

THE JUDICIARY

DECEMBER 2019 | Q3 ISSUE



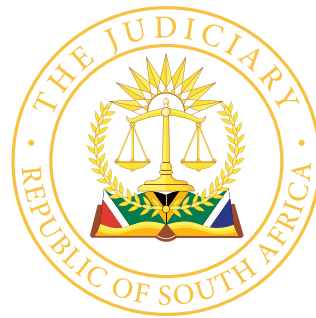
JUDICIARY DAY

17TH NELSON MANDELA
ANNUAL LECTURE

OFFICIAL LAUNCH OF
MPUMALANGA HIGH COURT







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Editor

Welcome to the holiday season Issue of the Judiciary Newsletter! This time of the year provides an opportunity for reflection on the year that has been and an evaluation of whether we have achieved all that we set out to do when the year started. We hope that when you do reflect you look back at the year with contentment and are filled with a sense of achievement.

It was the Judiciary's turn to reflect on October 3 as it held its second annual Judiciary Day. The South African Judiciary holds the Judiciary Day to present its annual report on Judicial Functions and Court Performance. The Inaugural Judiciary Day took place in November 2018. This was a historical event as it was the first time the Judiciary, as an Arm of State, took the lead in accounting for its work, and for the power and authority the State has endowed to it. Chief Justice Mogoeng Mogoeng, as the head of the Judiciary, presented the 2018/19 annual report to the public and highlighted some of the gains we have made in achieving a single, transformed and independent judicial system that guarantees access to justice for all. This is covered from page 6 of this newsletter.

It was yet time for a different kind of reflection when Chief Justice Mogoeng Mogoeng was invited to deliver the 17th Annual Nelson Mandela Lecture on November 23. The Chief Justice was requested to speak on "Constitutionalism as an Instrument for Transformation". Much has been said in the media about the profound statements made by the Chief Justice during the Lecture, and we will not repeat it here, save to show you the day in pictures. For those who missed the Lecture, we provide links to the full transcript and video of the Chief Justice's reflective speech.

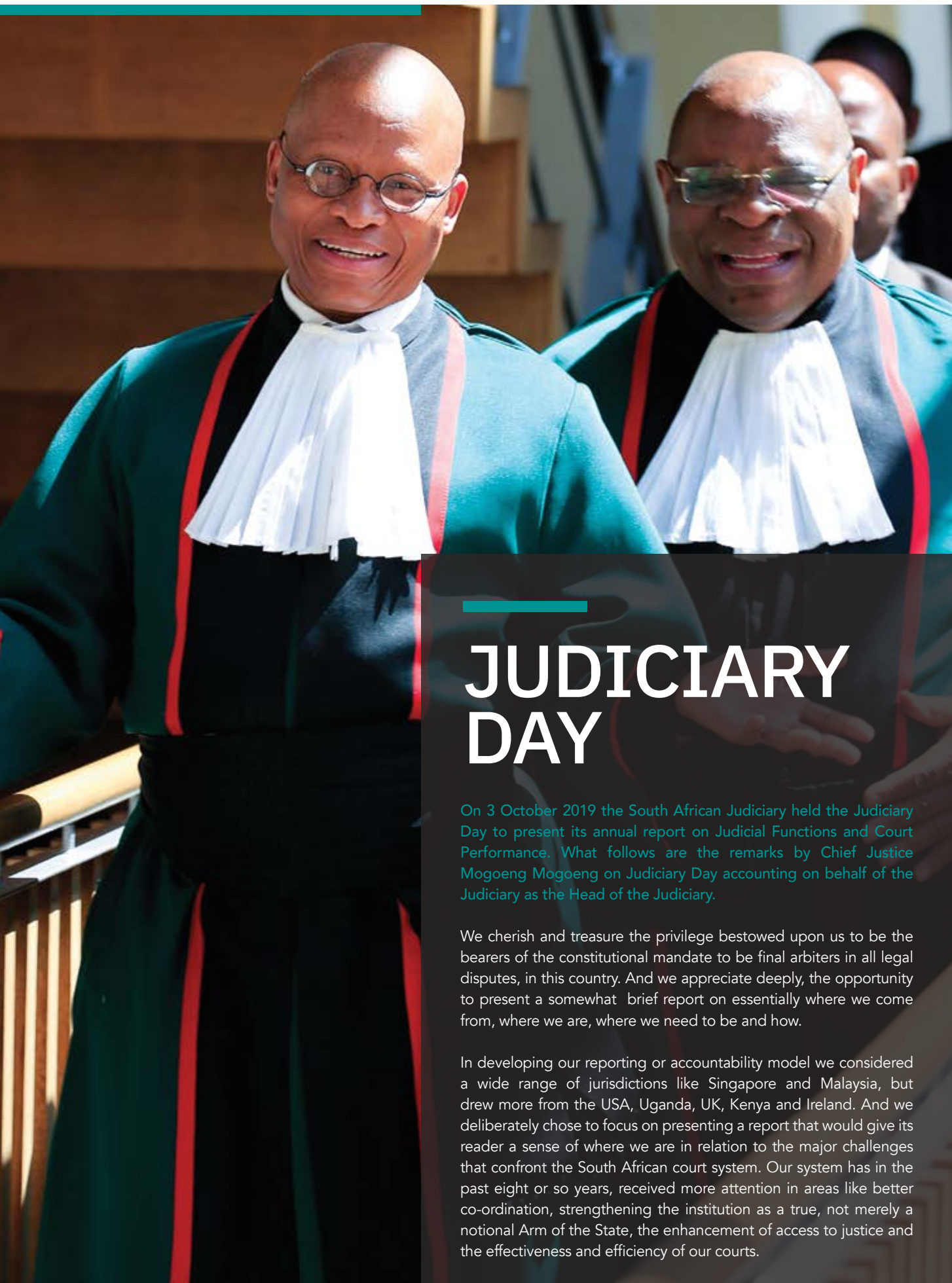


We were honoured to have the President of the Republic of South Africa, Mr Cyril Ramaphosa, visit the Mpumalanga Division of the High Court in Mbombela to officially open the newly built Court in November. The President was accompanied by, among others, the Minister of Justice and Correctional Services Mr Ronald Lamola and Ms Patricia de Lille, the Minister of Public Works and Infrastructure. The symbolic hand-over of the key to the Court building by Minister de Lille illustrated the collaborative effort between the Executive and the Judiciary in delivering access to justice for all. It was indeed a proud moment to finally declare that the High Court now has a seat in all nine provinces of our country.

As the South African Judiciary we therefore end 2019 on a positive note; we certainly hope that all our stakeholders do too. From all of us in the Judiciary we wish you happy and safe holidays and a prosperous new year! Okuhle kodwa! ■

See you in 2020!

Judge President Dunstan Mlambo
Chairperson: Judicial Communications Committee



JUDICIARY DAY

On 3 October 2019 the South African Judiciary held the Judiciary Day to present its annual report on Judicial Functions and Court Performance. What follows are the remarks by Chief Justice Mogoeng Mogoeng on Judiciary Day accounting on behalf of the Judiciary as the Head of the Judiciary.

We cherish and treasure the privilege bestowed upon us to be the bearers of the constitutional mandate to be final arbiters in all legal disputes, in this country. And we appreciate deeply, the opportunity to present a somewhat brief report on essentially where we come from, where we are, where we need to be and how.

In developing our reporting or accountability model we considered a wide range of jurisdictions like Singapore and Malaysia, but drew more from the USA, Uganda, UK, Kenya and Ireland. And we deliberately chose to focus on presenting a report that would give its reader a sense of where we are in relation to the major challenges that confront the South African court system. Our system has in the past eight or so years, received more attention in areas like better co-ordination, strengthening the institution as a true, not merely a notional Arm of the State, the enhancement of access to justice and the effectiveness and efficiency of our courts.

We could, but chose not to have, a detailed report that covers every issue of consequence. For example, we could have individualised the performance of each Division of the High Court including that of, each Judge, each Regional Court, District Court and each Magistrate.

We could have set out details relating to when each case reached the court, how long it took for the trial or hearing, how many postponements were granted in each case, at whose request and why. We could also have stated how long it took to conclude the hearing or trial, and why. And when thereafter the final judgment was delivered.

