



# Loyal to the law

There is no doubt about the great impact the legal profession has had in terms of building the rainbow nation we see today, which has 11 official languages and one of the strongest economies on the African continent. A rainbow nation, which has bred one of the greatest leaders in the world—Nelson Mandela.

**The legal profession once crippled South Africa with its Apartheid laws and it has taken the bravery of legal practitioners (along with many other heroes), to dismantle this oppressive system and ensure a new constitution that promotes equality for all.**

This need to ensure equality for all South Africans was indeed a struggle for the soul of the country, and gave birth to organisations such as the Black Lawyers Association (BLA), founded by greats like the ANCYL Leader, Godfrey Pitje. Today, Lutendo Benedict Sigogo, its current President, has the baton and has been striving for the promotion of transformation in the legal profession, a founding principle of the BLA. Standing on the shoulders of giants, Sigogo came from very humble beginnings and is now a giant, himself, carving the path for a formidable legacy.

The legal profession has matured and evolved, along with the democracy of South Africa and, at the helm of some of that growth is the Black Lawyers Association. With a passion for the guiding principles, Sigogo has a wealth of knowledge about the evolution of law in South Africa and is welcoming the entry of the Legal Practice Act 28 of 2014, which will ensure that advocates and attorneys are regulated by the same body. The BLA has been intimately involved with the Law Society of South Africa (LSSA) and now welcomes this change, as it will ensure the aims of a transformed legal system in South Africa.



*Mr Lutendo Sigogo*

It is evident that law is a calling for Sigogo, who, in high school, was already looking into the black consciousness movement and engaging with the Freedom Charter. In the political tumult, he asked “Why?” and “What can I do?”.

Born in a rural village and attending school in a rural community until high school, Sigogo

recalls the strong sense of community he grew up with and “the care that was taken with the elderly” in his village. This spirit has been with him in his practising of law in the various spheres he has had the opportunity to effect change in.

His inspiration to be Lawyer, which struck in Grade 10, stemmed from his desire to defend the political prisoners who were being arrested for their belief in an equal South Africa. Sigogo stayed politically active while at university, holding positions on the law school board and SASCO, being a member of the University of Venda’s Broad Transformation Committee, as well as sitting in the Treasurer’s Office at the University of Venda’s Students Representative Council (SRC).

In 1998, Sigogo became an admitted Attorney of the Limpopo High Court, Thohoyandou (which, at the time, was known as the Supreme Court of Venda) and in 2011, he enrolled at High Court’s Gauteng division. Sigogo’s passion for the law has led him down many paths and has given him the influence to bring about many changes within the legal practice and in associated fields. Sigogo is serving a second term as the President of the BLA and was the President of the Law Society of the Northern Provinces (LSNP), the largest regulatory body for attorneys. There are four provincial law societies according to region: the Law Society of the Cape, KwaZulu-Natal, the Free State and Northern Provinces. Before their impending dissolution, these regulatory bodies regulated 25 000 attorneys—15 000 of these

attorneys were registered with the Northern Provinces. The transformation journey and the fight to have many poor and mostly black South Africans have access to the economy is a fight very close to the BLA, and Sigogo has had a chance to influence change in this area as the chairperson of the enforcement committee of the BBBEE Commission. Lutendo attributes his celebrated leadership qualities to “knowing your people, knowing their strengths, knowing their needs, and listening to them”.

Sigogo has a very specific legacy he would like to leave behind as the BLA leader and that is to be recognised as playing a role towards transforming the legal profession and also to bequeath a vibrant and united organisational culture for subsequent leaders to build on. Thus, not surprisingly, he leads the discourse on the legal profession through his publication in the prominent national legal publications; African Law Review and De Rebus.

The story of the birth of the BLA almost coincides with the youth's growing dissatisfaction with Apartheid and its oppression of black legal practitioners. The BLA was established in 1977, hardly a year after the 1976 uprisings. It is a non-partisan, non-racial organisation aimed at ensuring that black people have access to law as a profession, and have access to support while operating within the law so that they may dispense quality justice to the people of South Africa, with specific attention to the black disadvantaged people.

The BLA was started as the black lawyers discussion group in the heat of the Group Areas Act, which prohibited black law practitioners from trading in large city areas. This discussion group then culminated in the BLA. The BLA has a rich history, with one of its founding members being Godfrey Pitje, a leader in the ANCYL who served his articles at the Mandela and Tambo law firm.

Although Mandela was in prison at the time, his influence was felt through Pitje who worked with him in the law firm as well as in the ANCYL. Other notable BLA members are the former Deputy Chief Justice Dikgang Moseneke, Chief Justice Mogoeng Mogoeng, Madam Justice Elizabeth Mamoloko Kubushi, Dumisa Ntzebeza, SC and Kgomo Ditsebe Moroka, SC.

Sigogo, when asked to comment about the manner in which the BLA handled the differing political views of its members in such a riotous period, he asserts that the diverse views added to the strength of the organisation, as everyone

was united in the belief that all black people deserved access to the legal profession.

Sigogo is also very quick to point out the spirit and heart of the BLA. “During the birth of the BLA, black lawyers could not practice in big cities, thus, they did not enter into the legal practice for money, money was not the alpha and omega of becoming a lawyer,” he says.

