THE JUDICIARY

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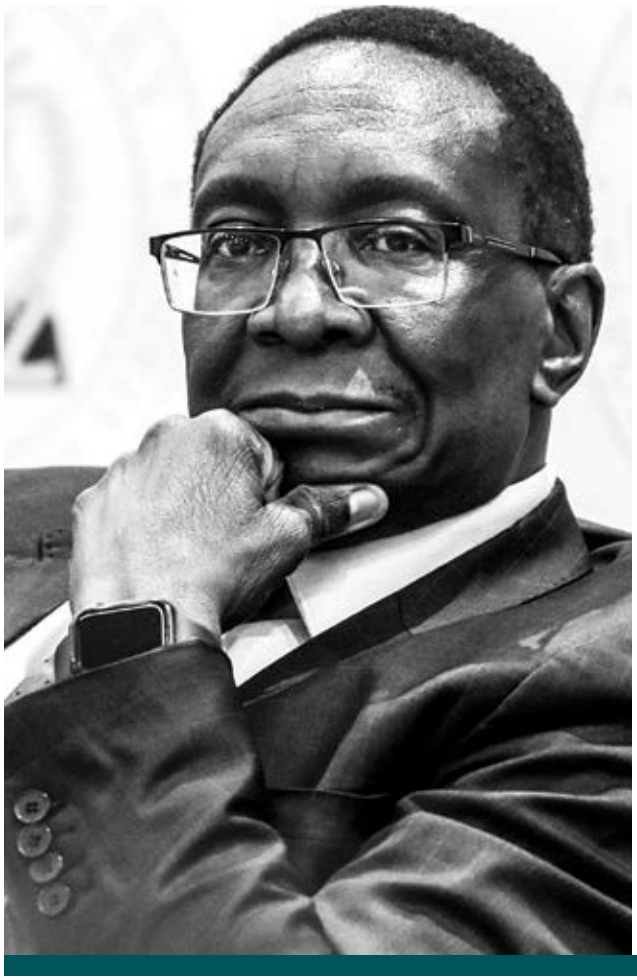

We are pleased to present to you the holiday edition of the Judiciary Newsletter.

As has become customary, the end of year was marked by the release of the annual Judiciary Performance Report for the preceding financial year. The Acting Chief Justice, the Honourable R M M Zondo, presented the Judiciary Performance Report for the 2020/21 financial year to the public on 14 December 2021. The release of this Report is a reaffirmation of the South African Judiciary's commitment to the constitutional principles of transparency and judicial accountability. We thank former Chief Justice Mogoeng Mogoeng, who administered the first ever Judiciary Performance Report in the 2017/18 financial year, for his visionary leadership in this regard. The 2020/21 Report can be accessed on the Judiciary website.

On reflection, this year has challenged us in new ways, but it has also had much to celebrate. As the South African Judiciary, we are delighted that our colleague, Madam Justice Mandisa Maya, the President of the Supreme Court of Appeal (SCA), was recently installed as the second Chancellor of the University of Mpumalanga (UMP). On behalf of the Judiciary, I wish to convey our congratulations to Madam Justice Maya on her appointment and wish her well as she leads UMP into a new chapter. We have no doubt that she will make a positive impact on the University during her tenure. Please see page 6 for the full text of the speech she delivered during the installation ceremony, in which she outlined her vision for the institution.

As we are all aware, the Judicial Service Commission (JSC) interviewed candidates for vacant judicial vacancies in various Superior Courts on 4 to 8 October 2021. As an outcome of that process, thirty-five (35) candidates were recommended to President Ramaphosa for appointment. We bring you the names of these candidates as we congratulate them in reaching this milestone in the selection process. Please see page 2.

I take this opportunity on behalf of the South African Judiciary to wish all our readers a safe, peaceful and joyous holiday season. May the year-end break be restful and provide an opportunity for reflection so you may plan for success in the New Year!

Izilokotho ezinhle!

Enjoy the newsletter!

Judge President Dunstan Mlambo
Chairperson: Judicial Communications Committee

2020/21 JUDICIARY ANNUAL REPORT RELEASED

The Judiciary of the Republic of South Africa, as an Arm of State, in keeping with the constitutional principles of transparency and judicial accountability, this year marks the fourth year since the first release of the Judiciary Annual Report.

The 2020/2021 Judiciary Annual Report was released by Acting Chief Justice Raymond Zondo on Tuesday, 14 December 2021.

The Report is accessible on the Judiciary website, www.judiciary.org.za

All queries related to the Report may be directed to the Office of the Chief Justice using the following email address: **annualreport@judiciary.org.za.**

BUILDING A STRONG, INDEPENDENT, EFFECTIVE AND EFFICIENT JUDICIARY

Justice R M M Zondo
Acting Chief Justice of the Republic of South Africa

The following is the full text of the address delivered by the Acting Chief Justice, R M M Zondo, on the ocassion of Judiciary Day and the release of the Judiciary Annual Report 2020/21 on 14 December 2020.

In 2018 the Judiciary of South Africa held its first ever Judiciary Day and presented to the public the first ever Judiciary Annual Report through which the Judiciary accounts to the public for its performance of judicial functions. That was for the period from 1 April 2017 to 31 March 2018. Since then, the presentation of the Judiciary Annual Report to the public by the leadership of the Judiciary on Judiciary Day has been an annual event. This year is no exception.

These historic developments happened under the leadership of Chief Justice Mogoeng Mogoeng, ably assisted by the collective leadership of the Judiciary of this country.

Reflecting on the period prior to 2018 Chief Justice Mogoeng Mogoeng explained in the inaugural edition of the Judiciary Annual Report:

> "The leadership of the higher courts analysed the situation from a constitutional perspective, identified the inappropriateness of accounting the traditional way and resolved to delink the accounting responsibilities of the administrative office – the Office of the Chief Justice (OCJ) – from those relating to court performance, which is a shared section 165(6) responsibility of the Judiciary… while we acknowledge that judicial independence is inextricably linked to judicial accountability, we are satisfied that we bear a direct responsibility to account to the nation ourselves…"

The Chief Justice retired from active service on 11 October 2021 after a long and illustrious career of dedicated service to the country. This Report and the attendant culture of direct accountability is one of his many legacies. I take this

opportunity to thank Chief Justice Mogoeng Mogoeng on behalf of the Judiciary of this country for his great leadership of the Judiciary over a period of ten years. I thank him, too, for the enormous contribution he made during his term of office as Chief Justice to the building of a strong, independent, effective and efficient Judiciary.

We have chosen today as our Judiciary Day for this year. We regard Judiciary Day as very important because it gives us an opportunity to account to the public and we take accountability very seriously. We believe that, when we account to you, the people, our legitimacy as the Judiciary is enhanced and the trust you have placed in us is deepened. The basis for this belief is a clear understanding on our part as the Judiciary that the judicial power we have and exercise is derived from you the people who have given it to us through the Constitution. In this regard President Mandela had this to say to the first Judges of the Constitutional Court on the occasion of the inauguration of the Constitutional Court:

> "Your tasks and responsibilities, as well as your power, come to you from the people through the Constitution. The people speak through the Constitution"

On Judiciary Day we come before the people of South Africa to account for how we have performed our judicial functions, to talk about how many cases we have had, how many of those we have finalised, how long it has taken us to finalise them and what backlog there is in our courts.

Section 165(6) of the Constitution of the Republic of South Africa, 1996 read with Section 8(2) of the Superior Courts Act, 2013, provides that the Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and monitoring of the Norms and Standards for the exercise of judicial functions for all courts.

The Superior Courts Act stipulates that the management of the judicial functions of each court is the responsibility of the Head of that Court. The Judge President of a Division is also responsible for the co-ordination of the judicial functions of all Magistrates' Courts falling within the jurisdiction of that Division. The Heads of the various Courts will manage the judicial functions and ensure that all Judicial Officers perform their judicial functions efficiently.

The Chief Justice and the Heads of Court have established subject-matter committees that evaluate and recommend strategies and guidelines on all aspects of judicial administration in order to fully prepare it for a Judiciary-led Court Administration. The Heads of Court designate and mandate Judges to serve on these committees. These committees are assigned to strategise on such matters such as judicial case flow management, Court performance reporting, digitisation, automation and technology and court efficiency on both a national and a provincial level.

Modernisation of the courts and digital transformation initiatives remain crucial for improving service delivery. As part of court modernisation, Court Online was partially implemented with the roll out of Case Lines at the Gauteng Division of the High Court.

"Modernisation of the courts and digital transformation initiatives remain crucial for improving service delivery

The Judiciary was not spared from the impact of the COVID-19 pandemic on its operations, and had to quickly adapt to the new normal and switch from physical to virtual court proceedings and operations. We are grateful to the Office of the Chief Justice for managing this difficult transition as well as they have done under the trying circumstances of lockdown.

The 2020/21 Performance Plan for the Judiciary has been developed. It defines and identifies performance indicators and targets for the various courts. The performance indicators and targets are measures that allow for the monitoring of performance on one or more aspects of the overall functions and mandates of the Judiciary.

The 2020/21 Performance Plan for the Judiciary sees the introduction of new performance indicators and targets, as determined by the Judiciary itself. These include the additional indicators on the finalisation rate of applications and petitions in the Supreme Court of Appeal, the finalisation rate of appeals in the Labour Appeal Court and the introduction of new measures on the reduction of the percentage of criminal trial backlog cases.

The following legislative framework supported an accountability mechanism for the South African Judiciary:

- The Constitution
- The Superior Courts Act, 2013
- Norms and Standards for the performance of judicial functions
- Judicial Service Commission Act, 1994 and its Regulations
- Disclosure of Judges' Registrable Interests;

- Judges Remuneration and Conditions of Employment Act, 2001 and its Regulations; and
- The South African Judicial Education Institute Act, 2008.

It is important to note that as contemplated in section 8(3) of the Superior Courts Act, 2013, the Chief Justice may issue written protocols or directives, or give guidance or advice, to judicial officers:

(a) in respect of norms and standards for the performance of the judicial functions as contemplated in subsection (6);

(b) regarding any matter affecting the dignity, accessibility, effectiveness, efficiency or functioning of the courts.

