



**STATEMENT ISSUED BY THE CHIEF JUSTICE, THE HEADS OF
COURT AND SENIOR JUDGES OF ALL DIVISIONS**

ON 8 JULY 2015

THE JUDICIARY'S COMMITMENT TO THE RULE OF LAW

A Judge's principal article of faith is to adjudicate without fear favour or prejudice. When each Judge assumes office she or he takes an oath or affirmation in the following terms: to be faithful to the Republic of South Africa; to uphold and protect the constitution and the human rights entrenched in it; to administer justice to all persons alike without fear favour or prejudice and in accordance with the constitution and the law.

To Judges this obligation and the oath are sacred.

Our constitution, like others of its kind, sets out the powers of each arm of state. No arm of the state is entitled to intrude upon the domain of the other. However, the constitution requires the Judiciary ultimately to determine the limits and regulate the exercise of public power.

Judges like others should be susceptible to constructive criticism.

However, in this regard, the criticism should be fair and in good faith. Importantly the criticism should be specific and clear. General gratuitous criticism is unacceptable.

In the adjudication process, Judges do not act as a collective with a collective mindset. Each Judge is informed by constitutional values, her or his conscience and brings to bear an individual judgement.

Of course, Judges, like other mortals, err. There are several levels of courts that serve a corrective purpose when Judges make a mistake. That explains why the constitution provides for an appeal mechanism. Moreover, judgments are often subjected to intensive peer and academic scrutiny and criticism.

There have been suggestions that in certain cases Judges have been prompted by others to arrive at a pre-determined result. This is a notion that we reject. However, in a case in which a Judge does overstep, the general public, litigants or other aggrieved or interested parties should refer the matter to the Judicial Conduct Committee of Judicial Service Commission..

The Rule of Law is the cornerstone of our constitutional democracy. In simple terms it means everybody whatever her or his status is subject to and bound by the constitution and the law. As a nation, we ignore it at our peril. Also, the rule of law dictates that court orders should be obeyed. Our experience by and large is that court orders have been

honoured by others arms of state. The few instances of where court orders have not been complied with, whatever the reasons, have the effect of undermining the rule of law.

The Heads of Court and senior Judges of all Divisions have requested the Chief Justice, as head of the Judiciary to meet with the head of state to point out and discuss the dangers of the repeated and unfounded criticism of the Judiciary. Criticism of that kind has the potential to delegitimise the courts. Courts serve a public purpose and should not be undermined.