



# Transformation of the Legal Profession

by the Centre for Applied Legal Studies

August 2014

This publication was made possible by a grant from the Foundation for  
Human Rights

**CALS**  
Centre for Applied  
Legal Studies





# Acknowledgments

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The Centre for Applied Legal Studies (CALS) wishes to thank all those who have supported the work outlined in this research report. We would particularly like to thank Tabeth Masengu of the Democratic Governance and Rights Unit at the University of Cape Town for her collegiality in sharing her work and information with us. We would also like to thank Bowman Gilfillan for hosting the meeting of the Expert Reference Group at the outset of the project.

Funding for the project was facilitated by the Foundation for Human Rights (FHR), which is funded by the Department of Justice and Constitutional Development and the European Union under the Sector Budget Support Programme – Access to Justice and Promotion of Constitutional Rights. The idea for the project developed not least because of the consistent work that FHR has been doing on the transformation of the judiciary.

CALS is grateful to the following individuals for their valued contribution to the work outlined here:

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# A. Introduction and Research Question

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## 1. Introduction

This document is the final report on the Transformation of the Legal Profession project ("the project") conducted by the Centre for Applied Legal Studies ("CALS") in partnership with the Foundation for Human Rights from 15 February 2014 to 31 August 2014.

When initially conceptualised, the project was envisaged as being twelve months in duration. Ultimately, the project was agreed to be of six months' duration from 1 January 2014 to 1 August 2014.

The CALS team on the project consisted of Kirsten Whitworth (Project Lead); Cebile Ndebele (Team Member); Alice Brown (Researcher), Jonathan Klaaren (Researcher) and Bonita Meyersfeld (Director of CALS).

CALS is a centre of the University of the Witwatersrand, Johannesburg, and is therefore subject to the requirements of the Human Research Ethics Committee (non-medical). Any research carried out that involves human subjects must go through the ethics application process. An ethics application has been submitted to the Committee under protocol number HDS14-08-00008.

The research is not designed to be conclusive evidence regarding transformation in the legal profession. Rather, it is designed to test the accuracy of the assumptions identified. All three methodologies used yielded consistent evidence that affirms the following: that sexual harassment and the intersection between gender/race discrimination are factors that impede advancement in the legal profession.

## 2. Research Question

The South African legal profession continues to face the challenge of meaningful transformation. The top positions in the profession, from senior partners of law firms, to senior counsel at the Bar and senior members of the judiciary, remain largely homogenous. These positions are dominated by white men, with a marked absence of diversity on the basis of race, gender and other marginalising characteristics. According to the 2013 South African Legal Fellows Network survey,<sup>1</sup> South Africa's major corporate law firms are still dominated by white men, especially in the upper echelons;<sup>2</sup> 80 per cent of the chief executives of the 12 firms canvassed in the survey were white men, as were 72 per cent of all managing partners. The picture at the CEO/managing partner level was replicated in the ownership and remuneration structures of the firms: 53 per cent of all equity partners were also white and male.

The judiciary represents similar trends, at least in respect of gender. Although the racial diversity of the Constitutional Court in the 20 years of democracy has gone from seven white judges and four black judges to the current bench, where the majority of the judges are black and two are white, the same is not true of gender. In the same period, the number of women on the Constitutional Court has remained unchanged: two in 1994 and two in 2014.

The key research question for the project participants was therefore as follows: why has there been so little change at the senior level of the legal profession, especially in respect of the intersection between race and gender. With a large number of black women graduating from law schools and entering the profession, it is incongruous that the upper echelons are not more integrated. Given the short time period, the project was not

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<sup>1</sup> 2013:10 [2013] De Rebus 114.

<sup>2</sup> On behalf of the collaborating organisations, Plus 94, a research firm, canvassed 12 out of 51 identified law firms in the country that employed 20 or more legal professionals. The 12 firms employed, in total, 1815 legal professionals. Disabled employees made up just 0.6 per cent of all legal professionals at firms participating in the survey.

intended to conduct exhaustive research across the entire profession. Rather, the project was designed to yield preliminary findings in order to broaden the scope of the debate around transformation in the legal profession away from the judiciary, to include the profession as a whole.

### **3. Context**

The lack of diversity in the legal profession is usually in the spotlight following the process of the appointment of senior members of the judiciary. The Judicial Services Commission ("JSC") has come under scrutiny for its appointment patterns, decision-making processes and the extent to which the constitutional imperatives of racial and gender diversity are reflected in its recommendations to the President.

On 5 June 2014, the Democratic Governance and Rights Unit ("DGRU") of the University of Cape Town convened a meeting of its Judges Matter project at which Tabeth Masengu delivered a presentation entitled The Gender Transformation Aspect of Judicial Appointments. The presentation looked at JSC interview processes, with a specific focus on the appointment of women. This is a welcome move away from the mere headcounts that are conducted in the media during JSC processes, and focuses greater attention on the process itself.

The presentation was very revealing: since June 2012, in respect of the Constitutional Court, there have been two interview processes. Nine candidates were interviewed, of whom eight were men and one was a woman. Out of these two processes, two men were appointed. At the level of the Supreme Court of Appeal, there have been three interview processes since June 2012. Fifteen candidates were interviewed. Of these candidates, there were 13 men and two women. Six men and one woman were appointed out of these processes.

At High Court level, which includes the Labour Appeal Court, Labour Courts, Electoral Courts and Land Claims Courts, the numbers are slightly



more encouraging. There have been four interview processes. During these processes, 61 candidates were interviewed, of whom 32 were men and 29 were women. These processes led to the appointment of 17 men and 14 women judges.

Constitutional Court	Supreme Court of Appeal	High Courts (including Labour Appeal, Labour, Electoral and Land Claims Courts)
2 interview processes	3 interview processes	4 interview processes
9 candidates interviewed 8 men 1 woman	15 candidates interviewed 13 men 2 women	61 candidates interviewed 32 men 29 women
2 men appointed	6 men and 1 woman appointed	17 men and 14 women appointed

Figure 1: T Masengu *The Gender Transformation Aspect of Judicial Appointments*

As at October 2013, there were 77 women judges out of a total of 239 in South Africa. The JSC processes have resulted in the two women Constitutional Court judges on a bench of 11, and two women Supreme Court of Appeal judges on a bench of 26. While the numbers cited may seem encouraging in respect of the High Courts, gender transformation is simply not taking place higher up in the judiciary.

The transformation – or lack thereof – of the judiciary is not a new debate. Every few years it captures the attention of the profession, the media and South Africans concerned with transformation. At the commencement of the project, South Africa found itself once again in the throes of such discussions.

Today the debate revolves around the question of whether one should appoint judges on the basis of talent or diversity.<sup>3</sup> By broadening the frame of reference to the profession as a whole, the project challenges this binary: talent and diversity are not alternatives. Diversity is not inconsistent with talent and ability. To say otherwise suggests that black women, for example, are less capable than white men and are appointed for their diverse characteristics rather than their legal capability. The project seeks to invert that assumption.

The project also seeks to understand the specific emphasis on race and not gender, where racial transformation has advanced, albeit slowly, and gender transformation has had a much slower growth pattern.

The language used to describe the racial groups in this research emanates from the standard language used in the national discourse around transformation. These categories are not a reflection of how people may self-identify, nor do we endorse the categorisation as appropriate. It is a function of capturing external perceptions that may impede advancement in the legal profession.

## **4. Our Assumptions**

### **4.1. Meaning of Transformation**

As with any research, the project began with a number of assumptions. The project adopted an understanding of transformation as an open, bias-free and non-hierarchical profession which sees the removal of prejudices so that talent can flourish, unhindered by the assumptions that are often linked to the characteristics of race, sex, gender and sexual orientation, among others.

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<sup>3</sup> Susannah Cowen Judicial Selection in South Africa (DGRU, 2010); M Olivier 'A perspective on gender transformation of the South African judiciary' (2013) South African Law Journal 448.

Transformation is not a case of facilitating the appointment of less qualified black lawyers to senior positions; rather, is it about the removal of barriers that impede talented lawyers from opportunities to develop and gain skills, experience and knowledge within the legal profession because they are black, women, lesbian, living with a disability or disease or, in some way, non-compliant with the dominant homogenous culture.

This requires us to ask deeply uncomfortable questions, not only about the lack of transformation at the end point of the profession, namely the judiciary, but also and perhaps even primarily about the entire lifespan of a legal career, from graduation to attaining some of the most senior positions in the profession. This focus on the entirety of the legal profession and on the career paths through the legal profession is a distinctive perspective of this project.

#### **4.2. Exclusion throughout the Lifespan of the Legal Career**

Predominant among our assumptions is that it is simply too late to question the paucity of suitable talented female/black candidates when it comes to the judicial appointment process. This is the highest stage of a legal career and an exclusive focus on this stage ignores the lifespan of a legal professional, beginning with entry into the profession. Based on the definition of transformation above, the project is founded on the assumption that there are still many barriers of difference that impede the career trajectory of, predominantly, black women in the profession. The project's first assumption, therefore, is that there are a series of points of exclusion along the spectrum of the legal career of black women.

The project posits that regardless of the type of legal career that an individual chooses to follow, talented female/black lawyers face barriers to achieving senior positions. Our profession operates according to assumptions – often invisible but very real assumptions – about race, gender and similarly exclusionary characteristics. Black and female lawyers are not appointed (or are not available for appointment) to senior positions

in law because of barriers, behaviour and unwritten rules of the profession that impede talent and promote stereotypes throughout the lifespan of the legal career. Indeed, part of the value of this project lies in surfacing and outlining the barriers, behaviour and unwritten rules of the profession.

## **5. Preliminary Findings**

Black women face an array of barriers throughout their legal careers. These barriers differ during the course of the profession. The patterns are depicted below and include:

- A shortage of jobs and few connections to established members of the profession: because the profession remains largely male and white, it is unlikely that black women will have longstanding connections with people in the profession. Connections remain an important part of entering the profession – not necessarily because of nepotism but rather to learn the standard modes of behaviour and how best to conduct oneself within a very particular law culture;
- Offers from the corporate sector which cannot be matched by the legal profession: many outstanding young lawyers move to the corporate sector;
- Cultural alienation: black and/or female lawyers face invisible rules determined by social interaction outside of work. Informal engagement around weekends and sport create alienating cultural practices;
- Bias based on historic roles of black women: many black female lawyers noted that they are associated with their white colleagues' domestic workers, albeit subliminally;

- Racism: there are lawyers who continue to refer to black women as window dressing, a direct form of racism which speaks to the person's race / gender rather than their capability;
- Sexual harassment: women are exposed to a spectrum of alienation based on references to their physicality, from inappropriate and lewd comments, to violence and rape;
- Briefing patterns: both at the Bar and at firms, briefing patterns tend to prefer a small selection of black women and a larger selection of white men. This is due to a reluctance to brief outside one's race and/or sex and also due to client demands (although the inverse is also true in that clients may demand diversity in their legal representation);
- Behaviour based on gendered roles: women are still asked to pour the tea in meetings, even if there are other junior men, reinforcing the domestic assumptions regarding women's roles;
- Lack of childcare facilities: work/family dynamics and social imperatives continue to preference female childcare over male childcare. This is exacerbated by the insistence by senior female members of the Bar that childcare was not – and is not – necessary; and
- The trailblazer phenomenon: exceptional women who have reached the senior levels of the profession have set a standard of excellence required for black women to succeed that does not apply to white men.

## 6. Output One: Literature Review

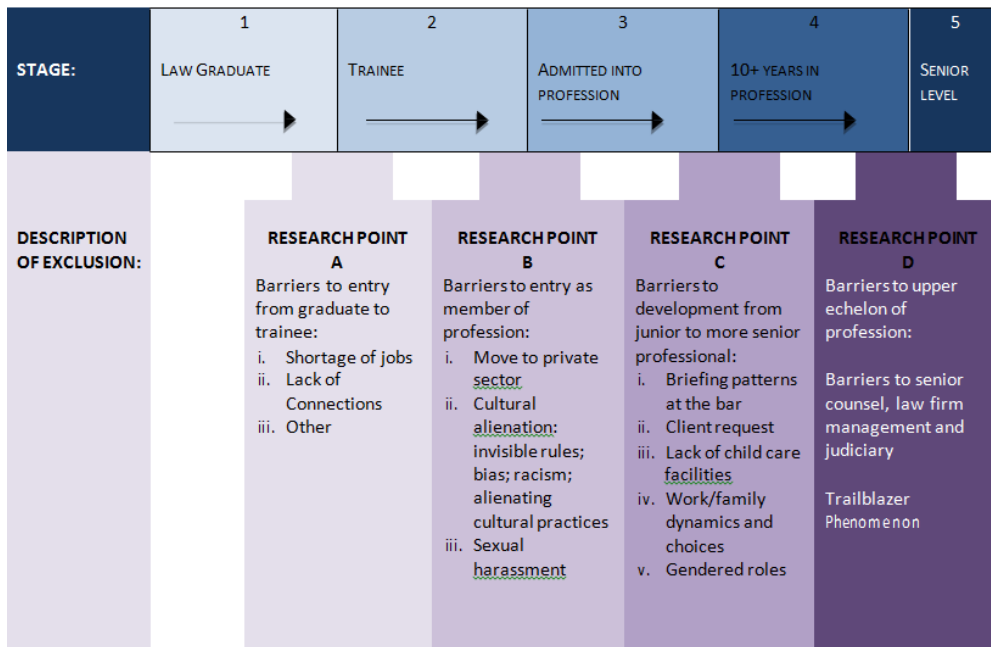
The project was embedded in and has advanced existing research on the transformation of the judiciary. The majority of research in this area has focused on the racial and gendered make-up of the judiciary and not on

the legal profession as a whole. Within the profession, there has been some attention to the attorneys and advocates, but otherwise there is very little extant relevant research. One recent exception noted in the literature review is an earlier inquiry into this area of research, focusing on the management of 50 top law firms in Johannesburg. The research notes the dominance of white men in senior positions of such firms.

In preparation for the Expert Reference Group meeting, Researchers Jonathan Klaaren and Alice Brown prepared a preliminary literature review, which was circulated to the attendees in advance of the meeting and formed the basis for part of the discussion. The literature review was subsequently updated and a copy of the final literature review is attached to this document as "A".

On the basis of this literature review, four phases for a standard legal professional career in South Africa were identified. Phase One covers the period of time as a law student (from first registration in the LLB to LLB graduate). Phase Two covers the period of time of vocational training (e.g. service as an articled clerk or pupillage, prior to admission as an attorney or an advocate with Bar Council). Phase Three covers the period of time from admission (as an attorney or with a Bar Council) to five years of experience. Phase Four then covers the period from five years' professional experience to senior status in the profession, e.g. a legal professional with at least ten years' of experience.

