



JUDGES MATTER

Judicial Service Commission interviews

10 April 2018.

Supreme Court of Appeal

Interview of Judge P A Meyer

DISCLAIMER: These detailed unofficial transcripts were compiled to the best of the abilities of the monitor. However due to capacity constraints they have not been fully edited. We have therefore made the video recordings available that were taken during the interviews available. Those wishing to cite or quote from the transcript are encouraged to check accuracy with reference to the video file.

CJ M. Mogoeng: Good morning, Judge Meyer. Please switch on your mic. These people should have done that for you.

Judge P.A. Meyer: Yes.

CJ M. Mogoeng: Are you well?

Judge P.A. Meyer: I am good, thank you, Chief Justice.

CJ M. Mogoeng: You have been here before, haven't you?

Judge P.A. Meyer: Yes, I have been here before, twice.

CJ M. Mogoeng: Let's touch on some of the things we have traversed before as if we are not aware of them, I think it will help. When did you become a Judge of the High Court?

Judge P.A. Meyer: Chief Justice, I became a Judge in November 2007 but prior to that I acted for six months. So I have been a Judge now for almost eleven years.

CJ M. Mogoeng: I have had some practitioners say becoming a Judge is no different from declaring insolvency. Why did you choose to be a Judge?

Judge P.A. Meyer: Chief Justice, I missed the fees that I earned at the Bar, but I must say the past eleven years were probably the best in my life.

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: I became a Judge in order to serve the country and I get a lot of satisfaction because I know that I succeed in doing so.

CJ M. Mogoeng: What is it that fulfils you about being a Judge?

Judge P.A. Meyer: I beg your pardon, Chief Justice?

CJ M. Mogoeng: What is it that satisfies you about fulfilling the role of a Judge?

Judge P.A. Meyer: Chief Justice there are various things, but it is to dispense justice and to uphold the Constitution and the Constitutional values. And to see especially the value of equality as you have noticed in the news lately, past week or so. The judgement that I have given. Yes, that is most satisfying.

CJ M. Mogoeng: Yes. You know some of us come to the Bench be members of political parties, belonging to all sorts of societies, holding views – strong views – one way or the other. What is it that enables a Judge to disconnect from previously held views that would otherwise cause him or her to be prejudicially disposed to some people?

Judge P.A. Meyer: Impartiality, Chief Justice.

CJ M. Mogoeng: How do you get to that point? Can I give you a – let me not give you an example. I am just trying to relax you, by the way -

Judge P.A. Meyer: Yes, no, no. Thank you for that.

CJ M. Mogoeng: -- That is why I am asking you these questions.

Judge P.A. Meyer: I need that.

CJ M. Mogoeng: Yes. Yes, I picked it up so I -

Judge P.A. Meyer: Yes.

CJ M. Mogoeng: -- I thought we must just have a chat a broad chat.

Judge P.A. Meyer: Chief Justice, it is to disabuse your mind from all other things and to be completely unbiased and to really apply legal principles, to apply the Constitution and that is what guides us. That is what informs our decisions.

CJ M. Mogoeng: Let me make my enquiry clear. Say I am an African person who holds strong views because of my political orientation - that almost every white person in South Africa is inclined to look down upon black people, to oppress, to be greedy. How do I connect with the new responsibilities that demand of me, not to look at colour but to look at the issues? Say I am a white person who believes because of my orientation and because of our history that black people are foolish people, lazy people, who just want to be sitting around and making babies. How do I disconnect from that wickedness and that foolish perception about others to being an objective person who serves all regardless of colour, gender or creed? Or a highly chauvinistic person who thinks women do not belong to the Legal Fraternity? I have had my first Dean when we were doing course one, 180 of us, and you people are so many you are going to fail. Half will not be here. I see that even women are venturing

into the Law. How does that lawyer, who suddenly becomes a Judge disabuse his or her mind from these prejudicial dispositions? What happens? What must happen? Is it automatic? Or is it something that must happen to get one there?

