

# 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@nysl.edu](mailto:penelope.andrews@nysl.edu)) and Professor Wesahl Domingo, Executive Dean, Faculty of Law, University of Johannesburg at ([wdomingo@uj.ac.za](mailto:wdomingo@uj.ac.za)). For queries and to RSVP, please contact Mbuso Mthiyane ([mmthiyane@uj.ac.za](mailto: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 KwaZulu 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 as 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.<sup>1</sup>

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](http://www.chatilloncoque.com).

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

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<sup>1</sup> *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	<b>Welcome and Opening Remarks</b>	<b>Professor Wesahl Domingo</b> , Dean, Faculty of Law, University of Johannesburg
16:00 – 16:30	<b>Keynote Address</b>	<b>The Hon. Dunstan Mlambo</b> , Judge-President, High Court of South Africa (Gauteng Division)
16:30 – 18:00	<b>A Rap on Racial Justice</b>	<b>MODERATOR: Professor Catherine Smith</b> , Chauncey G. Wilson Memorial Research Chair, Sturm College of Law, University of Denver

## PANELISTS

		<b>Advocate Tembeka Ngcukaitobi, SC</b> , Johannesburg Bar <b>Professor Trina Jones</b> , Jerome M. Culp Professor of Law, Duke University School of Law
		<b>Ms. Thandiwe Matthews</b> , Joint PhD Candidate: International Institute of Social Studies, Erasmus University Rotterdam and the University of the Witwatersrand <b>Professor Frank Rudy Cooper</b> , William S. Boyd Professor of Law, William S. Boyd School of Law, University of Las Vegas
		<b>Professor Suzette Malveaux</b> , 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	<b>Welcome Remarks</b>	<b>The Hon. Raymond Zondo</b> , Chief-Justice of South Africa (TBC)
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09:15 – 10:45	<b>South Africa's Constitutional Project – Possibilities and Limitations</b>	<b>CHAIR: Professor Penelope Andrews</b> , John Marshall Harlan II Professor and Director, Racial Justice Project, New York Law School
<b>PANELISTS</b>		
	<b>A Blinding Vision: Democratic promises and unintended restraints on the transformative project</b>	<b>Professor Heinz Klug</b> , Evjue-Bascom Professor in Law, University of Wisconsin
	<b>Restoring the humanity of Black bodies: an anti-subordination approach</b>	<b>Mr. Ohene Yaw Ampofo-Anti</b> , Center for Economic and Social Rights, New York
	<b>Towards a public law perspective on constitutional privacy in the era of digitalisation</b>	<b>Professor Firoz Cachalia</b> , University of the Witwatersrand, Faculty of Law <b>Professor Jonathan Klaaren</b> , University of the Witwatersrand, WISER
	<b>Public Participation and Environmental Justice: Past and Present Struggles for the Right to Meaningfulness?</b>	<b>Dr. Jenny Hall</b> , Faculty of Law, University of Johannesburg
<b>RESPONSE</b>		
	<b>The Hon. Dennis Davis</b> , Former Judge President, Competition Appeal Court, and Judge of the High Court	
10:45 – 11:00	<b>Morning Tea</b>	
11:00 – 11:45	<b>Keynote Address</b>	<b>Professor Angela Onwuachi-Willig</b> , Dean and Ryan Roth Gallo & Ernest J. Gallo Professor of Law, Boston University School of Law
11:45 – 13:15	<b>Judge Victor and Jurisprudence: South African and Comparative Perspectives</b>	<b>CHAIR: Adv Leon Peter</b> , Johannesburg Bar
<b>PANELISTS</b>		
	<b>Judge Margaret Victor's Jurisprudence of Context</b>	<b>Professor Sarah Chinn</b> , City University of New York, Hunter College <b>Professor Kris Franklin</b> , Wallace Stevens Professor, New York Law School

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

## RESPONSE

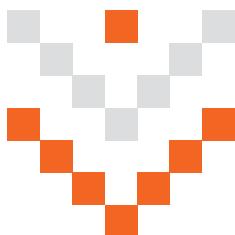
**Mr. Mbekezeli Benjamin**, *Judges Matter and DGRU, University of Cape Town*

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

	<b>South Africa's Ongoing Transition: How the African Union Transitional Justice Policy can reignite the conversation on Racial Reconstruction, Reparations and Reconciliation</b>	<b>Mr. Simeon Gready</b> , University of Melbourne, School of Social and Political Sciences
	<b>Education as Liberation or Subjugation</b>	<b>Professor Matthew Patrick Shaw</b> , Vanderbilt University School of Law
	<b>Beyond Book Bans: Challenging Censorship, Engaging Erasure, and Teaching Hard Histories</b>	<b>Professor Erika George</b> , Director, Tanner Humanities Center, and Professor of Law, University of Utah
	<b>Teaching About Race and Policing in New York City</b>	<b>Professor Kirk Burkhalter</b> , New York Law School
17:45 – 18:15	<b>Judge Victor Responds</b>	
19:00	<b>Conference Dinner</b>	<b>SPEAKER: Professor Mario Barnes</b> , University of California, Irvine, School of Law
		<b>TOAST: Professor Wesahl Domingo</b> , Dean, Faculty of Law, University of Johannesburg

### Wednesday December 14th – The Johannesburg Country Club (Auckland Park)

09:30 – 10:00	<b>Launch of Incorporating Rights: Strategies to Advance Corporate Accountability</b>	<b>Professor Erika George</b> , Oxford University Press (2021)
10:00 – 11:15	<b>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)</b>	
11:15 – 11:30	<b>Morning Tea</b>	
11:30 – 13:15	<b>Networking and Workshop with emerging scholars and conference participants</b>	
13:30 – 16:00	<b>Visit to Constitutional Court</b>	



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