

Johannesburg Bar

Contributed by Sibongile Mathe

ADVOCATES FOR TRANSFORMATION WELCOMES JSA PUPILS

by Sikhululekile Luwaca



“Beautiful things are celebrated not only with tears,” Zakes Mda once wrote. On the evening of 15 August 2024, at Thulamela Chambers, this sentiment resonated. The cocktail event, which Advocates for Transformation (AFT) hosted, welcomed the 2024 JSA pupils into the legal profession as catalysts of change.

As the evening began, the room was filled with wide-eyed pupils, eager to learn and understand the role of AFT. First on the programme was a warm welcome by Samantha Moloi, followed by insightful presentations from Karabo van Heerden, Fundile Sangoni and Tshidiso Ramogale.

Throughout the evening, AFT positioned itself not just as a professional association, but as an ally for those entering the legal profession. For the 2024 JSA pupils, AFT’s mission was clear: the organisation is here to guide, support, and advocate for a transformed legal landscape—one that dismantles

the systemic inequalities that have long defined the sector. Pupils were urged to see AFT as more than a collective of progressive advocates but as a launching pad for transformation.

AFT’s role extends far beyond professional development. As the speakers outlined, navigating the complex, often intimidating, world of law requires more than just knowledge of case files and legal statutes. It demands a community – a collective – dedicated to breaking down barriers, shaking up the status quo, and pushing forward meaningful conversations about justice, equality, and access. In this regard, AFT provides a home for young advocates eager not only to grow professionally but to reshape the legal profession as a whole.

As the evening progressed, pupils were encouraged to ask questions and engage in critical dialogue. Among the topics raised was the role of AFT in addressing disability within the legal



profession and its contribution to the pupillage programme. This sparked a meaningful discussion about inclusivity in all its forms. Pupils also requested a workshop to better prepare them for practice, showing a keen interest in equipping themselves for both the courtroom and the broader social justice landscape.

However, it wasn’t all celebratory toasts and introductions. The evening also offered a sobering reminder of the significant challenges that still face the legal profession. Issues of transformation, particularly concerning the intersectionality of race and gender, were front and centre. Pupils learned of the unique challenges faced by

women, who not only contend with gender discrimination but also the racial biases that continue to hinder their advancement. The lack of black women in senior roles such as silks and judges was a stark reminder of the work that remains.

This discussion evoked a reflection on the Constitutional Court's ruling in *Barnard*, where the need for substantive equality in South Africa's constitutional democracy was reaffirmed. In that landmark case, the court emphasised that remedial measures, though sometimes difficult, are necessary to correct the inequalities of our racial past. As the court eloquently stated: "Remedial measures may exact a cost our racial history demands we recognise. The Constitution permits us to take past disadvantage into account to achieve substantive equality."

The evening was more than just words. It was a clarion call for action. AFT used the event to underscore that transformation is not merely a lofty goal discussed at cocktail parties – it must be vigorously pursued at every level of the legal profession. The presence of AFT at this event signified its commitment to ensuring that transformation is not just a nursery rhyme sung at gatherings of advocates, but a practical, ongoing effort to address systemic injustices.

For the pupils, the evening served as a wake-up call, reminding them that their journey as legal professionals carries an additional responsibility: to be active participants in the transformation of the legal profession. As a new generation of advocates, they were encouraged to not only strive for excellence in their craft but to recognise the importance of breaking down the barriers that continue to hinder real equality and diversity in the profession.

As the 2024 JSA pupils mingled over cocktails, they were not just celebrating the beginning of their legal careers – they were stepping into a larger, transformative mission. The evening at Thulamela Chambers made it clear that AFT is more than an association – it is a



movement, one that pupils can now form a part of. For those serious about leaving a lasting impact on both the profession and society, AFT offers the tools, the community, and the platform to do just that.

In a country still healing from its painful past, AFT stands at the forefront of reshaping the legal landscape. By welcoming the pupils into their ranks, AFT is not only nurturing the next generation of legal minds but also cultivating the future leaders of transformation. As these young advocates step into their roles, they carry with them the responsibility of continuing AFT's mission: to build a legal profession – and a society that is truly just, equitable, and inclusive for all.





