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A Transforming Justice System

The Department of Justice and Constitutional Development has been moving steadfast in its aim to transform the justice system. More people are accessing justice and the primary objectives are being met with passion and commitment.

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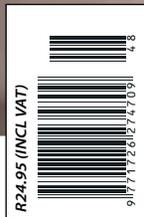
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A portrait of Ms Nonkululeko Sindane, Director-General of the Department of Justice and Constitutional Development. She is a Black woman with her hair styled in braids, wearing glasses and a white blazer. She is smiling and looking towards the camera. The background is a plain, light-colored wall.

Transforming SA's JUSTICE System

The Department of Justice and Constitutional Development is steadfast in its aim to transform the judicial system in South Africa. Driven by its commitment to ensure that all people in South Africa are and feel safe, it is giving an increasing proportion of the population access to fair and equal judicial services. CEO Magazine had the opportunity to interview Ms Nonkululeko Sindane, Director-General of the Department of Justice and Constitutional Development, to find out how the Department is succeeding in meeting its constitutional imperative.

*Nonkululeko Sindane, Director General, Department of
Justice and Constitutional Development.*

What are the Department's current priority areas?

Let me start by saying that our primary mandate is to deliver justice to all, even those who are not South African citizens. The Department's key programme is the transformation of the judicial system. It is our endeavor to ensure that the justice system is representative of the country's demographics, while improving overall efficiency across the whole justice value chain.

The transformation of the judicial system has to be seen within the context of the broader transformation of the justice system. This includes both the way we deliver services to the public, and the way the public receives and responds to those services. The Department's service delivery needs to be predictable, professional, quick and respectful. This transformation, which has been taking place over the past few years, is based in the context of the country's constitutional dispensation.

Many changes have taken place in the country, in both the political and social context. It is therefore hardly surprising that such a huge body of legislation has been passed over the past 19 years to give effect to the principles embodied in the Constitution. With a view to transforming the judiciary, two bills have recently been finalised: the Constitution Seventeenth Amendment Act and the Superior Courts Act (Act No. 10 of 2013).

The Constitution Seventeenth Amendment Act affirms the Chief Justice as the head of the judiciary with the responsibility of developing norms and standards for the performance of judicial functions in all courts. The significance of the constitutional amendment is that the Constitution now empowers the Chief Justice to ensure that courts perform optimally. With this amendment, we predict that the inordinate delays that have been experienced in finalising cases that are brought before court, as well as any unnecessary postponements, will be a thing of the past.

The Superior Courts Act, on the other hand, creates a broader spectrum of responsibilities, and provides a governance framework on how the judiciary should take control of its management, within the scope of the three arms of government (the Executive, Parliament and the judiciary). The Office of the Chief Justice, which was proclaimed by the President as a national department in 2010, provides the vehicle through which the judiciary is supported to execute its responsibilities.

In 2010, the Department identified three priority areas on which to focus its attention. The first was to improve its governance in order to achieve an unqualified audit opinion. Broadly speaking, this was a journey towards clean administration in the Department. However, an unqualified audit is not an end in itself. It should be seen as a starting point, aimed at giving those who interact with the services of our Department comfort in our administration. In the process of building a stable administration, the Department deemed it necessary

to build capacity throughout the organisation, but specifically in the strategic areas of finance, IT and specialised services. The second focus area was to improve the effectiveness and the efficiency of the services delivered in the Department. The third area was to prioritise services to the most vulnerable in society. This refers specifically to those requiring maintenance payments and beneficiaries of the Guardian's Fund.

How is the transformation of the judiciary progressing?

