



**MINISTRY OF JUSTICE AND CORRECTIONAL SERVICES**

**REPUBLIC OF SOUTH AFRICA**

**SPEECH DELIVERED BY MINISTER RONALD LAMOLA ON THE OCCASION OF  
THE SOUTH AFRICAN CHAPTER: INTERNATIONAL ASSOCIATION OF WOMEN  
JUDGES GALA DINNER HELD AT INGWENYAMA CONFERENCE AND SPORTS  
RESORT ON THE 8<sup>TH</sup> OF AUGUST 2019**

***EMBARGO UNTIL DELIVERY***

**“Women, Technology and Transformation”**

Hon Chief Justice of the Constitutional Court, Justice Moegoeng Moegoeng;  
Hon Deputy Chief Justice of the Constitutional Court, Justice Raymond Zondo  
Hon Judge of the Constitutional Court, Justice Leona Theron;  
Hon Judge President of the Supreme Court of Appeal, Justice Mandisa Maya;  
Hon Judge President of Mpumalanga Division of the High Court, Justice Frans Legodi;  
Hon Justice, Yvonne Mokgoro,  
Former Minister of Justice and Constitutional Development, Ms Bridgette Mabandla  
Deputy Minister of Justice and Constitutional Development, Mr John Jeffery;  
Deputy Minister of Correctional Services, Inkosi Patekile Holomisa;  
Premier of Mpumalanga Province, Refilwe Mtshweni-Tsipane;  
Members of the Diplomatic Corps;  
Distinguished Guests;  
Members of the Media  
Ladies and Gentlemen

It is my singular honour to be in a room of this calibre, especially on the cusp of Women's Day which holds a special place in our history as a country. It is a day which will always be remembered as a day upon which the women of South Africa redefined history forever. The legacy of the Women's Day is embodied by the historic march that was led by women to the Union Building on August 9 in 1956 which permeates through the lineage of society to this very day.

In many ways, the legacy of Mama Albertina Sisulu, Rahima Moosa, Fathima Meer and Sophie De Bruin continues to live on, through many of you in this house as well as other women across the African continent.

The theme of the conference calls upon all of us to place the empowerment of women at the centre of everything we do. In fact, one can argue that the empowerment of women cannot be divorced from the fight against gender based violence.

The patriarchal stereotypes that were cemented in our country by the apartheid government have been gradually reduced by various laws such as the Promotion of Equality and Prevention of Discrimination Act of 2000, the Employment Equity Act and above all the Constitution of our Republic.

In any society today, there can be no transformation without women, equally there can be no transformation without technology. These three factors in our society form part of a change continuum.

Hon Judge President of the Supreme Court of Appeal, Justice Mandisa Maya  
Allow me to dedicate this evening to you. You have joined a special group, in history and our legal fraternity.

History will remember you alongside the likes of **Madelaine Wookey**, a female, who the apartheid laws prohibited from registering articles; who was however able to find a firm that was willing to register her for articles but the Law society refused to grant her permission to pursue her articles.

In supporting the Law Society who objected to Wookey's attempt to register, the then Chief Justice Innes said the following,

*“The question is not whether this lady is likely, adequately, and satisfactorily to discharge the duties of a legal practitioner. If it were, then its solution would present few difficulties. The inquiry is simply whether she belongs to the class to which the terms of the section in question refer. If she does, then she is entitled to be indentured; if she does not, she has no such right, and the Court can give her none. And that being so, assistance must be sought elsewhere. The Legislature of the country is the only source from which relief in a case of this kind can be obtained...”* **Unquote**

This very profession was at the forefront of excluding women. Indeed it was the then legislature which passed an act called the Women Legal Practitioners Act of 1923. It was only 49 years later when history recorded the first female advocate in Zainunnisa Cissy Gool who was equally a formidable struggle activist, who defied all odds.

A couple of years later, Desiree Finca, a young woman from the then Transkei, who defied the domestic worker stereotype and perpetual legal minority status accorded to African women, became the first African female attorney in South Africa.

