

SEPTEMBER 2023 | Q2 ISSUE

A black and white photograph of a statue of Lady Justice, the personification of the goddess of justice. She is depicted from the waist up, wearing a blindfold and holding a large scale of justice in her right hand. The statue is made of dark material, possibly bronze or stone, and is set against a light background. The scales are large and ornate, with a chain hanging from the top. The statue's face is partially visible on the left side of the frame.

THE JUDICIARY

CELEBRATING A LEGACY OF WISDOM & SERVICE

MAKING JUSTICE ACCESSIBLE

WOMANITY – WOMEN IN UNITY

EMPOWERING WOMEN IN EMPLOYMENT LAW

LENDING A HELPING HAND

SUPERIOR COURTS OUTREACH



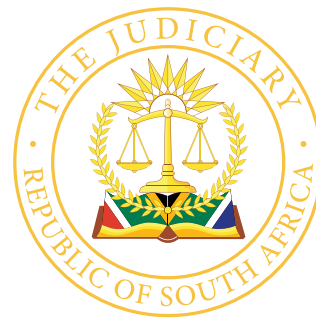
 The South African Judiciary

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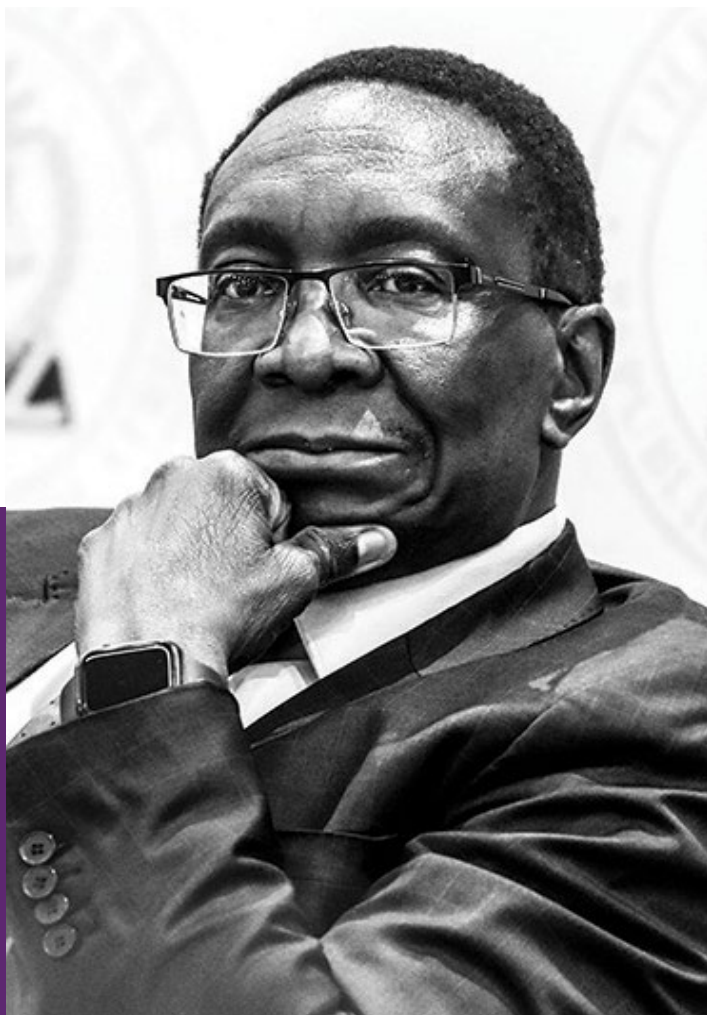
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FROM THE EDITOR

still holding too many women back, holds our world back too. It is in this spirit that this edition of the Judiciary Newsletter is dedicated to women in the Judiciary and offers them the platform to elucidate on progress made and challenges still to be overcome in achieving gender equality in the legal profession. In this regard, we hear from Judge President Thoba Poyo Dlwati (KwaZulu-Natal Division of the High Court), Judge Sharon Chesiwe (Free State Division of the High Court), Justice Leona Theron (Constitutional Court), Judge Raylene Keightley (Gauteng Division of the High Court), Judge Soma Naidoo (Free State Division of the High Court) and Judge Hilary Rabkin-Naicker (Labour Court). *Malibongwe igama lamakhosikazi!*

Dear Colleagues,

Welcome to the spring edition of the Judiciary Newsletter. This is always an important edition of the Newsletter as it is published on the back of the month of August, observed in our country as Women's Month.

This year, we commemorated Women's Month under the theme, "Women's Socio-Economic Rights and Empowerment: Building Back Better for Women's Improved Resilience". The theme is linked to the concept of Generation Equality, the world's leading initiative to accelerate investment and implementation on gender equality in support of the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) adopted by world leaders in 2015.

The global campaign for gender equality is premised on the idea that gender equality is a right, and fulfilling this right is the best chance we have in meeting some of the most pressing challenges of our time – from economic crisis and lack of health care, to climate change, violence against women and escalating conflicts. According to United Nations Women, women are not only more affected by these problems, but also possess ideas and leadership to solve them. The gender discrimination

We take this opportunity to congratulate Chief Justice Raymond Zondo and Deputy Chief Justice Mandisa Maya on being conferred with honorary doctorates by the University of South Africa (UNISA). The University said the conferring of the honorary doctorates "follows a decision of the Unisa Council on 29 June 2023, which resolved to award the degrees of Doctor of Laws (LLD) (Honoris Causa) to the two judges of the Constitutional Court in recognition of their sterling contribution to the legal profession in South Africa." Please see pictures of the graduation ceremonies on page 2.

In this edition, we also pay tribute to our colleague, Judge Francis Legodi, who has hung his robes after two decades on the bench. Family, friends and colleagues gathered in Mpumalanga on 25 August 2023 for a farewell ceremony in honour of Judge Legodi. You can read about this on page 11. Enjoy your retirement, Mokone!

We hope you will find this edition of the Newsletter informative and enjoyable.

Until next time...

Judge President Dunstan Mlambo
Chairperson: Judicial Communications Committee



UNISA HONOURS CHIEF JUSTICE ZONDO AND DEPUTY CHIEF JUSTICE MAYA

The University of South Africa honoured Chief Justice Zondo and Deputy Chief Justice Maya by bestowing them with the honorary degree of Doctor of Philosophy in Law (Honoris Causa). The ceremonies took place on 27 and 28 September 2023, respectively, at the Winnie Madikizela ZK Matthews Great Hall in Pretoria.

Chief Justice Zondo received a Doctor of Law in the College of Law, he is pictured with members of UNISA management



Unisa Principal and Vice-Chancellor, Prof Puleng Lenka-Bula conferred an honorary doctorate on Chief Justice Raymond Zondo



Deputy Chief Justice M M L Maya conferred with an honorary degree of Doctor of Philosophy in Law (Honoris Causa)



WOMEN'S DAY MESSAGE FROM THE PRESIDENT OF THE SAC-IAWJ

Judge President Thoba Poyo-Dlwati

Judge of the KwaZulu-Natal Division of the High Court
and President of the SAC-IAWJ

We can never forget to pay tribute and honour all the brave women who stood against injustice and marched to the Union Buildings on 9 August 1956 in protest against the extension of the repressive pass laws to women, thus charting the path to a just, equal, and inclusive South Africa.

It is an important day in our calendar as we continue to face different challenges in the present-day South Africa including gender-based violence, poverty, inequality, and corruption. As SAC-IAWJ, we will continue to support and be part of programmes that seek to curb the scourge of gender-based violence as our good legislations do not seem to be winning against this pandemic without reinforcement from organisations such as the SAC-IAWJ.

This Women's Day, we also commemorate and celebrate the hard work and achievements of all those women who fought hard to enable us, women,

It is as a result of these champions of women's rights legacy that, 100 years later, we are able to celebrate the appointment of our first female Deputy Chief Justice of South Africa in Justice Mandisa Muriel Lindelwa Maya ”

to be admitted to practise law in this country through the enactment of the Women's Legal Practitioners Act on 10 April 1923.



It is as a result of these champions of women's rights legacy that, 100 years later, we are able to celebrate the appointment of our first female Deputy Chief Justice of South Africa in Justice Mandisa Muriel Lindelwa Maya. Their struggle bore fruit that many of our Women Judicial Officers are continuously benefitting from. We remain hopeful that we are close to attaining Goal 5 of the United Nations Sustainable Development goal which targets to achieve gender equality and empowerment of all women and girls by 2030.

I also take this time to congratulate our Association, the South African Chapter of the International Association of Women Judges, for its triumphant victory in its bid to host the International Association of Women Judges Biennial conference in 2025. We look forward to hosting the Women jurists of the world in our country in Cape Town as we continue the agenda of empowering women and fighting inequality in all spheres of life.

I congratulate our Association for successfully hosting its 17th Annual conference and General Meeting and election of a new Executive Council comprising of a formidable team of women and men this past weekend. I have no doubt that this formidable team will continue to work towards achieving the objectives of the Association. As Nora Ephron said: 'above all, be the heroine of your life and not the victim.' Happy women's day! ■

also take this time to congratulate our Association, the South African Chapter of the International Association of Women Judges, for its triumphant victory in its bid to host the International Association of Women Judges Biennial conference in 2025 ”

SUPPORTIVE INSTITUTIONS AND STRUCTURES TO GENDER EQUITY AND TRANSFORMATION

SOUTH AFRICAN LEGISLATIVE SECTOR
GENDER SUMMIT

Judge President Thoba Poyo-Dlwati

Judge of the KwaZulu-Natal Division of the High Court
and President of the SAC-IAWJ



It is an honour and privilege for me to share about supportive institutions and structures to gender equity and transformation.

The Legislature in my view is an engine room of government, because if there is no will to change then parliament can simply fold its arms and do nothing. However, where necessary, the Courts do provide assistance to parliament only when there is litigation. It is on this note that I wish to discuss our own history as Women Lawyers in this country and how parliament, even then, came to our aid.

This year marks the 100th anniversary of women being permitted to practice law within the Republic of South Africa. The Women's Legal Practitioners Act 7 of 1923 was finally enacted into law on 10 April 1923 permitting women to enter the legal profession as either attorneys or advocates.

This was best captured in a headline of an article written by Adv Ngcukaitobi for the Mail and Guardian in August 2018 which read: "Let the world know that women were once not 'persons' in the eyes of the law".¹

This was the interpretation given to "persons" in the context of the Incorporated Law Society's Act 27 of 1883 (repealed), when the judges of what was known as the Appellate Division granted an order that refused Ms Madeline Una Wookey to be able to register her articles of clerkship.² (She had succeeded in the Cape Supreme Court where Maasdorp JP found that there was no positive law in existence disqualifying women from being enrolled as attorneys.³) In the Appellate Court, the judges stated that "where the law referred to persons being admitted as attorneys it referred only to male persons".⁴

¹ T Ngcukaitobi 'Let the world know that women were once not 'persons' in the eyes of the law' Mail & Guardian, 9 August 2018. <https://mg.co.za/article/2018-08-09-let-the-world-know-that-women-were-once-not-persons-in-the-eyes-of-the-law/> (accessed 26 July 2023).

² Wookey v Incorporated Law Society 1912 CPD 263, and Incorporated Law Society v Wookey 1912 AD 623.

³ Wookey v Incorporated Law Society 1912 CPD 263.

⁴ P Bracher 'The slow rise of women in the legal profession' (2020) September De Rebus 14 at 14.

Even though Judge Innes expressed some real regret in this stating that the question was not whether Ms Wookey was likely, adequately and satisfactorily to discharge the duties of a legal practitioner, he found that the position was simply that she was not a person referred to in the Cape Charter of Justice of 1883. Ms Wookey's case confirmed the prior decision of the Transvaal Supreme Court, where the court also refused Ms Sonya Schlesin (former treasurer of the ANC Women's League) the right to register her articles of clerkship with the Law Society in "the absence of special legislation" that would permit women "to be admitted to practise as attorneys".⁵ She was articulated to Mr Gandhi. The court there held that the word "attorney" had always referred to the people "of that class who . . . have always been capable of being attorneys",⁶ namely men, and admitting women as attorneys could also lead to them being admitted as advocates, a change which would mean an enormous difference in the practice of the courts in this country and clearly he did not mean positive changes.

Both judgments perfectly highlight the discriminatory tone of the courts at the time. Ms Schlesin's application was brought in 1909 and Ms Wookey's matter was decided in 1912.⁷ We salute women like Ms Wookey who started campaigns which included petitions to parliament to change the law and enable women to practice law. Following the enactment of the Women's Legal Practitioners Act, on 14 June 1923, Ms Irene Antoinette Geffen became the first woman to be admitted as an advocate to the Transvaal Bar Council.⁸ On 24 September 1923, Ms Constance Mary "Connie" Hall, would become South Africa's first woman attorney.⁹ Still, the judgments, although successfully granting these women their respective applications, contained clear sexist undertones.

Thirty-nine years later, in 1962, South Africa would have its first black admitted woman advocate, Ms Zainunnisa 'Cissie' Gool, from District Six in Cape Town.¹⁰ Ms Desiree Finca was the first black woman to be admitted as an attorney in South Africa. She was admitted during 1967, some 44 years after Ms Geffen. She served her articles under Mr Godfrey Mokgonane Pitje.¹¹

It would be another 45 years, after Ms Geffen was admitted as the first woman advocate before South Africa would have its first woman judge in 1969 when Justice Leonora Van der Heever was appointed a judge in the Northern Cape Division. In 1979 she began to serve on the Bench of the Cape Provincial Division. In 1991 she became the first woman judge to be

appointed permanently to the appellate division of the South African Supreme Court in Bloemfontein where she served until she retired.¹²

Justice Jeanette Traverso was appointed as a judge in 1994 — becoming at that time only the second woman in South Africa to become a judge. She also became the first woman deputy judge president when she was appointed as the deputy judge president for the Western Cape Division in 2001.¹³

Following on the creation of the Constitutional Court in 1994, some 71 years after the admission of Ms Geffen as an advocate in 1923, two women were appointed to the first Constitutional Court bench: Justices Yvonne Mokgoro and Kate O'Regan. Justice Monica Leeuw became the first ever woman judge president in the country in 2010 when she was appointed as the judge president for the North West Division.

Justice Mandisa Muriel Lindelwa Maya, broke two "firsts" in South Africa: during May 2017 she would become the first woman President of the Supreme Court of Appeal. She has fortunately been succeeded by another woman, Justice Mahube Molemela, who resumed her office on 1 June 2023. In September 2022, 99 years after the first woman was admitted as a legal practitioner, Justice Maya became our first woman deputy chief justice. And in 2023, 100 years after Ms Geffen being admitted as an advocate, the KwaZulu-Natal Division would have its first woman judge president, in me.

