



ZIMBABWE

JUDICIAL SERVICE COMMISSION

"A Zimbabwe in which World Class Justice Prevails"

ANNUAL REPORT

2019



Mission

In accordance with the laws of Zimbabwe and best practice, to provide administrative support to the judiciary in the promotion and maintenance of a justice delivery system that inspires public trust and confidence in the rule of law.

Vision

A Zimbabwe in which world class justice prevails!

Preamble

Section 323 (1) of the **Constitution of Zimbabwe** requires every Commission to submit to Parliament, through the responsible Minister, an annual report describing fully its operations and activities. The law further requires that such a report be submitted not later than the end of March in the year following the year to which it relates.

In compliance with the Constitutional requirements, the Judicial Service Commission submits its 2019 Annual Report.

Executive Summary

The period under review produced mixed results for the Judicial Service Commission.

In finance, the distortions in the prices of goods and services meant that the Commission's approved budget of **ZWL\$79 981 831.00** could not meet the expectations that had been set. That resulted in a significant slowing down of some of the Commission's projects. Despite this adversity, the Commission still recorded notable achievements as detailed elsewhere in this report.

In human resources, the Supreme Court bench was expanded with the elevation of Honourable Justices Charles Kunofiwa Hungwe and Nicholas Mathonsi from the High Court. The appointments brought the number of judges in the Supreme Court to **15**.

In September 2019, five new judges were appointed to the High Court. These were Honourable Justices Evangelista Kabasa, Christopher Dube-Banda, Siyabona Paul Musithu, Sunsley Zisengwe and Webster Chinamora.

Retired Honourable Justices Vernanda Cecily Ziyambi, Nicholas Ntsieni Ndou and November Tafuma Mtshiya were also appointed as acting judges of the High Court. This was in response to concerns raised by the public and litigants about the delays in finalisation of cases heard in the Fiscal and Tax Appeals Division of the High Court. The decision was also taken to enable the judiciary to continue supporting government's Ease of Doing Business initiative.

In the lower judiciary 29 new magistrates were appointed.

In the courts, specialised anti-corruption courts were established and commissioned in the five provinces of Manicaland, Masvingo, Midlands, Mashonaland East and Mashonaland Central. These added to the existing courts at Harare and Bulawayo to bring the total number of provinces with

specialised anti-corruption courts to seven. The year also witnessed the enactment of the new **Magistrates' Court (Civil) Rules, 2019** which repealed the 1980 Rules. All court fees and the standard scale of fines were reviewed.

In administration, the highlight was the completion of renovations and customisation of a new Labour Court courthouse and its subsequent official commissioning by His Excellency, the President E.D. Mnangagwa.

Preparations for the physical separation of the Constitutional Court and the Supreme Court commenced in the course of the year. The process began with the appointment of Registrars and the establishment of separate registries for the respective courts. A Supreme Court registry was opened in Bulawayo to improve litigants' access to the services of the appellate court.

The Establishment and Membership of the Judicial Service Commission

The Judicial Service Commission is established in terms of section 189 of the **Constitution of Zimbabwe**. It has 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 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. To that end, the **Judicial Service Act** [Chapter 7:18] provides for those functions in detail.

The membership of the Commission in 2019 was as follows:

- a) The Honourable Mr. Justice Luke Malaba, Chief Justice;
- b) The Honourable Mrs. Justice Elizabeth Chiedza Gwaunza, Deputy Chief Justice;
- c) The Honourable Mr. Justice George Mutandwa Chiweshe, Judge President, High Court;
- d) Advocate Prince Machaya, Attorney-General;
- e) Doctor Vincent Hungwe, Chairperson of the Civil Service Commission;
- f) Mr. Mishrod Guvamombe, Chief Magistrate;
- g) The Honourable Mr. Justice Happias Zhou, Judge of the High Court;
- h) Mrs. Priscilla Sekai Madzonga, legal practitioner;
- i) Mr. Josephat Tshuma, legal practitioner;
- j) Mr. Lloyd Mhishi, legal practitioner; and
- k) Mrs. Priscilla Panichai Mutembwa, public auditor.

The two vacancies, of a professor or senior lecturer of law and a person with experience in human resource management remained vacant as highlighted in the Commission's previous reports.

The terms of office for the commissioners indicated in (g) to (k) above expire by operation of law in February 2020.



THE HONOURABLE MR JUSTICE LUKE MALABA CJ



THE HONOURABLE MRS JUSTICE ELIZABETH CHIEDZA GWAUNZA DCJ



THE HONOURABLE MR JUSTICE GEORGE MUTANDWA CHIWESHE JP



ADVOCATE PRINCE MACHAYA ATTORNEY GENERAL



THE HONOURABLE MR JUSTICE HAPIAS ZHOU JUDGE OF THE HIGH COURT



DR VINCENT HUNGWE CHAIRPERSON CIVIL SERVICE COMMISSION



MRS PRISCILLA SEKAI MADZONGA LEGAL PRACTITIONER



MR JOSEPHAT TSHUMA LEGAL PRACTITIONER



MR LLOYD MATIVENGA MHISHI LEGAL PRACTITIONER



MRS PRISCILLA PANICHA MUTEMBWA PUBLIC AUDITOR



Mr W. T CHIKWANA
ACTING SECRETARY,
JUDICIAL SERVICE COMMISSION

Human Resources

The Judicial Service Commission employs all people working in the courts including judicial officers. The year 2019, was turbulent on the back of an unstable economic environment. Although the Commission awarded both judicial and non-judicial members of staff wage increases to cushion them from the ever-increasing cost of living, the expenses remained largely unsustainable for the majority. The suppressed remuneration regime was the biggest contributor to the resignation of the **47** members who left the organisation in 2019.

Despite the unattractive conditions, the Commission's biggest success in human resources was Treasury's approval of the Judicial Service Commission Secretariat structure which had been outstanding since 2012.

