



Opening Keynote Address by Chief Justice of the Republic of South Africa

Chief Justice Mandisa Maya

On the occasion of the 2026 South African Judiciary Conference

“Towards a Single, Institutionally Independent and Accountable Judiciary”

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Durban

Programme Director, Justice Mhlantla

Deputy Chief Justice of the Republic of South Africa, Justice Mlambo;

President of the Supreme Court of Appeal, Justice Molemela;

Deputy President of the Supreme Court of Appeal, Justice Zondi;

Justices of the Constitutional Court and Supreme Court of Appeal;

Judges President and Deputy Judges President;

Regional Court Presidents and Chief Magistrates;

Esteemed Colleagues from the South African judiciary and sister judiciaries in the African continent;

The Honourable Minister of Justice and Constitutional Development, Minister Kubayi;

Deputy Minister of Justice and Constitutional Development, Mr Nel

Members of the legal fraternity, academia and civil society;

Members of the media;

Distinguished guests

Good Morning

It is a singular honour to open this 2026 Judiciary Conference hosted by the South African Judiciary (Judiciary) under the theme “*Towards a Single, Institutionally Independent, and Accountable Judiciary*”; a carefully chosen topic which speaks to a critical constitutional project that this Judiciary has been pursuing painstakingly well over a decade to secure full independence and a governance model that matches the constitutional text and the demands of our democracy to achieve that goal.

We meet at an extremely difficult moment, beset with challenges that require us to speak frankly about where we are, where we have fallen short and what we need to do to enhance and safeguard our ability to execute our constitutional mandate. The Judiciary has travelled a long road since the advent of constitutional democracy in the country. It has been called upon to adjudicate difficult questions in the life of our nation. It has had to interpret and apply a transformative Constitution in conditions of deep inequality, political contestation, social distress and institutional strain. For the most part, it has courageously done so with fidelity to the Constitution and the law.

But dispensing justice depends on much more than the grit and constitutional fidelity of judicial officers. It demands the existence of a spectrum of requirements, chief of which are that judicial officers are properly supported to decide cases expeditiously and without undue interference; and that the Judiciary is independent not only in doctrine, but in its daily institutional life and has the infrastructure, the resources and ability to manage its own affairs fully and without interference. Importantly, the courts must be accessible to the people they are meant to serve in terms of language, affordability and physical proximity. And we, as judicial officers, must hold ourselves to standards that bolster public confidence in the Judiciary. This Conference will assess whether these pre-conditions exist and, if not, how they must be achieved.

The 2023 Judiciary Conference adopted resolutions under the theme: “*Towards a single, effective and fully independent judiciary*”. Those resolutions were direct and practical. They reaffirmed the need for a single Judiciary and called for the migration of the lower courts to the Office of the Chief Justice without undue delay. They recommitted the Judiciary to the urgent achievement of full institutional independence, including a Judiciary-led court administration model, financial autonomy and operational independence. They identified the need to accelerate information and communication technology, court online systems and digitisation. They called



for court-based mediation and alternative dispute resolution. They recognised the importance of accountability and thus proposed the review of the Judicial Code of Conduct and the Norms and Standards, judicial remuneration and benefits, security, libraries, ICT services, infrastructure, facilities and future conferences every two to three years.

These resolutions defined what is required for the Judiciary to perform its constitutional function effectively. As we gather again two and a half years later, the burning question is whether we have moved them from ink on paper to implementation. This Conference is, therefore, a working session that must take stock of what has been achieved since 2023; address delays in achieving the set goals, if any; identify obstacles, if any; refine the proposals where necessary; and produce refresher resolutions that are not only principle, but capable of expeditious implementation.

The South African Constitution

The Constitution of the Republic of South Africa vests the judicial authority of the Republic in the courts. It provides that the courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice. It obliges organs of state to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness.

As we have consistently pointed out over the years, this constitutional guarantee has yet to be realised fully because the South African judiciary enjoys only adjudicative independence and institutional independence remains an unfulfilled goal. And judicial officers carry the heavy burden of case adjudication and operate in a system whose governance and resourcing and their conditions of service are not aligned with the single judicial authority contemplated by our constitution.