> “We regard Judiciary Day as very important because it gives us an opportunity to account to the public and we take accountability very seriously

THE TARGETS OF FINALIZED MATTERS AND THE ACTUAL PERFORMANCE

Constitutional Court

The Constitutional Court had set for itself a target of 70% of finalized matters. It had 445 matters and finalized 273 of those. That was a 61% performance. Although it fell short of its target, there was a 10% increase in its caseload.

The Supreme Court of Appeal

The Supreme Court of Appeal had set for itself a target of 80% of finalized matters during the period under review. It had a total of 241 matters and it finalized 196 of those. That was an achievement of 81%. In regard to its applications or petitions it finalised 99%. It had a 1% over achievement in respect of finalized matters.

Divisions of the High Court.

The Divisions of the High Court had set for themselves the target of 75% of finalised criminal matters and they achieved 85%. The various Divisions of the High Court had a total of 11413 criminal cases and they finalised 9749 of those cases. That translated to 85%. That was a great achievement. They exceeded their target. They had set for themselves the target of 64% finalised civil matters. They had a total of 83 080 civil cases and finalised 69 908 of those cases. That translated to 84%. That means that the

Divisions of the High Court exceeded their target by 20%. That was a pleasing performance. They also set for themselves the target of reducing the percentage of criminal trial backlogs to 30%. They were not able to achieve this target but they reduced the percentage of criminal trial backlogs to 41%. They were 11% short of their target.

Specialist Courts

The Labour Court and the Labour Appeal Court had set for themselves the target of 58% finalised labour matters. They were unable to achieve that target but achieved 52%. They had 4168 cases and finalised 2188. The Land Claims Court had set for itself the target of 60% finalised matters. It had a total of 149 cases and finalised 108 of them. That translated to the achievement of 72%. That was 12 % above the target. The Competition Appeal Court had set for itself a target of 85% finalised matters. It had a total of 10 cases and it did all of them and, therefore, achieved 100% which was 15% above the target it had set for itself. The Electoral Court had set for itself the target of 90% finalised matters. It received a total of 9 cases all which it did and, therefore, achieved 100% of finalised matters which was 10% above the target it had set for itself.

Reduction of criminal backlogs in the Divisions of the High Court

All the Divisions of the High Court had set for themselves the target of reducing the backlog of criminal trials to 30%. However, many of the Divisions failed to achieve that target. Only about three Divisions of the High Court managed to reduce the backlog of criminal trials.

Reserved judgments.

All Superior Courts had set for themselves the target of 70% finalised reserved judgments. They collectively exceeded this target by 8% and achieved 78% finalised reserved judgments.

The Superior Courts had 4526 reserved judgments and they delivered 3511 within three months.

The Leadership of the Magistracy for both the Regional Courts and District Courts identified and adopted performance indicators which will allow reporting on the Court Performance of the Magistrates’ Courts. This was a significant step in ensuring that the Judiciary as a whole accounts to the public for its performance and

also allows the Head of each Court to manage court and judicial performance to ensure the efficient and effective running of the courts. For the collection and collation of the performance information of the Magistrates' Courts the Judiciary relies on the Integrated Case Management System for the Department of Justice and Constitutional Development.

As a result of the well-known and most unfortunate system failure caused by an ICT security breach in the Department of Justice and Correctional Services, the Leadership of the Magistracy resolved that the performance information for the reporting period should not be published. The Heads of the Superior Courts supported this decision as the accuracy of the performance information could not be tested.

Gender transformation in the Judiciary

We have made substantial progress in the gender transformation of the Judiciary but we have not reached the right level of representation of women in the Judiciary. At the end of the reporting period under review, the establishment for Judges comprised 234 Judges in active service. 44% of all Judges are women. The number of Magistrates in active service is 1726 of which 49% are women.

Judges Discharged from Active Service

Eleven (11) Judges were discharged from active service during the reporting period and no Judges resigned. No new appointments were made during the reporting period due to the fact that the Judicial Service Commission could not conduct interviews. This was as a result of the lockdown measures implemented as part of the declaration of the national state of disaster in response to the COVID-19 pandemic.

Judicial Education and Training

Continuous training and development of our Judiciary is essential and undertaken by the South African Judicial Education Institute. A total of 123 judicial education courses for Judicial Officers were conducted during the period under review, and the courses were attended by 3 297 delegates. Due to the country's lockdown and related regulations, the OCJ had to leverage new technologies by conducting some of these educational courses virtually as a measure to ensure continued Judicial education.

Sadly 10 Judges passed away during the reporting period. We remember our departed colleagues and we thank them and their families for serving to the people of this country.

> "The Constitution envisions a different kind of thread that must run through our society – that of human dignity, the achievement of equality and the advancement of human rights and freedoms

Gender-based violence

Before I conclude let me say something about gender-based violence:

Every year, during the Women's Month in August or during the 16 Days of Activism there is an incident that reminds us of how just horrific and dangerous this country is for women and children and that makes the promise and purpose of both these two periods feel depressingly hollow. This year it was the murder and dismemberment of Nosicelo Mtebeni whose boyfriend murdered her after flying into rage because of texts he had seen on her phone. He believed the texts, which read "I love you" and "I miss you" were from another man. It wasn't until weeks after his trial his started that he realised that these were texts he had sent her months before her brutal murder. In 2019, again in August, it was the shocking and terrifying murder of 19-year-old Uyinene Mrwetyana in broad daylight at a Post Office.

When the lockdown was implemented in March 2020 women's advocacy groups raised the possible impact of having women and children locked into their homes with their abusers. Indeed, shortly after the lockdown began several Southern African countries noted a significant uptick in the frequency of domestic violence calls into hotlines and police stations as well as deaths related to GBV[1]. "A pandemic within a pandemic" as described by Mrs Graca Machel.[2] However, even those fears could not have predicted the report of the Gauteng Department of Health, also delivered during Women's Month, that girls between the ages of 10 and 14 had given birth to 934 children between April 2020 and March 2021.[3] Some of those pregnancies would have occurred during the lockdown when these

1 https://www.amnesty.org/en/latest/press-release/2021/02/southern-africa-homes-become-dangerous-place-for-women-and-girls-during-covid19-lockdown/

2 https://www.globalcitizen.org/en/content/graca-machel-quotes-gender-based-violence/

3 https://www.iol.co.za/the-star/news/girls-aged-between-10-and-14-gave-birth-to-934-babies-in-gauteng-mec-6a33eac4-fd15-42d2-8bf9-12e5e07f7fd2

children – of school-going age – were at home. These raises disturbing questions about who the fathers of those babies are and when and how these children fell pregnant. We must work much harder to implement agreed upon measures to deal with gender based violence – such as specialised Sexual Offences Courts and improve access to justice, resources and protective measures for vulnerable persons. However, this is not enough.

The attitudes and views that create a culture that condones, normalises and justifies violence of any kind against women and children runs through the very fabric of South African society and cultures. In the same way that we will not defeat the COVID-19 pandemic in isolation and without working together, the Courts alone cannot defeat the scourge of gender-based violence. The Constitution envisions a different kind of thread that must run through our society – that of human dignity, the achievement of equality and the advancement of human rights and freedoms. Our democracy is not complete without these values. Until women and children can freely and fully be free from the forms of violence that strip them of their dignity, their equality and their human rights and freedoms – our democracy will not be complete.

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> Our Courts are the guardians of our Constitution. I believe that over the past 25 years our courts have done very well in the performance of their role as the guardians of the Constitution

Earlier on I made the point that as the Judiciary we understand very well that we derive the judicial power we have and exercise from the people through the Constitution. On Friday last week our Constitution turned 25 years old since it was signed on the 10th December 1996. It is this Constitution that, in section 16, provides as follows:

“(1) The judicial authority of the Republic is vested in the courts.

(2) The courts are independent and subject only to the Constitution and the law, which they must apply without fear, favour or prejudice.”

Our Courts are the guardians of our Constitution. I believe that over the past 25 years our courts have done very well in the performance of their role as the guardians of the Constitution. This has sometimes attracted serious attacks against the Judiciary. Over the past 25 years there have been storms that the Judiciary has gone through but it has managed to continue to play its role to protect and uphold the Constitution and the rights contained in the Bill of Rights. We do not know for certain how the next 25 years will be but there is one thing we know. It is that the Courts and the Judiciary must continue to protect our constitutional democracy for the next 25 years and beyond. In this regard I am reminded of what President Mandela said about the Constitutional Court and our democracy on the occasion of the inauguration of the Constitutional Court on the 14th February 1995. President Mandela had this to say about the Constitutional Court and democracy:

> “The last time I appeared in court was to hear whether or not I was going to be sentenced to death. Fortunately for myself and my colleagues we were not. Today I rise not as an accused but, on behalf of the people of South Africa, to inaugurate a court South Africa has never had, a court on which hinges the future of our democracy.”

It has been an honour to present this report to the citizens of the country today.

Thank you.

FOUR CANDIDATES NAMED FOR THE POSITION OF CHIEF JUSTICE

President Cyril Ramaphosa has, in accordance with Section 174(3) of the Constitution, submitted to the Judicial Service Commission and leaders of parties represented in the National Assembly a list of four candidates for consideration for the position of Chief Justice of the Republic of South Africa.

In September 2021, President Ramaphosa invited public nominations for the position of Chief Justice. This was in anticipation of the discharge from active service of former Chief Justice Mogoeng Mogoeng on 11 October 2021.

In terms of the Constitution, the Chief Justice is "the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts".

The President appointed a panel, chaired by Judge Navanethem Pillay, to evaluate nominations made by the public and to shortlist nominees who fulfilled the advertised requirements for nomination.

Section 174(3) of the Constitution directs that "(3) The President as head of the national executive, after consulting the Judicial Service Commission and the leaders of parties represented in the National Assembly, appoints the Chief Justice and the Deputy Chief Justice and, after consulting the Judicial Service Commission, appoints the President and Deputy President of the Supreme Court of Appeal."

