

CONTENTS

Section	Page
1. Introduction	2-4
2. The Establishment and Functions of the Judicial Service Commission	4
3. The Composition of the Judicial Service Commission	4-5
4. The Secretary to the Commission	6
5. The Judicial Service	6-11
6. The Freeze on Recruitment	11-12
7. Judicial Appointments	13
8. Industrial Relations	13-14
9. The Budget and other Funding Arrangements	14-17
10. Computerisation of Court Process and ICT in Courts	17-18
11. Transformation of the Judiciary	18
12. Training and Professional Development	19
13. Conclusion	19

2013 ANNUAL REPORT FOR THE JUDICIAL SERVICE COMMISSION

1. INTRODUCTION

Section 323 of the Constitution of Zimbabwe provides that every Commission must submit to Parliament through the responsible Minister, an annual report describing fully its operations and activities.

Accordingly, an annual report of the Judicial Service Commission, ("the Commission"), is hereby submitted in accordance with the provisions of the above law.

Whilst this is the report of the Commission to Parliament for the year ending 31 December 2013, it is perforce the report of the Commission and its activities from 2010 to 2013, as prior to the coming into force of the Constitution, there was no requirement that the Commission publicly report on its activities.

The Judicial Service Commission, as an institution, was in existence immediately prior to the coming into operation of the Constitution, having been established by the repealed Constitution. The Commission launched its operations, as a separate entity in June 2010 thereby commencing to act on its expanded mandate brought about by the provisions of the Judicial Service Act [Chapter 7.18], " (the Act)". The Act remains in force and governs the operations of the Commission, subject to the changes that have been brought into operation by the Constitution. The expanded mandate includes the Commission's obligation to become the employer of all persons, other than judges, working in the courts. This Commission subsisted until 22 August 2013. It was during the tenure of this Commission that almost all the activities reported in this report were carried out.

Although the Secretary of the Commission accounts for the public funds that are voted for the activities of the Commission to the Accountant General, this report will also include a narrative on the funding and financial arrangements of the Commission.

Prior to the repeal of the old Constitution, the Commission comprised of six members whose membership was terminated automatically by operation of law. These were:

- The Honourable Mr Justice Godfrey Chidyausiku, the Chief Justice;
- Dr Mariyawanda Nzuwah, the Chairman of the then Public Service Commission, (now Civil Service Commission);
- Mr Johannes Tomana, the then Attorney-General;
- The Honourable Mr Justice George Chiweshe; and
- Mr Sternford Moyo and Mr Canaan Dube, who were appointed by the President in accordance with the provisions of that Constitution.

The Act provided for a Secretary to the Commission as head of the administration of the Commission and to act as the accounting officer for the public funds that are voted in favour of the Commission. To enable the Commission to kick start its functions and to hire other employees, the Commission accepted the secondment by the Chief Justice, of a Supreme Court Judge to act as Secretary. A small number of other essential support staff was also seconded from the judicial service to act in the posts that were created in the secretariat. The substantive staffing of the secretariat of the Commission remains outstanding as the status of the secretariat and its conditions of service as fixed by the Commission are yet to be concurred to by Treasury.

Immediately after receiving its expanded mandate when the Act was brought into operation, the Commission embarked on a strategic planning exercise. It developed a five year plan that has been running since February 2012 and will end in January 2016. It is this plan that informs and guides the activities reported in this report.

The Commission received its expanded mandate in June 2010. This was in the middle of a financial year and it thus could not receive any funding directly from Treasury. It remained a sub-vote under the Ministry of Justice and Legal Affairs until year end. In January 2011, it became a full and independent vote and in the 2011 financial year, the Commission was allocated US\$15,5 million including employment costs as its own first annual budget and ever since it has operated as a separate vote. The Commission is grateful to the Ministry of Justice, Legal and Parliamentary Affairs, Treasury and to Parliament for accepting and recognising the need for the Judicial Service Commission to be truly independent in its operations including in the management of its financial affairs.

It however remains the wish and hope of the Commission that Treasury and Parliament will soon see the need to take in earnest the recommendations of the Commission in fixing the conditions of service of all members of the service at such levels as will position the Commission above mere rhetoric of having a low tolerance to corruption in dealing with corruption within the service.

2. THE ESTABLISHMENT AND FUNCTIONS OF THE JUDICIAL SERVICE COMMISSION.

The Judicial Service Commission is set up in accordance with section 189 of the Constitution with the following main functions:

- To tender advice to the government on matters relating to the judiciary and the administration of justice;
- To promote and facilitate the independence and accountability of the judiciary; and
- To promote and facilitate the efficient, effective and transparent administration of justice in Zimbabwe.