This is the anomaly we must address and have resolved. We have a constitution that establishes judicial authority as one authority. Yet, in practice, the administration of the superior courts and the magistracy remains fragmented. We speak of one Judiciary when, in reality, our systems do not yet operate as such. We speak of independence, but many aspects that impact the institutional life of the courts still sit elsewhere. We speak of accountability, but accountability becomes difficult where



authority is divided, where responsibility is dispersed, and where institutional arrangements obscure who must act when systems fail.

The project of a single, institutionally independent and accountable Judiciary is therefore not a project of status. It is a project of constitutional functionality. It is not about the comfort of judicial officers. It is about the people of South Africa. It is about the litigant who waits for a trial date. It is about the accused person whose liberty is at stake. It is about the child whose maintenance claim must be adjudicated. It is about the small business waiting for a commercial dispute to be resolved. It is about the community that needs clarity on their rights to land, housing and services or administrative justice. It is about every person who comes to court because the Constitution promises that their legal dispute will be resolved by an independent and impartial tribunal, and that rights will have practical meaning. And they must rely on the resolution of their disputes by courts which are cracking under the strain of failing infrastructure, inadequate translation services, limited or no research support at all, digital systems that do not function, inadequate security, records that cannot be accessed with efficiency, and administrative authority that is divided in ways that render accountability unclear.

Needless to say, if courts cannot function effectively, the vindication of rights is delayed, rights are weakened and public confidence in the courts is compromised and the rule of law is weakened.

The single Judiciary as a practical imperative

A single Judiciary means more than ceremonial unity. It signifies a court system that is governed coherently, resourced rationally, administered efficiently and held to similar standards. It means that the Superior Courts and the Magistracy are not treated as parallel systems but constitute two hierarchical branches of one judicial system.

The Magistrates' Courts are the courts through which most South Africans experience justice, the coalface of justice, where criminal justice is dispensed and family law, maintenance, domestic violence and eviction cases, minor civil claims and many daily legal struggles are resolved for ordinary citizens.



If the Magistracy is institutionally separated from the governance vision of the Judiciary, then the promise of a single Judiciary is incomplete. The 2023 resolutions recognised this and rallied for action necessary to establish a single Judiciary, which would include the migration of Regional and District Magistrates' Courts to the Office of the Chief Justice.

In July 2026, we must measure the progress of the implementation of this goal as a structured and collective voice, mindful that we are pursuing the same cause – to secure our independence and solidify our unity – and be mindful that reform of this magnitude is enormously complex. It requires enabling legislation, careful budgetary arrangements, administrative redesign, human resource planning, transitional mechanisms and cooperation between the arms of state. It requires immense care. But that said, complexity cannot become an excuse for indefinite postponement. We must determine feasible time frames that will allow a successful amalgamation in the foreseeable future. Where the Constitution points in a particular direction, institutions must organise themselves to move in that direction and so we must.

The Conference programme invites us to learn from our neighbours who have walked the path that we have charted for ourselves. It is a tremendous honour to share the experiences of sister judiciaries on the African continent on critical subjects such as, how judicial councils, plenary bodies and system-wide governance structures can support unified leadership and accountability. Whilst comparative experience should not be imported uncritically as each constitutional system has its own history, text, politics and institutional architecture, comparative learning can help us ask better questions that will enable us to identify challenges in advance.

How do we design governance structures that include all levels of the Judiciary? How do we ensure that judicial leadership is not isolated from the realities of the busiest courts? How do we protect decisional independence while creating credible institutional accountability? How do we ensure that administration serves adjudication and does not dominate it? How do we create systems where decisions are made transparently, implemented efficiently and reviewed honestly?

It cannot be overstated that the goal of the contemplated unification is not centralisation for its own sake but coherence taking into account that a single



Judiciary must not mean a distant bureaucracy. It must mean a system in which authority is clear, responsibility is traceable, norms and standards are shared and local realities are acknowledged. It must mean leadership that stays in touch with the courts to understand their conditions and is strong enough to act where those conditions undermine justice.

