



The independent judiciary of the post-apartheid period and the organs of justice are institutions cherished by the vast majority of South Africans. The courts are subject only to the Constitution and the law, and no person or organ of state may interfere with their functioning.

The judicial system, however, has undergone a restructuring process to make it more efficient and cost-effective.

In 1997, the Integrated Justice System (IJS) Board was established to integrate the activities of those government departments, the so-called Justice Cluster, whose work impacts on the justice system.

Six major developments are being undertaken. These include:

- establishment of a communications Virtual Private Network linking the various players in the justice system.
- an Identification System. The project consists of an Automated Fingerprint Information System, the National Photo Images System and a database of all DNA samples.

- development of the necessary business intelligence capacity within the Justice Cluster, which is in the second phase of its development.
- an Integrated Case Flow Management System. The required functionalities for this System are workflow, document management, event notification, scheduling of resources and the management of information.

The IJS will have a wide-ranging impact on court processes, case administration, detention control, inmate and docket tracking.

Various initiatives have been launched in recent years to make justice both more effective and to bring it closer to ordinary people.

These developments include Citizens Advice Desks established in the Durban, Pretoria and Johannesburg Magistrate's courts, an effective witness protection programme, and the creation of Sexual Offences Courts in which victims receive sympathetic handling.

Courtrooms at 179 centres have been augmented with specialised audio and visual equipment for the adjudication of sexual crimes.

Several units have been created to beef up the justice system. The Asset Forfeiture Unit is a specialised unit focusing on the seizure of assets from criminals. By August 2002, it had taken nearly 200 cases to court, and restrained nearly R400 million worth of property.

Units dedicated to rooting out corruption (the Special Investigating Unit) and violent and indecent offences (the Sexual Offences and Community Affairs Unit) have also been created. Legal aid is another area which the authorities are strengthening. By 2004, the Legal Aid Board plans to have a national network of 60 offices across the country.

The courts

Constitutional Court

Situated in Johannesburg, this is the highest court in all constitutional matters. It deals only with constitutional

matters and issues connected with decisions on constitutional matters including whether Acts of Parliament and the conduct of the President and Executive are consistent with the Constitution, including the Bill of Rights.

Its decisions are binding on all persons including organs of State, and on all other courts. The Court consists of the Chief Justice of South Africa, the Deputy Chief Justice and nine other judges. Justice Arthur Chaskalson is the Chief Justice and Justice Pius Langa the Deputy Chief Justice.

Supreme Court of Appeal

The Supreme Court of Appeal, situated in Bloemfontein, is the highest court in respect of all other matters. It is composed of the Judge President, Deputy President and a number of judges of appeal determined by an Act of Parliament. The Supreme Court of Appeal has jurisdiction to hear and determine an appeal against any decision of a High Court. Decisions of the Supreme Court of Appeal are binding on all courts of a lower order, and the decisions of the High Courts are binding on Magistrate's courts within the respective areas of jurisdiction of the divisions.

High courts

At present there are 10 court divisions: Cape of Good Hope with its seat in Cape Town; Eastern Cape (Grahamstown); Northern Cape (Kimberley); Orange Free State (Bloemfontein); Natal (Pietermaritzburg); Transvaal (Pretoria); Transkei (Umtata); Ciskei (Bisho); Venda (Sibasa); and Bophuthatswana (Mmabatho). Each of these divisions, with the exception of Venda, is composed of a Judge President and, if the President so determines, one or more Deputy Judges President, and as many judges as the President may determine from time to time.

There are also three local divisions: the Witwatersrand Local Division (Johannesburg), Durban and Coast Local Division (Durban) and South-eastern Cape Division (Port

Elizabeth). These courts are presided over by judges in the provincial courts concerned.

A provincial or local division has jurisdiction in its own area over all persons in that area. These divisions hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgment or impose a penalty. Except where minimum or maximum sentences are prescribed by law, their penal jurisdiction is unlimited and includes life imprisonment in certain specified cases.

The Land Claims Court and the Labour Court have the same status as the High Court. The Land Claims Court hears matters on the restitution of land rights that people lost after 1913 as a result of racially discriminatory land laws. The Labour Court adjudicates matters relating to labour disputes, and appeals are made to the Labour Appeal Court.

Circuit local divisions

These are itinerant courts, each presided over by a judge of the provincial division. These courts periodically visit areas designated by the Judge President of the provincial division concerned.

Regional courts

The Minister of Justice and Constitutional Development may divide the country into magisterial districts and create regional divisions consisting of districts. Regional courts are then established at one or more places in each regional division to hear matters within their jurisdiction. Unlike the High Court, the penal jurisdiction of the regional courts is limited by legislation.

Magistrate's courts

Magisterial districts have been grouped into 13 clusters headed by chief magistrates and in a few cases by senior magistrates. This system has been streamlined and simplified and provides uniform court management systems applicable throughout South Africa, in terms of judicial provincial boundaries. It facilitated the

separation of functions pertaining to the judiciary, prosecution and administration; it enhanced and developed the skills and training of judicial officers; it optimised the use of the limited available resources in an equitable manner; and it addressed the imbalances in the former homeland regions.

By August 2002, there were 370 magistrate's offices, 50 detached offices, 98 branch courts and 228 periodical courts in South Africa, with 1 662 magistrates.

On 1 May 1995, the civil jurisdictional limits of magistrate's courts were increased for both liquid and illiquid claims from R50 000 and R20 000 respectively to R100 000. In addition to this considerable increase, the previous distinction between jurisdictional limits with regard to the different causes of action was abolished.

Unless all the parties in a case consent to higher jurisdiction, the jurisdiction of a magistrate's Court is limited to cases in which the claim value does not exceed R100 000 where the action arises out of a liquid document or credit agreement, or R50 000 in all other cases.

Small Claims Court

Cases involving civil claims not exceeding R7 000 are heard by a commissioner in the Small Claims Court. Seventeen such courts were created in 2000 with a focus on rural and previously disadvantaged areas. By June 2002, there were 139 courts countrywide. The commissioner is usually a practising advocate or attorney, a legal academic or other competent person who offers his or her services free of charge.

Neither the plaintiff nor the defendant may be represented or assisted by counsel at the hearing. The commissioner's decision is final and there is no appeal to a higher court.

Correctional Services

The primary function of the Department of Correctional Services is to keep those detained in prison in safe

custody until they are legally released. Prisoners are housed in 241 prisons countrywide:

- eight prisons for female prisoners only
- 13 youth correctional facilities
- 134 prisons for male prisoners only
- 72 prisons for both male and female prisoners
- 14 prisons temporarily closed down for renovations.

Overcrowding in South Africa's active prisons is problematic. The prisons can accommodate 109 106 prisoners, but by March 2002 the prisoner population was at an all-time high at 178 998 of which 55 500 were unsentenced and 123 498 sentenced prisoners.

To address this problem, various strategies have been developed. These include converting certain sentences to correctional supervision, renovating and upgrading facilities and placing awaiting-trial prisoners under community correction.

Rehabilitation has been placed at the centre of all prison activities while striking a balance between rehabilitation and safe custody. Rehabilitation aims to provide education, skills development, personal development and spiritual enlightenment to address the offending behaviour and to release prisoners as productive and law-abiding citizens.

Thirty-three prisons have been identified for urgent upgrading. In 2002/03, R1,3 billion was spent on facility management and capital works.

Some R3 206 million was allocated to 'incarceration', R2 232 million to administration and R352 million to the rehabilitation of offenders.

The first privately operated prison to open its doors was the Mangaung Maximum Security Prison near Bloemfontein which became operational in July 2001.