



Black Management Forum House, 12 Summer Street, Rivonia  
P O Box 781220 SANDTON 2146 SOUTH AFRICA Tel: (011) 784 4407 Fax: (011) 784 – 4644  
Website: [www.bmfonline.co.za](http://www.bmfonline.co.za)

---

**CHIEF JUSTICE MOGOENG's KEYNOTEADDRESS AT THE BLACK MANAMAGEMENT FORUM  
CORPORATE UPDATE GALA DINNER held on FRIDAY the 10<sup>th</sup> JUNE 2016 at EMPERORS  
PALACE, KEMPTON PARK**

Our Programme Director Ms Lebo Mashile, the President of the Black Management Forum, Mr Mncane Mthunzi, the Deputy President of BMF, Mr Dumisani Mpafa, the Managing Director of BMF Ms Busisiwe Mavuso, BMF Directors, former Presidents, the Honourable Minister of Arts and Culture Minister Nathi Mthethwa and his dear wife Ms Philisiwe Mthethwa, the CEO of Transnet Mr Siyabonga Gama, the CEO of Standard Bank Mr Sim Tshabalala, the Public Protector, distinguished ladies and gentlemen and I dare not forget, my dear wife, my great source of support, greetings to you all.

Mr Mthunzi, threw a challenge at me and maybe before I tell you what it is, let me just express my gratitude to him and BMF for having afforded me the opportunity to contribute to the transformation agenda that they have chosen to embark on for the benefit of South Africans and also, congratulate them on forty years of existence, believing that everybody by now, has accepted that I'm a Christian and a Pastor, I'm sure I can give some biblical example without risking castigation.

For forty years, Moses and the Israelites were in the desert en-route to the promised land, the land of milk and honey and I venture to say the River Jordan is about to open up, so that BMF can take Black South Africans across to the land of milk and honey. This in a nutshell, is the challenge that the President of BMF threw at me, after I had accepted the invitation to come and speak here, he said the core business of the BMF, is to break all barriers that stand between Black people and justice, all barriers that stands in the way of

the advancement of Black people. He did not confine that mandate to those who happen to be in managerial positions or in leadership positions.

So when I speak broader than the ordinary mandate that you have come to understand of BMF, don't think that I'm reading from a wrong script. It is precisely because it is to the open-minded mandate that I have been called upon to speak and just to guide my presentation or my speech. He also said that BMF is a champion of transformation in South Africa and that transformative agenda, I didn't understand it to be confined to Black managers. I understood it to be much wider than that. He told me that they stand for good and ethical leadership. So there are a number of issues that I've been called upon to speak to you about and I will attempt to do so as I begin.

When you celebrate as does BMF now, you will as far as I'm concerned, do well to reflect in passing, on the gains and spend more time on the work that is yet to be done. This is how I seek to inspire myself on a daily basis in relation to how to re-energize myself and sharpen my focus in pursuit of the greater goal that I believe patriotic South Africans are pursuing. My starting point always is this, what a privilege that at a time when many laid their lives down and died in great numbers so that South Africa can be free, I am still alive to enjoy the benefits, not just of their toil and sweat, but the benefits that flow from their blood that was shed for me. What a sacrifice that when many family lives were destroyed, when many were forced to abandon their educational opportunities that I and many others, were privileged to pursue, so that we can be free, I am not one of those who lost them. I am here I am Chief Justice for what? Just to be called Honourable? Just to occupy a position? Just to earn some relatively good money and the fringe benefits that come with it? Is that what they died for?

By the way, in case people misunderstand where I'm coming from, this is not politics. This is Constitution speak, read the preamble, it tells the story. The right to vote is but one of the many that lives were lost for. People fought, died and decided Black and White South Africans, to chart a peaceful and better way forward, so that all those things that inspired the formation of BMF and the struggle for freedom, could be achieved in a peaceful way.

The one achievement that is undeniable, is that very much in line with Section 1(D) of our Constitution, we are now able to vote, but is that all? Have we put an end to racism, which is one of the reasons why we were for a long time, a nation at war with itself? What about land ownership? Have we done all there is to do as South Africans to find peaceful ways, non-divisive ways, constructive ways, to realize that all important objective? One of the things that the President of BMF said was that thought leadership is one of the responsibilities that they have taken upon themselves, to shoulder in the area of land ownership, or land restitution whichever way you look at it.

Is it not one of the responsibilities that BMF and many other organisations should begin to sharpen their capacity on with a view to finding solutions to. For how long do we want to blame Government for everything? Is it not our Government? Did we not say in the preamble to our Constitution, whether you contributed to its crafting or not, did we not say, we, the people of South Africa, believe that South Africa belongs to all who live in it, united in our diversity? Maybe it is because we are largely divided, that divided dropped onto my tongue. The laziest thing you can ever choose to do is adopt the position of a critic or a fault finder. I call those who spend most of their time criticizing, specialist fault finders. A thought leader ought to remember that where we come from, is rather too painful to go back to. We don't want at any stage in our future, for generations after us, to say one of the major things that our people fought for and composed songs about was the land – **MABAWUYEKE UMHLABA WETHU**. Now they are bound to ask a question - where is that land?

