

Johannesburg

A Chamber for Duma Nokwe

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The bronze bust of Duma Nokwe unveiled at the entrance to Fountain Chambers.

On 5 December 2009, 44 years to the day after his arrest on charges of treason, the Johannesburg Bar celebrated the life and contributions of Philemon Pearce Dumasile (Duma) Nokwe (1927-1978), when a bronze bust of Nokwe was unveiled at the entrance to Fountain Chambers, the home of the Duma Nokwe Group of Advocates.

At a Bar where Nokwe was a member, but could not have a cup of tea in the common room, a bust of Nokwe now stands regally and pensively gazing into the distance. Of the positioning of the bust, Willem van der Linde SC, on behalf of the General Council of the Bar of South Africa, said the following:

'Duma Nokwe is now so positioned that every morning when you come to chambers, you will see him and be reminded of all for which he stood – his suffering, his resilience, and his victory, if only posthumously.

But he is also position that his gaze may fall constantly on each of you. From that vantage he will be able to observe whether you are living up to his memory, and whether you are keeping alive his values of independence and of commitment to the reign of law.

And finally he is so positioned that we, your colleagues, not only from the immediate neighbourhood, but also from far beyond Johannesburg, will be aware of him; and we will be reminded of the values of dignity and

perseverance in the face of the oppression of justice.'

The wonder of an evening where Van der Linde, in 1981 a *'troepie'* doing a military camp in the then South West Africa, and Patric Mtshaulana SC, a young MK on the other side, and the group leader of the Duma Nokwe Group of Advocates, both paid homage to Duma Nokwe, was not lost on the long list of legal and political luminaries who attended the unveiling. Included amongst these were President Jacob Zuma, former President Thabo Mbeki, the Minister of Justice Jeff Radebe, former ministers of the government, mayors, judges, members of the legal fraternity, ambassadors, foreign dignitaries from neighboring countries and veterans of the struggle for the liberation.

Besides Van der Linde, the other speakers of the day included Kgomotso Moroka SC, who welcomed the guests, Michael Kuper SC, who represented the Johannesburg Bar, Dumisa Ntsebeza SC, on behalf of Advocates

for Transformation and the Duma Nokwe Group of Advocates, Duma Nokwe's daughter, Nosizwe, and the Minister of Justice and Constitutional Development. The guest speaker was President Jacob Zuma. Letters of support were read from Justice Albie Sachs, the Legal Aid Board, Deputy President Kgalema Motlanthe, former Chief Justice Pius Langa and Chief Justice Sandile Ngcobo, Messages from the Johannesburg Bar Council, George Bizos SC, and former President Nelson Mandela were read by juniors (Lekoane, Mathabathe, Yacoob, Sello, Karachi, Smit). The master of ceremonies was Paul Pretorius SC.

The day celebrated Nokwe's achievements. Nokwe was born in Evaton to a working class family. He studied at St Peters Secondary School and later completed a BSc degree at Fort Hare in 1949. He initially became a mathematics teacher. However, like many other teachers of his time he was dismissed for his political involvement in the Defiance Campaign. He

proceeded to study law at the University of the Witwatersrand where he completed his studies in 1955. Of this seminal decision to study law his family related that it flowed from his observations and experiences of the plight of his people. In his tribute to Nokwe, Bizos noted that, unlike the experiences afforded students of law today, Nokwe could not spend sufficient time after the early evening lectures in the library because he had to catch the last train at 9:00 pm from Braamfontein Station to Orlando West where he and his wife Tiny lived. She too had been dismissed because of her non-acceptance of Bantu education.

Bizos also related that, whilst studying law, Nokwe did not accept the policy nor the decree of the dean of the Faculty of Law that Nokwe and seven other black students could not attend the law dinner because judges, the Attorney-General and the leaders of the legal profession would be embarrassed by their presence. In any event blacks could not attend the function held in a hotel

where alcoholic drinks would be served. The dean was forced to change his mind when the Students' Representative Council threatened to withdraw the subsidy of £100 to pay for the professors and the honoured guests!

