Editorial

Talk about writer’s block – never underestimate the difficulty of writing your first editorial! As a lawyer who is not, and has never been, a magistrate, I agonised for days over this editorial. My concerns ranged from content and tone to language usage (over the years working with NGO’s and CBO’s, I have developed a plain language/accessible approach in both verbal and written communication). Would magistrate find this too simplistic, offensive, patronising, or what?

Finally, it struck me that in the short time that I have been with LRG, I have met many of you at the workshops held in KwaZulu-Natal, Port Elizabeth, Kimberley, Umtata and Pietersburg. Thus far, I have had no problem (with one exception, i.e. Malcolm at the Kimberley workshop when I needed an Afrikaans-English interpreter) in communicating with such a diverse and interesting group of people. So, here goes ...

LRG has recently undergone some changes starting with the departure of Francois Botha in mid-May. The void left by Francois’s unexpected departure, has been partly filled by Christina Murray and Sarah Jagwania who are both juggling their teaching loads with the work of the unit. Veronica de Beer and Hilary Burricks have also been diversifying their administrative talents in the past 3 months. This included packing and moving the entire Unit to its new home on Middle Campus, UCT in 5 days flat. (I have repeatedly been told, that I can never understand or appreciate how traumatic this process was for the two of them). They struggled with bureaucracy, inefficiency, lack of support, theft etc. etc. Thanks to their talents and efforts, the work of LRG continued uninterrupted.

In light of increasing requests for social context training, LRG has decided to hire 2 more people i.e. a Deputy Director and a Training Coordinator/Trainer. These posts have been advertised and we will keep you informed of developments. An idea, in respect of offering short-term internships to magistrates, was also discussed recently. Such internships would involve LRG hosting a magistrate for a short period - ranging between 1 and 3 months. During this time the person would be involved in the activities of LRG and the larger Law Faculty. We have not fully conceptualised this idea and any suggestions would be warmly welcomed.

Looking forward to your inputs.

Rashida Manjoo

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New Blow to Child Abusers in Pietersburg

Child abusers in Pietersburg have just been dealt a fresh blow! This is the news from our reporter in the Northern Province. In an interview with News & Views, Corrie Volschenk, one of four regional court magistrates in Pietersburg, proudly demonstrated their new weapon against child abuse perpetrators – a brand new set of five anatomically correct dolls.

Corrie explained that it has always been their desire to improve the conviction rate in cases of sexual abuse against children but they have been hampered by a lack of resources. They are fortunate enough to have a closed circuit television system at both the Pietersburg and Louis Trichardt courts that lessens the trauma imposed on the young children when they are called to testify about their ordeal. They also have a dedicated group of investigating officers at the child protection unit that walk that extra mile with the victims to ensure that they are ready for court. A group of intermediaries are also available on short notice to assist the victims during trials.

Notwithstanding all this it was still difficult for children to describe penetration and sexual movements to the court, often leading to the child being subjected to a barrage of questions by the prosecutor. This type of questioning only confused the child and caused him/her to refuse to answer any further questions. After discussing this problem with members of the child protection unit, the prosecutors and the intermediaries it became clear that the answer would be a set of anatomically correct dolls. Dolls would allow the child to demonstrate the act of penetration and sexual intercourse without relying on the limited vocabulary of a toddler.

Corrie then attempted to get hold of a set of anatomically correct dolls but the first problem was where to get it and secondly where to get the necessary funding. During the LRG seminar at the Mangoebaskloof Hotel in August she discussed the problem with Rashida Manjoo who undertook to put him in touch with people that may assist him.

Reliable, as always, Rashida soon phoned Corrie with the great news that RAPCAN, a section 21 company headed by Carol Bower generously donated a set of dolls to the Pietersburg court and that LRG would cover the cost to send it to us by courier. News & Views correspondent reports that, Corrie was over the moon about this news and couldn’t stop talking about it in the teanroom. When the package arrived it also contained a set of Abuse Prevention Posters and a children’s cartoon book. A Trolley Full of Rights. A training session for the prosecutors and the intermediaries is already being arranged to implement the use of the dolls as soon as possible.

