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## Our original founder joins the ProBono.Org Board



Odette Geldenhuys, the head of the Webber Wentzel Pro Bono Practice, has been appointed to the board. Both the board and management warmly welcome Odette as a board member. In 2006 she founded ProBono.Org and after heading up the Johannesburg office until 2010, she moved to Durban to launch

and head up the Durban office until 2013. Odette is recognised as one of the pioneers of the practice of pro bono legal services in South Africa and has received various awards for her substantive matters. Until 2023 she was the co-chair of the IBA Pro Bono Committee, and as from 2024 she is serving on its advisory board.

## A new manager for Cape Town



ProBono.Org is pleased to announce that Masi Ncube, formerly the staff attorney in the Cape Town office, has been appointed as the Regional Manager from 1 February 2024. Says Masi, "I am humbled to have been appointed as the ProBono.Org Western Cape Regional Manager as I have found my contributions to making access to justice tangible for marginalised and indigent people to

be deeply satisfying. I have observed the effect of our work in alleviating the socio-economic issues that ravage low-income communities and I am determined to increase our impact. I am dedicated to engaging with the legal profession, civil society and our clients to solidify a culture of pro bono in the Western Cape and nationwide."

# Welcome to our 2024 Interns



## JOHANNESBURG

### Hellen Motau

Hellen joined ProBono.Org in 2024 as a Communications Intern. She graduated with a BA in Social Sciences from the University of Johannesburg in 2022. Prior to joining ProBono.Org, she actively participated in community projects. Some of her interests include the digital footprints of passion projects and how these can be improved for marketing, projects and beneficiaries. She aims to contribute her bit by trying to influence the digital narrative to make it educational, impactful and positive.



### Yonela Yame

Yonela is a LLB graduate from the University of Johannesburg. She is a passionate advocate for human rights and subscribes to the feminist ideology. She is also a member of Amnesty International and the South African Women Lawyers Association. Joining ProBono.Org, an organisation that emphasises the value and importance of human rights, is a significant milestone in her professional career and activism. She hopes to contribute to the constant pursuit of ensuring that human rights are not delayed. Because human rights delayed are human rights denied.



### Mence Chauke

Mence Chauke graduated with an LLB from the University of Johannesburg. She aims to bring positive change to the community and the society at large by being the voice for the voiceless. She believes that society would be a better place if everyone had knowledge about enforcement of their rights and how the law protects them. She also strongly believes that this is a great opportunity towards her career in the legal field and the road to bringing about positive change. The ProBono.Org organisation is a great start for her to bring about the positive change to communities and to the lives of the underprivileged by affording them just and fair legal services despite their social statuses.

## DURBAN

### Nqobile Mswane

Nqobile Mswane is an aspirant legal practitioner who graduated with an LLB degree from the University of KwaZulu-Natal in 2021. Her legal journey began at the Department of Health, working as a Legal Admin Intern. Her areas of interest include Family law, Labour and Property law. She is passionate about the realisation of human rights and equal access to justice for all.

The interns have already settled in and are busy at work. We hope their year with us will be a rewarding experience. ●



# Appeal for funds - Caster Semenya's continuing legal battle



At a media briefing on 9 February 2024, ahead of the upcoming hearing against Switzerland at the European Court of Human Rights on 15 May 2024, ProBono.Org joined the Commission for Gender Equality and Norton Rose Fulbright SA Inc, who have been Caster Semenya's pro bono lawyers for the past decade. Patrick Bracher of Norton Rose Fulbright said that while the lawyers have not charged for their services over the years, there have been many other costs such as expert witnesses and the like which has brought the expenses to around R30 million to date.

It will cost a further USD 180,000 for this next hearing in the Grand Chamber (roughly R3.8 million). Caster Semenya is asking global citizens for help to assist her. She thanked all those who have supported her on her long journey and said she is now an advocate for human rights. While the outcome of her case may be too late for her athletics career, her fight is now for the future of all the African and Asian women athletes facing the same discrimination as herself.