A few years ago, I wrote a judgement, Agri SA and if you read the introduction, it says 13% of the land, is in the hands of 87% and 87% of the land is in 13%, it's true, but beyond being critical, what is it that we do on a daily basis, to pour our minds into addressing the problem? What solution have we brought to the fore to avoid the deaths and the sufferings that I have alluded to, to avoid even some of the experiences in jurisdictions not too far from where we are, that could possibly have been handled better, had thought leaders encapsulated the solution of finding a solution to the land issue, as one of their key responsibilities.

So the challenge Mr President and BMF and all South Africans is this, I put to you that challenge, because I put it to myself on a daily basis as a patriotic South African. Let's find an effective way, effective strategies practical solutions to the land issue. It's a thorny issue, it's an emotive issue, and it's a very, very serious issue. I had an occasion not so long ago when Webber Wentzel were occupying their new building in Sandton to address them. It was a huge contingent of my White campatriots there from the corporate sector and even from the legal profession and I put the same question to them. I said you are people of influence, the time for spin-doctoring over the land issue, is gone. To say that there is a lot of land in the hands of Government that is yet to be distributed, is spin-doctoring that can only go so far in addressing the hunger that South Africans have for the land. So Black and White South Africans must put their heads together and even their hands, to look for a lasting and peaceful solution to the land issue.

Now to the economy. One of the reasons why people are happy even Heads of State to shake the hand of Bill Gates, is because he has money. He is a meaningful participant, not only in the economy of his country, but the economy of the world, meaning until Black people graduate from feeding on the crumbs of the economy, but pierce through the corporate veil that has for many years, denied them the opportunity to occupy the commanding heights of the economy, there isn't much influence that they will be able to bring about. It is good to want to be in managerial positions as women and Black people, but when are you actually going to own that business and what strategies are in place for you to be an employer of labour, for you to be a facilitator of employment equity?

Thought leadership, let me go there I am just excited, I wasn't going to talk about Singapore and South Korea, because I think I've been harping on that note for far too long, but now that you've provoked me, let me go there. As my brother said, Singapore has nothing but its people. It's a city state, when you see that city called Singapore, you've seen the whole of Singapore. In a very hostile environment so they say, as I read the two volumes by their first Prime Minister who was a lawyer by the way, Malaysia was not favourably disposed to Singapore in 1965, because of the break-off, they had nothing but themselves. They had nothing but a vision that the people were made to understand so

well, that they brought into it an unwavering commitment to give practical expression to that vision for good governance and economic development. They sought guidance from the best economic brains around the world to craft the masterplan for a viable and sustainable economic development for that city stage. At the time, when many of them lived with goats and pigs in their skyscrapers, fourteenth floor, your neighbor is busy feeding pigs, your children can't sleep, and that is where they were. Nothing but vision, nothing but a hatred for corruption, nothing but ethical leadership and hard work, so Singapore became, an economic miracle that it has turned out to be.

What about South Korea? Minister Mthethwa, it may interest you to know as a man from KZN, that South Korea, I ask a lot of questions wherever I go not just about the law because I want to see South Africa go somewhere. Twenty four years ago, South Korea which I understand is the size of Kwazulu Natal was many, many miles or kilometers behind South Africa in terms of economic development and they had nothing but themselves. No mineral resources of note, I understand they only have some poor quality cement, I hope the information I have, is true. Invested a lot in quality education, took the equivalent of our National Development Plan very seriously and revised it on an ongoing basis, this in circumstances where they were oppressed by Japan before, so they know what it means to be oppressed, just like us and now, there is just no comparison between South Africa and South Korea.

So talking about the economy I say, and challenging us purely on the basis of Singapore and South Korea, reflect deeply as South Africans, as members and non-members of BMF, on the breathtaking national resources that South Africa and by extension, the rest of Africa has to offer and the mineral resources. Absorb the reality that South Korea has two hundred functional universities that offer top quality education and out of that, as thought leaders that we are privileged to have in BMF, use your influence that you have so successfully used over the years, to permeate the structures of influence in Government and outside of Government, so that with the benefit of the master plans produced by your think-tanks, our Government, that I believe can never say no to constructive criticism and good advice, can embrace your advice and on the basis of it, take our country forward.

Be critical, but let us not hear from you only when there is something topical and everybody thinks it's fashionable to be throwing stones at Government. You are Government yourself and even as you approach captains of industry, have a clear plan, so that you never look like you are begging for anything. There should be no recklessness, you must approach them with maturity, you must approach them with a clear vision in relation to what is it that needs to be done to transform corporate South Africa.