Nokwe thereafter qualified to practise as the first black advocate of the Transvaal Supreme Court. In his speech Kuper SC referred to the interesting record of correspondence between Adv Issy Maisels SC, the then chairman of the Bar Council, and Dr HF Verwoerd, then holding the portfolio designated as Minister of Native Affairs, regarding Duma Nokwe's admission as a member of the Johannesburg Bar. Of this correspondence Kuper SC said:

'The first is to confess a small sense of satisfaction that the Bar had done its duty and moreover it had not just gone through the motions; it was clear from the correspondence that the leadership of the Bar felt passionately that a terrible injustice had been perpetrated.

The second, of course, was the depth of the insult and humiliation visited upon Duma Nokwe, decent honourable and courageous man, who was spitefully denied the oppor-

tunity to follow the occupation of his choice. It was a matter of personal tragedy entirely unwarranted and devastating in its effect.

Thirdly, it was an insult and an affront to all those wished to pursue their calling in a shared profession, regardless of colour or creed.'

The constitution of the Bar had been amended on the initiative of Oliver Schreiner in the 1930s to allow for non-whites to become members of the Bar. Despite this, a small minority of the Bar opposed Nokwe's



Former SA President Thabo Mbeki, Minister of Justice and Constitutional Development Jeff Radebe and President Jacob Zuma at the Duma Nokwe celebration.

admission. A special general meeting of the Bar was called, at which the minority objected because his occupation of chambers in His Majesty's Building and his entry into the common room would be unlawful according to the Group Areas Act. Despite this the Bar Council resolved that Nokwe would be welcomed to the Bar and that all facilities would be available to him. Thereafter the minority threatened that should Duma take up his right to use the common room, they would notify the Group Areas inspectors and have him arrested.

Nokwe consulted with the leaders of the ANC to determine what stance he should take and he was advised by Walter Sisulu that we cannot jeopardise the opportunity to have the first black member of the Bar for the price of a cup of tea. As Bizos recounted:

'Black members did not make use of the common room for many years until Sidney Kentridge escorted Ismail Mahomed into the common room. The world did not come to an end. It was too late for Duma to have that cup of tea. He had gone into exile.'

Nokwe's treatment at the hands of the

National Party Government and some of his fellow members of the Bar deeply ingrained his philosophy that he taught his own children, namely that 'the hue of a person's skin is only skin deep and is based on the level of melatonin all of which has no effect whatsoever on mental capability or physical prowess and no one should convince you otherwise.'

Of Nokwe's practice at the Bar, President Zuma related that Nokwe followed in the footsteps of Dr Pixley ka Isaka Seme, Nelson Mandela, Oliver Tambo and many others who

represented a generation of the legal fraternity who used the law to push the boundaries of what constituted human rights.

He was arrested on 5 December 1956 and tried for treason which went on until 1961 where he was eventually acquitted on appeal. At a later stage the State found an incriminating document and he was to be put into detention without trial. He decided to leave the country in exile where he died at a young age of 50 in 1978, never having returned to South Africa – his promised land.

The day was a celebration of Nokwe's contribution to creating the democratic society we live in today. In his tribute to Nokwe, Deputy President Motlanthe related the following regarding Nokwe's contribution to the struggle and his exile:

'What sustained his remarkable contributions in the struggle against apartheid oppression was his full appreciation of the need for a democratic society based on non-racialism, non-sexism, equality and justice. His exemplary work in the movement has left a legacy that many have followed. Duma Nokwe left behind an ethical message that is inscribed in our Constitution which sees no separating line between the upholding of human rights and rigorous democratic practice.

When he left for exile in 1963, he carried with him the hopes of masses of the disenfranchised and in western capitals he discharged effectively his international solidarity work to champion a cause of the poor and voiceless. He was a familiar figure and comfortable in both august stages of the United Nations (UN) as much as he was at ease in mobilising forces of resistance in Lusaka.'

The day was a celebration of what Nokwe had come to represent regarding the ideals of the law and its true purpose. President Jacob Zuma said:

'He belonged to a tradition of lawyers who fought for democracy. He used his knowledge of the law as an instrument to fight for human rights. Following in the footsteps of Nelson Mandela, Oliver Tambo, and many others, he represented a generation of the legal fraternity who used the law to push boundaries of what constituted human rights.'