We salute women like Ms Wookey who started campaigns which included petitions to parliament to change the law and enable women to practice law ”

Internationally, in 1995, Ms Navanethem "Navi" Pillay, was elected by the United Nations General Assembly as a judge on the International Criminal Tribunal for Rwanda, where she served for eight years, including several years as president. Later in 2003, she was elected by the United Nations General

⁵ Schlesin v Incorporated Law Society 1909 TS 363, headnote.

⁶ Schlesin v Incorporated Law Society 1909 TS 363 at 365.

⁷ Schlesin v Incorporated Law Society 1909 TS 363, Wookey v Incorporated Law Society 1912 CPD 263, and Incorporated Law Society v Wookey 1912 AD 623. Note also Ex Parte Schreiner 1912 TPD 914.

⁸ Ex Parte Geffen 1923 TPD 373

⁹ Hall v Incorporated Law Society 1923 TPD 481, and "Op-Ed: Women's rights - have they come full circle?", University of Pretoria, 8 August 2018, https://www.up.ac.za/faculty-of-law/news/post_2709451-op-ed-womens-rights-have-they-come-full-circle (accessed 18 April 2023).

¹⁰ "Zainunnisa 'Cissie' Gool", South African History Online, <https://www.sahistory.org.za/people/zainunnisa-cissie-gool> (accessed 18 April 2023).

¹¹ T Ngcukaitobi "Let the world know that women were once not 'persons' in the eyes of the law", 9 August 2018, <https://mg.co.za/article/2018-08-09-let-the-world-know-that-women-were-once-not-persons-in-the-eyes-of-the-law/> (accessed 18 April 2023), I Joubert "Honouring a stalwart of the Black Lawyers Association", De Rebus, 1 May 2022, <https://www.derebus.org.za/honouring-a-stalwart-of-the-black-lawyers-association/> (accessed 18 April 2023), and X Mtembu "Gender equality should be a priority in SA's legal professions", IOL, 1 September 2022, <https://www.iol.co.za/business-report/careers/gender-equality-should-be-a-priority-in-sas-legal-professions-f7d3c057-d94a-4c51-b695-c3f817503832> (accessed 18 April 2023).

¹² "Leonora van den Heever", South African History Online, <https://www.sahistory.org.za/people/leonora-van-den-heever> (accessed 18 April 2023), and "Leonora van den Heever 1998", Nelson Mandela University, <https://www.mandela.ac.za/Leadership-and-Governance/Honorary-Doctorates/Leonora-van-den-Heever-1998> (accessed 18 April 2023).

¹³ T Potgieter "Traverso ARP" (2001) 14(April) Advocate 25, and Editor "New judges" (2001) 14(April) Advocate 21.

Assembly as a judge on the International Criminal Court, at The Hague.¹⁴

Certainly, in South Africa, women have come a long way in being appointed as well as achieving top positions within the judiciary. The latest statistics that I could find show that of the 254 judges, approximately 114 (ie 44%) are women.¹⁵ There is still room for improvement, especially in the leadership roles of the judiciary,¹⁶ (There are 8 women in leadership positions, apart from Maya DCJ, President Molemela and Poyo Dlwati JP, the following 5 women are all deputy judge presidents: Justice Goliath for the Western Cape Division (currently Acting as Judge President); Justice Phatshoane for the Northern Cape Division; Justice Mphahlele for the Mpumalanga Division (soon to be Judge President from 22 August 2023); Justice Semenya for the Limpopo Division (also acting as Judge President); Justice Mbhele for the Free State Division; and Justice Djaqe for the North West Division; and Judge Meer has acted as Judge President of the Land Claims court since 2011.) However, even though we have not reached the ultimate goal, the changes that have been made to transform the judiciary, although slow, are a great source of encouragement to continue and move forward, and reflecting on what has been achieved so far, it is worth remembering what Jillian Michaels said:

*"It's not about perfect. It's about effort. And when you implement that effort into your life. Every single day, that's where transformation happens. That's how change occurs. Keep going. Remember why you started."*¹⁷

Closer at home, at the turn of 1994, the KwaZulu-Natal Division's Bench was all male — there were already African and Indian judges, but they certainly were in the minority, and these figures are a bit trickier to work out. Today, in 2023, the ratios are roughly: of the 28 permanent judges,¹⁸ 61% are men (ie 17), and 39% are women (ie 11). A huge improvement from 1994 — but there is still room for more growth. By race, the following emerges: 43% (ie 12) are African, 11% (ie 3) are Coloured, 21% (ie 6) are Indian, and 25% (ie 7) are White.¹⁹ Our first woman Judge

was appointed in 1996, being Justice Vivienne Niles Duner, followed by now Constitutional Court Justice Leona Theron, who was appointed at the age of 32 years old and was the first black woman to be appointed.

The Legislature has again come through for the legal profession in the enactment of the Legal Practice Act 28 of 2014 which is the legislative framework for the transformation of the profession. It is generally from the legal profession, ie attorneys and advocates, that acting judges, and ultimately judges are pooled. There are those acting judges and judges that are appointed out of the magistracy and academia, but this tends to be in the minority, hence the focus herein will be on attorneys and advocates. In the statistics published in the June edition of the Judiciary,²⁰ the total number of attorneys was stated as 32 302, of which 14 156 (ie 43.8%) are women attorneys. The total number of advocates: 9 348, of which 2 868 (30.6%) are women advocates.²¹ This is certainly an improvement from the statistics as at January 2022, out of the 29 981 practising attorneys, 12 714 are women (ie 42%).²² However, in 2017 only 27% of the advocates were women.²³ Currently, in KwaZulu-Natal there are 1 982 practicing women attorneys and 195 practicing women advocates.²⁴

The International Bar Association, in a report released in 2022 (of which South Africa was one of the focus countries), found that some of the main reasons that stunt the growth of women in the legal profession are bullying and sexual harassment.²⁵ Bullying and sexual harassment both impact on the mental health and overall wellbeing of an individual, which may result in women being afraid to speak up against those that bully and harass them. If women are being held back in their growth, then they may not wish to apply for positions as judges. Competent women judges can only be appointed from those that have been prepared to put their hand up, and if those that are skilled are holding themselves back out of fear, then there will be problems in the future in appointing competent and skilled women in judicial positions.²⁶ The President of the International

14 "Navanethem Pillay", Gruber Foundation, <https://gruberyale.edu/womens-rights/navanethem-pillay> (accessed: 18 April 2023), and "Navanethem Pillay", OHCHR, <https://www.ohchr.org/en/about-us/high-commissioner/past/navi-pillay> (accessed 18 April 2023).

15 NM Mbhele 'An inclusive profession allows society to benefit from diverse viewpoints' (2023) June The Judiciary 27 at 28. These statistics are as at February 2022, and includes all the judges of the Superior Courts (ie the Constitutional Court, Supreme Court of Appeal, and High Courts, including specialist courts).

16 There are 8 women in leadership position, apart from Maya DCJ, President Molemela and Poyo Dlwati JP, the following 5 women are all deputy judge presidents: Justice Goliath for the Western Cape Division (acting as Judge President); Justice Phatshoane for the Northern Cape Division; Justice Mphahlele for the Mpumalanga Division (to be Judge President with effect from 22 August 2023); Justice Semenya for the Limpopo Division (currently acting as Judge President); Justice Mbhele for the Free State Division; and Justice Djaqe for the North West Division, taken from <https://www.judiciary.org.za/index.php/judiciary/superior-courts/deputy-heads-of-superior-courts> (accessed 18 April 2023).

17 By Jillian Michaels, see '35 Inspirational Quotes on Transformation', dated May 2023, available at <https://www.awakenthegreatnesswithin.com/35-inspirational-quotes-on-transformation/> (accessed 6 June 2023). Jillian Michaels is an American fitness expert, certified nutritionist, businesswoman, media personality, and author (see https://en.wikipedia.org/wiki/Jillian_Michaels (accessed 6 June 2023)).

18 I have not included any acting judges in this calculation — this is because the amounts vary, and/or the gender and race of the current group acting per session.

19 These are really just rough calculations, merely for the benefit of the presentation.

20 NM Mbhele 'An inclusive profession allows society to benefit from diverse viewpoints' (2023) June The Judiciary 27 at 28. Note, The Judiciary is an electronic newsletter or journal specifically aimed at the judges and magistrates that is an initiative from the Judicial Communications Committee, as a tool to keep the judiciary informed of the latest news and trends that impact on the judges and magistrates. Judge President Dunstan Mlambo of the Gauteng Division of the High Court is the current chairperson of the Judicial Communications Committee, and the editor in chief of The Judiciary.

21 These statistics are as at 23 March 2023.

22 <https://www.lssa.org.za/about-us/about-the-attorneys-profession/statistics-for-the-attorneys-profession/> (accessed 18 April 2023).

23 Tipping the Scales: Realities and remedies for gender transformation of the legal profession, published by the National Association of Democratic Lawyers in August 2018 <https://wlce.co.za/wp-content/uploads/2021/12/Tipping-the-Scales-297x210-1.pdf> (accessed 18 April 2023).

24 I do not have the percentages, only these numbers were provided by the KwaZulu-Natal Legal Practice Council, on Friday, 28 July 2023.

25 K Pender Beyond Us Too? Regulatory Responses to Bullying and Sexual Harassment in the Legal Profession (2022).

26 Most Bar Councils in South Africa have implemented policies that clearly state that harassment amongst fellow members will not be tolerated, as well as prescribing penalties for the perpetrators.

Bar Association, in their letter in the above mentioned report states:²⁷

“Achieving and maintaining a safe, supportive and healthy professional environment, free from inappropriate behaviour, is an ongoing undertaking. Many structural factors contribute to the high prevalence of bullying and sexual harassment in our profession. We will not fix them overnight. Yet, if we work together, we can achieve positive, genuine change. I see this challenge as a jigsaw puzzle, with many pieces.”

Skewed briefing patterns further inhibit growth, especially the ability to grow and further better the skills that are desperately needed for women to thrive in the legal profession. In some instances, skewed briefing patterns mean that a barrier is placed before women and they are unable to explore areas of the law that are of interest to them or that require a high level of skills development — they are thus kept out. Skewed briefing patterns have resulted in women being highly skilled in family matters, minor criminal cases, and motor vehicle insurance matters, whilst the male counterparts deal with competition and commercial law, maritime matters, and financial law.²⁸

The reason for the skewed briefing patterns is the view that is taken of women in general.²⁹ The patronisation, that can be traced back to the struggle of those women who are considered the trail blazers, ie Ms Schlesin, and Ms Wookey, and also Ms Geffen, Ms Hall, Ms Gool, Ms Finca, Ms Victoria Mxenge and for the judiciary, Justice Van den Heever and Justice Traverso, Deputy Chief Justice Maya and the sexist undertones that they encountered on being the first to be admitted to either the position of advocate, attorney or judge. The sexist undertones of the judgments of Ms Schlesin, Ms Wookey, Ms Geffen, and Ms Hall, are certainly still apparent today.

It was noted by Mr N Singh SC, a previous Deputy Chair: General Council of the Bar of South Africa, Durban:³⁰

“What is required is a different mind set not only on the part of the end consumer of legal services but also on the part of all those who play a role in directing its course.”

Honourable Speaker, it is people like you, the Premier of this Province and Heads of various institutions that will turn things around in this regard. When a matter is going to court or even during consultation, ask if there are no women legal practitioners that can join this team. Let us have confidence in us and in that way we will have confidence in other women. Former Justice Minister Bridgette Mabandla founded the

Aspirant Judges Training after she saw the disparity when appointing Acting judges. She assisted “to provide entry level education and training to aspiring female judicial officers to enhance suitability for appointment”.³¹ There is always room to change the status quo.

In some instances, women are still the sole homemakers, especially because childbearing and the need to care for the child or children will often remain the responsibility of women. The absence from their professional office during their maternity leave is merely one of the many adverse impacts on the careers of women, especially women at the Bar. The adverse impacts include:³²

“not only [does maternity leave interrupt] the process of building a practice: the member also suffers significant other disadvantages, such as having to pay chambers rental and Bar dues during the period of absence. If she takes leave of absence, she loses domestic seniority.”

To counteract the adverse effects of maternity leave, the Cape Bar, as one of Bar Councils, adopted a maternity policy in 2009, where the member may take a maternity period of 1 year, without their domestic seniority being affected. Also, during this period, they are entitled to a remission of Bar Fees as well as a partial remission of rental and floor fees, as set out in the policy.³³ In 2016, the KwaZulu-Natal Society of Advocates in their Equality and Diversity Policy also sets out a policy for women members of the Bar that wish to take maternity leave. The policy, which is under section F: Maternity Policy, aims to³⁴

- “6.1 encourage female members of the KZN Bar to return to chambers following maternity, and to continue to build successful practices, thereby contributing to the growth and success of the Bar as a whole;
- 6.2 prevent any and all discrimination arising out of maternity and gender;
- 6.3 give effect to the values and goals of the KZN Bar in encouraging strong female members to remain and progress in practice.”

Similarly to the Cape Bar, the KwaZulu-Natal Society of Advocates, aims to achieve the above through the remission of fees for a set period, as well as providing maternity leave of up to 1 year, with no loss of domestic seniority. Further policies include that where senior counsel is approached to lead a matter, and they appoint three or more members to assist, they

27 K Pender Beyond Us Too? Regulatory Responses to Bullying and Sexual Harassment in the Legal Profession (2022) at 6.

28 T Masengu 'It's a man's world: barriers to gender transformation in the South African judiciary. Perspectives from women advocates and attorneys' (2016) International Journal of the Legal Profession. DOI: <http://dx.doi.org/10.1080/09695958.2016.1179639> at 11.

29 T Masengu 'It's a man's world: barriers to gender transformation in the South African judiciary. Perspectives from women advocates and attorneys' (2016) International Journal of the Legal Profession. DOI: <http://dx.doi.org/10.1080/09695958.2016.1179639> at 9.

30 N Singh 'Equality of opportunity at the Bar: A response to the Pretoria Forum' (2000) First Term Advocate 20 at 21.

31 Z Venter 'Zondo begins Aspirant Women Judges Programme' The Star, 26 January 2023. http://fusion.ornico.co.za/Attachments/2023/01/26/2023_01_26_5481325 (accessed: 26 July 2023).

