

South Africa's Chief Justice and the Question of Faith in a Secular Society

2020 has been a bizarre year, by any measure. The world has been changed dramatically by the rampaging coronavirus pandemic, which has killed more than [1.65 million people in the world](#), more than 300,000 of those in the United States alone. To put this in perspective, in less than a year, COVID-19 has killed more Americans than the total number of American lives lost during World War II. In Africa, South Africa has suffered the highest number of COVID-19-related deaths, with more than 23,000 deaths recorded. Top scientists have been frantically looking for vaccines to stymie a further spread of the novel coronavirus. The Food and Drug Administration (FDA) of the United States has recently authorised the emergency use of the vaccine manufactured by Pfizer. In an international system that has recently been bedevilled by toxic nationalism, populism and politicisation of any issue, even the question of vaccines has been politicised. In South Africa, for instance, the Chief Justice of the country, Mogoeng Mogoeng, has incurred the ire of some people for a prayer that he gave, seemingly pandering to the notion that some vaccines could be infused or laced with the mark of the biblical beast. I argue why his utterances are unfortunate given the context in which he made them; in addition, his appealing to personal sentiment on public platforms shows how delicate and fragile the separation of state affairs from personal beliefs is.

In an impassioned [prayer](#), Mogoeng commanded that “if there be any vaccine that is of the devil meant to infuse 666 in the lives of people, meant to corrupt their DNA, any such vaccine, Lord God Almighty, may it be destroyed by fire,” referring to it as the “demon of COVID-19”. While such incantations could

be anodyne sentiments, they take on a more serious consequence when uttered by a nation's principal jurist. Scepticism about vaccines is warranted, since some vaccines, like Russia's Sputnik V, have not been subjected to the requisite scientific scrutiny. In addition, the [haste](#) with which the competing vaccines have been produced has caused a few raised eyebrows. Nonetheless, it is worrisome for the Chief Justice of South Africa to bring into the public sphere sentiments that seem to emanate from conspiracy theorists. The important office that Mogoeng currently occupies demands that he conducts himself in an impartial manner as he discharges his public duties. Uttering a prayer in the manner that the Chief Justice did seems to be at variance with the ethics and professionalism that should characterise his position.

More worrying is the fact that Mogoeng's utterances and his conflation of science and non-science have a historical parallel in South Africa. One of the biggest blights on Thabo Mbeki's presidency from 1999 to 2008 was his HIV-AIDS correlation denialism. Mbeki went against conventional and scientific wisdom on HIV/AIDS that HIV causes AIDS and was one of the main killer diseases in Africa and South Africa in particular. Mbeki, supported by his controversial health minister, Manto Tshabalala-Msimang, endorsed the opinions of AIDS denialists who refused to draw a correlation between HIV and AIDS. Mbeki's and Tshabalala-Msimang's attitude led the government to occlude the distribution of antiretroviral drugs to HIV-positive patients. Tshabalala-Msimang earned the derogatory moniker of [Dr Beetroot](#) for promoting a mainly vegetable-based food rather than antiretroviral treatment of HIV as the cure for HIV-AIDS. Blocking the employment of conventional treatment caused more than 330,000 deaths among South Africans, according to a [Harvard University study](#). South Africa has also continued to pay the price for Mbeki's denialism. According to [UNAIDS](#), by 2019, South Africa has 7.5 million people living with HIV, out of total population just shy of 60 million. With these numbers, "[South Africa has the](#)

[biggest and most high-profile HIV epidemic in the world](#)".

These chilling realities have a disturbing resonance with what Mogoeng did. Currently, South Africa has the highest number of COVID-19 cases in Africa. A position that might question established treatment options is likely to embolden segments of South Africa that rely on conspiracy rather than science in matters of health. Mogoeng's allusion that some vaccines might carry the mark of the beast has an eerie resemblance to Mbeki's opinion that antiretroviral drugs were toxic and a ploy by big pharmaceutical multinationals to make profit.

The conduct of Mogoeng raises concerns about his impartiality, should any vaccine denialism case be presented before his court. Mogoeng has since refused to apologise for his utterances despite calls by some for him to be impeached or outright removal from office. During the 2019/2020 Annual Judiciary Report Presentation, Mogoeng maintained that he was "[crying unto God](#)" and wanted God to destroy a vaccine might be carrying 666. He also said that, as a Christian, he believes that these are the end times. He seems to be unaware of the fact that his remarks carry a lot of weight in society and might convince infected patients to reject any vaccine, which could potentially lead to yet more deaths from COVID-19 among South Africans. Ironically, Mogoeng said his controversial prayer at Tembisa Hospital during an event honouring victims of COVID-19.

The conflation of religion, state, politics and science has had devastating consequences from time immemorial. The Catholic Church was forced to apologise about the [Galileo Affair](#), a period during which the Church used biblical inscriptions to argue against heliocentric astronomy. Mogoeng Mogoeng seems to be unwittingly using religion to discredit scientific wisdom. His understanding of a secular state seems misplaced. A secular state is one in which matters of religion do not hold sway over matters of the state; it does not simply mean, as he seems to argue, the imposition of one

religion over another. It is not my place to state whether or not the Chief Justice should be sacked because of his remarks. However, he has to separate his personal beliefs from the important office that he occupies. His remarks are all the more surprising because since becoming Chief Justice, South Africa's judiciary has gained a lot of plaudits for its independence, and a great deal of the credit should duly go to Mogoeng as the person who occupies the centre seat in South Africa's highest court. His nomination for Chief Justice in 2009 was controversial for many reasons, ranging from his lack of experience in the constitutional court, the claim that Deputy Chief Justice Dikgang Moseneke was more qualified to succeed the outgoing Sandile Ngcobo and, of course, Mogoeng's religious beliefs and curious statements such as that he felt it was his vocation and that he was ordained by God to be Chief Justice. From such a controversial start, Mogoeng has gone on to be a highly competent jurist. The highest point of his judicial career and one of the most important milestones of post-apartheid South Africa's constitutional democracy was the [2016 ruling](#) that President Jacob Zuma, the incumbent president at the time, violated the constitution when he failed to repay government money spent on his private home in Nkandla. This judgement was unprecedented, and it indelibly etched Mogoeng's name on South Africa's political history as one of the most fearless defenders of South Africa's constitution. His recent failing could then be put down to human fallibility and the bizarre nature of the year in which he uttered his unfortunate prayer.

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