



JUDGES MATTER

Judicial Service Commission interviews

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Deputy Judge President: North-West Division of the High Court

Interview of Judge R D Hendricks

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(Length of audio) (51.15)

North-West Division of the High Court (One vacancy) (Deputy Judge President)
Judge R D Hendricks

CJ M. Mogoeng: Well, let me apologise for the late start. I'm not going to blame anybody, I'll blame myself for the late start, but before I even welcome the candidate, I want to welcome Judge President Leeuw, for this session. I also want to welcome on behalf, representing the Premier the MEC for Culture Arts and Traditional Affairs from the North-West province MEC Ontlametse Mochware, welcome, and good afternoon Judge Hendricks.

Judge RD. Hendricks: Good afternoon Chief Justice, and Commissioners.

CJ M. Mogoeng: It'll take nothing from you, if you were to admit that you are nervous, if you are, are you relaxed or nervous?

Judge RD. Hendricks: I'm a bit nervous, yes Chief Justice.

CJ M. Mogoeng: All right, you were here during the last sitting, for the same position?

Judge RD. Hendricks: That is correct Chief Justice.

CJ M. Mogoeng: Before I put any preliminary questions to you, is there anything you want, well let me rather put it this way, in your own words again, tell us why you believe you're the right person for the position, very briefly.

Judge RD. Hendricks: Yes, thank you Chief Justice. First of all, I have 14 years of experience as a Judge; I have acted on three occasions, two of which were as Judge President, and one as acting Deputy Judge President. I have the necessary abilities and leadership skills to be the Deputy Judge President of the North-West Province.

CJ M. Mogoeng: Yes, well maybe I shouldn't ask anything while you're still nervous let me rather say, JP any questions?

Judge President: Thank you. Good afternoon.

Judge RD. Hendricks: Good afternoon JP, as Chief Justice I don't have questions.

CJ M. Mogoeng: Very well, MEC.

MEC: Chief Justice, I only have one question, because fortunately I was a member of the Commission during the previous interview. But the only question that I have is: how will you ensure that lawyers from the previously disadvantaged communities participate actively in the provincial efficiency and enhancement committee? Thank you Chief Justice.

Judge RD. Hendricks: There is in the provincial efficiency enhancement committee, representation by lawyers, and I think the lawyers amongst themselves, decide who represent the lawyers in the PEEC. But perhaps it can be extended to, the lawyers, that those who are interested and especially those from previously disadvantaged communities can have a seat on the PEEC, in order to be represented.

CJ M. Mogoeng: MEC?

MEC: I'm hopeful that should you be the successful candidate, you will ensure that really it happens, thank you Chief Justice.

CJ M. Mogoeng: Thank You, Commissioner Nyambi?

Commissioner Nyambi: Thank You CJ, morning.

Judge RD. Hendricks: Good afternoon Commissioner.

Commissioner Nyambi: Thank you, I have only one question.

Judge RD. Hendricks: Yes.

Commissioner Nyambi: Maybe if you can assist us to understand, what has changed, then out of what happened in the previous interview, you'll remember what happened, you were not appointed, and now, developments that will make you to be more appointable now, than then.

Judge RD. Hendricks: Chief Justice, I don't know the exact reason why no appointment was made, and I don't know how to answer this question, unless I'm told the reason why, and then I can respond there to.

CJ M. Mogoeng: Yes Comm Nyambi, you want to assist him.

COMM. Nyambi: I am, I'm talking about yourself.

Judge RD. Hendricks: Yes.

COMM. Nyambi: I was referring to you; I thought maybe you're going to market yourself to tell us developments that happened at the end, and now, and you remember you are not the only one, we had your colleague from the same page, and the issues that were raised then.

Judge RD. Hendricks: Yes, after the interview in April, I was fortunate enough to be appointed as Acting Deputy Judge President, in that role I assisted the Judge President, in the effect of an efficient enhancement in running of the judiciary, so yes I believe there is some strides made.

