

THE JUDICIARY

*Justice in a time of change:
Independence, Innovation and
Co-operation* ”





The South African Judiciary in attendance at the 2025 J20 Summit

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FROM THE EDITOR

September saw the South African Judiciary under the leadership of Chief Justice Mandisa Maya, host the Judiciary 20 (J20) Summit, which brought together the Heads of the Supreme and Constitutional Courts of Group 20 (G20). South Africa will host the G20 Summit in November 2025.

The Summit provided fruitful discussions on a number of pertinent topics that have global impact, across various judicial jurisdictions. In his welcoming address Deputy Chief Justice Mlambo aptly framed this momentous occasion, highlighting the importance of the event for South Africa, and the African continent:

“Your presence here is a powerful testament to a truth we hold self-evident: that] the voice of the Global South is not a whisper from the periphery, but an essential, resonant chord in the symphony of global jurisprudence. Africa is not a subject of history; it is a dynamic architect of its future, rich with innovation, wisdom, and a relentless spirit of progress.”

In her keynote address at the Summit, Chief Justice Maya highlighted the grave purpose of the Summit in the background of the critical role the judiciary holds in society, when she articulated the following:

“This summit is for us more than a mere diplomatic courtesy. It is a historical convergence, a deliberate and necessary assembly of the judicial guardians of the free world at a time when the pillars of democracy and human dignity are under unprecedented strain and the very foundations of justice are being tested and reshaped by global change... The Judiciary has always been the sentinel of society, the neutral ground upon which the powerful are held to account and the vulnerable find their voice. We are the custodians of the social contract, ...And on our watch, the instruments of justice upon which humanity relies to maintain social order and prosperity of her nations are most ruthlessly tested by a new and alien class of challenges, challenges that are amorphous, borderless, and are evolving at a pace

DEAR COLLEAGUES,

As we enter into the warmer months of the year, we keenly look back on the events that have taken place in the South African Judiciary over the past few months.

Of note is the appointment of Justice Dunstan Mlambo to Deputy Chief Justice of the Republic of South Africa as of 1 August 2025, a hearty and warm congratulations Maphisa. As Chief Justice Mandisa Maya noted in her welcoming statement, on behalf of the South African Judiciary, “Justice Mlambo brings to this role a wealth of experience, steadfast leadership, and an unwavering dedication to constitutional values”. We look forward to the DCJ’s contribution to this role, as many can attest to his leadership in the Judiciary and its various Committees.

Concurrently, we bid farewell to Acting Deputy Chief Justice Mbuyiseli Madlanga as he retired from the Constitutional Court at the end of July 2025. He was lauded for the indelible mark he made on South Africa’s jurisprudence. Sibamba Ngazibini Rhadebe!

Supreme Court Justice Visvanathan Ponnann retired from the Supreme Court of Appeal in August 2025. President Mahube Molemela pays tribute to Justice Ponnann and his 24 years of service on the bench.

that often outstrips the deliberate cadence of the law...Our court rolls abound with disputes born in the digital realm and difficult social dysfunction and our precedents must wrestle realities which those who came before us could never have imagined..."

The Summit was truly inspiring and provided varied judicial perspectives from across the globe. In this issue of The Judiciary we have included some of the presentations from Summit.

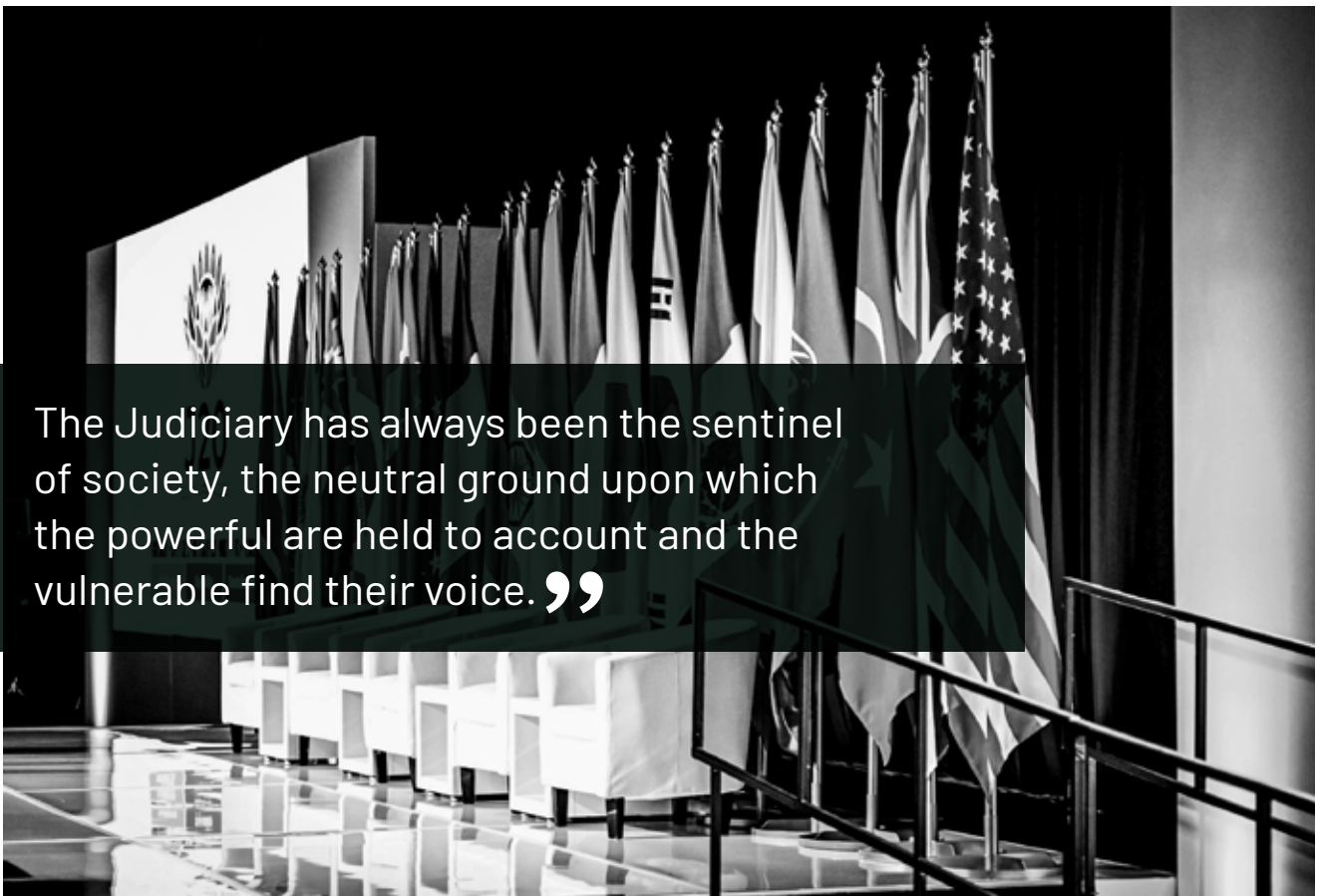
The South African Judicial Education Institute in August 2025, launched its commemorative book titled "Essays in celebration of the 10th Anniversary of SAJEI." The book features six chapters authored by South African Judges and a chapter co-authored by SAJEI CEO, Dr Gomolemo Moshoeu, and Mr Robert Wabunoha, Regional Coordinator, Environmental Governance in the UN Environment's Africa Office.

Congratulations are in order to the new leadership of the South African Chapter of the International Association of Women Judges (SAC-IAWJ), who held their annual conference in August 2025.

In this edition, we cover submissions from Judge President George Phatudi who gave a seminar on Summary Judgment procedures in the Magistrate's Court. Judge Thando Mankge gave a workshop on Constitutional Drafting at DIRCO's Diplomatic Academy, and Judge Rishi Seegobin who outlines the 'Qualities of a good Judge' in his opinion piece, to name a few.

In the coming weeks we look forward to the release of the Annual Judiciary Reports for the 2023/2025 and 2024/2025 Financial Year's in the latter part of October 2025.

Till the next edition, please enjoy the newsletter. ■



The Judiciary has always been the sentinel of society, the neutral ground upon which the powerful are held to account and the vulnerable find their voice. ”

Judge President Thoba Poyo Dlwati

Judge of the KwaZulu-Natal Division of the High Court



From 2-5 September 2025, Chief Justice Mandisa Maya, hosted the 2025 Judiciary 20 (J20) Summit in Sandton, Johannesburg. South Africa's G20 Presidency has presented opportunities where engagement groups covering a number of sectors and subject matters serve as platforms for discussion on global issues. The J20 Summit is one such event.

The J20 Summit was held under the theme: Justice in a time of change: Independence, Innovation and Co-operation, and like previous J20 Summits, tackled topics that have global relevance and impact. These included Judicial Independence and Accountability, Artificial Intelligence Innovation, Climate Change and Cybercrimes. The topics were presented by various speakers from G20 member countries, who brought different perspectives from their judicial jurisdictions.



WE HAVE THE POWER TO SHAPE THE NEXT CHAPTER OF GLOBAL JURISPRUDENCE

OPENING ADDRESS BY CHIEF JUSTICE
MANDISA MAYA AT THE 2025 J20 SUMMIT

Opening Address by Chief Justice of the Republic of South Africa Chief Justice, Mandisa Maya, at the J20 Summit held from 02 - 05 September 2025 in Sandton.

It is a special privilege to deliver this opening address at this august gathering of the Heads of the Supreme and Constitutional Courts of Group 20 (G20) members and to welcome you to the 2025 Judiciary 20 (J20) Summit. On behalf of the Judiciary of the Republic of South Africa, I convey our warm African greetings and deep appreciation for your attendance and participation in this critical dialogue.

As South Africa prepares to hand over the baton of the G20 presidency in November, after assuming the mantle she took over from Brazil in December 2024, a first for the African continent, we, the South African Judiciary, are profoundly honoured to host a gathering of this magnitude. It is, by all accounts, the inaugural J20 Summit of Constitutional and Supreme Court leaders in Africa.

We are most heartened and humbled by the presence of so many countries, colleagues who have travelled long distances from all corners of the world to support this event. We are most grateful too to our colleagues from this continent, from the uppermost tip

of Africa, Algeria all the way down to our immediate neighbour, Zimbabwe, just across our northern border. And the African Court of Human and People's Rights is part of this group. It cannot be overstated that South Africa carries the responsibility of hosting this Summit not just for herself but for the whole of Africa, her people and their hope for a just future.

This summit is for us more than a mere diplomatic courtesy. It is a historical convergence, a deliberate and necessary assembly of the judicial guardians of the free world at a time when the pillars of democracy and human dignity are under unprecedented strain and the very foundations of justice are being tested and reshaped by global change.

In the grand tapestry of human progress, there are moments that demand not just reflection, but resolution; moments that call upon the stewards of justice to step forward and affirm the enduring power of the law in an imperiled world. This is one of those moments.

The Judiciary has always been the sentinel of society, the neutral ground upon which the powerful are held to account and the vulnerable find their voice. We are the custodians of the social contract, entrusted with the sacred duty to interpret not only the letter of the law but also its spirit - the timeless pursuit of fairness, equity, and truth. And on our watch, the instruments of justice upon which humanity relies to maintain social order and prosperity of her nations are most ruthlessly tested by a new and alien class of challenges, challenges that are amorphous, borderless, and are evolving at a pace that often outstrips the deliberate cadence of the law. It is now not so unusual for our courtrooms to adjudicate cases that involve interests straddling continents. Our court rolls abound with disputes born in the digital realm and difficult social dysfunction and our precedents must wrestle realities which those who came before us could never have imagined.

This meeting is testament to an inexorable evolution in global governance and the recognition that the Judiciary is an indispensable pillar in addressing the most pressing challenges of our time. Our forum, the J20, is an integral part of the G20, and represents the third branch of state in this important forum for international economic cooperation. South Africa is quite fortunate because we build upon the visionary foundation laid by the masterfully curated Brazilian J20 presidency in 2024, which rounded up judicial leaders from around the world to deliberate on social justice, environmental sustainability, and the digital transformation of justice with seeming effortlessness. The South African delegation which attended the Rio Summit, spoke very highly of their experience there. We are therefore very pleased to have the Brazilian delegation led by Chief Justice Barroso at this event and we look forward to their contributions to the discussions. Their legacy, which is meticulously documented on their official portal, provides a valuable framework for our continued dialogue and is a powerful model for how the judiciary can contribute to the G20's mission of fostering global stability and sustainable development. It is a bonus that we can tap into that treasure trove physically in these two days.

The existence of the J20, which was pioneered in 2018 and has recently been revitalized under Brazil's leadership, signals a critical understanding: that economic policies, climate agreements, and digital frameworks and a host of other issues that drive the modern world are ultimately upheld, interpreted, and given force by the rule of law. We are the engagement group that ensures that the commitments made by nations within the G20 are anchored in legal principles and accessible justice. Through the exchange of ideas and initiatives on contemporary legal topics, we transform abstract goals into tangible rights and protections for citizens worldwide, thereby strengthening the very fabric of multilateralism. J20 Rio de Janeiro powerfully demonstrated this, moving beyond discussion to forge concrete strategies for enhancing judicial accessibility, confronting the climate crisis through litigation, and harnessing technology for efficient justice - all while steadfastly promoting citizenship and social inclusion. We hope to achieve the same results here.

The Road to the J20 Summit in Johannesburg

The journey to this summit started with a simple request to our peers who are here in flesh today for a special virtual session in July. This would become a remarkable exercise in international coordination and diplomatic ingenuity. Organizing a global gathering of judicial leaders from diverse time zones, including the United Kingdom, India, Russia, Turkey, France, Indonesia, Australia and Brazil, required meticulous planning to accommodate their busy schedules and ensure meaningful participation.

The use of technology was pivotal; video conferencing and virtual collaboration tools facilitated realtime interaction, while advanced scheduling considered temporal dispersion to minimize coordination costs. The inclusive approach to topic drafting, where each participating country contributed agenda items, fostered a sense of shared ownership and alignment with global judicial priorities. This process mirrored the principles of collaborative input and consensus-building seen in successful virtual strategic planning sessions, where advance work and stakeholder engagement are critical for productivity and focus.

The acceptance of the invitation by all these nations shows their firm commitment to strengthening judicial cooperation and addressing transnational challenges such as human rights, rule of law, and sustainable development. Each country brings unique perspectives to the table and that initial participatory topic-drafting phase not only enriched the agenda but also built trust and cohesion among the participants. The session demonstrated how virtual platforms can transcend geographical barriers to foster dialogue. It set an important precedent for future virtual judicial collaborations, highlighting the potential of technology to enhance international diplomacy in an increasingly interconnected world.

Our theme, "Justice in a Time of Change: Independence, Innovation and Co-operation", captures the essence of the current judicial epoch. We have gathered here not merely as observers of this change, but as participants entrusted with the sacred duty of ensuring that justice remains a compass, guiding societies through turbulence and transformation.

Therefore, our role extends far beyond mere deliberation. We are the architects of a legal infrastructure that supports a more resilient, inclusive, and equitable global future. The documents produced under Brazil's presidency serve as our compass, guiding us to leverage our unique constitutional mandates to implement and oversee policies that secure sustainable development and protect human dignity. As we reflect on this heritage, we must embrace our collective responsibility with courage and clarity, engage in our discussions boldly. We must strengthen our collaborations and make purposeful resolutions to ensure that the voice of the global judiciary continues to resonate powerfully within the G20 and, most importantly, in the lives of the people we serve.

This Summit will examine the evolving demands on justice systems in a time of political, technological, environmental, and legal transformation, and explore how courts can uphold independence, embrace innovation, and enhance international judicial cooperation. We will, over the next two days, confront the question of how we uphold the enduring principles of justice in a world where everything else seems to be shifting. And as we do this, we must be reminded that our independence will keep us steadfast with the assurance that the Judiciary will remain impartial and uphold the rule of law.

Judicial Independence and Accountability

I will briefly touch upon some of the broad topics that will be discussed today and tomorrow and how they have manifested and have been addressed in South Africa. I start with Judicial Independence and accountability, preserving the rule of law and reinforcing judicial security in an evolving global landscape which will be addressed in session 1 of the programme.



Our theme, “Justice in a Time of Change: Independence, Innovation and Co-operation”, captures the essence of the current judicial epoch. ”

As one of the basic structures and premises of the new constitutional text, the South African Constitution establishes a “democracy based on the supremacy of the Constitution protected by an independent Judiciary”.¹ This includes institutional independence, which can only be achieved if the Judiciary enjoys structural (including financial), operational and perceived independence.² Judicial independence is widely understood to be protected by three fundamental aspects: security of tenure, financial independence and administrative control, three characteristics which are meant to support the Judiciary as an institution, as well as the independence of individual judges from undue external influence.³

Marking a significant departure from our painful past, the advent of the constitutional dispensation in South Africa introduced a new kind of a judicial system – a judiciary that is independent from other arms of government and is accountable only to the Constitution and the law, which it must apply impartially and without fear, favour or prejudice. Judicial independence – which has two components: individual independence and institutional independence respectively referring to the ability of judicial officers to act independently and impartially and the existence of structures and guarantees to protect courts and judicial officers from interference by other branches of government – is thus of utmost importance for the courts to effectively play their crucial role and conserve an impartial judicial process.

Under the historical governance system of the South African Judiciary, the court administration of both the Superior Courts and the Magistracy was controlled by the Executive. In 2009 the then Chief Justice lobbied the Executive and began a series of ambitious reforms which were aimed at securing the full independence of South Africa’s Judiciary. In that exercise the Office of the Chief Justice⁴ was established as a national department through a presidential proclamation to provide support to the Chief Justice as the leader of the judiciary and advance the independence and effectiveness of the judiciary. However, this did not bring about an efficient, effective and accessible justice system because full independence was not achieved. The Executive still maintains control over the budget and financial management of the Judiciary, which is the heart of the power and ability to meaningfully run anything at all.

The Judiciary has limited control over key components of court administration, such as the establishment of magistrates’ courts, the appointment of magistrates and support staff, security and Information Technology with many of our court buildings, especially the magistrates’ courts which serve as courts of first contact, in poor condition due to years of underfunding and neglect. These systemic challenges adversely affect the lives of the communities we serve and ultimately impede the delivery of justice. As a result of undercapacity and an exponential surge in litigation, courts are faced with heavy backlogs which result in undue delays of cases. For someone fighting an unfair dismissal or a community trying to protect their land rights, these delays are

¹ First Certification Judgment at para 45.

² See sections 1(c), 7(2) and 165 of the Constitution. See Van Rooyen; Heath; Glenister II at paras 177-200; and Sonke at paras 40-5, 54 and 75-80.

³ Powell “Judicial Independence and the Office of the Chief Justice” (2019) Volume 9 Constitutional Court Review 497-519.

⁴ Hawker “Zondo thanks Zuma for beginning move to independent Judiciary, calls on Ramaphosa to do more “Daily Maverick” (03 December 2023), available at <https://www.dailymaverick.co.za/article/2023-12-05-zondo-thanks-zuma-for-beginning-move-to-independent-Judiciary/>

not merely frustrating, they are a denial of basic human rights.⁵ When funding is misused or delayed, our courts and the people who rely on them are left vulnerable and the constitutional promise of justice is compromised.

The consequences of these challenges are also often deadly. An example of this is the tragic killing of Dingalomoya Cintso, a witness in a murder trial, who was gunned down in broad daylight inside the Wynberg Magistrate's Court in Cape Town, in April. There are other examples. Across the country our courtrooms, entrances, and parking areas often lack a visible security presence, and where security exists, it is frequently rated as poor. In the Wynberg incident, private security guards were stationed at the entrance, but the metal detector was not working on that day. This fatality and many others that are occurring in court precincts in our country, especially in the Western Cape, with alarming frequency highlights the urgent need for meaningful improvements to our court infrastructure without which the safety of the communities, who depend on our courts, and the very judicial officers and court staff who are ironically expected to dispense justice in those conditions hangs in the balance. Administrative autonomy for the Judiciary is therefore critical to allow judges and magistrates to determine tailored safety protocols suited to court specific needs and manage infrastructure and resources with greater efficiency and effectiveness.

During a Judges and Magistrates Conference held in December 2023 themed "Towards a Single, Effective, and Fully Independent Judiciary", the South African Judiciary unequivocally called for urgent reforms in the institution, chief of which is full judicial independence. The conference closely examined whether there is sufficient protection and support for judicial independence in South Africa. Among the resolutions it adopted, the Judiciary called for a Single Judiciary encompassing all Superior Courts and Lower Courts, as well as for full control over their own administration, budget, and operational functions.

It is only on 6 of June 2025, a day which marked a watershed moment in the South African Judiciary's 15 yearlong battle for its autonomy, that the Executive, led by President Ramaphosa, met with the Judiciary to discuss the long overdue reforms toward the attainment of the independence of this neglected arm of State. That meeting highlighted the importance of cooperation among the branches of government whilst maintaining a delicate balance and ensuring that they do not overstep the relevant boundaries and encroach into each other's terrain and proved that it is possible under the principle of separation of powers for the arms of the State to support one another, as they must, to uphold the Constitution. It gives me great delight to announce that the South African Judiciary is finally on the path to full institutional independence, and that the technical teams of the Executive and the Judiciary are working feverishly to bring this constitutional imperative to reality.

The other side of the coin of course is that while the Judiciary is regarded as the guardian of the rule of law and democracy and the protection of its independence is paramount for it to fulfil its Constitutional functions and duties, judicial independence does not mean that the institution stands above scrutiny and is exempted from accountability.

The questions 'who will guard the guards themselves?'⁶ and "how the guardians should be guarded?" – are necessary in any constitutional democracy and it is essential therefore that in every judicial system, accountability mechanisms are put in place to ensure that judges remain personally and institutionally accountable for their actions and decisions in compliance with constitutional and other legal standards.

Judicial accountability in South Africa operates primarily through two mechanisms: the appeal and review process which allows higher courts to review and overturn decisions of the lower courts, and a formal judicial conduct process led by the Judicial Service Commission (JSC), established by the Constitution and involving the President, to address gross misconduct, incapacity, or gross incompetence, which may result in a judge's removal from office. Additional to these measures, the Chief Justice accounts to the public by presenting the Judiciary Annual Report on the Judiciary's performance and challenges.

The Bangalore Principles of Judicial Conduct which were developed to promote and strengthen judicial accountability in the judiciaries of the United Nations member States serve as a guide for the regulation of the South African Judiciary's conduct and the promotion of ethical behaviour within its ranks.

The judiciary has used these instruments in formulating its own Sexual Harassment Policy a few weeks ago for which there had long been a clamour and which it is hoped will help to make the judicial workspace safer.

Artificial Intelligence Innovation

Session 2 will deal with the burning subject of Artificial Intelligence (AI), the key pillar of the second phase of the Fourth Industrial Revolution which has taken over almost all aspects of human life by storm and presents unimaginable opportunities for the human race, as well as the justice system. We are cautioned to approach this transformation with a balanced perspective, one that enthusiastically acknowledges AI's profound potential to enhance efficiency, reduce crippling backlogs, and lower the cost of legal services. It has been quite exciting to discover that tools for legal research, transcription, and automated administrative functions can free our judges to focus on the core human element of adjudication.

But while the use of this tool has the potential to be a powerful ally in legal practice, recent cases have revealed how its misuse can undermine both professional ethics and the integrity of our jurisprudence. This was illustrated in the *Northbound*⁷ matter, in which the high court discovered while drafting its judgment that two cases cited in the applicant's heads of argument did not exist. When invited to explain, junior counsel initially claimed that an incorrect version of the heads had been filed, attributing the problem to "shortform citations" and filing a substituted version. However, opposing counsel pointed out that even the corrected version still contained two non-existent authorities and questioned whether some of the existing authorities were properly applied. Pressed by the Court on whether the spurious citations were the product of artificial intelligence "hallucinations," counsel conceded that they appeared to be so. He explained that severe

⁵ Id.