I am glad that somebody touched on fronting, which by the way, I have also had the privilege to write on, to write a judgement on. When you front or allow yourself to be an object of fronting, distorting and channeling the wrong way the benefits of Black economic empowerment, know that you are a traitor. This thing has gone on for a long time and it hurts me, because I have some kind of personal experience about it. The only uncle I have, used to work for the old South African Railway Services and they were retrenched. After a while, his former bosses wrote him a letter and said come back to work. He signed documents not very learned believing that he was being re-employed to his old position. After some 3 years, they said there is no work available to you. He approaches me, I think I was studying law or something, or had just started working and he said look at what they have done to me. I said let me see the documents. He came back, he signed documents, saying that he was a co-owner of that company that needed him to secure a contract from Transnet and after getting the contract, they threw him out. But at least my uncle was ignorant, but there are many of us who have assumed the more nuance, the more sophisticated role of some of the homeland leaders of the past, they are tools for the perpetuation of the oppression of the many and for the frustration of the transformation agenda that BMF has embarked on.

Another key area that caused our people to fight one another is racism. I am touching on these things not because I'm aspiring to some political office, but because they are the truths that we shy away from and yet, they are so important for ensuring that several years down the line, we emerge as a united South Africa, Blacks and Whites supporting it. Racism, we have tried, Madiba tried and spent the better part of his free life pushing the agenda of national unity and reconciliation, but what have you and I been doing at our

workplaces? I was telling them in the holding room, that one of the most painful things that are happening is, even elements of self-hate among Black people and let me tell you what I'm talking about. I sat in the High Court as a Judge, and as a Judge President I sat in the Labour Appeal Court, at the same time as a Judge of that Court, now I sit in the Constitutional Court. I see who the parties are and who they give work to. I don't mean to embarrass anybody, but State subsidized institutions, Government departments, Black people who have money generally, when they give work to attorneys and advocates, it is to our White campatriots that they give work to. If you think I am exaggerating, come to the Constitutional Court, I will open the books for you and I have asked colleagues from the Supreme Court of Appeal, especially Magistrate Courts and the High Courts, they say the story is no different at that level. How then do you transform when you forget that in the process of being empowered, you must empower the previously disadvantaged?

Believe you me, even political parties, the majority, the overwhelming majority of whom are Black people, you must see who they give work to, so I'm throwing a challenge at myself and all of us and saying let it not be the right sounding words that we speak. The time for sound bites are gone, this is the time for reality check. Your commitment to transformation, begins at your workplace, begins even with your neighbours. Many of us here earn fairly well. How many of those disadvantaged, previously and currently disadvantaged children whose parents simply do not have the means, do you take out of your own pocket to take to high school and university? How many? And don't tell me that you can't afford it, otherwise you wouldn't have bought a Rolex.

Just how committed are we? And maybe just to go back, if people could lay down their lives so that you can be what you are now and have a gathering like this in town, without that hour that requires you to go back to your township interfering with your schedule, how much do we remember what the purpose was and how committed are we to ensuring that we never let down those who suffered, not just so that we can vote, not just so that I can become Chief Justice, not just so that you can become a managing director, but so that even the lives of those who cannot speak for themselves, those in the villages who have never known what it means to be educated, can also be positively impacted

upon. Good people, I think this is the time really to go back to the basics. We have disconnected most of us to that spirit that pushed people to say no matter what, I am going to do the right thing. Some of us, its mere complacency others it is a sense of I have arrived, so it doesn't matter what happens to other people. I hope none of us, it has nothing to do with the fact that something has been put in your mouth that forbids you to open it and say the right thing.

So as a try to conclude and I hope I will conclude, may all of us espouse a real transformation agenda that does not leave anything out. May we remember that transformation in your own life and your commitment to transformation, must be seen in the lives of those around you. May we refuse to be so comfortable in our newfound positions and luxuries, as to find ourselves in a position where our works, particularly in public platforms like this, do not match what we do when those who are here, are not around to see what we're doing. May we depart from hypocrisy, may we always remember that if these young South Africans who are manifesting the kind of militancy we thought had died out, fees must fall, Rhodes must fall, all those kind of movements, may we make sure that we don't betray the Constitutional aspirations of our people to the point where one day, you will be marching to me and saying Mogoeng must fall, because when I had the opportunity to ensure that the Courts that Nelson Mandela was complaining about during the Rivonia Trial, have been transformed into the kind of Courts that our Constitution promises to them.

