

# JOURNAL OF ANTI-CORRUPTION LAW

2025 Volume 9(2) Pages 284 – 294

**Keynote Address: Giving Communities Their Voice Back — The Role of Women in The Judiciary at The University of The Western Cape On 6 October 2025**

**At a Joint Conference by The Department of Criminal Justice & Procedure (UWC) as part of a collaborative partnership with the Georgia Association of Black Women Attorneys (GABWA) in the United States**

**Keynote Speaker: Michelle Adams\***

## 1. INTRODUCTION

Good morning, distinguished guests, esteemed colleagues, members of the academic community and fellow legal professionals. It is both a privilege and a profound responsibility to address this gathering today. We meet at a time when societies, not only in this country, but across the world, are grappling with the devastating effects of crime and violence.<sup>1</sup> The theme I have chosen to discuss with you today “Giving Communities Their Voice Back”, is not only timely; it is urgent. As Ausburger so eloquently observed: “Being heard is so close to being loved that for the average person they are almost indistinguishable.”<sup>2</sup>

When I was invited to deliver this address, I felt both humbled and deeply apprehensive. On the one hand, I was gratified especially since the invitation followed the completion of my dissertation and came on the recommendation of my supervisor. It felt like a tacit affirmation of the work and dedication I had poured into that research. Yet, as the reality of this opportunity settled in, I was struck by a very different emotion, apprehension. I knew it meant confronting my longstanding fear of public speaking, an irony, given how often we are required to speak in court. Like many judicial officers, I am no stranger to public proceedings, yet addressing one’s peers in a forum such as this evokes a unique trepidation. Nevertheless, fear and nerves must yield to the greater purpose of this moment: the opportunity to highlight the importance of creating safe spaces and empowering communities by allowing

---

\* B. Proc; LLB (UWC); LLM (UNISA), LLD (UWC) Acting Judge of the High Court of South Africa (Western Cape Division).

1 iFearLESS (26 May 2025) “Consequences of Crime in South Africa: iFearLESS App Offers a Safer Future”, available at <https://ifearless.co.za/consequences-of-crime/> (accessed 4 October 2025).

2 Ausburger D (1982) *Caring Enough to Hear and be Heard* Regal Books.

them to reclaim their stories, their dignity, and ultimately, their voices in the face of an overwhelming crime pandemic. It is a chance to highlight how justice can create safe spaces and amplify community voices.

I promise, however, not to follow that popular piece of advice so often given to nervous speakers, you know, the one about picturing the audience in various stages of undress.<sup>3</sup> I speak today from a female perspective, informed and shaped by my own lived experiences. This is not to suggest that men do not or cannot contribute significantly, indeed many do so tirelessly and with profound impact. Justice itself knows no gender. Yet today, I wish to offer reflections rooted in the particular vantage point of how women in the Judiciary can bring distinct perspectives that strengthen the justice system's role in rebuilding trust and restoring dignity.<sup>4</sup>

I also wish to acknowledge the tireless work of government departments, NGOs, and countless community-based organisations that labour daily to uplift and empower. My focus here is not to diminish their invaluable contributions but rather to stress that communities themselves must be afforded the opportunity to tell their own stories. I remember fondly sitting around campfires with my children and extended family, sharing stories of those we admired, people whose courage and integrity inspired us to become all that we could be. It occurred to me that if communities, too, could gather around their own figurative fires, revisiting those stories that shaped them, they might rediscover the courage to reclaim their streets, to restore the sense of belonging that once defined them, and to craft their own solutions to the challenges of crime. After all, the most enduring and effective solutions are not born in distant offices, but in the lived experiences of the very people who bear the weight of those challenges every day. By remembering erstwhile heroes and recalling the relatively peaceful coexistence that once characterised many of our neighbourhoods, communities can unite against the scourge of crime, a scourge that has spread like a contagion, unchecked, destructive and devastating in its reach.<sup>5</sup>

## 2. THE CRISIS OF CRIME, SILENCE, AND THE LOSS OF TRUST

Violence and crime devastate more than lives and property. They unravel the social fabric, leaving communities fearful and disillusioned. The pain inflicted silences voices, erodes trust, and leaves many feeling cynical, not only toward each other but also toward the very institutions designed to protect them. When the justice system fails to respond adequately,

---

3 Jarrett C (nd) "I Hate Public Speaking. Is 'Imagine the Audience Naked' Really the Best Advice for Overcoming Nerves?", available at <https://www.sciencefocus.com/science/i-hate-public-speaking-is-imagine-the-audience-naked-really-the-best-advice-for-overcoming-nerves> (accessed 3 October 2025).

