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THE JUDICIARY - SPECIAL EDITION

FAREWELL
SPECIAL
FEATURE



FAREWELL SPECIAL FEATURE 2021

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- Acting Chief Justice Raymond Zondo
- Justice Edwin Cameron
- Justice Mbuyiseli Madlanga
- Justice Nonkosi Mhlantla
- Justice Zukisa Tshiqi



FROM THE EDITOR

We have recently witnessed the retirement of four of our Constitutional Court Colleagues. It is in essence the changing of the guard at the top, and, due to its epochal context, deserving of recognition by way of this Special Edition of the Judiciary Newsletter to pay tribute to them. These are former Chief Justice Mogoeng Mogoeng, Justice Sisi Khampepe, Justice Johan Froneman and Justice Chris Jafta.

Under normal circumstances we would have organised farewell functions for our Colleagues, but the Covid-19 pandemic has forced us to forgo such gatherings for the safety of all concerned. This Special Edition Judiciary Newsletter is therefore our way of saying to them what we would have said in person had the environment been conducive to hosting farewell events.

It is uncommon for any institution to say goodbye to this number of senior members almost at the same time. While we congratulate them for reaching this milestone in their professional lives; the impact of their departure will be felt not only by the Constitutional Court and the Judiciary, but by South Africa as well. They have individually and as part of a collective, contributed in many ways to the development of our jurisprudence. Theirs is a legacy that will be cherished by posterity.

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Chief Justice Mogoeng Mogoeng had the foresight to prioritise judicial case management and the modernisation of the Judiciary with a view to making the institution more efficient. It was also under his watch that South Africa saw the advent of a documented set of Norms and Standards for the Judiciary. His hands-on approach to the Judiciary often saw him delivering the Judiciary's Annual Reports, or in his words, "the Judiciary's accountability report".

In his capacity as the Chief Justice, he led both the Constitutional Court and the Judiciary. He also chaired the Judicial Service Commission (JSC), the South African Judicial Education Institute (SAJEI) Council and the National Efficiency Committee. In April 2017, Justice Mogoeng was elected as the President of the Conference of the Jurisdictions of Africa for a period of two years. Chief Justice Mogoeng spoke strongly against corruption in both the public sector and the private sector and emphasised the need for ethical leadership in both sectors.

CHIEF JUSTICE MOGOENG SPOKE STRONGLY AGAINST CORRUPTION IN BOTH THE PUBLIC SECTOR AND THE PRIVATE SECTOR AND EMPHASISED THE NEED FOR ETHICAL LEADERSHIP IN BOTH SECTORS

Justice Jafta's legal career serves as an example of what it means to start from humble beginnings. Justice Jafta started his legal career as a court interpreter in 1983. He was thereafter appointed as a district court public prosecutor at the beginning of 1984. In July 1986, Justice Jafta was appointed as a magistrate. In 1999, Jafta was appointed a judge of the Transkei Division of the High Court (now the Mthatha seat of the Eastern Cape Division).

HIS [JUSTICE JAFTA] CONTRIBUTION TO SOUTH AFRICA'S JURISPRUDENCE IS IMMENSE.

From 2001 to 2003 he was acting Judge President of the Transkei Division. In 2004 he was elevated to a permanent position on the Supreme Court of Appeal. He served in that position until he was appointed as a Justice of the Constitutional Court (in October 2009). His contribution to South Africa's jurisprudence is immense. For instance, Justice Jafta's unanimous judgment in *Bakgatla-Ba-Kgafela Communal Property Association v Bakgatla-Ba-Kgafela Tribal Authority and Others*, which upheld an appeal by a rural community embroiled in a dispute with its controversial traditional leader, was described as a "crucial" judgment on land rights and land reform and received lavish praise from commentators.

During her interview for the position of Justice of the Constitutional Court, Justice Khampepe stated to the JSC that "the special contribution that women will bring into the Judiciary is not a fictitious one, but a real one". Without a doubt, Justice Khampepe's



contribution has been nothing short of remarkable when one considers her illustrious career, and the indelible impression she has made and continues to make, not just on the Judiciary, but on South African society.

Justice Khampepe was appointed as a Justice of the Constitutional Court in 2009 following a two-year stint as a Judge of the Labour Appeals Court. As a Justice, she has displayed a strong desire to protect the constitutionally enshrined rights of the most vulnerable members of society. Justice Khampepe deserves the highest commendation as a formidable legal mind; a conscientious legal professional with an unwavering commitment to justice, fairness and equality; as a judicial officer who continuously strives, through her jurisprudence, to pave the way for the achievement of a South African society envisioned in the Constitution; and as a woman, who has consistently broken glass ceilings and who inspires fellow women in law to do the same. She is truly a pioneer and we applaud her substantial and meaningful contributions to the legal profession.

JUSTICE KHAMPEPE
DESERVES THE HIGHEST
COMMENDATION AS A
FORMIDABLE LEGAL MIND;
A CONSCIENTIOUS LEGAL
PROFESSIONAL WITH AN
UNWAVERING COMMITMENT
TO JUSTICE, FAIRNESS AND
EQUALITY

"The Constitution provides all of us with an opportunity to try and develop a society that addresses the injustices of our past without disregarding the human dignity, freedom and equal treatment of all the country's inhabitants. This is an opportunity we must not waste. But the Constitution also asks us, before we seize the opportunity it offers, for the injustice of our past to be recognised ... There is little doubt that things have improved, but unfortunately not uniformly so. Why not?"

These were the impactful words of Justice Froneman in his concurring judgment in *Daniels v Scribante*. In an unprecedented move, he penned the judgment in his native Afrikaans language in an effort to fully express his dire concern that the racial inequalities of the past, particularly related to landownership, be rectified.

JUSTICE FRONEMAN HAS
GARNERED RESPECT
FROM COLLEAGUES
AND PRACTITIONERS
ALIKE FOR BEING A
METHODICAL JUDGE WITH
A FIRM COMMITMENT TO
THE CONSTITUTIONAL
ETHOS OF JUDICIAL
DECISION-MAKING

Over his meritorious 26-year career, Justice Froneman has garnered respect from colleagues and practitioners alike for being a methodical Judge with a firm commitment to the constitutional ethos of judicial decision-making. He has been aptly described by the Constitutional Court as a pioneer who made his mark from the early stages of his career as a jurist in crafting our constitutional jurisprudence. This is evidenced by his many landmark decisions in cases such as *Ngxuza and Others v Permanent Secretary, Department of Welfare, Eastern Cape and Others*. His judgment in that matter broke new ground by allowing the country's first class action despite there being no statute or court rules stipulating the procedure. In doing so, he paved the way for further development of the law. He is hailed for his dedication to ensuring that the protections afforded by the Constitution extend to all inhabitants of this country.

We wish them well as they walk off into the sunset.



Chief Justice Mogoeng Mogoeng



Justice Johan Froneman



Justice Sisi Khampepe



Justice Chris Jafta



AN ILLUSTRIOUS JUDICIAL CAREER COMES TO AN END

**BY ACTING CHIEF JUSTICE
RAYMOND ZONDO**

Constitutional Court

“

UNDER HIS
STEWARDSHIP THE
JUDICIARY, AS AN
ARM OF STATE, HAS
TAKEN STRIDES TO
VIGOROUSLY PROTECT
ITS INDEPENDENCE
AND PROVE ITSELF AS
THE GUARDIAN OF THE
CONSTITUTION.



THROUGH HIS
OUTSTANDING
LEADERSHIP CHIEF
JUSTICE MOGOENG
MOGOENG GREATLY
ENHANCED THE
STANDING OF THE
JUDICIARY IN OUR
COUNTRY.



On the 11th of October 2021 Chief Justice Mogoeng Mogoeng's term of Office as a Justice of the Constitutional Court and as Chief Justice of the Republic of South Africa came to an end and the Chief Justice retired from office.

Chief Justice Mogoeng Mogoeng was the fifth Chief Justice to be appointed in democratic South Africa. Yesterday he completed 12 years as a Justice of the Constitutional Court. In September he completed 10 years as Chief Justice of South Africa.