The assumptions and preliminary findings are depicted diagrammatically as follows:



## 7. Output Two: Expert Reference Group Meeting

To test our initial assumptions, on 28 March 2014, we hosted an Expert Reference Group meeting at the offices of Bowman Gilfillan in Sandton, Johannesburg. The aim of the meeting was to gather experts on transformation, representatives from the legal profession, including advocates, attorneys, academics, members of civil society, and government representatives, in order to present to the group the aims and proposed methodologies of the project; to test the assumptions underlying the project; and to canvass the opinions of the experts whose own experiences and work are relevant to the research.

The meeting was very well attended by a broad spectrum of professionals. The debate was lively and fed significantly into the project's design. The Expert Reference Group helped us better to understand and address the lack of transformation in the legal profession and points of exclusion. Attendees included a judge of the High Court; the Deputy Minister of Justice; academics; senior law firm partners; junior lawyers; junior members of the Bar; representatives of the National Association of Democratic Lawyers (NADEL) and former lawyers no longer in practice. The meeting comprised twelve black women, five white women, four black men and five white men.

At the meeting, Bonita Meyersfeld presented the aims of the project, and outlined the proposed methodologies to be used. Jonathan Klaaren and Alice Brown discussed the preliminary literature review and made four key points:

- The legal profession must be viewed holistically in order to understand the lack of transformation.
- The research posits four phases to the 'standard' legal career, while understanding that this is, in itself, a potentially overbroad categorisation. These phases are (i) law graduates entering the



profession, (ii) the professional training phase, (iii) junior professional (the first five years or so) and (iv) senior professional. (See section 6 above)

- To identify points of exclusion from law, we must track the progression or lack of progression along the lifespan of a legal career of black women.
- The project is applied research, rather than purely academic or theoretical research.

Bonita Meyersfeld then opened the meeting for discussion. Although various avenues of further research were suggested, the attendees were unanimous in their support for and welcoming of the research question and proposed methodology (which is described in section B below).

The following questions were raised in the Expert Reference Group meeting:

- What is the underlying purpose of the research? Are we seeking to achieve an understanding of transformation for the sake of a diverse judiciary (as required by the Constitution) or are we seeking to achieve a more diverse profession as a whole, for the sake of an equal and open legal profession?
- Is the project aimed, ultimately, at transforming the judiciary through transforming the legal profession, or does it intend to look at the profession more broadly, and to consider positions such as magistrates, prosecutors, and others positions within the profession?
- Should the project take into account the alternative judiciary, i.e. mediators and arbitrators?
- Is the project clear on the meaning of the concepts 'diversity' and 'transformation'? Is the project looking only at race and gender as

indicators of transformation, or taking into account an individual's values and constitutional development?

- Who is the intended audience of the project?
- Who are the 'members of the profession' for the purposes of engagement?
- Will the research compare different law schools and where their graduates end up, and the experiences of those graduates within the profession?
- Will the research use statistics or pure narrative from interviews? Are there sufficient statistics available to inform the breadth of the proposed research?
- If statistics are used, will the research focus only on quantitative rather than qualitative research?
- Will structured discussion groups only look within the profession, or will there be structured discussion groups that canvass the views of those outside the profession, i.e. those who use the services provided by the profession?
- Will the research engage in comparative studies, both in respect of other jurisdictions and in respect of other professions?
- What type of 'points of exclusion' will the research consider? Will it go beyond race and gender and interrogate differentials such as economic status, whether a job applicant has a driver's licence and the geographical background of an individual?
- Is it possible to transform the legal profession without looking at broader societal issues?

- What is so special about lawyers? What is unique to the legal profession that requires transformation as opposed to broader societal transformation, particularly given that there are structural impediments in every profession?
- Is it possible, or appropriate, to build a business case for why transformation is important, given that it will be difficult to convince some people to care about transformation as a social justice imperative?

The meeting was a resounding success for the research questions and assumptions posed. It brought together a diverse group of experts and practitioners, including senior members of the profession. The positive responses to the invitation meant that the venue had to be changed to accommodate the overwhelming numbers. This in itself is a finding: the issue of transformation of the legal profession is taken very seriously at all levels, from the practitioner, to the judiciary, to government. This high level of questioning and critical engagement with the project assisted the Researchers in testing their initial assumptions and formulating the next steps of the project with greater clarity and insight into the realities of the profession. Above all, it confirmed the imperative for change.

The Expert Reference Group meeting had the following impact on the progression of the project:

- The research question was further developed to include recommendations regarding the purpose and relevance of the research question;
- The importance of economic status became a key component of the research;

- The breadth of the legal profession was widened, in order to canvass those beyond the practising attorneys' and advocates' profession in respect of interventions and solutions; and
- The participants at the meeting confirmed the assumptions and proposed methodology.

## **8. Outputs Three and Four: Interim and Final Reports**

The third output was an interim report, which was submitted to the Foundation for Human Rights on 30 June 2014. The interim report formed the basis of the presentations of the research for the Public Interest Law Gathering, described in greater detail in section 10.5 below.

This report is the fourth and final output of the project. On the basis of this literature review, four phases for a standard legal professional career in South Africa were identified. Phase One covers the period of time as a law student (from first registration in the LLB to LLB graduate). Phase Two covers the period of time of vocational training (e.g. service as an articled clerk or pupillage, prior to admission as an attorney or an advocate with Bar Council). Phase Three covers the period of time from admission (as an attorney or with a Bar Council) to five years of experience. Phase Four then covers the period from five years' professional experience to senior status in the profession, e.g. a legal professional with at least ten years' of experience.

## B. Field Research Structure and Methodology

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### 9. Research Methodology

#### 9.1. Field Research: Overview of Process

##### 9.1.1. Objectives

The objective of the field research was to engage directly with members of the profession, at various stages of their career, to (i) identify some of the impediments to advancement in the profession (invisible barriers or points of exclusion) and (ii) to identify potential interventions that could mitigate these specific barriers. The research looked at the experiences of legal academics, practising attorneys and advocates, and attorneys and advocates who have left private practice, all of whom are at various points along their respective careers. The research was conducted in Gauteng. While it would have been particularly interesting to have spoken to established judges, this fell beyond the ambit of the research, given that the research specifically examines the barriers throughout the lifespan of a legal career that ultimately result in a smaller pool of eligible candidates for appointment to the judiciary.

##### 9.1.2. Format

The field research comprised: (i) semi-structured individual interviews; (ii) semi-structured discussion groups under the mantle 'Breakfast for Change'; and (iii) electronic surveys.

##### 9.1.3. Preparation

In preparation for the Breakfasts for Change, the project team (i) identified the organisations that would offer members of their group, firm or company

as participants in the project; (ii) scheduled the meetings for such engagement; and (iii) prepared background research and certain questions for each discussion (after each Breakfast for Change, the questions became richer and more comprehensive, based on the data captured in preceding meetings). The Breakfasts for Change were led by the Project Lead and the Director.

In preparation for the semi-structured individual interviews, the project team (i) identified the organisations that would support the study and encourage members of their group, firm or company to participate in the one-on-one individual interviews; (ii) scheduled the meetings for such engagement; and (iii) prepared the questions for discussion. The individual interviews were led by the Researchers.

In preparation for the electronic survey, the project team, led by the Researchers, (i) prepared an electronic survey to yield answers to the research questions and (ii) identified the organisations to be approached to agree to the distribution and facilitation of the electronic survey. In some instances, this aspect of the project required an engagement with an entity's human resource management and its IT staff, both presenting complex and difficult areas of navigation. A sample of one of the surveys is attached to this report as "B".

## **9.2. Field Research Method 1: Structured Discussion Groups – Breakfasts for Change**

The project envisaged a series of structured discussion groups, with representation based on stage of career, race, gender, and age. There would also be a series of randomly constructed structured discussion groups (i.e. where participants are selected using a randomised selection without any of the defining characteristics above) in order to challenge the groups identified in the preceding categories, and which were intended to yield information to facilitate the understanding of the disaggregated structured discussion groups.

The structured discussion groups were designed to capture small-group input by members of the legal profession who share similar characteristics. With one exception (where senior and junior members of the profession attended the Breakfast), the group context of the Breakfast for Change discussions was designed to encourage the sharing of anecdotes and experiences by similarly placed individuals in a space where they would feel safe doing so. The Breakfasts were discussion-based, and varied according to the nature of each group. The Breakfasts tended to open with fairly generic questions, and were then guided by the information provided by the participants. It was in the interests of the research to encourage discussion, rather than to pressurise the participants with a flurry of questions. However, it was also often necessary to drill down into statements made by participants by asking further specific questions in relation to statements made. By their nature, these questions could not be prepared in advance. One of the objectives of the Breakfasts was the pursuit of interventions and solutions. After discussing issues relating to transformation, participants were asked to propose solutions to address issues raised in the discussion.

A sample invitation letter to a Breakfast for Change, a participant information form, and a consent form are attached to this report as "C", "D" and "E" respectively.

### **9.3. Field Research Method 2: Semi-Structured Individual Interviews**

The selection criteria were the same as the structured discussion groups described above, i.e. gender, race, stage and age. Each participant was asked the same basic standardised questions, which were developed as part of the project.

Identified organisations were asked to inform members of their respective group, firm or company of the study and the possibility of volunteering to participate in the semi-structured individual interviews. The aim was to

include 15 to 20 participants in this aspect of the study with the understanding that all information and data collected during this process would be anonymous and confidential, identities would be withheld and demographic information would be used for statistical and research purposes only. Each interview took between 60 to 75 minutes on average and, in the end, 15 legal practitioners agreed to participate.

The individualised approach allowed the Researchers to garner information that may not have been forthcoming in the group context that characterised the Breakfast for Change discussions. The semi-structured nature of the interviews provided a degree of flexibility to cover those issues not covered by pre-prepared interview questions. It also allowed for further and deeper probing of specific responses and comments in order to address issues that emerged during the interviews. In particular, the interviewing of individuals was designed to understand if there are universal or standard barriers for specific members (black women, for example) of the profession at specific stages of the legal profession.

#### **9.4. Field Research Method 3: Electronic Surveys**

Electronic survey questionnaires were used to increase the range, outreach and impact of the research. This also assisted with the correlation and comparison of the project findings with the findings of other existing research (including the 2013 Johannesburg Bar Council research on junior advocates at the Johannesburg Bar, currently under embargo by the Johannesburg Bar Council). Electronic surveys allowed us to correlate and compare the findings of the other two methodologies. This bolsters the finding that sexual harassment and the intersection between race and gender discrimination are common impediments to advancement in the legal profession, described in section 11.1 below.

As a technique, electronic surveying yields quantitative data, which was seminal to augmenting the information emanating from direct engagement with people in the profession. Respondents were given the



option of answering questions using a range of responses such as “never”, “very rarely”, “occasionally”, “often”, “continuously” or “not sure”.

## **10. Implementation of the Research Methodology**

We outline below our approaches to the described research methodologies, some of the challenges faced, and some of the additional activities undertaken in the project.

### **10.1. Breakfasts for Change**

The structured discussion groups were held as breakfasts for various reasons. First, a breakfast creates a slightly more informal atmosphere, and encourages conversation. Additionally, it avoids disruption to an individual's or entity's operations by ensuring minimal interruption to the work day. We realised that we would be more likely to secure participation by scheduling structured discussion group meetings at the beginning of the business day than if we were to ask participants to interrupt their days to attend meetings. This is especially important in the legal profession where one charges per hour.

Originally, the project was envisaged as being twelve months in duration. As the timeframes narrowed, we were placed under certain pressures to schedule the Breakfasts for Change within a shorter period of time than originally anticipated.

The structured discussion groups were arranged thematically, and ranged in attendance from three to ten participants:

- The first Breakfast for Change was held for admitted attorneys who had chosen to leave private practice. All of the participants were female. It was hosted by CALS at Wits University. There were three participants.

- The second Breakfast for Change was held with members of the Johannesburg Bar. All of the participants self-identified as 'black, 'Indian' or 'coloured'. It was hosted by the Victoria Mxenge Group, and attended by advocates from a variety of groups. There were five participants.
- The third Breakfast for Change was held at a large Johannesburg attorneys' firm. The participants were broadly representative in terms of age, stage of career, race and gender. There were ten participants.
- The fourth Breakfast for Change was held for candidate attorneys who are members of the South African chapter of a global network of public interest lawyers. All of the participants were black. It was hosted by CALS at Wits University. There were three participants.
- The fifth Breakfast for Change was held for legal academics. The participants were broadly representative in terms of age, stage of career, race and gender. It was hosted by CALS at Wits University. There were five participants.

A further Breakfast for Change was to be hosted at a medium-sized Johannesburg attorneys' firm but this could not be arranged during the currency of the project. The medium-sized law firm was, however, represented at the Expert Reference Group meeting at the beginning of the project.

## **10.2. Individual Interviews**

The Researchers undertook 15 one-on-one interviews with individuals across the spectrum of the legal profession. Participants included attorneys and advocates in the private sector and civil society at varying stages of their careers. Participants were also disaggregated by race and gender:

- 1 African woman: candidate attorney

- 1 African woman: attorney, admitted approximately 3 years
- 1 African woman: attorney, admitted approximately 8 years
- 1 African woman: attorney, admitted approximately 10 years
- 1 African woman: attorney, admitted approximately 5 years
- 1 African woman: attorney, admitted approximately 7 years
- 1 African woman: advocate, admitted approximately 9 years
- 1 Indian woman: attorney, admitted approximately 8 years
- 1 Indian woman: attorney, admitted approximately 25 years
- 1 Indian woman: advocate, admitted approximately 11 years
- 1 African man: attorney, admitted approximately 16 years
- 2 African men: attorneys, admitted approximately 10 years
- 1 African man: attorney, admitted approximately 10 years
- 1 white woman: advocate, admitted approximately 13 years
- 1 white man: attorney, admitted approximately 10 years

There were few representatives from the group of 'coloured' people. Across the project there were only two coloured members of the profession with whom we engaged.

### 10.3. Electronic Surveys

The electronic surveys consisted of six separate surveys, which were distributed to various organisations, including:

- A civil society organisation with offices in multiple cities;
- A network of attorneys involved in corporate and commercial law practices;
- The South African chapter of a global network of public interest lawyers;
- The Johannesburg and Cape Town offices of a large attorneys' firm;
- A medium-sized Johannesburg attorneys' firm; and
- A Johannesburg-based civil society organisation<sup>4</sup>

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<sup>4</sup> A test run of the electronic survey was conducted on a voluntary and confidential basis within CALS.

All institutions are based in part or entirely in Johannesburg. The data was collected between 27 May 2014 and 16 July 2014 and the surveys were distributed within the email networks of the above organisations.