32 G Budlender 'Cape Bar adopts new maternity policy' (2009) 22(3) Advocate 10 at 11.

33 G Budlender 'Cape Bar adopts new maternity policy' (2009) 22(3) Advocate 10 — 11.

34 For more details see KwaZulu-Natal Society of Advocate Equality and Diversity Policy, <https://www.kznbar.co.za/wp-content/uploads/2016/12/Society-of-Advocates-of-KwaZulu-Natal-Equality-and-Diversity-Policy.pdf> (accessed 28 July 2023).

must include within their team at least one black and/or female junior advocate.³⁵

Another problem that has been encountered is the disparity in the quality of education at the various tertiary education centres. This disparity impacts on who will obtain articles of clerkship or pupillage or any other form of legal training, depending on the career chosen. A minimum level of skills is required where persons apply to gain entry into the legal profession, this includes both reading, writing and the ability to articulate and craft arguments, either in written or oral form, depending on the circumstances of the case before them. Further important skills are researching and the ability to analyse an issue in coming up with solutions, whether these lead to going to court or settlement, for the prospective client of attorneys and advocates.³⁶ The reason for this is that often attorneys, advocates and judges are required to resolve, not so much a legal issue, but a social issue, which amounts to an infringed right. Rights require both legal and social protection mechanisms to ensure their protection and continued use and enjoyment.

Directly related to education are the social and economic backgrounds and support that these individuals have whilst studying at tertiary institutions. The adverse impact is often greatest on black women, who reside in rural areas. This disparity in education is also found within any of the racial groups in light of the privileges that a select few are able to utilise, whereas the majority are left behind. This is something that both the government and society will need to tackle, in the form of creating opportunities through state initiatives, or private mentoring, and/or funding initiatives to assist those with disadvantaged backgrounds to attain good quality education, which starts at the primary level and works its way through to tertiary. The programmes implemented by the tertiary institutions need to be raised and maintained at a high quality level, so as to ensure that all learn the skills needed to enter the legal profession and are able to make their careers a success.

Change and transformation — what has been done and what is needed?

There has been a change of attitude towards women who practice within the legal profession, but the question often is, has enough been done that brings about a shift in the perceptions and opinions of women within the legal profession?

Has enough been done to break down the stereotypes that are so prevalent within the legal profession?³⁷ We have made some progress with the assistance of the Judicial Service Commission in ensuring better representation of Women in the judiciary. However, I believe that more needs to be done especially in the face of the scourge of gender based violence to which no one is immune to. We need to recommit to the values of our constitution and take to heart what the preamble emphasises that in acknowledging our past, we must be certain not to leave anyone behind, as we strive for a united, democratic state, based on the values of human dignity, equality, freedom, non-racialism, and non-sexism.³⁸

Justice O'Regan highlighted this, in her discussion on equality, as follows:³⁹

"Section 8 was adopted then in the recognition that discrimination against people who are members of disfavoured groups can lead to patterns of group disadvantage and harm. Such discrimination is unfair: it builds and entrenches inequality amongst different groups in our society. The drafters realised that it was necessary both to proscribe such forms of discrimination and to permit positive steps to redress the effects of such discrimination. The need to prohibit such patterns of discrimination and to remedy their results are the primary purposes of section 8". Fairly recently, the Constitutional Court held that in transforming society, there is a strong need to embrace our diversity.⁴⁰ It is through embracing the diversity of individuals that each and every one can be a catalyst of change, and transform an organisation from within, it is not just up to the so-called "powers that be" that should be the ones to take the initiative."⁴¹

It is therefore vital to partner with organisations that spearhead women's interests, such as the South African Chapter of the International Association of Women Judges (SAC-IAWJ) and the South African Women Lawyers' Association (SAWLA) within the judiciary. These associations are attuned to assisting their members overcome any gaps or issues that they may face in attaining a successful legal and/or judicial career. They offer training and guidance to their members.

However, with change there is always tension. Simply, this tension arises out of the need to change, but there is often a strong resistance to same, where there are many that want the traditional structures to remain.⁴² Not only do some wish for

35 See the KwaZulu-Natal Society of Advocate Equality and Diversity Policy, <https://www.kznbar.co.za/wp-content/uploads/2016/12/Society-of-Advocates-of-KwaZulu-Natal-Equality-and-Diversity-Policy.pdf> (accessed 28 July 2023), Cape Bar Policy: Expanding Access to Work for Black and Female Junior Counsel, 'Transformation' Cape Bar: Society of Advocates. <https://capebar.co.za/wp-content/uploads/2023/07/1-Access-to-Work-Policy-29.06.2023-1.pdf> (accessed: 28 July 2023).

36 N Singh 'Equality of opportunity at the Bar: A response to the Pretoria Forum' (2000) *First Term Advocate* 20 at 21 – 22, and E Bonthuys 'Gender and Race in South African Judicial Appointments' (2015) 23 *Feminist Legal Studies* 127 at 134.

37 M Norton 'The other transformation issue: Where are the women?' (2017) *April Advocate* 27 – 34.

38 See generally the preamble and section 1 of the Constitution, *Brink v Kitshoff* 1996 (5) BCLR 752 (CC) para 42 in O'Regan J's concurring judgment, generally *Visser v Minister of Justice and Constitutional affairs and others* 2004 (5) SA 183 (T), and C Albertyn and B Goldblatt 'Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality' (1998) 14(2) *South African Journal on Human Rights* 248 at 254 and 256 – 257.

39 *Brink v Kitshoff* 1996 (5) BCLR 752 (CC) para 42 in O'Regan J's concurring judgment.

40 *Qwelane v South African Human Rights Commission and another* [2021] ZACC 22, 2021 (6) SA 579 (CC), 2022 (2) BCLR 129 (CC) para 49.

41 LV Theron 'Leadership, Social Justice and Transformation — Inspire a Leader' (2018) 21 PER / PELJ — DOI <http://dx.doi.org/10.17159/1727-3781/2018/v21i0a4949> at 8 onward.

42 S v Zuma and others [1995] ZACC 1; 1995 (2) SA 642 (CC); 1995 (4) BCLR 401 (CC) para 17, see also T Matthews and C Samaradiwakera-Wijesundara 'The fiction of transformation: An analysis of the relationship between law, society and the legal profession in South Africa' (2015) 31(3) *South African Journal on Human Rights* 553 at 568 – 569.

the traditional structure to remain, but they fear that through change and transformation, they will be left behind. There is a need to embrace both a willingness to change, as well as a willingness to be a part of a positive change.⁴³ Positive change is achieved through embracing the values that underpin the bill of rights, especially the values surrounding human dignity and equality.⁴⁴

Encouragement can be found in the epilogue of the Interim Constitution, although describing the Constitution and the change and transformation that is catalysed off it, describes that by embracing change and transformation, we are on a⁴⁵ “historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful coexistence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex. The pursuit of national unity, the wellbeing of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society.”

The famous American poet, Maya Angelou, captured the idea that no one should be left behind where change and transformation are embraced, as well as the mind-set needed to change and encourage transformation, as follows:

“There were people who went to sleep last night, poor and rich and white and black, but they will never wake again. And those dead folks would give anything at all for just five minutes of this

weather or ten minutes of plowing. So you watch yourself about complaining. What you’re supposed to do when you don’t like a thing is change it. If you can’t change it, change the way you think about it.”⁴⁶

The road so far has not been easy and going forward will not be easy. There is still a long way to go, and this certainly does not happen overnight. But a good foundation has been made, which can only encourage the rest of us to embrace the journey of change and transformation, even where rocky, steep pathways are still on the road ahead. The current momentum must not be lost. In embracing a holistic approach should help that no one will be left behind, as we strive to transform the legal profession, and thereby society as a whole. This we can do with the assistance of the Legislature as it has done before. ■

⁴³ LV Theron ‘Leadership, Social Justice and Transformation — Inspire a Leader’ (2018) 21 PER / PELJ — DOI <http://dx.doi.org/10.17159/1727-3781/2018/v21i0a4949> at 6.

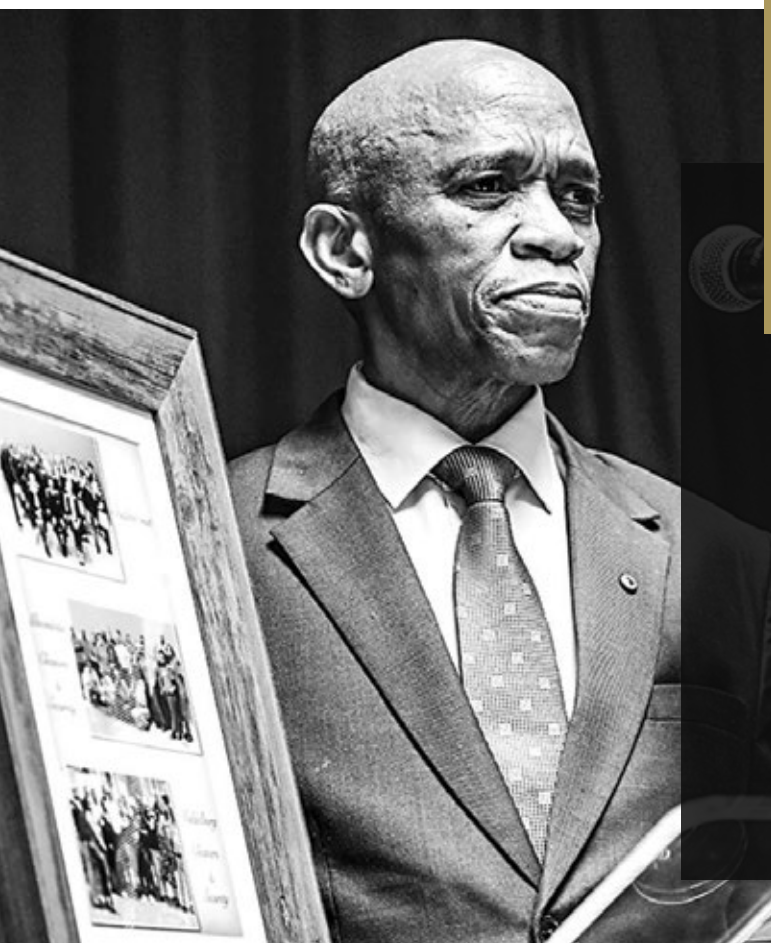
⁴⁴ KE Klare ‘Legal Culture and Transformative Constitutionalism’ (1998) 14(1) South African Journal on Human Rights 146 at 149, see also Section 1 of the Constitution, S v Zuma and others [1995] ZACC 1; 1995 (2) SA 642 (CC); 1995 (4) BCLR 401 (CC) para 17, C Albetyn and B Goldblatt ‘Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality’ (1998) 14(2) South African Journal on Human Rights 248 at 249, and S Liebenberg ‘The Value of Human Dignity in Interpreting Socio-Economic Rights’ (2005) 21(1) South African Journal on Human Rights 1 at 3.

⁴⁵ See also P Langa ‘Transformative constitutionalism’ (2006) 17(3) Stellenbosch Law Review 351.

⁴⁶ Maya Angelou, available: <https://www.whatshouldireadnext.com/quotes/maya-angelou-there-were-people-who-went> (accessed 7 June 2023).

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CELEBRATING A LEGACY OF WISDOM AND SERVICE

Ms Lusanda D. Ntuli

Deputy Director: Communications

In a world where the pursuit of justice is paramount, there are individuals whose dedication and wisdom leave an indelible mark on the legal landscape. Such is the case with Judge President M F Legodi, whose illustrious career has been a testament to the power of knowledge and unwavering commitment to upholding the principles of justice. As he embarks on a well-deserved retirement after two decades of service, the legal community came together to bid farewell to a true luminary.

Judge President Legodi's farewell ceremony, held on Friday, 25 August 2023, in Mpumalanga, was graced by a gathering of esteemed guests, including Chief Justice R M M Zondo, Minister of Justice R Lamola, and Deputy Minister of Justice and Constitutional Development J Jeffery, the President of the Supreme Court of Appeal B Molemela, Judges President of the various High Court Divisions, Judges of the Mpumalanga High Court Division, the Director of Public Prosecution in Mpumalanga, the South African Women Lawyers Association (SAWLA), and family members and officials. It was a day to celebrate not just the end of an era but also the enduring legacy of a remarkable individual. During the heartfelt speeches delivered at the ceremony, the resounding message was clear: wisdom, knowledge, and commitment know no bounds, and retirement is merely a passage to a new chapter in life.

‘Your background should never dictate your destination...’ These words, spoken by Judge President Legodi himself, serve as a profound reminder that one’s beginnings need not define the heights one can reach ”

‘Your background should never dictate your destination...’ These words, spoken by Judge President Legodi himself, serve as a profound reminder that one’s beginnings need not define the heights one can reach. His journey, which began with humble roots, rose to the zenith of the South African Judiciary. It is a testament to the power of perseverance, education, and an unwavering belief in the pursuit of justice.

As he embarks on the next phase of his life's journey, Judge President M F Legodi carries with him the respect, admiration, and gratitude of a nation that recognises the significance of his contributions. His legacy will continue to inspire generations to come, reminding us all that the pursuit of justice is a noble and enduring endeavour. ■



L-R: Minister Ronald Lamola, MP, with Chief Justice Raymond Zondo



Judge President Legodi with officials from the Mpumalanga Division of the High Court



Judge President Legodi with Ms Memme Sejosengwe, the Secretary General of the Office of the Chief Justice



Judge President Legodi's family arriving at the farewell ceremony hosted in his honour



L-R: Judge Ratshibvumo, Judge President Legodi and Judge President Mlambo



President of the Supreme Court of Appeal, Justice Molemela and Judge President Mphahlele with members of the South African Women Lawyers Association (SAWLA)



Judge President Legodi with Mrs Legodi



Judge President Legodi with Judges of the Mpumalanga Division of the High Court



MAKING JUSTICE ACCESSIBLE TO THE MARGINALISED AND VULNERABLE IN SOCIETY

Judge ZP Nkosi

Acting Deputy Judge President of the KwaZulu-Natal Division of the High Court

The Dullah Omar School for Paralegalism stands out as a cornerstone event within South Africa's Community Advice Office sector. This school serves as a vital space for community-based Paralegals to reconnect, refresh their skills, and foster the growth of Paralegalism at the grassroots level.

Conducted annually over a week-long period, the school provides specialised learning streams. These streams are meticulously crafted to enhance the abilities of Paralegals operating in Community-Based Advice Offices. On 6 August 2023, Acting Deputy Judge President of the KwaZulu-Natal Division of the High Court, Judge Z P Nkosi, addressed the 7th instalment of the school.

The Dullah Omar School at its inception sounded a clear mission to paralegals; to be the voice of the voiceless, to be advocates for the marginalised and to educate and mobilise their communities. It is abundantly clear that community advice offices, together with paralegals, have taken up the mission and are excelling, despite the challenges faced within the sector. As the School continues to strive to assist, develop and empower paralegals I wish it continued success.