Under his stewardship the Judiciary, as an Arm of State, has taken strides to vigorously protect its independence and prove itself as the guardian of the Constitution. Through his outstanding leadership Chief Justice Mogoeng Mogoeng greatly enhanced the standing of the Judiciary in our country.

In June 1997 he was appointed as a Judge of the North West High Court and in April 2000 as a Judge of the Labour Appeal Court. In October 2002 he was elevated to the position of Judge President of the North West High Court. He was appointed as a

Justice of the Constitutional Court of the Republic of South Africa in 2009. He was elevated to the position of Chief Justice of the Republic of South Africa on 08 September 2011. In that capacity he led both the Constitutional Court and the Judiciary.

On behalf of my Colleagues in the Constitutional Court and on behalf of the entire Judiciary in this country I take this opportunity to thank Chief Justice Mogoeng Mogoeng for his excellent service to the Judiciary and to the people of South Africa. He served this country as Chief Justice during some of the most difficult times in our constitutional democracy and was able to lead the Judiciary with courage, integrity and wisdom. Chief Justice Mogoeng Mogoeng began his term of office at a time when many people doubted whether he was the right person for the job and yet it did not take him long to prove that, indeed, he was up to the challenges of the job. In no time he won over many of those who had expressed doubt about whether he would be able to do the job.

During his term of office Chief Justice Mogoeng

Mogoeng was a very popular Chief Justice. He often spoke strongly against corruption in both the public sector and the private sector and emphasised the need for ethical leadership in both sectors.

The Chief Justice provided the 2030 Vision for the Judiciary as a contribution to the National Development Plan. This Vision outlined the development plans for the Judiciary, based on the principle of Judicial independence, for the Norms and Standards; Judicial Case Management; Judicial Education; court modernisation and access to justice. It further outlined the Judiciary's preferred Court Administration Model as outlined in the Judiciary's Institutional Models report which was presented to the Executive Authority for its consideration.



HE SERVED THIS COUNTRY AS CHIEF JUSTICE DURING SOME OF THE MOST DIFFICULT TIMES IN OUR CONSTITUTIONAL DEMOCRACY AND WAS ABLE TO LEAD THE JUDICIARY WITH COURAGE, INTEGRITY AND WISDOM.

Some of the highlights during Chief Justice Mogoeng Mogoeng's term of office were the following:

- the South African Judicial Education Institute – which provides ongoing training for judicial officers – came into operation.
- Norms and standards for the performance of judicial functions were enacted; this milestone was important in order to promote and enhance access to justice. These Norms and Standards are underpinned by the core values of judicial independence and accountability; accessibility; transparency; responsiveness; collegiality and diligence amongst others.
- Judicial Case Flow Management has been institutionalised in the litigation processes in our courts; this enables Judges to manage and control cases so as to expedite them;
- under the Chief Justice's leadership, the process of court modernization was initiated. Under his guidance, Caselines, as an electronic evidence management system, has been successfully rolled out in the Gauteng Division of the High Court. A fully automated case management system, Court Online, will soon be rolled out in all Superior Courts. This is the result of the Chief Justice's belief that an appropriate court-automation system, that will assist to implement electronic-filing and electronic record-keeping, performance-related data capturing, information dissemination or access to information relating to cases and all other matters that affect court operations, will ensure that Justice can be easily accessible and that access to court processes will be enhanced.
- the Chief Justice initiated the Annual Judiciary Report which, since 2018, is released on Judiciary Day; it is through such annual reports that the Judiciary accounts to the public for its performance of its judicial functions.
- the Chief Justice also introduced the National Efficiency Enhancement Committee which he chaired whose object is to prioritise and improve the efficiency and effectiveness of the justice system. Under the NEEC the leadership of the Judiciary, the Executive and other stakeholders collaborate to improve performance of the courts in ensuring justice. The NEEC identifies shortcomings in the justice system and develops measures aimed at addressing those shortcomings.
- the responsibility for the administration of the Superior Courts was transferred from the Department of Justice and Constitutional Development to the Office of the Chief Justice.
- Justice Mogoeng Mogoeng was elected as the President of the Conference of Constitutional Jurisdictions of Africa (CCJA) in 2017. During his term of office as President of the CCJA, Chief Justice Mogoeng Mogoeng, oversaw

the rapid growth of the CCJA as a continental body as well as its critical role on constitutional issues in the global arena. The sharp increase in membership was due to Chief Justice Mogoeng Mogoeng's rigorous work in the continent in which he actively sought to recruit jurisdictions that were not as yet members of the CCJA. As the CCJA's President, he also ensured that the CCJA participated in the Conferences of all other continental bodies from around the world and, thus, ensured that Africa's voice was heard on the world stage on constitutional justice matters.

- the Chief Justice led a delegation of senior leaders of the Judiciary in a meeting with the Executive in 2015 when there had been relentless attacks on the Judiciary following the judgment that President Al-Bashir be arrested when he was on a visit to South Africa in accordance with South Africa's obligations under the Rome Statute, and that order was not complied with.

Apart from these achievements, Chief Justice Mogoeng Mogoeng also made a huge contribution to our jurisprudence and wrote some of the most important judgments that have helped to strengthen and promote the rule of law, the supremacy of the Constitution and the Bill of Rights. In this regard the people of South Africa will not forget his judgment in the Nkandla matter, his secret ballot judgment in regard to the vote of no confidence in Parliament and his SARS judgment on racism and many others. It has been said that the Chief Justice's judgment in the Nkandla matter provided a turning point on accountability and the fight against corruption in this country.

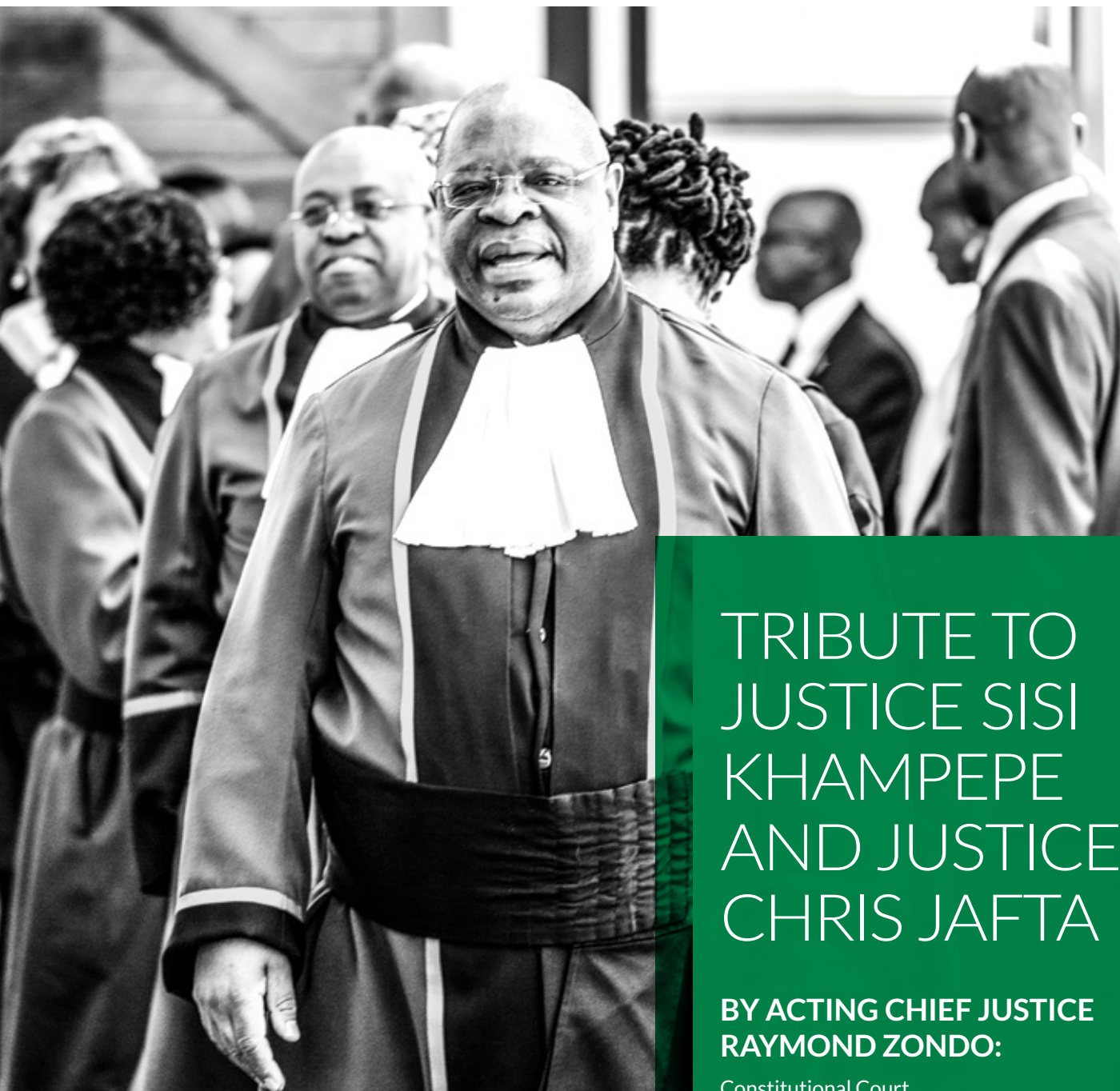
We thank the Chief Justice for leading the Judiciary with distinction, for his humility and for his integrity. We thank him for his outstanding service to the people of this country. We thank his wife and family for giving him strong support during his term of office and for allowing him to devote as much time as he did to the service of the nation.