A RETROSPECTIVE EVALUATION OF THE 2024 ELECTIONS

by Suvania Subroyen

Electoral stains had faded from our thumbs, but the excitement of the 2024 elections had not dimmed by 4 July 2024 when the JSA human rights committee held a seminar entitled “A retrospective evaluation of the 2024 elections in light of the Constitution”.

The panel of speakers comprised Justice Johann Kriegler, Dr Sithembile Mbete and Mr Mbekezeli Benjamin who collectively reflected on the election season that was and the future of elections in South Africa, within the context of the Constitution.

Mbekezeli Benjamin (Judges Matter) discussed the question of concern about the Electoral Court and the time taken for decisions to be handed down. The Electoral Court was, in Mr Benjamin’s view, cause for concern as an important institution in our democracy that suffered from chronic neglect and limitations on its resources, both in terms of judicial capacity and support for judges who sat on the bench during the Electoral Court’s busiest year to date.

In 2024, the Electoral Court handed down 24 judgments and dealt with 37



appeals and applications, a staggering three times the workload of the previous year. Highlighted in this discussion of limited resources were the examples of administrative staff being borrowed from the SCA, registrars moonlighting to assist the Electoral Court judges and amongst all these potential bottlenecks, a court that was productive despite scarcity.

An aspect beyond the concerns surrounding current resources was the role the court plays in building electoral jurisprudence, namely a cohesive jurisprudence as a necessity for the development of electoral law and its impact on future elections. Mr Benjamin reflected on the need for judges to be able to work together over an extended period of time, rather than mere months – the three different judgments of *MK v IEC (2024)* illustrated the need for a more uniform approach to the interpretation of electoral law. The wide disagreement resulted in an appeal to the Constitutional Court for clarification. As South Africa’s democracy matures, in the adolescence of complex governance in

light of the GNU, so grows the need for better resources in the Electoral Court. It demands a court that is resourced with its own staffing complement, more judges and researchers to assist the court and give its matters the priority they deserve.

Dr Mbete (University of Pretoria, Department of Political Sciences), contended with the pros and cons of our electoral system and whether consideration should be given to a system closer to that used for municipal government. Reflecting on how an election is put together, the task of ensuring elections are free and fair and the context of our “noisy democracy”, Dr Mbete noted that the IEC’s work was something of a miracle – because it consistently pulled off free and fair elections under difficult circumstances that were often the result of court judgments. Like the resource constraints that challenge the Electoral Court, Dr Mbete noted that not enough attention was given to the systems and mechanisms that enabled elections and to the election management bodies



tasked with bolstering democracy on a 2.5 year cycle of elections from local levels to national elections.

Dr Mbete expressed the view that lawyers should be taught about elections; not only about the technicalities, but about how electoral systems are a fundamental expression of the social and political will of the electorate. This is what should inform engagement and reform of the system, she said.

Where 2029 looms, and where democracies such as New Zealand took 15 years to decide on the manner of implementation of election reform, the task of changing elections is a key issue for the new Electoral Reform Consultation Panel. This new panel will need to do broad and intensive public consultation to generate an informed national debate about the consequences of a new electoral system. This should be based on understanding how people want to be represented rather than what specific clauses can be revised or added to the electoral act.

Justice Kriegler addressed the good, the bad and the ugly of the 2024 elections in his retrospective evaluation. The “good”, chiefly, is a reminder of how unique South Africa’s young democracy is with seven successive free and fair elections that had no bloodshed, no serious objections and no riots in their wake. Justice Kriegler declared that peaceful and ultimately unchallenged elections were a reminder of the choice made by South Africa three decades ago, shrugging off the stigma of its colonial

past in order to hold peaceful, fair elections.

For the first time, the 2024 elections produced a genuine multi-party government reflecting the will of the people, in contrast to the effectively one-horse previous races. The complaints of the nation were reflected in the ballot box, a sign of healthy, engaged democracy.

