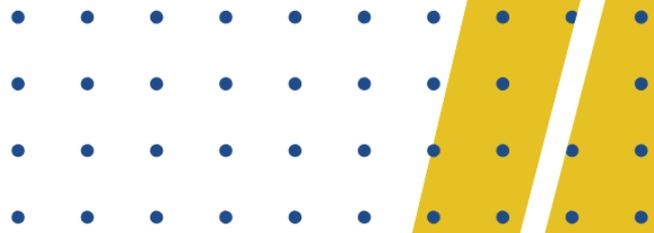


10 YEARS
2011 - 2021



JUDICIAL EDUCATION NEWSLETTER

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TheSouthAfricanJudiciary



Dr Gomolemo Moshoeu
Chief Executive Officer, SAJEI

As this is the last issue of 2024, I would like to thank all the contributors to the Newsletters. Preparing an article for publication is not easy and your efforts are recognised. To the members of the Editorial Committee, you render excellent service. To the readers, SAJEI values your feedback, please send it to:

SajeiCEOpersonalassistant@judiciary.org.za.

To my SAJEI colleagues, hard work pays.

Let me take this opportunity to wish everyone happy festive holidays. Travel safely, rest and be blessed.

The year 2024 has been eventful for SAJEI publications, namely, Journal and Newsletter. The Journal was accredited by the Department of Higher Education and Training, a milestone indeed for a Judicial Training Institute. Furthermore, the tenure of two members of the Editorial Committee of the Newsletter expired. They were replaced by Regional Magistrate Collen Matshitse and District Magistrate Shirley Nmutandani. We are looking forward to their contributions.

In this issue, the topics are quite diverse but of interest to Judicial Officers, legal practitioners and law students. The article addresses illegal wildlife trafficking, a challenging issue in South Africa. The Judiciary continues to seek strategies and solicit cooperation to combat illegal wildlife trafficking as it happened at the SADC seminar alluded to in the article. The case summaries on illegal wildlife trafficking provides additional information. I hope they are valuable to the reader.





Ms Jinx Bhoola
Editor-in-Chief

First and foremost, I would like to thank the CEO of SAJEI, Dr Gomolemo Moshoeu, and the members of the editorial team for their selfless time and unwavering support throughout this year. You have sacrificed your busy work schedules and personal schedules to ensure that the publication deadlines are met. You are applauded for your commitment in advancing Judicial Education. You have displayed the quality that nothing is impossible with effective communication and teamwork.

To our budding writers and contributors, thank you for your ongoing contributions to the Newsletter. You have written on various topics, that were always relevant and topical to the Judiciary. You kept our readers entertained with various amendments on many pieces of legislation. The Newsletter has been able to address topical issues due to your invaluable contributions. I want to encourage you to continue to write and support the Newsletter as your articles have been appreciated by our readers and have assisted many in the execution of their duties. To our regular contributors thank you for your consistent flow of articles in enhancing Judicial education.

To the support team at SAJEI, you displayed excellent work ethic and determination in ensuring that each edition was published. The management of edits, collating of edits to and from all members of the editorial team and emails back and forth, working through long hours late at night and into the early hours of the morning, to ensure delivery and production of quality publication is commendable. You are true champions and conquerors. Your enthusiasm and excellence is acclaimed. Continue with your professionalism and excellence.

This year we experienced a lot of change, tenacity and excitement in the Judiciary. History has been made in South Africa as we have congratulated Chief Justice Lindelwa Muriel Maya with immense pride, as the first female Chief Justice of the Republic of South Africa. Chief Justice Maya has an exceptional and sterling legal career. She attained a plethora of degrees both locally and internationally. She boasts a BProc degree from the University of Transkei, an LLB degree from the University of Natal, an LLM degree from Duke University, North Carolina, United States as well as five LLD degrees (*Honoraris*) from the universities of Fort Hare, Walter Sisulu, Nelson Mandela, Mpumalanga and University of South Africa (UNISA). Her vision, amongst other things, is a unified judiciary. We also congratulate all other members of the Judiciary who have been elevated to higher posts and those Magistrates who were appointed this year.

SAJEI also boasts about hosting the training of the newly appointed Magistrates (NAMS) at the Bridgette Mabandla College in Pretoria in August 2024. It brought a lot of memories to the facilitators as they fondly shared memories when they were appointed as Magistrates and had to attend training at this prestige building. The NAMS training was an absolute success. The dedicated team from SAJEI, responsible for facilitating the training are congratulated for the success. The Chief Magistrates who released various facilitators, who sacrificed their courts for the month-long training during August 2024 are thanked. We also thank the judicial educators at SAJEI and all facilitators who assisted in the month-long training.

I received as a Christmas present, the oath of office engraved on a plaque. It was the most valuable gift that I have received, which brought back memories when I first took my oath of office. As we return from our holidays remember your oaths of office. Remember the joy and the enthusiasm as you embarked on your careers. You are encouraged to ensure that you uphold Constitutional imperatives when writing judgments. Let's continue to do justice and execute our duties so without fear, favour and prejudice.

Gender-based violence remains a challenge and we saw various pieces of legislation promulgated to address the scourge. SAJEI has addressed this issue extensively in its various trainings as well as previous editions of the Newsletter. We encourage Magistrates to continue the good fight in protecting the rights of women, children and vulnerable groups.

I am glad to hear that many of the readers have expressed their gratitude in completing the puzzles. We have now introduced word searches and some colleagues have already expressed their desire for more word searches. We thank you for that. If you wish to make any suggestions on what else you will like to see encompassed in the Newsletter please be free to contact the editorial team.

I want to thank Mr Ngwato Thomas Maseko and his team for the beautiful designs of our Newsletters. He is industrious, innovative and committed. He works long hard hours to provide this beautiful edition.

I want to take this opportunity to wish everyone a blessed and peaceful festive season. Take a break, unwind and enjoy the simple things in life. May you enjoy quality time with your families and recharge to embrace the new year with thanksgiving.

Be safe and may you be blessed



THROUGH THE LENS OF THE JUDICIARY: AN OVERVIEW OF ILLEGAL WILDLIFE TRAFFICKING IN SOUTH AFRICA



Mr Jerome Kom
Acting Magistrate

Introduction

According to statistics SA, biodiversity-based tourism is a significant contributor to South Africa's economy, generating nearly R28 billion in 2019¹. The country's rich wildlife, including iconic species like rhinos, elephants, and lions, makes it a prime target for poachers and smugglers. The illegal wildlife trade threatens biodiversity, harms the tourism sector, and undermines local communities that are dependent on wildlife conservation. South Africa's courts play a vital role in combating this trade by enforcing laws, setting legal precedents, and collaborating internationally to protect endangered species.

Legal Framework to Combat Wildlife Trafficking

South Africa has a strong legal framework to address wildlife trafficking. The Constitution, under section 24, guarantees the right to a protected environment for current and future generations. Key legislation includes the National Environmental Management:

Biodiversity Act² (NEMBA) and the National Environmental Management Act³ (NEMA), both of which regulate the use and conservation of natural resources.

South Africa is also a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which governs international trade in endangered species. Judicial officers are essential in upholding these laws. The Prevention of Organised Crime Act⁴ (POCA), for example, mandates a minimum 15-year sentence for wildlife trafficking offenses, and courts must ensure that wildlife laws are properly enforced.

Evidential Challenges in Wildlife Smuggling Cases

In wildlife trafficking cases, evidence is often gathered through police testimony based on informants or search warrants. However, the admissibility of such evidence is sometimes challenged in court, which can complicate prosecutions. In rhino poaching cases, for instance, possession of poaching tools or rhino horns must be accounted for by the accused. If the accused cannot justify their possession, it strengthens the case for prosecution.

Despite a robust legal framework, wildlife trafficking remains a significant issue in South Africa and across Southern Africa. This reflects systemic challenges in law enforcement and the complexity of transnational wildlife crimes. However, legal mechanisms, though reactive, are still critical in combating this problem.

Regional Cooperation and Capacity Building

At the 2019 SADC Judicial Seminar on Transnational Wildlife Organised Crime held in Gaborone, Botswana, which was jointly hosted by SAJEI, several recommendations were made to enhance judicial responses to wildlife trafficking. One key suggestion was to strengthen capacity-building efforts for judicial officers, prosecutors, and law enforcement personnel. This would enable a more coordinated and effective regional response to wildlife crimes, particularly in countries that share borders and wildlife populations.

THROUGH THE LENS OF THE JUDICIARY: AN OVERVIEW OF ILLEGAL WILDLIFE TRAFFICKING IN SOUTH AFRICA

Increased inter-state cooperation is also vital. For example, strengthening bilateral cooperation between neighbouring countries can help combat cross-border poaching and trafficking. The creation of a centralized database or website for tracking wildlife trafficking cases across the region was also proposed to improve knowledge-sharing and coordination.

A holistic, multi-agency approach was deemed necessary, with a focus on information-sharing, technical support, education, and public awareness. A national action plan should guide these efforts, and ongoing monitoring and evaluation are critical to assessing the success of these initiatives.

The Judiciary's Role in Promoting Wildlife Conservation

Judicial officers must understand the value of wildlife resources, the complex nature of wildlife crimes, and their potential impact on local communities, economies, and national stability. The SADC Seminar emphasized the importance of educating judges and magistrates to recognize the broader implications of wildlife trafficking. These crimes are often part of a more global network of criminal organisations with the global black market for illegal wildlife worth up to 20 billion USD per year, according to Interpol⁵. Courts can set a strong example by imposing severe penalties for wildlife crimes, thus deterring offenders. Furthermore, the role of civil society in wildlife conservation must not be overlooked. Engaging with communities and raising awareness about the importance of conservation can foster public support for tougher laws and better enforcement.

