

# THE JUDICIARY

MARCH 2021 | Q4 ISSUE



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  - > LAND COURT MOOTED
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# Editor

The South African Judiciary began 2021 on a sad note as we mourned the passing of retired Justice Khayelihle Kenneth Mthiyane, the former Deputy President of the Supreme Court of Appeal (SCA). His send-off ceremony was held in Durban, KwaZulu Natal, with Chief Justice Mogoeng Mogoeng and Deputy Chief Justice Raymond Zondo among those who attended. We continue to keep the Mthiyane family in our thoughts as they go through this difficult time. We publish a tribute feature to the late Justice Mthiyane from page 4 of this newsletter.

Deputy Chief Justice Raymond Zondo led the Judiciary delegation to the State of the Nation Address on February 11. This was a ceremony unlike other years with attending guest numbers restricted to a minimum due to concerns over the spread of Covid-19. Justice Zondo was accompanied by Justice Dumisani Zondi of the SCA, with the rest of the Judiciary following the proceedings online. We thank Justices Zondo and Zondi for flying the judicial flag at this august event. Please see page 2 for more on this.

Also in this Issue, Judge President Selby Mbenenge shares with us the work he presented at a seminar for Aspirant Judges, titled 'Judicial Ethics for Aspirant Judges'. This can be read on page 10. The editorial team is grateful to Judge President Mbenenge for agreeing to publish this work here.

We also express our gratitude to Judge Nomsa Khumalo and Regional Court Magistrate Ruby Matthys for sharing with us a report about a mentorship initiative by the South African Chapter of the International Association of Women Judges (SAC-IAWJ). This social responsibility initiative empowers and advances women within the Judiciary and the legal profession at large. This finds particular relevance within the context of



International Women's Day, which was marked on March 8. Please read more about this wonderful programme from page 13.

The Judicial Service Commission (JSC) is preparing to interview candidates for various vacant judicial positions in April, following a nomination and shortlisting process. The names of the shortlisted candidates are republished in this newsletter from page 18. As per norm, the interviews will be open to the media and the public in an effort to promote transparency of the process, with all Covid-19 protocols observed. All the best to the candidates!

As we publish this final Issue of our newsletter for the 2020/21 financial year, I wish to thank all my colleagues, the Judicial Officers, who have contributed to making the publication possible throughout the year. Nikwenze nangomso! I also thank the Office of the Chief Justice support team that works tirelessly to ensure that we bring our stakeholders news from the Judiciary.

Until next time. Izilokotho ezinhle!

*Enjoy the newsletter!*


**Judge President Dunstan Mlambo**

Chairperson: Judicial Communications Committee

# SONA 2021

Deputy Chief Justice Raymond Zondo this year led the Judiciary delegation to the State of the Nation Address (SONA) on February 11. The Deputy Chief Justice attended the hybrid sitting with Justice Dumisani Zondi representing the Supreme Court of Appeal.

The SONA is called by the President in terms of Section 42(5) of the Constitution. It is a joint sitting of the two Houses of Parliament, namely the National Assembly and the National Council of Provinces, and one of the rare occasions that bring together the three arms of the State under one roof.



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**DEPUTY  
CHIEF JUSTICE  
ZONDO LEADS  
JUDICIARY  
DELEGATION  
TO SONA 2021**





A

- A. Deputy Chief Justice Raymond Zondo standing alongside Justice Dumisani Zondi of the Supreme Court of Appeal.
- B. Deputy Chief Justice Raymond Zondo and Justice Dumisani Zondi inside the National Assembly chamber.
- C. Deputy Chief Justice Raymond Zondo
- D. Justice Dumisani Zondi of the Supreme Court of Appeal.
- E. This year's first ever Hybrid SONA sitting was a stark contrast to the usually packed National Assembly chamber.



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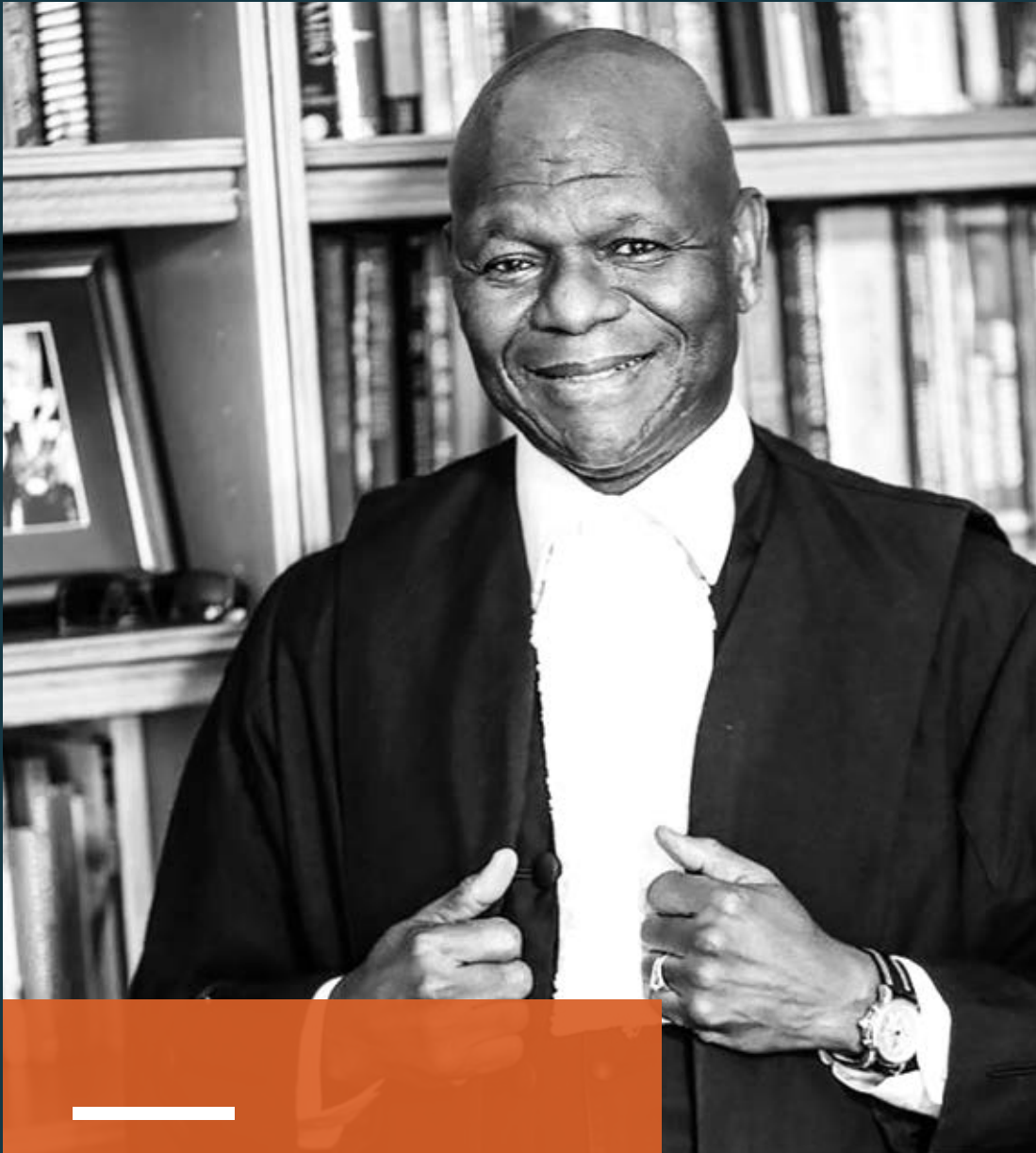
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1944 - 2021

