

CONFERENCE

**RECKONING WITH THE PAST,
CONSTITUTIONAL TRANSFORMATION AND
UBUNTU: HONORING THE WORK OF JUDGE
MARGARET VICTOR**

12 – 14 DECEMBER 2022

12 December 2022

Ubuntu Chambers, Madibeng
University of Johannesburg
Auckland Park Kingsway Campus, 2092

13 - 14 December 2022

The Country Club Johannesburg
1 Napier Rd, Auckland Park, 2006



FACULTY OF LAW



**NEW YORK
LAW SCHOOL**

S.A. Reading Group

**The Future
Reimagined**

[Its] central concept of ubuntu must be reconceived into the transformative space which the Constitution provides. It is appropriate that the important value of ubuntu be acknowledged on an equal footing for its operation under the Constitution. [Justice Margie Victor, BEADICA v OREGON TRUST, 2020, Constitutional Court Dissent]

From 12 to 14 December 2022, the University of Johannesburg, in collaboration with the South Africa Reading Group, New York Law School, will host a conference to honor the work of Judge Margaret Victor, Johannesburg High Court, on her retirement.

The Call for Papers closed on Friday, 8 April 2022 and we appreciate all submissions received. The subjects of papers included:

- The role of *ubuntu* in South Africa's constitutional jurisprudence;
- Reflections on the transformative potential of the South African constitutional project;
- Transformation or decolonization of legal education;
- The intersection of indigenous law and institutions in the constitutional project;
- The role of corruption and its influence and/or impact on the constitutional project;
- The influence of critical approaches and theories on the constitutional project, including non-racialism, liberalism, critical race theory, feminism, Marxism, African socialism, nationalism, and others;
- Comparative perspectives on the South African constitutional project;
- Reckoning with the past: racial reconstruction, reparations and/or reconciliation.

The Conference program has been finalised and decisions e-mailed to participants.

Limited conference funding will be available for participants from Southern Africa.

Conference convenors: Professor Penelope Andrews, Director, Racial Justice Project, New York Law School (penelope.andrews@nyls.edu) and Professor Wesahl Domingo, Executive Dean, Faculty of Law, University of Johannesburg at (wdomingo@uj.ac.za). For queries and to RSVP, please contact Mbuso Mthiyane (mmthiyane@uj.ac.za)

BIOGRAPHY - JUDGE VICTOR

Judge Victor graduated from the University of Cape Town with a degree in Social Work and from the University of Kwa Zulu Natal with an LLB degree.

She qualified as an Attorney and then went to the Johannesburg Bar to practice as an Advocate. In 2008, after spending 25 years as an Advocate at the Johannesburg Bar, she was appointed to the Johannesburg High Court of South Africa Gauteng Local Division based in Johannesburg. Judge Victor acted and was then appointed to the Competition Appeal Court. In 2016 she served an Acting Justice of the Supreme Court of Appeal. From 2019-2021 she served as an Acting Justice of the Constitutional Court. She was the scribe in the seminal judgment of *Sylvia Mahlangu v Minister of Labour*, where domestic workers for the first time were entitled to insurance for work related injuries and death. She incorporated and expanded fully into constitutional jurisprudence intersectionality based on race, gender and social origin.

Judge Victor has been the Presiding Judge in many cases involving evictions and forfeitures of residential homes pursuant to foreclosures. In applying a judge's oversight role, she has implemented what is fair and equitable to the unlawful occupier and the property owner. In cases involving the eviction of thousands of people from one piece of land, she utilized the legal tool of a structured interdict to bring about a just solution. She adjudicated in environmental law matters where the principles of the Constitution have been carefully applied. As an Acting Justice of the Supreme Court of Appeal, she was the scribe in a constitutional matter involving the constitutional implications of poorly built houses for the City Council of Cape Town.¹

Her contributions outside of judicial adjudication include serving as Vice President of the South African Chapter of the International Association of Women judges. This position reflects the extensive work she has done mentoring aspirant judges, including mentoring women legal practitioners to strengthen their skills. She has also mentored many law students as judge's clerks, including final year law students from the USA. She has also had a long relationship with the former Law Society of the Northern Provinces, addressing attorneys of the Law Society on a range of topics. She has done skills training for lawyers at many winter workshops run by the Law Society.