⁶ SABC v DA [2015] ZASCA 156 at para 1, quoting from the Roman Poet Juvenal (*Satura VI* lines 347-8) and noting Nobel Prize (Economic Sciences) Leonid Hurwicz's observations on the score. Hurwicz says –contrary to the contentions of others – that there is "nothing absurd about the present day 'guardians' ...needing, and indeed getting, a great deal of oversight." See Leonid Hurwicz "But Who Will Guard the Guardians?" Nobel Prize Lecture (8 December 2007) (available at http://www.nobelprize.org/nobel_prizes/economic-sciences/laureates/2007/hurwicz_lecture.pdf, accessed on 1 October 2015).

time pressure, the urgency of the matter, and the withdrawal of the original junior counsel had led him to use an online tool called Legal Genius, which claimed to be trained on South African judgments and legislation, but nonetheless generated fabricated references. Fabricated citations undermine the credibility of counsel and the profession, breach the ethical duty of care owed to clients and the court, and threaten the integrity of our jurisprudence by polluting written submissions with fictitious authority. While AI tools can assist with research, they are no substitute for independent legal reasoning and rigorous verification of sources. Lawyers who abdicate their professional responsibility to technology risk harming their clients and eroding the trust on which the legal system depends.

Perhaps most striking was *Mavundla v MEC Department of Co-Operative Government and Traditional Affairs*,⁸ in which the court found that only two of the nine cited cases actually existed. The judge dismissed the application with punitive costs and referred the matter to the Legal Practice Council. These cases are warning signs that the legal profession must engage proactively with the ethical, procedural, and evidentiary challenges posed by AI. Clearly, if we do not shape the future of AI in law, it will shape us and do so mercilessly. Hearteningly, as South Africa stands at the crossroads of digital transformation, the government has begun laying the groundwork for a national approach to Artificial Intelligence. On 5 April 2024, the Department of Communications and Digital Technologies published the Artificial Intelligence Planning Discussion Document (AIPDD), a foundational text that outlines the state's vision for integrating AI into public and private sectors and proposes the establishment of an AI Expert Group to work alongside government in shaping a National AI Policy, with a regulatory framework expected to unfold between 2025 and 2027. This initiative signals the intent to develop legal principles and governance instruments that ensure AI is used ethically and responsibly. In August 2024, the National Artificial Intelligence Policy Framework was introduced as the first formal step toward an AI Act. It emphasizes the need for inclusive, safe, and public-interest-driven AI applications, while also calling for investment in AI literacy, local innovation, and improved public data systems to enhance e-government services.

It will be interesting to hear how these challenges have manifested and are dealt with in other jurisdictions.

A need for judicial education and collaboration on climate change

Session 3 is concerned with the climate change justice. As we all know, Judiciaries across the world are being called upon to adjudicate complex climate cases, often balancing environmental rights with economic development, state obligations, and intergenerational justice. This requires judges to engage in further learning on environmental matters. In a recently launched collection of essays celebrating the tenth anniversary of the South African Judicial Education Institute, its Chief Executive Officer, Dr Gomolemo Moshoeu and her co-author, UN Regional Coordinator Africa Office, Mr Robert A. Wabunoha, state that:

*“the subject of environmental management is complex and has scientific, technological, economic, social and equity imperatives that require continuous provision of training to judicial officers, especially with regard to the ever-evolving environmental science. Successful implementation of the law depends on a Judiciary that is well equipped to adjudicate matters they preside over.”*⁹

Judicial education must keep pace with developments in climate change science and policy. The stakes, for ecosystems, for communities, and for future generations, could not be higher. Investing in continuous, contextually relevant judicial training is no longer optional. It is imperative.

But no court can address this challenge in isolation. Climate justice demands transnational legal dialogue, the sharing of jurisprudence, and perhaps even joint frameworks for accountability and enforcement. In Session III, our colleagues from France, Australia, Indonesia, and Mozambique will no doubt provide us with useful pointers for the increasing volume of climate-related litigation and the need for coherent judicial collaboration across borders. This session, therefore, is essential, not as a theoretical exercise, but as a space to equip our courts to act, to innovate, and to reinforce one another. As the climate crisis deepens, so must our resolve as jurists to deliver climate justice fairly, boldly, and collaboratively. The last two years have marked a turning point in the evolution of global climate jurisprudence. Three landmark advisory opinions, delivered by the world's most respected international courts, have laid a new legal foundation for climate accountability and State obligations.

On 21 May 2024, the International Tribunal for the Law of the Sea (ITLOS) issued an advisory opinion¹⁰ holding that States have binding obligations under the United Nations Convention on the Law of the Sea (UNCLOS) to prevent, reduce, and control climate change impacts on the world's oceans. This opinion was groundbreaking in recognising climate change as a marine issue and confirming that States must act to prevent transboundary harm to the oceans and the livelihoods they sustain.

Then, on 3 July 2025, the Inter-American Court of Human Rights released its advisory opinion,¹¹ which found that States have a duty to prevent foreseeable climate-related harms and declared that the prohibition against causing massive and irreversible environmental harm is a *jus cogens* norm (an international norm that cannot be set aside).

On 23 July 2025, the International Court of Justice (ICJ) delivered its long-awaited opinion¹² on the obligations of States in respect of climate change. It found that all States have a legal duty to take coordinated action to reduce emissions, and to regulate private actors' emissions. The ICJ confirmed that States that flout their climate change obligations may face legal consequences and have obligations of cessation and guarantees of non-repetition, as well as the possibility of reparations.

⁷ *Northbound Processing (Pty) Ltd v South African Diamond and Precious Metals Regulator and others* (2025) ZAGPJHC 661.

⁸ *Mavundla v MEC: Department of Co-Operative Government and Traditional Affairs KwaZulu-Natal and Others* (7940/2024P)[2025] ZAKZPHC 2; 2025 (3) SA 534 (KZP) (8 January 2025)

⁹ G Moshoeu and RA Wabunoha “Judicial Education and Environmental Law: An African Perspective” in *Essays in Celebration of the 10th Anniversary of the South African Judicial Education Institute* at 158.

¹⁰ *International Tribunal for the Law of the Sea Advisory Opinion* (21 May 2024), available at https://itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf

These three decisions mark a decisive shift in the legal landscape, and as members of the J20, we must study, engage with, and build upon these authoritative opinions, not only to strengthen our own decisions, but to forge a more coherent, global legal response to the climate emergency.

As the ICJ noted, the issues of climate change and state obligations “represent more than a legal problem: they concern an existential problem of planetary proportions that imperils all forms of life and the very health of our planet”.¹³ Let us engage on this topic with a shared sense of urgency and responsibility, recognising the vital role of judicial collaboration in upholding climate justice and safeguarding the rights of present and future generations. As the urgency of climate change compels us to act with haste, so too does the digital age.

Combating Cybercrime

The last session is concerned with combatting Cybercrime. In executing its mandate, the South African judicial system is reliant on digital infrastructure, for example the CourtOnline platform and emails for important reasons such as case management, efficient communication, and enhanced public access to legal services.¹⁴ The digitisation of court operations through the integration of digital technologies, has improved procedural efficiency and, arguably, access to courts. This transformation was notably accelerated by the COVID-19 pandemic, which necessitated the adoption of virtual hearings and other remote legal processes.¹⁵ However, this digital transformation encompasses significant risks in relation to cybersecurity, for example ransomware attacks, unauthorised access to sensitive judicial information and data breaches.¹⁶

Fortunately, South Africa has a robust legal framework governing cybersecurity and aimed at combating cybercrime.¹⁷ The Cybercrimes Act¹⁸ criminalises unlawful access, data interference, and cyber fraud, and provides law enforcement with authority to investigate and seize digital evidence, inclusive of digital evidence from judicial systems. The Cybercrimes Act is complimented by the Protection of Personal Information Act¹⁹(POPIA), which requires institutions such as courts to implement reasonable safeguards to protect personal data and notify the Information Regulator in case of any breaches. Additionally, the Electronic Communications and Transactions Act²⁰ outlines offences related to unauthorised access and data interception, reinforcing the legal framework for secure digital operations.

As an institution, the Office of the Chief Justice is responsible for the administration of superior courts and is a vital role player in overseeing the digital transformation of judicial processes. The Department of Justice and Constitutional Development also have a responsibility for broader justice sector IT systems and must ensure compliance with cybersecurity legislation. This equips the Judiciary with the necessary tools to detect, investigate and protect our institutions.

Although the shift toward digital systems have had significant advantages, it has also introduced new layers of complexity and potential security gaps that require attentive oversight. Given the inherently sensitive nature of the Judiciary’s infrastructure, it is imperative to implement robust cybersecurity strategies to safeguard the judiciaries’ electronic and cyber infrastructure from malicious threats. As the Judiciary becomes digitised, its vulnerability to cyber-attacks grows. In light of this, there is a need to ensure a high standard of cybersecurity, not only in relation to the protection of data but in preserving the integrity of the justice system and maintaining public confidence in its operations. Therefore, judicial bodies must adopt a proactive and strategic approach to mitigating risks by implementing rigorous information and data protection measures.²¹

Another common challenge is the lack of or rather limited adequate technological infrastructure within the justice systems, including the availability of computer equipment, reliable and fast internet access, and secure data storage systems. Without strong electronic and cyber infrastructure, achieving successful implementation of electronic processes can be challenging.²²

Looking Forward

The alarming growth rate of cybersecurity threats which also affect judicial institutions makes clear that there is an urgent need for a comprehensive and proactive approach to digital security and implement robust technical safeguards and organisational practices that collectively strengthen the justice system’s digital infrastructure. The measures which are recommended to secure remote connections and protect sensitive data during transmission such as Virtual Private Networks and multi-factor authentication which is touted as significantly reducing the risk of unauthorised access align with South Africa’s broader legal obligations under the Protection of Personal Information Act, the Cybercrimes Act, and the National Cybersecurity Policy Framework.

We look forward to the exchange of experiences, best practices and solutions in this area as well.

As I conclude, please allow me to extend, in advance, our gratitude to the distinguished facilitators of this Summit’s sessions. Their role – guiding our discussions with expertise, patience, and insightful direction – is the engine of our dialogue. The complex and critical topics on our agenda demand not only knowledge but also skilful leadership to navigate diverse perspectives, and we are confident that their stewardship will ensure discussions that are productive and enlightening and pave the way for meaningful outcomes.

Our appreciation extends to the esteemed panel members who have dedicated significant time and intellectual rigour to prepare for these discussions. We have no doubt that their contributions

¹¹ Inter-American Court of Human Rights Advisory Opinion AO-32/25 (29 May 2025), available at https://www.corteidh.or.cr/docs/opiniones/seriea_32_en.pdf

¹² International Court of Justice Advisory Opinion: Obligations of States in respect of Climate Change (23 July 2025), available at <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

¹³ ICJ Advisory Opinion at para 456.

¹⁴ South African Judiciary ‘CourtOnline’ available at <https://www.Judiciary.org.za/index.php/63-caselines?start=3> accessed on 10 August 2025.

¹⁵ Renato Solimar Alves et al ‘Enhancing cybersecurity in the Judiciary: Integrating additional controls into the CIS framework’ Computer and Security 2025.

¹⁶ Ibid.

¹⁷ Schoeman Law Inc ‘Understanding South African cybersecurity law in the context of the recent SAA cyber incident’ available at <https://www.polity.org.za/article/understanding-south-african-cybersecurity-law-in-the-context-of-the-recent-saa-cyber-incident-2025-07-31> accessed on 10 August 2025.

¹⁸ 19 of 2020.

¹⁹ 4 of 2013.

²⁰ 25 of 2002.

²¹ Ibid 2.

²² Ibid.

on the various topics will broaden our understanding and add substantial depth to the collective wisdom assembled here in South Africa.

We also thank every nation represented here today. The diverse perspectives from across the world will certainly enrich our discussions immeasurably and remind us that our collective strength lies in our unity and our willingness to listen, learn, and collaborate towards a common future.

The arc of the moral universe is long, but it bends toward justice only when we possess the courage to bend it. I trust that we will use this Summit to reaffirm our core vows to judicial independence as a shield against coercion; transparency as the antidote for distrust; and unwavering accountability to the people we serve.

We have the power to shape the next chapter of global jurisprudence. Let us write one that future generations will look upon with respect, gratitude and pride; a chapter defined by courage, innovation, and an unshakeable faith in the enduring power of justice. ■



“AFRICA IS NOT A SUBJECT OF HISTORY; IT IS A DYNAMIC ARCHITECT OF ITS FUTURE”

BY DEPUTY CHIEF JUSTICE DUNSTAN MLAMBO



Welcoming remarks by the Deputy Chief Justice of the Republic of South Africa, Deputy Chief Justice Dunstan Mlambo, on the occasion of the J20 Summit 03 September 2025

On behalf of the Judiciary of the Republic of South Africa, and indeed on behalf of a nation reborn through justice and the rule of law, it is my profound honour and privilege to extend a warm, heartfelt Africa welcome to you all.

We gather here today, in this vibrant corner of the African continent, not merely as representatives of our individual nations, but as guardians of a shared global covenant: the unwavering pursuit of justice under the law.

The ancient wisdom of our continent teaches us the philosophy of Ubuntu: “Umntu ngumuntu ngabantu” – “I am because we are.” My humanity is inextricably tied to yours. This summit embodies that very principle. The challenges we face—from ensuring equal access to justice, to navigating the digital frontier, to upholding the dignity of every individual—are not confined by borders. They are human challenges, and they demand collective, wisdom-driven solutions.

We are particularly honoured to welcome our distinguished guests from across the G20 nations and our special invitees, including the pivotal continental bodies of Africa.

Your presence here is a powerful testament to a truth we hold self-evident: that the voice of the Global South is not a whisper from the periphery, but an essential, resonant chord in the symphony of global jurisprudence.

Africa is not a subject of history; it is a dynamic architect of its future, rich with innovation, wisdom, and a relentless spirit of progress.

Today we gather under the guiding theme: Justice in a Time of Change: Independence, Innovation and Co operation – a vital call to action that invites us to address the evolving contexts in the Judiciary landscape, domestically and globally, while reinforcing our commitment to accessibility, fairness, forward-thinking solutions, and cooperation across borders.

Independence, innovation, and co-operation are not isolated ideals, but mutually reinforcing. By safeguarding independence, our courts remain trusted guardians of rights; by embracing innovation, we improve how we serve the public; and by fostering co-operation, we extend the reach of justice beyond our own jurisdictions.

This Summit embodies all three values. In these two days, we will have robust discussions reflecting these themes – whether it is preserving judicial independence in a changing world, balancing technological advancement with fundamental freedoms, addressing climate change through judicial collaboration, or strengthening our united front against cross-border crime. In each session, we will learn from one another and refine our common vision for the evolution of our respective judicial systems.

Distinguished colleagues, the stakes could not be higher. In every country, people rely on the courts for fairness and certainty. If independence is compromised, so too is the protection of their rights. If we lag in innovation, their access to timely justice suffers. If we fail to co-operate, injustices can spread unchecked.

Let this summit be a beacon of hope – showing the world that the guardians of justice are neither idle nor divided in the face of change, but active, united, and resolute.

This J20 Summit provides a sacred space for dialogue—a forge where we can temper the steel of our legal frameworks in the fire of shared experience. It is an opportunity to learn from one another's triumphs and tribulations, to find common ground in our diverse approaches, and to strengthen the bonds of mutual respect and cooperation that unite our judiciaries.

Our retired Constitutional Court Justice, Justice Albie Sachs once remarked, "Rights are not gifts from the state; they are claims that can be made against it." Those words capture the essence of why we are here. They remind us that courts exist not as generous benefactors, but as guardians of enforceable rights. And they press us to ensure that our innovation and cooperation, across all our jurisdictions, never lose sight of the people whose dignity depends on the strength of our courts.

Let us use this time to build those bridges. Let us speak with candour, listen with empathy, and deliberate with the wisdom our offices demand and our citizens deserve.

It is our sincerest hope that the discussions held within these halls will be rigorous, that the partnerships forged will be enduring, and that the outcomes will leave a lasting legacy – not just in law reports, but in the lives of the people we are all sworn to serve.

On behalf of the South African Judiciary, I once again thank you all for being here and formally welcome you to the J20 Summit. I am confident that our time together will strengthen our resolve and spark fresh ideas to fortify the rule of law in each of our nations. As we embark on our discussions, let us remember that the principles of independence, innovation, and cooperation are not goals in themselves, but means to better serve our citizens whose rights depend on our vigilance.

You are most welcome. You are at home.

In many ways, the ideals envisioned in this Summit, find their clearest expression in the leadership of our own Chief Justice. A true leader who stewards our Judiciary with vision, integrity, and courage. The Honourable Chief Justice Maya has long been

recognised as a pioneer – not only the first woman to ascend to the highest judicial office in our land, but also a jurist whose career has consistently expanded the horizons of justice.

From her early years on the Bench to her historic leadership of the Supreme Court of Appeal, and now as Chief Justice of the Republic, she has shown us what it means to marry independence with compassion, innovation with prudence, and cooperation with resolve. Her jurisprudence, particularly in advancing gender equality and broadening access to justice, has given life to the Constitution's promise that rights belong to all, regardless of power or position.

A Daughter of the Soil, A Guardian of Justice: An Introduction to Chief Justice Mandisa Maya

From the rolling hills of the Eastern Cape to the highest seat of justice, the journey of Chief Justice Mandisa Muriel Lindelwa Maya is a profoundly African story of brilliance, resilience, and transformative power. She is not merely a woman of firsts; she is a living testament to the promise of a new dawn, a pioneer who has woven the rich threads of her heritage into the very fabric of South Africa's judiciary.

Her path was charted with a quiet determination that speaks of Ubuntu and an unyielding intellect that has consistently shattered ceilings. Distinguishing herself from the outset, she was among the youngest women ever appointed to the Bench, a ground breaking beginning that foreshadowed her historic ascent. From this foundation, she rose like the baobab – strong, deeply rooted, and offering shelter to others. She became the first woman President of the Supreme Court of Appeal, the first female Deputy Chief Justice, and now, the inaugural woman to lead South Africa's judiciary as Chief Justice. Her career is not merely a personal triumph but a beacon for every young girl across the continent who dares to dream beyond the confines of expectation.

An Illustrious Career: Forging a Legacy of Principle and Progress

Chief Justice Maya's career is a masterclass in judicial excellence and visionary leadership. After her early appointment, she quickly distinguished herself through an incisive legal mind and an unwavering commitment to constitutional justice. Her tenure at the Supreme Court of Appeal was marked by landmark judgments that advanced fundamental principles, particularly in the crucial



areas of gender equality and access to justice for all. As President of the SCA, she revitalized the court's efficiency and fostered a spirit of collegiality, earning widespread respect for her ability to unite diverse judicial voices around a shared vision of fairness and integrity.

Her elevation to Deputy Chief Justice in 2022 cemented her reputation as a unifying force and a reformer. In this role, she championed critical institutional reforms, driving the modernization of court processes and tirelessly expanding access to justice for marginalized and rural communities. Her leadership was instrumental in steering the judiciary toward greater independence. Notably, her powerful advocacy for gender parity catalysed a significant increase in the appointment of women judges, ensuring the bench finally begins to reflect the beautiful diversity of the nation it serves.

As Chief Justice, she has embraced her role as the guardian of judicial independence with fervour and profound purpose. Her announcement of a ground breaking sexual harassment policy on behalf of the Judiciary stands as a testament to her commitment to creating an institution that is not only independent but also safe, inclusive, and dignified. Hailed as a watershed moment, this policy underscores a fundamental truth: justice cannot thrive where human dignity is compromised.

Rooted in Community, Elevated by Excellence

Born in the rural village of Tsolo in the now Province of the Eastern Cape, Chief Justice Maya's epic journey is powered by an academic arsenal that rivals her practical achievements: a B. Proc from the University of Transkei, an LLB from the University of Natal, and an LLM from Duke University in the United States. Her transformative impact has been recognized by no fewer than four honorary doctorates, each celebrating her monumental contributions to jurisprudence and gender equality.

A devoted mother and wife, Chief Justice Maya carries the spirit of Africa with her—the wisdom of the elder, the courage of the pioneer, and the heart of a nation. She has not merely climbed the legal ladder; she has dismantled its narrow confines and rebuilt it stronger, more inclusive, and more just for generations to come. Her jurisprudence continues to shape South Africa's legal landscape, balancing precedent with progressive interpretations that ensure our Constitution remains a living, breathing instrument for social change.

Through her judgments, her mentorship, and her towering leadership, Chief Justice Mandisa Maya demonstrates daily that the law is more than a tool for adjudication - it is a vehicle for healing, for empowerment, and for building a more perfect union. She is truly a lioness of justice, and her roar is the sound of progress itself. ■





ADVANCING JUDICIAL INDEPENDENCE AND ACCOUNTABILITY: PRESERVING THE RULE OF LAW AND REINFORCING JUDICIAL SECURITY IN AN EVOLVING GLOBAL LANDSCAPE

Baroness Carr of Walton-on-the-Hill
Lady Chief Justice of England and Wales

I am delighted to be here in South Africa for the J20 conference as President of the Courts in England and Wales. Lord Reed, as President of the Supreme Court of the United Kingdom, of course represents the United Kingdom's apex court. May I extend my thanks to the Chief Justice for her kind invitation and to her officials for organising such a wonderful event, when we can all come together to discuss our shared interests and new ideas for tackling our common issues. I am deeply committed to forging strong interjurisdictional relationships and understand well the value of sharing knowledge and best practice. While our various jurisdictions may differ, and we each have our own challenges to overcome, events such as this remind us of our many similarities, and our collective commitment to the rule of law, the guiding principle that ensures public confidence and trust in the justice system.

I hope to explore through my brief remarks today how preservation of the rule of law depends on the protection of judicial independence, the advancement of accountability and public understanding, and the reinforcement of judicial security. All three are needed if we wish to protect and promote the rule of law across all our nations.

Judicial independence is not simply a protective mechanism for judges. It gives the rule of law legitimacy – it is its very fabric. ”

In England and Wales, like many other jurisdictions, the executive is independent from the judiciary. Judicial independence is not simply a protective mechanism for judges. It gives the rule of law legitimacy – it is its very fabric. The judicial freedom to decide cases without fear or favour, affection or ill will – a fundamental constitutional safeguard – is of course reflected in the judicial oath taken by in those exact terms.

And yet we live in a world in which that freedom is increasingly under threat.

Judicial independence is reliant upon, amongst other things, judicial security. It is a sad sign of an evolving global landscape – a sign of change – that judicial security is now so important a subject to us that it features as a central topic for our discussions this week.

Threats to judicial security are not new but, in the two years since I took up post, I have seen firsthand the increase of threats to the serving judiciary and the escalation not only in terms of tone but also actual violence.

Let me say immediately that I am all too aware of the far more serious risks faced by judges in some of the other G20 countries, such as Argentina, Brazil and Mexico.

Nevertheless, for England and Wales, these are new developments. In 2023 we saw a serious physical attack on a senior family judge in court. Crown Court Judges received death threats in the 2024 summer riots. It has become commonplace to see inaccurate media reporting leading to dangerous individuals using social media as a platform to make threats or incite anger. Immigration judges in particular at the moment are under daily attack and security threats. Our recent Judicial Attitude Survey 2024 (with 90% response rate) shows concerns for personal safety have increased substantially since 2022. In some jurisdictions around 70% of judges have such concerns.

These security concerns have a direct impact on the advancement of the rule of law in terms of open justice and transparency. The balance between transparency and security is a delicate one. Put simply, the more open the system, the greater the risks to judicial security.

So at a time when we are looking to the future – and embracing technology and its capacity to support not only efficiency but also increased transparency, – we must also address the issues of the present, to promote a society in which legitimate debate takes place within an environment that is safe for judges and which underpins judicial independence. Threats to judges are not only a matter of personal safety. They represent an attack on the ability of the judiciary to carry out its constitutional role, and by extension, an attack on the democratic process.

With this introduction, let me turn to the interconnection between judicial independence and accountability

Maintaining judicial independence does not mean distancing the courts from the public that they serve. Public confidence depends on integrity in decision-making and understanding how and why decisions are made. Judicial independence is not protected by removing the judiciary from public view but rather by reinforcing public trust through openness and transparency.

In England and Wales, we have a publicly available 'Guide to Judicial Conduct' which sets out for all to see the rules and expectations by which we expect all judicial office holders to abide. The Guide makes clear that public confidence in the judiciary relies not only on actual independence, but also on the public perception of that independence. It must be evident that judges are impartial and that their decisions are reached without influence.

In a world where public trust in institutions cannot be taken for granted, transparency has become more important than ever. In the age of instant communication and heightened public expectation, the judiciary must meet a broader demand for accessibility, both in principle and in practice. Today, transparency is no longer confined to the open courtroom. It includes the timely publication of judgments, the responsible use of live streaming, digitisation, and the clarity with which reasons are given.