After considering the Report of the Nomination Panel, President Ramaphosa has identified the following candidates – named here in alphabetical order - for consideration for appointment:

(a) Hon Judge of the Constitutional Court, Mr Justice Mbuyiseli Madlanga;

(b) Hon President of the Supreme Court of Appeal, Madame Judge Mandisa Maya;

(c) Hon Judge President of the Gauteng Division of the High Court, Mr Justice Dunstan Mlambo; and

(d) Hon Deputy Chief Justice of the Republic of South Africa, Mr Justice Raymond Mnyamezeli Mlungisi Zondo.

Source: **The Presidency**

CANDIDATES FOR CONSIDERATION FOR THE POSITION OF CHIEF JUSTICE

LISTED IN ALPHABETICAL ORDER

JUSTICE M R MADLANGA

Justice of the Constitutional Court

PRESIDENT M M L MAYA

President of the Supreme Court of Appeal

JUDGE PRESIDENT D MLAMBO

Judge President of the Gauteng Division of the High Court

JUSTICE R M M ZONDO

Acting Chief Justice of the Constitutional Court

JUSTICE MANDISA MAYA INSTALLED AS THE 2ND UNIVERSITY OF MPUMALANGA (UMP) CHANCELLOR

By University of Mpumalanga (UMP)

The President of the Supreme Court of Appeal of South Africa (SCA), Justice Mandisa Maya was installed as the Chancellor of the University of Mpumalanga on 30 November 2021. This follows Justice Maya's appointment in July this year by the UMP Council. Justice Mandisa Maya is 2nd Chancellor of UMP and takes over from the 1st Chancellor of UMP, His Excellency President Cyril Matamela Ramaphosa.

The University of Mpumalanga was established in 2013. The Chancellor acts as a role model and reflects the University's values to its stakeholders and is a focal point to ensure the high standing of the University in the wider community. The Chancellor serves as titular head of the University with no executive powers and confers degree; awards; diplomas, certificates, and other distinctions on behalf of the University.

The President of the Supreme Court of Appeal of South Africa (SCA), Justice Mandisa Maya will officially be installed as the Chancellor of the University of Mpumalanga on 30 November 2021. This follows Maya's appointment in July this year by the UMP Council. Justice Mandisa Maya is 2nd Chancellor of UMP and takes over from the 1st Chancellor of UMP, His Excellency President Cyril Matamela Ramaphosa.

Justice Mandisa Maya is the first woman in South Africa to hold the position as President of the Supreme Court of Appeal of South Africa (SCA) and is a candidate for Chief Justice of the Constitutional Court of South Africa. Her contribution to the country's democratic institutions and jurisprudence dates back from 1994 when she served as a case investigator for the Independent Electoral Commission (IEC) during the first democratic South African elections. Subsequently, she practiced as an advocate until she was appointed as a judge in 1999.

The Chancellor acts as a role model and reflects the University's values to its stakeholders and is a focal point to ensure the high standing of the University in the wider community. The Chancellor serves as titular head of the University with no executive powers and confers degrees and awards diplomas, certificates, and other distinctions on behalf of the University.

This historic event coincides with remarkable accomplishments the institution has made since it was established in 2013 and enrolled its first 169 students in 2014. Over the years, the University has grown in stature and academic offerings from offering three undergraduate programmes in 2014 to 32 undergraduate and postgraduate programmes in 2021 with 5,392 registered. This year alone, the University received accreditation from the Council on Higher Education (CHE) to offer its first three PhDs, Bachelor of Laws (LLB) and 13 other new programmes. In the academic year 2022, UMP will be offering 49 programmes from Higher Certificate to PhD. This positive development is in line with the strategic objectives of the University to conceptualise, develop and launch new qualifications that will both stand alone and support articulation within UMP and between institutions as outlined in strategic plan (UMP Vision 2022).

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> **The Chancellor acts as a role model and reflects the University's values to its stakeholders and is a focal point to ensure the high standing of the University in the wider community.**

ADDRESS BY JUSTICE MANDISA MAYA

AT INSTALLATION AS CHANCELLOR OF THE UNIVERSITY OF MPUMALANGA CEREMONY ON 30 NOVEMBER 2021

By Justice Mandisa Maya
President of the Supreme Court of Appeal

The following is the full text of the speech delivered by Justice Mandisa Maya during her installation as the Chancellor of the University of Mpumalanga.

> “It is another matter of great pride to be part of an institution that recognises and affirms the ability of women to lead and participate competently in all spheres of society

I am honoured and grateful to have the privilege of serving as the second chancellor and, might I say, the first woman chancellor of this pioneering centre of knowledge and education, the University of Mpumalanga. May I take this opportunity to express my deep gratitude to Vice-Chancellor Mayekiso, the Council, the Senate, the Institutional Forum, my Brother and Colleague Judge President Legodi of the Mpumalanga High Court, who persuaded me to accept the nomination, and everyone who was involved in the search process and my ultimate appointment, for this exceptional recognition and for trusting me with this very important responsibility for the next few years.

I am also grateful to everyone in this hall, some who have travelled from afar, for attending this ceremony – the students and staff, the delegates from other universities, members of the community, leaders, the speakers for their kind words and the

choir for adding to the beauty of this event. I also want to give special thanks to my husband, children and sister, who are here this morning, and other family, colleagues and friends who could not make it. I would not be standing here without your love and unstinting support, always.

Last, but most certainly not least, I wish to acknowledge and thank the giant that I succeed, His Excellency President Ramaphosa. His incredible imprint on this institution, that on the occasion of his installation as its chancellor he called 'an instrument of progress and a beacon of hope … whose identity and posture is unashamedly African', is unmistakable. And as huge as the shoes he has left for me to fill are, his legacy shines a bright light on our path, and the knowledge that our university has his support makes the task at hand a little less daunting, and even exciting. So too does the prospect of working with the talented and hardworking group of professionals, who have managed to get this university to sink its roots deep into the rich soil of Mpumalanga, and grow, from a minnow that offered only three undergraduate programmes, to a cohort of only 169 students at its commencement in February 2014, to a colossus with two campuses, a mere eight years later, (with a magnificent new age infrastructure that continues to be developed and already includes student residences and various support facilities, a hospitality and tourism building with a fancy training hotel and a training restaurant that can compete with the best of them, a student wellness centre and clinic, science research facilities and IT laboratories, and a server and security building, an archive and academic building and student pavilions under construction) and offered 32 undergraduate and postgraduate programmes to a 5392 strong student body this year, and will offer its first three PhDs in Agriculture, Philosophy and Philosophy in Development Studies, LLB (which excites me greatly as a lawyer) and 13 more, new programmes in the new year.

I am truly proud to join this young trailblazer that has made such tremendous strides to deliver on its mandate efficiently and seamlessly, driven by a well-coordinated management system and strategic relationships here and abroad, and managed to carry out all its operations successfully, even during the trying Covid-19 pandemic.

It is another matter of great pride to be part of an institution that recognises and affirms the ability of women to lead and participate competently in all spheres of society and the benefits to society flowing from the empowerment of women and gender equality. The phenomenal story of this university under the stewardship of Professor Mayekiso speaks for itself. Nelson Mandela University and the University of Cape Town, which are also led by women, are other glowing examples. One hopes that the appointment of women to critical positions of leadership will grow until it is

common place in our society as that is a most effective way of eliminating patriarchy, which is actually a huge component of the scourge of gender based violence that threatens the very soul of our beautiful country.

And quite apart from the prestige that comes with this appointment, the special character of this university presents another important dimension for me. It is different from all but one of the South African universities. Unlike its long established peers, it is a creation of our constitutional democracy, intentionally conceived to be a fount of knowledge and learning imbued with the values of human dignity, respect and equality enshrined in our Constitution, that would redress the injustices of our painful past and be truly accessible to all our young people. It is not burdened by our colonial past. We know of no concerns of race and gender discrimination or any form of oppression of others or any old rattling skeletons here. It has a clean and pure aura that is most refreshing, pleasing and almost comforting; a rare and precious quality to be cherished. Its location in the beautiful province of the rising sun only adds to its charm.

When I asked my children what their contemporaries would like to hear the most from their Chancellor, the consensus was that I should talk about how I got here because that is what the young people would really want to know. I am not certain that I have a coherent answer to that question. I suspect that my success is born of a collection of random events, and coincidences, and a huge dose of luck. Many of my earlier memories have faded over time and some, the more painful ones, have been buried deep in my mind. What I can tell you is that this university was created to serve a student like me in my youth, a young person risen from adversity. Like my late parents before me, I come from a very humble, rural background. My parents, who were teachers and came from very poor families, were strict disciplinarians. Despite their meagre earnings, they took in many children to live with us, in a home where there was no separation of work for the different sexes and they drilled in us that education and hard, honest work were the passport to a successful life and taught us to love reading books. I started working during school holidays at the age of 15 (it was lawful then) and that was to be the course of my life. I want to believe that all those experiences – learning the value of hard work, learning to share and care for others, the love of books which evoke a deep curiosity in one, and the belief that if I got enough education I could achieve any dream, led me here, to this incredible opportunity.

And I join this institution at a critical moment, at its inflection point of the short eight years of its existence and at the turn of its Vision 2022 that it had ambitiously set for itself and seems to have achieved. This is a time when our deeply fractured country, which ranks among the most unequal and violent places in the world, and the world as a whole, face a host of crises such as corruption, poverty, unemployment especially among young people, extreme violence especially against women and children, serious and rampant crime, climate change that wreaks terrible storms and flooding, drought, power outages and other life disruptions and strange diseases. Humanity is torn by greed, envy, anger, mistrust, lack of understanding of its different norms, cultures and languages, ignorance, confusion and conflict. It is completely out of tune with itself and the world surrounding it. The Covid-19 pandemic has only deepened these fissures and created additional ills and a need to redefine all aspects of human life.

