



MINISTRY OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
Republic of South Africa

**Address by the Hon AC Nel, MP, Deputy Minister of Justice and Constitutional Development, at the Debate on Vote 27: Office of the Chief Justice, in the National Assembly
Wednesday, 13 May 2026**

Chairperson, Honourable Members, I join in the greetings extended by the Minister.

Institutional Independence of the Judiciary

Opening the Constitutional Court on 14 February 1995, President Nelson Mandela said:

“Today I rise not as an accused but, on behalf of the people of South Africa, to inaugurate a court South Africa has never had, a court on which hinges the future of our democracy.”

He added that:

“Our constitution rests on three fundamental pillars: Parliament, the Government, and the Constitutional Court. Each has its specific role to play. Take away or undermine any, and you weaken the whole structure. That is why your independence is guaranteed in the constitution.”

Speaking thirty years later, at the anniversary of the establishment of the Constitutional Court on 20 June 2025, President Ramaphosa recommitted that:

“We will ensure the Judiciary is rightly constituted as an equal branch of government with the Legislature and the Executive.”

The establishment of the Office of the Chief Justice as a government department in 2010 was a stepping stone towards full institutional independence of the judiciary in

line with item 16(6) of Schedule 6 to the Constitution, which mandates the Minister of Justice, acting after consultation with the Judicial Service Commission, to ensure that:

“...all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution.”

The transfer of functions and budgets from the Department of Justice to the OCJ is proceeding on target.

Consistent with the constitutional responsibility of the Executive to develop and implement national policy, and to prepare and initiate legislation, the Department is drafting a legislative framework for a single judiciary and a judiciary-led court administration.

The Rev Martin Luther King said that: *“Injustice anywhere is a threat to justice everywhere.”*

Similarly, the independence of the judiciary is indivisible.

Indeed, as President Mandela said:

“The success of the Constitutional Court will depend in large measure on the successful functioning of the ordinary courts. Every court, from the most isolated magistrate’s court to the Appeal Court in Bloemfontein, has a role to play. The letter and the spirit of the Constitution must permeate every aspect of justice in our country.”

Therefore, at the request of the Minister, I facilitated an engagement with the Regional Court President’s Forum and the Chief Magistrates Forum to ensure that this important layer of the judiciary participates actively in the process of defining the form and content of a judiciary-led court administration model.

We express our deep appreciation to Chief Justice Maya for inviting representatives of the Regional and District Court Judiciary to the last heads of court meeting where these matters were discussed.

In light of these developments, the introduction of the Magistrates Bill and Lower Courts Bill will be held in abeyance and aligned with these processes.

Transformation of the Judiciary

The transformation of the judiciary over the past 30 years has been profound.

In the words of President Mandela, we can say that:

“When we look at you, we see for the first time the many dimensions of our rich and varied country. We see a multiplicity of backgrounds and life experiences.”

In 2013 the Magistracy was 60 percent Black and 39 percent female. By 2026 the Magistracy is 78 percent Black and 55 percent female.

The transformation of the judiciary has involved both its composition, as well as its values.

SA Judicial Education Institute

The South African Judicial Education Institute (SAJEI) has played a vital role in this transformation.

During the past financial year, it has offered an impressive 136 training courses to current and aspirant judicial officers.

These courses cover social context, case management, use of technology and AI, as well as the adjudication and sentencing of offenses involving sexual crimes, cyber violence and online sexual exploitation, trafficking in persons, the Immigration Act, and essential infrastructure, to name but a few.

Importantly, it will conduct compulsory training for the entire judiciary on the Judicial Sexual Harassment Policy.

Lower Courts Judicial Establishments

We await the report of the Committee on the Lower Courts Judicial Establishments, chaired by Judge Makamu.

This will enable the Magistrates Commission to make recommendations to the Minister regarding the creation, transfer, and abolishing of certain judicial offices.

Filling of Vacancies

We commend the Magistrates Commission for the expeditious way it has filled vacant posts in the Magistracy.

52 posts of Senior Magistrates and 68 posts of Regional Court Magistrates were filled in the past financial year.

Interviews for 198 entry-level Magistrates will be held soon.

The Commission is proactively advertising soon to be vacant posts of Regional Court Presidents and Chief Magistrates.

Remuneration and Conditions of Employment

We were all concerned to see Magistrates protesting about remuneration and conditions of employment.

The Remuneration and Conditions of Service Committee of the Magistrates' Commission is looking into these concerns.

Misconduct Proceedings

Correctly, Parliament has raised concern regarding the protracted time taken to finalise misconduct proceedings against certain Magistrates, often at great expense to the taxpayer.

The Magistrates' Commission has committed itself to expedite outstanding disciplinary hearings.

Court Security

Our Courts must be places where all are safe and feel safe.

I have visited the Booyens, Athlone, and Mitchells Plain Magistrates Courts after shooting incidents.

Together with the Judiciary, we have engaged the Acting Minister of Police to ensure greater visible policing around courts.

Chairperson, I conclude with the words of President Nelson Mandela, the lawyer and freedom fighter:

"People come and people go. Customs, fashions, and preferences change. Yet the web of fundamental rights and justice which a nation proclaims, must not be broken.

We expect you to stand on guard not only against direct assault on the principles of the constitution, but against insidious corrosion.

Attacks on the basic rights of the people are invariably couched in innocent language."

These rights he said:

"...took root in the soil of our own harsh experiences. They grew upwards towards the light of our own highest aspirations. We must defend them, all of us.

This year we celebrate the 30th Anniversary of the adoption of the Constitution under the theme: *"One Constitution; One Nation: Reflect, Renew, Recommit."*

Therefore, as a sign of recommitment, I would like to conclude by reciting the Preamble to the Constitution of the Republic of South Africa and would be happy if any Honourable Member joins me.

We call for this to become a standard practice in our country, including in Parliament.

We, the people of South Africa,

Recognise the injustices of our past;

Honour those who suffered for justice and freedom in our land;

Respect those who have worked to build and develop our country; and

Believe that South Africa belongs to all who live in it, united in our diversity.

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to:

- Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;

- Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

- Improve the quality of life of all citizens and free the potential of each person; and

- Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.

May God protect our people.

Nkosi Sikelel' iAfrika. Morena boloka setjhaba sa heso.

God seën Suid-Afrika. God bless South Africa.

Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.

I thank you.