

JUDICIAL SERVICE COMMISSION

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BRIEF TO THE CONSTITUTIONAL COURT OF ZAMBIA DELEGATION

BY THE

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CHIEF JUSTICE

(CONSTITUTIONAL COURT VISIT)

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IN SUMMARY

- Courts in Zimbabwe play a fundamental role in safeguarding the sanctity of fundamental Human Rights. Electoral rights are included amongst those rights which the courts safeguard.
- Electoral rights are contained in the **Constitution** as well as in the **Electoral Act [Cap. 2:13]**.
- Section 93 of the **Constitution** provides for the challenge to a presidential election. It provides the manner in which a challenge must be filed and processed.
- The **Constitution** complements the provisions of the **Electoral Act**, more particularly section 111 which provides for election petitions in respect of election to the office of President, thereby upholding the principle of subsidiarity.
- The form and procedure for filing Presidential elections is governed by rule 23 of the Constitutional Court Rules, which provides that it shall be by way of application.
- For one to file an election petition, he or she must have *locus standi*. Section 93 of the **Constitution** establishes the right for an aggrieved candidate to challenge the validity of an election. The principle is also buttressed by section 111 of the **Electoral Act**.
- A challenge to a Presidential election filed in terms of section 93(1) of the **Constitution** cannot be withdrawn. This is because of the direct

connection between the right to be heard and the obligation of the Constitutional Court to hear and determine the petition or application filed.

- The Constitutional Court can also make orders in relation to timelines within the court process, as the petition must be filed within seven days after the date of the declaration of the results and must be heard and determined within fourteen days.
- In Zimbabwe, invalidation of a Presidential election is not taken lightly. In the absence of evidence to show conduct which materially affects the validity of an election, it will not be invalidated.
- The irregularities must be substantial and not mere averments. The applicant ought to discharge the burden of proof against the validity of the challenged election result.
- In order to ensure the proper handling of Constitutional Court cases generally, case flow management and interventions aimed at the speedy administration of justice have been implemented. It is the constitutional mandate of the courts to dispense justice expeditiously.
- Measures have been put in place to ensure the efficiency of case flow management. These include:
- **Timelines for key case processing steps** - Timeline ranges for filing processes, such as heads of arguments, notices of opposition and notices of set down, have been put in place by the rules of court and directions by the courts.

- **Firm and credible hearing dates** - When a matter is set down on a particular date, it must kick off.
- **Pre-hearing meetings and conferences** - these are aimed at narrowing down issues which may be dilatory to the entire proceedings
- **Training on case management** - Judges and other court personnel have been trained on case management.
- **Managing case processing and record updating.**
- **Controlling and storing final records** - for reference purposes.
- **Embracing technology** - the Integrated Electronic Case Management System.
- **Court outcome memoranda** prepared by the research department, which outline the sequence of events in courts and the arguments raised therein.
- **Weekly Judges' meetings** - Every Wednesday Judges of the Constitutional Court hold a meeting to discuss their day to day operations.

The following is a detailed write up on the areas highlighted above.

1. AN OVERVIEW OF THE LEGAL AND INSTITUTIONAL FRAMEWORK RELATING TO THE RESOLUTION OF PRESIDENTIAL ELECTION PETITIONS

Zimbabwe is a constitutional democracy and has deep respect for the people from whom the authority to govern them is derived. This is recognised by section 162 of the **Constitution of Zimbabwe** (“the Constitution”). Courts play a fundamental role in upholding and facilitating the protection of fundamental human rights. Section 67 of the Constitution is the bedrock of electoral rights in Zimbabwe. It provides that every Zimbabwean citizen has a right to free, fair and regular elections, among other rights. These electoral rights are then given effect by the **Electoral Act** [*Chapter 2:13*] (“the Electoral Act”).

It has been held that the laws of election are self-contained codes and the rights arising out of elections are the offspring of those laws. It should be noted that election petitions, being neither civil nor criminal matters, are a special form of petition regarded in law as *sui generis*, that is, special proceedings of their own kind and the courts have treated them as such. This is primarily because of the importance of elections for the wellbeing of democracy. The courts play an instrumental role in the resolution of disputes which arise in the process of exercising electoral rights.