Both the Judicial Services Commission and the Magistrates Commission have the responsibility to ensure that aspects such as race, gender, experience and qualifications are considered in the Department's appointment processes. Although much work still needs to be done to ensure the demographic representivity of the judiciary, it is encouraging that during its sitting early in October this year, seven of the nine names the Judicial Services Commission submitted to the President to fill various superior court vacancies across the country were those of women. The appointment of these candidates will increase the number of female judges to 89 out of a total of 239 judges countrywide. This is a step in the right direction. The focus is not only on the appointment of female judges. Many of those who have been appointed have gone on to play an integral part in the judicial system, includ-

The key programme is the transformation of the judiciary, intended to transform the judiciary so that it is representative and simultaneously changes the scope of its work.

ing one Judge-President, one Acting Judge-President, one Deputy Judge-President, and the heads of the Rules Board for Courts of Law and the South African Law Reform Commission.

The good progress that has been made with the transformation of the Department can be attributed to the adoption of a five-year strategy that was intended to turn the Department around. It addressed issues such as the delayed payment of maintenance monies, missing documentation resulting in delays in court and IT infrastructure that was battling under pressure. Many of these obstacles have been removed.

This transformation extends across the entire judicial system, and includes some of entities that form part of the justice mandate, such as the Board of Sheriffs. In its endeavour to broaden judicial services and to ensure that its officials reflect the demographics of the country, legislative amendments were also made to the Sheriffs Act, which included the extension and amendment of the jurisdictional areas in

which sheriffs render services. As a result, a number of new sheriffs were appointed. Improving the Department's ability to serve court papers and give effect to court orders is a critical part of the delivery of justice.

Which of the Department's projects have made a measurable impact on the South African community?

Of all our accomplishments, the one in which I take the most pride is our achievement of an unqualified audit and improved governance. In our endeavour to improve the efficiency of our service delivery, one of the biggest challenges we had to overcome was a shortage of capacity in our IT section. A great deal of effort went into the training and development of staff in-house, as well as the employment of critical members of staff. This has resulted in the creation of an IT governance culture in the Department.

The Department oversees billions of rands and needs to account for every rand spent. It also manages the disbursement of funds to third parties, and needs to improve its IT systems in order to expand its payment base to these third parties. Some of the service points of the Masters' of the High Courts and the Guardian's Fund have successfully made the transition to a paperless system, which reduces the possibility of loss or destruction of records.

A significant achievement in the disbursement of maintenance funds is the increase of the Department's payments to beneficiaries over the past three years from R9,5 m in 2010 to R65 m in 2011 and R110 m in 2012. Overall, the Department is reaching a large number of vulnerable South Africans, and this number is set to grow as the Department touches more lives. Following the establishment of a task team on sexual offences, the Minister of Justice and Constitutional Development launched the sexual offences courts in Butterworth in the Eastern Cape on 23 August 2013. A special feature of these courts is the fact that they are victim-centred, and a lot of work went into getting them up and running. It is our hope that these courts will encourage more victims to report sexual violations.

A further problem that the Department has addressed is the incarceration of children. The new Child Justice Act enables children that have been in conflict with the law to be dealt with as children and not be mixed with hardened criminals. This will drastically reduce the number of children who are imprisoned.

The Department has also launched a number of initiatives to assist children to acknowledge the wrongs they have committed. Several one-stop child justice centres have been established to support children in conflict with the law. Probation officers have also been appointed as part of this effort to divert children from the normal criminal justice system in recognition of the fact that they are minors. Many children have also been removed from correctional facilities, and most of them are



now monitored and cared for by their own families. This is in accordance with the requirements of the Constitution and international protocols that South Africa has ratified. I am proud to say that we are well on our way to achieving the vision of Nelson Mandela to "ensure that the system of criminal justice must be the very last resort in the case of juvenile offenders".

What is behind the focus on securing the rights of women and children?

Systems in place to address this important matter include the Department's Family Law services, the Guardian's Funds, and child maintenance and domestic violence services, as well as the previously mentioned sexual offences courts. The biggest challenge that women and children face is maintenance, which threatens the livelihood of the most vulnerable in our society. The Department has put a lot of energy into ensuring that maintenance that is due is paid on time and that women and children do not spend time in the courts waiting to receive money due to them. An electronic funds transfer system has been rolled out in 310 courts, which has

reduced the queues in courts. It is hoped to soon reach all the courts in the country that deal with maintenance in order to improve the Department's service to beneficiaries.

