

Preamble

Section 323 (1) of the Constitution 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.

The Judicial Service Commission submits this 2018 Annual Report in compliance with the requirements of the Constitution.

Executive summary

The period under review witnessed the appointments of the Honourable Mrs. Justice Elizabeth Gwaunza and Dr. Vincent Hungwe as the Deputy Chief Justice of Zimbabwe and Chairperson of the Civil Service Commission respectively. By virtue of their assumption of those offices they became commissioners of the Judicial Service Commission. Justices Lavender Makoni and Francis Bere were elevated from the High Court to the Supreme Court.

In the lower judiciary, 10 provincial and senior magistrates were promoted to the posts of regional magistrate whilst 60 new magistrates were appointed. This saw the magistracy reach its full complement for the first time in more than a decade. However, while we now have the full establishment we still need more magistrates in light of the workload that continues to increase.

More notably, the Judicial Service Commission may have in the course of the year set a national record as the first public institution to employ more females than males. The ratio of females to males in the Commission now stands at **53,6%** to **46,4%**.

In the same period, the Chief Justice embarked on countrywide tours to interact with magistrates in a bid to understand their challenges and expectations. The process galvanised the Commission's resolve to improve the conditions of service of judicial officers.

In court operations, the Commission successfully launched specialised anti-corruption courts when the Chief Justice commissioned pilot projects at Harare and Bulawayo. The initiative resulted in the extensive renovation of several courtrooms at the two stations. The review of the rules of courts continued with the promulgation of new rules for the Supreme Court and Labour Court.

On the administration front, the Commission acquired two buildings, one to house the Commercial Court and the other to accommodate the Labour Court. The acquisitions are a significant step towards the Commission's aspirations to move out all court stations from rented accommodation into its own buildings.

In other developments the Commission separated the province of Bulawayo Metropolitan from Matebeleland North as a way of enhancing the effective management of the two provinces. The decision acknowledges the autonomy from each other of the two provinces. It was also taken in the spirit of devolution being driven by government.

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, with the following main functions:

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

The Constitution also provides that an Act of Parliament may confer on the Commission functions in connection with the employment of persons employed in the courts. The Judicial Service Act [*Chapter 7.18*] provides for those functions in detail.

The membership of the Commission is as follows:

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

The two vacancies which the Commission highlighted in its previous report are yet to be filled. These are: a professor or senior lecturer of law and a person with experience in human resources management.



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 HAPPIAS 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 is the employer of all members of the Judicial Service including judges and magistrates. Whilst it is allowed by the law to declare vacancies and carry out interviews for the appointment of judges as and when it is necessary the recruitment of magistrates and support staff in all courts remains tied to budgetary controls outside the Commission. Treasury requires the Commission to seek its concurrence before any vacancies can be filled. This scenario has resulted in the rise of vacant positions within the court system to levels which are incongruous with the Commission's desire to offer world class service to litigants and other court users. At the beginning of 2018 there were **613** vacancies.

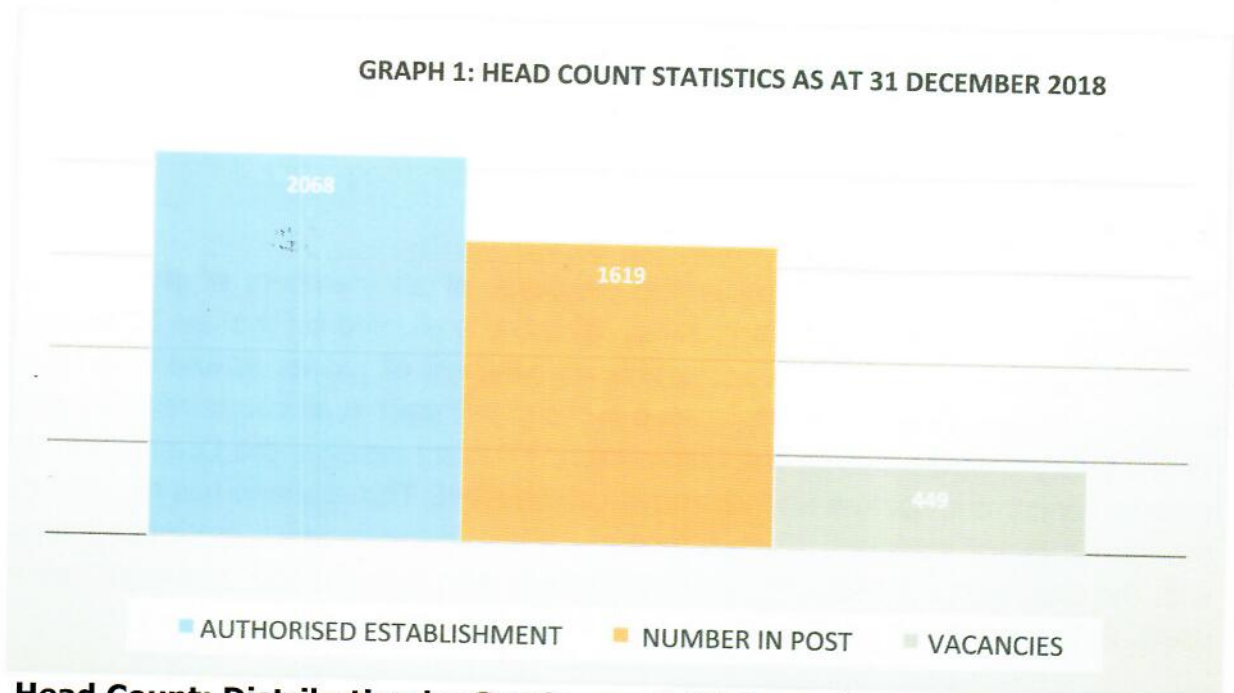
The Commission is grateful that during the course of the year Treasury concurred to the recruitment of members of staff to fill **233** critical posts. These included **60** positions of magistrates. Whilst that recruitment went a long way to mitigate the challenges, the situation remains far from conducive. As at 31 December 2018, there were **1619** members in post against an authorised establishment of **2068**. There are **449** vacancies. This means that the Commission is operating at only about **80%** of its capacity, a state of affairs which compromises the quality of court operations given the ever-increasing workloads in all courts.

Although the **60** new magistrates represent a significant improvement in the magistracy's staffing levels, the magistrate -case ratios are still way above recommended levels. The **250** magistrates completed in excess of two hundred thousand (200 000) cases in 2018 alone.

In line with Section 17 of the Constitution, the Commission has over the years taken a deliberate position to recruit more female members than males in order to bridge the gap which existed between the genders. As a result, the Commission now boasts of a ratio of **53, 6%** females to **46, 4%** males. It is very likely that the Commission may be the first public institution to employ more women than men. That women empowerment objective is not intended to solely increase the numbers

but to also ensure that women are represented at the highest decision-making levels. It is in that regard that the Deputy Chief Justice is a woman and the Senior Judge of the Labour Court is also a woman. Six (6) out of 13 judges of the Constitutional Court and Supreme Court are female. Out of 64 judges in the country 34 are men and 30 are women. At the Labour Court, 10 of the 14 Judges are female, 4 are male. The 224 magistrates in post are constituted of 116 females and 108 males.

