

18 March 2014

Speech by Minister Jeff Radebe, Minister of Justice and Constitutional Development, on the occasion of the opening of the Kagiso Magistrates Court, 17 March 2014

Deputy Minister of Public Works, Mr J Cronin

Deputy Minister of Justice and Constitutional Development, Mr J Jeffery

Hon Madam Justice Nkabinde, judge of the Constitutional Court and Chairperson of the Rules Board

Judge President of the North and South Gauteng High Courts, Judge D Mlambo

MEC for Community Safety, Gauteng, Ms F Mazibuko

Executive Mayor of West Rand District Municipality, Cllr M Nawa

Executive Mayor of Mogale City, Cllr K Seerane

Director General of Justice and Constitutional Development, Ms N Sindane

Representative of the Chairperson of the South African Human Rights Commission,

Heads of Statutory Bodies and other Senior Government Officials

Distinguished guests,

Ladies and gentlemen;

Today marks yet another historic milestone in our collective endeavours to ensure that justice is fully accessible by all our people everywhere in our country. I am very happy today that we launch this magnificent court and hand over this structure to the people of Kagiso on the same month that we celebrate human rights. As you will all know, the struggle for democracy was a struggle for Justice, Freedom and Human Rights. Human rights are at the core of our transformation agenda hence the Constitution establishes the Human Rights Commission as one of the Chapter 9 institutions responsible for the furtherance and protection of our individual and collective human dignity. In the same spirit of ensuring comprehensive transformation, we have gone about systematically repealing the old apartheid laws. In doing so, we have separated the wicked laws from the good ones, thereby ensuring that all our laws withstand the scrutiny of our Constitution which is the Supreme law in our land. In our 20 years of constitutional democracy, our democratic Parliament has passed progressive laws, Government has implemented programmes and our courts have delivered landmark judgments which ensured that our people enjoyed the rights in the Bill of Rights including access justice. Similarly, we have taken the view that whilst our work through the Department of Justice and Constitutional Development in delivering courts services and therefore accessible justice, it is also imperative that justice is actually felt in all the various spheres of our people's lives. Thus justice is not just political rights but equally importantly socio-economic freedom from the bondage of apartheid. As a government elected by the people in regular elections, ours is to ensure the developmental objectives of the State are met including the improvement of road infrastructure, housing, healthcare, education, creation of jobs and many other socio-economic needs of our people. Last week during the launch of the 20 Year Review Report, our President highlighted the achievements of the past 20 years of our constitutional democracy. This is a must-read report as it tells a story of our long journey to freedom that ought to be told to our children and future generations. This will dispel any attempt by propagandists to discredit the good work that we continue to do as government to build a better South Africa for all our people.

As government we are fully cognisant that we come a long way since the political unbanning in 1990 when our iconic revolutionary leader and father of our democracy the late former President Nelson Mandela was released from prison. Those of us who were in Robben Island prison with him still have memories of the difficulties of the struggle against apartheid and it is in this sense that I say to you today we will not betray his legacy. When we speak of the ANC government having improved the lives of our people, we are not being partisan but are simply stating the fact that we are acting on the popular democratic mandate of our people as affirmed in 1994 and re-affirmed in the subsequent national general elections.

Ladies and gentlemen;

We have made significant progress with regard to our Access to Justice Programme. We have built more than 43 new courts and revamped several others since 1994, of which most were built in predominately Black areas and rural villages which were marginalised by the erstwhile apartheid

Government. The Kagiso Magistrate's Court is the 29th Branch Court to be converted into a full services' court during this era of the fourth administration since the advent of democracy in 1994. By revamping this court which was formerly a Branch Court converting it into a full-services' court we ensured that the community of Kagiso will no longer suffer the indignity and hardships of having to commute to the far away court in town to access services relating to civil claims, family law, maintenance, deceased estate. The dignity, pride and self-worth of our people in these areas which were neglected by the past regime are restored.

We are also, through the Access to Justice Programme, moving steadfastly to harmonise the magisterial districts with our constitutional dispensation. This is with a view to accelerating the transformation of the justice system and building an equal and just society. To this end, I have recently, in January this year to be precise, 35, magisterial districts for the Gauteng and North West Provinces which are aligned to our provincial and municipal dispensation. The proclaimed magisterial districts come into effect from 1 August 2014. As part of these reforms, this court as well as the Krugersdorp Magistrate's Court nearby, will serve the entire community in the municipality of Mogale City, and no longer the old Krugersdorp magisterial districts as has been the position all along. Similar changes have taken place in respect of magisterial districts in the other parts of this Province and North West and through these measures, the old racially-based districts have given way to new inclusive and integrated magisterial districts. We count among the new magisterial districts, Tshwane, Ekurhuleni, Midvaal, Madibeng, Merafong and several others which not only serve integrated communities, but have names that correspond with those of the municipalities at our local sphere of Government. We are stepping-up our pace to accelerate the desired changes in respect of magisterial districts in the outstanding provinces.

