

# THE JUDICIARY

March 2020 | Q4 ISSUE



WHEN ACCOUNTABILITY FAILS,  
THE PEOPLE SUFFER

A LIFE DEDICATED TO JUSTICE

STATE OF THE NATION  
ADDRESS (SONA)

JUDGES REGISTRABLE INTERESTS





FREEDOM AND

EQUALITY AND

UNITY AND RECOGNITION

PROSPERITY AND PEACE

TRANSPARENCY AND ACCOUNTABILITY

CONSTRUCTION AND

OPERATIVE GOVERNANCE

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# Editor

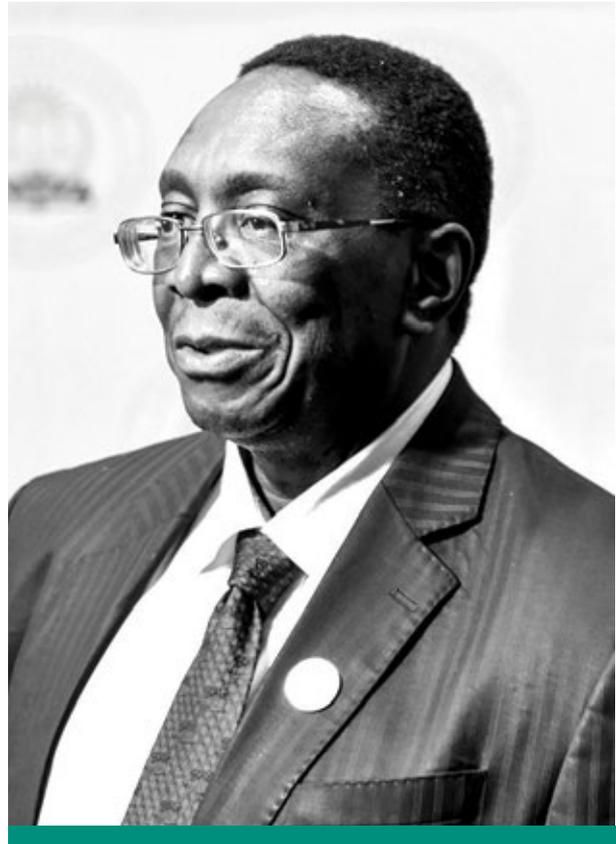
It is my pleasure to present to you the first Issue of the Judiciary Newsletter for the year 2020. We trust that the first quarter of the year has been good to you and that you are making visible progress towards achieving your goals, not only for this year, but for the new decade as well.

We publish this Issue as the world is faced with the Coronavirus (COVID-19) pandemic. The outbreak of this virus is proving to be one of the greatest challenges humanity has ever had to contend with and may yet prove to be catastrophic if all of us do not do what is within our power to contain its spread.

The President of the Republic, Mr Cyril Ramaphosa, has declared a disaster in our country to underscore the seriousness of the pandemic. Each of us has the duty to protect ourselves and those around us from infection by making simple hygiene practises second nature.

As organisations, we also have the responsibility to do all we can to protect members of the public that interact with us. We are very grateful for the leadership that has been shown by the Heads of Court in this regard, ably led by Chief Justice Mogoeng Mogoeng, to introduce measures to make members of the public feel safe when they visit our courts. Read more about these efforts on page 2.

Pan Macmillan recently published a biography of the late legal giant, Arthur Chaskalson. The memoir, titled *Arthur Chaskalson: A Life Dedicated to Justice for All*,



chronicles a remarkable life lived in service both to law and to the struggle for social change and justice. We preview the biography on page 8, with thanks to Mr Brian Sokutu.

Members of the Judiciary have been out and about speaking on various platforms on an array of topics, both locally and abroad. As we always do, we share with you what our colleagues have been saying in these platforms on pages 13 and 14. We express our gratitude to all the members of the Judiciary who have taken the time to provide us with transcripts for publishing in this newsletter.

You will find more as you page through this Issue and we hope that you will enjoy each and every page. As we continue to live our new normal under the Coronavirus outbreak, let us be kind and considerate with one another. Let us remember our resilience as a nation and find hope in the knowledge that this too shall pass. *Okungapheli kuyahlola.*

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Judge President Dunstan Mlambo  
Chairperson: Judicial Communications Committee



## MEASURES ADOPTED BY THE HEADS OF COURT TO CURB THE SPREAD OF COVID-19 IN ALL COURTS.

It is imperative that all court buildings have running water, toilet paper, soap, disinfectant wipes and all other relevant health and safety material.

**DIRECTIVES ISSUED BY CHIEF JUSTICE MOGOENG MOGOENG IN TERMS OF SECTION 8(3)(b) OF THE SUPERIOR COURTS ACT, 2013.**

**Whereas on Sunday, 15 March 2020 Cabinet decided that:**

- (i) gatherings of more than 100 people will be prohibited; and
- (ii) where small gatherings are unavoidable, organizers will need to put in place stringent measures of prevention and control, in order to curb the spread of COVID-19 in South Africa,

**Now, therefore, the Heads of Court have decided to adopt the following measures:**

1. Persons with a material interest in a case, such as practitioners, litigants, accused persons, witnesses, those who may be needed to provide support such as those accompanying children, victims of domestic violence and/or sexual abuse, elderly and people with disabilities, family members, representatives of special interest or support groups and members of the media will be permitted to enter the court precinct.
2. All court buildings shall be secured to avoid exposing Judicial Officers, court staff and members of the public to risk. To that end, the following measures shall be put in place:
  - Decontamination of reception and admission areas / community service centres, court rooms, cells / detention facilities, offices, lifts, vehicles, biometrics and ablution facilities; and all other objects that are generally touched by persons utilising the facilities including handles and taps.
  - Floor and work surfaces of court rooms, with special focus on maintenance, domestic violence and children's court, shall be disinfected periodically, at least twice a day during working hours;
  - Assignment of officials who will sanitise hands of officials (including service providers), persons in custody, inmates and visitors at all entry and exit points;
  - Installation of secured alcohol (ethyl alcohol 70%) based sanitizer dispensers at all points of entry, exit, work stations and in the passages/corridors;
  - All officials at reception, admission and operational areas shall be issued with appropriate protective equipment i.e. heavy duty gloves, N95 masks, protective eye shields etc (as per the Department of Health Standard Operating Procedures);
  - Gloves shall be sanitised between searches;

- Handheld infrared thermometers (scanners) shall be made available to conduct the temperature screening of Judicial officers, staff and members of the public; and
  - Provision of bins for the disposal of biohazard material.
3. It is imperative that all court buildings have running water, toilet paper, soap, disinfectant wipes and all other relevant health and safety material.
  4. A distance of 1 meter shall be maintained between people seated in a court room.
  5. Judicial officers and court staff must self-isolate and seek medical intervention if they display any symptoms. This also applies to those Judicial officers and staff members who have travelled to high risk areas or have been in contact with a person who has recently travelled, displays symptoms or have been confirmed positive for COVID-19.
  6. The Heads of Court may make proposals to the Executive, in line with section 165 of the Constitution and the powers contained in the Superior Courts Act, 2013, to issue Regulations impacting on the operations of courts.

