

THE JUDICIARY

A MESSAGE FROM CHIEF JUSTICE M M L MAYA

CHIEF JUSTICE'S COURT VISITS

SAC-IAWJ LAUNCHES ITS TRUST TO ADVANCE
JUDICIAL TRAINING

FAREWELL TO ACTING JUDGE PRESIDENT Y S MEER

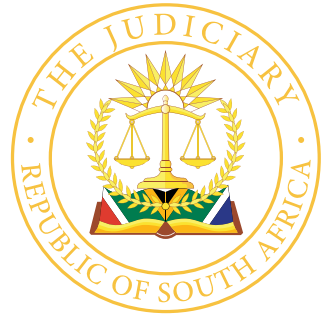


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As we close the final chapter of 2024, we reflect on a year marked by transformation, resilience, and a commitment to progress across our Judiciary. The launch of the Court Online system in various Divisions and recently in the Western Cape High Court, stands as a testament to our ability to embrace change and advance the administration of justice through technology. This milestone signals a collective step forward, ensuring efficiency and accessibility while affirming our commitment to service excellence.

Our shift towards digital systems aligns with a broader global movement to mitigate environmental impact. By reducing reliance on paper-heavy processes, the judiciary is making a meaningful contribution to sustainability. Each step towards modernizing our systems brings us closer to fulfilling our responsibility as custodians of not only justice but also the environment.

Looking back, we are reminded of the rich legacy that shapes us. The tireless efforts of judicial leaders, past and present, have paved the way for a more inclusive, accessible, and equitable system of justice. Chief Justice Maya's visits to various courts have become a bridge between the Lower and Superior Courts, fostering a unified Judiciary whilst etching a path forward with a new vision.

FROM THE EDITOR

We pay homage to colleagues who have passed away in recent months, retired Constitutional Court Justice Laurie Ackermann, retired Judge President of the KwaZulu Natal Division, J A Howard, retired Judges W Heath and J F Ludorf of the Eastern Cape Division.

A hearty congratulations and a warm welcome to newly appointed colleagues in various Divisions. We look forward to your time on the bench.”

As we step into 2025, let us carry forward the lessons of this year: that adaptability is a strength, collaboration is essential, and every challenge presents an opportunity for growth. Together, we continue to honour the principles of fairness and service, building a judiciary that is both innovative and deeply rooted in the needs of our society.

Judge President Thoba Poyo Dlwati

Judge of the KwaZulu-Natal Division of the High Court and President of the SAC - IAWJ



Merry Christmas and a
Happy New Year! ””



A MESSAGE FROM CHIEF JUSTICE M M L MAYA

Chief Justice Mandisa Maya
Chief Justice of the Republic of South Africa

As we approach the end of the year, I wish to express my heartfelt appreciation to the members of the Judiciary and the staff of the Office of the Chief Justice for their consistent hard work and dedication. Your tireless efforts and commitment have been pivotal in our collective pursuit of the Judiciary's vision and goals.

This year has been filled with many challenges and opportunities and one is proud of everything we have accomplished together and deeply grateful for the opportunity to work with such a driven team. Your determination to deliver justice and serve our country against the most difficult of odds, working incredibly long hours under bad working conditions and for poor pay, is truly remarkable and I am confident that our collective efforts will continue to make a positive impact well into the future. Your commitment to our shared values of integrity, fairness and excellent service has already made a tangible difference in the lives of the people in our country and I take this opportunity to encourage you all to continue striving for excellence in service and wish you and your loved ones safe holidays filled with joy, love and happiness. ■

CHIEF JUSTICE M M L MAYA EMBARKS ON NATIONWIDE VISITS TO COURTS TO STRENGTHEN JUDICIARY FACILITIES AND OPERATIONS

Chief Justice Maya has recently undertaken a series of visits to various courts across South Africa, reflecting her commitment to fostering excellence, accountability, and improved working conditions within the Judiciary. These visits have not only marked significant milestones in her career but also highlighted her dedication to the vision of a Single Judiciary by addressing the operational needs of all courts and their staff.

The Chief Justice's journey began with a meaningful return to the Western Cape Division of the High Court in Cape Town, the very court where she served as an acting Judge at the very beginning of her judicial career. Her reflection on this "full circle moment" set the tone for a tour focused on inspecting facilities, engaging with Judges and staff, and assessing resources like the Sexual Victims Support Room and police holding cells at the Khayelitsha Magistrate's Court and engaging with magistrates and key stakeholders including officials of the Department of Justice and Constitutional Development (DoJ&CD), Department of Public Works and Infrastructure (DPWI), Legal Aid Board and the South African Police Service (SAPS) and young law students from the township.

In the Free State, the Chief Justice visited the Supreme Court of Appeal (SCA) in Bloemfontein, where she was welcomed by the SCA President, Justice M B Molemela. She also toured the Free State Division of the High Court and the Bloemfontein Magistrate's Court, where she met Judges, Magistrates, and key stakeholders, including the Director-General of the DoJ&CD.

The Eastern Cape leg of her visits saw the Chief Justice engaging with Judges and Magistrates at the Mthatha High Court and Mthatha Magistrate's Court, respectively. The visits by the Chief Justice comprised a holistic view of all court facilities from court libraries to even holding cells and specialised victim friendly rooms for the child victims. Discussions on court operations and presentations on recent developments underscored the importance of continuous improvement in service delivery.

Concluding her recent visits, the Chief Justice visited courts in Mpumalanga, including the Mpumalanga Division of the High Court and the Mbombela Magistrate's Court. These engagements, characterised by collaborative dialogue with local Judiciary leaders and other relevant stakeholders, reinforced her vision of a strengthened, inclusive, and effective justice system.

These visits not only symbolize her hands-on leadership style but also reiterate her dedication to improving the physical and operational environments of South Africa's courts that serve the people of South Africa. Through these oversight efforts, Chief Justice Maya continues to lay the groundwork for a Judiciary that is accessible, efficient, and equitable for all. ■



CHIEF JUSTICE'S COURT VISIT IN THE WESTERN CAPE



Chief Justice M M L Maya, Acting Judge President P Goliath, Acting Deputy Judge President A Le Grange and Judges of the Western Cape Division of the High Court.



Chief Justice M M L Maya and Acting Judge President P Goliath.



Chief Justice M M L Maya, Acting Judge President P Goliath and Acting Deputy Judge President A Le Grange.



Chief Justice Maya with Ms Z Potgieter, DCO: Western Cape; and Mr R Wesso, Registrar of the High Court.



Chief Justice Maya with Western Cape Regional Court President, Ms N Sipunzi addressed Magistrates at the Khayelitsha Magistrates Court in Cape Town.



Chief Justice Maya with the members of the Magistracy, staff and stakeholders at the Khayelitsha Magistrates Court.

CHIEF JUSTICE'S COURT VISIT IN THE FREE STATE, BLOEMFONTEIN



Chief Justice M M L Maya at the Supreme Court of Appeal (SCA), where she was welcomed by the President of the SCA, Justice M B Molemela.



Chief Justice M M L Maya at the Supreme Court of Appeal (SCA), She was looking at the first judgment ever made at the SCA



Chief Justice M M L Maya inspecting the file storage facilities at the Supreme Court of Appeal.



Chief Justice M M L Maya together with Judge President of the Free State Division, Judge C Musi.



Chief Justice M M L Maya, Judge President C Musi, Deputy Judge President N M Mbhele together with Judges of the Free State Division of the High Court, Bloemfontein.