In South Africa it has always been difficult for the poor, marginalised and vulnerable people to have access to justice. The people of South Africa enjoy many rights in terms of the Constitution and other new laws, but they can only exercise these rights if they have access to the information and assistance to do so.

The Dullah Omar School at its inception sounded a clear mission to paralegals; to be the voice of the voiceless, to be advocates for the marginalised and to educate and mobilise their communities ”

Having one of the most progressive Constitutions in the world is rendered meaningless to communities if they are unaware of their rights or where to go for assistance in exercising those rights. Admittedly the formal justice system cannot provide the kind of assistance required by many poor people to fully realise their human rights without the support of community-based paralegals. This is particularly the case in rural areas, where community-based offices remain the only channel through which marginalised communities can access justice.

Community advice offices are more often than not the first port of call for those who have nowhere else to turn. I would like to reiterate the words of Ms. Nobuzwe Mofokeng, the Deputy Chairperson of CAOSA:

‘The country has experienced high levels of load shedding, fuel hikes, rising food and household costs. All these challenges continue to affect the vulnerable communities with multitudes who have lost their jobs and now mostly rely on the child support grant. Throughout all these challenges and sometimes facing the same predicament as the communities they serve; advice offices continue to be the ray of hope for the realization of legal empowerment and ultimately social and economic emancipation.’

Community advice offices remain the primary centres of access to justice for the poor and rural communities in South Africa. I applaud you and acknowledge the vital role played by community advice offices and CAOSA. You work tirelessly in your fight of making justice accessible to the marginalised and vulnerable in society. Thank you!

When discussing topics that are currently affecting the lives of South Africans, climate change is not regarded as the most pressing, however its devastating effects cannot be ignored and therefore must be addressed. Mithika Mwenda, the Co-Founder and Executive Director of the Pan African Climate Justice Alliance once compared the plight of humanity in the face of climate change to that of passengers struggling for survival during the sinking of the Titanic by saying “the weak might suffer and die first but, in the end, everyone would sink”.

South Africa is extremely vulnerable to the impacts of climate change. It is already warming at twice the global average and has experienced a series of climate-linked disasters, including floods, droughts and heatwaves, that are forecasted to increase in both frequency and intensity.

Climate change has a profound impact on a wide variety of human rights, including the rights to life, development, food, health, water and sanitation and housing. Climate change was identified by the Office of the High Commissioner for Human Rights as “probably the greatest human rights challenge of the 21st century”.

We in KwaZulu-Natal have, unfortunately, experienced the effects of climate change with regards to the flooding that took place in April 2022. The floods caused over 400 people to lose their lives and damage to key infrastructure in KZN was

estimated at over R25 billion. A combined study conducted by the University of the Witwatersrand and the University of Brighton in the United Kingdom confirmed that the floods were likely the most catastrophic natural disaster recorded in KwaZulu-Natal, in collective terms of lives lost, homes and infrastructure damaged or destroyed and economic impact.

The World Weather Attribution, an international group of scientists who measure how much climate change influences extreme weather events, engaged more than 15 climate scientists from France, Netherlands, South Africa, United Kingdom and the United States of America in a study on the KZN floods. Its released study found that climate change doubled the likelihood of the event — from an event expected once every 40 years to once every 20 years. It added that rainfall over the two-day period in April 2022 was 4-8% more intense than it would have been without climate change.

Having one of the most progressive Constitutions in the world is rendered meaningless to communities if they are unaware of their rights or where to go for assistance in exercising those rights”

Events like the floods highlight the deep connections between climate change and social inequality. Numerous studies all over the world have pointed out the disproportionate impacts that climate-related disasters have on certain populations. And as extreme weather events worsen, so will their impact on the world’s most vulnerable people. In South Africa the impact of climate change is felt nationwide, but more so in rural communities where people are most vulnerable to the effects of extreme weather conditions for the following reasons:

- (a) Firstly, they are highly dependent on agricultural productivity for their livelihoods which leaves them highly exposed to the effects of climate change.
- (b) Secondly, during weather disasters there is a death of livestock, damage to infrastructure and loss of produce all which have a detrimental economic impact on rural communities.
- (c) Thirdly, rural communities are often situated in areas that are more susceptible to natural disasters such as floods, landslides and wildfires that lead to devastating loss of life and damage to homes and infrastructure.

It is thus abundantly clear that it is necessary to build climate resilience skills in rural communities. Building essential climate resilience skills could involve education and training on climate

change adaptation, resource management and sustainable agricultural practices.

Climate change literacy is being aware of both climate change and its causes. Climate change literacy in South Africa is very low. According to the Intergovernmental Panel on Climate Change (IPCC) report published in 2022, South Africa is one of just five African countries in which fewer than half (41%) of its citizens have heard of climate change. This is an alarming figure, and one which must be urgently remedied.

An important form of democratic participation in the functioning of the country is realized through voting or, the right to vote. People need to understand that they have the power to decide on the quality of life for themselves ”

The legal dimensions of climate change took shape in the 1990s with the worldwide adoption of the United Nations Framework Convention on Climate Change in 1992 (UNFCCC). The stated objective of the UNFCCC was to achieve stabilisation of the concentrations of greenhouse gases in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Subsequently, on 11 December 1997, the Kyoto Protocol was adopted which South Africa acceded to on July 2002. The Kyoto Protocol recognised that developed countries are principally responsible for the current levels of greenhouse gas emissions as a consequence of decades of industrial activity. It further obliged signatories by setting internationally binding emission reduction targets and required that countries meet their targets primarily through national measures.

Thereafter, the Paris Agreement was adopted on 12 December 2015 which further solidified the central role of law in global climate mitigation, adaptation, and resilience governance, and was signed by South Africa in November 2016. The Paris Agreement set out a global framework to avoid dangerous climate change by limiting global warming to well below 2°C and pursuing efforts to limit it to 1.5°C. It also aimed to strengthen countries' ability to deal with the impacts of climate change and support them in their efforts.

South Africa's Climate Change Bill was introduced in Parliament last year and stems from the Paris Agreement. The Bill seeks, amongst other things, to enable the development of an effective climate change response and a long-term just

transition to a low-carbon and climate-resilient economy and society for South Africa; and when it becomes law, it will form the first legal framework in South Africa to respond to the impacts of climate change.

Our Constitution contains justiciable environmental rights (section 24) and socio-economic rights (sections 25 to 29) together with powerful remedial tools. These rights are supported by numerous environmental laws including the National Environmental Management Act 107 of 1998 (NEMA), together with the long-awaited Climate Change [HYPERLINK "https://climatelaw.org.za/"](https://climatelaw.org.za/)Bill in the pipeline.

It is the hope of many that the introduction of the Climate Change Bill together with the implementation of the Carbon Tax Act 15 of 2019 will kickstart South Africa's move towards a low-carbon, climate-resilient and ecologically sustainable economy and society and will help South Africa to achieve its commitments under the Paris Agreement and the goals set during the United Nations Climate Change Conference of the Parties (COP27) in November 2022.

CASES

We all recognise that where rights and duties are involved the resolution of legal disputes arising from applying laws, and the enforcement of rights and duties emanating from them, are to follow, including through litigation. This has been evident with climate litigation. It is therefore important to briefly focus on a few of the cases that have come before our courts dealing with climate change. On 8 March 2017, the High Court in Pretoria handed down a judgment in the country's first climate case, *Earthlife Africa Johannesburg v Minister of Environmental Affairs* [2017] 2 All SA 519 (GP). Earthlife Africa, a leading environmental NGO, challenged an environmental authorisation granted to the proposed Thabametsi coal-fired power station. It argued that the environmental impact assessment was deficient as it did not include an adequate analysis of the climate change impacts over the planned lifespan of the plant. The high court agreed that a comprehensive climate impact assessment was necessary, even though environmental legislation did not explicitly call for it. The court recognised that climate change poses a direct threat to constitutional environmental rights.

In *Philippi Horticultural Area Food & Farming Campaign v MEC for Local Government, Western Cape* 2020 (3) SA 486 (WCC) decided in October 2020, campaigners successfully challenged a major housing and commercial development which threatened an important underground water source in Cape Town. This occurred against the backdrop of "Day Zero" in Cape Town. The court held that there had been inadequate assessment of the combined impact of the development and climate change on this water source. Echoing the *Earthlife* judgment the court directed that a proper assessment be conducted.

In *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others* 2022 (2) SA 585 (ECG) and 2022 (6) SA 589 (ECMk); environmental NGOs

and affected coastal communities succeeded in blocking Shell from conducting seismic exploration for oil and gas in a sensitive coastal region. The high court set aside Shell's exploration rights on multiple grounds, both procedural and substantive, including the absence of any climate change impact assessment. Once more the court applied the *Earthlife* judgment in support of this conclusion. The court granted an interim order to block exploration, followed by a final order setting aside the grant of exploration rights. Leave to appeal to the Supreme Court of Appeal has been granted in this matter.

A loss for environmentalists was however noted in *South Durban Community Environmental Alliance and Another v Minister of Forestry, Fisheries and the Environment and Others* which was decided in October 2022 where two non-profit environmental justice organisations, sought to review the granting of an environmental authorisation to Eskom for the construction of a combined cycle gas power plant in Richards Bay. The backers of that project had conducted a climate change impact assessment. The debate then shifted to its adequacy. The court rejected the criticisms levelled against it, including the absence of any study of the "upstream" effects of natural gas production and concerns over the methodology used to assess the social cost of carbon. The court found only that Eskom had not complied with public participation requirements relating to the publication of notices in isiZulu (the most commonly spoken language in the area). The court did not set aside the environmental authorisation. Instead it directed Eskom to publish the EA in isiZulu and to ensure that future application notices are also published in isiZulu. This judgment is also currently on appeal.

I have highlighted these cases to illustrate the point that courts are now also actively involved in the climate change battle. Therefore, society and communities at large should be able to utilise courts to challenge environmental decisions that affect/could possibly affect them in the future. As paralegals you need to educate yourselves first on climate change and then only will you be in a position to advise communities of their rights and remedial avenues available to them in fighting climate change. And as mentioned earlier you need to help provide communities with climate resilient skills which may involve enlisting the assistance of donors, community leaders and NGO's. By doing this you will be able to help communities to fend for themselves and minimise the effects of devastating weather events.

And finally, climate literacy rates need to increase. Possible ways of achieving this is by having workshops, handing out of pamphlets, presentations at schools and holding of community meetings.

Remember that the inability to realise environmental rights in South Africa will have devastating consequences for the environment and its people. We all need to be 'climate literate'.

ECONOMY

South Africa's food price inflation, load shedding, fuel and interest rate hikes and high unemployment rate have made life extremely difficult, especially for the poor. South Africa remains one of the most unequal countries in the world, with extremely high rates of poverty. With unemployment levels at an all-time high many people rely on social grants to survive. Recently there has been a lot of debate about the introduction of a basic income grant and its potential to ensure that all people have an adequate standard of living. Many potential social service beneficiaries are unaware of their eligibility for social benefits, or are daunted by the administrative requirements involved in applying for them. Thus a vast majority of your work addresses access to social grants and this may continue to be the trend in the event of the basic income grant becoming a reality.

We must recognise that human and constitutional rights mean nothing if a person does not have food to eat or a place to live.

I am also aware of the fact that the community advice sector is not immune from economic challenges, which is exacerbated by a lack of funding and the challenges that emanate from it. As community advice offices you deliver your services by utilising scarce community resources as well as relying on already overworked paralegals and volunteers. I came across a Project Report titled 'Towards a sustainable and effective Community Advice Office sector in South Africa' which was commissioned by the National Alliance for Community Advice Offices (NADCAO) where it was noted that many community advice offices engage in self-exploitation rather than close shop; that is, they engage in survivalist strategies such as working without pay, working for small stipends, and sharing funds equally between all staff if and when they come in. And one staff member said, this is like 'Giving someone medicine when you are coughing yourself'.

Your selflessness is admired and it is my fervent hope that in the near future your sector receives formal recognition and you are able to secure public funding and financial support in order to continue doing your work. As stated by Jackie Dugard and Katherine Drage in "To whom do the people take their issues?" *The Contribution of Community-Based Paralegals to Access to Justice in South Africa*:

'Without formal regulation or recognition, CAOs face the twin problems of insufficient funding and inadequate training, which in turn, often prevent paralegals from taking on more strategic, proactive empowerment on behalf of the communities they serve. To realize their potential, it is imperative that CAOs receive further financial and training support and that the issue of their regulation is speedily settled. Continued failure to resolve these issues will squander the sector's contributions that have been built up through decades of struggling for better conditions, and thus undermine the very fabric of South Africa's democratic project.'



ELECTORAL READINESS

South Africa is facing a time of economic and political uncertainty and therefore the upcoming general 2024 elections will be a pivotal time for South Africa.

On 8 May 2019, South Africans voted in their sixth democratic elections. A record 26.7 million eligible South Africans registered to vote but only 17.6 million voters cast their ballot. The decline in the turnout rate of 8% among registered voters from 73% in 2014 to 66% in the 2019 elections was the sharpest since the 2004 elections. According to the Electoral Commission “History shows that democracies in danger of losing their freedom register frighteningly low voter turnouts. In thriving democracies, people vote in large numbers and the people’s voice remains supreme.”

A high voter turnout is a sign that a country’s political system enjoys a strong degree of participation while low turnout is generally associated with voter apathy. Many South Africans are currently feeling anxious about a number of issues. The danger that we face is that many of these people may choose not to vote in the upcoming general elections. That should not be allowed to happen as our Constitution envisions a participatory democracy. An important form of democratic participation in the functioning of the country is realized through voting or, the right to vote. People need to understand that they have the power to decide on the quality of life for themselves, their communities and future generations. Democracy only works if people participate. And who better to explain this to people than you who work at the community advice offices.

it is only when voters are given sufficient information about the country’s election process and political system that they can then fully understand the value of democracy”

In every election, voter and civic education are critical. For an election to be successful and democratic, voters must know their rights and responsibilities. Voter education involves providing information on who is eligible to vote; where and how to register; what type of elections are being held; and where, when and how to vote. Civic education becomes essential because it is only when voters are given sufficient information about the country’s election process and political system that they can then fully understand the value of democracy, the impact it has on the system of government, and how the elections can be used to address the economic, social and political challenges facing the country.

Providing voter education is a legislated function of the Electoral Commission in terms of section 5 of the Electoral Commission Act 51 of 1996. It is however my view that community advice office paralegals need to be involved in voter and civic education. However with the elections being highly political it is crucial that community advice offices and

paralegals remain neutral and not be seen as favouring any party or candidate. But the role that you can play during the period leading up to the elections can be significant; you can educate communities by providing them with information to enable them to participate in an election process that could improve their lives. The upcoming elections provide a perfect opportunity to empower and educate people. So many people in underprivileged areas are not aware of their most basic human rights, let alone their right to vote. I urge you to assist your communities in this regard. You already play a major role in educating people which is a factor in achieving electoral readiness.

you are and can continue
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to our people when
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The Electoral Commission in terms of section 94 of the Electoral Act 73 of 1998 accredits organisations wishing to appoint election observers in the interest of promoting free and fair elections. Community advice office paralegals should be considered in being involved in election observation to serve as the independent eyes and ears of the public.