## Judicial officers and court staff must self-isolate and seek medical intervention if they display any symptoms

7. The Executive shall avail the necessary resources to ensure that these measures are implemented and that access to justice is enforced in line with provisions of section 165(4) of the Constitution and the principle that justice shall not only be done but must manifestly be seen to be done.
8. The Department of Health, with the coordination of the Minister of Justice and Correctional Services, shall conduct assessments of the preventative measures at Courts.
9. The Judiciary urges all to comply with the directives and guidelines issued by the relevant Departments when dealing with confirmed or suspected cases of COVID-19.



**GOVERNMENT GAZETTE:  
NO. 43117 | VOL. 657 | 20 MARCH 2020**

Scan the code with your phone to access the Gazetted Directives by the Chief Justice to address, prevent & curb the spread of the COVID-19 Virus in all the Court precincts in South Africa.



## WHEN ACCOUNTABILITY FAILS, THE PEOPLE SUFFER

*The Judge President of the Gauteng Division of the High Court, Judge Dunstan Mlambo, addressed a cocktail function on January 29 in Johannesburg hosted by the Black Lawyers' Association (BLA) to welcome members of the National Bar Association (NBA), one of the largest Associations comprising of African-American lawyers and judges in the US.*

In addressing the role of the judiciary the following questions need to be assessed:

- Democracy and constitutionalism – what role does the judiciary have in promoting democratic practices in societies that are deeply divided by racial lines, social injustices and poverty?
- What is the role of the courts and democratic institutions in upholding the rule of law and promoting a free and fair society?
- The Judiciary is the third arm of government – are we effective in keeping the other two arms in check?
- How do we make use of these public engagements as Judges in relation to what's happening in our countries especially in the communities we come from?

**If government, which we are part of as the Judiciary, is the greatest reflection on human nature then it must represent the best in human values**

I hope no one disagrees with me when I say there exists an important moral and ethical underpinning responsibility and accountability to ordinary citizens on the part of government. I fear no contradiction when I suggest that when that accountability fails, the entire moral edifice of constitutionalism and democracy, fails. I mention the following examples to make my point. In South Africa, the poor are still holding on to the promises of the Constitution.

There are loud voices suggesting that the Constitution remains a dream and the born frees regard the Constitution as a sellout document. There are many reasons why the abovementioned group may apply this logic of thinking, I intend to highlight a few.

Our Bill of Rights guarantees a myriad of rights such as the right to education, however, in rural areas classes are still conducted in makeshift structures; scholars are still using school pit latrines and every now and then we read reports of deaths as a result of the use of these latrines. Children are still required to walk long distances to school and in some instances, learners have to cross rivers to access schools. In trying to address these socio-economic issues the South African Government developed the National Development Plan.

The National Development plan was developed with the aim to eliminate poverty and reduce inequality within the country. The NDP states that "Citizens have the right to expect government to deliver certain basic services, and to hold leaders accountable for their actions." Yet many still lack the means to access to basic water supply and sanitation services and access to courts remains the domain of the rich and financially well endowed.

In the United States, there are issues which you know far better than me. I intend to mention just a few. We read about a number of shootings of people of colour by white police officers. One cannot forget about the death of Trayvon Martin, a 17-year-old African-American teenager from Florida, who was fatally shot in Sanford. Yet there is still a reluctance to indict these police officers.

We read a lot about how the US Justice system is targeting African Americans. The majority of persons in US prisons are African American – is there something to this. The ongoing

water crisis in Flint, Michigan which you know more about, and the government's failure to address this issue. In response to this crisis the Michigan Civil Rights Commission, a State established body concluded that this crisis arose due entirely to poor governmental response influenced by "systemic racism".

## many still lack the means to access to basic water supply and sanitation services and access to courts remains the domain of the rich and financially well endowed

I say it again - where the accountability of government fails, it is the ordinary people who suffer. This results in public resources not being allocated to the specific portfolios they have been set aside for. In SA we have established a Commission to investigate alleged large-scale looting of government resources. I can mention many other issues.

If government, which we are part of as the Judiciary, is the greatest reflection on human nature then it must represent the best in human values in the kinds of norms and practices that we would expect from a civil society whose corner stones are founded on democratic thoughts and practices.



Mr Nano Matlala, former President of the BLA



Judge Graves-Robertson speaking at the BLA function



BLA President, Mr Kutama Mashudu giving an Opening Address



Delegation from the United States of America

Observance of the rule of law is necessary if the law is to protect personal freedom and individual autonomy, and promote human dignity. Failure to implement the rule of law and democracy often results in the failure to provide (directly and indirectly) equal opportunities to citizens. Is this relevant to us as Judges and members of the Judiciary?

I mention two US Judges to make my point. Former US Chief Justice John Marshall, known as perhaps one of the most influential Supreme Court Chief Justices of the US. He was responsible for constructing and defending both the foundation of judicial power and the independence of the Judiciary as a sphere of government.

## Observance of the rule of law is necessary if the law is to protect personal freedom and individual autonomy, and promote human dignity

I also mention Former Supreme Court Justice, Thurgood Marshall. You know his contribution far better than me. As a lawyer, he played an instrumental role in promoting racial equality during the civil rights movements. Most historians regard him as an influential figure in shaping social policies and upholding law to protect minorities. As a Justice of the Supreme Court, he brought to the court a lived experience that no other Justice had. His opinions speak volumes of how he influenced the jurisprudence of that court regarding racial segregation and social injustice.



Judge Oliver Gordon with Ms Zanele Nkosi from the BLA

In South Africa almost all of our past CJ's honed their teeth and practiced law for the upliftment of the downtrodden. A majority of the black judges on the bench in the country come from underprivileged backgrounds. All our backgrounds must have a bearing on the jurisprudence we develop, otherwise we will lose touch with our communities. The laws and systems that condemned us have been roundly condemned as inhumane and unjust. We therefore have no basis to apologise for doing the right thing in pursuit of our true responsibilities as judges and the Judiciary.