Judge Victor's extensive litigation practice traversed many public interest matters, including a notable and long-running environmental law matter to assist a small marginalized community living in the shadows of an industrial mill, treason trial work, political cases defending young members of communities accused of public violence, and a range of civil matters. She was the first woman to be elected to the Johannesburg Bar Council in the wake of the call for gender and racial transformation in their leadership structures.

Her entire career has been focused on improving the lives of others. Her community work has included establishing a Montessori preprimary school for underprivileged children and during her 25-year career as an Advocate she has assisted many abused women with legal advice. In addition, she is a patron to the Child Welfare Society and has edited nine volumes of a Jungian poet that can be found on www.chatilloncoque.com.

Judge Victor has been honored by the Johannesburg Bar for her contribution to South African law.

¹ *City of Cape Town v Khaya Projects (Pty) Ltd and Others* (158/2015) [2016] ZASCA 107; 2016 (5) SA 579 (SCA)

PROGRAMME

Monday December 12th – University of Johannesburg, Kingsway Campus		
15:45 – 16:00	Welcome and Opening Remarks	Professor Wesahl Domingo , Dean, Faculty of Law, University of Johannesburg
16:00 – 16:30	Keynote Address	The Hon. Dunstan Mlambo , Judge-President, High Court of South Africa (Gauteng Division)
16:30 – 18:00	A Rap on Racial Justice	MODERATOR: Professor Catherine Smith , Chauncey G. Wilson Memorial Research Chair, Sturm College of Law, University of Denver
PANELISTS		
		Advocate Tembeka Ngcukaitobi , SC, Johannesburg Bar Professor Trina Jones , Jerome M. Culp Professor of Law, Duke University School of Law
		Ms. Thandiwe Matthews , Joint PhD Candidate: International Institute of Social Studies, Erasmus University Rotterdam and the University of the Witwatersrand Professor Frank Rudy Cooper , William S. Boyd Professor of Law, William S. Boyd School of Law, University of Las Vegas
		Professor Suzette Malveaux , Provost Professor of Civil Rights Law and Director of the Byron R. White Center for the Study of American Law, University of Colorado Law School
Tuesday December 13th – The Johannesburg Country Club (Auckland Park)		
09:00 – 09:15	Welcome Remarks	The Hon. Raymond Zondo , Chief-Justice of South Africa (TBC)

09:15 – 10:45	South Africa's Constitutional Project – Possibilities and Limitations	CHAIR: Professor Penelope Andrews , John Marshall Harlan II Professor and Director, Racial Justice Project, New York Law School
PANELISTS		
	A Blinding Vision: Democratic promises and unintended restraints on the transformative project	Professor Heinz Klug , Evjue-Bascom Professor in Law, University of Wisconsin
	Restoring the humanity of Black bodies: an anti-subordination approach	Mr. Ohene Yaw Ampofo-Anti , Center for Economic and Social Rights, New York
	Towards a public law perspective on constitutional privacy in the era of digitalisation	Professor Firoz Cachalia , University of the Witwatersrand, Faculty of Law Professor Jonathan Klaaren , University of the Witwatersrand, WISER
	Public Participation and Environmental Justice: Past and Present Struggles for the Right to Meaningfulness?	Dr. Jenny Hall , Faculty of Law, University of Johannesburg
RESPONSE		
	The Hon. Dennis Davis , Former Judge President, Competition Appeal Court, and Judge of the High Court	
10:45 – 11:00	Morning Tea	
11:00 – 11:45	Keynote Address	Professor Angela Onwuachi-Willig , Dean and Ryan Roth Gallo & Ernest J. Gallo Professor of Law, Boston University School of Law
11:45 – 13:15	Judge Victor and Jurisprudence: South African and Comparative Perspectives	CHAIR: Adv Leon Peter , Johannesburg Bar
PANELISTS		
	Judge Margaret Victor's Jurisprudence of Context	Professor Sarah Chinn , City University of New York, Hunter College Professor Kris Franklin , Wallace Stevens Professor, New York Law School