As at 31 December 2019, there were **1671** members in post against an authorized establishment of **2068**. That left the Commission with **397** vacancies which could not be filled due to Treasury's recruitment freeze in all public institutions. As is evident from the previous report, the Commission's staff increased by **52** members after Treasury authorised the recruitments. Twenty-nine of those new members were magistrates.

HEADCOUNT – STAFF COMPLEMENT 2017-2019



Figure 1: Staff complement 2017-2019

HEADCOUNT DISTRIBUTION BY GENDER

The Commission maintained its adherence to the values espoused in section 17 of the Constitution. The female to male ratio still favours women as the population of female employees increased from **53,6%** in 2018 to **53,8%** as at 31 December 2019. The Commission's efforts in this regard become more pronounced if regard is had to the position in 2017 where the male members of staff exceeded the females as shown in the graphs below.

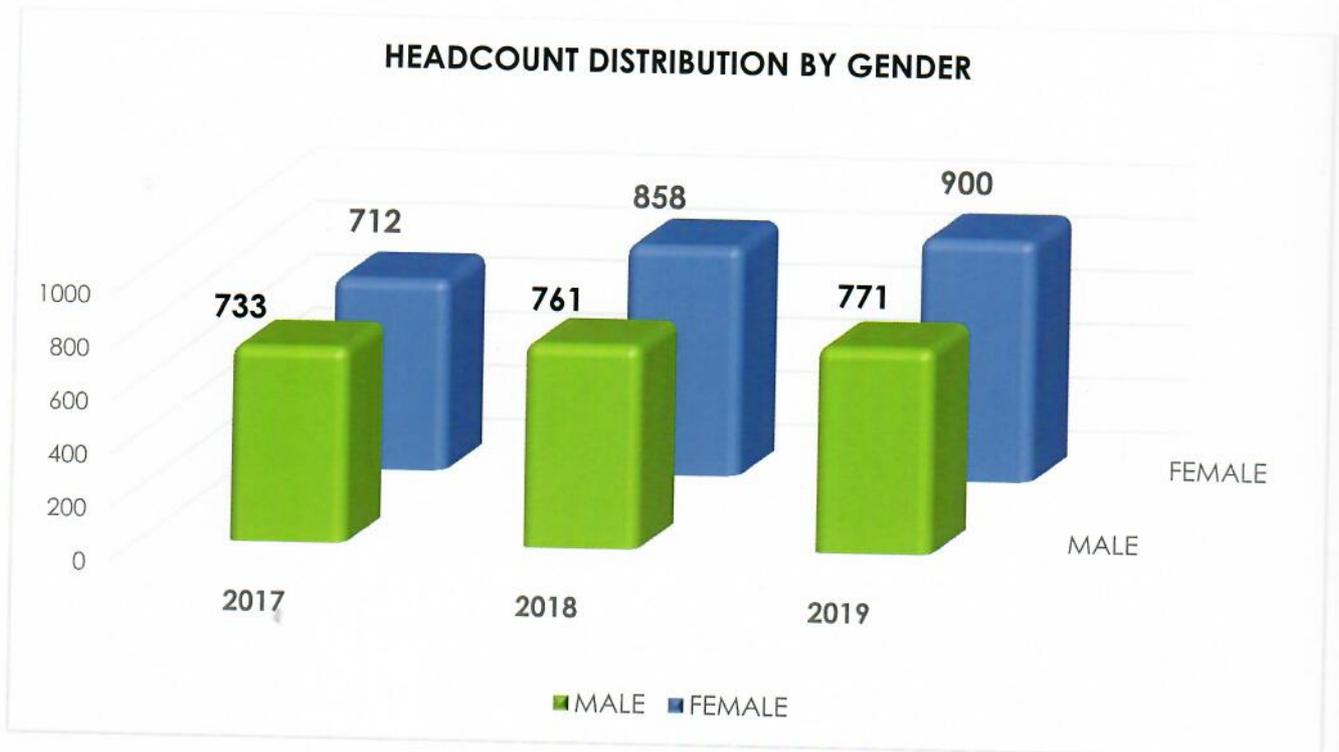


Figure 2: Head Count Distribution by Gender as at 2017-2019

Appointments

The number of Judges increased from **64** to **71**. The following key recruitments and appointments were made in 2019: -

- Honourable Justices Charles K. Hungwe and N. Mathonsi were elevated from the High Court to the Supreme Court bench.
- Retired Honourable Justices Ziyambi, Ndou and Mtshiya were appointed as acting judges of the Fiscal and Tax Appeals Court.
- On 4 September 2019, Honourable Justices E. Kabasa, C. Dube-Banda, S.P. Musithu, S. Zisengwe and W. Chinamora were appointed as judges of the High Court.
- A registrar was appointed for each of the Constitutional Court and Supreme Court.
- 29 Magistrates were appointed to replace those who left the Commission and those who had been promoted to other grades within the

Commission. The appointments leave the total number of magistrates at **243**. Juxtaposed against a population of over 14 million people, the inadequacy of magistrates across the country remains glaring.

Wastage and Natural attrition

During the period under review, the Commission lost **77** staff members, up from **46** in 2018. The members left service through discharges, resignations, retirements, deaths and termination of contracts.

Resignations, at **47**, contributed most to the attrition. The figure represents an increase of more than **100%** from the **20** resignations recorded in 2018.



Figure 3: Total wastage and natural attrition 31 December 2019

Staff Training and Professional Development

- Staff training was more sustained in 2019 than in 2018. A total of **1610** employees were trained in 2019, up from **752** employees trained in 2018.
- The training highlights for the year were the Result Based Budgeting which was sponsored by the Ministry of Finance and the Magistrates and Researchers trainings which were undertaken with the support of the International Commission of Jurists (ICJ);
- The Commission established a new division- the Protocol Unit; and its members were trained with the generous support from the Ministry of Foreign Affairs.
- In a major vote of confidence, the Commission hosted a delegation from the judiciary of Zambia on 19 and 20 September 2019 which was visiting on a benchmarking exercise to tap into some of the JSC's best practices in the handling of presidential petitions by the Constitutional Court.

