

Deputy Chief Justice Dikgang Moseneke
Farewell Dinner
Thursday, 19 May 2016

1. Dumelang, baGolo!
2. Puo ena e tla ba ka Setswana!
3. The first thing to say about Deputy Chief Justice Dikgang Moseneke, holder of multiple positions of honour, awards, degrees and titles, is not about his extraordinary political history or his distinction as a judge or his surpassing humanity.
4. The first thing to say about him is that he is by far the handsomest member of the Constitutional Court. Not only is he the handsomest person in the Court, including all fellow judges, law clerks and staff, he is the best dressed, most sophisticated, best travelled and most polished and urbane.
5. Even the Chief Justice acknowledges this. In fact, he frequently refers to Dikgang's proficiency in the looks department when we meet privately at lunches and conferences. I expect the CJ to make a point of this tomorrow morning in Court, when he delivers the formal address to mark Dikgang's retirement from the Court.
6. This most surpassingly important aspect of Dikgang does not pass by unnoticed. He has an unsettling habit. He refers to important cases that he thinks this Court should hear, in these terms: "This case", he will say "really gets my juices going".
7. When I joined the Court in January 2009, my first law clerk, Nick Ferreira, assured me that when Dikgang sent out an email stating

that a particular case “got his juices going”, at least half the female law clerks fainted.

8. If that sounds sexist, may I assure you that Dikgang’s attractions are not confined to the opposite sex.
9. At my book launch in the Court’s foyer some two years ago, in welcoming the crowd, he more or less implied - or perhaps he actually stated! - that I had made a move on him.
10. I denied it then and I deny it now.
11. President Zuma this week denied in Parliament that he has any knowledge of the Gupta family’s business dealings. I, equally, deny that I have any knowledge of, or responsiveness to, Dikgang’s mystique and attractions.
12. Dikgang was appointed to this Court, by President Thabo Mbeki, on 29 November 2002. He completed his High Court work and started here in January 2003 – 14 years and 6 months ago.
13. Counting in his service as a High Court Judge, he has come to the limit of his constitutionally prescribed maximum term, which ends on Sunday.
14. These have been long, rich years of achievement and impact. The impact does not lie only in Dikgang’s significant judgment total (which, including main judgments, concurrences and dissents, runs to 50) - it lies in the depth of intellect, lawyerliness, humanity, sense of justice and verbal magic that he has brought to his judicial output.

15. Dikgang's journey from imprisonment as a very young teenager, to being one of the foremost figures in our democracy, was movingly traced recently in an eNCA documentary that featured his mother, Mme Moseneke.
16. I will not recount the details now. Enough to say that this is a journey that equipped him in commitment, in fidelity to the democratic struggle, and in courageous endurance to hold with distinction any office in the democracy for which he gave so unsparingly of his life.
17. But many people, with something like Dikgang's struggle pedigree, have stumbled at the waters of temptation and fallen in the fields of dalliance and diversion.
18. Not Dikgang. The commitment the 14 year old organiser of anti-apartheid mayhem showed 50 years ago is that same commitment that this refined, large-spirited, generous, intellectually commanding man still shows today.
19. Our Court will be enormously poorer when he concludes his last day tomorrow.
20. All too often, on pivotal issues, fractiously debated between us, we really were awaiting Dikgang's entry into the debate.
21. Almost always, his intervention was powerful, insightful, authoritative and conclusive.
22. His influence in the Court was such that he alone was worth three or four or even five votes in the Court.

23. Soon after I arrived, I dubbed Dikgang “the golden heart of the Court”.
24. The Court’s feeling for justice, its commitment to equity and its striving to afford those litigating before it dignity and equality, coursed through his veins and arteries to enrich the lifeblood of all our insights and output and judgments.
25. In Dikgang’s departing, one cannot fail to mention Chief Justice Mogoeng Mogoeng. Mogoeng became Chief Justice in September 2011 in drama-tinged circumstances that were challenging to both him and to Dikgang.
26. Remarkably – extraordinarily – and most fortunately for our country, these two people recognised the situation, understood what the Court and our country required, overcame its enormous difficulties.
27. For the past five years they have formed a formidable team that has provided redoubtable leadership to this Court through deep and difficult times.
28. They have done so securely and with integrity and purpose.
29. We were fortunate indeed to have two such singular people – of integrity and vision – at the head of the Court.
30. Make no mistake – in origin, temperament and world view, you could hardly imagine two more different people.
31. Mogoeng – from a small rural village. Dikgang – from an urban home. Mogoeng, who fasts for long rigorous periods to purify his

insights and his focus. Dikgang, who cannot get through a hearing without nibbling something.

32. Both are lovers of their native Tswana language, but have displayed their linguistic gifts in the usual language of converse this Court uses, English. Both have an unswerving commitment to the Constitution and to our national ideals under it.

33. What an historically impressive team they have made.

34. Of course Dikgang is not without blemish. The time for blemish-free praise is tomorrow at the ceremonial sitting,

35. Not now. Oh no.

36. There is a rumour that does the rounds, sourced I think in colleagues like Bess Nkabinde and Sisi Khampepe and myself, that Dikgang once, during a hearing, made a singular inquiry of counsel for the applicant.

37. The hearing concerned a woman enmeshed in immigration complexity. She worked, we were told, as a pole dancer. Her employers were alleged to have kidnapped her by seizing her passport and withholding it from her.

38. The applicant's name was Tatiana Malachi – a name to conjure with. The institution of learning for which she worked, which was alleged to have imprisoned her, was called the Cape Dance Academy.

39. The rumour is this:

that at the hearing Dikgang enquired from her counsel, Mr Anton Katz SC, whether she was present, and, if she was, whether she could rise.

40. Why he should have done this is entirely so mysterious that I wish to denounce the rumour right now.

41. I wish to state authoritatively that this alleged incident is entirely untrue.

42. Anyone seeking to verify it will be unable to do so because the source of the rumour, my two female colleagues and myself, dearly love Dikgang and will defend him in any circumstances against wicked, unjust and spurious allegations.

43. From tomorrow we shall have to do without Dikgang. I really don't know how. This has been a heavy week of "lasts".

44. He is a truly a generous-spirited – lion-hearted – human being.

45. He has exhibited a profundity of commitment to the Constitution, and an impulse to justice, that has few equals amongst South African judges of the last century.

46. He will take his place amongst the very best, the most resolute and principled and justice-seeking of lawyerly judges – to mention only the deceased, the Innes's, the Schreiners, the Corbetts, the Chaskalsons and the Langas.

47. Amongst them, Dikgang will take an honoured place for his eloquence and steadfastness and resolution, in securing justice under law for our fractured country.

48. It is my honour to raise a toast to him.