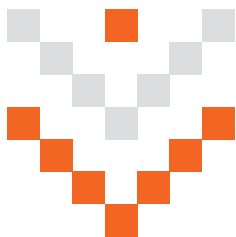
	Ubuntu and the Law of Contract: Is Economic (Un)certainty Just Another of South Africa's Many Euphemisms?	Mr. Sipho Nkosi , Faculty of Law, University of Johannesburg
	The false dichotomy between the public and the private sphere: Freedom of testation and private discrimination in King v De Jager	Ms. Meghan Finn , Faculty of Law, University of Johannesburg
	Summary Eviction Proceedings and Race: A Perspective from New York	Professor Andrew Scherer , New York Law School

RESPONSE

Mr. Mbekezeli Benjamin, *Judges Matter and DGRU*, University of Cape Town

13:15 – 14:30	Lunch and Keynote Address	Professor Linda Greene , Dean and MSU Foundation Professor of Law, Michigan State University
14:30 – 16:00	Personal and Professional Reflections	MODERATOR: The Hon. Roland Sutherland , Deputy Judge-President, High Court of South Africa, Gauteng Division, Johannesburg
		The Hon. Fayeeza Kathree-Setiloane , High Court of South Africa, Gauteng Division, Johannesburg
		The Hon. Thina Siwendu , High Court of South Africa, Gauteng Division, Johannesburg
		Mr. Nazeer Cassim SC , Johannesburg Bar
		Ms. Ann Mullins (former social work colleague, Perth, Australia)
16:00 – 16:15	Afternoon Tea	
16:15 – 17:45	Educating for Human Rights and Justice	CHAIR: Ms. Hlaleleni Kathleen Motala-Dlepu Esq. Molefe and Dlepu Inc.
	How Teaching Restorative Justice Is Itself Restorative	Professor Susan Abraham , New York Law School

	South Africa's Ongoing Transition: How the African Union Transitional Justice Policy can reignite the conversation on Racial Reconstruction, Reparations and Reconciliation	Mr. Simeon Gready , University of Melbourne, School of Social and Political Sciences
	Education as Liberation or Subjugation	Professor Matthew Patrick Shaw , Vanderbilt University School of Law
	Beyond Book Bans: Challenging Censorship, Engaging Erasure, and Teaching Hard Histories	Professor Erika George , Director, Tanner Humanities Center, and Professor of Law, University of Utah
	Teaching About Race and Policing in New York City	Professor Kirk Burkhalter , New York Law School
17:45 – 18:15	Judge Victor Responds	
19:00	Conference Dinner	SPEAKER: Professor Mario Barnes , University of California, Irvine, School of Law
		TOAST: Professor Wesahl Domingo , Dean, Faculty of Law, University of Johannesburg
Wednesday December 14th – The Johannesburg Country Club (Auckland Park)		
09:30 – 10:00	Launch of Incorporating Rights: Strategies to Advance Corporate Accountability	Professor Erika George , Oxford University Press (2021)
10:00 – 11:15	Scholarship and Mentorship: In conversation with Justice Albie Sachs, Dean Linda Greene, Dean Angela Onwuachi-Willig, and Judge Dennis Davis (moderated by Dean Wesahl Domingo and Judge Victor)	
11:15 – 11:30	Morning Tea	
11:30 – 13:15	Networking and Workshop with emerging scholars and conference participants	
13:30 – 16:00	Visit to Constitutional Court	



University of Johannesburg
Faculty of Law

www.uj.ac.za/law