

KwaZulu-Natal Bar

Contributed by Nooreen Nursoo and Zandile Qono



TRANSFORMATION WHY ARE EVEN **THE LAWYERS** NOT GETTING THIS RIGHT?

by **Andile Mnguni**

The skies were grey and seemed loaded on Saturday 8 June 2024. This was uncharacteristic of the cheerful sunny Durban weather one is accustomed to, even in the deep of winter. The Durban branch of the South African Chapter of the Advancing Women in the Workplace Project held an event to discuss why lawyers are not getting transformation right on this day. Perhaps the skies were foreshadowing the hard discussions that were to be had that day.

Advancing Women in the Workplace Project (AWW) is an initiative by the Cyrus R. Vance Centre for International Justice (Vance Centre) and the South African Legal Fellows Network (SALFN) to address the gender gap in legal leadership positions in South Africa. The Durban event was a collaboration between the Vance Centre's Women in the Profession program, the South

African Women Lawyers Association (SAWLA) and the KwaZulu-Natal Society of Advocates. It was hosted by Allan Gray at its Durban offices. Women lawyers from the advocates', attorneys' and in-house legal advisor ranks attended.

Trudie Nichols of the AWW started the event by asking why it is that lawyers, who fight for democracy, fairness and human rights and who in this respect should be the natural leaders of transformation, are not leading by example in the South African context. She noted that the law remains untransformed, as evidenced by the chronic under-representation of women in the leadership of the profession, from the judiciary all the way down. Much research has been done in this area showing this, the latest being Vance Centre's Advancing Women in the Workplace Survey of March 2024 (the survey).

The need to advance women in the workplace generally and in the legal profession specifically is global, so we were told by the Vance Centre's Africa Program Director, Adaobi Egboka. The Vance Centre's work in South America (Latin America) and other jurisdictions shows that this issue was not limited to any jurisdiction globally. This prompted the Vance Centre to find ways to build international networks and infrastructure for women to connect and share best practices to foster the advancement of women in the profession globally. Egboka reported that the barriers faced by women stated in the survey namely, skewed briefing patterns, harassment (sexual and otherwise), the unequal positions of the genders, undermining of women, discrimination, bullying, questioning of women's intelligence and the lack of flexible work hours to accommodate women's disproportionate

role in bearing the greater share of family and care work etc., were the same in many of the jurisdictions in which the Vance Centre works.

The event looked to the esteemed Judge Masipa of the KwaZulu-Natal Division of the High Court, the keynote speaker for the day and to a panel of leading women in various branches of the legal profession for ideas of what was to be done.

Judge Masipa acknowledged how far we have come and that there is cause for celebration. Some progress has been made in transforming the legal profession in the 30 years of democracy in South Africa. The legislative infrastructure for transformation is in place and is well entrenched. The right to equality under Section 9 of the Constitution and the empowering legislation flowing from that right is in place. The Commission for Gender Equality was established to promote, protect, develop and attain respect for gender equality. Today, we have the first female chief justice leading the judiciary. Women are also leading in various positions throughout the profession. In KwaZulu-Natal we have, to our credit, the judge president, the then-chairperson of the KZN Bar and the then-chairperson of Advocates for Transformation all being led by women at the time.

However, the judge cautioned that we needed to also seriously grapple with diversity and transformation and making it a reality. The future of the legal profession is in our hands in this regard. She expressed being disheartened by the dearth of sufficient progress in transforming the legal profession. The changes while worthy of celebration are miniscule and have taken too long in view of the goal. There are simply not enough women making it to the top. It took South Africa 101 years to have a woman as its chief justice leading the judiciary after women were permitted to enter the legal profession in 1923. Young women entering the profession face the same problems as those who have gone before them. The current composition of leadership of the profession does not reflect the population and diversity of the South African population, which is the goal of transformation efforts.



The judge repeated the well-known issue of women coming up against barriers which result in their exiting the profession in numbers without advancing to senior levels. This results in under-representation of women at all senior levels of the profession, from which judges and other leaders of the profession come. She said that we need to find ways to create an environment where women can rise and influence the landscape of the legal system and thereby transform it. This would take collective effort.

The keynote address was followed by a panel discussion between two advocates and two attorneys. The discussion was moderated by Jabu Thobela-Mkhulisi of the Durban Bar. The advocates on the panel were Sandhya Mahabeer SC (who was the then chairperson of the KZN Bar) and Nono Nako of the Durban Bar. The attorneys were Viv Greene, a director at Viv Greene Attorneys Inc. and Naomi Williams, the managing director of Livingston Leandy Inc.