Court Operations

(i) Anti-Corruption Courts

- The establishment of specialised anti-corruption courts at Mutare, Masvingo, Gweru, Marondera and Bindura was successfully completed. All the five courts were officially commissioned between May and November 2019. The total of provinces with specialised anti-corruption courts increased from two to seven. It is anticipated that more such courts will be established in the three remaining provinces in the first half of 2020. The new courts were an addition to the two which existed at Harare and Bulawayo.

- The establishment of the same specialised courts at High Court level is well under way with the renovations and customisation of the courtrooms having commenced at Harare and Bulawayo High Court. Legislative processes to establish the Courts will be concluded in the first quarter of 2020.
- The establishment of the Anti-Corruption Courts across the country were a clear demonstration by the Judicial Service Commission of its readiness to play its adjudicative role in the country's fight against corruption. Extensive training of magistrates identified to preside over the courts was conducted in 2019 and will continue in 2020.



Picture 1: Anti- Corruption Courtroom at Masvingo

(ii) Commercial Courts

- During the course of the year, magistrates and clerks of court designated to the commercial courts underwent training on how to

handle commercial disputes and run commercial court registries respectively.

- The **Magistrates' Court Civil Rules, 2019** came into operation on 1 February 2019. The rules were enacted after extensive consultations with all stakeholders and are expected to simplify the procedure of the Magistrates' Courts in civil litigation. The **Magistrates' Code of Ethics** was gazetted on 8 November 2019. It comes in to guide magistrates in the promotion and maintenance of high standards of judicial conduct. All court fees were nominally increased whilst a new standard scale of fines was proposed. It is expected to become effective in early 2020.

Performance of the courts, offices of the Master and Sheriff of Zimbabwe

During the year under review, the performance of all courts was satisfactory.

(i) Constitutional Court

The court received **38** new cases. The number of cases pending in the court dropped to **36** from **42** in 2018. That decrease marks a consistent reduction of both the backlog and the number of cases received in that court. That trend is explainable on the basis of citizens' increased understanding of the rights enshrined in the Constitution and the nature of cases which are deemed constitutional.

The number of cases received in the last four years is shown in the figures below.

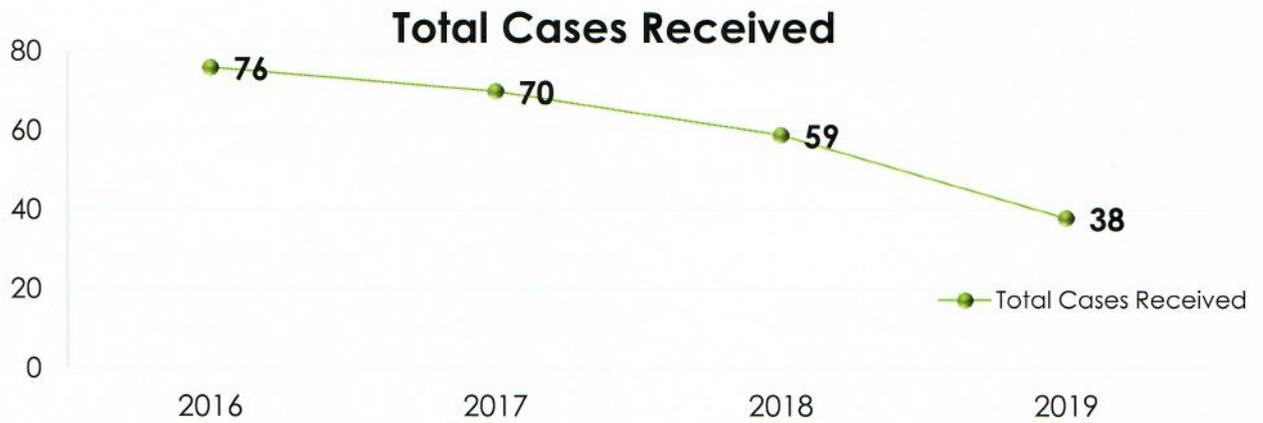


Figure 4: Received cases trend



Figure 5: Constitutional Court caseload

(ii) Supreme Court

The Supreme Court received **772** new cases in 2019 and completed **848** cases.