CONCLUSION

As correctly pointed out by Mr Jeffery the Deputy Minister of Justice:

‘A paralegal needs to have knowledge of the law and its procedures, has to know about conflict resolution and must be an activist too, with the commitment, attitude and skill to help people and communities with their legal, human rights, administrative, constitutional and developmental problems, while at the same time empowering them. The ambit of a paralegal’s role is a wide one: a paralegal may investigate and refer matters to lawyers or relevant bodies for them to deal with. They can become educators of the law and rights for people in their communities. They can play a leading and supportive role in campaigns for improving community living standards and general community development. They fulfil a very important role in the broader justice system.’

You are often regarded as a “one-stop-shop” for general advice on a myriad of issues. Through the services you provide and the ways in which you provide them, you are enablers of legal empowerment with specific focus on empowering the poor



and vulnerable, and increasing the capacity of communities to exercise their own rights. Your work remains central in respect of community development and legal empowerment of the poor by working to remove the detrimental legacy of apartheid and the current conditions of poverty experienced by many South Africans.

In as much as there exists climate, political and economic uncertainty we will all continue to march forward. Across the various sectors, including the community advice office sector in South Africa, people are facing challenging times and are concerned about the future. The community-based paralegal sector demonstrated immense strength and resilience over decades and I am confident that it will continue to do so despite that uncertainty that is being faced. The apartheid regime did not hold you back and this dark cloud currently over South Africa will not hold you back. If anything you are and can continue to be a beacon of hope to our people when everything seems quite dark, literally. ■



WOMANITY WOMEN IN UNITY

The Office of the Chief Justice, in collaboration with Womanity – Women in Unity – a weekly talk radio programme that celebrates prominent and ordinary African women's achievements in their ongoing struggle for liberation, self-emancipation, equity, human rights, democracy – conducted a four-part series on women in the Judiciary, as part of commemorating women's month. Hosted by Dr. Amaleya Goneos-Malka, the series featured four South African women Judges who shared their stories to inspire other women in South Africa.

The next few pages contain excerpts from transcripts of the radio interviews, in chronological order, with Judge Sharon Chesiwe from the Free State Division of the High Court; Justice Leona Theron of the Constitutional Court; Judge Raylene Keightley from the Gauteng Division of the High Court, as well as Judge Soma Naidoo of the Free State Division of the High Court.

Use the QR Code provided to access the full interview.

JUDGE SHARON CHESIWE

Judge of the Free State Division of the High Court

INTERVIEW AIRED: 16 AUGUST 2023
www.womanity.africa

YOUTUBE CHANNEL: JUDICIARY RSA



DR. MALKA

Judge Chesiwe, to begin with you earned your LLM from the University of the Free State in 2013; your LLB from the University of Vista in 2002 and went on to become an advocate and now serve as a high court judge, but you initially studied nursing, worked in Kimberly Hospital for over 10 years; please talk us through your transition from nursing into law.

JUDGE CHESIWE

It was quite a difficult transition and I think I took about a year to make a final decision whether I really want to leave nursing and eventually when I decided to leave I resigned, but before I resigned I had applied to the university, but now my departure from nursing was based on a lot of incidents that I had seen throughout my years in nursing whilst I was there; the injustices that I saw. Many incidences that were based on colour that I felt this needs to be attacked one way or the other, then I realized the only way for me to deal with such things is if I can get in the legal field and then I have a legal background where I can legally fight any issues that come my way. For example, like I have said, we were a class of 20, we were 20 in my training class, there were nine coloureds, 10 whites and I was the only black student. There were so many issues about our salaries were not the same and the different patients of colour would be treated at the different sections of the hospital and that made me realize I need to go and study something in the legal field that will make me well armed to be able to fight any legal issues in the future that will come, things like the things that I was facing then, because at that time there was not much you could say, we didn't have your constitution,

you could not just voice your things without having anything because you will be in trouble, so we either silently keep quiet and fight your battles quietly whilst you see how to get out of the situation and eventually I resigned and went to study law. I actually wanted to study medicine but then my maths and science was not that good so I went into law and here I am today.

DR. MALKA

It still must have been an incredibly brave decision and when we were talking offline you mentioned two things which really stuck with me, one, the fact that women, particularly black women were limited in terms of their career opportunities; it was either going into teaching or nursing. The fact that you had this discrimination on salary and experienced gender discrimination not only as an employee, but witnessing patients being racially divided to different wings of the hospital.

I believe we have achieved a lot so far, we are in every space/corner, where we can be present, we are there, and we are ready to face the challenges ”

JUDGE CHESIWE

Yes, like I am saying, for example we had no other option most of the time as a black person, you either go nursing, teaching or policing. That is why you will find in my family all the females are nurses, because that time I did not have the option but now I have an option to go and that is why my career in the legal field started late, because I spent about 10/12 years in nursing

DR. MALKA

And in the legal field, reflecting on your career particularly as a judge, what have been some of the most memorable cases that you've presided over?

JUDGE CHESIWE

Oh I have presided over quite a few memorable cases, but my passion being family law, because my masters is in family law and most of my cases that are memorable mostly deals where I had to move, for example, the child from the mother to the father and in that way my thing was it does not mean when you are the mother you are the better parent. Where the evidence is shown that the father is just as good and he is actually a better parent than the mother, I would gladly remove the child from the mother. When you follow-up some of these cases, you are so happy to hear later that the father is doing such a good job. The child is in high school now, the child is in university for example and you realize well, it means I did not do a mistake, because sometimes when you move a child you think maybe I am making a mistake if I am making the child go to the one parent and not the other parent, but when you hear reports back later that the child is doing quite well

DR. MALKA

Legislation is an incredibly powerful tool and if upheld correctly it really can advance women's rights. I sometimes think that it's hard to imagine that it's only been since 1996, 27 years ago, when the Bill of Rights was introduced, that all women in South Africa were formally recognized as equal citizens. In your view what have been some of the important equality gains that women have attained?

JUDGE CHESIWE

In my view, because my personal experience with regards to women having equal rights, for example, as I was working as a nurse, my husband was also studying as a doctor, I couldn't get a house. I had to stay with my mother, because I was not entitled to have a property as I was kind of like a minor to my husband, my husband to take care of me. So I couldn't buy a house, I had to stay with my mom and see when he qualifies there then we can have a house. So there's a lot of things at least that we can say improvement has come in, we can now buy houses. Simple things like buying a car, you had to have your husband to be present to buy yourself a car, so now at least you can enter into contracts, you can buy things, you can sign contracts, we can occupy high positions now as women. There's no more that you cannot do it because there was this mentality that women are emotional creatures, if you have to do high positioned jobs you will be emotional. I believe we have achieved a lot so far, we are in every space/corner, where we can be present, we are

there, and we are ready to face the challenges, be it being a judge, be it being a chief justice, be it a minister or whatever, we are ready to face all these challenges.

DR. MALKA

Given your very real lived experiences; not being able to buy a house, if you wanted to buy a vehicle that you would need permission from your husband or there with signing powers; what do you think is still left for us to achieve to really push over that boundary and get equal equality?

JUDGE CHESIWE

You know for us to achieve that, because our constitution already has done that for us, so it is for us just to push forward because the constitution says we are all equal, there is the Bill of Rights, all these things are there for us to implement and it is not a matter of like I remember what Deputy Chief Justice said once; I am a woman and then I am a judge. We shouldn't feel like people should empathize and sympathize with us and treat us like these special creatures who need to be given all these rights. We have these rights, it is just a matter of they must be implemented, we must be given these rights, they must be implemented for us to exercise them. It shouldn't be like we are being done a favour to have these rights or somebody's like let's do this for them. It is there for us to take and run with it.

you respect each and every person. You serve each and every person with integrity, you serve with honesty ”

DR. MALKA

Judge Chesiwe do you think that having more women in the justice value chains leads to decisions and public policies that are perhaps more considerate of issues that affect women, such as equality, employment discrimination, fair pay?

JUDGE CHESIWE

I think it does because then there is more input from the women who are also there, who are involved, because the women are faced daily with these kinds of challenges; sexual harassment, inequality, discrimination. So if women are involved in those policies, if women are involved in the drafting of whatever papers, their views are expressed, their inputs are put in there and women are conscious and vigilant that public policies and decisions should not be passed without their inputs, without their views, without their opinions. So when we are involved in all these things, all these policies, things will not just be passed without having a say in it. We can say it from a woman's point of view, from a woman's perspective we think policies should be run, how we think policies should be implemented because as women we will be able to accommodate a woman's view or a woman's opinion, knowing what women go through on a daily basis.

DR. MALKA

One of the things that we talk a lot about on this programme is how different sectors of industry have transformed from a gender representation perspective and when I look at the number of female judges in South Africa, I noticed that there were some statistics in 2016 which indicated that 37% of South African judges were women. By 2020, so four years on, that had increased by five percentage points to 42% and we see that if we've got more women judges and as you've mentioned then there's the legal system value chain, if we have more women in it, it becomes both a capability and capacity building mechanism to develop female legal professionals or judges. What else do you think needs to be done to improve the representation of female judges in South Africa?

JUDGE CHESIWE

Currently the Women Judges Association, the South African Chapter, I would think they are doing a great job in empowering women, encouraging women to make themselves available for the bench, as well as the current programmes, I think it was implemented by the then Brigette Mabandla, who was the then Minister of Justice, who came up with the aspirant programme that is training aspiring potential people who want to become judges so that they go to advanced training to ensure that they are empowered, they are properly equipped to be able to do the work, as well as having your available people who want to act as judges and then the more the pool is opened up, because previously remember people were taken from the bar and attorneys, but now the pool has been opened up to the academics to many other fields that they can come in as, for example I was in government as a family advocate, but then I was able to come out and attend these trainings to aspirant training for becoming a judge. So the more these kind of programmes are put in place, the more women will make themselves available to go, because the thing that is out there which I have personally experienced, the fear of having to go into the bench, there's that thing as will I make it, will I cope.

DR. MALKA

Judge Chesiwe, one question that I want to ask you now is about your personal journey and factors for success. Many of our guests have spoken about aspects of discipline, focus, faith, particular people in their life, values; in your view, what have been some of the key drivers to your success?

JUDGE CHESIWE

My key drivers to my success is discipline. Discipline which I learned from my mother and discipline which I learned from the nursing field also. Remember when we were doing nursing those years, the nursing was a military field; we were like soldiers but in the form of nursing. So I taught myself and with my mother's pushing and motivation, because she was a single parent and she taught me if you want something you must go out and get it and her values were very important, she would always say to us you cannot eat if your neighbor is hungry, before you eat make sure that your neighbor also has something. We always strive to make sure that discipline is maintained in the house, even now with my kids, the same discipline that my mother had on

me, I instill it in my kids and the same discipline that I learned at the nursing field, I instill it in the legal field to ensure that nothing, you don't say things are perfect but you try to maintain the balance of discipline, values, the Ubuntu that we always talk about, that all is contained in one bucket and all is kept together and what I've learned from my community members, what I've learned from my mother, what I've learned from family members is that you maintain discipline, respect, values and the respect part of you don't go around with I am a judge, people must bow down and do as I instruct them to do, no, you respect from the cleaning person who cleans the floors, but you respect each and every person. You serve each and every person with integrity, you serve with honesty, all the principles that you put together, Ubuntu, you try to put all that together.

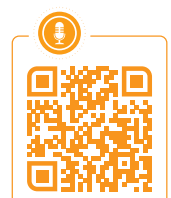
DR. MALKA

Thinking about the future, what would you like your legacy to be?

JUDGE CHESIWE

You know what it is not always easy to have a legacy that you can say this is what I have left behind, but what I have learned whilst I am here is to ensure that you treat each and every person as your equal. You never ever make people feel they are below you. Whatever you do every day when you wake up and you go to work it should be like I am going to serve people out there and treat them with the utmost respect. For example we have a lot of people sometimes who tend to be in court, I go all out to ensure that that person will leave that court being satisfied that that judge who sat on that bench assisted me in my problem, helped me to ensure that I leave this court having been helped, being satisfied that I went to court with no lawyer, but I came out being happy that the judge was there to guide me, to direct me, to help me, to leave the court being happy. My legacy will be being Sharon Justice Chesiwe, have served the citizens of Bloemfontein Free State with so much dignity, honesty, respect that there is no moment that anybody can one day say that was a very rude judge, she didn't know how to treat me in court. You want them to realize as a judge you are a human being, you can always treat people very well. ■

[Link to full interview on YouTube >>](#)





JUSTICE LEONA THERON

Justice of the Constitutional Court of South Africa

INTERVIEW AIRED: 23 AUGUST 2023
www.womanity.africa

YOUTUBE CHANNEL: JUDICIARY RSA

DR. MALKA

You are also a founding member of the South African Chapter of the International Association of Women's Judges; why did you and your colleagues feel the need to establish a South African Chapter?

JUSTICE THERON

Let me start off answering that question with a quote from a person that I admired greatly, the late and great Ruth Bader Ginsburg and she said; "Women belong in all places where decisions are being made" and I think the Chapter adheres to those values and it was founded in 1991 as a non-profit, non-governmental organization that brings together judges from all levels in the judiciary worldwide. The founders of the International Association began with the vision of increasing the number of women judges and promoting equal justice for women and girls throughout the world. So the transformation that we need and we have seen in our judiciary, it is not unique to South Africa, worldwide there was a problem where women were under-represented on the bench. Now, in 1994 and that was not long ago, this might surprise you, it might surprise the listeners; there were only two women judges in South Africa. The one was Judge Leonora van den Heever and Judge Jeanette Traverso; that can never be justified in any society; two women judges in 1994 and when we established the Chapter and we were inaugurating it, then President Thabo Mbeki spoke at our

the transition to a genuine democracy in South Africa requires that we put an end to the under-representation of women in the judiciary ”

inaugural session and he noted that the transition to a genuine democracy in South Africa requires that we put an end to the under-representation of women in the judiciary. So one of the vital objectives of the Local Chapter was the attainment of gender equality in the judiciary as a feature of democracy, just as we needed transformation in terms of race, so we need transformation in terms of gender...