Judge P.A. Meyer: Chief Justice, first of all, anyone with that type of prejudice ought not to be on the Bench but -

CJ M. Mogoeng: But they do get in.

Judge P.A. Meyer: -- But when you are on the Bench, of course, you will get two different viewpoints before you.

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: And that is to be completely unbiased. And to respect people –

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: -- And also to listen to people because both sides have views.

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: And unless you can get to that point where you listen to both sides and you weigh up their arguments, their viewpoints and then you apply the principles, the Constitutional Principles, the Principles of Law.

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: And we are guided by so many authorities, fortunately.

CJ M. Mogoeng: Yes.

Judge P.A. Meyer: Yes, but in the first instance I do not think anyone with that type of prejudice ought to be on the Bench.

CJ M. Mogoeng: Yes. Except that it may be difficult to detect them. Isn't it?

Judge P.A. Meyer: Yes, no it –

CJ M. Mogoeng: People may -

Judge P.A. Meyer: -- it may very well be -

CJ M. Mogoeng: -- Prepare so well that you impress. As soon as they are on the Bench they say things that will shock you.

Judge P.A. Meyer: Yes, and prejudice may be so, as I mentioned in a judgement recently, maybe so latent.

CJ M. Mogoeng: Yes, it may be subconscious.

Judge P.A. Meyer: Yes.

CJ M. Mogoeng: Yes. Now, how has your acting stint in the SCA prepared you now for this position you are applying for?

Judge P.A. Meyer: Chief Justice since 2013 I have been in the SCA acting for seven terms, all in all almost two years.

CJ M. Mogoeng: Maybe just at that point where you well received? Did you get a sense that you were unwanted? Did you get the support of all colleagues? Or were some somewhat hostile to your acting stint?

Judge P.A. Meyer: Chief Justice, I was well received, and I enjoyed my time there. And a get along – in fact, it feels to me I belong there. I got along with all my colleagues. Of course, some colleagues better than others but I was very well received. And each time that I go back I am well received again and again.

CJ M. Mogoeng: Are there things about the SCA that you got a sense needed urgent attention? Or serious attention in the long run? Or does the place require vertically no improvement?

Judge P.A. Meyer: Chief Justice, I think that that Court is very well run. It has been well run under the former President and it is very well run now, under the new President and the changes that are being made are transformation changes and necessary changes. But as to the running of the Court and I have said that before, at the previous hearing, I think that Court is very well run. Everything is very structured. You know before every term exactly what is going to be expected of you and you can prepare yourself accordingly. So, yes.

CJ M. Mogoeng: Well this is the one opportunity and platform where you are allowed to boast without anybody accusing of arrogance. Just boast a bit about your readiness and suitability for the position you have applied for.

Judge P.A. Meyer: Yes. I do not like to boast, but I will take the cue. Chief Justice, I was at the Johannesburg Bar for twenty years. I had a very busy practice, mainly commercial work. I have been a Judge for eleven years. I am a judge in one of the most busiest Divisions in this country. I have written many, many judgements – more than two hundred of my judgements are now being published. And I think I am academically and experience wise very well equipped to take my thirty-one years experience now into the Supreme Court of Appeal. And also you would have noticed from the comments received about me is I like to engage with practitioners when they appear before me. I respect people. So I think I can add value to the Supreme Court of Appeal and I think especially with all my experience that I have gained over many years in most of the Disciplines of Law that I can take that to the Supreme Court of Appeal and really to the benefit of this country.

CJ M. Mogoeng: Yes. Thank you so much, President Maya?

PRES M. Maya: Thank you CJ. Good morning, Judge Meyer.

Judge P.A. Meyer: Good morning, President Maya.

PRES M. Maya: Are you well?

Judge P.A. Meyer: I am good, thank you. It is nice seeing you.