Institutional independence and the separation of powers

Regarding the call for institutional independence, it must be reiterated that it is not a claim that the Judiciary should operate outside the Constitution's system of checks and balances, insulated from scrutiny and a state within the State entitled to unlimited resources. It is a claim rooted in the separation of powers about the conditions necessary for courts to perform their constitutional function and ensure their independence, impartiality, dignity, accessibility and effectiveness.

The Judiciary cannot discharge its mandate properly if the administration of courts is controlled in ways that compromise its ability to plan, prioritise, implement and account. Financial and operational dependence may not always appear as direct interference. It may appear as delayed procurement, uncertain staffing, inadequate security, poor maintenance, fragmented ICT systems, lack of control over infrastructure, or an inability to direct resources where judicial need is greatest. These may look like administrative problems but, in truth, they are constitutional infractions.

We must, therefore, continue the work of a Judiciary-led court administration model along the lines already delineated by the Judiciary itself. The 2023 resolutions noted with disappointment that the Judiciary's proposals for such a model had not received the urgent and favourable response they deserved. But I am pleased to report that since then, there has been positive progress made in our efforts to achieve independence for the Judiciary. The watershed pronouncement by the President of the Republic, Mr Ramaphosa, in June 2025, which committed the Executive to taking the necessary steps towards the realisation of judicial independence, provides renewed hope that the Judiciary will finally take its rightful place as an equal arm of the State, able to exercise its powers, fully independent of the Executive.



After numerous engagements with the Executive, a phased approach was agreed upon to achieve full institutional independence for the Judiciary. Phase 1 involves the transfer of shared and retained services relating to the Superior Courts from the Department of Justice and Constitutional Development (the DoJ) to the Office of the Chief Justice (the OCJ) which was completed on 01 April 2026. A Memorandum of Understanding was concluded by the Acting Accounting Officers of both Departments to give effect to the transfer of services and funding was allocated by the National Treasury to the OCJ. Phase 2 entails the development and promotion of legislation aimed at fulfilling the constitutional imperative of full institutional independence of the Judiciary including the creation of a single Judiciary. Regarding the progress of this legislative process, the DoJ has indicated that the process will only commence this month, July 2026, for submission of a draft Bill to Cabinet in Quarter 4 (January – March 2027) of the financial year 2026/2027. The Bill in question will only be tabled in Parliament in the fiscal year 2027/2028 for enactment.

The commitment to judicial independence, and the concomitant actions being taken by the Executive, working with the Judiciary to realise this goal, demonstrate that judicial independence is not a privilege of Judges, but a safeguard for our democracy and the rule of law. The pressing task now, which has unfortunately hit a snag, is to agree on the institutional model and its precise terms to build the institutional, administrative, and financial systems that will give full effect to this independence.

This Conference must approach this critical matter with resolve and clarity and articulate the path forward – firm up the terms of the Judiciary’s working document that has been furnished to the Executive and ensure that the Judiciary contributes to the envisaged enabling legislation; identify the necessary transitional arrangements, functions to be transferred and the necessary budgetary architecture, past, present and future; and determine how accountability will be ensured once authority is placed where it constitutionally belongs.

We must remind ourselves that institutional independence also requires rigorous and disciplined internal governance. An institution that seeks autonomy must be able to govern itself credibly. It must account for its use of public resources, set sensible priorities, measure its performance, respond to complaints, treat judicial officers and personnel fairly, protect court users, manage risk and communicate



responsibly with the public. The to-do list is long and requires the highest level of maturity and painstaking care to fulfil.

Accountability as the companion of independence

Allied with this independence is the requirement of accountability to the public the Judiciary serves which may be seen by some as a threat to judicial independence. It can indeed become a threat if it is used to punish unpopular decisions, pressure judicial officers, or intrude upon adjudicative discretion. But, in reality, accountability is not the enemy of independence but the very condition that helps independence gain public trust.

The Judiciary does not derive its authority from popularity. Courts must sometimes, and in this challenging era, more often than not, make decisions that are unpopular. They must sometimes enforce rights and obligations against majoritarian sentiment. They must sometimes invalidate conduct by powerful actors. They must sometimes protect the vulnerable when public opinion is indifferent or even hostile. Judicial independence exists precisely because courts must make its decisions according to the Constitution and the law and not applause.