Left - right: USA delegates who were part of the NBA conference attended the BLA function



Mr Kutama Mashudu handing over a gift to Shauna Graves-Robertson



Judge Desai addressing the NBA delegation in Cape Town.

## We have had to raise the red card towards the conduct of our own parliament. It has not been easy but we have risen to the task and in turn we have been lambasted

This is my point, in contemporary South Africa the judiciary has had to adjudicate political disputes and we have occasionally had to raise the red card towards the executive, including the President of the country. We have had to raise the red card towards the conduct of our own parliament. It has not been easy but we have risen to the task and in turn we have been lambasted as usurping the role of governing the country.

There remains a mounting pressure towards the judiciary, but we are soldiering on because that's our role and responsibility as the third arm of government. What are your pressures in the US? We read about a lot that's happening in your shores but what are your pressures, how are you dealing with them? I'm certain that we can compare notes.

This engagement has been amazing for me, especially the structuring of the conference topics. I wish there was more

and better participation from the South African Judges. We are all in the international realm and we need each other more than ever. Our communities need us more than ever to stay the course.

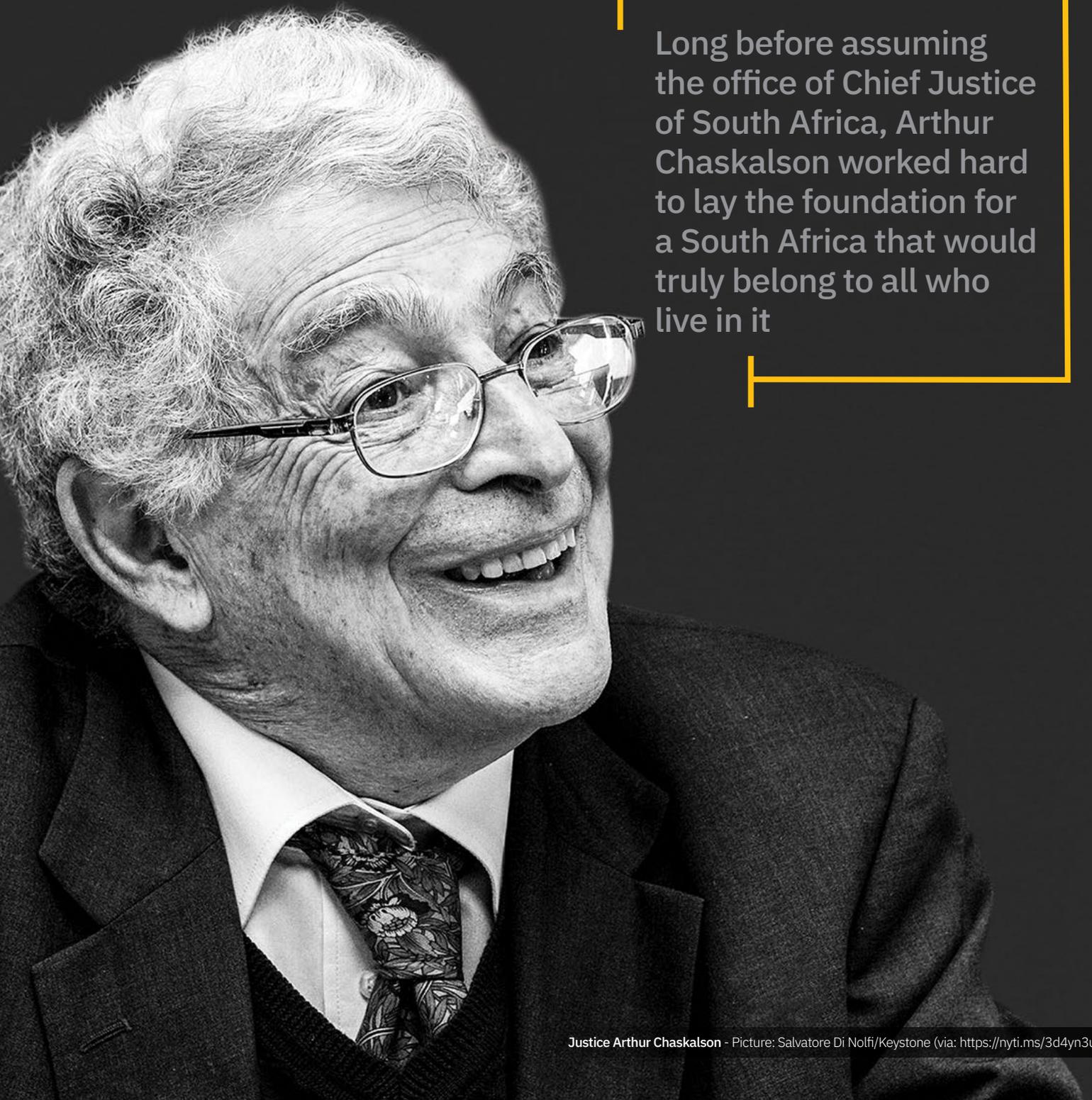
We must always be vigilant regarding inroads into our independence. We must be acutely aware and alive to our role as Judges. We must be alive to the jurisprudence we are developing in relation to what is afflicting our societies. We have realized the painful truth in South Africa, and that is that we may be in power and controlling all spheres of government BUT what does the ordinary citizen have to say. Let us never lose sight of this reality.

I conclude my remarks by congratulating the BLA in ensuring that this engagement takes place. It is to me as timely reality check of where we find ourselves. It has provided us with a sustainable idea of holding each other's hands as we soldier on. Let this be the beginning of more of such engagements. We need to use these engagements as reality checks. ■

The National Bar Association delegation was also hosted by BLA Western Cape, at the District Six Homecoming Centre, where a number of Western Cape High Court Judges were in attendance.

# A LIFE DEDICATED TO JUSTICE

Long before assuming the office of Chief Justice of South Africa, Arthur Chaskalson worked hard to lay the foundation for a South Africa that would truly belong to all who live in it



# ARTHUR CHASKALSON: FITTING TRIBUTE TO A GIANT

A champion of social change, human rights and fighter for the downtrodden is an apt description of the immense contribution made by Arthur Chaskalson - South Africa's first chief justice.