PRES M. Maya: Good. You have an illustrious CV and you have proved over time during your acting stints at the CSA that you have what it takes to be an Appellant Judge I don't think anyone can contest that. But the challenges one to which you yourself have just alluded that transformation in that Court, especially gender diversity remains a serious challenge. Now, I want to ask you this unfair question which I have put to your competitors yesterday. Why should you be appointed over the women and black candidates vying for this very same post? Who may not have had an opportunity to hone their legal skills as sharply as you have, as a white male, in South Africa. The simple question is how do we transform the SCA without weakening its intellectual capacity? Because that is my conundrum and that is the challenge of this body as well, I am sure.

Judge P.A. Meyer: President Maya, I do not think that is an unfair question. And I am on record on this commission. I have said that before also, that I believe absolutely in transformation and the only reason why I make myself available is in case there is a slot for me. But that is what the commission needs to decide, and I know that you have got a very difficult function to weigh up all the different interests and to decide on who the candidate should be to be appointed but for myself – yes, I absolutely believe in transformation. And once again to refer to the judgement that I recently wrote that is so in the news. Chowan versus AMH and Imperial, that was one of the issues in that case. And yes, we must have transformation we have come a long way, but we are certainly not there.

PRES M. Maya: Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, President. Commissioner Msomi?

COMM S. Msomi: Thank you CJ. Morning Judge.

Judge P.A. Meyer: Good morning.

COMM S. Msomi: Judge I just want you to comment on the comment that has been made by the GSB, this is against the background of what you have just said about the number of judgements that you have written. This is what they have to say about you. The candidate appears to be a competent jurist but has a relative paucity of reported judgements of substantial legal significance. What is your comment to that? What road – perhaps let me just expand on that question. What have you done over the last eleven years to develop our jurisprudence and also to develop our Common Law? Thank you.

Judge P.A. Meyer: Commissioner this is an aspect that was raised before, previously at the hearing. The transcript is available. The difficulty is I have published more than two hundred judgements now. What they meant by the paucity is simply that there are not so many, although there are quite a number, that have been published in the formal, in the Juta Law Reports. So that is first of all what is meant and with regard to the development of the law, you will also see that there are other comments, especially the one written by the University of Cape Town; that I have developed the Law with regard to, especially Constitutional Rights with regard to children. I have developed the Law with regard to now, gender discrimination and many other aspects. Also, some of the judgements that I have written are Substantial Criminal Law, Administrative Law and many are mentioned so that comment really has to do with the fact that the Law Reports simply cannot accommodate all the deserving judgements. That is what that comment is about.

COMM S. Msomi: Thank you. The second and last questions is, and it is a question that I put to another candidate yesterday, and that is the observation about the SCA being a Court of Law almost strictly and not looking beyond or crossing the Rubicon to deal issues of equity. One, is that observation correct? Two, if -

Judge P.A. Meyer: Can you just repeat that Commissioner, please?

COMM S. Msomi: -- The issue that I am raising is that there is a general view that the SCA is a Court of Law almost strictly Court of Law, whilst the Constitutional Court

would look beyond issues of Law and look at issues of equity. And there are many decisions which have been decided by the SCA which get overturned by the Constitutional Court on the basis of equity and probably the most famous of them all was the Vodacom case commonly known as “please call me”. The question that I am asking you now is if there is this constraint of crossing that Rubicon of moving beyond Law to look at issues of equity how do we get the SCA to do that if you particularly, which would be appointed to the Bench, to look beyond issues of Law and take into cognisance matters of equity, fairness and so on? Thank you.

Judge P.A. Meyer: Commissioner, first of all, I think the Constitutional Court is our highest Court and precedence from the Constitutional Court are binding on all of us and indeed the Constitutional Court in a number of judgements also in other aspects of the Law, Civil Law, infusion of equity in the Law of Contract and that creates precedent and it is for all of us - for puisne judges, for the High Court, for all of us - to follow the example of the Constitutional Court and to indeed be guided by principles of fairness. By principles of the Constitution also in our treatment of the Common Law, for instance. And that is what the constitution also enjoins us. So to do is to develop the Common law in conformity with the constitutional values. So anyone appointed to the Supreme Court of Appeal must also have this frame of mind and see things with different spectacles on and that is what we need to do. That is how we develop the Law.