But it does not follow that the Judiciary may be indifferent to public confidence, which is different to public approval. Public confidence means that even those who disagree with a judgment are able to discern and believe that the court acted in accordance with the Constitution and the law, that reasons were given, that the adjudicative process was fair, that the judicial officer was impartial, and that the institution is committed to integrity. This is why the ethical foundations of the Judiciary are central to this Conference. Timely delivery of judgments, clear reasons and proper courtroom demeanour are not administrative niceties. They are expressions of judicial ethics.

The 2023 resolutions called for a review of the Judicial Code of Conduct, with special reference to timeframes for the delivery of judgments, and for the Norms and Standards for the Performance of Judicial Functions to be reviewed so that timeframes are realistic and take account of the special circumstances of appellate courts.¹ I am

¹ 2023 Judges Conference Resolutions page 4.



happy to report that this important task, initiated early this year by an established Judicial Conduct and Norms & Standards Review Committee, is currently underway with the active participation of relevant internal and external stakeholders.

It is important to point out that the Code and the Norms do different work. The Code expresses the ethical duties of judicial office: independence, impartiality, integrity, propriety, equality, competence and diligence. The Norms and Standards guide the institutional performance of judicial functions: case flow management, judgment delivery, court sitting times, reserved judgments and the responsibilities of heads of court. Where they overlap, especially on delay, the system must be clear and fair.

Not every delay is misconduct. Some matters are complex. Some records are voluminous. Some courts operate under extraordinary workload pressures. Some delays reflect systemic failures in support, not personal indifference. But it is equally true that repeated and unjustified delay cannot be normalised. A mature system must be able to distinguish between the need for support, the need for corrective management and the need for disciplinary process. It must be fair to both the judicial officers and the litigants. It must protect independence and protect the public.

Judicial ethics also demand that we build an institution that strongly protects not only its own integrity, but also the dignity and safety of its office-bearers and those who have close dealings with the judicial system. Ethics remain a cornerstone of judicial service and guide the conduct, integrity and accountability essential to the administration of public trust. Thus, the ongoing revision of the norms and standards and the creation of policies that bolster the Code of Judicial Conduct are critical. A recent example is the Judiciary's adoption of a comprehensive Sexual Harassment Policy in August 2025. Since its inception, the South African Judiciary did not have a sexual harassment policy. The reason for this may have been that the issue was not previously given the institutional attention it deserves because it was accepted that the existing conduct rules were sufficient, which was not the case.

Our judicial system cannot credibly insist on dignity, equality and freedom for its citizens if it has no adequate means to censor humiliation, intimidation, coercion and sexual harassment within its institution. Addressing sexual harassment in the Judiciary is, therefore, at the core of very notion of justice.



This Policy is a clear institutional declaration of zero tolerance for sexual harassment by, or against, members of the South African Judiciary and its introduction marks a pivotal moment in the history of our judicial system – a tangible, formal step that, according to both anecdotal accounts and objective evidence, acknowledges the lived realities of a number of individuals who work in this institution. It aligns with the constitutional values of dignity, equality, and justice and sets standards of conduct and mechanisms to address this misconduct firmly and transparently.

The Policy's implementation includes online training and webinars spearheaded by the South African Judicial Education Institute (the SAJEI) as the statutory vehicle for judicial development and training in South Africa. In compliance with the training requirements set out in the Policy, the SAJEI has developed, through extensive consultations with members of the Judiciary, relevant stakeholders and experts, a comprehensive and standardised online anti-sexual harassment training course for all members of the South African Judiciary. The training course, which is meticulously tailored to the Policy and reflects the unique dynamics of a court environment, is ready to be implemented nationally.

During the development of the training course, the SAJEI held webinars for all judicial officers to enhance awareness and understanding of the Policy and reinforce its implementation throughout the Judiciary. The webinars created a platform for honest dialogue, reflection, education and a call to action for the Judiciary as a guardian of justice. These engagements have highlighted some important challenges in the implementation of the Policy which will require a collaborative effort in addressing them.