DR. MALKA

It sounds like a vital tool in being able to ensure we've got representation of female judges. You yourself have a track record of advancing women's rights, for example in the case of Gumedes versus the President of the Republic of South Africa, you wrote a seminal judgment which ruled that women in customary marriages were in effect married in community of property and so accrued similar rights and benefits. Please can you describe what this landmark judgment means for women?

JUSTICE THERON

Yes, perhaps before I answer the question directly, if I could just say the significance of being a woman judging this matter and while I am not saying it would be lost on male people, but I know as a woman, of women in similar situations, in the weak position she might find herself in upon divorce and that's why often you need, while we apply the law impartially, it comes with perspective and I think the women's perspective is so important and throughout history women have found ourselves, themselves, to be under social and legal control of their husbands. In some instances they were even regarded as minors, not able to execute a contract without the assistance of their husband and this once again is not peculiar to South Africa, worldwide you would find this and women given a status of lesser than that of men and of their husbands and either initially being subjected to the power of their fathers and later to the power of their husbands. Now Mrs Gumede got married in 1968, they were married for 40 years by the time they came to court. During the marriage Mrs Gumede was unemployed, primarily because her husband did not allow her to work, he said your role is at home, your role is to take care of the family and be the primary caregiver, but we must understand during that time that is what was accepted, that is what was designated as the role of women and the role of men.

In 2003 Mrs Gumede instituted proceedings to end the marriage; both she and her husband had agreed that their marriage could not be saved. The outstanding question was property and how the property that they had acquired in 40 years, which is a long time, how that was going to be divided between them. What the Customary Law Act said and this was a code that was applicable in KwaZulu-Natal only, it said that Mr Gumede becomes the owner of all property acquired during the marriage and on divorce he gets the property and she gets nothing. Now, what my judgment held, and this was in the High Court, that the legislation was unconstitutional because as its effect was that a wife who entered into a customary marriage before the commencement of the recognition of Customary Marriages Act.

The significance of the judgment in Gumede is that it contributed to the advancement of women's property rights in South Africa and it touched on the importance of the intersecting discriminatory factors or race and gender faced by many. Depriving women of property in particular is a unique form of oppression and closely linked to depriving women of independence. So the Gumede decision, I agree with you, marks an important step in the furtherance of equality for women.

DR. MALKA

You've just shared with us a really important gain in terms of progressing women's equality and raising the fact I think that unpaid care work should actually be paid, but in this view of gains; we're in women's month and I think it's important to reflect on the gains as well as the challenges that still need to be overcome. This year's theme is women's socio-economic rights and empowerment, building back better for women's improved resilience. What's your take on the theme?

JUSTICE THERON

I think it's a very, very important theme. Until women are empowered, until women can achieve the socio-economic rights that are guaranteed in the Constitution, those rights don't mean anything to them.

Women's Day and women's month is also a reminder for the ongoing struggle for a more equitable and inclusive society for women and the theme of this year's Women's Day and women's month perfectly encapsulates this ongoing struggle and the unique issues that women face today. Access to resources and opportunities is essential in promoting gender equality, it's essential in empowering women and it's essential in addressing the systematic disadvantages that women continue to face. It is well-known that under apartheid black communities, and in particular women, were stripped of land rights and housing rights. We've had many cases come to court where women could not inherit, a female child could not inherit the house that the parents had left, but her brother or if a brother is not there, an uncle would inherit. So the high incidence of poor housing, of overcrowding and a large number of South Africans that lack access to water, modern sanitation, healthcare, electricity, it continues to hold us back. We have female headed households and they form 42% of households in South Africa and they are more likely to experience a higher rate of poverty than male headed households. That statistic alone should tell us a lot; it should tell us that we need to focus on empowering our women more.

DR. MALKA

Could you share a few words of motivation that you'd like to pass onto women in the continent in celebration of women's month?

JUSTICE THERON

You know, they coin this song Wathint' Abafazi, Wathint' Imbokotho (You Strike a woman, You Strike a Rock), I sometimes say to women put a stone or a small piece of rock next to your bedside and at the times when you're feeling down, as we all do at times, when you're feeling that life is just, you want that courage to continue, look at that rock and remember that you are a rock. You are a rock in your family, you are a rock for your children, you are a rock in your community and when you need that courage to continue remember those 20,000 women who walked and marched on Union Buildings, can you imagine how difficult and how challenging it must have been for them to organize in that time, and yes we don't have all the opportunities, but we have more opportunities. There is more that we can do. Have a vision. Have a vision for yourself, have a vision for your children, have a plan to implement that vision and be willing to work hard to accomplish it and you definitely will reach your goal. ■



[Link to full interview on YouTube >>](#)



JUDGE RAYLENE KEIGHTLEY

Judge of the the Gauteng Division of the High Court

INTERVIEW AIRED: 30 AUGUST 2023
www.womanity.africa

YOUTUBE CHANNEL: JUDICIARY RSA

DR. MALKA

Judge Keightley you've got a very interesting background; before you practiced law professionally you pursued an academic career with roles at the University of Cape Town as well as University of the Witwatersrand, where you were an associate professor and assistant dean of the school of law. You hold your BA, LLB and LLM degrees. Please tell us first of all, what triggered your interest to pursue law?

JUDGE KEIGHTLEY

Well the popular answer in our country is usually, you know, if one wants to look good, is usually to say a quest for justice. I was born a white South African so I wasn't born with an overt sense, should I say, that there was injustice and having been born in 1961, the sort of peak of apartheid, but as I got older and was exposed to really what was in fact going on in the world, I have to say that it became apparent to me particularly from my university years, that there was great injustice and that lawyers could do a lot to help overcome the injustice in our country, but I had by that stage already decided to become a lawyer, I had enrolled for a BA with law subjects. And I think I was of that generation where there were really a few professions one could do, I don't come from a family where any of my ancestors were professionals, in fact I was the first person in my extended family to go to university and get a university degree, so I didn't follow an uncle or a father into law. I've got a curious mind and I really like to know how things work and to understand things

and I like to puzzle things out and so I suppose my generation, looking at what careers one could follow, law seemed to me to be the obvious fit. I had a wobble in the third year of my BA when I thought I might want to be a psychologist instead and at the last minute I stuck to law and it was definitely the right decision. I think you know whether you are meant to do law and sometimes you go into practicing the law after studying and you either know or don't know and I think it all just came together and I really did make the right choice, it is the right profession for me.

DR. MALKA

Having had some personal experience in the academic world, as well as practice, albeit not in law, they are polar opposites in terms of the work that you do; what motivated your transition from academia to practice?

JUDGE KEIGHTLEY

Well I actually started in practice. So I finished my LLB and then I did my articles and this is women's month, so I am going to go a little bit off the topic but address the topic. So I finished my LLB in 1984, I was in the top three of my class at the University of Natal Pietermaritzburg, as it then was, and I only got one offer of articles. Women then were seen as someone who could come in, do articles, maybe practice for a few years and then all the effort the firm had put in would be wasted because of course all women just marry and have babies and

sit at home and I was asked in some of my interviews, when do you intend starting a family, you know, I wasn't even married, I had no intention of starting a family at all, but nonetheless I felt it was important to do the articles, so I did. I got an offer from a very small firm of attorneys in Cape Town, which I have never regretted, I did everything. I appeared in criminal court, I drafted wills, I did absolutely everything and then after doing articles and staying on at the firm into the next year, I was extremely fortunate to be given an attorney's fidelity fund bursary towards overseas study

DR. MALKA

In the realm of judging, you make incredibly tough decisions, there's always a winner and there's always a loser. Can you tell us about some of the memorable cases that you've presided over?

JUDGE KEIGHTLEY

The hardest courts that we are in as judges are probably family courts and you don't get seminal judgments there, very seldom. Very often you are dealing with urgent matters where the parents very often are fighting over the children and those are the hardest cases to be in and you know if you are a judge in the Gauteng Division, we have a special family court, it is not a separate court, it is really a family court role that allows family court matters to be channeled more quickly and then, you know, as judges we sit in that court once a term or twice a term or once every term, we all rotate into it and out of it, and those are hard courts because you are dealing with people.

A lot of the legally difficult matters are, you know, when you're talking about whether an ex-president should go back to prison because he was released on parole, that is very topical at the moment, those are incredibly difficult socially, politically judicially and legally, but those aren't the only difficult courts that we deal with. Courts are very much for the people and even the High Court, we are close to people when we do a lot of our judging, particularly in the family court, in urgent court where we have burial disputes for example...

DR. MALKA

Following on with that thought and thinking about your own environment, what would be some of the areas that you feel you could contribute to help propel women further forwards?

JUDGE KEIGHTLEY

You know I suppose as a citizen, never mind you're a judge, one can get involved in programmes outside of your professional life, so you know, whether they're through your church or through your community or whatever, in your own personal sphere, whether it is helping someone's child to go to school or in that small way. In the courtroom I think one has to be thoroughly alert to the need to be sensitive to what might be going on underneath what is presented as the legal dispute that you are tasked with trying to resolve, one way or the other and there are quite a few things judges can do, you know, we can for example, this might be a minor example, but we can always ask the bar to identify an advocate who can act pro-bono for someone who really can't afford it and whose socio-economic rights or whatever rights they may be, can't properly be litigated, because there they are in person and you can see the need for them to have a lawyer. So judges can do a lot in that small way, that's on an individual basis, and then I think for example the South African Chapter, the International Association of Women Judges, we do get involved in programmes that are designed more broadly, more civil society type of programmes. So I think there are ways one can do it, most directly I think in my job as a judge, a would be in how you manage your court, how sensitive you are, perhaps for the need for someone to get legal assistance or just to try and understand. ■

In the courtroom I think one has to be thoroughly alert to the need to be sensitive to what might be going on underneath what is presented as the legal dispute that you are tasked with trying to resolve ”



[Link to full interview on YouTube >>](#)



JUDGE SOMA NAIDOO

Judge of the Free State Division of the High Court

INTERVIEW AIRED: 06 SEPTEMBER 2023
www.womanity.africa

YOUTUBE CHANNEL: JUDICIARY RSA

DR. MALKA

Joining us today for our series on Women in the Judiciary is Judge Soma Naidoo, who is a Permanent Judge of the Free State High Court.

JUDGE NAIDOO

Judge Naidoo, this series for me is one that we have on an annual basis and it is always important because I really feel that through legislative enablement that women have really been able to achieve and especially when women are driving the legal process or applying pressure and I am often reminded when I have these thoughts of a quote by Eleanor Roosevelt, who said “You must do the things you think you cannot do.” So with that said, if we can kickoff with the show; nearly a decade ago you were appointed as a judge of the Free State High Court in 2014; you previously served as a Magistrate in the Durban District High Court from 1998 and during that period you also served as the Deputy Head of Office and Head of both the Criminal and Family Divisions of the Court.

DR. MALKA

And the Civil courts. Tell us about that period.

JUDGE NAIDOO

It was an exciting time, I was an attorney for about 12 years. After I finished university I went through the process of articles. I joined a firm of attorneys and thereafter the senior partner left and somebody else joined us just before he left and we

in the position that a judge holds, you have a position of tremendous influence, you affect people’s lives daily and how you apply the law is incredibly important, because not only must you apply it in a way that is pertinent and relevant to that person ”

continued. So I practiced for about 12 years in total and then I worked for a short stint in the corporate world as a legal advisor to what is now business partners, they were the Small Business Development Corporation at that time and then from there I went into practice on my own again in a small North Coast town in KZN called Verulam, quite frankly the biggest mistake I made was moving from Durban to there, because practice in Durban there is so much variety, I did a lot of commercial and civil work and it was not like that in Verulam, but then from there the road took me to the Justice Department and I became a prosecutor and then I was appointed as a Magistrate and went up the ranks there until I ended up as a Senior Magistrate and Deputy Head of Office.

DR. MALKA

Casting your mind back, what was it that triggered you to pursue a career in law?

JUDGE NAIDOO

You know I grew up when apartheid was in full force and as a child, when the opportunity arose, I mean I grew up poor, in a poor family and sometimes it was a treat to go to the beach or to the park and we could only go to certain beaches and I couldn't understand that. When we got to the park my mom would say no not that entrance, I said but this entrance is right here, why must we walk all the way around and she said just be quiet and come, so you know I would go, but I was young, I must have been about five / six years old at the time and I couldn't understand this and then when we were in the park, you know, children run like crazy in the park and you were always stopped from going to certain sections. You could not sit on a particular bench, you could only sit in a particular place and those were my experiences at the cinemas, we could not go to certain cinemas, you only could go to a cinema in a certain street and so on, or certain parts of town, and it was like that with many aspects of our life and my parents, well look, they never had much schooling, but they did not know how to explain this and especially to me and I was one who questioned everything,

DR. MALKA

It's a great story, you really highlight the injustices that so many people of our country experienced and endured. Having gone into the legal field, does that make you feel better, more confident of driving change, of bringing about equality to all?

JUDGE NAIDOO

Yes and I think, you know, it is important and especially in the position that a judge holds, you have a position of tremendous influence, you affect people's lives daily and how you apply the law is incredibly important, because not only must you apply it in a way that is pertinent and relevant to that person, but it must have meaning for that person and at the same time you must bring about justice and fairness. So it is important and I have tried in my own little space to do as much of that as I possibly can. To develop people, to empower people and as I got older it was women's rights, you know, that same injustice about the way women were treated triggered my interest in empowering women and getting involved in projects or organizations that dealt with women's rights and empowering women.

DR. MALKA

Can you tell us about a few of the most impactful cases that you've presided over and why they matter so much to you?

JUDGE NAIDOO

Well it started when I was a prosecutor, I did a matter involving drugs, syndicate crime involving drugs and it was the first time that I encountered something like that where a part of the evidence was recorded telephone calls and voice evidence and I think I might have been one of the first prosecutors who managed to persuade the Justice Department to engage one of the only voice experts there were in the country at the time,

at tremendous cost, you know, I had to almost become a voice expert, I spent an enormous of time with them to understand this is a very new and strange field to me and I spent a lot of time interviewing him, spent a lot of time understanding his work in order that I may prosecute properly. That case was never completed because my accused persons started dying one after the other, there were five of them and eventually I ended up with one and then the magistrate was murdered, but in the course of the many months over which the trial ran, I dealt with many aspects of law and we had what we called trials within a trial to decide on specific aspects. There were seven of them and I got judgment in my favour in all seven of them and what was important about that is that even though the matter was not completed, as far as it went, it had a positive impact for other prosecutors who were then calling me from different parts of the country to ask about voice evidence

DR. MALKA

At the same time you've got to be impartial to mete out justice. I would also imagine that this takes a toll on you personally; tell us about some of the coping mechanisms that you use to manage your wellbeing.

