



# The Africa Judges & Jurists Forum

## REPORT ON JUDICIAL INDEPENDENCE AND CIVIC SPACE IN SOUTHERN AFRICA WEBINAR

7 MARCH 2024

### Introduction

1. The Africa Judges and Jurists Forum (AJJF) in collaboration with Southern Africa Development Community Lawyers' Association (SADC LA), Southern Defenders and CIVICUS held a webinar on the 7<sup>th</sup> March 2024 to discuss the state of judicial independence and civic space in Southern Africa.
2. The webinar was moderated by Ms. Elizabeth Oriakhogba (Legal Advisor, AJJF), Ms. Maxine Nkomo (Programs Officer, SADC LA) and Ms. Meamande Wamukwamba (Programs Manager, Southern Defenders). Mr. Arnold Tsunga (Senior Legal Advisor on Elections and the Rule of Law, AJJF) made the opening remarks.
3. The panelists were as follows:
  - Justice Charles Hungwe: Judge of the Supreme Court of Zimbabwe and Acting High Court Judge, Lesotho;
  - Dr Makanatza Makonese, American Bar Association Rule of Law Initiative's Country Representative in Angola;
  - Dr Paul Mulindwa, Advocacy and Campaigns Lead for Africa with CIVICUS- a global alliance for citizen's participation;
4. Threats to judicial independence and civic space in Southern Africa emanates from the executive, legislature, judiciary, civil society, corporate bodies and the communities.
5. A weak, co-opted and unaccountable judiciary cannot defend and support civic space in the society.

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6. An independent judiciary is important for the protection of fundamental human rights of association, assembly and movement which are necessary tools to foster effective civic engagement and civic participation in the society.
7. Judicial independence constitutes other fundamental principles such as judicial impartiality and the rule of law and there is a constitutional provision in each constitution that guarantees the independence of the judiciary.
8. Where the executive arm of government creates the impression that it is in control of the judiciary, the populace will lose confidence in the judiciary.
9. An effective legal system can only be secured where there is good governance and democracy. An independent judiciary is important to ensure an effective legal system by providing the checks and balances needed to strengthen democracy, promote accountability and protect individual rights and freedoms.



**The following were identified as the key contemporary threats against judicial independence and civic space in Southern Africa:**

1. The absence of multi-stakeholders' approach (participatory decision making and information sharing at country level) to fight for access to justice.
2. Lack of financial independence of the judiciary and poor remuneration of judicial officers.
3. Lack of transparency and independence in the appointment and removal of judicial officers.
4. Threats of sanction, disrespect and mistreatment of lawyers by judges.
5. Lack of requisite capacity on the part of judicial officers about recent technological trends affecting human rights and civic spaces.
6. Lack of cooperation among intergovernmental institutions in the African sub-regions on independence of the judiciary and civic space.
7. Lack of a separation of powers between the arms of government which results in the judicialization of politics.

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**The following measures were proposed to address the threats against judicial independence and civic space in Southern Africa:**

1. The judiciary, bar associations and civil society were called upon to work together through dialogue and advocacy. They can also ensure that there is a multi-stakeholder approach to awareness on the importance of judicial independence and civic space.
2. National governments were encouraged to strengthen legal protection of judicial independence and civic space. This would require collaboration by national government and the judiciary to revise existing legal framework in order to ensure stronger safeguards against political interference with the judiciary.
3. National governments were called upon to provide sufficient funding and other resources for the judiciary. To this end, national governments were encouraged to establish legal mechanisms to ensure that allocation of adequate funds to the judiciary is mandatory for the executive and the legislature.
4. The public and judicial appointing authorities were called upon to ensure that appointment and removal of judicial officers is done transparently and independently.
5. Judiciaries were encouraged to undertake capacity building for judicial officers to strengthen their knowledge of contemporary technological trends and how they affect human rights related to civic space.

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**For more information:**

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