



AFRICA JUDGES & JURISTS FORUM



ANNUAL REPORT 2022

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About AJJF

Formed in 2012, the African Judges and Jurists Forum (AJJF) is registered as a non-profit organization 114-472NPO in South Africa. Its offices are located in Uganda (Kampala) and South Africa (Johannesburg). AJJF is an influential pan African network of eminent women and men judges and jurists who are committed individually and collectively, to promoting the rule of law and development in Africa.

The governance architecture of AJJF consists of the General Convention, the Board, the Judicial Elders' Council (JEC) and the Secretariat. The Board is chaired by Judge Moses Chinhengo. JEC consists of eminent former Chief Justices. Currently, JEC is constituted by retired Chief Justices who have a distinguished career in establishing strong, independent and impartial judiciaries and who retired from the bench when they were still influential among their peers and possessed strong conceptual and leadership skills utilisable in AJJF programming. The JEC currently comprises of Honourable Retired Chief Justices Willy Mutunga (Kenya), Mohamed Chande Othman (Tanzania), Ernest Sakala (Zambia) and Retired Chief Justice Mahapela L. Lehohla (Lesotho).¹ The Secretariat of AJJF is headed by the Secretary General Martin Masiga, supported by a team of legal experts, administrators, communication and finance practitioners.

The work of the AJJF is currently organised around the following thematic areas; promoting democratic, free and fair elections; promoting the rule of law, human rights and access to justice; strengthening democratic governance; promoting efficient crisis response and economic transformation.

¹ See AJJF website at <https://africajurists.org/meet-our-team/>

Statement from the Chair of the Board

Our primary role as the Board is to provide oversight on the Secretariat and high-level advice in furtherance of AJJF's strategic objectives, vision, mission and goals. The year 2022 has been quite momentous. The major highlights were that Kenya held its general election in August 2022, and the Supreme Court had to adjudicate a presidential election petition. Kenya remains one of the leading constitutional democracies on the African continent. As the Board, we are pleased to have been involved, together with some members of our JEC, in the High-Level Mission deployed by AJJF to observe the handling of the presidential election petition by the Supreme Court of Kenya. We have since published our report which details our findings on the manner in which the Supreme Court handled the presidential election petition.

In 2022, we also witnessed challenges in some jurisdictions, which in our view could threaten the independence of the judiciary if not properly addressed. These challenges required our attention as AJJF, particularly to offer our advice on how some of them could be addressed. We are pleased as AJJF that, whilst there is still a lot of work to be done, there is considerable progress that has been achieved towards resolving some of these challenges and threats against the independence of the judiciary. We continue to urge our governments on the continent to not only respect but to do everything possible within their powers to protect and promote the independence of their judiciaries. Without judiciaries that are independent, it would be impossible for Africa to resolve some of its most pressing contemporary challenges which include corruption, illicit financial flows and democratic regression. We look forward to 2023

with the anticipation to play a more active and constructive role in promoting the rule of law as a means towards advancing development and democracy on the African continent.

Judge Moses Chinhengo.

Statement from the Secretary General

The year 2022 has been a year of both consolidation and expansion at the Africa Judges and Jurists Forum. As a network of judges and jurists who are committed to promoting the rule of law and development in Africa, we are proud that our work in 2022 contributed towards addressing some of the pressing challenges against the rule of law on our continent. The rule of law in Africa faces challenges arising from political pressure exerted in disregard of the independence of the judiciary in some parts of the continent. In addition, the capacity of judicial officers to enforce the rule of law is also constrained by the limited knowledge and skills amongst judges and lawyers on some of the emerging legal concepts. For example, whilst freedom of expression, access to information and freedom of assembly are not new rights, their online dimension (as digital rights) is relatively a new phenomenon that is being experienced with the ongoing expansion of Information Communication Technologies (ICTs) in Africa and across the world. This rapid expansion of ICTs has also brought with it new threats and restrictions against these and other human rights. As AJJF, we are proud that in 2022 some of our work contributed towards raising awareness amongst judges and lawyers of these issues which are at the intersection of law, human rights and technology.

With courts playing a more prominent role in resolving election disputes, there is a need to ensure that judges are better prepared to adjudicate over election petitions fairly and with

independence. We are proud that in 2022 AJJF continued to play its role of providing capacity development support to enhance the skills of judges to adjudicate in election petitions fairly and impartially. In addition, we are also proud that AJJF continues to act as the nerve center for cross jurisdictional peer to peer learning amongst judges.

