

unwelcome. Such attacks in the United States and even in the United Kingdom have come from politicians of all persuasions and from sections of the press. I am sorry to say that I have noticed a similar tendency in South Africa. Although I have seen nothing like the level of vituperation reached in the United States, these attacks are nonetheless deplorable. They cause pressures which in themselves may undermine judicial independence. They lead to loss of respect not merely for particular judges or courts, but for the judiciary as an institution. It is difficult for the judges themselves to respond to these attacks. I want to suggest that it is the duty of the organised Bar to defend the judiciary vigorously against these unwarranted attacks.

There is one particular ground of attack on the judges, popular abroad and, it seems, in South Africa, which the Bar is particularly

well placed to answer. When judges applying the law have held that some executive action or some law is unconstitutional, one hears expressions of outrage, claims that it is undemocratic for unelected judges to overrule the decisions of an elected government or legislature. The answer, as we lawyers know, is that the judges have not taken powers to which they are not entitled. Their judicial powers have been conferred on them by a constitution enacted by a fully democratic Parliament after the broadest democratic consultation. The powers exercised by the courts under the constitution have full democratic legitimacy. They are the ultimate safeguard of democracy and individual liberty, not usurpations.

An English judge once concisely stated the proper constitutional relationship between the executive and the courts. The courts will respect all the acts of the executive within its

lawful province: and the executive will respect all decisions of the courts as to what its lawful province is. That is exactly what the South African constitution requires.

I hope and expect that the South African Bar and this Bar in particular will speak in defence of the judiciary and of the court's role, in accordance with the traditions of which I spoke earlier.

It remains for me to thank you all again. In particular I thank the Johannesburg Bar and its chairman, Ishmael Semenya, for their hospitality. And I appreciate the presence of the chairman of the General Council of the Bar of South Africa, Patric Mtshaulana. It has been for me a memorable and moving occasion. A celebrated English lawyer of the 17th century, Francis Bacon, said that every man is a debtor to his profession. I have never been more conscious of that debt than I am this evening.' 

MacArthur Award for International Justice



Justice Richard Goldstone

Justice Richard Goldstone is the 2009 recipient of the MacArthur Award for International Justice. At his request The International Bar Association's Human Rights Institute (IBAHRI) has been included as one of five non-governmental organisations, to receive a generous donation of \$100,000 from the John D and Catherine T MacArthur Foundation.

According to the John D and Catherine T MacArthur Foundation, the Award for International Justice honours individuals that have been transformative forces in the fields of human rights and international justice; improved existing - or helped to create new - institutions, norms, and systems of international justice; and demonstrated long-term commitment and made a significant personal contribution to advancing international justice.

Justice Goldstone's acceptance speech focused on the movement towards, and the complexities of, building an international culture of accountability, 'where there will be no place for war criminals to hide.' He concluded with: 'The role in all of this of non-governmental organisations has been of crucial importance. Without their advocacy, without their naming and shaming, without the courage of their workers who do not hesitate to put themselves in situations of danger, we would not have the movement to which I have just referred. Their ceaseless lobbying of political leaders, their missions and reports are no longer capable of being ignored by the lawless or the lawmakers. It is in that context that we should applaud the vision and programs of the MacArthur Foundation. Their role in this endeavour makes me so proud to receive this Award.'

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