Conclusion

South African courts play a crucial role in the fight against illegal wildlife trafficking by ensuring strict enforcement of wildlife laws, collaborating regionally and internationally with bordering countries and setting legal precedents, the judiciary can significantly contribute to the preservation of South Africa's rich biodiversity and the health of its tourism industry and local communities.

-
- 1) See: <https://www.statssa.gov.za/?p=17388#:~:text=In%202019%2C%20biodiversity%2Dbased%20tourism's,within%20the%20broader%20tourism%20sector>. Accessed on 11 December 2024.
 - 2) Act 10 of 2004.
 - 3) Act 107 of 1998.
 - 4) Act 121 of 1998.
 - 5) <https://www.interpol.int/en/News-and-Events/News/2023/Illegal-wildlife-trade-has-become-one-of-the-world-s-largest-criminal-activities>.



Mr Christopher Abrahams
District Magistrate

Introduction

Offenders sentenced under the Child Justice Act¹ (“CJA”), specifically Chapter 10, are not classified as prisoners. Instead, they are sentenced to Child and Youth Care Centres (“CYCCs”). A CYCC, by definition, is not a prison. According to the Correctional Services Act² (“CSA”), a prison is any place established for the reception, detention, confinement, or treatment of individuals liable to detention.

Given this distinction, child offenders sentenced to CYCCs do not fall under the definition of prisoners, nor do CYCCs qualify as prisons. Consequently, these offenders are not eligible for parole under Sections 51 and 73 of the CSA. There appears to be no alternative directive in other legislation, as Sections 290 - 291 of the Criminal Procedure Act³ (“CPA”), which previously addressed the sentencing of youth offenders, have been repealed by the CJA.

Child offenders in CYCCs are not treated as prisoners but as children, enjoying more privileges and care. The environment is therapeutic rather than punitive, suggesting that remaining in a CYCC until the sentence expires might be in their best interest.

Section 77(6)

Section 77(6) of the CJA stipulates that no law or sentence of imprisonment on a child, including a life sentence, may deny, restrict, or limit the possibility of early release. This provision opens the door for the early release of youth offenders, provided there is a legislative framework outlining the procedures and requirements for such release. Currently, no such provisions have been identified in the CJA or other legislation.

Alternative Approach

I consulted the Child Law Centre at the University of Pretoria for their perspective. Below is an excerpt from their response:

Dear Magistrate Abrahams,

Your query raises an interesting point. Your interpretation is correct: no specific parole mechanism exists for children sentenced to CYCCs. There is a debate regarding the use of the Children's Act for discharging children from CYCCs, but the Department of Social Development is hesitant to exercise such powers without clear legislative guidance. Children sentenced to CYCCs should benefit from specific programs offered there. Unfortunately, CYCCs are often used as surrogate prisons, which is incorrect. CYCCs focus on therapeutic programs and services, unlike prisons, which should only be used when a child cannot benefit from CYCC programs and needs to be removed from society.

The correct legal answer remains unresolved by the High Court, making this a grey area. If you are aware of cases suitable for review or appeal, please inform us. We are willing to represent the child pro bono to settle this debate. Kind Regards,

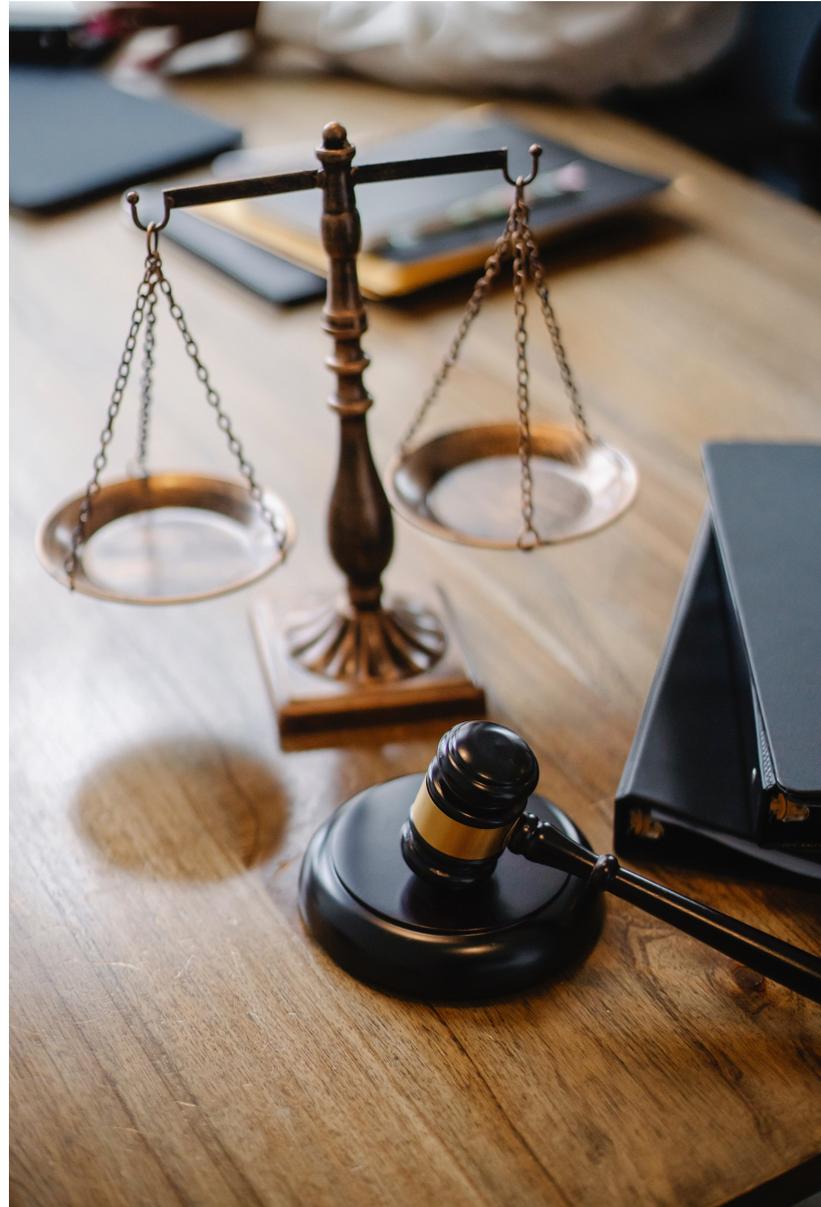
Discussion of Key Points

The response highlights two significant points:

1. **Powers of the Department of Social Development:** While officials in the Department of Social Development hold various powers, no explicit authority to release an inmate sentenced to imprisonment was identified in the current legislative framework.
2. **Judicial Clarification:** The matter may require judicial clarification. The High Courts have not yet addressed this issue, and a directive from the High Court would be beneficial. The Child Law Centre is prepared to represent a child in such a case to seek a definitive ruling.

Conclusion

This situation underscores a significant legal gap regarding the early release of child offenders in CYCCs. The therapeutic nature of CYCCs suggests that keeping children until their sentences expire may be beneficial, but the lack of a clear early-release mechanism remains problematic. Judicial intervention may be necessary to resolve this legal ambiguity and ensure that child offenders are treated fairly and in accordance with their rights.



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- 1) Act 75 of 2008.
 - 2) Act 111 of 1998.
 - 3) Act 51 of 1977.



Ms Kershni Zanetic
Acting Regional Magistrate

Introduction

Given the current state of endemic violent crimes in South Africa where firearms are used when committed by a group of perpetrators, the prosecution invariably relies on the concept of joint possession in proving the charges of being in possession of unlawful firearms against each of them.

The test for joint possession

In practice, the concept of joint possession presents the prosecution with numerous difficulties when the burden of proof is applied to the facts of cases where not all or none of the accused were found in actual possession of the so called “*smoking gun*”. The test for joint possession of an illegal firearm and ammunition was long established in *S v Nkosi*¹ where the Court stated that it must be possible to properly infer from the established facts that:

- (a) *The group had the intention (animus) to exercise possession of the guns through the actual detentor; and*
 - (b) *The actual detentors had the intention to hold the guns on behalf of the group.*
- Only if both requirements are fulfilled can there be joint possession involving the group as a whole and the detentors.... to possess all the guns.'*

Consequently, only if the prosecution has established that the group had the intention to exercise possession through one or more members of the group and those who had possession did so on behalf of the group, would the requirements for a conviction be established. For example, in *S v Ramoba*², where one of the accused appealed amongst others the charge of possession of a pistol found in a vehicle taken in the course of an aggravated robbery, the Supreme Court of Appeal (“SCA”) held that since there was no evidence as to who put it inside the vehicle nor evidence to prove whether the appellant was aware that it was inside the vehicle, the prosecution failed to prove joint possession of the said pistol. The conviction and sentence on that count was accordingly set aside.