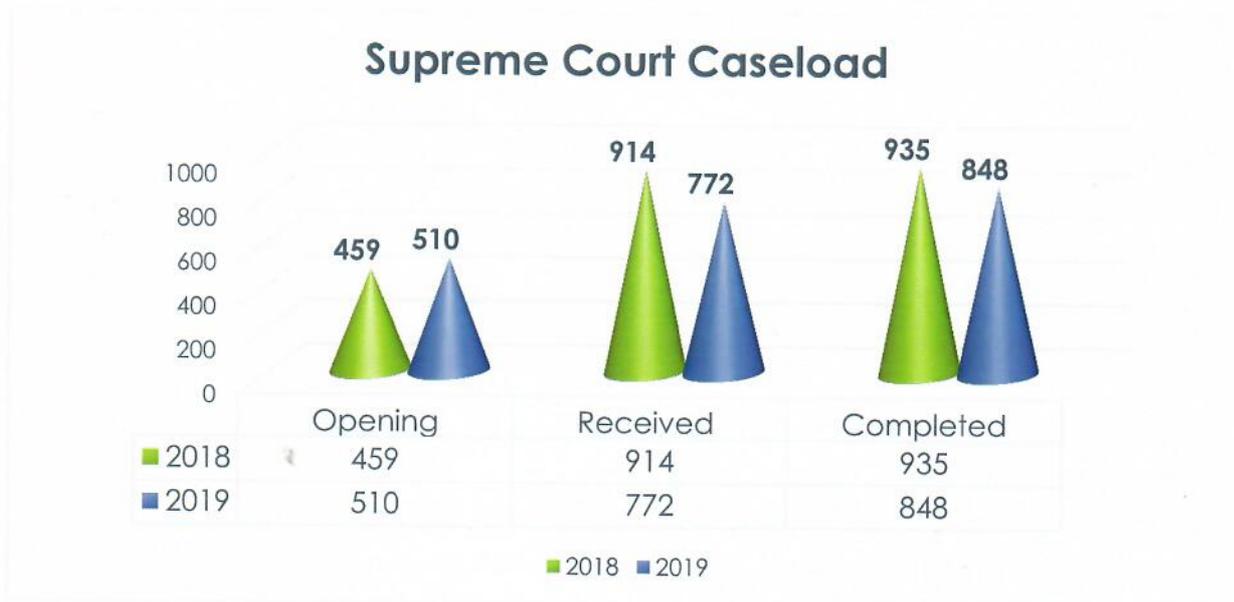


Figure 6: Supreme Court Caseload

Appeals filed with the Supreme Court in 2019 increased slightly to **971** from **925** in 2018, whilst the number of applications dropped from **448** cases in 2018 to **311** cases in 2019. The overall backlog of the Supreme Court was reduced by **15%** (76 cases).

(iii) High Court

The number of cases filed with the High Court in 2019 was **24 946**. The court completed **24 752** cases. The court's backlog increased from **3 742 cases** in 2018 to **3 936 cases** in 2019 representing a **5%** increase.

