



***Opening Remarks and Welcome at the Occasion to Mark the
Handing Over of the List of Persons Elected to the National
Assembly and the Provincial Legislatures from the Independent
Electoral Commission to the Chief Justice and Secretary to
Parliament***

Chairperson of the Independent Electoral Commission, Advocate Pansy Tlakula

The Honourable Judge President of the Gauteng Division of the High Court Mr Justice Dunstan Mlambo

The Honourable Judge President Judge President of the North West Division of the High Court Madam Justice Monica Leeuw

The Honourable Judge President of the Eastern Cape Division of the High Court, Mr Justice Themba Sangoni

The Honourable Acting Judge President of the Free State Division of the High Court, Mr Justice Mojalefa Rampai

The Honourable Deputy Judge President of the Gauteng Division of the High Court, Mr Justice Phineas Mojapelo

The Honourable Deputy Judge President of the Gauteng Division of the High Court, Mr Justice Aubrey Ledwaba

The Honourable Judge of the Electoral Court, Mr Justice Stanley Moshidi

IEC Commissioners Present

IEC CEO, Mr Mosotho Moepya and the IEC Management

The Secretary General in the Office of the Chief Justice, Ms Memme Sejosengwe

The Deputy Secretary to Parliament, Ms Baby Tyawa

The Secretary to the National Assembly, Mr Masibulele Xaso

The Secretary to the NCOP, Adv Modibedi Phindela

The CEO of Constitution Hill, Ms Petal Thring

OCJ Officials

Members of the Media

Distinguished Guests, Ladies and Gentlemen, good morning.

As in all democracies, the Government of the Republic of South Africa comprises three Branches: The Executive, the Legislature and the Judiciary. The Judiciary, comprising the Judges and the Magistrates under the leadership of the Chief Justice have retirement arrangements ranging from 15 years of service, the age of sixty five years and 70 years depending on the courts in which they serve. However, the other two political Arms of the State occupy office for a period of five years whereafter they must seek a fresh mandate from the citizens of this country. And this is what brought us together this morning.

The IEC, which is an institution established in terms of Chapter Nine of our Constitution to facilitate the holding of peaceful, free, fair and credible elections, has just delivered on its constitutional mandate, admirably. Knowing that the constitutional duty to take the electoral process to its logical conclusion rests on the Chief Justice as Head of

the Judiciary, the Chairperson of the IEC and the IEC Commissioners have come to present to the Chief Justice, the list of those identified by their respective political parties as the people's representatives in Parliament and the Provincial Legislatures

As you know, I have determined and published in the Government Gazette of 2 May 2014, that the first sitting of the National Assembly will take place on Wednesday 21 May 2014 and that of the National Council of Provinces on Thursday 22 May 2014. I have who will take implored my Judicial colleagues, who will take responsibility for the provinces on my behalf, to seriously consider fixing the date for the first sitting of each of the nine Provincial Legislatures as Wednesday 21 May 2014.

None of those sittings would achieve their constitutional purpose if the IEC does not present the list that has just been presented to my Colleagues and I. Members of these legislative bodies must be 'officiated' into office. The President of the Republic and the top leadership of Parliament will be elected by Members under the

stewardship of the Chief Justice. As alluded to above, the Chief Justice has delegated his constitutional powers, in relation to the provinces, to the Judges President, and the two Gauteng Deputy Judges President to perform similar functions in relation to Members of the Provincial Legislatures, as well as the election of the Speaker and the Premier.

Additionally, without the list, it would not only be impossible to constitute the first sittings of these legislative bodies, but the impossibility extends to the constitution and swearing in and affirming into office, of Members of the Executive at both the national and provincial levels. In sum, the handing over of the list, is an essential prelude to the constitution of the two political Arms of the State after our fifth democratic elections.

Absent the list, the Chief Justice and the leadership of the Judiciary would not be able to marshal the virtual inauguration of Parliament and the Provincial Legislatures, as well as the inauguration of the President and his or her Cabinet, Premiers and their Executive

Councils. I have just handed the list to the Deputy Secretary to Parliament, Ms B Tyawa, and her colleagues because of the preparatory work that must be done for the first sitting. They must know who is on the list, enquire about their preferred language for the oath or affirmation and make travelling and accommodation arrangements for them, to mention but some of the things that must be done. More importantly, parliamentary officials at national and provincial levels will be assisting the Chief Justice, the Judges President and the two Deputy Judges President, in the oath and affirmation-related processes and with the election of the Speakers, the President and the Premiers.