Not only have we focused on the courts but we have also succeeded in remodelling our criminal justice system which was designed to serve the interest of the erstwhile apartheid regime. We have now created a criminal justice system that is responsive to need of our democratic society underpinned by the rule of law. The results are there for everyone to see. In the past 9 years (2004/5 to 2012/13) incidents of crime declined against the increase in population figures. Murder reduced by 27.2% over 9 years, with a further reduction of 16.6% during the past 4 years. Reduced crime levels is as a results of increased in visible policing, improved crime-combating initiatives, higher conviction rates and harsher sentences meted out by our courts. I am confident that the re-establishment of Sexual Offences Courts and the harsh sentences that will emanate therefrom, will act as deterrent to would-be perpetrators of sexual offences gender-based violence.

Though the journey we travelled since 1994 has never been easy, we can look back with a great measure of contentment that we made strides in our fight against crime and corruption.

Honoured Guests and compatriots;

Through the Civil Justice Reform Programme (CJRP) which was approved by Cabinet in 2010, we aim to provide a speedy, affordable, simple and accessible civil justice system for the adjudication of civil disputes by our courts. An improved civil justice system will guarantee equal benefit and protection of the law to all our people as required by our Constitution. The justice system which favours the strong and rich to the detriment of the weak and the poor has no place under our constitutional dispensation. It is for this reason that Government is leaving no stone unturned in its endeavour to reverse the legacy of inequality and deprivation in order that all people of South Africa must enjoy the fruits of our hard-earned democracy.

As many would know, the monetary jurisdiction of our district courts has stood at R100 000 since 1998. Our investigation has shown that despite the establishment of the Civil Regional Courts in 2008 when civil jurisdiction was conferred on the Regional Courts for the first time, most of the civil matters above R100 000 are still being taken to the High Courts. This is despite the high cost of litigation in the High Courts. We continue to engage with the Judiciary, and that being the Regional Court Presidents, to devise means to ensure that Regional Courts are used optimally.

As far as monetary jurisdiction of the Magistrates' Courts is concerned, I have deemed it appropriate to increase the District Courts' threshold to R200 000 whilst that of Regional Courts is fixed at R400 000. Notices giving effect to this determination will be published in the Gazette this week and the date of effect is 1 June 2014. The increase in the jurisdiction of Magistrates' Courts comes against the backdrop of the increase to the jurisdiction of the Small Claims Courts to R15 000, 00 which will also be gazetted this week. It is worth noting that Small Claims Courts have increased to 293, of which 30 were established in current financial year alone. A total of 1630 commissioners most of them legal practitioners, preside in these courts for free of charge (on a pro bono basis). We applaud their selfless contribution which we hope it will inspire many more to join hand in this noble cause.

In tandem with the increase to the jurisdiction of the Magistrates' Courts and Small Claims Courts, the court-connected mediation made by the Rules Board for Courts of Law will be implemented from 1 August 2014. These rules will be implemented incrementally, commensurate with the capacity that is being built at our courts for this purpose. A Schedule of the magisterial districts where the rules will be applicable will be published in the Gazette from time to time in line with the roll-out plan. These rules, which are voluntary, open a new chapter in our judicial landscape which is in line the developing trends in other comparable jurisdictions world-wide. Through these rules, most civil cases will be diverted to mediation thereby alleviating our clogged court rolls. Mediation averts huge costs in legal and costs fees; the language used is often the language spoken by the parties and the dispute is usually resolved in a peaceful and reconciliatory manner, resulting in a win-win situation. The successful implementation of these rules at the Magistrates' Courts will produce a useful blueprint to guide the extension of this adventure to all our courts throughout the country.

I am confident that the community of Kagiso will live to its name which translates into "let there be peace" in Setswana, and set the trend for the resolution of civil disputes through peaceful means in all our courts. As many would know, the traditional justice value system which is reinforces reconciliation and social cohesion was ancient form of dispute resolution. Mediation is an embodiment of the traditional justice system value system which is now introduced into our formal legal system.