The panel discussed the current state of play (lagging implementation of measures to achieve transformation), and the various systemic barriers faced by women. This discussion included issues faced by women that are not easy to discuss in very competitive and male dominated landscapes. Such issues being

a mother and being in the profession, the accompanying guilt that comes with neglecting children when working the required long hours and neglecting work when being with one's children, the burden of care when one is a daughter to elderly parents, sexual harassment and assault at work and outside, domestic abuse, the importance of choosing a life partner well, having a support structure, the impact of being a woman occupying a leadership position in the profession and the impact this has on the relationship with a life partner and pregnancy.

The panelists offered points to bear in mind in working out the ways forward. Mahabeer SC emphasised the importance of shifting mindsets and opening windows through which change can come. This must be done through using platforms that have been set up for this purpose for maximum effect. She said that accomplished women must take up positions so that they can open a path for those that come after them.

Ms Williams pointed out that implementation of policy lagged way behind. For example, the Legal Practice Act, 2014 provides the framework for transformation of the profession, but no report in this regard has ever been provided as required by its regulations. She said that women in the profession need to act to ensure that this work is

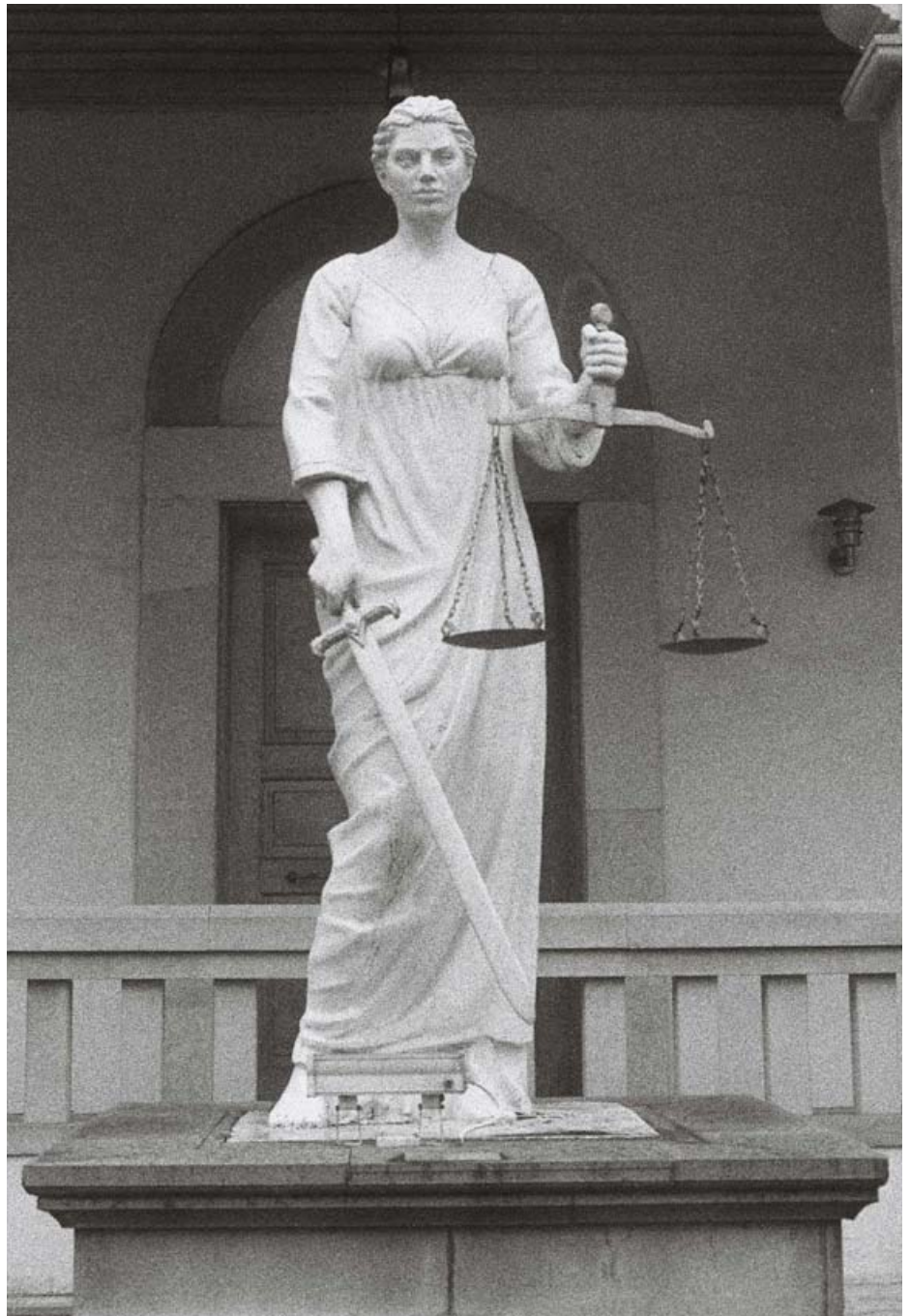
“WOMEN MUST USE ALL THE TOOLS AT THEIR DISPOSAL TO ACHIEVE THE GOAL OF TRANSFORMING THE LEGAL PROFESSION.”

done by exerting the necessary pressure.

