

Address by Minister of Justice and Correctional Services, Adv Michael Masutha, at the occasion of the official opening of the Limpopo seat of the High Court of the Republic of South Africa, Polokwane

29 November 2016

Chief Justice Mogoeng Mogoeng
The Acting Premier of Limpopo, Mr Jerry Ndou,
Minister of Public Works, Mr Thulas Nxesi,
Judge Presidents,
Members of the Judiciary present
Executive Mayors,
Traditional and Religious Leaders
Community Leaders
Fellow South Africans,

Today is an important day in the history of our democracy. We have gathered to officially open the Limpopo seat of the High Court of South Africa. The people of Limpopo have for decades, needed to travel to Gauteng to access justice and all services that are obtained from a high court. Now they have their own high court. Limpopo becomes the eighth province to have a seat of a High Court. The Mpumalanga seat of the High Court is earmarked for completion in 2017. This is an important development as we mark the 20 years anniversary of our country's democratic constitution.

The establishment of the High Court in these provinces is a fulfilment of our democratic commitment to access to justice for all in our country. It is also significant that we are officially opening the court during the campaign on 16 days of no violence against women and children, which The President launched in this province last week.

Limpopo High Court This sends a stern message to actual and potential perpetrators of gender-based violence and abuse to our most vulnerable in the society that they will face the might of our law. Like the rest of South Africa, this beautiful province is still beset with a deep legacy of social inequality, poverty and poor access to justice. The establishment of this court should therefore define a new era for the people of Limpopo.

Distinguished Guests,

The apartheid system of homeland resulted in the fragmented justice system and institutions.

This province for example, was previously comprised of three administrations, Venda, Gazankulu and Lebowa self-governing territories and only Venda had a High Court. Lebowa and Gazankulu territories fell under the jurisdiction of the Transvaal Provincial Division in Pretoria. With the advent of democracy in 1994 the Venda, Lebowa and Gazankulu were incorporated into the Limpopo province. Until the 25th of January 2016, the jurisdiction of the Transvaal Provincial Division extended over Limpopo, the entire Mpumalanga and parts of the North West provinces but this changed as a result of the enactment of the Constitution Seventeenth Amendment Act of 2012 and the Superior Courts Act of 2013.

The latter provides a constitutional and legislative mechanism for the transformation of our judicial system in accordance with our Constitutional values.

Today we bury that past and affirm the future in which an estimated 6 million people in Limpopo no longer have to endure the inconvenience and cost of commuting to Pretoria for High Court services. The Superior Courts Act also enables the rationalisation of the High Courts in the former homelands.

The old Thohoyandou High Court has now become the local seat of the Limpopo Division of the High Court, and its area of jurisdiction extends beyond the old Venda territory.

The Lephalale Magistrate's Court serves as another local seat of the High Court, to benefit communities living far from Polokwane. De-linking the Limpopo province from the Gauteng High Court continues to yield immeasurable positive spinoffs for administration of justice.

For example, Limpopo now boasts its own Office of the Director of Public Prosecutions, offices of the Master and State Attorney, a local Society of Advocates, and Legal Aid South Africa has also increased its footprint in the province.

This has begun to attract legal expertise back into the province.

For example, the Judge President of this Division and the Director of Public Prosecutions both hail from this province and in a sense lead the campaign of Re bowa gae – homecoming, signifying that the people of the province are freed from the bondage to the Transvaal Provincial Division, which has happened for more than 100 years!

On the date of its commencement of operations this court took over 51 criminal trials and 43 appeals files from Gauteng Division. Already 6 cases were placed on the roll from the date the court commenced functioning and the first murder trial was finalised on 28 January 2016.

Since then a total 116 criminal trials, 73 appeals and 16 reviews have been finalised. Similarly there has been some positive outcomes in the civil roll where one thousand nine hundred and forty seven cases out of a total of two thousand nine hundred and eighty eight registered have been disposed of. This bears testimony of a court hard at work in dispensing justice.