## THE PASSING ON OF JUSTICE KHAYELIHLE KENNETH MTHIYANE

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Justice Mthiyane was hard-working, a team-player, a humble person and a good leader. The entire Judiciary is grateful to him for all his contributions to its work and will miss him greatly



On 30 January 2021, Chief Justice of the Republic of South Africa, Mogoeng Mogoeng, conveyed with sadness the passing on of one of the senior retired Justices of the country the late Justice Khayelihle Kenneth Mthiyane who was, for many years, a member of the Supreme Court of Appeal and was serving as that Court's Deputy President when he retired from active service in 2014. Justice Mthiyane passed away on Thursday, 28 January 2021 after a short illness. Justice Mthiyane's passing occurred within a week after the funeral of his dear wife, Mrs S'thandiwe Mthiyane, who had been unwell for a long time.

On his behalf and on behalf of the entire Judiciary in the country the Chief Justice wishes to convey heartfelt condolences to the children, Jabu, Zama, Zanele, and Ayanda, the entire Mthiyane family and relatives on the passing on of Justice Mthiyane and Mrs Mthiyane.

“

**Justice Mthiyane single-handedly drafted the Court-Annexed Mediation report on behalf of the South African Judiciary. That report is about the most effective court mediation system that has enhanced access to justice**

The late Justice Mthiyane obtained a B.Luris degree from University of Zululand (Ongoye) and later obtained his LLB and LLM degrees from the University of Natal (now University of KwaZulu-Natal). He practised for many years as an attorney and later as an advocate in Durban. He had attained the status of Senior Counsel as an advocate when he was appointed as a Judge of the KwaZulu- Natal Division of the High Court in

1997. He was later appointed as a Judge of the Supreme Court of Appeal and, after serving for some years in that court, was appointed its Deputy President, which is the position he held until he retired in 2014. He also served as a Chairperson of the Electoral Court and Chairperson of the Commission of Enquiry into the Remuneration and Condition of Service in the Public Service and Public Entities. Justice Mthiyane also served as an Acting Justice of the Constitutional Court at some stage.

Justice Mthiyane made a significant contribution to the cause of justice in this country through his work as a Judge (including his contribution to jurisprudence) as well as through the various roles he played in various committees of the Judiciary. He was part of the team of Judges and Magistrates that accompanied Chief Justice Mogoeng Mogoeng on his fact-finding mission in various jurisdiction abroad to study the best practices for the enhancement of, amongst others, access to justice on all-inclusive court automation system (Court modernisation), judicial education, judicial case management and, in some, the effective and efficient court operations.

It bears emphasis that Justice Mthiyane:

- (a) was part of the Chief Justice's team of Judicial Officers who contributed to the conceptualisation of the Court Automation System that the Judiciary are in the process of implementing in our courts.
- (b) he also served as the Chairperson of the Judicial Case Flow Management Committee which recommended the case-flow management system which is currently used by superior courts to enhance access to justice.
- (c) single-handedly drafted the Court-Annexed Mediation report on behalf of the South African Judiciary. That report is about the most effective court mediation system that has enhanced access to justice and the expeditious finalisation of cases in all the countries where it has been used.

Justice Mthiyane was hard-working, a team-player, a humble person and a good leader. The entire Judiciary is grateful to him for all his contributions to its work and will miss him greatly. May his children, the entire Mthiyane family and relatives find strength during this difficult time. Their loss is our loss. Akwehlanga Lungeli! ■

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# EULOGY: JUSTICE KHAYELIHLE KENNETH MTHIYANE

By President Mandisa Maya

President of the Supreme Court of Appeal



It is a profound honour to write about this luminary who I had the privilege of calling a friend. I vividly remember the first time I met Justice Mthiyane, bhut' KK as we fondly called him. It was in the afternoon of the first day of my acting appointment as a Supreme Court of Appeal judge, on 15 February 2005.

I had reported for duty earlier that morning, filled with awe and trepidation that I had reached the pinnacle of the judicial ladder so early in my career on the Bench, to work alongside the legendary legal minds most who I had only read about in law reports. Being the first day of court term with many of the judges dashing around the building greeting one another after a long recess and others preparing to go into court, I could only meet the Court President, and very briefly. I did not go to the morning tea at 11am because I lost my nerve and could not walk into the conference room alone. And I spent the lunch hour driving around town aimlessly feeling terribly homesick, having just lost my mother and left my husband and young children family more than 500km away. Around 15.25 a smiling gentleman, who turned to be bhut' KK, walked into my

chambers and without even greeting me told me that he had been in court earlier and had no chance to look for me; knew that I was hiding from everyone and had come to fetch me for the judges' afternoon tea.

That was the beginning of our warm friendship. I was the youngest and least experienced member in the male dominated and extremely demanding court, with some of my colleagues as old as my parents. And as the first and only black woman judge in its history I felt like total misfit. Bhut' KK, a feminist who did not just speak about gender transformation but took active steps to achieve it, took it upon himself to mentor me. He would encourage me to bounce off him my views about cases in which I sat and check my judgments before I circulated them to other colleagues in my hearing panels, to see if they were up to scratch, until I was confident enough to assert myself and even write my own dissenting judgments against seasoned colleagues. He encouraged me to take up permanent appointment in the court, dissuaded me from leaving when I felt I had had enough of a miserable work environment and could not go on and later persuaded me to take up the court's leadership, thus securing the Supreme Court of Appeal its first woman Deputy President and President in over a century of its existence.