CJ M. Mogoeng: Thank you. Commissioner Nayambi?

COMM A.J. Nayambi: Thank you CJ. Morning Judge.

Judge P.A. Meyer: Good morning, Commissioner.

COMM A.J. Nayambi: With your illustrious CV reflecting your experience I am sure you are the right one to reflect about the trajectory of judiciary transformation and what do you feel still need to be done when it comes to transformation?

Judge P.A. Meyer: Well Commissioner if you look at the statistics that we have, the statistics, first of all, looks much better than it looks in 1993 and certainly it looks

better than it looked when I was appointed as a Judge eleven years ago, but we are not there. And we must try to get there. We must endeavour to get there. Once again to refer back to this judgement of mine that is so in the media now, where I criticised a huge public company for the very same thing that one of their subsidiaries at the relevant time of the case before me, the last fourteen senior appointments that were made were all white people with one, white man, with one exception. It simply is not right in our country. We must transform. And competence we have all over the country that is also another thing. We have hugely competent, in this instance, Judges from all different groups. I do not want to name names but look for instance at the President of the Supreme Court of Appeal.

COMM A.J. Nayambi: Can you share with us your worst or you low experience as a judiciary officer?

Judge P.A. Meyer: Well, I don't think that there is really – that there was such an experience for me. There are obviously some cases that are more difficult than others. And the volume of the work of course also, we are under tremendous pressure as judges, in all divisions Supreme Court of Appeal and I speak for the Johannesburg Division and the Pretoria Division. But yes there is a constant work pressure but I would not really – I do not – I have never really experienced a low as a Judge that I can, you know, now use as an example. Yes, sometimes one is a bit burned out. Sometimes one does not feel appreciated that sort of normal being feelings. But it is a very rewarding profession and career and position to fulfil.

COMM A.J. Nayambi: Thank you CJ.

CJ M. Mogoeng: Thank you Commissioner Nayambi. Commissioner Didiza?

COMM Didiza: Thank you CJ. Good morning Judge Meyer.

Judge P.A. Meyer: Good morning, Commissioner.

COMM T. Didiza: How are you?

Judge P.A. Meyer: I am good thank you.

COMM T. Didiza: Good. I have just looked at some of your judgements that you yourself have mentioned as not that they are important more than the others, but which you felt was significant and I agree on one of them that you actually wrote as number one that relates to Environmental Law. The case between Harmony Gold and Department Free State –

Judge P.A. Meyer: Yes.

COMM T. Didiza: --The Department of Water Affairs. Looking at your judgement, and I just want to hear from you. What do you think will continue, maybe to be significant with regard to this judgements in respect of the interpretation of Environmental Law in South Africa?

Judge P.A. Meyer: Commissioner that judgement is considered to be a very important judgement and the reason for that being that those who pollute cannot run away. They cannot get rid of the company and then think that is the end of the world and then the taxpayer must sit with the problem. The principle really, the bottom line, of that judgement is he who participated in the pollution must pay, forever and a day.

COMM T. Didiza: Just as a follow-up do you think that it would be good for those who are renegotiating the Mining Charter to actually look closely at that judgement -

Judge P.A. Meyer: I think so.

COMM T. Didiza: -- I think as part of the obligation of the mining companies, and how we redefine the space of mining activities in our country but also in the continent and globally -

Judge P.A. Meyer: I agree with you.

COMM T. Didiza: -- This is one of the elements that we look at.

Judge P.A. Meyer: Yes, I agree with you entirely.

COMM T. Didiza: Thank you CJ.

CJ M. Mogoeng: Thank you, Commissioner. Commissioner Singh?

COMM N. Singh: Thank you, Chief Justice. Good morning Judge Meyer.

Judge P.A. Meyer: Good morning Commissioner.

COMM N. Singh: Yes, I just want to agree with you fully. We come from the same environmental background as Minister Didiza. I was MEC for Environment at one time.