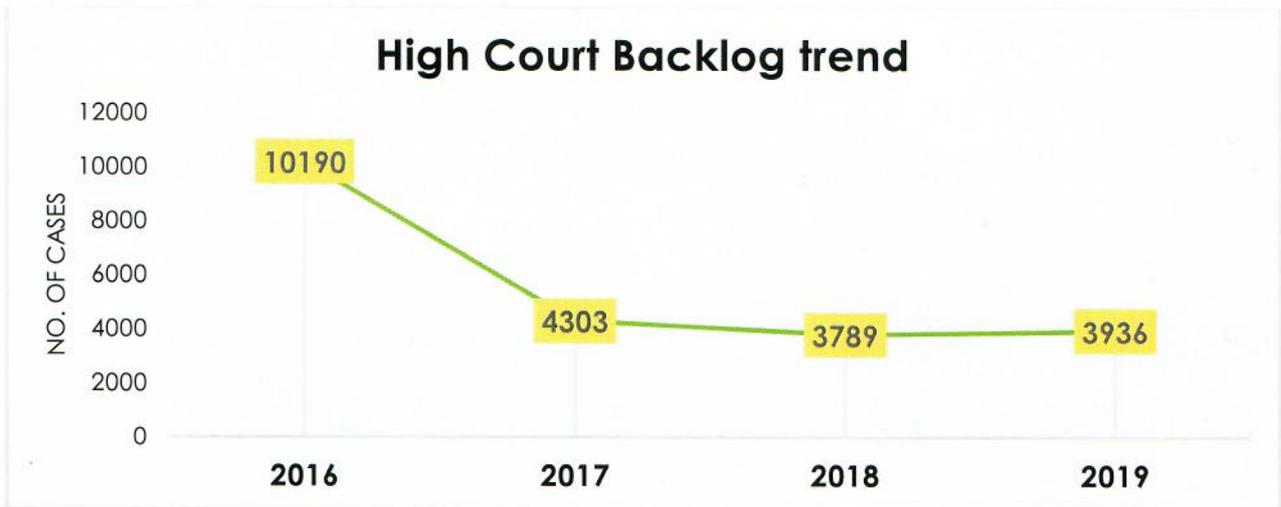


Figure 7: High Court Backlog trend

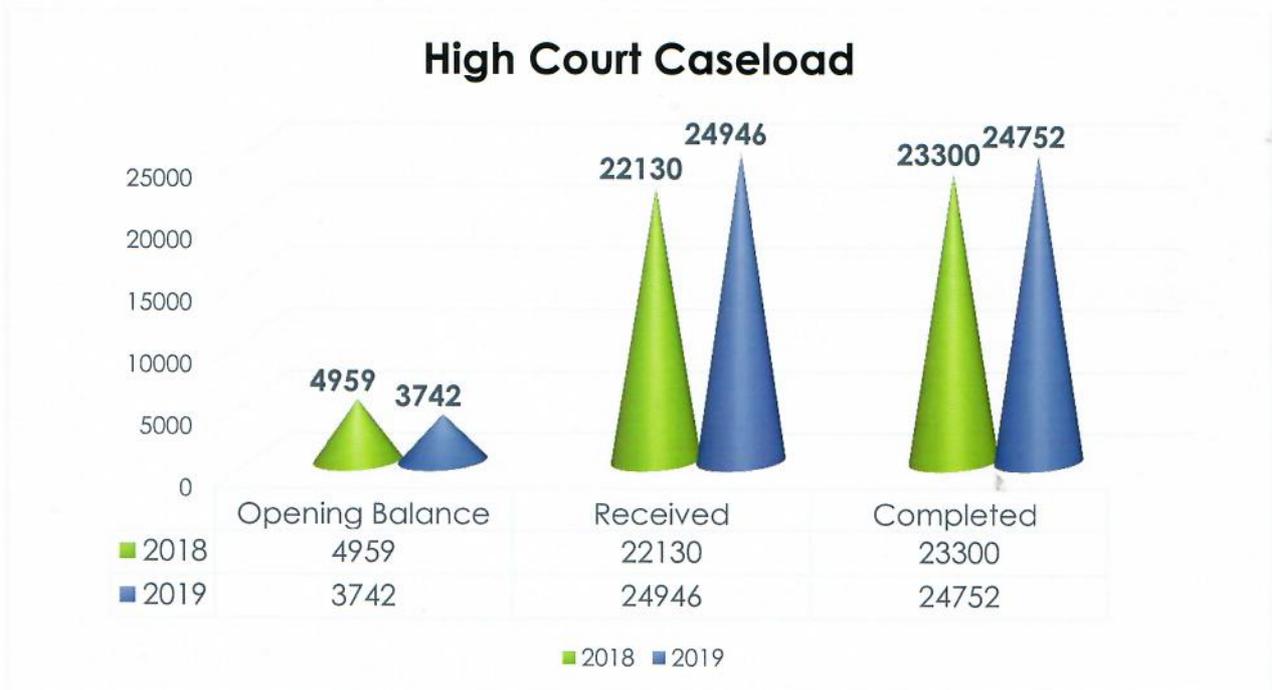


Figure 8: High Court Caseload

(iv) Administrative Court

The Administrative Court received **89** cases and completed **93** cases during the period under review. The backlog decreased from **32** cases in 2018 to **28** cases in 2019.

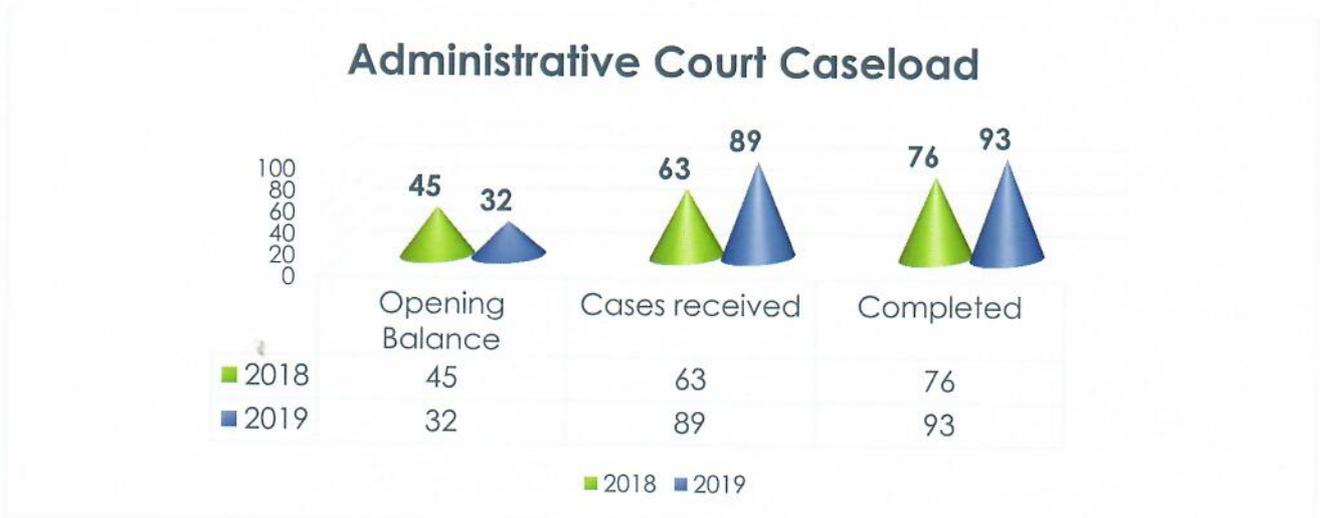


Figure 9: Administrative Court Caseload

(v) Labour Court

The Labour Court received **2 211** cases in 2019 and completed **2 440** cases. The backlog went down from **582** cases to **353** cases during the period under review.

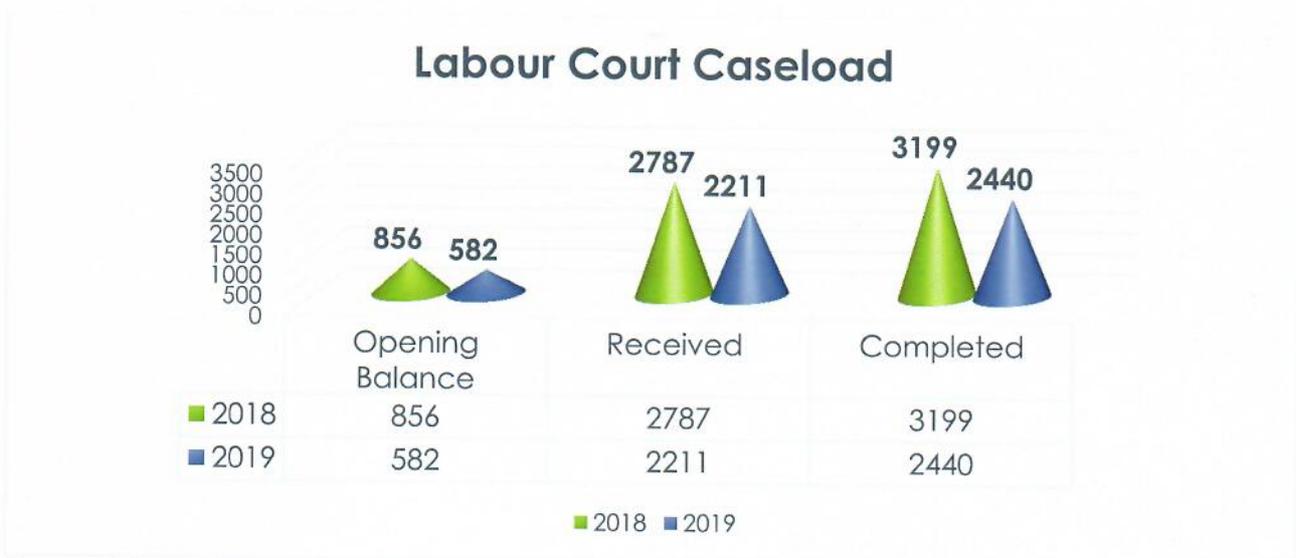


Figure 10: Labour Court Caseload

National Scenario for Superior Courts

The total number of cases received in the Superior Courts rose from **25 956** cases in 2018 to **28 056** cases in 2019. The statistics indicate that the judges worked harder during the year under review as **28 170** cases were completed in 2019 compared to **27 582** cases which were completed during the same period in 2018. The year closed with **4797** pending cases: -

