



# **JASA**

## **Judicial Officers Alliance of South Africa**

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### **Where are magistrates in this debate?**

**By Mr Neelan Karikan**

**JASA (Judicial Officers Alliance)**

The recent call by the advocacy group Judges Matter for Health Minister Aaron Motsoaledi to retract and apologise for his remarks questioning the impartiality of Constitutional Court judges in the National Health Insurance (NHI) Act challenges is both timely and principled. Yet, as the public discourse unfolds around judicial independence and the separation of powers, a glaring and persistent question remains largely unasked: **What about magistrates? Where are the magistrates in this debate?**

JASA has long held that the magistracy is too often treated as subservient to all else — to the higher judiciary, to political expediency, and to a public conversation that instinctively elevates Constitutional Court matters while rendering the daily work of magistrates invisible. This is not merely an oversight; it is a structural blind spot that undermines the very foundation of judicial authority in South Africa. Magistrates must also be heard. Magistrates must be acknowledged. Their voices cannot remain an afterthought whenever the majesty of the bench is assailed.

Minister Motsoaledi's statements in his address to nurses — suggesting that judges who benefit from private medical schemes such as Parmed could not fairly adjudicate NHI-related matters — did not merely question the character of individual judges. They struck at the heart of judicial independence across the entire judiciary. Section 165 of the Constitution is unambiguous: judicial authority belongs to the courts as a whole and must be exercised independently and without

interference. This guarantee is not the exclusive preserve of the apex court. It belongs equally to every magistrate who presides in the courts closest to the people.

**What about magistrates?** They are the first and most frequent face of justice for the vast majority of South Africans. Every day, in magistrates' courts across rural districts and urban townships, judicial officers determine bail, grant protection orders, resolve maintenance disputes, conduct preliminary inquiries, and deliver judgments that shape lives long before any matter reaches a higher court. If the executive can publicly imply that judicial officers are compromised by their personal circumstances, that scepticism does not stop at the doors of the Constitutional Court — it seeps into every courtroom where a magistrate sits.

JASA insists that the defence of judicial integrity must be inclusive and unequivocal. When a senior member of the executive casts doubt on the impartiality of judges, the ripple effect is immediate and profound for the magistracy. Magistrates are not junior participants in the judicial enterprise; they are its backbone. To exclude them from this national conversation is to perpetuate the very hierarchy that treats the magistracy as subservient — an attitude JASA has consistently challenged.

The principle affirmed in *Bernert v Absa Bank 2010* — that ordinary personal or professional associations do not automatically require recusal — applies with full force to magistrates as it does to judges. Yet the public is rarely reminded of this when the spotlight falls only on the higher courts.

**Where are the magistrates in this decision?** Where is their explicit inclusion when civil society, the media, and even fellow judicial officers rally to protect the bench? The majesty of the judiciary is not hierarchical; it is collective. An attack on judicial character at any level diminishes the authority of every judicial officer.

JASA therefore calls on all who profess concern for the rule of law — the Judicial Service Commission, the Magistrates Commission, the Public Protector, and advocacy groups — to broaden the lens of this debate. Magistrates must be heard. Their independence, their personal security, and their public standing demand the same vigorous defence extended to their more senior colleagues. The rule of law is not preserved by selective outrage; it is sustained by consistent, principled recognition that every judicial officer, from the Constitutional Court to the smallest district court, embodies the same constitutional promise.

The question must not be allowed to fade: **What about magistrates?** In this debate, in this decision, and in every future defence of judicial independence, magistrates are not peripheral — they are central. JASA will continue to ensure their voice is heard clearly, forcefully, and without apology. The people of South Africa deserve nothing less.

*Neelan Karikan*

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