Head count: Establishment and vacancy situation as at 31 December 2018



Head Count: Distribution by Gender as at 31 December 2018

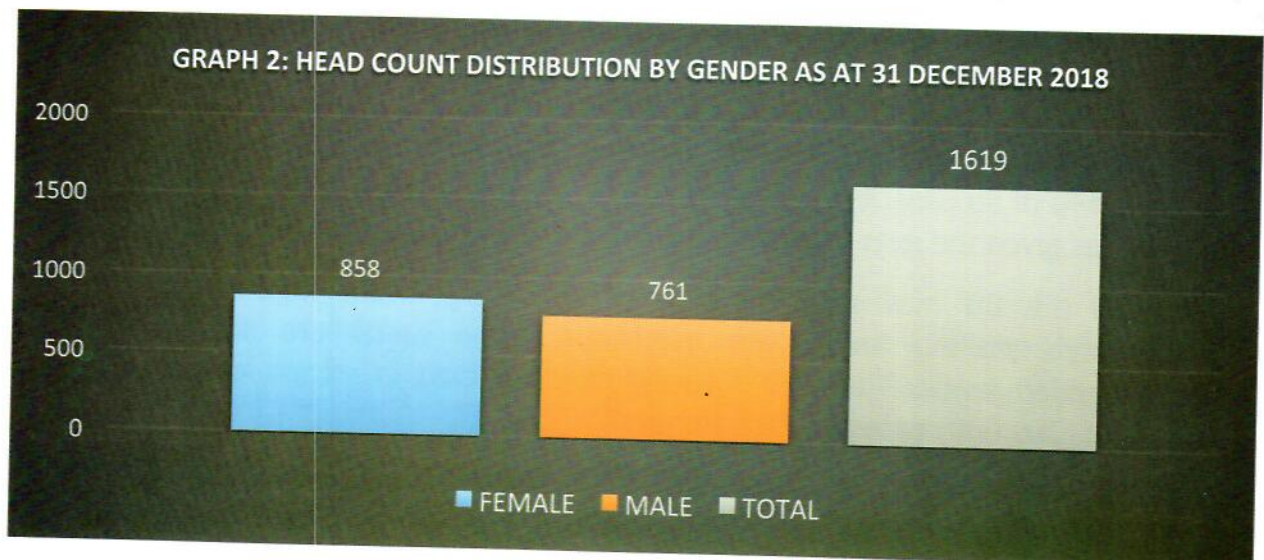


Figure 2: Head count- Distribution by gender as at 31 December 2018

Head Count: Judges by Gender as at 31 December 2018

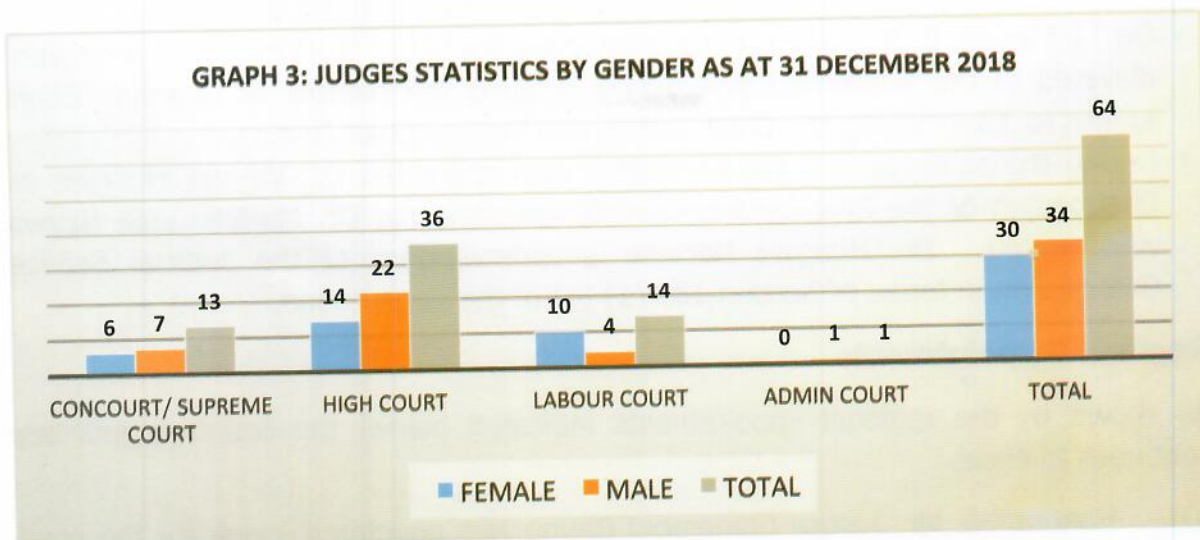


Figure 3: Head count – Judges Statistics by gender as at 31 December 2018

Head Count: Magistrates in post by Gender as at 31 December 2018

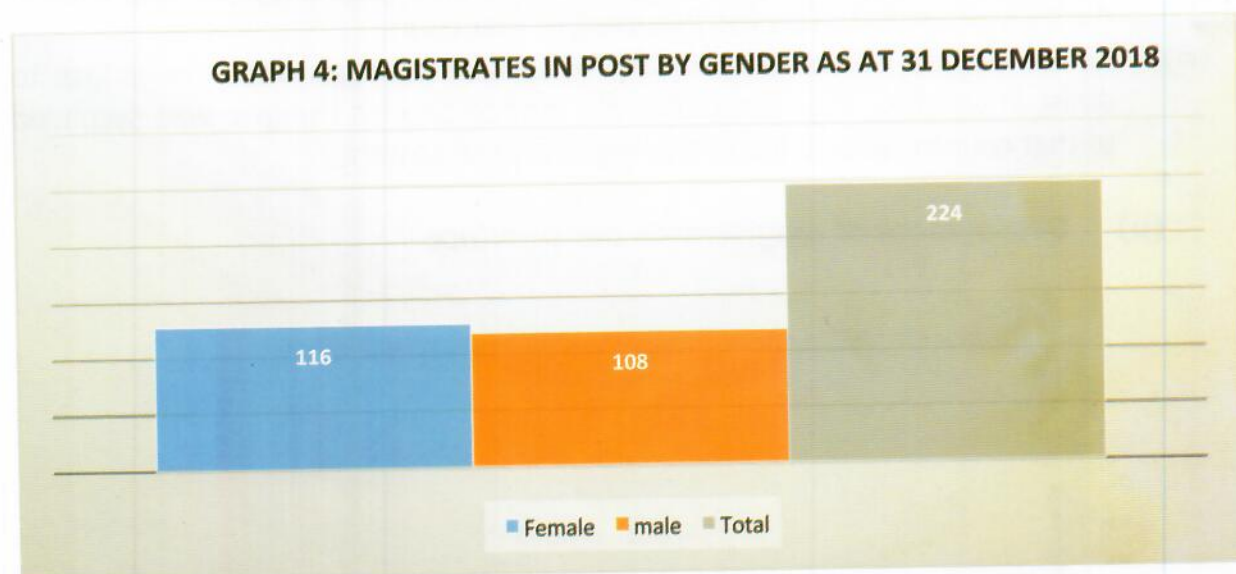


Figure 4: Head count- Magistrates in post by gender as at 31 December 2018

(i) Appointments

- On 8 February 2018 Judicial Service Commission appointed Mr. Walter Chikwana as Acting Secretary replacing Honourable Mrs. Justice R. Makarau who returned to her role as judge of the Supreme Court.
- On 29 March 2018 His Excellency the President appointed Mrs. Justice Elizabeth Gwaunza as Deputy Chief Justice of Zimbabwe.
- In that capacity she became a commissioner of the Judicial Service Commission in terms of Section 189 (1) (b) of the Constitution.