The staff of the regional courts in Pietersburg and especially the children of the Northern Province would like to express their sincere thanks to all the people and organisations who so generously donated resources and time to make this possible. We will report back about future successes.
AN UPDATE ON THE NEW CHILD JUSTICE SYSTEM
by Catherine Wood*

Introduction
At the end of July 2000, the South African Law Commission (SALC) approved the Child Justice Bill drafted by the Juvenile Justice Project Committee. The Bill is part of a long process of youth justice reform in South Africa aimed at the development of a comprehensive justice system to manage children accused of committing offences.

The Bill covers the procedures that must be followed from the time a child is apprehended until the passing of sentence and aims to ensure the protection of children’s rights, as provided for in the Constitution and other international instruments. Furthermore, a central feature of the Bill is to promote, wherever possible, the adoption of a restorative justice approach towards children accused of committing offences. The SALC Juvenile Justice Project Team has defined restorative justice to mean “the promotion of reconciliation, restitution and responsibility through the involvement of a child, the child’s parent, family members, victims and communities.”

The effective implementation of the proposed system is dependent on the cooperation of all relevant government departments, welfare agencies and other youth service providers. As a result, one of the most important aspects of the Bill has been the clarification it provides with regard to the duties and responsibilities of the police, probation services, justice personnel, legal representatives, and diversion service providers. In particular, there has been a shift to acknowledging the central role that probation officers need to play, especially in the initial assessment and in making recommendations regarding the use of diversion and placement of the child.

Central recommendations
Age and criminal capacity
- The Bill retains the delin incapax and delin incapax presumptions but adjusts the ages. It proposes that:
  - the minimum age of prosecution should be 14 years;
  - children below the age of 10 cannot be prosecuted; and
  - children between the ages of 10 and 14 are presumed not to have the capacity to appreciate the difference between right and wrong and are to be dealt with in accordance with that presumption. This presumption can only be rebutted by the submission of a certificate from the Director of Public Prosecutions.

Ensuring the expanded use of diversion
A central feature of the proposed system is to entrench greater diversion of cases away from formal court procedures. The Bill proposes:
- The addition of a compulsory assessment by probation officers within 48 hours of the child’s arrest;
- The insertion of a compulsory preliminary inquiry procedure presided over by a district court magistrate and held within 48 hours of a child’s arrest and prior to his/her plea;
- The expansion of the range of diversion options;
- The establishment of less formal Child Justice Courts or One Stop Child Justice Centres;
- The establishment of a system to monitor the implementation of the law.

Duties and responsibilities of inquiry magistrates
Under these new procedures, the main role of the inquiry magistrate is to preside over the preliminary inquiry. The Bill stipulates that this person should be a district court magistrate who has been designated by the chief magistrate for this purpose. Key responsibilities include:
- Ensuring that the compulsory assessment has been completed;
- Making a decision as to whether the matter should be:
  - immediately diverted; or
  - transferred to a children’s court for an inquiry; or
  - prosecuted; and
- Determining the appropriate placement of the child.

If the matter is to be diverted, the inquiry magistrate should ensure that the most suitable option is selected - taking into consideration all available information regarding the child, his or her circumstances and the offence. To accomplish this, the magistrate would need to ensure that the child’s caregiver and all other persons present are given an opportunity to express their views and actively take part in the decision-making process.

Concluding Comments
The major strength of the Bill is the provision it makes for the greater use of diversion. It is hoped that these new mechanisms will facilitate the cooperation of all youth justice professionals and other significant role players in exploring the appropriateness of diversion for every child accused of an offence. However, this will only occur if youth justice professionals work together and creatively make use of these provisions to hold less formal and more participatory criminal proceedings. Magistrates, in particular, will need to draw in families, NGOs, welfare agencies, community members and others to assist them in developing suitable, individualised and inexpensive diversion plans during the preliminary inquiry.

Please note that the Bill is available at http://www.law.wits.ac.za/salc/ or from the SALC (Tel: 012-322 6440).