The information in this report has been internally audited for the first time

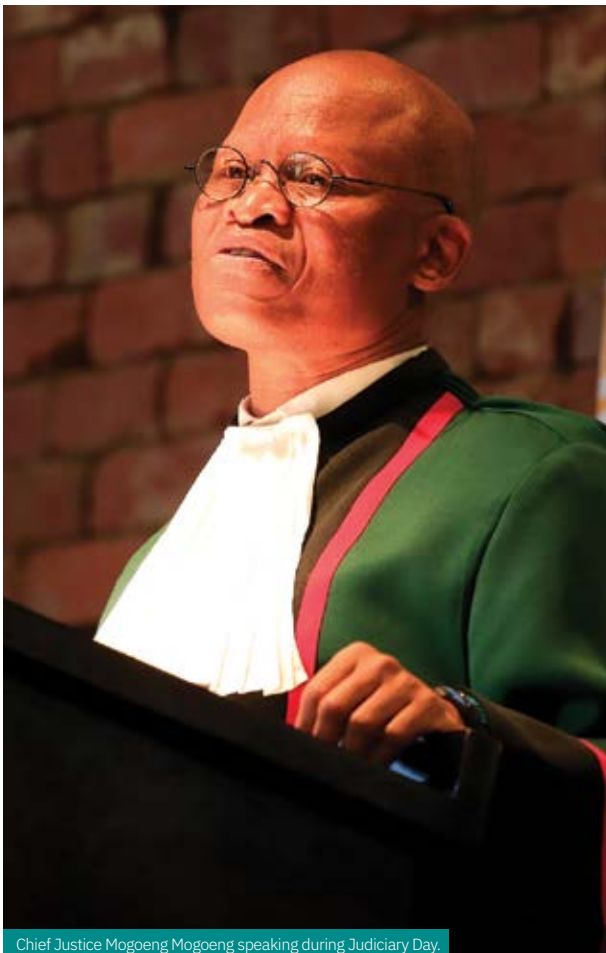
But, considering where we were, and that we are only just beginning whereas others started well over 100 years ago, we chose to prioritise the cardinal challenges that our courts are experiencing. It is precisely for that reason that our focus is on what measures or programmes have been or are to be introduced to reduce inordinate delays relating to the stages at which Judicial Officers have the clear authority to determine the speed of of case progression. And that is from the commencement of a trial or hearing to the delivery of a final judgments.

Before then other key roleplayers in the justice system are involved and what they do or don't do tend to have a direct impact on the pace at which matters are ripened for enrolment and hearing or trial. You can't take disciplinary steps against Judicial Officers for that leg of the process.

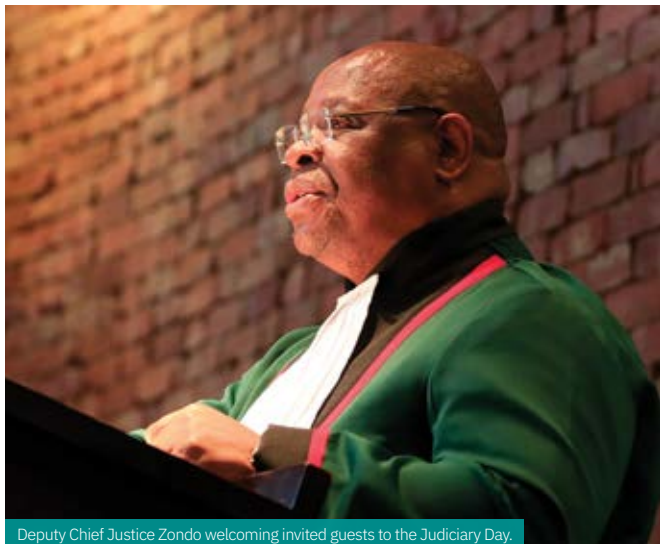
Mindful of this reality we humbly initiated the establishment of the National Efficiency Enhancement Committee (NEEC) and its Provincial equivalents (PEEC's) to have all these key players talk about what or who causes delays in the justice system and how to address that problem.

Additionally, learning from the best, we decided on court modernisation so that data relating to the registration of cases, the maturity or progression of cases from one stage to another and reasons for each delay could be captured electronically. An attempt to do it manually would not only be a laborious exercise but too costly for thinly staffed courts like ours. We know, that a full blown court automation system would not only facilitate e-filing, and easier access to judgments but also the capturing of data that goes into the finer details of each case and the performance of each Judicial Officer. Smart phones and i-pads would then be the tools we use to check on the performance of any of our courts, anytime regardless of where in the world we might be.

We are building systems. With Norms and Standards in place, Judicial Case Management and Court-annexed Mediation embraced, and automatisisation being at an admirable stage under the circumstances, we are satisfied that a lot of good



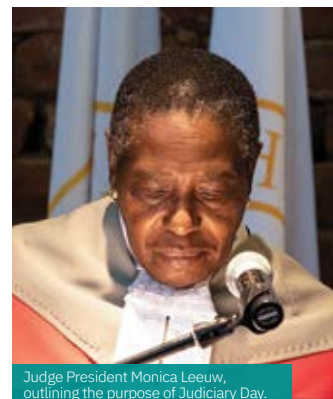
Chief Justice Mogoeng Mogoeng speaking during Judiciary Day.



Deputy Chief Justice Zondo welcoming invited guests to the Judiciary Day.



President of the SCA, Justice Maya, facilitating the Q&A session on Judiciary Day.



Judge President Monica Leeuw, outlining the purpose of Judiciary Day.



From the court performance statistics contained in the report it is clear that the bulk of the work is done by the High Court.

< Ms Sylvia Lucas (center), the Deputy Chairperson of the National Council of Provinces, sharing a light moment with Chief Justice Mogoeng Mogoeng & Deputy Chief Justice Zondo during Judiciary Day.

fruit is indeed being yielded by our efforts.

Ask any practising lawyer whether in our higher courts where these and other innovative measures have been introduced, performance is improving or declining. You will most likely get a favourable response.

In many respects we are doing much better than some of the older democracies that we are at times compared to, sometimes selectively and unfairly.

The Judiciary is in the process of developing a Strategic Plan for the years to come.

The information in this report has been internally audited for the first time. This is an important step in refining the process and ensuring the veracity of the information presented. This 2018/19 Annual Report also contains descriptions and explanations for the indicators, to assist those assessing the performance information.

But, to use the noting of appeals, their success or otherwise as a quality assurance tool for judgments, as some have suggested, would be most inappropriate. For example, the Constitutional Court overturns SCA judgments regularly, but it doesn't mean that the quality of their judgments is not right. The real test, whatever the outcome, is the soundness of the reasoning and the Judicial Officer's apparent appreciation of the legal principles involved. Some people don't take matters on appeal because they don't have money. And appeals succeed for reasons that do not always have anything to do with once competence.

The NPA's reliance or the requirement for prosecutors to rely on the conviction rate as a performance yardstick must be corrected. They don't convict. Judicial Officers do. How then can it ever be appropriate to measure their performance on

the basis of what they don't do? Theirs is to present cases, and even support an acquittal where the interests of justice would be served by doing so. Not to pursue a conviction at all costs.

COURT PERFORMANCE, IS SUMMARISED AS FOLLOWS:

- a. During the period under review, the Superior Courts managed to perform at 70%.
- b. The following targets were not met: Percentage of Constitutional Court Cases Finalized (76% against a target of 80%), Percentage of Competition Appeal Court Cases Finalized (57% against a target of 90%) and Number of criminals cases on High Court roll for more than 12 months.
- c. The challenges experienced by the Judiciary have been exacerbated by an ever-increasing workload.

The Supreme Court of Appeal has performed well. It finalised 214 appeals of the 231 during the reporting period.

The 17th Constitutional Amendment increased the jurisdiction of the Constitutional Court so that, as well as constitutional matters, the Court will also have jurisdiction over other matters of general public importance that it chooses to hear. The Court is now the apex court, and court of final appeal, on all matters. This amendment has resulted in a marked increase in the workload of the Court. Despite these increases, the Judicial establishment has remained unchanged placing increasing pressure on Judges to ensure that access to justice is done. The fact that all applications must be considered



Chief Justice Mogoeng Mogoeng with Deputy Chief Justice Zondo and SCA President, Justice Maya, at Judiciary Day.

by all or at least eight Judges, and the increasingly complex matters including those of a highly political character, that are brought to the Court, and an increase in direct application, has contributed to the inability to meet the target. As a result, of the 490 cases received, 370 were finalised within the last financial year. Some are even wondering whether the Constitutional Court should perhaps merge with the SCA or have the number of its Judges increased and sit in panels in most of the matters.

The Supreme Court of Appeal has performed well. It finalised 214 appeals of the 231 during the reporting period. This is in addition to the 1062 applications for leave to appeal, out of 1095 applications, which were finalised.