The Constitution also provides that an Act of Parliament may confer on the Commission functions in connection with the employment of persons employed in the courts. The Act provides for these extra functions in detail.

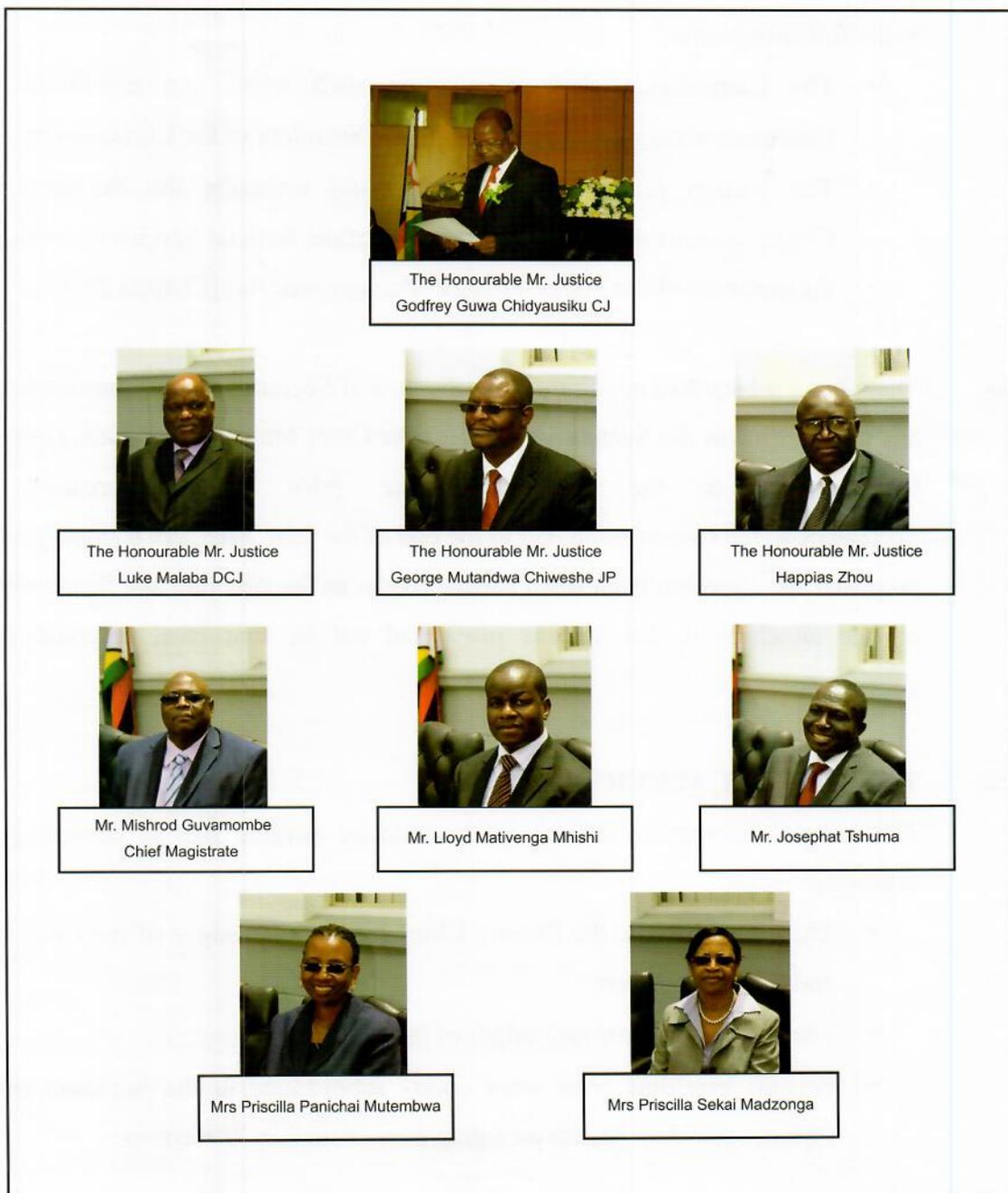
3. COMPOSITION OF THE JUDICIAL SERVICE COMMISSION.

The Judicial Service Commission consists of the following:

- i. As Chairperson, the Chief Justice;
 - ii. As Deputy Chairperson, the Deputy Chief Justice;
- And as members:
- iii. The Judge President of the High Court;
 - iv. One judge nominated by the judges of the Constitutional Court, the Supreme Court, the High Court, the Labour Court and the Administrative Court;
 - v. The Attorney-General;
 - vi. The Chief Magistrate;
 - vii. The Chairperson of the Civil Service Commission;
 - viii. Three practising lawyers of at least seven years' experience, designated by the Law Society of Zimbabwe;

- ix. One professor of law or senior lecturer;
- x. One public accountant or public auditor of at least seven years' experience; and
- xi. One person with seven years human resources experience.