Deputy Judge President N M Mbhele



The Chief Justice was taken on a tour of key areas of the Bloemfontein Magistrates Court.



Chief Justice M M L Maya concluded her oversight visit in the Free State Province at the Bloemfontein Magistrate's court. Pictured with Regional Court President, Ms Z Mbalo, and Director General of the Department of Justice and Constitutional Development, Adv D Mashabane.



Chief Justice M M L Maya, Acting Judge President Z Nhlangulela together with Judges of the Eastern Cape Division of the High Court, Mthatha.



Chief Justice M M L Maya was taken on a tour of the Mthatha High Court by Acting Judge President Z Nhlangulela.



Chief Justice M M L Maya was in the Eastern Cape Province undertaking an oversight visit in the Mthatha High Court. During the visit, the Chief Justice also met various legal formations.



Chief Justice M M L Maya together with Chief Magistrate, Ms N P Mviko.



Chief Justice M M L Maya with Regional Court President, Mr S Dunywa during a walkabout of the Mthatha Magistrate Court.



Chief Justice M M L Maya at the Mthatha Magistrate's Court, where she was welcomed by Chief Magistrate, Ms N P Mviko, and other members of Magistracy at the Mthatha Magistrates Court.

CHIEF JUSTICE'S COURT VISIT IN MPUMALANGA, MBOMBELA



Chief Justice M M L Maya at the Mpumalanga Division of the High Court during an oversight visit, pictured with Judge President S S Mphahlele, Acting Deputy Judge President T V Ratshibvumo, and Judges of the Mpumalanga Division of the High Court.



Chief Justice flanked by Director Court Operations (DCO), Ms Jeanette Ngobeni (far right), Court Manager, Shertina Ledwaba and Adv. TL Ramatikiti, DoJ Provincial Head.



Christopher Dladla, Registrars Clerk of the Mpumalanga Division of the High Court, Mbombela briefing the Chief Justice M M L Maya and Judge President S S Mphahlele.



Chief Justice M M L Maya is accompanied by Judge President S.S. Mphahlele during a walkabout at the Mbombela High Court.



L-R: Chief Justice M M L Maya, DDC Court Administration Mr Lucky Mohalaba and Adv. T L Ramatikiti inspecting the Civil Court roll.



L-R: Judge President S.S. Mphahlele, Regional Court President Ms N A Engelbrecht, Chief Justice M M L Maya and Chief Magistrate T T Tonjeni.

CHIEF JUSTICE'S EVENTS: PABASA DINNER



Chief Justice M M L Maya delivered the keynote address at PABASA's 5th Anniversary celebration, congratulating the organization on reaching this significant milestone.



Judge Dunstan Mlambo, Judge President of the Gauteng Division of the High Court, congratulated the Bar for its success in training new lawyers.



Board Chairperson of the Pius Langa School of Advocacy, retired Constitutional Court Justice B Nkabinde, congratulated the newly elected leadership of PABASA and urged them to support the Pius Langa School of Advocacy.



The newly elected chairperson of PABASA, Advocate Muzi Sikhakhane SC, introduced the keynote speaker, Chief Justice M M L Maya, at PABASA's 5th Anniversary celebration.



Judge President D Mlambo pictured with Adv D Ntsebeza SC.



Minister of Justice and Constitutional Development, Ms T Simelane, MP, appealed to PABASA members to continue advocating for the transformation of the legal fraternity.



The legal profession gathered to commemorate PABASA's fifth anniversary.



Gauteng Judge President D Mlambo and Justice Z Tshiqi of the Constitutional Court were among the distinguished guests at PABASA's 5th Anniversary celebration.

CHIEF JUSTICE'S EVENTS: 66TH INTERNATIONAL ASSOCIATION OF JUDGES CONFERENCE; IAJ



L-R: Judge President C Musi, Chief Justice M M L Maya, Prof Giacomo Oberto, Mr Nazeem Joemath, and Acting Deputy Judge President A Le Grange



Chief Justice M M L Maya at the 66th International Association of Judges Conference in Cape Town. She was welcomed by the leadership of the IAJ, Justice Duro Sessa and Prof. Giacomo Oberto.



Chief Justice M M L Maya delivered a message of support to delegates attending the 66th International Association of Judges Conference in Cape Town, which brought together judicial officers from over 90 member countries.



Judge President C Musi addressing the members of the IAJ.

66TH ANNUAL MEETING OF THE INTERNATIONAL ASSOCIATION OF JUDGES

The International Association of Judges (IAJ) in co-operation with the Judicial Officers Association of South Africa (JOASA) hosted an international conference from 17 to 23 October 2024, under the theme 'Artificial Intelligence: It's Impact on Judicial Activities', in Cape Town.



Delegates from various international judicial jurisdictions met in Cape Town for the 66th Annual Meeting of the International Association of Judges (IAJ) co-hosted by the Judicial Officers Association of South Africa (JOASA).



L-R: Judge H K Kooverjie, Justice W Hughes and President M B Molemela

2024 WIPO INTELLECTUAL PROPERTY JUDGES FORUM

By President M B Molemela and Justice W Hughes
Supreme Court of Appeal, RSA

The World Intellectual Property Organisation (WIPO) Judicial Institute organizes a Judges Forum annually. The Judicial Institute's main purpose is to strengthen judiciaries globally and provide a platform for judges to deliberate on various aspects relating to IP adjudication. The Forum is convened for the exclusive participation of judges. Earlier this year some members of the South African Judiciary were invited to attend the 2024 WIPO Intellectual Property Judges Forum. Three South African Judges attended the forum, namely President M B Molemela, Justice W Hughes and Judge H K Kooverjie.

Over 300 participants participated either virtually or in person. Participating in this forum has given us invaluable insights into how IP matters are adjudicated globally. Moreover, the WIPO Judicial Institute offers a vast library of interesting judgments from the various jurisdictions on IP's platform WIPO.lex.

The Forum was held over two days, from 9 to 10 October 2024. Various sessions were convened where specific topics were canvassed. The material provided for reading and referred to at the Forum were judgments from various jurisdictions, articles on the specific topics and various rules on procedures and regulations applicable in the various jurisdictions. Various participants were invited to speak on a range of IP topics as part of a panel. Participants were selected from various jurisdictions.

Pursuant to her participation in the WIPO IP Masterclass earlier this year, President Molemela was selected as a speaker on Confidential Information and Trade Secrets.

Since the substantive IP law is universally similar, participants found a common platform to deliberate on issues. The following topics were covered during the respective sessions. The first session dealt with how Artificial Intelligence has come to affect the determination for IP disputes. Panellists in the session shared insights by referring to recent court cases dealing with the patentability of AI assisted interventions and technologies. It was acknowledged that the fast-moving technological environment created challenges for defining and in interpreting licensing terms. The next session dealt with litigation surrounding standard essential patents. Beyond the traditional IP concepts, it was found that the courts in various jurisdictions are required to apply both contract and competition law in complex cases, more particularly, when determining what the appropriate remedies should be. These included aspects relating to patent validity, patent infringement and how to determine appropriate, fair and reasonable rates.