- On 11 May 2018, Mrs. Justice Lavender Makoni and Mr. Justice Francis Bere were elevated to the Supreme Court bench bringing the number of Supreme Court judges to **13** including the Chief Justice and Deputy Chief Justice.
- During the same period, His Excellency also appointed Dr. Vincent Hungwe as Chairperson of the Civil Service Commission replacing Dr. Mariyawanda Nzuwa who retired. Dr. Hungwe became a commissioner of the Judicial Service Commission in terms of Section 189 (1) (g) of the Constitution.

Regional Appointments

As shown by the regional appointments indicated below, the country's judiciary continues to excel.

- Honourable Mr. Justice Chinembiri Bhunu was appointed Judge for the court of first instance in the Common Market for Eastern and Southern Africa (COMESA) Court of Justice.
- Honourable Mr. Justice Francis Bere was appointed Judge of Southern Africa Development Community Administrative Tribunal (SADCAT). He was later in the year promoted to be the President of that court.
- At the request of the Government of Lesotho through SADC for judges to assist in Lesotho, the Honourable Mr. Justice Charles Hungwe was seconded to that country as a Judge of the High Court of Lesotho.

(ii) Deployment of magistrates per province

GRAPH 5: DEPLOYMENT OF MAGISTRATES BY PROVINCE AS AT 31 DECEMBER 2018



Figure 5: Deployment of Magistrates by Province as at 31 December 2018

(iii) Wastage and Natural attrition

During the course of the year the Commission lost **46** members of staff through discharge, resignation, death and retirements as shown in the graph below.

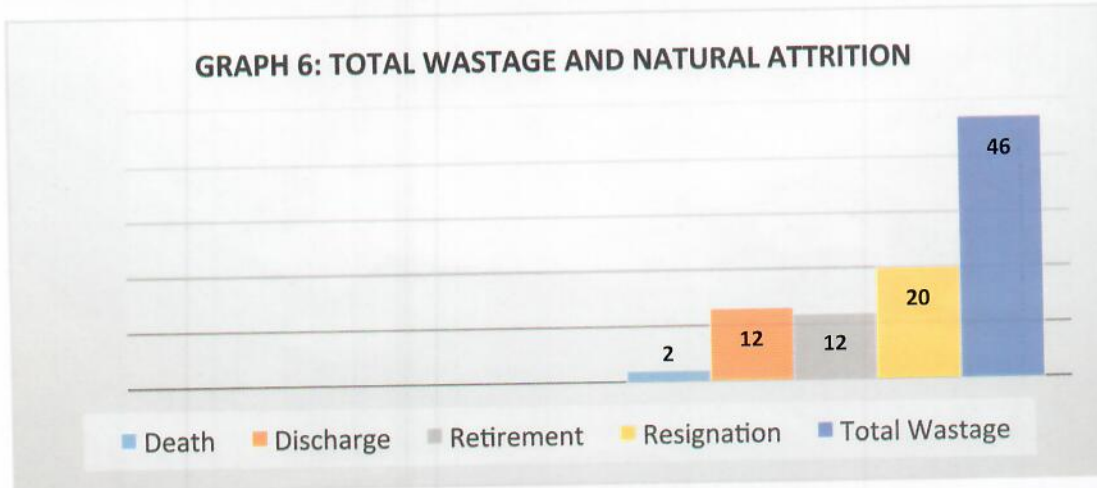


Figure 6: Total wastage and natural attrition

(iv) Staff Training and Professional Development

A total of **752** employees attended various training programmes during the year giving **4 270** training days, which makes an average of **2.6** training days per employee.



Picture 1: Training of Magistrates to man special Anti- Corruption Courts



Picture 2: Breakfast Meeting with Senior and Middle Management on Performance Management

Court Operations

(i) New High Court Mutare

- The opening of a new High Court station at Mutare on 7 May 2018 was the highlight of the access to justice initiative by the Commission in 2018. The High Court station became the fourth station in the country after Harare, Bulawayo and Masvingo. It went a long way in reducing distances travelled by litigants in Manicaland and some parts of Mashonaland East and Masvingo to access the services of the High Court.

(ii) Establishment of new Magistrates' Courts

- During the course of the year the circuit courts of Mutasa in Manicaland and Concession in Mashonaland Central were accorded resident magistrates' court status. The regional circuit courts at Chipinge, Plumtree, Karoi, Beitbridge and Guruve were all upgraded to permanent regional courts. Regional Magistrates were deployed to all the stations except Guruve which requires rehabilitation of the infrastructure before operations can commence.

(iii) Separation of Bulawayo Metropolitan and Matabeleland North Provinces

- Matabeleland North and Bulawayo Metropolitan Provinces were operating as one magisterial province. The province was geographically vast running from Bulawayo to Victoria Falls and to Binga. That size detracted from the efficient administration of the province. In the spirit of devolution and to enhance effective administration of justice, the Commission took the decision to separate the two provinces. Bulawayo Metropolitan Province, headquartered at Tredgold Magistrates' Court, is now a stand-alone magisterial province. The provincial head office for Matabeleland North which for the time being will be administered from Hwange, will be at Lupane. The Commission has commenced the process to construct a suitable courthouse for that purpose. The facilities at Lupane are at present, not ideal and adequate to house the head office of the province.

(iv) Decentralization of Master of High Court and Sheriff

- The administration of deceased estates is an emotive issue. The Commission noted the long distances travelled by spouses and other relatives of deceased people to access the office of the Master of High Court. The offices were traditionally found in Harare and Bulawayo only. During the course of the year a decision to decentralize the operations of that office to all provinces was made. The process commenced in the last half of the year. By 31 December 2018 offices of the Master of the High Court had been opened at Mutare, Masvingo and Chitungwiza. The same decentralization process was necessary for the office of the Sheriff which now has a presence in all provinces across the country.

(v) Establishment of the Commercial division of High Court

- The Judicial Laws Amendment (Ease of Settling Commercial and other Disputes) Act No. 7 of 2017 provides for the categorization of the High Court into specialized divisions. In compliance with that law, and in support of efforts by government and the business community to create an environment conducive for doing business, the Commission resolved to establish a fully-fledged commercial division of the High Court. The establishment of the court is expected to ensure the expeditious finalization of commercial disputes. The process to set up the court commenced with the following: -

- The purchase of a building to house the court
- Drafting of the rules of court to regulate the operations of the Commercial Court started. The Chief Justice in consultation with the Judge President appointed a committee made up of eminent legal practitioners, judges and registrars to spearhead the process.
- Pre-commencement work for the renovation and customization of the building was finalised. The actual work is expected to start during the second quarter of the year.