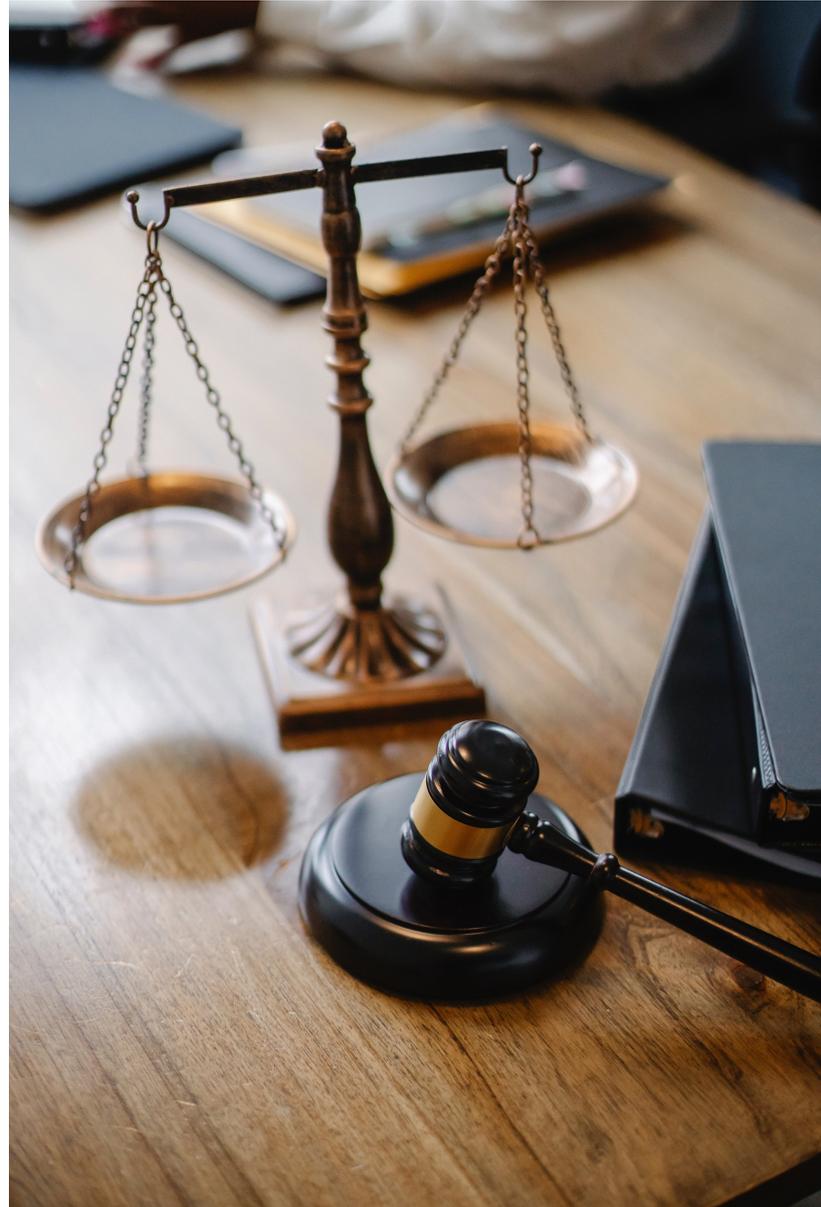
For argument sake, even if a detentor was established in that case, one nevertheless remains bound by what was said by the SCA in *S v Mbuli*³ that: “*Mere knowledge by the others that he was in possession of a hand grenade and even acquiescence by them in its use for fulfilling their common purpose to commit robbery it is not sufficient to make them joint possessors for the purposes of the Act. (my emphasis)*”.

PROVING JOINT POSSESSION OF UNLAWFUL FIREARM

With a view to the prevailing stringent legal criterion in proving such charges, it is therefore unsurprising that in the Constitutional Court decision of *S v Makhubela & Another*⁴, it was rightly observed that there will be few factual scenarios which meet the requirements of joint possession where there has been no actual physical possession. This of course is inevitably due to the difficulty inherent in proving that the possessor had the intention of possessing the firearm on behalf of the entire group, bearing in mind that being aware of, and even acquiescing to the possession of the firearm by one member of the group does not translate into a guilty verdict of the others.

Conclusion

Whilst the application of legal precedent on the subject remains challenging, I am however reminded by a passage cited with approval by the SCA's decision in *S v Hadebe*⁵, conscientizing Courts to adopt a holistic approach when analysing the body of evidence otherwise *"one may fail to see the wood for the trees."*



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- 1) 1998 (1) SACR (W) 286H-I.
 - 2) 2017 (2) SACR 353 (SCA).
 - 3) 2003(1) SACR 97 (SCA) at 115b-c.
 - 4) 2017 (2) SACR 665 (CC) para 46.
 - 5) 1997 ZASCA 86 para [13].



ENACTMENT OF LAWS VITAL TO CURB THE EPIDEMIC OF MARRIAGE OF CONVENIENCE IN SOUTH AFRICA



Ms Nompumelelo Gusha
Regional Magistrate

Introduction

I have been a Judicial Officer for almost 2 decades and currently ply my trade as a Regional Magistrate. I enjoy my life on the bench, and take my judicial oath seriously, like all of Judicial Officers do. Every time I step into court, I strive to mete out justice without fear, favour or prejudice and for the most part I have succeeded in doing so. I have however found over the years that presiding in divorce court poses a bit of a challenge, not because divorce matters are complex, but rather because of the myriad of legal minefields there are to navigate especially the interface between our family law with the Immigration legislation.

Our constitution both in its preamble and the bill of rights vests equality of rights, privileges and benefits in citizens and implicitly grants socio-economic rights to citizens and non-citizens alike¹. From a transformative constitutionalism point of view, the government of South Africa is primarily mandated to protect the human security of its people.

From a socio-economic perspective, this mandate is extended to include certain non-citizens with permanent residence, refugee or asylum seeker status. The bridge through which non-citizens can be integrated into socio-economic development designs is largely grounded in refugee and immigration laws. As welcoming as South Africa is to non-citizens, who enter her borders lawfully, seeking greener pastures, scores still breach her often porous borders and some have found creative and accelerated ways to remain lawfully within. I hasten to add that much has been done by the criminal justice system to try and stem the tide of non-citizens who enter SA illegally. This much is evinced by the high number of successful prosecutions in terms of s49(1) of the Act¹.

Having sat in the Regional Magistrate's Court however and seized with divorce matters, I fear a silent epidemic is on the rise, one which if left unchecked, will have long-term and devastating consequences on our social fabric and perhaps the fiscus. Adjudicating divorce matters has increasingly shown that whatever measures those tasked with safeguarding our borders implement, rogue elements will always find ways of circumventing processes; enter marriages of convenience. These are increasingly being concluded between non-citizens and citizens to ensure an accelerated gateway to citizenship and all its trappings. Essentially, non-citizens often enter into marriages to circumvent immigration regulations. Once the marriage has been concluded, instantly, permanent residency or citizenship and all its benefits ensue. The temptation to ask what is wrong with a marriage concluded between two consenting adults is great. The answer: on the face of it nothing. However, when one delves deeper, the damage becomes apparent; the threat it causes to the rule of law, respect for our laws and the deplorable exploitation of vulnerable women who due to unemployment and poverty find it difficult to support themselves.

ENACTMENT OF LAWS VITAL TO CURB THE EPIDEMIC OF MARRIAGE OF CONVENIENCE IN SOUTH AFRICA

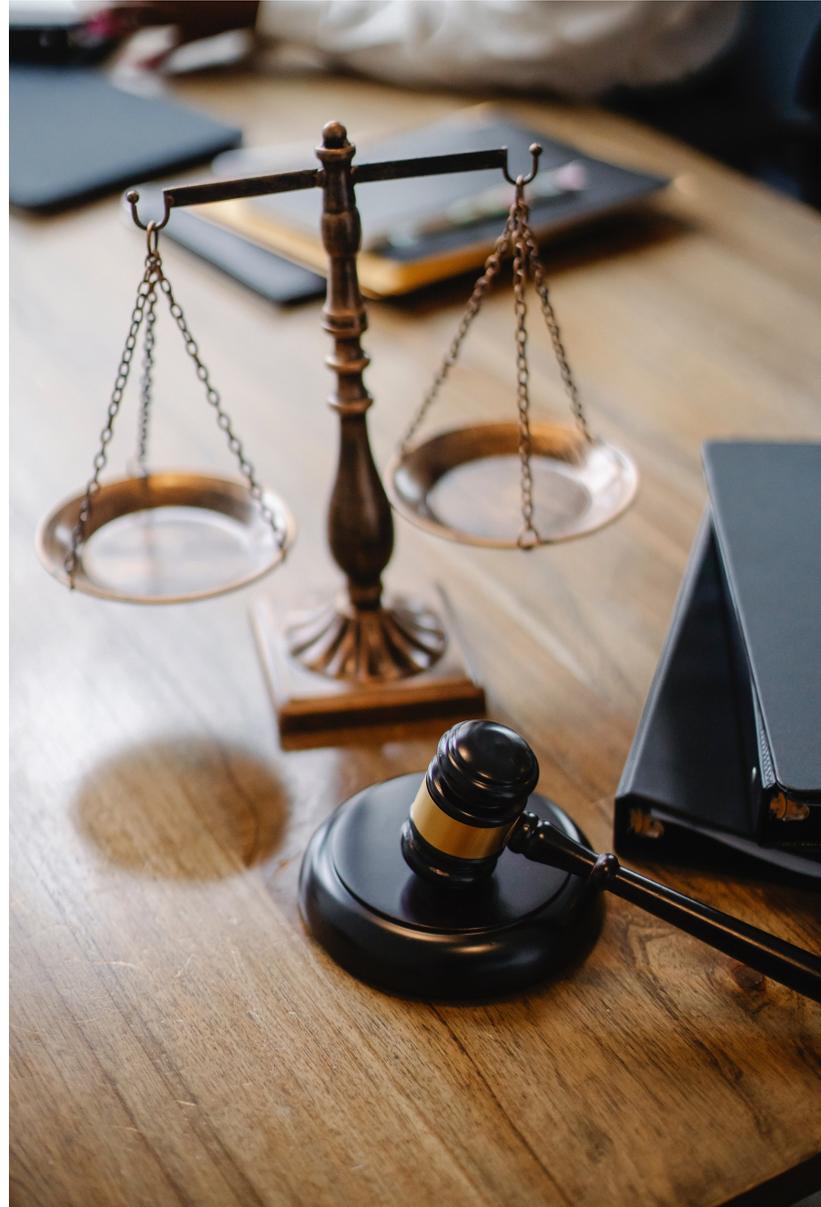
By the time this is uncovered, the horse usually has already bolted, as these often only come to light when the “wife” institutes divorce proceedings and more often than not applies for substituted service because she last saw “her husband” on the day of their wedding. All that she has from the “husband” are miniscule payments of between R300 – R500 per month, which also often dry up within three months of the “wedding day”. By the time she approaches the divorce court, the “husband” in all probability has now scored himself South African citizenship. You are permitted to ask how do I know this, well simple...the “wives” disclose same in their particulars of claim! You are once more permitted to ask, why not refuse to grant a divorce under those circumstances, well the answer dear reader is not so simple.