A session was also set aside where a discussion was held on the strength of a trademark, whether there are weak elements in such trademark, and to what extent such trademarks can be enforced. The panel referred to judgments from different jurisdictions addressing the complexities associated with enforcing trademarks that have distinctive characters. Further, a session was also held on copyright, exceptions and limitations. It is known that the copyright system makes provision for certain flexibilities regarding the granting of rights, and it enables the use of protected works without the right-holder's consent and without the requirement for compensation. With the development of new technologies, the question of how these flexibilities should

be considered in the technological space, becomes challenging. The panellists dealt with these challenges by referring to the respective authorities. Furthermore, a session was also dedicated on how to approach matters where permanent injunctions (interdicts) are sought. The panel again deliberated on various approaches that the court recently followed. Discussions were held around nuanced approaches when dealing with injunctions, more particularly the type of defences that are now raised against injunctive relief.

In another interesting session, discussions centred on cross-border IP proceedings. Panellists, with reference to judgments, addressed the difficulties when delivering judgments in matters that had a bearing on two or more jurisdictions as well as the impact their decisions had on the jurisdictions outside the local territory. Aspects such as: the validity of evidence obtained outside the local territory, when infringing acts are undertaken outside the local territory and the extent of damages for extra-territorial losses were canvassed.

A relevant topic dealt with in another session was the need for specialised judiciaries. Comparisons were drawn from different jurisdictions which have specialised IP courts in place. Their distinct IP procedural frameworks as well as their rules of procedure were highlighted. Countries such as India, Philippines, Korea and notably the United Patent Court (UPC), have specialized courts. The UPC already has 18 of the 27 European members who are now members of this Patent Court. The UPC has its own procedural rules, it has both local and regional divisions all over Europe. The court also makes use of technical judges when technical issues come into play.

In the session discussing confidential information and trade secrets, the panellists presented their papers as well as their experiences in adjudicating matters dealing with this aspect. President Molemela's presentation was on the protection of confidential information and trade secrets in South Africa. She dealt with evidentiary issues pertaining to that specific area of IP. She explained how breach of confidence claims are assessed and remedies available for such claims. She discussed the Supreme Court of Appeal decision, namely *Pexmart PC and Others v H Mocke Construction (Pty) Ltd and Another* (159/2018) [2018] ZACSA 175.

The case of *Pexmart CC v H. Mocke Construction (Pty) Ltd* is one of the recent judgments in which the Supreme Court of Appeal (SCA) recognized the enforcement of the duty not to disclose trade secrets and confidential information belonging to the employer in circumstances where there was no written confidentiality agreement. The central issue on appeal was whether Pexmart and Mr Henn had unlawfully made use of confidential information and trade secrets belonging to Mocke Construction and Mr Mocke in relation to a pipelining process.

In its judgment, the SCA confirmed that for information to qualify as a trade secret, three requirements must be met:

- the information must be secret or confidential (ie, reasonable measures must have been taken by the holder to maintain secrecy, and it cannot be information already known to the public);
- the information must be of economic (business) value to the plaintiff; and
- the information must be capable of application in trade or industry.

Relevant holdings in relation to confidential information and trade secrets

Mr Mocke and Mr Gish's evidence regarding the confidential information and trade secrets developed over years and many hours of practical application in the industry was canvassed in extensive detail. This evidence was uncontroverted even though it called for rebuttal:

- drew an adverse inference from Mr Henn's failure to testify as he was at the centre of the dispute.
- The SCA concluded that the court below (the High Court) was correct in having regard to Mr Mocke's uncontroverted claims when assessing whether there was protectable confidential information in respect of the process, its machine, intellectual property, techniques and onsite training, technology and the know-how associated therewith.
- the reasoning and conclusion of the court below in relation to whether the processes adopted by the appellants were dissimilar to those employed by the respondents, could not be faulted.
- that the extensive details of the deforming process were not in the public domain and were known only to those with whom Mr Gish and Mr Mocke chose to work;
- it was evident that the confidential information in question had economic value to Mr Mocke and his licencees.
- The lack of a restraint provision or a written confidentiality agreement involving the former employee did not detract from the enforceable rights of the respondent.
- The SCA dismissed the appeal.

Instances where the Pexmart judgment was referred to or applied include the following judgments:

- *Milestone Beverage CC and Others v Scotch Whisky Association and Others* 2021(2) SA 413 (SCA);
- *Nativa (Pty) Ltd v Austell Laboratories (Pty) Ltd* 2020 (5) SA 452 (SCA);
- *OMV (Pty) Ltd v Marais and Another* [2024] ZANWHC 137;
- *Technical Systems v Feed Chain Industries and Others* (7235/2017) [2024] ZAWCHC 113;
- *Universal Blending (Pty) Ltd v Henderson* (2021/21636) [2023] ZAGPJHC 266. ■



Chief Justice M M L Maya, together with the Heads of Superior Courts, following the first Heads of Court meeting in her capacity as Chief Justice of the Republic of South Africa.

HEADS OF COURT MEETING

The Heads of Superior Courts Meeting took place on the 27 September 2024 and 29 November 2024 in Midrand. The Heads of the Superior Courts met to discuss matters concerning the Judiciary, the effective and efficient administration of the Courts and delivery of access to Justice to all South Africans.



Chief Justice M M L Maya



Judge President T Poyo Dlwati, KwaZulu Natal Division of the High Court.



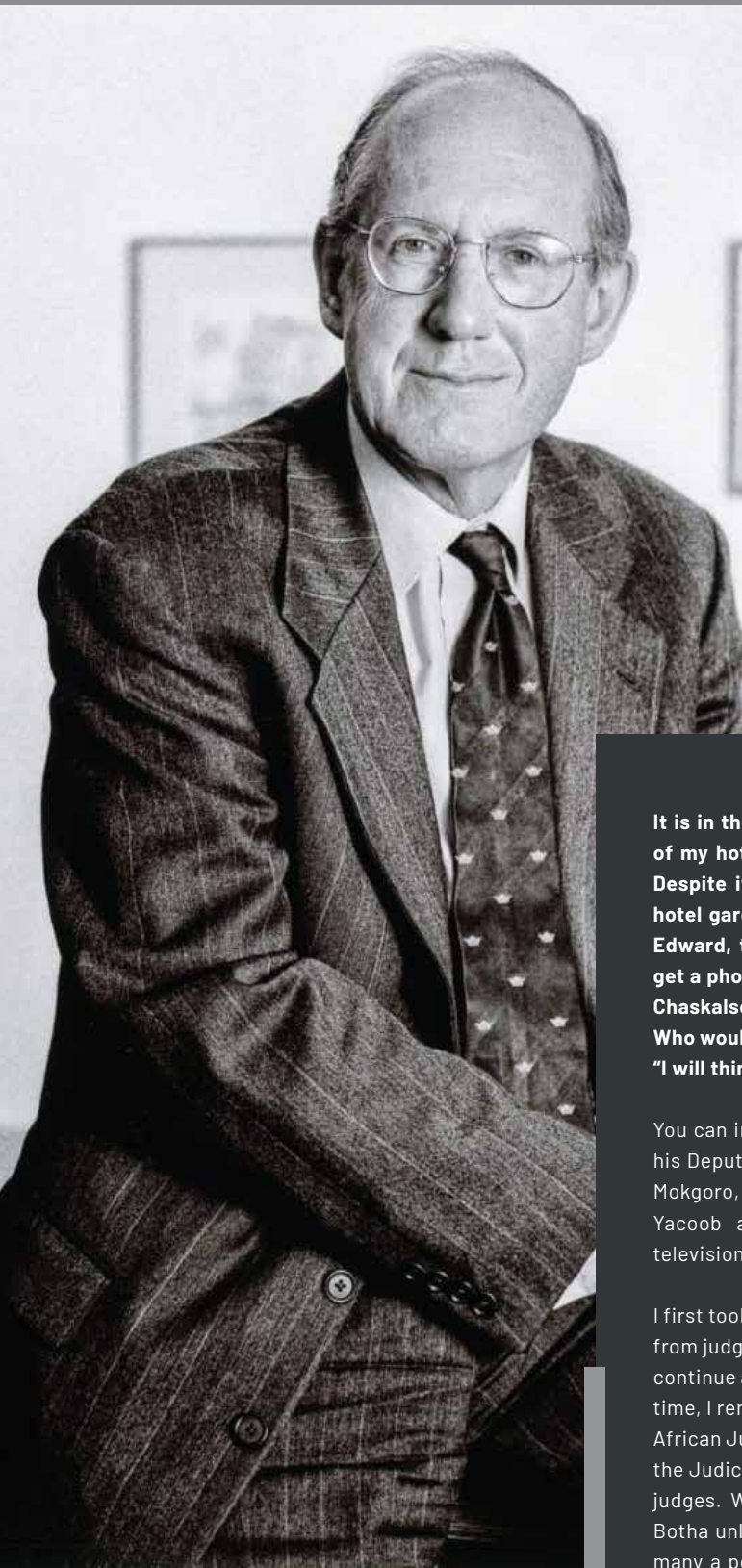
Deputy Judge President A Ledwaba, Gauteng Division of the High Court, Pretoria