The people of South Africa have resorted to a wide range of avenues or platforms to register their displeasure about the state of governance, service delivery and other matters of importance in this country. But their participation in the recent elections in their millions, underscores, the trust they have in our constitutional democracy and its institutions, to give practical expression to their aspirations, given a chance. They fully embraced the opportunity to

exercise their hard-earned fundamental right to vote, and voted for whoever their preferred.

The Judiciary, under my leadership, gladly and with a deep sense of humility assumes, as we receive this list today, the awesome responsibility to take the nation's hopes, and constitutional aspirations several steps forward, this coming week.

Yesterday, a journalist asked me a question that I had been pondering about for sometime now. He asked me what was the significance or import of administering the oath of office or a solemn affirmation, particularly to the Members of the Executive and Legislative Branches of Government. As I said, for some time now, I have been wondering whether South Africans and especially those high ranking government functionaries who are required by the Constitution not to commence their official duties, before an oath or affirmation is administered to them, have a proper appreciation of the significance of that precondition. I think the nation and especially those of our political leaders to whom the oath or solemn affirmation will be

administered need to take a deep breath, pause and connect with the real purpose for spending so much time and money and invite so many people, just so that the oath or affirmation could be administered to them. One wonders whether it is appreciated why this has to be done by the Chief Justice or a Judge for that matter.

Taking an oath or a solemn affirmation is not and could never have been intended to be merely ceremonial. An oath of office or solemn affirmation is not an inconsequential traditional ritual, a meaningless and inconvenient formality designed to at least afford high ranking officials the opportunity to pose for a photo shoot in designer clothes, with the possibility of appearing on television or in the newspapers. It is a very important pre-condition for the assumption of office particularly in the higher echelons of all three Branches of Government, including the Judiciary.

An oath or solemn affirmation prescribed by the Constitution is an appeal to the inner-most being of the taker of the oath or affirmation and it impels an awakening of even a deadened conscience, to connect

intimately and with a great sense of commitment, to the awesome responsibilities that come with the office in question. An oath or solemn affirmation is never to be taken lightly. It sets a high standard up to which these functionaries must live and by which they are to be judged.

Think about it. Judges are very busy people who have to personally do their work from the beginning to the end, and do not have the luxury of having many people assisting them in the execution of their core constitutional mandate. To have them take time off their very tight schedule to administer an oath or solemn affirmation is indicative of just how serious and important this constitutional imperative is.

The Judiciary owes its power to nothing more than its moral authority which in turn flows from its independence, efficiency and effectiveness. The Judiciary is widely regarded not only as the moral compass of the nation but, like fully functional and properly focussed faith-based organizations, it is also believed to be the conscience of

the nation. No wonder the oath of office and solemn affirmation is administered to all Members of the three Branches of Government by the Judiciary.

Taking the constitutionally prescribed oath or affirmation before a Judge by those functionaries, is an irrevocable commitment, a vow to the nation to serve them equally, well, with dignity and conscientiously in terms of the Constitution and the law. And when those who have so openly vowed, fail to do what they promised to do, it is then open to the public to approach the Judiciary and say: “that vow that was made before you, was not honoured. It was betrayed. Order them to do what they are constitutionally bound to do for us, not only as they promised when they sought our vote, but also as they vowed in your presence.” As custodians of our Constitution and by extension our constitutional democracy, the Judiciary then becomes duty-bound, to step in and force office-bearers at all levels, from a Member of the Provincial Legislature, all the way up to the President to live up to their vows, their covenant with the people.

Remember our National Anthem, which is recognized by our Constitution, says among other things : “Morena boloka sechaba sa heso, O fedise dintwa le matshwenyego”. Roughly translated it means: “God save our nation. End violence, end wars and put an end to our worries and our problems”. And I believe that with all our earnest prayers for divine intervention that our public office-bearers should be true to their oath of office or solemn affirmation, our tomorrow will be brighter.

I thank you and may God bless you all.