

Press releases by the GCB

Extension of term of office of the Chief Justice

The General Council of the Bar of South Africa ('the GCB') is deeply concerned about the controversy that has arisen about the extension of the term of office of Chief Justice SS Ngcobo, and the unintended reflection that this controversy may cast upon the person of the Chief Justice, the office of the Chief Justice and the administration of justice in general.

It is clear that section 176 (1) of the Constitution permits of the extension of the term of office of a Constitutional Court judge, where such extension occurs through an Act of Parliament. There is accordingly no constitutional impediment to the extension of the term of office of the Chief Justice, provided that such extension is effected by the legislature by the adoption of appropriate legislation.

The controversy has arisen by virtue of the fact that the President has invited the Chief Justice to serve for a further five-year period, exercising the powers vested in him by section 8 (a) of the Judges Remuneration and Employment Act 47 of 2001. It is contended by a number of commentators and institutions that the provisions of that Act upon which the President relies are unconstitutional, and litigation on this issue appears to have initiated in the past day or so. We deliberately refrain from commenting on such litigation but are convinced that, whatever the outcome, it can only occasion damage to the image of the judiciary, which should be avoided wherever possible.

The GCB points out that it is open to the Legislature to adopt legislation specifically extending the term of office of the Chief Justice and in so doing put the growing controversy to bed. We point out, however, that the term of office of the Chief Justice currently comes to an end on 15 August, and that if the legislative route is to be followed, prompt action is required. We urge the adoption of an approach which will preserve the dignity of the judiciary, and in particular, that of a highly respected Chief Justice.

RAK Vahed SC

GCB chairman

15 June 2011

Sydney and Felicia Kentridge Award

The GCB's prestigious Sydney and Felicia Kentridge Award for Service to Law in Southern Africa was presented to the Deputy Chief Justice, Judge Dikgang Moseneke, at a gala dinner, on the occasion of the 66th annual general meeting in Port Elizabeth.

The award is presented annually to a person who has made an exceptional contribution to the development of the law in Southern Africa.

A full report will appear in the next issue of *Advocate*.

Previous recipients of the Sydney and Felicia Kentridge Award include, inter alia, former Chief Justice Arthur Chaskalson, former Chief Justice Pius Langa, the late Bram Fischer QC, Beatrice Mtetwa (Zimbabwe), Justice Johann Kriegler, Julian Browde SC and George Bizos SC.

The late Justice Herbert Msimang

It is with sadness that the General Council of the Bar of South Africa (GCB) learnt of the death of Justice Herbert Qedusizi Msimang who died on 7 April 2011.

Judge Msimang had a long and distinguished career in law. He obtained the degrees BJuris (University of Zululand) LLB (University of South Africa) and LLM (Tulane University, Louisiana) and first lectured in private law at the University of Zululand before practising as an advocate at the Maseru Bar in Lesotho. Thereafter he practised as an attorney in Mpumalanga and KwaZulu-Natal. He held acting appointments as a judge both at the Cape High Court and in KwaZulu-Natal before being elevated permanently as a judge of the KwaZulu-Natal High Court in 2002. During April 2010 he was appointed as the Judge President of that Court.

He has served on the KwaZulu-Natal Bench with distinction, for much of that time also bearing the burden of his illness. During that time he consistently refused to allow that illness to interfere with the discharge of his judicial duties. Judge Msimang also gave of his time generously in the affairs of many social, educational, charitable and human rights organizations. He has served variously as a member of the panel of examiners for the KwaZulu-Natal Law Society, a member of the Governing Council of the Indumiso Teachers' Training College, a commissioner in the Small Claims Court, a member of the Board of Grey's Hospital, a legal advisor to Maritzburg City Football Club, the chairman of the Board of Trustees of the Umgeni Aids Centre and as a part-time commissioner for the Independent Electoral Commission.

Judge Msimang will be missed and the GCB extends its sincere condolences to his family, loved ones and friends.

Hamba kahle bab' uMsimang

RAK Vahed SC

GCB chairman

08 April 2011 