Graduation speech by Justice B H Mbha
Judge of the Supreme Court of Appeal
20 April 2017

Chancellor, Prof Ihron Rensburg;
Vice – Chancellor, Prof Angina Parekh;
Executive Dean of the Faculty of Law, Prof Lethokwa Mpedi;
Registrar of the University, Prof Kinta Burger;
Faculty Staff;
Our Honoured graduates;
Ladies and gentlemen,

I am most honoured and humbled to have been afforded this opportunity by my alma mater, the University of Johannesburg, to address the young women and men of the moment and our future leaders at this momentous occasion that marks the conclusion of their theoretical learning of the law. Before they venture out into the world which presents, as it does, not only vast career opportunities, but also the very real societal challenges we are faced with and which squarely rest at their door-step to take our nation to the next level of preserving our hard-won democracy.
While I am aware of the diversity of this group of graduates, conferred not only with the LLB degrees, but also with BCom (law) and BA (Law) degrees, I must point out to our graduates: they have today joined a privileged and special position in our society because, as is generally accepted, lawyers – practitioners and academics alike – wield a tremendous amount of influence in our society founded, as it is, on the rule of law.

According to statistics, the great majority of law graduates go into private legal practice in what practically remains a split legal profession of attorneys and advocates. Whatever careers you ultimately choose, my suggestion is that being law graduates places you in a distinguished group of people we colloquially call ‘learned’.

So, allow me, ladies and gentlemen, to impart a few words of advice and inspiration particularly to those who will be entering legal practice.

Unlike in my time, you have a number of useful guides and resources which I recommend that you invest in. For the majority of you, who will be entering the attorneys’ profession, I recommend Hansjee & Kader’s *Survivor’s Guide for Candidate Attorneys*. And for all of you who will go into court practice, I recommend *Technique in Litigation*, originally written by Eric Morris, but currently published in its sixth edition by Mullins SC & Da Silva SC. These are invaluable guides for all young lawyers. Acquire and make use of them and you will find your feet sooner than most in legal practice. But let me, having offered to impart advice and recommended guide books, hasten to caution as did Eric Morris that: (1) no book will produce a genius; (2) there is no substitute for hard work; and (3) personal experience is the best teacher.

With that chastening thought in mind and with a painfully acquired consciousness of my own limitations, I venture to offer advice to the uninitiated law graduate who will enter legal practice. In doing so, I will briefly concern myself with the practice of law as it relates generally to our courts.

While some of you might have been drawn to study law by the latest American law television series, and I am told there are many, such as *How to Get Away with Murder*, *Suits* and *The Good Wife*, you will soon learn that practising law in South Africa is nothing at all like those television shows. Your generation, however, has the good fortune of having cases of great public importance being televised. You will undoubtedly recall the *Oscar Pistorius* trial,¹ which, if you followed on television, served as the best kind of exposure of the world that awaits you, and might even be a very useful educational tool on Criminal Procedure and aspects of the law of Evidence.

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¹ *S v Pistorius* [2014] ZAGPPHC 793 (12 September 2014) (judgment on conviction); *S v Pistorius* [2014] ZAGPPHC 924 (21 October 2014) (judgment on sentence); *Director of Public Prosecutions, Gauteng v Pistorius* [2015] ZASCA 204; [2016] 1 All SA 346 (SCA); 2016 (2) SA 317 (SCA); 2016 (1) SACR 431 (SCA) (3 December 2015) (judgment overturning the conviction of culpable homicide substituted by murder); *S v Pistorius* [2016] ZAGPPHC 724 (6 July 2016) (judgment on sentence after the substituted conviction on murder). As we know the State has once again sought leave to appeal against sentence.
However, the great thrust of cases that go through the courts, forming the bread-and-butter of most practitioners, are more mundane. They are made of law-suits for the recovery of debt, applications for sequestration or liquidation, landlord claims for rent or eviction, foreclosures, undefended divorces, petty theft and common assault cases etc.

I thus agree with Hansjee and Kader that ‘the reality that is awaiting you right outside your lecture theatres . . . is something that you will not be familiar with and you are not likely to be prepared for.’\(^2\) Indeed, when it comes to legal practice, our formal legal education can only take us so far; but knowledge of the law, which you are expected to have acquired during your time at university, is an essential starting point to any legal vocation.

So during your articles of clerkship for attorneys or pupillage for advocates, your practical training will be meant to equip you with the skills necessary for you to be able to practice law.

My next word of advice is making full use of the audacity of your youth: Don’t be too terrified to make mistakes, at the beginning of legal practice you will be expected to make mistakes, but learn from them and ensure that they don’t recur – and so that is how we learn.

Soak-up all details of lessons which will happen all the time around you: the world you will be entering into will have many human resources you can learn from. Be kind and collegial to all members of staff that you will be working with. You will be surprised how much you will learn, for example, from an attorneys firm’s messenger and secretaries. So don’t look down on support staff who you perceive not to be ‘learned’. Often they have a wealth of the kind of stuff you will be looking to attain, namely practical experience.

When it comes to the drafting of documents, learn from both substance and form. You will not have seen what the various court documents like pleadings, notices, writs and other such forms look like. So learn from and keep good examples. Learn too how not to do things, not only from your own mistakes, but also from those of your peers and others.

For any lawyer, the most important skill is communication.\(^3\) written, spoken and even non-verbal. Your writing will be expected to be professional and clear. When writing letters – opinions, emails, drafting pleadings etc, – keep in mind that whatever you are drafting will one day serve before a court, and be placed in front of a judge. Take due pride in yourself and make sure you speak and carry yourself professionally. Image matters in the legal profession, so keep yours professional and elegant.

I needn’t, I trust, advise you about integrity for it is the very bedrock of those who call themselves ‘learned’.

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\(^3\) Hansjee & Kader op cit at 2.
Remember that you will be in the business of selling expertise and time spent on clients’ cases, so you should understand that time will literally be money! Keep track of every minute you spend doing something on a matter, this includes things like drafting, consulting and delivering documents. You will be expected to account to your principal for the time you spend on any activity. You must be diligent in recording time and should spend justifiable time on the tasks you do.

Finally, be willing to work hard, put in the hours, and make the choice to be the best at your job. It is, after all, a competitive profession. The rule-of-thumb is that you are generally expected to work as late as your principal does if he or she is working after normal office hours.

I conclude where I started: Remember, ladies and gentlemen, that whatever you choose to do after obtaining your law degree, attaining it places you in a position of honour and influence. Importantly, remember that with this position comes the responsibility of meaningfully contributing – however you can – to help make our society better. You should not ignore the state of our country.

After nearly twenty three years, there is much about which we should feel disquiet and dismay in our society. Examples are aplenty and obvious: corruption both in the public and the private sector, poor service delivery, non-caring for the most vulnerable in our society, extreme poverty, unemployment, inequality – the list goes on. However, our Constitution affords us a pathway to healing, integration and to fulfilling and decent livelihoods. It offers us a framework within which to repair our country, to restore, redress and reconcile. It is up to us to claim the opportunities it offers. For the Constitution exists not only for the high dreams and good times. It is there also for moments of dismay and disquiet. The values of your expected role in applying and upholding all rights and values entrenched therein are immeasurable and crucial to the well-being of our society.

Hearty CONGRATULATIONS to you all.

God bless and thank you!