Justice D Zondi, Chairperson of the Electoral Court.



Judge President N Manoim, Competition Appeal Court.



SPECIAL CEREMONIAL COURT SITTING FOR THE LATE JUSTICE L ACKERMANN

22 NOVEMBER 2024

By Acting Deputy Chief Justice M R Madlanga
Acting Deputy Chief Justice of the Republic of South Africa

It is in the second half of the year 2000. I am looking through the window of my hotel room where I am staying during my Bizana circuit court stint. Despite it being a gloomy, overcast day, I am savoring the view from the hotel gardens, through Umtamvuna River to the southern outskirts of Port Edward, the yonder parts of which disappear into the pervading forest. I get a phone call. The person on the other side introduces himself as Arthur Chaskalson. He asks if I would be willing to act at the Constitutional Court. Who would not be willing? I do not even engage in the sometimes nauseating “I will think about it and revert” act. I agree there and then.

You can imagine my excitement. Seeing legal luminaries like Arthur himself, his Deputy, Bhut’ Pius Langa, Richard Goldstone, Johan Kriegler, Sis’ Yvonne Mokgoro, Sandile Ngcobo, Bhut’ Tollie Madala, Kate O’Regan, Albie Sachs, Zac Yacoob and, of course, the man of the moment, Laurie Ackermann only on television was soon going to be a thing of the past.

I first took note of then High Court Judge Laurie Ackermann when he resigned from judgeship, which he did because his conscience no longer allowed him to continue applying apartheid laws. This was in 1987. As a budding lawyer at that time, I remember being awestruck by this, not least because, within the South African Judiciary, we had very few heroes. Even though he was resigning from the Judiciary, Laurie’s act instantly took him to the top of my list of admirable judges. We must remember that the mid-1980s are a time when President P W Botha unleashed a most repressive state of emergency in the wake of which many a political activist had been killed, detained without trial or caused to disappear, which perhaps is a euphemism for being killed.

Laurie’s resignation in 1987, on the heels of the state of emergency, and the reason for it were bound to evoke a sense of admiration and profound respect for the man amongst those concerned about apartheid and the untold cruelty,

misery, indignity and more to which it subjected the majority of South Africans. Laurie himself refused to see his act as one of activism, let alone political activism. In fact, he was averse to the idea of activism. To him, his resignation was purely an act of conscience. Here is what he said when he later explained why he resigned: I don't like the word judicial activism, because in certain connotations it means acting outside the Law. I resigned from the Bench because I regarded my Oath of Office as not something that could be fiddled with. I took an oath to uphold the law ... I couldn't pretend that my Oath of Office was to uphold some supernatural law. I might have been wrong, but that's my approach and I resigned because I didn't feel that one could do any more in terms of the Oath of Office ... [that I took]. Now, I don't regard my action as activist, and I don't like the word activist.

On my arrival at the Constitutional Court in the third term of the year 2000, Laurie and all other colleagues welcomed me with open arms. I was truly delighted when Justice Laurie Ackermann invited me to serve on the Court's library committee, which he chaired. I got to work closely with him outside of the core judicial function. There I saw the passion he had for building the library, which he treasured. His special affinity for the library was born of his devotion to scholarly research.

On the core judicial function, Laurie gave his full attention to all matters that the Court had to adjudicate. As it should be, it did not matter to him that he was not the allocated scribe in a matter. Each matter received his rigorous, probing critique. Never silent at deliberations. Forceful and engaging in debate. Measured in tone and manner. Many a judgment of the Court took the direction it did because of Justice Ackermann's contributions. Justice Kate O'Regan says this of him:

"It would be ... remiss when speaking of judicial deliberation [at a conference in honour of the jurisprudence of Justice Ackermann] not to mention the extreme care and thoroughness with which Justice Ackermann undertook his collegial responsibilities in respect of colleagues' judgments. The scholarly notes he prepared for his colleagues on each draft judgment were, I think it is fair to say, the most careful and thorough analysis of draft judgments undertaken by any judge at the Court. His notes were famous. They started with the heading of the case and finished with counsel's details. They would certainly cover all footnotes, no matter how numerous. They dealt with matters of syntax, grammar, spelling and, of course, substance. Often he would tender proposed replacement paragraphs (complete with footnotes) and reasoning to support his proposal."

Justice O'Regan humourously concludes by saying " [His notes] were also (generally) in exceedingly small print, and lacking any style or lay-out. The wayward habits of Microsoft software remained, by and large, and I think Laurie will agree on this, a closed book to him for most of his tenure on the court!"

Adding to the bit about grammar and language generally, I can share one memory. In a draft judgment, the scribe had used the word "impact" as a verb. Laurie took up some time explaining to

us how that word was ill-suited for use as a verb and that it was a noun, pure and simple. But, having made his point, he graciously let authorial choice prevail and the use of "impact" as a verb stayed.

In 1993, on the eve of the historic democratic elections, Laurie was reappointed as a Judge of the Cape Provincial Division. By his own account, from a young age, he knew he wanted to be a judge. He states: "at the age of six I decided that one day I wanted to be a judge. Why that happened I don't know, but I suspected my parents had one or two friends who were judges ... and they made an enormous impression on me, and so I suppose that was the first influence on me. And after that, I always had as an ultimate career goal to be a judge. The idea of constitutionalism and a constitution with a Bill of Rights of course only entered the picture much, much later." And thank God he chose this path, we are all the better for it.

In 1994 Laurie Ackermann was one of only four Justices who, as the interim Constitution provided, were handpicked by the President, President Mandela at the time, without the need to undergo interviews, to be part of the first complement of Constitutional Court Justices. Being so handpicked was no small matter. It was a testament of the high regard in which Laurie was held by no less a towering figure, President Mandela. Out of a South African judge complement numbering around 200, he became one of only four who made the cut. A true measure of the man!!