We wish the Chief Justice everything of the best in his retirement. He deserves a good rest.



WE THANK THE CHIEF JUSTICE FOR LEADING THE JUDICIARY WITH DISTINCTION, FOR HIS HUMILITY AND FOR HIS INTEGRITY. WE THANK HIM FOR HIS OUTSTANDING SERVICE TO THE PEOPLE OF THIS COUNTRY.





TRIBUTE TO JUSTICE SISI KHAMPEPE AND JUSTICE CHRIS JAFTA

**BY ACTING CHIEF JUSTICE
RAYMOND ZONDO:**

Constitutional Court

JUSTICE SISI KHAMPEPE

After a trailblazing legal career spanning over 40 years, Justice Khampepe retired on 11 October 2021.

Justice Khampepe was born in Soweto, Johannesburg. After obtaining her B.Proc from the University of Zululand, she travelled abroad to further her education through postgraduate studies.

She graduated with an LLM degree from Harvard University in the United States of America, and then served articles at Bowman Gilfillan. She later started her own practice under the name SV Khampepe Attorneys, one of the few Black labour law firms in the country at the time. Her main area of practice, for which she was renowned, was the defence of workers against unjust laws and unfair employment practices.

Throughout her career, Justice Khampepe served in a number of positions of note. In 1995, she was appointed by President Nelson Mandela as one of the Commissioners of the Truth and Reconciliation Commission. In 2004 President Thabo Mbeki appointed her together with Justice Moseneke to oversee the Zimbabwean elections.



SHE ELOQUENTLY DEVELOPED JURISPRUDENCE ON THE RIGHTS OF WOMEN AND CHILDREN, AND OTHER VULNERABLE MEMBERS OF SOCIETY. SHE WILL ALSO BE REMEMBERED FOR HER JUDICIAL BRAVERY AND UNFAILING FIDELITY TO THE RULE OF LAW.

In February 2006 the Secretary-General of the Commonwealth, Hon Donald C McKinnon, seconded her as a member of the Commonwealth Observer Group to the Presidential and Parliamentary Elections in Uganda. From 2005 to 2006, she chaired a Commission of Enquiry that came to be known as the Khampepe Commission. The Commission looked into the mandate and location of the Directorate of Special Operations, commonly known as the Scorpions. She was also the Vice Chairperson of the National Council of Correctional Services from 2005 to April 2010.

Justice Khampepe's judicial career commenced with her appointment as a Judge of the Gauteng Division

of the High Court in December 2000. She later served as Acting Deputy Judge President of the Labour Appeal Court and Labour Court. Her elevation to the apex court of the Republic, the Constitutional Court, took effect in October 2009. On two occasions since her appointment as a Justice of the Constitutional Court, she has served as the Acting Deputy Chief Justice of the Republic.

Justice Khampepe's time on the bench of the Constitutional Court is marked and celebrated as a period during which she eloquently developed jurisprudence on the rights of women and children, and other vulnerable members of society. She will also be remembered for her judicial bravery and unfailing fidelity to the rule of law. Her last two well known judgments related to the work of the State Capture Commission of Inquiry and strengthened the rule of law and the principle of equality before the law. She is celebrated by her colleagues and the legal community as a jurist of vast intellect, uncompromising integrity and inimitable style. She led and followed with grace, kindness and diligence. Her quiet yet fierce strength will be sorely missed, but remembered with gratitude and admiration.

After decades of bountiful contributions to South African law and society, Justice Khampepe is to enjoy her well-earned retirement with her loving husband and family.

The Acting Chief Justice Ray Zondo had this to say on Justice Khampepe's retirement:

"On behalf of my colleagues in the Constitutional Court and the Judiciary as a whole, I wish to express our deep appreciation to Justice Khampepe for her selfless service to the people of South Africa, for her commitment to the rule of law, the independence of the judiciary, for her role in strengthening our constitutional democracy during her term of office as a Justice of the Constitutional Court and for her immense contribution to our jurisprudence. I wish Justice Khampepe everything of the best during her well-deserved retirement."

JUSTICE CHRIS JAFTA

Monday, the 11th October 2021, also marked the end of Justice Chris Jafa's term of office as a Justice of the Constitutional Court. This marked the end of 12 years of service as a Justice of the Constitutional Court.

Justice Jafa obtained his B Juris and LLB degrees from the University of Transkei (now Walter Sisulu University) in 1983 and 1987 respectively. Justice Jafa started his career as a court interpreter in 1983. He was appointed as a District Court Public Prosecutor at the beginning of 1984.



I THANK JUSTICE JAFJA FOR HIS CONTRIBUTION TO THE DEVELOPMENT OF OUR LAW, FOR THE SERVICE HE RENDERED IN VARIOUS COURTS OF OUR COUNTRY AND FOR HIS CONTRIBUTION TO THE PROMOTION AND PROTECTION OF THE INDEPENDENCE OF THE JUDICIARY.

He worked in that capacity until December 1985 when his authority to prosecute was withdrawn by the Attorney-General at the instance of the apartheid Government Security Police and he was demoted to

the position of an Administrative Clerk. This occurred after he had rejected instructions from the Security Police on how he should conduct prosecutions in some cases. He was briefly detained and subjected to an intense interrogation by the Security Police.

In July 1986 he was appointed as a Magistrate. In February 1988 he resigned and joined Mbuqe and Mbuqe, a firm of attorneys, as a candidate attorney. In August 1988 he resigned to join the University of Transkei as a lecturer. There, he taught Commercial Law and Constitutional Law. In 1992 he did pupillage at the Johannesburg Bar.

Justice Jafa commenced practice as an advocate in Mthatha in January 1993. His practice focused mainly on labour and constitutional matters. In 1997 Justice Jafa was appointed as an Acting Judge of the High Court (Transkei Division) for four months. In January 1999 he became an Acting Judge of the same Division until November 1999 when he was appointed as a Judge of that Division on a permanent basis.

In June 2001 Justice Jafa was appointed as the Acting Judge President of the Transkei Division of the High Court until June 2003. In 2003 he was appointed as an Acting Judge of Appeal in the Labour Appeal Court until June 2004. From June to October 2004 he was an Acting Judge of Appeal in the Supreme Court of Appeal in Bloemfontein. In November 2004 he was appointed as a Judge of Appeal in that court.