In an effort to understand the legal and institutional framework in the resolution of Presidential election disputes, one has to understand the significance of

election laws in Zimbabwe, as contained in the **Constitution** and given effect to in the **Electoral Act**.

Constitutional and Legislative Framework

Section 93 of the **Constitution** deals with the “challenge to presidential election”. It is the primary provision regarding the manner in which a challenge must be processed and prosecuted.¹ Section 93 provides as follows:

“93 Challenge to presidential election

(1) Subject to this section, any aggrieved candidate may challenge the validity of an election of a President or Vice-President by lodging a petition or application with the Constitutional Court within seven days after the date of the declaration of the results of the election.

(2) The election of a Vice-President may be challenged only on the ground that he or she was not qualified for election.

(3) The Constitutional Court must hear and determine a petition or application under subsection (1) within fourteen days after the petition or application was lodged, and the court’s decision is final.”

Whilst the **Constitution** is the supreme law of the land, it is not separate from the rest of the laws. Section 93 of the **Constitution**, being a constitutional provision, is implemented and given effect to through Part XVII of the **Electoral Act**, which is dedicated to Presidential petitions. The **Electoral Act** is a law of general application against which to measure the conduct of all people that are involved

¹ The Law Society of Zimbabwe Handbook on Constitutional & Electoral Litigation in Zimbabwe, June 2018 at p 80.

in elections. Inasmuch as the **Constitution** is the bedrock of electoral rights, litigants are bound to resort to the **Electoral Act** as their first port of call in order to protect their electoral rights. This practice draws from the principle of subsidiarity which the Zimbabwean courts emphasise time and again.²

In *Magurure v Cargo Carriers International Haulers (Pvt) Ltd* CCZ 15/16 the Constitutional Court explained the principle as follows at page 9:

“The principle of subsidiarity is based on the concept of one-system-of-law. Whilst the Constitution is the supreme law of the land it is not separate from the rest of the laws. The principles of constitutional consistency and validity underscore the fact that the Constitution sets the standard with which every other law authorised by it must conform. The Constitution lays out basic rights and it is up to legislation to give effect to them. This is the nature of the symbiotic relationship between the Constitution and legislation. The legal system is one, wholesome and indivisible.”

The constitutional and legal order is one coherent system for the protection of rights and the resolution of disputes.³ In other words, norms of greater specificity should be relied upon before resorting to norms of greater abstraction.⁴ Therefore section 93 of the **Constitution** is given life by section 111 of the **Electoral Act**

² *Majome v Zimbabwe Broadcasting Corporation and Ors* CCZ 14/2016; *Boniface Magurure and 63 Ors v Cargo Carriers International Hauliers (Pvt) Ltd* CCZ 15/2016.

³ *Gcaba v Minister for Safety and Security and Others* 2010 (1) SA 238 (CC).

⁴ *Moyo v Sergeant Chacha & Ors* CCZ 19/17.

with respect to Presidential election petitions. Section 111 of the **Electoral Act** reads as follows:

“111 Election petitions in respect of election to office of President

(1) An election petition complaining of an undue return or an undue election of a person to the office of President by reason of irregularity or any other cause whatsoever, may be presented to the Constitutional Court within seven days of the declaration of the result of the election in respect of which the petition is presented, by any person —

- (a) claiming to have had a right to be elected at that election; or*
- (b) alleging himself or herself to have been a candidate at such election.*

(2) If, on the trial of an election petition presented in terms of subsection (1), the Constitutional Court makes an order declaring —

- (a) that the President was duly elected, such election shall be and remain valid as if no election petition had been presented against his or her election; or*
- (b) that the President was not duly elected, the registrar of the Constitutional Court shall forthwith give notice of that fact to the Chief Elections Officer who shall publish a notice in the Gazette stating the effect of the order of the Constitutional Court.*

(3) A declaration by the Constitutional Court in terms of paragraph (b) of subsection (2) shall not invalidate anything done by the President before that declaration.”