The intention in putting together this set of surveys was to achieve a somewhat representative sample of the Johannesburg legal services market. Although it would be difficult to draw the line between the two precisely, the sample includes significant responses from lawyers working in both public and private spheres. One caveat, however, is that the sample clearly does deviate from the Johannesburg legal services market in its exclusion of the large number of solo practitioners and small firms of, for instance, one or two professionals. Of the 10 959 law firms in South Africa as of 2014, 62% are solo practitioners and 35% have between two and nine attorneys. Only 30 firms have more than 50 attorneys.<sup>5</sup>

A total of 95 respondents responded to these surveys. Only 73 surveys were completed in full and the remaining respondents did not respond to all items. Of the 95 respondents, 65 identified themselves by race and gender. After analysis for race and gender, on the variables of interest (as further described below), we were left with a sample size of 62. Quite organically, black female professionals became the largest group of participants. This is inversely proportionate to the number of practicing black female attorneys in South Africa (black female attorneys constitute 13% of practising attorneys in South Africa).<sup>6</sup> The final sample consisted of:

- 26 black females
- 8 black males
- 19 white females
- 9 white males

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<sup>5</sup> B Whittle, The attorneys' profession in numbers De Rebus September 2014.

<sup>6</sup> Ibid.

The entire cohort of white males came from the large commercial firm but otherwise the race/gender cohorts were spread across the component surveys. Black females thus constituted 41.9% of the sample, while black males were 12.9%; white females were 30.6%, and white males were 14.5%. For purposes of this survey, 'black' was taken to mean a combined category of persons identifying as either African, Indian, or coloured.

We can compare this with the current demographic composition of the legal profession in order to get a sense of the representativeness of the sample. In the legal profession, it is white males who make up 40% of the whole. White females make up 24% of the profession – thus are slightly overrepresented in the sample here. Black males are 23% of the profession and therefore are slightly underrepresented in the sample at only 13%. Finally, the extent of overrepresentation of black females is shown by their share of the national profession – 13% – being just one third of the percentage in the research sample.

A further aspect of the representativeness of the sample concerns diversity within the senior and management ranks of the organisations for which the respondents work. As a whole, the respondents mostly worked in organisations where 60% to 80% of the partners or principals were male.<sup>7</sup> On the racial side, the picture was slightly different and a bit more evenly spread within our sample:

- 14.6% reported working with no white principals or partners;
- 14.6% reported working with 20% white partners/principals;
- 6.2% reported working with 40% senior white colleagues;
- 22.9% reported working with 60% white management;
- 35.4% reported working with 80% white partners/principals;
- 6.2% reported working with all white partners/principals.

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<sup>7</sup> The responses regarding the composition of partners/principals were all male (2%), 80% male (29.7%), 60% male (46.8%), 40% male (2%), 20% male (8.5%), and all female (10.6%).

Again, we can compare this with the current demographic composition of the legal profession in order to get a sense of the representativeness of the sample. In the 2013 research cited in section 2 above, 80% of the chief executives were white as well as 72% of the managing partners. 53% of all equity partners were white and male.

The survey questions themselves were modelled on a recent survey done by the Law Society of Australia. The topics covered in the survey include work satisfaction, availability of career development and progression opportunities, workplace tolerance of flexible working arrangements, the level of discrimination and harassment at work, and drivers of retention and attrition. At least as an initial matter, sample size was not large enough to facilitate analysis of the availability of career development and progression opportunities and the drivers of retention and attrition. Nonetheless, we were able to conduct a preliminary analysis of work satisfaction, workplace toleration of flexible working arrangements, and the level of discrimination and harassment at work.

#### **10.4. Challenges**

There were several challenges in setting up and conducting the field research.

The first was the risk of non-response. Members of the legal profession literally earn their fees through time and the request for members of the profession to engage with the project, in any form, was a cost not only to their productivity but also possibly to their ultimate income for the month in question. Notwithstanding this challenge, the project was met with a high number of participants who committed their time to the research. This experience reinforced the finding of the initial Expert Reference Group meeting, namely, that members of the legal profession take the issue of transformation very seriously.

Ten organisations were identified and invited to participate in the electronic survey and to nominate individuals or to call for volunteers for individual interviews. Some of those organisations were also invited to participate in the Breakfasts for Change. One month after the letters of invitation had been sent, only two organisations had confirmed their participation. Two months later, seven organisations had either not acknowledged the invitation, or had undertaken to consider the invitation but had not responded to it.

It became necessary for members of the project team to leverage professional relationships with members of various organisations in order to explain the project and confirm the organisations' participation. In our interactions with members of these organisations, it was clear that the project was extremely welcome and seen as very valuable. Yet, despite this interest, it remained difficult to schedule sessions within the available time of the project.

The second challenge related to the need to obtain an appropriate balance between the various parts of the profession, including attorneys, advocates, the academy and people who no longer are in practice. This diversity was achieved to some extent but, as with all research, a wider group of participating entities over a longer period of time would have enriched the research findings.

The third challenge was to ensure representation across the profession, based on gender, race, age, stage of career, and sector of the profession. This challenge proved to be surmountable with a wide diversity represented in the field research.

### **10.5. Project Advocacy**

In addition to the research component of the project, various members of the team engaged in project advocacy at various points during the project.

Project Lead, Kirsten Whitworth, attended the Judges Matter meeting in Cape Town on 5 June 2014. The meeting was organised by the University of Cape Town's DGRU, in order to discuss the Judicial Services Commission and the appointment of women judges. On 9 June 2014, Ms Whitworth also attended a meeting facilitated by Sonke Gender Justice to discuss women judges, and the interaction between gender and race.

Researcher Alice Brown attended the ENSAfrica Contemporary Conversations: Interactive Dialogue between In-house Counsel and Outside Counsel on 5 June 2014. Of particular interest for the purposes of our project was the panel on 'Diversity in the Law, Why It's Top of Mind for General Counsels'. The General Counsel of Coca-Cola Bottling Investments Group and the Legal Director - Africa of Cummins, Inc. were the guest speakers and in their presentations, both emphasised their respective companies' commitment to diversity and transformation, identifying ways in which they monitor and assess compliance on the part of the law firms they hire.

Both Kirsten Whitworth and Alice Brown presented on the project at the Public Interest Law Gathering (PILG), held at the University of the Witwatersrand, Johannesburg, on 24 and 25 July 2014, as part of a panel on 'Transformation and Diversity in the South African Judiciary and Legal Profession'. The panel also included Tabeth Masengu (Research Officer at the DGRU), Alison Tilley (Head of Advocacy and Special Projects at the Open Democracy Advice Centre) and Sammie Moshenberg (former Director of the Washington DC Operations for the National Council of Jewish Women, where she led BenchMark: NCJW's Judicial Nominations Campaign which she helped develop in 2001 as a way to educate and engage NCJW's members and their communities on the importance of the federal judiciary and filling judicial vacancies with a diverse group of individuals with a proven record of fidelity to core constitutional values). Jonathan Klaaren chaired the session.





## C. Findings and Recommendations

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### 11. Project Findings

As mentioned in section 7 above, the project is applied research, rather than purely academic or theoretical research. The research is not designed to yield conclusive evidence regarding transformation in the legal profession. Rather, it is designed to test the accuracy of the assumptions identified in section 4 above. It is also important to bear in mind that the project is not held up as scientific research, nor was it designed as such. It engaged in qualitative research, by investigating the lived realities of those with experience in the legal profession. All three methodologies yielded consistent evidence that affirms the following: that sexual 'othering' – the process of prejudging a person on the basis of stereotypes relating to their race, gender and class, and the intersection between gender and race discrimination are factors that impede advancement in the legal profession.

#### 11.1. The Intersection of Race and Gender Discrimination

##### i. Description of the Finding

On the whole the participants noted that the experience of discrimination based on race is different from that based on gender. Where one is part of the racial and gender minority, a most particular type of discrimination is experienced, which is not addressed by the transformation project. The data indicates that while black women experience the same types of gender discrimination as their white female colleagues, they also experienced a different and additional form of discrimination by virtue of their race. Similarly, the experience of racial discrimination is similar to that experienced by their black male colleagues but there too, there is a different and additional form of discrimination based on their gender.

ii. The Research Leading to the Finding

Gender tends to be seen as less important in the process of transformation than race. In the context of the intersecting points of discrimination (namely race and gender) there appears to be a deepening divide. When we speak of groups who are disadvantaged or poorly represented in the legal profession, we speak of blacks, women and black women. It is important to acknowledge each of these groupings and to recognise that the intersectionality of being both black and female cannot be ignored. The prejudice against a person based on both gender and race, was not addressed by the project of racial transformation. Black women can face discrimination and prejudice both because of their race and their gender. As a participant noted, it seems that while white women suffer from sexual harassment throughout their careers, black women suffer from both sexual harassment and gender discrimination. As a result of this intersection of discrimination, there are fewer successful black women than white women, and this appears most manifestly on the Bench. A participant noted that it is particularly distressing that the Constitutional Court, which is the guardian of our Constitution, does not appear to be transformed for black women, and that this does not bode well for black women.

The Bar participants expressed very particular concerns. Certain participants at the Bar observed that the experience of being at the Bar is significantly different for black and women advocates because they feel like a cultural minority. People talk in a particular way and socialise in a particular way, and work flows as a result of socialising.

Due to racism, prejudice and pre-conceived notions of ability, or inability, many black legal practitioners believe that they have to “work twice as hard” to disprove these negative assumptions but, even in doing so, they only get “half as far” as their white counter parts, again, due to racism, prejudice and pre-conceived notions of their capabilities.

Participants at the Bar remarked about the difficulties of being self-employed. This is reportedly exacerbated for black counsel: a participant noted that she has financial responsibilities that other people do not, including, for example, having to buy her parents a house before she was able to buy one for herself, which meant she had to work much harder and for far longer in order to reach the same position as her white colleagues.

The participants from the Bar noted that the Johannesburg Bar Council has not adopted either a maternity leave or a sexual harassment policy, but has recommended instead that such policies be adopted by individual groups. They noted with concern that this lack of leadership from the Bar Council is indicative of the established hierarchy of the Bar, and the cemented traditions where women's views and positions are not taken as seriously as those of men. They noted that because the Bar relies so heavily on tradition, it is very difficult to change things from the way that they have always been done.

The attorney's profession was similarly problematic. One participant was the only black female employee when serving her articles. She worked with a number of white men. She described an incident where her employer shouted at her in the corridor, in front of her colleagues, yelling "I will not have incompetent women in my firm".

Participants made nuanced references to respect. A number of female participants observed that they feel that although they are taken seriously within the workplace, they are not taken as seriously as their male colleagues. One participant remarked that she had felt that she was taken seriously throughout her upbringing, until she began working in a law firm. She noted that this is endemic to the legal profession, and not specific to any one firm.

For example, senior members of the profession will assume that, as the only woman in the room, the female staff member will make the coffee. The same participant noted that ninety per cent of the time, she is the only

woman in the room. Her supervising partner ensures that either he or the most junior person in the room makes coffee. However, other partners tend automatically to assume that, as the only female present, she will make the coffee.

Several black women spoke of difficulties that they had in teams supervised by white women. One person gave an example of working in a team that was entirely comprised of women and where, initially, she thought that there would be support and solidarity. Instead, she was confronted with instances of what she perceived as racial prejudice and discrimination. There must be “an honest discussion around gender discrimination and the different impacts on black women and white women”.

The sentiments above were largely confirmed in the results of the electronic surveys. One part of the survey focused on aspects of discrimination, bullying/intimidation and sexual harassment. It posed the question to respondents “To what extent have you personally experienced any of the following in your current workplace?” and then queried several different aspects of discrimination, bullying/intimidation and sexual harassment.

Respondents were given the option of answering “never”, “very rarely”, “occasionally”, “often”, “continuously” or “not sure”.

The most prevalent of these issues were bullying/intimidation and discrimination based on gender, age, and ethnicity. For the subset of black females in the sample, the level of bullying/intimidation experienced and reported (7.6%) was consistent with the sample as a whole. With respect to white women, the reported level of bullying/intimidation was 15.8%, about twice the rate in the sample as a whole and twice the rate reported by the black females in the study.

## 11.2. Gender Discrimination and Reproductive Rights

Gender discrimination on the whole seems to be accepted in the legal profession, particularly when it comes to pregnancy. One participant spoke of the tension between her desire to try to become a director/partner in her firm and her desire to start a family. She does not know if these two goals are compatible. Another participant described one incident where a woman had disclosed her pregnancy to an employer and had been asked what she was “going to do about it.” The strong implication was that she needed to terminate her pregnancy, or lose her job. According to the electronic survey, no respondents had requested unpaid maternity/paternity leave but this may be because none of the respondents had been pregnant.

## 11.3. Latent Discrimination and ‘Otherness’

“I didn’t realise how hard it is to be coloured until I came to [this firm]”

### i. Description of the Finding

As participants discussed their experiences, the ‘invisible barriers’ and alienating behaviour became part of the definition of transformation. It was observed that those who are different have the following choices (i) seek to accommodate the prejudice in adjusting their behaviour and not being offended; (ii) seek to assimilate into the dominant culture through language, behaviour and other social conduct; or (iii) challenge the institutional culture that perpetuates privileged white culture, with possible consequences of alienation and ultimately leaving the profession.

### ii. The Research Leading to the Finding

Prejudice and exclusion may not always be deliberate or conscious. Male and female junior associates in law firms noted vastly different experiences, as did white and black attorneys. Some participants observed that, within

the law firm context, seniors tend to be dismissive of juniors as a whole but still treat white males better than their black / female colleagues. A theme that came out quite strongly was that some participants who are different from the hegemonic norm are penalised for their difference, and that they should not have to pay a "tax" for being different. Instances of preferring white junior counsel over black junior counsel continue to occur. Both clients and the senior counsel will more readily listen to the white junior than to a black female junior.

There was also recognition that prejudices are often unconscious or unintentional. Some female participants noted that prejudice is not always apparently negative, for example, male senior partners may be 'protective' of their female juniors, treating them more like a daughter than a professional colleague. This facially neutral practice becomes negative, however, by undermining the female junior and categorising her as a child in a parent-child relationship. This practice, and its unintended paternalistic side-effect, was acknowledged by male participants.

An example of othering or sub-conscious prejudice was raised by a participant from the Bar, who noted that, social conversations are often about cricket or rugby, historically white sports in South Africa. Confirming this position, a member of the attorney's profession noted that the only unifying sporting discussion is the English Premier League or European Football League. Importantly, this was also an example of how women may be excluded irrespective of the race of their male colleagues. Some efforts at cultural exchanges are made but may backfire, for example, a white senior male lawyer asked a black senior male lawyer, in a discussion about cricket, how BafanaBafana was doing, thereby offering a well-intended but ultimately belittling overture of inclusion. The participant noted that black members of the Bar feel that they must take an interest in historically white sports in order to participate in social conversations. Yet, the same courtesy tends not to be extended to them by their white counterparts.