Although the Constitution came into force in August 2013, by the end of the year 2013, no Commissioner, had been sworn into office. However, nine commissioners have since been sworn into office, having taken the oaths on 3 February 2014.



The Commission that was in office during 2013 met on three occasions as follows:

- i. 20 February 2013;
- ii. 20 May 2013; and
- iii. 7 July 2013.

This was in addition to the many informal consultations that the Chief Justice carried out with Commissioners during the course of the year.

4. THE SECRETARY TO THE COMMISSION.

Section 10 of the Judicial Service Act provides for a Secretariat for the Commission in the following terms:

- The Commission shall appoint on such terms and conditions as the Commission may fix, a person to be the Secretary of the Commission.
- The section proceeds to designate and prescribe the Secretary of the Commission as the Accounting Officer of the Judicial Service Commission for the purposes of the Public Finance Management Act [Chapter 22.19].

There is no substantive appointment to the post of Secretary to the Commission and to any other office in the Secretariat save for the Chief Magistrate and his deputy, posts that existed in the Judicial Service prior to the creation of a Secretariat to the Commission. Up to the end of the year 2013, not a single post on the proposed structure had been filled substantively, as the structure and the conditions of service attaching to the various posts had not by that date, received Treasury concurrence.

5. THE JUDICIAL SERVICE

The Judicial Service is defined in the Judicial Service Act as consisting of the following:

- The Chief Justice, the Deputy Chief Justice and judges of the Constitutional and Supreme Courts;
- The Judge President and judges of the High Court;
- Persons presiding over other courts subordinate to the Supreme and High Courts other than person presiding over customary law courts;

- The Secretary to the Commission and all other support staff of the Judicial service; and
- Assessors.

Membership of the Judicial Service from January 2011 has been as shown below:

i. Constitutional Appointees/Judges

Year 2011

Court	Female	Male	Total
Supreme Court	3	6	9
High Court	7	17	24
Labour Court	7	4	11
Administrative Court	1	1	2
Total	18	28	46

Table 5.0

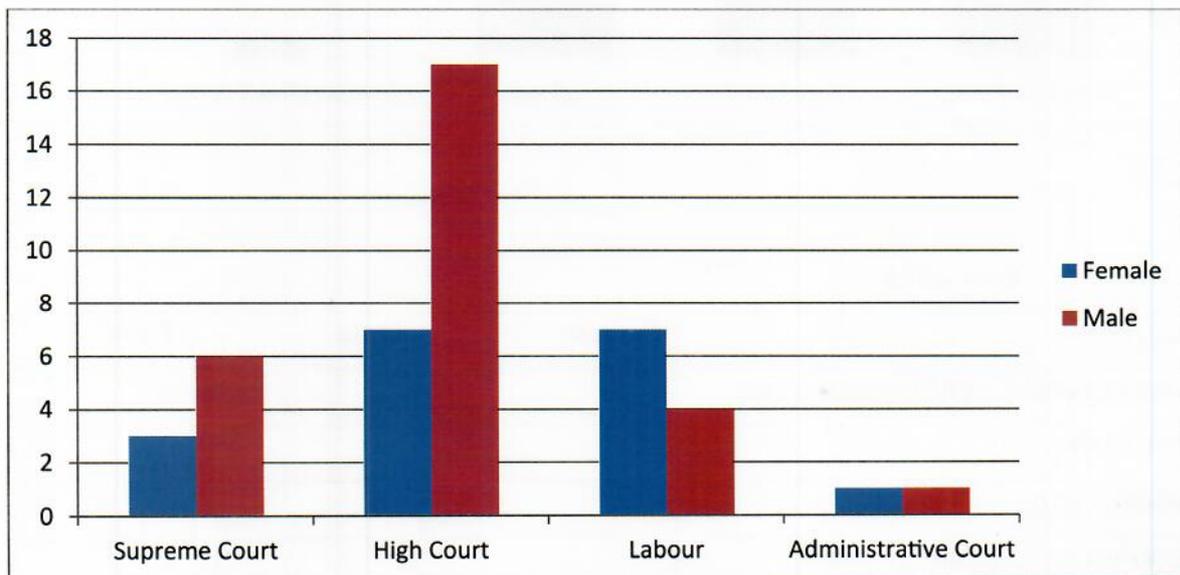


Fig 5.0

Year 2012

Court	Female	Male	Total
Supreme Court	4	4	8
High Court	6	20	26
Labour Court	9	4	13
Administrative Court	0	1	1
Total	19	29	48