4 Rana S (2023) "Promoting Women's Advancement in the Judiciary in the Midst of Backlash: A Comparative Analysis of Representation and Jurisprudence in Key Domestic and International Fora" 127(3) *Dickinson Law Review* 693 – 733.

5 iFearLESS (26 May 2025).

communities feel abandoned.<sup>6</sup> When communities lose faith in the justice system, their pain remains unacknowledged. That loss of trust breeds hopelessness, and hopelessness often descends into lawlessness or vigilantism, a phenomenon all too familiar in this part of the country. Our task, therefore, extends beyond what we are called upon to do in court. It is also to restore hope, to rebuild trust, and to reawaken the collective voice of communities silenced by fear and disillusionment. For when people begin to believe that their voices no longer matter, they withdraw from participation. And when participation dies, justice itself is imperilled. Leo Buscaglia is credited as saying:

Too often we underestimate the power of a touch, a smile, a kind word, a listening ear, an honest compliment, or the smallest act of caring, all of which have the potential to turn a life around.<sup>7</sup>

### 3. THE DISTINCT CONTRIBUTION OF WOMEN IN THE JUDICIARY

Women judicial officers bring to the bench perspectives shaped by lived realities of inequality, vulnerability and social complexity.<sup>8</sup> This perspective is indispensable to building a justice system that does not simply punish but also restores, uplifts, and heals. Empowering communities begins with affirming their dignity, with assuring them that their experiences matter, their voices matter, and their safety matters. It requires a shift from treating communities as passive recipients of justice to recognising them as active agents of change. This means opening doors, sharing platforms, and perhaps most importantly, listening intensely, even when the truths revealed are painful.

### 4. A FAMILY'S VOICE RESTORED

Allow me to share a story that has profoundly shaped my understanding of justice. Consider the story of a family who came before the court, reeling from the loss of their daughter to murder, presumably at the hands of her significant other.<sup>9</sup> For them, this was not merely a criminal case; it was the shattering of their world. An initial prosecution that was withdrawn, followed by an inconclusive inquest, had left them feeling abandoned by a system they had once trusted implicitly. The system, their system, had fallen silent. Refusing to accept that silence, they instituted a private prosecution. This was not an act of vengeance. For them, it

---

6 Adams M F (2025) Unpublished doctoral dissertation (UWC) *The Challenges of Securing Convictions against the Kingpins of Organised Crime in South Africa* 16.

7 "Leo F Buscaglia Quotes", available at <https://www.goodreads.com/quotes/38256-too-often-we-underestimate-the-power-of-a-touch-a> (accessed 4 December 2025).

8 Rana (2023) at 693.

9 The author has extensive experience in the adjudication of matters involving gang activities and spent years in the District and Regional Courts. First as Public Prosecutor (1994 – 1999) and then as Magistrate. Currently she serves as Acting Judge in the Western Cape Division of the High Court of South Africa.

was about ensuring that their daughter’s story was told fully, honestly, and with dignity. The alternative was to accept the narrative that she had taken her own life. As the trial unfolded, my duty was clear: to guarantee fairness, to hear all sides, and to dispense justice without fear or favour. Yet, what mattered most to the family was that, for the first time, they were allowed to speak and to be heard. When the verdict was delivered and accountability affirmed, the family expressed that what mattered most to them was not only the verdict but the simple fact that, for the first time in this process, their voice had been heard. That moment served as a powerful reminder: justice is not measured only by convictions or sentences, but also by the creation of spaces where voices can be heard, acknowledged and restored.<sup>10</sup>

## 5. EMPOWERMENT IN ACTION

Empowerment in practice can take many forms; true empowerment is tangible. It manifests in actions and structures that make justice real in people’s lives. It is reflected in:

- 1) Community justice forums where residents influence and set safety priorities.
- 2) Witness protection programmes that genuinely safeguard those who come forward and do not fail them.
- 3) Schools that teach not only rights, but also civic duty, empathy and healing.
- 4) Courtrooms where judgments are crafted not only for litigants, but also as instruments of public education and reassurance. Judgments written to educate, and affirm, and not merely to resolve disputes.