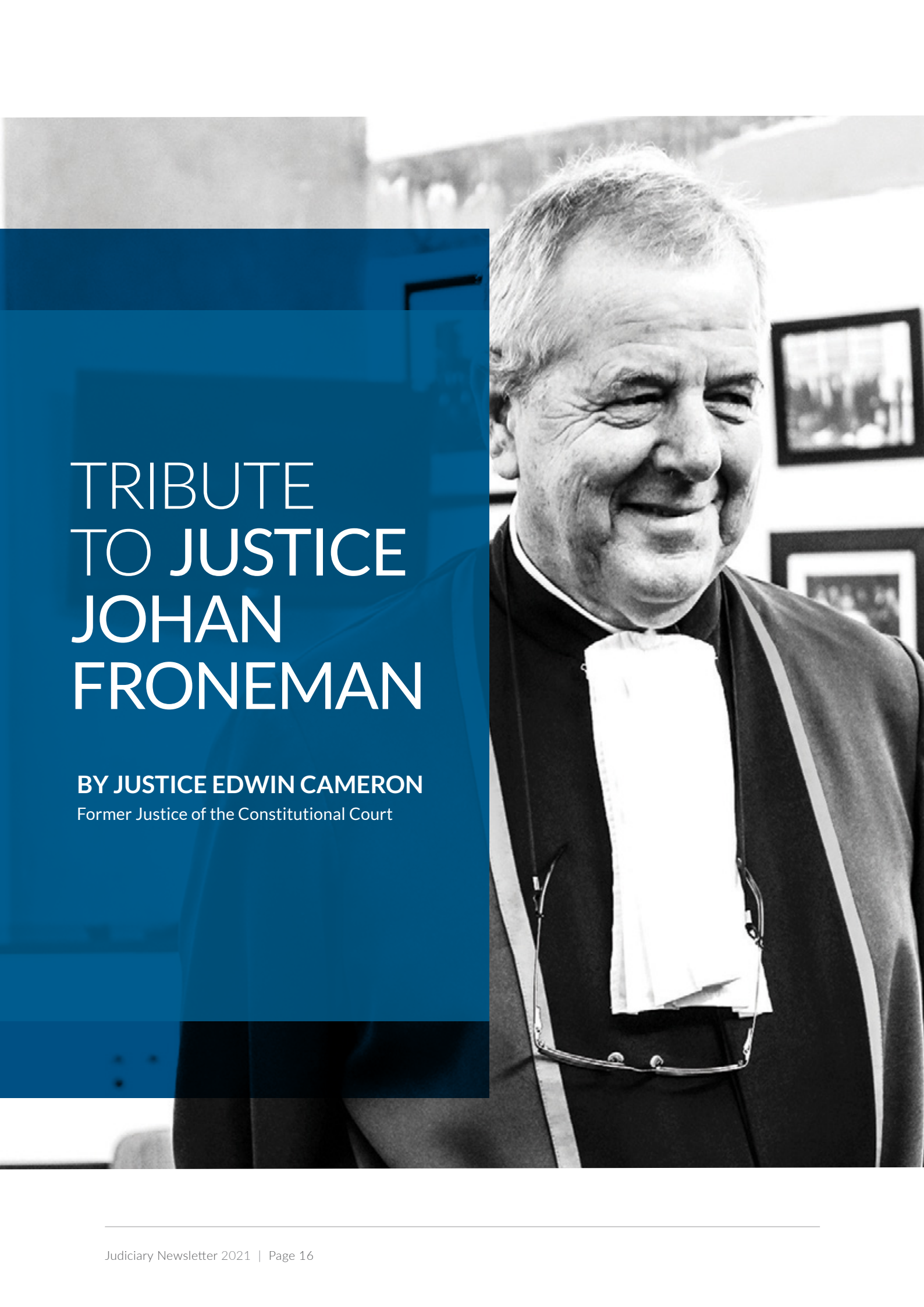
In October 2009 Justice Jafa was appointed as a Justice of the Constitutional Court in which capacity he served until Monday the 11th October 2021. For some time Justice Jafa served as a member of the Council of the South African Judicial Education Institute (SAJEI). Justice Jafa has made a huge contribution to this country's jurisprudence.

The Acting Chief Justice Ray Zondo had this to say on Justice Jafta's retirement:

"On behalf of my Colleagues in the Constitutional Court and the Judiciary as a whole I thank Justice

Jafta for his contribution to the development of our law, for the service he rendered in various courts of our country and for his contribution to the promotion and protection of the independence of the Judiciary. I wish him everything of the best during his retirement."



A black and white portrait of Justice Johan Froneman, an older man with grey hair, smiling. He is wearing a dark clerical shirt with a white tab collar and a dark jacket with light-colored piping. His glasses are hanging from the bottom of the collar. The background is slightly out of focus, showing what appears to be a gallery or office with framed pictures on the wall.

TRIBUTE TO JUSTICE JOHAN FRONEMAN

BY JUSTICE EDWIN CAMERON

Former Justice of the Constitutional Court



JUSTICE FRONEMAN
MADE AN IMPACT
THROUGH THE
PROFUNDITY OF HIS
THINKING AND THE
DEPTH WITH WHICH
HE GRAPPLED WITH
MEANING.



Justice Edwin Cameron

It is a great privilege and an honour to pay tribute to Justice Johan Froneman, who retired from the Bench, after more than 25 years' service, at the end of 2019.

Justice Froneman served as a judge of the High Court in the Eastern Cape from 1993. The interim ANC-transitional government appointed him to the Bench in early 1994 in the lead up to our democracy. He soon achieved renown as a phenomenon of the High Court. His judgments on constitutional points were cited far and wide.

Qozoleni v Minister of Law and Order 1994(3)SA625 (E) was so lucid in its understanding and exposition of the Constitution, that the Constitutional Court cited it in its first ever judgment, *S v Zuma* 1995 (2) SA 642. Kentridge AJ commended Froneman J

for adding “value in its approach to constitutional interpretation”. He proceeded to quote Froneman J’s view on how the Constitution ought to be interpreted “to give clear expression to the values it seeks to nurture for a future South Africa”.

This set Justice Froneman on the road to becoming one of the most productive, reflective and insightful judges of the democratic era. Many more influential and impressive judgments followed.

For a short while after I started in the Supreme Court of Appeal in Bloemfontein, Justice Froneman served there in an acting capacity. But the powers that be, I suspect, found his deep-going, democratic, constitutionally visionary approach too unsettling to foster his appointment – a great loss to the SCA in the ensuing years.

Instead, a bigger, more important and more influential opportunity beckoned. On 11 October 2009, the fifteen-year terms of office of the last of President Mandela's appointees to the Constitutional Court came to an end. Chief Justice Pius Langa, Justice Yvonne Mokgoro, Justice Kate O'Regan and Justice Albie Sachs had to retire. Replacements were sought.

Justice Froneman was diffident about applying. But those who knew his jurisprudential and constitutional powers urged him to go ahead despite his doubts. Reluctantly, he put in an application.

The hearings, though not as unpleasant as some of those that followed, proved to be rocky. There were excellent candidates who were unfairly cut down by crude questioning. But one candidate stood out. He managed hectoring challenges from Commissioners with calm and depth and insight. It was Justice Johan Froneman. His interview earned wide admiration. It culminated in his appointment to the Court from 11 October 2009.

Just days thereafter, together with Justice Chris Jafta and Justice Sisi Khampepe and Justice Mogoeng Mogoeng, he arrived at the Court. All four new Justices took their seats for the November term. Immediately, Justice Froneman made an impact through the profundity of his thinking and the depth with which he grappled with meaning – not just of the words in our Constitution and the Bill of Rights, but with the vision that the words embodied for our country.

During his time on the Constitutional Court, Justice Froneman penned approximately 70 judgments. Of these, around 23 evoked unanimous support; 11 more were majority judgments. There was also a rich store of outspoken, smart and respectful dissents and concurrences. All of his judgments were swiftly written, produced with the integrity, humility and respect for the Constitution that came from deep within.

It was clear to all his colleagues that Justice Froneman grappled painfully with the cases that

came before us. For him, no case was ever “easy”. Instead, every case earned anxious application and delicate consideration and rigorous research.

I highlight only two cases.

In *Bengwenyama Minerals (Pty) Ltd v Genorah Resources (Pty) Ltd* 2011 (4) SA 113 (CC) a thoughtful judgment from a respected colleague, Mpati P, the President of the Supreme Court of Appeal, had turned down the anguished pleas of the Bengwenyama community that skulduggery tainted the award of Genorah's prospecting license over their traditional land. Initially, the Court was disinclined to take up the case. The community had already enjoyed a full and careful appeal hearing.