Justice Ackermann's empathy for the physical, sexual and psychological violations women suffer at the hands of men shines through in some of his judgments. In the seminal Carmichele judgment he co-authored with Justice Richard Goldstone, they said: "Few things can be more important to women than freedom from the threat of sexual violence ... Sexual violence and the threat of sexual violence goes to the core of women's subordination in society. It is the single greatest threat to the self-determination of South African women."

Legal practitioners who plied their trade before Laurie are also full of praise for him. Advocate Gilbert Marcus SC had this to say:

"No litigant could leave Justice Ackermann's court without believing that there had been an honest pursuit of the right answer, both factually and legally. I know I speak for my colleagues when I say that Justice Ackermann is one of those judges who makes the practice of law worthwhile."³

As we remember this legal colossus, let me close by quoting his colleague and friend, Justice Johan Kriegler, who said, "[Justice Ackermann's] erudition and spirit deepened the court's thinking, widened its intellectual reach and enriched its legacy."⁴

To Laurie's dear wife, his children and grandchildren and the entire Ackermann family, we – as the Judiciary – say heartfelt condolences. We know you are proud and happy that you had the honor and pleasure of sharing time and creating memories with Laurie. ■

³G Marcus "Justice Laurie Ackermann" We the People Accessed at: <https://ourconstitution.wethepeoplesa.org/justice-laurie-ackermann/>

⁴Justice J Kriegler "Laurie Ackermann: The Man Behind The Plaudits" Advocate (August 2024) at 52.

⁵Id at 49.

SPECIAL CEREMONIAL SITTING IN HONOUR OF JUSTICE L ACKERMANN



Acting Deputy Chief Justice M Madlanga with Deputy Minister of Justice and Constitutional Development Mr A Nel, MP; current and retired Justices of the Constitutional Court, Judges President and the Ackermann family.



Acting Deputy Chief Justice M Madlanga, delivering a tribute at the memorial service for the late Justice Ackermann.



Retired Constitutional Court Justice, Justice E Cameron, paid tribute to the late Justice Ackermann at the memorial service.



Speaking on behalf of the Executive, the Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, MP



Speaking on behalf of Advocates for Transformation, Advocate M Dewrance SC



Speaking on behalf of the Black Lawyers Association, Mr M Kutama



Mr M Motaung, National Association for Democratic Lawyers



Mr T Joubert, Law Society of South Africa



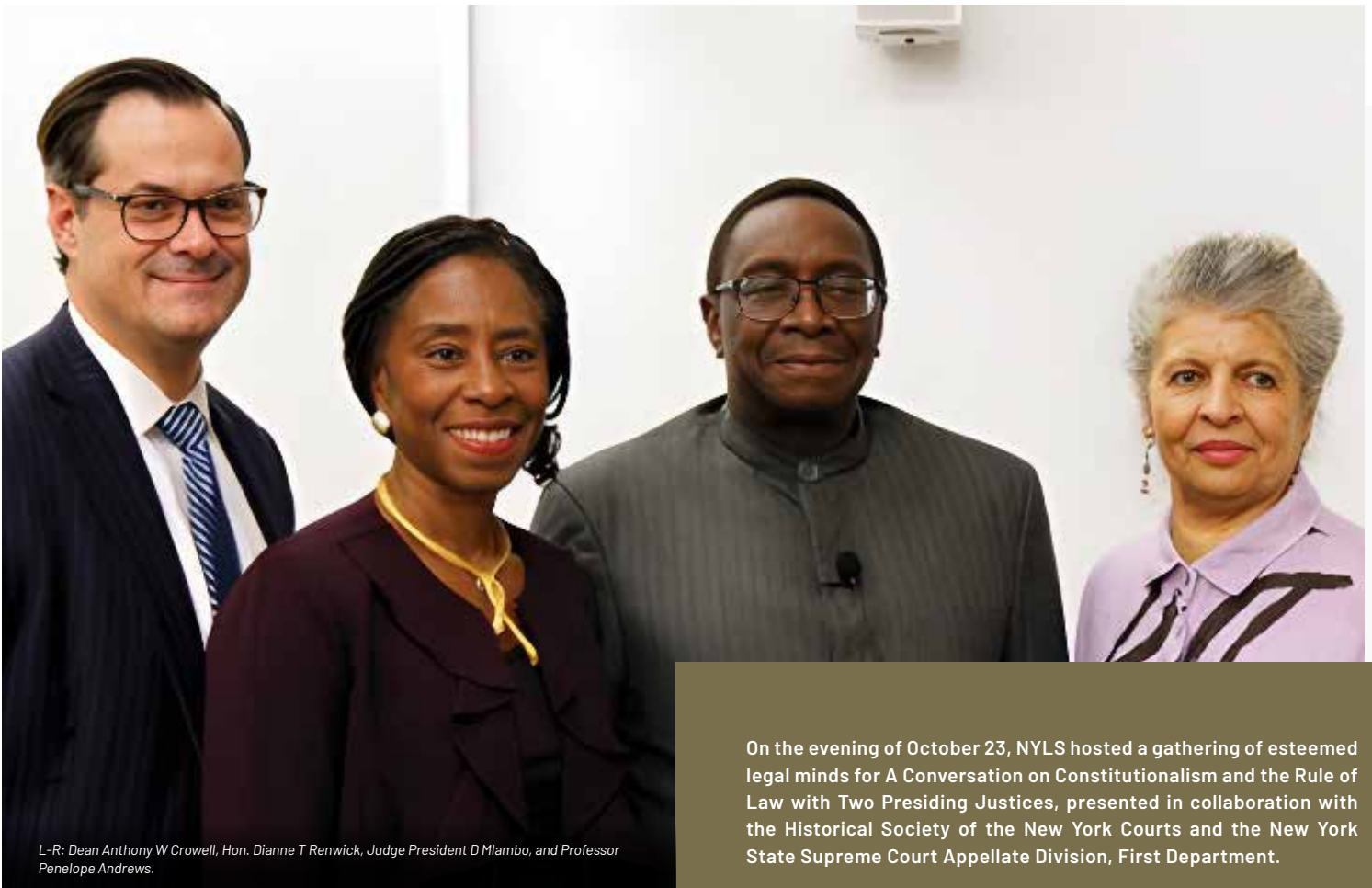
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Advocate Mphahlele SC, Legal Practice Council



Advocate P Mahlali, Pan African Bar of South Africa



L-R: Dean Anthony W. Crowell, Hon. Dianne T. Renwick, Judge President D. Mlambo, and Professor Penelope Andrews.

On the evening of October 23, NYLS hosted a gathering of esteemed legal minds for **A Conversation on Constitutionalism and the Rule of Law with Two Presiding Justices**, presented in collaboration with the Historical Society of the New York Courts and the New York State Supreme Court Appellate Division, First Department.

The conversation explored how the principles of constitutionalism and the rule of law manifest, similarly and differently, across both New York and South Africa, and how courts grapple with country-specific issues and societal challenges at large. Featured speakers included Hon. Dianne T. Renwick, Presiding Justice of the Appellate Division, First Department, and Hon. Dunstan Mlambo, Judge President of the Gauteng Division of the High Court of South Africa, with insightful moderation by Penelope Andrews, John Marshall Harlan II Professor of Law and Director of the Racial Justice Project at NYLS. Professor Andrews is also an emeritus trustee of the Historical Society of the New York Courts.