Ms Greene warned against the trap of becoming like men in the effort to rise in the profession. She advised that women must not fall into the double trap of thinking that to rise they must behave and be like men. Ms Nako echoed this sentiment and said that women must rather confront patriarchy and reimage it, not copy it.

Ms Williams also pointed to the importance of using technology in overcoming some of the problems faced by women in the profession. The emergence of platforms which allow meetings to be held virtually and collaborating on work online without needing to be in the same physical space, could go some way in affording women a better work-life balance. Technology also offers greater opportunities to access to seniors for guidance and advice, including access to people who might be in different jurisdictions globally. She emphasised that technology should also be used for lifelong learning that is the bedrock of the legal profession.

Perlene Brandhew of the Durban Bar raised the issue of including men in the discussions and plans for transformation as failing to do so would be counterproductive. For transformation to be achieved, a cultural change is required. To change the prevailing culture in the legal profession we need to bring men along, as some men are not aware of issues that their woman colleagues deal with.



The panel underscored the basic tenets for success in the legal profession: excellence as a foundation for all one does; hard work; taking responsibility for continuous personal development; building and nurturing relationships; building trust especially with clients, the judiciary and colleagues; good communication skills; and embracing support from male colleagues and letting go of fear. In addition, importance of building and being part of organised structures as fundamental for transformation was reiterated because a collective voice is stronger

and travels further than that of an individual. Women must use all the tools at their disposal to achieve the goal of transforming the legal profession.

I noticed that a light rain was falling towards the middle of the day when the event was ending. Rain is believed to be a positive sign in my culture as it helps bring forth new life. . While there is a lot of hard work that must be done to achieve transformation of the legal profession, which will take time, the legal profession will transform because it, like new life, must. The nature of our society dictates that it must.

BRAVING THE UNKNOWN PUPILLAGE AND FIRST COMRADES MARATHON IN ONE YEAR

by Nkosinathi Ndlovu, pupil member at the Pietermaritzburg Bar

After almost three years of practice as an attorney and having been relatively comfortable with attorney's work, I was convinced the time had come for me to take the next step in my career, to break the ceiling and to step into the unknown and to pursue a dream. I decided that 2024 was the year to join the Bar. It was always a question of when, instead of if or should.

To put into context just how confident I was, I had another ambition and dream that I also wanted to pursue, and it was also a question of when instead of should. It was to run the Comrades Marathon at least once in my lifetime. I thought there could be no better time and opportunity than doing it in a year where I would not be working and just studying. Little did I know how much pain I was putting myself up for.

As soon as lectures commenced and we (pupils) attended motion court every day, I immediately realised that it was going to be way more difficult than I hoped. It was a painful experience having to unlearn all that I thought I knew in order to learn a new way of life. I quickly realised that I knew nothing and an important part of pupillage is accepting that you know nothing in order to truly learn. Unlearning what I thought I knew and the bad habits picked up during practice as an attorney only added to the pain.



Bruce Fordyce and Nkosinathi Ndlovu.

I was convinced that to deal with the pain that comes with pupillage, I had to put myself through the pain of preparing for my first Comrades Marathon and soldier on. Preparing for the race was largely a coping mechanism for the pain experienced due to pupillage.

On race day, 18km in I started to battle and it only got worse. At the top of Inchanga Hill (about 44km in) I started questioning myself why I was doing this, why did I even have this dream and why I was still running and not bailing: "It is only my first one," I told myself. I convinced myself to keep going on the basis that I would never do this again. After all the pain and suffering for well over 65km of the 85.91km race and convinced I was not going to make it

before the cut of time, I crossed the finish line in a finish time of 11:58:16. I had a minute and 44 seconds to spare.

I have learned that to survive the pupillage year (at least up until the Bar Examination), one has to have a high pain threshold and as a wise man once told me, "Proper Preparation Prevents Poor Performance". You can never over prepare if you want to stand a chance at anything. The same can be said about preparing for and running the Comrades Marathon.

A special thanks to Cas Pretorius SC who supported my efforts to do my first Comrades and offered advice and encouragement. Apparently, he used to run the Comrades Marathon in his youth.