May we begin to look for and actually create platforms for engagements, so that issues relating to racism can be debated and strategies developed out of those discussions so that they are meaningfully, addressed. Let me go back to racism a bit, I had a White Afrikaner friend, we were so close, Johan and I were very close in Mafikeng, we would drink "moer' coffee together, we would eat together, so one day he kept on saying James, James, James and his wife was there, so his wife said "skattie wie is James", he said "James is a Kaffir wat vir Mogoeng werk". That was quite sobering, because then, we were 8 years into democracy, so I realized, that this is not something to throw tantrums about, this is not something to take Johan to Court about. This is an eye-opener.

I as a South African, who in the preamble to the Constitution of my country, makes a commitment to heal the divisions of the past and ensure that there is unity, have failed to play my part. Somehow, like many I assumed, that a very progressive Constitution will automatically impact everybody and wipe out all the negativity that was there and well engrained before we became a Constitutional democracy, so my appeal to you and I is, there are many angry African people, there are many angry Coloured people, there are many angry people of Indian descent, some of whom probably hate White people for what happened in the past, but there are equally many, many White South Africans who have no regard for Black people, many good ones, but many who are so convinced that Blacks are lesser beings, that knowing that it is impermissible to call them "Kaffirs" openly, they have delved into nuances and the sophistication of the apartheid of yesteryear.

I often do this when I address my White compatriots, I say you know, the reason why Black people did not, Black practitioners and women, did not get work from corporate South Africa and White attorneys did not give work to Black advocates and women, was because they were consciously biased, but now we have 2 problems, conscious and deliberate bias against Black people and women and the unconscious one is very dangerous, because you don't know that you have a problem. When you give all the work that is available to White people, it's a natural thing, you don't mean to be a racist, so there is no problem to address, because you don't think there is a problem. It is for the think-tank that the BMF is and many other think-tanks out there, to provide thought leadership in relation to what is it that we need to do as a people to address the racial issue. It is not about screaming at each other, it is not about generalizing and saying yes these White people are racist. No, it is not true we wouldn't be having a Minister Rob Davis in Cabinet. Not all White people are racist, it is not true, it's a lie, but well thought through strategies, are required so that we can be united in our diversity, so that managerial positions, can genuinely, without being forced to do so by a law but because people understand and they want to change those, can then be made available to women and Black people.

We've got to do everything within our power to work out strategies that will take us there. Just as people sacrificed their weekends and evenings thinking about how to win the war

against apartheid, use this time and the resources that we are now privileged to have to come up with strategies that will unite us, reconcile our differences, so that we become a solid country that can develop as much as Singapore and South Korea have been able to develop with nothing. The economic issue also, stop being overly diplomatic in circumstances where frankness is called for. I'm not saying diplomacy is bad no, diplomacy is good, but if you look at me, I've realized that diplomacy can also be abused. When people expect me to be all protocol observed and come like a bishop and I know they want to abuse my commitment to diplomacy, I come like a lion at them. I think part of my advantage is being a village boy who grew up poor, I don't care about being honoured or being clapped for and also, with a baptism of fire that I have received when I came first to the Constitutional Court and then as Chief Justice, what insult can you ever throw at me that will work? I am never affected by insults, so now really I am concluding.

The determination to embark on transformation, as the President of BMF said in the letter he wrote me, requires sacrifice. Be prepared to be deliberately misunderstood. Be prepared to be condemned and to be mocked. Be prepared to be subjected to all sorts of cartoons and be prepared to be genuinely misunderstood, as long as you are clear about what is it that needs to be done and that the direction that you have chosen will contribute towards the realization of the South Africa that is in the Constitution.

Good people, it all comes with a solid character. Many of us have faked it for too long, we know how to be nice, we know how to behave as if we have some character to write home about, when in fact, there is nothing like it. It is never too late to work afresh at your character, to reflect and reflect seriously on your commitment to the good things that you would want to have people hear come out of your mouth. Let's work on our character, let's work on our integrity, let's embrace ethical self-leadership and ethical leadership in general. When you do, then whatever position you ever find yourself in, you will be excited not because of the position, but because of the possibility that the position affords you to be of greater benefit to the people that you are privileged to serve.

During the liberation struggle, some of the things that used to annoy me seriously, is that people would be fighting over positions. I won't use the terminology that we used then, because I am no longer there, but I will just say something like if you are fighting over positions before we become free, what is going to happen when we are free, now when there are positions with benefits available. Choose to be a functional leader as opposed to a positional leader. Work hard for the betterment of South Africa and her people, whether people see it or not. Let it never be about you, or if it is about you, let it be less about you, but more about the people that the likes of Chris Hani died so that they can be free and enjoy all the good that South Africa has to offer. Choose not to betray Braam Fisher, all those South Africans who died, just so that you and I can be here talking about transformation and meaningful participation in the economy of our country.

The challenge of being a lawyer and being a pastor is that you never run out of what to say. I hope I have said something of significance to you, so I thank you all.