In his speech Michael Kuper said the following regarding the following of Nokwe's legacy at the Bar:

'In my true belief it is the great virtue of the Duma Nokwe Group, and it is the true significance of today's celebration, that this generation of advocates has chosen to learn from the bitter lessons of the past and to rededicate itself to the creation of an institution of which both Duma Nokwe and Issy Maisels would have been proud.'

A group that bears the name of Duma Nokwe does not justify itself if it was simply another group of advocates. A group that bears that name has a special mission to fulfill. It is not enough that such a group proudly takes its place in the mainstream of the Bar and includes, as it does, many of the outstanding

advocates of this country.

This Group will only justify its name and its heritage when it takes up its legitimate portion in the leadership of the advocates' profession and carries the message that this Bar, in this generation, will achieve the ideal for which the previous generations strove: unity in the service of justice, a shared tradition of moral and professional excellence and a vigorous independence of mind.'

The day was a celebration of Nokwe's humanity and it was recounted in his family's tribute how:

'... [w]hen the Soweto uprisings began and he was so agitated and yet excited repeatedly stating that "the children had done it and they were going to change the path of the struggle in a decisive way". As the young fighters streamed out of the country to Lusaka I recall him always rushing to meet each contingent then writing furiously into the night and asking my mother to buy sweets as he said and I quote "they are but children after all and they have been forced by the system to forego their childhood in the quest for a free south Africa. It is only just that we allow them some part of their childhood as we can do that."

We, his children knew him as Daddy, Tata, as the man who always had a smile, a joke a

warm word or gesture an omnipresent Father despite his total commitment to the movement his travels to far off countries on behalf of the ANC.

It was his engaging manner that was unique about him. The way he always reasoned in depth and encouraged you to challenge him and challenge issues but to always stand for that which is right. The premise that you cannot argue about something unless you have researched it and know it thoroughly, then you can begin to articulate your argument such that you convince even the most discerning protagonist.'

By all accounts Nokwe was a man whom Celus (Digest 1.1.1 pr, 1.) would have described as a priest of the law, one who pursued the art of goodness and fairness, who cultivated the virtue of justice and claimed awareness of what is good and fair, who was able to discriminate between what is fair and unfair, who was able to distinguish lawful from unlawful and one who lived a philosophy that was not a sham. The day was a celebration of Nokwe, the priest of the law, and that this may rightfully be said of Nokwe he is attested to by the most striking feature of the day: white and black members of the Bar celebrating the life and contributions of Nokwe and claiming him as a hero of our Bar. 

South African takes silk in Canada



Former Johannesburg Bar member, Josef Krüger, has taken silk in Canada.

Krüger articulated at Fleischacks in Potchefstroom and was admitted as an attorney in 1983. In the early 1990s he was a founding member of the group formed by Jules Browde SC at National Board House. In 1996

Krüger joined Group 621. In 1998 he emigrated, joining Howard Mackie, a Canadian law firm in Calgary which subsequently merged with four other firms. He is now a partner at Borden Ladner Gervais LLP in Calgary (the largest law firm in Canada) and manager of the commercial litigation group. He is currently the co-chair of an IBA subcommittee on reorganisation and workouts.

Krüger says:

'During my career as a member of the Johannesburg

Bar I was fortunate to be guided by excellent mentors such as Fanie Du Plessis SC, Hiram Slomowitz SC, Schalk Burger SC, Jeremy Gauntlett SC and Dennis Fine SC.

Having to re-qualify as a lawyer in Canada at the age of 42 was the hardest thing I have ever done, but with the challenge also came great satisfaction and reward. The members of the Alberta Law Society were very welcoming, and I regard it a privilege to appear in front of the outstanding Bench which we have in Alberta.

Being appointed Queen's Counsel in January 2010 by the Lieutenant-Governor-in-Council of Alberta is a great honour which I did not imagine possible when I joined the Law Society of Alberta ten years ago. I ascribe a significant part of my success in Canada to the excellent training and experience I received as a member of the Johannesburg Bar.'

Josef Krüger is married to Coenie, a music teacher. They have three sons and live in Calgary. 