Martin Masiga

HIGHLIGHTS FOR 2022

Africa Judges and Jurists Forum co-hosts a Chief Justices Symposium on digital rights

In collaboration with the Media Institute of Southern Africa, the International Commission of Jurists, the American Bar Association Rule of Law Program, International Commission of Jurists-Kenya, the Advancing Rights in Southern Africa Program, Southern African Chief Justices Forum and the Kenya Judiciary, AJJF conducted a symposium of Chief Justices and senior judges from Southern and East Africa, to discuss the role of the judiciary in protecting digital freedoms. The symposium was held in Nairobi at Safari Park hotel from 21 to 22 April 2022. Ten Chief Justices, nine senior judges and five resource persons (from the academia, legal profession and civil society) participated at the symposium. During the discussions, judges and resource persons exchanged information on the state of internet freedoms in Africa and the legal standards which judges must enforce in order to protect digital freedoms against

undue restrictions. They also discussed emerging trends from the African jurisprudence on the protection of internet freedoms. Discussions during each session of the symposium were anchored on a presentation by an expert from the academia, civil society and the judiciary. At the end of the symposium, the Chief Justices and judges agreed that digital freedoms are critical not just for the protection of constitutional democracy but also for the realisation of various socio-economic rights. They further agreed that they would continue to exchange information amongst themselves and across jurisdictions to promote the development of progressive African jurisprudence on the protection of digital rights.

Africa Judges and Jurists Forum sends Observer Mission to monitor Kenya presidential election petition proceedings

AJJF deployed a High-Level Observer Mission comprising of eminent African jurists, to observe the hearing by the Supreme Court of Kenya, of the 2022 presidential election petition. The Observer Mission arrived in Nairobi on 28 August 2022 and completed its mission on 4 September 2022.

Headed by Retired Chief Justice of the Republic of Tanzania Mohammed Chande Othman, the Observer Mission comprised of Justice Henry Boissie Mbha of the Supreme Court of Appeal and immediate past President of the Electoral Court of South Africa; Justice Moses Chinhengo, AJJF Chairperson and Justice of the Court of Appeal of Lesotho and former Judge of the High Court of Zimbabwe and of Botswana; Lady Justice Lillian Tibatemwa-Ekirikubinza of the Supreme Court of Uganda; and Lady Justice Ivy Kamanga of the Supreme Court of Appeal of Malawi.

The purpose of the Observer Mission was to monitor the proceedings before the Supreme Court of Kenya and assess whether these proceedings were being handled in a manner that adheres to regional and global standards relevant for the handling of election disputes. In particular, the Observer Mission assessed whether the Supreme Court handled the proceedings in a manner which adheres to the principles of lawfulness, transparency, procedural fairness, accountability and judicial independence.

During its visit the Observer Mission attended the hearing at the Supreme Court building, met and engaged with the main parties in the petition namely: the then President-Elect Dr William Samoei Ruto, Rtd Prime Minister Raila Amolo Odinga, and the officials of the Independent Electoral and Boundaries Commission (IEBC). They also met with the Attorney General of the Republic of Kenya Retired Justice Paul Kihara Kariuki, President of the Law Society of Kenya Mr Eric Thueri, Rtd Chief Justices of Kenya Hon. David Maraga and Hon. Willy Mutunga.

During these meetings, the Observer Mission sought and documented views, opinions and concerns which stakeholders had on whether the manner in which the petition was being handled complied with regional and international standards including on lawfulness, transparency, procedural fairness, accountability and judicial independence, as is mandated upon Kenya by Article 7 of the African Charter on Human and Peoples' Rights, Article 17(2) of the African Charter on Democracy, Governance and Elections, Article 14 of the International Covenant on Civil and Political Rights.

The Observer Mission published its report in December 2022 in which it found that the petition had been handled efficiently and in accordance with the aforementioned regional and international standards. However, AJJF made some recommendations for consideration by the

legislature including on the length of time within which the judiciary is required by law to have determined the petition.

Regional symposium on the adjudication of election petitions

In July 2022, AJJF hosted a symposium on the role of the judiciary in resolving election disputes. The symposium was held in Lilongwe, Malawi in collaboration with the Malawi Judiciary, and the African Electoral Jurisprudence Network (AEJN)-a regional forum that brings together judges and individuals who adjudicate electoral disputes in courts, tribunals, and election management bodies from across the African continent. AEJN was co-founded by AJJF in collaboration with the International Federation on Electoral Systems (IFES) and the South Africa Judicial Education Institute (SAJEI).

During the symposium, judges and other legal experts in attendance identified and shared information on the key challenges which confront judiciaries as they adjudicate in election petitions. These include political pressure, time limitations as these disputes must be disposed of within strictly prescribed timeframes, public perceptions of judicial capture and limited information. They also discussed and shared information on how these practical challenges can be mitigated and or addressed.