	Opening Balance 01/01/19	Received Cases	Total Cases	Completed Cases	Backlog status as at 31/12/19
Constitutional Court	45	38	83	37	46
Supreme Court	510	772	1282	848	434
High Court Civil	2337	11460	13797	11744	2053
High Court Criminal	1405	13486	14891	13008	1883
Admin Court	32	89	121	93	28
Labour Court	582	2211	2793	2440	353
Grand Total	4911	28056	32967	28170	4797

Table 3: Superior Courts National Scenario

(vi) Magistrates' Courts

During the period under review, the Magistrates' Courts received **101 028** criminal cases countrywide compared to **100 201** cases in 2018. The rise in cases is attributed to the spate of public violence cases witnessed at the beginning of 2019 as well as the armed illegal miners arrested towards the close of the year. Civil cases dropped from **84 774** cases in 2018 to **63 303** cases in 2019. The decrease in domestic violence cases is notable. They stood at **13 623** in 2018 but dropped to **12 600** during the year under review. The number of small claims filed also went down from **12 879** in 2018 to **7 947** during the period under

review. This could be as a result of the fact that the jurisdiction of the small claims courts has been rendered negligible by inflationary pressures obtaining in the economy. The issue is being addressed by the relevant offices.

Whilst notable progress was made in dealing with anti-corruption cases, full utilisation of the specialised anti-corruption courts was constrained by a high number of interlocutory applications filed before the courts. The net effect of such processes was to stall the expeditious conclusion of matters. Such teething challenges are however expected at the commencement of any new court system.

Overall, the magistrates' court finalized a total of **190 212** cases leaving a backlog of only **7 067** cases. This remarkable achievement is testimony to the concerted effort that all magistrates are putting into their work.



Figure 11: Criminal Division Caseload

Magistrates Civil Court Caseload



Figure 12: Civil Division Caseload

Magistrates Domestic Violence Caseload



Figure 13: Domestic Violence Caseload

Magistrates Small Claims Caseload



Figure 14: Small Claims Court Caseload

Anti-Corruption Court

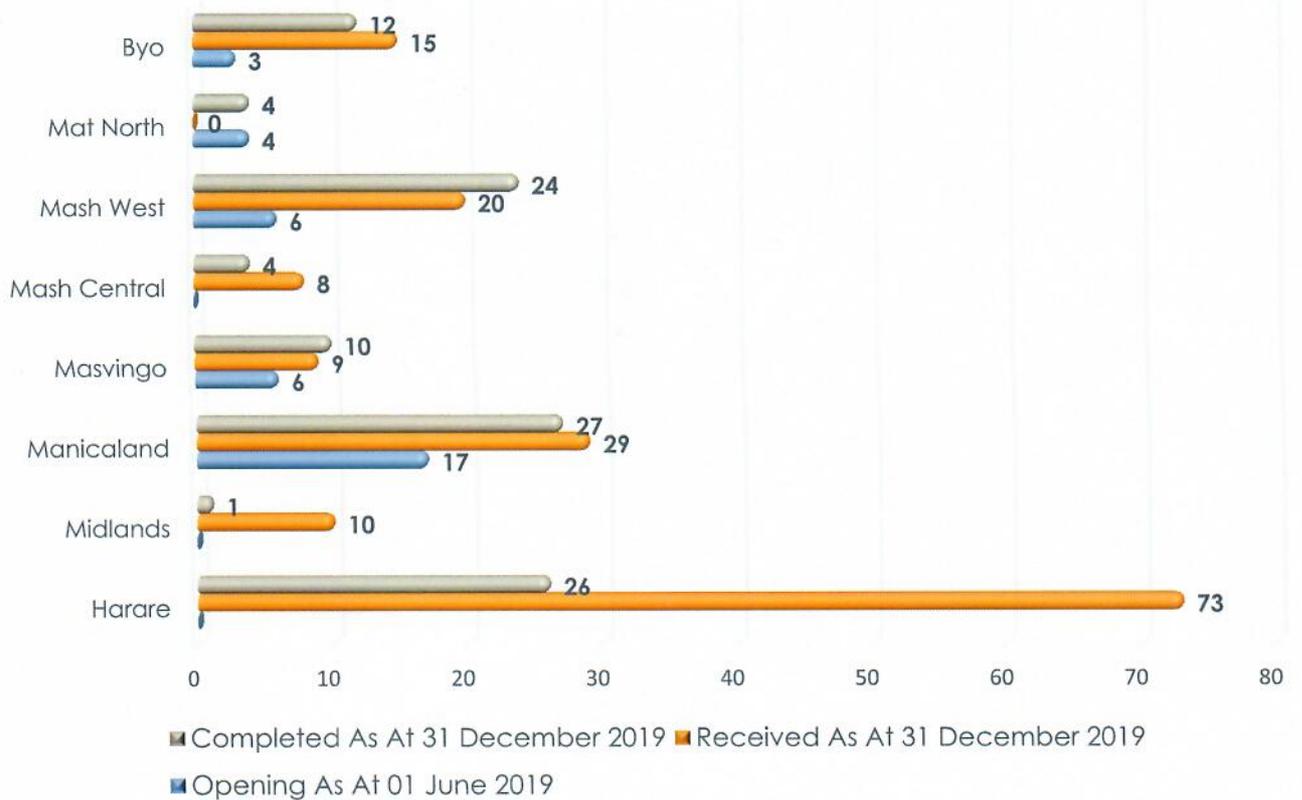


Figure 15: Anti-Corruption Court Caseload

(vii) Commercial Courts

The opening of standalone magistrates' commercial courts in 2019 was a novel initiative in the country. The new courts received a combined **1656** and managed to complete **1676** cases and only **16** cases were pending as at 31 December 2019.