The form and procedure for filing pleadings in a Presidential election petition is governed by rule 23 of the Constitutional Court Rules, 2016 (S.I. 61 of 2016) (“the Constitutional Court Rules”). In essence therefore, section 93 of the **Constitution** must be read together with the relevant parts of the **Electoral Act** and the Constitutional Court Rules in order to get a full picture of the principles and procedures to be followed in dealing with a Presidential petition.⁵

In terms of rule 23(1) of the Constitutional Court Rules a Presidential petition shall be by way of application procedure. Use of the word “shall” depicts the peremptoriness of the provision and hence a failure to comply with it will put the validity of the petition into question. Thus a petition referred to in terms of section 93 of the **Constitution** is to be construed as meaning a court application. In *Shumba and Anor v The Zimbabwe Electoral Commission and Anor* 2008 (2) ZLR 65 (S) the Court held as follows:

“It is the generally accepted rule of interpretation that the use of peremptory words such as ‘shall’ as opposed to ‘may’ is indicative of the Legislature’s intention to make the provision peremptory. The use of the word ‘may’ as opposed to ‘shall’ is construed as indicative of the Legislature’s intention to make a provision directory.”

Once a challenge is lodged in the prescribed form, the Constitutional Court must “hear and determine” it or otherwise dispose of it within fourteen days after the

⁵ The Law Society of Zimbabwe Handbook on Constitutional & Electoral Litigation in Zimbabwe, June 2018 at p 81.

petition or application was lodged, and the Constitutional Court’s decision is final.⁶ On determining the challenge, the Constitutional Court is vested with wide powers to make an appropriate order. Section 93(4) of the **Constitution** empowers the Constitutional Court to either declare a winner, nullify the election and trigger a fresh election within sixty days, or “make any other order it considers just and appropriate”.

2. JURISPRUDENCE VIS-A-VIS PRESIDENTIAL ELECTION PETITIONS

i. *Locus Standi*

Section 93 of the **Constitution**, as read together with section 111 of the **Electoral Act**, provides for *locus standi* in Presidential election petitions. Section 93(1) of the Constitution establishes the right for an “aggrieved candidate to challenge the validity of an election” by lodging an application or petition with the Constitutional Court within the specified timelines.

These principles on *locus standi* are restated in section 111 of the **Electoral Act**. This section provides for *locus standi* to lodge a Presidential election petition for any person “claiming to have had a right to be elected at that election” or “alleging himself or herself to have been a candidate at such election”. Thus it can be seen

⁶ See section 93(3) of the Constitution of Zimbabwe Amendment (No. 20) Act 2013.

that only the aggrieved candidate or participant in the election has standing to challenge the validity of the election.

In *Tsvangirai v Mugabe and Ors* CCZ 20/17 the Constitutional Court held as follows at p 12-13:

*“The exercise of the right of petition or application provided for under s 93(1) of the Constitution is limited. **Locus standi in judicio for the exercise of the right is limited to an aggrieved candidate. No other person has a right under s 93(1) of the Constitution to lodge a petition or application with the Court challenging the validity of an election of a President. ... The right of petition or application is conferred on an aggrieved candidate and protected under s 93 of the Constitution as a legal remedy for the protection of the right guaranteed to every citizen under s 67(1) of the Constitution to free, fair and regular elections for any elective public office established in terms of the Constitution or any other law and exercised in accordance with the provisions of the Electoral Law.**”*

(Emphasis added)

ii. Withdrawal of petition filed with the Constitutional Court

Tsvangirai v Mugabe and Ors supra was a Presidential election petition in terms of section 93(1) of the **Constitution**. The petitioner relied on fourteen grounds for challenging the validity of the election, which he alleged constituted corrupt practices committed by the first respondent through his agents or by third parties

with his knowledge. He also alleged irregularities which he said were committed by the Zimbabwe Electoral Commission and the Chief Elections Officer (the second and fourth respondents respectively), who were responsible for conducting the election. Having met some setbacks in accessing voting materials, the petitioner sought to withdraw his petition. It was found in this case that a Presidential election petition filed in terms of section 93 of the Constitution is incapable of being withdrawn. The Constitutional Court held as follows at p 16-17 in this regard:

“In the absence of an express provision for a right of withdrawal of the petition or application, the immediacy of the direct connection between the right to be heard and the corresponding obligation on the Court to hear and determine the petition or application lodged with it under s 93(1) of the Constitution excludes the right of withdrawal of the petition or application from the application of the provisions of s 93(3) of the Constitution. ... Section 93(3) of the Constitution provides that the Court ‘must hear and determine the petition or application lodged under subsection (1) within fourteen days after the date of lodgement’. The word ‘must’ is not used to mark only the obligation in respect of the time limit within which the acts designating the duty imposed must be carried out. The word is also used to indicate to the Court that it is under an obligation to treat the petition or application in the manner prescribed and not in any other way. What is imposed is a duty to obey the order first. Obedience is doing that which is required by the law. In other words, the women and men exercising judicial authority must appreciate the meaning of the provisions to the effect that the Court with the power with which they are imbued ‘must hear and determine’ the petition or application lodged with

it. The word must surely mean more than that the Court has power to hear and determine the petition or application. The words speak to an obligatory duty to exercise the jurisdiction the Court has. The words state an obligation, the performance of which was a carefully chosen means to a particular end. For the Court to acquire full knowledge of the facts in issue, which is necessary if the final and binding decision required to result from the entire proceedings is to be made, taking into account the fundamental principles of justice, transparency and accountability, it has to hear and determine the petition or application.” [Emphasis added]

The primary purpose of the method of processing the petition or application lodged under section 93(1) of the **Constitution**, as provided for under section 93(3), is the establishment of the truth or falsity of the allegations of commission of corrupt practices and/or irregularities made against the respondents. It is the people who, in the exercise of their sovereign authority, decided that when a petition or application is lodged with the Constitutional Court challenging the validity of an election of a President they are entitled to know the truth about the allegations on the basis of which the validity of the election is impugned.⁷ They decided in their wisdom that the most effective means of getting to the bottom of the allegations of electoral impropriety was a hearing and determination of the petition or application on the merits by the highest court in the land, which would produce a final decision binding on all Zimbabwean citizens. The Constitutional Court is under a duty to respect the judgment of the

⁷ *Tsvangirai v Mugabe and Ors* CCZ 20/17 at p 19.

people and carry out the mandate in the manner prescribed to achieve the intended objective.⁸

iii. Adherence to timelines

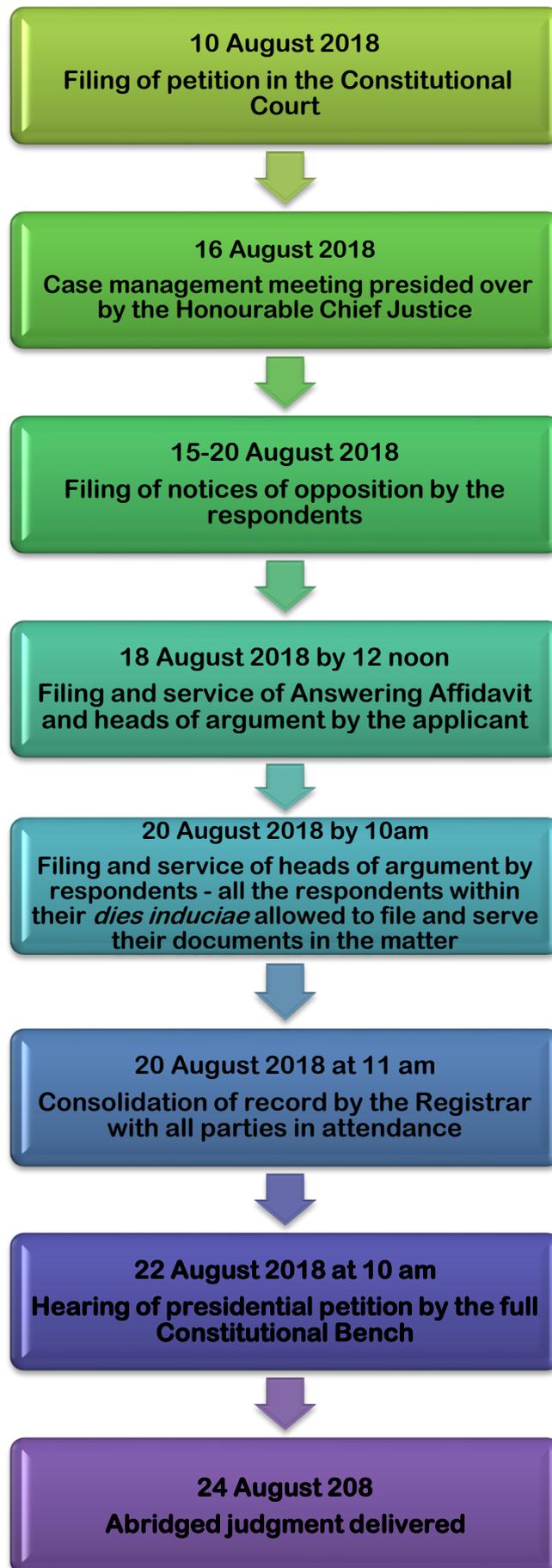
Strict adherence to timelines provided by the Constitutional Court is of paramount importance in so far as disposing of electoral matters is concerned.