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**This gentleman was a true embodiment of a Judge and leader who lived up to his name, Khayelihle – in the manner in which he conducted himself; with honour, dignity and integrity**

And he did not provide this tremendous support to me alone. He was a pillar of strength to all his colleagues, including the senior ones; a calming presence and unifying force in a court filled with difficult intellectual giants, who could pacify warring colleagues and help heal rifts among them. This is evidenced by the outpouring of grief from his colleagues across the colour and gender lines, who have variously described him as 'an exceptional human being', 'a most treasured colleague', 'a good, warm and kind man', 'someone who made it his task to see to the welfare of his junior colleagues, making sure that they were not overwhelmed by the heavy workload to a breaking point ... always willing to lend a patient ear and helping hand ... whose love and compassion for others knew no bounds', 'a lovely human being, a person of great integrity

and an excellent judge', 'warm, gentle and funny', 'a wonderful human being, friend and colleague', 'a beautiful soul and a fount of wisdom with an understated manner and dry humour', 'the epitome of a scholar and a gentleman', 'a humble man', 'a father figure who instilled a sense of independence, diligence and commitment in his junior colleagues', 'a wonderful golf and tennis buddy'. In his message to us when the news of bhut' KK's passing broke, my predecessor, who was the head of the court during bhut' KK's tenure, expressing his devastation, wrote '[h]e was like an older brother on whose wise counsel I depended a lot. I have not only lost a former colleague, but a brother and a true friend'.

This gentleman was a true embodiment of a Judge and leader who lived up to his name, Khayelihle – in the manner in which he conducted himself; with honour, dignity and integrity, and his court; always treating his colleagues, legal practitioners who appeared before him and court staff with respect and fairness, and quiet firmness when it was needed. In the entire decade of working with him I never once heard him raise his voice or lose his temper. And we all enjoyed sitting with him in court and being in his company because it was just was easy and comfortable to be around him.

His intellectual prowess and commitment to his work were as deep as his humaneness. Despite his humble beginnings, he built an illustrious legal and judicial career, became one of the first black silks in democratic South Africa and thereafter ploughed his career all the way to the Supreme Court of Appeal, where he was only the second black judge of African descent and later the second black Deputy President of African descent in the court's history. In the close to two decades he spent on the bench – in the high court, Supreme Court of Appeal, the Electoral Court which he also headed, the Constitutional Court and beyond our borders, he wrote numerous seminal judgments and leaves a rich legacy and memory bank for our jurisprudence. And he continued serving his country even after he retired from active service as a judge.

Bhut' KK's passing has left a gaping hole not just in his family but in the entire nation. We have lost a dedicated and outstanding jurist, a patriot, who still had so much to give his country and her people. We will miss him.

I take this opportunity to extend our deep gratitude to his family, especially his children and grandchildren, whom he utterly loved, for allowing us to share in this remarkable man's life. We offer you our sincere and warm condolence and hope that you will draw comfort in knowing that your father and grandfather made such an enormous contribution to the development of our jurisprudence and democracy and enriched so many people's lives. We hold you tightly in our thoughts and prayers and wish both bhut' KK and his beloved wife, sis' S'thandiwe, eternal rest. ■



# SPECIAL OFFICIAL FUNERAL SERVICE OF JUSTICE MTHIYANE

Natal Sharks Board - Durban

03 February 2021





On the 1st of February 2021, President Cyril Ramaphosa honoured the late Justice Khayelihle Kenneth Mthiyane by designating his funeral as a special Official Funeral Category 2.

Every flag station throughout the country flew the National Flag at half-mast until the evening of Wednesday, 3 February 2021, when Justice Mthiyane was laid to rest.

The special funeral service took place at the Natal Sharks Board, in Durban, KwaZulu-Natal and in attendance was the Chief Justice Mogoeng Mogoeng, Deputy Chief Justice Raymond Zondo, who was the programme director for the service, and Justice Yvonne Mbatha.

> Images courtesy of GCIS



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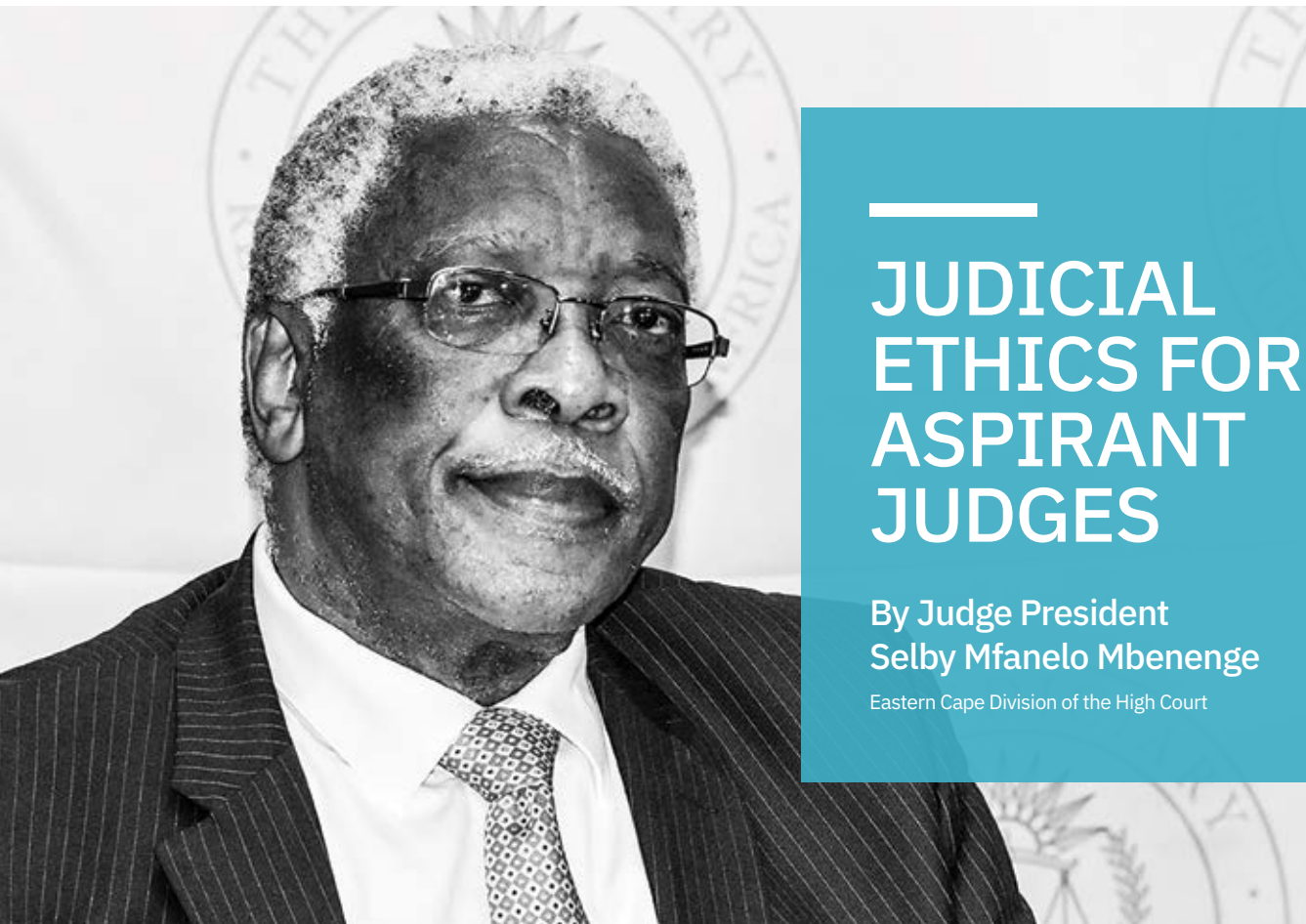