The court is expected to open its doors to the public before the end of 2019. When it does, it is likely to be the first to benefit from the envisaged Integrated Electronic Case Management System. It must therefore be a paperless court.

Performance of the courts and offices of the Master of High Court and Sheriff

The performance of all courts during the period under review was satisfactory. As shown below, all of them, in their hierarchy, satisfactorily dealt with their workloads.

(i) Constitutional Court

During the year under review, the court received **59** cases. At the close of 2018, the Court had a backlog of **42** cases compared to **68** at the end of 2017.

The number of cases received in the last three years is shown in figure 7 below.

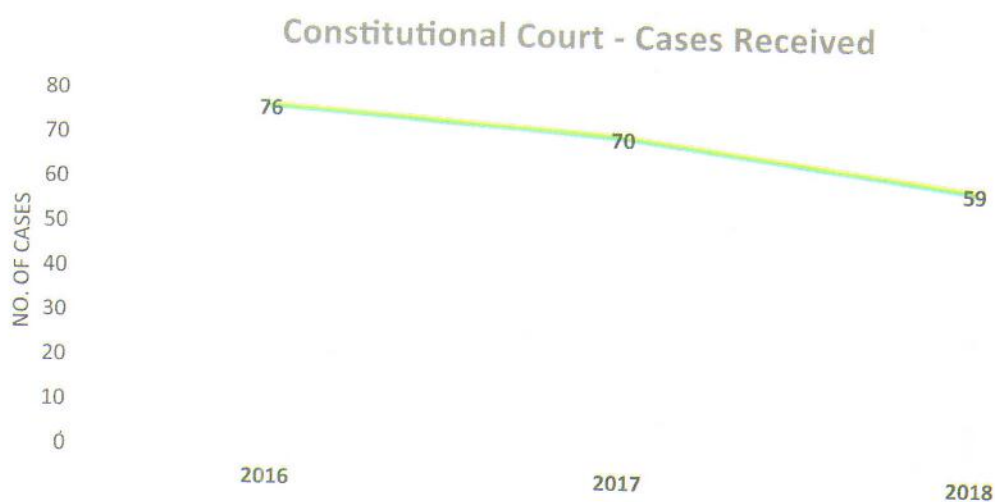


Figure 7: Received cases trend

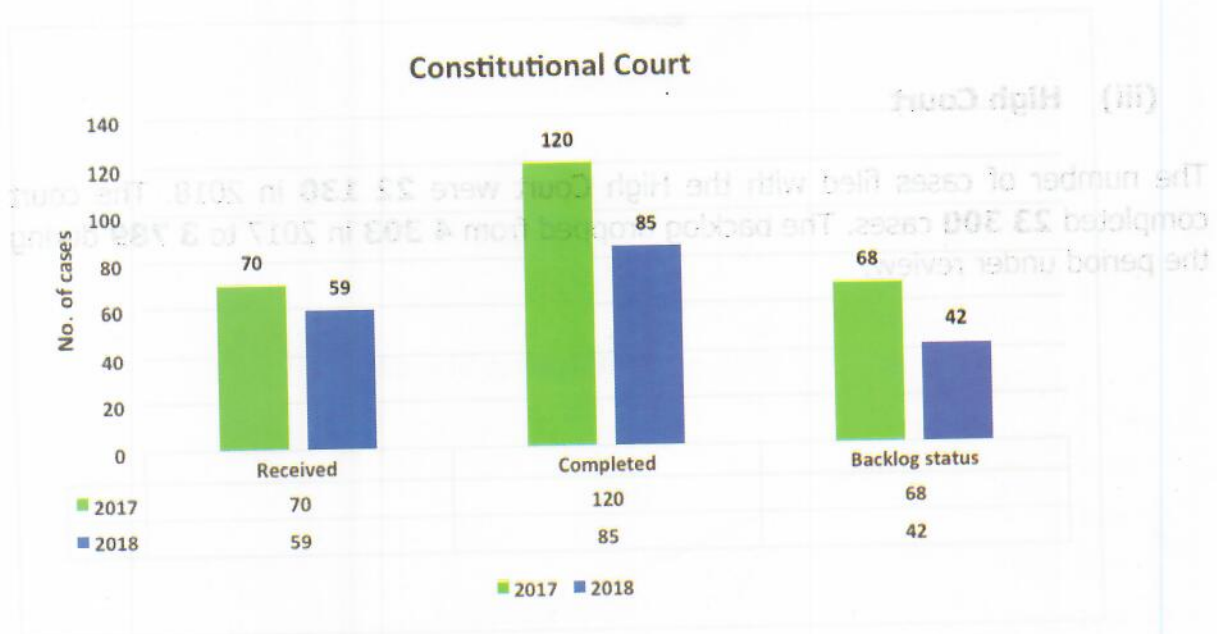


Figure 8: Constitutional Court Caseload.

(ii) Supreme Court

The Supreme Court received **914** cases in 2018. The court completed **935** cases during the period under review.

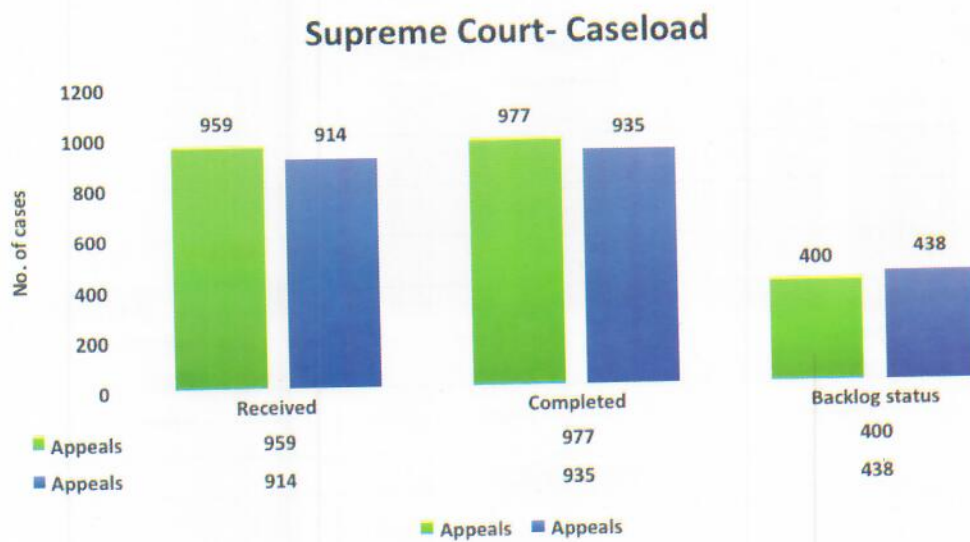


Figure 9: Supreme Court caseload

(iii) High Court

The number of cases filed with the High Court were **22 130** in 2018. The court completed **23 300** cases. The backlog dropped from **4 303** in 2017 to **3 789** during the period under review.