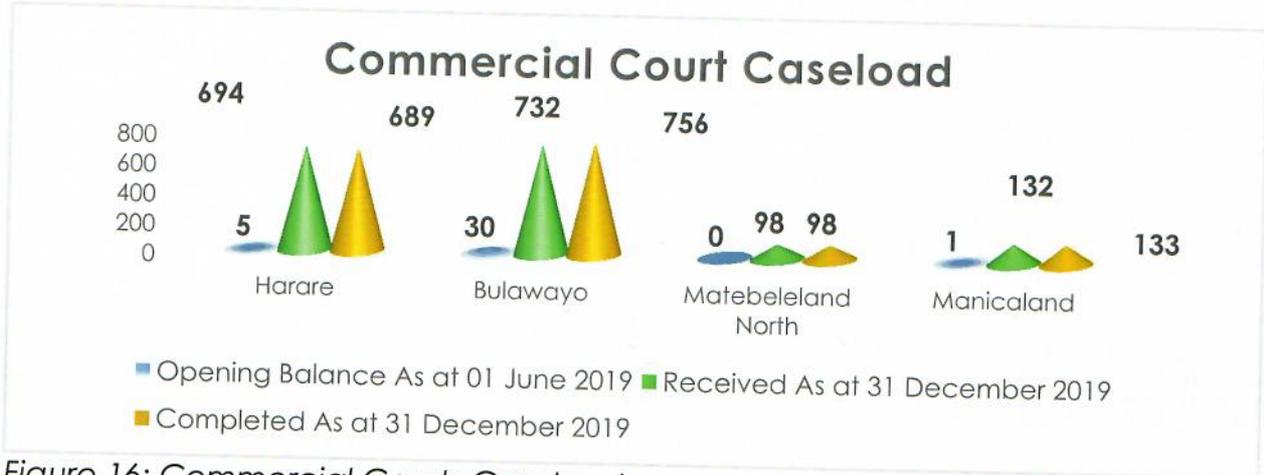


Figure 16: Commercial Courts Caseload

DIVISION/PROVINCE	Cases brought forward 01/01/2019	Cases received	Total	Cases completed	Backlog status 31/12/19
Central Division	14	713	727	721	6
Eastern Division	88	3 187	3 275	3 006	269
Western Division	56	1080	1136	1061	75
Harare Province	2417	58 399	60 816	58 719	2 097
Manicaland Province	674	21 544	22 218	21 441	777
Bulawayo Province	692	16 262	16954	16160	794
Mat North Province	62	3 620	3 682	3 617	65
Mat South Province	331	8 905	9 236	8 802	434
Mash Central Province	374	15 209	15 583	15 252	331
Mash East Province	269	15 123	15 392	15 034	358

Mash West Province	397	16 852	17 249	16 556	693
Masvingo Province	509	13 879	14 388	13 903	485
Midlands Province	470	16 153	16 623	15 940	683
Total	6 353	190 926	197 279	190 212	7 067

Table 3: Magistrates' Court National Scenario

(viii) Office of the Sheriff of Zimbabwe

During the period under review, a total of **20 249** processes were received and all the **20 249** were served. The backlog was maintained at zero.

Processes	Received- 2018	Received- 2019	Difference	Percentage Change
Writs	2320	2123	197	9%
Summons	7527	6512	1015	16%
Court Orders	332	451	-119	-26%
Court Notices	451	485	-34	-7%
Court Application	455	607	-152	-25%
Urgent Chamber	89	126	-37	-29%
Removals	1086	643	443	69%
Notices of set down	11301	9206	2095	23%
Total	23561	20249	3312	16%

Table 4: Sheriff's Office National Scenario

(ix) Office of the Master of High Court

The number of new deceased estates registrations was **6 043** for the period under review, up from **5 996** during the same period in 2018. The number of cases for judicial management significantly dropped from **52** in 2018 to **16** during the period under review. The number of cases for liquidations also dropped from **36** in 2018 to **30** in 2019.