However, not all is lost. There is a powerful tool, education, which must be accessible to all so that no one is left behind, that we can use to heal ourselves, repair our country and the world and achieve all the Sustainable Development Goals we set for our world by 2030, which is suddenly just around the corner. Institutions of learning and education, the lighthouses of society, have never been more important than now. But it is well to note that a true education system is no longer just about imparting knowledge. It can no longer be kept within the confines of university corridors. Sustainable,

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> **One hopes that the appointment of women to critical positions of leadership will grow until it is common place in our society as that is a most effective way of eliminating patriarchy**

developmental research and community engagement are critical. There has to be a harmonisation of our species to the world and a harmonisation of cultures, genders and other differences among ourselves. The fast changing nature of our world has made it necessary to reskill and re-educate the human population to meet the new needs. Our teachers and staff must be encouraged to be advocates for this change we seek; to develop new teaching methods and solutions

through education and experiences gained in the classrooms and in general life. We must inculcate the values of integrity, empathy, trust and mutual respect and agitate even more fiercely for the agenda of equality, inclusion and diversity too. We need to instil the ethos of ethical leadership in our young people and empower them to be agents of change for a sustainable world order. We must stimulate a curiosity in them to explore ways in which sustainable development can be used to lift people out of poverty, to open frontiers, reconstruct our society and to interrogate world issues so that they may gain an informed world view and global citizenship to achieve world unity, peace, security and prosperity in our country and in the rest of the world.

And the requisite, platinum quality of education is possible with strong collaborations, reciprocity and cooperation with parties that share our aspiration to create opportunities for sustainable development through innovation, across sectors and disciplines, universities, the industries and governments (which must reprioritize their budgets to accommodate education), here and in other countries.

It is most heartening that this university is already on that path, having focused on the much needed areas of expertise in this age – Agriculture, Nature Conservation, Hospitality Management, Information, Communication and Technology, for a start, and ensuring that the interests of the less privileged are taken into account. It is undoubtedly an important intellectual beacon and hub in this community and contributes substantially to the collective effort of solving societal problems, in partnership with other stakeholders in the community. It is also clear from the community programmes and research projects in which it participates that it has fully assumed its responsibility to be an anchor, a convener, an educator and a neutral zone for efforts that we undertake together for the betterment of the people, families, the community, the economy and the environment of this province and beyond.

But there is always room to do and be more. As the challenges continue to escalate, it may be time to magnify our mission and intensify our efforts and ask questions such as 'how can we help more students and elevate the educational realization of this region and the entire country so that no young person is left behind; how can we deepen our engagement in the community; how can we build more relationships and partnerships; what new concepts are there to enhance our teaching and learning methods; how do we integrate hybrid learning models to meet the challenges of our time; are we exploiting technology to the fullest capacity; how do we make our campuses greener to fight climate change; do we use solar panels, do we harvest rain water, do we recycle water, how do we dispose of our waste, do we have an efficient recycling policy; how do we engage the SDGs; do we test all our operations and projects against them; how can we maximize what we are doing well to have an even greater impact?'

A primary concern constantly raised by the young people is unemployment. Despite more than half of our youth being unemployed, there is research to suggest that there are over 500 000 entry level jobs in South Africa that remain unfilled. The reasons for this vary. But most glaring, according to the FSG, appears to be a mismatch between the skills required by employers on one hand, and the skills of those entering the labour market, particularly our young people from disadvantaged backgrounds, on the other hand. There are concerns that universities do not adequately prepare graduates for work, and that there is a significant gap in soft skills such as communication skills, problem-solving skills, business acumen and technological savvy that are required for the workplace. Inadequate market information that makes it hard for the young people to find employment

> it may be time to magnify our mission and intensify our efforts and ask questions such as 'how can we help more students and elevate the educational realization of this region and the entire country so that no young person is left behind

opportunities and for employers to find entry-level candidates. Outdated HR systems, structures and processes that favour experienced workers over first time job seekers are also said to be a culprit. There is, therefore, a yawning gap that needs to be bridged between university and the workplace, for one thing. How then do tertiary institutions offer an education that places students in a position where they can not only secure employment, but thrive in the workplace?

Some have suggested a greater emphasis on the practical components of academic degrees. Others have suggested including internships as parts of the syllabi to ensure that by the time students graduate, they have a modicum of work experience. These are attractive propositions. And one thinks of the example of medical students. From their second year, the practical components of their studies take centre stage and they are, for example, each allocated a human cadaver to study such that by the time they graduate, they are practically doctors. Conversely, consider law students, whose LLB programme is so steeped in the academic components that many students graduate having never witnessed a trial, not knowing how to draft court process and without any meaningful exposure to the actual practice of law.

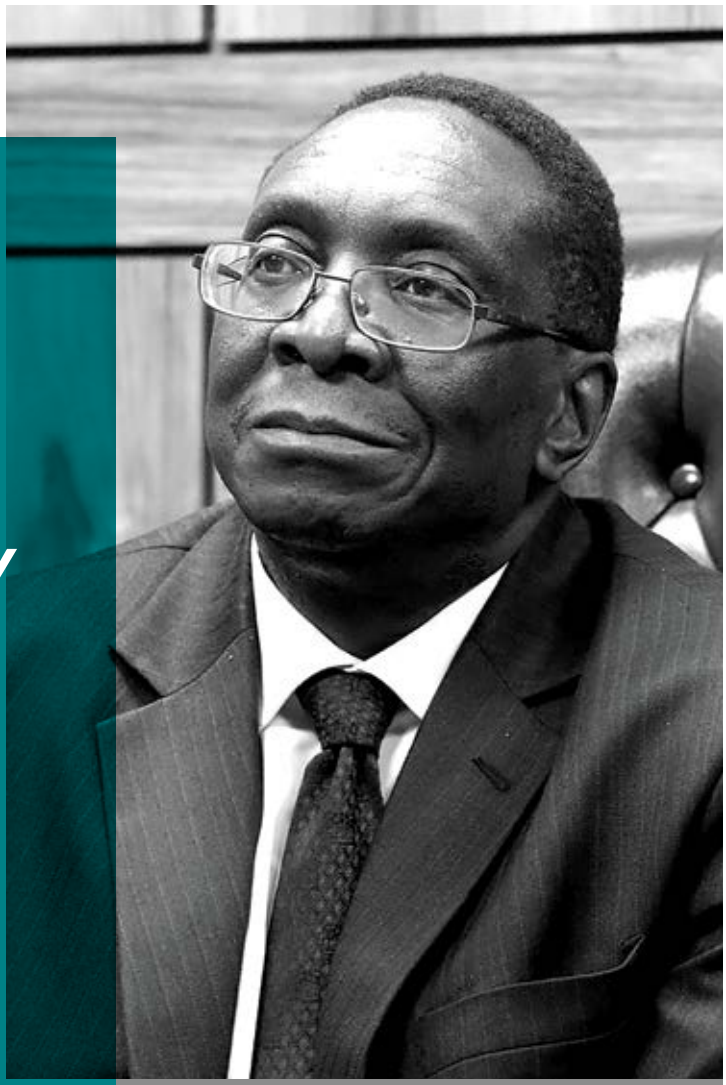
This is just one of the practical challenges in respect of which we should redouble our efforts to resolve. The solution for this one at least lies in the commitment and collaboration among higher institutions of learning, the public and the private sectors and civil society urgently developing a focused response to eradicate the systemic hurdles which have already been identified. And working hand-in-hand, those partnerships will assist greatly in solving the other challenges of the day.

I look forward to getting to know you and working with all of you to amplify your commitment to serve our students and our community in strategic ways that will solidify this university's place as a more visible and more impactful change-maker for our country as it ascends to greater heights.

Finally, Madame Vice-Chancellor, I have a special request. As I have been walking around the beautiful campus grounds I was struck by a yearning to have an indigenous tree planted somewhere among those already in the gardens to mark my installation and joining this community, a umbilical cord that will forever link me with this institution. I do hope that my application will receive your most favourable consideration and look forward to returning to Mbombela for that ceremony.

I wish you all a productive World Aids Day tomorrow and a safe holiday season.

Thank you.



THE ROLE OF THE JUDICIARY IN PROMOTING ECONOMIC PARITY WITHIN THE BACKDROP OF THE SEPARATION OF POWERS PRINCIPLE

By Judge President Dunstan Mlambo
Gauteng Division of the High Court

Photo source: https://www.theilf.org/dunstan-mlambo

In this speech to the Third Annual Summit on Social Justice on 11 October 2021, Judge President Dunstan Mlambo argues that 'the courts must, as custodians of the Constitution, come down from their ivory towers to defuse the situation on the ground by making justice accessible to all. The following is the full text of his speech.

As I commence with this talk, and to espouse the context I will refer to, I am unable to resist the temptation to reflect on those aspects of our past that have resulted in the poverty and inequality reality we find ourselves in, in this country. In the pre-Constitutional era, the majority of South Africans were denied access to the most basic of services needed for survival and development. These services were construed as privileges to be distributed based on apartheid's distorted logic in which the largess of services was reserved for the white minority population. Resources, services, and entitlements were distributed along racial lines with so-called non-whites being refused adequate services. African women received little to no resources and experienced double discrimination and exploitation based on their race and gender. We are witnesses today to the entrenched implications of each of these Apartheid expressions regarding the affordability of and access to basic services in South Africa.

No one can deny that the inferior living conditions imposed on South Africans by the discredited system of Apartheid had severe socio-economic consequences on their lives. It stripped most of their human dignity and deprived them of their basic human rights. It consigned the majority of South Africans mainly black, to gross social inequalities, social dislocation under the influx control laws and destitution on a massive scale.

This I believe provides an appropriate platform, 25 years after we adopted a progressive Constitution, with an elaborate Bill of Rights in which social justice has pride of place, to examine the role of courts or the Judiciary in advancing or promoting economic parity. This must at the same time encompass the impact of the separation of powers principle.

Have we witnessed meaningful advances of the social justice agenda of the Constitution?

I propound the notion that for economic growth to translate into economic parity within society in a constitutional democracy, the State, as the duty-bearer must adopt rights-informed legislation and social justice policies that follow a distributional pattern of focusing on the poor and ensure the availability of financial and human resources for the implementation of such policies.