JUDGE NAIDOO

It's very hard and for a very long time, you know, we didn't have anything for the Judiciary in terms of debriefing, in terms of wellness and as Head of the Family Courts I saw that with, for instance domestic violence matters, where magistrates couldn't cope and I took initiative to try and debrief them on a one-on-one basis and so on. A few years ago I think the Chief Justice put together a draft policy on wellness, we attended a few presentations where they had psychologists and psychiatrists for instance that you could call if you felt a bit overwhelmed, because with the magistrates I noticed that that secondary trauma was spilling over into their personal lives as well and you know one had to try and debrief them and I think I learned many lessons from helping them as well and coping.

DR. MALKA

Can you share a few words of inspiration or motivation that you'd like to pass onto girls and women who are listening to us on the continent?

JUDGE NAIDOO

If you already are in a successful position or in a position of authority, reach out to women who will follow you and I talk about paying forward, because you've got to that position because somebody assisted you along the way or you were, you know, bold enough to empower yourself, pay it forward.



[Link to full interview on YouTube >>](#)



HISTORIC CEREMONIAL SITTING AT THE WESTERN CAPE HIGH COURT

THE FIRST OF ITS KIND IN 100 YEARS

By Judge Patricia Goliath

Acting Judge President of the Western Cape Division of the High Court

At a historic event in collaboration with the OCJ, together with the WOZA Leadership Academy (WLA) and Cliffe Dekker Hofmeyr (CDH), Acting Judge President Goliath ordained a special sitting in the Western Cape High Court on 12 April 2023, in celebration of a 100 years since women were admitted to the legal profession. Homage was paid to prominent women such as Victoria Mxenge, Desiree Finca and Cissy Gool who carved the paths for current and future female lawyers. The event was attended by members of the legal profession, the private sector, academics and the public.

In her introductory speech the Acting Judge President set the tone for the ceremony. "There is no archive like the 100 Years Campaign to help us place ourselves in history. We need to record the history of the struggle of women in the legal profession, interrogate the barriers women in law face, and set out a vision for change. We have to assess what lessons we can learn from the past. Ultimately, while we look back and

We need to record the history of the struggle of women in the legal profession, interrogate the barriers women in law face, and set out a vision for change ”

celebrate the significant progress of women in law over the past 100 Years, we must ensure that the next 100 Years will move at a faster pace to achieve equality in the legal profession and the justice system."

Speakers included Seehaam Samaai Chairperson of SAWLA WC; Michelle Kagan, a criminal defence attorney from Manhattan, New York who spoke about her grandmother the iconic Zainunnissa "Cissy" Gool. The Cissy Gool Foundation will be launching a Cissy Scholarship bursary to fund women of an advanced age pursuing their LLB at UCT. In response retired Constitutional Court Judge Albie Sachs shared his personal



interactions with Cissy Gool and unequivocally pledged his support for the Bursary Fund, which cottoned on to other judges in court echoing pledges. Retired Judge Siraj Desai spoke as a male championing the cause for parity, and reminded the court that all legal practitioners play an important role in the transformation and advancement of women in the legal sector.

The keynote speaker was retired Judge Margaret Victor who had acted in the Constitutional Court. Her message was one of hope "After two devastating losses in the South African High Courts in 1909 and 1912 by Sonya Schlessin and Madeline Wookey, in trying to obtain admission to the legal profession, finally on 10 April 1923, the Legislature promulgated a government gazette termed 'extraordinary' allowing the admission of women into the legal profession. 100 years later women have achieved much but still more needs to be done to achieve constitutional transformation.

we must ensure that the next
100 Years will move at a faster
pace to achieve equality in the
legal profession and the justice
system ”

"Whilst we celebrate the enormous strides for women in this profession, it is important that we tell the story of the legacy of women in law. It remains a work in progress to guard against the barriers to progression which impedes women from reaching top positions and turn around the slow pace of gender transformation in the judiciary", Rehana Khan Parker.

"As women, our ability to multitask is one of the most sophisticated and valuable attributes we share and we should never allow this to be downplayed as an old cliché", Megan Rodgers, Head of the Oil & Gas sector at CDH.

Despite significant strides having been made for parity over the years in the legal sector, the representation of women in key leadership roles remain a challenge.

The "100 more" milestone was celebrated across the country and aims to commemorate the achievements and to help nurture a new generation of female lawyers to reflect the depth and diversity of the parts played by women lawyers since their first admission 100 years ago.



EMPOWERING WOMEN IN EMPLOYMENT LAW CONFERENCE

By Judge Rabkin-Naicker

Judge of the Labour Court

In partnership with the International Labour Organisation (ILO), the women Judges of the Labour Court organised a Conference to mark the 100 More Years Campaign — looking forward to another century of women in law. The Conference was held on August 19 2023 and was entitled: “Empowering Women in Employment Law”.

More than 300 delegates attended, representing the attorneys and advocates professions, the Commission for Conciliation, Mediation and Arbitration (CCMA), legal associations, members of the South African Society for Labour Law (SASLAW), and representatives of the National Economic Development and Labour Council (Nedlac) social partners, amongst others. The gathering was made more special by its outreach to schoolgirls and women law students. The focus of discussion was honed towards their future and what can be done to strengthen the foundations of the path for women in the law.

The Conference was opened by Judge Zolashe Lalli who introduced the ILO keynote speaker, Mr Simphiwe Mabhele. He focused on the crucial ILO standards impacting on women’s equality in the workplace. The tone was set for the understanding of the foundational role of the ILO in our employment law. The sessions of Conference were characterized by active participation and discussion with many of the delegates

calling on the organisers to ensure the Conference was not a one-off event. The need to strengthen ties between women members of the legal profession was most evident.

GALA DINNER

The Conference was followed by a Gala Dinner. Attendees were honoured and inspired by the presence of Justice Molemela, President of the Supreme Court of Appeal who addressed the event on the 100 More Years Campaign. Human rights activist, mediation and arbitration pioneer, and business executive, Advocate Thandi Orelyn, gave a reply to the address in her inimitable style. Among the women leaders of the Judiciary at the Gala Dinner were Deputy Judge Presidents Djaja and Mbhele. It was a memorable event which ended with a rendition of Malibongwe, Praise the women, played by young woman saxophonist Lesego Molefe. The Women Judges of the Labour Court also used the occasion to give a special mention and token of appreciation to the Registrar of the Johannesburg Labour Court, Ms Neli Ntuli, who has served with fortitude and diligence in that role since 1999.

The Scheme and Context of the Conference

In her address to the plenary session, Labour Court Judge Hilary Rabkin-Naicker presented the scheme and context of the event for delegates and highlighted certain themes that

may be taken forward by them. She explained the background to the Conference as follows:

“When the 100 More Years Campaign reached out to our Chief Justice at the beginning of this year, and he to the Courts, we wanted to ensure that we met that call as best we can. In so doing, we decided to organize an event in August, Women’s month, and to reflect the context of our work as Labour Court Judges.

August was apposite — a month recognized by the widest number of women in our country as a period that marks both the history of women’s contribution to building a constitutional democracy, and their determination to continue to make progress in securing protection and advancement in society, in the face of serious and ongoing challenges.

The centenary of the colonial statutory enactment, the Women Legal Practitioners Act of 1923, that permitted women to practice law in our country, needed to be marked. Both to celebrate it as an important milestone, but also to reflect on the historical context in which it was enacted in our country.

We celebrate our achievements in this Conference, and look forward to building these, but lest we do forget, the attitudes that prevailed 100 years ago in the legal profession and in our judiciary should be recalled. Just one of many examples will suffice. In the 1914 edition of the South African Law Journal in an article entitled “Women as Advocates and Attorneys”, its assistant editor heaped praise on a judgment of Ryan CJ of the Wisconsin Supreme Court and quoted it extensively, including the following:

“..qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility, its purity, its delicacy, its emotional impulses, its subordination of hard reason to sympathetic feeling, are surely not qualifications for forensic strife. Nature has tempered women as little for the judicial conflicts of the Courtroom, as for the physical conflicts of the battlefield. Womanhood is molded for gentler and better things”

My comment on the above is best left unsaid! With the opening up of entry to women attorneys and advocates, while progress was formally evident, the path to substantive equality for women in the legal profession was slow and arduous, in the context of colonialism and apartheid, as we know. For example, it was only in 1963 — 40 years after the Act was passed that Cissie Gool became the first black women to be admitted as an advocate. And it was later only in 1967, that Desiree Finca became the first African women to join the attorneys’ profession. In as far as the bench was concerned, 1969 was the year that Leonora van den Heever became the first women judge in South Africa.

Many meetings have been held this year reflecting on the open resistance to women’s inclusion in the legal profession

by members of the judiciary, and the attorneys and advocates profession, before the advent of constitutional democracy in South Africa. For our part, as a specialist court, with a bench that now includes seven women, we wanted to use the 100 More Years Campaign to shine a light on the project of empowering women in employment law.”

All sessions of the Conference were chaired by its women judges. A very lively and engaged workshop on the challenges facing the Attorneys profession took place. It was addressed by the Director of the Women’s Legal Centre, Seehaam Samaai, focusing on what challenges remain for women attorneys 100 years. It served as a forum for women who are aspirant attorneys and those admitted as such, to broach this difficult subject, identify the problems they face, and the ways in which these can be better surmounted.

As the previously disadvantaged, and women, know only too well, the challenge facing them is not only a ‘numbers game’. It is far deeper than that. We are all part of a society in transformation and that implies an ever-developing process of building mindsets that more closely align with our constitutional values. The initiatives by both men and women to tackle gender-based violence still rampant in our society is a case in point.

A second workshop was held dealing with briefing patterns at the bar and the challenges facing women counsel in general. It was addressed by Advocate Kameshni Pillay SC who amongst many other roles, chairs the sexual harassment committee at the Johannesburg Bar. This workshop was an opportunity for aspirant counsel and women members of the bar to exchange experience and develop strategies to further the project of empowering women to develop their advocate practices. The experience of addressing these challenges at the various bars was laid bare. The attendees were encouraged to become experts in whatever field their practices reflected in order to expand these to more areas.

the path to substantive equality for women in the legal profession was slow and arduous, in the context of colonialism and apartheid ”

A special workshop entitled ‘You are our Future’ for the girl scholars present gave them an opportunity to ask any questions they had about pursuing a career in law, the different options, the nature of employment law and whatever else they are keen to learn. The school girls responded eagerly and with resolve to the opportunity to learn more and took the opportunity to ask questions of the several judges who were present.

The afternoon plenary of the Conference was geared to tackling a second dimension to the project of 'empowering women in employment law' — how women fulfill their roles as employer and employee representatives, attorneys, counsel, chairs of disciplinary hearings and arbitrators, in areas of substantive employment law, such as sexual harassment and discrimination disputes and claims.

The keynote address for the afternoon dealt with the preparation for trial of claimants in sexual harassment and discrimination matters. In her detailed presentation Senior Counsel Sesi Baloyi illustrated that this preparation is a sensitive, forensic art that requires a plethora of skills. The gathering was most fortunate to learn of these from her.

For our part, as a specialist court, with a bench that now includes seven women, we wanted to use the 100 More Years Campaign to shine a light on the project of empowering women in employment law ”

Finally, Senior Part-time Commissioner Ronel de Wet took the delegates through the techniques and intricacies of running a sexual harassment disciplinary or arbitration hearing. She did so as one of the Commissioners of the CCMA who have been specifically tasked with adjudicating these types of arbitrations. There were a number of other Commissioners present who have expertise in this field.

Certain other significant themes were noted by Judge Rabkin-Naicker on behalf of her sister judges. These were as follows:

- THAT the role that the CCMA plays in delivering access to justice to both employees and employers engaged in Labour disputes is well known. But it must be lauded at every opportunity. Its function (and that of the bargaining councils), in the architecture of the LRA and other employment statutes, is key to the delivery of speedy resolution of disputes and the promotion of collective bargaining in all sectors of our economy.
- THAT for the Labour Court, it is not only our jurisdiction under the LRA, EEA and other employment statutes that calls upon us to contribute to the empowerment of women in the workplace. It is also the very nature of our Court as one of equity, and law, that assists us in this process.
- THAT the Labour Court prides itself on being a forum in which lay people including women employees, can get access to justice. We are greatly assisted in achieving this

task by the pro-bono offices of SASLAW many of whose members attended the Conference.

- THAT a special thanks goes to the women membership of SASLAW. These members are not only legal practitioners. Given that labour and employment law binds workplaces, they play a role in areas such as HR, equity executives, managers and trade union representatives and as such can have a meaningful impact on the lives of working women at every level of society.
- THAT the protection of working women requires broadening day by day. The Constitutional Court case of *Mahlangu & another v Minister of Labour & others (Commission for Gender Equality & another as Amici Curiae)* (2021) 42 ILJ 269 (CC) is a powerful example of this process. In *Mahlangu* the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA) was challenged in that it excluded domestic workers from the definition of employee. The Court found that this infringed the right to equality under s 9 of Constitution 1996, the right to human dignity under s 10, and the right to have access to social security under s 27(1)(c) of the Constitution.
- THAT we must underscore the significance of the fact that this Conference is a partnership between ourselves as women judges of the Labour Court, and the ILO. In so doing the following quotation from an article by academic D M Smit was apposite: She writes that:

“...Our legal framework for gender equality at work is an ILO inspired mosaic. For decades, the ILO has helped shape South Africa's legislation and views, including on gender equality in the workplace. Among other things, the country has ratified two of the ILO's four key gender equality conventions, namely the Equal Remuneration Convention 100 of 1951 and the Discrimination (Employment and Occupation) Convention 111 of 1958. As an ILO member state, South Africa is also bound by the ILO Declaration on Fundamental Principles and Rights at Work of 1998, which commits all member states to respect freedom of association and the right to collective bargaining, eliminate forced or compulsory labour, abolish child labour, and eliminate discrimination in respect of employment and occupation. Moreover, the country is in its second ILO Decent Work Country Programme (DWCP) cycle, which covers the period 2018–2023...”

In her closing address to conference Judge Rabkin-Naicker considered the factors that would make the Conference a success stating that:

“This Conference will have achieved its objectives if it provides a platform for strengthening solidarity between women engaged in employment law. In our workshops and discussions today, it may assist us to look at how we as women interact in, and between, our various formations and organisations. We have all heard of the concept of the ‘old boys club’ an old-fashioned British expression depicting the powerful groups of



Judges of the Labour and Labour Appeal Court, together with the Registrars of the courts at the gala dinner

men who attended private schools together, and who continue throughout their working life to empower each other in their chosen careers. While different in form, we have our ‘old boys’ clubs still, as well as what can be termed as our ‘new men’s clubs’. And unique to us, across the board, in our interactions with each other, we are constrained by the scars of our Apartheid past with a lack of solidarity and support across and between different communities.