Table 5.1

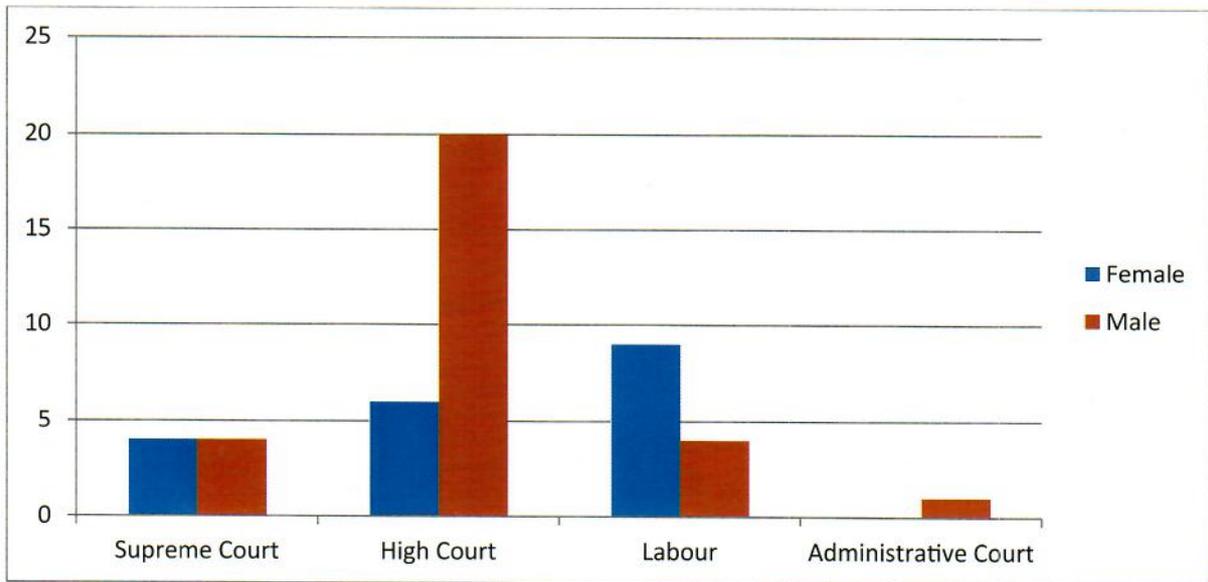


Fig 5.1

Year 2013

Court	Female	Male	Total
Constitutional Court/Supreme Court	5	6	11
High Court	11	19	30
Labour Court	11	5	16
Administrative Court	0	1	1
Total	27	31	58

Table 5.2

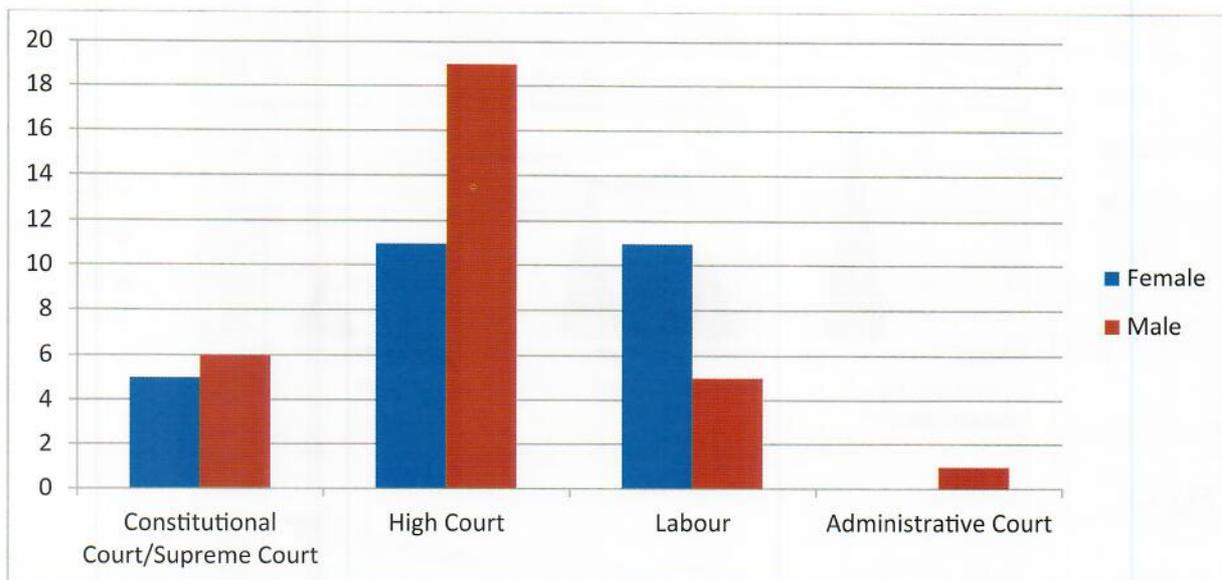


Fig 5.2

The number of female judges has been increasing over the past three years from 18 in 2011, 19 in 2012 to 27 in 2013. However, the escalation of their numbers has been lower than male counterparts by 4 and constituting only 47% of the total establishment in the Judiciary as at 31 December 2013.