South Africa does not define the concept of a marriage of convenience in any legislation, from a family law perspective, a marriage of convenience, albeit morally unpalatable, is valid as the couple have the intention of entering into a valid marriage and are aware that such marriage can only be terminated by a divorce. The marriage so long it conforms to the requirements for a valid marriage, is not *in fraudem legis* and can therefore only be dissolved by a decree of divorce.

Conclusion

I venture to submit that if the legislature does not enact laws to stem the tide, the erosion and significance of the rule of law, the institution of marriage, public policy, and the right to dignity as well as the protection of national security through workable immigration and refugee rules and regulations, this epidemic will continue unabated.

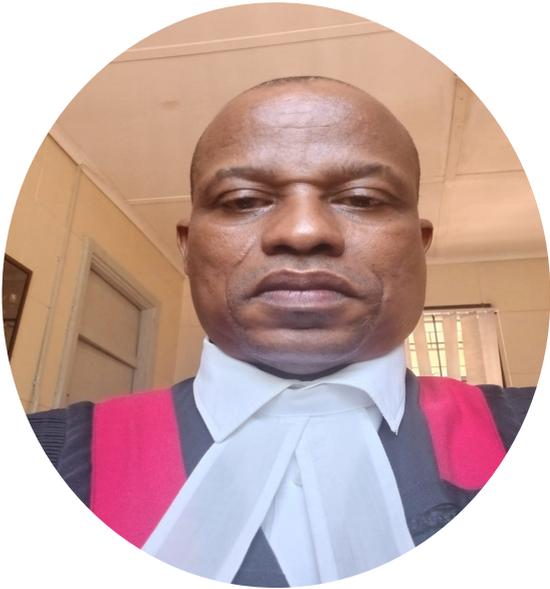
“We, the people of South Africa, Recognise the injustices of our past; Honour those who suffered for justice and freedom in our land; Respect those who have worked to build and develop our country; and Believe that South Africa belongs to all who live in it...” (my own emphasis).



1) The preamble to the Constitution.



CAN A DISPUTE REGARDING ARREAR MAINTENANCE BE ARBITRABLE UNDER SECTION 2 (A) OF ARBITRATION ACT 42 OF 1965?



Mr Molau Ngoasheng

Acting Regional Magistrate

Section 2(a) of Arbitration Act¹ provides that ‘a reference to arbitration shall not be permissible in respect a matrimonial cause or any matter incidental to any such cause.’ In an unreported case of *WJVJ vs EVJ and Capitec Bank*², the High Court in Bloemfontein, in an appeal against a judgment of the Maintenance Court, found that an arbitration clause in a divorce settlement agreement ousted the Maintenance Court’s jurisdiction.

The appellant was aggrieved by the decision and took it on appeal and for purpose of this discussion the case shall be referred to as *VJ vs VJ and Another*³. The dispute arose in the following circumstances. The parties were married to each other and their marriage was dissolved on 4 June 2015. The decree of divorce granted incorporated a deed of settlement concluded by the parties. Two clauses thereof are relevant for the purposes of this appeal. The first one is clause 3.1, which provides the appellant with the entitlement to the payment of spousal maintenance. In terms of this clause, the spousal maintenance would cease if she remarries, cohabits with another man, or upon her death (the *dum casta* clause).

The second is clause 11, which provides that any dispute between the parties regarding their rights, duties, or liabilities arising from the deed of settlement, was to be submitted to arbitration (the arbitration clause).

On 1 March 2021, the appellant approached the Maintenance Court with an application to enforce the maintenance order and to recover the arrear maintenance in terms of s 26 of the Maintenance Act⁴, (the Maintenance Act). The maintenance court granted the requested order on an *ex-parte* basis. In addition, the Maintenance court interdicted Capitec Bank Holdings Ltd, the second respondent, from effecting payment of any monies from the account of the first respondent. Aggrieved by this, the first respondent anticipated the return date. In his opposition, the first respondent also objected to the jurisdiction of the maintenance court. He contended that the parties contractually excluded its jurisdiction from hearing the maintenance dispute in terms of the arbitration clause.

The Maintenance Court dismissed the objection. It ordered the maintenance enquiry to continue in that court. The respondent appealed the Maintenance Court’s order, and as alluded to already, the High court upheld his appeal. The High Court concluded that the question of whether the arrear maintenance is a matter falling within the purview of s 2 of the Arbitration Act or not cannot be decided by the Maintenance Court, but by the arbitrator, since the parties had agreed to refer their dispute to arbitration. The High Court also concluded that the arbitrator must decide his own jurisdiction. The central question in this appeal was whether a dispute regarding arrear maintenance is arbitrable. Key to this dispute is s 2(a) of the Arbitration Act, which prohibits the submission to arbitration of any matrimonial cause or any matter incidental to any such cause.

CAN A DISPUTE REGARDING ARREAR MAINTENANCE BE ARBITRABLE UNDER SECTION 2 (A) OF ARBITRATION ACT 42 OF 1965?

The SCA said that, it is well established that arbitration does not oust the jurisdiction of courts. Section 3 of the Maintenance Act also stipulates that each Magistrate's Court functions as a Maintenance Court at the district level, possessing jurisdiction over all matters arising from the Maintenance Act. A maintenance order is defined in the Maintenance Act as any order for the payment, including the periodical payment, of sums of money . . . issued by any court in the Republic. . . A court in the Republic includes a High Court.

The appellant argued that the impugned arbitration clause was in conflict with s 2(a) of the Arbitration Act because the arrear maintenance dispute constitutes a matrimonial cause, or a matter incidental thereto.

The first respondent contended that the deed of settlement disposed of all the disputes between the parties; the *lis* between the parties became *res judicata*; the matrimonial cause between the parties ceased to exist when a decree of divorce was granted; nothing remained that was incidental to such cause. As far as the characterisation of the dispute between the parties is concerned, the first respondent submitted that the appellant's cause of action is based on the *dum casta* clause; and the parties expressly agreed that all issues arising from the settlement agreement were to be dealt with by way of arbitration; their arbitration agreement should be respected by the court.

The SCA alluded that the characterisation of the principal issue before this Court is a fundamental point of departure of the dispute between the parties. This is evident because whilst the appellant refers to it as arrear maintenance, the first respondent, on the other hand, relates the dispute to the *dum casta* clause, a duty to maintain. According to him, this would include a question of whether the maintenance order has lapsed or been extinguished.

The characterisation proffered by the first respondent is ill-conceived for two reasons. First, the maintenance dispute stems from a maintenance order that was made by the high court when the marriage between the parties was dissolved. It relates to enforcing an order of the court and not the underlying settlement agreement. The appellant sought an order for the attachment of a debt. The majority of the claims consist of the short payments that were made by the first respondent.

A proper analysis of the arbitration clause itself reveals that it was couched in a general manner. It did not specify the enforcement of maintenance as a dispute that should be referred to arbitration. What compounds the issue further is that nowhere in the arbitration clause or the deed of settlement did the parties refer to the fact that the arbitrator should decide its own issues of jurisdiction. As indicated above, this phrase is only found in the arbitration agreement.

In interpreting section 2 (a) of the Arbitration Act, the SCA held that, the phrase 'incidental to' in its ordinary grammatical meaning, and when used as an adjective, denotes something happening in connection with or as a natural result of something else.

The SCA also considered the Maintenance Act and found that the said Act jealousy created specialised courts, to wit maintenance courts, to deal with complaints where any person legally liable to maintain any other fails to do so, and the enforcement of the said orders.

In terms of s 8(1) of the Divorce Act⁵ (the Divorce Act), it is possible for a maintenance order to be varied, rescinded, or suspended. This section is equivalent to s 19 of the Maintenance Act. The arbitrator cannot be clothed with these powers imposed by the two Acts.