It will be interesting to discuss today how prevalent the briefing of women counsel by women attorneys is. How often do we invite women speakers to our Conferences? Are we as women complicit in the consciousness that men are the natural leaders in our common fields? Is a ‘new women’s club to be built? Should we ‘seize the time’?

The young women leaders of our future who enter the employment law arena now have a growing number of role models to inspire and encourage them. We celebrate our women jurists such as Deputy Chief Justice Maya and Supreme Court of Appeal President Justice Molemela, to name our brightest guiding stars, with immense pride. There is work to be done but we have come a long way and as the 100 More Years Campaign does — We look to the future with commitment and confidence.”

We are all part of a society in transformation and that implies an ever-developing process of building mindsets that more closely align with our constitutional values ”

It was apparent from the response of delegates and the discussions held at the event that the Conference had certainly provided an important first step towards a strengthening of solidarity between women in employment law.

As the previously disadvantaged, and women, know only too well, the challenge facing them is not only a ‘numbers game’. It is far deeper than that. We are all part of a society in transformation and that implies an ever-developing process of building mindsets that more closely align with our constitutional values. The initiatives by both men and women to tackle gender-based violence still rampant in our society is a case in point. ■



Judge E M Molahlehi and Judge D Mahosi with high school learners at the conference



Judge P Nkutha-Nkontwana together with high school learners who attended the event



Judge E M Molahlehi in conversation with Judge President D Mlambo at the conference



Advocate K Pillay SC presenting to conference delegates during one of the breakaway sessions



Judge of the Labour Court, Judge Z Lallie



Judge P Nkutha-Nkontwana with conference speakers, Ms Ronel de Wet, Adv S Baloyi SC and Adv K Pillay SC



Mr Simphiwe Mabhele, Technical Officer of the International Legal Organisation (ILO), Pretoria

SUPERIOR COURTS CONDUCT OUTREACH ACTIVITIES

Various Superior Courts hosted law students, and pupils from their local universities and schools to introduce them to court processes and the careers available in the court environment. The students got to experience live court proceedings and engage various court officials, such as Registrars, on their roles. They were also given opportunities to interact with Judges, who shared words of motivation with the students.



Acting Judge Coetzee of the Northern Cape Division of the High Court, addressing pupils during the outreach event



Kimberley Girls High School pupils touring the Northern Cape High Court

NORTHERN CAPE HIGH COURT OUTREACH

In commemoration of Youth Month, the Northern Cape Division of the High Court, hosted learners from DR EP Levels and Kimberley Girls High Schools. This was done to expose learners to the court environment and showcase the available career opportunities in the law profession.



L-R: Court Registrars Ms K Dichaba and Ms T Mogonediwa, and Ms N Shezi with students from Dr E.P. Lekhela Secondary School

NORTH WEST HIGH COURT OUTREACH

The North West Division of the High Court conducted an outreach activity at the Batlout High School in Ikopeleng, Ramatlabama Village, as a way to introduce the learners to career opportunities available in courts.



Senior Court Interpreter, Mr Lebogang Mthombeni, discussing career opportunities in Superior Courts



North West High Court officials, joined by School Principal of SC Kgobokoe High School, Ms Mongake Neogise, and pupils during the outreach event



L-R: North West High Court officials Ms Pearl Ntono, Mr Lebogang Mthombeni, Ms Sepeleng Sema and Mr Oratile Kgopanyane during the outreach event at Batlout High School



The outreach event opened with the singing of the National Anthem

DOJ & CD / BOWMAN'S & GILFILLAN ATTORNEYS OUTREACH

As part of the activities for Mandela Month, the DoJ & CD, in partnership with Bowman's & Gilfillan Attorneys, hosted a career day for law students in Sandton. The purpose of the career day was to help students make informed decisions about their careers in law.



Aspiring legal practitioners at the outreach event



Justice K E Matojane of the Supreme Court of Appeal addressing the gathering

PRETORIA HIGH COURT OUTREACH

In commemoration of Women's Month, the Gauteng Division of the High Court hosted female students from the Tshwane University of Technology at the Pretoria High Court. The students got an opportunity to tour the court, learn about court processes, and experience a court in session.



Deputy Judge President, Judge A P Ledwaba and Judge M Lenyai (seated) took time out to interact with students



Female law students from the Tshwane University of Technology took an educational tour around the Pretoria High Court



Deputy Judge President A P Ledwaba engaging with some of the students

JOHANNESBURG HIGH COURT OUTREACH

To commemorate Women's Month, the Gauteng Division of the High Court in Johannesburg hosted female law students from the University of Witwatersrand. The students spent a day at the court interacting with various court staff and Judges, and also learning how the court functions.



Johannesburg High Court officials and female law students from Wits University, during an outreach activity at the court



Law students from Wits University had an opportunity to ask questions from court officials on their area of work during their visit at the court



Wits University female law student exploring the General Office at the Johannesburg High Court

MPUMALANGA HIGH COURT OUTREACH

The Mpumalanga Division of the High Court invited law students from the University of Mpumalanga to spend a day at the court and get first hand experience of the court in operation. A mock trial was organised in the criminal court for the students to give them a feel of a court in session and to witness how cases are argued.



Law students from the University of Mpumalanga, joined by the Dean of Social Sciences, Professor A. Okharadia, attended visited the Mbombela High Court



Female law students from Mpumalanga University touring the Mbombela High Court

MIDDELBURG HIGH COURT OUTREACH

Learners from Eastdene Combined School and Steelcrest High School had an opportunity to observe court proceedings at the Middelburg Magistrate's Court and later attended a mock trial at the Middelburg High Court.



Court officials and external law practitioners who helped share some light about the legal profession



Pupils from Eastdene Combined School arriving at the Middelburg High Court during outreach activity



Advocate Tebogo Rangwaga from NPA and Judge President of the Mpumalanga Division of the High Court, Judge Segopotje Mphahlele observing a mock trial

CHIEF JUSTICE'S EVENTS



Caption:

LAUNCH OF THE GIBS “ANTI-CORRUPTION WORKING GUIDE

On 29 August 2023 Chief Justice Raymond Zondo delivered a keynote address at the launch of the South Africa's first “Anti-Corruption Working Guide for the Corporate Environment at the Gordon Institute of Business Science (GIBS) in Johannesburg.



Private sector executives leading the discussion, prior to the Chief Justice's address during the launch of the GIBS Anti-Corruption Working Guide.



Chief Justice Raymond Zondo delivering a key note address during the launch of Anti-Corruption Guide for the Corporate Environment at the GIBS Business School



Chief Justice Zondo with SARS Commissioner, Mr Edward Kiesewetter, at the event



Photos courtesy of UNISA and the Presidency of the Republic of Ghana (www.presidency.gov.gh)

CHIEF JUSTICE'S EVENTS



Receptients of the African Bar Association Medal of Merit in Leadership Award, including retired Chief Justice M Mogoeng, retired Deputy Judge President of the KZN Division M Madondo, and retired Judge Pillay

AFRICA BAR ASSOCIATION (AFBA) CONFERS MEDAL OF MERIT IN LEADERSHIP AWARD

The African Bar Association (AFBA) successfully hosted its 2023 Annual Conference in Pretoria at the University of South Africa (UNISA), which took place from 6 - 10 August 2023. The AFBA conference provided a valuable platform for Judges, lawyers, politicians, the business community, and experts from all fields to come together, engage in meaningful discussions, and brainstorm solutions to the myriad challenges that Africa faced, with a particular focus on promoting transparent governance, security, and the rule of law. On the 2nd day of the 5-day conference, the African Bar Association conferred Medals of Merit in Leadership to former Chief Justice Mogoeng, KZN Deputy Judge President Madondo and Judge Pillay, who were among the distinguished dignitaries to receive the award.



Chief Justice R M M Zondo with other dignitaries at the event



Former Chief Justice M Mogoeng and retired Deputy Judge President M Madondo receiving their awards



Chief Justice R M M Zondo



L-R: Former Chief Justice M Mogoeng pictured with Chief Justice R M M Zondo, Professor Puleg LenkaBula, Vice-Chancellor and Principal of Unisa and Minister of Justice and Correctional Services, Mr R Lamola, MP.



Learners who benefit from the SignatureWords Book Club

SIGNATUREWORDS BOOK CLUB CONVERSATION

Deputy Chief Justice M M L Maya took part in the SignatureWords Book Club conversation, which took place on September 1 at the Kholwani Primary School in Soweto. The gathering demonstrated the abilities of the Book Club members, who are mostly primary school learners, to be in conversation and listen to stories of incredible individuals from their communities.



Deputy Chief Justice Maya pictured with her daughter, Ms Wela Mlokoti (left) and the organisers of the Book Club



Deputy Chief Justice Maya



Deputy Chief Justice Maya pictured with a student from the programme



JUDGE SAVAGE ELECTED UNITED NATIONS APPEAL TRIBUNAL (UNAT) JUDGE

Judge Katharine Savage from the Western Cape Division of the High Court was recently elected as a judge of the United Nations Appeal Tribunal (UNAT) for the term July 2023 – present.

The United Nations Appeals Tribunal (UNAT) was established by the General Assembly in 2009, as part of the new UN internal justice system where UN staff can lodge workplace disputes and reviews of UN administrative decisions, among others. As the second level appellate review tribunal within the internal justice system, UNAT reviews, within its specific jurisdiction, appeals against judgments rendered by the UN Dispute Tribunal, and by those organizations, agencies and entities that accepted UNAT's jurisdiction. The UNAT comprises of seven judges elected by member states of the UN General Assembly. Judge Savage is the fifth Africa and second South African judge to serve on the UNAT.

<https://www.un.org/en/internaljustice/unat/judges.shtml>

A HELPING HAND: RESTORING HOPE AT BOPANANG STIMULATION CENTRE

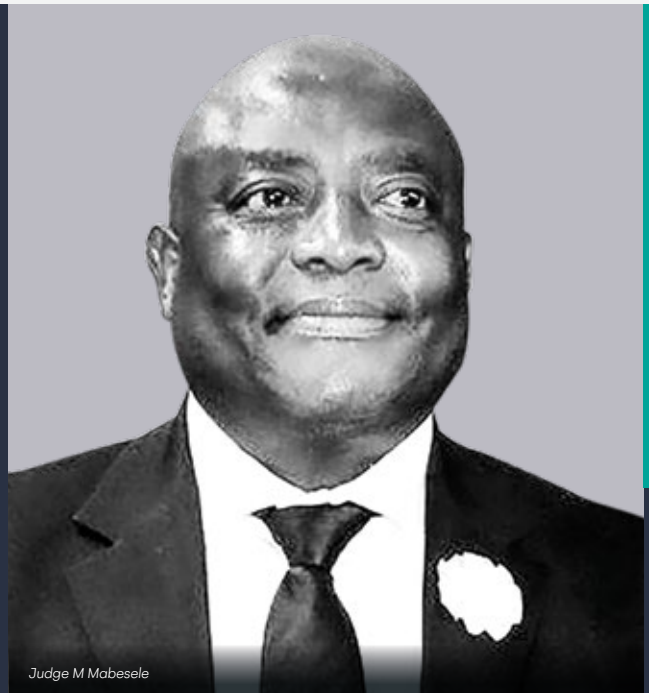
Ms Lusanda D. Ntuli

Deputy Director: Communications

Since 2007, Judge Majake Mabesele has been making a profound difference in the lives of the children at the Bopanang Stimulation Centre. Through his unwavering kindness, Judge Mabesele has exemplified the true spirit of giving.

The Bopanang Stimulation Centre serves as a sanctuary for children with intellectual disabilities, providing them with the care and support they need to thrive in an often-challenging world. During July of this year, the Bopanang Stimulation Centre faced a setback when thieves struck, stealing essential equipment which included computers, printers and other equipment. For a centre that relies on limited resources, this loss was devastating, and it jeopardized their ability to continue their essential work.

It was at this critical juncture that Judge Mabesele rallied fellow Judges to assist through donations, and aid in the replacement of what was lost. The response was nothing short of heart-warming. Colleagues rallied behind this call for help,



demonstrating the power of community and solidarity. Together, they pooled their resources, and soon enough, a brand-new laptop and printer were delivered to the Bopanang Stimulation Centre. Judge Mabesele wishes to shine a spotlight the Judges who contributed to this particular initiative below, and thank the many others who have become patrons of this institution along with him through their donation efforts on previous initiatives.

THE JUDGES WHO TOOK PART IN THIS INITIATIVE ARE:

Judge Majake Mabesele, Judge Mahalelo; Judge Mdalana-Mayisela; Judge Dosio; Judge Moosa; Judge Noko; Judge Motha; Acting Judge Makamu; Acting Judge Mooki; Magistrate Moleleki.

JUDICIAL APPOINTMENTS



Judge S S Mphahlele

Appointed as Judge President of the Mpumalanga Division of the High Court
As of 22.08.2023



Judge B Nkabinde

Extension of term: Designated Judge in terms of the Regulation of Interception of Communications & Provision of Communication-Related Act, 2002
From: 11.09.2023 - 10.09.2024

JUDICIAL RETIREMENTS



Judge President M F Legodi

Mpumalanga Division of the High Court
Discharged: 22.08.2023



Judge G Lopes

KwaZulu-Natal Division of the High Court, Pietermaritzburg
Discharged: 01.08.2023



Judge M S Moodley

KwaZulu-Natal Division of the High Court, Durban
Discharged: 31.07.2023



Judge C M Sardiwalla

Gauteng Division of the High Court, Pretoria and Land Claims Court
Discharged: 31.07.2023



Judge C H G Van Der Merwe

Supreme Court of Appeal
Discharged: 01.09.2023

Image source: <https://web.facebook.com/UFS.Alumni>

IN MEMORIAM



Judge G Friedman

Retired Judge President of the Western
Cape Division of the High Court

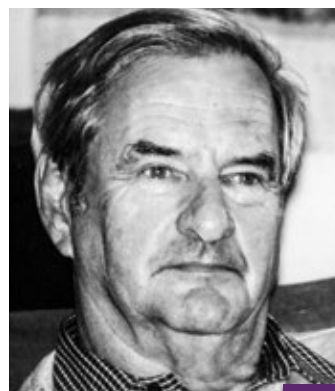
Passed: 12.09.2023



Judge G Webster

Gauteng Division of the High Court

Passed: 15.07.2023



Judge H C Nel

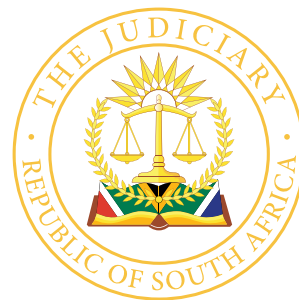
Western Cape Division of the High Court

Passed: 29.07.2023



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