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- A. Special Funeral service of Justice Kayelihle Kenneth Mthiyane.
- B. Chief Justice Mogoeng with Deputy Chief Justice Zondo.
- C. Chief Justice Mogoeng standing alongside Ms Bajabulile Mthiyane, one of the daughters of the late Justice Mthiyane.
- D. Chief Justice Mogoeng Mogoeng delivering his tribute to Justice Mthiyane.
- E. Ms Zama Nkosi, daughter of the late Justice Mthiyane, read the obituary.
- F. Ms Mangaliso Luthuli gave a tribute on behalf of the grandchildren.
- G. Deputy Chief Justice Raymond Zondo was the Programme Director at the funeral service.
- H. Deputy Chief Justice Raymond Zondo with KwaZulu Natal Premier, Mr Sihle Zikalala.
- I. Chief Justice Mogoeng Mogoeng, Deputy Chief Justice Raymond Zondo and Justice Yvonne Mbatha at the official funeral service of Justice Mthiyane.
- J. Premier of KwaZulu-Natal, Mr Sihle Zikalala handing over the National Flag to the family.



# JUDICIAL ETHICS FOR ASPIRANT JUDGES

By Judge President  
Selby Mbenenge

Eastern Cape Division of the High Court

The following is a talk given by Judge Selby Mbenenge at a Virtual Seminar for Aspirant Judges on 2 February 2021.

## INTRODUCTION

- 1] What glitters from a reading of this morning's program is "aspiration," which means "a strongly desired objective or goal." An aspiration could manifest itself in the form of a dream. Is there anything wrong with dreaming? None, whatsoever! What matters is who you share the dream with. Egyptian King Joseph once dreamt; he told the dream to his brothers saying "we were binding sheaves of grain out in the field when suddenly my sheave rose and stood upright, while your sheaves gathered around mine and bowed down to it." His brothers hated him all the more for this. But the dream eventually came true; he ended up becoming one of the most resourceful leaders of ancient Egypt.
- 2] Let me take this opportunity to congratulate, not only SAJEI for hosting this august occasion, but the aspirant judges, for sharing their aspiration with the relevant structures. You have attracted no hatred for sharing your dreams the way you did. This seminar will assist you to understand what "aspiring" to be a judge entails.
- 3] We should always be mindful that the office of judge is honourable. It confers on the incumbent a huge responsibility, and indeed a great measure of accountability. Therefore, those who aspire to become judges, desire an honourable position.
- 4] It has been said that "judges have to honour the judicial office . . . their every action and their every word- spoken or written- must show and reflect correctly that they hold the office as public trust and they are determined to strive continuously to enhance and maintain the people's confidence in the judicial system."<sup>1</sup>
- 5] An obsession for hierarchy associates judgeship with greatness, yet the difference between "greatness" and "honourable" is vast. Whoever wants to be great must herself/ himself be a servant. The higher you want to climb, the more of a servant you need to be. Appointment as judge is not ascending to greatness, but descending to servanthood.

<sup>1</sup> G S Singhvi "Judicial Ethics" in DJA Journal (Vol 7 (11)), July (2011), issue no 11



## JUDICIAL ETHICS

- 6] Judge Kozinski<sup>2</sup> once said of and concerning judicial ethics:
- "Judicial ethics, where it counts, is hidden from view, and no rule can possibly ensure ethical judicial conduct. Ultimately, there is no choice but to trust the judges. Maybe we need some external rules, maybe we don't. But, to my mind, we'd all be better off in a world with fewer rules and a more clear-cut understanding that impartiality and diligence are obligations that permeate every aspect of judicial life- obligations that each judge has the unflagging responsibility to police for himself."*
- 7] Do we really need a code of conduct, informing us about impartiality and diligence? It has been said, "integrity has no need of rules." Every judge worth his or her salt ought to know what is wrong or right for judgeship, even without them having had recourse to any code of conduct. For that matter, as will become apparent later in this presentation, judges' ethics are based on the rules of natural justice, whose observance should stem from instinct rather than from reverence to a code of ethical conduct.
- 8] However, a good case could still be made for the adoption of a written code to constantly serve as a reminder as judges mete out justice to the constituencies they serve. The resolution of complaints against judges by the Judicial Service Commission can best be achieved by reference to an ethical code of conduct.
- 9] Whilst it is available to us to slot ethical conduct under impartiality and diligence, it is more apposite to say, at the centre of judicial ethics there are three cardinal principles, namely:
- a) no one is a judge in his own cause;
  - b) let the other side be heard as well; and
  - c) justice delayed is justice denied.
- 10] A booklet embodying judicial regulatory instruments has been compiled by the Office of the Chief Justice. The principal instruments that mandate ethical conduct on the part of judges in South Africa are-
- a) the Constitution of the Republic of South Africa, 1996;<sup>3</sup>
  - b) the Norms and Standards for Judicial Officers issued in terms of section 8 of the Superior Courts Act 10 of 2013; and
  - c) the Code of Judicial Conduct adopted in terms of section 12 of the Judicial Service Commission Act 9 of 1994.

- 11] Time and space does not allow us to deal exhaustively with each rule of judicial ethics. The rules gleaned from these instruments will, for the purposes of this presentation, be discussed under the three cardinal principles.