Non-compliance with the timelines provided by the Constitutional Court renders the application before the Constitutional Court futile.

In the case of *Chamisa v Mnangagwa and Ors*⁹ timelines were given by the Constitutional Court in order to ensure compliance with the Constitution and the Rules. The following timelines were prescribed -

⁸ *Ibid.*

⁹File No CCZ 42/18



iv. Invalidation of Presidential election results

It should furthermore be noted that in Zimbabwe, as in most jurisdictions, a Presidential election result will not be invalidated lightly in the absence of clear proof of facts of the commission of prohibited conduct which affects the validity of an election. The irregularities alleged must be proven to have been substantial and not merely negligible. This is what is termed the substantial effect rule. The gist of the rule is that elections should not be nullified for minor irregularities or infractions of rules.¹⁰ The idea behind the rule is that flimsy mistakes, omissions and commissions should not lead to the annulment of an election, provided that, overall, the fairness of the election was not vitiated.

LORD DENNING identified three strands to this rule:¹¹

- “(1) If the election was conducted so badly that it was not substantially in accordance with the law as to elections, the election is vitiated, irrespective of whether the result was affected or not.*
- (2) If the election was so conducted that it was substantially in accordance with the law as to elections, it is not vitiated by a breach of the rules or a mistake at the polls - provided that it did not affect the results of the election.*
- (3) But, even though the election was conducted substantially in accordance with the law as to elections, nevertheless if there was a breach of the rules or a mistake at the polls – and it did affect the results – then the election is vitiated.”*

¹⁰ *John Fitch v Tom Stephenson & Others* Case M324/107[2008] EWHC 501 (QB) para 38.

¹¹ *Morgan v Simpson* [1975] 1 QB 151.

In the *Chamisa v Mnangagwa and Ors* case *supra*, the Constitutional Court confirmed the applicability of the substantial effect rule in its *ex tempore* judgment. It held as follows at p 10-11 of the cyclostyled judgment:

“The general position of the law is that no election is declared to be invalid by reason of any act or omission by a returning officer or any other person in breach of his official duty in connection with the election or otherwise of the appropriate electoral rules if it appears to the Court that the election was conducted substantially in accordance with the law governing elections and that the act or omission did not affect the result.

As an exception to this general position, the Court will declare an election void when it is satisfied from the evidence provided by an applicant that the legal trespasses are of such a magnitude that they have resulted in substantial non-compliance with the existing electoral laws. Additionally, the Court must be satisfied that this breach has affected the results of the election. In other words, an applicant must prove that the entire election process is so fundamentally flawed and so poorly conducted that it cannot be said to have been conducted in substantial compliance with the law. Additionally, an election result which has been obtained through fraud would necessarily be invalidated.

From the foregoing, the Court will only invalidate a presidential election in very limited and specific circumstances, if -

- 1. The results are a product of fraud.***
- 2. The elections were so poorly conducted that they could not be said to have been in substantial compliance with the law.”*** (Emphasis added)

There is therefore a presumption of the validity of an election result. The *onus* is on the applicant to discharge the burden of proof against the validity of the challenged election result. It is for the applicant to prove to the satisfaction of the Constitutional Court that the election was conducted in a manner which fell substantially below the statutory requirements of a valid election and that the result was materially affected, warranting a nullification of the result or invalidation of the election. It is against this background that the Constitutional Court stressed the need for the applicant to adduce primary evidence, which supported his case that the election result was marred with fatal irregularities.

Inspiration can be drawn from the Kenyan case of *Rail Amole Odinga and Another v Independent Electoral and Boundaries Commission and Others* [2017] eKLR (Presidential Petition No.1 of 2017). In that case the Supreme Court of Kenya declared the Presidential election result invalid on account of substantial and significant irregularities that marred the Presidential election. Inspiration can be drawn from this case because it reflects the first time that an African court has nullified a Presidential election. Recognition also needs to be given to the judgment's overall contribution to African electoral jurisprudence.