On the role of the Judiciary, its role is not determined by the individual or collective idiosyncrasies of judges, but rather the architecture of the constitution and the norms and values found therein. While the process of differentiated incorporation may allow courts to enforce socio-economic rights in a useful and appropriate manner, it does not speak to the capacity of such adjudication to rectify social injustice. The question we must then ask ourselves is, have the South African courts contributed to positive social change?

The inescapable elephant in the room in this regard is the proliferation of what has been termed lawfare i.e., the litigation invoking judicial review of what I'll loosely term, political action, in which the Judiciary has come under directed and consistent backlash. The criticism has been that the courts are encroaching on the domain of Parliament and, as such, the powers of the Executive and Legislature are under threat.

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> there shall be a separation of powers between the Legislature, Executive and Judiciary, with appropriate checks and balances to ensure accountability, responsiveness, and openness

This perception of the politicisation of the Judiciary is in part informed and reinforced by information distributed in the media. The narrative of a politicised or captured Judiciary impacts the way the public views the Judiciary. The media itself is a useful tool for sharing information; however, the function for which it is often used to create and deliberately misrepresent narratives about certain institutions has the effect of undermining these institutions.

In relation to the Judiciary specifically, such public narratives have the detrimental effect of discounting the authority of the Courts. The three arms of government are established to perform important and inter-related functions guided by the separation of arms principle: which simply stated means — there shall be a separation of powers between the Legislature, Executive and Judiciary, with appropriate checks and balances to ensure accountability, responsiveness, and openness. These separate branches exist for the proper governing of South African society. Those in Parliament are democratically elected by the people. On the other hand, the members of the Judiciary are appointed by the JSC in an open and transparent manner after public interviews. The JSC is made up of members of Parliament, amongst others, and are then appointed by the President.

In our constitutional system and to ensure against unchecked abuse of public power we have adopted accountability, the rule of law and the supremacy of the Constitution as values of our democracy. The Constitution empowers the Legislature and Executive to make law and oversee its implementation. The jurisdiction to pronounce on the constitutional validity of laws or conduct is conferred on the Judiciary. All the institutions of the government are subject to the rule of the Constitution. A system of checks and balances is important in a constitutional democracy to limit the power of each of the three branches of government. The doctrine of separation of powers requires that the arms of government perform the different functions of the state to prevent centralisation of public power.

Post-Apartheid initiatives to fight poverty and inequality

Let us not forget that under apartheid, socio-economic benefits such as social security, education and health care were regulated by law on a racially discriminatory basis. The lives of the Black majority were governed through an elaborate system of statutes, regulations and codified versions of African customary law embodied in legislation such as the Black Administration Act, which allowed the Governor-General to banish a 'native' or 'tribe' from one area to another whenever he deemed this expedient or in the public interest.

Fast forward 27 years from 1994, we remain confronted by poverty and inequality often said to be worse than under apartheid. Why has this scenario persisted after the demise of apartheid? Class differentiation has stepped into the breach previously occupied by apartheid. Former President Mbeki described South Africa as a "two-nation society: one of these nations being White, relatively prosperous

There is no doubt that addressing economic inequalities, joblessness and redistribution is critical to alleviating the plight of the poor

regardless of gender or geographical dispersal. The second and larger nation being black and poor with the most affected being women in the rural population in general and the disabled. These two nations are distinguished by unequal access to infrastructure of all kinds and unequal access to opportunities. The challenges faced by the second nation include illiteracy, poverty, lack of access to policy participation, lack of access to basic services and inadequate or lack of exercise of basic human rights. This results in this segment of the nation to being marginalised, poor and vulnerable." (See Hansard column 3, 378 House of Assembly 1998.) Persons in this category run the risk of marginalisation, risk inequitable decisions particularly where the matter involves a socio-economic power imbalance, and their rights are routinely violated.

As we have witnessed, several political parties have approached the courts to have various decisions with political implications reviewed. The Constitutional Court noted in the matter between the United Democratic Movement v Speaker of the National Assembly and Others that they, the UDM, invited the court to get involved and to clarify the nature and extent of Parliament's powers. Adding, "rightly so, because everyone has the right to have a dispute that can be resolved by the application of law decided in a fair public hearing before a court." Perhaps, we should be directing our enquiries regarding the courts' involvement in these political contestations elsewhere, there is clearly a need for the courts to adjudicate on political matters, I leave it to you to consider why we find ourselves so often in this position.

Clearly the Constitution has not levelled the playing field between the two nations identified by former President Thabo Mbeki. Instead, it can be said that we have the most unequal society in the world and have overtaken Brazil as the country with the highest disparity in income between the rich and the poor. Why does this reality persist when we have courts that have the Constitution at their disposal to tackle this spectacle? There are several reasons for this and I will briefly examine them.

Affordability and access to courts

In our expensive court system, without legal aid, it is impossible for lower-income groups and the poor to enforce their rights. There is no doubt that addressing economic inequalities, joblessness and redistribution is critical to alleviating the plight of the poor. There still remain gaps that exist in the delivery of civil legal aid to the indigent and the poor so that they can approach the courts to ensure that the state promotes, fulfils, and protects the rights enshrined in the Bill of Rights. Where this avenue is not available to people to have their issues heard in an open court, such people out of frustration resort to violent protest of the kind we have witnessed in service delivery protests across the townships.

In Mohlomi v Minister of Defence, the court recognised that South African society is pronounced by poverty and illiteracy and bound by the differences of culture and language. The court further indicated that most persons who are injured are either unaware or poorly informed about their legal rights and what they should do in order to enforce those, and access to professional advice and assistance is difficult for financial or geographic reasons.

In President of the Republic of South Africa v Modderklip Boerdery, the Constitutional Court highlighted that the first aspect that flows from the rule of law is the obligation of the State to provide the necessary mechanisms for citizens to resolve disputes that arise between them.

In Access to Courts (2004 SALJ p341) Geoff Budlender argues that access to courts means more than the legal right to bring a case before court. It includes the ability to achieve this. In order to be able to bring his or her case before a court, a prospective litigant must have knowledge of the applicable law, must be able to identify that he or she may be able to obtain a remedy from a court, must have some knowledge about what to do in order to achieve access and must have the skills to be able to initiate the case and present it to the court.

This has remained pie in the sky however to the ordinary man in the street, rendering courts irrelevant to their plight. The recent looting spree is clear evidence that the prevailing

poverty and marginalisation of the poor sectors of society remains a powder keg ready to explode as we saw.

Polycentricity and the socio-economic reality

Socio-economic cases are considered poly-centric because of the conception that they have budgetary consequences. For example, a case involving a person's right to housing would not only impact that person and the state but also the interests of other citizens. The interests of other citizens would raise questions, such as whether the money should be used to build a crèche, hospital, or school.

The Grootboom case is a good example of a case involving a decision relating to budgets. The case brought to the attention of the authorities the widespread problem of accessing adequate housing by desperate people. The declaration by the court that the government's emergency housing programme was unreasonable has since inspired other litigation and policy revision in housing rights.

Similarly, the Constitutional Court dealt with the Treatment Action Campaign case in a manner leading to Nevirapine being available at state expense to all HIV positive mothers to prevent the transmission of HIV from mother to child.

These cases show that socio-economic rights are justiciable and with the assistance of persuasive argument the courts can draft a remedy that impacts positively on the lives of poor and indigent people.

These cases gave us hope that socio-economic justice would be accelerated, but this has fizzled into a finger-pointing game with no meaningful progress whatsoever. The problems on the ground are a lot more serious — there is a pronounced lack of access to clean drinking water in a number of black communities; there is the continued usage of pit latrine toilets for school learners, who happen to be black, Eskom has come back with load shedding which affects the poor as they have no alternative options. The rich and affluent will complain but they have the option of purchasing generators, we are still in the throes of the Covid-19 pandemic, and its onset resulted in massive job losses for black workers in particular.

The need for transformative jurisprudence

The most effective way to address these ills, I suggest, is an unwavering pursuit of transformative jurisprudence. Transformative jurisprudence must be founded in a court's understanding of the actual conditions in which people live. There is a degree of consensus over the general meaning of transformation amongst progressive lawyers in South Africa. In S v Mhlungu, Sachs J commented that the Constitution "… is a momentous document intensely value-laden. To treat it with the dispassionate attention that one might give to Tax law would be to violate its spirit as set out in unmistakably simple language…".

> "Our Constitution has been acknowledged as the most progressive Constitution in the world. Armed with the Constitution as our guide we are under an obligation to lead the country and its people into a peaceful era where the rights enshrined in the Bill of Rights are protected, promoted and fulfilled for all

In such a deteriorating situation as we have in this country, the courts must, as custodians of the Constitution, come down from their ivory towers to defuse the situation on the ground by making justice accessible to all. Given the precarious situation we find ourselves in, the good men and women of the judiciary should take it upon themselves to restore respect for the rule of law in this country. The judiciary always comes out fighting on all fronts whenever the independence of the judiciary has been threatened. I am of the view that the judiciary should follow the example of the Indian Supreme Court under Chief Justice Bhagwati who described the functions of the Court in relation to poverty and oppression in a somewhat different vein. He said:

"Can judges really escape addressing themselves to substantial questions of social justice? Can they simply say no to litigants who come to them for justice and the public that accords them power, status, and respect, that they simply follow the legal text when they are aware that their actions will perpetuate inequality and injustice? Can they restrict their enquiry into law and life within the narrow confines of a narrowly defined rule of law? Does the requirement of constitutionalism not make greater demands on the judicial function" (Justice P.N. Bhagwati, "Bureaucrats? Phonographers? Creators?", The Times of India 21).

The short history of litigation in our Courts under our

Constitutional democracy has demonstrated that the answer to all of the above rhetorical questions has been a clear and unambiguous, 'no'. Has the time not come for the judiciary in South Africa to become judicial activists in the fight to alleviate poverty and inequality as demanded by the Constitution? In the 1980s, due largely to the collective philosophy of a group of radical judges who formed the major view of the Indian Supreme Court at the time, a primary function of the Supreme Court of India became "the liberation of the poor and oppressed through judicial initiatives". In their judgments during this period of judicial activism, the Indian Supreme Court Justices deliberately adopted a style of interpretation they argued "showed the passion of the Constitution for social change. Their credo was the conviction that in developing social judicial activism as essential for participative justice… Justices are the constitutional invigilators and reformers who bring the rule of law closer to the rule of life" (P Singh: Judicial Socialism and promises of Liberation, 28 of Indian Law Institute 338 (1988)).