COMM. Nyambi: Oh, thanks CJ.

CJ M. Mogoeng: Thank you, I don't know if I saw Commissioner Malema's hand up. Yes, Commissioner Malema.

COMM. Malema: Thank you very much. My colleague here is trying to ask if there is, apart from the acting, is there any personal development, that you might have accumulated in between now and the previous interaction we had with you?

Judge RD. Hendricks: Thank you commissioner, yes, I believe that being given another chance to act as Deputy Judge President, I did develop more skills and, assisted more in the running of the division.

COMM. Malema: What is your relationship with the junior staff at the court?

Judge RD. Hendricks: I have a very good professional collegial relationship with all colleagues on the bench in the North-West Division.

COMM. Malema: Are you not bullying junior staff at the court?

Judge RD. Hendricks: No, no not at all Commissioner.

COMM. Malema: Because I got a complaint from the staff members, who say they are at level 5, and you've got no regard for them. You look down on them you bully them; you speak to them with disrespect.

Judge RD. Hendricks: Well that wasn't brought to my attention, first of all and I have no knowledge about that Mr. Commissioner.

COMM. Malema: Thank you.

CJ M. Mogoeng: Thank You Commissioner Malema. Judge President Hlope.

Judge President Hlope: Thank You Chief Justice. Judge Hendricks the high courts in particular have a problem of backlog, we have so many cases in the pipeline, that require, deserve to be heard, that is the first problem. Secondly the resources are very limited, as you know, now as someone who's aspiring to become a Deputy Judge President, have you thought about ways of managing your role, in such a way, that the judges in your division are going to work smart, and in a manner which is cost-effective as well, thank you.

Judge RD. Hendricks: Yes, thank you Commissioner. Yes, there is Case Flow Management, and there is also judicial case management of the matters, that are on the roll. In order to expedite the efficient and expeditious finalisation of matters, I personally think that if Case Management is appropriately implemented by not only some judges, but all the judges, in a particular division it will enhance the service delivery and it will deal with the backlogs.

Judge President Hlope: I follow that Chief Justice. Have you thought about mediation, court based mediation, as well as pre-trials in all matters, be it criminal or civil matters, don't you think that will go some way?

Judge RD. Hendricks: Thank you. Yes, thank you Commissioner. Indeed, in our division there are pre-trials held, in both civil as well as in criminal matters, and it helps a lot to get matters trial ready and, and so that it can be finalised as soon as possible. Court based mediation Commissioner it's implemented in the lower courts, and it can be extended to the high court as well.

CJ M. Mogoeng: Thank you Judge President, Commissioner Singh.

COMM. Singh: Thank you very much Chief Justice, and good afternoon.

Judge RD. Hendricks: Good afternoon Commissioner.

COMM. Singh: You know many people out there, the public, know that we sit here during these interviews and I received an email now, and I just want to put it to you, so you can comment on this. It refers to a Facebook publication, and it says North-West High Court sorting the repeated and desperate attempt of community leaders, to hold leaders accountable, it goes on Chief Justice, to say; the North-West High Court has described, by Nicola Claasen and Boitumelo Malala, in a recent publication, as thwarting, quote; 'as thwarting the repeated and desperate attempts of community leaders, to try and preserve their mineral assets and land based', closed quote, and to hold traditional leaders and Government to account. One of the Judges Ronald Hendricks, who has been in the thick of these cases, will again be interviewed for a leadership position, on the bench for the North-West High Court. Is anything that you would like to tell us about this particular matter?

Judge RD. Hendricks: Thank you Commissioner. That matter served before me some years ago. I delivered a judgment, it was taken on appeal to the Constitutional Court, it was overturned, there was a majority judgment, and there's also a minority descending. I beg to differ from, from the orders. Thank you Commissioner.

COMM. Singh: Thank you Chief Justice.

CJ M. Mogoeng: Thank You Commissioner Singh. Let me just understand, so you were overruled?

