

Closing Remarks at the Farewell Dinner by Daniel M. Thulare

President of the Judicial Officers Association of
South Africa (JOASA)

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Meeting of the African Group of The International Association of Judges

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Safeguarding the Independence and Conditions of Service of Judicial Officers

**5th June 2019 at the Banquet Hall,
Mayoral chambers, Cape Town Civic Centre**

The President of the International Association of Judges, Judge Tony Pagone; the Secretariat of the IAJ, Judges Jacamo Oberto, Raffaele Gargiulo and Barbara Scollart; the President of the Africa Regional Group, Judge Aidouni Djamel; the Deputy Chairperson of the Committee on Justice and Human Rights at the Pan African Parliament, the Honourable Mephato Reatile, the Chief Justice of Botswana, Terrence Rannowane CJ, The Acting Chief Justice of Lesotho, Maleforo Mahase ACJ, Representing the Chief Justice of Mozambique, Judge De Almada, Representing the Chief Justice of the Kingdom of Eswatini, Judges Mkululeko Hlophe and Phesheya Dlamini; Representing the Chief Justice of Zambia, Judge Siawwapa; The Judge President of the Western Cape Division of the High Court of South Africa, John Mandlakayise Hlophe; the Member of the Mayoral Committee for Economic Opportunities and Asset Management, Alderman James Vos on behalf of the Executive Mayor of the City of Cape Town, Dan Plato, Heads of delegation and delegates at the Africa Regional Group meeting, invited guests, ladies and gentlemen.

Mr Vosr, Africa's thought-leaders and opinion-makers on and in the Judiciary have spent the last four days in Cape Town, South Africa, to listen to Africa speak to us through its sons and daughters. We have learned that astuteness, tact, strategy, thoughtful analysis, clarity, originality, detail and a value system are very important. We have learned that Africa does not need show-men and women who thrive on emotive entertainment. It needs courageous judicial officers who show up, shore up and man up.

The generational mandate of those holding judicial office today in every part of Africa in every layer of our court and court administration and systems, is to establish the Judicial Authority of our countries,

to assert the Judiciary as an arm of the State. We are not a Government Department and we have a generational duty to reject to be treated like one. We are part of the triad of the State which is made up of the Executive, the Legislature and the Judiciary.

It is against this background that we have to unlearn our colonized minds out of the structural flaw of having courts and judicial officers, Magistrates, as not members of the Judiciaries in our countries. We have to learn and appreciate Africa's innovative voice that these are judicial officers and belong in the arm of the State, the Judiciary, and nowhere else in the machinery of the States in Africa.

Africa told us, in this meeting, that judicial officers are not an elitist club of fat cats that at all costs need to dine at the Banquet Hall, while our communities are struggling. The Judiciary in Africa is not cold, aloof and unjustifiably removed from the poverty, inequality and a backlog of resources and services for the majority of Africa's peoples to which they are exposed. The struggles for redress and relief from poverty, inequality and backlog are not that of the Executive and the Legislature alone.

Therefore, when we argue for consideration of the budgetary needs for infrastructure, resources both human and capital, it is not for our personal convenience only. It is to ensure that every person within any of the countries of Africa who approaches a courthouse for services, the State in its arm of the Judiciary is able to respond accordingly. It is to help us uphold the rule of law.

We do not assert our independence for our own sake. It is necessary for the rule of law. It is necessary for our accountability. It is necessary for our capacity to research and to respond to Africa's unique challenges. For instance, we know that the Anglo-Saxon processes and Roman Dutch influenced content of South Africa's national law body of law which is inherently accusatorial, selfish, individualistic and with a winner-takes-all approach does not work in the Family Law environment.

The indigenous practices of Africa which are communal, conciliatory, caring, mediatory and meant to strengthen families for tomorrow; as opposed to determining who was wrong last year, are the most appropriate responses. Africa has its own solutions, if we care to listen carefully to its voice, which has been built over generations and survived evolution.

Mr President, as you return back to Australia, and as you make your way to Astana, Kazakhstan in September where the IAJ will hold its international conference, feel free to report that you have seen that the Judicial Officers Association of South Africa is alive and kicking. Report to the Presidency that the Associations in Africa understands the mandate of the IAJ, and that the Africa Regional Group is determined to stand firm and answer to the call that Africa has made in the papers delivered at this conference. As delegates go home, the Secretariat will help distribute the papers to every member Association and invited delegates. At Astana, we will propose the necessary statements and resolutions which we think the mother body should consider and if needs be pronounce themselves on.

We wish to acknowledge and convey our gratitude to all those Chief Justices, Associations and guests who answered to our invitation to attend this Group meeting. We wish you all well and all the best.