Judge P.A. Meyer: Yes.

COMM N. Singh: And I think it is important that you gave that kind of judgements because acid mine drainage is a serious problem.

Judge P.A. Meyer: Yes.

COMM N. Singh: Particularly in the Gauteng area and the polluter pays principle is one that I would support. But my question relates to you completed your application form on the 8th of December and at that time there were five reserved judgements.

Judge P.A. Meyer: Yes.

COMM N. Singh: Some of them about four months and one matter I think was first introduced in 2014?

Judge P.A. Meyer: Yes.

COMM N. Singh: Have you given those judgments -

Judge P.A. Meyer: Yes, no -

COMM N. Singh: And what gave rise to the delay?

Judge P.A. Meyer: Commissioner Singh, yes, I see that the Johannesburg Bar actually looked at the time that I normally spend on reserve judgements and according to their comments on average it is about a month. Now, what happened was during the June/July recess last year I picked up pneumonia and that is the prime time that you catch up with your outstanding judgements. And then the next term was a very busy term for me, and the final term last year I went to the Supreme Court of Appeal. So I spend the entire recess period December/January catching up on those judgements and they have all been given and I can tell you at the moment I sit with two reserve judgements and both are very recent. Both are a few weeks.

COMM N. Singh: Thank you.

Judge P.A. Meyer: Maybe one is a month, but they are very recent, so that was a bit extraordinary for me, but it was a snowball effect.

COMM N. Singh: Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, Commissioner Singh. Commissioner Norman?

COMM T. Norman: Thank you, Chief Justice. Good morning Judge.

Judge P.A. Meyer: Good morning Commissioner.

COMM T. Norman: Thank you, I am one of the people who can actually confirm what you say when you say you preside you become impartial, you do not look at who is appearing before you. I have had a pleasant experience of appearing before you.

Judge P.A. Meyer: Thank you, Commissioner.

COMM T. Norman: Now, you have contributed to the course material towards orientation course for newly appointed Judges and you have put in there that was between 2012 to 2014 is there any particular reason why you stopped? -

Judge P.A. Meyer: No, no I did not stop Commissioner -

COMM T. Norman: -- Yes.

Judge P.A. Meyer: -- And in fact, it is whenever I am asked to do it. And I have just been asked to become involved in a mentoring programme. So, no no I did not stop. It was just -

COMM T. Norman: That is okay. Thank you. Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, Commissioner. Just by the way whatever happens whether you are appointed, or not would you still continue to help us? Because we need as many Judges as possible?

Judge P.A. Meyer: Absolutely Chief Justice. There is no doubt in my mind.

CJ M. Mogoeng: Thank you so much. Thank you. Professor Ntlama?

PROF N Ntlama: Thank you CJ. Good morning Judge Meyer. It seems that there are different experiences of Judges when they go the Supreme Court of Appeal. Particularly the blacks and the white ones. As a white Judge you were well received but the black Judges, the issues that they raised on the reception at the Supreme Court of Appeal, any comment on that one?

Judge P.A. Meyer: Commissioner it is difficult for me to comment on that. But what I will say as far as myself is concerned and President Maya will bear me out, I have always been very well received by all my colleagues - blacks, whites, Indians - and I also like to make a point of mixing with all my colleagues there. But I will never doubt if any of our colleagues who acted there has those kinds of complaints it may very well be very valid. I was just never a recipient of that kind of conduct.

CJ M. Mogoeng: Thank you, Prof. Minister?

[mic switched off]

MIN M. Masutha: It was sabotage from Honourable Malema.

[laughter]

MIN M. Masutha: Is he not the obvious culprit? Good morning, Justice Meyer.

Judge P.A. Meyer: Good morning, Minister.

MIN M. Masutha: I see you have practised as an Advocate for almost two decades before you acquired silk status.

Judge P.A. Meyer: Yes Minister.