In his book - A Life Dedicated to Justice for All - author Stephen Ellman, Chaskalson's former friend and colleague, lays bare all we need to know about one of South Africa's legal giants who played a crucial role in the shaping of the country's constitution.

From how he grew up, his student life at Wits University where he attained an LLB degree, becoming an advocate at the Johannesburg Bar, being part of the team that defended Nelson Mandela at the Rivonia Treason Trial, founding the Legal Resources Centre, to later becoming the first post democracy chief justice

Ellman has truly done a good job. No one could have done it better than Ellman. The late son of an English professor who worked so hard on the Chaskalson project but did not live to see the publication of the book, after succumbing to cholangiocarcinoma disease.

Chaskalson himself would have been so proud to see how much impact he had on his colleagues, friends and the country, so well chronicled in the book, with some insightful quotes by other veteran lawyers, some of whom grew up and went to school with him.

These include George Bizos, Geoff Budlender, Edwin Cameron, Dennis Davis, Joel Joffe, Denis Kuny and Gilbert Marcus - among many others.

"The invitation to write Arthur's biography meant a lot to me because I had valued my friendship with him so much," said Ellman. - "But it had an additional\_ meaning, one that went back much further in my life.

"In a classic irony of life, at almost the same moment I was diagnosed - with cholangiocarcinoma - a rare cancer arising from the bile duct that can be particularly insidious and lethal - the invitation came. "The Chaskalsons might have chosen to withdraw the invitation, but they did not."

In the book, there are certain attributes of Chaskalson which STEPHEN ELLMANN many were unaware of. These include his passion for sport - soccer and tennis in particular - travelling and being shy. Mary was an extrovert who ensured that all the doors were open for his son to succeed in life.

The impressive 841-page biography with a cover picture of Chaskalson shaking the hand of Nelson Mandela at the FNB Stadium shortly after his release from Robben Island, is a must read.

Former president Thabo Mbeki says: "Long before assuming the office of chief justice of South Africa, Arthur Chaskalson worked hard to lay the foundation for a South Africa that would truly belong to all who live in it, united in our diversity." Says Chief Justice Mogoeng Mogoeng: "Chaskalson's contribution and passion for the development of the country's jurisprudence and its legal institutions cannot be over emphasised." ■

Chaskalson himself would have been so proud to see how much impact he had on his colleagues, friends and the country, so well chronicled in the book

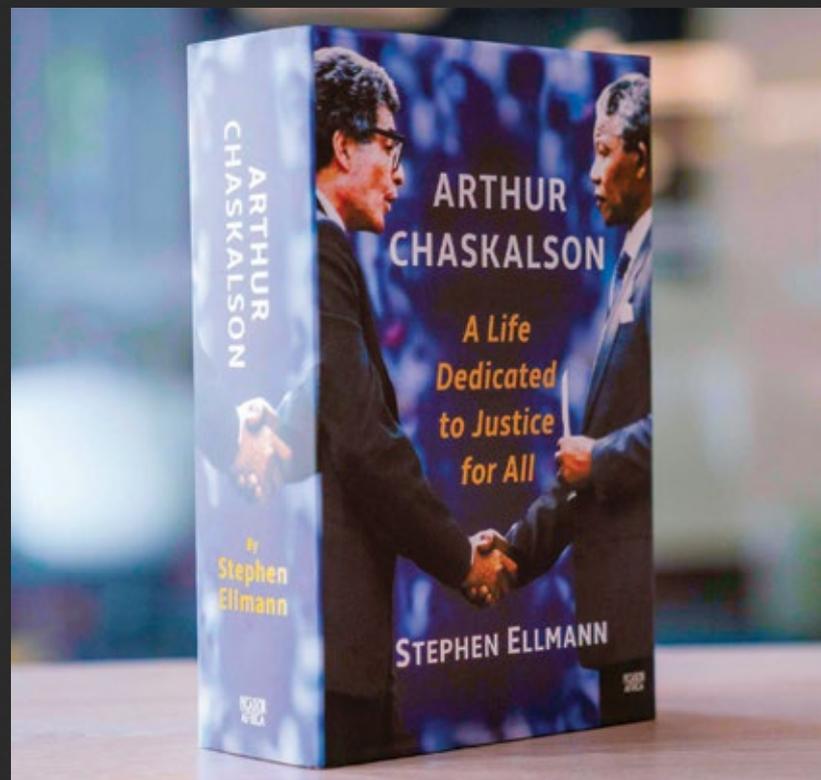


Photo: <https://www.newframe.com/new-books-a-life-dedicated-to-justice-for-all/>



World Health Organization

# FACTS ON THE COVID-19 VIRUS

#COVID19 / #Coronavirus

Garlic is a healthy food that may have some antimicrobial properties. However, there is no evidence from the current outbreak that eating garlic has protected people from the new coronavirus (2019-nCoV)

Can eating garlic help prevent infection with the new coronavirus?



No. Vaccines against pneumonia, such as pneumococcal vaccine and Haemophilus influenzae type B (Hib) vaccine, do not provide protection against the new coronavirus. The virus is so new and different that it needs its own vaccine. Researchers are trying to develop a vaccine against 2019-nCoV, and WHO is supporting their efforts. Although these vaccines are not effective against 2019-nCoV, vaccination against respiratory illnesses is highly recommended to protect your health.

Do vaccines against pneumonia protect you against the new coronavirus?



No. Hand dryers are not effective in killing the 2019-nCoV.

To protect yourself against the new coronavirus, you should frequently clean your hands with an alcohol-based hand rub or wash them with soap and water. Once your hands are cleaned, you should dry them thoroughly by using paper towels or a warm air dryer.

Are hand dryers effective in killing the new coronavirus?



No. Spraying alcohol or chlorine all over your body will not kill viruses that have already entered your body.

Spraying such substances can be harmful to clothes or mucous membranes (i.e. eyes, mouth). Be aware that both alcohol and chlorine can be useful to disinfect surfaces, but they need to be used under appropriate recommendations

Can spraying alcohol or chlorine all over your body kill the new coronavirus?



No. There is no evidence that regularly rinsing the nose with saline has protected people from infection with the new coronavirus.

There is some limited evidence that regularly rinsing the nose with saline can help people recover more quickly from the common cold. However, regularly rinsing the nose has not been shown to prevent respiratory infections.

Can regularly rinsing your nose with saline help prevent infection with the new coronavirus?



From the evidence so far, the new coronavirus can be transmitted in ALL AREAS, including areas with hot and humid weather.