Simultaneously with the launch of the Sexual Harassment Policy, an interim Gender Desk and focal point for the reporting of sexual harassment complaints has been established in the Private Office of the Chief Justice while the Judiciary's supporting arm, the Office of the Chief Justice, assisted by the DoJ, works towards establishing a fully-fledged Gender Unit in the Office of the Chief Justice. The establishment of the interim Gender Desk is to ensure the immediate implementation and monitoring of the Policy while arrangements are being made for a more permanent, fully-fledged Gender Unit. The location of the interim Gender Desk is at the Constitutional



Court in Braamfontein, Johannesburg under the direct supervision of the Chief Justice. This signals a vital shift in how the judiciary responds to these issues, not as isolated Human Resources concerns, but as matters of institutional integrity and judicial ethics envisaged by the Constitution and relevant law.

This Conference must, therefore, help us develop a coherent relationship between ethics, performance and discipline. It must help us build an independent judicial remuneration framework. It must consider if the role of the Judicial Conduct Committee is still fit for purpose, and the application of appropriate reforms for the Magistracy. It must help us build a system that is not slow, opaque or uneven, because delayed and unbalanced accountability also erodes confidence.

Resourcing as a constitutional safeguard of independence

Our second major theme is resourcing as a constitutional safeguard of independence. This is a vital formulation which makes clear that resources are not a matter of convenience but part of the architecture of the delivery of justice.

Judicial independence cannot be separated from the material conditions in which judicial work is performed. A court without adequate staff cannot function efficiently. A judge without research support may struggle to meet the demands of complex litigation and produce a judgment within reasonable time. A magistrate facing an overwhelming case roll without adequate administrative assistance is placed in a position where the aspiration of timeous justice becomes extremely difficult. A court without safety facilities undermines the dignity and security of court users and judicial officers alike. A digital system that is unreliable will frustrate rather than advance access to justice.

The question is not simply whether the Judiciary needs more money. All public institutions operate within fiscal constraints. The question is whether the resourcing of courts is understood as a constitutional obligation and whether the Judiciary has sufficient institutional control to plan, prioritise and account for the resources required to fulfil its mandate.

The 2023 resolutions identified several matters requiring urgent attention in this regard – judicial remuneration and benefits, pensions and conditions of service, the possible



establishment of a Judiciary Salary and Benefits Committee, the position of magistrates under existing pension arrangements, medical aid questions, security, library services, ICT services, infrastructure and facilities. These are not isolated technical matters. They shape whether judicial office is secure, dignified and sustainable.

Judicial remuneration is not a private benefit. It is a public safeguard. The Constitution protects judicial officers not because they are personally more important than other public servants, but because the independence of their office serves the public. If remuneration and benefits are eroded in real terms, if the framework is uncertain or inappropriate, or if conditions of service do not reflect the responsibilities and restrictions of judicial office, the institution is weakened. Recruitment, retention, morale and independence are all affected.

Similarly, research capacity and administrative support are not nice-to-have luxuries. They affect the quality of decision-making. They help reduce delay. They support consistency. They allow judicial officers to focus on adjudication rather than administrative burdens. In a legal system of growing complexity, where constitutional, statutory, customary, commercial and technological questions increasingly intersect, the Judiciary must be properly equipped to reason well and decide efficiently.

The same is true of personal well-being. Judicial office carries heavy burdens. Judicial officers are required to absorb conflict, trauma, intellectual pressure, moral responsibility and public criticism. They must do so with restraint. They cannot explain themselves outside their judgments. They cannot campaign for sympathy. If we fail to attend to our wellness, security and workload in a focused, institutional way, we risk treating resilience as an individual virtue when it should also be an institutional responsibility.

I do not suggest that we dilute standards but that we create conditions in which high standards can be met. Accountability without resourcing is unfair. Resourcing without accountability is unsustainable. The constitutional task is to hold both together.

The digital era and the future of justice



We must also contend with the demands of the digital era. Courts across the world are dealing with digital filing, online hearings, electronic records, automated systems, data analytics and artificial intelligence (AI). Encouragingly, African justice systems are also experimenting with technology in ways that will support access, efficiency and innovation.² We must learn from these developments but proceed with constitutional discipline.

Judiciary's effectiveness and efficiency depend on robust modernisation, particularly through digital transformation which enables it to manage escalating caseloads and enhance accessibility. Entrenching digitization in the courts and enhancing training for judicial officers and staff are priorities for sustained efficiency and public trust.