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We are collectively responsible to ensure that no child goes to bed on an empty stomach. In this way, we will take forward the fight against poverty and inequality

Conclusion

The Constitutional Court has handed down innovative judgments which are cited with approval internationally by other foreign jurisdictions because of the way they have given expression to the dictates of our Constitution. Our Constitution has been acknowledged as the most progressive Constitution in the world. Armed with the Constitution as our guide we are under an obligation to lead the country and its people into a peaceful era where the rights enshrined in the Bill of Rights are protected, promoted and fulfilled for all. There is no reason whatsoever to resort to violent protest to ensure that all the people in this country can develop into upright citizens concerned with the welfare of others in the spirit of Ubuntu.

Let us work together to make the Constitution a living document in the lives of all people, regardless of race, gender, and class. The Constitution and the welfare of the people it serves are bigger than all of us put together. Let us, therefore, join hands across the racial divide, between the haves and the have nots, to root out the cancer of corruption, greed and self-aggrandisement that has crippled our democracy. Let us focus on the income disparities we have in this country. Our preoccupation with paying obscenely huge salaries and bonuses to executives and starvation wages to the lowly based workers must come to an end. We must realise that the first step towards addressing our problem is agreeing and paying decent wages, that will enable lowly paid workers to provide appropriate shelter for their families, afford basic commodities of life like food, transport, education, and healthcare to name a few.

Paying decent wages will also give reprieve to workers from the debt trap which results in their redlining by credit grantors and exploitation by unscrupulous labour brokers for example.

We are collectively responsible to ensure that no child goes to bed on an empty stomach. In this way, we will take forward the fight against poverty and inequality that has consigned the homeless and the unemployed to the fringes of society so that at the end of it all we can proudly say that we are an indivisible nation, in one country, under one flag committed to eradicating poverty and inequality. DM/MC

THE LAW AS AN INSTRUMENT OF JUSTICE IN CONTEMPORARY SOUTH AFRICA

Judge Fayeeza Kathree-Setiloane

Keynote Adress delivered by Judge Fayeeza Kathree-Setiloane, on 4 December 2021, at the Auwal Socio-Economic Research Institute (ASRI).

Good morning. I'd like to take this opportunity to thank ASRI for inviting me to deliver the keynote address at the graduation ceremony of the 2021 intake of social science graduates. The topic – Law as an Instrument of Justice in Contemporary South Africa - is a broad one. I have therefore decided to limit it to the question of the achievement of socio-economic rights in the education sector through our courts.

On the birth of our democracy over two decades ago, South Africa pegged its future on social and economic justice; human dignity; the achievement of equality and the advancement of human rights and freedoms; the supremacy of the Constitution and the rule of law and a Bill of Rights that is the edifice of our Constitution. Our Bill of Rights contains a set of rights which entrench the core values of the new society, conceived many years before, in documents such as the Freedom Charter[1].

The design of the Constitution is to revolutionise and transform South

1 In the Freedom Charter, the original anti-apartheid manifesto crafted in 1955, social welfare was inextricably linked to the goal of post-apartheid liberation. On socio-economic matters, it declared: "Education shall be free, compulsory, universal and equal for all children…All people shall have a right to…be decently housed, and to bring up their families in conform and security…[N]o-one shall go hungry; [and] Free medical care and hospitalisation shall be provided for all, with special care for mothers and young children…". Freedom Charter, Congress of the People, 26 June 1955 Accessible at http://www.historicalpapers.wits.ac.za/inventories/inv_pdfo/AD1137/AD1137-Ea6-1-001-jpeg.pdf (accessed on 24/11/2021).

African society. It was envisaged that the transformative objectives of the Constitution would be sufficient to propel the country towards achieving its promise of improving the quality of life of all citizens, in particular those disadvantaged by apartheid. The inclusion of social welfare rights in the Bill of Rights was the direct result of the role socio-economic oppression played within the larger context of apartheid's system of political and social subjugation. Under white-minority rule, socio-economic benefits such as social security, education and healthcare were regulated by law on a racially discriminatory basis that saw the lion's share of the resources allocated to the white minority.

What is justice? As a central tenet of our new constitutional order, justice can be understood as a concept of moral rightness based ethics, rationality, law, equity and fairness. Justice takes into account the inalienable and inborn rights of all human beings and citizens, the right of all people to equal protection before the law, to not be discriminated against on the basis of race, gender, sexual orientation, gender identity, national origin, colour, ethnicity, religion, disability, age, wealth, or other characteristics. Justice is inclusive of social and economic justice.

Our democracy has come of age, yet in spite of the many achievement of our democracy in so far as civil and political rights are concerned, South Africa remains deeply unequal. Substantial poverty and inadequate social welfare protection continue plaguing the country. Millions depend on the state machinery for the provision of the most basic of needs. As of this address, it is estimated that 13.8 million people live below the poverty line. As of April 2021 the food poverty line sits at R624 per person per month.[2]

The Corona Virus pandemic has no doubt exacerbated hardship. No sphere of South African life has been spared, none more so than the educational sector. According to Amnesty International, Covid-19 has pushed inequality in South African schools to crippling new lows. The organization highlights how students from poorer communities have been cut off from education during extended school closures, in a country where just 10% of households have an internet connection. It notes that historic under-investment and the government's failure to address existing inequalities has resulted in many schools not having running water or proper toilets whilst struggling with overcrowded classrooms. This means they cannot provide a safe learning environment amid the pandemic.[3]

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Our democracy has come of age, yet in spite of the many achievement of our democracy in so far as civil and political rights are concerned, South Africa remains deeply unequal.

Covid-19 not only brought an abrupt halt to teaching, but its reach extended to the feeding programmes that ensured millions of school children are with meals on a daily basis. The National School Nutrition Programme (NSNP) is a national project run by the Department of Basic Education to feed over 9 million learners nutritious meals at public schools across the country daily. The programme was rolled out in South African schools in 1994 and its objective was the enhancement of learners' food security by, amongst others, combatting malnutrition, reducing hunger and improving school attendance and other educational outcomes. The programme is critical to realising learners' constitutional rights to basic nutrition (Section 28(1)(c) of the Constitution) and basic education (Section 29(1)(a) of the Constitution). The NSNP is funded by the government by way of a conditional grant in terms of the Division of Revenue Bill.

When Covid hit, the ensuing lockdown led to the closure of schools and the inception of remote learning. The Department of Education consequently stopped the school feeding programme, and resumed haphazardly (in some schools only) as the lockdown was eased. As a result, qualifying leaners of certain grades who could not return to school simply went without meals.

2 This is according to updated data from Stats SA. Accessible on https://businesstech.co.za/news/finance/519958/how-much-money-the-poorest-in-south-africa-are-living-on-each-month/ (accessed on 24/11/2021). The food poverty line is a reference to the amount of money that an individual needs to afford the minimum required daily energy intake. It is also commonly referred to as the "extreme" poverty line.

3 A report called 'Failing to learn lessons? The Impact of Covid-19 on a Broken and Unequal Education System' accessible at https://www.amnesty.org/en/latest/press-release/2021/02/south-africa-covid19-pushes-inequality-in-schools-to-crippling-new-level-risks-a-lost-generation-of-learners/ (accessed on 24/11/2021).

In *Equal Education & others v Minister of Basic Education & others*[4] the Minister of Education and the provincial education departments were ordered to ensure that qualifying learners, regardless of whether or not they had resumed classes at their respective schools, receive a daily meal as provided for under the NSNP. The court went so far as to declare that the Minister is under a constitutional and statutory duty to ensure that the NSNP provides a daily meal to all qualifying learners, to ensure the proper exercise of their rights to education, and the enhancement of their learning capacity, whether they are attending school or studying from home as a result of the Covid-19 pandemic.

The public school system in South Africa has, however, been struggling to meet the constitutional promise long before the Covid pandemic. There are huge disparities between our public and private school systems. The state of our public schools in particular those in townships and rural area is shocking. The sad and shocking death of 5 year old Michael Komape who fell into a pit toilet (also called a pit latrine) situated at his school premises, in a village in Limpopo, immediately comes to mind. The litigation in this matter highlighted the plight of learners attending schools in rural areas across the Province of Limpopo, which do not have basic sanitation facilities. These schools are jointly administered by the National Department of Basic Education and the Provincial Department of Education in Limpopo.[5]

Michael Komape's parents and siblings sued (represented by Section27), the provincial and national departments of Basic Education on several grounds, including for: (a) emotional trauma and shock; (b) grief; alternatively, (c) constitutional damages. Although the High Court dismissed the damages claims, it granted a structural interdict that sought to ensure the eradication of pit latrines in Limpopo. The structural order directed both the national and provincial departments of education to conduct a comprehensive audit of sanitation needs – detailing the names and locations of all schools with pit toilets in the province – and provide a comprehensive plan for the installation of new toilets. The SCA also granted the Komape family an award of delictual damages.

The SCA[6], however, rejected the family's claim that constitutional damages would vindicate the breach of their rights, and bring home, to the authorities, the necessity to provide adequately for children's sanitation at schools. It, however, held that, where a person had already successfully claimed delictual damages, 'any further damages would effectively amount to a punishment for breach of a right for which compensation had already been granted.'[7] It also reasoned that an additional damages award was not necessary to emphasise the necessity of remedying the problem of pit latrines, as the government was already aware of this need.