ii. Non-Constitutional members of the Judicial Service

The table below shows the authorised establishment, the staff in posts by gender and vacancies as at 31 December 2013. Male employees are more than their female counterparts by 54. Female employees of the JSC constitute about 48% of the total staff in posts while male employees constitute about 52%.

2013	Authorised Establishment	Number in Post	Vacancies
Males		771	
Females		717	
Total	2058	1488	570

Table 5.3

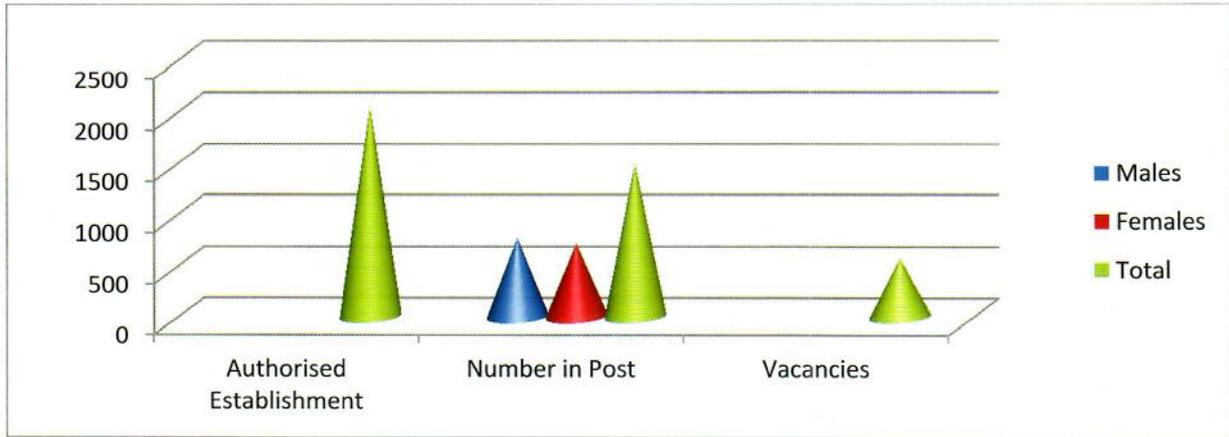


Fig 5.3

WASTAGE RETURN FOR 2011 2012 2013

Staff wastage and attrition during the years 2011, 2012 and 2013 is depicted below:

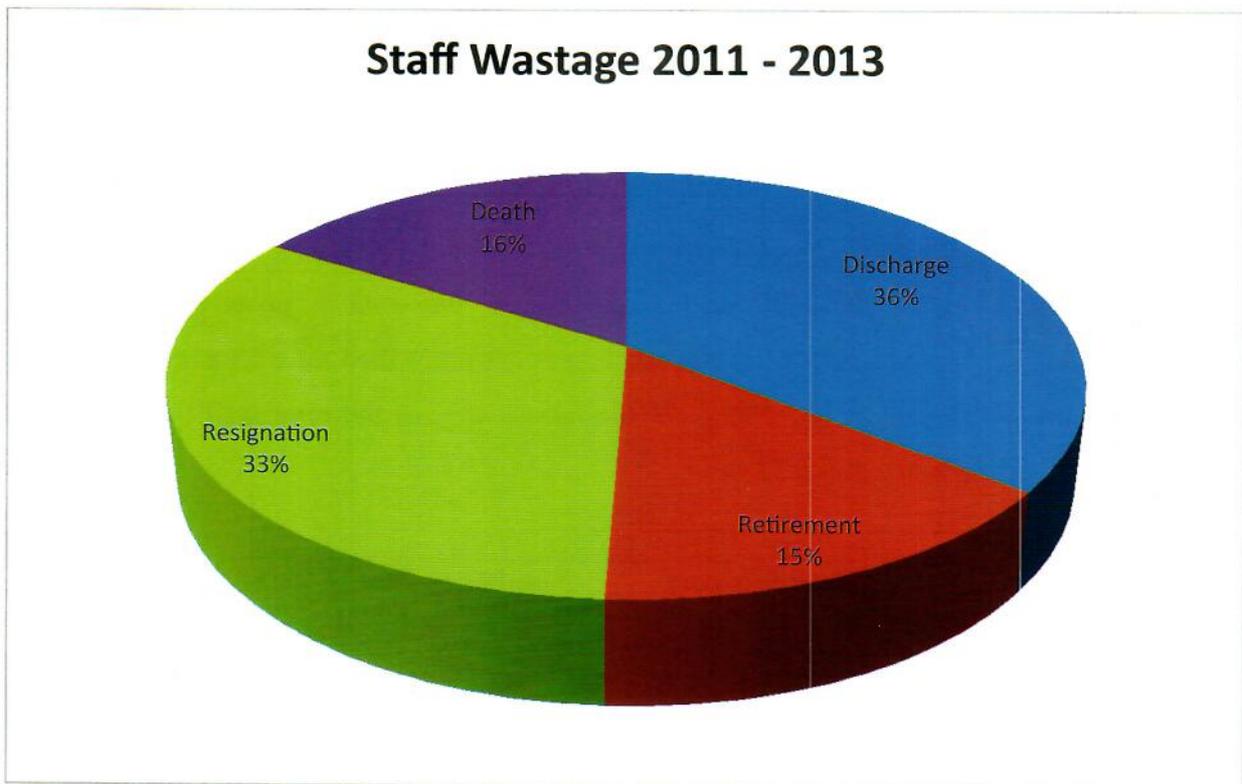


Fig 5.4

TERMINATIONS	2011			2012			2013		
	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL
Discharge	23	5	28	14	0	14	13	2	15
Retirement	3	2	5	6	0	6	11	2	13
Resignation	6	6	12	13	13	26	9	6	15
Death	1	7	8	6	5	11	6	1	7
TOTAL	33	20	53	39	18	57	39	11	50

Table 5.4

As can be seen in the table and pie chart above the JSC has lost 160 members in the past three years and of all the types of terminations, discharges at 57 members in three years is the highest, contributing about 36% of total terminations. Resignations are second at 33%, followed by Deaths at 16% and lastly Retirements at 15%. The attrition rate is too high and there is need to come up with viable strategies to stem it.

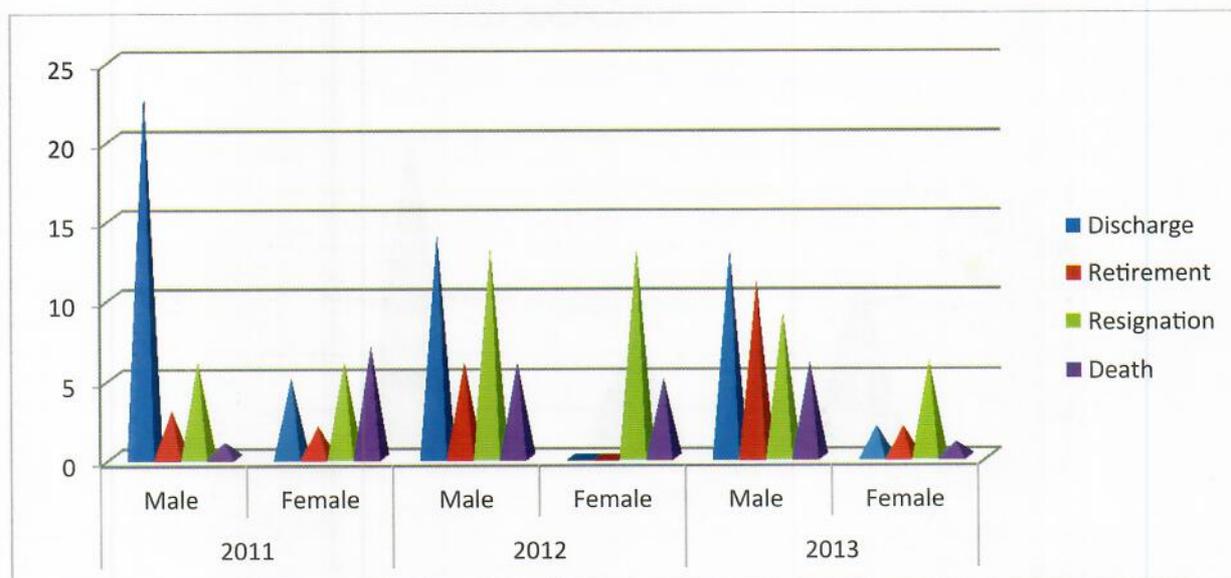


Fig 5.5

6. THE FREEZE ON RECRUITMENT.

During the course of the year, the Judicial Service was affected by the blanket freeze against the recruitment of public officials issued by Treasury. Representations were made to uplift the freeze in respect of critical staff shortages of which Treasury concurred to the filling of 100 vacant posts out of a total of 291 vacancies that existed

in 2011. From 291 vacancies in 2011 the filling of 100 unfrozen posts saw the vacancies decreasing to 191 in 2012 only to rise again to 570 vacancies in 2013. Thus out of an authorised staff establishment of 2058 there were 1488 members of staff in posts as at 31 December 2013.