In recent years, livestreaming and filming of court hearings has been up and running in the Court of Appeal (Civil Division), there has been broadcasting of hearings in Court of Appeal (Criminal Division) and of Crown Court sentencing remarks in high profile criminal cases.

In April 2024, I created the Transparency and Open Justice Board for the judiciary in England and Wales. The Board includes representation from all levels of seniority across the judiciary and all four divisions of its work (criminal, civil, family, and tribunals). My goal in establishing the Board is for transparency and open justice to be seen not as merely a 'bolt-on' or a 'nice to have' – but rather an integral part of the delivery of justice.

The Board has been tasked to identify workstreams to promote open justice to enable the public to understand and scrutinise the administration of justice by Courts and Tribunals; and thereby seek to uphold public confidence in the administration of justice; and support improved public understanding of the constitutional role discharged by Courts and Tribunals.

Since its establishment, it has delivered significant progress.

Between December 2024 and February of this year, the Board undertook a full public engagement exercise to establish its key objectives. The overriding objective is that Courts and Tribunals should deal with cases justly, and that the principles of transparency and open justice generally require the proceedings and decisions to be open and accessible to everyone (including the public and the media).

To achieve this, the Board has identified four practical steps for every court and tribunal across England and Wales:

1. Timely and effective access to information about cases before a Court or Tribunal, including: the principal subject matter of the case; the location, date and time of the hearing; and information on any reporting restrictions imposed, the rationale for those restrictions, and clear information on how to challenge this.
2. Timely and effective access to the core documents relating to the proceedings, including: the document that identifies the principal subject matter of and issues in the case; the evidence being considered by the court; submissions from parties; and written orders, judgements or decisions relating to the case.
3. Effective access to hearings held in public, including: enabling members of the public and media representatives to attend the hearing in person; permitting, where appropriate, broadcasting of the whole or part of the hearing; and enabling transcripts to be obtained of proceedings.
4. When a hearing is not held in public, a challenge to all courts and tribunals to consider actively how the principles of open justice can best be promoted regardless, be that a redacted or summary judgment, or a limited number of individuals able to observe the hearing.

A number of new initiatives are now in place to implement these objectives. For example, making skeleton arguments and core documents in the Court of Appeal (Civil Division) publicly available. The Board is working with the Ministry of Justice to extend broadcasting to the Administrative Division of the High Court. We are looking to launch a pilot next year to provide more documents online in cases before the Business and Property Courts. None of this is without its challenges, including resource and financial implications.

Public confidence does not require agreement with every outcome, but it does depend on seeing a process that is fair, open and transparent. When the work of the courts is visible and explained clearly, judicial independence is better understood. Judicial

independence and accountability can be seen as fundamentally compatible, both essential to a justice system that is trusted, effective and rooted in the rule of law.

Returning then to the flipside to increased transparency and openness - increased risk to judicial security

When encouraging increased transparency and openness, it is, I think, important to be able to recognise openly that with it comes increased risk to judicial security. And to reassure, so far as possible, that necessary steps to protect the judges are being taken.

As already mentioned, we have seen a recent increase in media commentary, not only on judgments but also judges, particularly in the context of immigration tribunal decisions. The commentary has gone beyond reasoned criticism of decisions and becomes attacks on individual, identified judges. Such attacks, often based on a misrepresentation of the facts, reasoning or outcome of cases, provoke violent responses on social media, including threats of violence against judges and their families, door stepping and doxing. These incidents have real world impacts on the judges in question.

So, whilst I am committed to drive forward the work started on ensuring that the courts in England and Wales are as open and transparent as possible, I must also do what I can to ensure that judges are secure and able to carry out their judicial duties without fear for their own, or their families', safety.

In January of this year, I launched a Judicial Security Taskforce, focussing on identifying practical steps to safeguard the judiciary. The taskforce has commissioned the Police to conduct a GAP analysis between current procedures and an ideal model for judicial protection. The findings will then be addressed by the taskforce, where it will work with the police and other partners to see what can be put into practice to take us further toward realising that ideal.

One of the first actions taken forward by the taskforce has been launching a new online security training course, which is mandatory for all judicial office holders in our civil and family courts, in the tribunals, all magistrates, and judges in the coroner's service. This training outlines practical steps for judicial office holders to stay safe, including real-life examples of threats to security and how this can be managed.

On physical security, HM Courts and Tribunals Service – a Ministry of Justice-funded agency that supports the operational delivery of our courts and tribunals – has received significant capital investment to bring all hearing rooms in England and Wales up to minimum safety standards as an immediate priority. This includes testing and improving panic alarms in all rooms, ensuring judges have safe exit routes out of court rooms, and that there are working and effective locks on doors to prevent violent persons getting to judges once they have escaped.

I have also introduced a new cohort of security liaison judges, who are being empowered to respond proactively at a local level to security concerns raised by individual judges and work with HMCTS to ensure these practical security improvements are being made.

All of this work is essential. But we know that the best mitigation is to proactively identify and deal with risks before they arise. Social media and horizon scanning is increasingly important. Likewise, intelligence agencies and the police should work to identify

individuals who pose a threat before they are able to strike. This has funding implications, of course, but it is essential.

What does the future look like?

My vision for the future is clear: a judiciary that is secure, respected, and trusted. Not just for the sake of the judiciary, but to ensure public confidence in the justice system. While judges' safety has indeed become a matter of increasing concern, it is important that courts remain accessible and visible to the public. This is central in ensuring public confidence in the legal system.

This balance requires careful judgment. Security measures must be proportionate and designed to protect without discouraging public participation or making courtrooms feel closed or remote. When necessary, alternative arrangements, such as remote access, may be appropriate. Security measures must support, not diminish, the values that underpin a democratic and transparent system of justice.

This will take resource and time, but it is necessary. I see this as continued, and increased, investment in digital resilience – working with cybersecurity experts, partners and technology platforms, to protect judges from online abuse. We must also continue to embed wellbeing and support into our working lives – recognising that judicial resilience includes mental health, collegiality, and psychological safety.

The burden of maintaining judicial independence does not, however, fall upon judges alone. The independence of the UK's judiciaries is also a political achievement, one attained through the efforts of members of the executive and legislative branches of government to be circumspect when discussing cases before the courts and to defend judges from hostile comments and from those who would attack their motives. We must ensure that ministers uphold their constitutional duty to defend judicial independence.

We must also be clear about when and how the judiciary responds to criticism. There is strong justification for keeping the bar for judicial comment high. Judicial independence requires not only protection from outside influence but also public assurance that judges act with neutrality. That assurance is sustained by careful restraint, a clear understanding of judicial boundaries and commitment to the principles of the rule of law. So judicial responses must be rare, measured, and rooted in the need to uphold public confidence in the administration of justice, including, when necessary, the need to protect the safety of judges.

Conclusion

The challenges that we face are significant, but they are not insurmountable. The rule of law is sometimes described as fragile and there is some truth in that. It depends on trust in the fairness of institutions, in the integrity of decision-making and in the willingness of society to respect judicial decisions. That trust can be tested, particularly in times of political uncertainty, social tension or rapid global change.

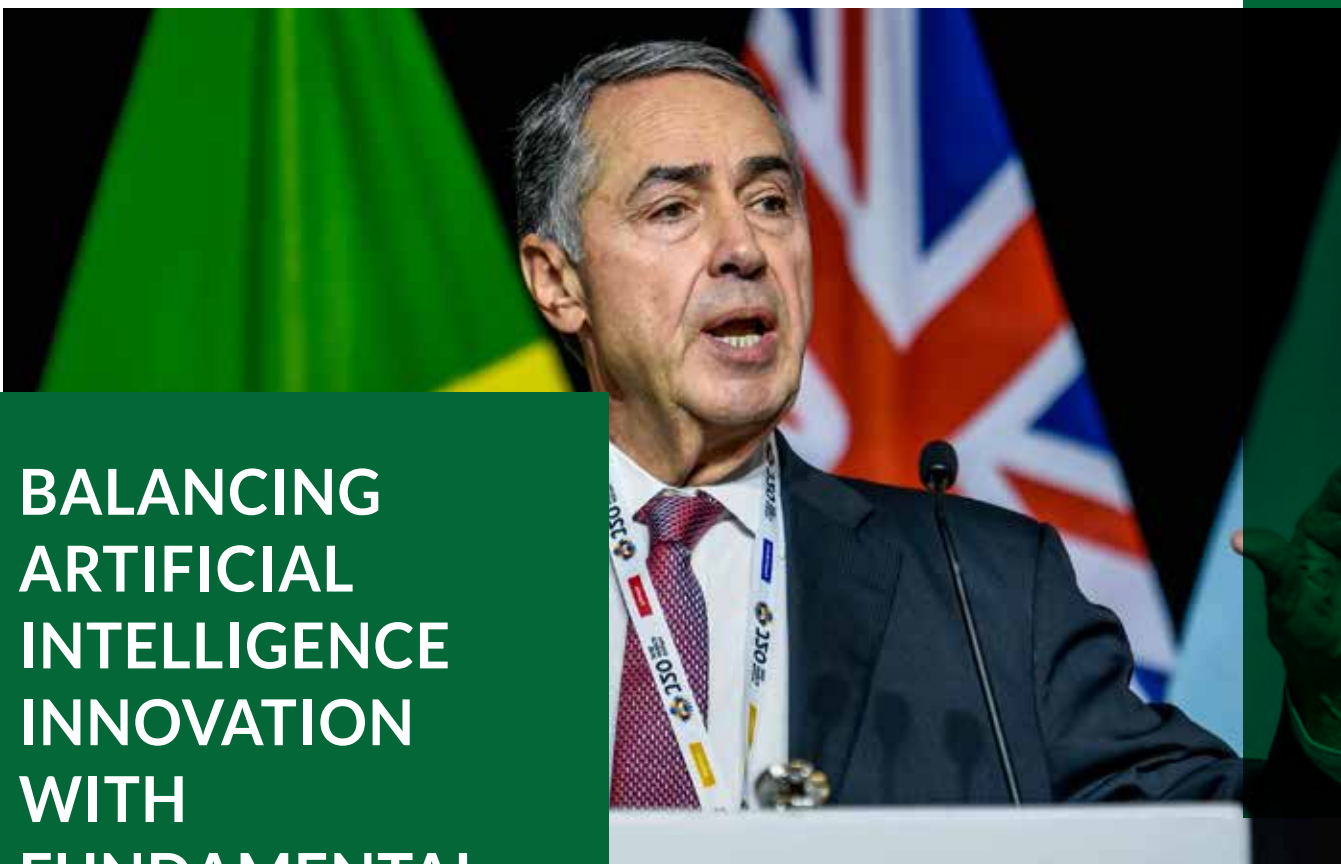
It is important to remember that judicial independence, security, and transparency are not competing priorities – they are interrelated pillars of a healthy democracy which all play their part in preserving the rule of law. We must continue to invest in safeguarding our judiciary: through physical and digital protections, and also by fostering a culture of respect, understanding, and informed public engagement.

The rule of law endures because it is upheld each day by individuals and institutions who are committed to its principles. The judiciary must remain open to scrutiny, but never vulnerable to intimidation. Our collective responsibility is to ensure that judges can carry out their duties free from fear, and that the public can trust in a system that is both fair and accessible. In responding to threats, we must reaffirm our commitment to open justice and send a clear message that no form of intimidation or violence will deter the rightful functioning of our judicial system.

By working together – across jurisdictions and borders, in opportunities such as these – we can reinforce the foundations of justice and uphold the rule of law for generations to come. ■

Public confidence does not require agreement with every outcome, but it does depend on seeing a process that is fair, open and transparent. When the work of the courts is visible and explained clearly, judicial independence is better understood.”





BALANCING ARTIFICIAL INTELLIGENCE INNOVATION WITH FUNDAMENTAL RIGHTS

Justice Luis Robert Barroso
Chief Justice of the Supreme Court of Brazil

Artificial Intelligence holds immense potential to enhance quality of life but also presents significant risks that must be proactively managed. ”

I think it's very important that we're here debating the major issues of justice, at a time when the independence and empowerment of the Judiciary has become very important for preserving the rule of law in different countries around the world.

I have divided my presentation in three parts: I. The digital revolution and the rise of AI; II. Benefits, risks and the use of AI by Courts; and III. AI and fundamental rights.

Parte I The digital revolution and the rise of Artificial Intelligence

The third industrial revolution

1. We are still under the aegis of the Third Industrial Revolution, that began in the last decades of the past century. It is defined by the shift from analog to digital technology.
2. Known as the Digital Revolution, this transformation paved

the way for the widespread adoption of personal computers, smartphones, and the internet, connecting billions of people worldwide.

3. All of us, especially those from earlier generations, have had to develop a new vocabulary. The language of our times includes a set of terms that describe tools and utilities that did not exist until very recently, yet have become indispensable to our daily lives.
4. To name a few: Google, Facebook, Instagram, TikTok, YouTube, WhatsApp, Telegram, Twitter, Waze, Spotify, Netflix, Uber, Dropbox, Skype, and FaceTime. For singles, there's also Tinder.

A brave new world and a new economy

1. Innovations and technological advancements are shaping this brave new world of information technology, biotechnology, nanotechnology, robotics¹, 3D printing²,

¹ Many sophisticated surgeries today are already performed by robots, although they are still controlled by human hands.

² With a photo of your foot, a custom-made shoe can be created.

quantum computing, autonomous vehicles, and the Internet of Things³. The concept of the algorithm is becoming one of the most important of our time.

2. Thus, a new economy emerges – the economy of knowledge, information, and intellectual property.
3. The world's most valuable companies are no longer those that extract oil – like Shell and Exxon – or manufacture cars, such as General Motors and Ford, or large equipment, like General Electric. Today, the most valuable companies include Amazon, Apple, Facebook, Microsoft, Google, and Nvidia – businesses driven by technology and data.
4. In this environment, major technology companies (the big techs – Apple, Alphabet, Meta, Microsoft) have flourished, alongside ventures focused on innovation and the development of new products and services, such as startups and fintechs (Financial Technology) like Nubank and Nomad.
5. New business models have emerged, encompassing e-commerce (Amazon, Alibaba, Magalu), video platforms (YouTube), streaming services for movies and series (Netflix, HBO, Amazon Prime), music streaming platforms (Spotify, Apple Music), cloud storage services (Dropbox, Google Drive), payment solutions (e.g., PayPal, PagSeguro), shared goods and services platforms (Uber, Airbnb), social media networks (Facebook, Instagram, TikTok), news websites (UOL, Globo.com), among many others.
6. Evidently, this New Economy brings numerous legal challenges and concerns across various areas: constitutional, tax, labor, contractual, intellectual property, criminal, civil liability, and more. Legislators, judges, and lawyers will certainly not run out of work.

III Artificial Intelligence and the fourth industrial revolution

1. We are now at the dawn of the Fourth Industrial Revolution, with Artificial Intelligence at its core. This revolution also encompasses Biotechnology⁴, Genetic Engineering⁵, the Internet of Things⁶, and the Internet of Senses⁷, among other technological advancements.
2. We will be focusing particularly on Artificial Intelligence.
3. Artificial Intelligence is comparable to some innovations and inventions that have changed the course of human history, transforming the way we live, extending life expectancy, or making life significantly better and easier.
4. A brief list of some of these groundbreaking inventions or discoveries include: fire, wheel, writing, electricity, internal combustion engine and medical advancements (antibiotics, vaccines and anesthesia).

Parte II

Artificial Intelligence: benefits and risks

I. What is artificial intelligence

Basic concepts

1. Simply defined, Artificial Intelligence consists of softwares

that transfer human capabilities to computers. These capabilities involve cognitive tasks and decision-making, usually based on the data, instructions, and goals with which they are provided.

2. It's still common wisdom that Artificial Intelligence lacks self-awareness, discernment of right or wrong, and emotions, feelings, morality, or even common sense. In other words, it is entirely dependent on human intelligence to guide it, including ethical values.
3. This idea starts to be challenged by some authors, but we are not going down this path right now.

Types of Artificial Intelligence

This general label Artificial Intelligence encompasses diverse fields of expertise and applications, including:

1. Machine learning
2. Natural language processing
3. Computer vision
4. Robotics
5. Affective computing
6. Generative Artificial Intelligence: The ability to create original content, such as images, texts, music, and art in general. It demonstrates creativity across various domains, from science to literature.
7. Its most well-known commercial version is ChatGPT, but it also includes competitors like Claude, DeepSeek, Perplexity, Copilot, Llama, Notebook and others.
8. This is the latest frontier in Artificial Intelligence, stunning the world, and is also referred to as a Large Language Model.

II. Benefits of Artificial Intelligence

1. The current applications and potential of Artificial Intelligence are so vast that organizing them is no easy task. Here are a few significant examples:
 1. Improved decision-making capacity in many areas (Google);
 2. Automation;
 3. Language;
 4. Research and innovation;
 5. Applications in medicine;
 6. Applications in the justice system;
 7. Education and culture;
 8. Other useful applications of AI; a) Practical everyday uses (Uber, Waze, Google Maps); b) Protection of the environment; c) Personalization of business and other relationships.

III. Risks of Artificial Intelligence

1. However, new technologies have a darker side that must be acknowledged and addressed. Digital platforms, driven by an unrestrained quest for engagement, have facilitated extreme polarization, disinformation, hate speech, and the spread of conspiracy theories.
2. The following is an illustrative list of problems and risks associated with AI and its potential exponential growth:
 - Impact on the labor market;
 - 2. Use of AI for war purposes;
 - 3. Mass disinformation;
 - 4. Violation of privacy;
 - 5. Algorithmic discrimination;
 - 6. Intellectual property and copyright issues;

³ You'll walk into your home, and the air conditioner will ask if the temperature feels right.

⁴ Biotechnology (Biotech), as the name suggests, is a combination of biology and technology, utilizing living organisms, cells, and plants to develop products such as synthetic insulin, synthetic hormones, biofuels, and many others. Beyond healthcare, it has significant applications in agriculture and various industries.

⁵ Genetic Engineering is a branch of Biotechnology that involves manipulating DNA and RNA, the structures that determine the hereditary traits of living organisms, for various purposes. These range from therapeutic cloning to human cloning, which is prohibited in most countries. Additionally, concerns are raised about the risks of its use for eugenic purposes.

⁶ The Internet of Things (IoT) is a network connecting objects to the internet for data transmission and reception. It enables the creation of smart homes, where lights turn on when the resident arrives, air conditioning adjusts the temperature, and pantries notify about missing products. It also powers smart cars, which suggest the best routes and warn of road hazards, and smart cities, providing traffic flow updates, security camera monitoring, and efficient waste collection systems.

⁷ The Internet of Senses enables online sensory experiences by integrating the five human senses: sight, sound, touch, taste, and smell. Some practical applications include: in medicine, allowing doctors to examine patients by virtually "feeling" them; in e-commerce, enabling consumers to "touch" fabrics online to sense their texture; in virtual tourism, experiencing the scent of a location; and even tasting food virtually.

7. Risks to reasoning and critical thinking in individuals; 8. Singularity (loss of control by humans).

Parte III

The need for regulation of AI, its applications in the Justice system and concerns with fundamental rights

I. The need for regulation of AI

Considering everything discussed so far, it is evident that regulating Artificial Intelligence has become essential. However, this task is not straightforward and involves significant challenges and complexities. Below, we aim to outline some of these challenges.

1. **Regulation must be implemented while the train is in motion.** Appeals from scientists for a pause for the establishment of “a set of shared safety protocols” were unsuccessful. There is a major competition among nations, researchers, and entrepreneurs over advancements in this field and nobody wants to pause.
2. **The pace of these transformations is astonishing.** This makes it extremely challenging to foresee what lies ahead and to incorporate new realities into legal frameworks, which risk becoming obsolete in a short time. Illustrating this point is not difficult. The traditional landline took 75 years to reach 100 million users. The mobile phone took 16 years. The Internet took 7 years. Meanwhile, ChatGPT reached 100 million users in just two months⁸. It is clear that legislation and regulation struggle to keep pace with the rapid rate of innovation.
3. **Risks of excessive regulation.** While regulation has become essential, as mentioned earlier, it also brings its own risks. One key concern is that restrictions and civil liability should not be so severe as to stifle innovation.
4. **Information and power asymmetry between companies and regulators.** AI technology is largely controlled by the companies developing it, which possess expertise that exceeds that of potential regulators.
5. **The need for global harmonization of regulation.** AI is a predominantly private technology that transcends national borders. This involves the challenges of enforcing fundamental rights against private companies as well as of extraterritoriality.

I. Applications of AI in the justice system

Different uses of Artificial Intelligence by courts

1. AI brings the prospect of profound transformations in legal practice and the delivery of judicial services, including:
 - a) Precedent research: In a context where precedents are becoming increasingly significant, even in civil law countries, AI proves immensely valuable for efficient jurisprudence research.
 - b) Draft preparation: The ability for AI to draft legal documents for lawyers, opinions for the Public Prosecution Office, and decisions for judges, based on researched and generated templates, will simplify workflows and shorten processing times. Evidently, all such work will remain under strict human supervision, as the responsibility ultimately lies with these

professionals.

- c) Court tools: In courts, AI programs that group cases by subject and summarize voluminous case files help optimize the time and effort of judges.
- d) Process and procedure automation: In Brazil, nearly all legal processes are now electronic. The automation of procedures – such as summons and asset searches – as well as the automatic enforcement of decisions, greatly simplifies operations (e.g., decisions granting social security benefits are automatically entered into the NISS [National Institute of Social Security] system).
- e) Online dispute resolution: An important frontier in the Judiciary is the online resolution of disputes, with the potential to make justice more agile and efficient. In Brazil, across various courts, there are over a hundred projects utilizing AI to enhance judicial services.

2. Risks in judicial application.

1. All those uses raise a controversial and particularly intriguing issue: the use of AI in drafting judicial decisions. Concerns abound, and not without justification, regarding risks such as bias, discrimination, lack of transparency, and explainability. Equally troubling is the potential absence of social sensitivity, empathy, and compassion in such processes.
2. It is essential to recognize that human judges are equally prone to risks such as bias, discrimination, and undue influence. This highlights another perspective: the possibility that AI could be better equipped to deliver impartial decisions, less influenced by personal interests, political pressures, or intimidation.
3. This potential advantage is particularly significant in less developed countries, where judicial independence may be limited, and corruption more prevalent⁹. Nonetheless, at the current stage of societal and technological development, human oversight by a judge remains indispensable. To ensure accountability, judges might face a heightened duty to justify their decisions in cases where they deviate from outcomes proposed by AI.

3. Concerns regarding fundamental

1. In conclusion, I mention concerns regarding the use of Artificial Intelligence, on the one hand, and the protection of fundamental rights, defense of democracy and good governance, on the other.

(i) Fundamental rights under risk

a) Privacy and data protection. The use of AI must respect the personal data of individuals and legal entities, and it should not use such data without consent. Invasive surveillance, such as facial recognition, biometrics, and location tracking, should be employed in a restricted and controlled manner. Given the vast amounts of data used to train AI, appropriate security mechanisms must be in place to prevent data breaches.

- **b) Right to equality and non-discrimination.** The equality of all individuals, in its formal, material, and recognition dimensions, is one of the core pillars of contemporary civilization. As previously discussed, the risks of algorithmic discrimination have been raised.

⁸ The Feed. ChatGPT witnesses massive rise, chatbot gains 100 million users in two months. *Economic Times*, 5 mar. 2023. Available at: <https://economictimes.indiatimes.com/news/new-updates/chatgpt-witnesses-massive-rise-chatbot-gains-100-million-users-in-two-months/articleshow/98428443.cms?from=mdr>. Accessed on March 31, 2024.

⁹ On the issue, refer to ARIEL GUSTAVO. Are artificial intelligence courts a discrimination risk? *European AI alliance*, Aug 31, 2021. Available at: <https://futurium.ec.europa.eu/en/european-ai-alliance/open-discussion/are-artificial-intelligence-courts-discrimination-risk>. Accessed on April 3, 2024.

