

Civil Society Responds to Minister Lindiwe Sisulu's Statements on the Justice System

On 7 January 2022, Minister of Tourism Lindiwe Sisulu published an article in which she launched an extraordinary attack on South Africa's justice system, its Constitution, and the judiciary. Although authored in her personal capacity, Ms Sisulu's public utterances, made as a member of the Executive and as a high-ranking member of the African National Congress, must be repudiated in the strongest terms.

Her demand for overhaul of the judiciary represents a dangerous and regressive call to render it responsive to the whims of a political elite. The very foundation of our constitutional democracy rests on the rule of law, which in turn depends for its health and tenacity on a fiercely independent and impartial judiciary at all levels. Calls to pack our courts with persons who would privilege political expediency over legal principle represent a clear threat to the judiciary's ability to uphold the Constitution.

Ms Sisulu's attempt to sully the legitimacy of our constitutional order, and by extension the idea of the rule of law on which it is based, is a shameful exploitation of the genuine plight of so many in our country. As a prominent member of government for a quarter of a century, Ms Sisulu would have had a uniquely clear view, during the years of State Capture, of the deliberate restructuring of the South African state to serve the interests of a subset of our political class at the expense of ordinary South Africans, especially the poor and vulnerable who daily suffer economic deprivation.

She knows, or should know, that it is not the judiciary which legislates and implements government policy, but parliament and the executive: to attempt to blame the judiciary for their failures is but the most cynical exercise in blameshifting.

It also bears noting that Ms Sisulu's recent article registers against a sinister cacophony of unwarranted attacks on the judiciary by political actors. These appear intended only to foreclose on the prospect of accountability for crimes, malfeasance and other wrongdoing associated with public office.

Judges find it difficult to respond to scurrilous attacks such as that authored by Ms Sisulu. The nature of their office typically demands that they maintain a dignified silence in the hope that decency and principled commitment to the values of the Constitution will prevail.

When those values are threatened, civil society is, however, obliged to speak out. We do so now, collectively deploring Ms Sisulu's attack on the Constitution and the judiciary, even as we are saddened and disbelieving that such attack would issue from a leading member of the party that rightly prides itself on having established that very document — the embodiment of democratic South Africa's aspirations.

Issued by:

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Judges Matter