In all the Divisions of the High Court, criminal matters on the backlog roll are being monitored at PEEC level by all stakeholders. In many instances these matters are delayed, beyond the control of the Judiciary. This delay is clear from the High Court's failure to reach the target on the finalisation of criminal matters.

From the court performance statistics contained in the report it is clear that the bulk of the work is done by the High Court. And of the 145 127 civil cases they received, 114 650 were finalised and of the 13 140 criminal matters, 10 666 were finalised. This despite limited resources and a judicial establishment which has remained unchanged despite an increase in the workload.

Our specialist courts have also ensured that matters are expediently finalised. The Labour and Labour Appeal Courts have finalised 3756 of the 5915 Labour matters brought before them.

The Competition Appeal Court deals with matters that relate to all economic activity in the country. The scope of the jurisdiction of the court is wide. But given the growth in economic activity, it is necessary to ensure that competition is based on constitutional principles.

The Land Claims Court, although situated in Randburg, has dedicated itself to bringing justice to the people. It regularly holds court sessions where needed, around the country, especially in the remote rural areas where sensitive historical issues relating to land are predominant. It has finalised 219 of the 354 cases brought before it during this reporting period.

The Electoral Court has lived up to its mandate and track-record of finalising cases as speedily as it is almost always required to.

The number of reserved judgments in the Superior Courts is monitored to measure compliance with the set Norms and Standards and the Judicial Code of Conduct. The report on reserved judgments is also a tool for Judges President and all Heads of Court to monitor performance at a specific court.

As part of accountability and in an effort to be transparent, the Heads of Court have taken a decision that a reserved judgment report, containing a list of those judgments outstanding for 6 months or longer, will be placed on the OCJ website. Any requests for further information, such as the disclosure of information on the list of reserved judgments for individual Judges, or judgments outstanding for less than 6 months, must be referred to the Head of Court concerned.

Another new development in this report is the inclusion of Key Performance Indicators for the Regional Courts and the District Courts. The sheer scope of their workload require more time to develop a bespoke performance measuring tool.

For the period under review the South African Judicial Education Institute (SAJEI) facilitated a total of 142 judicial education training courses as provided for in the SAJEI Act (2008), covering a total of 3 068 delegates in the period under review. The training conducted included court-annexed mediation, case management, and skills to manage the children's court, criminal court, family court and civil court, competition law, cyber crime, maritime law, judicial ethics as well as environmental crimes. These training courses contribute towards the efficient and effective administration of justice. SAJEI has also produced 2 monographs on judicial education.

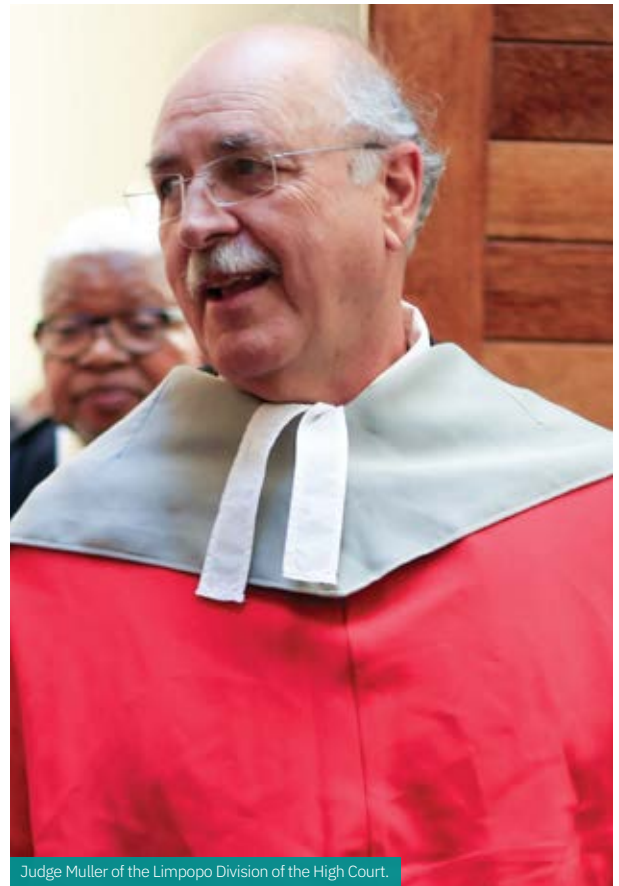
The stress on Judicial Officers which, as a result of some of the traumatising cases like rape, murder, difficult divorce matters that we have to handle and attacks of all kinds by aggrieved litigants or similarly-situated people and others,



Left - Right: Chief Magistrate Thulare, Chief Magistrate Tonjeni, Chief Magistrate Lekhuleni and Chief Magistrate Krieling.



Judge Mbhele, Judge Phatshoane, Judge Molemela & Judge Mamosebo at Judiciary Day.



Judge Muller of the Limpopo Division of the High Court.

requires the introduction of a judicial wellness or stress-management programme. It cannot be left to an individual Judicial Officer to fend for herself or himself. It is a work-related challenge that requires an institutional response as has been most impressively done by Australia and Singapore. To this end, the Heads of Court are developing such a bespoke programme or system which will hopefully be implemented under the auspices of the Judiciary or the OCJ in the near-future, funding permitting.

One of the priorities of the Judiciary is to introduce Court-annexed Mediation in all courts where it is reasonably practicable to implement it. The leadership of the Judiciary, with the facilitation of the South African Judicial Education Institute (SAJEI), embarked on a training programme for all available Judicial Officers on a win-win court-annexed mediation system during the month of July in 2018. Pilot projects are running in both the Pretoria and Johannesburg High Court and Magistrates' Court. Plans are underway to appoint a highly-skilled mediator to oversee the implementation of this programme and the training of the trainers.

Court automation and the development of modernisation systems are among our priorities. We have set up a committee that has helped us to develop an appropriate court-automation system. The system will help us implement electronic-filing and electronic record-keeping, performance-related data capturing, information dissemination or access to information relating to cases, judgments and all other matters that affect court operations. We are piloting caselines in Gauteng.

In addition to our plans on judicial case management, court modernisation and court-annexed mediation, we continue to innovatively explore other measures for the enhancement of the efficiency and effectiveness of the Judiciary in order to improve court performance. Only trial or hearing-ready matters must be set down. To achieve this, judicial case management and pre-trial conferences that involve and are driven by a Judicial Officer must be fully embraced. The recently

Sexual offences on gender-based violence cases require an integrated approach by all key stakeholders

promulgated amendments to the Uniform Rules of Court, formally introduce judicial case management and mediation in the South African legal terrain. The process of drafting the amendment was initiated and led by the Judiciary and will greatly assist in ensuring that there is clear movement towards the speedy delivery of quality justice to all.

It took too long to get to this point. We remain convinced that as was the case as at 1965 when the Uniform Rules of Court were drafted, the Judiciary must have full rule-making authority. This would facilitate speedy progress whenever our court rules need to be changed. Judges chair the Rules Board precisely because Judicial Officers are best-placed to handle that process well and with deliberate speed.



Judiciary Day 2019 opened with the singing of the National Anthem.

The Judicial Service Commission (JSC) was established to assist with the selection of potential Judges before the President of the Republic makes appointments that would cause the Judiciary to be reflective of the racial and gender composition of South Africa. More still needs to be done in order to ensure gender representation in the composition of the Judiciary, particularly at the leadership level in the higher courts.

Most cases of alleged misconduct against Judges have been speedily finalised, barring of course the Hlophe JP, Motata J as well as the Preller J, Mavundla J, Webster J and Phoswa J matters. These have been the subject-matter of a series of legal challenges that led to inordinate delays that nobody could have done anything about. Some have argued that Judges ought not to be allowed to litigate in such matters. This begs the question, in terms of which law? We have no power, as the Judiciary or the JSC, to deny people their constitutional right of access to courts, just because they are Judges. Such a law does not exist. Criticism that assumes that we could have, but failed to, expedite this process can in the very least only be a consequence of ignorance or frustration. It must be said that the Judiciary has never shied away from openly pursuing any Judge who is rightly or wrongly accused of a misconduct. Cases of racism, failure to perform their duties, or alleged corruption have been entertained and dealt with.

There have been allegations of corruption levelled against certain Judges, we have examined very closely. Neither the JSC nor the Chief Justice has the legal authority to peer into the bank accounts of my Colleagues. It would be criminal. There has been some suggestion that we do so. We can't as long as the rule of law matters to us, as it should.