- AI regulation must prevent individuals from being unjustly treated based on suspect categories that amplify vulnerabilities, such as gender, race, sexual orientation, religion, age, and other characteristics. There are concerning precedents in this area.¹⁰
- **(Poliafetivas)**
- **c) Freedoms (individual autonomy, cognitive freedom and freedom of expression).** In terms of individual autonomy, the use of neuroscience and targeted advertising (microtargeting) has the potential to manipulate behavior and decision-making by exploiting emotions such as fear, prejudice, euphoria, and other cognitive biases. This can lead individuals to make choices - such as purchasing goods, hiring services, or adopting behaviors - that go against their best interests, thereby violating their cognitive freedom or mental self-determination. Additionally, the right to information and freedom of expression can be compromised by recommendation or moderation algorithms that filter, direct, and exclude content, effectively acting as private censorship.

(ii) Protecting democracy

- **a) Combating disinformation.** Democracy is a system of collective self-governance that depends on the informed and thoughtful participation of citizens. The spread of disinformation and conspiracy theories misleads people or fosters unfounded fears, undermining their ability to make sound decisions. As previously highlighted, this issue is worsened by deepfakes, which create fake videos and speech that appear convincingly real. We are all conditioned to trust what we see and hear. Such manipulations are inherently destructive to democracy¹¹.
- **b) Fighting hate speech.** Since the establishment of universal suffrage, democracy has been founded on the equal participation of all individuals. Hate speech includes attacks on vulnerable groups, such as racist, discriminatory, or ableist rhetoric targeting Black people, LGBTQ+ individuals, people with disabilities, Indigenous people, and others. By aiming to discredit, weaken, or silence certain social groups, hate speech undermines the core values of democracy.
- **c) Combating attacks on democratic institutions.** Social media, supported by AI, has been instrumental in orchestrating attacks on democratic institutions, with the goal of destabilizing them. Insurrectionary acts, such as those on January 6, 2021, in the United States, and January 8, 2023, in Brazil, involving coup attempts to undermine election results, pose a serious threat to democracy and must not be tolerated.

(iii) Promoting good governance

In light of the international, regional, and domestic recommendations and normative acts mentioned earlier, as well as the ongoing public debate in academia, civil society, and the media, several overlapping consensuses regarding AI governance

can be identified, outlined in the five guidelines presented below:

1. **Focus on the common good.** AI should be developed with a focus on the well-being of individuals, countries, and the planet. Its benefits must be distributed fairly among all, and its negative impacts should be mitigated through legislation and regulation;
2. **Plural governance.** AI governance should incorporate, at various stages and with appropriate proportionality, the participation of a diverse range of stakeholders, including public authorities, scientists and researchers, civil society, academia, businesses, and human rights organizations. The diversity of perspectives and the balancing of values and interests are crucial for the legitimacy of decisions and the development of appropriate regulations;
3. **Transparency and explainability.** Transparency refers to providing users with a basic understanding of how the system operates and informing them when they are interacting with an AI system. Explainability involves making the reasons behind decisions intelligible, enabling users to question and, if necessary, challenge the outcomes. In this context, there is an increasing call for the recognition of a new human right: the right to an explanation¹².
4. **Security.** AI systems must be internally secure to prevent errors that lead to undesirable outcomes, while also being protected against external attacks. Security in AI usage involves impact assessments, ensuring data quality, implementing robust cybersecurity measures, and mapping the processes and decisions that make up the AI lifecycle (traceability).
5. **Control and accountability.** Human oversight and control are essential to ensure that AI operates within the boundaries of legality, ethics, and justice. Despite the relative autonomy of its decision-making processes, responsibility always lies with a natural or legal person. In cases of misuse or malicious activity, one or both will be subject to civil, administrative, and criminal liability.

Conclusion

1. The Technological or Digital Revolution has drastically transformed our lives, reshaping the course of history. Among its many advancements are the Internet, digital platforms, and Artificial Intelligence.
2. Artificial Intelligence holds immense potential to enhance quality of life but also presents significant risks that must be proactively managed. While regulation is essential, it must strike a balance to avoid stifling research and innovation. This transformative technology has the power to profoundly redefine the role and meaning of the human condition.
3. Artificial Intelligence can be extremely useful for the Judiciary. As a general rule, however, human oversight and the judge's ultimate responsibility for decisions cannot be dispensed with. Amid all the advancements and transformations, the core existential values that should guide a meaningful life remain unchanged and must be preserved: goodness, justice, the pursuit of truth, and human dignity. ■

¹⁰ Jeffrey Dastin, Amazon Scraps Secret AI Recruiting Tool That Showed Bias Against Women, REUTERS, Oct. 10, 2018, <https://www.reuters.com/article/us-amazon-com-jobs-automation-insight-idUSKCN1MK08G/>; Jeff Larson et al., How We Analyzed the COMPAS Recidivism Algorithm, PROPUBLICA, May 23, 2016, <https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm>; Ziad Obermeyer et al., Dissecting Racial Bias in an Algorithm Used to Manage the Health of Populations, SCIENCE, Oct. 25, 2019, <https://www.science.org/doi/full/10.1126/science.aax2342>; Will Douglas Heaven, Predictive Policing is Still Racist—Whatever Data it Uses, MIT TECHNOLOGY REVIEW, Feb. 5, 2021, <https://www.technologyreview.com/2021/02/05/1017560/predictive-policing-racist-algorithmic-bias-data-crime-predpol>.

¹¹ Harari advocates for a ban.

¹² Yuval Noah Harari, Nexus, 2024, p. 331.



CLIMATE CHANGE JUSTICE THROUGH JUDICIAL COLLABORATION: AN INDONESIAN PERSPECTIVE¹

Judge Arsul Sani
Justice of the Constitutional Court of the Republic of Indonesia

Courts play a pivotal role in resolving disputes, including those involving environmental issues. ”

One of the most pressing environmental issues attracting global attention is climate change. In general terms, climate change refers to long-term alterations in global climate patterns, particularly temperature, precipitation, and other weather conditions on earth. The primary drivers of climate change today originate from human activities, particularly greenhouse gas emissions caused by the burning of fossil fuels, industrial activities, transportation, and electricity generation; deforestation that reduces the earth's capacity to absorb carbon; and intensive agricultural and livestock practices that produce methane and nitrous oxide.

The impacts of climate change include global temperature rise (global warming), the melting of polar ice and rising sea levels, shifts in extreme weather patterns such as floods, droughts, storms, and heatwaves, food and water crises resulting from ecosystem changes, as well as threats to human health (disease outbreaks, heat stress, and pollution).

Accordingly, the Intergovernmental Panel on Climate Change (IPCC) 2023 Report concluded that the impacts of climate change are inevitable. Therefore, simultaneous and profound mitigation and adaptation efforts, both in the present and in the future, are no longer optional but imperative. Furthermore, the IPCC Sixth Assessment Report (2023) underscored that climate change is closely associated with inequalities, between nations, regions, genders, and age groups. The poor, vulnerable, and marginalized are expected to suffer disproportionately compared to wealthier groups with better economic conditions and access to resources.

This paper seeks to explore how courts may respond to environmental challenges, particularly climate change, including the potential for collaboration among judicial institutions. It begins with an overview of the concept of climate change in Indonesia, followed by the notion of climate justice, the judicial role that illustrated through landmark decisions from Indonesia, and finally, avenues for judicial collaboration at both regional and global levels.

¹ Paper presented at the 2025 Summit of Chief Justices and Presidents of Constitutional and Supreme Courts of G20 Countries (J20 Summit) in Johannesburg, South Africa from 2 to 5 September 2025.

Climate change in Indonesia

Indonesia has experienced the direct effects of climate change. Global warming manifests in the increasing trends of temperature and relative humidity in the country. Climate change is also reflected in rainfall variability and the growing frequency of extreme weather and climate events. As the world's largest archipelagic state, Indonesia faces significant threats from rising sea levels, with hundreds of islands at risk of submersion in the coming decades. Coastal communities have already been forced to relocate due to inundation, raising concerns of an increase in so-called "climate refugees."

The Indonesian Constitution provides explicit recognition of environmental protection as a constitutional guarantee for the sustainability of the nation's natural environment. This is enshrined in Article 28H paragraph (1) and Article 33 paragraph (4) of the Constitution, which respectively affirm:

Article 28H(1): "Every person shall have the right to live in physical and spiritual prosperity, to reside, and to have a good and healthy environment and to receive health care."

Article 33(4): "The national economy shall be organized on the basis of economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity."

To operationalize these constitutional guarantees, Indonesia has enacted several statutes and regulations, including:

1. Law No. 16 of 2016 ratifying the Paris Agreement;
2. Law No. 32 of 2009 on Environmental Protection and Management, as partially amended by Law No. 6 of 2023 on the Job Creation Law;
3. Law No. 6 of 1994 ratifying the UN Framework Convention on Climate Change;
4. Government Regulation No. 22 of 2021 on Environmental Protection and Management; and
5. Presidential Regulation No. 33 of 2005 ratifying the Beijing Amendment to the Montreal Protocol.

While these frameworks are significant, climate change is not a problem Indonesia can solve in isolation. It requires global cooperation and collective responsibility.

Climate Justice

In addressing both the causes and consequences of climate change, the concept of climate justice has emerged to integrate considerations of fairness and rights. According to the IPCC, climate justice adopts a rights-based approach, emphasizing equitable sharing of the burdens and benefits of climate action, while safeguarding the rights of vulnerable communities.

The roots of climate justice can be traced to the 1992 UNFCCC. It introduced the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC). This principle acknowledges the disproportionate responsibilities and benefits arising from climate change, given the historical emissions of developed nations compared to developing ones.

Climate justice will not be achieved both globally and domestically, when the burdens and benefits of mitigation and adaptation are distributed unfairly, and when vulnerable groups within states bear disproportionate impacts. In this context, four principles underpin climate justice, namely: Recognition Justice which acknowledging the disproportionate impacts of climate change

on vulnerable groups; Procedural Justice which ensuring inclusive participation, especially of vulnerable stakeholders, in climate decision-making; Distributive Justice which ensuring fair allocation of burdens and benefits across individuals, nations, and generations; and Restorative Justice which addressing harm suffered by individuals, communities, and ecosystems.

At the global level, at least three particularly urgent issues demand attention: Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC); (2) Loss and Damage; and (3) Fixed Maritime Boundaries (FMB). These challenges highlight the essential role of cross-border judicial collaboration in advancing climate justice.

The role of Courts

Courts play a pivotal role in resolving disputes, including those involving environmental issues. Judicial decisions not only ensure justice but also uphold legal certainty and serve broader societal benefits. To adjudicate environmental disputes effectively, judges must be equipped with deep knowledge of environmental principles and sustainable development.

Since climate change transcends national boundaries, courts should also consider comparative jurisprudence from foreign jurisdictions. Even when not binding, foreign case law can offer valuable perspectives for judges in shaping domestic rulings.

In Indonesia, the Constitutional Court frequently draws on comparative judicial practices to enrich its reasoning. Through judicial review, the Court has annulled or interpreted statutes inconsistent with the constitutional right to a healthy environment, thus reinforcing sustainability principles, human rights, and alignment of government policies with environmental protection.

Important decisions

Although not always directly on climate change, several Constitutional Court decisions illustrate a consistent commitment to environmental protection and sustainable development

1. Decision No. 002/PUU-I/2003 (21 December 2004): affirmed that natural resource exploitation must preserve the environment, with the State exercising regulatory, administrative, managerial, and supervisory functions;
2. Decisions No. 058-059-060-063/PUU-II/2004 and No. 008/PUU-III/2005 (13 July 2005): underscored the State's duty to respect, protect, and fulfill human rights, including the intergenerational right to water resources.
3. Decision No. 013/PUU-III/2005 (13 September 2005): emphasized State control over natural resources to ensure sustainable development, with shared responsibility among State, society, and corporations.
4. Decision No. 3/PUU-VIII/2010 (16 June 2011): recognized coastal and small island resources as part of State-controlled assets for the greatest benefit of the people across generations.
5. Decision No. 85/PUU-XI/2013 (18 February 2015): annulled the Water Resources Law (Law No. 7/2004), ruling that water utilization for foreign interests is impermissible unless domestic needs are fully met.
6. Decision No. 35/PUU-XXI/2023 (21 March 2024): provided a constitutional interpretation of Article 33(4), mandating a strong sustainability approach in national development.

These cases demonstrate the Court's role in embedding environmental sustainability into constitutional interpretation.

Judicial collaboration

Indonesia's Constitutional Court serves as the Permanent Secretariat for Planning and Coordination of the Association of Asian Constitutional Courts and Equivalent Institutions (AACC), a forum of 21 member states facilitating dialogue and experience-sharing among judges.

Similar associations exist in other regions, such as: Conference of Constitutional Jurisdictions of Africa (CCJA), Ibero-American Conference of Constitutional Justice (CIJC), Conference of European Constitutional Courts (CECC), and Association of Francophone Constitutional Courts (ACCPUF).

Climate change justice can be integrated into the agendas of these associations. Judges may exchange landmark rulings for comparative insights, engage in training programs, and conduct dialogues on transboundary issues to identify mutually beneficial solutions.

At the regional level, cooperation is already evident, for instance, in the MoU between AACC (Asia) and CCJA (Africa). At the global level, the forthcoming 6th Congress of the World Conference

on Constitutional Justice (WCCJ), to be held in Madrid on 28-30 October 2025 under the theme "Human Rights of Future Generations," provides another opportunity to integrate climate change justice into judicial discourse.

Conclusion

Climate change is not a local issue but a global crisis whose consequences extend beyond current generations to future ones. Addressing it requires not only national action but also cross-border judicial collaboration.

While governments have long spearheaded international cooperation, it is time for judiciaries to play a more active role. Courts can safeguard the implementation of international climate commitments, ensure proportional contributions from states, and strengthen the voice of climate justice.

Judicial collaboration is therefore indispensable. The Judiciary 20 (J20 Summit) in Johannesburg may serve as a historic milestone for fostering global judicial cooperation in advancing climate change justice for the benefit of present and future generations. ■



Climate change is not a local issue but a global crisis whose consequences extend beyond current generations to future ones. Addressing it requires not only national action but also cross-border judicial collaboration. ”



COMBATING CYBERCRIME: STRENGTHENING CROSS-BORDER JUDICIAL COOPERATION

—
Judge Aleksandr Konovalov
Judge of the Constitutional Court of the Russian Federation

Digital technologies and processes are accompanying legal contracts and transactions, and completely new approaches and instruments have entered legal reality. ”

Let me start by expressing gratitude for the possibility to speak before this esteemed forum. I am also glad to wish you a fruitful and open discussion and all the best on behalf of the Chairman of the Constitutional Court of the Russian Federation Mr. Valery Zorkin.

The topic of cybercrime, just as other topics discussed at today's summit, is undoubtedly relevant. All the issues discussed today are affecting every state to a certain extent, and they are generally cross-border, thus calling for cooperation between different countries, including judicial cooperation. It is all the more valuable that today we are engaged in these professional discussions free of political or ideological shackles.

For the Russian Federation, the many statements of the growing danger of crimes committed with the use of information technologies or in the sphere of computer information have a

rather specific statistical dimension. In 2024, the damage from cybercrime in Russia has amounted to some 200 billion roubles (roughly 2.5 billion US dollars). According to the Ministry of the Interior of Russia, from January to June 2025 there were more than 370 thousand IT crimes registered, and only around 105 thousand of them were solved. The majority of these crimes are theft and fraud (43.1 and 185.4 thousands respectively, in total - 228.6 thousands). These are followed by the crimes in unlawful drug-dealing (63.5 thousands). There were 38.5 thousand crimes registered related to computer information, such as illegal access to such information or creation of harmful computer programs.

Thus, most crimes in the IT-sector are "old" crimes committed in the new digital medium. And yet, this new medium creates a whole range of practical difficulties for the fight against these crimes - in their detection, qualification, proving criminals' guilt, ensuring their bringing to court and restoring the rights of the victims of such crimes.

Probably the most significant difficulties presented by the new cyber-reality to crime-fighting are the widest spread of criminal activity locations around the world, the dispersion of

places where crimes are committed, interim transactions are performed, harmful results are effected, criminals, witnesses and victims are located; the many sophisticated and ever-changing facilities to cover crimes and true identities of criminals. Crime readily and actively seizes the lack of any authorities' control over major segments of the global Internet network, as well as difference in approaches of various jurisdictions to regulating the digital medium, and lack of coordination of the law-enforcement authorities placed on different sides of state borders.

At one of the traditional lectures during the annual St Petersburg International Legal Forum (SPILF) which many of you had the opportunity to visit the Chairman of the Constitutional Court of the Russian Federation Valery Zorkin has defined the primary risk of modern civilisation of law before the upcoming digital future as "confusion of man and society due to the changing ways of communication".

Indeed, the swift technical progress creates obstacles for timely passing of laws. The possibilities of judicial interpretation for expanding existing normative framework are often limited, and not always effective. Therefore, the fight against the newest manifestations of cybercrime may sometimes appear fragmented: adoption of many different normative acts, development of judicial and law-enforcement practice, inevitably slow update of international regulations. Often the authorities' reaction can be delayed and insufficient, or redundant, certain problems may be viewed out of context and cause imbalance in legal regulation. Therefore it seems that one should start with ensuring full, comprehensive and relevant monitoring and analysis of the modern cybercrime, and with forming on this basis a systemic approach to crime detection, destruction and prevention in all the necessary and required aspects of this work, combining all the types of juridical instruments, economic and humanitarian impact factors.

Combatting cybercrime requires multifaceted approach: from educating citizens in basic cybersecurity to modernisation of specialised training of law-enforcement bodies, introducing additional requirements to banks, training forensic IT-experts and specialised judicial bodies. Each component of this work has its final goal as ensuring protection of rights of citizens and society from the threat of abuse of new technologies.

The tried and tested, most traditional and possibly still the most effective way of combatting dangerous harmful activities is criminal prevention. The criminal mechanism of fighting cybercrime falls within the purview of the legislator. Presently the Criminal Code of the Russian Federation, firstly, foresees as aggravating circumstance the intentional commission of any crime with its public demonstration in the media or information and telecommunication networks. Secondly, in some cases the use of Internet as means to commit a crime or facilitate its commission or as a medium for public demonstration of a crime is foreseen as a special qualifying feature of a crime. Both factors increase responsibility and severity of punishment. Thirdly, using Internet or computer networks can also be a part of objective aspect of another crime, for example in certain types of fraud (fraud with the use of electronic payment devices, or fraud in the sphere of computer information). Finally, chapter 28 of the Criminal Code of the Russian Federation lists special crimes in the sphere of computer information, such as illegal access to computer information, creation of harmful software etc.

Some provisions of criminal law were explained by the Supreme and the Constitutional courts of the Russian Federation.

The Ruling of the Plenum of the Supreme Court of the Russian Federation of 30 November 2017 "On the Court Practice in the Cases of Fraud, Misappropriation and Embezzlement" explained particularities of qualification of stealing when it is committed through using of an owner's credentials and connecting to mobile banking systems or Internet payment services. Comprehensive explanations based on analysis of court practice are also provided in the Ruling of the Plenum of the Supreme Court of 15 December 2022 "On Certain Issues of Court Practice in Criminal Cases on Crimes in the Sphere of Computer Information and other Crimes Committed with the Use of Electronic or Information and Communication Networks Including the Internet Network". In particular the Supreme Court has developed an approach to establishing the place of commission of a crime with the use of Internet. Since the network access can be gained via different computer devices including mobile ones, the place of commission of a crime shall be determined by the place where a person has committed actions included in the objective aspect of a crime.

According to the position of the Supreme Court of Russia, in qualification of crimes committed on the Internet one has to establish that a person has performed the relevant actions knowingly, having understood the content and social danger of the relevant actions including the nature of distributed, advertised or demonstrated information and the access of a wide range of persons thereto.

The Supreme Court has explained in detail the qualification of crimes connected to creation and dissemination of pornography, including that involving minors.

The territorial jurisdiction over cybercrimes was also subject of consideration of the Constitutional Court. In its Decision of 28 September 2021 the Constitutional Court has indicated that the rules of criminal procedure do not allow for discretion in determining territorial court jurisdiction and are subject to application in connection with criminal legislation provisions determining all the elements of crime including its objective aspect.

The Constitutional Court has also considered particularities of responsibility for continuing crimes in cyber sphere, taking into account the temporal scope of criminal law. By its Decision of 24 December 2024 the Constitutional Court has refused to accept for further consideration the complaint of a citizen who was convicted for public call to terrorist actions with the use of Internet. The Court has concluded that aggravation of criminal law that has occurred during the period of commission of a crime was fully applicable to the criminal who was able to take this aggravation into account but continued the violation of a criminal prohibition in full, as per objective aspect of the crime.

The Court has also noted that a more severe responsibility for prohibited public statements with the use of Internet is conditioned by the increased availability of the disseminated information to users, even where this information is posted to limited segments of the web, and therefore it presents an increased public danger. The legal norms prohibiting the Internet publication of items containing public calls to terrorist activities or public justification of terrorism are therefore neither disproportionate nor discriminative.

Also, in its Decision of 29 November 2024 the Constitutional Court has proceeded from the understanding that there is a direct intention of a person who displays pornographic materials on the Internet to make those accessible to unlimited number of persons.

The court practice and legislation are called to respond as timely as possible to new forms of cybercrime and new elements of criminal schemes. As noted before, the wide opportunities to anonymising criminals create serious obstacles for criminal prosecution.

Some time ago, the phenomenon of “dropping” has spread in Russia; the criminals use bank cards of third persons to receive money they have stolen from citizens, or to create several stages of its transfer. Often the “droppers” who are accomplices of a crime are the adolescents who act for insignificant reward, a share of stolen money. The organizers of fraud themselves might remain outside Russian jurisdiction.

In this connection the legislator has introduced separate criminal liability for acquiring an electronic payment device (a bank card) for a third person, for handing such a card over to a third person, for conducting illegal operations with the use of such payment device against a payment etc.

The new norms have entered into force on 5 July 2025, and they were not yet subject to Constitutional Court assessment, but at the outset it can be noted that such solutions activate the potential of general criminal prevention: the establishment of criminal liability along with informing society must lead citizens, first of all the adolescents, to strong belief that such actions are unacceptable.

On 1 April 2025 the Federal Law was adopted “On Creation of State Information System of Countering Violations Committed with the Use of Information and Communication Technologies”. The law foresees several mechanisms to protect users of communications from fraud, including the possibility for a user to refuse to receive mass messages or calls, to create a database for swift information exchange etc.

On 14 August 2025 the Government of the Russian Federation has adopted the plan of activities on realisation of the Concept of State System Countering Illegal Acts Committed with the Use of Information and Communication Technologies. This plan of activities is obligatory for executive authorities rather than courts, but it illustrates the comprehensive nature of the State efforts on combating cybercrimes, and probably will be taken into account by courts in their work.

In those legal systems where apart from criminal prevention there is so-called administrative prevention (including Russia), the latter is also, as we believe, capable of punishing, preventing and achieving prophylactics of illegal activities in digital sphere.

Administrative norms may be more flexible and casuistic than criminal ones, enabling the authorities to react less severely to less dangerous offences, and stopping illegal and socially dangerous activities early, thus allowing the offenders to make up their minds and stop prohibited activity. Also, in Russia where only natural persons are criminally liable, the administrative jurisdiction provides for prosecuting legal persons, ensuring punishment through large fines, disqualifications and prohibition of certain activities.

Where the victims of cybercrimes (largely those in the form of stealing) resort to private law measures, particularly to civil claims, we can speak of claiming damages, demanding return of property from illegal ownership, recovery of unjust enrichment or of court recognition as invalid or null and void contracts concluded under the effect of fraud or cheating, or when a person did not properly understand the consequences of their actions. The latter is all

the more relevant for contracts in banking, where obtaining loans (credits) in the name of another person after fraudulently gaining access to personal information became rather widespread.

In the Decision of 13 October 2022 and a number of other decisions the Constitutional Court of the Russian Federation has underlined that in examining such claims special attention must be given to the good faith and due care of banks. In particular, the circumstances demanding increased circumspection of banks include obtaining of a loan with immediate instructions to the bank to transfer the loaned money to third persons. The position of the Constitutional Court has been taken into account by further practice and instructional rulings of the Supreme Court.

The highest courts are of the opinion that conclusion of a private loan with the use of information and telecommunication services must ensure safety of remote provision of banking services and observing the legally established guarantees of the rights of citizens, including the right to informed choice of financial products. The bank, being a stronger party to a contract, infinitely more capable of countering cybercrime than a consumer, must deploy reasonable and adequate measures to properly identify the contract party and be assured that the latter acts lawfully, reasonably and in his own name.