MIN M. Masutha: Now my question, and it is going to be only one question it confines itself to that issue of acquisition of silk status. Now I need to paint the following picture and I hope I stick to my time. In 2014 out of nine candidates for silk two were African black male, the remaining seven were white male. Now, in 2017 last year, and that was at the Johannesburg Bar, in 2017 at the Pretoria Bar there were eight silk candidates one was black male, two women white. And finally again in 2017 out of sixteen candidates four were black generic, of the four only one was African female and five were women generally. Now I see as I said you took almost two decades to acquire silk status, what is it with the criteria that are used to determine suitability for acquisition of silk status? That seems to make it almost impossible for other race groups to acquire that status, given its role as a stepping stone for higher office and call it better pay in the profession.

Judge P.A. Meyer: Well Minister the statistics that you have just given are absolutely shocking and the Bar should reflect on itself because whatever criteria is being used, and I cannot comment on the criteria I do not know what criteria is used.

Commissioner Cane here, who is a member of the Bar and who was the previous chairperson of the Johannesburg Bar is in a better position to answer this. But all I can say from where I sit is that those statistics are shocking. It is absolutely, there is no reason why the Bar cannot look like the Bench do at the moment and for the Bench even to look better than it looks. We are not there yet. But those statistics are shocking. And I can tell you one thing there are many, many very competent counsel, black, white, Indian – I do not want to mention names here – but there is something inherently wrong with those type of statistics. It simply cannot be. It should not be, rather.

MIN M. Masutha: Apologies, I think that with your permission Chief Justice my point really is to get to the nub of it. To say that is the reality how do we change this reality a quarter of a century into democracy? I always assumed that the Western Cape is the worst culprit because they are simply not enough numbers, but I thought Gauteng, Johannesburg and Pretoria combined we have some significant participation in the Bar to be able to have the necessary pool -

Judge P.A. Meyer: Yes.

MIN M. Masutha: -- To draw silk out of that pool. What is that needs to be done to really turn the situation around?

Judge P.A. Meyer: Well Minister we need to pressure on the professions all across the country with those type of statistics. It is simply not - and it is also professions really, the attorney's profession and the advocate's professions and also the academics that really feed the Bench eventually. And those statistics are simply – it ought not to be like that.

CJ M. Mogoeng: Thank you, Minister. Commissioner Mpofu?

COMM J. Mpofu: Thank you. Good morning, Judge Meyer.

Judge P.A. Meyer: Good morning, Mister Mpofu - Commissioner Mpofu.

COMM J. Mpofu: Yes, thank you

Judge P.A. Meyer: Sorry I am used to you in court.

COMM J. Mpofu: I know, and also at the Bar.

Judge P.A. Meyer: And at the Bar of course, yes.

COMM J. Mpofu: Thank you very much. I would like to rephrase my question. We are not supposed to, according to the CJ, give a long preamble. So I will exchange my preamble by asking one question. But it is almost a follow-up on what the Minister has asked you. By the way, as you know, I represent the GCB and Advocates for Transformation.

Judge P.A. Meyer: Yes.

COMM J. Mpofu: So it is a transformation question really. I just think that there is a problem. If we are going to look at this question of transformation of the Bench and of the Profession generally at the tail end. By looking at the statistics that the Minister has just given you, for example -

Judge P.A. Meyer: Yes.

COMM J. Mpofu: -- The statistics of the Bench and the SCA and all that. Yes. I think that is just the wrong way of looking at it. Obviously, that is important because that is the end product. Now one of the key issues is clearly that access to work is not given to black practitioners, Advocates and Attorneys and particularly black woman practitioners. There are, in my book, at least the two culprits are the big white firms, historically white firms and the State that does not give that. And most of the Judges from their advantage point can see the people who appear before them. Our Chief Justice I think never spares any moment whenever he is speaking in public to lament that state of affairs -

Judge P.A. Meyer: Yes.