On our instructions, the Secretary General of the Office of the Chief Justice asked the National Commissioner of SAPS to investigate and locate the real faces behind allegations of corruption against certain Members of the Judiciary. In response the National Commissioner has confirmed that he has referred the matter to the HAWKS. Of the allegations made by Mr Rahube and Mr Lewis, none of them says that any Judge is corrupt. They are complaints or dissatisfactions about how cases were handled or a suspicion that court officials, not Judges, could possibly be unduly influenced in relation to his documentation. Sadly, a newspaper article was even written under the heading "SA JUDGES MISLED TO FACILITATE DE FACTO MONEY LAUNDERING-UK CLAIM". Even if one did not read that "baseless" article, the wide publicity it was given on posters in Johannesburg is sufficient to inflict incalculable reputational damage to the Judiciary as an institution.

Sexual offences on gender-based violence cases require an integrated approach by all key stakeholders. What follows are some of the measures that could alleviate the problem:

- a. A public awareness campaign on how to report and a focus on what credible assurances are there to minimise the discouraging and humiliating features of reporting and processing these cases to finality.
- b. A focused and well-trained unit or a cohort of investigating officers that deal only or primarily with sexual offences or gender-based violence. Re-orientation of all front-desk or charge office functionaries to sensitise them to the better and more appropriate handling of these cases. Dedicated officers and Magistrates must be available at all times to also receive complaints as a back-up mechanisms, as is done by the French police.



Many Judges have, over the years, responded positively to the request that they scale down on official vehicles

- c. Prosecutors that are just as specially equipped to handle these cases with the expertise, sensitivity, professionalism and special competence they deserve.
- d. Judicial Officers who are specially trained on the investigation and further handling of these cases with due sensitivity. This must, as is the case with the French experience relating to priority crimes, apply to investigation, prosecution and adjudication as well.
- e. Properly trained intermediaries and interpreters to facilitate or ease the appearance and giving of evidence particularly by young complainants
- f. Revitalisation of Thuthuzela Care Centres and rendering them even more fit for purpose.
- g. All-round resourcing of key players and facilities meant to handle gender-based violence or sexual offences matters.
- h. A fresh, sensitive and more responsive approach to domestic violence matters which extends to special training and inappropriate facilities to enhance privacy and keep the alleged perpetrators in check.
- i. Key role players in the broader justice system and the criminal justice system in particular, especially the Arms of the State must accept that we have been working in silos. This desperate situation demands that from now on

we work together in a more deliberate and intentional way, otherwise nothing much will ever change. Panic responses or knee-jerk reactions to these matters, as if they are new, would not help. The need for an integrated approach cannot, therefore, be over-emphasised.

- j. The imposition of firm sentences is indeed but one of the major deterrent factors. But, our engagement with jurisdictions like Germany, France, the Netherlands and Norway revealed that certainty or predictability of detection, prosecution and conviction if the evidence allows is the most effective deterrence. All of the above factors ought to be an integral part of any process that has the possibility to give real meaning to the Sexual Offences Courts. We would have insisted on the need for at least some of these capacities or reinforcements when the introduction of Sexual Offences Courts were being considered, had we been consulted.

It must, however, be stressed that the criminal justice system deals only with the symptoms or offshoots of what really lies at the heart of a deeply troubled society. The root causes must therefore be programmatically attended to, if a real and lasting solution is to be found. Broadly speaking, it is no exaggeration to say that we are a sick society. Our sickness is responsible for this atrocious behavior. It must be properly diagnosed for effective medication or treatment to be dispensed and for the sickness itself to be permanently uprooted.

The Judiciary is alive and sensitive to the economic challenges in South Africa. It is for this reason that the Heads of Court voluntarily passed a resolution on cost-containment measures, with specific reference to travel and subsistence allowances for Judges and Assessors.



The Correctional Services' Unitas Choir kept guests entertained at the 2nd Annual Judiciary Day.

Many Judges have, over the years, responded positively to the request that they scale down on official vehicles. Few insist on their entitlement to acquire vehicles worth over R1 million, notwithstanding our pleas and the extremely worrisome economic climate we find ourselves in. We have always said that it is a matter of conscience. The Judiciary will, where feasible, continue to implement the cost-containment

The Judiciary is alive and sensitive to the economic challenges in South Africa. It is for this reason that the Heads of Court voluntarily passed a resolution on cost-containment measures

measures. It bears emphasis that we are acutely underfunded in comparison to the other arms of the State. We cannot afford an annual Judicial Colloquium which other jurisdictions, even the most economically-challenged around the world, hold without fail.

We are deeply concerned about persistent budget cuts which are routinely effected without any consultation with the Judiciary. This must be addressed.

We must record our disappointments with the extremely poor quality of service or lack thereof by officials of the Department of Public Works and infrastructure. Sadly, this has been going on for far too long without a semblance of an effective

consequences management system in place for this acute dereliction of duty.

The Deputy Chief Justice and I are highly appreciative of the conscientiousness and deliberate speed with which Honourable Minister Patricia de Lille has intervened when we had been failed by these officials. Systems that we have put in place, in collaboration with them, have simply been disregarded.

I am not aware of any Department serviced by them that has expressed overall satisfaction with their performance I believe the time has come to examine very closely the commitment of these officials to discharging the responsibilities their paid for in line with the basic values and principles governing public administration, set out in section 195 of the Constitution.

In conclusion, we note with appreciation that the establishment of the OCJ continues to add immense value to the functionality and efficiency of the Judiciary. We remain hopeful that more functions that are intimately connected to court operations would be offloaded to the Judiciary.

I am indebted to the collective leadership of the Judiciary, the Judicial Accountability Committee and all other judicial structures, as well as the OCJ for the cooperation, professional and selfless service displayed in running the administrative affairs of the Judiciary, including the compilation and drafting of this Annual Report.

Members of the public are invited to engage with the annual report and email questions and comments to AnnualReport@judiciary.org.za. ■



SEVENTEENTH

NELSON MANDELA ANNUAL LECTURE

23 NOVEMBER 2019

We dare not forget that Madiba was so committed to the fundamental human rights that are embodied in our Constitution that he was prepared to die in the pursuit of that idea.



<https://bit.ly/2XQLz4R>



<https://bit.ly/2sfkkW1>

Use the links provided for either the full transcript of the speech or the video.



The Chairperson of the Nelson Mandela Foundation, Professor Njabulo Ndebele sharing a passage from a book the Foundation presented to Chief Justice Mogoeng Mogoeng as a token of appreciation at the Chairman's Dinner held after the Lecture.

Saturday, 23 November 2019, is a day few will forget, and a day many will dub as a historic moment. On this day, Chief Justice Mogoeng Mogoeng delivered the 17th Nelson Mandela Annual lecture at the University of Johannesburg's Soweto Campus, Imbizo Hall.

Among the many dignitaries and honoured guests who attended the lecture were Deputy Chief Justice Raymond Zondo, Justice Khampepe, Justice Sachs, members of parliament, celebrated personalities, the former Public Protector Professor Thuli Madonsela, and several Foundations.

The lecture was centred on the theme of "Constitutionalism is an Instrument for Transformation". The Chief Justice encouraged all South Africans to be committed to the Constitution and that it is everyone's responsibility to uphold it. "We've got to, on a daily basis in every sphere of influence you occupy to see it as your individual and collective responsibility to get South Africa to this place where it has the potential to be," urged Chief Justice.

"Please honor the legacy of Madiba by giving practical expression to our Constitution. May generations to come never curse you for your cowardice and failure to do what Madiba suffered for you and I to endure," said Chief Justice.

We've got to, on a daily basis in every sphere of influence you occupy to see it as your individual and collective responsibility to get South Africa to this place where it has the potential to be.



Chief Justice Mogoeng Mogoeng delivering the 17th Nelson Mandela Annual Lecture.



Use QR Codes provided to access either the video or the full transcript of the speech.



Left - Right: Professor Njabulo Ndebele, Mrs Mogoeng, Chief Justice Mogoeng Mogoeng & Mr Sello Hatang.



Prince Mangosuthu Buthelezi with Justice Sisi Khampepe at the Nelson Mandela Lecture.

The greatest facilitator of sustained injustice is keeping people ignorant of what they are entitled to



Basetsana Kumalo with Phemelo Motene, who was the MC at the Lecture.



Amanda Black & the Soweto Gospel Choir, entertained guests at the Lecture.



Chief Justice Mogoeng Mogoeng.



Tokyo Sexwale & Greg Maloka at the Chairman's Dinner.



Chief Justice Mogoeng Mogoeng and Deputy Chief Justice Zondo share a laugh at the Lecture.