The practice of highest courts has motivated the legislator to undertake concrete measures aimed to protect the interests of financial services consumers: in September, some provisions that foresee a “cool-down period” in handing out bank loans will come into force. Depending on the loan amount, the loaned money will be available after 4 or 48 hours from the conclusion of the contract. During this period a person with whom a loan is concluded will be able to detect fraudulent activity and take necessary measures to protect his rights. There is also a banking organisation obligation to ensure the identity of a person concluding the loan contract foreseen, as well as the creation of a database for instant information exchange regarding simultaneous or short-timed attempts to obtain loans in different organisations.

As it was already said, the special feature of cybercrime is its most wide geographical spread, and readiness to make use of any discrepancy between approaches of national jurisdictions. This demands consideration of the issue of a more serious and effective international cooperation than the one deployed against “general” crime. Here, there is no place for outdated approaches, bureaucratic delays or incorrectly understood political interests. As the well-known concept puts it, crime has no nationality, and given the new capabilities that criminals have gained with their access to borderless world and new technologies, it is our common interest to counteract in a coordinated and effective manner. On our planet, there may be no “quiet harbours” or “grey zones” for criminals where they could easily hide, blend in, legalise and use the criminal gains. Figuratively speaking, they must have the earth burning under their feet; they must feel constant threat of prosecution and imminent perspective of being captured by justice and put before court; and the illegal actives’ transfer to other jurisdictions must become pointless because of synchronised state approach to countering their deployment and legalisation. Increased level of cooperation between financial and banking systems is relevant to prevent criminal withdrawal of money (today it is done as part of partners’ relations and business practices); between police and special services – to disclose, expose and destroy criminal schemes and criminal groups; among courts – to ensure extradition, effective criminal prosecution and return of stolen assets.

At that, we must not become similar to criminals in the methods of our fight. However important are the goals and aims of criminal prosecution or recovery of illegally gained assets, the national jurisdictions must not resort to kidnappings, fabrication and falsification of evidence, torture or psychological pressure in order to obtain confession of guilt or a plea bargain, or to applying one's legislation outside its jurisdiction.

Apart from trivial types of criminal activity in new forms and with new capabilities offered by digital medium, there is also an especially dangerous part of cybercrime that must draw most serious concerns and most active counteraction on the part of authorities. It involves truly professional IT-specialists and significant financing, and its final beneficiaries are most likely the most serious influence groups. Mass DoS-attacks and collapse of websites of state authorities, large monopolies, transport and energy companies aimed at disrupting critically important processes up to blockage of vital service systems, to pose obstacles for normal functioning of whole societies; creation of terrorist and extremist networks, systems of recruitment of terrorists and organisation of terrorist attacks, provocation of mass disorders and attempts of state revolts; terrorist attacks and attacks on infrastructure objects: all this today is done with active involvement of digital medium. A special type of illegal activity either creating a background and conditions for other crimes, or aimed to their covering and evading responsibility is the falsification of court evidence, which fabrication in fact may become industrialised, performed with the newest digital technologies and costly equipment or mass dissemination of fake news. In recent years Russia encounters all these "time stamps", and we are not alone in this.

As is the case with general criminality, countering evil in this segment calls for systemic analysis, which must be full and verified, without any political engagement, and concern the understanding of present and prospective threats, the aims, possibilities and motives of culprits, the available resources to counter these schemes, and the most effective ways of their deployment.

Most importantly, we must have common understanding and common acknowledgment of the fact that this segment of illegal activities, such ways of achieving of personal political, ideological, but ultimately selfish goals go hand in hand with the most serious risks of normal existence, for lives and health of millions of innocent people. Those who can sacrifice others' interests and even lives are actively using newest technologies, join forces, and have no burdens in the form of moral or ethical principles. Unlike them, we have law and rule of law at the heart of all our actions, but we must not lose in terms of efficiency. On the contrary, we must surpass international crime both in the means of fighting and in the results of their deployment. However strong, united, armed and dangerous may be the international criminal networks, the states with their powerful enforcement mechanisms and what is more important – with their humanistic goals will be stronger by definition. Everyone needs to understand that fighting for one's goals with such methods will create no winners, everyone will lose. This is why it is so important to take a sober, balanced, strict and consistent approach with regard to joining forces in fighting cybercrime, and to take specific steps to this end.

Fortunately, international regulations and international cooperation in the sphere of fighting cybercrime has seen some progress lately. International regulatory framework that envisages interstate communication is developing.

Apart from the well-known law enforcement cooperation machinery through Interpol, new options of cooperation are being developed. In September 2018 in Dushanbe (Tajikistan) the Agreement was signed on cooperation of states-participants to the Commonwealth of Independent States in the Fight against Crimes in the Sphere of Information Technologies; during 2020–2022 this Agreement has entered into force for Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.

This Agreement recognises as criminally punishable such actions as unauthorized access to information, creation of harmful software, theft of property by way of changing the information in computer systems, as well as dissemination of pornography or extremist materials, and the call for terrorist activities. Cooperation under this Agreement is done mainly through specially defined competent authorities by way of exchange of information sending and fulfilling requests for assistance.

On 24 December 2024 the UN General Assembly after five years of preparations has adopted the UN Convention against Cybercrime; on Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes.

The Russian Federation was among the initiators of the UN General Assembly Resolution to develop this Convention, and it was our country that has prepared and submitted its draft.

The Convention must become the first universal international treaty, as opposed to regional Budapest Convention of the Council of Europe, to be substantially devoted to a set of measures to fight cybercrime in its different manifestations, as well as to relevant state cooperation.

The Convention provides for criminalising a number of acts committed with the use of computer networks: from hacker attacks to using technical means for deception of citizens with the aim to steal their money assets, or non-consensual dissemination of intimate images.

In its procedural part, the Convention envisages most wide legal assistance between states, including the assistance in judicial procedures in respect of crimes listed in the Convention. Such assistance is foreseen not only for information exchange (e.g.



for obtaining testimony or statements, or service of judicial documents), but also for investigation-related activities – for example, collecting traffic data in real time, or tracing proceeds of crime. Since such measures as interception of messages or traffic result in rather significant interference with the right to respect of private life, the Convention establishes the principle of proportional interference, and also indicates that state parties shall ensure deploying of cooperation procedures subject to conditions and safeguards provided for under its domestic law, including judicial review, the right to an effective remedy etc.

The signing ceremony of the Convention is planned to be held in Viet Nam on 25-26 October 2025, and it will enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. Registration of participants to the Convention signature ceremony is open until 15 September 2025.

It is our belief that the Convention creates a strong foundation for balanced and effective cooperation of law-enforcement authorities in the sphere of fighting cybercrime, and will become an adequate answer to this modern threat to the benefit of security of states and citizens' rights.

Honourable colleagues!

Just 30 years ago many things that we presently consider mundane reality would seem outright fantastic. The world surrounding us is full of new technologies simplifying our actions, communications, and decision-making process. Digital environment itself became independent reality, and the notions of «off-line» and «on-line» are practically equal. Digital technologies and processes are accompanying legal contracts and transactions, and completely

new approaches and instruments have entered legal reality. Sometimes, this new reality may look truly frightening: there can be a feeling that traditional law that we became used to seeing and trusting, is incapable and has no chance of catching up with this reality, and to deal with the mass of avalanching problems. I think that despite objective complexity of the situation we must not succumb to panic and pessimism. As said before, new technologies are only serving and facilitating motives and interests that are well known since ancient times. However the contract is concluded, be it through a rite of mancipation, or block chain and cloud technology, its essence and parties interests remain the same: remuneration-based acquiring or disposal of property subject to agreed type and quality thereof. Behind all the unique and perfect technologies there are features well-known to us: search for happiness and aversion from suffering, charity and selfishness, good and evil, truth and lie. However difficult and diverse, even frighteningly diverse is the world, we still have at our disposal the truths and principles tested by centuries of human civilization, which are enshrined in our constitutions and basic laws, in the systems of our life values that are greatly corresponding to everlasting features of human nature and patterns of social relations, and ensure our universal goals and our best future. If our legal systems in cooperation remain loyal to these principles, I am sure that they will overcome all challenges and threats. ■

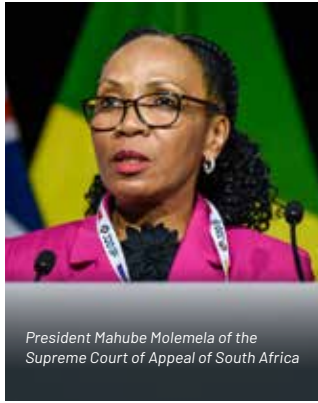




Chief Justice Mandisa Maya, Chief Justice of the Republic of South Africa



Deputy Chief Justice Dunstan Mlambo, Deputy Chief Justice of the Republic of South Africa



President Mahube Molemela of the Supreme Court of Appeal of South Africa



Lady Chief Justice, The Right Honourable the Baroness Carr of Walton-on-the-Hill



Justice Kadir Özkaya, President of the Constitutional Court of Turkey



Judge Venkataraman Viswanathan, of the Supreme Court of India



His Lordship, the Chief Justice of Zimbabwe, Hon. Luke Malaba



Judge Steven Chong of the Supreme Court of Singapore



The Chief Justice of the Supreme Court of Brazil, Justice Luis Robert Barroso



UNESCO's Director of the Division for Digital Transformation and Secretary of the Information for all Programme (IFAP), Mr Guilherme Canela



Judge of the Constitutional Court of Algeria, Judge Abbas Ammar



Judge Jayne Jagot of the High Court of Australia



Judge Jacques Martin Mézard of the Constitutional Court of France



Judge Arsul Sani of the Constitutional Court of Indonesia



Justice Gyeongpil Noh of the Supreme Court of Korea



Judge Aleksandr Kononov of the Constitutional Court of the Russian Federation



Hon. Mr. Justice Brian Murray, Judge of the Supreme Court of Ireland



Justice Dumisa B Ntsebeza, Judge of the African Court on Human and Peoples Rights



Justice in a Time of Change: Independence, Innovation and Co-operation”



L-R: Judge N P Mali, Judge of the Gauteng Division of the High Court; Acting Judge President A P Ledwaba of the Gauteng Division of the High Court; Chief Justice Mandisa Maya; and Acting Deputy Judge President T P Mudau of the Gauteng Division of the High Court.

CHIEF JUSTICE MAYA CONDUCTS AN OVERSIGHT VISIT TO THE GAUTENG HIGH COURT, JOHANNESBURG

The Chief Justice of the Republic of South Africa, Chief Justice Mandisa Maya, conducted an oversight visit to the Gauteng Division of the High Court, Johannesburg, on 12 September 2025. During the visit, the Chief Justice met with the Acting Judge President of the Division, A P Ledwaba; Acting Deputy Judge President T P Mudau; as well as senior officials of the Office of the Chief Justice (OCJ) from its National Office and the Gauteng Division of the High Court.



Chief Justice Mandisa Maya, together with Acting Judge President A P Ledwaba of the Gauteng Division of the High Court, conducting a walkabout of the Court.



Chief Justice Mandisa Maya with Mrs R Bramdaw, Court Manager; Ms S Malatji, Director: Court Operations; and Court Online officials.

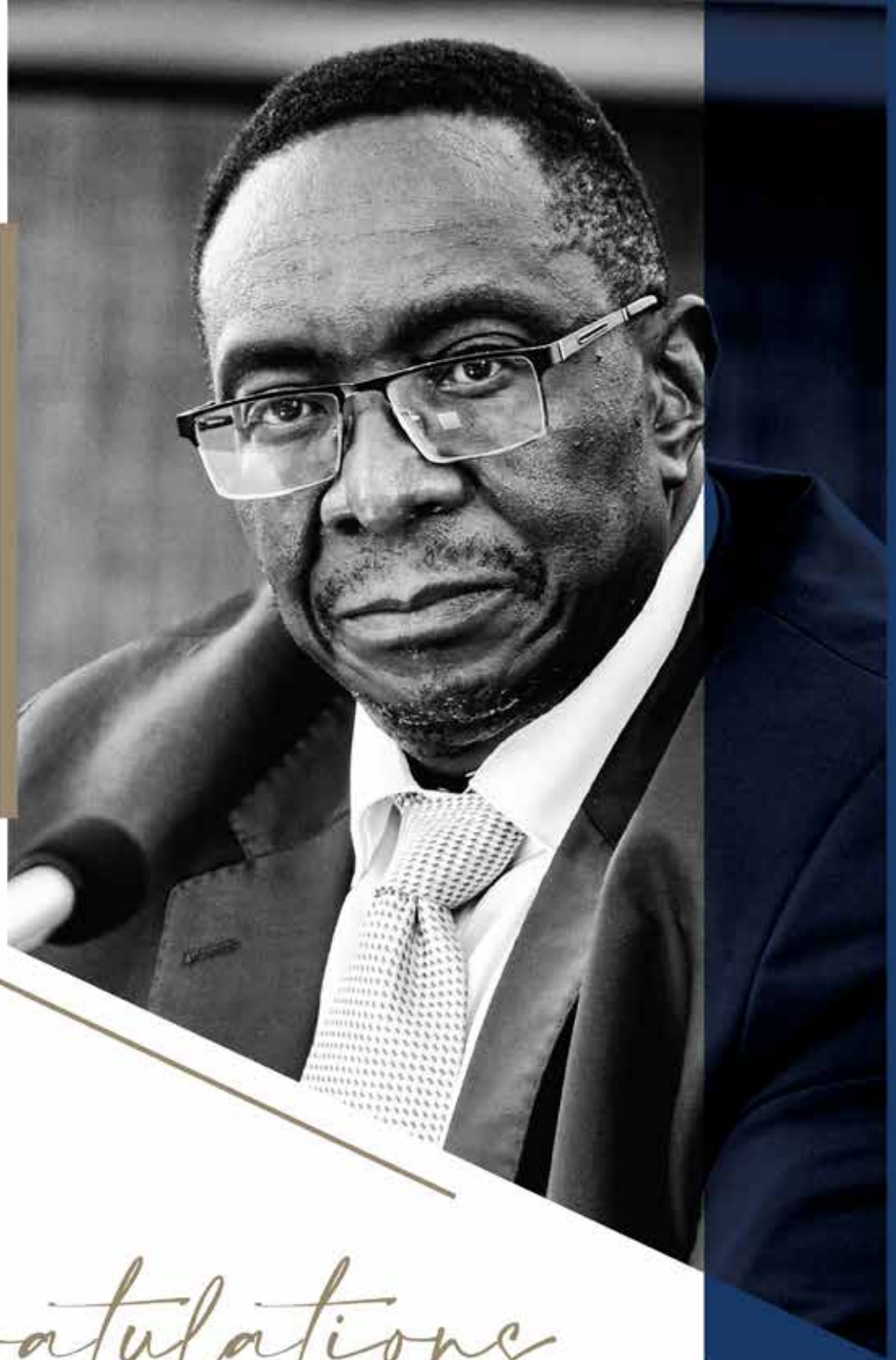


The walkabout reached the Library section of the Court, where the Chief Justice was briefed on the work done by officials.



Chief Justice Mandisa Maya





Congratulations

**DEPUTY CHIEF JUSTICE
D MLAMBO**

on assuming the office of Deputy Chief Justice of the Republic of South Africa

As of 01 August 2025



ACTING DEPUTY CHIEF JUSTICE MADLANGA HANGS UP HIS ROBES AFTER 17 YEARS ON THE BENCH

Acting Deputy Chief Justice Mbuyiseli Madlanga hung up his robes at the end of July 2025, marking the end of a judicial career that has spanned seventeen years on the Bench. ”

Justice Madlanga was born and raised at the rural village of Njijini, 16 kilometres outside the small town of Mount Frere, Eastern Cape Province. He is married to Mrs Nosisi Madlanga (born Nkenkana). He matriculated at Mariazell High School, Matatiele, and obtained his BJuris degree at the University of Transkei (Unitra). In 1981, whilst studying towards the BJuris degree, he was awarded the Juta Prize for being the best law student. He enrolled for the LLB degree at Rhodes University. In his final year he was appointed tutor, tasked with tutoring first year law students.

After graduating, he lectured part-time in the Law Faculty of Unitra whilst working for the Department of Justice towards fulfilling his contractual obligations under a government bursary that had funded his LLB studies. He later lectured full-time at Unitra for two years. He furthered his studies and completed his LLM degree in Human Rights and Constitutional Law, cum laude, at the University of Notre Dame in the United States of America. He interned at the Washington DC office of Amnesty International. On his return to South Africa, he completed pupillage at the Johannesburg Bar, after which he practised at the Mthatha Bar.

In 1996, at the age of 34 he was appointed as a Judge of the Mthatha High Court, becoming South Africa's youngest Judge at the time. Within only three years of this appointment, he was

appointed Acting Judge of Appeal at the Supreme Court of Appeal in Bloemfontein. He was then appointed, this time on a permanent basis, as a Judge of Appeal in the Competition Appeal Court. He continued acting on the Supreme Court of Appeal Bench because the Competition Appeal Court was new and was yet to commence functioning. His acting appointment at the Supreme Court of Appeal, which was for a year, was cut short as he was then appointed to act as the Judge President of the Eastern Cape Division of the High Court. Whilst holding that position, he received yet another appointment in 2000 as an Acting Justice of the Constitutional Court of South Africa. Personal circumstances forced him to resign from the Judiciary in 2001.

He returned to the Bar as senior counsel, practising in Mthatha and Johannesburg. His practice took off immediately and he appeared in virtually all the Divisions of the High Court, the Supreme Court of Appeal and Constitutional Court. Notably, he received a brief to represent the Republic of South Africa at the International Court of Justice at The Hague (Den Haag) in the Netherlands. This was in the case of the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory".

Another assignment of note that he received was his appointment by Mr Trevor Manuel, the then Minister of Finance, as the Chairperson (which, in terms of the applicable legislation, was

an executive position) of the Exchange Control Amnesty Unit in 2003. This Unit did not only grant amnesty to people who had contravened Exchange Control Regulations (Regulations) in expatriating their assets, it also facilitated the disclosure of assets worth R68,6 billion, 70% of which had been taken out of the country in contravention of the Regulations. The process also raised R2,9 billion in levies. The disclosure of offshore assets resulted in an estimated R1.4 billion increase in the tax base. This is what the then Deputy Minister of Finance, Mr Jabu Moleketi, said about the Unit on completion of its task in 2008:

"I would like to take this opportunity to thank the Amnesty Unit for their sterling work. When the unit was initially announced, we did not anticipate the huge task that they would be faced with, both in the number of applications received and the associated logistics. It is through the exceptional efforts and meticulous approach of our Unit that other countries now seek to use our amnesty as an international benchmark. I wish to specifically thank the chairperson, Advocate Mbuyiseli Madlanga, who has led the Amnesty Unit impeccably and with great enthusiasm."

In 2003 he was appointed by the President of the Republic as a member of the Competition Tribunal for five years, which was renewed for another five years. He served in the Tribunal for nine years, being its Deputy Chairperson during the last three years. As a nominee of the Advocates for Transformation component of the General Council of the Bar, the President of the Republic appointed him as a member of the Judicial Service Commission, a position he held between 2010 and 2012.

Yet another assignment worth particular mention was Justice Madlanga's appointment as the Chief Evidence Leader of the Marikana Commission of Enquiry in 2012. This Commission of Enquiry was appointed to enquire into the killings of 34 striking mine workers and 10 other people in Marikana, near Rustenburg, North West Province in August 2012. In that capacity he was lead counsel in a team of seven advocates, three of whom (including him) were senior counsel. He left the Commission just before 2013.

He was then appointed as a Justice of the Constitutional Court of South Africa with effect from 1 August 2013.

Justice Madlanga has written several important judgments, including:

- Helen Suzman Foundation v Judicial Service Commission 2018 (4) SA 1 (CC), holding that the record of the JSC's deliberations should be disclosed in a review application;
- Gaertner v Minister of Finance 2014 (1) SA 442 (CC), declaring provisions of the Customs and Excise Act, which allowed for searches to be conducted without a warrant, unconstitutional;
- DE v RH 2015 (5) SA 83 (CC), abolishing claims for damages for adultery in South African law;
- Daniels v Scribante and Another 2017 (4) SA 341 (CC), declaring that a farm manager has an obligation to allow a farmworker to make basic improvements to a dwelling protected by the Extension of Security of Tenure Act 62 of 1997;
- Paulsen and Another v Slip Knot Investments 777 (Pty) Limited [2015] ZACC 5, this being the leading case that charted the path on the Constitutional Court's general jurisdiction;
- New Nation Movement NPC v President of the Republic of South Africa 2020 (6) SA 257 (CC), declaring as unconstitutional provisions of the Electoral Act which required that adult citizens be elected to the National Assembly and provincial legislatures only through their membership of political parties;
- Corruption Watch NPC v President of the Republic of South

Africa; Nxasana v Corruption Watch NPC 2018 (2) SACR 442 (CC), declaring unconstitutional and setting aside a settlement agreement in terms of which a National Director of Public Prosecutions (NDPP) left office and declaring that sections 12(4) and 12(6) of the National Prosecuting Act 32 of 1998 empowering the President to extend the term of office of the Director of National Public Prosecutions (NDPP) and to suspend the NDPP with or without pay for an indefinite period undermine the independence of the office of the NDPP and are constitutionally invalid;

- AmaBhungane Centre for Investigative Journalism NPC v Minister of Justice and Correctional Services [2021] ZACC 3; declaring the Act on interception of communications (RICA) unconstitutional for failing to, inter alia, recognise that interceptions of communications infringe the privacy of individuals and, therefore, to provide for safeguards that minimise such infringement;
- Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd [2022] ZACC 44, holding that Eskom's termination of electricity supply to a municipality with the result that residents were exposed to a variety of distressing conditions, including the likelihood of drinking or using water contaminated with faecal matter, prima facie infringed the residents' rights to life, dignity, access to water and an environment that is harmful to health or well being and that this entitled the residents to an interdict pending a PAJA review; and
- Bwanya v Master of the High Court, Cape Town [2021] ZACC 51, holding that the exclusion of partners, including opposite sex partners, in permanent life partnerships in which they had undertaken reciprocal duties of support from enjoying benefits under the Intestate Succession Act and the Maintenance of Surviving Spouses Act is unconstitutional and invalid.

At the invitation of the Law School of his alma mater, the University of Notre Dame, he held the prestigious Clynnes Chair as a visiting professor. This Chair is reserved for distinguished US and international legal scholars and amongst those who have held it are US Supreme Court Justices. In that capacity he offered a two-credit three-week course from 4 April 2016. The Walter Sisulu University awarded him a Doctor of Laws (LLD) degree (honoris causa) at the graduation ceremony of 13 May 2016.

In 2018, he was a Visiting Professor at Walter Sisulu University and the University of Fort Hare. In recognition of his distinguished judicial career and significant contribution to developing South Africa's jurisprudence, Rhodes University honoured Justice Madlanga with an honorary degree, Doctor of Laws (LLD) (honoris causa), at its 2023 graduation ceremonies on 30 March 2023.

On 31 March 2017 Justice Madlanga was appointed as the inaugural Editor-in-Chief of the South African Judicial Education Journal, a journal that was launched in April 2018 and published under the auspices of the South African Judicial Education Institute, a statutory body with the mandate of providing continuing education to the Judiciary. That journal is now accredited. He has been a member of the editorial board of the South African Law Journal.

Justice Madlanga has published the following legal articles:

- "African Languages for Non-African Practitioners" – Consultus (October 1993), in which he called for improved training for court interpreters and that it become a requirement that advocates be trained in at least one African language spoken in the geographic area in which they practise.
- "The Human Rights Duties of Companies and Other Private Actors in South Africa" (2018) 29(3) Stellenbosch Law Review

359, a lecture arguing for the application of non-obvious rights in the Bill of Rights, including socio-economic rights.

- "Judging According to Personal tributes, Outlook on Life and Life Experience: Any Practical Value?" (2018) 1 South African Judicial Education Journal 48. In this article, Justice Madlanga, accepting that judges cannot divest themselves of their unique personal attributes and experiences, argued that a diverse Judiciary, encompassing a diversity of experiences, will contribute towards the achievement of just outcomes in litigation.
- "Procurement, Corruption and their Relevance to, and impact on, Human Rights" (2019) 48(2) Public Contract Law Journal, in which he argued that the Preferential Procurement Policy Framework Act and its regulations were not sufficient to meet the obligation imposed by section 217(3) of the Constitution.
- "A Feminist Perspective to Judgment Writing" (2020) 3 South African Judicial Education Journal 41. In this article, Justice Madlanga gave a brief synopsis of basic tenets of identity politics relating to sexism, misogyny, and patriarchy. He called for judges to 'ask the woman question' when hearing matters which affect women; for careful use of language to avoid entrenching sexist stereotypes; and for penning dissenting or concurring judgments, where necessary, to address an issue of discrimination against women which is inadequately dealt with in the main judgment.