### NO ONE IS A JUDGE IN HIS OWN CAUSE

- 12] It is unethical for a judge to adjudicate a case in which they have an interest. Such interest may flow from family or business relations, friendship or other associations.
- 13] The oath or solemn affirmation judges take "to deliver justice to all persons alike without fear, favour or prejudice" applies subject to the Constitution and the law. The Constitution underscores the independence of the judiciary and the concomitant imperatives of integrity and impartiality of all judicial officers.
- 14] Here are some ethical norms derived from the Code of Judicial Conduct:
- 14.1 An acting judge who is a practicing attorney does not sit in any case in which the acting judge's firm is or was involved as attorney of record or in any other capacity.
  - 14.2 A judge must, upon permanent appointment, immediately sever all professional links and recover speedily all fees and other amounts outstanding and organise his or her personal business affairs to minimise the potential for conflict of interest.
  - 14.3 A judge previously in private practice must not sit in any case in which he or she, or his or her former firm, is or was involved before the judge's appointment, and a judge must not sit in any case in which the former firm is involved until all indebtedness between the judge and the firm has been settled.
  - 14.4 A judge must not-
    - a) accept any appointment that is inconsistent with or which is likely to be seen to be inconsistent with an independent judicial mind, or that could undermine the separation of powers or the status of the judiciary;
    - b) act as advocate, attorney or legal advisor, but may give an informal legal advice to family members, friends, charitable organisations and the like without compensation;
    - c) become involved in any undertaking
    - c) fundraising or other activity that affects the status, independence or impartiality of the judge or is incompatible with the judicial office; engage in financial and business dealings that may reasonably be perceived to exploit the judge's judicial position or are incompatible with the judicial office: and sit as a private arbitrator.

<sup>2</sup> A Kozinski, "The Real Issues of Judicial Ethics," Hofstra Law Review; (Vol 32 (4)) (2004)  
<sup>3</sup> The Constitution

## LET THE OTHER SIDE BE HEARD AS WELL

- 15] It is axiomatic that no person should be judged without a fair hearing in which each party is given the opportunity to respond to the evidence against them.
- 16] To that end, a judge must resolve disputes by making findings of fact and applying the appropriate law in a fair hearing, which includes the duty to-
  - a) observe the letter and spirit of the audi alteram partem rule;
  - b) remain manifestly impartial; and give adequate reasons for any decision.
- 17] The duty to grant a party a fair hearing does not preclude a judge from keeping a firm hand on proceedings. In general-
  - 17.1 reasonable time limits may be laid down for argument, which may also be cut short when the judge is satisfied that further argument will not be of material assistance;
  - 17.2 the examination and cross-examination of witnesses should be curtailed if it exceeds reasonable bounds; and
  - 17.3 applications for postponement and the like must be scrutinised for real merit and must be dealt with firmly and fairly.

## JUSTICE DELAYED IS JUSTICE DENIED

- 18] What this principle boils down to is that if legal redress or equitable relief to an injured party is available, but is not forthcoming in a timely fashion, it is effectively the same as having no remedy at all. The same goes for defendants or respondents who must occasion inconvenience due to protracted and long drawn out litigation without proper management by dilatory judicial officers."
- 19] The following norms, to ensure efficient, effective and expeditious disposal of cases have been developed:
  - 19.1 A judge must perform all assigned judicial duties diligently.
  - 19.2 Judicial Officers should take active and primary responsibility for managing the progress of cases from initiation to conclusion to ensure that cases are concluded without unnecessary delay and, to that end-
    - a) no matter may be enrolled for hearing unless it is

certified trial ready by a Judicial Officer;

- b) all Judicial Officers must strive to finalise all matters, including outstanding judgments decisions or orders as expeditiously as possible.<sup>4</sup>
- c) Judgments in both civil and criminal matters should generally be reserved with a date fixed for handing down.
- d) Judicial officers have a choice to reserve judgments sine die, where the circumstances are such that the delivery of a judgment on a fixed date is not possible.
- e) Save in exceptional cases, where it is not possible to do so, every effort shall be made to hand down judgments no later than three months after the last hearing.
- f) A judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed.

## CONCLUSION

- 20] I hope you have benefitted from this presentation. Bear in mind that even if your aspiration to become a judge is not fulfilled, these ethical norms are as good for your practice or any other undertaking within the legal career, for that matter. Ethics is nothing else than reverence for life.

- 21] It is as well to conclude with the following remarks on judicial etiquette and conduct of Judicial Officers by Mahesh Nath:<sup>5</sup>

"It is expected from the Judge that he control his emotions and as well emotions of other stake holder such as advocates and more pertinently the parties and witnesses who appear in the courtroom. Judge should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public glamour, regardless of public praise and indifferent to private, political or partition influences; he should administer justice according to law, and deal with his appointment as public trust, he should not allow other affairs of his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purposes of advancing his personal ambition or increasing his popularity." ■

<sup>4</sup> In the words of former DCJ Moseneke, "a judge may not suffer from indecision" and "there is no room for intellectual constipation or for a pen that dries up": D Moseneke All Rise: A Judicial Memoir (Picador Africa) (2020)

<sup>5</sup> G V Mahesh Nath " Judicial etiquette and conduct of judicial officers" (10 May 2020). Available at SSRN: <https://dx.doi.org/10.2139/ssrn.3597379> (accessed on 2 March 2021).



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# PAYING IT FORWARD: MENTORSHIP IN THE TIME OF COVID-19

By Judge Nomsa Khumalo and  
Regional Court Magistrate Ruby Matthys

In the words of Oprah Winfrey "A mentor is someone who allows you to see the hope inside yourself". These words are brought to fruition by the South African Chapter of the International Association of Women Judges (SAC-IAWJ).

In accordance with its objectives to empower and advance women within the judiciary and the profession at large, as a corporate social responsibility project the Chapter has since 2015, conducted a mentorship programme for final year LLB students country wide. The Western Cape region of the Association hosts the program in partnership with the University of the Western Cape (UWC) and the University of Cape Town (UCT). Whilst in the North West Province, it is hosted with the University of the North West (UNW).



The Gauteng region of the Association currently collaborates with the University of the Witwatersrand (WITS), University of Johannesburg (UJ), University of South Africa (UNISA) and the University of Pretoria (UP). Mentors are recruited from the judiciary, practicing and non-practicing Advocates and Attorneys, the Prosecuting Authority and legal professionals in corporate and public office. The programme is purposefully planned and championed by members of the Association in the different regions, with the support of the Democratic Governance & Rights Unit (UCT). National statistics are not readily available, however in Gauteng alone over the past three years 419 students graduated from the programme.