Regardless of climate, adopt protective measures if you live in, or travel to an area reporting COVID-19.

The best way to protect yourself against COVID-19 is by frequently cleaning your hands. Eliminate viruses that may be on your hands and avoid infection that could occur by then touching your eyes, mouth, and nose.

FACT: The new coronavirus can be transmitted in areas with hot and humid climates



There is no reason to believe that cold weather can kill the new coronavirus or other diseases.

The normal human body temperature remains around 36.5° and 37°C, regardless of the external temperature or weather.

The most effective way to protect yourself against the new coronavirus is by frequently cleaning your hands with alcohol-based hand rub or washing them with soap and water.

FACT: Cold weather and snow CANNOT kill the new coronavirus



Taking a hot bath will not prevent you from catching COVID-19. Your normal body temperature remains around 36.5° and 37°C, regardless of the temperature or your bath or shower.

Actually, taking a hot bath with extremely hot water can be harmful, as it can burn you. The best way to protect yourself against COVID-19 is by frequently cleaning your hands. By doing this you eliminate viruses that may be on your hands and avoid infection that could occur by then touching your eyes, mouth, and nose.

FACT: Taking a hot bath does not prevent the new coronavirus disease



To date there has been no information nor evidence to suggest that the new coronavirus could be transmitted by mosquitoes.

The new coronavirus is a respiratory virus which spreads primarily through droplets generated when an infected person coughs or sneezes, or through droplets of saliva or discharge from the nose. To protect yourself, clean your hands frequently with an alcohol-based hand rub or wash them with soap and water. Also, avoid close contact with anyone who is coughing and sneezing.

FACT: The new coronavirus CANNOT be transmitted through mosquito bites



People of all ages can be infected by the new coronavirus (nCoV-2019).

Older people, and people with pre-existing medical conditions (such as asthma, diabetes, heart disease) appear to be more vulnerable to becoming severely ill with the virus. WHO advises people of all ages to take steps to protect themselves from the virus, for example by following good hand hygiene and good respiratory hygiene.

Does the new coronavirus affect older people, or are younger people also susceptible?



No, antibiotics do not work against viruses, only bacteria.

The new coronavirus (2019-nCoV) is a virus and, therefore, antibiotics should not be used as means of prevention or treatment.

However, if you are hospitalized for the 2019-nCoV, you may receive antibiotics since bacterial co-infection is possible.

Are antibiotics effective in preventing and treating the new coronavirus?



Thermal scanners are effective in detecting people who have developed a fever (i.e. have a higher than normal body temperature) because of infection with the new coronavirus.

However, they cannot detect people who are infected but are not yet sick with fever. This is because it takes between 2 and 10 days before people who are infected become sick and develop a fever.

How effective are thermal scanners in detecting people infected with the new coronavirus?



# THE CHIEF JUSTICE SPEAKS

## 20TH INTERNATIONAL CONFERENCE OF CHIEF JUSTICES OF THE WORLD - LUCKNOW, INDIA

Chief Justice Mogoeng Mogoeng addressed the meeting of Chief Justices of the world in Lucknow, India.

**6 - 12 November 2019**



## HONG KONG, CHINA

Chief Justice Mogoeng Mogoeng on a working visit to China, met with Chief Justice Geoffrey Ma Tao-li, the Chief Justice of Hong Kong.

**December 2019**



## 12TH SESSION OF THE EXECUTIVE BUREAU OF THE CCJA - LUANDA, ANGOLA

Chief Justice Mogoeng Mogoeng attended the 12th session of the Executive Bureau of the CCJA in Luanda ANGOLA from 22-24 January 2020.

**22 - 24 January 2020**



## BERLIN, GERMANY

Chief Justice Mogoeng Mogoeng met with Mr Christian Lange, the Parliamentary Secretary of State in Berlin, Germany (left) as well as with Mr Stephen Harbarth, the Vice President of Federal Constitutional Court of Germany, who made a special trip to Berlin from Karlsruhe to meet with the Chief Justice (right).

**30 January 2020**



## HEADS OF COURT - CAPE TOWN

Chief Justice Mogoeng Mogoeng headed the Heads of Court meeting in Cape Town.

**13 February 2020**





# WUZHEN DECLARATION OF THE WORLD FORUM ON RULE OF LAW IN INTERNET

The World Forum on the Rule of Law in Internet was convened in Wuzhen, Zhejiang Province, China on 5 December 2019, hosted by the Supreme People's Court (SPC) of the People's Republic of China and attended by 81 participants from 25 countries.

Focused on the theme of "Building a community with shared future of cyberspace through the rule of law", the participants engaged in broad-based exchanges and in-depth discussions on six topics, including "The Rule of Law in Cyberspace", "Innovation and Development: Online Courts", etc. Analyses were conducted on the basic status quo and developing trends worldwide with respect to the role and status of the courts in the rule of law in cyberspace; achievements and experiences in the delivery of judicial services and practices, and the execution of the judicial role over the Internet in China and participating countries were shared.

Representatives of the participating parties took note of the far-reaching influence of the information technology revolution on politics, the economy, law and culture worldwide. They thoroughly discussed the opportunities and challenges for legal systems and judiciaries relating to the innovation and development of Internet technology.

President of the Supreme Court of Appeal, Justice Mandisa Maya and Judge President of the Gauteng Division of the High Court, Judge Dunstan Mlambo represented the South African Judiciary at the Forum where they made presentations on the South African context as it pertained to the topic. ■

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Focused on the theme of "Building a community with shared future of cyberspace through the rule of law"

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治论坛  
Law in Internet



Here are the highlights of the presentatons by President Maya & Judge President Mlambo at the Wuzhen Decleration of the World Forum in China.

You can access the full transcripts of the speeches by following the link below or by using the QR Code provided.

<https://bit.ly/2wDcO9V>



## CYBERCRIME AND THE RULE OF LAW: THE SOUTH AFRICAN PERSPECTIVE

**Justice Mandisa Maya**, President of the Supreme Court of Appeal, addressed the World Forum on Rule of Law in Internet in Wuzhen, China, recently on Cybercrime and the Rule of Law in South Africa. President Maya told the Forum that South Africa has taken a number of steps to bring herself in line with other jurisdictions in the fight against transborder cybercrime, including introducing legislation that provides stricter penalties, collaborative initiatives between the police and the private sector, training for the Judiciary to provide it with the knowledge and skills to deal with the crime.