We have seen that technology can improve justice. It can reduce physical barriers to access, assist with case management, help manage records, support research, improve communication with court users, reduce unnecessary travel and delay and help courts operate more efficiently especially in a country such as ours where distance, cost and inequality often make access to justice difficult.

The silver lining of the devastating COVID-19 pandemic and the resulting lockdown restrictions was that it compelled the South African Judiciary to embrace the digital era to prevent the disruption of the administration of justice and make justice more accessible. The Gauteng Division of the High Court, under then Judge President Mlambo's stewardship, led us in the successful adoption and implementation of the CaseLines system for the electronic filing and management of cases and the Court Online System which is today used across all Superior Courts. This digital case and evidence management system, which has been positively received by court users, provides a platform for litigants to file their papers electronically and affords Judges the ability to manage court evidence with ease and expeditiously online. I take this opportunity to implore the leadership of the courts in which this system has been launched to take active steps to entrench and advance its use.

² [African Union Development Agency, *Harnessing Digital Innovations to Revolutionise Justice Systems in Africa*.](#)



That said, we cannot overlook that technology can also reproduce inequality, especially in the lower courts where technical challenges persist. A digital court system that assumes stable internet, digital literacy, access to devices and language proficiency may improve access for some while excluding others. A system that is not properly secured may compromise confidentiality. A system procured without adequate institutional control may create dependency on external vendors. A system imposed without judicial input may fail to serve sound and efficient adjudication.

AI raises even sharper questions, universally. While it may assist with research, translation, document organisation, transcription, scheduling and administrative analysis, it must never replace judicial judgment. A judgment is not the product of a machine. It is an exercise of constitutional responsibility by a human decision-maker who has heard the parties, weighed the evidence on the basis of the relevant law, given reasons for their decision and, importantly, has accepted accountability therefor.

Any AI policy we may adopt for the South African Judiciary must, of necessity, as has been done elsewhere, be subject to human oversight, confidentiality and data protection, fairness and non-discrimination, transparency and reliability. The ability of the Judiciary to control its own systems, understand their risks and prevent improper influence is imperative. We regularly read reports and ourselves experience in the course of our work AI's dangerous capacity to fabricate authority, the so-called AI hallucinations, its potential to reflect bias, obscure uncertainty whilst creating a false sense of confidence.³ AI has shown its easy ability to tempt users to outsource their judgment, research or reasoning in ways that are incompatible with judicial office. For the courts, these risks directly impact the integrity of the adjudicative process.

That said, however, judicial officers must not yield to fear. AI is still a valuable resource with proper governance measures in place. These would include defining permissible uses, prohibited uses and basic safeguards, training judicial officers and staff in the use of the system, protecting confidential information, and ensuring that the systems used in the courts are subject to proper evaluation. We must understand the technology before allowing it to shape the administration of justice.

³ [University of Leeds Strengths and Weaknesses of Gen AI](#)



It is important to mention a scourge of the digital era, the boon called social media, which has changed the public environment in which courts operate – mischaracterisation of court judgments, subjecting of judicial officers to malicious attacks and spreading false information about them, drawing courts into misleading political narratives they did not create. Courts and judicial officers are now vulnerable to deliberate campaigns of distortion which have the effect of weakening public trust in the judicial system because ordinary members of the public accept the false information as true.

But while the Judiciary may not enter public and political contests as our authority lies in reasoned judgments, restraint and fidelity to the constitution and the law, restraint does not mean institutional silence in the face of misinformation about the functioning and role of the courts. We must strive to communicate and explain court processes more clearly, write court judgments in simple, easy to understand language without oversimplifying their substance, of course, support judicial officers who come under unwarranted attack and defend the judicial institution from gratuitous criticism. A confident Judiciary on the right side of the law does not fear constructive criticism. But it must challenge criticism that seeks to delegitimise it.