THE KZN BAR DINNER

THE FUTURE OF THE BAR IS IN OUR HANDS

by Kerina Gopaul

The 3rd of August 2024 marked an eventful evening at the Premier Hotel, Umhlanga where the KZN Bar Dinner was hosted. It was a moment much awaited to have colleagues and esteemed legal minds abandon their black and white attire (commonly known as the penguin look) and show up in some glitz, colour and glamour.

The night echoed with the voices of esteemed guest speakers: Justice Malcolm Wallis, Marumo Moerane SC and Pingla Hemraj SC, who addressed the guests on the theme of the event: "The Future of the Bar is in our Hands". The dinner was also honoured by the wise words of three strong female legal minds, the then chairperson of the bar council, Sandhya Mahabeer SC, Anna Annandale SC and Andrea Gabriel SC.

On the other side of formalities, the event provided an opportunity for members to reconnect with one another, to connect with the esteemed judges and for the first year members / baby juniors to familiarise themselves with the senior members of the Bar and members of the judiciary.

The night also allowed us to indulge in drinks, hot meals and sweet dishes. The live band which provided great entertainment added a lovely touch of African sensation to the event.

The bar dinner ended with legal minds on the dance floor.



Judge President of KZN Poyo-Dlwati, Moerane SC and Mahabeer SC.



Zandile Qono and Fezeka Kuzwayo.

NEW MEMBERS AT THE PIETERMARITZBURG BAR

The KZN Bar has welcomed the following new members in Pietermaritzburg:

- Futhi Cabe – LLM Business Law – MBA – Former executive at a bank
- Kwazi Mshengu – LLM Business Law – Former MEC of education
- Kiashen Brimiah – Former candidate attorney
- Kashmita Gayadin – LLM Business Law – Former law lecturer
- Avastha Singh – Former attorney and legal advisor
- Mkhululi Nkomo – Former candidate attorney
- Phumlani Majola – Former pastor



Futhi Cabe



Kwazi Mshengu



Kiashen Brimiah



Kashmita Gayadin



Avastha Singh



Mkhululi Nkomo



Phumlani Majola



2024 FUTURE LEADERSHIP SYMPOSIUM

by **Francette Gouws, Riyan Ramdass, Nonkhululeko Ntuli and Simiso Miya**, KZN Delegates

The 2024 Future Leadership Symposium was hosted by the Cape Bar on 5 and 6 July 2024 at the Vineyard Hotel, Cape Town, where we were privileged to represent the KwaZulu-Natal Society of Advocates. Needless to say, each and every one of us felt fortunate to have been chosen and will forever be grateful for the opportunity.

Despite being unsure of what to expect from the symposium, we soon felt encouraged to consider leadership positions at our bar and to have the proverbial “torch” passed on to us. We, as prospective future leaders, are now acutely aware of our duties to uplift our bar and guard its future.

On arrival, we rotated through the room for speed introductions, excited to meet our colleagues from the bars across the country. This was an excellent icebreaker and facilitated dialogue between all who attended. After a hearty dinner, the chairperson of the Cape Bar, McCurdie SC, gave a compelling speech which centred around what it means to be a true leader and, to this end, the vital role which self-reflection and

introspection play. A true leader not only knows when to lead but also understands and appreciates when to follow.

The next day, we paid a visit to the District Six Museum, which proved to be both fascinating and unique. This was largely due to the fact that it was not curated by historians but rather by the very people who were affected by the forced removals under the Apartheid government. The personal accounts of what life was like in District Six before it was demolished provided us with first-hand insight into the profound effect it had on the community.

On the final day of the symposium, we were honoured to be addressed by the Honourable Justice Meer, whose inspiring speech was followed by an interactive and insightful question-and-answer session covering various topics concerning the legal fraternity. She shared unparalleled wisdom: we all have “chips” on our shoulders, but we should not use our “chips” as leverage to get what we want. Justice Meer’s experience is a true example of how, no matter your background, hard work and perseverance

can and will always lead to success.

The symposium was concluded with an inspiring and heartfelt talk by the now chair of the GCB, Kissoon Singh SC, who spoke of the importance of women empowerment from a gentleman’s perspective. One could sense his warmth and sincerity when he discussed the importance of respecting, supporting and encouraging women.

The delicate touches that went into the successful symposium were noticeable in every aspect. It was a once in a lifetime experience, and we will endeavour to ensure that we not only use these lessons but also pass on what we have learned to others.

As always, breaking bread with colleagues from other bars goes a long way, and while we learnt that we all face similar struggles, we also discovered our common solidarity and passion to grow as loyal members of the Bar. With unity, a sincere care for the profession, and a clear vision to constantly better our bar, we truly believe that we can continue to uphold the values of our bar and the profession as a whole. **A**



Left to right Francette Gouws, Riyan Ramdass, Simiso Miya, and Nonkhululeko Ntuli.