



Annual Report 2008/09

Department of Justice and Constitutional Development



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



Foreword by Minister Jeffrey T Radebe



The mandate of the Ministry of Justice and Constitutional Development is to uphold and protect the Constitution and the rule of law in the interest of a safer and more secure South Africa. The department does this through ensuring equitable access to justice services, improving the functioning of the courts, collaborating with its Justice, Crime Prevention and Security (JCPS) Cluster partners to implement the criminal justice system, protecting and promoting the rights of children, the aged, the disabled, vulnerable women and other vulnerable groups, developing legislation and promoting the Constitution, administering deceased and insolvent estates and the Guardian's Fund, providing prosecution and legal aid services, and providing legal advice.

In 2008/09, the Ministry made remarkable strides to improve access to justice for all, transform the justice system and enhance its organisational efficiency. The Review of the Criminal Justice System (the review) commenced with the implementation of the critical recommendations arising from the findings of the research conducted. In collaboration with our JCPS partners, the department developed the Seven-point Plan and the terms of reference to articulate and define the coordination of the review. The implementation of the identified interventions to improve the delivery of justice services is also being done.

During the year under review, we commenced with the use of indigenous languages in courts, with one court per province selected and designated as a court in

which proceedings are conducted in any of the official languages of that province. The department will extend this programme to all courts in consultation with the judiciary. When this programme is fully implemented, it will be possible to use all official languages in court proceedings.

In order to ensure access to courts, the department built two new courts, one at Daveyton (Magistrate's Office) and the other in Polokwane (Circuit High Court) in the year under review. Further, extension work on three courts in Richmond, Mitchell's Plain, and Augrabies was completed. The department is expecting to complete the construction of an additional five new courts in Tsakane, Enkangala, Galeshewe, Kagiso and Colesberg.

The department has also finalised the conversion and designation of 15 branch courts as main courts. These are part of 24 branch courts identified for conversion and designation as aforesaid. Most of these courts are located in townships and rural areas. The department has capacitated the 15 courts and made them ready for proclamation, after which they will have their own areas of jurisdiction as main courts. The remaining nine branch courts are being converted, and are expected to be ready for proclamation by the end of March 2009. In order to resolve the shortage of office space in some courts, 40 mobile structures were procured and placed at those courts across the country. A total of 40 circuit courts were upgraded to provide full justice services in order to meet the needs of the communities in which they are based. The department also acquired 10 sites on which it plans to build courts in the coming year.

The process of ensuring that all citizens of this country have access to justice received greater attention with the extension of civil jurisdiction to the regional courts. This will enable the regional courts to resolve family law disputes and other civil disputes for the first time in the history of this country. This will not only improve access to justice, but will also increase the availability of courts to the people and also contribute in reducing legal costs, as some matters will no longer need to go to the high courts. In order to complement this programme, the department is working to complete the redemarcation of magisterial districts. Once concluded, new jurisdictional boundaries for these magisterial districts will be determined. Furthermore, the department is in the final stages of the designation of all magisterial courts as equality courts. This will not only ensure that the department complies with its legislative requirement of designating all magisterial courts as equality courts, but will also demonstrate our commitment to eradicating



all forms of discrimination and to ensure equality for all citizens of this country.

In its endeavour to ensure the effective resolution of criminal and civil cases, the department saw improved conviction rates in both lower and higher courts, with the district courts achieving 88.1%, the regional courts 73.7% and the high courts 86.3%. In all regional courts dedicated to sexual offences, the department achieved an average conviction rate of 66.7%. The department also saw an improved reduction of backlog cases by 9% at regional courts.

In order to develop and promote legislation aimed at transforming and improving access to justice, 15 pieces of legislation were considered and passed in Parliament in the year under review. These are as follows:

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 14 of 2008)
- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008);
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009

In addition, the following seven bills will soon be introduced to Parliament in 2009:

- Constitution Amendment Bill and State Liability Amendment Bill
- Prevention and Combating of Trafficking in Persons Bill

- Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill
- South African Human Rights Commission Amendment Bill and Commission on Gender Equality Amendment Bill
- Superior Courts Bill and Constitution Amendment Bill
- Legal Practice Bill
- Judicial Matters Amendment Bill

The introduction of these bills to Parliament underpins the department's commitment to transformation and to protecting the rights of the citizens of this country.

All these achievements, and many more as detailed in the different parts of this report, give me great confidence that we are on track to resolve the difficult challenges we face. I am positive that the department will continue to uphold its Constitutional mandate as it has always done.

I wish, in conclusion, to express my gratitude to my immediate predecessors – Minister Brigitte Mabandla and Minister Enver Surty, and the Deputy Minister, Advocate Johnny de Lange, for their decisive and determined political leadership. I am also much honoured to have worked with a hard-working, committed executive team – including the entire staff of the department – under the leadership of the Director-General. I thank them all for the sterling effort in making 2008/09 a success. I am very confident that together we can do more to provide accessible, fair, speedy, cost-effective and quality justice services to all the citizens of this country.