Judge RD. Hendricks: I was overruled, yes.

CJ M. Mogoeng: Okay.

Judge RD. Hendricks: Chief Justice.

CJ M. Mogoeng: Minister.

Minister: Thank you Chief Justice. Justice Hendricks, can you tell us your view about gender representativity on the bench, what is your opinion on that matter?

Judge RD. Hendricks: Thank you Commissioner. The ideal would be a 50/50 per cent representation; it differs however, from division to division. In our division there are, we are a complement of six judges, six, four of which are women, and four are male.

Minister: Four, four?

Judge RD. Hendricks: Sorry, six, four are women, correction, and two are male.

Minister: I see, but I'm just talking about gender representivity, in the judiciary generally. Is there any particular view that you have, on the concept of gender respresentivity?

Judge RD. Hendricks: As I stated, ideal would be an equal representation. Unfortunately it is not yet, we are not yet there, so we need to empower women, in order to take up positions on the bench.

Minister: There has been perceptions that an element of mediocrity, has in certain instances, crept over the past 20 years, in the selection by the JSC of members of the judiciary, with the consequence that, that affected the overall performance of the court, or the courts, do you have any view about that?

Judge RD. Hendricks: Personally I'm not aware of such mediocracy, and it may well be a perception, but where it is indeed true and correct, I have my doubts about it Commissioner.

Minister: Do you have any particular reason why you have your doubts?

Judge RD. Hendricks: I know that there are very able and competent women that are appointed to the bench, and also persons, like myself, from previously, who were previously disadvantaged, and who is delivering justice to the people.

Minister: And just finally from my side Chief Justice. The concept of separation of powers, though not explicit in the Constitution, current Constitution, as I read it, features in the constitutional principles of the interim Constitution, that played a role in the finalisation of the current Constitution, as you should be aware. Do you believe that the judiciary upholds this principle? Do you believe that you yourself uphold this principle in your judgments? Do you believe in the principle?

Judge RD. Hendricks: Yes Commissioner, I firmly believe in the separation of powers. Yes and I do uphold it, I don't believe that there is, to a great extent, overreaching, and I believe that the judiciary is independent, and as a third arm of government, has a vital important role to play in our democratic society.

Minister: He used the way to a great extent; do you want to explain the qualification (INAUDIBLE 15.46).

Judge RD. Hendricks: There may be some instances, where a lower court may deliver judgment, and which is on appeal overturned, and the record is set straight.

Minister: The question I actually I didn't think, I mean that's the answer I didn't think you'd give, but thank you very much, we seem to be of the same mind. Thank You Chief Justice.

CJ M. Mogoeng: Thank you Minister. Commissioner Didiza.

COMM. T. Didiza: Thank you very much CJ. Good morning Judge.

Judge RD. Hendricks: Good afternoon Commissioner.

COMM. T. Didiza: How are you?

Judge RD. Hendricks: I'm fine thank you, and you Commissioner?

COMM. T. Didiza: I'm fine; there are two questions for me Chief Justice. One of them is to ask, your own contribution, if you can share with us, to the transformation of the judiciary; I know the issue of gender, always comes up most, but also the issue of race in our judicial system. It's another, if you can share your own contribution, if any, to that transformation. The second one relates to the objection that has been raised, I'm not sure whether you've got it in your files by Gahune Jackson Monsoor. If you can take us into confidence, because there are several issues that he raised, which supports why he is objecting to your appointment, thank you.

Judge RD. Hendricks: Thank You Commissioner. First of all, as far as transformation is concerned, my contribution for the past 14 years, that I am on the bench, I was actively involved in mentoring acting judges. Some of which were women, and most of which are from previously disadvantaged communities, and

some of that, the acting judges, have been permanently appointed. As far as the objection is concerned, I did respond to it, I don't know whether it was received, in writing. I don't know whether there is anything in particular, that Commissioner wants me to respond to?