Some participants from the Bar observed that a good relationship with an attorney, which is encouraged by social interaction, leads to more work. But, there are limited opportunities to socialise across race, which restricts briefing patterns and some participants noted that attorneys tend to brief counsel that look like they do.

Lawyers who socialise together tend to give each other work. The example that has been repeated on a number of occasions, by advocates, attorneys, and corporate lawyers, is the expectation that one cannot succeed if one does not go skiing with the right people.

One member of the Bar voiced an objection to the fact that advocates get work by playing golf, but admitted that it is preferable to learn how to play golf than to rebel against the system.

If lawyers have spent the day together on a Sunday it is more likely that there will be a more compatible working relationship during the week. This acts as an organic and unintended but very real barrier to development for people who are not part of the homogenous seniority.

For example, one participant reported about the longstanding arrangement by an all-white and all-male group to watch a rugby match. Black associates were invited only an hour before the match. The event had apparently been arranged as an informal social outing by a group of employees who tended to socialise with each other. The last minute invitation from obviously white colleagues to obviously black colleagues only served to reinforce the alienation based on race.

A black female candidate attorney reported being told that she would "never be like" her white male counterpart and while he is taken to meetings, she is sent to make deliveries and photocopies. She observed that her colleague attended the same school as their supervisor, and believes that there was a pre-existing relationship between them, which influences their interaction within the professional sphere.



Perhaps most poignantly, a participant observed that as a black lawyer, it is difficult to abandon ingrained prejudices, even against oneself. The participant noted that this leads to hesitation before speaking in consultations and with colleagues, because there is a need to be particularly comfortable saying something, due to a lack of confidence and trust in one's own abilities. The participant emphasised that this is not just about language: every time she is in a room with white people, she is hesitant to talk in case she embarrasses herself.

#### **11.4. Sexual Harassment**

##### **i. Description of the Finding**

As participants related their experiences, it became apparent that sexual harassment is a problem across the profession with insufficient structures in place to address it; insufficient understanding of the range of behaviours that constitute sexual harassment; and a lack of understanding of the manner in which it impedes advancement.

##### **ii. The Research Leading to the Finding**

Some participants related that there is a range of behaviour that constitutes sexual harassment experienced in the professional environment (in varying degrees of intensity). However, senior management at law firms and some members of the Bar Council either do not seem to understand the complexity of sexual harassment, or deny its existence. In the opinion of one participant, sexual harassment is a problem at the Bar but the Bar Council has no formal position on the matter. Although there are few formal complaints, there are several stories of sexual harassment. This status quo is entrenched by the concern at junior levels that being too vocal in raising concerns around sexual harassment, will "rock the boat" and the individual will be seen as a troublemaker. The lack of understanding, coupled with a fear of being perceived to be disruptive (referred to as a

“career limiting move”), creates a de facto system in which there is sexual harassment but not consequences for such violations. Because there is little, if any, relief for victims and survivors of sexual harassment, the imperative of silence remains. Quite simply, complaining about sexual harassment has the result of impeding the flow of work to the complainant.

The established hierarchy of the Bar obfuscates the identification of acts that constitute sexual harassment. Participants from the Bar observed that the generally accepted rule of practice at the Bar is that juniors do “whatever is required” of them by their seniors. This can – and does – extend to sexual harassment. Some are of the view that it is understood to be a career-limiting move not to acquiesce to a senior’s demands. One participant reported incidents where a senior had asked a junior to accompany him to Cape Town on a business trip, even though she was not on brief, and had no role to play in the matter. The innuendo was that the request was made for non-professional reasons. The same participants noted, however, that at the Bar, reputation is everything, and women fight a constant battle between having to manage their reputations while managing sexual harassment, and perceptions of their colleagues.

Another participant noted “sexual harassment is a big issue at the Bar. It is not spoken about but it needs to be exposed. If you could get women to tell their stories at the Bar, you would be shocked”.

### **11.5. Coloured People Feel Particularly Excluded and Isolated**

Many participants noted that the transformation debate is often seen in binary form, as white versus black. As a result, coloured members of the legal profession tend to fall outwith any one particular group. One participant remarked that it was only when she started working at a law firm that she realised how it felt to be a “coloured woman”. Another participant observed that she would not be invited to social events by black colleagues, because she was not seen as black, nor did she fit in with white colleagues’ social groupings. The result is that one is excluded both

for the purposes of social networks, and also, for the purposes of having a network of similarly placed individuals with whom one can commiserate in the Gauteng area.

Therefore, in terms of social groups, a particularly isolated category of persons is 'coloured' women at the Bar. One participant noted that it is much harder to be of "mixed race" because she does not belong to any group, and therefore has no comfort zone or protective category. The absence of a network of coloured women (as opposed to networks of black men and black women) highlighted this to her.

### **11.6. The Importance of Networks**

#### **i. Description of the Finding**

Participants noted that the so-called old boys' network is well documented and understood: groups of similarly placed people support, interact and protect each other. The support that individuals gain from networks provides significant advantages in career progression. Many participants noted that white male lawyers look after the interests of other white male lawyers, often subconsciously.

Increasingly, black 'boys' clubs' are also emerging. The result is that black and white female lawyers fall through the cracks without the right connections, either through gender, family, schooling, or conforming to an appropriate dress, behaviour or accent.

#### **ii. The Research Leading to the Finding**

Some participants spoke of the very specific culture of the Bar, noting that people talk and socialise in a particular and different way. Because work follows as a result of socialising, it is important to be attuned to that way of socialising. Those who are already familiar with this are at an advantage,

and they tend to be white and male. Success is therefore easier for those who fit that culture.

Many participants noted that the 'boys' club' may not be the exclusive domain of white lawyers. There are black boys' clubs and, to a lesser extent, Indian boys' clubs. There are, however, no equivalent 'women's clubs'. Some female attorneys noted that they worked in all female teams, but on the whole, there are no organic groupings of women, with a dearth of encouragement from women for each other.

The absence of a women's network arises in part because of discrimination by women (particularly senior women) against other women. Some participants noted that this may be because of the need for women to act like men and to relinquish their gendered identity in order to fit into the hegemonic norm.

The participants from the Bar acknowledged that theirs is a particularly tough environment. It is a fight to enter this domain; it is a fight to remain in this domain; and it is a significant fight to succeed in this domain. Some participants noted that entering the Bar and succeeding as an advocate can be difficult for anyone because of the series of challenges that coming to the Bar poses. For example, the financial strain of pupillage followed by the 97-day invoicing period places a burden on all members of the Bar. It is difficult to come to the Bar in general but it is particularly acute for anyone who is not part of the overwhelmingly white and male domain. White men do not face the same difficulties precisely because the position of a minority is one hurdle they do not have to clear. One participant remarked that this problem is exacerbated by the tendency that the legal community has "to intermarry", thus perpetuating the cycle of socialising within particular circles, and making it difficult for outsiders to gain access.

One participant noted that there are two manifestations of exclusion in respect of career progression, both formal and informal. There are formal programmes such as performance monitoring, but informally, people are

able to rise to the top based on their informal relations. This participant noted that the only time that he is able to have ordinary conversations with colleagues, regardless of race or seniority, is when they play soccer.

### **11.7. Fronting / Window Dressing**

#### **i. Description of the Finding**

A number of black participants spoke of being used in expedient and opportunistic ways by their firms: they described being invited to participate in meetings in which their respective firm was soliciting or “pitching” work from potential clients.

#### **ii. The Research Leading to the Finding**

Participants spoke of being actively recruited to participate in these sessions. Then, the next time they would hear about that client and work would be weeks or months later, in the corridors, so to speak. They would learn that the firm had been retained and was engaged in the work but that they, the black attorney used to attract the client, would not have been included in the work. It becomes clear why a black, capable attorney would want to leave the profession for such a reason.

One participant told us of an incident in which she was included in the pitch to solicit work from a particular client. Her name and photograph were included in the team profile presented to that prospective source of business. Months later, and inadvertently, she learned that the firm had indeed been hired by the client but that she had not been included in the team and work that the firm had received. Another participant spoke of the “dishonesty” of “using black identities” to solicit business from government entities such as Eskom but then not being included in the work once the firm was appointed.

### **11.8. Scepticism about Black and Female Professionals' Ability (Or: A Mistake by a Black Lawyer is Worse than the Same Mistake Made by a White Lawyer)**

#### **i. Description of the Finding**

Many of the participants believe that those in senior positions (be it within law firms, at the Bar or in the judiciary) doubt and question the intelligence, talent or prior experience of black and female practitioners. In their opinions, black professionals are generally viewed as less than equal or worthy until they prove themselves differently. In contrast, they felt that their white colleagues were always presumed to be competent and capable until or unless they prove otherwise. Black and female and, in particular, black female professionals, need to overcome preconceived ideas and assumptions related to their race, gender, language and accent.

#### **ii. The Research Leading to the Finding**

Participants almost always agreed that the legal profession is far from transformed. They noted that it is largely white and male physically, and that this is reflected in the profession's ideology and prejudices. Many participants spoke about facing preconceived notions and attitudes that assumed blacks were incompetent, lazy or token appointees without substantive knowledge and skills. On more than one occasion and in more than one setting, the research team heard some participants talk about the requirement for them, as black professionals and/or as women, to "prove themselves" or to "show that [they] could do the work" or to "have to work harder and longer" than their white male counterparts to be recognised and respected by their supervisors. In other words, the presumption of intelligence was against them. One participant reported that a senior white male lamented that there were "no competent blacks". Another participant noted that, in many instances, clients "do not trust" black attorneys or women attorneys.

One mid-level professional stated that black candidate attorneys need to “work extra hard” and understand that the playing field is not level. These young professionals should not be “naïve” about the reality of who stays and who departs at the end of the articles period. According to this source, as a general rule, the majority of white candidate attorneys obtain offers and stay while the majority of black candidate attorneys depart because they are not invited to continue with the large firms once they have completed their articles. This, in the opinion of this participant, is the reality that black entrants into the profession must face.

A participant reported an incident where a black female lawyer had sent an email containing spelling errors to a client. The client replied to the entire team, complaining that this was why he opposed working with black women and insisting that she be removed from the matter. The firm took her off the matter. After this incident, the attorney in question left the firm. The critique of the firm's response was not because spelling is not an important component of professional lawyering; rather, the response linked the error to the race and gender of the attorney – and all like her. The participant noted that it is highly unlikely both that the client would have requested the removal of the attorney, and that the firm would have agreed to his removal, had he been a white man.

Just as women may discriminate against other women, the same was true in respect of race. It was noted that there are black professionals who are affected by this. Some of the participants noted that it can be difficult for people to go against what they have been trained to think for years, such as perceptions that blacks are intellectually inferior. There are, for example, deep-seated prejudices about which type of matters black counsel are, or are not, capable of handling.

A black senior counsel noted that, when briefed on a construction matter, he will automatically think “Black counsel do not understand construction law, so I had better find a white junior”, despite the fact that there are black junior counsel who are indeed experienced in construction law. He

feels that he has been conditioned to underestimate black juniors because his white counterparts underestimate black juniors, and because he, himself, was underestimated as a junior. He noted that, even though he himself is black and aware of the imperatives of transformation, these assumptions are very difficult to unlearn and will take time.

Some participants from the Bar noted that there are black attorneys who feel that they cannot brief black advocates. They fear that if such black counsel fails to perform to a certain standard, this will serve as confirmation that all black professionals cannot succeed. They noted that some black attorneys would rather brief white counsel than risk confirming their white colleagues' prejudices about black professionals.

One participant observed that, as a black lawyer, his seniors assume that he cannot do the work that he is given, or that he will find it more difficult to take instructions than his white colleagues. He also noted that he and his black colleagues seem to be criticised in a different way to white colleagues when making mistakes: a mistake made by black colleagues seems to be of far greater significance and to have greater consequences. Similar mistakes made by a white colleague are shrugged off as an innocent mistake. The position suggests that when a white professional makes a mistake, it is because there was an error in judgment. When a black professional makes a mistake, it confirms that black colleagues are, on the whole, unable to do the work.

### **11.9. Language, Accent and Class**

#### **i. Description of the Finding**

Some participants noted concerns about prejudices in the workplace against those who are black and "have an accent", because of the assumption that they belong to a lower socio-economic category of non-professionals.



ii. The Research Leading to the Finding

A participant noted that in a consultation, clients associate certain accents with assumptions about an individual's ability. That person is at a disadvantage before they have even begun the consultation. As a result, people are pigeonholed at the time of greeting clients, and before there has been any engagement with the substance of a matter. This can have a silencing effect, resulting in a junior sitting quietly in a consultation, allowing others to speak. This perpetuates the problem, allowing white colleagues of the same status to establish seniority because they feel able to speak more freely.

A participant noted that how English is spoken matters, and that this is true of academia, law firms and the Bar. People, who speak English better than others, automatically benefit from the perception created that they are better at their job. This erodes the confidence of those who are not as proficient in English, creating the impression that black juniors are not 'hungry' for the work.

Another participant noted that language is a particular barrier for Afrikaans-speakers, and that many Afrikaans students do not apply to the perceived top law firms because they feel that being Afrikaans speakers is viewed negatively, and that they will not be able to succeed. This adds an additional barrier for Afrikaans-speaking coloured individuals, who have both racial and language barriers to clear.

#### **11.10. The One 'Good Black Female' Lawyer**

i. Description of the Finding

Participants from the Bar observed that once a black junior has proved him- or herself, s/he is inundated with work because s/he immediately becomes known as "the one black person who can do it".

## ii. The Research Leading to the Finding

Participants noted the risk of being pigeonholed: once a junior does well in a particular field, it is difficult to get work in another field, and thus to grow a diverse practice. The inundation of work also presents the potential negative consequence of making mistakes because of an unmanageable workload, thereby reinforcing prejudices against the capability of black professionals, both male and female.

Participants from the Bar raised concerns that some clients will not trust black attorneys with matters because “they’ll mess it up.” If the firm insists on a black attorney to manage the matter, the client will then insist on hiring white counsel, because “the buck stops” with white counsel. The implication is that at least the person who has control over the end product will be able to fix the deficiencies of the black attorney (representing discrimination based not only on race but also on a longstanding distinction between the Bar and the side-Bar).