CAN A DISPUTE REGARDING ARREAR MAINTENANCE BE ARBITRABLE UNDER SECTION 2 (A) OF ARBITRATION ACT 42 OF 1965?

The powers are bestowed upon the courts only. Assuming for a moment that the first respondent's contention to the effect that he was not obliged to pay maintenance as ordered by the high court is correct, it means, procedurally, he should have approached the maintenance court for an application to discharge, vary, or suspend it. The arbitrator could not discharge or vary such order.

The SCA went to say that *'It is significant to mention that s 8(1) of the Divorce Act specifically provides for the maintenance order or an order regarding custody, access, or guardianship of a child as orders that can be varied, rescinded, or discharged. The section did not include the proprietary order granted by the courts. Apart from the fact that the Brookstein matter heavily relied upon by the first respondent dealt with a delictual claim, this exception created by s 8(1) of the Divorce Act serves as the main reason why reliance on this authority cannot advance his case. Maintenance, like issues relating to custody, access including guardianship of children, is and remains a live issue or dispute depending on the differing circumstances of the parties. That is why access to the maintenance court is made available pre and post-divorce. As already indicated above and with the risk of repetition, this is so because any party can approach the court any time after such an order has been made to request the discharge, variation or setting aside of the maintenance court order. The argument regarding res judicata is therefore misplaced.'*

The SCA made reference to the case of *Ressell v Ressel 1976 (1) SA 289 at 291*. In this matter, the court refused to enforce a settlement agreement that was made an order of court. The settlement agreement also stipulated that any disputes (post-divorce) between the parties had to be referred to arbitration. A dispute existed concerning access to a child after the divorce. The court held that the provision in s 2(a) of the Arbitration Act excluding any matter incidental to such matrimonial cause is adequately wide enough to keep such matters out of the field of arbitration. The court further explained that this applies whether the dispute arose before or after the divorce.

'From the above analysis, it cannot be contended that the ensuing arrear maintenance including the enforcement of the order are not connected with the matrimonial cause or are matters incidental thereto. Section 2(a) of the Arbitration Act is wide enough to keep such matters out of the field of arbitration. The appeal court misdirected itself by deferring the issue to be dealt with by the arbitrator. The issue that was before the maintenance court was not a dispute on the underlying settlement agreement, but an enforcement of one of the provisions of the order of the court.'

In conclusion the SCA held that *"the common law prohibits the ousting of the jurisdiction of or access to, the courts. The appellant, therefore, in the worst-case scenario, could not have been deprived of the choice of forums in which to pursue civil enforcement of the maintenance order and cannot lawfully have waived her right to approach the maintenance court in terms of the Maintenance Act. The legislation applies ex-lege and obtains force by reason of the will and decision of the Legislature, not because individuals elect to be subject thereto. Consequently, the arbitration agreement cannot in the circumstances of this matter supersede the jurisdiction of the maintenance court."*

Conclusion

This is a ground-breaking judgment which has shed light on the arbitrability of arrear maintenance disputes. It has far-reaching implications for family law and alternative dispute resolution in the country, as it affirms that access to courts in maintenance matters cannot be ousted by private arbitration agreements. The court's interpretation of section 2(a) of the Arbitration Act has made it clear that arrear maintenance and the enforcement of maintenance orders are inextricably connected to matrimonial causes or matters incidental thereto, rendering them non-arbitrable.

CAN A DISPUTE REGARDING ARREAR MAINTENANCE BE ARBITRABLE UNDER SECTION 2 (A) OF ARBITRATION ACT 42 OF 1965?

This landmark ruling not only safeguards the interests of maintenance recipients but also reinforces the courts' exclusive authority to vary, rescind, or suspend maintenance orders, ensuring that the needs of vulnerable parties are adequately addressed. This case serves as a significant precedent that will undoubtedly shape the approach to maintenance disputes in South Africa, striking a balance party autonomy and the protection of those in need of maintenance support.

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- 1) Act 42 of 1965.
 - 2) Case number A58 of 2022.
 - 3) (258/2023) [2024] ZASCA 92 (11 June 2024).
 - 4) Act 99 of 1998.



THE ATTACHMENT AND SALE OF AN IMMOVABLE PROPERTY IN TERMS OF SECTION 66 OF THE MAGISTRATES COURT ACT 32 OF 1944

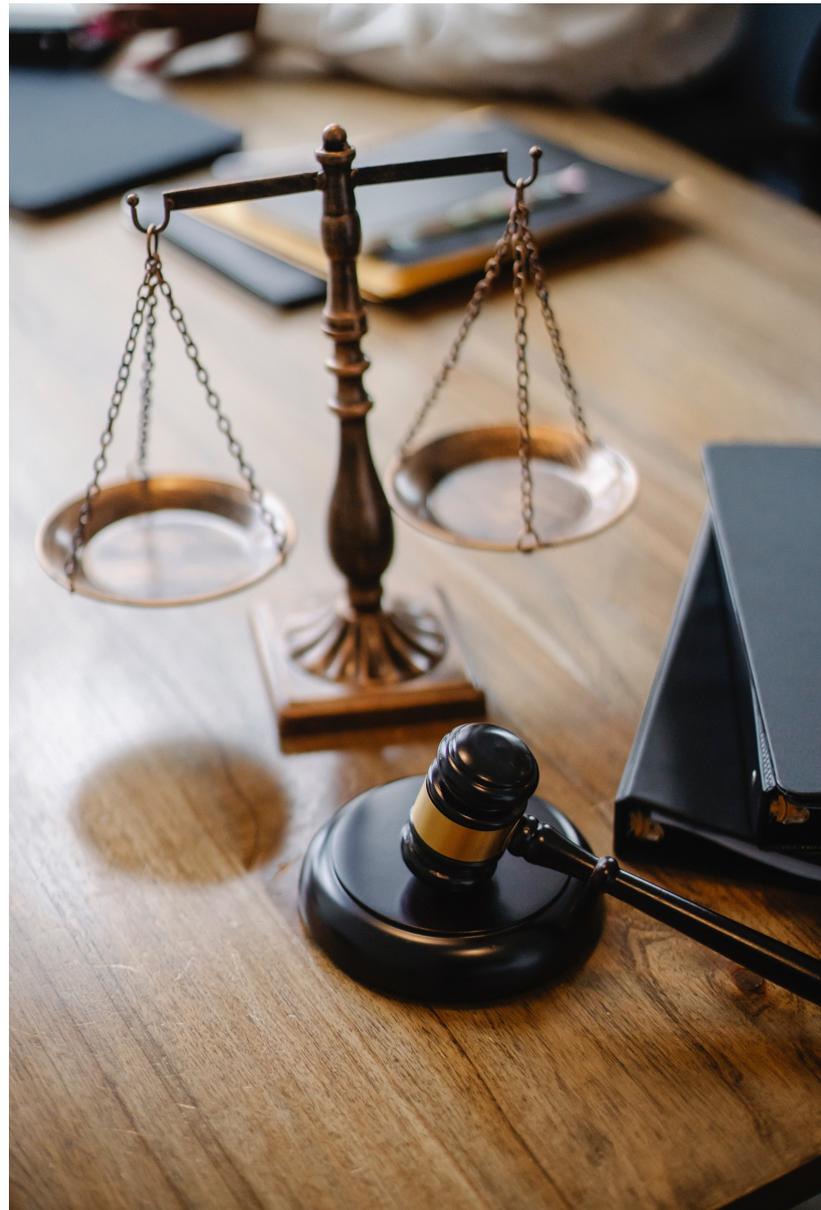


Mr Ebrahim Makda
Senior Magistrate

Summary: Case Note

The appeal court in *Body Corporate of Le Grande Bernard Sectional Scheme v Reinet Van Der Linde*¹ Overturned a decision of a court a quo which dismissed the section 66(1)(a) of the Magistrates Court Act² application. The court a quo considered the property's value, less the outstanding bond and debt per default judgment, which would result in a negative balance.

The appeal court, in paragraph 23 of its judgment, found that this stance by the court a quo denied the appellant its rights to enforce a judgment granted in its favour and any prospect of recovery of the judgment debt were concerned. The appeal court found that the court a quo should have established if the property concerned was a primary residence of the respondent and, if so, a reserve price should have been set when granting the s66 application.



1) A3043/2021 (SGHC).

2) Act 32 of 1944.





Mr Raguvhu Madzhiye
Acting Regional Magistrate

Introduction

The former President of RSA, the late Nelson Mandela once said ‘Courage is not the absence of fear ‘but rather the judgement that something else is more important than fear’.

Covid-19 brought about fear in the world and isolated people from physical contact but provided an opportunity for technology to thrive as communication and economic enabler, creating a ‘new norm of doing things. The South African courts were not left behind as they conducted virtual hearings to continue to dispense justice to the public and the parties involved in litigations during difficult times of covid-19 lock downs. To mention but few of the unreported cases conducted virtually were *Moyane v Ramaphosa*¹; *Economic Freedom Fighters v Minister of Justice and Correctional Services*²; and *the City of Johannesburg v New Ventures Consulting*³.