## OPPORTUNITIES AND ALLENGES: DATA PROTECTION

**Judge President Dunstan Mlambo** of the Gauteng Division of the High Court addressed the World Forum on Rule of Law in Internet in Wuzhen, China, recently on the implementation of the Protection of Personal Information Act 4 of 2013 (POPIA) in South Africa.



# UWC LAW FACULTY CELEBRATES 40<sup>TH</sup> ANNIVERSARY

The University of the Western Cape celebrated the 40th Anniversary of their Law Faculty. Amongst the alumni who were invited to speak at the occasion were Supreme Court of Appeal Justice Mahomed Navsa; Constitutional Court Justice Stevan Majiedt, Western Cape Division of the High Court Judges Robert Henney and Chantal Fortuin.

You can access the full transcripts of the speeches by following the link below or by using the QR Code provided.

<https://bit.ly/2Ji5FOY>



## UNDERSTANDING, PROTECTING, PROMOTING AND ENTRENCHING THE RULE OF LAW

Supreme Court of Appeal Justice Mahomed Navsa delivered the Dean's Distinguished Lecture, celebrating the Faculty's 40th anniversary and its evolution "From Bush to Bench" at the University of Western Cape recently. "Each of us, as citizens, has a role to play in preventing the erosion of the rule of law. We are at a fragile moment in our history, seeking to rebuild our nation so that the promise of the Constitution is not beyond reach. Those who are in public office to benefit only themselves must be rooted out.

## GRADUATES FROM UWC HAVE MORE TO OFFER

Judge Chantal Fortuin (Western Cape Division of the High Court) spoke at the University of Western Cape Dean's Distinguished Lecture celebrating the Faculty's 40th anniversary and its evolution "From Bush to Bench" about her time as a student at the University. "I am of the view that graduates from UWC have more to offer to our different professions. I believe that we have a well-rounded experience, shaped within the communities that we come from and serve. In my view all UWC law graduates represent a much needed sector of our community on the bench. Our diverse backgrounds and life experiences brings a balanced perspective with the ability to work hard under difficult circumstances and an ability to give content to our constitutional imperatives," said Judge Fortuin in her remarks. Click through for her full remarks.

## "FROM BUSH TO BENCH"

Judge Robert Henney (Western Cape Division of the High Court) spoke at the University of Western Cape Dean's Distinguished Lecture celebrating the Faculty's 40th anniversary and its evolution "From Bush to Bench" about his time as a student at the University. He remarked: "... I'm extremely grateful and honoured to have studied at this university and in particular have had the pleasure to have been a student in this law faculty and to be regarded as having transcended from a poor and insignificant law student from 'Bush' to the 'Bench'." Click through for his full remarks.

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# JUDICIAL RETIREMENTS & SPECIAL APPOINTMENT/ COMMISSIONS

## JUDICIAL RETIREMENTS



**JUDGE TUCHTEN**  
(Gauteng Division of the High Court,  
Pretoria)



**JUDGE H A B FABRICIUS**  
(Gauteng Division of the High Court,  
Pretoria)

## SPECIAL APPOINTMENT/COMMISSIONS



### MR JUSTICE E CAMERON

Appointed as Inspecting Judge  
of the Judicial Inspectorate for  
Correctional Services.



## BRINGING HOPE AND JUSTICE TO A COMMUNITY

Never before has there been a seat of a Circuit Court located in a township in the Western Cape. It is in these areas where you will find members of society who are facing some of the worst financial and social hardships. In the past, people in these communities would spend money traveling considerable distances for access to justice.

**The Court, which now has a High Court seat, aims to ensure that access to justice is brought to the people of Thembalethu and surrounding areas.**

The recent launch of the Eastern Circuit Local Division by Judge President John Hlophe at the Thembalethu Regional Court in George marked a momentous occasion in the history

of the province. The Court, which now has a High Court seat, aims to ensure that access to justice is brought to the people of Thembalethu and surrounding areas.

Attended by various role players in the Justice and Crime Prevention Cluster, which included the Department of Justice, Department of Correctional Services, Western Cape Police Services, the National Prosecuting Authority and law practitioners, the event began with a walkabout of the premises led by Judge Nathan Erasmus of the Western Cape Division of the High Court.

During the walkabout Judge Erasmus told the guests about the future plans in store for the Court. He informed the delegation that there is a library in the building which is earmarked for community access and, more specifically, budding law students from the area.

"There is also an area in the Court we envisage will be used for court annexed mediation.

Judge President John Hlophe said the vision is to develop the precinct into an all-encompassing service point. "The idea is to have [one stop access] so that everything takes place here: a sexual offences court, the High Court, the Regional Court and Magistrates Court for this area and other areas like Oudtshoorn, Plettenberg Bay and Knysna," said the Judge President.

He went on to add that, "It is not only about making a statement, [but] it is about being realistic [because] resources are thinly spread over this area. We will be sending two Judges per term, one Judge taking care of criminal matters, including pre-trial and trials, and another taking care of civil matters."

Judge Nolwazi Boqwana, who will be seated at the Court, said in her address that "to have a fully-fledged, well-resourced facility in a township is a show of excellence; it is something to be treasured and applauded". She urged all stakeholders to treat the Court with respect, care and pride.

She concluded by saying that "we hope that the presence of this Court will be a springboard to driving access to law and



Judge President John Hlophe with Correctional Services Area Commissioner, Ms Boo, & her colleagues.

**to have a fully-fledged, well-resourced facility in a township is a show of excellence; it is something to be treasured and applauded**

justice in other areas such as language, legal representation and other categories." ■



Judge President John Hlophe, Judge Nathan Erasmus, Acting Judge Daniel Thulare & Western Cape High Court staff attended the launch.



# ANNUAL DISCLOSURE OF JUDGES REGISTRABLE INTERESTS

Annually, Judges are required to disclose to the Registrar in the form prescribed by the Regulations Relating to the Judicial Service Commission Act, 1994: Disclosure of Registrable Interests (the regulations) their registrable interests and those of family members where appropriate (section 13 of the Judicial Service Commission Act, 1994).

**Judges are required to verify the information in the individual entries and inform the Registrar in writing (email or letter) whether the information previously disclosed is still accurate.**

Judges in active service disclosed their interests for the first time in 2014, the year the disclosure law came into effect, and these disclosures are captured in the Register of Judge's Registrable Interests which is kept by the Registrar at the Headquarters of the Office of the Chief Justice (OCJ).