*Project Manager, Youth Justice Project, Institute of Criminology, University of Cape Town
On the 7th of September 2000 Regional Court Magistrate Piet Theron was gunned down and killed, in front of his family home in Plumstead. After 27 years of marriage, the father of two sons became another statistic in the mindless urban terror that has turned the Western Cape into a war zone.

Piet Theron began working in the Department of Justice in the late sixties as a clerk, making his way through the ranks pretty much in the traditionally required style. His dedication and commitment, however, paid off, and saw him as the first Regional Control prosecutor ever to be appointed in Wynberg. As a district court magistrate he soon became the expert on drug-related cases, and the more complicated high-profile matters were almost automatically assigned to his court. In 1992 he was appointed to the Regional Court Bench, and became well known and respected among the legal fraternity. Not all the stories are recalled with equal fondness. His reputation for an almost over-zealous and meticulous insistence on following prescribed procedures, an unforgiving and a no-nonsense attitude on discipline in his court became legendary. The acid test, the unwritten final exam and benchmark qualification for the budding Regional Court prosecutor was the question whether he or she made it in Piet's court.

But there was also another side to Piet Theron. It was this side of the bespectacled and short-fused icon of justice that left the Wynberg Magistrates Court stunned and devastated by his sudden departure. A side which I discovered, and learned to like so much, during the last four months in the intimacy of the Regional Magistrates' tearoom. I will always remember the instant glint in his eyes, at even the most remote chance of a joke being cracked, whether it was his own, or at his expense (of which there were many, given that we shared a somewhat unique hair style).

And dare anyone talk about their children. The man, insatiably hungry for family stories, simply would not leave you alone, and very much expected the same undivided attention when he proudly presented the latest achievements of his sons.

The assassination of the fearless Piet Theron was more than just a direct assault on our democratic and constitutional values; it was the worst fear of any judicial officer come true. The memorial service may have been a touching display of a newly-found unity within the divided ranks of the judiciary, but remains a fleeting moment of goodwill, spawned only by a disaster. What has been left behind? That the smiles brought about by a sudden memory will always be shadowed by new fears for the unknown, scarred by the breach with earlier trusted notions of protection. But most of all, perhaps, the constant awareness that a piece of humanity had been struck from the roll and ripped from our hearts, and that nothing will ever be the same again.

Let us remain hopeful, as we have done so diligently in the past when justice has become invisible, that the many promises of reform and support prove to be more than politically correct politeness. May the Theron family find consolation in our ongoing prayers.
Two recent decisions in the Supreme Court of Appeal and the Constitutional Court have dealt with the rights of persons belonging to a religious community to practice their religion. (s 31(1)(a) of the Constitution of the Republic of South Africa Act 108 of 1996. The first, Prince v President, Cape Law Society and Others 2000 (3) SA 845 (SCA) concerned a candidate attorney (Prince) who wished to perform community service as part of his training. Section 4A of the Attorneys Act 53 of 1979 requires such a candidate attorney to submit his contract of service to the secretary of the relevant law society and to prove to the law society that he is ‘fit and proper person’. It appeared that Prince had twice been convicted under s 4(b) of the Drugs and Drug Trafficking Act 140 of 1992 of being in unlawful possession of cannabis sativa (dagga). Prince was a Rastafarian and used dagga in the observance of his religion. It was his intention to continue so using dagga. This led the council of the law society to consider him not to be ‘fit and proper person’ with the result that the law society refused to register his contract of service. Prince unsuccessfully applied in the Cape Provincial Division for the review of the Society’s decision. An appeal to the Supreme Court of Appeal followed in which Prince contended, inter alia, that both s 4(b) of the Drugs Act and s 22A(1)(b) of the Medicines and Related Substances Control Act 101 of 1965 (which also prohibits the possession and use of dagga) were unconstitutional in that they limited, inter alia, his freedom to practise his religion by failing to provide an exemption for the use of dagga by Rastafarians. The contention failed. It was held that Prince’s case probably had to fail in any event because the exemption sought was, in effect, one in terms of which the allegedly overbroad prohibitions in the two Acts were limited by the application of s 36(1)(e) (limitation of rights) of the Constitution. This was just another way of claiming an exemption not provided for in the legislation and which a court of law was not entitled to provide. It was, however, not necessary for the Court to come to a firm decision on this issue since, the Court held, the appellant’s case turned entirely on the wholly ill-founded submission that a general ban was not required because the abuse of illegal drugs could be equally effectively suppressed without banning the sacramental use of dagga by Rastafarians. The prevention of drug abuse was a legitimate government aim and an effective prohibition a pressing social purpose. The ban on the use and possession of dagga was imposed with the intention of protecting society as a whole and to lift it partially to allow its uncontrolled use by one section of the community could not leave society adequately protected. In addition, it would be impossible to police an order like the one prayed for.

