



NWU/UFH Joint Colloquium in Honour of the Late Justice Yvonne Mokgoro

Theme: An Academic and a Judge:
Essays in Honour of the Late Justice Yvonne Mokgoro

24 - 25 OCTOBER 2024





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Justice Yvonne Mokgoro Biography

Justice Yvonne Mokgoro was a judge of the Constitutional Court of South Africa from its inception in 1994 until the end of her 15 year term in 2009. She was born in Galeshewe Township near Kimberley and matriculated at the local St Boniface High School in 1970. She studied mostly part-time, obtaining the Bachelor of Law (B.luris) degree at the University of Bophuthatswana, now North West University in 1982, the Bachelor of Law (LLB) two years later, and completed Master of Laws (LLM) in 1987. She also studied at the University of Pennsylvania in the USA, where she was awarded a second LLM degree in 1990. She started her work-experience as a nursing assistant and later as a retail sales-person before her appointment as a clerk in the Department of Justice of the erstwhile Bophuthatswana. After completion of the LLB she was appointed maintenance officer and public prosecutor in the then Mmabatho Magistrate's Court in 1984, she was appointed lecturer in law in the Department of Jurisprudence, University of Bophuthatswana, where she rose through the ranks to Associate Professor and served there until 1991. From 1992 to 1993 she served as Associate Professor at the University of the Western Cape, from where she moved to the Centre for Constitutional Analysis at the Human Science Research Council, serving as Specialist Researcher (Human Rights), and also lecturing on a part time basis at the University of Pretoria, until her appointment to the Constitutional Court in October 1994. Throughout her legal career she has taught a number of courses, including, Constitutional Law, Human Rights Law Jurisprudence, History of Law, Comparative Law, Criminal Law, Private Law and Customary Law at a number of universities in South Africa, the United Kingdom, the United States and Netherlands. She has written and presented papers and participated in a myriad of national and international conferences, seminars and workshops in South Africa and internationally, mainly in sociological jurisprudence and particularly on human rights, customary law, focussing on the impact of law on society generally, and on women and children specifically. She has served extensively as a resource person in this regard for non-governmental and community-based organisations and other initiatives in South Africa and internationally. During her academic career, she has participated in a number of research projects and held positions on the boards of a number of civil society organisations, including community-based organisations: She served on the Advisory Committee of the South African - Canadian Linkage Project, from its inception in 1994 until it ceased operations in 2004. From 1995-2005 she was President of Africa Legal Aid, (AFLA) a civil society organisation, which provides legal aid and human rights education throughout Africa and is based in Accra, Ghana, with satellite offices in Maastricht (Netherlands) and Pretoria (South Africa). She currently serves on a number of boards, and Trusts, including the Nelson Mandela Children's Fund which she chairs, Mandela-Rhodes Trust, the South African Institute where she heads the Curriculum Development, the International Committee Institute of Judicial Education, the South African Police Services (children's) Education Trust (where she serves as Deputy Chairperson) and is a member of the African Centre for Justice Innovation (ACJI). She served as Chairperson of Venda University Council from 2002 to 2009. She also served as Chairperson of the Selection Committee of the Press Council of South Africa which appoints the Press Ombudsperson and members of the Press Appeal Board. She was honorary (emeritus) Professor of Law at the University of the North, University of the Western Cape, University of Cape Town, University of Pretoria, and the University of South Africa. She has been conferred with the Doctor of Laws (Honoris Causa) by the University of North West, the University of KwaZulu-Natal, the University of Toledo (Ohio) USA, University of the Western Cape, University of Pretoria, University of the Witwatersrand (Wits), University of South Africa and the University of Pennsylvania (USA). She is a recipient of a number of other honours and awards, including the Educational Opportunities Council scholarship to study in the USA (1989-1990) the Women's Law and Public Law Fellowship, by Georgetown University Law Centre, Washington DC (1990), the Human Rights Award by the Black Lawyers Association, (1995) the Oude Molen Reserve Order of Merit (1995/1996), the Legal Profession's Woman Achiever Award by the Centre for Human Rights, and the University of Pretoria (2001), University of the North School of Law Excellence Award (2003), the Kate Stoneman Democracy Award (Albany Law School, New York, U.S.A (2003), the Tshwane Outstanding Service Award (TOSA) in 2006 and the James Wilson Award by the University of Pennsylvania Law School [(Philadelphia, Pennsylvania (2008)). She has also been appointed to serve as Special Ambassador for the University of Venda