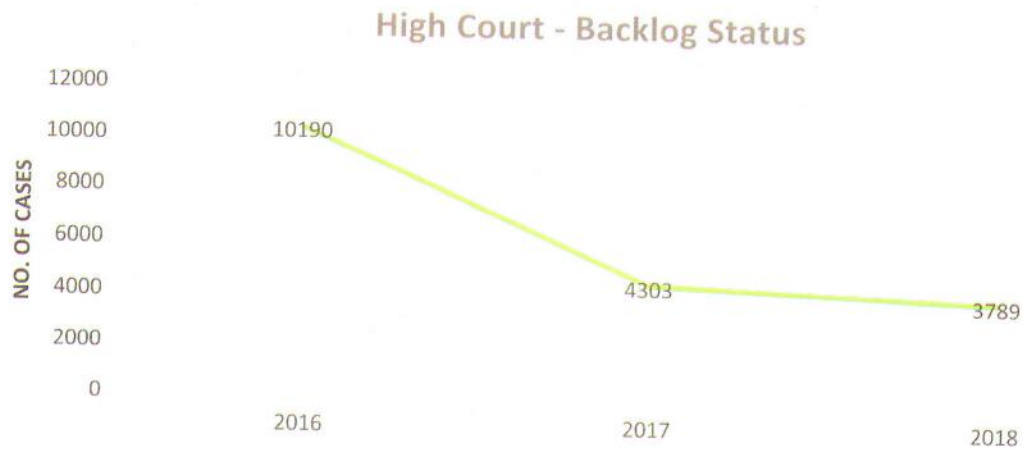


Figure 10: High Court Case Backlog trend.

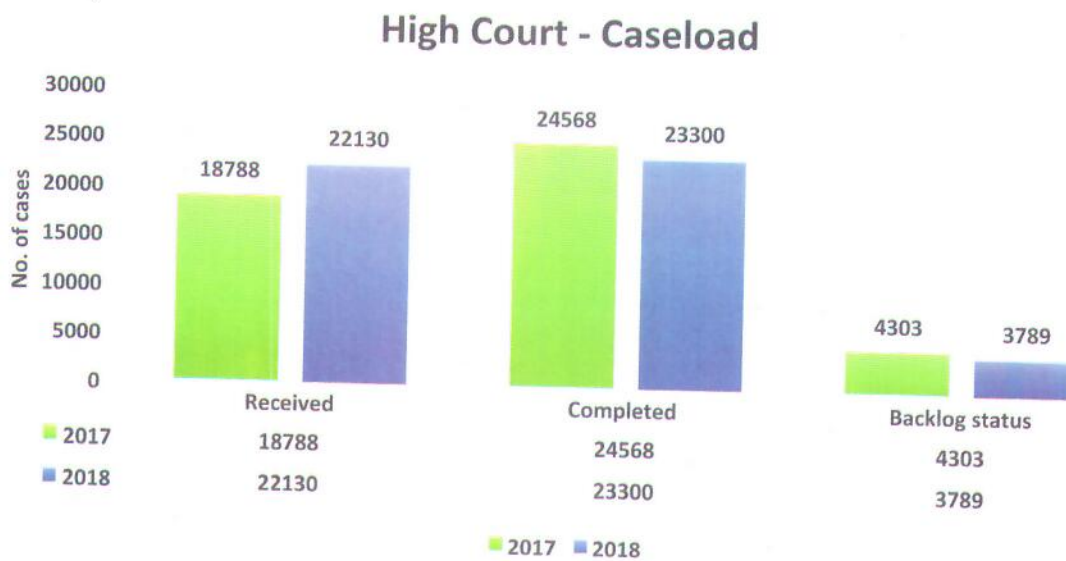


Figure 11: High Court caseload

(iv) Administrative Court

The court continues to be manned by a single judge. It received **63** cases and completed **76** cases during the period under review. The backlog went down from **32** in 2017 to **26** at the end of 2018.

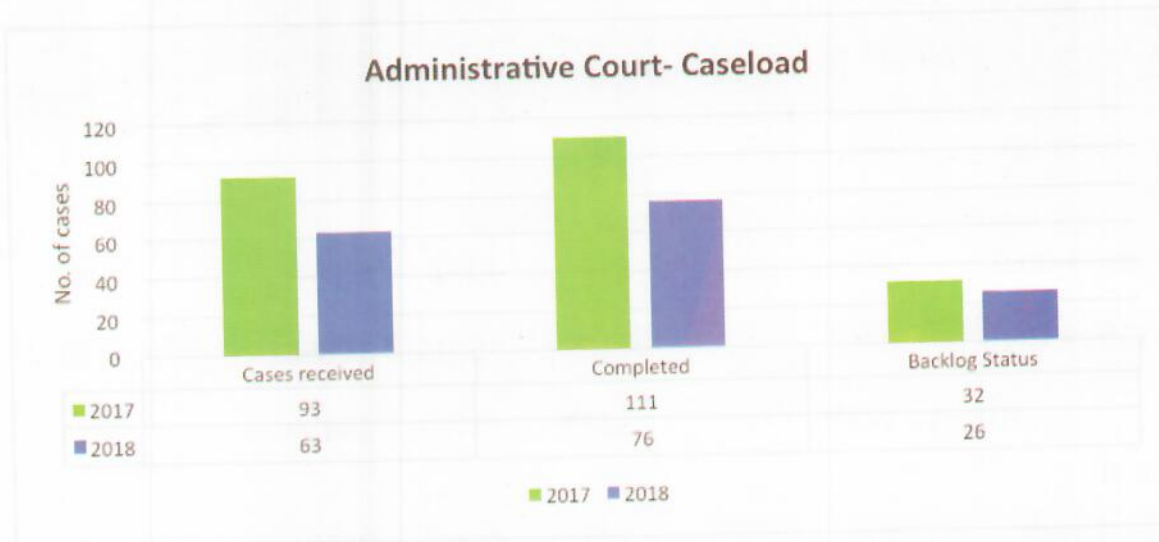


Figure 12: Administrative Court Caseload

(v) Labour Court

The Labour Court received **2 787** cases during the period under review. It completed **3 199** cases. The backlog slightly increased from **420** to **444** during the period under review.



Figure 13: Labour Court caseload

National Scenario for the Superior courts.

A total of **25 956** cases were received by the superior courts. **27 582** cases were finalized leaving only **4 361** cases pending. The performance of the superior courts is summarised in the table below:-

	Cases brought forward as at 01/01/18	New Cases	Total Cases	Total Finalised	Cases Backlog status as at 30/11/18
Constitutional Court	68	59	127	85	42
Supreme Court	459	914	1373	935	438
High Court Civil	3115	11900	15015	12858	2157
High Court Criminal	1481	10230	11711	10439	1272
Labour Court	856	2787	3643	3199	444
Admin Court	8	66	74	66	8
TOTAL	5987	25956	31943	27582	4361

Table 1: Superior Courts National Scenario

(vi) Magistrates' Courts

There was an increase in the number of criminal cases received by the magistrates' courts country-wide from **83 356** in 2017 to **100 201** during the year under review. Civil cases filed decreased from **88 129** cases in 2017 to **84 744** cases in 2018. The domestic violence cases increased from **10 786** cases in 2017 to **13 623** cases in 2018. The rise of domestic violence cases by a figure of close to three thousand (**3 000**) should be a cause for concern for all stakeholders. The number of small claims filed increased from **11 188** in 2017 to **12 879** during the period under review. The figures result in a grand total of **215 322** cases received. Out of that, the magistrates' courts finalized a total of **210 084** leaving a backlog of only **5 238** cases. As highlighted elsewhere in this report, this is remarkable given that the courts have slightly over **200** magistrates in post.