Although everybody deserves the opportunity to put food on the table, money was not the be-all and end-all. Sigogo also notes that the organisation was born in the spirit of togetherness, a place where lawyers could not only voice their concerns with the current laws only, but also count on each other economically as, no doubt, times were truly tough.

That true spirit of empowerment is embodied in the Constitution. Although many feel the Constitution of the country may be under siege, Sigogo has responded with optimism. He believes our Constitution is strong and its wider objective to protect all South Africans is being achieved.

He believes that a constitution is measured by two key factors: “Resilience—South Africa's ability to not turn a blind eye to crime and not giving up easily on this objective. Then there's consistency—the inherent ability to ensure that everyone adheres to the laws set out in the constitution,” he elaborates.

An example of this is the fact that former President Jacob Zuma has had cases against him in courts, and some have been ruled against him. And most importantly, he subjected himself to the rule of law as he abided by the court rulings.

This is a true demonstration that no South African is above the law. Sigogo believes that the Constitution can be safeguarded by always striving to appoint judges of integrity who have no record of dishonesty, who are not accused of corrupt activity and also by ensuring that judges account for their activities. The judges need to be balanced and aware of the great vision of building a rainbow nation and Sigogo points out that the BLA vehemently opposed Judge Mabel Jansen for racial bias when she implied that all black men were rapists, this is an indication that judges account for what they do when they are not in court as well.

The BLA and the evolution of law generally seem to be intertwined, as some BLA members assisted to draft the Constitution, one of the most revered Constitutions in the world. The BLA has also had an input in the upcoming Legal Practice Act.

Having this law in effect disbands the four provincial law societies and dissolves the regulatory powers of the various advocate bars around the country like the General Council of the Bar, National Forum or Advocates and the National Bar Council of South Africa. The new body that will have regulatory control will be the South African Legal Practice Council. The Legal Practice Act is the piece of legislation that will come into effect and ensure the full dissolution of the law societies nationwide and divest the bars of their power to regulate. Many believe that this move was necessary, as the legal profession was governed by models devised in the Apartheid era and the legal profession was disjointed as on the one hand, attorneys were regulated differently depending on the area they practiced from and on the other hand, some advocates are not affiliated to any of the bars and are, therefore, unregulated. The Legal Practice Act will bring this differentiation to an end as all practicing legal practitioners will be subjected to regulation by one body throughout the country.

The South African Legal Practice Council will be the national council and there'll be nine provincial councils in the nine various provinces. The provincial councils will, through Legal Practice Council's delegated powers, ensure compliance with this Act, at a provincial level.

The national council will consist of 23 members made up of 10 attorneys and six advocates. Seven further members will be designated—three by the Minister of Justice, two will be law teachers, one person will be from Legal Aid South Africa, and one member will be from the Legal Practice Fidelity Fund.

The South African Legal Practice Council was established to ensure access to the legal profession for all people with particular attention to the previously disadvantaged individuals like black people and women, to ensure transparency within the legal profession and to ensure that South Africans have access to quality justice. The body will achieve these aims through some of its revolutionary decisions. For instance, under this body, people undergoing a pupillage—the journey to becoming an advocate—will now be paid a stipend.

This was previously not available. This move will ensure that many black people, many of whom are from disadvantaged backgrounds, and those who are fresh out of university will be able to enter this profession and be able to survive financially in the pupillage. In addition, this

body will enhance the standard of legal services through quality pre- and post-legal training.

Sigogo believes that a fair amount of transformation has taken place in the legal profession over the years, but more can be done. It is not surprising that the BLA is very pro-demographic in terms of the racial and gender profile of candidates selected to sit on the South African Legal Practice Council and, thus, has called not only for a balanced racial representation, but a balanced gender representation too.

The BLA boasts many successes in its many years of existence. BLA members have played a crucial role in transforming the judiciary, with many of its members participating aggressively. In 1994, the dawn of democracy, the judiciary was mostly white males, with only three black judges and two women. Currently, three-quarters of the judiciary in the High Courts are black.

One of the BLA's most notable successes is the opening of the Legal Education Centre, opened in 1984. The Legal Education Centre provides legal education in South Africa. The Legal Education Centre specialises in the areas of trial advocacy, constitutional law litigation and customary law litigation. The centre is headed by Advocate Motimele. The centre prides itself on providing continuous legal education to legal practitioners of all races in the Southern African Development Community, irrespective of whether they are affiliated to the BLA or not. No doubt, Sigogo has played a role in the educating of black lawyers, as he was involved in the restructuring of the LLB degree to what it is today, a four-year degree.

The BLA as an organisation fighting for the plight of black lawyers is not without its challenges. A vexing concern the private corporate sector and the government's lack of trust in black lawyers.

The BLA has noted with disdain that it is mainly the majority-white-owned law firms and advocates that still receive the most number of briefings and instructions from the government and the corporate South. Until this problem is meaningfully addressed, black legal practitioners will not profoundly participate in the mainstream economy of the country.

Very few can deny that the building of the rainbow nation is under construction and the best guide to ensuring that all South Africans are empowered is through the law. It has taken visionaries like Lutendo Sigogo to see this and he has tirelessly paved the way for the future Mandela's of the world. ▲



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