



Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
IPalamente yePhondo IeNtshona Koloni

SUB-JUDICE RULE

FACT SHEET 11

REVISION 1, 12 JULY 2016

The standing rules provide that “no Member may refer to any matter on which a judicial decision is pending”. It is a voluntary restraint that the Provincial Parliament imposes on its Members – for the sake of the judicial process and in the interest of justice – not to make reference, either in debate or through motions and questions, to matters before the courts. By doing so, an accused in any court action is protected against any prejudicial effect from public discussion of a matter.

The *sub judice* rule preserves and maintains the mutual respect between the judiciary and the legislature.

The separation of powers is emphasised in section 165 of the national Constitution where it provides, *inter alia*, that “no person or organ of state may interfere with the functioning of the courts” and that “organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts”.

The *sub judice* rule does not apply to matters before commissions or parliamentary committees but Members should, however, refrain from commenting on proceedings, evidence or findings before a final report has been released.

The application of the *sub judice* rule is ultimately at the discretion of the Presiding Officer.