Although the SCA accepted that 'awarding constitutional damages would mark the court's displeasure, and may well be justifiable in theory', there were practical problems in doing so in South Africa, because:

> *'Here there is a chronic shortage of what would in foreign jurisdictions be regarded as basic infrastructure; and here the public purse could be far better utilised for the benefit of many than in paying a handful of persons a substantial sum over and above the damages they have sustained and for which they have been compensated. Furthermore, the breach of rights involved in the failure to provide proper sanitation facilities at schools is, on the evidence, widespread and affects the rights of a large number of scholars across Limpopo. I can see no reason why the Komape family should be the beneficiaries of an additional award of constitutional damages in order to vindicate the rights of all scholars to proper sanitation facilities at schools.*[8] *(close quote)*

For many children who enter the school system, schools are simply not functioning effectively.[9] When the most basic of learner needs such as textbooks and scholar transport[10] end up in court, it underscores the enormity of the problem. It is a sad and terrible truth that one can predict with some confidence, as each cohort of children starts the new school

4 Unreported Gauteng Division, Pretoria judgment Case no.: 22588/2020 delivered on 17/07/2020.

5 Komape v Minister of Basic Education (1416/2015) [2018] ZALMPPHC 18 (23 April 2018).

6 Komape v Minister of Basic Education 2020 (2) SA 347 (SCA).

7 At para [59].

8 At para [63].

9 See in this regard a report by the Legal Resources Centre, 'Fighting to Learn: A Legal Resource for Realising the Right to Education' (2015) ('Fighting to Learn'). See also Amnesty International report, footnote 3 above.

10 Tripartite Steering Committee and another v Minister of Basic Education & others 2015 (5) SA 107 (ECG) involved a challenge to a decision taken by the MEC for Basic Education to refuse scholar transport to scholars from certain schools in the Eastern Cape. The applicants sought the direct enforcement of the right to transport of scholars as an aspect of the right to basic education. Plasket J concluded the decision to deny transportation was administrative action that infringed the fundamental rights of the scholars to basic education.

year, which of them, like young Michael Komape will be failed by the system - and be denied the opportunity to achieve their individual potential, despite the best efforts of many. The opportunity to attend means little when your right to a meaningful education is denied. How can our court's remedy this? And what are the challenges adjudicating socio-economic rights?

Difficulty adjudicating socio-economic rights

The justiciability[11] of socio-economic rights is fraught with difficulty. There's a tendency to view these rights as subservient to civil and political rights. Some contend these rights to be non-justiciable as their enforcement by courts is either impossible, or undesirable because of democratic legitimacy issues, and judicial competency issues. The legitimacy issues relate to classic counter-majoritarian difficulty of judicial review. The question often asked is: how can decisions of the Judiciary - an unelected branch of government – overturn popular will as formulated by a democratically-elected legislative body? In the context of social rights adjudication, the traditional concerns about judicial review are exacerbated by the inherent policy-based and financial nature of the decisions the courts would make.[12] There's a long held perception that the judiciary is not part of governance in the country.[13] To government, the judiciary is an object rather than an agent of transformation. The counter argument is that socio-economic rights are entrenched in the Constitution and are therefore unequivocally justiciable.[14] They are indivisible from civil and political rights and without the one, the other is meaningless.

As vanguards of the Constitution, notions of justice require the judiciary when exercising their remedial powers to be innovative.[15] The evolving jurisprudence on socio-economic cases spurred on by persistent non-compliance by state players has provided fertile ground for remedial innovation. Courts have had to look much more thoughtfully, carefully and creatively at structural orders. These orders declare that there is a breach and require the state to produce a programme on how it will remedy the breach.

The first socio-economic cases

The Constitutional Court led the charge when the first socio-economic cases came before it. *Soobramoney v Minister of Health, KwaZulu-Natal*[16] *("Soobramoney"); Government of the Republic of South Africa and Others v Grootboom and Others*[17] (*"Grootboom"); Minister of Health & others v Treatment Action Campaign & others*[18] *("TAC")* are the first cases in which the Constitutional Court has substantively determined the nature and parameters of socio-economic rights and obligations under the Constitution. Essentially, these cases and other social rights cases affirm that, although the obligations imposed on the state are dependent upon the resources available for such purposes, courts will require the creation of a broad policy-based programme with particular attention paid to those who are most vulnerable. Courts will also require implementation that includes "all reasonable steps necessary to initiate and sustain" a successful programme to advance the asserted right, including "meaningful engagement" with those whose social welfare rights are most impacted.

Contemporary socio-economic cases

Establishing an appropriate and effective remedy for the breach of socio-economic obligations is challenging. This is particularly the case where the breach is systemic, that is, where the cause of the breach is a breakdown or malfunctioning of the system. Contemporary socio-economic cases see courts confronted with persistent non-compliance in an extended remedial process that requires the government to implement systemic relief. Where the government is required to take positive action to implement structural reform, non-compliance not only undermines the integrity of court orders and erodes respect for the rule of law, but also poses a systemic threat to rights. As non-compliance persists, the Judiciary has had to resort to innovative remedial mechanisms to ensure accountability for full compliance. The past few years have seen court orders become increasingly detailed and prescriptive through each stage of the litigation process.

11 The extent to which they can and should be enforced by a court.

12 E. Christiansen 'Using Constitutional Adjudication to Remedy Socio-Economic injustice: Comparative Lesson from South Africa' 13 UCLA Journal of International Law and Foreign Affairs 369 (2008) at 373-374.

13 Jonathan Klaaren, Gaps between Judiciary and Developmental State, Mail & Guardian dated 15/06/2012 accessible at https://mg.co.za/article/2012-06-15-gaps-between-judiciary-and-developmental-state/ (accessed on 24/11/2021).

14 Ex parte Chairperson of the Constitutional Assembly: in re Certification of the Constitution of the Republic of South Africa, 1996 1996 (4) SA 744 (CC) at [78].

15 The call for remedial innovation, or as the Constitutional Court called it – '"forge new tools" and shape innovative remedies' to ensure rights are vindicated was made in Fose v Minister of Safety and Security 1997 (3) SA 786 (CC).

16 1998 1 SA 765 (CC).

17 2001 (1) SA 46 (CC).

18 2002 (5) SA 721 (CC).

Earlier socio-economic rights cases saw courts typically focused on dissatisfaction with governmental programmes or governmental action, placing the burden upon the government to improve its programmes, generally without reference to the parties who advanced the claims to the court. The courts' remedial orders essentially told government to do better, rather than ensuring any immediate improvement for the complainants. Later cases in the education field have ensured direct relief for the complaints.

Discourse on the right to basic education has provided fertile ground for creative court orders that seek to address systemic failures. Structural interdicts have become a process for setting ambitious but achievable targets and monitoring the achievement of those targets by the non-compliant party. It brings the government, the courts and civil society actors[19] into an interactive process. If done properly, it can address government programmes in a way which is fundamentally democratic.

Section 172 of the Constitution empowers courts deciding constitutional matters to 'make any order that is just and equitable'. Courts are therefore equipped with broad and discretionary remedial power to craft remedies that enhance accountability for compliance with constitutional obligations. Exercising this broad remedial power, courts have had to look beyond the traditional remedial catalogue to find creative ways of overcoming the remedial challenges that threaten compliance with court orders.[20] The retention of supervisory jurisdiction is now a well-established remedial mechanism used by our courts to supervise the implementation of a court order and thus ensure compliance with constitutional obligations. *Madzodzo & others v Minister of Basic Education & others*[21] (*'Madzodzo')* and *Linkside & others v Minister for Basic Education & others*[22] (*'Linkside')* exemplify the type of cases which typically call for supervisory jurisdiction, namely a breach of the state's positive constitutional duties which requires the implementation of systemic relief. The orders granted in these cases took the form of a remedial plan to be implemented in stages, rather than any once-off intervention. This meant there would be continuity between the remedy and its enforcement which may require sustained judicial involvement throughout an extended remedial process.

> "As vanguards of the Constitution, notions of justice require the judiciary when exercising their remedial powers to be innovative

Madzodzo is significant for reasserting the immediacy and enforceability of the right to a basic education. The case concerned the urgent need of learners in public schools in the Eastern Cape to be provided with basic school furniture that would afford them a place to sit and write.[23] The applicants, the Centre for Child Law and the parents of children at junior and senior public schools in the Eastern Cape (all represented by the Legal Resources Centre) sought a declaration that the respondents, the national Minister of Basic Education and her provincial counterpart, were violating the children's constitutional right to a basic education by failing to provide sufficient and appropriate furniture to public schools in the province. The court held that the respondents were in breach of the right by failing to provide adequate and appropriate furniture which would enable each child to have his or her own reading and writing space, and that they were to provide such furniture within 90 days of the completion of a furniture-needs audit.

The judgment is significant for reaffirming the principle that the right to a basic education in section 29(1)(a) is an 'unqualified right' and is immediately realisable, rather than being subject to progressive realisation as in the case of health and housing rights. The judgment is an appropriate vindication of the right to basic education as it also confirms that adequate furniture (a reading and writing space for each learner) is an essential component of this right.

19 Civil society has played a pivotal role in the shaping of socio-economic legal jurisprudence. A number of precedent setting case law has been at their instance.

20 H Taylor 'Forcing the Court's Remedial Hand: Non-compliance as a Catalyst for Remedial Innovation' Constitutional Court Review 2019 (Vol 9) at 252.

21 2014 (3) SA 441 (ECM).

22 Unreported judgment (Case no. 3844/2013) [2015] ZAECGHC 36 delivered on 26/01/2015.

23 A report by the LRC, 'Ready to Learn? A Legal Resource for Realising the Right to Education' (Legal Resources Centre 2013) details how having undertaken extensive site visits over a period of several years, the LRC realised the enormity of the problem, noting that 'thousands of children still sit on the ground because their classrooms have no, or an insufficient number of, desks and chairs. They hunch over workbooks and crane their necks to see the blackboard. They often get sick from sitting for hours on cold, dirty floors.' A discussion of the report is contained in the article by H Taylor (footnote 23 above).

The judgment also re-affirms the court's remedial powers of appointing independent auditors to ensure compliance. This measure met the need for an independent audit of the province's school furniture shortages. Ascertaining the scale of the systemic problem was an essential first step in the remedial plan over which the court exercised robust supervisory jurisdiction.

The *Linkside* class action featured an equally ground-breaking use of a court-appointed agent, but this time the particular function served was administering the large number of individualised claims involved in implementing systemic relief.

