

## **Personal**

Name: Sanji Mmasenono Monageng  
Citizen: Motswana, born in Serowe  
Date of birth: 9 August 1950  
Gender: Female

Languages: English, Setswana and Ikalanga

Profession: Judge of the High Court/Commissioner

## **Higher education**

1982 - 1987 Bachelor of Laws degree, University of Botswana.

## **Relevant short courses**

June - July 2007 International Criminal Law Course - Grotius Center for International Law Studies, Leiden University, The Hague, Netherlands.

June 1996 Court Administration Course, RIPA International, London, United Kingdom.

## **Residencies and secondments**

September 2005 Residency at the Brandeis University, Boston, United States of America

January - March 2005 Secondment to the Law Society of England and Wales, London, United Kingdom.

February - March 1998 Secondment to the Law Society of Zimbabwe.

March - May 1994 Secondment to the United Nations Observer Mission to South Africa, Johannesburg, Republic of South Africa, as Deputy Chief Adjudication Officer.

## **Summary of relevant work experience**

April 2008 - present Justice Sanji Monageng has been working as a judge of the High Court of the Kingdom of Swaziland, recruited by the Commonwealth Secretariat, under the Commonwealth Fund for Technical Cooperation. As a Judge of the High Court, she is responsible for trying criminal and civil cases, as well as constitutional matters.

2006 - 2008 Justice Sanji Monageng served as a judge of the High Court of the Republic of the Gambia, recruited by the Commonwealth Secretariat, under the Commonwealth Fund for Technical Cooperation. As a Judge she was responsible for the trial of criminal cases predominantly and, on certain instances, civil cases. She presided over appeals from Magistrates Courts.

1997 - 2006 Justice Monageng served as Executive Secretary of the Law Society of Botswana.

2003 - present Justice Monageng has been serving as a member of the African Commission on Human and Peoples' Rights.

1987 - 1997 Served as a magistrate in the Republic of Botswana.

### **Description of relevant professional experience**

#### *Experience in international human rights and humanitarian law*

In July 2003, Justice Monageng was appointed a member of the African Commission on Human and Peoples' Rights by the Assembly of Heads of State and Government of the African Union. The African Commission is an organ of the African Union, whose Secretariat is in Banjul, the Gambia. The Commission is one of the main continental bodies that is charged with the promotion and protection of human and people's rights.

Within the framework of its promotional role, the functions of the Commission are, inter alia, to formulate and lay down principles and rules aimed at solving legal problems relating to human and people's rights in Africa, to consider periodic reports of States Parties on the legislative or other measures adopted to give effect to the rights and freedoms recognized and guaranteed in the African Charter on Human and People's Rights. The Commission also cooperates with other African and international institutions concerned with the promotion and protection of human and people's rights.

Within the framework of its protective role, the Commission is charged with interpreting the Charter and ensuring the protection of human and people's rights under the conditions laid down by the African Charter. This role is also achieved through the Commissioners hearing cases of alleged violations of human and peoples' rights against States Parties to the African Charter, brought to it by individuals, non-governmental organizations and other States Parties.

In this capacity, the Commissioners review decisions of the highest courts in the 53 African countries that are parties to the African Charter, in as far as human rights issues are concerned. It is worth mentioning that, in hearing communications, the Commission applies international human rights and humanitarian law and standards.

The Commission, in some instances, turns into a tribunal of first instance and hears cases against States Parties, even though the applicant has not exhausted existing local remedies as required by the Charter. The Commission is also charged with interpreting all provisions of the present Charter at the request of a State Party, Heads of State and Government, and institutions/organs of the African Union or an African organization or other intergovernmental organizations recognized by the African Union.

In her capacity as Commissioner, Justice Monageng was the Chairperson of one of the special mechanisms of the Commission, the Follow-up Committee on torture, inhuman, degrading and other treatment. She spearheaded the setting up of the Committee, which is involved in research and other efforts to prevent and prohibit such treatment in Africa. The Committee is credited with developing the Robben Island Guidelines for the prohibition and prevention of torture, for States Parties, civil society organizations, human rights institutions and the African Commission itself.

