

Johannesburg Bar: centenary publication



Judge Piet Schabot (right), Acting Deputy Judge President, Witwatersrand Local Division, receives a copy of the Johannesburg Bar's centenary publication 100 Years in Pursuit of Excellence from Hilton Epstein SC, chairman of the Johannesburg Bar, at a function on 11 March 2003. A copy of the book was presented to each of the judges of the WLD.

Declaration of 30 October 2002

Extracts from the declaration which sets out "the collective reason" for resigning from the Johannesburg Bar Council:

"For some time before 1998 black members at the Johannesburg Bar campaigned for transformation of the Bar. What was envisaged was that the Bar would change in a way which would ensure the development of previously disadvantaged members (who include blacks and women) into respected leaders of the Bar. As important, was the expressed desire that black members no longer make up the poverty stricken, bottom-end of the Bar, bereft of advocacy skills and regarded by their white counterparts as people without a legitimate claim to be here. Ultimately, we believed that a fundamental transformation of the collective consciousness of the membership of the Johannesburg Bar was required in order to ensure that, as an institution, we maintained pace with our changing and developing society.

In 1998 the Johannesburg Bar Council set upon a course of transformation which culminated in three constitutional amendments, the last one being in 2001.... These constitutional amendments were but a part of the process of transformation, intended to facilitate it, but ultimately dependent upon the extent to which members of the Bar were willing to adopt and embrace its underlying rationale.

Despite these constitutional amendments which brought about changes in the representative nature of the Johannesburg Bar Council, transformation has proven to be slower even than the proverbial wheels of justice. The professional development of black members

and women, comprehensive training and mentoring, their membership of groups, and briefing patterns, have not kept pace with the social and constitutional changes in the broader South African community, or indeed with the constitutional changes relating to representivity on the Bar council.

This failure by the Johannesburg Bar to adopt and embrace the process of transformation has raised questions about the credibility of a number of members who have been elected in terms of the constitutional dispensation introduced by the amendments referred to above. We think it inappropriate that members elected to the Bar council under the present constitutional scheme should be deprived of the confidence they ought to enjoy from all sections of the Bar, in order to provide a meaningful role of leadership. Without such confidence, and in the midst of expression of lack of credibility to a segment of the Bar council, we would not be able to become part of the leadership structure of the Bar, for we shall not have the confidence of those we are supposed to lead, in the implementation of the transformation of the Bar.

In this regard we place on record that the performance of the previous Bar council on matters of transformation has not been encouraging and has called to question the relevance and desirability of our continued participation in the present Bar council.

Material and substantive transformation of the Bar has always been at the heart of our support for the constitutional changes at our Bar and at the General Council of the Bar. Real transformation is necessary for the continued existence of an independent profession, the Bar and General Council of the Bar as we know them, the continued existence of an independent judiciary, staffed by black and

women judges in a manner reflective of our society, and the growth and development of colleagues. For these reasons, we participated in the Bar council and in its affairs, in the hope that we could persuade colleagues to provide the necessary leadership, devote the institutional resources of an institution we respect and embracing transformation sufficiently meaningfully to ensure its occurrence, all with the sense of urgency demanded by the pressing need for transformation.

Regrettably this has not happened, and we are compelled to reconsider our participation and position. We now believe that the cause of transformation will best be served by the adoption of alternative methods, within the Johannesburg Bar, but outside of its Bar council. The basis upon which we intend to engage the Johannesburg Bar, but outside of its Bar council. The basis upon which we intend to engage the Johannesburg Bar Council will, for now, also change. By serving on the Council we have been unable to achieve any progress in the transformation process. By withdrawing from it we hope to achieve what for us is the priority.

We have accordingly resigned from the Bar council. We do so, committed to real transformation of our Bar, the provision of the necessary leadership to the previously disadvantaged (and indeed to the Bar as a whole) and committed to speeding up substantive transformation at our Bar.

We will in future engage the Johannesburg Bar Council not as members of that Council, but as members of the Johannesburg Bar who support the General Council of the Bar."

Nazeer Cassim SC, Sharise Weiner SC (Ms), Vincent Maleka SC, Patric Mzolisi Mshaulana, Timothy Bruinders, Kgomotso Moroka (Ms), Rafik Bilana, Aslam Bava, Azhar Bham, Fayeza Kathree (Ms), Mohammed Chohan, Terry Motau, Hamilton Maenetje, Goolam Ameer.