NYLS Dean and President Anthony W. Crowell commenced the event with welcoming remarks, touching on the critical role of constitutionalism in supporting democracy. Professor Andrews echoed the significance of this theme, framing the dialogue by stating, "Constitutionalism is at the foundation of a society that respects and aims to uphold human rights and civil liberties. It is what grounds democracy, and it is through constitutionalism and the rule of law that we ensure accountability, transparency, and a judiciary that serves its citizens."

The discussion opened with an invitation for Justices Renwick and Mlambo to share their personal journeys to the bench, focusing on lessons learned as attorneys that they've carried into judgeship. Both judges cited their families as the first teachers of their guiding principles; Justice Renwick emphasized treating others how one wishes to be treated, while Judge Mlambo emphasized humility and respect for all.

AN INTERCONTINENTAL CONVERSATION ON DEMOCRACY AND THE RULE OF LAW

By Jennifer Bancamper
Posted on: 18 November 2024
Republished from: New York Law School



<< Link to the full article: An Intercontinental Conversation on Democracy and the Rule of Law - NYLS News

Addressing the role of the rule of law, Justice Renwick said, “We all know our society is changing, our world is changing. We need to ensure that we are in constant conversation about what the rule of law is and what these concepts mean. Citizens must trust in the integrity of the law and the integrity of our institutions.”

Judge Mlambo offered his perspective as a South African, stating, “The rule of law is the glue that keeps us together. We have recognized as lawyers and as judges that we need to ensure that South African society understands and knows our Constitution. It will be useless if the people it is meant to benefit don’t know it very well and don’t see it in action. And for it to remain true to what its objectives are, the rule of law is key.”

A key moment in the discussion revolved around Judge Mlambo’s decision to allow the 2014 Oscar Pistorius trial to be broadcast, a ruling that encouraged transparency and reshaped South Africans’ perception of the court. Judge Mlambo explained that, in his perspective, broadcasting the trial presented an opportunity to debunk myths about how South Africans were being represented in court, as well as to empower the public by showcasing a Black judge on television.

Touching on the role of social media in modern democracy, Justice Renwick reflected on a 2015 case in which she held that social media companies served with warrants for customer accounts lacked a constitutional or statutory right to challenge the warrants on customers’ behalf. She highlighted the importance of an engaged judiciary and continuous legal discourse, especially in the face of technological advances and increased risk of widespread misinformation.

The conversation concluded with an interactive Q&A session, where both judges addressed questions ranging from the judge selection process in their respective countries to affirmative action and judicial diversity. Overall, the discussion served as an insightful exploration of the judiciary’s responsibilities and challenges in upholding constitutional principles across different legal systems and national contexts. NYLS is proud to partner with institutions such as the Historical Society and the Appellate Division, First Department to foster meaningful conversations like these within the NYLS community. ■



L-R: Judge President D Mlambo, Professor Penelope Andrews and Hon. Dianne T Renwick

“

The rule of law is the glue that keeps us together. We have recognized as lawyers and as judges that we need to ensure that South African society understands and knows our Constitution.



CHAMPIONING REFUGEE LAW TRAINING AT LUSOPHONE CENTRE OF EXCELLENCE

Judge President Dunstan Mlambo, President of the Africa Chapter of the International Association of Refugee and Migration Judges (IARMJ), participated in the inauguration of the Lusophone Centre of Excellence for training in international refugee and statelessness law. Hosted by UNHCR and the Catholic University of Angola (UCAN), in partnership with IARMJ, the Centre aims to strengthen legal expertise on asylum and statelessness across six Portuguese-speaking African countries.

During the inaugural session, Judge President D Mlambo emphasized the significance of the Centre as a transformative platform for advancing human rights. "For the first time, international refugee law training can reach mainly Portuguese speakers, which is instrumental in expanding knowledge of such important human rights instruments," he stated.

The Centre's first training took place from November 25-28, and featured topics such as refugee definitions, exclusion clauses, and protections for vulnerable groups. Judges, prosecutors, and officials from Angola and Mozambique are

among the participants, working to enhance fairer and more effective asylum systems across the region. Judge Mlambo's active involvement underscores the judiciary's critical role in ensuring justice and legal protection for refugees and stateless individuals. ■

For the first time, international refugee law training can reach mainly Portuguese speakers, which is instrumental in expanding knowledge of such important human rights instruments ”



<< Link to the full article: UNHCR Africa



SAC-IAWJ Launches its Trust to Advance Judicial Training

By Judge President T P Poyo Dlwati

Judge of the KwaZulu-Natal Division of the High Court and
President of the SAC - IAWJ

The South African Chapter of the International Association of Women Judges (SAC-IAWJ) officially launched its Trust on Saturday, 16 November 2024. The Trust, established in 2018 under the leadership of former SAC-IAWJ President Justice Kgoele, serves as the Chapter's dedicated training arm. The event was graced by several founding Trustees, alongside notable messages of support delivered by former Chief Justice Raymond Zondo and Advocate JM Maluleke. Chief Justice Mandisa Maya delivered an inspiring keynote address.

President of SAC-IAWJ, Judge President Thoba Poyo Dlwati, highlighted the significance of the Trust for the professional development of judicial officers. Trust Chairperson, President Molemela, emphasized the critical importance of ongoing judicial training and assured attendees that the programs would be tailored to meet the specific needs of its members.

The Deputy President of SAC-IAWJ, Judge President S Mphahlele, extended gratitude to everyone involved in organizing the launch, particularly Advocate K Behari from the Secretariat, Gauteng Provincial Coordinators Judge S Mia and Magistrate C Noble, as well as LexisNexis, the event's sponsor. Special thanks were also directed to the Office of the Chief Justice Communications Department and all attendees for their support.

The Trust began its work in earnest with a series of impactful presentations. Judge Lani Opperman and Seena Jacobo explored the application of Section 174 of the Criminal Procedure Act and the Plascon-Evans principles in motion proceedings. Senior Magistrate Jinx Bhoola delivered insights on Immigration Law, while Advocate Kemi Behari led a session on Diversity Training.

This launch marks a significant step forward in empowering judicial officers through specialized and continuous professional training. ■

LAUNCH OF THE SAC-IAWJ RAY ZONDO TRUST



SAC-IAWJ President T P Poyo Dlwati, Trust Chairperson President M B Molemela, together with members of the SAC-IAWJ, Lexis Nexis and various stakeholders at the launch of the SAC-IAWJ Ray Zondo Trust in Johannesburg.



President M B Molemela, President of the Supreme Court of Appeal and Chairperson of the Ray Zondo SAC-IAWJ Trust, spoke about the formation of the Trust and its purpose.



Advocate M Maluleke, Director General of the Department of Women, Youth, and Persons with Disabilities, gave a message of support.



Judge President S S Mphahlele delivered the closing remarks and a vote of thanks.



Judge S Yacoob, spoke on motion proceedings and the application of the Plascon-Evans rule.



Senior Magistrate J Bhoola spoke on selected provisions of the Immigration Act at the Ray Zondo SAC-IAWJ Trust workshop.



SAC-IAWJ members attended the launch and workshop in Johannesburg.



**COURT
ONLINE**

EMBRACING DIGITAL CHANGE: A NEW ERA FOR THE JUDICIAL SYSTEM

change is inevitable, and in this case, change is good. The majority of you will embrace change”

In a powerful moment of transformation, the judicial system is taking a bold leap into the digital age, with leaders championing resilience, adaptability, and technological progress.