Left - Right: Mr Sello Hatang, Chief Justice Mogoeng Mogoeng, Professor Njabulo Ndebele & Deputy Chief Justice Zondo.

if you are indifferent to the plight of the people in Diepsloot and elsewhere in the country because you are comfortable, you live in a suburb, know that you are a traitor; and you are a traitor of our Constitution.



Chief Justice Mogoeng Mogoeng's family came out to support him.





OFFICIAL LAUNCH OF THE MPUMALANGA DIVISION OF THE HIGH COURT

08 NOVEMBER 2019





OPENING THE DOORS TO JUSTICE FOR ALL

President Cyril Ramaphosa says the official opening of the Mpumalanga High Court is the fulfilment of government's promise to ensure access to justice for all.

The President said while the launch marked a milestone, more needs to be done to broaden access to law.

"Among these are the costs of obtaining legal representation, linguistic accessibility as well as accessibility for people with disabilities, lengthy delays and case postponements, backlogs in the court roll, and people having to travel long physical distances to reach courtrooms, as has been the case here in Mpumalanga," he said.

The President made the remarks on November 8 at the official opening of the Mpumalanga High Court in Mbombela. The Mpumalanga High Court came into operation on 1 May 2019.

Situated on Samuel Machel Road, between the R40 and KaapscheHoop Road in Mbombela, the court will serve the people of Manyeleti, Bushbuckridge, Mbombela and Kromdraai in the Chief Albert Luthuli Municipality. They will no longer have to incur huge travel costs for legal assistance in Pretoria.

The court seals the last phase of the programme that ensures that a High Court is established in each of the nine provinces in South Africa. At the opening, the President was joined by Justice and Correctional Services Minister Ronald Lamola and Public Works and Infrastructure Minister Patricia de Lille.

Also in attendance was the National Prosecuting Authority's National Director of Public Prosecution, Advocate Shamila Batohi, Acting Deputy Chief Justice Sisi Khampepe and Mpumalanga Division of the High Court Judge President Francis Legodi.

In addition to improving access to justice, President Ramaphosa said the court must etch its mark on the jurisprudence of the country.



Distinguished guests taking a guided tour of the Mpumalanga High Court.



President Cyril Ramaphosa unveiling the plaque at the Mpumalanga High Court, joined by Minister Ronald Lamola.



President Cyril Ramaphosa on a guided tour of the Court led by Judge President Legodi.



National Director of Public Prosecutions, Advocate Shamila Batohi at the opening of the High Court.

"This court must be seen as an agent of transformation and must set a high bar for jurisprudence. It must make its mark throughout the country," said President Ramaphosa.

Minister Lamola backed the President, adding that the newly launched state-of-the-art court -- built to the tune of more than R1 billion -- must reflect the demographics of the country and effectively play a role in grooming black commercial lawyers and boost access for female litigants.

The establishment and opening of this court is a reflection of our steadfast commitment to the Constitution and its values

"We must see black professionals doing commercial law. For us as government, it's very important that we groom a new generation of legal professionals.

"We have heard the cry of women practitioners across the

country. They are complaining that their struggles are very difficult," said Minister Lamola.

With courts as the vanguards of communities' needs and concerns, Acting Deputy Chief Justice Khampepe lauded the opening of the court as assurance that the notion of access to justice for all is taking shape.

"The establishment and opening of this court is a reflection of our steadfast commitment to the Constitution and its values. It is the manifestation of the constitutional promise. It is the symbol of access to justice," said Acting Deputy Chief Justice Khampepe.

Judge President Legodi, who heads the Mpumalanga Division of the High Court, assured the public that the rule of law will be ensured without fear or favour.

"To the people of Mpumalanga, let me assure you that we will implement the law without, fear, favour or prejudice. In other words, we will not be captured," said Judge President Legodi. ■

By: [SANews.gov.za](https://www.sanews.gov.za)



THE ROLE OF COURTS IN A CONSTITUTIONAL DISPENSATION

ACTING DEPUTY CHIEF JUSTICE KHAMPEPE'S REMARKS DURING THE OPENING OF THE MPUMALANGA DIVISION OF THE HIGH COURT SEAT IN MBOMBELA

Being here today for the official opening of the Mpumalanga Division of the High Court is a humbling honour and thus I proffer my profound gratitude for being invited to this historical event. It is days like these that remind me that the constitutional project is still alive and the South Africa envisaged by the Constitution, which is founded on the rule of law and the Supremacy of the Constitution, is taking shape.

There is still much to be done. However, we should not lose sight of the achievements the strides and attainments we have made as a country since 1994. The establishment and opening of a court is a reflection of our steadfast commitment to the Constitution and its values. It is the manifestation of the constitutional promise. It is the symbol of access to justice. It is a reminder that our country is founded on human dignity, equality, freedom and the rule of law. Courts are vanguards of our communities' needs and concerns.

On this day, we have cause to consider the role of courts in a constitutional dispensation. This is paramount because it is through this deep reflection and critical engagement that we can truly appreciate what it means for courts to be the vehicles of justice in our communities. The Interim Constitution profoundly and perspicuously elucidated:

"This Constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex."

The late Chief Justice Pius Langa, in relation the Constitutional Court, remarked that the Court building has itself become symbolic of the constitutional project of creating a bridge between a terrible past and a brighter future. It is of course



Judge President Legodi leading a delegation comprised of President Ramaphosa; Acting Deputy Chief Justice Khampepe & others on a walkabout of the court.



The unveiled plaque at the Mpumalanga Division of the High Court.

not a bridge that can simply be crossed once, leaving the past behind. It is a bridge that must be crossed again and again in the constant search for justice in our young democracy.

It is my belief that all courts throughout South Africa are an integral cornerstone of the bridge from an oppressive past, which was mired with gross human rights violations and rooted in despicable injustice to a future founded on democracy, the rule of law and human rights.

As a result, the work and functions of a court are not to be undermined and gainsaid. At the core of a court's function is the upholding of the laws of the Republic, especially the Constitution, and ensuring that the injustices of the past do not repeat themselves. It is the duty of the courts, along with other relevant players, to disturb and break away from the notion that South Africa is a country characterised by impunity and lawlessness.

There is an understated importance in establishing courts near communities. This is because it allows community members and ordinary people to access courts and not have to travel far to have their disputes heard and adjudicated. It gives them the confidence that justice is one or two steps away. A court at the heart of the community serves as a reminder that justice is for everyone, and that everyone is equal before the law.

A court cannot be seen as a building where those with the means go to resolve their disputes. It must be available to

everyone and it must be seen to be available to everyone. The perception of justice being done is just as vital to the constitutional project as justice actually being done. This is one of the principal ways to ensure that the public has confidence in the justice system.

The right of access to courts is so fundamental that it has been enshrined in our Constitution. To this end, section 34 of the Constitution perspicuously provides that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court. This wording in this section is instructive and does not give the State a choice but it rather confers a right to everyone in the Republic, regardless of their race, sex or class, to have disputes resolved by the Court. It also does not give the State a choice in making courts available for certain people; it demands that courts are made available for everyone who has a dispute.

The right of access to courts is a pre-requisite to the enjoyment of other constitutional rights. Without it, the extensive protections and guarantees provided in our Bill of Rights would be meaningless. Thus, section 34 is the constitutional tool that allows a person to vindicate the particular rights as contained in the Bill of Rights. Accordingly, the right to access to courts is related to all the other rights. In the case of *Modderklip*, the Constitutional Court held that the state has an obligation to provide the necessary mechanisms for citizens to resolve disputes that arise between them; including a legislative framework, institutions like as the courts, and an infrastructure designed to facilitate the execution of court orders. Accordingly, this day signifies the ongoing fulfilment of constitutional values and rights by the State.

Access to courts is not just a right conferred to litigants but is a right conferred to the public. This is why the section calls for public hearings. This is in accordance with the "principle of open justice". Open justice is an important component of this right and the rule of law. Courts should in principle welcome public exposure of their work in the courtroom, subject, of course to their obligation to ensure that proceedings are fair. The foundational constitutional values of accountability, responsiveness and openness apply to the functioning of the Judiciary as much as to other branches of government.

A court at the heart of the community serves as a reminder that justice is for everyone, and that everyone is equal before the law

These values underpin both the right to a fair trial and the right to a public hearing. The public is entitled to know exactly how the Judiciary works and to be reassured that it always functions within the terms of the law and according to time-honoured standards of independence, integrity, impartiality and fairness.