(University Council, 2009), and has been selected by the President of South Africa as an official Advocate for Social Cohesion in South Africa (2013-2018). She holds membership of the International Women's Association (Washington DC) and the International Association of Women Judges, the International Federation of Women Lawyers and the South African Women Lawyers Association, and in 2006 was selected as an icon of the history of Women Lawyers in South Africa. She also served as Chairperson of the South African Law (Reform) Commission from 1995 until the end of a third term in 2011. She served as a Judge in the Office of the Chief Justice (OCJ) from 2011 to 2013 where her work entailed the exercise of oversight over the administration of the OCJ and the implementation of the OCJ mandate. In a nutshell the role of the OCJ entails the enhancement of the independence of the South African Judiciary as per Section 165 of the South African Constitution and supportive laws in January 2012, she was appointed as Chairperson of the Independent Panel of Experts to investigate the circumstance of the incident in (stampede) that occurred at the University of Johannesburg South Africa during the student's registration and which resulted in the death of a parent, reporting to the University Council. She is also been appointed in 2013 to chair a Tribunal which will investigate the ethical conduct of the President of the Lesotho Court of Appeal.

PROGRAMME

24-25 October 2024 – Mmabatho Palms, Mahikeng, South Africa

Registration: To be done prior to the conference dates

DAY 1	THURSDAY 24 OCTOBER 2024	
07:40-08:00	Breakfast & Registration	
08:00-08:20	Welcome & Opening Remarks (Chair: Prof HT Chitimira, Research Director, Faculty of Law, NWU)	Judge Y Mokgoro Family Representative
08:20-08:40		Judge T Djaje, Deputy Judge President, North-West High Court
08:40-09:00		Prof M Njotini, Executive Dean, Faculty of Law, UFH
09:00-09:20		Prof S Buhlungu, VC, UFH
KEYNOTE SESSION 1 – Chair: Prof R Phooko, UFH		KEYNOTE ADDRESS: Judge L Flatela, Judge of the High Court, Gauteng Division, South Africa
<p>Biography: Judge Flatela was born in the Eastern Cape, where she studied and was conferred with her first tertiary qualification (B. Proc degree). She then went on to study at UNISA where she obtained her LLM degree in 2005, specialising in commercial law. In 2010 Flatela obtained an advanced certificate in alternative dispute resolution from the University of Pretoria in association with AFSA. Her legal career started in 2001 when she was completing her articles of clerkship at Burman Katz Attorneys in Gqeberha, which she completed in 2002. Between 2003 and 2006 she worked as a legal researcher at Mthatha high court. During this period, she researched for retired Justice Japhta and the current Deputy Chief Justice, Justice Maya. Thereafter, Flatela worked as an assistant state attorney in the property law section until 2009, whereafter she was promoted to a senior assistant state attorney. She remained with the department of justice until 2015 when she founded Flatela Attorneys Inc., where she is currently the managing director and conveyancer. Flatela prides herself in having had a positive impact in the skewed briefing patterns. While a senior assistant state attorney she endeavoured to brief mostly black women junior advocates. Flatela also prides herself in 'bringing justice to the people'. She earned herself the name, 'the people's lawyer' during the fees must fall movement. During this time Flatela represented students in bail hearings, civil and disciplinary matters emanating from the fees must fall movement. Her key judgments include: <i>Dhlamini v Barnard N.O and others</i> (case no. LCC 132/2020); <i>Mahlangu v Du Plessis; Du Plessis v Mahlangu and Another</i> (LCC 97/2021); <i>Oostenwald and Another v Retignled and Others</i> (LCC 13R/2021) [2022] ZALCC 10.</p>		
09:20 – 09:40	Keynote address: Judge L Flatela, Judge of the High Court, Gauteng Division, South Africa	
09:40 -09:50	Tea/Coffee/Comfort Break	
SESSION 1 (Chair: Dr S Munedzi, NWU) – Equality, Justice & the Law		
09:40 – 09:55	<i>Reflections on Justice Mokgoro's Views on the Bannatyne Matter: Exploring Alternative Ways to Enforce Child Maintenance Orders, Clement Marumoogae, Wits</i>	
09:55 –10:10	<i>Equality, Limitations, and Justice Mokgoro: Revisiting the Application of the General Limitations Clause to the Right to Equality, Justin Winchester, Socio-Economic Rights Institute of South Africa</i>	