The Table below shows the vacancy situation in the Judicial Service for the past 3 years

YEAR	VACANCIES
2011	291
2012	191
2013	570

Table 6.0



Fig 6.0

The freeze against recruitment of public officials has had an unavoidable adverse effect on the operations of the Commission in that whilst new judges were being appointed to the bench during the course of the year as reported below, no new appointments of judges' clerks, judges' drivers and court recorders were permissible. The end-result was that a number of newly appointed judges had no clerks or drivers to support their offices and had to share or go without such support thereby negatively impacting on their productivity and on justice delivery generally. The Commission

had to identify and second registry clerks to act as judges' clerks at short notice and without adequate training.

The Commission and both the Treasury and Parliament need to adopt the same ideal that the appointment of judges, in itself a public and state event, should act as an automatic trigger to uplift the recruitment freeze in respect of those key appointments that will enable the newly appointed judge to take office. One hardly hears of the appointment of a government minister without the accompanying appointment of a secretary to that ministry! A judge without a clerk cannot work as they cannot interact with litigants in court and in chambers. The clerk is the judge's link with the litigants and legal practitioners.

7. JUDICIAL APPOINTMENTS.

During the course of 2013, a total of twelve judges were appointed.

The following were appointed to the High Court:

Mrs. Justice L. Matanda-Moyo,
Mrs. Justice E. Ndewere,
Ms. Justice A. Tsanga,
Mrs. Justice N. Moyo,
Mr. Justice O. Tagu, and
Mrs. Justice E. Muremba.

The following were appointed to the Labour Court:

Mrs. Justice E. Muchawa,
Mrs. Justice P. Muzofa,
Mrs. Justice F. Maxwell,
Mr. Justice R. Manyangadze,
Mr. Justice L Marasi, and
Mrs. Justice E. Kabasa.

8. INDUSTRIAL RELATIONS.

Relations between members of the service and the Commission were cordial during the course of 2011 but deteriorated in April 2012 when magistrates threatened to

down tools on account of poor remuneration. With the much appreciated assistance and concurrence of Treasury, the Commission managed to negotiate a settlement with the Magistrates which saw the introduction of the skills retention allowance payable to all magistrates and law officers within the Judicial Service. Unfortunately there has been non-payment of retention allowances to the Magistrates since October 2013.

The Commission welcomes the Constitutional guarantee provided for in section 188(4) of the Constitution that “The salaries, allowances and other benefits of members of the Judiciary must not be reduced while they hold or act in the office concerned”. The Commission believes therefore that it should be given more latitude to negotiate and determine better working conditions for magistrates and all its other members in recognition of the peculiarities that characterise the judiciary.

Conditions of service for regional magistrates and judges remained unfulfilled as Treasury did not have enough funding to purchase motor vehicles for these judicial officers who are entitled to be issued with a personal vehicle upon appointment and every three years after, subject to availability of funds. Most were not issued with vehicles upon appointment and have gone for more than seven years without receiving their due entitlements.

9. THE BUDGET AND OTHER FUNDING ARRANGEMENTS

During the financial year 2013, Parliament voted the sum of US\$16 618 000. This was a nominal increase from the votes in the previous two years since the coming into operation of the Judicial Service Act in June 2010. Whilst the voted sums might have gone a long way in funding all the operations of the Commission if they had been made available to the Commission, the disbursed amounts were in reality paltry and had the effect of slowing down some of the envisioned activities of the Commission.

The greatest impact was felt in the public investment sector where the construction of magistrates’ court complexes at Gwanda, Chinhoyi and Marondera were once again stalled even though some of the structures are almost complete. The Commission was able to complete renovations to Mashonganyika Building which were commenced in 2011. The building now houses the Constitutional and Supreme Courts.

The Commission had in 2011 taken an inventory of all courthouses inherited from the Ministry of Justice and Legal Affairs in 2010. The country-wide tour of all courts revealed some appalling cases of the state of affairs of courthouses. Most courts in the rural areas share premises with other government departments, blurring the separation that should exist between the Judiciary and the Executive. Some are in dilapidated buildings that are beyond repair and refurbishment whilst in two extreme cases, the courthouses were inappropriately housed in a two bed roomed house and general dealers' store respectively.