The second case is Christian Education South Africa v Minister of Education, a decision of the Constitutional Court delivered on 18 August 2000 and to be reported in the December issue of the South African Law Reports. The central question in this case was whether, where Parliament had enacted the South African Schools Act 84 of 1996 wherein it had prohibited corporal punishment in schools, it had violated the rights of parents of children at independent schools who, in line with their religious convictions, had consented to its use. The appellant argued that corporal punishment was an integral part of the active Christian ethos which it sought to inculcate in its learners attending its member schools in keeping with their Christian faith and that the blanket prohibition of its use in those schools was an invasion of their individual, parental and community rights to practice religion freely. The appellant appealed against the decision against it in the South-Eastern Cape Local Division on the grounds that the blanket prohibition contained in s 10 of the Act infringed the provisions relating to privacy; freedom of religion, belief and opinion; education; language and culture; and cultural, religious and linguistic communities articulated in respectively in ss 14, 15, 29, 30 and 31 of the Constitution. The Constitutional Court, in dismissing the appeal, held that for the purposes of making a determination in the matter it was necessary to adopt the approach most favourable to the appellant and assume, without deciding, that the appellant’s religious rights under ss 15 and 31(1) were both in issue. It was also necessary to assume, again without deciding, that corporal punishment as practised by the appellant’s members was not inconsistent with any provision of the Bill of Rights as contemplated by s 31(2). In the light of these assumptions, it was held that s 10 of the Schools Act limited the parents’ religious rights both under ss 31 and s 15. As to whether the limitation on the rights of the appellant’s members could be justified in terms of s 36 of the Constitution, the Court held that the outlawing of physical punishment in the school represented more than a pragmatic attempt to deal with disciplinary problems in a new way. It had a principled and symbolic function manifestly intended to promote respect for the dignity and physical and emotional integrity of all children. The schools in question of necessity functioned in the public domain so as to prepare their learners for life in the broader society. It was not sustainable to expect these schools to make suitable adaptations in respect of non-discriminatory laws impacting on their codes of discipline. The Court went on to hold that parents were not being obliged to make an absolute and strenuous choice between obeying a law of the land or following their conscience. They could do both simultaneously. What they were prevented from doing was authorising teachers, acting in their name and on school premises, to fulfil what they regarded as their conscientious and biblically-ordained responsibilities for the guidance of their children. Save for this one aspect, the appellant’s schools were not prevented from maintaining their specific Christian ethos. The Court accordingly held that, when all the factors were weighed together, the scales came down firmly in favour of upholding the generality of the law in the face of the appellant’s claim for a constitutionally compelled exemption.

It appears, this writer has heard on the radio, that the Government is considering the re-introduction of military conscription. In the past military conscription, in the case of persons who objected to it on the grounds of religion or conscience, brought difficult problems to the courts. See, for example, S v Tomse; S v Brice 1980 (2) SA 802 (A) and S v Sangster 1991 (3) SA 798 (D). In those not so far-off days there was no Bill of Rights protecting the right of persons 'to . . . practise their religion'. If military conscription is re-introduced, what impact will s 31 of the Constitution have on persons who object on religious grounds to any form of military service. In both the Prince case and the Christian Education case reliance on s 31 of the Constitution failed. In both of those cases the Courts held, in effect, that a law of general application can validly require a person to refrain from doing something (smoking dagga or imposing corporal correction) which is in accordance with that person’s religious beliefs. It is, however, a very different matter when a law requires (as, for example, in the case of military conscription) a person actually to do something which his religion requires the person not to do. That would amount to a positive breach of the tenets of the person’s religion, which is very different from refraining from performing an act recommended or urged by the religion. Does the Constitution permit a law which requires a person to act positively in breach of the tenets of his or her religion? A statutory demand to perform an act forbidden by a person’s religion would, this writer submits, seriously compromise the ‘right . . . to practise their religion’, if not render it nugatory.
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DEVELOPING THE LAW IN THE LIGHT OF THE EQUALITY GUARANTEE
by Saras Jagwanth