It is also reflected when judicial officers use their platform to affirm dignity, especially in communities where despair and indifference threaten to silence victims. The Judiciary cannot intervene directly in community struggles — ethical and professional constraints rightly caution against overfamiliarity with potential litigants. Yet, through our judgments, our reasoning and the tone we adopt can create spaces where stories are told and where voices are heard. In doing so, we help to create the conditions in which lives may be transformed. Ultimately, through our judgments, we have the ability to give a voice to the voiceless and affirm human dignity.<sup>11</sup>

---

10 The Institute for Justice and Reconciliation (4 July 2024) “Justice Before Healing: 30 Years On, Communities Still Carry the Wounds of Apartheid and Yearn for Healing”, available at <https://www.ijr.org.za/2024/07/justice-before-healing-30-years-on-communities-still-carry-the-wounds-of-apartheid-and-yearn-for-healing/> (accessed 4 December 2025).

11 Callahan M (17 April 2018) “The Power of ‘Voice,’ and Empowering the Voiceless” *Northeastern Global New*, available at <https://news.northeastern.edu/2018/04/17/the-power-of-voice-and-empowering-the-voiceless/> (accessed 4 December 2025).

## 6. JUDICIAL VOICES RESTORING DIGNITY: LANDMARK CASES OF EMPOWERMENT AND JUSTICE

Several landmark cases illustrate how the Judiciary and notably female judicial officers in the Magistrates' and High Courts, have shaped the law to restore dignity and give a voice to the voiceless through their rulings.

### 6.1 *September v Subramoney NO: Affirming the Rights and Dignity of Transgender Persons*<sup>12</sup>

This case stands as a landmark decision in South African legal history, particularly regarding the rights of transgender individuals within the correctional system. In 2019, Jade September, a transgender woman incarcerated at a male correctional facility, instituted legal proceedings against the Department of Correctional Services (DCS). She alleged that officials denied her the right to express her gender identity through her hairstyle, attire, and the use of makeup. She also reported verbal abuse and harassment by staff and was placed in segregated confinement after attempting to express her gender identity.

This judgment set a significant precedent for the treatment of transgender individuals within South Africa's correctional facilities. It underscored the obligation of state institutions to accommodate the rights of transgender persons, ensuring their dignity and freedom from discrimination. Furthermore, the case highlighted the importance of recognising gender identity as an analogous ground in discrimination law. It emphasised the centrality of equality, dignity and non-discrimination, principles that remain non-negotiable, even for those in detention. This case has been instrumental in advancing the legal recognition and protection of transgender rights in South Africa, serving as a critical reference point for future litigation in this area.

### 6.2 *CVDM v S: Confronting Institutional Complicity in Gender-Based Violence*<sup>13</sup>

This judgment exposed systemic failures and institutional differences in responding to gender-based violence (GBV), reinforcing the Judiciary's role in condemning complicity and demanding accountability beyond the individual perpetrator.

This case reveals the devastating realities of GBV in South Africa, not only the extreme brutality inflicted upon the complainant but also the apathy that compounded her suffering.<sup>14</sup> Neighbours dismissed her cries for help as a mere "domestic dispute", and police officers at Belhar Station ignored her, despite her visible life-threatening injuries, until an unknown

---

12 *September v Subramoney NO* [2019] 4 All SA 927 (WCC).

13 *CVDM v S* (Appeal) 2025 (2) SACR 374 (WCC).