In November 2007, she was elected the Chairperson of the African Commission on Human and Peoples' Rights. In this capacity, she directs the head of the Secretariat, takes policy decisions on behalf of the Commission and is the main spokesperson of the Commission. Justice Monageng has also served as Chairperson of the African Commission's

working group on the prohibition and prevention of torture, as well as the working group on economic and social rights.

In her capacity as Chairperson of the Commission, Justice Monageng has been called on from time to time to intervene in emergency and serious human rights situations where the lives of people may be at risk. She has done this by issuing urgent appeals and requests for provisional measures to Heads of State, and undertaking missions to meet with government officials and relevant human rights actors in the countries concerned.

As a member of the Commission, Justice Monageng has worked relentlessly to promote the other special mechanisms of the Commission, such as the Special Rapporteur on the rights of women in Africa, the Special Rapporteur on refugees, asylum seekers, internally displaced persons and migrants in Africa, as well as the Special Rapporteur on prisons and conditions of detention in Africa.

Justice Monageng has visited several African countries to promote and protect human and peoples' rights through, among other things, human rights promotion missions, fact-finding/investigative missions (which have equipped her with the ability to identify crimes that are proscribed in the Rome Statute), participation at seminars and conferences, etc. In June/July 2007, she attended a course on international criminal law at the Grotius Center for International Law Studies in The Hague, the Netherlands. She has also been invited by organizations in Europe and the Americas to speak on the African human rights system.

As a human rights practitioner, Justice Monageng is very proficient in the application of human rights standards and principles in a criminal court, which is one of the attributes that will benefit the Court. Given her rich legal and human rights background, she has contributed enormously to building African human rights jurisprudence, through, in particular, the consideration of complaints/communications submitted to the Commission.

With respect to international humanitarian law, Justice Monageng has worked very closely with the African Commission's Special Rapporteur on refugees, asylum seekers, internally displaced persons and migrants in Africa, as well as with a network of non-governmental organizations having observer status before the African Commission. She has presented several seminal papers in many different forums covering a wide range of issues, including human rights and humanitarian law.

Justice Monageng is a strong advocate of women's rights, and has been actively involved in various national and regional initiatives, aimed at scaling up women's empowerment and gender mainstreaming on the continent – as a member of Emang Basadi, a women's non-governmental organisation based in Botswana, and also as a member of Women in Law and Development in Africa (WILDAF), a continental African women's organization operating in the area of law.

She represents the Commission in its collaboration with other organs of the African Union and spearheads and supervises all activities of the Commission. She also represents the Commission in managerial meetings of the African Union, for example, the Permanent Representative Council, the Council of Foreign Ministers (Executive Council) and the Assembly of Heads of States and Government. She presents the Activity Reports of the African Commission to these bodies and is the chief liaison officer of the Commission.

#### *Experience as a judge and/or magistrate*

Justice Sanji Monageng was appointed a judge of the High Court of the Kingdom of

Swaziland and took up post on the 1 April 2008, under the Commonwealth Fund for Technical Cooperation programme as an expert. In this capacity, she hears criminal, civil, miscellaneous and constitutional cases as a court of First Instance. She also hears appeals from Magistrate Courts' decisions in criminal and civil matters and bail applications and writes rulings and judgements in all the above matters.

Prior to this appointment, she worked as a judge of the High Court of the Republic of the Gambia from February 2006 to January 2008, under the Commonwealth Fund for Technical Cooperation programme as an expert. In this capacity, she heard criminal, civil and constitutional matters, bail applications and other miscellaneous applications, sitting as a Court of First Instance and also heard appeals from Magistrates Courts on criminal and civil matters. She wrote and delivered rulings and judgments thereon. She was also involved in the training of magistrates and other administrative staff in the judiciary, the police and the prosecution. Justice Monageng successfully introduced the Criminal Circuit Court in Basse, the Gambia, which Court has now become a permanent court in the Upper River Division of the Gambia.