COMM J. Mpofu: -- Of not giving opportunity. Now apart from those kinds of public speeches. What role can the Bench play in nudging the profession, the State and all sorts of people? For understandable reasons you might be reluctant to give work to black people, for the historical reasons that we know, into making sure that those people are given the platform. Are given the opportunity to do the difficult cases, the so-called obscure areas of law. So that these statistics can then be – the changing of the statistics follows almost as a normal cause of events. Thank you. Thank you, CJ.

Judge P.A. Meyer: Commissioner Mpofu did I understand you correctly? What you want to know from me is what role can the Bench play as supposed to other institutions? Because one thing that I think with these type of statistics is RAF work for instance. Or to go to the junior Bar. It is mostly for – work for, but yes as far as the Bench is concerned I think we Judges must become actively involved with the professions, inside and outside of Court. And we should absolutely promote transformation in that sense also. And I do not think that will detract on our objectivity, in fact, that is one of the Constitutional imperatives.

COMM J. Mpofu: Thank you CJ.

CJ M. Mogoeng: Thank you Commissioner Mpofu. Commissioner Fourie.

COMM C.P. Fourie: Chief Justice, thank you. I think I have been covered.

CJ M. Mogoeng: Thank you so much. Commissioner Notyesi?

COMM M Notyesi: Thank you, Chief Justice. Only one question. Judge, there is a tendency by the Courts to treat the Customary Law as an inferior branch of our legal system. Notwithstanding the instructions in the Consitution to apply the Customary Law. Firstly I want to hear from you whether have you had an opportunity to deal with a Customary Law? With a matter that to relate with the interpretation of Customary Law or what is your view to the statement that I just made?

Judge P.A. Meyer: Yes, first of all in the Urgent Court Commissioner we are sometimes exposed to it. Within the context of funerals. So my exposure to it so far was very limited. It was limited really to decide where a body should go to and who needs to have the say as to the funeral and where the body should be buried. But yes, of course, we need sensitivity about that. We need to accommodate because that is a very important part for many people. Many millions of people. But my exposure as such is very limited to funerals really.

COMM N Notyesi: Thank you, Judge. Judge the last question would be really just to find out, I mean the Chief Justice and some of my colleagues have engaged you on this. You delivered a very important judgement in that case which concerns Mr Mark Lamberti -

Judge P.A. Meyer: Yes.

COMM N Notyesi: -- On gender discrimination. What lessons, I mean to us, and society really in dealing with these issues of racial and gender discrimination. How best can we deal with those matters as a society?

Judge P.A. Meyer: Well I think that case is reported by an academic as one of the benchmark decisions thus far. And I think that you know, it takes – we can simply not countenance that sort of conduct anymore. And there is a duty on us judges in order to set the tone as far as the law is concerned. And already, just to answer the second part of your question, there is a suggestion in the media that the Companies Act should be amended to disqualify Directors who contravene certain laws. And that maybe something for especially the politicians to look at because that will require an amendment of the Companies Act.

CJ M. Mogoeng: Thank you Commissioner Notyesi. Commissioner Cane?

COMM C Cane: Thank you, Chief Justice. Good morning Judge.

Judge P.A. Meyer: Good morning, Commissioner Cane.

COMM C Cane: During your answer to the Minister you referred to my role on the Johannesburg Bar Council and so I think it is incumbent on me to mention before this Commission that in 2017 there were ten people recommended for silk by the Johannesburg Bar Council. Four of them were white men, three were African men, two were white women and one was an Indian male. In relation to the four white men, who are self-evidently then in the minority, they were all people who contributed enormously to transformation at the Bar. Perhaps you would like to comment on that?

Judge P.A. Meyer: Well I am very pleased to hear that because the statistics mentioned by the Minister are shocking.

CJ M. Mogoeng: Thank you, Judge Meyer. Is it Meyer or Mayer, how do you best prefer it?

Judge P.A. Meyer: It is Meyer.

CJ M. Mogoeng: Meyer or Mayer?

Judge P.A. Meyer: Yes, Meyer.

CJ M. Mogoeng: Okay, Meyer. Thank you, Judge Meyer, you are excused.

Judge P.A. Meyer: Thank you, Chief Justice, Commissioners.