3. CASE FLOW MANAGEMENT AND INTERVENTIONS AIMED AT SPEEDY ADMINISTRATION OF JUSTICE GENERALLY

It has become increasingly clear that courts across the globe must do more to better organise and manage their caseload and that automation alone is not the

answer. In response to this need, case flow management has emerged to become the central method of promoting greater court responsibility and accountability for efficient case processing.¹²

In Zimbabwe, the Constitution establishes as one of the principles guiding the Judiciary the need for justice not to be delayed and duties to be done efficiently and with reasonable promptness¹³. Section 19 of the Judicial Service (Code of Ethics) Regulations¹⁴ provides for the timelines within which judgments are to be delivered.

Case flow management is a set of principles and techniques that enhance greater processing efficiency, thereby reducing delays and case backlogs. The result is the delivery of better services from courts. Case flow management promotes early court control of cases and active court management of the progression of cases from initial filing to disposition. It covers all phases, including those that follow the initial disposition, such as appeals and enforcement.¹⁵

The management of cases relates to their movement from the time they are registered or filed to the time that they are disposed of. It is critical that the flow of cases through the conveyor belt of the judicial process must be fast with

¹² Heike Gramckow and Valerie Nussenblatt *Caseflow Management: Key Principles and the Systems to Support Them* World Bank (2013). Available at <https://issat.dcaf.ch/Learn/Resource-Library2/Policy-and-Research-Papers/Caseflow-Management-Key-Principles-and-the-Systems-to-Support-Them> (accessed 12/09/19)

¹³ Section 165 (1)(b) of the Constitution of Zimbabwe

¹⁴ Statutory Instrument 107 of 2012

¹⁵ Heike Gramckow *Ibid*

minimal hindrances. Ordinarily cases get stuck at this point, thus affecting the general operations of the courts. There are several players at this point and these include litigants, legal practitioners, registrars, registry staff and Judges. Facilities such as computers, photocopiers, faxes and dictaphones, among others, are also critical at this point. For the programme to work efficiently, systems must be put in place which will ensure that there is coordination amongst all the key players in the life of a case or the flow of cases.¹⁶

An efficient case management system provides for greater predictability of court events, which can increase public trust in the adjudication process. It also increases the transparency and accountability of courts due to greater adherence to standardised processing steps and better reporting capacities. As the adage goes, justice must not only be done but must also be seen to be done. As a result, the positive public perception of the court system is a gem to be treasured and protected by the courts.

In order to develop meaningful rules for implementing case flow management, courts must first review their own operations and then define performance goals and measures. These include creating timelines for processing cases that follow acceptable time standards for different case types and processing steps, and adjusting work practices to be more efficient to better meet these goals. Such

¹⁶ Nthomiwa GN *Presentation on Case Flow Management System: An Efficient and Transparent Means to Deliver Justice*, presentation delivered SAJC/Venice Commission Registrars' Workshop: 5 - 9 December 2007, Johannesburg, South Africa at pp 2-3.

changes require different and more consistent administrative actions from court staff as well as changes in the Judge's role in the process.¹⁷

There is no doubt that, as part of the Judiciary, the courts occupy a central place in the lives of the people and in the good governance of a country. To that end, the Judiciary must perform its duties efficiently and effectively for the good of the public. People look up to the Judiciary to bring permanent solutions to disputes brought before them. The courts must therefore strive to deliver such solutions in a timeous manner, failing which there is a risk that damage may happen to people's livelihoods.¹⁸

a. Measures taken by the Constitutional Court

Timelines for key case processing steps

- i. These timelines relate to actions that range from filing of processes, such as heads of argument and notices of opposition by all parties, to notification of the set down date.
- ii. These timelines will need to differ by case complexity to focus resources towards processing cases in a timely fashion without sacrificing fairness and quality.
- iii. Realistically, such timelines will allow for some flexibility by case type and for special circumstances; ideally, they are also combined with certain

¹⁷ See note 1 above.

¹⁸ See note 3 above at p 3.

enforcement measures, such as an adverse order of costs in the event of blatant disregard.