The Guardian's Fund, which manages in excess of R8 billion, is a broad service that falls under the Master of the High Court. This Fund safeguards the monies of minors and people with mental disabilities who cannot take care for themselves. The Department's risk management in this area is vital to ensure that these funds are paid timeously and accurately.

Looking forward, what are the most significant challenges the Department would like to address in the medium term?

Investing in human capacity and in systems is crucial if the Department wants to sustain and improve on the progress it has made so far. Through the Justice College, it is able to train officials in-house. Furthermore, it provides training to prosecutors and legal entities, and has even extended its services to government officials in the SADC region. The Justice, Crime Prevention and Security Cluster coordinates the work of government to fight crime and establish peace and stability in South Africa. I have the honour of chairing this Cluster, which reports to the Cluster ministers, chaired by the Minister of Justice and Constitutional Development, Jeff Radebe, who reports to Cabinet. The opportunity to lead the Cluster has been a personally enriching experience for me; it has given me the chance to understand the overall functioning of government and to gain from my interactions with heads of other departments and critical players from the private and public sectors.

One of the challenges facing us right now is that of the sexual offences register. In terms of legislation, the sexual offences register must be implemented retrospectively. This register contains the names of all the people who have been convicted of sexual offences against children and people with mental disabilities. It is intended to prevent perpetrators of these crimes from being placed in environments that will bring them into contact with children and mentally disabled people. All convictions since 2008 have been captured in the register. However, the problem lies with capturing details prior to 2008. This is because victims' status (their age and mental capacity) was not captured in their criminal records before this time. The Department is in the process of engaging the necessary role-players to address this limitation.

What values do you treasure most and how do you ensure that these transcend to those whom you lead?

One of the things I treasure most is showing gratitude and saying thank you. Knowing that you are appreciated makes the magnitude of the challenges we face every day worthwhile. I have been empowered in many ways by the people

with whom I come into contact on a daily basis, and I have learnt the value of empowering others. I therefore believe that the progress we have made so far can be attributed to the space that people in the Department have been given to make critical decisions for the betterment of the organisation.

The department oversees billions of Rands and wants to be able to give account for every rand spent, and broaden its base of payouts to third parties with improved IT systems.

When I deal with people, I don't operate on the basis of assumption. Even if I have been told what a person is like, that's not my starting point. My starting point is that I want to experience people for myself, and draw my own conclusions. That has assisted me a lot.

What is your leadership style and what makes it work for you?

For me, it is fundamental to discuss a point and disagree as much as possible. I am very consultative; I try to make people see why they have to do something. But, there is a cut-off point where consultation stops and work has to commence.

I love working and find a lot of meaning in learning new things. Leadership has a lot to do with personality. I try to be the same person all the time. I find that it works for me to be direct. I am frank and upfront. I also believe in leading by example. You can't only work smart. You have to work hard too. I am a hard worker by nature. I think this contributes to my success: there are no shortcuts; you have to slog it out.

Do you have any thoughts you would like to share with CEO Magazine readers?

One of the most amazing things I have seen in life, in particular here in the Department of Justice and Constitutional Development, is that when people are put to the test, they rise to the challenge. Here I have seen employees pull together to improve services in spite of challenges. That is the power of the human spirit. The premise that drives me is that the Constitution is there for a reason. Our task is to ensure that the values and tenets of the Constitution are realised by all the people of South Africa. When we talk about access to justice, we are giving effect to the Constitution. But we need to look forward too, and as we plan for the future, we need to be guided by the National Development Plan, which is our roadmap to a just society. This gives me hope for a future in which all South Africans can live without fear of discrimination, or the threat of crime and violence. □