Rationalisation of the High Courts

Another important aspect of judicial reform is the rationalisation of courts which is currently underway in our country. As most of us may be aware, the DoJ initiated the implementation of the Report of the Committee on the Rationalisation of Areas Under the Jurisdiction of the Divisions of the High Court of South Africa and Judicial Establishments of the Divisions of the High Court of South Africa. This rationalisation process seeks to review and update court jurisdictions, and to establish equitable judicial posts across South Africa's nine provinces in order to improve universal access to justice. The Minister of Justice will probably deal with the results of this critical process when she addresses us later and I will leave it to her to elaborate on it.

The African judicial conversation



As I have said, this Conference is enriched by the participation of distinguished jurists from our region and the rest of the continent. This is very important because the South African Judiciary is part of the wider African community of constitutional jurisdictions and its judicial discussions about constitutionalism, judicial independence and accountability, access to justice and the future of courts.

Across the continent and, indeed, globally, judiciaries in democracies face similar pressures from resource constraints, political contestation, public impatience with delays, the need for ethical accountability, technological disruption and the challenge of protecting independence while remaining responsive to the people. We can learn from one another's successes and challenges – for example, in respect of matters such as how judicial councils operate; how courts manage digitisation; how ethical systems are designed and sustained; how the judiciary can respond effectively to public attacks.

From resolutions to implementation

The phrase “from resolution to reality” appears in the programme of this Conference. It is a phrase aptly intended to exhort us into action. We hope that this Conference will provide us with an opportunity to build consensus and finetune our to-do list. But, importantly, we must leave here with more than statements of principle as we did in 2023. We must close this Conference with clearly defined priorities, timelines, responsible structures and mechanisms for reporting back in the short term. If a resolution requires legislation, we must pertinently say so. If it requires engagement with the Executive, we must identify who will lead that engagement and by when. If it requires internal judicial action, we must assign that responsibility within our structures. If it requires budgetary planning, we must align it with the relevant cycles. If it requires further research, we must commission it and set a date for completion.

The 2023 resolutions provide a useful accountability framework I described earlier – the creation of a single, institutionally independent Judiciary, buttress ICT and digitisation, mediation, bolster accountability measures, review of the Code and Norms, review of the remuneration and benefits, strengthen security measures, enhance libraries facilities and infrastructure and hold regular conferences. This week's programme sharpens and reorganises these issues into four interdependent



themes: governance and accountability in an institutionally independent Judiciary; resourcing as a constitutional safeguard of independence; ethical foundations of an independent and accountable Judiciary; and the Judiciary in the digital era.

These themes are not separate compartments. Governance without resources is ineffective. Resources without ethical accountability will not command public confidence. Digital transformation without institutional independence may create new dependency. Accountability without clarity on authority will remain uneven. A Judiciary that does not include the Magistracy will remain divided and weaken judicial authority. Institutional independence without public trust will be imperilled.

Our task is to build a vital ecosystem of judicial governance in which these elements support one another.

The role of judicial leadership

This Conference also speaks to judicial leadership. As we well know, leadership in the Judiciary is not the same as leadership in political or corporate life and other spheres of economic and community activity. Judicial leadership must be exercised with collegiality, restraint, legality and respect for decisional independence. Heads of Court are first among equals. They do not tell judges and magistrates how to decide the cases serving before them. Judicial leaders do not manage adjudication as though it were an administrative output. They do not decide the conditions of their colleagues' employment and act on the authority of mandates given by their colleagues.

But judicial leadership is not passive. It requires the setting of standards, identifying and confronting hurdles and shortcomings head on, and giving direction on their resolution, supporting colleagues and protecting the vulnerable members of the institution, engaging other arms of state firmly and respectfully where necessary, ensuring that court users are not forgotten in internal debates, communicating the needs of the Judiciary without appearing self-interested and making hard decisions about resources, conduct, performance and reform.

Leadership also requires unity. Unity does not mean uniformity of opinion. Judges and magistrates as discrete groups, judges among themselves and magistrates among



themselves will sometimes disagree about the best means to achieve common goals. That is to be expected and is healthy especially in a diverse institution comprising independent minded members. But once we have expressed our differing views and deliberated on them robustly but respectfully, we must be able to act with institutional coherence, in unison. Fragmentation weakens reform. If we speak in many directions on matters that require collective action, we weaken our hand and make it easier for necessary reforms to be deferred.