From 1987 to 1997, Justice Monageng was employed in the Department of Justice as Grade II Magistrate in Botswana, where she rose to the level of Principal Magistrate. Through her 10 years of service she gained valuable experience and expertise in the practical legal field, where she dealt extensively with criminal cases, in both the adult and juvenile courts.

As head of judicial/magisterial stations, she was answerable to the Chief Justice in the High Court. She was responsible for compilation and submission of monthly reports for both completed and pending cases. She did staff appraisals, prepared the station budget, supervised and controlled revenue and expenditure and undertook quarterly visits to prisons under her jurisdiction to supervise the welfare of the prisoners.

Justice Monageng also gained substantial experience in civil cases. These cases dealt, inter alia, with maintenance and adoption of children and women's issues, an area to which she is committed and in which she continues to have a very keen interest. She also gained experience in handling other civil matters. These included employment and industrial dispute cases before the advent of the Industrial Court of Botswana.

She has thus acquired extensive skills and knowledge in the areas of analysis of legal and other issues and judgment writing through her experience as a magistrate and judge.

#### *Leadership experience in the legal fraternity*

Prior to being appointed a judge, Justice Monageng was employed as the Executive Secretary of the Law Society of Botswana, a Society created by an Act of Parliament, the Legal Practitioners Act No. 13/96 (Cap. 61:01) of the laws of Botswana. She single-handedly set up and opened the office of the Society in November 1997 and was the first Chief Executive Officer and also the first officer of the Society, a role she played up to January 2006. In this capacity, she was responsible for the day-to-day administration of the office and the affairs of the Society. The responsibilities included being Secretary to the Society, the Council of the Society and Committees of the Society. Committees included the Disciplinary Committee, Legal Education and Pupillage, Law Reform and Ethics, Tariffs and Human Rights. She was also the Secretary of the Board of Trustees of the Society's Fidelity Guarantee Fund.

She supervised staff and was the Society's main public relations officer, financial controller, and performed other functions as might be assigned by the Council from time to time. She ensured the implementation of the objectives of the Law Society as envisaged by

the Act, which included, but were not limited to upholding standards of professional conduct, assisting the Government and the Courts of Botswana in all matters affecting the administration of justice.

She introduced and implemented a strong continuing legal education programme for lawyers, both in the private and other sectors, which ran very successfully. She liaised with heads of government departments and the private sector, and was as such the Society's chief negotiator. She also represented the Law Society in the High Level Consultative Council (HLCC) where Government and the private sector met, inter alia, to discuss policy issues of mutual interest.

In her capacity as Executive Secretary, she alternated with the Chairman of the Law Society as a Councillor in the International Bar Association Council. The Association is the global voice of the legal profession, and is the world's largest international organization of law societies, bar associations and individual lawyers engaged in transnational law.

Legal research and report writing of criminal and civil matters have been part of her work assignments and have increased her knowledge of the practicalities of the law. In this capacity she gained valuable experience in conceptualization of issues, analysis of facts and law and presentation thereof.

Justice Monageng was seconded to the Law Society of England and Wales, London, United Kingdom, for three months in 2005, where she acquired extensive experience and best practices in the running of the Law Society office, law firms and the Court system. The training also included issues of regulation and representation of the legal profession.

#### *Other competences and professional experiences*

Justice Sanji Monageng has sat on several Committees of Enquiry. She served as the Head Judge of a panel of judges in the Botswana National Youth Service Awards Scheme, a scheme designed by the Botswana Government, to recognize young people who are involved in, and/or have contributed to national, youth and community development.

In her capacity as Executive Secretary of the Law Society, she represented the Botswana civil society in the Southern African Development Community (SADC) dialogues on combating corruption that were held in the subregion. These dialogues culminated in the promulgation of the SADC Protocol against Corruption and the Southern African Forum Against Corruption (SAFAC). Further, as a result of her involvement in anti-corruption endeavours, she is one of the founder members of Transparency International, Botswana Chapter, an anti-corruption organization that also serves as a watchdog on corruption matters.