Jeffrey T Radebe, MP
Minister of Justice and Constitutional Development



Vision

Accessible and transformed justice services committed to the promotion of constitutional values for all.

Mission

Together we provide accessible, fair, speedy, cost-effective and quality justice for all.

Core functions

- The facilitation of the adjudication of criminal matters and the resolution of civil disputes
- The prosecution of criminal offences in all criminal courts and the investigation of certain offences
- The delivery of legal and advocacy services to the community to promote access to justice
- The provision and management of court facilities
- The delivery of legal advisory services to, and representation of the state
- Constitutional development, including the education of the public and government officials with regard to constitutional rights and obligations, and monitoring the implementation of the Constitution
- The development of legislation
- The facilitation of the administration of deceased and insolvent estates, curatorship and tutorship, the liquidation of companies and close corporations, the registration of trusts and the management of the Guardian's Fund

Strategic goals

1. **Access to justice for all**, especially the poor and the vulnerable in townships and in rural areas
2. **Enhancing organisational efficiency** and integration of quality Justice services to make them simpler, faster and cost-effective
3. **Transforming justice, state and society** in line with the democratic values of the Constitution

Principles and values

Commitment to constitutional values and to a culture of human rights

We recognise the supremacy of the Constitution and the rule of law, and apply all law fairly and uniformly to ensure equal protection and access to justice for the people of the Republic of South Africa.

Batho Pele

We provide quality services to both our internal and external customers by always meeting and exceeding their needs and expectations.

Good governance

We adhere to the highest standards of ethical behaviour that are transparent and promote accountability, based on sound internal controls. We are committed to serve as effective and responsible stewards of the taxpayers' resources that are entrusted to us. We are results-driven and efficient in the way we do things. We measure and report on progress in pursuit of our goals.

Ubuntu

We uphold human dignity and ensure equal opportunities and fairness in our interactions, in order to engender a spirit of trust and unity. We promote tolerance and respect for the diversity of our employees and the peoples of this country and draw strength from such diversity.

Professionalism and continuous improvement

We recognise that people are our most important resource for accomplishing our mission. We are therefore committed to the professional development, self-actualisation and personal wellbeing of all employees. We recognise the need for continuous improvement and will reward all committed efforts to improve the quality of our services. We instil in all members of the Justice and Constitutional Development community the commitment to higher standards of professionalism.

Open communication

We communicate and share information openly and punctually with all relevant stakeholders in order to ensure participative and informed decision-making.





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General Information





1.1 Introduction by the head of the institution

I have the honour of submitting the 2008 annual report of the Department of Justice and Constitutional Development in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999).

The annual report reflects the efforts made by all the branches and the regional offices of the department, which, through the dedication and persistency of their management and staff, sought opportunities and ways to enhance efficiency and improve the delivery of justice services in the country.

While the annual report highlights some of our successes, as you will see from several parts of this report, it also

acknowledges the challenges the department faced during the year under review. With immense and varied challenges coming with the current economic downturn in our country, I am conscious of the need to strengthen our resolve to provide effective, efficient, fair and speedy justice services to all, especially to the less fortunate in our communities. It is also essential to buttress judicial independence, support the legal fraternity, uphold and respect the Constitution and rule of law, and stay the course in our intentions to improve to transform and improve our criminal and civil justice systems.

Advocate Menzi Simelane
Director-General: Justice and Constitutional Development

1.2 Information on the Ministry

The function of the Ministry for Justice and Constitutional Development is to execute the powers and perform the functions assigned to it by the President and the various acts of Parliament. In short, the function of the Ministry is to establish and maintain, in the spirit of the Constitution and through a democratic process of transformation, a legitimate administration of justice that is efficient, accessible, accountable, just, user-friendly and representative of the South African community.

The following bills were submitted to the legislature during the financial year:

- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Bill
- Constitution Fourteenth Amendment Bill
- Constitution Fifteenth Amendment Bill
- Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Bill
- Judicial Matters Amendment Bill
- Criminal Procedure Amendment Bill
- National Prosecuting Authority Amendment Bill
- Reform of Customary Law of Succession and Regulation of Related Matters Bill
- Renaming of High Courts Bill
- Criminal Law (Forensic Procedures) Amendment Bill
- Constitution Sixteenth Amendment Bill

1.3 Mission statement

Vision: Accessible and transformed justice services committed to the promotion of constitutional values for all.

Mission: Together we provide accessible, fair, speedy, cost-effective and quality justice for all.

1.4 Legislative mandate

The core function of the Department of Justice and Constitutional Development is to give effect to the constitutionally mandated requirement that South Africa have a fair, equitable and accessible system of justice. In addition, the department provides certain legal services to the government.

This mandate has been translated into five organisational objectives:

- Maintain, improve and streamline a system of courts in which legal proceedings of a criminal, civil, family and administrative nature are processed efficiently and effectively.
- Investigate certain crimes and prosecute all criminal offenders.
- Provide legal services to government and represent it in legal proceedings.
- Research, draft and promote legislation.
- Facilitate the delivery of additional services linked to the administration of justice, including services delivered by constitutionally independent institutions.