In a perverse way, the perception that there are only a few good black legal practitioners can be advantageous, at least initially, for some juniors. Capable black juniors will have flourishing practices but this quickly becomes an unmanageable burden because they are the black counsel everyone will use. The burden for the “good black junior” who receives a great deal of attention and work, soon amounts to too much work, the sheer volume of which undermines their ability to perform optimally. Inevitably there will be a moment of under-performance, which will expunge his or her reputation as the “good” black. Similar weak moments for white juniors are not so absolute in their consequences and are not interpreted as evidence of a lack of capability amongst all white female juniors. Moreover, this perception of there being only a few good blacks also impacts adversely on the work and attention that other black professionals receive. So, some black juniors are over-worked and over-used while others are under-developed and ignored. The support for the ‘good black’ lawyer is therefore an exception, rather than the rule.

### 11.11. Briefing Patterns and Work Allocation

#### i. Description of the Finding

Various participants noted that work allocation is based on either informal relations or racial and gender prejudices. In order for this to occur, it was observed, senior professionals must change their patterns of briefing (which some are already doing). Change therefore must come “from the top”. Directors of law firms and senior counsel need to be deliberate in their briefing patterns and allocation of work to address the issues of transformation.

The briefing patterns have an economic impact too. In respect of attorneys, the more lucrative commercial fields are skewed towards white attorneys and black attorneys tend to be found in the less lucrative fields such as criminal and labour law.

#### ii. The Research Leading to the Finding

Participants from the Bar observed in order to get effective training, one needs exposure to a mix of small manageable cases in which an advocate can grow one's confidence and larger matters in which one can get exposure. Participants noted that white juniors are given small matters in which they can succeed and are able to shine; black female juniors, however, are usually brought into larger matters only. Moreover, because of the perceived 'lack of good black female' advocates, junior black advocates are brought into matters, which are far beyond their experience, setting up them to fail. As a result, they are seen as incapable of delivering quality work, which has an impact on obtaining future work. Where the junior advocate, notwithstanding her lack of experience, succeeds and bucks the stereotypes, she is then inundated with high level work, subsequently missing out on a steady progression of training that her male colleagues ordinarily receive. A participant noted that after herself

ten years at the Bar she has never managed small, relatively simple matters because of the lack of training in those areas.

Some participants also noted that some parastatals insist on black juniors for all of their work. Because people tend to work with the same people repeatedly, a clique develops. Some participants observed that there are some black female juniors who are preferred over others, and as a result are briefed in too many matters. Some cannot maintain the workflow and lose credibility. A participant observed that this could be alleviated by widening the pool of black women briefed; there are many capable black women who do not yet have access to this work, despite clients and attorneys lamenting the lack of black female counsel, which is simply untrue.

Another participant observed that, at times, even when black juniors are brought into large matters, clients rely exclusively on the white senior counsel. The participant reported being excluded from consultations and not being informed about developments in the matter. While formally on brief, the participant described that she was not involved at all in the matter. When the client asked for an invoice, the participant refused to provide one. She explained that she had been excluded from the work in the matter, making her position one of 'window dressing'. Because she could not do any work she refused to bill the client.

Some participants felt that the role of senior advocates is critical, but that it is difficult to get buy-in from them for a number of reasons, including that mentoring takes a great deal of time and effort. They noted, however, that this is only part of the problem, because there is a balance to be struck between being a junior on matters on the one hand and developing a practice through individual briefs on the other. The risk of not developing properly is that after ten years at the Bar, one should have certain skills, but juniors who have spent ten years battling to keep their heads above water in very large matters with poor mentoring or supervision may not have

those skills. Some participants noted that leaving private practice for the corporate world then becomes an attractive option.

A number of female participants spoke of problematic work assignment patterns in firms. In a mixed group of male and female junior attorneys, the women talked about how they were assigned administrative or company secretary type assignments while their male counterparts would be included in meeting with clients and given "real" legal work such as transactional work. One participant reported that during her period of articles, women were assigned more administrative work; substantive work was the preserve of white males.

In a particular team, white candidate attorneys and juniors reportedly received the "crème de la crème" of the work; of the two black women on the team, one was allocated some, but insufficient, work and another received no assignments at all.

One participant spoke of the presumption that blacks and women can only do certain kinds of work, which others considered to be 'soft' law. She noted that some think that blacks and women "can't do numbers".

At the Bar, advocates shared the observation that family law and trusts and estates are seen as "women's work". They found that gaining exposure to and experience in commercial and corporate work can be difficult for female (and black) advocates.

The nuanced nature of 'othering' i.e. making someone feel inferior or insecure because of their differences from the hegemonic norm, and discrimination is evident in the various narratives accompanying the workloading of black women. These narratives include (i) black women are imposed on clients; (ii) black women lack experience and therefore seniors do not give them work; and (iii) the smallest error will be interpreted as evidence of the ineptitude associated with race and gender.

### 11.12. Scepticism about Transformation

#### i. Description of the Finding

Many of the participants expressed doubt or pessimism about the possibilities or probabilities of meaningful transformation in the near term. They spoke about the slow pace of transformation, the lack of will to effect meaningful transformation, and the ways in which the legal profession is conservative and traditional. All of this leads them to doubt that matters will change for the better any time in the near future. Many participants acknowledged that the profession needs to be transformed, and noted that buy-in from senior levels of the profession is critical in order for transformation to be successful.

#### ii. The Research Leading to the Finding

Participants acknowledged that transformation is not a simple or rapid process, with one participant commenting on the audacity of a senior director of a prominent law firm who had recently announced that, within his law firm, all gender issues would be resolved within the next five years. The same firm gave their female attorneys sewing kits to mark International Women's Day, thereby reinforcing the stereotype of women's domesticity. "The real barrier to change: deep seated patriarchy and racism," the participant stated, "cannot be wished away."

One participant observed that she did not believe that she will see "real" transformation in her lifetime. In her opinion, "not enough is being done," there has not been adequate skills-transfer and training has been insufficient. "Transformation is very far off." Some participants observed that as long as the upper echelons of the profession remain occupied by white men who do not recognise the problem, it will be very difficult for transformation to be taken seriously and to advance.

Comments made included: "We still have a long way to go"; "We need to move away from lip service transformation." My firm is "great at giving audience" to transformation issues and discussions "but it does not always get it right." Echoing the sentiments of others, a participant noted that at the junior level within the profession, diversity can be seen but at the higher ranks, it drops off.

Institutions may spend a great deal of money on surveys and assessments but some participants question the willingness of these entities to take matters beyond the information-gathering stage. Money spent on these types of effort "does not translate into practice. This is the problem."

It was also noted that interventions in support of transformation "will not come from the law firms". There is "no commitment"; there are "no penalties", "no negative press", and "no accountability".

One participant noted that, although some black advocates (for example) want to see change, they want just enough change so that they can obtain what white men have, but not so much that the status and power that they seek is perceived to be somehow diluted or diminished by transformation.

A participant noted that "there has been transformation at the Bar over the last [ten or so] years. There are more women and blacks at the Bar. The work distribution is better but it is still inequitable. White men are more likely to be successful at the Bar. [People of colour] fall through the cracks. [We must recognise that] the Bar is intrinsically conservative and traditional. Bar leaders find change threatening, even some of the blacks [in leadership positions]." Another participant noted the "dramatic changes in the last 13 years [at the Bar]. We must recognise this," however, this participant went on to note that "progress has not been that good. The numbers speak for themselves."

Many participants spoke of the inevitability of transformation, not because the current leadership is willing to do the right thing, but rather due to the changing demographics and increased opportunities of previously disadvantaged population groups. One participant noted that “eventually, the Bar will be transformed. But it may not reach those who are already at the Bar. The evolution of the profession is inevitable.”

### **11.13. Hierarchical Structures of the Legal Profession**

#### **i. Description of the Finding**

Some participants spoke of the role of profit and rainmakers in the context of legal practice. They noted that law firms and groups of advocates exist to make money, not to ensure positive and integrated workplaces or social policies. As a result, problematic, discriminatory, racist and/or sexist behaviours or actions of rainmakers and lucrative clients are often ignored. The corollary is that being seen at work is a component of getting work and being perceived as a good lawyer. This creates impediments for those who would prefer to work outside of the established working routines.

#### **ii. The Research Leading to the Finding**

A number of participants spoke of the difficulties faced by those under-represented in private sector firms (that is, black men, black women and white women) in gaining access to lucrative clients and how this limits their ability to become authentic members of the top echelons of the large South African firms. Rainmaking is difficult, especially without support from seniors.

Rainmakers can also be laws unto themselves. Because they bring large profits to the firm, they are often not held accountable with regard to their prejudices and biases.



Indeed, when one participant was asked why he had left a major firm, his response was that he had two choices: one, as a black man he could stay at the firm and make partner with no clients or two, he could leave the firm for the corporate sector and try to establish a name for himself with clients in that setting. He chose the latter.

Many participants also spoke about how members of firms can be very territorial when it comes to clients. Some participants spoke about the difficulty of breaking out of the status of a junior, even as they advance in their careers. Another participant also spoke of the difficulty faced by black attorneys (juniors and directors) to get work clients and progress in one's career. Obtaining work is challenging for all lawyers but there are black directors who are still treated as though they are at the senior associate level, impeding their ability to grow a client base.

In order to rise within the profession's hierarchy, lawyers must be seen at work. This creates problems for those who want to work flexible hours. Because childcare remains the perceived primary responsibility of women and not men, this 'face time' creates problems mostly for women. In the electronic survey, flexible working arrangements were requested by just over 10% of the sample. These included flexible hours (start and finish times); remote working (working from home); and part time work or a compressed workweek.

The surveys also surfaced information about why a respondent did not request access to flexible working arrangements despite finding such flexibility necessary. Of these persons not requesting access to flexible working arrangements, the largest group - 42.8% of the sample - did so because the arrangements were "not feasible due to the requirements and expectations of my role". The next most prevalent reasons were "concern that making the request would negatively impact my status/reputation" and "concern that if approved, the arrangement would impact negatively on my status and career opportunities", both expressed by 30.3% of the sample.

For the subset of black female respondents in the sample, the picture is largely similar to the overall sample. The highest number of requests was for remote working (34%) and flexible hours (30.4%). As in the sample overall, black women interested in, but who did not request, flexible working arrangements, noted that the primary reasons was that it was “not feasible due to the requirements and expectations of my role”.

#### **11.14. The Importance of Training, Monitoring and Accountability**

##### **i. Description of the Finding**

A number of participants in the study spoke of the importance of receiving (i) proper, appropriate and timely legal training and (ii) exposure to both substantive areas of law and to clients during the early stages of one's legal career. Those fortunate enough to receive this type of training and exposure spoke highly and enthusiastically of these experiences. Those who did not benefit from these types of interventions recognised the adverse impact that this absence had on their professional development and expressed disappointment, if not anger, about the lack thereof. Often, participants (in both the individual and group interviews) stated that white male juniors were more likely to garner these types of experiences than black females, black males and white women.

##### **ii. The Research Leading to the Finding**

Many participants referred to law firms' laudable value statements and policies in support of transformation, diversity and equal opportunity. They say that the words are there, the policies are in place, but these statements do not translate into practices and actions in the work environment. Against this background, a number of participants talked about the need for legal workplaces to be monitored and assessed in the context of their transformation policies and held accountable when they fail to meet or uphold these assertions and policies. An important observation was that unless clients demand transformation or the failure to effect transformation

negatively impacts profit, there is little, if any, incentive to implement the change articulated in the firm's vision statements. Black female respondents to the electronic survey disproportionately expressed scepticism about the leadership's commitment to actualising transformation. One of the key areas of dissatisfaction cited in the electronic survey was individuals' concern with the leadership and direction of the organisation. 38.4% of black female respondents were either "very dissatisfied" or "dissatisfied" with the leadership and direction of their organisation.

#### **11.15. The Importance of Mentoring, Sponsorship and Champions**

##### **i. Description of the Finding**

Most of the participants stressed the crucial role of mentorship and sponsorship in the context of legal practice (as an attorney and as an advocate). Juniors and mid-level professionals do best when they have the guidance and assistance of legal practitioners who are senior to them. Beyond training (which is also critical), these types of relationships help newcomers to the profession develop their professional reputations and build confidence, networks and client-bases. Those participants who have or had mentors and sponsors noted the positive effect of these relationships on their careers. And again, both those who benefited and those who did not benefit from these types of professional relationships spoke of the tendency for mentorships and sponsorships to be disbursed, so to speak, along racial lines.

Participants were of the view that those in senior positions set the tone regarding diversity and transformation. One participant noted that "in a large firm, you need a mentor or sponsor. You can't become partner on your own".

One participant noted that if a trailblazer is female, this can have a significant, and negative, impact on a junior's professional development.

This is because there is constant comparison to the achievements of the trailblazer. A particularly high standard is set by the trailblazer – higher than the standard required for the majority of lawyers advancing in the profession. The result is that female juniors are expected to have the same characteristics as that trailblazer; their white male counterparts are not required to meet such demanding standards.

A number of participants also noted the importance of seniors being public about their faith in their black junior colleagues. One participant noted that importance of the senior lawyer sponsoring juniors positively in front of the clients by saying asking the junior “bring the client up to date about this matter,” instead of dismissing them in front of clients as mere juniors.

One participant reported a consultation with the Human Resources Department where she was told “we don’t move problems”, in response to her request to move to another team. She did eventually move to another team, and was told by her new supervisor that, over time she would “become numb”. This contributed to the participant’s leaving private practice, which could have been avoided had she had appropriate mentoring.

A number of participants observed that if a senior leader (be it a director, a managing partner or a senior counsel) seriously and vigorously takes up the mantle of promoting transformation, there is a trickle-down effect and circumstances within the work place or professional environment improve noticeably.

Participants from the Bar were asked why some people get support and others do not. One response was that “some juniors don’t feel comfortable seeking support. Some groups don’t have seniors who do this. Some groups don’t have enough seniors. Then, the snowballing effect kicks in. Some juniors take on too much and then can’t apply themselves to the tasks at hand. Reputation is everything. Relationships with attorneys: they function on reputation and word of mouth”.

A number of participants expressed concern at the absence of black female role models in the top echelons of law firms. One black female participant observed that the absence of women in senior positions, on whom she can model her career, means that she does not feel that the senior position is an option for her. As a result, she frequently finds herself questioning her choice of career. Female participants within a law firm noted that they feel that they are expected to lose their femininity and individuality, and channel their energies into being trailblazers who demonstrate none of the characteristics of the stereotypes associated with women.

#### **11.16. The Importance of a Clear Understanding of Transformation**

##### **i. Description of the Finding**

A number of participants expressed concern at the use of the word “transformation” without a clear understanding of its meaning.

One participant told us she is frequently told that, should she go to the Bar, she will have no problems getting briefs because she is a black woman. She expressed discomfort at being guaranteed briefs by virtue of her race and gender, and wants her success to be based on her merit. This leads her to question what transformation is, and what drives debates on transformation.

