

**Address by Michael Masutha, MP (Adv), Minister of Justice and Correctional Services
at the Dullah Omar 10th Memorial Lecture, University of Western Cape, 19 August 2015**

Prof Tyrone Pretorious, Rector and Vice Chancellor of the University of Western Cape

Prof Bernard Martin, Dean of Faculty of Law, University of Western Cape

Mrs Farieda Omar and the accompanying family representatives and friends

Distinguished Academics

Distinguished Guests

Ladies and Gentlemen

Programme Director,

Let me thank the Community Law Centre of the University of Western Cape for inviting me to address this prestigious event to mark the tenth memorial lecture in honour of one of its founder member and legal stalwarts, Dullah Omar. Let me also extend word of gratitude to Mrs Omar and the Omar family for their continued support to the Centre and the Justice family in keeping Dullah Omar's legacy alive. This is a legacy of a caring justice system which is founded on social justice.

As the late Chief Justice Arthur Chaskalson acknowledged in the Soobramoney judgment, and I quote

“We live in a society in which there are great disparities in wealth. Millions of people are living in deplorable conditions and in great poverty. There is a high level of unemployment, inadequate social security, and many do not

have access to clean water or to adequate health services. These conditions already existed when the Constitution was adopted and a commitment to address them, and to transform our society into one in which there will be human dignity, freedom and equality, lies at the heart of our new constitutional order. For as long as these conditions continue to exist that aspiration will have a hollow ring”.

I have chosen to preface my address with the above quote from the Constitutional Court judgment which underlie the legacy of Dullah Omar, which has evolved over time through his contribution as a people’s lawyer, an academic, an agent of change, and finally as a devoted member of the Executive under the African National Congress government.

Today’s occasion takes place at a critical era of our political and constitutional calendar. This year marks the sixtieth anniversary of the Freedom Charter, which is an embodiment of our democratic Constitution. It also occurs when all South Africans commemorate the role and contribution of gallant women who, fifty nine years ago, took to the street to denounce the injustices of the apartheid government. It is fitting that today, we add, to the milestones that characterise our long road to freedom, the establishment of the Community Law Centre, 25 years ago. It is also fitting that the Community Law Centre’s name will be changed in a way which will properly recognise the tremendous contribution which Comrade Dullah Omar made to the liberation of our country, the development of our constitution and the transformation of our legal and judicial system.

The primary role of the Community Law Centre was to consider new constitutional models for a post-apartheid South Africa including a new legal framework that will transform the apartheid justice system. Special attention was given to a Bill of Rights and Administrative Law. Amongst the people who participated actively in the work of the Community Law Centre are Brigitte Mabandla, who is one of my predecessors in the Justice portfolio, Adv

Bulelani Ngcuka, who was the chairperson of the NCOP and later became the first National Director of Public Prosecutions and Justice Albie Sachs, a retired judge of the Constitutional Court. I am advised that some of the members who were actively involved with Comrade Dullah Omar at the Community Law Centre are in our midst today.

It was the early involvement of Dullah Omar in the Human Rights discourse of the Community Law Centre that equipped him and his fellow comrades for their participation in the multi-party negotiations that yielded our democratic Constitution. It was through the collegial astuteness of the negotiating team which included Dullah, led by the late President Nelson Mandela, that the Constitution we have today has become the vanguard for the poor, a fortress for the vulnerable and weak, and a beacon of hope for the youth who face the wrath of unemployment and drug abuse that confront our communities today.

It was in his capacity as Minister of Justice when Dullah Omar cut his teeth both as a legendary politician and a visionary leader. He had not only made an indelible contribution to the transformation of the State and society, he has, in addition, laid the foundation for the transformation of the justice system in our country. I am deeply privileged to have the opportunity of serving in the Justice Portfolio which he had moulded as the first Minister of Justice in our democratic State.

Without attempting to list the exhaustive ground breaking reforms the he championed during his tenure as Minister of Justice, the following warrant mentioning as they are at the core of the work of the Community Law Centre:

He spear-headed the Truth and Reconciliation Programme, which forms the basis of our restorative justice policy which we are infusing into the entire justice value chain. The envisaged transformation of the laws relating to bail and parole system for example, is geared towards ensuring that victims of crime are part of the

decision-making process across the entire value chain.

He conceptualised and launched the Justice Vision 2000 which aimed at widening access to justice for the vulnerable and the poor in particular. The transformation of the legal-aid, rehabilitation of courts to meet the needs of people with disabilities and the expansion of small claims courts are premised on this transformative document.