In 1996, she attended a four-week training course on Court and Judicial Administration and Management in the United Kingdom, a course that exposed her to the functions of a Registrar of the High Court and how a court is administered, and as a result of this training, she acquired experience in running a court.

In 2004, she was selected as one of the international judges who attended an extensive seminar organized by the Brandeis University in Austria, whose theme was complementarity and cooperation between national and international courts and tribunals.

As a result of her being appointed a member of the African Commission, Justice Sanji Monageng has further solidified her knowledge of international and national systems and is able to appreciate issues from both perspectives.

Justice Monageng also chaired the Sector on Ethics, Law and Human Rights until January 2006. This is a sector of the National Aids Council of Botswana. The sector, among other things, is responsible for integrating and coordinating an ethical, legal and human rights dimension into the national response to HIV/AIDS. The Sector is also responsible for identifying and supporting the review of national legislation, especially in areas of employment, education, provision of medical services and research on human subjects.

Justice Monageng was also a Trustee in the recently formed Southern Africa Litigation Centre. The purpose of the Centre is to mentor and guide lawyers in the southern African region in preparing for human rights and public interest cases that will be litigated in national courts.

### **Relevant seminars and courses attended and other activities undertaken within the past five years**

Justice Sanji Monageng has attended and participated in numerous conferences on various topics, among others:

- Training for magistrates and judges on the use of international human rights instruments at domestic level, Mangochi, Malawi (2008).
- Judge, African Moot Court competition, Dakar, Senegal (2008).
- Training on international human rights systems, Banjul, the Gambia (2007).
- Training of prosecutors and investigators, Banjul, the Gambia (2007).
- Conference on an overview of the Criminal Justice System, Banjul, the Gambia (2006).
- Conference for Commonwealth Magistrates and Judges, Toronto, Canada (2006).
- International Bar Association Conference, Prague, Czech Republic (2005).
- SADC Lawyers Association conference, Windhoek, Namibia (2005).
- Seminar for International Judges, Salzburg, Austria (2004).
- Conference organized by the International Bar Association, Auckland, New Zealand (2004).
- World Women Lawyers Conference, London, United Kingdom (2001).
- Upholding the Rule of Law: A Challenge to the Legal Profession, Amsterdam, Netherlands (2000).
- Conference on Sentencing Policy organized by the International Society for the Reform of Criminal law, Vancouver, Canada (1993).

### **Important lectures and presentations**

- “The African human rights system”, held at the Brandeis and Boston Universities.
- “The implications of the envisaged merger of the African Court on Human and Peoples’ Rights and the African Court of Justice”, paper delivered in Auckland, New Zealand.
- “Violence in the home (the offender, the victim and the police)”, delivered in Gaborone, Botswana.
- “Rape and sentencing in rape cases”, Mochudi, Botswana.
- “Purpose of sentencing from sociological, philosophical and human rights perspectives”, Geneva, Switzerland.
- “Human rights in the wider Commonwealth”, Bermuda.
- “The African human rights system – 20 years on”, Brazzaville, Republic of Congo.
- “Criminal law and procedure – a judge’s expectations from investigators and prosecutors”, Banjul, the Gambia.

#### **Membership of professional and other organizations**

- International Society for the Reform of Criminal Law, Vancouver, Canada.
- International Bar Association, London, United Kingdom.
- International Association of Women Judges, Washington, United States of America.
- Emang Basadi Women’s Organisation, Gaborone, Botswana.
- Women in Law and Development in Africa (WILDAF).
- Member, Media Institute of Southern Africa (Botswana Chapter), Gaborone, Botswana.
- Co-founder, Transparency International (Botswana Chapter) Gaborone, Botswana.
- Co-founder, Directors Institute of Botswana (a corporate governance institute), Gaborone, Botswana.

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