Deceased Estates Registrations 2018-2019

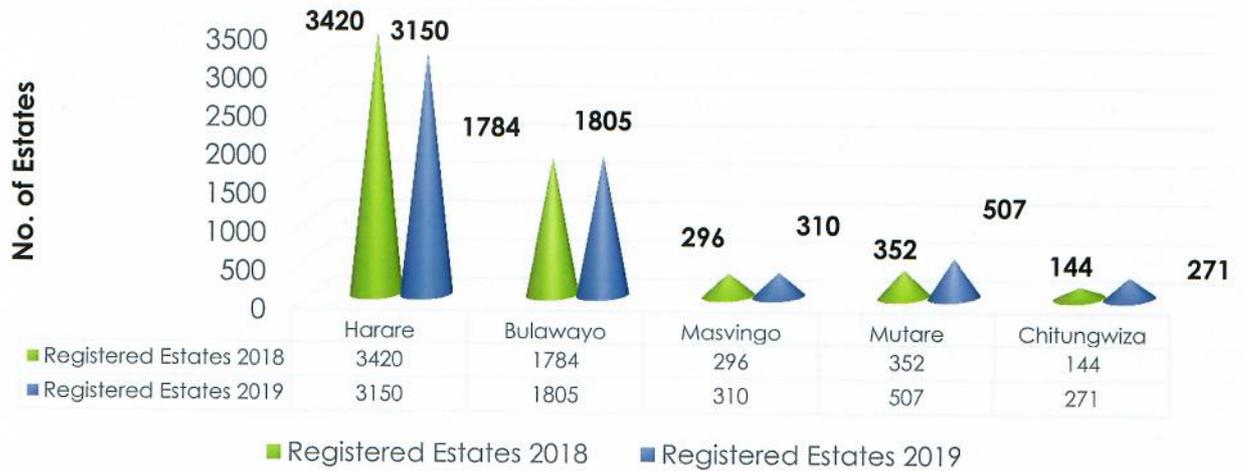


Figure 17: Deceased Estates Registrations 2018-2019

Judicial Management- Records Opened 2018-2019



Figure 18: Judicial Management- Records Opened 2018-2019

Liquidations –Company Records Opened



Figure 19: Liquidations- Company Records Opened 2018-2019

General Administration

(i) Integrated Electronic Case Management

The introduction of an Integrated Electronic Case Management System received a major boost after the Procurement Regulatory Authority of Zimbabwe completed the selection of the suitable companies to supply the software for the system. Barring unforeseen challenges, the Commission is confident that the implementation of the system will commence in early 2020.

(ii) Capital Projects

The Commission's efforts at improving court infrastructure across the country were hamstrung by the volatile economic environment. Despite that harsh economic outlook, the Commission still made a lot of headway with the following projects: -

- The completion of the refurbishment, customisation and subsequent commissioning of the Labour Court Building in Harare on 13 May 2019 by the President was the highlight of the Commission's capital projects in 2019.



Picture 2: One of the courts rooms at the new Harare Labour Court

- The courtrooms designated for use by commercial courts in the magistrates' courts were also fully refurbished at Harare and Bulawayo.
- The project to construct a new courthouse at Gwanda Court which had stalled for over a decade was revived during the year under review. Treasury released **RTGS \$1,6 million** towards the project. The contractor procured some of the materials for use at the project towards the end of the reporting period.
- The construction of Chinhoyi Magistrates' Courts progressed well in the second half of the year after Treasury released RTGS **\$10 million**. That late release of funds for the project affected the target completion date of December 2019. Significant progress has however been made with the

contractor now working on the finishings to the structure. The Commission is hopeful that the project will be finalized in the first half of 2020.

- At Lupane, where we are constructing a court complex, satisfactory progress was made in terms of land preparation, construction of access roads and pre-purchasing of building materials.
- At Mt Darwin, the courthouse that is under construction is nearing completion despite the Commission missing the target to complete it by end of 2019. The delay resulted from the depressed fiscal space in which the Commission is operating. During the period under review, construction of the main structure and the public ablution facilities was completed. Painting and tiling is now earmarked for the first half of 2020.
- Extensive renovations involving painting of offices, staircases and corridors; conversion of three offices into three courtrooms; furnishing of the courtrooms; as well as erection of workstations in offices and reception counters were undertaken at Tredgold Building which houses the Bulawayo Magistrates' Court. The renovations are nearing completion whilst the Ministry of Local Government, Public Works and National Housing is leading the process of securing alternative accommodation for other institutions which occupy the same building to relocate and allow exclusive use of the courthouse by the courts.
- At Hwange Magistrates' Court and at Harare Magistrates' Court extensive renovations and refurbishment of the courthouse and courtrooms respectively were undertaken in 2019. In addition to the general rehabilitation of the roof of the courthouse at Hwange, new furniture was purchased, new doors were fitted and the entire courthouse was repainted. At Harare Magistrates' Court a number of courtrooms and offices were facelifted.
- Following the purchase of Bristol House by the Judicial Service Commission in 2018, preparatory work to customize the building which will house the

Commercial Division of the High Court commenced and notable progress has been made.

- In 2019, the Judicial Service Commission purchased a building called 'Cape To Cairo' to house the Master of the High Court in Bulawayo. The designs to customize the building were approved. The project will be a priority in 2020.
- There are serious accommodation challenges at Kwekwe Magistrates' Court. The court is also designed to house a regional court which we cannot do because of shortage of court rooms and offices. Land to build a new magistrates' court was identified. The preliminary works commenced towards the end of the reporting period. This project ranks high on the Commission's priority list for 2020.

Finance

The Commission was allocated **ZWL\$79 981 831.00** for the year ending 31 December 2019.

Inflationary pressures left this allocation without any significance. This obviously had adverse effects on the intended outcomes of the Commission's budgetary performance. The Commission closed the year with a debt overhang of **ZWL\$ 14 561 458.54**. This figure excludes the outstanding purchase of conditions of service vehicles for constitutional appointees which amounts to **ZWL\$ 25 722 180.00**.

Challenges

The operations of the Judicial Service Commission were mostly affected by economic challenges. Some of the major obstacles to Commission's operations were as shown below:

- The power outages experienced during the year adversely affected court operations. The courts resorted to the use of generators. Unfortunately, due to fuel challenges and the need to prolong the generators' lifespan, that alternative could only be for a few hours per day. Inevitably, the measures affected productivity.
- Due to the current economic situation, the organisation lost a considerable number of employees who left for 'greener pastures'. Recruitment interviews became the norm rather than the exception especially towards the end of the year.
- The ever-changing environment also made it difficult for the Commission to finish most of its projects on time. As the currency was affected by the *fluid prices, procurement of materials and tools of trade* became almost impossible. It is for this reason that the Commission could not commence the project of constructing Epworth Magistrates' Court which is meant to decongest the now over populated Mbare Magistrates' Court; and the replacement of prefabricated structures at Murehwa and Chiredzi with more durable brick and mortar. It is our desire to proceed with these projects in 2020.

Conclusion

The Commission made every effort to meet set targets in line with its strategic focus areas as outlined in the **2016-2020 Strategic Plan**. Although the challenges faced deterred the finalisation of some targets, the Commission remained steadfast in providing services to the public and in the implementation of its various initiatives to achieve world-class justice. The challenges can only be used as a launch pad to a more fruitful 2020.

The Honourable Mr. Justice Luke Malaba
Chief Justice of Zimbabwe