The same participant told us that she is concerned when questions of transformation look only at race and gender, and suggested that the debate should also take economic circumstances into account. She provided the example of a white female colleague with whom she served her articles. Her colleague started her articles and had a number of loans which she had had to take out in order to pay for her studies, whereas she, as a middle class black female, had had her studies paid for by her parents.

### 11.17. Impact of Economic Disadvantage

#### i. Description of the Finding

Participants recognise the growing black middle class that is entering into the legal profession. However, issues of economic status and class continue to impede development and growth in the profession.

#### ii. The Research Leading to the Finding

Although, since 1994, there are many more black law students, many of them come from poor or modest economic backgrounds. And, even with the possibility of entering into well-paying employment in the private sector and government, many come to these positions with limited financial resources, debt and sizable family obligations and responsibilities. What does this mean in the context of transformation and diversity in the legal profession? This reality plays out in a variety of ways. For example, several participants spoke of issues involving candidate attorneys and young black professionals who did not have driver's licenses or did not have cars and how this adversely affected these attorneys during their article periods.

A participant told of a black female candidate attorney in a large firm who did not have a car and therefore used public transport to travel to work. This hindered her ability to work late, although she did the best she could under the circumstances. Yet, white seniors who supervised this young attorney saw her inability to work late into the night on a regular basis as laziness and lack of dedication. In the end, this candidate attorney left the firm.

This issue of access to driver's licenses and cars, and the impact of the lack of these on young attorneys from disadvantaged economic backgrounds, was introduced in a number of settings over the course of this study. One participant observed that just as South African society does not always reflect the values of the Constitution, the legal profession does not reflect

the values of the Constitution, and the people who work within the profession are not as progressive as the Constitution. He provided an example of eviction law, where the rules are designed to protect the poor, but where there is largely a resistance from the profession to assist the poor, in the face of the imperatives of profit-making. He observed that this is indicative of the way South African society views the poor and vulnerable.

## **12. Recommendations**

The project mapped four stages of the legal profession and in respect of each stage there are clear recommendations to be made.

### **12.1. To Those Working on Transformation of the Judiciary**

#### **12.1.1. Identify the Link between Transformation of the Judiciary and Transformation of the Profession as a Whole**

The first recommendation is to acknowledge and identify that the lack of transformation in the judiciary is linked to a lack of transformation in the legal profession. Addressing the representation of the judiciary demands an analysis of the lifespan of the entire legal profession to determine why black women in particular are exiting the profession, resulting in a smaller pool of black female candidates for the judiciary than their white male colleagues.

### **12.2. To Law Firms and Members of the Bar**

#### **12.2.1. Take it from the Top**

Transformation requires a champion. The champion must be someone with power in the organisation and who is both respected and a high fee earner. Change occurs if behaviour by those with power is adjusted. Somebody in a position of power in a firm needs to take on the role of championing transformation and addressing the impediments identified within that firm. This should not be left to human resources.

### **12.2.2. Address the Pattern of Exclusion of Black Women**

The second recommendation is to acknowledge and respond to the patterns of discrimination that cause black women to leave the profession. The points of exit within the legal profession are in fact patterns of exclusion that mitigate the retention of black women in the profession. This pattern is something that is going to require correction and to be addressed so that there is a greater pool of black women in stage three of the legal profession to fortify and fuel the judicial selection process.

### **12.2.3. Ensure Accountability**

For those firms and counsel groups who speak about transformation, there has to be fair and representative mechanisms that hold perpetrators to account and protect victims of discrimination and harassment. The Law Society and the Bar Councils at a minimum should have policies around harassment and sexual discrimination for the parts of the profession they represent. This does not preclude individual group policies.

### **12.2.4. Manage Assumptions about 'All' Black Women**

Senior lawyers should be very clear about their own responses to black and white juniors. They should always draw a distinction between criticism of an individual's work and criticism of an individual and the group to which they belong. The former is acceptable and promoted excellence. The latter is a form of racial and gender discrimination, both of which are prohibited and which impede transformation of the profession as a whole.

## **12.3. To Government**

### **12.3.1. Map the Progression of Black Women in the Profession**

For those firms and counsel groups who speak about transformation, there has to be fair and representative mechanisms that hold perpetrators to



account and protect victims of discrimination and harassment. The Law Society and the Bar Councils at a minimum should have policies around harassment and sexual discrimination

The Department of Justice and Constitutional Development should undertake a research project to monitor the career paths of black female law graduates and determine how and if they progress in the legal profession over a ten year period. They should also encourage the JSC to take responsibility for the patterns of discrimination that may or may not be emerging in the profession and, as a result, in their decision-making.

### **13. Conclusion**

The research relies on an assumption that transformation of the legal profession is an important objective. Apart from the constitutional imperative that the judiciary be representative of the country, why would transformation matter? The research undertaken in the production of the report indicates that across the profession in Gauteng, lawyers are experiencing a range of hostility and exclusionary conduct based particularly on the intersection of race and gender. This hostility is deeply inconsistent with the notions of dignity and Ubuntu, which underlie our constitutional democracy. It is also causing the stultification of excellence and the effective repression of talent in the profession. In the same way as centuries of gender- and race-based discrimination has led to the loss of scientists, mathematicians and artists because the identity and race of a person mattered more than their skill, so too we risk the loss of excellence in the legal profession today.

The research aims to reveal the invisible nature of barriers that continue to impede the progression of black women in the legal profession. If we are at all serious about the commitment to reverse this pattern, these findings need to be explored further and addressed. Failure to do so will result in the debate about transformation of the judiciary being a constant and unchanging phenomenon well into South Africa's future.

# Annexure A

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## Final Literature Review

### 1. Introduction

This document presents some preliminary discussion concerning transformation dynamics drawing on the relatively thin literature on the South African legal profession. Following on from the concept note that explains the Transformation of the Legal Profession Research Project, this introductory section posits and outlines four phases to the lifespan of a legal professional career in South Africa. The next section covers the existing literature, with specific attention both to the posited four phases to the lifespan of a legal professional career in South Africa and to potential presence and operation of reasons for exclusion and inclusion.

At least as a starting hypothesis and as a guide to this research, we posit four phases for a standard legal professional career in South Africa. Phase One covers the period of time as a law student (from first registration in the LLB to LLB graduate). Phase Two covers the period of time of vocational training (e.g. service as an articled clerk or pupillage, prior to admission as an attorney or an advocate with Bar Council). Note that there is some evidence to the effect that three years rather than five years is an important threshold (Godfrey 2009: 111). The next two phases are somewhat more arbitrary. Phase Three covers the period of time from admission (as an attorney or with a Bar Council) to five years of experience. Phase Four then covers the period from five years' professional experience to senior status in the profession, e.g. a legal professional with at least ten years' of experience.

### 2. The Existing Literature

South Africa has been missing from the existing academic historical comparative work on the legal profession. The extensive work of Richard

Abel is a clear case in point here. Despite Abel's careful and formative attention to South Africa and its legal politics in his monograph *Politics by Other Means* (1995), the country is missing from his historical and comparative work on the legal profession (Abel 1988a, 1988b) that includes nearly every other country with a developed legal profession. There is certainly nothing on South Africa to compare with Abel's full-scale work on the English legal profession (Abel 2003), which tells the story of English lawyers in the 1990s.

Why is there this lack of research into the legal profession in South Africa? There appear to be two primary reasons. First, the existing knowledge base about the legal profession in South Africa has been in a sense over contextualised, indeed skewed, by the struggle against apartheid. On the question of the role of law in respect of apartheid, lawyers have certainly come in for some critical examination (White 1988) as well as celebration (Broun 1999), but the bulk of scholarship on lawyers under apartheid has been of a jurisprudential nature (Budlender 1988, Dyzenhaus 1998), even where such analyses have explicitly valued everyday lawyering as well as impact cases (Budlender 1988). Likewise, Meierhenrich's account of anti-apartheid lawyering attends particularly to the effects of such lawyering on the legitimacy of the legal system (Meierhenrich 2008: 208-217). Combining these two concerns, Albie Sachs presented a short pen portrait of 'Brown and Black Lawyers in Action', including accounts of the Treason and Rivonia Trials (Sachs 1973: 205-229). This gap in terms of knowledge of the profession as a whole has been perpetuated, in a certain sense, by the attention given to issues of public interest law as opposed to access to justice in the transitional and post-apartheid contexts (Budlender 1988, Marcus and Budlender 2008).

Second, there has been little to no state support for research into the transformation of the legal profession – a feature that appears as true after apartheid's demise as during its reign. It is notable that little or none of the funding provided by the Attorneys Fidelity Fund has supported research. Instead, it is used for teaching law students, particularly in the university law

clinics (which have an access to justice mission as well as legal education). Likewise, the percentage spend by the Law Society of South Africa on research is dwarfed by its spending on continuing education and vocational education. Research spending by the attorneys' profession has been perhaps one or two surveys, which were themselves seen as excessively expensive. The Bar appears to have a similar attitude, having recently funded two or three studies, but not having as yet demonstrated a sustained interest. Finally, the state appears not to be funding research in any comprehensive manner. The funding for legal research coordinated through the South African Law Reform Commission has largely gone to doctrinal and comparative research supporting legislative drafting efforts. Apart from a few ad-hoc projects – notably the scarce skills research funding underlying the work of Shane Godfrey provided by the Department of Labour and the assessment currently being undertaken by the HSRC and the University of Fort Hare with extensive funding from the Department of Justice and Constitutional Development – there appears to be little coordinated or sustained research into the contemporary dynamics and future trends and prospects of the legal profession.

So what research does exist? Perhaps the two best and most focused accounts of the legal profession in South Africa are Lisa Pruitt's early and careful study, *No Black Names on the Letterhead? Efficient Discrimination and the South African Legal Profession* (2002) and Godfrey's work on the legal profession (2009a, 2009b). While Pruitt uses the perspective of the US market for legal services and its accompanying analytical literature, Godfrey begins by examining the legal services market based on a concern regarding scarce skills in the South African labour market. The work by Martin Chanock on the development of the profession in the first few decades of the 1900s bears mention as well.

Lisa Pruitt's work provides a comprehensive contemporary investigation into the question of black representation particularly in the commercial law segment of the attorneys' profession. Her research and arguments took into account three studies of the legal profession done in the first ten years post-

apartheid (Pruitt 2002: 550 n7). Pruitt drew on earlier theoretical work of Wilkins and Gulati and came to a fairly pessimistic conclusion regarding the then-current place of black commercial lawyers as well as the potential for improvement. In her view, "[w]hile black law graduates are moving into [elite commercial law] firms at an unprecedented pace, however, few are remaining with the firms for more than a couple of years, often no longer than is required for them to become admitted attorneys. Early in their legal careers, even in comparison to their white counterparts, these black attorneys take full advantage of their mobility in the current labour market to pursue alternate career opportunities in both the public and private sectors". (Pruitt 2002: 671)

Based on her findings, Pruitt put forward that the reasons for exclusion seen by blacks included very low law firm salaries, lack of opportunities within the corporate firms, better paying professional opportunities in non-law firms, cultural alienation, and professional isolation. Whites identified intellectual inferiority, deficits of human capital, interest, loyalty, and perseverance as explanations for exclusion. Ultimately, Pruitt located the relative underrepresentation of blacks in elite commercial law firms in the interplay of institutional and individual racism, a racism that Pruitt found was shielded from the market and its potential corrective force by a lack of transparency.

Put into the above posited four-phase and points of exclusion structure, Pruitt found that law firms were not discriminating at the end of Phase Two (e.g. in the hiring decisions) but were discriminating in their implementation of practices of training and mentoring operative and determinative in Phase Three (Pruitt 2002: 673). Indeed, for Pruitt the real question as to why the firms are not doing more to identify and counter these practices is, in part, because there is no clear 'integration leader' in the top five law firms.

The interviews Pruitt conducted as well as her secondary research into questions of remuneration, firm structure, and candidate attorney training could well be profitably updated from her research period of 1999-2000.

One set of non-exclusive reasons used in a survey in another Commonwealth jurisdiction regarding retention included: Better salary/remuneration, Lack of promotional opportunities, More scope for flexible working arrangements, Better work-life balance, More flexibility to balance my work and personal responsibilities, Unhappy with the workplace culture, Unhappy with the leadership and direction of the organisation, Unhappy with the relationship I had with the person to whom I reported, Experienced bias or discrimination, Experienced harassment or bullying, More independence/ control in work, Better quality of work, More interesting or varied work, Wanted to work in a different sector, Looking for a change/ something new, Better position/ significant job opportunity, Better job security/ reliability of work and/or income, Better mentorship, Better learning and development opportunities, Better location, Wanted to start a new business/ work for myself, Too much pressure on billable hours, Too much pressure on bringing in clients/ new business, Reduced stress and pressure, Mental or physical health reasons, Wanted to work in a business/company, Wanted to work in a team-based working environment, Wanted to give back to the community, It's part of my career plan, Didn't want to work as a lawyer anymore, Taking time out from the profession (career break), Taking time out from the profession (parental leave), Relocation with my partner/family, Redundancy/termination of employment, and Retirement (Law Council of Australia, 2014).

With funding and support from the Department of Labour, Shane Godfrey conducted a thorough investigation of the legal profession. Sourced largely from Legal Education and Development (LEAD) section of the Law Society of South Africa (LSSA) and from the General Council of the Bar of South Africa (GCB), Godfrey's data extended through 2006 and his work was published in 2009. Reflecting at least the data he was working with (if not also the dominant concern of the profession regarding the profession at the time), Godfrey's findings are particularly valuable and focused with respect to the first two phases of a standard legal career. Godfrey's data do not permit him to make analyses regarding the further two phases in a standard legal career – the first five years after admission and then the

period from that level of experience to senior status either as an attorney or as an advocate.

Godfrey's findings with respect to Phases One and Two pertain both to overall dynamics and to dynamics with respect to racial and gender representivity. In Phase One, his data show a drop-out rate of 51% overall for law students between their first year of LLB registration and LLB graduation (Godfrey 2009: 113 (Figure 5.1)). For Phase One, the African attrition rate was 17 percentage points higher than the overall rate, 68% versus 51%.

For Phase Two (which is of course a shorter period), the drop-out rate is much lower than it is for Phase One, 18% of those completing an LLB degree attrite and do not gain admission as an attorney (Godfrey 2009: 113). Godfrey was unable to calculate a specific attrition rate for Africans in Phase Two because of the unavailability of data from the KZN provincial law society.

With respect to representation in the profession, the attention has been largely to issues of transformation understood in terms of race (Pruitt 2002, Godfrey 2009) with some but lesser attention being paid to gender. Godfrey unfortunately relegates the analysis of the gender dimension to a single footnote, 2009: 119, n39.