Of-course it would be remiss of me not to pay homage to a living legend amongst us, Honourable Justice Yvonne Mokgoro, there is no doubt that our jurisprudence has been greatly enriched by the manner in which you infused the principle of Ubuntu in it. Arguably Customary practices, which, at times exhibits strong intonations of patriarchy has benefited greatly from this principle.

Essentially Ladies and Gentlemen, we can see that women have been at the centre of any transformative society and the legal profession is no different.

This journey of transformation still continues to this day, the number of female advocates sits at 30,4 % and out of 246 Judges in our country, only 94 are female and of this number, only 3 are part of the 11 Justices of the Constitutional Court. This

makes it clear that the legacy of Chief Justice Innes lingers on. Transformation is not a nice to have but it is a necessity.

In our recent past, we lived in an era where gendered laws and the politics of the day trumped over the interests of justice at every turn. It is common cause now, that in hindsight, the judiciary was at the centre of legitimising a racial political order. Judgments delivered by the superior courts of that time reveal the consolidation of the racial political order by the judicial system. But it was not only racial order which was consolidated, a patriarchal and anti-black woman society was firmly entrenched.

Transformation of the judiciary cannot be viewed outside of the context of societal transformation. Our definition of transformation cannot be narrow and generic, in essence, it is not only about black and white, it is a lot more nuance than that. Our debates and approaches to transformation must also extend to protecting the profession. Otherwise sooner or later, we run the risk of waking up to work in a profession that has been obliterated by a digital revolution.

The Fourth Industrial Revolution (4IR) is here! It is a digital revolution, disrupting daily business and life in virtually every industry, on a global scale. Judges, black and white, are affected by this disruption.

Big data is affecting everything, from research to devising strategies or assessing the merits of a legal case. There are already solutions to many data-related challenges ranging from collecting large amounts of data as well as technology capable of scanning, interpreting and synthesizing written documents.

This technology is capable of providing better, cleaner and richer data, which in turn makes it more searchable and allows for the mining for specific insights directly related to a current legal question. Better legal analytics in general means that lawyers are more able to mine for results in increasingly large sets of data.

In specific areas of law, analytics can also be used to track broad industry trends related to strategic planning, business development and mining. It is clear that in the

near future algorithms may be able to sift through heads of arguments and produce a judgment.

Legal technology is being used with increasing frequency to improve speed and efficiency in the legal process. Artificial Intelligence (AI) is now able to significantly reduce both time and cost of legal work.

For example, the use of AI in contract analysis supporting mergers and acquisition processes or contract remediation to comply with regulatory changes like the Data Protection legal framework is growing. As the AI market grows, the use of legal services will expand along with it leading to better legal outcomes and improved results to the bottom line.

Legal professionals may also increasingly rely on AI-powered digital assistants which would grow smarter as they process more information. This would free legal professionals to focus on higher value-added legal services to clients.

Another way in which the legal sector is changing is via peer network communities that allow for meetings and the sharing of knowledge and best practices. This better aligns legal departments and results in an improved collaboration with clients.

It is not just the lawyers who have to come on board in terms of technology, but Judges also have to, I know the Chief Justice is very passionate about this. In some quarters, predictive judicial analytics holds the promise of increasing the fairness of law. Analysts and observers of the legal fraternity in other jurisdictions have empirical evidence which reveals inconsistencies in judicial behavior.

They argue that by predicting judicial decisions—with more or less accuracy depending on judicial attributes or case characteristics—machine learning offers an approach to detecting when judges are most likely to allow extra-legal biases to influence their decision making. In particular, low predictive accuracy may identify cases of judicial “indifference,” where case characteristics (interacting with judicial attributes) do not strongly dispose a judge in favor of one or another outcome. In such cases, biases may hold greater sway, implicating the fairness of the legal system.

Judging by your reaction, I can see that I may have ruffled some feathers. Let me reassure you that, it is unlikely, that technology will reach a stage where it could replace humans. It is more likely that technology will empower a new era of augmented intelligence with the legal profession still making crucial judgments but with powerful tools to draw sharper insights.