14 *CVDM v S* (2025).

nurse intervened. These details underscore the pervasive culture of indifference and secondary victimisation that survivors of intimate partner violence routinely face, an indictment not just of the perpetrator, but of societal and institutional complicity. The Regional Magistrate’s unflinching recognition of the crimes as among the most egregious instances of GBV she had ever encountered, and the imposition of life imprisonment, reaffirmed the Judiciary’s role in vindicating victims’ rights and asserting society’s intolerance of such cruelty. The Court’s directions to improve police training and oversight further underscored that accountability must extend beyond perpetrators to all who, by neglect or indifference, allow such violence to persist.

### **6.3 *Jezile v S*: Rejecting the Misuse of Custom to Excuse Gender Violence<sup>15</sup>**

In *Jezile*, the Western Cape High Court confirmed the judgment of the Regional Court, firmly rejecting the misuse of *ukuthwala* to justify rape and child marriage. The Court reaffirmed that consent is indispensable to both customary and constitutional law. This case originated from the Wynberg Regional Court, where Mr Mvumeleni Jezile was convicted of rape, assault with intent to do grievous bodily harm (GBH) and human trafficking following the abduction and forced marriage to a 14-year-old girl from the Eastern Cape. He was sentenced in the Regional Court to 22 years’ imprisonment. On appeal, Jezile claimed that his conduct was protected under the custom of *ukuthwala*.

The High Court dismissed the appeal, affirming that cultural practices can never excuse violations of constitutional rights. The judgment stands as a vital precedent, a declaration that neither tradition nor culture can be invoked to justify violence, coercion, or the subjugation of women and children.

### **6.4 *S v Cornick*: Validating the Voices of Survivors<sup>16</sup>**

Originating from Wynberg Sexual Offences Court, this case confronted the challenges associated with delayed reporting of sexual offences and affirmed the enduring veracity of survivors’ voices. The Court validated the testimony of a rape survivor more than two decades after the incident, dismantling harmful myths about how victims “should” behave.

A colleague who presided over the matter reflected:

Reflecting on the *Cornick* case more than 20 years later, I remember that the biggest challenge was the many misconceptions regarding rape and the supposed responses of victims. The fact that the victim only registered her complaint 20-plus years post the event does not detract from the veracity of her violation.

---

<sup>15</sup> *Jezile v S* 2016 (2) SA 62 (WCC).

<sup>16</sup> *S v Cornick* 2007 (2) SACR 115 (SCA).

This judgment underscored the principle that justice must not be confined by time, fear, or misconception, but should instead recognise and affirm the resilience of survivors whose voices refuse to be silenced.

### **6.5 *The Small Private Prosecution: Justice When the State Fails*<sup>17</sup>**

This case, which I have alluded to earlier, represents South Africa's first successful private prosecution for murder, reminding us that justice must never hinge solely on prosecutorial discretion but must remain accessible to all. This case is a testament to resilience when the State declined to act. An affirmation that when the State falters, ordinary citizens may still claim justice.<sup>18</sup>

Following the murder of Rochelle Naidoo by her boyfriend, Faizel Hendricks, in 2005,<sup>19</sup> the Director of Public Prosecutions declined to prosecute after an inconclusive inquest. Refusing to accept this outcome, Rochelle's parents, Yunus and Sara Asmall, instituted a private prosecution in the Malmesbury Regional Court. Their determination culminated in Hendricks being convicted of murder in 2014 and sentenced to 15 years' imprisonment, a conviction later upheld by the Western Cape High Court in 2022.<sup>20</sup>

This case is historic for being South Africa's first successful private prosecution for murder, and it stands as a testament to the resilience of victims' families in the pursuit of justice when the State fails to act. More than a legal milestone, it represents an affirmation of the principle that access to justice must not be contingent on prosecutorial discretion alone; rather, it underscores the agency of ordinary citizens to hold perpetrators accountable and to challenge systemic inertia in the criminal justice process. Each of these judgments and so many others illustrate the Judiciary's dual role: to interpret and apply the law, but also to serve as a platform for dignity, voice, and recognition. Each case demonstrates that judgments can be so much more than just legal outcomes – they can restore trust, vindicate rights, and affirm dignity, a powerful reminder that the Judiciary has the power to amplify voices otherwise silenced.

---

17 *The Asmall Private Prosecution* (2005 – 2014).