CJ M. Mogoeng: Well I think the Commissioner just want you to articulate it here.

Judge RD. Hendricks: Thank You Chief Justice. This issue was raised during the previous interview, and I did, I was even asked about it, and I did respond to it. It seems to me that Mister Monsoor was unhappy about the decision that I made. Mister Monsoor also applied for leave to appeal, he even, unsuccessfully though, and he petitioned not only the Supreme Court of Appeal, but also the Constitutional Court, unsuccessfully so, so yes there are allegations made in the objection. I dealt with it in my response, some of which are unfounded and unsubstantiated.

CJ M. Mogoeng: Commissioner Didiza?

COMM. T. Didiza: Thank you CJ. I've noted the response very cryptic, and yes maybe there are reasons why you are very brief with your answers. Because I thought, given that you know after you responded in April on some of those allegation, the objector keeps on raising, some of those matters, particularly with the issue of the appeal. Where he argues, that whether fact or fiction, that it could have been that the transcripts were not provided for in the higher court. We should have assisted the court, to have the fuller appreciation of the matters at end. So I'm just saying that I'm not sure whether you just want us to go by what you have responded written, or you would want to just take us into confidence on some of those issues, on why you think this matter keeps on persisting, beyond just to say the person may not be happy.

CJ M. Mogoeng: Let me help to have an answer come. What in your experience, ought the Supreme Court of Appeal or the Constitutional Court to have done, in circumstances where the transcript is not attached and it is yet central to the proper determination of the issues?

Judge RD. Hendricks: The Supreme Court and Constitutional Court would have asked for a transcript. Conspicuously this transcript is not attached, as to why it is not attached I don't know. I don't deal with the transcripts, commissioner, and I really can't speculate why it is not provided. The objection raised in his objection, the possibility that Mr. Nel, whoever Mr. Nel is of the transcription services, has something to do with the transcription not coming to light. However I have nothing to do with that.

CJ M. Mogoeng: Whose responsibility is it in the ordinary cause, to ensure that the transcript reaches a court of appeal?

Judge RD. Hendricks: That is the responsibility of the applicant or his legal representative.

CJ M. Mogoeng: What role should the judge play in ensuring that a court of appeal has a transcript, if any?

Judge RD. Hendricks: Unless the judge is asked for a transcript, but it's beyond the judge to, to arrange for a transcript. It remains the responsibility of the applicant or his legal representative, to ensure that the transcript is placed before the court of appeal.

CJ M. Mogoeng: Is that a follow-up minister?

Minister: Yes. Now I may not have the facts, and pardon me because some of this correspondence, when in small print, is not accessible to me, but following on the discussion, it appears that an officer of court whose responsibility it was, to generate and make available a transcript, may have failed to do so. If that is what was at issue, and what the judge is trying to communicate here, now if that was so, isn't it so that all officers of court, in a court that a judge presides over, are accountable to that judge, and that judge can actually reign them in if they fail in their professional or statutory duties as the captain of that ship, so to speak. And if that is so, wasn't the judge here ultimately bearing the responsibility of ensuring that whether it is the Registrar, or any other person in that court, performs their job, and if they fail, they're held accountable? There's something I'm just missing there in the in the responses.

Judge RD. Hendricks: Yes Commissioner. It may well be that if asked then the judge can intervene, but it's not a primary function of the judge, to do so but call upon the judge may, and in this instance if I was asked to make available my notes, I would have. It is clear from the reasons for judgment, as well as the court order, that the gist of the complaint, by the objector, was that he wasn't afforded an audience, which indeed is not true.

CJ M. Mogoeng: Well let's, let me make sure I understand. Did the objector approach you, or not approach you, to intervene, so as to ensure that he has the record or the transcript?

Judge RD. Hendricks: I was not approached by the objector Chief Justice to intervene.

CJ M. Mogoeng: Did anybody approach you?

Judge RD. Hendricks: No.