Martin Chanock's work employs a different research method to the interviews of Pruitt and the statistical analysis of Godfrey. Using a historical approach, Chanock argues that the South African legal profession had to struggle at least up until 1936 to establish itself in a power social and economic position. In this period, lawyers varied considerably in social status and education. In addition, they worked in a field where contestation with non-lawyers for legitimate work status was constant. Chanock links the formalist voice of the legal profession with its desire to establish dominance over the magistracy (which was both judicial and administrative) in the lower courts (Chanock 2001: 229). Chanock identified

earlier on a central South African paradox: "We can see something of a conundrum in relation to the 'prestige' of law in South African society. Lawyers were not popular, yet 'law' came to be a central and eventually revered part of the composition of whiteness". (Chanock 2001: 231) While there was the occasional voice of conscience – what we would term today as public interest law – for the most part the profession depicted by Chanock is one that is formalist in a sense worse than its British model, distasteful of women and non-whites, of ambiguous status, deeply implicated in the concentration of rural land ownership and in the growth of the mining industry, and ignorant of the legal needs of the most disadvantaged (Chanock 2001: 239).

### **3. Research on the attorneys' sub-sector of the legal profession**

Beyond Pruitt and the studies she draws on, at least two other studies have added significantly to our understanding of the dynamics within the attorneys' profession.

In 2007/2008, the Mandela Institute of the Wits Law School collaborated with the Black Lawyers Association and other groups to commission a study on black commercial lawyers, with the research carried out by the Community Agency for Social Enquiry (CASE 2008). Drawing on a more limited number of interviews than Pruitt, the CASE study identified a prevailing perception among black commercial law professionals that could only be considered a slight improvement on Pruitt's pessimistic view and forecast: "Black commercial attorneys currently perceive improved ease of access to commercial law firms as a result of transformation legislation such as BEE and Affirmative Action. The perception is, however, that larger, established firms only recruit candidate attorneys to improve their procurement profile and often neglect to transfer skills, an important defining characteristic of an empowered individual. This sentiment is shared by black firms partnering with larger firms". (CASE 2008: 22)



In 2008, the LSSA commissioned a National Survey of the Attorneys Profession that found that the total number of professionals employed in attorneys' practices was 20 743 (36.7% of total employment). More than half (54.1%) of the professionals were equity partners and the majority of professionals (72.7%) were White. At the most senior levels – namely equity partners, salaried partners, senior associates and consultants – more than 75% of the attorneys were White. Women constituted 40.4% of the attorneys in private practice.

In 2013, a collaboration between the Wits Law School, the Vance Center of the New York City Bar, and the South African Legal Fellows Network (SALFN) together with other partners surveyed demographics within the commercial law firm sector (Klaaren 2014). According to the survey of large corporate law firms, "senior positions seem to be dominated by white males". 80% of the chief executives of the 12 firms canvassed in the survey were white men as were 68% of all managing partners. Further, the picture at the CEO/managing partner level was replicated in the ownership and remuneration structures of the firms: 53% of all equity partners were also white and male. In a number of firms, equity partners continue to play a significant strategic management role. Correspondingly, the survey found that there "are far fewer black males employed in senior positions compared with white males" and that the total number of black male lawyers made up less than half of the total white male count: 9.7% compared with 29.1%.

With the addition of white women to the SALFN analysis, the dominance by white persons becomes more pronounced. There were more white lawyers in senior positions than any other race group: 79% of managing partners and 80% of the chief executives. This was carried through at the level of equity partners, where 79% were white women or men. The survey found that though 53.4% of employees at firms are female, the number of white women is more than double that of black African women: 28.1% versus 11.9% of the total.

The survey may also be viewed from the perspective of African women. As one looks higher and higher up the corporate ladder within these large law firms, there is an overall decline in the percentage of African women. Indeed, the decline could well be termed precipitous with respect to the drop off between the representation of African women at the candidate attorney stage and at the subsequent career stage of employment as an admitted attorney. First-year and second-year articulated clerks account for 23.6% and 24.5% of the total of black African women, respectively, in the survey. If replicated across the non-participating firms in the corporate legal sector, this means that over half of the African women professionally employed in large corporate law firms are candidate attorneys.

The relatively junior profile of the African women employed is further replicated within the structure of the admitted attorneys in the firms surveyed. In the 12 participating law firms, the percentage of African female legal professionals employed at the first and second years of associate level is 20.8%. 17.1% of employees are black female associates with three or more years' experience. 10.6% of the African women are employed at equity partner or director level, with no black female lawyers at managing partner or chief executive level.

As of 2014, 64% of practising attorneys are white and 63% male. The picture is significantly different – indeed effectively reversed -- for candidate attorneys where 41% are white and 44% male (Whittle 2014b).

#### **4. Research on other sub-sectors of the legal profession**

There is some but not much literature examining the transformation dynamics of the advocates at the Bar, here understood as the dominant Society of Advocates' structures. A particular and particularly appropriate focus in the Bar's self-examination of its transformation challenges has been directed towards briefing patterns. For instance, the characterisation of such patterns as the major transformational challenge facing the Bar was

an outcome of the Bar's March 2007 Transformation Symposium (Bham 2007).

The High Court judiciary has been the topic of numerous investigations into diversity arguments (see e.g. Olivier 2013; Hoexter & Olivier 2014). Nonetheless, there does not appear to be as yet a study taking a career or labour market perspective on the High Court judiciary.

Compared to the literature on the attorneys, the Bar, and the High Court judiciary, there is not much on other significant sub-sectors of the profession: the magistracy, prosecutors, other state lawyers, legal academics, and paralegals. Research in other jurisdictions (such as Israel) where courts have had some significant impact on governance has increasingly focused on government lawyers (e.g. Dotan 2013).

There is a particular paucity of work on the magistrates, with the shining exception of Olivier 2014. Olivier offers an overview of the position of magistrates within the South African judicial regime. He notes that at the district level, the percentage of magistrates being women has improved from 24% in 2000 to 40.6% in 2013 (Olivier 2014: 330).

There is some self-avowedly preliminary and incomplete literature on community based paralegals and community advice offices (Dugard and Drage 2013).

The popular and professional literature has also been concerned with issues of transformation in the profession. Here, there are two significant threads of discussion. First, there has been an explosion of popular interest in the demographic profile of the judiciary that has paralleled the increasing political salience of this issue and its increased attention by legal academics. Second, there is a long tradition of discussion within the professional literature both reporting on and advocating for (and defending against) calls for transformation. An example reporting on and

advocating transformation within the advocates' sub-sector is Bham 2007. Within the attorneys' sub-sector an example is Whittle 2014a.

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August 2014

## Annexure B

### Survey Information & Consent

There are significant gaps in diversity in more senior roles in the legal profession. The representation of both blacks and women in sectors of the profession and in the judiciary has come under intense scrutiny.

This Centre for Applied Legal Studies (CALS) study, funded by the Foundation for Human Rights, aims to improve understanding about the experiences and motivations of legal professionals from all demographic groups as they move through their careers. This includes improving understanding of the reasons why lawyers choose to leave the legal profession or choose a different career path.

The survey itself should take between 10 and 15 minutes to complete and will collect information relating to your current employment, career moves and progression since admission, and future career aspirations.

This survey is being administered and managed by the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand, Johannesburg. All information is confidential and specific information provided about individuals will not be identified or provided to any other party. All results will be deidentified and aggregated for analysis and reporting. Nothing you say will be attributed to yourself or your organisation.

Funding for this research is facilitated by the Foundation for Human Rights which is funded by the Department of Justice and Constitutional Development and the European Union under the Sector Budget Support Programme Access to Justice and the Promotion of Constitutional Rights.

**1. Based on the information above, do you consent to participate in this survey?**

☐ Yes

☐ No

Screening Questions

2. Do you have a legal qualification to be a lawyer?

Yes

No



**Screening Questions****3. Are you currently working in paid employment?**

☐ Yes

☐ No

Screening Questions

This question asks about "working as a lawyer". We understand this to include working as a lawyer (e.g. primarily giving legal advice and doing legal work) for a corporation, parastatal or NGO, even without being admitted to practise, as well as working as a legal academic or legal researcher. We also understand "working as a lawyer" to include work as a candidate attorney or as a pupil.

**4. Are you currently working as a lawyer?**

☐

Yes

☐

No

Screening Questions

5. Have you ever worked as a lawyer?

Yes

No

Primary demographics: Lawyering

6. Are you ...

Male

Female

7. How old are you?

Less than 25 years of age

2529 years

3034 years

3539 years

4044 years

4549 years

5054 years

5559 years

6064 years

65 years or older

8. How many years is it since you were first admitted to practise in South Africa?  
(please round to the nearest number of full years)

years

9. How many years practising experience do you have post admission (excluding any time taken as breaks from the profession)?

years

**Studying law****10. What were the main reasons for your decision to study law? (please select all that apply)**

- ☐ I had an interest in the law
- ☐ I had an interest in social justice
- ☐ I had an interest in government and/or politics
- ☐ I had an interest in international relations
- ☐ I thought a law degree would provide good job opportunities
- ☐ I thought a law degree would ensure job security
- ☐ I thought a law degree would give me a broad skill base for employment in different fields
- ☐ I wanted intellectual stimulation
- ☐ I got the marks/grades to study law
- ☐ I wanted a good income
- ☐ I wanted prestige/status
- ☐ I wanted a career change
- ☐ I had the right aptitude for a law degree
- ☐ I wasn't good at maths or science
- ☐ I wasn't sure what else to do
- ☐ My parents/family wanted me to study law
- ☐ Other (please specify)

**11. When you started your law degree, did you plan to practise law after graduating?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**12. When you finished your law degree, did you plan to practise law?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**13. To what extent did your law degree meet the expectations you had when starting it?**

- ☐ Major extent
- ☐ Moderate extent
- ☐ Minor extent
- ☐ Not at all
- ☐ Not sure/can't say

**Professional Legal Training****14. What kind of professional legal training did you do prior to admission?**

- ☐ Candidate attorney in a private law firm
- ☐ Candidate attorney and a six months LEAD course
- ☐ Pupillage
- ☐ Other (please specify)

**15. How long (excluding breaks) were you engage in professional legal training prior to admission?**

- ☐ Six months or less
- ☐ More than six months and less than or equal to one year
- ☐ More than one year and less than or equal to one year and six months
- ☐ More than one year and six months and less than or equal to two years
- ☐ More than two years and less than or equal to three years
- ☐ More than three years

Other (please specify)

**16. When you started your professional legal training, were you planning to practise as a lawyer?**

- ☐ Yes
- ☐ No

**17. When you finished your professional legal training, did you plan to practise as a lawyer?**

- ☐ Yes
- ☐ No

**18. How would you describe your time of professional legal training?**

### Current legal employment characteristics

#### 19. Which ONE category best describes your main work (the role that you spend most time on each week)?

- ☐ Courts and Tribunals: Judge or Magistrate
- ☐ Courts and Tribunals: Judge's Clerk
- ☐ Courts and Tribunals: Registrar
- ☐ Courts and Tribunals: Other court personnel
- ☐ Courts and Tribunals: Tribunal Member
- ☐ Courts and Tribunals: Other (please specify)
- ☐ Advocate: Senior Counsel
- ☐ Advocate: Junior Counsel
- ☐ State Prosecutor: Senior Counsel
- ☐ State Prosecutor: Junior Counsel
- ☐ LegalAid South Africa: Attorney
- ☐ Private law firm: Equity partner
- ☐ Private law firm: Salaried partner
- ☐ Private law firm: Sole practitioner
- ☐ Private law firm: Special Counsel
- ☐ Private law firm: Consultant
- ☐ Private law firm: Senior Associate
- ☐ Private law firm: Associate
- ☐ Private law firm: Attorney
- ☐ Private law firm: Candidate Attorney
- ☐ Private law firm: Locum
- ☐ Private law firm: Paralegal
- ☐ Private law firm: Other role (please specify)
- ☐ Corporate legal (inhouse): General Counsel/Head Legal Counsel
- ☐ Corporate legal (inhouse): Senior Legal Counsel/Senior Lawyer
- ☐ Corporate legal (inhouse): Legal Counsel/Lawyer
- ☐ Corporate legal (inhouse): Nonlegal role (e.g. company director, management)
- ☐ Corporate legal (inhouse): Other (Please specify)
- ☐ Government legal: Management
- ☐ Government legal: Policy
- ☐ Government legal: State Attorney
- ☐ Government legal: Legal
- ☐ Government legal: Other (please specify)



- ☐ Nongovernmental organisation/notforprofit: Legal
- ☐ Nongovernmental organisation/notforprofit: Nonlegal
- ☐ LegalAcademia
- ☐ Other Academia
- ☐ Not currently working (e.g. on leave, studying, unemployed)
- ☐ Retired (retaining admission to practice)
- ☐ Other (please specify)

Other (please specify)

20. For how many years have you been employed at your current workplace?

- ☐ Under 1 year
- ☐ 1 year < 2 years
- ☐ 2 years < 3 years
- ☐ 3 years < 4 years
- ☐ 4 years < 5 years
- ☐ 5 years < 7 years
- ☐ 7 years < 10 years
- ☐ 10 years < 15 years
- ☐ 15 years or more

21. Do you currently work full time or part time in your current main role?

- ☐ Full time
- ☐ Part time

Current legal employment characteristics (cont.)

22. Please specify the fractional Full Time Equivalency (FTE) of your role. The purpose of this question is to ask about the extent of parttime work, e.g. 10% of a fulltime post, 60% of a fulltime post, etc.