But Justice Froneman insisted that we grant a further hearing. Deputy Chief Justice Moseneke joined him. Eventually the case was set down for argument. Rightly so. From the outset, Justice Froneman had seen to the heart of the issues. His profound analysis set mining rights and applications on a new path, though corruption and inefficiency in government continue to plague mining communities.

And in *AllPay Consolidated Investment Holdings (Pty) Ltd v CEO, SASSA* 2014 (1) SA 604 (CC), he led the Court in reversing a Supreme Court of Appeal judgment that had refused to intervene in the largest tender award in democratic South Africa: one worth R10 billion, for distributing social grants. His judgment set a new standard for scrutiny of suspiciously-awarded public contracts. In particular, the lower court's suggestion that “inconsequential irregularities” are of no moment conflated the test for irregularities and their import. Instead, the fairness and lawfulness of the procurement process had to be assessed independently of who was awarded the tender. And what legal requirements are “material”? This depends, the judgment held, whether the purpose of the requirements is attained.

This signalled a new beginning for tenders, though, again, malpractice, criminality and corruption have not been successfully contained. Together with these vast public law judgments, Justice Froneman's rich experience as a lawyer, and his ten years as an

advocate, plus four further years as senior counsel in practice, counted heavily in the Court's favour when dealing with technical and commercial questions of labour law, contract law, company law, insolvency law and commercial dealings – as the Court increasingly had to do,.

When Justice Froneman was persuaded to apply to the Constitutional Court in 2009, I harboured a secret within me. This was that I was had known him since 1972! That is, 37 years before, he and I had been first-years together in the same men's residence at the University of Stellenbosch. He left Stellenbosch after three years, to complete his LLB at UNISA, and we lost touch.



HIS JURISPRUDENTIAL CONTRIBUTIONS WERE DEEP. THEY HAVE HAD A PROFOUND IMPACT ON OUR COUNTRY'S LAW. THEY WILL SHAPE OUR FUTURE FOR YEARS TO COME.

Nevertheless – President Motlanthe, who appointed me at the end of 2008, was no longer in office. His successor was President Zuma. I did not want there to be any misimpressions that might mar his ascent to the Court.

Our long-nascent friendship resumed when, unexpectedly, we became colleagues in the Constitutional Court. It was an enriching privilege to be able to work with him.

Justice Froneman had always struck me, even at Stellenbosch, as a profound thinker, and I was excited by the possibility of his contributing his depth to the country.

The residence in which we were housed, Wilgenhof, had a vibrant discussion group. A politician was invited to address the group one Sunday afternoon. Hoping, no doubt, to impress the assembled students, the politician's speech loftily invoked "English philosophers like John Hobbes and Thomas Locke".

I was impressed. I had never heard of these English philosophers before. Yet here was a member of Parliament invoking them with familiarity! After the politician's address, we walked down the steps of the meeting room. The 18 year old Johan Froneman was chuckling. "Why are you laughing," I asked. "Oh" he said "nothing much, the politician got the philosophers' names the wrong way round. It is Thomas Hobbes and John Locke."

Even at 18 years old, Johan Froneman had read philosophy beyond his peers – and beyond any pretentious politician. That depth of reading, of insight, understanding and of vision, enriched the courts and enriched our country.

His jurisprudential contributions were deep. They have had a profound impact on our country's law. They will shape our future for years to come.

It is a privilege to pay tribute to him.





Photo source: GCIS



SOKWALISA,
SHENGE,
NGQENGELELE.
WE WILL GREATLY
MISS YOU.

A TRIBUTE TO A REMARKABLE JUSTICE, COLLEAGUE AND FRIEND

**BY JUSTICE NONKOSI MHLANTLA
AND JUSTICE ZUKISA TSHIQI**

Justices of the Constitutional Court



Justice Nonkosi Mhlantla



SISI, YOU EMBODIED
HARD WORK AND
DEDICATION AND HAVE
BEEN AN AMAZING
LEADER TO US.

A TRIBUTE BY JUSTICE NONKOSI MHLANTLA

Where does one begin when reflecting on and talking about Justice Khampepe, Shenge, Sokwalisa, Ngqengelele, Mnyamana, Sisi, Big Sis – a person whose illustrious legal career spans over 40 years. She devoted her life to the legal profession and the judiciary.

Sisi served 21 years in the Judiciary of which 12 years were in the apex Court, the Constitutional Court. On two instances, she was appointed as the Acting Deputy Chief Justice.

I first got to know about Sisi whilst practising as an attorney. She was a senior attorney and was an inspiration and role model to us as young attorneys. I eventually met her after my appointment as a Judge of the High Court, albeit for a short period whilst attending Judges' Conferences and meetings.

I finally got an opportunity to work with Sisi in 2013, when I was appointed as an acting Judge of the Constitutional Court. I was warmly welcomed by her and other colleagues. She exuded warmth and provided the greatly needed support to a new member of the Court, as I then was.

After my permanent appointment in 2015, I became her neighbour. I was in awe when I paid her a visit in her beautiful Chambers. We worked together and served on various committees, some of which were chaired by her. Her leadership and warmth, again

permeated her leadership in the committees she led. Sisi has a presence and it is very difficult to refuse or say no when she asks you to do something. I recall one occasion when she invited me to become a trustee of the Constitutional Court Trust. She said in that authoritative voice of hers, “Nonks, I want you to join us so that when Chris and I leave, you can carry on with the work”. The only response from me was one of acceptance. As Chairperson, she was a true leader – allowing all of us to express our views and receiving those views with an open mind.

We celebrated our birthdays at work and would have birthday lunches. During those special occasions she became our soloist and would grace us with her beautiful voice and lead us when singing. In most instances, we ended up listening to her in awe!

Sisi, you embodied hard work and dedication and have been an amazing leader to us. I am truly impressed by the manner in which you put your heart into your work for all these years. It has been a privilege working with you. You set a great example to me. Thank you for sharing your wisdom, kindness and enthusiasm with your colleagues. Your legacy will continue to inspire young lawyers around South Africa.

Sisi, as your neighbour, it will be strange to walk past your Chambers and not see your face or hear your voice and our walks when we used to make our way to the Judges’ Lounge. Remember those Agendas that you had to prepare over many years and those Conferences you attended, the seminal judgments to be drafted and read-throughs, not to mention the many applications that you had to consider – well you need not worry about these now.

I hope your imminent retirement brings you the opportunity to do whatever it is that you always wanted to do, but did not get time to do so.

Despite the idea that retirement is like the setting of the sun for one’s hopes and dreams, may you follow the example of the sun, and keep on rising

– in whatever you choose to pursue. I take this opportunity to extend our deep gratitude to Bhut Siza, beautiful Gugu and the rest of your family for allowing us to be part of your life. Congratulations on your retirement Sokwalisa, Shenge, Ngqengelele. We will greatly miss you.



THANK YOU FOR
SHARING YOUR
WISDOM, KINDNESS
AND ENTHUSIASM WITH
YOUR COLLEAGUES.
YOUR LEGACY WILL
CONTINUE TO INSPIRE
YOUNG LAWYERS
AROUND SOUTH
AFRICA.





Justice Zukisa Tshiqi



FOR YOUR
UNFAILING WISDOM,
GUIDANCE, SUPPORT
AND FAITH, THANK
YOU, MY SISTER

A TRIBUTE BY JUSTICE ZUKISA TSHIQI

Sisi, Ma Buthelezi, Big Sis, Si, as she is fondly known by all of us respectively and interchangeably, has been a valuable source of encouragement, support and counsel from which we have all benefitted in various ways.

I have known Sisi since 1989. At that stage I was preparing for my board exam. I was also experiencing personal challenges. I confided in my principal who, in turn, called his friend: a female attorney practising under the auspices of S V Khampepe Attorneys. All that my principal said was that I must keep this

lady close to me because I would benefit a lot. He arranged an appointment for me and I went to her offices in Market Street, Johannesburg. As an article clerk I was nervous and tense. When I got there and after I had introduced myself, I was met at reception by a lady who was very warm and welcoming and who just gave me a big hug. I immediately felt welcome and at home. It reminded me of the welcome I always received from my mother whenever I visited home in the Eastern Cape.