Advocate Nthabiseng Sepanya Mogale, Chair of the S A Commission for Gender Equality, noted that South Africa is a signatory to CEDAW (The Convention on the Elimination of all Forms of Discrimination against Women adopted in 1979 by the UN General Assembly), often described as an international bill of rights for women. "Her issue goes to the heart of human dignity", she said.

Shafie Ameermia of ProBono.Org stressed that access to justice is a basic human right and the case against Caster Semenya is a gross violation of her human rights. He commended her resilience and said that ProBono.Org is proud to be part of the organisations supporting her in her quest for justice. ●

Anyone wishing to assist Caster with funding can use the following bank account:

**Ahmed Gani Trust Account**  
**Standard Bank**  
**Account No:** 200 297 740  
**Branch:** Killarney  
**Branch Code:** 007205  
**Swift Code:** SBZAJJJ  
**Reference:** Caster



# The rule of law / Magna Carta

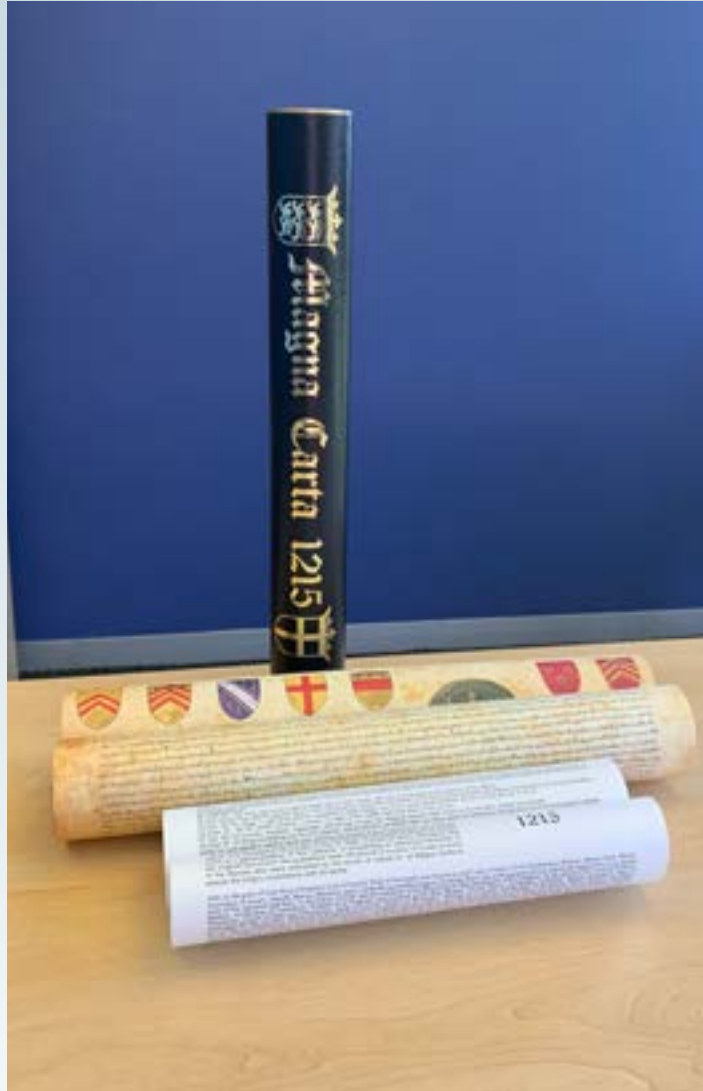
## (Part 1)

By Elsabe Steenhuisen,  
Children's Project Manager

**We all have a good idea of the meaning of the rule of law, with reference to, amongst others, Masethla v President of the Republic of South Africa 2008 1 BCLR 1 (CC), the so-called "covert surveillance and phone tapping" case. But do we know the history and did we celebrate its 800 years of existence in 2015?**

I had the privilege to visit Lincoln Castle in the UK, where one of the four original Magna Cartas is kept under strict protection and preservation. The other three extant documents are kept in the Cathedral of Salisbury (1) and in the British Library in London (2).