10:10 – 10:25	<i>Legislative Oversight Through the Lens of Ubuntu: Reimagining Accountability in South Africa's Constitutional Democracy</i> , Shadi Maganoe, Wits
10:25 – 10:40	Q & A
10:40 – 10:50	Tea/Coffee/Comfort Break
SESSION 2 (Chair: Prof D Zongwe, UNAM) – Socio-Economic Rights, Gender & Constitutional Aspects	
10:50– 11:05	<i>The Africa We Want: A Critical Analysis of Constitutionalism and Sustainable Economic Development in Africa</i> , Boledi Maboki, UNISA
11:05 – 11:20	<i>The Legal Foundations and Policies Driving Gender Equality in the Legal Profession</i> , Keamogetse Motlogeloa, UCT & Howard Chitimira, NWU
11:20 – 11:35	<i>Institutional Integrity and the Rule of Law: A Case Study of Nigeria and South Africa</i> , Jane Diala, UWC
11:35 – 11:50	<i>To Restore the Dignity of Man: Judicial Activism of Justice Yvonne Mokgoro Revisited</i> , Oyesola Animashaun, KWASU
11:50 – 12:00	Q & A
12:00 – 13:00	Legal Education, Justice & the Judge Mokgoro Legacy (Panel Discussion) – Chair: Prof L Ngwenyama, UNISA
12:00 – 12:50	Kola Odeku, UL Ntebo Morudu, Wits Clement Marumoagae, Wits Mateenah Hunter-Parsonage, South African Human Rights Commission
12:50 – 13:00	Q & A
13:00 – 14:00	Lunch
14:00– 14:50	Customary law, Women & the Legal Profession (Panel Discussion) – Chair: Dr K Motlogeloa, UCT
14:00 – 14:40	Katlego Letlonkane, SU Hoolo Nyane, University of Limpopo Dunia Zongwe, UNAM Nombulelo Lubisi-Bizani, UFH
14:40 – 14:50	Q & A
SESSION 3 (Chair: Prof K Odeku, UL) – Ubuntu, Human Rights & the Law	
14:50 – 15:05	<i>Dikoko v Mokhatla Judgment: Ubuntu and Humanising the Law in Cases of Freedom of Expression</i> , Keneilwe Radebe, UP
15:05 – 15:20	<i>Addressing 'Afrophobia' and Inequality in South African Courts</i> , Oyesola Animashaun, KWASU
15:20 – 15:35	<i>Transforming Unequal Labour Relations: A Social Justice Perspective</i> , Katlego Letlonkane, SU
15:35 – 15:50	<i>Ubuntu: As an Afrocentric and Pan-African Scholarship Legal Concept for African Jurisprudence</i> , Nkosinathi Mzolo, UNIVEN