While the vibe and enthusiasm of ‘the new norm seems to be eluding post covid-19’, the Limpopo Regional Division constantly exploit the new norm of using technology to dispense justice expeditiously,

efficiently and effectively. That was evidence during the division’s magistrate meeting held on the 12th of September 2024. Amongst the limelight achievement of disposing matters using virtual hearing; Thohoyandou, finalised about 70 divorce matters; Giyani abated a possible delay of six month due to the unavailability the plaintiff in a divorce matter by finalising it within two (2) weeks; Polokwane finalised one of their divorce matters while one of the parties was travelling in a bus; Morebeng, hinted on how what’s app was used to enable a witness testifying virtually to access to the documents he/she was called to testify about; Lenyenye, heard expert witnesses based at police forensic laboratory, Pretoria, remotely in a number of criminal trials; and the Specialised Commercial Crimes Court sitting at Giyani, continued evidence of a witness who relocated to Pakistan after his initial testimony in open court.

The above highlights illustrate that the use of technology in court processes is likely to increase accessibility to courts, save parties` time and costs, increase efficiency and improve safety. The Thuthuzela Centres can be used as platforms from which vulnerable witnesses could testify remotely.

It cannot be ignored that technology pose its own challenges, in particular, instability of the networks and load shedding. To overcome human resistance to virtual hearings the court must adopt the approach of the Gauteng High Court in *R.D.V v I.J.D.V*⁴ unreported, wherein wasted cost was awarded against a plaintiff who delayed the proceedings opposing the judge’s directive for virtual hearing, at par 11-12 the court commended the excellent opportunity presented by virtual hearing to closely observe the demeanour of a witness on a screen right in front of the judge and much closer than is possible in “open” court.

Conclusion

For the courts to dispense justice expeditiously, efficiently and effectively, all parties involved must understand that the new norm created by Covid-19 is to be continued as per Dr Hilda Grobler, Director of Aequitate Dispute Resolution Services for LexisNexis South Africa, in her article titled ‘*Virtual hearings are here to stay*’ published by LexisNexis, 31 May 2021. The lower courts are now empowered by s158 Criminal Procedure Act⁵ and s 55C of the Magistrates Court Act⁶ to conduct virtual hearing, the judiciary should lead to give life to these enabling provisions to eradicate from our justice system delays caused by unavailability of witnesses.

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- 1) (74452/2019) [2020] ZAGPPHC 184 (24 June 2020).
 - 2) (CCT104/20) [2020] ZACC 22 (30 September 2020).
 - 3) (168/2020) [2020] ZASCA 123 (1 October 2020).
 - 4) (81157/2017) [2021] ZAGPPHC 209 (24 March 2021).
 - 5) Act 51 of 1977.
 - 6) Act 32 of 1944.



MY EXPERIENCE AT THE NEWLY APPOINTED MAGISTRATES TRAINING PROGRAMME- AUGUST 2024



Ms Sherika Maharaj
District Magistrate

Introduction

"The function of education is to teach one to think intensively and to think critically"- Martin Luther King Jr.
"Becoming a lower court judicial officer is not a job, but a calling"- Educators South African Judicial Education Institute ("SAJEI").

These words reverberated with myself and my fellow newly appointed Magistrates. It is difficult to put into words my experience at the newly appointed Magistrates training program held at SAJEI in August this year. If I were honest, I would say that I went in to it with blinkers on. I was comfortable with legal theory in most areas of law, because that is what I pride myself on. However, the experience showed me how little I really knew.

Experience

It was a jam packed four weeks, which required you to switch your brain over from one area of practice to another on a weekly basis. I guess it was preparation for daily work as in practice you may find yourself sitting as a Children's Court,

Criminal Court and Family Court judicial officer all in one day.

The Judicial Educators demonstrated such passion and enthusiasm sharing their legal knowledge and personal experiences together with their "inside tips" for practice. Very few of us would forget "CYA", or the civil quip that one should never trust their gut as it is always wrong. There are too many colloquialisms to share and I can honestly say that my note pad is full of them.

Conclusion

it was a life changing treasurable experience. I have walked away better, wiser and happier for the experience, the network I have gained and lifelong friends I have made are invaluable.



Ms Sizophila Sokhela

Law Researcher, SAJEI

Illegal wildlife trafficking is a significant global issue which threatens biodiversity and ecosystems. Over exploration and poaching of protected species drive many species to extinction, disturbing the ecosystems and causing loss of genetic diversity. Regulations on wildlife trafficking vary globally. There are both national and international legislation which aim to combat the issue of wildlife trafficking. The following are interesting case reports on animal poaching and illegal trade of protected species. The case law highlights the seriousness of these offences and sentences that can be imposed by Courts if a person is convicted of these offences:

Kubai and another v S'

The appellant was convicted of hunting of a specially protected wild animal (rhino poaching), in contravention of the Limpopo Environmental Management Act² (“the Act”) and was sentenced to 11 years’ imprisonment. He was granted leave to appeal against sentence only. However, the appeal court directed the appellant to show cause why the sentence imposed by the trial court should not be increased.

The Court held that in regulating the hunting of wild and exotic animals, the Act provides that no person may without a permit hunt specially protected wild animals. It further provides that no person may hunt a wild or exotic animal on land of which that person is not the owner, except with the written permission of the owner of the land. The penalty clause in schedule 2 of section 117(1) (a) of the Act states that “any person who is convicted of an offence in terms of the Act, is liable, in case of an offence referred to in section 31(1)(a), 31(3), to a fine, not exceeding R250,000, or, to imprisonment for a period not exceeding 15 years, or, to both such fine and such imprisonment, and, to a fine not exceeding 4 times the commercial value of the fauna, flora, or cave formation in respect of which the offence was committed”.

The appeal Court found that the Trial Court erred in not sentencing the appellant in accordance with the penalty clause and in sentencing the appellant in terms of section 276(1)(b) of Criminal Procedure Act³. The lenient sentence imposed was described as shockingly inappropriate and was replaced with one of 15 years’ imprisonment.

Ndlovu and others v S⁴

The appellants were charged in the High Court with various charges arising from ten incidents of rhino poaching that occurred over a period of three years at various farms and nature reserves in the Eastern Cape. They were convicted on almost all the charges and were sentenced to lengthy periods of imprisonment, resulting in an effective sentence of 25 years imprisonment. They unsuccessfully applied for leave to appeal against their convictions and the sentences imposed, but were granted leave on petition on two limited and narrowly defined grounds.

The Court held that the questions on appeal were whether the trial court, acting in terms of section 35(5) of the Constitution, correctly allowed physical evidence found as a result of the unlawful search of a premise to become part of the evidential material placed before it by the State; and whether or not the cumulative effect of the sentences imposed by the trial court rendered the sentences shockingly disproportionate.

Regarding the first question, it was common cause that the police had entered and searched a chalet in which the appellants were present without a search warrant. The Trial Court found that to have been unlawful. The admissibility of evidence that has been obtained in a manner that violates rights guaranteed by the Bill of Rights is dealt with in section 35(5) of the Constitution. Section 35(5) envisages a two-step process. First, the evidence sought to be excluded must have been obtained in a manner that infringed upon a right guaranteed by the Bill of Rights. If it is found that the impugned evidence was so obtained, the second step is to determine whether the admission of the evidence will render the trial unfair, or bring the administration of justice into disrepute.

The section does not provide for the automatic exclusion of evidence that was obtained in violation of a protected right. The Court stated that the appellants were not in any way compelled to participate in the discovery of the articles in the chalet. Further, the breach of the appellant's right to privacy did not operate to undermine the reliability of the evidence. The articles were relevant real evidence that existed independently of any of the actions of the police officials, and would have been revealed independently of the appellant's right to privacy.

Accordingly, the admission of the evidence did not render the trial unfair. The determination of whether the admission of the evidence would be detrimental to the administration of justice required a value judgment. The Court was satisfied that the trial court correctly found that the evidence ought to be admitted, as its exclusion would cause harm to the administration of justice. It was also found that the sentences imposed were not too harsh. The appeal against conviction and sentence was therefore dismissed.

***S v Mercer and Another*⁵**

The appellants operated a rehabilitation sanctuary for birds and small mammals. They had been convicted in a Magistrate's court of contravening the Nature and Environmental Conservation Ordinance⁶ ("Ordinance") by wrongfully and intentionally transporting three caracals without a valid permit or the necessary authority, and by wrongfully and unlawfully keeping three caracals in captivity without a valid permit or the necessary authority. Although Appellants were charged with contraventions of the Ordinance, the keeping of caracals is also prohibited by the Problem Animal Control Ordinance⁷ which prohibits the keeping in captivity of species that are classified as problem animals. Appellants had pleaded not guilty and had explained this plea on the basis that they were entitled to invoke the protection of the National Environmental Management Act⁸ ("NEMA") as justification for the transportation and care of the caracals. These had been animals in need. Appellants had in effect acted in a state of necessity and in a factual situation wherein there was an immediate threat to an interest worthy of protection.

Appellants appealed against the convictions and sentences. On appeal, it was argued on behalf of Appellants that they had not received a fair hearing. Section 33 of the Constitution together with the Promotion of Administrative Justice Act ("PAJA")⁹, it was argued, imposed a legal duty upon the Northern Cape Nature Conservation Services to give lawful and reasonable consideration to the applications for permits which First Appellant had submitted, and to follow fair procedures. What constituted reasonable administrative action would vary according to the circumstances but the procedures suggested in section 3 of PAJA were appropriate.

The right to be given an opportunity to make representations was fundamental. In view of the good working relationship that had hitherto existed between Appellants and the Northern Cape Nature Conservation Services (the statutory body responsible for issuing the requisite permits to persons desiring to transport certain wild animals or keep them in captivity) Appellants had had at the very least a legitimate expectation that they would be given an opportunity to make representations before their permit application was refused. This did not occur.