The “bad”, in the 2024 elections, was the issue of voter turnout. Only 16,2 million valid votes were cast in a voter-eligible population of 40 million, of whom 27 million bothered to register. Could it be said that the resulting government was truly representative? This raised the question of who was left voiceless by the process and what could be done to address this inadequacy. Further, in the “truly bad” column were the problems caused by the inclusion of individual non-party candidates – the extra ballot paper and the double columns that resulted in much last-minute confusion. These issues, coupled with the “rats and mice” of multiple small parties on the ballot, further complicated administration in an election that was so hotly contested.

The aftermath of the elections was placed within the “ugly” of the 2024 elections. Political parties were permitted to pervert the process by appointing MPs who had not been on their party lists. Voters had never seen the names of these individuals before they were parachuted in. This constituted a manifest abuse of the system as currently practised.



What followed from this was an extended lively Q&A with the panel of speakers, addressing the growing pains of our democracy, the issue of smaller parties challenging national elections and the role of “kingmakers” in certain arenas.

These discussions, as facilitated by the JSA human rights committee, were a cogent reminder of the progress made by South Africa’s democracy through the Constitution and the progress still to be made. Between voters in queues, pawns-turned-kingmakers, IEC officials serving through the long hours of the night and the judges who served the Electoral Court, our democracy continues to forge a path for itself that is, in the view of many, nothing short of miraculous.

WHERE THE COURTROOM MEETS PADEL SKILLS

by Anscha Lingenfelder

Group 21's Junior Committee pulled off a fantastic padel tournament on Friday, 4 October 2024, at the picturesque James and Ethel Gray Park. The event brought together 14 members, including group leader, George Kairinos SC and André Lamprecht SC, for an evening of sport, laughter, and socialising.

For many participants, it was their first time on the padel court. Despite this, the excitement was palpable, with everyone eager to give it a try. Unfortunately, Kairinos SC had to sit out due to his (ironically) Achilles heel injury. His presence on the sidelines was greatly appreciated by all.

On the other hand, numerous members proved that their court skills go beyond the courtroom. The event was light-hearted and full of laughter. Throughout the tournament, pizzas, snacks and drinks were readily available for everyone to enjoy. Members, along with their children and significant others, took full advantage of the spread, mingling on the sidelines and cheering each other on. The sight of families and loved ones joining in on the fun added an extra layer of warmth and festivity to the evening.

As for the actual padel matches, I must admit, the winner remains a mystery. One thing, however, is for sure: Michelle Pindler "won at having the most fun". Her infectious energy and tireless enthusiasm set the tone for the entire event. Pindler's dedication and organisational skills were evident in every aspect of the evening, and her efforts ensured that the tournament was not only a success but a memorable experience for all. For that, we extend a huge thank you to Pindler.

We look forward to seeing even more members at the next event. If this tournament was anything to go by, the Junior Committee has set the stage for many more fun-filled gatherings to come. Let's keep the camaraderie alive and the fun going strong!





OUR FUTURE OPPONENTS

Wits University Moot Competition 2024

by Ruth Kruger

One of the first things I remember being told when I started pupillage was that the Bar is the only profession where people train their own competition. It's one of those favourite Bar sayings, isn't it? One of the ways we pat ourselves on the back. But it's also true. And at Thulamela Chambers, we pride ourselves on training not only pupils, but also law students.

Thulamela Chambers has hosted the Wits University Moot Competition since 2017. It was the brainchild of Byron Morris, Mokgerwe Monare Makoti and Ndumiso Luthuli, and over the years Katherine Harding and Chiara Louis have also organised the competition. This year, the task fell to Byron Morris, Samantha Moloi, Irene Mpofo and myself, and we were assisted by Yashwi

Pattni, Byron's pupil. Our chair, Lindelani Sigogo SC, provided oversight. We worked with the Wits Moot Society – specifically the chair Emilio Giangregorio and society executive Mohau Lesole – to set things up.