Between 2017 and 2020, Justice Madlanga served as a member of the Advisory Boards of De Jure, South African Law Journal and Yearbook of South African Law.

Justice Madlanga takes retirement as he is given yet another assignment by the President of the Republic to chair a Commission of Inquiry into allegations regarding law enforcement agencies, which will investigate allegations relating to the infiltration of law enforcement, intelligence and associated institutions within the criminal justice system by criminal syndicates.

It seems retirement, in the true sense, eludes Justice Madlanga for now. Nonetheless, the South African Judiciary takes this opportunity to wish Acting Deputy Chief Justice Madlanga, a truly outstanding jurist and formidable lawyer, well as he takes leave from active judicial service. We salute him for an exceptional career and (continuing) selfless service to the nation! ■

CONSTITUTIONAL COURT, BRAAMFONTEIN



A ceremonial court sitting was held on 31 July 2025 in honour of Acting Deputy Chief Justice M Madlanga on the occasion of his retirement from the Constitutional Court.



Chief Justice Mandisa Maya, Chief Justice of the Republic of South Africa



Acting Deputy Chief Justice Mbuyiseli Madlanga, Acting Deputy Chief Justice of the Republic of South Africa



Minister of Justice and Constitutional Development, Ms M T Kubayi, MP



National Director of Public Prosecutions, Advocate S Batohi



Adv Muzi Sikhakhane SC, for Pan African Bar Association of South Africa (PABASA)



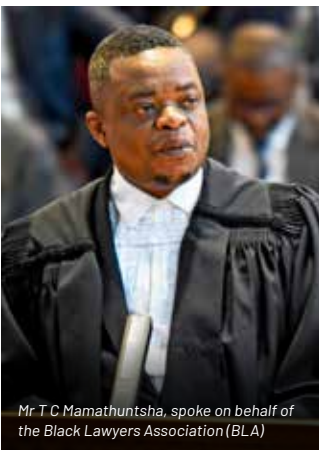
Advocate D Chabedi SC on behalf of Legal Practice Council (LPC)



Advocate K Nhlapo-Merabe, spoke on behalf of General Council of the Bar



Mr M Motloub, spoke on behalf of the National Association of Democratic Lawyers (NADEL)



Mr T C Mamathunsha, spoke on behalf of the Black Lawyers Association (BLA)



Advocate K Pillay SC, spoke on behalf of the Advocates for Transformation (AFT)



A much deserved farewell.



HONOURING THE RETIREMENT OF JUSTICE VISVANATHAN PONNAN

By President of the Supreme Court of Appeal,
Justice B M Molemela

The Judiciary celebrates with respect and gratitude the retirement of the Honourable Justice Visvanathan Ponnann from the Supreme Court of Appeal. Across 24 years in the judiciary, including 21 years on the Supreme Court of Appeal bench, he authored 220 judgments and sat in approximately 1 470 panels. Throughout his service, Justice Ponnann has exemplified judicial rigor and an unwavering commitment to constitutional values.

Born in Durban on 17 August 1960, Justice Ponnann's formative years were grounded in disciplined study and community engagement. He attended Springfield Model Primary School and Gandhi Desai Secondary School before obtaining a BA (Law) in 1982 and an LLB in 1984 at the University of Durban-Westville. He was later admitted as an advocate in 1985, where he practised at the Durban Bar for sixteen years. He has served in several public roles, including as secretary of the Durban branch of the Black Lawyers Association (BLA), as a commissioner of The Judge White (formerly Browde) Commission, a judicial commission established by President Nelson Mandela to investigate irregularities in the public service, and as a commissioner at the Commission for Conciliation, Mediation and Arbitration (CCMA). He was called to the bench in 2001, where he joined the now Gauteng Division of the High Court and shortly thereafter was appointed to the Supreme Court of Appeal in 2004.

Over the course of his career, Justice Ponnann authored several judgments that have shaped South African jurisprudence. To name but a few, in *S v Matyityi*, one of his most cited decisions, Justice Ponnann addressed how remorse ought to be assessed in sentencing. He drew a crucial line between mere expressions of regret and demonstrable remorse, highlighting that mitigation based on remorse must be anchored in conduct and circumstances that show genuine prospects of rehabilitation. By sharpening how subjective mitigating factors are evaluated, the judgment has become a reference point in sentencing appeals and a guide for sentencing courts seeking proportionality.

In *S v Balkwell and Another*, a case in which he authored a powerful minority judgment, Justice Ponnann confronted difficult questions about extra-judicial statements and the risk these pose to a fair trial. The trilogy of decisions in *Van Breda v Media 24 Limited and Others*; *National Director of Public Prosecutions v Media 24 Limited and Others*, Justice Ponnann dealt with applications to record and broadcast court proceedings audio-visually. The Court laid down a framework that recognises the media's democratic role while insisting that courts must weigh broadcasting requests against demonstrable risks to a fair trial. Justice Ponnann's contribution was to emphasise case-by-case discretion as transparency is essential, but it must not imperil the integrity of the trial.

The outcome set a balanced template for future courts dealing with media requests in high-profile matters.

Read together, these decisions reveal Justice Ponnann's consistent process to harmonise competing rights, offering nuanced solutions that protect the vulnerable while upholding the rule of law. His work in these cases and more has shaped how South African courts approach matters involving privacy, equality, and dignity.

The President of the Supreme Court of Appeal, Justice Mahube Molemela, wishes Justice Ponnann well on his retirement. She said: 'As Justice Ponnann begins a new chapter, the Judiciary honours a jurist whose outstanding service combined intellect and conscience. His plethora of judgments has undoubtedly richly developed our courts' jurisprudence and shaped the fabric of our society –an incredible legacy by all accounts. His prolific writing, which yielded so many noteworthy judgments, will always be cherished. Supported throughout by his wife, Mrs Vinitha Jithoo, and their two children, he now turns to the next season of life after 24 years of public service. We celebrate his exemplary contribution to the law and the nation. We wish him peace, joy, and continued fulfilment in the years ahead.' ■





LAND COURT STRENGTHENS PARTNERSHIPS THROUGH STAKEHOLDER ENGAGEMENT AT UKZN

The Land Court, under the leadership of Judge President Z Carelse, convened a stakeholder engagement meeting at the University of KwaZulu-Natal (UKZN) on 18 August 2025. The engagement brought together role players in the fields of land reform, land rights, and land justice, with the aim of strengthening partnerships that support the effective functioning of the Court.

Delivering the keynote address, Judge President Carelse outlined the strategic priorities of the Land Court, emphasising that access to justice must remain a central consideration in the Court's work. She highlighted the importance of collaboration with stakeholders to ensure that the Court fulfils its mandate of advancing land justice and resolving disputes fairly and efficiently.

The programme included substantive contributions from Land Court judges on key legislative frameworks shaping South Africa's land reform landscape. Judge B Spilg gave an address on the process of referrals under the Restitution of Land Rights Act, providing insights into the Court's role in adjudicating claims arising from historical dispossession.

Judge L Flatela led discussions on the Extension of Security of Tenure Act 62 of 1997 (ESTA), engaging participants on issues related to the protection of occupiers' rights and the balance between landowners and vulnerable communities.

Judge T Ncube delivered a presentation on the implementation of the Labour Tenants Act, examining procedural and substantive developments. His address also reviewed landmark decisions, lessons learned, and strategies for resolving backlogs that continue to affect the adjudication of labour tenant claims.

The meeting concluded with a robust Q&A session, where judges of the Land Court engaged directly with stakeholders, addressing challenges, clarifying legal processes, and exploring avenues for collaboration.

The Land Court's stakeholder engagement at UKZN reflects its commitment to promoting transparency, accessibility, and partnership in the pursuit of land justice, while reinforcing the Court's role as a critical institution in South Africa's constitutional democracy. ■

KWAZULU-NATAL



The Land Court, led by Judge President Z Carelse, held a stakeholder engagement meeting at the University of KwaZulu-Natal, on 18 August 2025.



Judge President Z Carelse of the Land Court



Land Court Judge B Spilg spoke on the topic of referrals under the Restitution of Land Rights Act during the stakeholder engagement.



Judge L Flatela of the Land Court engaged with stakeholders on the Extension of Security of Tenure Act 62 of 1997.



Judge T Ncube participated in the Land Court stakeholder engagement meeting, where he addressed the implementation of the Labour Tenants Act.



Land discussions - stakeholders who attended the session at UKZN.



SUMMARY JUDGMENT PROCEDURE IN THE MAGISTRATES COURT: INSIGHTS FROM JUDGE PRESIDENT MG PHATUDI

JUDGE G PHATUDI GAVE AN ADDRESS AT THE REGIONAL MAGISTRATES SEMINAR ON 01 AUGUST 2025

By Staff Writer

In a seminar held on 1 August 2025, Judge President MG Phatudi of the Limpopo Division of the High Court delivered a comprehensive address on the summary judgment procedure in the Magistrates Court, providing invaluable guidance for Regional Court Magistrates. His discourse outlined the legal nature, purpose, and procedural particulars of summary judgments, underscoring its critical role in protecting plaintiffs from defendants who misuse the court process to delay justice.

The Legal Nature and Purpose of Summary Judgment

Judge President Phatudi began by tracing the origins of summary judgment procedures, noting that the original framework was governed by older rules under the Magistrates Court Act of 1944, which have since been modernized in line with the Rules Regulating Proceedings of Magistrates Courts of South Africa effective from 15 October 2010. He emphasized the essence of summary judgment as a procedural remedy crafted to aid plaintiffs facing defendants who enter appearances without a bona fide defence, often as a tactical manoeuvre to delay judgment, highlighting the role of summary judgment as a vital tool to truncate unwarranted delays and prevent abuse of court resources.

Grounds and Claims Eligible for Summary Judgment

The Judge President clarified that summary judgment is available primarily for claims based on liquid documents, liquidated amounts of money, delivery of specified movable property, or ejectment, together with claims for interest and costs. He emphasized the necessity for plaintiffs to follow strict procedural timelines, notably the obligation under the amended Rule 14(2) (a) to file a notice of application for summary judgment within 15 days after the delivery of the defendant's plea, supported by a verifying affidavit, or any other person who can positively attest to the facts. In contrast the previous provisions required for an appearance to defend the action first to be filed, is no longer a strict requirement.

This affidavit must explicitly verify the cause of action, state the amount claimed, identify points of law relied upon, outline the factual basis of the claim, and briefly explain why the defendant's defence does not disclose a triable issue. Judge President Phatudi stressed, "It is utmost important... for the plaintiff in the founding affidavit to set forth explicitly all five ingredients found in Rule 14(2)(b) in order to make a successful call to the relief sought."

The Role and Rights of Defendants

The address also dispelled misconceptions regarding defendants' recourse when confronted with summary judgment applications. Defendants have the right to satisfy the court by affidavit or oral evidence that they have a bona fide defence to the action, fully disclosing the nature, grounds, and material facts supporting their defence. Failure to do so may lead to summary judgment being granted in favour of the plaintiff.

Judge President Phatudi noted, "If the defendant fails to furnish security or satisfy the court as envisaged, the court may enter summary judgment in favour of the plaintiff." However, if the defendant meets the threshold, the court must grant leave to defend, and the matter proceeds to trial as if no summary judgment application had been made.

Discretion and Judicial Considerations

The seminar further dealt with the discretionary powers of magistrates in dealing with summary judgment applications. Magistrates must carefully assess whether the defendant's defence, if proven at trial, would constitute a complete defence to the plaintiff's claim. Merely raising technical objections, such as an exception to the summons, does not suffice to resist summary judgment.

Judge President Phatudi stated emphatically, "The only cardinal question for determination is whether the defendant has disclosed a bona fide defence, which if proved at trial, would constitute a complete defence to the plaintiff's claim." He also cautioned against plaintiffs using summary judgment procedures in improper circumstances, noting that courts have the discretion to impose costs orders against parties who abuse the process.

Conclusion: Upholding Justice Through Summary Judgment

Concluding his address, Judge President Phatudi reminded Magistrates that summary judgment is an instrument of justice designed to streamline court processes and ensure that defendants with legitimate defences receive a fair trial, while protecting plaintiffs against dilatory tactics.

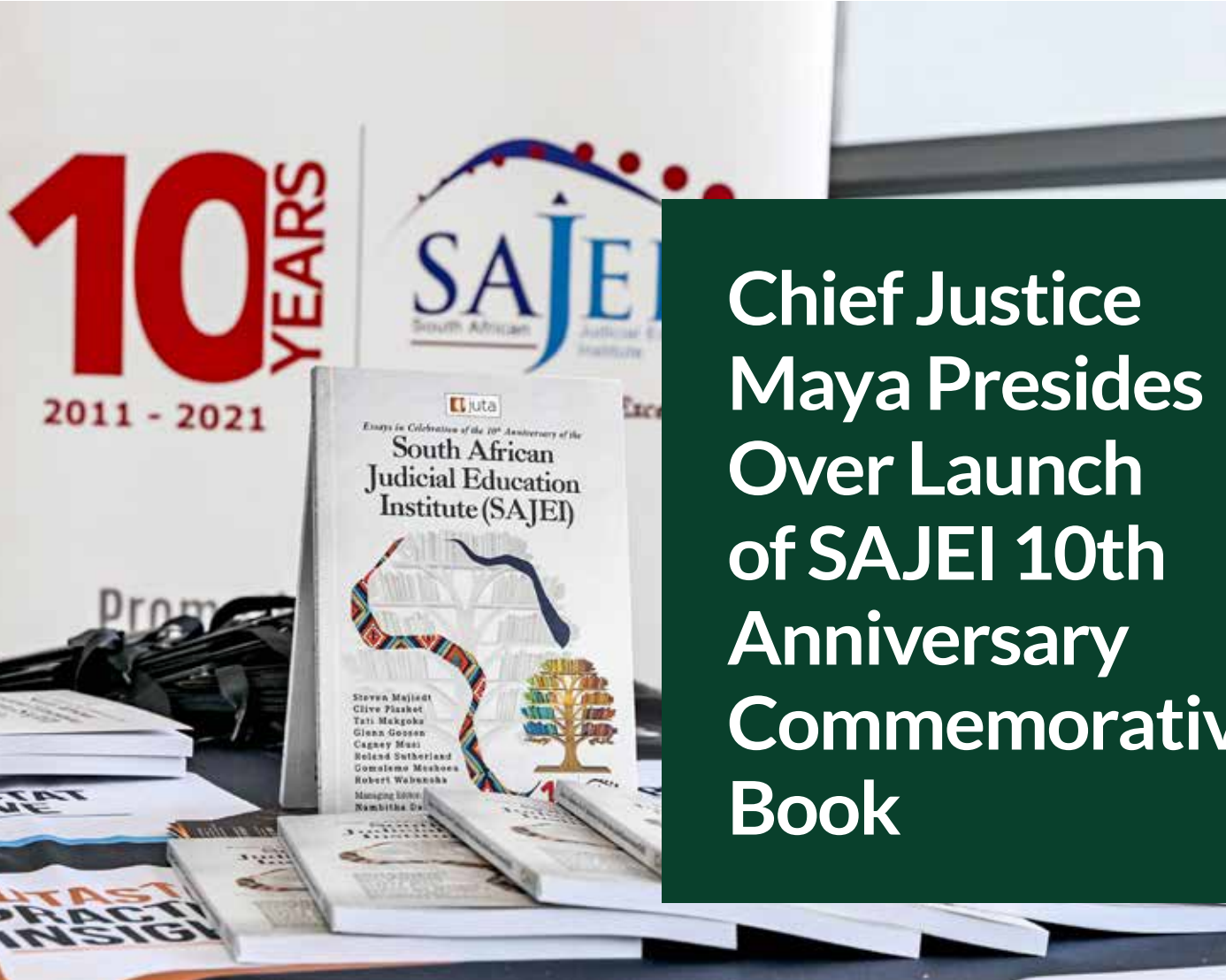
This seminar provided Magistrates with an authoritative guide to summary judgment, equipping them with the insights necessary to balance efficiency with fairness in the Magistrates' Courts.

To read the full seminar presented by Judge President Phatudi go to: <https://tinyurl.com/yjhr4rcp> or use the QR Code



<< Scan QR Code





Chief Justice Maya Presides Over Launch of SAJEI 10th Anniversary Commemorative Book

Chief Justice Mandisa Maya officially launched the 10th Anniversary commemorative book of the South African Judicial Education Institute (SAJEI) in Midrand on 14 August 2025. The launch marked a significant milestone in the Institute's history and was held in partnership with JUTA Publishers.

The programme featured the launch of a collection of essays celebrating SAJEI's decade-long contribution to judicial education in South Africa. Distinguished guests, members of the Judiciary, and partners of the Institute joined Chief Justice Maya and Deputy Chief Justice Dunstan Mlambo for the occasion.

Deputy Chief Justice Mlambo delivered the opening remarks, where he noted that the publication provided an opportunity for reflection on an important approach—enabling the Judiciary to engage with society not only through its judgments, but also through its writings.

In his address, the Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP, reflected on SAJEI's formative years and highlighted the Institute's achievements during its ten years of existence.

Justice Nambitha Dambuza, Judge of the Supreme Court of Appeal and Editor-in-Chief of the book, recounted the production journey, imparting the journey in the production of the publication, which began in 2019 and was completed in time to mark SAJEI's

10th Anniversary in 2021. Speaking on behalf of JUTA, Mr E. Beerwinkel emphasised the significance of the contributions made by the various authors and commended the collaborative effort that made the project possible.

In her keynote address, Chief Justice Maya praised the editorial team, contributors, and partners for their efforts in producing the commemorative book, hailing the publication as a remarkable milestone for both SAJEI and the Judiciary of South Africa.

The event also included a panel discussion featuring authors of the book, who shared insights on their chapters, reflected on their writing process, and discussed the broader themes of judicial education and its role in society. Justice P. Kihwelo, Principal of the Institute of Judicial Administration in Lushoto, Tanzania, delivered congratulatory remarks, highlighting the importance of judicial education and recognising the collaborative efforts that underpinned the project. Whilst, Justice Zukisa Tshiqi, Judge of the Constitutional Court of South Africa and a member of the SAJEI Council, delivered the closing remarks, expressing gratitude to the authors for their contributions, acknowledged the collective efforts that went into producing the book, and formally brought the launch to a close. ■

NATIONAL OFFICE, MIDRAND



Commemorating 10 years, SAJEI launches its commemorative book.



Chief Justice Mandisa Maya, Chief Justice of the Republic of South Africa



Deputy Chief Justice Dunstan Mlambo, Deputy Chief Justice of the Republic of South Africa



Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP



Justice N Dambuza, Judge of the Supreme Court of Appeal and Editor-in-Chief of the book



Justice Z Tshiqi of the Constitutional Court of South Africa



Justice S Majiedt of the Constitutional Court of South Africa



Acting Justice C Musi of the Constitutional Court of South Africa



Dr G Moshoeu, Chief Executive Officer of the South African Judicial Education Institute (SAJEI)



Chief Content and Product Officer, at JUTA, Mr E Beerwinkel



Chief Justice Mandisa Maya, Dr Gomolemo Moshoeu, with Mr Edmund Beerwinkel, and the JUTA team.



GUIDING LIGHT: CONSTITUTIONALISM AND CONSTITUTION DRAFTING WORKSHOP

JUDGE M T MANKGE, JUDGE OF THE
MPUMALNAGA DIVISION OF THE HIGH COURT

By Staff Writer

In celebration of Women's Month, Judge Thando Mankge of the Mpumalanga Division of the High Court, gave an impactful presentation at a workshop hosted by the Department of International Relations and Cooperation's Diplomatic Academy, during Women's Month. The workshop focused on guiding women through the complex process of constitutional drafting—a vital area that shapes the foundation of governance and rights.

The workshop aimed to equip trainees with crucial knowledge and skills on Constitutionalism and Constitution Drafting, fostering their active participation in legal and political processes. This initiative highlights the judiciary's commitment to providing an invaluable insight into the importance of constitutional education. ■



Rhodes University Hosts Moot Competition

Rhodes University, Makhanda, held its Moot Court Final at the Law Faculty on 3 September 2025. In this regard, Judge Justin Laing presided over proceedings, which were held in a mock courtroom and followed, as closely as possible, the procedures and protocols of opposed motion court.

The moot concerned access to and use of a human embryo, including its possible transfer to a surrogate. The constitutional right to bodily and psychological integrity, various provisions of the National Health Act 61 of 2003, as well as the Regulations Relating to Artificial Fertilisation of Persons (GNR 175, 2 March 2012), were relevant.

The level of argument and presentation was of a high quality. Ms GN Mashangoane was recognised as the overall winner.

The Dean, Prof MG Karels, as well as a senior lecturer, Mrs S Driver, must be recognised in their efforts to encourage closer ties between the Law Faculty and the Makhanda High Court. ■

Judge Justin Laing

Eastern Cape Division of the High Court



SOUTH AFRICAN CHAPTER OF
International Association of Women Judges
advancing human rights and equal justice for all

SAC-IAWJ ELECTS NEW LEADERSHIP



The South African Chapter of the International Association of Women Judges (SAC-IAWJ), founded in August 2004, is a non-profit, non-governmental body bringing together judges and magistrates who embrace the objectives of the International Association of Women Judges. Its core aim is to promote gender equality, human rights, and access to justice, particularly for vulnerable groups such as women and children.

SAC-IAWJ works to increase women's meaningful participation in the judiciary, ensuring that the bench reflects South Africa's diversity. It fosters judicial cooperation, improves communication between court levels, organises conferences, and facilitates exchanges to address the social and cultural challenges facing women in the legal profession and the judiciary. A strong focus is placed on combating gender-based violence and abuse in society, and on raising public awareness about the judiciary's role in protecting equal rights.

On 9 August 2025, at its Annual General Meeting, a new National Council was elected. The Executive Committee comprises the following members:

- President – Judge President Segopotje Sheila Mphahlele
- Deputy President – Regional Magistrate Anthia Maria Ramos
- Secretary – Senior Magistrate Lalitha Chetty
- Assistant Secretary – Regional Magistrate Ntsokie Moni
- Treasurer – Deputy Judge President Tebogo Jennifer Djaje

- Vice President Programmes – Judge Shanaaz Christine Mia
- Assistant VP Programmes – Judge Maletsatsi Betty Mahalelo
- Vice President Publications – Judge Elmarie van der Schyff
- Assistant VP Publications – Regional Magistrate Audrey Mashigo

The following Provincial Coordinators were elected for the respective Provinces:

- Eastern Cape: Judge Buyiswa Majiki and Magistrate Buyiswa Jaxa
- Free State: Judge Sharon Chesiwe and Regional Magistrate Nompumelelo Gusha
- Gauteng: Judge Seena Yacoob and Magistrate Genevieve Tyrell
- KwaZulu-Natal: Judge Nonhuthuzelo Faith Mlaba and Magistrate Melanie de Jager
- Limpopo: Judge Jane Tsakane Ngobeni and Senior Magistrate Busisiwe Rachel Nkosi
- Mpumalanga: Judge Lindiwe Dorothy Vukeya and Magistrate Smangele Lethiba
- Northern Cape: Magistrate Natasha Bedford and Magistrate Kealeboga Kgopa
- North-West: Magistrate Lerato Matebesi and Magistrate Shereen Senxezi
- Western Cape: Magistrate Jane Kgorane and Magistrate Nasiba Khan

SAC-IAWJ ANNUAL GENERAL MEETING



L-R: Chief Justice Mandisa Maya; Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP; Judge President T P Poyo Dlwati and newly appointed SAC-IAWJ President, Judge President S S Mphahlele of the Mpumalanga Division of the High Court.



Judge President T P Poyo Dlwati of the KwaZulu-Natal Division of the High Court



Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP



Judge M. B. Masipa and Judge C. Sibiya of the KwaZulu-Natal Division attended the SAC-IAWJ AGM, promoting gender equality and access to justice.