## A mentor is someone who allows you to see the hope inside yourself

At the end of February 2020, the Gauteng Chapter of the SAC-LAWJ accepted 123 mentorship applications from law students studying for their LLB degree. When the unprecedented COVID-19 pandemic befell the globe, with its strict lockdown demands, it appeared that the odds were against the conduct of the programme which is founded upon in person contact between a mentor and mentee. The programme was intended to commence in March 2020, but was ultimately restructured and commenced in July 2020. Undeterred, determined and armed with their mantra “Purpose, Passion, Prestige” SAC-LAWJ members in the Western Cape and Gauteng took the programme digital.

The regions opted for a virtual learning method, which included amongst others shadowing mentors during virtual court proceedings and one-on-one virtual meetings between participants. To bolster collegiality and open dialogue, a number of webinars took place through which informal discussions and career guidance were made possible.

In Gauteng the launch of their virtual series styled “On the Couch” prompted vibrant discussion on various topics related to the legal profession. Each session of the series included panel discussions by mentors and guest speakers which informed a Q & A with mentees. The following webinars were held.

- **15 July 2020:** Mentors Regional Magistrate Asha Dathoo, Attorneys Michelle Molefe and Divina Naidoo were part of a panel that discussed their personal career paths and

professional interests with the mentees. The panellist spoke on the importance of volunteering, networking, furthering of studies, preparation and perseverance. They went on to highlight the importance of careers within the justice system, other than private legal practice professions, such as court clerks and prosecutors. The discussions further touched on the value of personal branding, and business acumen.

- **29 August 2020:** A panel comprising Supreme Court of Appeal Justice Baratang Connie Mocumie, Advocate Lameez Vania and Judge’s Clerk Desmond Rapanyane, shared their experiences on finding one’s niche, and the value of a good work-life balance. They further deliberated on the importance of mentorship as a means of learning the skills not taught in the classroom.
- **3 October 2020:** At the request of the mentees, a panel was put together to reflect on transformation in the legal profession with mentor, Attorney Connie Phakedi and Advocate Tembeka Ngcukaitobi SC. The panellists reflected on their experiences and knowledge of the challenges that hamper positive change and new developments in the legal profession. Adv Ngcukaitobi fondly remembered the early years when he worked at the Legal Resources Centre, a leading South African public interest law centre, highlighting the importance of public interest law and the principle of substantive equality. He encouraged the aspiring lawyers not to shy away from socio-economic transformation issues.
- **19 October 2020:** Judge Frits Van Oosten with utmost wisdom and generosity took time out of his retirement to present the topic ‘Basic principles of pleadings’.

Despite the pandemic the Western Cape in October 2020 also facilitated a successful leadership weekend attended by 38 students and 13 of their mentors at the Houw Hoek Hotel outside Cape Town. This weekend away is reported to have done wonders for mentees and mentors, who had opportunity to get to know each other better beyond a virtual platform.

Of the 123 students initially accepted into the programme in Gauteng, 109 students successfully completed and graduated at a virtual graduation held on 5 December 2020. At the graduation event two mentees, Monako Daniel Masemola (mentored by Judge Maumela) and Aaliyah Buksh (mentored by Judge Kathree-Setiloane), shared their mentorship experiences, underlining lessons learnt from various shadowing opportunities and the online virtual sessions.



Mentees who participated in the Gauteng mentorship programme.

The President of the SAC-IAWJ and President of the Supreme Court of Appeal, Justice Mandisa Maya, penned a message of encouragement to the mentors and mentees. The message was conveyed by Vice President of the Association, Regional Court President of the North West, Ms Vuyo Noncembu.

Mentorship Champions of the Association believe that the programme serves the purpose for which it has been established. It is laudable that mentors volunteer their time and efforts and so doing take responsibility for the profession, by nurturing the qualities of a good lawyer with aspirant lawyers. The purpose driven work done by a team of members of the Association, Judges Nomsa Khumalo and Elmarie Van der Schyff, Regional Magistrates Dario Dosio, Ruby Matthys, Lincoln Matjele, Mosidi Moleleki and Anthia Ramos ensure the successful running of the programme.

Students<sup>1</sup> report and it is also demonstrated by the huge interest in the programme, that there is a need for mentorship with a practical focus, to close the gap between academic studies and the realities of practicing law. The programme provides opportunity for networking and for mentors who are all respected seasoned lawyers to impart to students, valuable insider knowledge and skills specific to the profession, which no doubt contributes to work readiness.

Studies have shown that mentorship has positive spin offs for both mentor and mentee. These include, but are not

limited, to self-confidence, time management; good mental health, exposure to new thinking, job satisfaction and even higher employee retention rates. SAC-IAWJ is commended for its mentorship programme that no doubt inspires a new generation of lawyers in our country.

“  
Successful mentorship programmes ensure that students are exposed to the practical environment, therefore preparing them for working and adapting to varied work environments

The programme has proven successful with many students expressing their gratitude for the experience. Here are some words from the mentees:

- “To everyone who helped co-ordinate the programme and all the mentors, thank you for this amazing opportunity. It is the best feeling ever to know that there are people willing to help and guide you in your journey. May the programme grow from Strength to Strength” – **Lesego Modise**

<sup>1</sup> <https://www.guider-ai.com/>

- "I would definitely recommend this programme to others, I feel as though the importance of what mentorship can do for one, whilst in final year of studies is overlooked quite a bit. I feel much better about bracing the next chapter of my legal career, and it is all because of this programme, I am not only confident in my choice in field, but in myself too as an individual and my skillset." – **Sizwe Mntambo**
- "I would like to thank the entire team of SAC-IAWJ for coming up with such a great idea as this. Despite the

pandemic situation, you made a successful plan to help all mentees not to miss out on the mentorship program. It shows your great commitment and dedication towards the betterment of future attorneys, advocates and lawyers." –

**Unknown** ■

**The 2021 programme commence in April 2021. Interested persons may direct enquiries to: [gautengmentorshipprogramme@gmail.com](mailto:gautengmentorshipprogramme@gmail.com).**



**A**



**B**

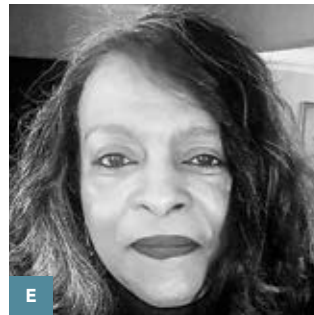


**C**



**D**

- A. Judge Nomsa Khumalo
- B. Judge Elmarie Van der Schyff
- C. Justice Connie Mocomie
- D. Judge Frits Van Oosten
- E. Regional Magistrate Ms Ruby Matthys
- F. Regional Magistrate Mr Dario Dosio
- G. Regional Magistrate Ms Asha Dathoo
- H. Advocate Tembeka Ngcukaitobi SC
- I. Attorney, Ms Connie Phakedi
- J. Attorney, Ms Michelle Molefe
- K. Mentors and mentees attending the 'On the Couch' webinar series
- L. Western Cape - Mentees and Mentors Leadership Weekend