- iv. An example is the case management meeting that was held prior to the hearing of the Presidential election petition filed by Nelson Chamisa in 2018.
- v. In that matter there were upwards of twenty respondents, who were all legally represented. Therefore, there was need to establish the ground rules, for instance the timelines to file processes and other incidental matters.

II. Firm and credible hearing dates

- i. All cases in the Constitutional Court must be swiftly disposed of, for justice delayed is justice denied.
- ii. However, the need to dispense swift justice must never compromise the quality of justice. As such, there should be limits to the number of hearing adjournments, meaning that the Constitutional Court establishes and publishes hearing dates and policies that allow for reasonable adjournment or postponement justifications, and enforces its own rules within a reasonable margin of discretion.

III. Pre-hearing and scheduling conferences

- i. These are aimed at narrowing down contentious issues and evidentiary questions before the hearing, while discouraging unnecessary pre-hearing motions or other dilatory tactics.
- ii. These conferences or meetings also help ensure that all parties understand what information needs to be provided and what each party is expected to do at each stage of the proceedings.

IV. Training on case management

- i. Training is essential to familiarise Judges, registrars, staff members and members of the legal profession with the purposes and fundamental concepts of case flow management.
- ii. These training programmes are also aimed at equipping the various stakeholders with the specific details and techniques essential to effective case management in the Constitutional Court.
- iii. It is precisely for this reason that the Judicial Service Commission must facilitate the training of the aforementioned stakeholders, with particular focus on the Judges.
- iv. At the end of each legal term, Judges retreat for a Judges' Symposium, where various topics on case management are presented and discussed. This has been the tradition for more than seven years now.

V. Managing case processing and record updating

- i. The case management system maintains and continuously updates records and case histories, allowing for a case's status and progress to be tracked and for delays to be detected.
- ii. This also provides Judges and court staff with an overview of activity in each case, helps in maintaining control over cases, and provides for transparency and external accountability.
- iii. The availability of the record to the public also enhances accountability, in the sense that where an order is given and there are no reasons thereof, the parties to a case will be able to request the Constitutional Court to provide the reasons in line within the timelines stated in section 19 of the Judicial Service (Code of Ethics) Regulations.

VI. Controlling and storing final records

- i. Case management systems also ensure that the case history is entered at the conclusion of a case, and that it is archived as a closed case. The importance of a court record cannot be overemphasised.

VII. Embracing technology

- i. The Constitutional Court Rules, 2016 make provision for the use of email to file process where the information is recorded on a computer disk.
- ii. Rule 43(4) provides for an official email address.

- iii. Further to that, in a speech which I delivered at the official opening of the 2019 legal year, under the theme “Consolidating the Rule of Law”, I indicated that the Judicial Service Commission was aiming at implementing an Integrated Electronic Case Management System, initially in the Commercial Division of the High Court.
- iv. The overall benefit of this system is that it enhances efficiency in the manner in which cases are managed.
- v. Already since 2012 we have implemented a home grown electronic case tracking system in the High Court and loss of files has become a thing of the past.
- vi. Efforts to establish the integrated electronic case management system are at an advanced stage.

VIII. Constitutional Court outcomes

- i. After every matter is heard in the Constitutional Court, an outcome memorandum is prepared by the research department, which is then approved and signed by the presiding Judge.
- ii. That memorandum details the events that took place in the courtroom from the inception of argument to the moment the case is disposed of.

- iii. These outcome memoranda are not only for the benefit of the presiding Judge but also for the benefit of all Judges of the Constitutional Court as they help to identify the problem areas during the hearing of the matter.
- iv. Trends tend to develop in the courtroom, for instance matters may be getting struck off the roll or being removed from the roll.
- v. It is through the outcome memoranda that Judges identify the trends and decide on how best to deal with whatever situation arises.

IX. Weekly Judges' meetings

- i. Every Wednesday, immediately after the Constitutional Court hearing, the Judges of the Constitutional Court have a meeting, during which they discuss various matters. These matters include the immediate case/s that would have been heard and the issues that arose therein.
 - ii. The Judges also discuss areas of improvement and provide solutions to any problems, for instance gaps that may arise in the common court practice or even the Rules themselves.
 - iii. All this is done in order to enhance efficiency and the quality of the justice system as a whole.
-