Her voice, which is very audible, and her laughter struck me immediately. I was to discover, when I met Sisi again years later at the High Court of South Africa, Johannesburg, that the warm, reassuring and pronounced voice and laughter are characteristic of the woman I met years ago as an article clerk.

There are two lessons I learned from Sisi during that session. Regarding the key to passing the board

exam, she told me without flinching that I had to deprive myself of sleep. She said that I should forget about sleeping for five hours if I wanted to pass my articles and succeed in practice as an attorney. After receiving this advice, I was to quickly discover that legal practice demands hard work and dedication and, later on, I learned that the Bench demands long working hours too. Whenever, I prepared for cases as an attorney, I always kept Sisi's words in mind. As a Judge, I remind myself that I should not go to bed before I finish what needs to be done. I thank Sisi for this, and I have passed on this wisdom to the young women I have mentored. I have done so because I know that it has worked for her and it works for me too. Sisi's success in practice and as a Judge must surely be as a result of her relentless dedication and hard work.

The next lesson I learned from Sisi is that I must love myself and that I, too, deserve happiness. I think Sisi must have realised when I came to her that I had not been embracing this wisdom. Otherwise, why else would she have shared this with me the first time we met? I have always kept this in mind, no matter how challenging life is. I think that every woman, young and old, deserves to know this truth and embrace it. As women we become so absorbed in caring for our families, perfecting their lives and seeking approval at all costs, such that we forget this very important and empowering lesson.

People who know Sisi know how much she cares for herself. She always looks good, and her work is always impeccable and achieved timeously. The importance of this for me is that it demonstrates that one can take care of oneself without compromising one's work and achievements. What is needed is balance. One need not go further than looking at Sisi's final judgments that she handed down at the Constitutional Court. Sisi, you were composed, you looked good and you produced the judgments within the agreed timelines. The vocabulary that was used was what we have characteristically grown to expect from you. South African citizens were treated not only to sound and rational reasoning, but to your elegant use of language.

What I also learned about Sisi later in life is how generous she is with praise. Sisi, when you initially praised me during our first meeting, I thought that it was your way of making me feel welcome and comfortable within your space. I know how ecstatic you were when I passed my board exam and you showered me with praise. Then I met you again in Johannesburg, you were so proud of me and the group of acting Judges who had just completed the aspirant Judges programme. I remember that you told us that we were always welcome in your Chamber anytime and you offered your contact details. You always affirmed us, yet reminded us that we needed to work extra hard in order to be recognised and possibly identified for other opportunities. When I was elevated to the Bench, you were so excited that one would have thought that you were celebrating your own success. Of course it was your success too, Sisi, because your wisdom about the importance of hard work has always been what propelled me. I also find it affirming that, in the midst of giving praise about success and achievements, you always sneak in a word or two about how good one looks.

Those who have visited Sisi's Chambers, both in the High Court and the Constitutional Court, will agree with me that her Chambers look like they have been decorated by a professional. They exhibit a warm, rich interior with photos of her family. When one takes a closer look, one realises that the interior resembles her personality. Hence, Sisi, I have always accepted it without doubt when you have said that you are responsible for the décor.

Is it any wonder then, Sisi, that we are all sad at the fact that you are leaving? I think not. All my colleagues have had similar experiences with you, and will undoubtedly give you more accolades. You have been our mentor, hence Big Sis, Si-i as the Chief Justice calls you, and MaButhelezi, as the late Judge Maluleke referred to you. To me, you were and will always be Sisi, because Sisi refers to "elder sister". So, for your unfailing wisdom, guidance, support and faith, thank you, my Sister.

A NOTE TO HONOUR JUSTICE CHRISTOPHER NYAOLE JAFTA

ON HIS RETIREMENT
FROM THE BENCH OF THE
CONSTITUTIONAL COURT
OF SOUTH AFRICA

**BY: JUSTICE
MBUYISELI MADLANGA**

Justice of the Constitutional Court



“

TSELA TSHOEU,
MOKOENA,
MOTEBANG,
PHOOFOLO EA
METSII!!!



Justice Mbuyiseli Madlanga

I have known Justice Christopher Nyaole Jafta for just under 42 years now. We met in our first year of legal studies at the then University of Transkei (now Walter Sisulu University), a university which – possibly not known for much by some – has punched way above its weight and made a sterling contribution to the advancement of the disadvantaged of our country.

I cannot resist mentioning that it has produced such luminaries as: Justice Mandisa Maya, the President of the Supreme Court of Appeal; Ms Nonkululeko Gobodo, the first black woman chartered accountant in South Africa; Dr Ncumisa Jilata, a woman neurosurgeon who was named Africa’s youngest neurosurgeon in 2017; Justice Dumisa Ntsebeza, a Judge of the African Court on Human

and Peoples’ Rights; Professor Sakhela Buhlungu, the Principal and Vice Chancellor of Fort Hare University; Dr Somadoda Fikeni, an academic and political commentator of prominence; Mr Terrence Nombembe, a former Auditor-General and now head of investigations in the Judicial Commission of Inquiry into Allegations of State Capture; Justice Selby Mbenenge, the Judge President of the Eastern Cape Division of the High Court; Advocate Tembeka Ngcukaitobi, a well-known practising advocate; I could go on. Being part of that pedigree, it is unsurprising that Justice Jafta rose to grace the Benches of the Mthatha High Court, then the Supreme Court of Appeal and eventually our apex Court, the Constitutional Court of South Africa. He holds the BJuris and LLB degrees from the University of Transkei.

From our student days, Justice Jafta came across as one with determination and a sense of purpose. I remember one lecturer, Mr Andrew C Beck, who was quite a terror, not because he was a nasty person but because not a single student could just be there and forever escape active involvement in class debates. Mr Beck who took us for the Law of Contract and Civil Procedure brought to class credit card size cards equalling our number in each class, each card with the name of a student. His was the Socratic method of lecturing. So, after posing his probing and often difficult questions, he would take the card on the top of the pile, ask the student whose name was on the card to answer and place the card at the bottom of the pile. Justice Jafta was one of the few students who were never found wanting, something that could only be achieved through thorough preparation for class. That was to be his approach throughout our stay at university.

Having met in 1980, our paths were to cross again in the late 1980s, this time as law lecturers at our alma mater, the University of Transkei. Perhaps before saying a little bit more on this, let me touch on what Justice Jafta did after graduating from university. To me it is of particular relevance because it shows that he was not impervious to the horrendous political situation that engulfed our country at the time. His principled stance against the apartheid and homeland systems earned him time in detention. When he was a prosecutor at Cala in the Eastern Cape, he refused to take instructions from the security police on how to prosecute cases involving so-called emergency regulations.

He was detained and subjected to intense interrogation by the security police. Subsequent to that, his authority to prosecute was withdrawn and he was demoted to the position of administrative clerk. His fortunes turned for the better when – about seven months later – he was appointed as a Magistrate. It was after these travails when he and I again met as lecturers at the University of Transkei. He was still his dedicated old self who excelled in the teaching of law. We were to be colleagues for just under two years when I left the university to

study abroad. Our next encounter was to be at the Mthatha Bar when he came to join, finding me already holding membership. It was here that I believe he truly honed his legal skills. He was unlike those colleagues, of which there unfortunately are many, who seem to believe that the practice of law requires flamboyance and being overly exposed for all to see. Justice Jafta kept to his corner at the small Frere Chambers which housed very few colleagues. My impression – but my recollection may be failing me – is that his practice was not quick to take off. On my assessment, this had everything to do with keeping to himself. But what he did with the few briefs he received soon resulted in word being spread around about him. He was highly skilled in drafting. Amongst our contemporaries, I cannot think of a more effective point-taker. I am not talking about for-the-sake-of-it points; I am talking about points of substance.

Once you got to know that Chris was your opponent in matter, you knew right away that he would take points in limine, raise special defences and defences on the merits that were often difficult to parry. To top it all, his forensic skills in arguing or presenting matters in court were a marvel to behold. In sum, he was a formidable opponent. It is unsurprising that once his practice took off, it grew by leaps and bounds. Despite this success, his feet remained firmly on the ground. Quiet in his manner and collegial in his relations. At the time of his appointment to the Mthatha Bench, he was one of the most sought after counsel at the Bar.