CJ M. Mogoeng: Or make you aware that there is this problem, so that, so far as possible you could assist?

Judge RD. Hendricks: No, not at all Chief Justice, the only, the first time that I was made aware of this was during the April interview, when the objector also raised an objection.

CJ M. Mogoeng: Professor Hlama.

Prof. Hlama: Thank You CJ. Good afternoon Judge Hendricks.

Judge RD. Hendricks: Good afternoon Professor, Commissioner.

Prof. Hlama: It's just a follow-up on the objection as well.

Judge RD. Hendricks: Yes.

Prof. Hlama: Mr. Mansoor made a closing statement here that the North-West High Court is a hive of criminal activity, so the perception is not easy to undo. So if you are getting this opportunity, how would you deal with the perceptions of this nature, if the High Court is labelled as a hive of criminal activity, and secondly, if you are also given this opportunity to be the second-in-command, how would you facilitate the appointment of acting judges in your division?

Judge RD. Hendricks: Thank You Commissioner. First of all, that allegation is devoid of any truth, that the High Court in the North-West is the hive of criminal activity, that is one of the unfortunate unsubstantiated comments by the objector. The objector doesn't only refer to one person he refers to a whole list of persons, and it includes colleagues, practitioners, not even on the bench, acting judges, you know, and it is really unfortunate that these comments are made. As the second-in command, if I understand the question correct, what I would do to ensure that acting judges are called to come and act, if that is the question. Persons can be identified, invited, there can be advertisements placed for interested persons, to make themselves available, in order to act as judges, and be mentored, and be prepared to be appointed, permanently appointed.

CJ M. Mogoeng: Professor Motshekga.

Prof. Motshekga: To do correctly, to be putting emphasis on 50/50 representation, and if so, do you think that quality of justice, can be put at the same level with the representivity. Regardless of whether or not the 50 men, that you want to put alongside 50 women, would not perform at the same level as the 50 women?

Judge RD. Hendricks: Thank you commissioner. Yes the ideal would be equal representation, and I have no doubt that there are competent women. They have proved themselves over a period of time, since the dawn of our democracy. So yes, the ideal is and will always be that there are competent women appointed to key positions in the judiciary.

Prof. Motshekga: What I mean is, if there are 50 women that are good, that would deliver quality justice. Are you going to look for 50 men, so that we have 50/50, or would you appoint 50 women, and 40 men because women can deliver better quality justice?

Judge RD. Hendricks: Yes, it all depends on, on the persons, but I would still go for the 50/50 Commissioner.

CJ M. Mogoeng: Are you complaining about the 75/25 representation in the North-West bench, because women are in the majority here? Do you want the women to drop, so that men can rise or what?

Judge RD. Hendricks: Not at all, not at all Chief Justice that is not what I'm saying.

CJ M. Mogoeng: Commission Nkosi Thomas.

COMM. N. Thomas: Thank you, thank you Chief Justice, and good day to you Judge Hendricks.

Judge RD. Hendricks: Good afternoon Commissioner.

COMM. N. Thomas: Judge Hendricks, you appeared before us in April.

Judge RD. Hendricks: Yes.

COMM. N. Thomas: And during your interview, and of course the interview of a colleague of yours, I was left with a distinct impression that, matters in your division, in so far as team building and collegiality, as among judges, required some work, was I correct in my impression?

Judge RD. Hendricks: No, not entirely correct, Commissioner.

COMM. N. Thomas: To what extend am I not correct?

Judge RD. Hendricks: I believe and it is my experience that there is indeed collegiality amongst us, there was however some incidents, but it was addressed, the Chief Justice paid a visit, and there was a meeting between the Chief Justice as Judge President, and one of my colleagues. I don't know what the outcome of that meeting was, but there are no tensions at present.

COMM. N. Thomas: Now applying as you do, for one of the senior positions available in that division, how going forward would you prevent such a tension from occurring as amongst colleagues on the bench?