In March of every year, Regulation 3 (4) of the Regulations, requires every Judge to inform the Registrar in writing whether

the information in the Register as previously disclosed is an accurate reflection of the Judges' registrable interests, and if applicable make such further disclosures or amendments as may be required.

At the beginning of each year the Registrar sends reminders to all Judges in active service which also include individual entries to the Registrar for each Judge. Judges are required to verify the information in the individual entries and inform the Registrar in writing (email or letter) whether the information previously disclosed is still accurate. Where necessary; Judges should make such further disclosures or amendments as may be required.

Judges are not required to complete new forms but to confirm in writing (email/letter) the accuracy of the previous disclosures or make changes where necessary. At all times, the Registrar is available to assist Judges and to support them to comply with the disclosure law. ■

## CONTACT DETAILS: REGISTRAR

**Phethuvuyo Gagai**

Registrar of Judges' Registrable Interests  
The Office of the Chief Justice

T: (010) 493 2579 | C: (072) 735 1769

E: PGagai@judiciary.org.za | W: www.judiciary.org.za



# SHORTLISTED CANDIDATES FOR JUDICIAL POSITIONS

On 15 November 2019 the Judicial Service Commission (JSC) published notices in the media calling for nominations of interested persons to fill 14 vacancies in the various Superior Courts. The closing date for submission of nominations was set for 13 December 2019. On 07 February 2020, the Screening Committee of the JSC met and compiled a short list of candidates to be interviewed at its April sitting, scheduled for 20-24 April 2020. The names of the candidates to be interviewed by the JSC at its April 2020 sitting are as follows:

## **1. CONSTITUTIONAL COURT (One vacancy)**

- Judge Nambitha Dambuza-Mayosi
- Adv Alan Christopher Dodson SC
- Judge Narandran Jody Kollapen
- Judge Majake Meshack Mabesele
- Judge Rammaka Steven Mathopo
- Judge Mahube Betty Molemela
- Judge Dhayanithie Pillay
- Judge Bashier Vally

## **2. ELECTORAL COURT (TWO VACANCIES)**

For the position of a Judge of the Electoral Court, there were no Judges nominated for this position and therefore no candidates were shortlisted.

With regard to the position of the non-Judge member, the Screening Committee decided that this vacancy would not be dealt with at the JSC April 2020 sitting. Consequently no candidates were shortlisted for this position.

## **3. GAUTENG DIVISION OF THE HIGH COURT FOR SECONDMENT TO THE LAND CLAIMS COURT (Two vacancies)**

- Mr Meshack Pumelele Canca
- Judge Zeenat Carelse

## **4. KWAZULU-NATAL DIVISION OF THE HIGH COURT FOR SECONDMENT TO THE LAND CLAIMS COURT (One vacancy)**

- Mr Muzikawukhelwana Thomas Ncube
- Judge Cassim Mahomed Sardiwalla

## **5. KWAZULU-NATAL DIVISION OF THE HIGH COURT, DURBAN AND PIETERMARITZBURG (Two vacancies)**

- Mr Bruce Stanley Michael Bedderson
- Mr Poobalan Govindasamy
- Ms Sharon Margaret Marks
- Ms Lokwalo Rose Mogwera
- Adv Ian Lesley Topping SC

## **6. MPUMALANGA DIVISION OF THE HIGH COURT (DEPUTY JUDGE PRESIDENT) (One vacancy)**

- Judge Anna Maleshane Kgoele
- Judge Segopotje Sheila Mphahlele

## **7. MPUMALANGA DIVISION OF THE HIGH COURT, MBOMBELA AND MIDDELBURG (Three vacancies)**

- Adv Heinrich Frederich Brauckmann
- Mr Mpopolele Bruce Gilbert Langa
- Adv Thandoluhle Moira Mankge
- Adv Ntombizanele Elizabeth Ndlovane
- Mr Takalani Vincent Ratshibvumo
- Adv Johannes Hendrickus Roelofse
- Ms Lindiwe Dorothy Vukeya

## **8. NORTH WEST DIVISION OF THE HIGH COURT (Two vacancies)**

Adv Nicolaas Gerhardus Laubscher

In total, the JSC will interview 27 candidates. The shortlisted candidates will be notified of the date, time and venue of the interviews in due course.

The closing dates for comments closed on 13 March 2020. Interviews are scheduled to take place 20-24 April 2020.

Issued by the Judicial Service Commission  
Enq: Mr C P Fourie 082 881 1737



**COURT  
ONLINE**

The OCJ has embarked on an exciting journey of developing an end-to-end e-filing system for the High Courts...

**COURT ONLINE** is an end-to-end digital case management and evidence management system for the High Court of South Africa. It provides Law Practitioners the opportunity to file documentation electronically online without being physically present and allows Judges the ease of managing court evidence instantaneously online.

**COURT ONLINE** aims to:

- Minimise the physical movement of people within the Courts
- Minimise paper court documents from parties to the court
- Leverage the benefits of electronic storage i.e. faster document filing and retrieval, eradication of the misplacement of case files, concurrent access to view the same case filed by different parties, etc.

**COURT ONLINE** consists of 2 components:

**1. Case Management System:**

This is the digitalisation of case documentation submitted to the court as part of the case.

**2. Case Evidence Management System**

CaseLines digitalises the preparation, page pagination and presentation of court evidence. This forms an integral part of the Court Online end-to-end solution.

**Court Online** shall provide an electronic case file showing hearing dates and documents filed by Law Firms. It shall also allow for faster response as well as accurate and up-to-date information. Other benefits include speedy inspection of documents electronically and the ability to request for and receive electronic extracts of documents via the Internet. Litigants shall also obtain details of hearing fixtures via Short Messaging System (SMS) using their mobile phones.

## **COURT ONLINE**

### **CASE EVIDENCE MANAGEMENT COMPONENT (CASELINES)**

**CaseLines** is a case evidence management system that forms an integral part of the Court Online end-to-end e-filing solution. CaseLines is an advanced cloud-based platform that offers digitisation of evidence in the court proceedings.



CaseLines allows Judges and legal teams the opportunity to efficiently and securely prepare, collate, redact, share and present evidence/ legal bundles, documentary and video evidence in a single online system.

### **WHAT IS CASELINES USED FOR?**

**CaseLines** allows Judges the opportunity to efficiently and securely prepare and review evidence online and follow evidence presented digitally during the court hearing. As everything is held within one system, all parties invited to the case always have access to the very latest evidence.