The SAC-IAWJ meets annually during Women's Month to discuss issues that affect women in the judiciary and legal profession

MAGISTRATES' COMMISSION INTERVIEWS



The Magistrates Commission sat in Pretoria for interviews for vacancies in the Magistrates' Courts.

CANDIDATES INTERVIEWED FOR VACANCIES IN THE MAGISTRATES' COURTS

On 19 September 2025, the Magistrates' Commission interviewed shortlisted candidates in Pretoria for vacancies in the Magistrates' Court. The rigorous process aimed to appoint a qualified individual to strengthen the Court's capacity, reaffirming the Commission's commitment to judicial integrity and transformation within the Magistracy.



Regional Court President for the Free State Province, Commissioner Ms Z Mbalo



Chief Magistrate, Commissioner Y P Sidlova of the Randburg Magistrate's Court



Commissioner Ms O M C Maotwe, member of the Appointments Committee



Commissioner Ms A F Muthambi, member of the Appointments Committee



Commissioner Advocate L Ntsoane, member of the Appointments Committee

MORE COURTS GO DIGITAL

In the first quarter of the 2025/26 financial year, the Judiciary expanded its Court Online System to the Northern Cape and Gqeberha High Court Divisions, marking another step forward in modernising South Africa's justice system. The launch events also featured Deputy Chief Justice Mlambo engaging with Constitutional Court clerks, highlighting the Judiciary's commitment to digital transformation and improved case management.

COURT ONLINE LAUNCH: EASTERN CAPE DIVISION OF THE HIGH COURT, GQEBERHA

On 16 July 2025, the Eastern Cape Division of the High Court in Gqeberha, led by Acting Judge President Z M Nhlangulela, officially launched and began using the Court Online System. This marked a major milestone in the digital transformation of judicial administration. In attendance at the ceremony were the Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP, the then Judge President of the Gauteng Division of the High Court, Judge D Mlambo, and the Acting Secretary General of the OCJ, Adv M P otgieter.



COURT ONLINE LAUNCH: NORTHERN CAPE DIVISION OF THE HIGH COURT, KIMBERLEY

On 06 August 2025, The Northern Cape Division of the High Court, in Kimberley, launched the Court Online System. The system is intended to enhance efficiency and improve access to justice in the Superior Courts.

COURT ONLINE TRAINING FOR CONSTITUTIONAL COURT LAW CLERKS

Deputy Chief Justice Mlambo and Mr. Asanele Diko conducted a training session for Constitutional Court law clerks on CaseLines and Court Online, equipping them with practical skills to support digital case management and reinforcing the Court's commitment to innovation and efficiency.





THE QUALITIES OF A GOOD JUDGE

Judge R Seegobin

Judge of the KwaZulu-Natal Division of the High Court

There can be no doubt that judges, by their very office, play a crucial role in the administration of justice. Their first and foremost duty is to ensure that justice is served. To dispense justice, Judges are required to apply the laws of the land fairly, without any fear, favour or prejudice. I think it can be readily agreed that the task of administering justice is not an easy one. In my humble view, it takes a special breed of women and men to assume this all-important duty and to carry it through to the best of their abilities. What then are the qualities required to be a good Judge, one whose honesty, integrity, morality and behaviour are beyond question?

Whilst our judiciary is one of the four cornerstones of our democracy, together with the executive, legislature and the media, of late it has been plagued by a series of misdemeanours, unethical and even disgraceful conduct on the part of certain members, thereby eroding public confidence in judges and in the judicial process. None of this bodes well for a judiciary that always prided itself on the highest ethical standards, integrity and honesty since the dawn of democracy. Perhaps it is time for some serious introspection into our roles as Judges so that public confidence and faith in our judiciary can be restored.

In this paper, I focus on the essential qualities that are needed to be a good judge. In doing so, I borrow from the wise words of eminent jurists as well as from certain international instruments, such as the Bangalore Principles of Judicial Conduct (The Bangalore Principles) which set out the core values and principles that should guide and govern the integrity of the

judicial process, both internationally and locally. This paper not only seeks to examine the essential qualities that define a good judge but also to reassert the ethical and professional standards of judges.

In a series of lectures given to newly appointed Judges in various states in India, Justice R V Raveendran, a former Judge of the Supreme Court of India, lists five judicial skills a Judge is required to possess in order to effectively discharge her/his judicial functions. These are:

- having a thorough knowledge of procedural law, both civil and criminal;
- having a broad (not necessarily thorough) knowledge of all frequently used substantive laws and fundamental constitutional and legal principles;
- acquiring the art of giving a proper hearing;
- learning the skills of marshalling facts and arriving at proper findings, applying the relevant law to those factual findings in order to arrive at a decision, and putting the facts, reasons, and conclusions in a lucid, logical, precise, and coherent manner, in the form of an order or judgment; and
- acquiring the skill of considering and disposing of applications for urgent interim relief and postponements without delay.

Apart from these technical skills that a Judge should develop, there are five administrative skills that he/she should strive to acquire. These are:

- time management of his workload, spending time with his family, and ensuring that he maintains his physical and mental well-being;

- managing the cases allocated to him, ensuring that they are brought to finality expeditiously, and utilising case management and case flow management tools effectively;
- developing and fostering a good relationship with the administrative and court staff to ensure a smooth running of matters;
- ensuring the co-operation and assistance of members of the legal profession by earning their respect through one's own commitment, conduct, and behaviour; and
- developing the need for self-discipline, punctuality, commitment, positive attitude, and hard work.

But having the necessary administrative skills is one thing, developing and maintaining judicial ethics is quite another. So, what are the ethical standards to be followed and practised by judges? How should we behave? What do the public expect of us?

The Bangalore Draft Code of Judicial Conduct, 2001, adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, on 25 and 26 November 2002, established the standards for ethical conduct of judges and these provide useful guidance for the proper conduct of judges.

The Bangalore Principles recognise 'that a judiciary of undisputed integrity is the bedrock institution that is essential for ensuring compliance with democratic principles and the rule of law. Even when all other protections fail, it provides a bulwark to the public against any encroachment on the rights and freedoms entrenched under law.' These principles have thus been increasingly accepted by different sectors of the global judiciary and by international agencies interested in the integrity of the judicial process.

The core values recognised by these principles and to which all Judges should subscribe, involve the independence, impartiality, integrity, propriety, equality, competence, and diligence of the judiciary and the Judges tasked to administer justice. I now turn to consider some of these values.

Judicial independence

The independence of our judiciary is entrenched in section 165(2) of the Constitution, which provides that 'the courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice'.

But, as Justice Raveendran observes, 'judicial independence is not only a reference to the independence of the judiciary as an institution but also to us as Judges in performing our judicial functions in an independent manner. In other words, we have the right to decide cases free from any influence, pressure or interference from the executive or the legislature. However, we are not entitled to do as we please. Even in matters in which we exercise a 'discretion' when there are no statutory guidelines or precedents, we are required to act fairly and not arbitrarily.' Justice Benjamin Cardozo in his book *The Nature of the Judicial*

Process, (1921), warned:

'... The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight—errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to "the primordial necessity of order in the social life". Wide enough in all conscience is the field of discretion that remains.'

This of course does not mean that judges should not be creative in moulding and adapting the law to make decisions that will affect the future course of social, economic, and sometimes even political development. In this regard 'judicial activism', a term that signifies an important source of judicial power, should be encouraged so as to ensure social justice. Acknowledging judicial activism as a source of power, Justice P.N. Bhagwati, a former Chief Justice of the Supreme Court of India, emphasized that using this power puts a heavy burden on judges as it demands a great degree of social sensitivity, creativity and accountability from them. Thus, he said:

"The task of the Judges takes them deeper into the future to make decisions which will affect the future course of social and economic and sometimes even political development and therefore, in all humility, they have to be aware of social needs and requirements and economic and political compulsions and to recognize changes taking place in a fast developing society and to develop and adopt laws to changing needs and requirements of the people. And on each occasion when they do so, they are expected to provide justifying reasons which must satisfy not only themselves but also critics and jurists, and the society itself, for what they decide. I am stressing all these aspects because it is important to remember that no other functionary of the State is subject to such rigorous form of accountability as the Judges."

The Bangalore Principles clarify that judicial independence is a pre-requisite for the rule of law. It is also a fundamental guarantee of the right to a fair trial, and that '[a] Judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects'.

Honesty and integrity

Honesty and integrity remain the fundamental pre-requisites for a Judge. These qualities are non-negotiable. A strong and vibrant judiciary is dependent on women and men whose honesty and integrity are beyond question.

John Marshall, the 4th Chief Justice of the United States, said: 'The power of a judiciary lies, not in deciding cases, nor in imposing sentences, nor in punishing for contempt, but in the trust, faith and confidence of the common man'. If the judiciary loses the trust, faith, and confidence of the common man, then that will be the end of the rule of law and democracy.

This is reinforced by the Bangalore Principles, which provide that:

- ‘3.1 A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- 3.2 The behaviour and conduct of a judge must reaffirm the people’s faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.’

Judicial aloofness and detachment

Judicial aloofness has to do with conditioning the mind to be aloof, maintaining detachment from the arena of contest, and rendering justice unmindful of the consequences. Put differently, a judge is required to dispassionately decide who is right and who is wrong in accordance with the law.

Lord Birkett (a British barrister, Judge and politician who also served as an alternative British Judge during the Nuremberg Trials) explained a facet of judicial aloofness as follows:

‘The duty of the Judge to keep complete control of the proceedings before him is an essential part of the administration of justice in all our courts. He has a duty to intervene by way of question or otherwise at any time that he deems it necessary to do so. He may wish to make obscurities in the evidence clear and intelligible; he may wish to probe a little further into matters that he deems important; and in a score of ways his interventions may be both desirable and beneficial. But it is safe to “say that all his interventions must be governed by the supreme duty to see that a fair trial is enjoyed by the parties. His interventions must be interventions and not a complete usurpation of the functions of the counsel. But the Judge best serves the administration of justice by preserving the judicial calm and the judicial demeanour, aloof and detached from the arena of contention.’

Of course, judicial aloofness does not mean that we should live in ivory towers. Nor does it mean that a judge should not be alive to the problems of society or that she/he should ignore the day-to-day realities of life. Judges should be able to understand the needs of society and connect to the problems and difficulties of the weaker sections of society and to provide access to justice to the poor and downtrodden.

Judicial temperament and humility

Justice Harold R Medina (a United States Circuit Judge of the United States Court of Appeals for the Second Circuit) warned:

‘A Judge is surrounded by his subordinates, lawyers and litigants who keep telling him what a noble, wonderful, wise and knowledgeable person he is. The moment he starts believing them he becomes a lost soul, ending up the opposite of all that a Judge should be.’

Humility is the quality which makes a judge realise that he is neither infallible nor omnipotent, that he should afford legal practitioners a full and proper hearing, because after all, they

are the ones who are most familiar with the facts of their cases and the legal principles that apply. More importantly, he should decide all issues by keeping an open mind. Without humility, a judge becomes arrogant, opinionated, and perverse with a closed mind, believing that lawyers do not know much and that his decisions are always correct.

Judges should be more concerned about rendering justice and less about trying to exhibit their erudition, intelligence or power, all of which inevitably lead to a failure of justice.

Justice Frankfurter (an Associate Justice of the Supreme Court of the United States) described ‘judicial humility’ as

‘having a mind that respects the law, that can change its thinking, that can accept that another view is possible, that can be persuaded by reason, that which is detached and aloof, that quests for truth and that puts passion behind its judgment and not in front of it’.

A judge should avoid the temptation to jump to conclusions or commence by adopting a strong prima facie view and then refusing to budge from it. Deciding on a result first without a full and proper hearing and thereafter stubbornly sticking to it, will only result in a search for the law and facts to fit the decision, rather than basing the decision on the facts and the law.

To avoid reserve judgments, many colleagues prepare what they refer to as ‘ex tempore’ judgments. However, a reading of such judgments shows that they are anything but ‘ex tempore’. Whilst in principle there is nothing objectionable to the delivery of an ‘ex tempore’ judgment, when circumstances so allow, the preparation of a judgment well in advance without the real benefit of oral argument, is a practice that should be discouraged.

Choosing the facts and law to support a predetermined view, and ignoring other relevant facts and law, amounts to judicial perversity. One often sees that many successful and brilliant lawyers fail to transform themselves into good judges simply because they are obsessed with showcasing their intelligence and knowledge in every decision, rather than ensuring that justice is done. Some judges even believe that their own colleagues are incompetent and that only their judgments should carry the day. This is nothing more than ‘judicial arrogance’ at its worst. Keeping a record of and constantly boasting about the number of reported judgments one has only serves to feed one’s ego.

Impartiality (Freedom from Prejudice and Bias)

The Bangalore Principles provide that the quality of impartiality is essential to the proper discharge of the judicial office, and that it applies not only to the decision, but also to the process by which the decision is made. The following standards have been enumerated:

- ‘2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice.

- 2.2. A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.
- 2.3. A judge shall, as far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.
- 2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process, nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.
- 2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:
 - (a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
 - (b) The judge previously served as a lawyer or was a material witness in the matter in controversy; or
 - (c) The judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy; provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.'

I conclude with the words of Justice E.G. Brennan of Australia who observes that:

“The great Judge is a bold judge, not because he chances his arm, but because he so perceives the philosophy and history of the law that he can sweep aside the incidental and reach for the essential, and fashion and refashion the basic principles so that they serve the society of his time. Boldness is a function of both understanding and courage — understanding of the deepest values of the society, and courage in rejecting the applications principle which serves an incompatible value, perhaps current at any earlier time. And so the significant contribution which judges are able to make to the society of their time is not confirmed to the application of principles, but includes more importantly the modification of principles to suit the good of that time.”

Ultimately, I believe that we should all strive to be good Judges, deserving of the title we have. ■

Conclusion

As Judges in an ever-changing society, I believe it is incumbent on each one of us to ensure that we conduct ourselves with the highest degree of honesty and integrity at all times; that we dispense justice fairly and impartially, irrespective of who the litigants might be; and that we respect the principle of the separation of powers by exercising judicial restraint. We should continue breathing life into our Constitution by interpreting, giving effect to, and enforcing the rights entrenched in the Bill of Rights, thus ensuring public confidence in our courts. The concept of ubuntu, with its emphasis on community and human dignity, should serve to guide our thoughts and judgments.

We should remember that every time we don our robes and walk into our courts, we may have to decide the fate of a person relating to his right to property and shelter, his right to freedom, his right to livelihood, his right to a fair trial etc. Being cognisant of this fact, it is imperative that we act responsibly and fairly.

The judiciary has a special role to play in the task of achieving socio-economic goals enshrined in the Constitution and while maintaining our aloofness and independence, we have to be aware of the social changes in the task of achieving socio-economic justice for the people we serve.

WOMANITY - WOMEN IN UNITY

The Office of the Chief Justice in collaboration with Womanity - Women in Unity, a weekly gender-based talk radio programme that celebrates prominent and ordinary African women's achievements in their ongoing struggle for liberation, self-emancipation, equity, human rights, democracy, hosted by Dr. Amaleya Goneos-Malka, conducted a three-part series on women in the Judiciary, as part of commemorating women's month. Three South African women Judges shared their stories to inspire Women in South Africa and the diaspora.

The next few pages contain excerpts from transcripts of the radio interviews with Judge Esther Steyn from the KwaZulu-Natal Division of the High Court; Judge Colleen Collis from the Gauteng Division of the High Court and Acting Judge President Nobulawo Mbhele, from the Free State Division of the High Court.

Use the QR Code provided to access the full interview.



[Link to full interview on YouTube Playlist >>](#)

JUDGE ESTHER STEYN

JUDGE OF THE KWAZULU-NATAL DIVISION OF THE HIGH COURT, ACTING JUDGE OF THE ELECTORAL COURT, AND ACTING JUDGE OF THE SUPREME COURT OF APPEAL

INTERVIEW AIRED: 14 AUGUST 2025



DR. MALKA

To begin with, over a decade ago you were appointed as judge in the KZN Division of the High Court and before serving the bench, you were actually involved in academia, lecturing at the University of the Western Cape, as well as the University of Cape Town. To start with, what triggered your interest into law to follow this passion?

JUDGE STEYN

Well, I think I need to start right at the beginning. I literally exchanged my school uniform to start working behind a counter in the Cape Town Magistrates Court because I had a scholarship of the then Department of Justice, and in doing so it meant that I could work six months at the Magistrates Court and six months I had to be working and studying at the then Justice College. So, I have worked then at that time, doing my B Juris and the reason why I really, really wanted to become a lawyer was because of what I had experienced in my own home.

I did not grow up and I do not come from an affluent family; it was quite a struggle. My mom was a nursing sister, my father had an administrative work, but in the early hours of the morning 03h00 am, our house was surrounded by the sheriff and his staff, and they were there to arrest my father for a debt that was not paid. Now, we all know the background of Section 65 of the Magistrates Court Act and I don't want to bore anyone with that, but what I can say is that that moment was like a lightbulb moment where I realized I don't want anyone to suffer the abuse that my father had to suffer for simply being poor

and I'm going to make it my mission to know about people's rights, and one day I'm going to make a difference.

Not knowing how I'm going to do it because despite the fact that in my matric year that I was the Head Girl of my school and the Dux Pupil, there was no money to go to university, but here was the Department of Justice giving scholarships to people who were prepared to work and study at the same time and fortunately with my academic results I got that scholarship. So that was the reason why I wanted to study law, is to make that difference in people's lives, and later on when I did my LLB part-time at the University of the Western Cape, going to the University of Cape Town, it was a no brainer when I knew that I want to make a difference for people who are victims of crime.

DR. MALKA

Thinking about the hard work piece and the obstacles, because you've been in this industry for 45 years, what were some of the areas and let's say potentially the issues and the challenges, that you encountered as you were building your career, and importantly, how did you overcome them?

JUDGE STEYN

With a lot of patience, but one of the things for example, in 1987 and maybe later on we can talk about legislation that has changed things for women who want to terminate pregnancies, my story is quite sad about that, but I realized then, so I didn't go through the entire pregnancy in 1989 when my child was born, there were no maternity benefits

for example. In fact, what happened is that I had to take all of my unpaid leave, I had to make sure that I can move forward and accommodate and also take my child to a daycare at the age of six weeks. So today things have changed for mothers, not only in law, but in public service, they have a right to maternity benefits, which are really great and which I think is a big achievement post 1994.

And the other thing I had to overcome is I had good friends that worked with me, and one friend in particular said you know, we are equal, and I just think that one is not a strong woman if you start fighting only for a certain group of rights, you have to exercise your rights and if you start saying that then men start perceiving you as an inferior group, and that inspired me not to stand back, but ultimately to assert myself. At times it could be quite volatile, because your opinion was not always valued. I had been a magistrate in a small town called Worcester, where I had just sentenced someone on drunken driving, who was by then the third time that he was convicted, so it was a severe sentence, and the Chief Magistrate, because I was a woman and my prosecutor was a woman and you had to walk through a particular passage going to the then common room/tea room, and he said, did you appear in front of these chickens in court? This was the person that was in charge of my career and my movement, and so you have to ultimately then decide how do I approach this, because this is absolute discrimination, but you know what, you go back, you reflect, and what you do then is by ultimately working harder and in the end achieve more...

DR. MALKA

Given that we are in the month of August, which is obviously a period where South Africa celebrates our National Women's Day and National Women's Month and I always find it's a time where we've got an opportunity to think about where we've made gains and also importantly, what still needs to be changed. This year's theme is "Building Resilient Economies for All." Women leading the future of trade, and I wanted to ask you as a Judge, how do you interpret the theme?

JUDGE STEYN

Well, I thought that the person best suited to interpret that will be an economist, so unfortunately my husband is the one who studied economy and not me, but as judges we have very limited power in changing certain policies. So, what I see is how can women be empowered and can one do that through the system as we sit as judges in court and decide upon matters. So we deal with our matters impartially, but each one of us can make a difference, because I do think that we need to be very sound and knowledgeable on a number of things, and when one looks at the theme I think that the way we can make a difference is, ordinarily if you decide on matters, I think we've all read the Vodacom vs Makata matter, which is really something about business, and so economics and business are intertwined, the one to the other. So, we all have a duty to research more, do more. Whether we can change the lives of other women, I think that's more in the line of whether one can assist where there are vendors and people who want to gain knowledge, but that

doesn't fall within our ambit, and I will tell you why, we as judges are taught by our training that we should have judicial restraint, and judicial restraint means that we should be cautious not to stray into the terrain of any other sphere which divides the separation of powers.

DR. MALKA

Well, you found your path, you found your calling, and lastly as we close out today's show, in celebration of women's month, please share a few words of inspiration or motivation you'd like to pass onto women and girls that are listening to us.

JUDGE STEYN

Definitely. I think if there is some young woman thinking that she's sitting at a law school not knowing whether she would be able to even qualify for her degree, I have been there. I have been there in my first years of studies and I did not want to finish it because I was far away from home and I was 18 years old and I said to my mom I'm going to come home, and mom said to me, my girl, we never quit, and that inspired me because my mom's words were, if you start something, you finish it. And that's really what I would like them to do, if you start a law degree, even if you think law is not for you, it will be a good tool to use later on, whether you want to enter business, it's always a good tool and I've always taught my students this is what you should do.

And the second thing that I firmly believe in is that, there's only one thing that I want them to know, that you must keep on dreaming, because the only thing that will make your dream impossible is your fear of not achieving that dream. So don't be fearful. If you have a dream, make that your reality, but that reality comes with a lot of hard work and a lot of time and I will definitely be the first to tell them that we've heard that from all of our law lecturers when we were young, that the law is a jealous mistress. Well, I can tell you, it is a reality, many Saturdays and Sundays when your friends and everyone will be socializing, you will be sitting reading and preparing for your cases and you will be writing, because judges also owe a duty to the public to deliver judgments timeously and for that matter, that's why we took an oath of office, is to do that in a proper fashion and to do that in every matter that we touch, because one matter may appear to be more important than the other, but for the litigant it is his or her most important matter and may be their only time that they will litigate in the High Court. So, never give up, that is my belief. ■

JUDGE COLLEEN COLLIS

JUDGE OF THE GAUTENG DIVISION OF THE HIGH COURT

INTERVIEW AIRED: 21 AUGUST 2025



DR. MALKA

We appreciate you being on the show and being part of this series which has been going for several years now, but Judge Collis, you weren't always in the judiciary; can you tell us where it all began, pursuing a legal profession and then eventually sitting on the bench?

JUDGE COLLIS

Yes, thank you. Well, my parents are Crevid and Carey Collis, I am the eldest of three siblings at home. My father is an educator; he believes in lifelong learning and has always instilled that in me as a child. So, my passion started with where I was born. I was born in a town, which is situated in Boksburg, and that is really a mining town. My parents and their parents (my grandparents) were forced to move there through the Group Areas Act, which through the previous regime had dictated where certain people of a certain race should stay and that is how I ended up being in Boksburg town. So, I think what happened from a personal perspective, I think what happened in that town, growing up in that area, segregated, separate from other race groups, started forming my inclination to understand the laws of the country and also to make a change, to bring about a change, because I felt as a child already that was not right, to live in a segregated and not an integrated society.

DR. MALKA

Judge Collis, reflecting on that moment, and it really is a painful period in this country, often when we've had conversations with some of your colleagues in the judicial system, their

pursuit of law has always stemmed from some type of injustice in childhood. How is it I wonder, as it is almost like the eyes of a child see through things and see the possibility of driving change, whereas adults, of course they don't agree with it, but they accept it.

JUDGE COLLIS

Yes, I think well perhaps in my teenager years, I was, through my parents and their involvement, my parents were very politicized, so as a child I grew up in a household where my parents would talk about the injustices taking place in society at large, but as a teenager in Boksburg Town, we had a lake called the Boksburg Lake, but that lake was only there for recreational purposes for white people. So, although it was situated in the town itself and black people were entering the town to go and work and purchase goods, we were not allowed to use the recreational facilities in the town itself, and that pain does a lot as a community, especially in Boksburg. So we ended up having what was called the Save Boksburg Campaign, I think it was the late 80s, and what happened during that campaign is we decided as a community that we are going to retract our buying power, our economic power in that society, we were not going to buy in Boksburg Town any longer, until such time as people of all colour and race can have access to the recreational facilities, and specifically the Boksburg Lake. So, we participated in that campaign, and it literally crippled the town, because the minute

black people decided not to purchase anymore in Boksburg Town, many of the businesses ended up closing up because of that. So, to come back to your question, as a child yes, that is true, because I felt it was important to participate in that campaign, we had T-shirts, we were walking up and down, we had demonstrations, but I felt that will bring about change and it eventually did, because the eyes of the government went open and eventually we were able to access not just our buying power in that town, but we were able to access the recreational facilities, such as the lake.