Minister Ronald Lamola speaking just before the unveiling of the plaque at the Mpumalanga High Court, with him is President Cyril Ramaphosa, Acting Deputy Chief Justice Sisi Khampepe, Public Works & Infrastructure Minister Patricia de Lille & Judge President Francis Legodi.

I cannot stress this enough but access to justice should be and is a fundamental concern of the courts, as it is the quintessence of their function. If people are faced with legal issues and cannot knock on the doors of a court to vindicate their rights and present their cases effectively, then the courts would be denuded of their constitutional mandate and functions. With that being said, I close by asking that the pillars and glass of this Court comprise independence and integrity.

The establishment and opening of a court is a reflection of our steadfast commitment to the Constitution and its values

The independence of the judiciary is imperative if judges are to make impartial decisions unfettered from outside interference. This means that the judiciary must not be influenced by any other organ of state in making a decision. It cannot be gainsaid that the judges are subject to a duty of fidelity towards the constitutional text, other laws, and nothing else. Once a judge is captured, to use a colloquial term, the rule of law is threatened and the Constitution is under siege.

The text and ideals of the Constitution are undoubtedly fatally undermined in situations where a judge finds in a favour of the government in order to carry favour with a ruling party. However, this does not mean that judges should be opposed to finding in favour of the state if the law permits and justice agrees. Again, fidelity to the law and not the litigating parties or overzealous judicial activism remain imperative. The law must always prevail and reign supreme.

In terms of integrity, may this court be blind to those parties before it and remain committed to the Constitution. It should not matter who are the parties that knock on the doors of this Court, be it the President or a miner; it should not matter whether this Court personally likes them or not; it should not matter that a particular outcome personally benefits any of the judges on the bench in this Court. A court can vindicate people's rights, take away their freedoms and in many ways we are the country's voice of reason. Thus, integrity is an indispensable requirement of being a judge, which prevents a judge and the judiciary by extension from being corruptible.

A corrupt court lacks integrity and by lacking integrity, that judge denigrates the rule of law. A judiciary that is characterised by corruption will not garner any public confidence and will be constantly undermined and ignored.

Judicial independence and judicial integrity, then, are allies in upholding the rule of law. For there can be no judicial independence if the judiciary fails to act with integrity and honour in conformance with the most rigorous ethical standards.

Undoubtedly, judicial independence can be endangered by external forces, but it can also be undermined from within. Lack of integrity within the judiciary can threaten the rule of law just as surely as a lack of judicial independence. But when the judiciary fulfils the responsibility to behave with integrity that comes with the freedom to act independently, the rule of law is vindicated.

I wish the Judge President Legodi and the Judges of this division, all the best and I have faith that this beautiful Court will bring justice to the people of Mpumalanga and will uphold and respect the rule of law. This is indeed a victory for our constitutional democracy. ■

JUDGE PRESIDENT LEGODI'S REMARKS

AT THE OFFICIAL OPENING OF THE MPUMALANGA DIVISION OF THE HIGH COURT SEAT IN MBOMBELA

His Excellency, Honourable President Cyril Ramaphosa, as you might recall, exactly two years ago, you expressed a wish to come and open this beautiful building in this beautiful part of our country. Today that wish has been realised. We are over-joyed. And, we just want to say this:

The inside and outside beauty of this building is a reflection of the inside and outside beauty of the people who are working in this building.

These are men and women who treat and see each other as equals including those men and women who open the windows for us every morning for fresh air and to keep us healthy. Including those men and women who keep the plants you see outside and the surroundings, green and clean.

These are people who know no positions, titles or status. They live up to: 'Respect earned'. These are men and women who come to this building every morning almost like chanting His Excellency's self-imposed slogan "Thuma Mina"

They are service orientated. They see themselves as true servants of the people in this beautiful part of our country. They serve with their hearts and pride. These are men and women with very minimal and humble request to make.

On their knees, they say: Do not allow this wonderful building to dilapidate. Allow the outside and inside beauty of this building to strive for generations to come. Efficient and regular maintenance of the building, is the solution.

Honourable Minister De Lille, we are



Judge President Legodi speaking at the official opening of the Mpumalanga High Court

The inside and outside beauty of this building is a reflection of the inside and outside **beauty of the people** who are working in this building.

encouraged by what you have already done for the judiciary in terms of infrastructure since your appointment.

This building is your baby. As a responsible Minister for the maintenance and up-keeping of this building, if you have to give it the best and healthiest powder milk to nourish it, please do so.

In that way, the more than one billion rand spent on this building, as we have been told, will be preserved for generations to come. As we make this plea, His Excellency Honourable President, consider having this building and its precinct declared a national key-point area.

One does not want to imagine the possibility of any loss, destruction and or damage to this wonderful building. Where would we get another plus billion rand to rebuild?

Declaring this place, a national key point area will also ensure the security and safety of the people working in this building and those who will be coming to this place for service. We





Left - Right: Judge President Francis Legodi, Acting Deputy Chief Justice Sisi Khampepe, President Cyril Ramaphosa, Premier of Mpumalanga, Refilwe Mtsweni & Minister of Justice & Correctional Services Ronald Lamola spoke at the opening of the Mpumalanga High Court.

make this plea, mindful of the budgetary constraints we are faced with as a country. And that being so, we would rather jealously safe-guard and preserve what we have.

Honourable Minister Lamola and Honourable Premier Mtshweni-Tsipane, I do not think we are ever going to have another state of the art building in this Province during our life time.

people from around this Province will not have to travel far away to access justice

The two of you are born and bred in this Province including His Excellency Deputy President of the country. And including you Honourable Minister Mthembu. This building, is your pride too.

I am not for a moment suggesting anything sinister or improper. But, help us to persuade the responsible Minister in the security cluster to consider declaring this place a national key point area. Next week Honourable Minister Lamola, you will have our formal request on your desk. His Excellency, I suspect, is likely to ask you about progress on this request every time he sees you.

Turning to my leader in the Judiciary, Acting Deputy Chief Justice Khampepe, I have a confession to make. I am one of those who were convinced that finalisation of cases within twelve months through judicial case management introduced first in the Norms and Standards in 2014, was a mission impossible.

That of course is the problem with people who resist to embrace change. I was one of them. But, I now know that finalization of cases within 12 months through case management by judicial officers, is a mission possible. In this Division we strive to live up to: Justice expedited, is justice realised.

Our enrolment rate is high. Our finalisation rate is promising. Very soon all legal practitioners in this division will embrace change. Very soon we will become a model division. Very soon, the beauty of this building will be reflected in our judicial performance, as it is already happening. As it happens, I can gracefully and peacefully look forward to retire in an about four years' time, when I will be turning 70. We just want to say this to you, Acting Deputy Chief Justice:

Thank you for the leadership and guidance that we continue to receive from our Chief Justice including heads of courts and my other colleagues who are here today. Special thanks to the two Judges President who came before me when this Division was still under Gauteng Division.

Retired Judge President Ngoepe and Judge President Mlambo, had it not have been for your tireless efforts to bring courts closer to the people, in all probabilities, we would not have been here today.

Speaking about bringing courts closer to the people, Judge President Waglay and Acting Judge President Meer in her absence: Please, do not forget that you have been offered fully equipped courts and judges chamber in this building. These courts, will be exclusively reserved for you and your Judges to hear labour and land claims matters arising from this Province. In that way, people from around this Province will not have to travel far away to access justice and to have labour and land claims disputes resolved outside this Province.

To the people of Mpumalanga, we once more want to make this promise to you: We will execute our judicial functions in our courts without fear favour or prejudice. We will decide cases and apply the law impartially guided by the facts of each case.

We will do this, to the letter and spirit of the oath of our office. No one will exact undue influence on us in our judicial decision making powers.

In other words, we shall not be captured by anyone. ■



Acting Deputy Chief Justice Sisi Khampepe received the Risk Influencer of the Year Award on behalf of Chief Justice Mogoeng Mogoeng.

CHIEF JUSTICE MOGOENG MOGOENG NAMED RISK INFLUENCER OF THE YEAR

The Institute of Risk Management South Africa (IRMSA) on November 1 awarded Chief Justice Mogoeng Mogoeng with the Risk Influencer of the Year Award. Acting Deputy Chief Justice Sisi Khampepe accepted the Award on behalf of the Chief Justice. What follows are her remarks at the ceremony.

When corruption and organised crime flourish, sustainable development and economic growth are stunted

This award is an embodiment of the values that the Chief Justice stands for.