He pioneered the establishment of a legal framework that established institutions supporting constitutional democracy, including the Constitutional Court, the South African Human Rights Commission, the National Prosecuting Authority and the Public Protector.

He convened the first legal forum which discussed the transformation of the legal profession. The Legal Practice Act enacted in 2014 encapsulates some of the fundamental principles that were espoused during the tenure of Minister Dullah Omar. These include the need for a unified legal profession, implementing measures aimed at creating equal opportunities for women and previously disadvantaged communities to pursue a career in the legal profession and making legal services affordable to ordinary people. Significantly, he also introduced far reaching reforms regarding the legal curriculum which saw the abolishment of Latin as a requirement for a law degree.

I have recently received the first report of the National Forum on the legal profession established in terms of Chapter 10 of the Legal Practice Act. The academia is also represented in the Forum and I therefore implore the Community Law Centre and other progressive formations to seize the opportunity of influencing the transformation agenda of the Forum.

As we celebrate 21 years of our democracy, it is opportune for us to take stock of the progress we have made in realising the ideals of the Constitution that our forebears, including Dullah Omar has helped to nourish.

One of the greatest challenges facing the nation today is unemployment, which reportedly stands at 25, 4 percent nationally, and affects mainly our young people. The following is an extract from the Discussion Document released by the ruling party, the African National Congress a few days ago in preparation of its National General Council which will be held in October this year, and I quote

“Unemployment affects young people the most; 40 percent of the unemployed are new entrants to the labour market, which are most likely to be young people; 72 percent of the unemployed are young people. Tackling the unemployment challenge is to a large degree similar to tackling youth unemployment”

I have had first hand experience of the magnitude of this challenge recently when I directed that the Department of Correctional Services urgently fill approximately 3000 entry level vacancies at Correctional Centres. By the close of the deadline of the advert more than 1 million applications had been received. The avalanche of applications is symptoms of the challenges of unemployment. Processing those applications at different centres alone proved to be a nightmare to say the least.

Another strategic intervention we are pursuing is the reform of the State Attorneys Offices in line with the State Attorneys Amendment Act of 2014. The latter Act provides for the development and implementation of policies that are aimed at transforming the sector, including the preferential allocation of legal briefs to women and previously disadvantaged practitioners. We have commenced with the processes of appointing a Solicitor-General which is part of the Government's strategic intervention to strengthen the work of state attorneys and the efficient management of the Government's litigation account.

Since the dawn of democracy the democratically elected Parliament has enacted a maze of laws, including those that are geared to enhance access to justice. This includes the Constitution Seventeenth Amendment Act of 2012, Superior Courts Act of 2013 and Legal Practice Act, 2014. Importantly, the latter constitutional amendment and legislative reforms are aimed at safeguarding the accessibility, impartiality, dignity and effectiveness of the courts. Of significance, the establishment of the Office of the Chief Justice as a separate national department is a mechanism through which Government carries out its constitutional mandate in relation to the courts and the Judiciary.

Distinguished Guests

Key to the transformation of the legal profession and the Judiciary is the need to address the racial and gender imbalances with a view to establishing a justice system suited to the democratic order. The statistics provided by the General Council of the Bar of South Africa indicate that there are 645 women out of a pool of 2571 practicing advocates. Less than 1 percent of African women practitioners having been conferred with Senior Counsel (silk) status. On the other hand, from the records kept by the Law Society of South Africa, women attorneys constitute 8 601 out of a total of 23 217 attorneys country-wide. Women are a drop in the ocean in the big law firms.

Today, challenges facing law graduates is the acute lack of articles of clerkship and pupillage opportunities. This also contributes to the large number of unemployed graduates. The Legal Practice Act introduces measures to address these challenges. For example the Act introduces a mechanism for paying stipends to pupils whilst they are under pupillage.

When he took the first step of the momentous task of building a legal framework for a transformed judicial system in 1994, Minister Dullah Omar reminded us of the words of a

great philosopher, Lao Tzu, that “the journey of a thousand miles begins with the first step”.

Dullah Omar’s work speak volumes of the steps he has taken towards ensuring that access to justice becomes a reality for all people of South Africa. He left behind, not only a better justice system than the one he was born into, but a credible compass that guides us to the destiny envisioned by the National Development Plan, of a prosperous, equal and crime-free society.

I wish the Community Law Centre well under its new brand, the Dullah Omar Institute and trust that it continues with its good work for the benefit of society.

I thank you.