15:50 – 16:00	Q & A
16:00 – 16:05	Tea/Coffee/Comfort Break
SESSION 4 (Chair: Ms Ntebo Morudu, Wits) – Ubuntu, Financial Inclusion & the Law	
16:05 – 16:15	<i>The Interpretation of the Philosophical Value of Ubuntu in South African COVID-19 Jurisprudence</i> , Priscilla Moyo, NMU
16:15 – 16:25	<i>Balancing Financial Inclusion and Ubuntu Within South Africa's Constitutional Jurisprudence</i> , Elfas Torerai, NWU
16:25 – 16:35	<i>Ubuntu and Financial Inclusion: Harnessing Communal Values for Equitable Economic Access in South Africa</i> , Menelisi Ncube, UNISA
16:35 – 16:45	<i>Reconciling Ubuntu and Human Rights (human dignity) in South Africa</i> , Moses Phoko, UFH & Sibusiso Radebe, The Bridge Group of Advocates
16:45 – 17:00	Q & A
17:00-17:05	Vote of Thanks: Sharon Munedzi, NWU
	End Day 1
19:00 – Till late	Gala Dinner, Mmabatho Palms (All delegates are welcome)
DAY 2	
	FRIDAY 25 OCTOBER 2024
07:40 – 08:00	Breakfast & Registration
	KEYNOTE SESSION 2 – Chair: Prof C Maimela, UP KEYNOTE ADDRESS: Judge A Sachs, Retired Justice, Constitutional Court of South Africa
	Biography: <i>Albert Louis Sachs was born in 1935. He was a South African activist and a former judge of the Constitutional Court (1994 – 2009). He began practising as an advocate at the Cape Bar at the age of 21, defending people charged under the racial statutes and security laws of apartheid. After two spells of being detained in solitary confinement without trial, first for five months, then for three months, he went into exile in England, where he completed a PhD at Sussex University. In 1988, he lost his right arm and his sight in one eye when a bomb was placed in his car by South African security agents in Maputo, Mozambique. After the bombing, he devoted himself to the preparations for a new democratic constitution for South Africa. When he returned home from exile, he served as a member of the Constitutional Committee and the National Executive of the African National Congress until the first democratic elections in 1994. Sachs is a Board member of the Constitution Hill Trust, which promotes constitutionalism and the rule of law. He is a trustee of the Oliver and Adelaide Tambo Foundation, and founder and trustee of the Albie Sachs Trust for Constitutionalism and the Rule of Law. After his term on the Court came to an end, Sachs has remained active in his retirement working to promote restorative justice, gender equality and constitutional democracy. He travels around the world to many countries sharing South African experiences that might help heal divided societies. In 1952, Sachs began his anti-apartheid activism by participating in The Defiance of Unjust Laws Campaign during the second year of his legal studies. In 1955, he attended the Congress of the People at Kliptown where the Freedom Charter was adopted, and, as an advocate, he worked to defend those charged under apartheid's racist laws. As a result of his activism, Sachs was given banning orders that would restrict his movements and was also placed in solitary confinement for 168 days, without trial. His 22-year exile began in 1966, the first half of which was spent in England and the latter in Mozambique. Sachs played a pivotal role in the 1990 democratic negotiations and was appointed to the Constitutional Court in 1994 by former President Nelson Mandela. He was also central to the formation of the 1996 post-apartheid Constitution and has played a major role in the legal, political and cultural life of South Africa both during and after apartheid. He is the author of a number of books, including Stephanie on Trial (1968); The Jail Diary of Albie Sachs (1996); Soft Vengeance of a Freedom Fighter (1990); The Strange Alchemy of Life and Law (2009); We, the People: Insights of An Activist Judge (2016); The Jail Diary of Albie Sachs; Justice in South Africa; Sexism and the Law & Oliver Tambo's Dream (2017). Sachs has received numerous accolades over the years for his writing. He received the Alan Paton Award for both Soft Vengeance and The Strange Alchemy of Life and Law. The Jail Diary of Albie Sachs was dramatised by David Edgar for the Royal Shakespeare Company and televised by the BBC. In 2022, he was the first recipient of the Albie Award from the Amal and George Clooney Foundation for Justice for people who fight against odds for justice.</i>
08:00 – 08:20	Keynote address: Judge A Sachs, Retired Justice, Constitutional Court of South Africa Tribute to Yvonne, My Sister in Law