DR. MALKA

So, having those lived experiences, actually seeing when you retract the buying power and the power that people have through that, and then getting the results of the access to shops, to recreational facilities; were those all components that led you to go into law, because you were seeing how change could actually materialize?

JUDGE COLLIS

Yes, I think that was really the trigger for me, because although I really wanted to study law from primary school level already, but it was really at high school level that desire got festered, because I have always been born leader. At primary school level my teachers would allow me to stand in front of the class, I would record who is making the noise, I would collect the assignments, I would report to the teacher who has been misbehaving. So, I was always a leader, I think I am a born leader really, but that resulted in me deciding that I can actually do something realistically about this, making sure people's rights are protected and enforce where they are being trampled on, and that's why I ended up really to go and study law.

DR. MALKA

And now that you're in this vocation, one of the things that I wanted to ask you is about the differences between the High Court Division and lower courts in terms of the types of the cases you see, and what are some of those distinctions?

JUDGE COLLIS

Alright now firstly, the lower courts, and that is actually my first appointment as a judicial officer was in the lower courts, because I was appointed a magistrate at some point, I served there for 15 years of my career. The lower court is considered to be a court of first instance, for many people in society that is the only court that they are ever going to have access to and an engagement with, because in the lower courts you have what is called the maintenance court has a seat there, the equality court has a seat there, the traffic court has a seat there, you have the domestic violence court that finds itself within the lower court of the judiciary. So those are the types of cases that ordinary South Africans would access the court for, and when a person gets arrested, that is the court of first instance.

DR. MALKA

Talking about responsibilities to women, obviously in August

it is a special period for South Africa where not only do we celebrate National Women's Day, but also pretty much women's month, and this years' theme I found was interesting, being "Building Resilient Economies for All; Women Leading The Future of Trade." In your view, what are some of the perspectives of how this type of theme could play out in practice for women?

JUDGE COLLIS

Well, we had the historic march in 1956, which was really a turning point in South Africa in respect of the role of women in our struggle for freedom in society at large. I think today women from all walks of life now compete on equal footing with our male counterparts in this country, we should have greater emphasis on how we give women access to the ability to compete on equal footing. So, for instance from a practical point of view I thought in our society women are the caregivers, primary caregivers, they are the people that provide food on the table. If the child is hungry, he doesn't go to the father, he goes to the mother to say mommy, I need some food, where is the food. So, in the societies that we come from women have formations such as stokvels, they have organizations or grouping in their church for instance, they are responsible for fundraising at school more often than not. So, we need to ensure that the government of the day actually gives those women greater access to participate in our economy more fully. We should encourage the government to make sure that they put policies in place to capacitate those women, and where women are utilised by big business for instance, they are already involved in big businesses, women should be careful not just to be used as a front, for instance to get government tenders for instance, or work, they must insist that they participate in not just the decision-making, but also in sharing in the wealth, because once they start sharing in the wealth, that will translate into sharing distribution of that wealth amongst their children. That is how I think that this theme should actually help us in South Africa.

DR. MALKA

One of the things that I ask all my guests is about some of the factors that they feel have contributed towards their success, and everybody has a different set of ingredients for this recipe, so please share with us what have been some of your drivers of success.

JUDGE COLLIS

I think the first would be to say that you must be, as a woman, you must be resolute in your decision-making. I think if you sit on the fence, it becomes difficult for you to decide what it is that you wish to do or which direction you wish to take in your career. The second one I think is that you must be forthright in your opinions. Some women are too scared to speak up, so they rather keep quiet, but if you are not forthright, if you don't say I'm not happy with this, with a, b, c, then nobody will know that you have an issue, so be forthright. I think you should remain grounded in your religion because it's your centre, and if you don't have that, you don't really know where you come from

and you don't know where you're going to as a person. And then lastly, I would say I think you should finish what you start. It is so easy for women to give up, because you are going to hit a roadblock, you're going to hit it, but you must be able to say I'm going to continue, I'm going to stand up and continue. So, I would say those are the values that drove my success.

DR. MALKA

And as we are celebrating women's month, who have been some of the important women in your life?

JUDGE COLLIS

Well, I would say firstly my maternal grandmother, my mother's mother, she is deceased now but for the first six years of my life she was raising me, in the same town where I stayed with my parents, but she looked after me for the first six years of my life. I went and stayed with my parents only from age seven, more or less, she was a very forthright person, I think I learned that from her, a very loving person, and then my own mother, but my mom specifically taught me to be generous with my time and also my resources. So, I get into trouble with my time because I always say yes when people ask me to do something, the answer is never no, I say no I can squeeze this thing also, and I end up maybe running out of time just for other things. And then also my sister. I have one sister, she is my younger sister, but she most of the time acts like my older sister, but she is a mother herself so she mothers me a lot and she has also taught me the valuable lessons that is locked up in the bible, because she is very religious. And then I think the women in my church, my local church. So, I am Anglican, raised Anglican, the Anglican Faith, so we have got what is called the Anglican Women's Fellowship in church, so I am a member of that fellowship. And so those women are also there to sustain one on different levels of one's life. So, I would say those are the women in my life.

DR. MALKA

In recognition of women's month, share a few words of inspiration that you'd like to pass onto girls and women that are listening to us.

JUDGE COLLIS

Yes. Firstly, I would say that you must make your voice heard, because when you speak as a woman somebody out there is listening. A girl child is listening, another female is listening, a grandmother might be listening, so you need to speak up as women. It is not good enough to keep quiet and hope somebody else will do the speaking or talking on your behalf, and as you speak people hopefully will draw courage from your words, so it is important to raise your voice.

Then I think for the girl children out there, my words would be that they must be encouraged to have close relationships with their grandmothers, with their mothers, with their sisters, and with their aunts, and as women, grandmothers, mothers, aunts, sisters, we should actually frown upon children being abused. All children, boys and girls. Them being abused through sexual

deviancy, or them being abused through the usage of alcohol, or them abusing alcohol, or them abusing drugs, we should actually frown upon that, because too often women are keeping quiet about it and we only get to hear of them once the problem is already in existence, but they don't really take sufficient preventative steps to arrest the problem, I would say. And then thirdly I think as women we should actually raise concern against mothers that keep quiet when abuse is happening in their households, because all of a sudden it's reared its head in our society, every second case we see being reported on, it's about a woman having kept quiet or having participated in the abuse of a child, and sometimes even a girl child. So, I would say those are my words of inspiration. In essence, speak up. ■

ACTING JUDGE PRESIDENT NOBULAWO MBHELE

FREE STATE DIVISION OF THE HIGH COURT

INTERVIEW AIRED: 28 AUGUST 2025



DR. MALKA

Judge Mbhele, you've served in various judicial and leadership roles, from Legal Aid South Africa to now the Acting Judge President of the Free State High Court; looking back, what defining moments shaped your journey into the judiciary?

JUDGE MBHELE

Without getting into a lot of detail on the topic, my interest in the study and the practice of law can be traced back to two very unpleasant encounters I had with the law in my life. One took place when I was approximately six years old when the police would barge into our home on the farm to arrest and remove my aunts who would visit us from time-to-time, because their presence violated the apartheid laws that restricted movement of black people. There would be random raids, often conducted during unholy hours of the night, and it was as though they had been tipped that there were visitors in that house. The police would just barge, remove them, arrest them, and it was quite traumatic for us as kids.

And the second encounter related to a grave and gruesome injustice that happened to my 16-year-old cousin who fell victim to gender-based violence; she was raped and murdered in a crime that was racially motivated. She was gang raped by four males, though that event was deeply traumatic for my family, the Free State Division of the High Court where I now serve as a deputy judge president, gave us hope when my cousin's case came before it, the court delivered justice, not just for our family, but for the black community at large.

This served as a reminder to us that even in times of chaos judges must remain steady, independent and committed to the rule of law. It was a moment that affirmed the court's power to restore dignity and bring light where there had been none. It was a life-changing moment that gave us hope for a better tomorrow. My family did not believe that they would receive a positive outcome due to the race of the accused persons that had killed my cousin. It was these two key moments that propelled me to pursue my legal dream, at that time it was a dream far-fetched and practically impossible to attain for a farm girl in my shoes, whose parents income would really have not managed to send me to university, but the road was not without challenges, determination, faith, and support from the community where I come from made that dream a reality. And from that time, I believed that I want to be a part of a system that restores dignity to those that did not have.

DR. MALKA

That's such a powerful motivation that you've shared with us, those personal instances, and I'm sure as you've traversed your career, you have seen moments where the law has been able to restore dignity.

JUDGE MBHELE

I have on a number of occasions. There have been instances where I have had to represent people who were evicted from farms by farm owners. It is those moments where the small people who do not have a voice, have someone to talk on their behalf, to say you also are a human being and must be treated with respect. That actually made me realize that the law can change lives.

DR. MALKA

Judge Mbhele, you have shared with us some of the dynamics that led you to pursue law and in relaying that, you've also shared that you came from a relatively disadvantaged background, but yet, you still managed to attain your qualifications and rise to the position you're in today. Tell us a little bit about the academic journey and how you managed to pursue your studies, because if you don't have the qualification, you can't be a lawyer, and you can't keep rising.

JUDGE MBHELE

I must actually thank my late father and his employer as well. Maybe in not so much proud circumstances, while staying on the farm, my mom was a domestic worker, there came a time when I was doing standard eight, I believe, which is grade 10 in today's language, that my mom got sick and I had to go and stand in for her as a domestic worker during December holidays. And one day when the farmer went to collect the post from town, we used to get our post from the farmer, he stumbled over my report, what we would call my results for that year, and he asked me if he could open the envelope. I was excited, we opened the envelope, and when he looked at it, he saw that I got all A's, and I scored over 90 in all the subjects, and he took a keen interest in me. When I was doing standard nine, which was grade 11, he said when you get your matric results just inform me, tell me what you would want to do, but at that point I had my brother as well who was doing matric. My brother and I were doing matric at the same time, and he was older than me. With the little resources that my father had put aside, he had to decide between me and my brother, who has to go to university first, and when that time came, we both got our results on the same day, matric results, we had now to proceed to university. My father had to make a very difficult decision between the patriarchal system, my brother would have been the first to go to university, but then my father decided no, I don't want a girl child who would roam the street, and my brother had to take a gap year that year and not go to school.

Fortunately at that same time two of my brothers had started working and one of them contributed towards my registration and my father's employer, when he saw my results and realized that I wanted to go and study at a university that was quite far away from where we were, we were on the farm, it almost was over 700 kilometres, from where we were staying. He contributed towards my registration and I am grateful there too, and from then my brothers took over to support me for my daily upkeep, and with my father's little salary that contributed towards that. And it was only in my last year, when I was doing fourth year, that I received what we call today NSFAS, it was a government intervention or financial aide for struggling students, when I was doing my fourth year I received that, but I do not want to take light the contribution that was made by my father's employer, in fact, fate put me in the right place. Had it not been for me having to go and work for a few days as a domestic worker, I would not have had an opportunity to get the contribution that I got from my father's employer.

DR. MALKA

What an incredible story and one fuelled by dreams and passion and also a very enabling environment, and thankfully your father didn't conform to patriarchal beliefs, which would have been very prominent at the time.

JUDGE MBHELE

I am grateful to him up to date, my late father, he remains a hero to me up to date.

DR. MALKA

Now, bringing us right up to today, as Deputy Judge President of the Free State High Court, tell us what leadership in the judiciary requires, particularly in terms of having to balance judicial independence with administrative responsibilities.

JUDGE MBHELE

Leadership in the judiciary entails way more than just managing a courtroom. As Deputy Judge President I carry two hats; one is ensuring that the court runs smoothly on an administrative level, and the other is safeguarding judiciary independence, balancing the two means one has to be very clear about the boundaries. Administrative responsibilities, like managing caseloads, allocating matters, and making sure that judges have the resources they need, should never interfere with the court's duty of adjudicating without fear, favour or prejudice. That's what one has to juggle with daily in the leadership of the judiciary, you have to make sure that you still dispense justice to those that need it, at the same time you also need to make sure that judges get all the support they need to perform and do their judicial work.

Leadership in the judiciary requires listening to judges, staff, legal practitioners, and the general public, they all have different perspectives on how the system is working. So, leadership means creating a space where those voices are heard, while also keeping the integrity of the court intact. Most importantly one has to lead by example. If I expect judges to work with diligence, independence and respect, I must reflect those same values in my day-to-day.

DR. MALKA

You seem to be involved and in touch with all of your communities, let alone thinking about justice, serving individuals and marginalized people for that matter, but you're actively involved in the legal fraternity itself, from the Black Lawyers Association, South African Women Lawyers Association, the Free State Gender Forum, and given all of your experiences in those spaces and because we're a gender-based show, how far, in your opinion, has South Africa come in promoting gender equality in the legal profession?

JUDGE MBHELE

How we measure our gender equality in the legal profession, is how many of those that enter the profession stay in the profession and are seen progressing. In fact, the statistics in

South Africa will show that there are more women who enter the profession, but they disappear, most of them within the first two years or three years of them having entered the profession.

Skewed briefing patterns result in us seeing less and less of women sustaining their practices beyond five years. I think the subject on gender equality has to be broadened, that there has to be a loud voice at every take, because the consumers, I think the government is the biggest consumer of legal services, they are in our courts daily, but we see less and less of women legal representatives appearing in our courts. It means the support has to start from those that are in power, they should actually set an example that we have confidence in our women, we know that they can do the job. If those that have power or those that are in authority assert or affirm the status of women, everybody else would rally behind them and start supporting them. I must say there's not much done, we don't see more women coming into our courts, we only see them coming into the profession, we see them when we admit them into the legal profession, because they move their applications in our courts, but we don't know where they disappear to, because there's no support out there for them.

DR. MALKA

Thinking about interventions and on the topic of gender, but moving away slightly, and earlier in the conversation you mentioned the traumatic experience of your cousin being raped and murdered at the age of 16; last year the National Council on Gender-Based Violence and Femicide Act was signed into law, and in layman's reading of it, it says that the Act provides a legislative framework for the National Council, establishing it as a statutory body that is responsible for providing strategic leadership on addressing gender-based violence and femicide in South Africa. Please share with us, what are some of your thoughts about this Act?

JUDGE MBHELE

The Act is an important step forward in South Africa's fight against gender-based violence and femicide. For too long these issues have devastated communities and the response has often been fragmented. By establishing a statutory framework for the National Council, the Act gives a clear mandate, accountability and coordination in addressing the gender-based forum at a national level. From a legal perspective it provides on roles and responsibilities, and it helps align policies and programmes across government departments and civil society. That matters, because tackling gender-based violence requires more than just arrests and prosecutions. It requires prevention, awareness, and support for survivors, but beyond the technicalities, the Act sends a message that the state recognizes the severity of gender-based violence and that it is committed to addressing it systematically. It is also a reminder of the law's potential to influence social change, and laws like this do not just govern behaviour, they signal values and priorities, showing communities that violence against women and girls will not be tolerated. Of course, passing

legislation is only the first step. Implementation, resourcing, and monitoring will determine its real impact. For the judiciary and legal practitioners, it also raises important questions about how courts, legal aid and enforcement agencies respond to cases under this framework. Ultimately my hope is this act strengthens both legal mechanisms and societal commitment, giving survivors better protection, justice and support.

DR. MALKA

Moving towards a lighter note; in August we celebrate women's month, and this year's theme is 'Building Resilient Economies for All' which I think has got quite an aspirational dynamic, especially when they phrase it as women leading the future of trade. Share with us some of your ideas of the theme, or views.

JUDGE MBHELE

I have always believed that women empowerment or total emancipation of women must be driven by women who understand how it feels to be marginalized, and I have always believed that women must be given an opportunity to chart their way forward. They must be in the forefront, they must be the ones that are designing strategies that would take them out of the situation where they find themselves in, because for the longest time we've had people deciding for women on how to run their businesses, and there have been interventions that were put in place which did not speak to the needs of women, and I still believe that for women to thrive in any form of business, it should be done in such a way that women drive the process, they decide what they want, they have a better voice, their voices are heard. They are the ones that speak louder about what they need and that the responses that should or the interventions that should be put in place should be the type of interventions that respond to what the women need and think will work for them.

DR. MALKA

Tell us who have been some of the important women in your life?

JUDGE MBHELE

In my personal life, you know, my mother is one woman that I always looked up to, even as a young child. When we were growing up my mom was raising chickens and selling eggs and chickens. At some point she was supplying eggs to a supermarket in town, because we were staying on the farm and it was about 20 kilometres away, she had to ride a bicycle to take her eggs to the supermarket, almost every week, a 20-kilometre journey to and a 20-kilometre journey back to deliver the eggs, without fail. What I'm trying to say is she has been one hard-working person and very disciplined, she's unstoppable.

When she sets her mind onto something she does not look back. She would press forward and ensure that all the goals that she sets for herself are achieved, and she does that elegantly and with so much grace, she is my role model, but I have had women in the legal profession who actually held a torch for us and I am

always fascinated by how the late Justice Mokgoro paved a way for all of us. She arrived at the ConCourt as the first female judge there, as the Justice of the Constitutional Court and in the very first judgment of the Constitutional Court, *State vs Makwanyane*, she made a huge contribution in that judgment, that the principle of Ubuntu, which she articulated so well in that judgment carries through from ages in one generation to the other, and it was in one important judgment that addressed right to life, and her contribution in that judgment was so important that it still reverberates even today, into generations to generations, long after she has left that court. I think she did womanhood so proud that we cannot forget that, but I also learned after two very strong women. The President of the Supreme Court of Appeal, Justice Molemela at the Supreme Court of Appeal, and Judge Kubushi, who were my principals, Judge Kubushi was my direct principal, they were partners in a firm where I did my articles.

Judge Kubushi taught me discipline, hard work, and that I should stand up for myself. Whenever I felt that my legs could not carry me, that my knees were weak, I could not stand up, she pushed me to stand up and have a voice. She taught me how important it is for me to speak for myself and own my voice and make my requests known, and everything that I desire, make it known. I still look up to those women up to date; they made an incredible contribution to the person that I am today.

DR. MALKA

And lastly, please share a few words of inspiration you'd like to pass onto girls and women who are listening to us.

JUDGE MBHELE

I'm saying to women and girls out there, there's nothing impossible to reach or attain. I am that example. The odds were stacked against me; there's not a single person who believed that I could make it to where I am today. The circumstances around me literally would not have allowed me to be where I am, but because I was motivated, I was determined, and I ensured that my presence is felt at every turn. I was at the right place at the right time I must say, and here I am. And what I am trying to say to all women is that being resilient is not about just being in a storm and standing there hoping that the storm will be over, it is moving forward while it is still raining on you, it's not standing at the same place hoping that you will be rescued, no. And one important thing is that there is no room for us not to take opportunities when they are presented. Opportunities are so scarce, they are even more scarce when it comes to women. So, once given an opportunity do it with all your might, do it with all your strength, and make sure that you do it well, because there might not be a second chance for you. Whenever we get an opportunity to serve, that might be the last time, because women are not called upon many times to do things, just prove yourself and represent, because you are representing every woman when you are doing something right, you are representing all of us. And one thing is that our failures are viewed with magnifying glasses, and when men are on the

other side, they are afforded the opportunities to rise and fall as many times as they can afford to. We need to play our roles and build good ethical societies with good moral values around us, the community or the world is not so forgiving to women, when we make mistakes, our mistakes follow us at every turn, people will speak about our mistakes even in the next generations. So that when you get an opportunity, yes, when mistakes happen, do not sit there and think that's the end of the world. Rise and start afresh, rise and do better with every opportunity that you get, because it is opportunities that stands between us and our success and when you get it, move forward and succeed. ■

BOWMANS LAW FIRM, SANDTON



The DOJ's 2025 Career Day held on 25 July 2025 at Bowmans Law Firm hosted students from various tertiary institutions.

OCJ PARTNERS WITH DOJ ON NELSON MANDELA CAREER DAY

In observance of Nelson Mandela Month, the OCJ joined hands with the Department of Justice and Constitutional Development (DoJ&CD) on 25 July 2025 to raise awareness on legal careers available in the organisations. The career day event was held at Bowmans Law Firm in Sandton, Johannesburg, and attended by law student from different universities around Gauteng.

Judge C Collis of the Gauteng Division of the High Court took time out of her judicial responsibilities to attend the career day. Judge Collis motivated the students to stay the course in their careers, citing her own journey from prosecutor to Magistrate and Judge.

Constitutional Law Clerks, Ms P Naidoo and Ms S Msomi also made a presentation on the role of the Constitutional Court and further discussed the Law Clerks Programme offered by the Apex Court.



Judge C Collis addressed law students at the Nelson Mandela Career Day



Constitutional Court Law Clerks, Ms S Msomi and Ms P Naidoo, gave insights on the role of the Constitutional Court.



Speakers of the day included Judge C COLLIS, Constitutional Court Law Clerks, Ms S Msomi and Ms P Naidoo and others from the NPA, Legal Aid and various stakeholders in the field of law.

JOHANNESBURG



The Heads of the Superior and Lower Courts met on 11 July 2025 in Johannesburg.

HEADS OF COURT CONVENE FOR QUARTERLY MEETING IN JOHANNESBURG

On 11 July 2025, Chief Justice Mandisa Maya hosted a meeting of the Heads of Court comprised of the leadership of the Superior and Lower Courts Judiciary in Johannesburg. The Heads of Court meet quarterly to discuss matters related to the administration of courts.



President M B Molemela of the Supreme Court of Appeal of South Africa



Judge President P Tlaetsi, Judge President of the Northern Cape Division of the High Court



Judge President Z Carelse, Judge President of Land Court



Judge President S S Mphahlele, Judge President of the Mpumalanga Division of the High Court

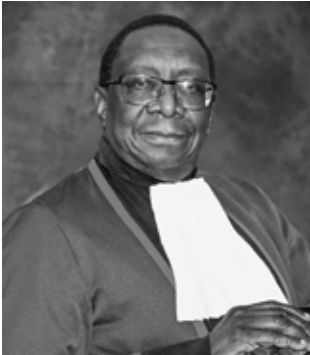


Former Judge President D Mlambo of the Gauteng Division of the High Court

JUDICIAL APPOINTMENTS & RETIREMENTS

JUDICIAL APPOINTMENTS

CONSTITUTIONAL COURT



Deputy Chief Justice D Mlambo

Appointed as Deputy Chief Justice of the Republic of South Africa
As of 01 August 2025



Justice Mbuyiseli Madlanga

Justice Mbuyiseli Madlanga appointed Chairperson of the Judicial Commission of Inquiry into criminality, political interference, and corruption in the Criminal Justice System arising from the specific allegations made public by Lieutenant-General Nhlanhla Mkhwanazi
As of 21 July 2025



Justice Bess Nkabinde

Justice Bess Nkabinde appointed Chairperson of the Enquiry in terms of section 12(6) of the National Prosecuting Authority Act 32 of 1998, into the fitness of Advocate Andrew Chauke (Adv Chauke) to hold the office of Director of Public Prosecutions
As of 19 September 2025



Justice Sisi Khampepe

Judicial Commission of Inquiry to Inquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of truth and reconciliation commission cases
As of 29 May 2025

JUDICIAL RETIREMENTS



**Acting Deputy Chief Justice
Mbuyiseli Madlanga**

Acting Deputy Chief Justice of the
Republic of South Africa

As of 31 July 2025



Justice V Ponnann

Judge of the Supreme Court of Appeal

As of 01 August 2025

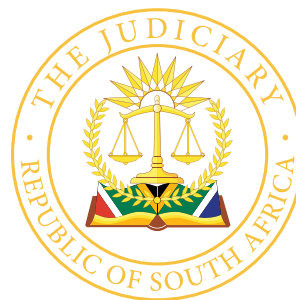
IN MEMORIAM



Judge V V Tlhapi

Judge of the Gauteng Division of the
High Court

Passed: 21.08.2025



NATIONAL OFFICE ADDRESS:

188 14th ROAD, NOORDWYK
MIDRAND, 1685




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