Webinar on elections and independence of judiciary

In conjunction with the Electoral Court of South Africa, the International Federation of Electoral Systems (IFES), AJJF participated in organising a Webinar on “Judicial Independence in Election Disputes” under the aegis of the African Electoral Jurisprudence Network. It was held on May 25, 2022. This webinar aimed at providing a forum for judges on



the African continent to share relevant experiences, identify common challenges and share some best practices in overcoming threats to judicial independence in electoral disputes in their jurisdictions.

The Fifth Plenary Assembly of the Global Network on Electoral Justice.

As a member of the Global Network, AJJF participated in the Fifth Plenary Assembly of the Global Network on Electoral Justice, which took place from 9 to 11 October 2022 at Nusa Dua, Bali, Indonesia. The Assembly was organized by BAWASLU, the election management body of Indonesia. The Assembly covered 4 main topics, which included: the analysis of the 2022 elections and COVID-19 pandemic phase-out strategies; digital media and disinformation in electoral processes; strategies to bring electoral justice closer to citizens: transparency, open data, and social collaboration. The three observatories of GNEJ (Gender Equality, Judicial Independence and Social Media) were also presented.

For the first time, the proceedings of the Assembly involved the making of Awards. Launched in May 2021, these awards will be delivered annually with the aim of recognizing innovative academic studies on the subject, as well as specific actions carried out by jurisdictional bodies—or other entities responsible for electoral justice—and international organizations.

AFRICA JUDGES AND JURISTS FORUM

STATEMENT OF FINANCIAL POSITION

AS AT 31 OCTOBER 2022

	<u>Notes</u>	<u>2022</u> <u>ZAR</u>	<u>2021</u> <u>ZAR</u>	<u>2020</u> <u>ZAR</u>
ASSETS				
Non-current Assets				
Property and equipment	4	15 020	27 589	40 158
Total non-current Assets		<u>15 020</u>	<u>27 589</u>	<u>40 158</u>
Current Assets				
Bank and cash	5	3 580 032	15 068	878 218
Accounts receivables	6	-	-	25 411
Total current assets		<u>3 580 032</u>	<u>15 068</u>	<u>903 629</u>
TOTAL ASSETS		<u>3 595 052</u>	<u>42 657</u>	<u>943 787</u>
RESERVES AND LIABILITIES				
Reserves				
Accumulated surplus	7	497	29 082	29 710
Total reserves		<u>497</u>	<u>29 082</u>	<u>29 710</u>
Current liabilities				
Accounts payables	8	523 803	13 575	176 759
Deferred income	9	3 070 752	-	737 318
Total current liabilities		<u>3 594 555</u>	<u>13 575</u>	<u>914 077</u>
TOTAL LIABILITIES		<u>3 594 555</u>	<u>13 575</u>	<u>914 077</u>
TOTAL RESERVES AND LIABILITIES		<u>3 595 052</u>	<u>42 657</u>	<u>943 787</u>

Director

Secretary General

Date: 25 November 2022

AFRICA JUDGES AND JURISTS FORUM

STATEMENT OF INCOME AND EXPENDITURE

FOR THE YEAR ENDED 31 OCTOBER 2022

	<u>Notes</u>	<u>2022</u> <u>ZAR</u>	<u>2021</u> <u>ZAR</u>	<u>2020</u> <u>ZAR</u>
Income	10	513 428	2 547 550	1 163 113
Total income		513 428	2 547 550	1 163 113
Expenditure				
Audit fees		13 575	13 575	15 000
Staff costs		264 848	1 157 736	632 637
Depreciation		12 569	12 569	12 569
Accommodation & Conference		-	-	-
Travelling		13 598	9 833	-
Communication		11 648	26 957	32 600
Perdiem & Terminal Fees		-	-	-
Facilitation fees		-	-	-
Consultancy fees		208 800	1 325 110	480 789
Conference registration fees		-	-	-
Consumables		-	10 600	4 027
Printing costs		6 556	36 697	-
Bank charges		10 418	17 948	-
Total expenditure		542 013	2 611 025	1 177 622
 Deficit for the period	 11	 (28 585)	 (63 475)	 (14 509)

AFRICA JUDGES AND JURISTS FORUM

STATEMENT OF CHANGES IN FUNDS

FOR THE YEAR ENDED 31 OCTOBER 2022

	<u>Capital Funds</u> ZAR	<u>Revenue Funds</u> ZAR	<u>Total</u> ZAR
Balance at 31 October 2019	-	44 219	44 219
Deficit for the year	-	(14 509)	(14 509)
Balance at 31 October 2020	-	29 710	29 710
Changes in capital funds	62 847		62 847
Transfer to capital funds	(12 569)	12 569	-
Deficit for the year		(63 475)	(63 475)
Balance at 31 October 2021	50 278	(21 196)	(29 082)
Changes in capital funds	-		-
Transfer to capital funds	(12 569)	12 569	-
Deficit for the year		(28 585)	(28 585)
Balance at 31 October 2022	<u>37 709</u>	<u>(37 212)</u>	<u>(497)</u>

