdictions. The contribution of judicial and legal actors.”

The delegates representing JOASA as nominated by the NEC were Ms Judy Van Schalkwyk and Mr Tshifhiwa Maumela.



Left: Ms J. Van Schalkwyk - Right: Mr T. Maumela

Ms Van Schalkwyk and Mr Maumela report as follows:

“The conference was attended by delegates from South Africa, Malawi, Tanzania, Lesotho, Mauritius, Kenya, Mozambique, Namibia, Botswana, Swaziland, Uganda, Zimbabwe, The Democratic Republic of the Congo and Zambia.

Ms Amakobe Caroline Sande, team leader of Country support UNAIDS gave an overview of the HIV/Aids epidemic and emergency public health concerns.

It is important to note that the number of people living with HIV/Aids has grown from 29 million in 2001 to 33 million in 2007. New infections have reached 1.5 million in 2007. Deaths due to Aids-related illnesses rose to 2 million in 2007. In Africa 75% of these deaths occur due to causes related to HIV/Aids. Globally, new infections rose by 2.7 million. South Africa with 31% is the biggest contributor to the number of people living with HIV/Aids followed by Swaziland, Botswana and Lesotho.

What contributes to high levels of infection?

Majority of infections due to multiple concurrent heterosexual relationships;

Casual homosexual sex (men having sex with men);

Transmission through female sexual workers (this account for the biggest number of infections).

In South Africa 5.7 million people are living with HIV/Aids. Women and girls account for 90% of infections. The high risk ages are between 15 – 24 years.

Key driving factors of the epidemic in South Africa:

Multiple concurrent partnerships by both men and women with low consistency in condom use. Men are the key perpetrators. Women are also taking part in multiple partner-relationships. The infection spreads through expanded sexual activity;

Serial monogamy (heterosexual relationships that span over a short period of time without condom use).

Key Public Health Challenges:

High levels of mortality;
People don't get ARV's;
People don't know their status;
Infected people who are not on treatment (Leading to a high levels of viral load)
Prevention not a priority;
Health systems are strained;
Stigma and discrimination.

Legal responses:

Police, Judges and Magistrates have to enforce the law.

Community enforcement: People should know their rights.

Applicable legislation and law reform prove crucial.

Joint action for results:

Prevent sexual transmission;
Prevent mothers and babies from becoming infected with HIV/Aids;
Ensure treatment of people with HIV/Aids;
Prevent people living with HIV/Aids from dying of TB (Tuberculosis);
Protect drug users from becoming infected;

Do away with punitive laws, policies, procedures, stigma and discrimination that block effective responses to Aids;
Stop violence against women and children;
Empower young people to protect themselves from becoming infected;
Discourage customs and traditions that may have the effect of increasing the spread of HIV/Aids.

The Magistracy and the Judiciary have a key role to play in preventing and containing this pandemic.

The Model Law on HIV/Aids in Southern Africa as presented by Professor Frans Viljoen – University of Pretoria.

The Model Law is a non binding piece of international Law. It is referred to as “Soft Law”. It has persuasive value, in instances where the specific factual circumstances call for the application of legal principles that are not catered for by our Constitutional Law, Statutory Law, Common Law and our Case Law. This Law has been accepted by S.A.D.C. Find a copy of the following documents:

Model Law on HIV/Aids in Southern Africa; and
An introduction to the Model Law on HIV/Aids in Southern Africa.

The Model Law is a source of Law. It provides for HIV-related issues more succinctly than any other SADC legal document. If endorsed by member states, it can be elevated to the status of law in those states. Efforts intended to combat HIV/Aids in member states can be measured against it.

Way Forward

In the light of the Model Law introduced, it is necessary to come up with a diverse array of responses. Various stakeholders (Judiciary, Legislature, Executive and Others) have to lend their support and contributions.

- Collaboration among various stakeholders within various states in the S.A.D.C. region is necessary. Equally necessary is the cross-pollination of expertise, skills and knowledge. Resource provision (human and technical) is very vital. So is legal certainty and awareness among role-players in the

machinery of Justice and among members of the general public.

- The suggested JOASA response. It is vital for JOASA to consider, discuss and resolve around the Model Law. Should JOASA favour the adoption of the Model Law, it shall have to devise ways and means towards promoting same (the Model Law) with the Magistrates Commission, the Executive and the relevant Portfolio Committee in Parliament. It shall also be necessary for JOASA to run workshops on the Model Law. To that end, collaboration by JOASA with Judicial Associations in immediate neighbouring states (Lesotho, Swaziland, Mozambique, Zimbabwe, Botswana and Namibia) may prove helpful.
- In conclusion, it is suggested that a Model Law or a Domestic Law fashioned along the lines of the Model Law may go a distance in providing a legal response to the ravages wrecked by the HIV/Aids pandemic in the S.A.D.C. region and beyond.”

NATIONAL EXECUTIVE COMMITTEE

National executive committee meeting held 11th to 13th of September - Parktonian Hotel, Johannesburg.

On the evening of the 11th of September the NEC meeting started and completed on Saturday afternoon the 12th of September. On the Friday evening Justice Le Grange delivered a keynote address entitled: "A single judiciary".

On the Saturday prior to the NEC meeting, a training workshop was held, sponsored by the Center for the Study of AIDS - University of Pretoria. Mr Menzi Hlongwa opened the training.

Ms Judy Van Schalkwyk and Mr Tshifhiwa Maumela did a session on "Why HIV and AIDS is important to judicial officers"; this was followed by a presentation by Ms Caroline Amakobe Sande entitled "Epidemic proportions of HIV/AIDS - Models as to plans of actions".

Ms Mary Crew, the Director of the Centre for the study of AIDS -University of Pretoria, did a presentation entitled "the South African perspective of HIV and AIDS".

Mr Basil King from justice college did a presentation on various cases pertaining to HIV and AIDS.

Prof. Frans Viljoen, Director of the Centre for Human Rights - University of Pretoria, did a presentation on "A model law" to address HIV and AIDS (attached find the model law). Menzi Hlongwa closed the training with an evaluation of the various training workshops held in the nine provinces, sponsored by the Centre for the study of AIDS -University of Pretoria.

This training was a great success and JOASA has embarked on a mission statement which will be circulated to address how we as judicial officers may effectively address these high rates of HIV in our country.

On the Sunday Justice Dunstan Mlambo - Justice of the Supreme Court of Appeal and Chairperson of the Legal Aid board - addressed various concerns being experienced by the Legal Aid board practitioners and encouraged feedback from the magistrates as to how better working relationships between the Legal Aid practitioners and magistrates may be achieved.



Left: Mr Tshifhiwa Maumela
Right: Ms Judy Van Schalkwyk



Ms Caroline Amakobe Sande



Ms Mary Crew



Justice Andre Le Grange



FAREWELL

Chairperson of Gauteng, Mr Clarence Nethengwe

In July the chairperson of Gauteng, Mr Clarence Nethengwe, resigned from the Department of Justice and Constitutional Development to join the private sector. We'd like to thank him for his dedication to JOASA during his position as chairperson and we wish him much strength for the future.