The Magna Carta ("Great Charter") is a document guaranteeing English political liberties that was drafted at Runnymede, a meadow by the River Thames, and signed by King John on 15 June 1215, under pressure from his rebellious barons. His subjects suffered under his violation of a number of ancient laws and customs of England. However, when the powerful land barons and merchants could no longer tolerate the high taxes the king imposed



on them to finance his expensive and unsuccessful wars, King John was forced into signing the Magna Carta. By declaring the sovereign to be subject to the rule of law and documenting the liberties held by "free men" it provided the foundation for individual rights in Anglo-American jurisprudence, and is today viewed as the foundation for human rights.

It may come as a surprise that the documents were not written in English, but in Latin, the language of the Church and the law, and

translated into French, the everyday language of King John and the barons. The scribes used iron gall ink made from growths on oak trees caused by parasitic wasps. The scribes also used bird feathers as pens.

The word "Great" was added to the document in 1217 when a second but smaller charter was concluded, the Charter of the Forest (currently also displayed at Lincoln Castle). The Magna Carta is on UNESCO's Memory of the World Register,

which recognises important documentary heritage worldwide. The Magna Carta is regarded as an international icon of liberty and freedom. It has a special link to the USA as Runnymede, an acre of Crown land, was given in May 1965 to the American people in perpetuity under the control and management of the Kennedy Memorial Trust. ●

**Sources: Visit to Lincoln Castle Nov. 2023; Encyclopaedia Britannica, [lincolncastle.com](http://lincolncastle.com)**

# The Establishment of a Specialist Land Court and the Land Court of Appeal

by Nomkhosi Mqadi, Durban Intern

**In September 2023, President Cyril Ramaphosa assented to the Land Court Act 06 of 2023 (the “Act”). The Act was introduced by the Minister of Justice and Correctional Services, Ronald Lamola, in May 2021.** The Act was introduced to channel unresolved disputes and problems relating to land claims and speed up the nation’s land reform initiative. The Act establishes a specialist Land Court and a Land Court of Appeal which will deal solely with issues concerning land rights and claims to eliminate the structural obstacles that land claimants face in their pursuit of land restitution and to provide stronger judicial monitoring of claims.

The Act abolishes and replaces the Land Claims Court with a Land Court and Land Court of Appeal. However, it preserves key provisions that already govern proceedings in the Land Claims Court. For example, Section 21 of the Act authorises the Land Court to:

- Admit hearsay evidence of the circumstances surrounding the dispossession of land rights,
- Admit expert evidence of historical and anthropological facts relevant to the land claim, and
- To order the state to compensate the land claimant or impose conditions before dispossessed land can be returned.

The Act provides for the administration and judicial functions of the courts. It assigns the Land

Court similar status and power to the High Court, as well as the Land Court of Appeal to the Supreme Court of Appeal, and confers the courts numerous legislative powers. The Act provides the Land Court with a greater jurisdiction than that enjoyed by the Land Claims Court. Section 7 of the Act stipulates that the Land Court has jurisdiction in the jurisdiction of each division of the High Court. This means that there will be two Land Courts in KwaZulu-Natal, one in Durban and one in Pietermaritzburg. The Act also provides that the Land Court has jurisdiction to address the land reform pillars: restitution, redistribution, and security of tenure.

The Land Court has the power to make any appropriate order, including but not limited to any other appropriate order that a High Court is competent to make, and which relates to a matter under the jurisdiction of the Court according to Section 26 of the Act. Section 17 of the Act grants the Land Court of Appeal authority to hear appeals against any land-related order or judgment. Therefore, if a person feels aggrieved by the order or judgment of the Magistrate’s court, that person can lodge an appeal with the court in line with any land-related laws, and the court may then hear more evidence, revise the judgment, or set it aside.