Figure 14: Criminal division caseload

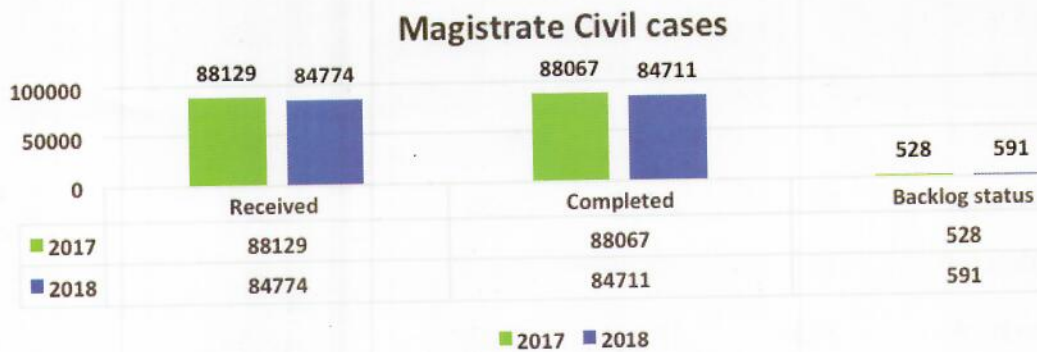


Figure 15: Civil division caseload

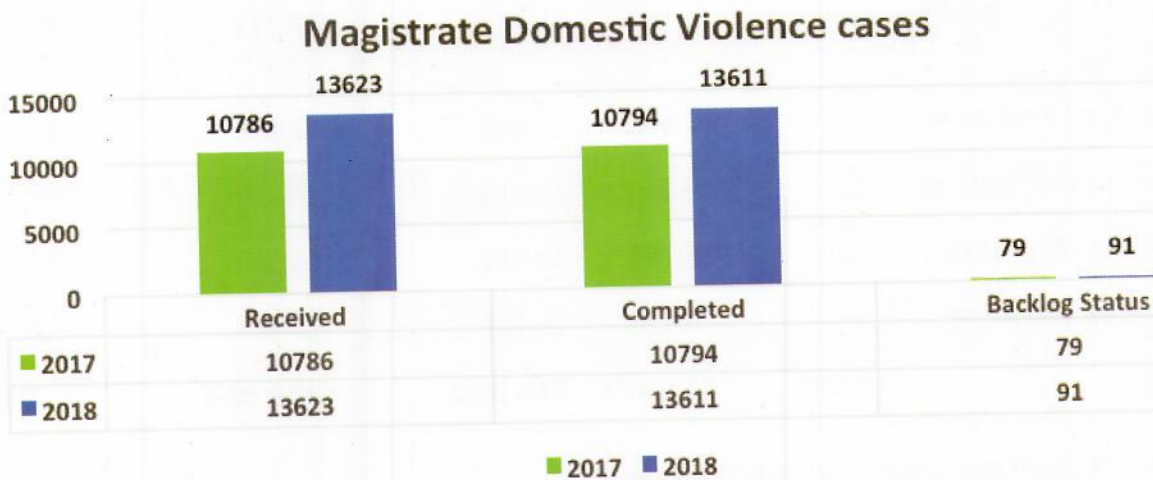


Figure 16: Domestic Violence caseload

Magistrate Small claims cases



Figure 17: Small claims caseload

DIVISION/PROVINCE	Cases brought forward	cases received	Total	Cases completed	Backlog status
Central Division	11	688	699	685	14
Eastern Division	89	2 246	2 335	2 247	88
Western Division	18	736	754	698	56
Harare Province	1438	69 299	70 737	68 593	2 144
Manicaland Province	426	23 414	23 840	23 328	512
Bulawayo Province	423	21 465	21888	21486	402
Mat North Province	0	2 475	2 475	2 427	48
Mat South Province	153	7 331	7 484	7 177	307
Mash Central Province	187	16 585	16 772	16 513	259
Mash East Province	234	17 662	17 896	17 648	248
Mash West Province	154	16 260	16 414	16 107	307
Masvingo Province	431	15 190	15 621	15 167	454
Midlands Province	281	18 126	18 407	18 008	399
Total	3 845	211 477	215 322	210 084	5 238

Table 2: Magistrates' Courts National Scenario

(vii) Office of the Sheriff of High Court

A total of **23 561** processes were lodged with the office of the Sheriff for service. All the **23 561** processes were served, leaving no backlog.

Processes	Received- 2017	Received- 2018	Difference	Percentage Change
Writs	1826	2320	-494	-27%
Summons	6467	7527	-1060	-16%
Court Orders	228	332	-104	-46%
Court Notices	466	451	15	3%
Court Application	392	455	-63	-16%
Urgent Chamber	70	89	-19	-27%
Removals	1185	1086	99	8%
Notices of set down	9589	11301	-1712	-18%
Total	20223	23561	-3338	-17%

Table 3: Sheriff's office National Scenario

(viii) Office of the Master of High Court

The number of new deceased estates registered increased from **4 082** in 2017 to **5 996** during the period under review. New records for corporates under judicial management increased from **28** in 2017 to **29** during the period under review whilst records opened under liquidations decreased from **65** in 2017 to **32** in 2018. The records under the guardian fund administration rose from **2303** in 2017 to **2 471** during the period under review.