Judge RD. Hendricks: First of all I believe that as colleagues we need to cooperate with one another, and work together in a team, secondly even if there is any misunderstanding between colleagues it needs to be addressed and the most efficient way is to hold a meeting and to discuss any impasses that may occur.

COMM. N. Thomas: Thank you judge Hendricks, thank you Chief Justice.

Judge RD. Hendricks: Thank You.

CJ M. Mogoeng: Commissioner Thomas. Commissioner Norman.

COMM. T. Norman: Thank You Chief Justice, good afternoon.

Judge RD. Hendricks: Good afternoon Commissioner.

COMM. T. Norman: You now have been told, that someone complained about you bullying, and you have denied that. What are the plans that you have now, now that you know about this complaint about you, what do you plan to do about it?

Judge RD. Hendricks: It all depends; if the person I think that you are referring to, the objector Commissioner.

COMM. T. Norman: No, Commissioner Malema raised something with you, that someone was complaining that you bully junior staff, that is what my question relates to that.

Judge RD. Hendricks: Oh.

COMM. T. Norman: Yes, now I want to know from you, now that you've been told that this is a complaint, it may not have come to the Commission formally, but it has been placed before you now. How do you plan to deal with it?

Judge RD. Hendricks: Perhaps by having a meeting, and to address whatever concerns junior staff may have. I don't have any details of the complaint, and who is complaining, if that person has approached me, I would have addressed the concern. Going forward, perhaps if one of the junior staff, or any one of the junior staff has a complaint, to approach me and to discuss it.

COMM. T. Norman: But you, sorry as a follow up Chief Justice, you are in a position of power, you are going to be second-in-command, we all know that because of the position that you hold, or that you will hold if you are appointed. No junior staff will simply come and ask you about matters of bullism. But what I want to understand from you is; how are you going to protect junior staff members, and make it easy for them when they have complaints, either against you, or any other member of the bench, so that those issues can be dealt with and you can yourself be accessible to them?

Judge RD. Hendricks: The best thing is to have an open door policy, where even junior staff can approach. I am approachable, approach and raise any concern; I'm totally taken by surprise about this complaint of bullying. I am not even aware of it, so that is why I don't even know how properly to address it, had it been followed, had that complained followed the correct channels, perhaps I would have had an opportunity to deal with it.

COMM. T. Norman: Thank You Chief Justice.

CJ M. Mogoeng: Commissioner Norman. JP Hlope.

Judge President Hlope: Thank you Chief Justice. Just one more question Judge Hendricks, there is eeh what are your views if any, on the use of the official languages in the courts, do you come from the school of thought, which says all 11 official languages must be used, developed, just like English and Afrikaans, where in , before 1994, or do you subscribe to the school of thought that says, we have to use one language of record? Thank you.

Judge RD. Hendricks: We have 11 official languages, equal in status. There is however one language of record, which is English, however there is nothing preventing the development of other indigenous languages, also to be used in court, although the language of record may well, be a uniform one, in the form of English.

CJ M. Mogoeng: Oh, Commissioner Malema.

COMM. Malema: What is your formal way of complaining, about the Judge's conduct? By ordinary people, like a cleaner, it is not a low body, but they have a right to express themselves, and this person goes through a public representative, who sits in this body. To say amongst other things, these are the issues we are experiencing with this Judge, and they will come here and say that they didn't follow any formal procedure. What is that?

Judge RD. Hendricks: First of all to raise the issue with the person concerned, maybe in writing there is a structure, that that can be followed, there's even like in the case of employees eeeeeh

COMM. Malema: Is there anything wrong with a cleaner that says to a public representative; this is what we are experiencing at our workplace, is there anything wrong with that?

Judge RD. Hendricks: There is nothing wrong with it, except that I maintain that there is a procedure to follow. The person concerned could have raised it, but if such a person belongs to any organisation, take it through the organisation or write a letter to the Judge President about the Judge.