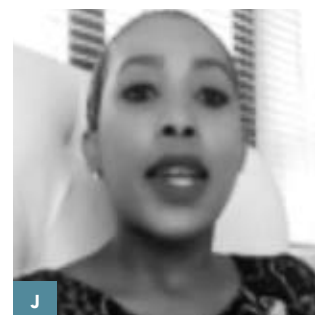
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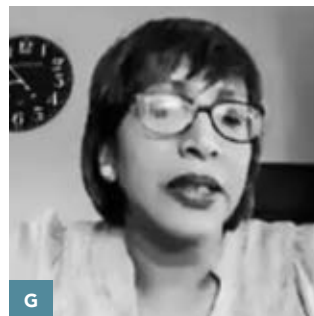
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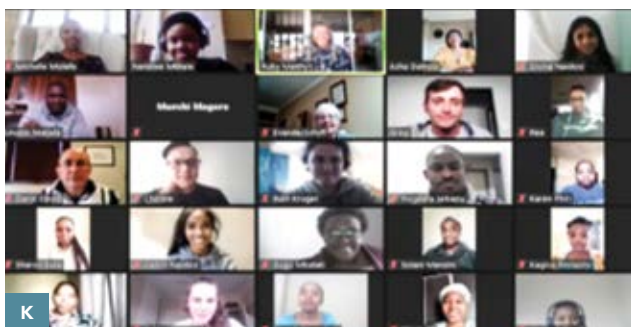
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**L**





# LAND COURT MOOTED

South Africa might in the near future have a new specialised court, the Land Court. The establishment of the Land Court is proposed in the new Land Court Bill approved by Cabinet on February 24 for submission to Parliament for processing. It recommends that the Land Claims Court be converted into a new Land Court to adjudicate on all land related matters, and not only restitution.

The Land Court Bill further proposes that the Land Court must be given additional responsibilities, both judicial and extra functions such as conflict resolution and mediation. It also proposes the introduction of the Land Appeal Court with a Jurisdiction equal to the Supreme Court of Appeal in relation to matters under its jurisdiction.

The Land Court Bill also proposes that a permanent Judge President must be appointed to the envisaged Land Court as well as four permanent Judges.

According to the Minister of Justice and Correctional Services, Mr Ronald Lamola, the Land Court Bill seeks ultimately 'to ensure stronger judicial oversight over claims', which it is hoped will 'lead to better settlements, reduce the scope for corruption and avert the bundling of claims into dysfunctional mega-claims that lead to conflict'.

“

The establishment of the Land Court is proposed in the new Land Court Bill approved by Cabinet on February 24

# JSC SHORTLISTED CANDIDATES FOR JUDICIAL VACANCIES

On 20 October 2020 the Judicial Service Commission (JSC) published notices in the media calling for nominations of interested persons to fill vacancies in the various Superior Courts.

The closing date for submission of nominations was set for 27 November 2020. On 29 January 2021, the Screening Committee of the JSC met and compiled a short list of candidates to be interviewed at its April sitting scheduled for 12-23 April 2021. The names of the candidates to be interviewed by the JSC at its April 2021 sitting are listed below.

## 1. CONSTITUTIONAL COURT (One vacancy)

Adv Alan Christopher Dodson SC  
Judge Fayeza Kathree-Setiloane  
Judge Narandran Jody Kollapen  
Judge Aubrey Phago Ledwaba  
Judge Rammaka Steven Mathopo  
Judge Yasmin Shehnaz Meer  
Judge Mahube Betty Molemela  
Judge Dhananithie Pillay  
Judge David Nat Unterhalter  
Judge Bashier Vally

## 2. SUPREME COURT OF APPEAL (Five vacancies)

Judge Zeenat Carelse  
Judge Johannes Willem Eksteen  
Judge Trevor Richard Gorven  
Judge Wendy Hughes  
Judge Petrus Arnolus Koen  
Judge Aubrey Phago Ledwaba  
Judge Nolwazi Penelope Mabindla-Boqwana  
Judge Keoagile Elias Matojane  
Judge Selewe Peter Mothle  
Judge Owen Lloyd Rogers  
Judge Sharise Weiner

## 3. EASTERN CAPE DIVISION OF THE HIGH COURT IN MTHATHA (One vacancy)

Adv Nceba Dukada SC

## 4. FREE STATE DIVISION OF THE HIGH COURT (Deputy Judge President)

Judge Johannes Petrus Daffue  
Judge Nobulawo Martha Mbhele  
Judge Somaganthie Naidoo

## 5. GAUTENG DIVISION OF THE HIGH COURT (Deputy Judge President)

Judge Roland Terence Sutherland

### (Six vacancies)

Adv Allyson Ashley Crutchfield SC  
Mr Dosio Dario  
Adv Daniel Petrus De Villiers SC  
Judge Nelisa Phiwokazi Mali  
Adv Petrus Gcinumuzi Malindi SC  
Mr Patrick Hasani Malungana  
Mr Norman Michael Manoim  
Mr Mandla Petrus Nathan Mbongwe  
Mr Anthony Peter Millar  
Adv Cassim Ismail Moosa  
Mr Vuyo Thembile Mtati  
Ms Mashudu Maryrose Munzhelele  
Adv Portia Dipuo Phahlane  
Adv Brad Christopher Wanless SC





**6. KWAZULU-NATAL DIVISION OF THE HIGH COURT  
for Secondment to the Land Claims Court  
(One vacancy)**

Mr Muzikawukhelwana Thomas Ncube  
Judge Cassim Mahomed Sardiwalla

**(Two vacancies)**

Mr Bruce Stanley Michael Bedderson  
Mr Poobalan Govindasamy  
Ms Sharon Margaret Marks  
Ms Lokwalo Rose Mogwera  
Adv Ian Lesley Topping SC  
Mr Burt Silverston Laing  
Adv Robin George Mossop SC  
Mr Mfuniselwa Elijah Nkosi  
Adv Carol Sibiya

**7. LABOUR COURT (One vacancy)**

Adv Jacques Louis Basson  
Mr Vusumuzi Reuben Sinky Ngobe Nkosi  
Adv Maitu Tsungai Mathe Phahane  
Adv Francois Johannes Van der Merwe

**8. LIMPOPO DIVISION OF THE HIGH COURT  
(Deputy Judge President)**

Judge Thifhelimbilu Phaniel Mudau  
Judge Moletje George Phatudi  
Judge Matsaro Violet Semenya