S v Baloyi 2000 (1) SACR 81 (CC) involved a challenge to the constitutionality of s 35 of the Prevention of Family Violence Act 133 of 1993, in which it was contended that the Act imposed a reverse onus presumption and violated the presumption of innocence. Baloyi came to the Constitutional Court as a confirmation order by a High Court which had declared the impugned provisions invalid. In analysing the contention that the Act was unconstitutional, Sachs J for the majority showed a remarkable sensitivity to the pervasive and pernicious nature of domestic violence in society. He held that the distinguishing factor in domestic violence cases was its ‘hidden, repetitive character and its immeasurable ripple effect on our society, and, in particular, on family life. It cuts across class, race, culture and geography, and is all the more pernicious because it is so often concealed and so frequently goes unpunished’ (at paragraph 111).

The judgment begins with an analysis of the relevant constitutional provisions which impact on the lives of women. In particular, the Court highlighted the right to freedom and security of the person (which guarantees the right to be free from all sources of violence from either public or private sources in s 12), the right to dignity, and the right to equality. Sachs J noted that the foundational value of equality permeating our Constitution was undermined when spouses could better with impunity. He also pointed out the traditional difficulties in legislating against domestic violence because of the complex private/public divide and the reluctance of police officers to become involved in family disputes. Thus, a speedier, simpler and more effective process for the issuing of domestic violence interdicts was devised. He held, however (at paragraph 17) that the objectives of the interdict process were modest:

The principal objective of granting an interdict is not to solve domestic problems or impose punishments, but to provide a breathing-space to enable solutions to be found; not to punish past misconduct but to prevent future misconduct. At its most optimistic, it seeks preventive rather than retributive justice, undertaken with a view ultimately to promoting restorative justice.

However, the court also recognised the importance of giving constitutional protection to persons against whom a domestic violence interdict may be granted. Sachs J pointed out the importance of the rights to a fair trial, and the presumption of innocence. The task of the Court was therefore to balance the duty of the State to deal effectively with domestic violence and the right of accused persons to be granted a fair trial.

The Court concluded that the impugned section did not carry a reverse onus presumption because s 35 of the Prevention of Family Violence Act ‘imports only the provisions of the Criminal Procedure Act relating to “procedure” at a section 170 enquiry, (at paragraph 29) and the question of who bears the onus of proof is a question of substantive and not procedural law’.

An important part of the judgment in Baloyi is the recognition of the role of the state in protecting women from domestic violence. The Court held that s 7(2) read with s 12 ‘... obliged the state ‘directly to protect the right of everyone to be free from private or domestic violence’ (at paragraph 11). This observation by the Court is important because it recognises that the state is obliged to take positive steps in protecting, promoting and fulfilling the rights in the Bill of Rights in terms of s 7. This is particularly pressing when it comes to the protection of vulnerable groups in society such as victims of domestic violence. In certain cases it will not be enough for the state to refrain from interference with the enjoyment of rights but it must take proactive measures to ensure their fulfilment.