Acting Judge President Patricia Goliath set the tone with a candid and inspiring address, acknowledging the challenges of technological adoption while emphasizing its necessity. “We cannot be left behind,” she declared at the official launch of the Court Online System at the Cape Town Division of the High Court on 29 October 2024. The system went live on 1 December 2024, and is currently being utilised for urgent court matters.

Her message was clear and compelling: change is inevitable, and in this case, change is good. “The majority of you will embrace change,” Goliath noted. “There’s an element of resilience needed. Change can be good and change can be bad, but this change is good. We will all go in and adapt to change.”

Drawing from her personal experience, Acting Judge President Goliath shared a poignant parallel about adaptability, and the human capacity to navigate significant transitions. The Court Online Project aims to streamline the court administration process, while making it more easily accessible.

The South African judiciary continues to lead the charge in embracing technological advancements with the implementation of Court Online, an advanced cloud-based platform for electronic filing, digital case management, and evidence management. This system allows law firms and litigants to file court documents

remotely, manage court appearance schedules, and access case files from anywhere, significantly enhancing convenience and efficiency in legal processes. By eliminating the need for physical presence, Court Online reduces queues, minimizes paper usage, and ensures seamless document handling within the High Courts of South Africa.

Beyond convenience, Court Online offers significant operational benefits. By enabling the electronic routing of court documents, the system streamlines administrative processes, reducing case processing times. For litigants and legal practitioners, it provides real-time access to court notifications, hearing dates, and electronic exchanges of documents with opposing parties. Judges, too, benefit from this digital evolution by leveraging the system to adjudicate disputes electronically within courtrooms and chambers. The result is a more efficient and transparent legal system that meets the demands of a modern judiciary.

As the judicial system steps into this new digital frontier, the leadership’s message is unmistakable: technological change is not just about new systems, but about people, adaptation, and collective progress.

The Court Online System promises to revolutionize work experiences, making processes more efficient and accessible. ■



Acting Judge President Patricia Goliath, IJS Portfolio Head: Mr. Nicholas Munyai together with the OCJ Court Online Project Team, Western Cape High Court officials at the Go Live Launch in Cape Town.



Acting Judge President P Goliath together with Ms R David officially launch the start of the Court Online System in the Western Cape High Court.



Acting Judge President A Goliath, Judge Wille and Ms R David



WHICH DEVICES CAN BE USED TO ACCESS COURT ONLINE?

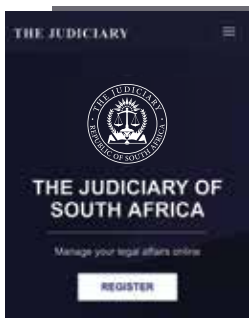
Court Online is a cloud-based platform, that can be accessed on any laptop, cellphone or tablet with Internet access and an Internet browser that is HTML5 compliant. As it is accessed through your web browser, no programme needs to be loaded onto your device.

WHAT IS THE COST OF USING COURT ONLINE?

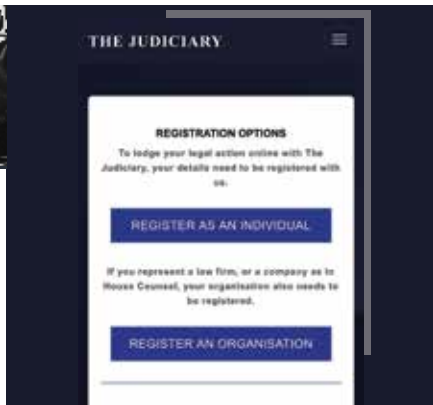
Court Online is a free online system offered to all legal Practitioners and members of the public.

REGISTRATION ON COURT ONLINE

1. Go to <https://www.courtonline.judiciary.org.za>

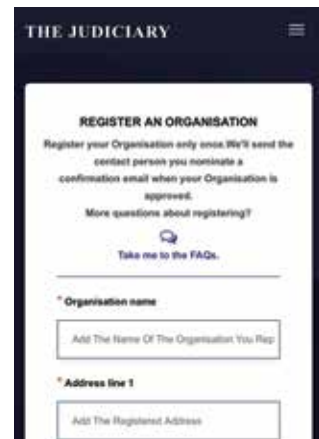


2. Click on Register
3. Complete the registration form and click on Register, selecting the option that applies to you: either "Individual" or "Organisation".



SOLE PRACTITIONERS/ IN PERSON LITIGANTS?

4. Sole practitioners (attorneys/ advocates) as well as self represented litigants will register as an "individual".



LAW FIRMS:

5. It is recommended that law firms create a profile for their practice by registering an organization first. The person who registers the firm will be designated as the administrator. The administrator will have the authority to add or remove individual legal practitioners from the firm's profile. This role ensures that the firm's profile stays up-to-date with the appropriate team members and legal practitioners associated with the firm.
6. Once the firm is registered, individual legal practitioners may register as an "individual" and link their profile to the firm's account.

VERIFICATION:

7. Look out for the "Verification Email" in your inbox. When it arrives, click on the link in the email to verify your account. (Please check your spam folder, as the email may have been diverted there.) If you haven't received the email link within 15 minutes, contact the call center for further assistance.

PREMIER HOTEL, MIDRAND



The National Advisory Library Services Committee meeting, held between Judicial Officers and the Department of Justice and Constitutional Development, facilitated important discussions on library services.

NATIONAL LIBRARY COMMITTEE - 07 NOVEMBER 2024 AT PREMIER HOTEL 187 3RD ROAD, HALFWAY GARDENS, MIDRAND.

The National Advisory Library Services Committee (NALC) met on 7 November 2024 in Midrand. This was the first meeting since 2019. The meeting brings together Judicial Officers, officials from the Department of Justice and Constitutional Development (DoJ&CD), and representatives from the Office of the Chief Justice (OCJ) to discuss strategies for enhancing library services that support Judicial Officers across the country.

Appointed by the Heads of Court, Judge President Tlaetsi is chairperson of the Committee. The Committee is of great significance, due to the pivotal role the library services play in the research processes for judicial officers. ■



Judge President P Tlaetsi, Chairperson of the National Advisory Library Services Committee.



Justice D N Unterhalter



Deputy Judges President N M Mbhele and T V Ratshibvumo



Mr Moruti Hlajoe from the DoJ&CD



The South African Judicial Education Institute hosted a Judicial Symposium on Cybercrime and Electronic Evidence from 25 to 27 November 2024, at NH Hotel, Sandton.



The South African Judicial Education Institute (SAJEI), in collaboration with the UK government, hosted a three-day symposium on cybercrime and electronic evidence in South Africa. Regional Court President M. Djaje delivered the opening and welcoming remarks.



Justice S. Majed of the Constitutional Court of South Africa delivered a keynote address at the symposium on cybercrime and electronic evidence, discussing the phenomenon of cybercrime, its impact on society, and its effects on the administration of justice.



UK Deputy High Commissioner Lisa Weedon delivered remarks on cybercrime and the role of electronic evidence in combating it at the SAJEI symposium on cybercrime and electronic evidence in South Africa.



Mr. Zahid Jamil facilitated an introduction to cybercrime and cybersecurity at the SAJEI symposium on cybercrime and electronic evidence in South Africa, hosted in collaboration with the UK government.



Judicial officers, legal professionals, and experts in cybersecurity gathered at the SAJEI symposium on cybercrime and electronic evidence in South Africa, hosted in collaboration with the UK government.

