

Editor

Franny Rabkin
franny.rabkin@gcbisa.co.za

Editorial committee

Frank Snyckers SC (chair)
Nathi Dwayi
Nevenka Ristic
Sandhya Mahabeer SC
Loyiso Makapela
Jean Meiring
Lwandile Sisilana SC
Muhammad Zakaria Suleman
Quentin du Plessis
Myron Dewrance SC
(ex officio – GCB chair)

BAR REPRESENTATIVES

Cape: Gregory Solik
Free State: Inga Macakati and
Amelia Swanepoel
Grahamstown: Cameron Corden
Johannesburg: Sibongile Mathe
KwaZulu-Natal: Lisa Olsen and
Nooreen Nursoo
Namibia: Retha Steinmann
Northern Cape: Albert Eillert
North West: Thabile Sebitlo
Polokwane: Nathi Gaisa
Gqeberha: James Ramsay
Pretoria: Megan Moodley

EDITORIAL INFORMATION

Advocate is the journal of the General Council of the Bar (GCB). Except in the case of official press releases or statements, published as such, the views expressed by individual contributors of articles and items in Advocate do not purport to be the views of the editorial committee of Advocate, or the official views of the GCB, but remain the views of the individual contributors. This applies also to the views expressed by the editor in her contributions.

Correspondence and enquiries relating to contents, contributions and advertising:

The Editor, Advocate,
PO Box 786878,
Sandton 2146
082 927 5536

franny.rabkin@gcbisa.co.za

Street address: Grindrod Tower,
2nd Floor, 8A Protea Place,
Sandown,
Sandton 2146

Subscriptions

Annual subscriptions R450 (VAT incl.)
Advocate, PO Box 786878,
SANDTON 2146
Tel: +27 (011) 784 0175
E-mail: christine.baek@gcbisa.co.za

Website: <https://www.gcbisa.co.za>

Proofread by Refiloe Seiboko
Design by Hond CC
Photo on cover by
UN Photo / Andrea Brizzi

Printed by Tri-Star Print Services

ISSN 1683-2566

© General Council of the Bar
of South Africa

Volume 37, number 1 ■ April 2024

advocate

Iphaphabhuku labameli basemajajini baseNingizimu Afrika
Dzhenala ya dzangano la vhaadivokati vha Afrika Tshipembe
Die Suid-Afrikaanse Ballytydskrif ■ The South African Bar Journal
Kgatisobaka ya boadifokata ya Africa-Borwa
Jenali ya magwetha ya vaavanyisi va Afrika-Dzonga



FROM THE EDITOR

I've got into the habit of writing *From the Editor* at the last minute, after the rest of the journal has been put together and we're already at proof-reading stage. I like to get a feel of what you will be picking up and flicking through – hopefully, reading. Maybe even pausing and thinking about (I live in hope).

I try to make every edition a worthy one. This one is special because it marks a moment in history – when South Africa approached the International Court of Justice seeking provisional measures in the case of *South Africa versus Israel*. In the *Forum* section, we have collected and published some of the presentations given at an event in Durban that was organised by the South African Journal on Human Rights, eThekweni Municipality, Advocates for Transformation, the Black Lawyers Association and the KZN Bar.

Many of the speakers on the day were members of Team SA at the International Court of Justice in the *SA v Israel* case. But the presentations go much broader than that case: they look at different aspects of public international law in South Africa, at how public international law has been applied and developed by our courts over the years – from the *Azapo* judgment in 1995 to the most recent case, at the ICJ.

As a journalist I covered many of the cases. I was there when Mokhele SC told the court that it was his instruction that Al Bashir was still in SA (meanwhile, while the judges were deliberating on whether SA had a duty to arrest him, he was surreptitiously exiting the country). I remember having an argument with my news editor at *Business Day* about the Zimbabwe torture judgment, with him, a Zimbabwean, asking what difference it would make in practice, and with me passionately defending it and pleading that it belonged on page 3 instead of page 4. If I recall, it went on page 4.

I was the news editor at the *Mail & Guardian* when the Nuclear judgment, which Max du Plessis SC writes about, came out. That week was the only time when, because my boss was away, I got to decide what went on the cover of a newspaper. I decided to put the Nuclear judgment on the cover. It was the worst-selling edition in months. I stand by my decision and still maintain that judgment changed the course of our history. I covered the *SADC Tribunal* case, *Glenister II*, the Putin case. And it was a privilege to be at the ICJ to watch our lawyers, including the legendary John Dugard, make their case at the ICJ.

But what I didn't realise, until now, was how all these cases were collectively building a jurisprudence we can be proud of. Andreas Coutsoudis says in his piece: "South Africa's institution of proceedings against Israel in the ICJ was not some aberration borne of expediency. Rather, it was the culmination and outworking of a deep commitment to international law and human rights woven into the very fabric of our transformative Constitution, which has and will continue to guide, inform and constrain its actions both domestically and abroad."

We have many problems in South Africa. But we have much to be proud of. Something that continues to be a source of pride for me is the way our lawyers – you – use the law to give voice to the voiceless. Not just in the World Court and the Constitutional Court, but daily, in magistrate's and high courts across the country. And how you are creative with the law; asking (and, importantly, answering) difficult questions, like Adila Hassim SC and Professor Christopher Gevers do in their presentations published here, seeking always to ensure that the law arcs towards justice.

To buttress this excellence, we need strong institutions. So it's always nice to see the bar news and we have lots in this edition. The advocacy training, the pupils, excited and nervous, the new members coming up, even the dinners and events – it all feeds into a strong profession, which ultimately contributes to strengthening our democracy, which this year turns 30. **A**

The editor contributes to *Advocate* as an autonomous author. The views she expresses are entirely her own, and do not purport to represent any view or position of *Advocate* or of the GCB.