Allow me to take this opportunity to also thank the Rules Board under the able leadership of Justice Nkabinde, for its remarkable contribution in preparing this set of rules which signal an important turning point in our legal system and thus an important footprint in our endeavour to enhance access to justice for all people in South Africa.

Our Distinguished Guests,

The fundamental reforms I have alluded to above are of the fruits of 2 decade of action-packed programme of the ANC Government. The Justice sector, including our independent Judiciary, continues to play an important role in advancing the developmental goals of our Constitution. Without our independent judiciary and courts, our destiny underwritten by the Bill of Rights in particular the socio-economic rights in our Constitution would a pipe dream. It is in this context that Government continues to pass laws and implement programmes to protect and safeguard the independence of the judiciary which is indispensable for the advancement of the rule of law. These amendments which can be gleaned from the new-look pocket Constitution we have distributed to our guest today, among others, place the Judiciary under the full command of the Chief Justice as head of the Judiciary. This is important to sustain the doctrine of the separation of powers across the three arms of the State, namely the Executive, Legislature and the Judiciary. The Superior Courts Act which the President signed into law in August 2013, gives flesh to these important constitutional amendments. As part of the judicial governance scheme under the Superior Courts Act, Chief Justice Mogoeng Mogoeng, who, as Judge President Mlambo who is with us here today can confirm, has been busy at work, sacrificing his deserved leave to finalise the norms and standards that were published by his office recently. I have full confidence that these norms and standards will bring efficiency into our courts and better performance by our courts at all levels.

With the new changes to our magisterial districts and the increase to the monetary jurisdiction of

the District and Regional Courts which I have alluded to earlier, an increase to the staff complement of the Judiciary and support staff becomes inevitable. It is in this context that under this administration additional 113 posts of magistrates have been created at the cost in excess of R100m to our fiscus. I am advised that the Magistrates Commission is putting all stops to ensure that these new positions and other vacancies totaling 309 are filled soon.

In the past three years we have appointed more than 200 sheriffs, and Black and women make a significant number of these appointees. Just 10 years ago it was unimaginable that a woman sheriff would be appointed as a sheriff of affluent and predominately White areas such as Krugersdorp, Randburg and Sandton. Through these appointments we have increased the capacity of our civil justice system to meet the ever increasing demand on our courts. We are also creating additional administrative posts to provide the administrative support to our courts. These includes 55 law graduates who will serve as media clerks at the identified sites for the implementation of the mediation rules I have already spoken about. I am advised that these interns have taken leave from their training programme underway at Justice College to be with us this morning. The injection of additional judicial and administrative capacity into our courts attests to the ANC Government's goal of tackling unemployment and providing sustainable jobs to our people.

Ladies and gentlemen;

Today marks an important day as we commit these world class facilities to the people of Kagiso and the newly developed surrounding areas. As with all public facilities, these costs a lot of tax-payers money to build and we are confident that you will handle them with the care they deserve. It is with great honour that I present, to the local community of this beautiful area, this elegant, state of the art court. As you can see, it is easily accessible as it is situated in one of the main roads in the area, in the proximity to the Leratong Hospital, Police Station and the mall. I implore upon the community of Kagiso to treasure this building and preserve its good looks for generations to come.

This court boasts consist of 2 (two) Regional Courts; 3 (three) District Courts; 1 (one) Civil Court; 2 (two) Family Court; 1 (one) Children's / Equality Court. The breakdown of the offices is as follows:

- 8 Magistrate's Offices
- 4 Assessors Offices
- 1 Court Manager
- 8 Prosecutors' Offices
- 1 Estate Clerk
- 3 Children's Court Clerks
- 1 Domestic Violence Clerk
- 1 Messenger
- 4 Maintenance Offices
- 3 DCRS Clerks
- 1 Open Plan
- 1 Typist

Allow me to thank the Department of Public Works with which we partner in delivering these court facilities throughout the country. Let me thank, in particular Deputy Minister Cronin, for being here today as your presence signifies the importance of the work we continue to do to ensure access to justice to all our people.

Today with me are various representatives from different departments who will be keen to listen to any query across the spectrum of government services and advise on the help you can get. This is in line with my earlier assertion that justice is not only about accessing courts or political freedom but equally importantly it is about attaining socio-economic freedom.

Today South Africa is a much better place than it was in 1994 and working together I believe we have it in us to move South Africa forward!

I thank you!