He is eminently known for this unwavering stance against corruption and in his heed for leaders who are guided by integrity and are committed to the constitutional project and

its values. He has spoken out against any form of corruption both in his public engagements and in the cases that he has scribed. Corruption blatantly undermines the democratic ethos, institutions of democracy, and the rule of law and foundational values of our nascent constitutional project. When corruption and organised crime flourish, sustainable development and economic growth are stunted.

To the Chief Justice, the rule of law is not merely a guiding principle but it is at the centre of our constitutional democracy and should be protected, promoted and respected. Notably, under the leadership and tutelage of the Chief Justice, the judiciary has become the key defenders of the Constitution against gross abuse of powers and corruption. This is not by accident but it has been part of the deliberate efforts by the Chief Justice to ensure that the judiciary remains fiercely independent and thus only bound to dictates of the Constitution.

It is an honour to be in the presence of individuals who have committed themselves to combating corruption, which has

unfortunately stifled our economy to the detriment of the ordinary South Africans. This is particularly inspiring because in order for South Africa to become the country envisaged by the Constitution and all those who fought to end apartheid, there must be a collaborative effort from the public at large to expose corruption and take the necessary steps to ensure that those accused of corrupt dealings are subjected to the full might of the law.

The democracy of this country cannot merely be the work of the court, the executive and the parliament – there must be a rigorous engagement by the public and those who are most effected by the decisions of the three arms of the state. That is the best way to ensure the existence and subsistence of constitutional democracy. Events like this are vital as they celebrate the individuals who contribute to the maintenance of democracy.

The gala dinner and award ceremony is an evening where the Institute celebrates excellence within the risk management industry, by acknowledging individuals, who are making an impact on the South African business landscape, through strong risk management practices. I congratulate and appraise those who have been presented with awards this evening.

It is an honour to be in the presence of individuals who have committed themselves to combating corruption

Those who speak out against corruption are usually victimized and chastised for their bravery, this should not be the case. They should be celebrated and valued for their courage as it is this same courage that guarantees the lifespan of the Constitution.

As we strive to protect our democracy, we must be cognisant that education is the life blood of democracy. Education is a primordial necessary, which should be promoted across the country. It cannot be gainsaid that a country with a high education and literacy rate stands to benefit and grow exponentially with the correct governance.

As the late United Nations Secretary-General Kofi Annan once said, literacy is a bridge from misery to hope. It is a tool for daily life in modern society. It is a bulwark against poverty and a building block of development. Literacy is the platform for democratization, a vehicle for the promotion of cultural and national identity.

Education, and literacy, in my view must be championed by any democracy, and effort and resources must be invested in



Acting Deputy Chief Justice Sisi Khampepe with Berenice Francis, President of IRMSA.

order to provide all those in South Africa with the opportunity to educate themselves – so that they can better enjoy their constitutional guarantees and the advantages of a constitutional democracy.

With the news that the unemployment rate has increased to a staggering 29.1% there appears to be an expected hopelessness in the air. However, I ask that we remain positive and push forward. It's times like this where the true character of a country is tested. The government must be held accountable for any its shortcomings and it must take seriously its mandate to transform the economy.

Economic redress and social redress are pivotal to this country's future. Small to medium size businesses must be assisted by government, through work opportunities and funding. Big business also has a role to play in creating employment for the general public. Thus, there must be a coordinated effort from the government and the private sector to provide meaningful economic opportunities.

Lastly, to the youth, I implore you to go out there and seek growth opportunities. Never remain complacent. If there is an opportunity to learn and grow your skillset, grab it with both hands and run with it. If there is a leadership position, apply and provide the much needed guidance and leadership and lead with integrity. Always remember that your voice, in this ongoing conversation regarding the constitutional project matters, and is highly valued.

Thank you again for having recognised the Chief Justice as the Risk Influencer of the Year. It is a recognition that he cherishes and he is profoundly grateful. ■

THE CHIEF JUSTICE SPEAKS

INSTITUTE OF RISK MANAGEMENT SOUTH AFRICA CONFERENCE - MIDRAND

Chief Justice Mogoeng Mogoeng delivered a keynote address at the Institute of Risk Management South Africa (IRMSA) Conference

02 October 2019.



RADIO INTERVIEW: 702 BREAKFAST WITH BONGANI BINGWA

Chief Justice Mogoeng Mogoeng was in conversation with the host of the 702 Breakfast show, Bongani Bingwa.

07 October 2019



TELEVISION INTERVIEW: SABC 2, LEIHLO LA SECHABA WITH PALESA CHUBISI

Chief Justice Mogoeng Mogoeng spoke with Palisa Chubisi the host of the show, Liehlo La Sechaba on SABC 2.

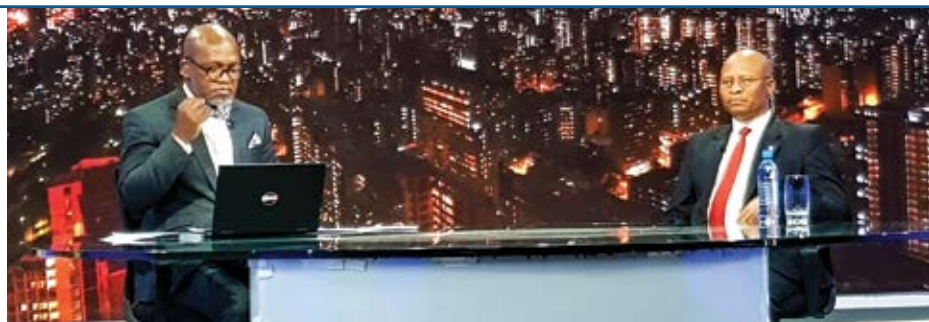
07 October 2019



TELEVISION INTERVIEW: ENCA, NIGHTLINE WITH VUYO MVOKO

Vuyo Mvoko, the host of the news show, Nightline on ENCA spoke with Chief Justice Mogoeng Mogoeng.

09 October 2019



GORDON INSTITUTE OF BUSINESS SCIENCE (GIBS) - MIDRAND

Chief Justice delivered a keynote address at the launch of the Gordon Institute Of Business Science (GIBS) ethics barometer tonight in Johannesburg.

19 November 2019





The SA Judges with Judge Ben Hadfield and Judge Jim Holbrook and the Utah lead mediation trainers.

SOUTH AFRICAN JUDGES ATTEND MEDIATION TRAINING IN UTAH, USA

A group of South African Judges have attended Judicial Mediation Training at Salt Lake City in Utah, USA, from 23 to 31 October 2019.

The delegation comprised of Deputy Judge President P Mojapelo – Gauteng Division, Johannesburg; Deputy Judge President A Ledwaba – Gauteng Division, Pretoria; Judge R Keightley – Gauteng Division, Johannesburg; Judge N Davis – Gauteng Division, Pretoria; Judge G Goosen – Eastern Cape Division; Judge N Boqwana – Western Cape Division; and Judge T Poyo Dlwati – KwaZulu-Natal Division.

The training programme was facilitated by Utah retired district court Judge Ben Hadfield, who also sourced two renowned professors on mediation in Utah to devise the programme

and compile course material - Professor James Holbrook and Professor Benjamin Cook.

The professors brought with them a team of twenty highly qualified and respected practitioners in mediation to make presentations during the training programme. These included practising attorneys, mediators, court officials, sitting judges

Such mediation should be credible, well-regulated and shall serve to enhance restorative justice and the satisfactory resolution of appropriate cases



Deputy Judge President Phineas Mojapelo.

They were also trained as trainers with the idea of imparting the skills acquired to colleagues back home

of the District Court and Supreme Court as well as retired judges including Utah's Court of Appeal retired Chief Justice Michael Zimmerman.

One of the presenters was the director of the Alternative Dispute Resolution Programmes for the Utah State who manages the court's mediation programme. Her presentation focused on how the court annexed mediation was started, how it developed standards for mediators and how the programme was working. The success of the programme was explained backed by statistics, especially on the quick resolution of matters, less costs and the reduction of trial rolls.

The Judges also received extensive training in mediation. Various distinguished and well-qualified experts in the field presented alternate training sessions. The topics covered included opening statements, narratives, positions to interests, options to settlement and how to formalise the settlement.

The Judges were also trained on various mediation skills including how to conduct joint sessions, caucusing, active listening, effective questioning, reframing, restating and



Judges Thoba-Poyo Dlwathi roleplaying a mediation.



Judge Boqwana going through the train the trainer training.

summarising. There were also role-playing mediations that were facilitated to assist the Judges to learn by practice.