Baloyi is also significant because it signals a willingness by the Court to ensure that equality considerations are properly taken into account in the analysis of other rights. The experience in many other parts of the world has shown that severe injustice can result where courts do not test challenged laws against a general standard of equality (see for example J McInnes and C Boyle ‘Judging sexual assault law against a standard of equality’ in (1995) UBC Law Review 341). The Canadian case of R v Seaboyer (1991) 83 DLR (4th) 193 (CC), which involved a successful challege to the constitutionality of laws which limited evidences of the previous sexual history of the complainant on the basis that it violated the right of the accused to adduce relevant evidence, is a good example of this. Commentators have pointed out that had the Canadian court properly balanced the right to equality with the rights to a fair trial in this case, it may have upheld the legislative protection granted to complainants in sexual offence cases.
The 2000 conference of the Society of Law Teachers of Southern Africa took place at the University of Durban Westville and the University of Natal in July. Fernanda Pauer from Justice College did a presentation on the and new teaching approach at Justice College. This is a summary of some of the points she made:

The approach of Justice College to the development of a human rights culture in South Africa in the context of the formation of an independent judiciary has been to integrate reference to the Constitution, constitutional values and human rights and social context issues in all the courses offered.

Justice College has decided that the most significant contribution we can make towards an awareness of race, gender and related issues within the judicial system, is to ensure that we not only develop a programme of training wherein social context is fully integrated in each subject, but also broaden our course objectives and themes to provide for specific training on social context issues.

Our aim is to develop a curriculum and adopt a teaching approach that will not result in the further silencing, marginalizing and invisibility of social context issues. We hope to make magistrates, prosecutors and interpreters understand how the constitutional framework mandates a more communal approach to the administration of justice.

To succeed, we are moving away from the cognitive methodology that Justice College is so known for, towards the use of multi-disciplinary approaches, such as workshops, case studies, video exercises etc. All lecturers at Justice College have recently attended a workshop where special emphasis was placed on teaching methodology and facilitation skills.

Apart from the integration of race, gender and related issues in the content of our subjects and our course outlines, Justice College has also started to present at two to three day workshops dealing specifically with these issues. This ensures that the training received by court officials is not limited to traditional civil law and criminal law courses anymore. Our year program has been broadened so that magistrates can now also attend shorter intensive workshops that deal specifically with domestic violence, maintenance, child law etc.

Our program includes special projects funded by international agencies which train court officials on specific issues such as violence against women. An example of such workshops is the Justic Personnel Training Project on Violence Against Women that was designed by an interdisciplinary advisory committee made up of NGOs and Justice College staff. This program for beginners to the field, though compact is comprehensive. This course includes sociopsychological issues such as Rape Trauma Syndrome, the cycle of violence and, most importantly, how to treat victims with respect and dignity. It was successfully tested on groups of magistrates, prosecutors, clerks and interpreters. It is managed by Sally Shackleton and a trainers manual as well as a participants manual with additional information for participants to the training has been produced. The methodology employed for this course is participatory and experiential a particularly effective training method for the internalisation of training given and for a more profound change in behaviour.

Judge Jerome Frank said:

"The honest well-trained judge with the best possible knowledge of the character of his powers and of his own prejudices and weaknesses is the best guaranty of justice."

At Justice College we strive with our new approach to offer training that will ensure that the knowledge Judge Jerome Frank refers, to forms an integral part of the legal education we provided.

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SHORT COURSE INTERVENTIONS

LRG and Justice College have run 2 two-week courses on social context in decision making for magistrates. At each course, magistrates reported on work that they had done in their courts and in their communities. Another report follows.

Khosi Qondezi Hadebe, Magistrate, Durban reports:

My intervention occurred in my court when I was hearing a Robbery charge involving two Indian girls (aged 13 and 16 years) as victims and a Black boy of about 18 years as accused. The girls had been to remove their gold cartings under threat of physical harm whilst they were on their way to school.

When it was the 13 year old’s turn to testify, I cleared the court. She looked terrified but she kept on checking that innocent smile at me and I would smile back. Her father, the accused’s father and her older sister were the only people in the gallery. After a brief interview by the court she started testifying. At the stage where she was describing what had happened to them, she broke down and cried. She was literally sobbing. I adjourned the proceedings and let her father take her home.

On the next remand, when she entered the witness box she gave me a bright smile and I smiled back at her calling her by her first name. I made eye contact with her and she looked very reassured. She told me she was prepared to testify. Of course, the proceedings were in camera.