18 Thamm M (18 January 2022) "First Successful Private Prosecution for Murder in South Africa Will be Felt 'For a Long Way to Come'" *Daily Maverick*, available at <https://www.dailymaverick.co.za/article/2022-01-18-first-successful-private-prosecution-for-murder-in-south-africa-will-be-felt-for-a-long-way-to-come/> (accessed 4 December 2025).

19 Thamm (18 January 2022).

20 *S v Faizel Hendrick* private prosecutions.

## 7. BALANCING JUSTICE AND HUMANITY

Justice requires balance. Respect for victims must never eclipse respect for the rights of the accused.<sup>21</sup> Upholding the presumption of innocence, ensuring fairness, and treating all parties with dignity signals to communities that justice is impartial, principled, and humane. This is not leniency; it is integrity. And it is in demonstrating this balance that we restore faith in the rule of law.

When communities see justice administered fairly, that courts are impartial, that victims are respected, and that the accused are treated with dignity, trust in the system is strengthened. Cooperation increases, and cycles of violence are interrupted. People start reporting crimes, assisting in investigations, and turning away from vigilantism because of a renewed trust in the criminal justice system, currently lacking. For women and young people, seeing female judicial officers presiding with authority and compassion is transformative. It demonstrates that justice is not abstract but human, not distant but accessible. For women and young people, seeing female judicial officers presiding with authority and compassion is transformative.<sup>22</sup> It affirms that leadership is possible, that voices matter, and that justice can be a tool for change rather than oppression. But our responsibility does not end at the bench.

As leaders, women in the Judiciary must also advocate for reform for:

- 1) Courts that are more accessible and less retraumatising.
- 2) Stronger witness protection mechanisms.
- 3) Swifter resolution of cases.
- 4) A greater embrace of restorative justice.

## 8. COMMUNITIES AS PARTNERS IN JUSTICE

Community participation in developing solutions to crime fosters a profound sense of inclusion, belonging, and recognition. When communities are directly involved in identifying and addressing the challenges they face, they not only feel heard and understood but also develop a stronger commitment to the success of the initiatives implemented.<sup>23</sup> Within this context, it becomes the responsibility of the State to provide the necessary support,

---

21 Wolhuter, L & Hamman, A (2010) "A Comparative Analysis of Protective Measures for Vulnerable and Intimidated Victim-Witnesses in South African and English Law" (Special Edition 1) *Acta Criminologica: Southern African Journal of Criminology* 42 – 64.

22 Rana (2023) at 693.

23 Adams M F (2025) Unpublished doctoral dissertation (UWC) *The Challenges of Securing Convictions against the Kingpins of Organised Crime in South Africa* 63.

resources, and infrastructure to facilitate the implementation of viable community-driven solutions.

Communities often possess an intrinsic understanding of what works within their own environments. Yet, it is frequently lamented that they feel both unheard and misunderstood, that decision-makers are out of touch with the realities at the grassroots level. Where proposed community solutions are deemed unfeasible, constructive dialogue must follow. Structured workshops or public forums should be convened to communicate the reasons for non-implementation, while simultaneously exploring whether aspects of those proposals may be adapted or refined for practical application. Such engagement not only maintains transparency and trust but also strengthens civic confidence and fosters a sense of empowerment, even where ideas are not adopted in their original form.

Solutions that emanate from within communities are more likely to engender ownership and accountability. When individuals and groups feel responsible for the initiatives they have helped to craft, those initiatives stand a far greater chance of long-term success than those imposed externally without local buy-in or contextual understanding. Judgments, too, present a unique opportunity to both educate and empower. Through the articulation of judicial reasoning, the courts can enhance public understanding of constitutional principles and the practical limitations of rights.<sup>24</sup> While citizens are often aware of their rights, there is sometimes less appreciation of the extent to which those rights may be exercised within the bounds of law. For example, a person might assert, “I can say whatever I please because the Constitution guarantees me freedom of speech”. Yet, such freedom is not absolute. It must be balanced against the rights and dignity of others and exercised within the framework of constitutional limitations and societal responsibility.<sup>25</sup>