Figure 18: Deceased Estates registrations

Judicial Management- Records Opened 2017-2018

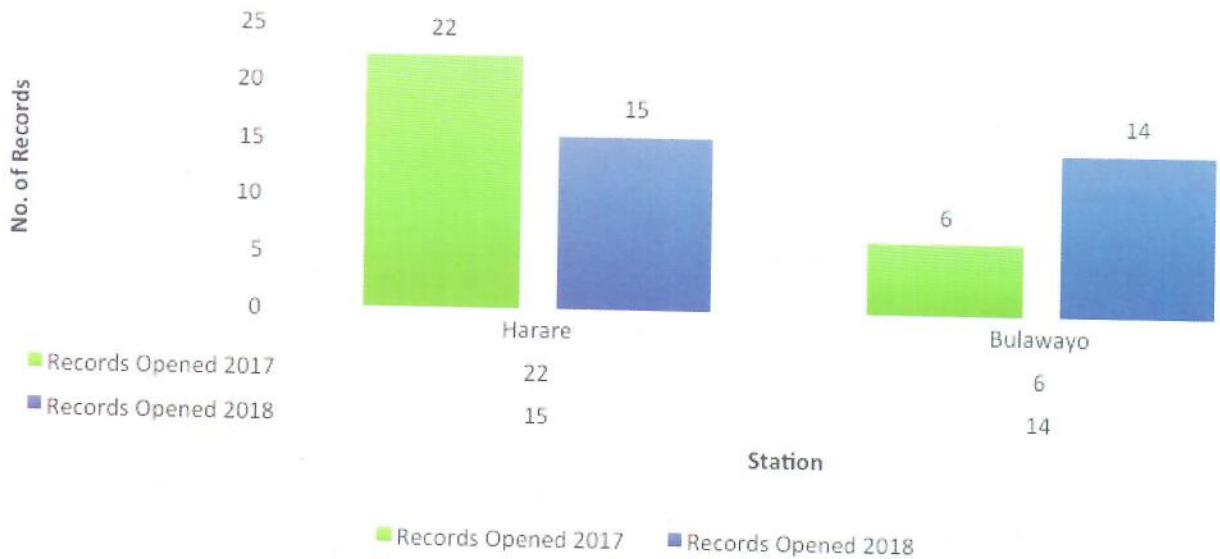


Figure 19: Records opened

Liquidations –Company Records Opened

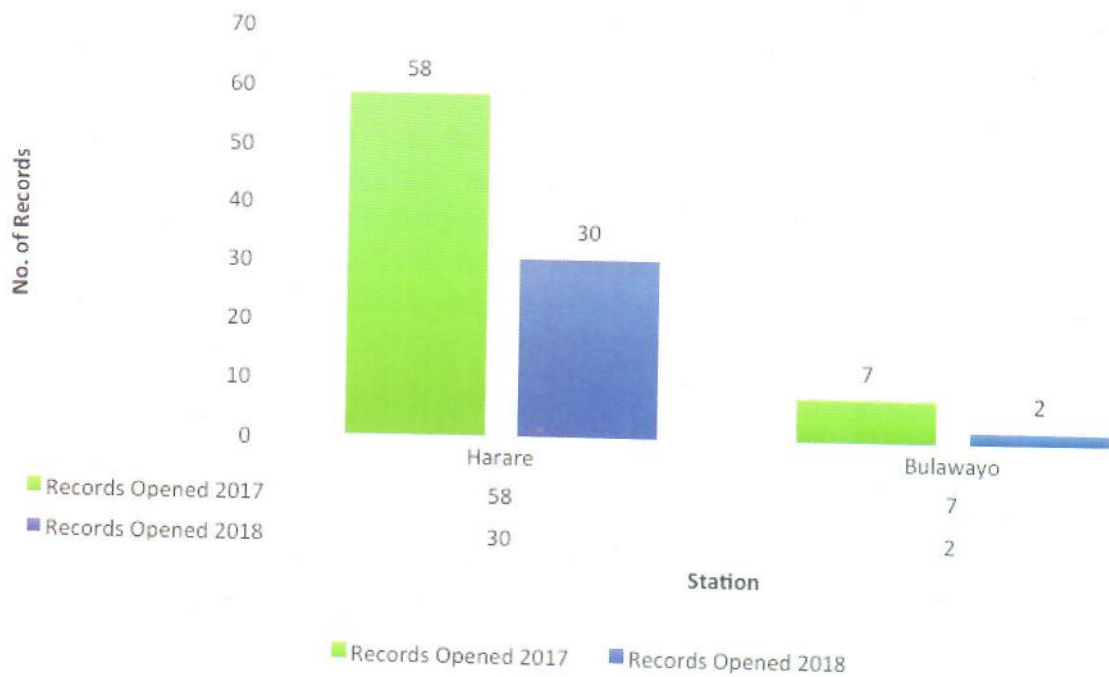


Figure 20: Company records opened

General Administration

(i) Integrated Case Management

With developments in technology, the administration of justice is also being globalized. In order to keep pace with these developments, many jurisdictions have introduced electronic management of cases in their courts. The Judicial Service Commission resolved to adopt similar strategies. The Integrated Electronic Case Management System mooted by the Commission will integrate all stakeholders in the administration of justice on one electronic platform. These include the Zimbabwe Republic Police (ZRP), National Prosecuting Authority (NPA), Zimbabwe Prisons and Correctional Service (ZPCS), the Law Society of Zimbabwe and others. The system is intended to enhance the administration of justice by enabling each player to separately track the progress of cases and identify bottlenecks. It is also designed to plug opportunities for corruption in the administration of justice chain. The opportunities include among others instances of missing court records, missing documents and dockets at police and prosecution.

The Commission carried out extensive comparative analysis of systems run by countries such as Rwanda, Namibia, Singapore and Estonia. The purpose of the comparative studies was to identify the systems' strengths and weaknesses in order to come up with a system ideal for the Zimbabwean situation. Key stakeholders and players in the justice system in Zimbabwe were consulted during the process.

As at the end of 2018, the Commission had kick-started the procurement processes in consultation with the Procurement Regulatory Authority of Zimbabwe. Barring budgetary bottlenecks, the first phase of the project must be launched in 2019. The implementation of this project will be on a court by court basis. As indicated elsewhere in this report, the commercial division of the High Court is expected to be the first beneficiary of the project.

(ii) Capital Projects

- The major capital project completed in the year under review was the purchase and customization of the building that houses High Court in Mutare.
- As part of the Deputy Chief Justice's conditions of service, the Commission purchased an official residence for her in Harare.
- The Commission also purchased a second Judge's house in Mutare and a Labour Court Judge's house in Gweru.
- The Labour Court in Harare has been renting premises and at prohibitive rentals. The Commission purchased a building in the Kopje area to accommodate the Labour Court. The customization of the building is in progress. It is expected that the court will start operating from there at the beginning of the second quarter of the year.
- A building to house the new commercial division of the High Court was acquired. Renovations and customization of the building will commence during the second quarter of the year.

(iii) Courts Rehabilitation

Major rehabilitation works were carried out at various courts to improve the ambiance of the courts. At Harare Criminal all the court rooms and offices are being refurbished. The same consideration has been given to Mbare, Harare Civil, Tredgold in Bulawayo, Gutu and Hwange Magistrates' Courts. At the same time, specialized Anti-Corruption Courtrooms were created at Harare and Bulawayo Magistrates' Courts.

- The High Court in Bulawayo was expanded with the addition of three additional courtrooms and several offices.
- The Supreme Court building which used to house the Judicial Service Commission Secretariat Head Office is undergoing massive renovations which commenced during the year under review. The renovations are in preparation for the separation of the Constitutional Court and Supreme Court which, in terms of the Constitution, must happen by May 2020.

(iv) Construction of new courts

Construction works are underway at various stations throughout the country as described below:

- The construction of the court complex at Chinhoyi, which had been dormant for more than ten years was resuscitated. Significant progress towards its completion was made during the course of the year. The Commission has plans to make the building a multi-purpose complex housing the High Court, the Magistrates' Court and offices of the Master of High Court.
- A new courthouse will be constructed at Lupane as indicated elsewhere in this report, with a view to making it the provincial station for Matabeleland North Province. Pre-commencement work is already complete.
- At Mt Darwin construction of a new courthouse commenced towards the end of 2018. The courthouse is expected to be completed in the course of 2019.

Finance

The Commission was allocated the sum of **US28, 979 million dollars** for the year ending 31 December 2018. This amount is higher than the **US14.99 million dollars** allocated in 2017. The graph below illustrates the budgetary allocations to the Commission over the last three years.