The court hear appeals from the Magistrate Courts from across the province's five municipal districts, namely Waterberg, Mopani, Vhembe, Sekhukhune, and Capricorn and 23 local municipalities.

The process of aligning magisterial districts with municipal boundaries has also been completed in this province, bringing the total number of provinces where the process of redressing the racially-based magisterial districts to four, others being Gauteng, North West and Mpumalanga.

Through the rationalisation of magisterial districts Government endeavours to ensure that there is a magistrate's court in every municipality. I can assure you that my Department is working steadfastly to complete the remaining provinces during the terms of the current administration, thereby further expanding access to justice in the country.

Compatriots

The radical policy decision we took in 2010 to establish the Office of the Chief Justice was to provide it a dedicated administrative support to carry out its judicial functions. The Office of the Chief Justice enables the appointment of the court managers and other personnel needed to manage cases that come through the court system effectively.

They also determine their budget needs so that the funds earmarked for the administration of the Superior Courts is voted for and ring-fenced through the Office of the Chief Justice. The Department has started drafting the Lower Courts Bill, which will address the administration of the Lower Courts which are still its responsibility.

Discussions between the Judiciary and the Executive regarding the ultimate court administration model suited for our constitutional democracy are on-going.

We are treating this matter with the urgency it deserves, and Cabinet has appointed an Inter-Ministerial Committee chaired by the Deputy President to guide the required research to conclude the matter.

We are also taking the views expressed by the Chief Justice and Heads of Courts to heart in this delicate exercise.

Programme Director

The official opening of this High Court today is part of the mission to embellish rule of law, one of the founding pillars of our constitutional democracy.

The Rule of Law and Access to Justice are inherently intertwined; the presence of one is inconceivable in the absence of the other.

Access to justice is a fundamental democratic right underlying other human rights entrenched in the Bill of Rights. These rights will be meaningless without enforcement mechanisms.

In describing access to justice as one of the fundamental tenets of transformative constitutionalism, the late Chief Justice Pius Langa had this to say, and I quote:

“South Africa has its own unique problems when it comes to access to justice. In the face of high levels of crime, the criminal justice system faces a serious challenge to ensure that victims have the satisfaction of knowing that those who harmed them or their loved ones are brought to justice. Legal representation remains beyond the financial reach of many South Africans and it is true that more money ensures better representation. That is not equal access to justice and the challenge we face is what strategies we should adopt to rectify the position. The Constitution should not become a tool of the rich. Equal justice means that the fruits of justice are there for all to enjoy. The provision of equal access to justice is therefore a priority in reaching our transformative goal”.

Therefore our efforts to expand courts in the rural areas should ensure equal protection and benefit of the law to all.

We must ensure that poverty and inequality no longer perpetuate unequal access to justice.

This year Government has increased legal aid funding to provide legal representation for the indigent, and we must find other alternative means to broaden access to legal representation. The legal profession and the paralegal movement must also do more to increase access to justice for the poor.

It would be helpful to the country if the public interest groups and NGOs focused more on pro-poor transformation and access to justice issues, so that their impact can be beneficial to those in need.

Our courts are unfortunately inundated with political issues instead of matters that primarily belong in the legal and judicial space, effectively undermining the principle of separation of powers.

Compatriots,

As we prepare to celebrate the 20th anniversary of the Constitution, we reiterate that judicial independence and Rule of Law are pillars of our constitutional democracy. Judicial officers are required to

adjudicate all matters with utmost fairness, independence, without fear or favour, and subject to the Constitution and the law.

In this manner, access to justice is promoted for all in society regardless of their station in life, as all are equal before the law in our democracy. The opening of this court is thus also a celebration of those values and principles of our democracy.

Fellow South Africans,

Let me reiterate that we will spare no effort in ensuring that all people in this country enjoy equal access to justice. It is my pleasure to declare this court officially opened.

I thank you!