COMM. Malema: Here is a cleaner, who complains about a Judge, and this cleaner will not even know that there is a procedure to write to Chief Justice, come on man, and then he comes across a public representative, a person he has elected, to represent him or her in Parliament and says these are our working conditions. Is there anything wrong with that?

Judge RD. Hendricks: Then there's certainly nothing wrong with it Commissioner.

COMM. Malema: Is there difference between gender equality and feminism?

Judge RD. Hendricks: Yes Commissioner.

COMM. Malema: What is the difference?

Judge RD. Hendricks: Gender equality has to do with the equal treatment of persons from different genders; feminism has to do with more inclined to be on the side of women.

COMM. Malema: If there are 50 women qualified, 50 women, very good and we're looking for 50 chairs and we employ all 50 women and there is no male there. Is there a problem?

Judge RD. Hendricks: It will definitely not be equal representation.

COMM. Malema: Is there, will it be a problem?

Judge RD. Hendricks: It won't be equal representation, and that is the problem Commissioner.

COMM. Malema: Thank you very much.

CJ M. Mogoeng: Well if you have the opportunity, given our background, and bearing in mind that certain courts have had only men for years, is it inappropriate to have a court that comprises women only?

Judge RD. Hendricks: No Chief Justice.

CJ M. Mogoeng: Let me let me make it clear. Can we say as the Commission, let us not appoint any more women to make sure that men come in?

Judge RD. Hendricks: No, it won't be the right thing to do.

CJ M. Mogoeng: Yes, now about something else.

COMM. Malema: No Chief Justice, no.

CJ M. Mogoeng: Are you asking for the same, yes, okay.

COMM. Malema: So Judge, do you agree that your judgment on my question about 50 women was wrong?

Judge RD. Hendricks: I beg your pardon Commissioner?

COMM. Malema: Do you agree that your judgment on my fifty women appointed only, your response to that question was wrong?

Judge RD. Hendricks: If indeed there will be at the end of the day equal representation, the fifty women can be appointed.

CJ M. Mogoeng: No, that was not his question, please understand the question.

Judge RD. Hendricks: Yes.

CJ M. Mogoeng: Don't confuse yourself, Commissioner Malema wants to know if we have in a court where 12 judges are required, you have women only, say who apply, say Mpumalanga High Court

Judge RD. Hendricks: Oh.

CJ M. Mogoeng: Women make themselves available, all competent. Are you now going to say; no, we go in there point six so that the other six can be filled by men?

Judge RD. Hendricks: Certainly not Chief Justice, sorry, I misunderstood the question. The 50/50 representation does not relate only to a specific code, it is across the board, a broad spectrum, so if there are more women in one division, doesn't mean that you know there's equality.

CJ M. Mogoeng: What about in the country, women in the country, all over the nation, will it be wrong, now we have 60% judges as women and 40% as men.

Judge RD. Hendricks: No, it won't be wrong Chief Justice.

CJ M. Mogoeng: All right, what complaints mechanisms are you aware of? What is it that the junior staff, a cleaner can do to register a complaint against a judge, apart from approaching the Judge President or another judge, do you know?

Judge RD. Hendricks: There is a hierarchy.

CJ M. Mogoeng: That's Afrikaans now; I know you are Afrikaans 'sprekend'.

Judge RD. Hendricks: Yes.

CJ M. Mogoeng: Now apart from the court setting, who can the cleaner complain to?

Judge RD. Hendricks: There is a manager; there is a line manager, which the cleaner can complain to, there's even a court manager.

CJ M. Mogoeng: Are you aware of the complaint centre, which has been set up in the OCG, or have we not communicated enough against the judges, by even members of the public?

Judge RD. Hendricks: Yes, I'm aware of it Chief Justice.

CJ M. Mogoeng: Oh, okay all right. Any other questions (meaning not clear 43.57), yes Commissioner Malema.