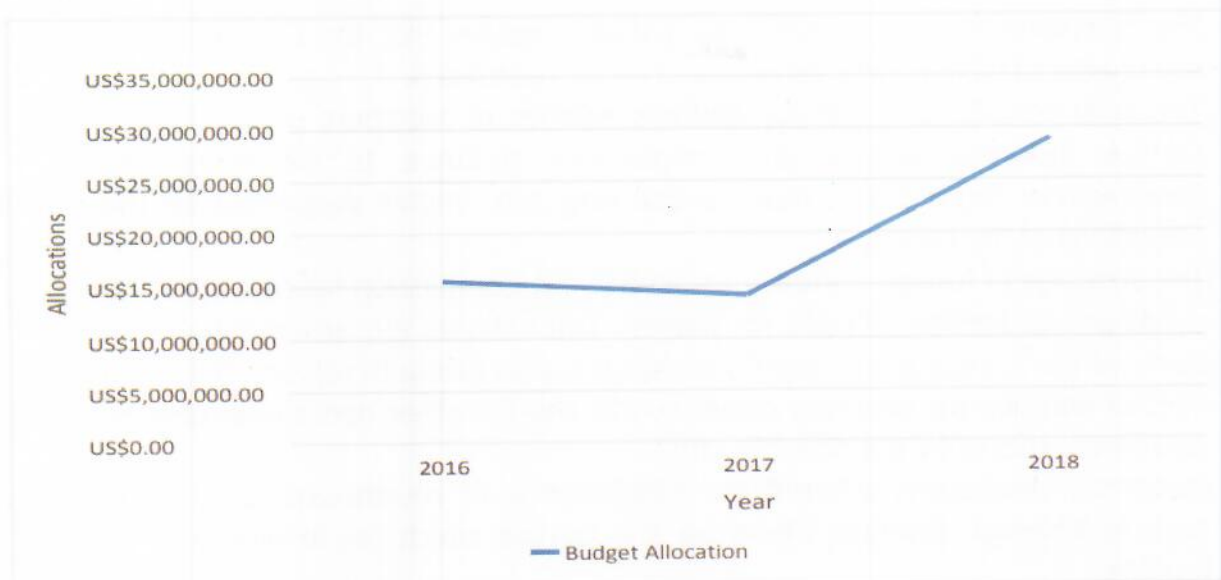


Figure 21: Budget Allocation for years: 2016, 2017, and 2018

The major drivers of expenditure in 2018 were employment costs, goods and services and acquisition of fixed capital assets.

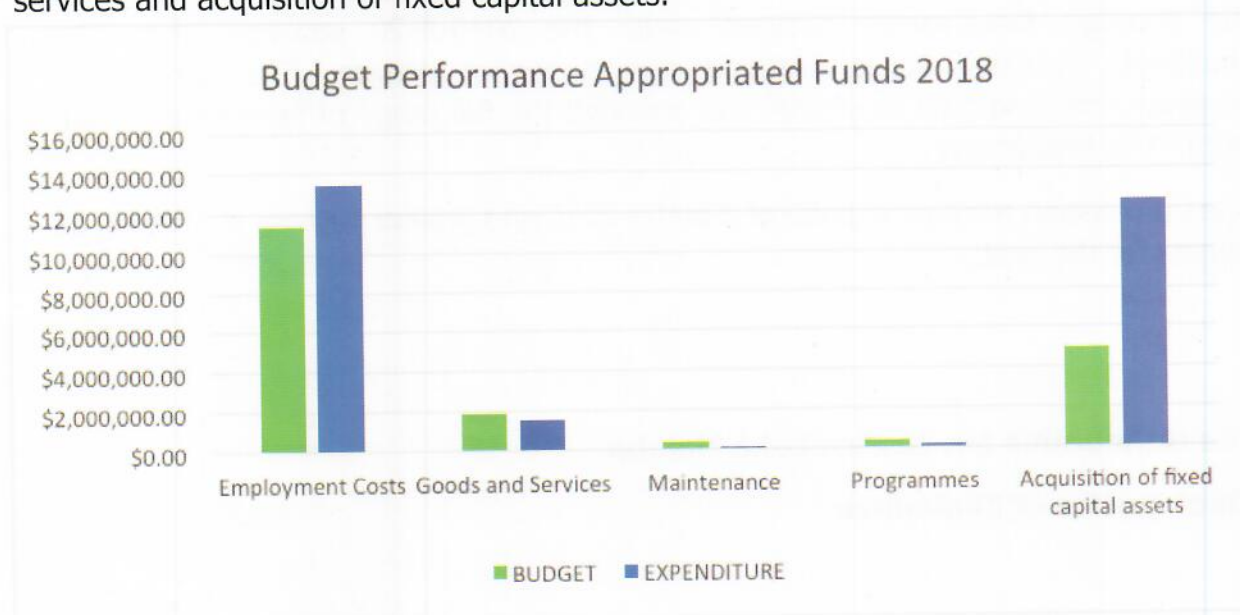


Figure 22: Graph on main expenditure areas

Although the Commission did not get its full budgetary allocation, the funds which Treasury released ensured that court operations did not grind to a halt. The distortions on prices of goods and services witnessed in the country from October 2018 impacted negatively on court operations. The shortage of fuel disrupted the servicing of circuit courts and the service of process on time by the Sheriff's office.

Challenges

Needless to point out, the Judicial Service Commission was not spared from the economic challenges that bedeviled the country during the period under review. The major challenges are stated here under:

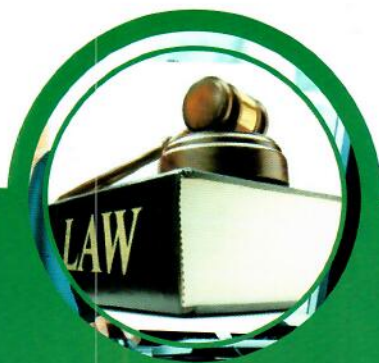
- The recruitment freeze imposed by Treasury means that the Commission is still unable to fill in critical vacancies in all its institutions.
- The poor conditions of service and low salaries of members of the Judicial Service including judges and magistrates continue to be a notable demotivating factor which may, in the long run, impact negatively on the operations of the courts.
- The shortage of foreign currency resulted in the Commission failing to procure conditions of service vehicles for judges. The vehicles are an entitlement in terms of the Constitution. The Commission is also failing to replace its ageing fleet of vehicles for servicing circuit courts and for other operations such as service of process by the Sheriff's office.
- Budgetary restrictions affected the rehabilitation of courthouses at stations such as Chiredzi, Kwekwe, Murehwa and Guruve which are in dire need of facelifts.

Conclusion

During the period under review the Commission largely met its targets in terms of the strategic focus areas outlined under the 2016-2020 strategic plan. The challenges indicated above militated against service delivery. The Commission however remained fully functional and provided the full range of services expected from all its institutions.

The Commission remains hopeful of a better 2019 and greater success in meeting its targets for the year.

The Honourable Mr. Justice Luke Malaba
Chief Justice of Zimbabwe



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