Linkside was the first class action to be certified, based on the judge-made rules crafted by the Supreme Court of Appeal, and the first class action to be decided on the merits of the actual claim. The *Linkside* litigation was conducted by the LRC. It concerned all public schools that had vacant teacher posts or whose teachers had gone unpaid in the Eastern Cape. The litigation was run in two phases. Thirty-two schools applied for relief in Part A of the application requiring the provincial department to fill their vacant posts and pay their unpaid teachers. In Part B of the application, the 32 schools acted as representative plaintiffs to seek the certification of an opt-in class action. The opt-in class action was certified in March 2014, becoming the first class action of its kind in South Africa. It offered an opening for all public schools in the Eastern Cape affected by the government's failure to appoint and pay teachers to join the proceedings and thereby receive appropriate relief. A total of 90 schools subsequently came forward and opted in to the class action. When the merits of the claim were adjudicated, the High Court ordered the appointment of several hundred teachers and the payment of over R81 million in unpaid teacher salaries to the class member schools.

The Court recognised that this declaration alone was unlikely to provide effective relief given the government's poor track record in following through with reimbursements. It therefore granted the request by the LRC for the appointment of a claims administrator to process the large number of claims by schools that had opted-in to the class action. The Easter Cape Department of Education was accordingly directed to appoint a firm of registered chartered accountants 'to distribute the amounts payable to individual schools as members of the class, and advise the court of their identity'

Linkside not only illustrates the benefits of certification where the class membership is unknown, but also challenges the distinction between private law claims and claims under the Bill of Rights. The failure to appoint teachers to vacant posts is a violation of the right to a basic education in section 29(1)(a) of the Constitution and a breach of the statutory obligations of the Education Department.

Conclusion

State resources are finite, and the imposition of a ceiling on the quantity and quality of services that the state can provide is inevitable. Lack of political will and overall institutional dysfunction has proven to be the biggest stumbling block to the attainment of transformative objectives of the Constitution. This means that there is a greater role for the Judiciary and civil society to play in our constitutional democracy. We cannot be passive observers of a systemic and wholesale breach of the rights of those who are most vulnerable. Strides made by the courts with innovative remedial mechanisms are proving to be the necessary catalyst for change.

The Judiciary has the capacity to be the institutional voice for the poor and has in certain areas of socio-economic litigation proven this.

I hope this address inspires you to carry the baton of the transformative vision of our constitution We especially need agile and conscientious legal professionals and social scientists with an unwavering commitment to justice, fairness and substantive equality.

Thank you

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PRAGMATIC LEADERSHIP THROUGH THE PANDEMIC

By Judge Fayeeza Kathree-Setiloane

On 15 October 2021, the Gauteng Division of the High Court held its first in-person tea since the advent of the Covid-19 pandemic. Judge Fayeeza Kathree-Setiloane delivered the following address during the occasion.

Judge President Mlambo, Deputy Judge President Sutherland, Judges of this Division, Colleagues, good morning.

It is wonderful to see you all again on the occasion of our first in-person Judges' Tea since the March 2020 Lockdown. I am very pleased to see that you are healthy and well, given this dreadful time that we find ourselves in. What we considered to be a fleeting flu virus has developed into a full blown global pandemic which has sadly touched our lives in one way or another.

> "The transition from working at court to the comfort and safety of our homes was so seamless that some of us cannot imagine working from Court again

All the same, what we have done splendidly through this pandemic is to continue working and holding court hearings as usual. The transition from working at court to the comfort and safety of our homes was so seamless that some of us cannot imagine working from Court again.

Our two Divisions have from the onset of the March 2020 Lockdown operated at a capacity that is leaps and bounds ahead of other courts across the country, including our appellate courts.

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> Our streamlined motion court and civil trial systems are testament to a decade of his outstanding leadership and guidance

At the inception of the National Lockdown in March 2020, Judge President Mlambo, as chairperson of the Heads of Court sub-committee called JAIT (Judiciary Administration and Information Technology Committee), immediately implemented strategies and directives to ensure that court business could continue as usual. Caselines, a major initiative of the Judge President which he launched as a pilot project in the Gauteng Division in 2019, was implemented as a fully functional online platform in January 2020. Judge President Mlambo's timing in piloting and implementing this electronic filing, case management and litigation- system was impeccable. Absent Caselines coupled with Microsoft Teams, operating court as usual would have been severely hindered during the pandemic.

Caselines continues to serve both our Divisions superbly. Judge President Mlambo's foresight in embracing technology and change to modernise our court system, in line with international best practice, demonstrates his keen understanding of the needs and challenges of the judiciary and the legal fraternity in the 21st century.

Currently, Judge President Mlambo is embarking on an initiative aimed at the digitisation of archived court records of both Divisions. The pilot project which is located in the Judges' reading room on the mezzanine level of the Library, is aimed at digitising and preserving archived court records. Not only will this minimise the need for physical archiving space for court records, but will improve and facilitate easy access to them. More importantly, this project will enhance service delivery by eradicating the perennial challenges of missing court files, and the long waiting periods experienced by litigators in obtaining access to archived court files and records.

Judge President Mlambo has provided our two Divisions with able and pragmatic leadership not only through this pandemic, but also from his inception as Judge President. Our streamlined motion court and civil trial systems are testament to a decade of his outstanding leadership and guidance.

Judge President Mlambo is also an able and astute jurist. This is clear from the many ground-breaking Full Court decisions that are handed down in our two Divisions under his stewardship.

As a leader, Judge President Mlambo is in command of every situation however small - be it the hiring of law-clerks and law researchers to the hiring of court administrative staff - while at the same time being a team leader who allows all us Judges a say before final decisions are taken. As such, our end of term meetings - another initiative for which all credit goes to Judge President Mlambo alone - afford us the opportunity to discuss and make our views known on issues that are critical for the efficiency and effectiveness of our courts and the Judiciary as a whole.

Judge President Mlambo has through his innovative leadership, created in our two Divisions a modern court establishment. These innovations which are aimed at making our two Divisions paperless, not only make for excellent access to justice but also serve as a model of modernity for other courts in our country. For this, the Judiciary owes thanks to Judge President Mlambo.

We would like to take this opportunity to wish you well on your long leave JP. Please take time to rest. We also wish you all the best in the upcoming Judicial Service Commission interviews for selection of the Chief Justice. You are an outstanding leader and well placed to lead our Judiciary. Please know that you have our full support.
Thank you.

JSC INTERVIEWS

04 - 08 October 2021

The Capital Empire - Sandton

The Judicial Service Commission (JSC) interviews were held from 04 - 08 October 2021 in Sandton, Johannesburg. Twenty-seven (28) candidates were recommended to President Ramaphosa for appointment and we list them below.

CONSTITUTIONAL COURT

Judge F Kathree-Setiloane

Judge N Kollapen

Judge R S Mathopo

Judge M B Molemela

Judge B Vally

COMPETITION APPEAL COURT

Judge N M Manoim

GAUTENG DIVISION OF THE HIGH COURT
FOR SECONDMENT TO THE LAND CLAIMS COURT

Adv S J Cowen SC

GAUTENG DIVISION OF THE HIGH COURT

Ms N N Bam

Adv A A Crutchfield SC

Mr J E Dlamini

Mr D Dosio

Adv H K Kooverjie SC

Adv S Kuny SC

Mr M P Khumalo

Mr A P Millar

Adv C I Moosa

Adv J S Nyathi

LIMPOPO DIVISION OF THE HIGH COURT

The Commission advertised one vacancy and three candidates were shortlisted and interviewed. The Commission decided not to recommend any of the candidates to the President

ELECTORAL COURT

JUDGE MEMBER

Judge L T Modiba

NON-JUDGE MEMBER

Prof N P Ntlama-Makhanya

Prof M R Phooko

EASTERN CAPE DIVISION OF THE HIGH COURT

MTHATHA

Ms L Rusi

MAKHANDA (GRAHAMSTOWN)

Prof A Govindjee

Mr J G A Laing

Adv T V Norman SC

MPUMALANGA DIVISION OF THE HIGH COURT

Mr M B G Langa

Adv J H Roelofse

WESTERN CAPE DIVISION OF THE HIGH COURT

Dr D J Lekhuleni

Mr D M Thulare

OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

RENOVATIONS TO THE KWAZULU NATAL DIVISION OF THE HIGH COURT, DURBAN

WE ARE MOVING

TEMPORARY RELOCATION:
The Durban High Court will be temporarily relocating to the corner of Somtseu and Stalwart Simelane Street at the Durban Magistrate Court.

SERVICES
All court proceedings and related services conducted at the Durban High Court will now be available at the new facility located within the Durban Magistrate Court.

DURATION OF RENOVATIONS
The Durban High Court, located at 12 Dullah Omar Road will undergo renovations starting 04 January 2022 and is estimated to take 5 years.

enquiries@judiciary.org.za

The KwaZulu Natal Local Division of the High Court, Durban (Durban High Court) will be undergoing renovations commencing in January 2022, for a period of five years. The High Court, which is currently situated at 12 Dullah Omar Street (Masonic Groove), will be temporarily relocated to the Magistrates Court, Durban as of 6 December 2021.

All court proceedings and related services being offered at the High Court, Durban will resume at the Magistrates Court, Durban with effect from 17 January 2022. Motion Court Sessions will commence from 6 December 2021 at the Magistrates Court, Durban on the 12th Floor, Court Y.

HOW TO REACH US:

Durban Magistrates Court, C/O Somtseu
&, Stalwart Simelane St, Durban, 4001

enquiries@judiciary.org.za

+27(0) 31 362 5800

JUDICIAL RETIREMENTS & ACHIEVEMENTS

JUDICIAL RETIREMENTS

Judge PM Mabuse

Gauteng Division of the High Court, Pretoria

Discharged: 09 November 2021

JUDICIAL ACHIEVEMENTS

Justice Edwin Cameron

Retired Justice of the Constitutional Court

Bestowed the Order of the Baobab by President Cyril Ramaphosa - 18 November 2021

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