Every year, Thulamela members volunteer to assist on the judging panels for the moot, and we usually manage to persuade a High Court judge or two to

assist with the finals. This year, however, the response from the bench was unprecedented. We had no fewer than seven judges volunteer to assist, two of them former Constitutional Court judges!

We were gobsmacked. Traditionally, it is the most junior of Thulamela members who volunteer to judge the moot. But we could not possibly offend the bench by teaming actual judges with baby juniors ...

We need not have been concerned, however. The silks and senior juniors of Thulamela Chambers stepped forward, offering generously their time and expertise.

So it was, that on 16 August 2024, we welcomed Judge Victor, Judge Vally, Judge Yacoob and Judge Cowen to Thulamela Chambers, for the junior semi-finals. They were assisted by Makhosi Gwala SC, Hephzibah Rajah, Harriett Mutenga and Thabang Mathopo.

Competition was fierce, but the panellists managed to ensure that each of the four concurrent moots was a space of growth, support and guidance for the students. After two mooting rounds, the students that had made it to the finals were Thabile Kekana and Mthetheleli Mbatha, on one team, and Okuhle Luthuli and Shandell Maleka, on another.

And so, to the junior finals on 22 August 2024! Judge Vally came back to

assist a second time, and Judge Norman even joined us by video link, from the Eastern Cape. Nicole Mayet SC completed a panel that was almost too experienced.

Ultimately, Okuhle Luthuli and Shandell Maleka were the winners of the junior final, and Shandell Maleka was named the best oralist. Tejal Hansrajh and Amahle Lutseke also got a prize, as they got the highest score when combining the points for written and oral submissions.

At this point, we at Thulamela Chambers realised that – what with all the judges accumulating in the corners of our building – we were in serious danger of becoming a court. And we still had the senior moot to go!

And so, the day of the senior semi-final dawned, on 2 October 2024. Once again, many of Thulamela's more senior members generously gave their time to assist the students. It was almost a relief, however, that there were no judges available. Instead, the students were trained by Vas Soni SC, Phillip Mokoena SC, Makhosi Gwala SC, Patrick Ngutshana SC, Xola Stemela, Carol Makhajane, Mehluhi Nxumalo, and Siyabonga Mahlangu. More than just receiving training, however, they were given a wonderful experience. It is not every day that students receive the kind of guidance otherwise reserved for pupils

doing advocacy training.

Once again, it was a truly heated competition. It was not the same, however, as those moments in court when you can take your argument no further, when you wish that the ground would just get on with it and swallow you whole. It was far warmer, far friendlier and far more focused on helping the students to grow. I must admit, I was rather jealous!

At the end of the evening, the finalists in the senior competition were Lesedi Lekoto and Sinqobile Simelane, for one team, and Londeka Mhlongo and Mihle Khunju, for the second. And so, we proceeded to the senior final.

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For this last moot, the panel was truly star-studded. We were humbled to welcome Justice Cameron of the Constitutional Court; Judge Victor, who also acted for the Constitutional Court; Judge Keightley, who was recently appointed to the Supreme Court of Appeal; and founding member of Thulamela Chambers, Vincent Maleka SC. Our chair, Lindelani Sigogo SC, gave us a word of welcome, and our vice-chair, Brian Lecoge SC, finished proceedings with a word of thanks.

The students gave it their all, before a more senior bench than many counsel have experienced. There was a fury of questioning from the panel, the kind of hailstorm one might expect in the SCA. But the students were undeterred. They remained calm, answering with careful thought and intelligence throughout. Ultimately, the winners were Lesedi Lekoto and Sinqobile Simelane, who were also named the best oralists. Mihle Khunju and Amahle Lutseke received the prize for the best written heads.

Personally, I was deeply impressed by the students that competed at all levels of the moot. They were confident, they were clear and they were certainly more prepared than I was as a student. I am quite sure that I met my future opponents in the course of the moot competitions this year, in the hallways of Thulamela Chambers. And so – somewhat worryingly, if I am honest – that old Bar saying rings true. [A](#)