To address this situation, the Commission identified the ten worst cases and raised funds from cooperating partners to construct prefabricated court buildings as a temporary measure. Four of these have now been completed at Guruve, Murehwa, Mutoko and Tsholotsho, whilst another two at Esigodini and Norton are nearing completion.

Murehwa Magistrates' Court



Fig 9.0

Mutoko Magistrates' Court



Fig 9.1

With additional funding from the Royal Danish Embassy Office in Harare, 30 additional sites have been identified to benefit from either a completely new construction of courthouses or augmentation of existing but inadequate infrastructure. The Labour Court Harare and the Harare Civil Court continued to be housed in condemned buildings during the course of the year. Efforts to purchase a building to

house the Labour Court over the past three years have been in vain with Treasury failing to pay the purchase price for Bristol House where the court is now renting with an option to buy the property in due course.

During the course of the year, the Commission, with the approval of the Minister for Justice, Legal and Parliamentary Affairs, received support from a number of technical partners. This support enabled the Commission to construct the pre-fabricated courthouses detailed above and to conduct much needed training of magistrates in a number of courses. The support also enabled the Commission to purchase 11 vehicles for use by the magistracy on circuit court duties and for general administration. The 11 vehicles have had a positive impact on the operations of the courts, especially the magistrates courts were a number of circuit courts that had been shut down were reopened during the course of the year as magistrates had transport to service circuit court centres. This development enabled the Magistrates' Courts to clear its backlog in all cases that were filed before this court, leaving it to deal with currently filed cases in 2014.

The budgetary support from Parliament in 2013 was utilised as follows:

- Acquisition of Furniture and fittings =US\$174,089.00
- Rehabilitation of Court Buildings = US\$1,221,583.00
- Therefore, total expenditure on acquisition of fixed capital assets =US\$1,395,672.00

10. COMPUTERISATION OF COURT PROCESSES AND INFORMATION TECHNOLOGY (ICT) IN THE COURTS.

At the time the Commission took over the administration of the courts in 2010, there were hardly any computers in all the courts and some courts were still using old typewriters to produce judgements and orders. There was no internet connectivity in all the courts including the Supreme Court.

Progress in computerisation of court processes has been hampered by absence of a substantive ICT department in the Commission as the proposed structure of the Commission still awaits Treasury concurrence.

A pilot project in the High Court which electronically tracks all civil cases filed in 2012 and 2013 and keeps an electronic copy of the record has shown the Commission the great potential that ICT has to offer in enhancing service delivery and the tracking of court records. Funds permitting, all registries must be computerised and the movement of every court record must be electronically monitored to reduce on incidents involving lost or misplaced court records.

11. TRANSFORMATION OF THE JUDICIARY.

The coming into operation of the Judicial Service Act with the consequent expansion of the role of the Commission has had the salutary effect of creating one judiciary under one administration. This has brought in standardisation and uniformity of administration amongst all courts. It has also created more career paths for all members of the service as some law officers have been co-opted into administration with pleasant results.

The centralisation of administration has also had the effect of centralising data capturing and generation especially on the performance of the various courts against the budgetary allocations to each court.

The reality obtaining on the ground is that each year Parliament has been allocating less than what is required to efficiently run the courts and to worsen matters Treasury has been disbursing less than what Parliament would have voted for. The Commission reiterates that it can achieve more successes given the expanded mandate in terms of output by all courts. (The performance of the courts that has been captured in the Chief Justice's speech at the official opening of the 2014 Legal Year, has continued to impress).

12. TRAINING AND PROFESSIONAL DEVELOPMENT.

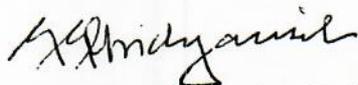
The Commission strongly believes in training of all categories of staff including judicial officers and has gone into partnership with a number of cooperating partners to identify the training needs of all categories of staff in the judicial service.

Magistrates undergo training at least three times each year while judges retreat once every term to discuss and debate on matters affecting their courts in symposia where, funds permitting, they invite regional and international colleagues to share experiences. Due to financial constraints during the course of the year, only donor funded training took place.

13. CONCLUSION.

In its quest to facilitate and promote the delivery of world class justice, the new Commission, subject to the direction to be taken, will continue to be guided by the Strategic Plan that was adopted in 2012. The existing plans to improve on access to justice in the Magistrates' Courts by constructing pre-fabricated courthouses will be pursued whilst Treasury will be engaged on the possibilities of completing the PSIP projects that include completing the construction of court complexes at Chinhoyi, Gwanda and Marondera.

Treasury will also be engaged to concur to the structure and status of the Secretariat to the Commission to enable the Commission to fill the various posts substantively.



The Honourable Mr Justice Godfrey Guwa Chidyausiku
Chief Justice of Zimbabwe.