When a case is appealed to the Land Court of Appeal, the Land Court can order the Commission

for the Restitution of Land Rights to conduct an inquiry and report on any case presented to it and to issue any appropriate order that will remain in effect until the appeal is resolved. The Act allows the court to refer to specific matters for arbitration or mediation. It promotes a quicker and more affordable alternative for case resolution. Section 29 gives the Judge President the power to refer a case to mediation or arbitration rather than open court and the authority to suspend a hearing at any time and refer a case to either process. If the resolution of a matter could further legal advancement, the Judge President may also elect to have it heard.

The Act permits the public to have access to the Land Court. For instance, if a party cannot afford legal representation, Section 16 of the Act allows judges to refer cases to Legal Aid so that the unrepresented party can have legal assistance. Parliament must give Legal Aid SA enough funding to ensure that unrepresented people obtain legal aid in appropriate cases and Legal Aid SA must provide legal representation if there is grave injustice in any other case.

The formation of a specialist Land Court and the Land Court of Appeal may be a key factor in the success of land reform. It will be interesting to see this Act practically unfold as these courts will allow for the development of land-specific jurisprudence that can be used as precedent. We hope that the Land Court and Land Court of Appeal will be resourceful enough to carry out their mandate efficiently. ●

## Guest slot



By Francois Rothmann – Boela van der Merwe Attorneys

# New Pro Bono Initiative at the Germiston Court

Over the past years it has become abundantly clear that there is a shortage of private attorneys, social workers and psychologists to assist the Divorce and Children's Courts on a pro bono basis. The magistrates have had a very small pool of attorneys who have raised their hands to assist. But this is all about to change.

We are proud to announce that the Germiston Magistrate's Court, together with the magistrates of the Children's Court, various legal representatives, social workers and psychologists are working together to assist fathers, mothers and children who cannot afford private attorneys, social workers and psychologists. This initiative brings these role players to the aid of the court and the magistrates on a daily basis, according to a roster.

One of the regular pro bono attorneys in the Children's Court reached out to the court, surrounding attorneys, social workers, psychologists and mediators towards the end of 2023. The aim is simple – to assist the court with additional commissioners at the Small Claims Court, to obtain private attorneys to assist the Divorce and Children's Courts with legal representation for minor children in particular, but also for the parents and third parties, and to obtain social workers, psychologists and mediators to assist on a pro bono basis when needed.

While all this may seem simple, it has to be acknowledged that all these role players have full schedules of work. However, they are willing to sacrifice their time and either waive or reduce their fees and be ready when called upon to act.

We hope that this initiative will inspire other professionals to step in to assist and strengthen the relationship between the community and the court but, most importantly, to assist those who would otherwise not be in a position to obtain the assistance they require.

ProBono.Org will register the pro bono hours for the legal practitioners who accept cases that comply with its means test (available at [www.probono.org.za](http://www.probono.org.za))

The best interests of minor children will remain the top priority and we will ensure that their voices are heard, whilst protecting their rights to the fullest.

**If you would like to participate, please contact Charl Albasini at [mari@albasiniatt.com](mailto:mari@albasiniatt.com)**

## Write for us



We would like to invite legal practitioners to contribute to our bi-monthly newsletters by writing an article of up to 400 words (one page) on a topical issue of law. Please indicate your interest to the editor at [margaret@probono.org.za](mailto:margaret@probono.org.za)

The deadline for articles for the next issue will be: **1 April 2024**



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WHERE YOU CAN READ MORE ABOUT OUR  
WORK

[www.probono.org.za](http://www.probono.org.za)

**JOHANNESBURG:** 1st Floor West Wing,  
Women's Gaol, 1 Kotze Street, Braamfontein 2017  
**telephone:** 011 339 6080 **fax:** 086 512 2222

**DURBAN:** Unit 310, 3rd Floor, Cowey Park, 91-123 Problem  
Mkhize Rd, Morningside, Durban 4001  
**telephone:** 031 301 6178 **fax:** 031 301 6941

**CAPE TOWN:** Unit 1021, 2nd Floor, Westminster House,  
122 Longmarket St. (Cnr. Adderley St.), Cape Town 8001  
**telephone:** 087 470 0721 **fax:** 086 665 6740