One more thing I cannot resist relating is this anecdote. I received a brief to represent an accused who was charged with murder. During consultation, he gave a narrative that amounted to a confession that he had indeed murdered the deceased. I asked if he was going to plead guilty. He said not. And with all the confidence that he had in his advocate, he looked me in the eye and asked what story we were to tell the court. Let me digress and explain that, although the Transkei Criminal Procedure Act 13 of 1983 was modelled on the South African Criminal Procedure Act 51 of 1977, the section on pleas of not guilty in

the Transkei Act made it obligatory for an accused who pleaded not guilty simultaneously to explain the basis of her or his defence. This was unlike section 115 of the South African Act which is permissive on whether an accused pleading not guilty will make a plea explanation.

Reverting to my client, I told him that we would have to tell the court upfront what the basis of his defence was. I added that – in doing so – I could not defend him on the basis of a narrative that was different from what he had told me. Based on that narrative, there was no way I could tender a plea of not guilty on his behalf. His eyes told a story of utter disbelief and disappointment. I guess what must have been going on in his mind was, “What kind of igqwetha is this that expects me to tell the truth and admit guilt; what is he there for then?” “Igqwetha”, which means attorney, derives from the siXhosa verb “ukugqwetha”, which means to turn something inside out.

Presumably in my language then practising lawyers are seen as professionals who do with the truth as they please; they turn it inside out. To cut a long story short, I told my client that if he was persisting in pleading not guilty, I could not represent him. Days or even months later, I saw him being represented by my Chris. Knowing him as well as I do, Chris would never have represented him based on a lie. Not in the face of the admonition by Innes CJ in *Incorporated Law Society v Bevan* 1908 TS 724 at 731-2 that a legal practitioner “shall put forward no fact which [she or] he knows to be untrue ... any practitioner who deliberately places before the Court; or relies upon, a contention or a statement which [she or] he knows to be false, is in my opinion not fit to remain a member of the profession.” Chris conducted himself with absolute integrity and scrupulously observed the ethical rules of the Bar. If, when our client left me for him, he still wanted to plead not guilty, he must have gone to him having created a new narrative that fitted his avowed intent of pleading not guilty. And Chris could not have been any the wiser.

As soon as he had joined the Mthatha Bench, Justice Jafta became a very solid member. He immediately

made his mark by getting endorsements of his judgments by the Constitutional Court. A judgment he penned whilst at the Mthatha High Court, *Mjeni v Minister of Health and Welfare, Eastern Cape* 2000 (4) SA 446 (Tk), that concerned the then vexed question of the constitutionality of the proscription by section 3 of the State Liability Act 20 of 1957 of attachment of state assets to satisfy judgment debts was quoted with approval by the Constitutional Court in *Nyathi v Member of the Executive Council for the Department of Health Gauteng* [2008] ZACC 8; 2008 (5) SA 94 (CC); 2008 (9) BCLR 865. Here is what Justice Jafta had said in *Mjeni*, which was endorsed by the Constitutional Court:



CHRIS CONDUCTED HIMSELF WITH ABSOLUTE INTEGRITY AND SCRUPULOUSLY OBSERVED THE ETHICAL RULES OF THE BAR.

“The constitutional right of access to courts would remain an illusion unless orders made by the courts are capable of being enforced by those in whose favour such orders were made. The process of adjudication and the resolution of disputes in courts of law is not an end in itself but only a means thereto; the end being the enforcement of rights or obligations defined in the court order. To a great extent section 3 of Act 20 of 1957 encroaches upon that enforcement of rights against the state by judgment creditors.”

I too was later to quote copiously from *Mjeni* in the unanimous Constitutional Court judgment in *Moodley v Kenmont School* [2019] ZACC 37; 2020 (1) SA 410; 2020 (1) BCLR 74 (CC). He was a lone voice in the Supreme Court of Appeal judgment in *HTF Developers v Minister of Environmental Affairs and Tourism* [2007] ZASCA 37; [2007] 4 All SA 1108; 2007 (11) BCLR 1230 (SCA). At issue in that

matter was whether the section 31A power under the Environment Conservation Act 73 of 1989 (ECA) is subject to the 30-day procedure for notice and comment provided for in section 32 of that Act.

The majority answered the question in the affirmative. Jafta JA answered it in the negative. The Constitutional Court agreed with Jafta JA. Skweyiya J held that he was “in agreement with Jafta JA that the 30-day notice and comment procedure, embodied in section 32, would defeat the purpose of section 31A to equip officials charged with the task of protecting the environment with the powers to respond to emergency situations that cause serious harm or pose a serious danger to the environment”. This case and many others served to showcase one of Justice Jafta’s strongest points: interpretation of statutes. Here at the Court I often whispered to him about how I marvelled at how effortlessly he grappled with the interpretative exercise.

If Justice Jafta could positively influence the jurisprudence of the Constitutional Court when he still sat on the High Court and Supreme Court of Appeal Bench, it was a foregone conclusion that once he joined that Court, he would be a strong member of its Bench. Indeed, once there, he penned a number of ground breaking judgments, which are there for all to see.

I just must say this about Justice Jafta and me. If I am not mistaken on the count, he and I differed more than any other colleagues at the Court. And this did not go unnoticed. An aspirant law clerk that I interviewed a few years back said he enjoys the disagreements and “intellectual jousting” (his words, not mine) between Justice Jafta and me. We took long leave at the same time in late 2018. When we came back in 2019, there was somewhat of a lull in our disagreements. The break must have tempered whatever it was that made us disagree. As he retires, the disagreements had begun to creep in once again. Yes, as a Court we always strive for unanimous judgments. But if it does not happen, we must live with that. I truly enjoyed the engagement and debates. I am sure he did too. That is one of the things I will miss about him.

I will miss his towering presence in our back and forth comment exchanges, his enviable institutional memory and general contributions at conference and, above all, his imposing engagement at oral hearings. Most of the time he took the lead in putting questions to counsel, always probing and coming from angles that had not even occurred to me. He is a loss to the Court and will be sorely missed.

Tsela tshoeu, Mokoena, Motebang, Phoofolo ea metsi!!!



I WILL MISS HIS TOWERING PRESENCE IN OUR BACK AND FORTH COMMENT EXCHANGES, HIS ENVIABLE INSTITUTIONAL MEMORY AND GENERAL CONTRIBUTIONS AT CONFERENCE





BIOGRAPHIES



biography CHIEF JUSTICE Mogoeng Mogoeng

Mogoeng Thomas Reetsang Mogoeng was born in Goo-Mokgatlha (Koffiekraal), a small village in the North West province of South Africa. His father was a miner and his mother a domestic worker. Mogoeng became politically active at high school, from which he was briefly suspended for organising a memorial to the victims of the Soweto uprising.

He obtained his B Juris at the University of Zululand in 1983, and his LLB at the University of Natal in 1985. After completing his LLB, Mogoeng worked as an interpreter until he was appointed as a prosecutor at the High Court in Mafikeng in 1986. During his employment there, Mogoeng worked towards his LLM through the University of South Africa, which he received in 1989. He left the High Court in 1990 to complete his pupillage at the Johannesburg Bar, and practiced as an advocate at the Mafikeng Bar from 1992 until his elevation to the bench in 1997.

In 1994 Mogoeng served as part of the legal advisory team of the Independent Electoral Commission in the North West.

From 1997 to 2000 he was a judge of the North West High Court, after which he was appointed as a judge of the Labour Appeal Court. In 2002 Mogoeng was appointed Judge President of the North West High Court. He also served on the five-member panel led by Chief Justice Pius Langa to investigate discrimination, race, and gender in the judiciary.

In 2009 Mogoeng joined the Council of the South African Judicial Education Institute to represent the Judge Presidents. In July 2011 he led the team that organised the Access to Justice Conference. In April 2017 he was elected President of the Conference of Constitutional Jurisdictions in Africa, and in August 2017 he was appointed as Chancellor of the University of KwaZulu-Natal.

Source: <https://ourconstitution.constitutionhill.org.za/chief-justice-mogoeng-mogoeng/>



biography

JUSTICE Johan Froneman

Justice Johan Froneman's judicial career has spanned 26 years, of which 11 were spent at the Constitutional Court. Although he is soft spoken, Justice Froneman's judgments ring loudly on behalf of those who have been marginalised.