Machines are tactical but humans are strategic – while machines will speed up processes and make onerous tasks easier, humans will always guide the process. But one thing is certain, a revolution is on the cards and our profession is onto a different trajectory. Our obsession towards our willingness to transform the profession cannot be limited to the human elements within the profession.

Like all revolutions, this one will have leaders. And the leaders will be found among those who think differently and manage to see beyond their customary vision. This particular revolution should and must be led by women.

After all someone did say ***“if you want something to be said, ask a man, if you want something to be done, ask a woman.”***

But Honourable Justice Maya, I can assure you and the audience that I am not like other men. I have already issued instruction in the both the departments that I oversee, that all the legal matters which we brief Counsel on, must have women in the team. Nothing less will be acceptable.

From the governments perspective, embracing technology will help us transform the profession.

The manner in which we assign cases to counsel currently is arbitrary at best. This arbitrary procedure leads to us seeing the same faces in all the high profile cases in courtrooms.

And I do not need to tell you that it is not common to see a woman leading in a high profile case, let alone an African woman. In a society where we make decisions based on data and scientific information, we will be able to confront these inherent bias we hold.

### ***Lawyers can help promote development***

In addition to embracing technology as a transformative tool, we need to really ask ourselves if our professions and the values they espouse are not transformative tools themselves.

Growing up in Cunningmore B village, Bushbuckridge, Mpumalanga, I was inspired by teachers; doctors; nurses; police, magistrates and lawyers. We were told that these were the upstanding individuals in our society. Men and Women we could say were beyond reproach. Can we still say the same today?

Can we say without fear of contradiction that our entire profession today, from the lawyers who are charged for fraudulent road accident claims and fraudulent medical claims, to judicial officers somehow and strangely who are being mentioned in the same sentence as corruption is still beyond reproach? I started with our profession as they usually say charity begins at home, but all professions' credibility has been buttered in our country in the last few years.

I know ourselves as politicians are usually accused of having enabled state capture, I want to say revelations in the various commissions have thus far shown that state capture; various misdemeanors in both public and private sector would not have happened without the aid of Chartered Accountants, Lawyers; Engineers, and various professionals.

The state was nearly brought to its knees ,if it is not on its knees already. As politicians we are reflecting seriously on our role that might have enabled state capture , I think all professionals should do the same, and say where was I when there was an attempt to capture the state, in which direction was I looking when Steinhoff happened. How do I reconcile myself with the reality that there is no water in some of our municipalities because we facilitated a looting spree with VBS. Had it not been for some critical judgments, from our courts , I think the country would be one which we cannot reconcile with our Constitutional dream. This came like a divine intervention.

The economy is not growing, unemployment is on the rise; the path to renewal that we've embarked upon will only succeed if we respect the rule of law; succeed in our fight against crime and corruption.

We will only succeed to attract foreign direct investment if we succeed to defeat corruption. One of the arms of the state that has been pointed by rating agencies as a strong factor for investment in our country is an independent judiciary. You are at the centre of the state's ability to renew the economy and society as a whole.

Our current economic difficulties are proof that corruption eats into the moral fibre of our nation and in turn undermines confidence in the nation's governing systems. Moreover its underlying immorality takes away resources from the poorest of the poor and lines the pockets of the greedy.

I have no doubt that you are all women of fortitude in the mould of heroines such as Victoria Mxenge, Albertina Sisulu, Miriam Makeba, Adelaide Tambo, Lillian Ngoyi, Ruth First, Helen Suzman, Winnie Madikizela-Mandela and many others whose list I cannot exhaust here today.

One of my predecessors, former Minister of Justice, Mr Jeff Radebe said:

***“Women of fortitude are not armchair critics, but activists who get their boots dirty in the mud to work to build a better society for all our people,”***

Working together we can build the kind of society that our forebearers fought for and of whom many such as Victoria Mxenge paid the ultimate price for. We have at our disposal progressive laws that should help us accelerate gender transformation. Amongst these are the Legal Practice Act, Basic Conditions of Employment Act and various laws

As you will be engaging in the conference, remember your country needs you, the path of renewal is in our hands.

Ha Khensa!