THE 2024 BRIGITTE MABANDLA ASPIRANT WOMEN JUDGES' PROGRAMME



Retired Constitutional Court Justice B Nkabinde



Closing remarks were made by retired Judge President F Legodi.



Ms Betty Mabuza with Ms Carmen Parks at the Aspirant Women Judges



Ms Virushka Mootheram at the Aspirant Women Judges



The 2024 Brigitte Mabandla Aspirant Women Judges' Programme came to a close, with the candidates being addressed by retired Constitutional Court Justice B Nkabinde, on 29 November 2024.



Acting Judge President Y S Meer



Judge President of the Land Court, Judge Carelse paid tribute to Judge Y Meer during her farewell dinner.



Judge President D Mlambo

FAREWELL OF ACTING JUDGE PRESIDENT Y S MEER

Acting Judge President Y S Meer retired from active service in August 2024. On 14 November 2024, the Land Court, formerly known as the Land Claims Court paid tribute to her tenure as the Acting Judge President of the Court.



Judge C E Heaton - Nicholls with Acting Deputy Judge President S Cowen



Advocate A Dodson SC



Mr. and Mrs Gildenhuis with Acting Judge President Y S Meer



Acting Judge President Y S Meer with her daughter Ms Nadia Meer



The Organising committee (L-R): Judge A Millar, Judge L Retief, Judge D Lenyai, Judge C Collis, Judge E VanDer Schyff, Judge H Kooverjie and Judge R Kumalo



L-R: Judge A Millar, Judge H De Vos and Judge C Collis



Judge C Sardiwalla in the middle received his gift as well presented by Judge A Millar on the right and Judge C Collis on the left

FAREWELL FUNCTION FOR RETIRED AND ELEVATED JUDGES OF THE GAUTENG DIVISION OF THE HIGH COURT

On 6 December 2024, the Judges of the Gauteng Division Pretoria hosted colleagues and their spouses who had retired or been elevated since the end of 2019 for an end of term and farewell lunch.

The event which was held in the foyer of the Palace of Justice in Pretoria was a resounding success and enjoyed by all who attended. Judge President Mlambo delivered a keynote address and tokens of the Division's gratitude for the years of service and commitment to the Division were handed to each of the retired/elevated colleagues. Each one spoke movingly and positively of their experience on the bench in the Pretoria High Court. The event was by all accounts a resounding success. ■



Judge President D Mlambo



Judge L Malopa-Sethosa



Master of Ceremony Judge S Potterill



Justice W Hughes



Justice D Molefe



Judge M Msimeki



Judge M Mavundla



Judge H Fabricius



Judge P Rabie



IN MEMORIAM – JUDGE PRESIDENT JAMES ALLAN HOWARD

Judge President James Allan Howard, a former Judge President of the Natal Provincial Division of the High Court (now the KwaZulu-Natal Division) died on 12 November 2024 at the age of 93.

Howard JP joined the Natal Bar (as it then was) in 1955 and took silk in 1969. He was elevated to the bench of the then Supreme Court in 1973. He was made Deputy Judge President in 1988 and later that same year was made the Judge President of the Division, a position he occupied until his discharge from active service in 1999.

The KwaZulu-Natal Division extend their condolences to Howard JP's family, loved ones and friends. ■



JUDICIAL APPOINTMENTS & RETIREMENTS

JUDICIAL APPOINTMENTS

SUPREME COURT OF APPEAL



Justice E D Baartman

Appointed as Judge of the
Supreme Court of Appeal

As of: 01.12.2024



Justice P Coppin

Appointed as Judge of the
Supreme Court of Appeal

As of: 01.12.2024



Justice P A Koen

Appointed as Judge of the
Supreme Court of Appeal

As of: 01.12.2024

GAUTENG DIVISION OF THE HIGH COURT



Prof W E J du Plessis

Appointed as Judge of the Gauteng
Division of the High Court

As of: 01.12.2024



Adv E C Labuschagne SC

Appointed Judge of the Gauteng
Division of the High Court

As of: 01.12.2024



Adv S A B Mahomed

Appointed Judge of the Gauteng
Division of the High Court

As of: 01.12.2024



Mr M S Makamu

Appointed Judge of the Gauteng
Division of the High Court

As of: 01.12.2024

GAUTENG DIVISION OF THE HIGH COURT



Adv R B Mkhabela SC

Appointed as Judge of the Gauteng Division of the High Court

As of: 01.12.2024



Judge J G N Moshwana

Appointed Judge of the Gauteng Division of the High Court

As of: 01.12.2024

KWAZULU-NATAL DIVISION OF THE HIGH COURT



Judge Z P Nkosi

Appointed as Deputy Judge President of the KwaZulu-Natal Division of the High Court

As of: 01.12.2024

KWAZULU-NATAL DIVISION OF THE HIGH COURT



Adv M M Chithi

Appointed Judge of the KwaZulu-Natal Division of the High Court

As of: 01.12.2024



Adv G M Harrison

Appointed Judge of the KwaZulu-Natal Division of the High Court

As of: 01.12.2024



Adv S Jikela SC

Appointed Judge of the KwaZulu-Natal Division of the High Court

As of: 01.12.2024



Adv R Singh

Appointed Judge of the KwaZulu-Natal Division of the High Court

As of: 01.12.2024

LABOUR AND LABOUR APPEAL COURT



Judge President M E Molahlehi

Appointed as Judge President of the Labour and Labour Appeal Court

As of: 01.12.2024

LAND COURT



Deputy Judge President S Cowen

Appointed as Deputy Judge President of the Land Court

As of: 01.12.2024

LIMPOPO DIVISION OF THE HIGH COURT



Ms J T Ngobeni

Appointed as Judge of the Limpopo Division of the High Court

As of: 01.01.2025

MPUMALANGA DIVISION OF THE HIGH COURT



Judge T V Ratshibvumo

Appointed as Deputy Judge President of the Mpumalanga Division of the High Court

As of: 01.12.2024

WESTERN CAPE DIVISION OF THE HIGH COURT



Justice N P Mabindla-Boqwana

Appointed as Judge President of the Western Cape Division of the High Court

As of: 01.01.2025



Adv M Holderness

Appointed Judge of the Western Cape Division of the High Court

As of: 27.12.2024



Ms M Pangarker

Appointed Judge of the Western Cape Division of the High Court

As of: 01.01.2025



Ms N E Ralarala

Appointed Judge of the Western Cape Division of the High Court

As of: 01.01.2025

JUDICIAL RETIREMENTS



Judge P A L Gamble

Western Cape Division of the High Court

Discharged: 10.11.2024



IN MEMORIAM



Retired Judge W Heath

Former Judge of the Eastern Cape High Court, Bhisho

Passed: 09.10.2024



Retired Judge J F Ludorf

Eastern Cape Division, Gqeberha

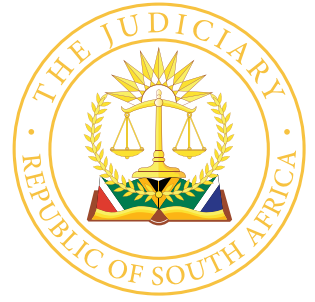
Passed: 10.10.2024



Retired Judge President J A Howard

Former Judge President KwaZulu-Natal Division of the High Court, Pietermaritzburg

Passed: 12.11.2024



NATIONAL OFFICE ADDRESS:

188 14th ROAD, NOORDWYK
MIDRAND, 1685




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