Through clear and accessible judicial communication, communities can come to understand how rights function in practice and how their exercise interacts with the broader social order. In this way, judgments become tools for advancing legal literacy, an essential component of empowerment and democratic participation. Platforms such as this conference, together with judicial pronouncements, offer invaluable opportunities to educate, enlighten, and empower. Meaningful change in communities affected by crime and violence can only be achieved by facilitating a fundamental shift in mindset through knowledge, through understanding, and through collective engagement. Empowering individuals with knowledge not only inspires them to act differently but reminds them that they deserve better. In the timeless words of Maya Angelou: “Do the best you can until you know better. Then when you know better, do better.”<sup>26</sup>

---

24 Stone A “Judicial Reasoning” University of Melbourne Legal Studies Research Paper No 807, available at SSRN: <https://ssrn.com/abstract=3327036> (accessed 4 December 2025).

25 Du Bois F (2008) “Freedom and the Dignity of the Citizens” *Acta Juridica*.

26 “Maya Angelou Quotes”, available at <https://www.goodreads.com/quotes/7273813-do-the-best-you-can-until-you-know-better-then> (accessed 4 December 2025).

## 9. CLOSING REFLECTIONS

Empowerment is not a single event, nor is it a campaign. It is a process, slow, imperfect, and at times resisted because let's face it who loves change? But it is transformative. When people reclaim ownership of their streets, when they believe their children deserve better, when they begin to imagine safer schools, safer homes, and safer futures, that is when real change begins. The family who pursued that private prosecution did not leave court celebrating me; they left believing in justice again. The same can be said for the 14-year-old in the *Jezile* matter who saw first-hand that courts do not adhere to the outdated "children must be seen and not heard" principle. So too are the others impacted by the life-changing judgments delivered in our courts daily.<sup>27</sup> Ultimately, that is the true measure of our work. As women in the Judiciary, we hold both the privilege and the duty to ensure that no voice is silenced, no story ignored, and no person denied dignity. The work of empowering communities is not a favour; it is an obligation, both constitutional and moral.

Let us walk alongside our communities, not ahead or above, but beside them. Let us listen, learn, and act, not as distant arbiters, but as fellow travellers in the long and arduous work of restoration. The task before us is not simple, and it will not be swift. The pursuit of justice is more than a profession; it is a promise. A promise to our communities that their voices will never again be silenced. If we walk alongside them, listen to their stories, and act with courage, justice will no longer feel distant but lived, shared, and real.

Let us return to our benches, our classrooms, and our communities with renewed conviction to honour that promise. For justice is not measured only by the judgments we write, but by the lives we touch and the voices we help restore. When we commit to listening more deeply and acting more boldly, we become more than judges, lawyers, or scholars; we become builders of trust, guardians of dignity, and architects of hope. In doing so, we do more than decide cases; we help rebuild communities. And that is the legacy we must choose to leave behind. But triumph will not come through resilience alone; it demands our active participation. It calls upon all of us as scholars, practitioners and citizens to lend our voices, our expertise and our resolve to the task of renewal. Together, we can ensure that justice is not merely an aspiration but a lived reality for every community. I do not profess to have all the answers. However, I remain steadfast in my conviction that, through the resilience and resourcefulness which continue to define us as South Africans, we possess within ourselves the collective capacity to confront and overcome the challenges posed by crime and its enduring consequences. What is required is that we rediscover and amplify our collective voice.

---

<sup>27</sup> *Jezile v S* (2015).

This sentiment extends beyond South Africa's borders to communities across the United States of America, particularly in Georgia, where citizens equally grapple with the social and psychological toll of crime.<sup>28</sup> In both contexts, it is through community agency, shared responsibility, and meaningful engagement with local and state institutions that the path toward safety, justice, and social cohesion can truly be forged. In conclusion, allow me to extend my deepest gratitude for this privilege of addressing you today. Your willingness to listen and to engage reflects the spirit of shared inquiry and collective responsibility that sustains both academics and the legal profession. Together, we can ensure that justice becomes a lived reality for every community. For that and for the privilege of addressing you today, I thank you.

---

28 Tony M (2023) "Why Americans Are a People of Exceptional Violence" 52(1) *Crime & Justice* 233 – 264.