The State had not tendered any evidence to prove that their permit applications had been properly and fairly considered by the Northern Cape Nature Conservation Services in terms of the applicable legislation. The only factor considered by the Northern Cape Nature Conservation Services in dealing with the permit applications were the provisions of the Problem Animal Control Ordinance. The validity of those provisions, it was argued, was questionable. Appellants had established an “aesthetic interest” in caring for any wildlife which was in need of care. They had a right which flowed from section 24 of the Constitution and the provisions of NEMA. Section 24 of the Constitution stated that everyone had the right.

This latter right, it was argued, necessarily prevailed over other permit restrictions imposed under pre-Constitutional ordinances. The provisions of the Nature and Environmental Conservation Ordinance and the Problem Animal Control Ordinance, Appellants contended, were “invalid as being unconstitutional and contrary to the Bill of Rights and NEMA. The inconsistency arose from the fact that the purpose of NEMA was not “to criminalize the conduct of those concerned with the care, welfare and contentment of wild animals”. Appellants contended that they were entitled to invoke the protection of NEMA. The latter statute entitled them to transport and provide care for any animal in need “because this right superseded the provisions of the ordinances” in question.

The Court rejected this argument. The impugned provisions were not unconstitutional. They merely required that people who wished to transport or keep in captivity certain specified species of animals or birds had to acquire a certificate or permit or license to do so. To the extent that these provisions might have limited or restricted Appellants’ rights to deal with or handle or dispose of the caracals in the manner of their choice, such limitation was justified in terms of the limitations clause.

***S v Brown and others*¹⁰**

The accused was convicted of contravening the provisions of section 2(1)(f) of the Protection of Organised Crime Act¹¹ (“POCA”) The Court had to decide on an appropriate sentence.

The Court held that section 3 of POCA deals with the penal provisions. It provides that a person convicted of contravening section 2(1)(f) is liable to pay a fine of R1000 million rand or to imprisonment for a period up to life imprisonment. The seriousness of abalone poaching and the violations of the Act are reflected in the sentences the Legislature has ordained. The government incurred exorbitant costs in replenishing the sea with abalone, and in taking measures to prevent abalone poaching which has reached alarming proportions.

The Court took note of the fact that the first accused was the employer of the second and third accused. He was also the employer of all the section 204 witnesses. He was the ultimate person who was to benefit from the unlawful activities. The Court found that he showed no remorse for his actions. The second accused was instrumental in carrying out the affairs of the enterprise, but he and the third accused bore less culpability than the first accused.

Even after considering the mitigating circumstances of each accused, the Court was unable to impose non-custodial sentences. The first accused was sentenced to an effective 18 years' imprisonment, the second accused to an effective 15 years' imprisonment, and the third accused to an effective 15 years' imprisonment.

***Liang v S*¹²**

The appellant was convicted of contravening section 42 (1)(b) of the Ordinance and contravening regulation 36 (1)(a) promulgated under the Ordinance. He was sentenced to ten years' imprisonment, of which three years were suspended on condition that the appellant paid the sum of R5 million in respect of counts 1 and 2, and to 2 years' imprisonment in respect of count 3, and it was ordered that the ivory and abalone were to be forfeited to the State. Finally, R5 million was to be paid to the Cape Nature Board.

The present appeal was against the convictions and sentences. The court held that the issue for determination on appeal were whether the trial court was correct in convicting the appellant on both counts 1 and 2 or whether this amounted to splitting the charges; the fine of R5 million imposed exceeded the Court's monetary jurisdiction; the sentence of two years' imprisonment on count 3 was too harsh; and the conviction and sentence should be in any event be upheld.

During argument, the State conceded that there had been a splitting of charges. The Court set aside the conviction on count 2. The appellant submitted that the only issue in contention in respect of counts 1 and 2 was whether the appellant had acquired the ivory from another person and had been in possession thereof. In respect of the abalone referred to in count 3, the only issue was whether the appellant had been unlawfully and wrongfully engaged in keeping and/or controlling and/or storing and/or transporting and/or being in possession thereof.

The court a quo correctly decided that the appellant had acquired and was in possession of the ivory and the abalone. Despite having a case to answer, the appellant elected not to testify. In the circumstances, the Court concluded that the relevant charges were proved by the State beyond reasonable doubt.

Regarding the appeal against sentence, the Court stated that section 92(1)(b) of the Magistrate's Court Act ("MCA") regulates the penal jurisdiction of lower courts. The jurisdiction of regional courts relating to the imposition of fines at the time the appellant pleaded to the charges on 28 October 2013 was R300 000. Therefore, the trial court exceeded the powers conferred upon it by section 92(1) of the MCA in imposing the fine of R5 million. That sentence was set aside and replaced with one in terms of which the appellant was sentenced in respect of the first count, to 7 years' imprisonment, plus payment of a fine of R300 000.

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- 1) [2023] JOL 57413 (LT).
 - 2) Act 7 of 2003.
 - 3) Act 51 of 1977.
 - 4) [2021] 1 All SA 538 (ECG).
 - 5) 2003 (6) BCLR 616 (NC).
 - 6) Ordinance No 19 of 1974 (Cape).
 - 7) Ordinance No 26 of 1957 (Cape).
 - 8) Act 107 of 1998.
 - 9) Act 3 of 2000.
 - 10) [2019] 2 All SA 622 (ECP).
 - 11) Act 121 of 1998.
 - 12) [2016] 3 All SA 571 (WCC).
 - 13) Act 32 of 1944.

5.2.3 DETERMINATION OF THE SITTING SCHEDULES AND PLACE OF SITTING FOR JUDICIAL OFFICERS

The Head of a Court shall determine the sitting schedules and places of sitting for Judicial Officers. Without derogating from the abovementioned general standard, presiding Judicial Officers shall retain the discretion to arrange sittings in the cases before them to make efficient use of court time.

5.2.4 JUDICIAL CASE FLOW MANAGEMENT

- (i) Case flow management shall be directed at enhancing service delivery and access to quality justice through the speedy finalisation of all matters.
- (ii) The National Efficiency Enhancement Committee, chaired by the Chief Justice, shall co-ordinate case flow management at national level. Each province shall have only one Provincial Efficiency Enhancement Committee, led by the Judge President; that reports to the Chief Justice.
- (iii) Every Court must establish a case management forum chaired by the Head of that Court to oversee the implementation of case flow management.
- (iv) Judicial Officers shall take control of the management of cases at the earliest possible opportunity.
- (v) Judicial Officers should take active and primary responsibility for the progress of cases from initiation to conclusion to ensure that cases are concluded without unnecessary delay.
- (vi) The Head of each Court shall ensure that Judicial Officers conduct pre-trial conferences as early and as regularly required to achieve the expeditious finalisation of cases.
- (vii) Judicial Officers must ensure that there is compliance with all applicable time limits.

WALL OF FAME



WORD SEARCH ON ETHICAL STANDARDS AND BEHAVIOUR

C	I	M	P	A	R	T	I	A	L	I	T	Y	S
Y	T	I	R	G	E	T	N	I	H	E	L	P	K
H	P	E	E	I	S	U	P	P	O	R	T	N	I
T	U	R	L	S	P	L	E	A	S	A	N	T	N
R	N	E	Y	N	O	I	T	A	C	I	D	E	D
A	C	C	O	U	N	T	A	B	I	L	I	T	Y
N	T	N	B	E	S	N	E	L	B	M	U	H	T
S	U	I	J	L	I	S	R	G	H	J	T	E	S
P	A	S	E	B	B	H	E	S	T	A	B	L	E
A	L	I	C	A	I	A	A	N	P	N	X	P	N
R	B	H	T	I	L	R	D	M	R	O	O	F	O
A	V	A	I	L	I	E	E	L	A	I	L	U	H
N	O	V	V	E	T	I	L	O	P	E	A	L	A
T	L	W	E	R	Y	T	L	A	Y	O	L	F	A

WORDS

Accountability	Responsibility	Fairness
Honesty	Impartiality	Loyalty
Integrity	Dedication	Objective
Empathy	Transparent	Punctual
Kind	Humble	Helpful
Stable	Avail	Polite
Support	Rely	Pleasant
Reliable	Sincere	Help
Read	Share	

