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Judicial Officers Alliance of South Africa

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The Imperative of Judicial Independence and the Rule of Law: Reflections on the Madlanga Commission

By Neelan Karikan

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As judicial officers entrusted with the daily administration of justice in our lower courts, we stand at the coalface of the constitutional promise that every South African shall enjoy the protection of the law. The rule of law is not an abstract ideal but the very foundation upon which our democracy rests. It demands that power be exercised within legal bounds, that institutions remain accountable, and that the judiciary, as the ultimate guardian of rights and arbiter of disputes, operates free from improper influence.

The establishment of the Judicial Commission of Inquiry into Criminality, Political Interference, and Corruption in the Criminal Justice System — chaired by the respected retired Justice Mbuyiseli Madlanga—represents a significant moment for our nation. Chaired by a jurist of proven integrity and assisted by eminent counsel, the Commission has undertaken the solemn task of examining serious allegations concerning the integrity of key pillars of our criminal justice architecture. From our vantage point within the magistracy, we approach this process with the measured restraint and respect for institutional boundaries that our oaths require.

The Judiciary's Constitutional Role

Section 165 of the Constitution vests judicial authority in the courts and explicitly declares that they are independent and subject only to the Constitution and the law. No person or organ of state may interfere with the functioning of the courts. This independence is not a privilege claimed by judicial officers for our own benefit; it is a safeguard for the public. When the judiciary is perceived as compromised — whether through external pressure, internal vulnerabilities, or any form of infiltration—the public's confidence in the entire system of justice erodes. The consequences are profound: delayed justice, unequal application of the law, and ultimately, a weakening of the social compact.

As magistrates, we witness daily the expectations placed upon the lower courts. We preside over matters ranging from petty offences to complex civil disputes and serious criminal trials. Our courts are often the first—and sometimes the only—point of contact ordinary citizens have with the justice system. Any perception that decisions are influenced by factors other than evidence, law, and conscience strikes at the heart of our vocation. It is for this reason that we, as an alliance representing judicial officers, have consistently advocated for conditions that enable us to discharge our duties without fear, favour, or prejudice: adequate resourcing, security of tenure, and protection from undue external pressures.

Engaging Constructively with Oversight Processes

The Madlanga Commission provides a structured, evidence-driven forum to test the veracity of the allegations that prompted its creation. We welcome mechanisms that promote transparency and accountability across the criminal justice system, provided they respect the separation of powers and the principles of natural justice. Commissions of inquiry, when properly constituted and conducted, serve an important diagnostic and restorative function. They can identify systemic weaknesses, recommend legislative or administrative reforms, and reinforce public trust where it has been shaken.

However, we must caution against any narrative that paints the judiciary with a broad brush. The vast majority of judicial officers in South Africa serve with dedication, impartiality, and adherence to the highest ethical standards. Isolated instances of alleged impropriety, should they be proven, must be addressed through established disciplinary and legal channels without impugning the institution as a whole. Our magistracy, comprising thousands of officers handling an immense caseload, continues to deliver justice under challenging conditions—often with limited resources and significant personal sacrifice.

From a judicial perspective, several principles remain paramount as the Commission proceeds:

1. **Preservation of Independence:** Any recommendations emerging from the inquiry must strengthen, rather than undermine, the structural and functional independence of the judiciary.
2. **Due Process:** Allegations against individuals must be tested rigorously, with full opportunity for response, in accordance with *audi alteram partem* and other constitutional imperatives.
3. **Systemic Improvement:** Focus should extend to practical measures—enhanced vetting where appropriate, better inter-institutional safeguards, improved security for judicial officers facing threats, and adequate resourcing—to fortify the system against infiltration.
4. **Public Confidence:** The ultimate measure of success will be whether the Commission's work restores faith in the rule of law, demonstrating that our institutions possess the resilience and self-correcting capacity demanded by our constitutional order.

Upholding the Constitutional Covenant

The rule of law requires vigilance from all branches of government and from civil society. As judicial officers, our role is not to enter the fray of public debate on unproven allegations, but to continue adjudicating matters before us with unwavering fidelity to our oaths. We do so in the knowledge that the legitimacy of our courts depends not on popularity, but on the consistent, rational, and impartial application of the law.

The Judicial Officers Alliance of South Africa remains committed to representing the interests of magistrates and judicial officers in a manner that upholds the dignity of the bench while advocating for the enabling conditions necessary for effective justice delivery. We stand ready to engage constructively with recommendations that emerge from the Madlanga Commission, always guided by the Constitution as our supreme lodestar.

In times of scrutiny, the true test of institutional strength lies not in resistance to oversight, but in the quiet resolve to emerge stronger, more transparent where required, and ever more faithful to the ideal of justice accessible to all. South Africa's democracy depends upon it. The magistracy, as the bedrock of our court system, will continue to play its part with integrity and dedication

Neelan Karikan

President and Founder

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