08:20 – 09:10	The Nexus Between Ubuntu, Ethics & the Legal Profession (Round Table Panel Discussion) – Chair: Dr S Munedzi, NWU
08:20 – 09:00	Itumeleng Tshoose, UL Keneilwe Radebe, UP Charles Maimela, UP Keamogetse Motlogeloa, UCT
09:00 – 09:10	Q & A
09:10 – 09:15	Tea/Coffee/Comfort Break
SESSION 5	(Chair: Dr M Ncube, UNISA) – Constitutional, Legal Education & Socio-Economic Aspects
09:15 – 09:35	<i>Striking a Fine Line: Balancing Financial Inclusion & AML Requirements in the Quest for Advancing the Participation of Women in South Africa's Economic Growth</i> , Lisa Jana, NWU
09:35 – 09:50	<i>Trailblazing Justice: The Legacy of Justice Yvonne Mokgoro in South African Law</i> , Robyn Wangra, NWU
09:50 – 10:05	<i>Fostering Social Justice and Gender Equality in Legal Education and Legal Practice</i> , Keneilwe Radebe, UP
10:05 – 10:13	Q & A
SESSION 6 (Chair: Dr E Torerai, NWU) – Constitutional & Property Law Aspects	
10:13 – 10:25	<i>An Exploration of Non-Intermediated Transactions as an Enabler of Women's Economic Freedom and Equality</i> , Sharon Munedzi-Qankase, NWU
10:25 – 10:37	<i>Does African Privacy Exist or it is a Mere Extension of Western Privacy Norms?</i> , Snail Ka Mtuze, NMU & Surprise Ngwane, UL
10:37 – 10:49	<i>Esta Occupiers & the Construction of Buildings & Homesteads on Farmland: Addressing Critical Issues in Light of Prinsloo No v Ngcongwane [2023] ZALCC 22 and Basfour 3327 (Pty) Ltd v Thwala (Leave to Appeal) (Lcc160/2017b) [2023] ZALCC 28</i> , Lerato Ngwenyama, UNISA
10:49 – 11:01	<i>The Jurisprudence of Justice Mokgoro and the Place of Public Opinion in the Constitutional Democracy in South Africa</i> , Hoolo Nyane, UL
11:01 – 11:11	Q & A
SESSION 7	(Chair: Dr K Radebe, UP) – The Law, Ubuntu & the Mokgoro Legacy
11:11 – 11:21	<i>Is there a REAL Relationship Between Ubuntu and Law? If so, Why the Moral Decay in SA is at its Peak 30 Years Later</i> , Charles Maimela, UP
11:21 – 11:32	<i>I Am Because She Was – The Importance of Representation in the Legal Fraternity</i> , Mateenah Hunter-Parsonage, South African Human Rights Commission
11:32 – 11:43	<i>Are We There Yet: Reflections on Justice Mokgoro Epistemology of Ensuring Social Protection for All in South Africa?</i> , Itumeleng Tshoose
11:43 – 11:54	<i>Championing Socio-Economic Rights and Defending Human Dignity: A Legacy in South Africa's Constitutional Jurisprudence</i> , Oscar Tsaura, NWU
11:54 – 12:04	Q & A
12:04 – 12:09	Tea/Coffee/Comfort Break
SESSION 8	(Chair: Prof C Marumoagae, Wits) – Customary Law, Ubuntu & Socio-Economic Aspects
12:09 – 12:21	<i>Ubuntu in the Law: Case Note on Mzalisi NO and Others v EO and Another (630/2018) [2019] ZASCA 138; 2020 (3) SA 83 (SCA) (1 October 2019) and the Conflict of African Customary Laws</i> , Ntebo Morudu, Wits

12:21 – 12:32	<i>Legal Challenges of Implementing Socio-Economic Rights in South Africa</i> , Luck Mavhuru, NWU
12:32 – 12:43	<i>Perspective on Tourism Laws Fostering Unemployment Alleviation in South Africa</i> , Patrick Mogale & Kola Odeku, UL
12:43 – 12:54	<i>Ubuntu Must Rise, #RhodesMustFall: Decolonizing African Legal Education</i> , Dunia Zongwe, UNAM
12:54 – 13:05	Q & A
13:05 – 13:10	Vote of Thanks, Elfas Torerai, NWU
	End Day 2
13:10 – 14:10	Lunch