The South African delegation also had an opportunity to facilitate discussions on how they see mediation playing out in South Africa and developing a syllabus. They were also trained as trainers with the idea of imparting the skills acquired to colleagues back home. At the end of the training the Judges received certificates in mediation.

In their report to the Chief Justice following the training programme, the delegation recommends that South Africa should implement court annexed mediation in all the courts, including the High Courts.

"Such mediation should be credible, well-regulated and shall serve to enhance restorative justice and the satisfactory resolution of appropriate cases," the Judges note. ■



JUSTICE EDWIN CAMERON'S NEW CHAPTER

Justice Edwin Cameron takes up the position of the Inspecting Judge of the Judicial Inspectorate for Correctional Services.

Retired Constitutional Court Justice, Edwin Cameron, has been appointed by President Cyril Ramaphosa as the Inspecting Judge of the Judicial Inspectorate for Correctional Services for a three-year term with effect from 01 January 2020.

The Judicial Inspectorate for Correctional Services is tasked with monitoring and oversight of correctional facilities around the country and reports on the treatment of inmates and the conditions of correctional centres. Justice Edwin Cameron is not new to the work of inspecting correctional centres.

In 2009, Constitutional Court Justices instituted a prison visits and monitoring programme. The programme became operational in 2010. The purpose is to visit and inspect correctional centres, and then compile a report recording observations and findings about the correctional centre based on the inspection.

The report is presented to the Minister of Justice and Correctional Services, the National Commissioner of Correctional Services, the National Council for Correctional Services, and the Judicial Inspectorate for Correctional Services. The reports are made publically available on the Constitutional Court's website.

In April 2015, Justice Cameron led a team that visited the Pollsmoor Correctional Centre - Remand Centre and Women's Centre, resulting in a report that noted major concerns about the state of the centre and the conditions under which inmates lived. Justice Cameron noted in his report:

"The cells were filthy and cramped. In one of the cells, we noted 60 inmates with 24 beds. There are no sheets on the beds. Some detainees displayed rashes, boils, wounds and sores to us. 50 to 60 people are forced to use one toilet and one shower. [There was] no privacy (and) no hot water. Even in the middle of the day, the cells were dark, dingy and cold. There is hardly any natural light. The thickness of the air and lack of ventilation was palpable. Detainees pleaded

for exercise and told us they have not been out of their cells for an entire month"

Justice Cameron has been an advocate for the improvement of the conditions in South Africa's prisons, including overcrowding and violence. Delivering the 2019 Rabinowitz Lecture in the University of Cape Town's (UCT) Faculty of Law on September 11, he said prisons are not places of rehabilitation, but overcrowded institutes of pointless punishment.

"The blunt point is this: We do no good at all by finding and prosecuting a haphazard segment, a sliver of rapists and murderers, and sentencing them to life, jamming our prisons. We have 18 000 lifers in our prisons (in 1995 there were 400). What possible point is there to having 18 000 people [sentenced] to life in prison when we have 20 000 murders every year?

"Overcrowding affects the well-being of prisoners and impedes good governance. There is also a link between violence and maladministration. Prisons are known sites of communicable diseases like tuberculosis. Mental health is a problem from carceral conditions and there are high rates of recidivism, estimated to be between 60 - 90% (NICRO 2014).

"We have to take stock. We have to think about what we are doing.

"Prisons may be a microcosm of our society. If we want to tackle violence, drug addiction, gang violence, gender-based violence, HIV and other social problems, we must take sufficient care of the prison population," urged Justice Cameron.

As Justice Cameron has himself admitted, the position of Inspecting Judge of the Judicial Inspectorate for Correctional Services is a tough job that will require attention. The Judiciary and all those who work in the justice system wish him well as he takes on this new challenge. ■



SAJEI SUPPORTS THE 9TH INTERNATIONAL CONFERENCE ON JUDICIAL TRAINING

The South African Judicial Education Institute (SAJEI) supported the 9th International Conference on Judicial Training in Cape Town, South Africa. The conference was held from 22 to 26 September 2019 at the Cape Town International Convention Centre. The hosts, the International Organisation for Judicial Training (IOJT) is a volunteer non-profit organisation which was established in 2002 to promote the rule of law, by supporting the work of judicial education institutions around the world.

The training was held under the theme "Judicial Training: A Key to Successful Transformation of the Judiciary".

Constitutional Court Justice Sisi Khampepe, who was the Chairperson of the Judges Local Organising Committee, was the program director for the opening day of the conference. The training was officially declared open by the Deputy Chief Justice Raymond Zondo, who also gave an opening address.

The conference was attended by Judges from various international and local judicial jurisdictions, there were over 300 delegates. In his address, the Deputy Chief Justice acknowledged all the Justices from various countries, which included Chief Justices, Heads of Constitutional Courts and Presidents of the Appeals Courts, including members of the South African Judiciary. The Deputy Chief Justice also thanked the IOJT for bringing the conference to South Africa.



Dr Gomolemo Moshoeu, with delegates.

"We ourselves were not planning to approach IOJT to bring this conference here, we thought we would approach them in a few years' time, but they were very keen to bring this conference to our country", said the Deputy Chief Justice. He also expressed deep appreciation to the Judges Local Organising Committee led by Justice Khampepe for its role in the preparation of the conference.

Judges also need to be trained so that they are able to deal sensitively with gender base violence cases



Group photo of the delegates, including Deputy Chief Justice Raymond Zondo and Justice Sisi Khampepe.

In his remarks, the Deputy Chief Justice said the conference is taking place at a time when the country is celebrating 25 years of democracy. "25 years is an appropriate time to look back and reflect on the journey that has been travelled and look back at the challenges that have been met and planned for the path still to be travelled, he said.



Delegates at the 9th International Conference on Judicial Training in Cape Town.

He said during these 25 years much has happened in the SA Judiciary, adding that "25 years ago the Judiciary was exclusively white and male dominated". He further stated that the journey had a lot of challenges, but as he speaks a lot has been achieved in transforming the Judiciary in terms of gender and race.

He also stressed the importance of training Judges, stating that it is important for Judges to receive training from time to time because they are operating in a world that is fast changing. He said Judges also need to be trained so that they are able to deal sensitively with gender base violence

25 Years is an appropriate time to look back and reflect on the journey that has been travelled and look back at the challenges that have been met and plan for the path still to be travelled

cases. "Judicial training must help us as Judges to appreciate human worth and that as Judicial Officers we are there for all mitigants, the society who comes before us", Deputy Chief Justice Zondo said.

Judges also engaged in the following topics during the conference:

- Leadership development for Judges and court staff
- Faculty development: Building the capacity of the Judicial Institute and Individual Faculty Members
- The Role of Judges in Managing Cases and Conducting Fair and Respectful Hearings
- Innovative Teaching Methods: Judicial Writing to Promote Better Courts in Ukraine and Interprofessional Training in France
- Judicial Education in Social Context
- Emerging Areas of the Law
- Judicial Wellness
- Ethics and Judicial Training. ■



— TRIBUTE TO JUDGE VAN DER LINDE

On Saturday, 09 November 2019, Judge Willem van der Linde of the Gauteng Division of the High Court passed away. The Judiciary and the legal fraternity came together to pay tribute to him on 15 November 2019 at the Johannesburg High Court. Below are some of the tributes from his colleagues and friends.

Judge President Dunstan Mlambo - "The Judges and staff of the Gauteng Division were shocked to learn of the sudden and untimely death of Judge van der Linde. He was a committed jurist, a pillar of strength at the Court."

Mr Lesley Nkoana on behalf of NADEL - "Today is a sad day in the legal profession, we have lost a compatriot."

Judge Van Der Linde administered justice without fear or favour and embraced transformation."

Advocate Gwina Malindi, SC, on behalf of the Legal Practice Council of South Africa - "Judge Van Der Linde was a law practitioner whose submissions were always well presented. He was somebody who was always willing to assist. He was a man of undoubted integrity. His death is a deep loss to the Judiciary."

Deputy Judge President Phineas Mojapelo - "Since the announcement of the passing of Judge Van Der Linde, Judges have been carrying heavy hearts."



Judge President Dunstan Mlambo.



Deputy Judge President Phineas Mojapelo.



Adv. Wim Trengove SC spoke on behalf of the family.



Mr Lesley Nkoana.



Advocate Gwina Malindi, SC.



Mourners who attended the memorial service.



Mourners who attended the memorial service.



Justice Edwin Cameron with Mrs van der Linde.



Judge Roland Sutherland.



Advocate Muzi Sikhakhane SC.

Judge Van Der Linde administered justice without fear or favour and embraced transformation







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