



The Promotion of the Rule of Law in Africa: Open Standards and ICTs to support open access to the court system

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The Rule of Law

- **Some core characteristics of the Rule of Law:**
 - **Fairness**
 - **Rationality**
 - **Predictability**
 - **Consistency**
 - **Impartiality**
 - **Equality before the Law**
 - **Transparency**
 - **State compliance with Law**
 - **An independent and impartial judiciary**
 - **A strong and independent legal profession**
 - **Rationality**
 - **Accessible and affordable Justice system**



Strengthening the African judicial systems to support the Rule of Law

- **Promoting transparency through public scrutiny**
- **Defeating ignorance of the Law**
- **Access to judicial precedents – pillar of the law (consistency, competence)**
- **Improving legal research**
- **Efficiency and timeliness of management of cases and streamlined production of judgments**
- **Improve the court management systems**
- **Reduce legal costs**
- **Reduce cost of storage and retrieval of information and judgments within a court system**
- **Improve equal access to law between litigants**
- **Improve access to legal information by judges to improve quality of justice**
- **training for judges and lawyers**
- **Improve access to justice for citizenry**
- **Improve citizens' lobby for legislation**
- **Improve the investment climate- foreign direct investment, knowledge of corporate law, tax law, property rights, mining etc.**
- **Foster cross border legal and tax practices**



The African Operational Context

- **Diverse traditions and languages but common legal traditions and systems**
- **Cost of access to legal information**
- **Poor funding for the Judiciary-archaic filing systems**
- **Endemic delays in the finalisation of cases**
- **Technological issues facing developing countries and cost of ICT**
 - **Limited communications infrastructure-developed versus undeveloped; rural versus urban**
 - **Lack of funds for proprietary solutions and software**
 - **Lack of local technology skills**
 - **Limited availability of computerized courts records management systems**
- **Need for open solutions and standards while maintaining quality**
- **Poor education**
- **Privacy of the individual versus public knowledge**



Open access and open standards

- **Involving stakeholders in developing standards and guidelines for the preparation and delivery of judgments in electronic format**
- **Using the Internet as a low-cost solution for the efficient delivery of legal information**
- **Using Open Source to foster collaborative solutions and promote availability**
- **Developing open standards to foster accessibility and interoperability**
- **Building and maintaining permanent and sustainable legal archives**
- **Preparing for a future accessible, connected and transparent courts system**



SOUTHERN AFRICAN JUDGES COMMISSION (SAJC) OBJECTIVES

- **promote cooperation between member courts of East and Southern Africa**
- **promote the rule of law, democracy, independence of the courts**
- **promote the welfare and dignity of judges**
- **promote confidence in the Judiciary**
- **publish judgments of all superior courts**
- **fellowship amongst judges**
- **create fora for discussion of matters of common interest**



SOUTHERN AFRICAN JUDGES COMMISSION (SAJC) CONSTITUTION

Constitution Adopted at Benoni, Johannesburg (Republic of South Africa) on the 7th day of December 2003.

SIGNED BY:

Chief Justice Lehohla of the Kingdom of Lesotho

Acting Chief Justice Annandale of the Kingdom of Swaziland

Justice Espalanga on behalf of the Chief Justice of the Republic of Angola

Chief Justice Nganunu of the Republic of Botswana

Chief Justice Unyolo of the Republic of Malawi

Chief Justice Pillay of the Republic of Mauritius

Chief Justice Mangaze of the Republic of Mozambique

Justice Mainga on behalf of the Chief Justice of the Republic of Namibia

Chief Justice Alleear of the Republic of Seychelles

Chief Justice Chaskalson of the Republic of South Africa

Chief Justice Odoki of the Republic of Uganda

Deputy Chief Justice Lewanika on behalf of the Chief Justice of the Republic of Zambia

Chief Justice Chidyausiku of the Republic of Zimbabwe

Chief Justice Samatta of the United Republic of Tanzania

ASSENTED TO BY:

Chief Justice Gicheru of the Republic of Kenya



SOUTHERN AFRICAN LEGAL INFORMATION INSTITUTE (SAFLII)

- **What is SAFLII? <http://www.saflii.org/>**
- **Objectives**
 - **Promoting justice and the rule of law through direct public access to legal information**
 - **Providing free access to public legal information throughout Southern and Eastern Africa, via the Internet**
 - **Creating an environment conducive to the accessibility of public legal information through**
 - **Technical assistance, advice and training**
 - **Development of open technical standards**
 - **Enhancing legal education**
 - **Facilitating legal research**
 - **Centralising access to regional legal materials**
 - **Promoting the international Free Access to Law Movement**



SOUTHERN AFRICAN LEGAL INFORMATION INSTITUTE (SAFLII) - Cont.

- **Support from Austlii**
- **To date-SA, Namibia, Botswana, Uganda, Swaziland, Malawi, Zambia**
- **By year end-Swaziland, Lesotho, Mauritius**
- **Funding**
- **Donor funded-sustainability**
- **Minimal staff**
- **Development of universal standards-preparation and publication**
- **Technological discrepancies- software, equipment, training,**



HOPE FOR AFLII?

-CO-ORDINATION, NETWORK, STANDARDS, FUNDING,

THANK YOU