Johan Froneman was born on 10 February 1956 in the Eastern Cape where he grew up on a farm near Cathcart. Froneman obtained a Bachelor's degree at Stellenbosch University, before finishing an LLB degree at the University of South Africa. After that, he completed his pupillage at the Pretoria Bar, and practiced in Grahamstown (now Makhanda) for ten years before taking silk.

Justice Froneman's judicial career started when he was appointed to the High Court in 1994, a time of critical constitutional change. In 2011, he described being a judge at the dawn of constitutionalism as a "really wonderful time", because of the opportunities that came from being one of the first cohorts of judges to engage with and interpret the Constitution.

Justice Froneman would then go on to serve at the Labour Appeal Court, and later undertook an acting stint at the Supreme Court of Appeal.

Justice Froneman was appointed to the Constitutional Court by President Jacob Zuma in October 2009, and retired on 31 May 2020.

After his retirement, Froneman looks forward to spending his time in Makhanda, in the Eastern Cape with his family. He has said that in life he only really wanted to pursue two things: being in the legal profession or being a farmer. After an illustrious career in law, it may now be time for him to attend to his other calling.

Source: <https://ourconstitution.constitutionhill.org.za/justice-johan-froneman/>





biography

JUSTICE

Christopher Jafta

Christopher Nyaole Jafta was born in 1959 in Matatiele in the Eastern Cape where he did both his primary and secondary schooling. He earned a BProc and later an LLB degree from the University of Transkei (now Walter Sisulu University) in 1983 and 1987 respectively.

Jafta started his career as a court interpreter in 1983. He was appointed as a prosecutor of the District Court at the beginning of 1984, and was there until December 1985 when his authority to prosecute was withdrawn by the Attorney-General at the insistence of the then Security Police. He was demoted to the position of Administrative Clerk.

In July 1986, he was appointed a magistrate, and in February 1988 he resigned and joined Mbuqe and Mbuqe, a firm of attorneys, as a candidate attorney. In August 1988 joined the University of Transkei as a lecturer where he taught Commercial Law and Constitutional Law. In 1992 he did his pupillage at the Johannesburg Bar and subsequently commenced practice in Mthatha in January 1993. His practice focused mainly on labour and constitutional matters.

In 1997, Jafta was appointed Acting Judge of the High Court (Transkei Division) for four months. In January 1999 he became Acting Judge of the same division and was in this position until November when he was appointed permanently. In June 2001, Jafta became the Acting Judge President of the Transkei Division, and in June 2003 he was appointed Acting Judge of Appeal at the Labour Appeal Court. He served in this position until June 2004. From June to October 2004, he was Acting Judge of Appeal at the Supreme Court of Appeal in Bloemfontein. In November 2004, he was permanently appointed Judge of Appeal at the same court.

Source: <https://ourconstitution.constitutionhill.org.za/justice-christopher-nyaole-chris-jafta/>



biography

JUSTICE Sisi Khampepe

Sisi Khampepe was born on 8 January 1957 in Soweto. Her early memories of growing up focus on her mother, a domestic worker, who had to leave her in the care of her uncle from Natal. One day her uncle was stopped by the police who demanded to see his passbook. Unfortunately he did not have it with him and was arrested, in front of her, and jailed for 90 days.

Shortly after his release, he was sent back to Natal where he was stabbed to death. Khampepe's mother blamed the pass law for his death. The injustice of her uncle's forced return to Natal and his resulting death, further cultivated Khampepe's interest in the legal profession. Khampepe obtained a B Proc degree from the University of Zululand in 1980, and an LL.M degree at Harvard Law School, Massachusetts, USA in 1982.

Khampepe began her career as a legal advisor in the Industrial Aid Society, where she did vacation work from 1979 to 1980. She served as a fellow in the Legal Resources Centre. In 1983, she joined Bowman Gilfillan Attorneys as a candidate attorney. Khampepe describes the difficulties she faced as a young, black, female lawyer:

After being admitted as an attorney in 1985 Khampepe established her own law firm, SV Khampepe Attorneys. The firm was renowned for defending the rights of workers against unjust laws and unfair employment practices. She also represented other human rights bodies such as civic and black consumer unions.

In 1995 Khampepe was appointed by President Nelson Mandela as a Truth and Reconciliation Commission (TRC) Commissioner. The following year she was appointed as a member of the TRC's Amnesty Committee. She was then employed by the Department of Justice and Constitutional Development as Deputy National Director of Public Prosecutions, a post she held from September 1998 to December 1999. In December 2000 she was appointed as a judge in the High Court (TPD), and in 2007 her appointment to the Labour Appeals Court followed. In 2004 Khampepe was appointed by President Thabo Mbeki to oversee the elections in Zimbabwe. She served as a member of the Commonwealth Observer Group to the presidential and parliamentary elections in Uganda in February 2006.

Source: <https://ourconstitution.constitutionhill.org.za/justice-sisi-khampepe/>

PHOTO GALLERY





01. Chief Justice Mogoeng Mogoeng standing along side Deputy Chief Justice Zondo and Ms Sylvia Elizabeth Lucas, MP at the 2019 Judiciary Day - 3 October 2019
02. Justice Jafta at the Constitutional Court
03. Justic Jafta with his clerks at the Constitutional Court
04. Chief Justice Mogoeng Mogoeng speaking at the 2018 Judiciary Day - 23 November 2018, Constitutional Court
05. Justice Sisi Khampepe with Minster Lamola (left) and former Constitutional Court Justice Edwin Cameron on the occasion of Justice Cameron's special ceremonial sitting at the Constitutional Court - 20 August 2019
06. Justice Sisi Khampepe with colleagues at Justice Cameron's special ceremonial sitting - 20 August 2019
07. Chief Justice Mogoeng Mogoeng in conversation with the Deputy Chief Justice Raymond Zondo at the 2019 Judiciary Day - 3 October 2019
08. Chief Justice Mogoeng Mogoeng with President Mandisa Maya and the Deputy Chief Justice Raymond Zondo at the 2019 Judiciary Day - 3 October 2019
09. The Heads of Court at the opening of the Parliament - June 2019
10. Chief Justice Mogoeng Mogoeng leading the judicial procession during the opening of parliament, in Cape Town - 09 February 2017. (GCIS)





06



07



08



09

01. Chief Justice Mogoeng with (right) Professor Sonia Human (Dean), Professor Sandy Liebenberg and Professor Russel Botman (Rector) at the 2013 Annual Human Rights Lecture - 25 April 2013
02. Prof Sandy Liebenberg (HF Oppenheimer Chair in Human Rights Law), retired Justice Albie Sachs, Justice Sisi Khampepe, Prof Sonia Human (Dean, Law Faculty) & Prof Geo Quinot (Vice Dean, Law Faculty) at the Annual Human Rights Lecture of the H F Oppenheimer Chair - 6 October 2016
03. The 10th Session of the Executive Bureau of the CCJA, held in Midrand, South Africa - , 28 January to 01 February 2019
04. Chief Justice Mogoeng Mogoeng with Professor Sean Eric Rakotoarisoa, President of the High Constitutional Court of Madagascar at the 10th Session of the Executive Bureau of the CCJA - 01 February 2019
05. Justice Sisi Khampepe with Justice Mbuyiseli Madlanga and Justice Zukisa Tshiqi at Justice Cameron's final sitting - 20 August 2019
06. Chief Justice Mogoeng Mogoeng pictured with George Bizos, and Constitutional Court law researchers at the the 10th Bram Fischer Lecture - 28 September 2017
07. Justice Sisi Khampepe swearing-in Deputy Minister of Small Business Development Nomathemba November in her then capacity as the Acting Chief Justice - 31 March 2017 in Pretoria (GCIS).
08. Justice Sisi Khampepe at the 17th Nelson Mandela Annual Lecture - 23 November 2019
09. Justice Sisi Khampepe with retired Constitutional Court Justice Albert "Albie" Louis Sachs and Professor Sandra Liebenberg of the University of Stellenbosch at the Annual Human Rights Lecture of the H F Oppenheimer Chair - 6 October 2016.







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