



**LAW SOCIETY**  
OF SOUTH AFRICA

**PRESS RELEASE**

**3 August 2018: For immediate release**

**LAW SOCIETY CALLS FOR ACCOUNTABILITY FOR UNCONSTITUTIONAL AND UNLAWFUL IMMUNITY FOR DR GRACE MUGABE**

The Law Society of South Africa (LSSA) welcomes the judgment in the matter of *Democratic Alliance v The Minister of International Relations and Co-operation and Others*, relating to the withdrawal of the immunity bestowed on Dr Grace Mugabe. 'Our judiciary continues to uphold the Constitution and the Rule of Law and has given the complainant in this matter an opportunity to seek redress in our courts,' say LSSA Co-Chairpersons Mvuzo Notyesi and Ettienne Barnard.

The LSSA also calls on the department to introduce measures to ensure that the department minimises the risks of such errors in the future. As stated by the Court, 'by "recognising" the said immunity the Minister committed an error of law. The error, ... is fundamental and fatal.' The Court noted: 'Here the executive is constrained by the Constitution and by national legislation enacted in accordance with the Constitution. In terms of the Constitution the executive can only grant immunity *rationae personae* to an official from a foreign state if such immunity is derived from (i) a customary norm that is consonant with the prescripts of the Constitution or (ii) the prescripts of an international treaty which is constitutionally compliant or (iii) national legislation which is constitutionally compliant. A decision to grant immunity to a foreign state official that does not fall into one of the three categories will not withstand the test of legality, rationality or reasonableness. That is our law.'

'This is not the first time our Government ignores our Constitution, legislation and the rights of South African citizens, because "such action may have serious implications for the relations between South Africa and other African States. The international relations between South Africa and its neighbours militate against any enforcement action." This was the same excuse used in the matter relating to the President of Sudan, Omar Al Bashir's attendance at the African Union Summit in Johannesburg in 2015. In this case too, our Courts had to call the Government to heel,' say Mr Notyesi and Mr Barnard.

**ISSUED ON BEHALF OF THE CO-CHAIRPERSONS OF THE LAW SOCIETY OF SOUTH AFRICA, MVUZO NOTYESI AND ETTIENNE BARNARD**

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**Editor's note:**

The Law Society of South Africa brings together its six constituent members – the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces, the Black Lawyers Association and the National Association of Democratic Lawyers – in representing South Africa's 26 700 attorneys and 6 600 candidate attorneys.