COMM. Malema: No Chief Justice, I think you must canvas this thing properly. In the judiciary, there is a process, which you know, and the Chief Justice, our clients, including their complaining channels by ordinary people, but in this case a public representative, like members of parliament, members of legislature, councillors. Is there an outlined way to launch a complaint with such people?

Judge RD. Hendricks: Such a person can, and I repeat myself, raised it with the relevant people in authority, in order to address the problem.

COMM. Malema: Judge, you see the disadvantage of being a Judge, is that even if you are personally involved in a situation, you are required at all times, to rise above, and at all times be objective, and give principled responses. It doesn't matter whether you, they make you stand a good chance of succeeding, or not. I'm talking to you about the reality of the situation in our country, where we've got a democratic system. People elect the representatives, to go and represent them. What is the acceptable way of launching a complaint with such people? We not talking about you now, ordinary people, what is the, an acceptable way of raising a complaint with public representatives?

Judge RD. Hendricks: The person involved can approach his or her councillor or representative in order to address the problem, or concern that he or she may have.

COMM. Malema: Or they can even lodge that complain with a public representative, it so happened, that they met at a Shell garage in a public toilet and they say to him look Mister Malema, I work in this garage here, we're being violated here, our rights are being violated and all that, and that public representative can't say because it was in a public toilet, I can't take it, this, and I say to this person; you didn't follow some acceptable procedure and all that, all I am raising, is the public can raise any other issue with their public representatives at any time in any way am I correct?

Judge RD. Hendricks: You are correct Commissioner.

COMM. Malema: And therefore, when they are public representatives, they raised their concerns, the public representative then answer; they didn't follow any acceptable procedure. Will that not be entirely correct?

Judge RD. Hendricks: Yes Commissioner.

COMM. T. Norman: Thank you very much; just last, I know you tried to explain to us with regards to the objector, but there's an issue related to the perception of which Professor Hlama raised about the perception of certain individuals about the North-West High Court, and there's some of the things here where the objector even alleged that you threatened him personally and some of the members who actually said we will deal with you. Why would this objector go to the levels where he would even mention a number of people within the judiciary, some of whom who are actually members of staff in the court as colluding somehow in making some members of society's life miserable.

Judge RD. Hendricks: Commissioner, I really don't know why the objector raised these allegations. I did not threaten him. I deny that I threatened the objector; I deny that there is any collusion with anybody against the objector.

CJ M. Mogoeng: And Commissioner Mpofo.

COMM. Mpofo: Thank you Chief Justice. Good afternoon Judge.

Judge RD. Hendricks: Good afternoon Commissioner.

COMM. Mpofo: Yes I'm sorry you made me to break my promise that I was not going to speak today and listen but a subject close to my heart. I just want I'm not quite sure that I understand your responses to the gender equality question; maybe I should ask it in these simple terms. Do you see the 50/50 representation that is banded (meaning not clear 49.28) about when we talk about numbers; do you see it as a target or as a minimum?

Judge RD. Hendricks: I see it as perhaps an ideal situation, but it's not a target as such. We can move towards that, and I think equal representation is indeed ideal.

COMM. Mpofo: No, sorry maybe I was not clear, I'm saying there are two situations, one would be you have a target, in other words you have a situation where you have 60 men and 40 women then you say no, we want 50/50, let's find 10 women, then that's a target.

Judge RD. Hendricks: Yes.

COMM. Mpofo: But if you understand it as a minimum, then you will accept that there's nothing wrong, given the history, as the CJ was saying, in actually having 100 women that's what Section 92 of the Constitution is all about isn't it.

Judge RD. Hendricks: Yes.

COMM. Mpofo: That in our pursuit for equality, we have to take into account the historical.

Judge RD. Hendricks: As an advantage, yes I agree.

CJ M. Mogoeng: You are excused Judge Hendricks.

Judge RD. Hendricks: Thank you very much Chief Justice and Commissioners, for the opportunity, I thank you.

CJ M. Mogoeng: Thank you, I think it's time for deliberations, colleagues if the room could be cleared.