She gave her evidence-in-chief in an unbroken sequence. The accused started cross-examining her. She responded well. It was when the accused asked her ‘Were you robbed by Kenilworth or by the Black Panther?’ She looked as if she was seeing the images of this ‘Black Panther’ and her and her sister’s helplessness when they were pushed to a corner, forced to remove their cartings with no help forthcoming. She was gripped with so much fear, the court had to move immediately.

I ordered her father to come and stand with her as she testified. It was surprising how much effect this had on her.

The transformation was unbelievable. She calmed down, started smiling again and was so confident that I could not believe this was the same young girl who had just broken down in tears. The presence of her father with her in the witness box seemed to make her feel that she had the world with her and nothing was going to touch her.

This was such an eye-opener - such small things can make a difference. And individuals can make a difference in their courts.

This case also greatly helped the image of the Department because that family thought that, in the justice system, there are people who care.
MOVIE REVIEW

Snow Falling on Cedars

"It takes a turn of events to free oneself of obsession - be it hatred, prejudice or love and then one can move on" (and do the right thing). This movie is about a murder trial in a small town in America. A Japanese man (born in the US) is on trial for the murder of a Caucasian man (also born in the US).

The movie raises the issues of irrational fear, prejudice and hatred which all have the potential to affect the outcome of the trial. The prosecutor's efforts include asking the jury to "look at his face, his eyes..." pushing for them to see him as Japanese as an enemy (in light of the bombing of Pearl Harbour by the Japanese), as less credible because his face is inscrutable (as found in many Asian cultures which believe in saving face and retaining dignity by not reacting openly to insults etc.).

A young reporter has to free himself of his obsession and disclose information to ensure that justice is done. A defence lawyer and a judge also have to be vigilant because "somewhere in the world, humanity and dignity go on trial every day" and it is easy for irrational fears and prejudice to win at the expense of justice.

This movie is based on a novel by David Guterson. It is relevant to South African society and the issues of diversity (race, culture, past history etc.) that face administrators of justice in court every day.

NEW DUTIES FOR MAGISTRATES

Under 3 new Acts, the Promotion of Equality and Prevention of Unfair Discrimination Act, the Promotion of Access to Information Act and the Promotion of Administrative Justice Act, the magistracy will play a key role in ensuring that the remedies will be expeditious, affordable and accessible to all. The remedies are all civil, and therefore civil magistrates will be designated to hear applications. The idea is that at all magistrates courts there should be one or more designated magistrates for each of the Acts. No new appointments are currently envisaged for these purposes.

The Promotion of Equality and Prevention of Unfair Discrimination Act

In terms of this Act, Equality Courts will be established in the High Court and the Magistrates' Courts. Presiding officers will be designated by virtue of expertise, knowledge, training and experience in human rights and equality issues. The proposed date the Act will come into operation is 10 December 2000. The Act states that every High Court and every Magistrates' Court is an Equality Court, but as training is needed before magistrates can be designated, all courts will not immediately be Equality Courts. Currently it is envisaged that 14 magistrates will be designated, probably one per cluster. The Equality Legislation Implementation Team, says that it is looking at inviting academics to provide nominated magistrates with training before designation and, that such training should be done on a decentralised basis.

The Promotion of Access to Information Act and the Promotion of Administrative Justice Act

The Promotion of Access to Information Act will probably come into operation on 15 September and the Promotion of Administrative Justice Act on 15 October 2000. Applications in terms of these Acts will be in the High Court until the Rules for these applications drafted by the Rules Board have been approved by Parliament and come into operation. The proposed Rules are expected to be in operation in the beginning of 2001. Then magistrates' courts as well as individual magistrates must be designated to hear applications. Training for magistrates and clerks will be done by Justice College and will start as soon as nominations for such designations are known.

Veronica de Beer and Rashida Manjoo attended a meeting in Parliament where the Deputy Minister of Justice, Ms Cheryl Gillwald was asked to address the question of whether the government was responding appropriately to the South African rape crises. The picture includes Ms Racicbe Mojapelo who is the Director of Training in the Western Cape Justice Regional Office.

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