**9. MPUMALANGA DIVISION OF THE HIGH COURT  
(Deputy Judge President)**

Judge Anna Maleshane Kgoele  
Judge Segopotje Sheila Mphahlele

**(Three vacancies)**

Mr 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

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

Mr André Henry Peterson  
Adv Frances Maria Magrietha Snyman SC

**11. NORTHERN CAPE DIVISION OF THE HIGH COURT  
(Deputy Judge President)**

Judge Mmathebe Violet Phatshoane  
(Two vacancies)  
Adv Lawrence Gerald Lever SC  
Adv Albert Punch Sibongile Nxumalo  
Ms Janine Adèle Snyders

**12. WESTERN CAPE DIVISION OF THE HIGH COURT  
(Two vacancies)**

Mr Matthew Francis  
Adv Bryan Cecil Hack  
Mr Selwyn Hockey  
Adv Penelope Magona-Dano  
Adv Nobahle Mangcu-Lockwood  
Adv Frederick Siegfried Gustav Sievers SC  
Mr Daniel Malefu Thulare





# SPECIAL APPOINTMENTS/ COMMISSIONS



**Justice John Raymond Murphy**

Commission of Inquiry into Allegations of State  
Capture, Corruption and Fraud in the Public Sector  
Including Organs of the State



**Justice Neil Brock Tuchten**

Commission of Inquiry into Allegations of State  
Capture, Corruption and Fraud in the Public Sector  
Including Organs of the State



**Justice Kathleen Satchwell**

Commission of Inquiry into Allegations of State  
Capture, Corruption and Fraud in the Public Sector  
Including Organs of the State



**Justice Phenes Mathale Mojapelo**

Commission of Inquiry into Allegations of State  
Capture, Corruption and Fraud in the Public Sector  
Including Organs of the State

# JUDICIAL RETIREMENTS



**Justice David Hofmeyer Gush**

Labour Court

Discharged: 28 February 2021



**Justice Andre Fouche Jordaan**

Free State

Discharged: 15 March 2021



**Justice M Mavundla**

Gauteng

Discharged: 16 February 2020



**Justice W Msimeki**

Gauteng

Discharged: 10 November 2019



**Justice W Prinsloo**

Gauteng

Discharged: 20 October 2019

## IN MEMORIAM MAY THEIR SOULS REST IN PEACE



**Justice Temba Albert Sishi**

Retired Judge - KwaZulu-Natal, Durban

Passed away on 13 January 2021



**Justice Marius Claassen De Klerk**

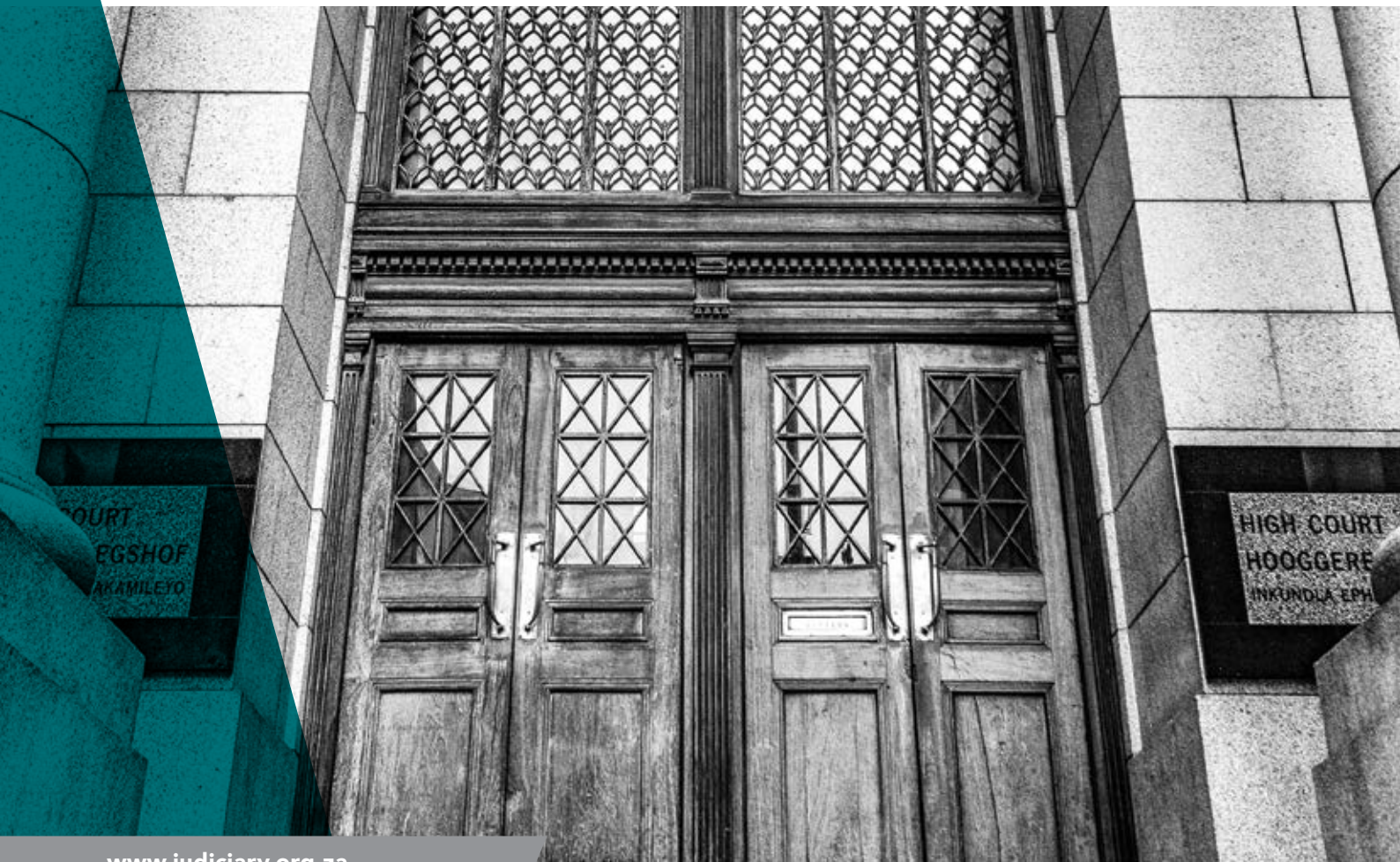
Retired Judge - Gauteng, Pretoria

Passed away on 03 March 2021









[www.judiciary.org.za](http://www.judiciary.org.za)



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