AFRICA JUDGES AND JURISTS FORUM

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 31 OCTOBER 2022

	Notes	2022 ZAR	2021 ZAR	2020 ZAR
CASH FLOW FROM OPERATING ACTIVITIES				
Deficit for the year before taxation		(28 585)	(63 475)	(14 509)
Adjustments for:-				
Depreciation	4	12 569	12 569	12 569
Cash generated from operations		(16 016)	(50 906)	(1 940)
Adjustment for working capital changes				
Decrease/(increase) in accounts receivable	6	-	25 411	(25 411)
Increase/(decrease) in accounts payables & capital funds	8	510 228	(100 337)	138 386
Increase/(decrease) in deferred income	9	3 070 752	(737 318)	737 318
Cashflow from operating activities		3 564 964	(863 150)	848 353
Taxation paid		-	-	-
Net Cash flow from operating activities		3 564 964	(863 150)	848 353
CASH FLOW FROM INVESTING ACTIVITIES				
Acquisition of fixed assets	4	-	-	(37 548)
Net cash flow from investing activities		-	-	(37 548)
CASH FLOW FROM FINANCING ACTIVITIES				
Net increase /(decrease) in cash and cash equivalents		3 564 964	(863 150)	810 805
Cash and cash equivalents at the beginning of the year	5	15 068	878 218	67 413
Cash and cash equivalents at the end of the year	5	3 580 032	15 068	878 218

AFRICA JUDGES AND JURISTS FORUM

NOTES TO THE FINANCIAL STATEMENTS

31 OCTOBER 2022

4 PROPERTY AND EQUIPMENT

	Computer Equipment ZAR	Total ZAR
Cost/Revaluation		
Balance at 31 October 2019	25 299	25 299
Additions	37 548	37 548
Balance at 31 October 2020	62 847	62 847
Additions	-	-
Balance at 31 October 2021	62 847	62 847
Additions	-	-
Balance at 31 October 2022	62 847	62 847
Accumulated depreciation		
Balance at 31 October 2019	10 120	10 120
Depreciation for the year	12 569	12 569
Balance at 31 October 2020	22 689	22 689
Depreciation for the year	12 569	12 569
Balance at 31 October 2021	35 258	35 258
Depreciation for the year	12 569	12 569
Balance at 31 October 2022	47 827	47 827
Carrying amount		
At 31 October 2022	15 020	15 020
At 31 October 2021	27 589	27 589
At 31 October 2020	40 158	40 158

AFRICA JUDGES AND JURISTS FORUM

NOTES TO THE FINANCIAL STATEMENTS

31 OCTOBER 2022

	<u>2022</u>	<u>2021</u>	<u>2020</u>
	<u>ZAR</u>	<u>ZAR</u>	<u>ZAR</u>
5 CASH AND CASH EQUIVALENTS			
Bank and cash	3 580 032	15 068	878 218
	<u>3 580 032</u>	<u>15 068</u>	<u>878 218</u>
6 ACCOUNTS RECEIVABLES			
Prepayments	-	-	25 411
	<u>-</u>	<u>-</u>	<u>25 411</u>
7 RESERVES			
Accumulated surplus	497	29 082	29 710
	<u>497</u>	<u>29 082</u>	<u>29 710</u>
8 ACCOUNTS PAYABLES			
Trade creditors	231 805	-	-
Audit fees	27 150	13 575	30 000
Staff creditors	264 848	-	146 759
	<u>523 803</u>	<u>13 575</u>	<u>176 759</u>
9 DEFERRED INCOME			
Grant funds received but not yet used	3 070 752	-	707 280
Capex deferred income	-	-	30 038
	<u>3 070 752</u>	<u>-</u>	<u>737 318</u>
10 INCOME			
Grant Income:			
Ford Foundation	3 580 980	-	-
OSISA	-	1 489 318	857 695
IFES	-	305 937	1 042 736
OSF	-	752 295	-
Tsungu Foundation	3 200	-	-
	<u>3 584 180</u>	<u>2 547 550</u>	<u>1 900 431</u>
Less deferred income	3 070 752	-	737 318
	<u>513 428</u>	<u>2 547 550</u>	<u>1 163 113</u>



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The Africa Judges & Jurists Forum (AJJF)
158 Jan Smuts Avenue, Rosebank
Johannesburg
South Africa

E-mail: info@africajurists.org

www.africajurists.org