



**CONSTITUTION WEEK
22-25 FEBRUARY 2010**

**FACULTY OF LAW
UNIVERSITY OF CAPE TOWN**



The 14 February 2010 marks the 15th anniversary of the opening of the Constitutional Court. This landmark coincides with the retirement of four of the original eleven judges of the court, and this confluence of events suggests that this is an opportune time for the Faculty of Law to reflect upon the record of the court so far, and the legacy of the judges that have retired. It also creates an opportunity to reflect upon the role that civil society has played in mobilizing around specific human rights issues, using the tool of public interest litigation.

The DGRU in the Department of Public Law at UCT is convening a series of events during the week of 22-25 February 2010 to commemorate the establishment of the court, and to celebrate its proud record of upholding human rights. This is new idea and one that we hope will become an annual feature of the law faculty's start to the year, not least to enable both first years and those studying constitutional law to have an early, in-depth insight into the discipline so as to encourage them to come to terms with a subject that they tend to struggle with.

The Constitution Week events will bring together retired judges of the court, academics and scholars, and civil society activists with the aim of reflecting on the past fifteen years, as well as thinking about how the constitution may be advanced in the future.

This Programme has been made possible with the generous funding of the British High Commission and the Atlantic Philanthropies.

PROGRAMME OF EVENTS

DAY 1: 22 February 2009

- 15h30: Registration**
- 15h45: Welcome by the Dean of Law**
- 16h00: Introduction and welcome to Constitution week - Associate Prof Richard Calland**
- 16h15-19h00 ROUNDTABLE WITH RETIRED CONSTITUTIONAL COURT JUDGES CHASKALSON, MOKGORO, AND SACHS**
- VENUE: QUAD**

Dennis Davis, as chair, will ask each of the judges to speak for 2 to 3 minutes on what they consider the court's success and failures to have been, reflecting specifically on whether the court has met expectations in light of its mandate.

Faculty members will then probe jurisprudential and ideological links between different areas of law, and act as interlocutors engaging critically with the judges on core themes of the court's jurisprudence. Faculty members include:

- Labour law - Halton Cheadle
- Customary law - Aninka Claasens and Sindiso Mnisi
- Marginalised groups - Pierre de Vos
- Property rights - Hanri Mostert
- Private Law - Jaco Barnard
- Administrative Law - Hugh Corder
- Criminal Law - Jonathan Burchell
- Environmental Law - Jan Glazewski

JUDGE DENNIS DAVIS will chair this event.

DAY 2: 23 February 2009

**17h30-19h00 PANEL DISCUSSION : ARE THE COURTS ABLE TO HOLD
PUBLIC OFFICIALS TO ACCOUNT?**

VENUE: Lecture Theatre 3

**PROF PIERRE DE VOS, JUDGE CHASKALSON , PATRICIA DE LILLE, ADVOCATE
MENZI SIMELANE** will discuss whether high-profile cases involving public officials
(Yengeni, Selebi, Motata, Zuma) can be seen to deliver justice, and discuss the role
that public perception plays in terms of how ordinary citizens view these cases.

ASSOCIATE PROF RICHARD CALLAND will chair this event.

DAY 3: 24 February 2009

14h00-16h00

PRESENTATION: THE PUBLIC SERVICE IN THE CONSTITUTIONAL ERA: WHAT HAS CHANGED AND HOW DO WE KNOW?

VENUE: Moot Court

Expert presentation on the annual report of the Public Service Commission (PSC) on the requirements in the Constitution for the post apartheid public service, by **MR INDRAN NAIDOO** (DDG MONITORING AND EVALUATION, PSC) , with comment by **DR BONGANI NGQULUNGA** (OFFICE OF THE PRESIDENCY), **PROF ROBERT CAMERON AND DR VINO NAIDOO** of UCT's Politics Department.

The PSC is constitutionally mandated to monitor and evaluate public administration in South Africa, and it has done this systematically through the 9 principles of public admin laid out in chapter 10 of the Constitution. Each year the PSC publishes a 'State of the Public Service' report, which is structured on the lines of the 9 principles, and which specifically analyses how public admin has performed on each principle. This report will form the basis of the presentation.

DR KRISTINA BENTLEY will chair this event.

DAY 4: 25 February 2009

13h00 - 16h00

COLLOQUIUM - CIVIL SOCIETY MOBILISATION TO ADVANCE HUMAN RIGHTS USING CONSTITUTIONAL LITIGATION: AN ADVOCACY AGENDA FOR THE NEXT 15 YEARS

Civil society has played a key role in bringing landmark cases before the Constitutional Court over the last 15 years. As part of the Constitution Week activities, a day has been allocated to reflections on this role in 6 key cases that had the potential to impact to a wider South African population - **Bhe, Fourie, Makwanyane, Grootboom, TAC, Mazibuko and Subromoney**. The organisations and civil society actors that were involved in litigating these cases in the constitutional court have been invited to share their litigation experiences in these cases and reflect on the lessons learned.

Some of the questions to be tackled include:

- Whether they have achieved their intended outcome;
- Whether there has been a practical change in the lives of ordinary South Africans as a result of these cases;
- Is litigation a viable option, moving forward?
- Should we use a multi-strategy approach rather than relying on litigation?
- What other strategies are there to supplement litigation?

Civil society organisations invited include: the **Women's Legal Centre**, the **Centre for Applied Legal Studies**, **Treatment Action Campaign** and the **Gay and Lesbian Equality Project**.

Social justice activists such as **RAENETTE TALJAARD, PATRICK BOND, AND ASHWIN DESAI** will be invited to act as respondents to analyse the work of these civil society organisations over the last 15 years, and make recommendations as to the way forward. An effort will be made to invite a government representative, such as **Jeff Radebe**, to share what government has done to implement the decisions of the court, especially with regard to socio-economic rights. This raises questions of, firstly, whether the government has done enough to ensure 'progressive realisation' of socio-economic rights and secondly, whether the government has been able to enforce socio-economic rights through concrete policies.

Convenor and discussion leader: DGRU Advocacy Manager, **MR ABONGILE SIPONDO**.