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

SEPTEMBER 2024 - NOVEMBER 2024

Name	Designation	Status of Legal Practitioner	Province	Date of Action
Nelson Sello Makwele	Attorney	Suspended	Free State	2024-11-27
Paulus Molatlhegi	Attorney	Struck of from Roll	Gauteng	2024-11-14
Ian Sakile Phadu	Attorney	Suspended	Gauteng	2024-11-12
Scheugnet Yvette Bartlett	Attorney	Suspended	KwaZulu Natal	2024-11-12
Rufus Amberose Rabie	Attorney	Suspended	Northern cape	2024-11-08
Dorethea Regina Norte	Attorney	Suspended	Mpumalanga	2024-11-08
Ezekiel Habakuku Mohlala	Attorney	Suspended	Mpumalanga	2024-11-08
Mphafolane Jerry Koma	Advocate	Struck of from Roll	Gauteng	2024-11-05
Lusanda Trapie Hoffman	Attorney	Struck of from Roll	Western Cape	2024-10-31
Tokologo Alfred Malete	Attorney	Struck of from Roll	Gauteng	2024-10-31
Hendrik Cornelis Vidjoen	Attorney	Struck of from Roll	Gauteng	2024-10-29
Mokgadi Sophy Nkanyane	Attorney	Struck of from Roll	Gauteng	2024-10-17
Sityebi Justice Magade	Attorney	Suspended	Northern Cape	2024-10-25
Petrus Johannes Vivier	Attorney	Struck of from Roll	Gauteng	2024-10-24
Tebogo Elmon Manamela	Attorney	Struck of from Roll	Gauteng	2024-10-22
Ayanda Lennox Pupa	Attorney	Struck of from Roll	North West	2024-10-21
Ntombikayise Innocentia Khumalo	Attorney	Suspended	Gauteng	2024-10-17
Albert Tiyani Pandeka	Attorney	Suspended	Free State	2024-10-15
Tsela Joseph Kgoelenya	Attorney	Struck of from Roll	Free State	2024-10-10
Lufuno dagada	Attorney	Struck of from Roll	Free State	2024-10-10
Nicholas Malherbe	Attorney	Struck of from Roll	Gauteng	2024-10-10
Phenyo Antonio Moche (Mudau)	Attorney	Suspended	Gauteng	2024-10-08
Ian Melville Hutchesson	Attorney	Suspended	Gauteng	2024-10-08
Anna Elizabeth Reynolds	Attorney	Struck of from Roll	Western Cape	2024-09-20
Zacharia Bosao Moletsane	Attorney	Suspended	Free State	2024-09-19
Moeketsi Daniel Baas	Attorney	Suspended	Free State	2024-09-19
Phetogo Gladness Lemogang Ramaru (Molati)	Attorney	Struck of from Roll	Gauteng	2024-09-12
Shahir Vinesh Rajkumar Ramdass	Attorney	Suspended	KwaZulu-Natal	2024-09-09
Alugumi Given Mulaudzi	Attorney	Suspended	Gauteng	2024-09-05
Gugu Nokuthula Mogotsi	Attorney	Struck from Roll	Free State	2024-09-05
Mbuso Emmanuel Nkosi	Attorney	Suspended	Mpumalanga	2024-09-02

LIST OF UPCOMING TRAINING

JANUARY – FEBRUARY 2025

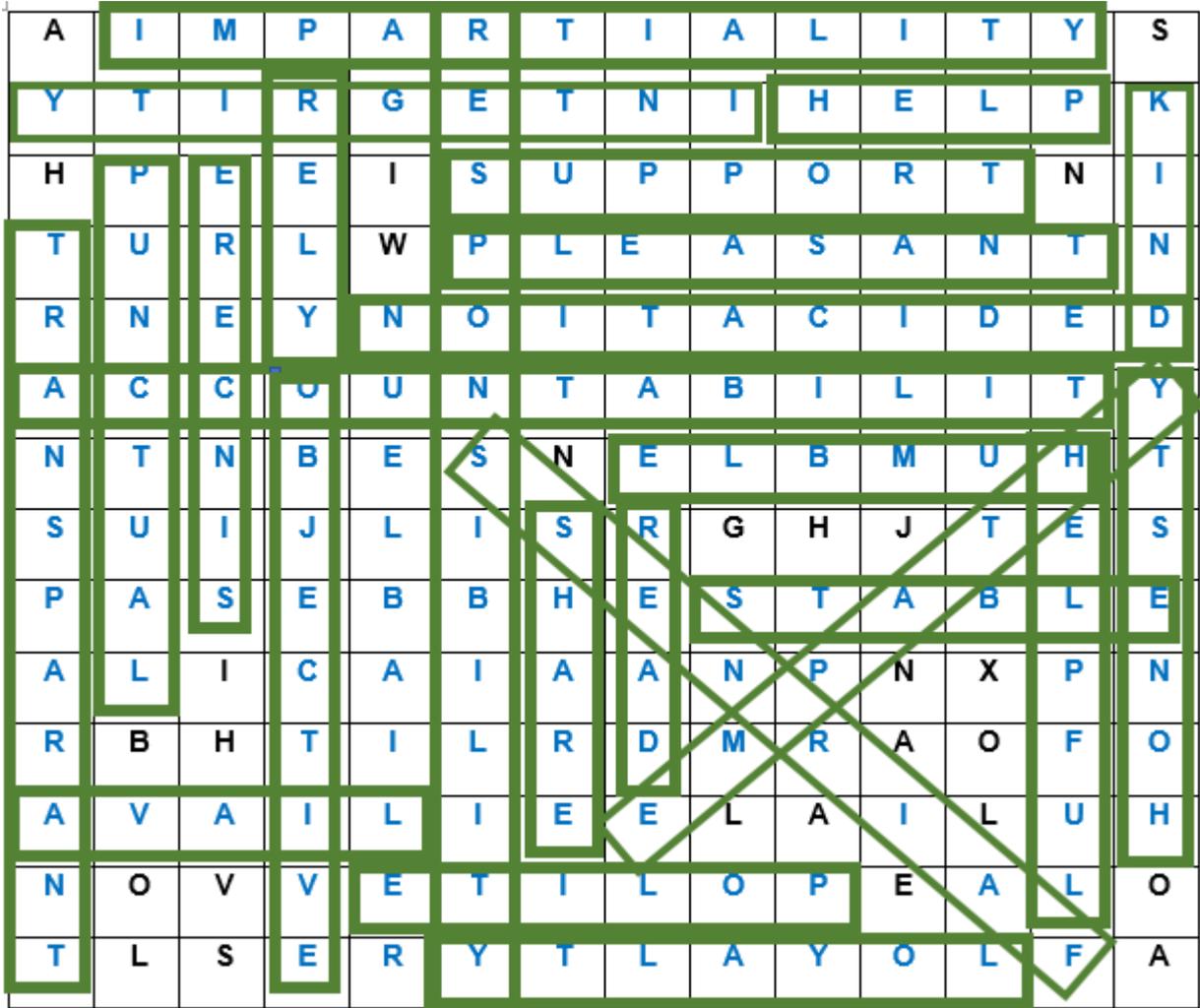
No	Course code	Course	Date	Province
2	AD HOC	Diversity and Inclusion - Western Cape Judges	15 – 17 January 2025	Western Cape
3	DCM103	Family Court Skills - Adjudication in Family Court	13 -16 January 2025	Free State (A & B)
4	AD HOC	Equality Court Skills - PEPUDA	14 January 2025	Centralised
5	DCM104	Civil Court Skills - Evictions	20 – 22 January 2025	Limpopo
6	DCM105	Criminal Court Skills - Plea Proceedings	22 – 23 January 2025	Gauteng
7	DCM106	Family Court Skills GBV & Femicide	27 – 30 January 2025	Gauteng
8	DCM145	Criminal Court Skills Inquests	27 – 29 January 2025	KZN Pietermaritzburg
9	AD HOC	Brigitte Mabandla - Aspirant Women Judges	27 – 31 January 2025	Centralised Gauteng
10	AD HOC	African Judicial Training on Climate Change Law and Litigation	05 – 06 February 2025	Centralised
11	DCM107	Civil Court Skills - Evaluation of Evidence	03 – 06 February 2025	Free State A & B
12	DCM108	Criminal Court Skills - Sentencing & Ancillary Orders	04 – 05 February 2025	KZN Durban
13	DCM146	Children's Court Skills - Foster Care as Alternative Placement	03 – 04 February 2025	KZN Pietermaritzburg
14	DCM109	Criminal Court Skills Sections 77 – 79 of CPA	05 – 06 February 2025	Gauteng
15	DCM110	Criminal Court Skills - Enquiries in terms of S77 – 79 of CPA	05 – 06 February 2025	Northern Cape
16	DCM111	Children's Court Skills - Child Justice Act	10 – 11 February 2025	Limpopo
17	DCM112	Family Court Skills Maintenance Act	10 – 12 February 2025	North West

LIST OF UPCOMING TRAINING

JANUARY – FEBRUARY 2025

No	Course code	Course	Date	Province
18	DCM113	Civil Court Skills - Costs	10 – 11 February 2025	Gauteng
19	DCM114	Family Court Skills - PATSAA	12–13 February 2025	KZN Durban
20	DCM147	Criminal Court Skills – Bail Applications	12 – 13 February 2025	KZN Pietermaritzburg
21	DCM115	Family Court Skills -Maintenance & PATSAA	17–21 February 2025	Eastern Cape Region 2 (Mthatha)
22	DCM118	Family Court Skills - Domestic Violence Act	17–20 February 2025	Western Cape
23	DCM116	Criminal Court Skills - Electronic and Documentary Evidence	18–21 February 2025	Eastern Cape Region 1 (PE & EL)
24	DCM117	Children’s Court Skills- Adoptions National and Inter-Country	18 – 20 February 2025	KZN - Durban
25	DCM119	Children’s Court Skills Child Justice Court	24 – 27 February 2025	Gauteng
26	DCM120	Civil Court Skills - Application Procedure	24 – 28 February 2025	KZN - Durban

ANSWERS: WORD SEARCH ON ETHICAL STANDARDS AND BEHAVIOUR



WORDS

Accountability	Responsibility	Fairness
Honesty	Impartiality	Loyalty
Integrity	Dedication	Objective
Empathy	Transparent	Punctual
Kind	Humble	Helpful
Stable	Avail	Polite
Support	Rely	Pleasant
Reliable	Sincere	Help
Read	Share	



10 YEARS
2011 - 2021

