



**SPEECH BY THE CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA**

**CHIEF JUSTICE MOGOENG MOGOENG**

**ON THE OCCASSION OF THE UNVEILING OF THE MAHATMA GANDHI BUST AT  
THE CONSTITUTION HILL**

**3 MAY 2012**

**Programme Director, Ms Nair, Chief Executive Officer of Blue IQ Investment Holdings**

**Your Excellency, President Patil of the Republic of India**

**Honourable Dina Pule , Minister of Communications**

**Mr Pilot, Minister of State for Communication and Information Technology,  
Government of India**

**His Excellency Reverend H M Majeke, South African High Commissioner to  
India**

**His Excellency Gupta, the High Commissioner of India to South Africa**

**Mr Bhaisora, Acting Consul General of India**

**Councillor Naidoo, The Chief Whip of the City of Joburg**

**Members of the media**

**Ladies and Gentlemen**

## **Good Morning**

It is my singular honour and a great privilege to welcome you Your Excellency and your distinguished delegation, to the home of one of the most important institutions in our country, the Constitutional Court of South Africa. I am particularly delighted to be part of this event to celebrate and pay tribute, to one of the world's greatest leaders that ever lived. Indeed, Mahatma Gandhi is enshrined in the history of our nations, as an uncompromising and highly disciplined champion of freedom, equality and justice for all, whose teachings continue to reverberate throughout the world – many decades after his passing on.

Mahatma Gandhi was a truly remarkable man. He had vowed never to tell a lie and lived to redeem that vow, daily. He devoted his life to the pursuit of various humanitarian endeavours. His spirit of service is all too clearly reflected by his sacrifice of so much, physically and emotionally, for the people of this country. He was also such a selfless servant of the people that he devoted part of his time, as a busy law practitioner, to serve for free as a dispenser of medicine at a hospital pharmacy in Durban, and also constituted a team that nursed the wounds of the wounded African men during the so-called

Zulu rebellion. His message of a non-violent approach to the struggle for equality, justice and freedom continues to inspire multitudes across the globe. The true nature and purpose of this struggle and movement as we know, was best captured in the word *Satyagraha*, which, literally translated means truth and firmness.

He was arrested, assaulted and imprisoned numerous times during his time in South Africa. He nevertheless refused to sacrifice that which mattered the most to him, his values and his ideals.

Gandhi spent 20 years in South Africa and proved to be a resilient and potent leader against racial discrimination. This is also borne out by the leading role he played in the founding of the Natal Indian Congress in Dada Abdulla's house. He will thus always be a great source of inspiration to humanity under extremely trying circumstances.

In his autobiography Gandhi eloquently observed that:

*“The symbol of a Court of justice is a pair of scales held evenly by an impartial and blind but sagacious woman. Fate has purposely made her blind in order that she may not judge a person from his exterior but from his intrinsic worth. But the Law Society of Natal set out to persuade the Supreme Court to act in contravention of this principle and to belie its symbol.”*

This betrayal of the justice these practitioners had sworn to uphold manifested when Gandhi sought to be admitted as an Advocate of the Supreme Court in Natal. The Law Society opposed the application, because of his black exterior in disregard for his intellectual and scholarly prowess, which had led to his admission before he even applied in South Africa, in both India and England. As we know, he was eventually admitted in 1903, despite this opposition. He became a pioneering lawyer and the first advocate of Indian descent in this country. While his office became a place of protection for victims of racial and other discriminatory practices of the time; he too was not spared of these injustices, which led to his many brushes with the law leading to his numerous arrests. These include his arrest at this very prison for refusing to carry a pass book in 1908, and for leading a resistance campaign in 1913. He was told by white officials on a train that he had to move to the third-class passenger car, notwithstanding the fact that he was holding a first-class passenger ticket.

When Gandhi refused to move, a policeman threw him off the train. This, simply because he was not white.

Gandhi's experiences in this regard illustrate the consistent and pervasive nature of the institutionalised injustice, suffered by the majority of people in South Africa. The justice that Gandhi envisioned and fought for, is the justice that our Constitution now demands. It is also the justice that the Court on this Hill strives to deliver, and the feedback from many countries on the progress we have made in this regard, is humbling.

Given the parallels between the system that Gandhi fought and our supreme Constitution, which is the embodiment of the aspirations of all the people of this country, the placement of this bust on the site of his imprisonment, and now, the site of the Constitutional Court, the guardian of South Africa's Constitution, is indeed fitting.

What further highlights the suitability of this site for the bust, is the fact that in the past, this very place on which we stand was a bastion of the most repressive and most degrading treatment of human beings, at the hands of

other human beings. The choice of this very spot is undoubtedly, most appropriate and loaded with a profound transgenerational message. As our peoples move around it; I believe that it will serve as a constant reminder, never to repeat the institutionalised evils and the dehumanising and degrading deeds of the past, that Gandhi fought tooth and nail to get rid of, in any form, disguised, sophisticated or otherwise.

The rich history and the relationship shared by both India and South Africa is one that will continue to grow and blossom across the ages as our bond continues to be passed on from one generation to the other. The admission of South Africa into the Brics group of countries in December 2010, signalled the cementing of relations between our countries – a move that was long overdue given the rich history of co-operation and great respect we have for each other.

As I said, those who identified Constitution Hill for the erection of the bust, could not have chosen a better home for this monument that pays homage to a giant of a leader. For; it is in this historic precinct, Constitution Hill – that the

spirit of human fortitude and ability to forgive and reconcile with each other, as embodied in the teachings of Mahatma Gandhi, is enshrined.

It is my wish that as our countries continue to grapple with the 21<sup>st</sup> century challenges that beset us; this bust would serve as an inspiration to all our people who would come across it, to strive with all their might to ensure that the ideals of freedom for all, not for some, and of social justice for all peoples, the values for which Mahatma Gandhi and Nelson Mandela lived, are realised for the betterment of humanity.

In conclusion , this bust symbolizes our decisive break from any form of racial economic, gender and religious discrimination. Any temptation to manipulate institutions that are designed to benefit all of us, for the benefit of a section of us, should be immediately abandoned at the thought of the agony that similar practices, in the past brought about. It must also be remembered as a decisive rejection of greed and corruption. Because Gandhi stood for the truth unwaveringly, misinformation and any attempt to professionalize lying of any kind should be shunned by all of us.

Thank you once again Madam President and I wish you a memorable stay in this beautiful country of ours and a safe return to your beloved country, India.

I thank you.