## Caselines Aims to Optimise Court Proceedings by:

Allowing enormous bulk storage of evidence bundles

Convenient cloud-based collaboration

Simple user-friendly interface

Fully traceable audit trail – effortless version control

Handling cases of all magnitudes

Lowering the risk of corrupted evidence

Built specifically for the legal environment

High level of security based on proven technology

## Caselines Proven Track Record In Global Markets

Currently over 30 000 users across the legal space

1 500 + judges use this system globally

Works in multiple courts with thousands of users

More than 300 000 cases have been concluded digitally using Caselines

## DIGITAL PRESENTATION IS EASY AS 1-2-3

### 1 PREPARE FOR THE CASE ONLINE BEFORE COURT

Access to the latest evidence live directly from Law Practitioners, prepare for the hearing with private notes/ annotations and have evidence arranged with automatic page pagination and indexing for ease of referencing by Caselines

### 2 SEAMLESS COLLABORATION WITH OTHERS INVOLVED

Collaboration is enabled through the functionality to share comments widely with all individuals invited to the case, or share notes with other Judges invited to your share group

### 3 COUNSEL PRESENTS EVIDENCE DIRECTLY TO YOUR LAPTOP

Full suite state-of-the-art tools and functionality that allows Counsel to present evidence fluently to the court by automatically directing the court to specific evidence seamlessly or by referencing pages

## ACCESSING CASELINES FROM YOUR LAPTOP

CaseLines is a cloud-based platform, that can be accessed on any **laptop** or **tablet** with **Internet access** and an **Internet browser** that is HTML5 compliant. A quick reference guide is available to assist with navigating the system (request can be made through [efiling@judiciary.org.za](mailto:efiling@judiciary.org.za)).

### To register on Caselines, follow the steps below:

1. Go to <https://sajjustice.caselines.com>
2. Click on **Register**
3. Fill in the registration form and click on **Register**
4. Look out for your **'Verification Email'** in your mailbox. When it arrives, click on the link in the email to verify your account. (Please check your spam folder, as it may have diverted into this mailbox. If you have not received your verification link within 15 minutes, contact the Helpdesk for support).

## HOW TO UPLOAD MY EVIDENCE?

A **quick reference guide** is available to assist with navigating the system and key functionality. A request for the quick reference guide can be made through [efiling@judiciary.org.za](mailto:efiling@judiciary.org.za). According to the case type, sections have already been created in a Caselines template. Evidence documents should be uploaded into each section according to its relevance.

## WHAT FILE TYPES ARE COMPATIBLE WITH CASELINES?

CaseLines is not restricted to a certain file format and is compatible with all file types i.e. PDF, JPEG, Word, Excel, MP3, MP4, etc.

## HOW DO I PAGINATE MY EVIDENCE AUTOMATICALLY?

Evidence uploaded into Caselines is paginated automatically by the system, in the top right hand corner of the evidence in red text. To run page numbers continually throughout your evidence bundle, search

your case in the View Case List tab> Update Case> Bundles> Untick the Section Numbering Restarts in the Bundle>Save and refresh your page.

If indexes or other documents are added in between your evidence as inserted documents, and require a different page pagination (i.e. page 101a, 101b, 101c, etc.), View Case List tab> Update Case> Sections > Update All Documents> Search for the document to be inserted and Tick the Inserted box.

## HOW SECURE IS THE SYSTEM?

CaseLines offers Microsoft tier four Azure cloud storage and is ISO270001 accredited. Furthermore, the system offers a full audit trail of all actions on the system, tracking any changes made to Court evidence.

## WILL CASELINES BE USED WHEN APPLYING FOR A COURT HEARING?

No, Caselines is an evidence management system used in preparing for and presenting Court evidence. The full Court Online end-to-end solution will take into consideration the digital application for Court hearings and the management of evidence (CaseLines).

## WHAT IS THE COST OF USING CASELINES?

Court Online is a free online system offered to all Law Practitioners and members of the public.

## SUPPORT ON CASELINES

Law Practitioners struggling with any navigation of the system or require technical support may contact us on our helpdesk and one of our friendly consultants will assist you:



HELPDESK NUMBER: 0861 5000 52

SUPPORT EMAIL ADDRESS: [efiling@judiciary.org.za](mailto:efiling@judiciary.org.za)



2020



President Cyril Ramaphosa delivered the State of the Nation Address on 13 February 2020 at 7 pm before a joint sitting of the two houses of Parliament.

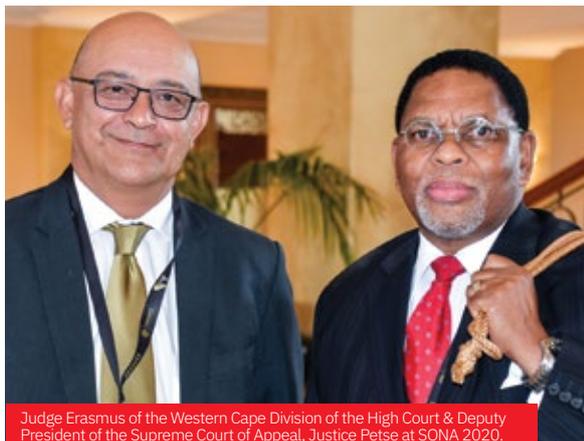
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Top & bottom: Members of the Judiciary, led by Chief Justice Mogoeng Mogoeng, at SONA 2020



Top to bottom: Judicial procession at SONA 2020



Judge Erasmus of the Western Cape Division of the High Court & Deputy President of the Supreme Court of Appeal, Justice Petse at SONA 2020.



Secretary General of the OJC, Ms Memme Sejosengwe & Ms Tebogo Mashifane at SONA 2020



Deputy Chief Justice Raymond Zondo & his wife, Mrs Zondo at SONA 2020



Judge President Mbenenge of the Eastern Cape Division of the High Court with his wife Mrs Mbenenge at SONA 2020



Judge President Musi of the Free State Division of the High Court with his wife Mrs Musi at SONA 2020



Judge President of the Gauteng Division of the High Court, Judge Dunstan Mlambo with Judge President Waglay of the Labour Court at SONA 2020



Acting Judge President Yasmin Meer arriving at SONA 2020



Members of the Judiciary arriving at SONA 2020



Deputy Chief Justice Raymond Zondo in conversation with KwaZulu-Natal Division of the High Court Deputy Judge President Madondo ahead of SONA 2020







**NATIONAL OFFICE ADDRESS:**

188 14th ROAD, NOORDWYK  
MIDRAND, 1685



**SWITCHBOARD NUMBER**

010 493 2500