It must be acknowledged at the same time that unity must include the lived realities of all courts. The Constitutional Court, the Supreme Court of Appeal, the High Courts, the Labour and Labour Appeal Courts, the Land Court, the Electoral Court, the Competition Appeal Court, the Magistrates' Courts and other judicial forums do not experience institutional challenges in the same way. A credible governance model must accommodate their differences. The voice of the busiest court, the rural court, the under-resourced court and the specialised court must shape the single Judiciary we build.

The people at the centre

We must remind ourselves that it is possible in a conference of this nature to speak in institutional language for several days and forget the person for whom the institution exists. We must avoid that lapse.

The Constitution does not protect courts as monuments. It protects courts because people need justice. The independence of the Judiciary is not a privilege. It is a guarantee to the public that the powerful and the powerless stand before the law on equal terms. The accountability of the Judiciary is a duty owed to the people in whose name judicial authority is exercised.

When we speak about court administration, we are speaking about whether a court file is available on the hearing date of the matter, whether a matter is enrolled expeditiously once ripe for hearing, whether a witness is heard, whether a vulnerable person is treated with dignity, whether reasons are delivered within a reasonable period, whether an appeal record is prepared, whether a court order can be enforced. When we speak about digitisation, we are speaking about whether technology helps



or hinders the person seeking justice. When we speak about remuneration and benefits, we are speaking about whether the judges' tenure and the associated of the judicial office remains secure, independent and attractive to persons of integrity and ability. When we speak about ethics, we are speaking about whether the public can trust the person who adjudicates their cases.

The measure of this Conference will, therefore, not be the loftiness of our resolutions. It will be whether those resolutions improve the administration of justice and provide means of their expeditious implementation.

A call to constitutional seriousness

Colleagues, the Judiciary occupies a critical and demanding place in our constitutional democracy. We must be independent but not isolated. We must be accountable but not intimidated. We must be efficient and transparent, but not careless. We must be responsive to society but not governed by public opinion. We must be open to innovation but ensure safeguards against possible pitfalls. We must be united but be sensitive to and address difference.

Ours is extremely difficult and often thankless work. But the difficulty of the work is precisely why judicial office exists. Our Constitution was not written for easy times. It was written to guide a wounded society still healing from centuries of injustice, still struggling with inequality and deep poverty, buffeted by threatening winds of corruption and instability and battling to build state institutions worthy of trust that will ensure the establishment of the democratic and open society in which government, clean government, based on the will of the people, that every citizen is equally protected by the law, the quality of life of all citizens is improved and the potential of each one of them is freed, as envisaged in our Constitution. The Judiciary must be one of those institutions and this Conference must produce resolutions of constitutional design and institutional discipline that are capable of practical and ready implementation.

To our colleagues from sister jurisdictions, we welcome your wisdom and experience. To the Minister of Justice and Constitutional Development, Minister Kubayi, your team, and other representatives of the Executive, we extend our hand for principled



cooperation. Judicial independence does not require hostility between arms of state. It requires clarity, respect and constitutional fidelity which you have consistently shown in the past year as we have navigated the tough path towards the vision of the judiciary contemplated by the Constitution. To the members of the legal profession and civil society, we recognise and appreciate the role you tirelessly play in strengthening the justice system and holding state institutions to account. To my colleagues, the members of the Judiciary, I ask that we approach these proceedings with openness, a sense of responsibility and courage.

The journey towards a single, institutionally independent and accountable Judiciary started well over a decade ago and has been undertaken by successive judicial leaders, judges, magistrates, administrators and reformers. Our task is to advance the blueprint they left us and ensure that it becomes reality.

Conclusion

As I said earlier, in 2023, the South African Judiciary resolved that its conferences should be held every two to three years. We are here because the institution understood that we must gather regularly to reflect, account and renew its commitments. That is a sensible and very necessary practice as we have a lot of work to do.

I hope that this Conference will be remembered as the moment we moved with greater urgency from aspiration to architecture and implementation, and from implementation to measurable improvement in the lives of those who seek justice in our courts.

May we build a Judiciary that dispenses justice and is accountable in the exercise of the authority entrusted to it by the Constitution and the people of the Republic of South Africa.

I thank you.