Jr 0.1 (0.5 day / week)

Jr 0.2 (1.0 day/ week)

Jr 0.3 (1.5 days / week)

Jr 0.4 (2.0 days / week)

Jr 0.5 (2.5 days / week)

Jr 0.6 (3.0 days / week)

Jr 0.7 (3.5 days / week)

Jr 0.8 (4.0 days / week)

Jr 0.9 (4.5 days / week)

Jr Other (please specify)

**Current legal employment characteristics (cont. cont.)****23. How many hours a week do you usually work (excluding breaks)?**

hours

**24. How many partners/principals are there in your firm?**

- ☐ 14 partners/principals
- ☐ 510 partners/principals
- ☐ 1120 partners/principals
- ☐ 2139 partners/principals
- ☐ 40+

partners/principals Other

(please specify)

**25. Approximately what proportion of the partners/principals are female?**

- ☐ None
- ☐ 20%
- ☐ 40%
- ☐ 60%
- ☐ 80%
- ☐ 100%
- ☐ Not sure

**26. Approximately what proportion of the partners/principals are white?**

- ☐ None
- ☐ 20%
- ☐ 40%
- ☐ 60%
- ☐ 80%
- ☐ 100%
- ☐ Not sure

**27. To your knowledge, do any of the partners/principals at your firm work part time (i.e. less than 5 days a week)?**

- ☐ Yes
- ☐ No
- ☐ Not sure

**28. Approximately how many people are employed as lawyers (excluding volunteers but including candidate attorneys) in your organisation or business?**

jr 1 lawyer

jr 210 lawyers

Jr 1129 lawyers

Jr 3059 lawyers

Jr 60+ lawyers

jr Not sure

Other (please specify)

--

**29. What are the areas of law that you mainly practise? (please select all that apply)**

- ☐ Administrative Law
- ☐ Advocacy
- ☐ Banking/Finance
- ☐ Civil Litigation
- ☐ Commercial Law
- ☐ Conveyancing/Real Property
- ☐ Corporate Law
- ☐ Criminal Law
- ☐ Debts/Insolvency
- ☐ Employment/Industrial Law
- ☐ Environmental Law
- ☐ Family Law
- ☐ Human Rights/Public Interest/Social Justice
- ☐ Immigration Law
- ☐ Information technology/Telecommunications
- ☐ Intellectual Property
- ☐ Litigation general
- ☐ Personal Injury
- ☐ Planning/Local Government
- ☐ Small Business
- ☐ Taxation
- ☐ Trade Practices Law
- ☐ Wills and Estates
- ☐ Not applicable to my situation
- ☐ Other (please specify)

**30. In which province is your main workplace located?**

- ☐ Limpopo
- ☐ Mpumalanga
- ☐ KwaZuluNatal
- ☐ Eastern Cape
- ☐ Western Cape
- ☐ Northern Cape
- ☐ NorthWest
- ☐ Gauteng
- ☐ Free State
- ☐ Outside South Africa

**31. And is your main workplace located in:**

- ☐ The central business district of a large metropolitan (including Sandton)
- ☐ A suburban area of a large metropolitan
- ☐ A town or small city
- ☐ A rural or remote location



The level of job security	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Accessibility of mentors to support my career development	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Support provided to access contacts and networks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Accessibility of learning and development opportunities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The extent to which I am respected by my clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**33. To what extent have you personally experienced any of the following in your current workplace?**

	Never	Very rarely	Occasionally	Often	Continuously	Not sure
Bullying or intimidation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual harassment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to my gender	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to my age	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to my ethnicity	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to my sexual preference	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to disability/health issue	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to my family or career responsibilities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Discrimination due to pregnancy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**34. Have you requested access to any of the following flexible working arrangements in your current employment position (select all that apply)?**

	Not requested	My request was approved	My request was partially approved	My request was denied
Part time work	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Remote working (e.g. working from home)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Flexitime/time off in lieu	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Compressed work week	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Flexible hours (start and finish times)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Job sharing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Paid maternity/paternity leave	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unpaid maternity/paternity leave	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
None of the above	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



- ☐ I have requested access to flexible working arrangements
- ☐ Not relevant for me/not interested
- ☐ Not feasible due to impact on household income
- ☐ Not feasible due to the requirements and expectations of my role
- ☐ Unlikely that my request would be approved
- ☐ Concern that making the request would negatively impact my status/reputation
- ☐ Concern that if approved, the arrangement would impact negatively on my status and career opportunities
- ☐ Other (please specify)

	Agree strongly	Agree	Disagree	Disagree strongly	Not relevant	Not sure
Overall, the arrangements have worked as intended	3	3	3	3	3	3
Initially, the arrangements worked well but they were not sustainable for me	3	3	3	3	3	3
Management was/is supportive of these arrangements	3	3	3	3	3	3
My colleagues were/are supportive of these arrangements	3	3	3	3	3	3
The arrangements have negatively impacted my career path and opportunities for promotion	3	3	3	3	3	3
The arrangements have negatively impacted the profile and type of work I am given	3	3	3	3	3	3

	Very satisfied	Satisfied	Neutral	Dissatisfied	Very dissatisfied	Not sure	Not sureDissatisfied
The opportunities you have had for professional development and promotion	3%	3%	3%	3%	3%	3%	3%
The rate at which your career has progressed	1%	1%	1%	1%	1%	1%	1%
Your career trajectory (compared to your expectations)	3%	3%	3%	3%	3%	3%	3%

### Legal career moves

**38. How many times have you left a job (e.g. changed employer, taken a career break, started your own business) in the last 5 years (since May 2009)?**

times

**39. How many times have you left a job (e.g. changed employer, taken a career break, started your own business) since admission?**

times

**40. Did you continue to work as a lawyer in the same workplace as you worked as a candidate attorney or pupil?**

☐ Yes

☐ No

Other (please specify)

**41. For your most recent move, please specify the year you moved**

Year

**42. For your most recent move, please specify the type of employment you moved from.**

☐ Court or Tribunal role

☐ Advocate

☐ State Prosecutor

☐ Legal Aid Attorney

☐ Private law firm sole practitioner

☐ Private law firm law firm with 24 partners/principals

☐ Private law firm law firm with 610 partners/principals

☐ Private law firm law firm with 1120 partners/principals

☐ Private law firm law firm with 2139 partners/principals

☐ Private law firm law firm with 40+ partners/principals

☐ Corporate legal (inhouse)

☐ Government legal

☐ Nongovernment organisation/notforprofit

☐ Academia

☐ Nonlegal role (please specify)

☐ An extended break from paid employment

☐ Other (please specify)

Other (please specify)

**43. For your most recent move, please specify the type of employment you moved to.**

- ☐ Court or Tribunal role
- ☐ Advocate
- ☐ State Prosecutor
- ☐ Legal Aid Attorney
- ☐ Private law firm sole practitioner
- ☐ Private law firm law firm with 24 partners/principals
- ☐ Private law firm law firm with 610 partners/principals
- ☐ Private law firm law firm with 1120 partners/principals
- ☐ Private law firm law firm with 2139 partners/principals
- ☐ Private law firm law firm with 40+ partners/principals
- ☐ Corporate legal (inhouse)
- ☐ Government legal
- ☐ Nongovernment organisation/notforprofit
- ☐ Academia
- ☐ Nonlegal role (please specify)
- ☐ An extended break from paid employment
- ☐ Retirement
- ☐ Other (please specify)

Other (please specify)

### Legal career moves (continued)

**44. For your move from [Q42] to [Q43], please specify which of the following factors played a role in your decision to move (select all that apply):**

	Major extent	Moderate extent	Minor extent	Not sure	No role
Better salary/remuneration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of promotional opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More scope for flexible working arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better work/life balance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More flexibility to balance my work and personal responsibilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the workplace culture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the leadership and direction of the organisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the relationship I had with the person to whom I reported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced bias or discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced harassment or bullying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More independence/control in work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better quality of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More interesting or varied work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in practice area/different type of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Looking for a change/something new	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better position/significant job opportunity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better job security/reliability of work and/or income	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better mentorship	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better learning and development opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to start a new firm/sole practice/work for myself	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on billable hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Legal career intentions

**45. Are you considering moving to a new job/new employment circumstances (e.g. changing employer, taking a career break, starting your own business) in the next 5 years?**

☐

No

☐

Yes

☐

Maybe

**46. In approximately what time are you considering moving to a new job/new employment circumstances?**

☐

Next 12 months

☐

1-2 years

☐

3-5 years

☐

Not sure

**47. What new job/employment are you considering moving to? (please select the workplace that you would be most likely to consider moving to)**

- ☐ Court or Tribunal role
- ☐ Advocate
- ☐ State Prosecutor
- ☐ Legal Aid Attorney
- ☐ Private law firm sole practitioner
- ☐ Private law firm law firm with 24 partners/principals
- ☐ Private law firm law firm with 610 partners/principals
- ☐ Private law firm law firm with 1120 partners/principals
- ☐ Private law firm law firm with 2139 partners/principals
- ☐ Private law firm law firm with 40+ partners/principals
- ☐ Corporate legal (inhouse)
- ☐ Government legal
- ☐ Nongovernment organisation/notforprofit
- ☐ Academia
- ☐ Nonlegal role (please specify)
- ☐ An extended break from paid employment
- ☐ Retirement
- ☐ Other (please specify)
- ☐ Not sure

Other (please specify)

**48. Please specify which of the following factors may play a role in your decision to move (select all that apply) and the extent to which the factor may play a role (select one extent)**

	Major extent	Moderate extent	Minor extent	No role	Not sure
Better salary/remuneration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of promotional opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More scope for flexible working arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better worklife balance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More flexibility to balance my work and personal responsibilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the workplace culture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the leadership and direction of the organisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the relationship I had with the person to whom I reported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced bias or discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced harassment or bullying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More independence/control in work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better quality of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More interesting or varied work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in practice area/different type of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Looking for a change/something new	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better position/significant job opportunity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better job security/reliability of work and/or income	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better mentorship	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better learning and development opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to start a new firm/sole practice/work for myself	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on billable hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on bringing in clients/new business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Reduced stress and pressure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mental or physical health reasons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to work in a business/company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to work in a team based working environment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to give back to the community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It's part of my career plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Didn't want to work as a lawyer anymore	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking time out from the profession (career break)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking time out from the profession (parental leave)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relocation with my partner/family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Redundancy/termination of employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retirement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="text"/>				

**49.What, if anything, would change your decision to move job/employment circumstances? (i.e. encourage you to stay in your current job)**

**50. Would you consider working in a private law firm in the future?**

☐ Yes

☐ No

☐ Maybe

**51.Please indicate briefly why you would or would not be interested in working in a private law firm in the future.**

**52. Please indicate what (if anything) would influence your decision.**

**53. Would you consider working as an advocate in the future?**

☐ Yes

☐ No

☐ Maybe

**54. Please indicate briefly why you would or would not be interested in working as an advocate in the future.**

**55. Please indicate briefly what (if anything) would influence your decision.**

Primary demographics: Never lawyered

56. Are you ...

- ☐ Male
- ☐ Female

57. How old are you?

- ☐ Less than 25 years of age
- ☐ 25-29 years
- ☐ 30-34 years
- ☐ 35-39 years
- ☐ 40-44 years
- ☐ 45-49 years
- ☐ 50-54 years
- ☐ 55-59 years
- ☐ 60-64 years
- ☐ 65 years or older

58. How many years is it since you finished your first legal qualification? (please round to the nearest number of full years)

years

59. Are you admitted as a legal practitioner in South Africa?

- ☐ Yes
- ☐ No

60. In which province is your main workplace located?

- ☐ Limpopo
- ☐ Mpumalanga
- ☐ KwaZuluNatal
- ☐ Eastern Cape
- ☐ Western Cape
- ☐ Northern Cape
- ☐ NorthWest
- ☐ Gauteng
- ☐ Free State
- ☐ Outside South Africa

**61. And is your main workplace located in:**

☐

The central business district of a large metropolitan (including Sandton)

☐

A suburban area of a large metropolitan

☐

A town or small city

☐

A rural or remote location

**Studying law****62. What were the main reasons for your decision to study law? (please select all that apply)**

- ☐ I had an interest in the law
- ☐ I had an interest in social justice
- ☐ I had an interest in government and/or politics
- ☐ I had an interest in international relations
- ☐ I thought a law degree would provide good job opportunities
- ☐ I thought a law degree would ensure job security
- ☐ I thought a law degree would give me a broad skill base for employment in different fields
- ☐ I wanted intellectual stimulation
- ☐ I got the marks/grades to study law
- ☐ I wanted a good income
- ☐ I wanted prestige/status
- ☐ I wanted a career change
- ☐ I had the right aptitude for a law degree
- ☐ I wasn't good at maths or science
- ☐ I wasn't sure what else to do
- ☐ My parents/family wanted me to study law
- ☐ Other (please specify)

**63. When you started your law degree, did you plan to practise law after graduating?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**64. When you finished your law degree, did you plan to practise law?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**65. To what extent did your law degree meet the expectations you had when starting it?**

- Jr Major extent
- Jr Moderate extent
- Jr Minor extent
- Jr Not at all
- Jr Not sure/can't say

### Decision not to work as a lawyer

#### 66. To what extent did the following impact on your decision not to practise law?

	Major extent	Moderate extent	Minor extent	Not at all	Not relevant
Didn't like studying law	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Studied a double degree and wanted to pursue a career related to my other degree	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
Couldn't find a job practising law	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Couldn't find a job practising in the area of law I was interested in	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
I was offered another job opportunity	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
I never intended to practise as a lawyer	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
More interesting or varied work elsewhere	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Better salary/remuneration elsewhere	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
More scope for flexible working arrangements elsewhere	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Shorter working hours elsewhere	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
Greater support for work life balance (personal life) elsewhere	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Greater support for work life balance (family commitments) elsewhere	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
Better job security elsewhere	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Better mentorship elsewhere	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>
Better learning and development opportunities elsewhere	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>	J <sup>c</sup>
Reduced stress elsewhere	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>	J <sup>r</sup>

**67. Since finishing your law degree, which of the following sectors have you mainly worked in?**

- ☐ Advertising/media/arts and entertainment
- ☐ Agriculture, forestry and fishing
- ☐ Banking and financial services
- ☐ Construction
- ☐ Consulting
- ☐ Education and training
- ☐ Government and defence
- ☐ Health and community services
- ☐ Hospitality, tourism and recreation
- ☐ IT and telecommunications
- ☐ Manufacturing
- ☐ Mining, resources and energy
- ☐ Not for profit
- ☐ PR, communications and marketing
- ☐ Property and business services
- ☐ Science and technology
- ☐ Transport and storage
- ☐ Whole and retail trade
- ☐ Other (please specify)

**68. How satisfied are you with your decision not to practise law?**

- ☐ Very satisfied
- ☐ Satisfied
- ☐ Neither satisfied nor dissatisfied
- ☐ Dissatisfied
- ☐ Very dissatisfied
- ☐ Not sure/can't say



**69. How satisfied are you with your current career path?**

- ☐ Very satisfied
- ☐ Satisfied
- ☐ Neither satisfied nor dissatisfied
- ☐ Dissatisfied
- ☐ Very dissatisfied
- ☐ Not sure/can't say

**70. Would you be interested in practising law in the future?**

- ☐ Yes
- ☐ No
- ☐ Maybe

**71. If you did choose to eventually practise, in what capacity would you be interested in doing this?**

- ☐ Advocate
- ☐ Private law firm
- ☐ Corporate legal (inhouse)
- ☐ Government legal
- ☐ Nongovernment organisation/not for profit
- ☐ Other (please specify)

**72. Please indicate briefly why you might be interested in practising law in the future?**

**73. Please indicate briefly what (if anything) would influence your decision?**

Primary demographics: No longer lawyering

74. Are you ...

Male

Female

75. How old are you?

Less than 25 years of age

2529years

3034years

3539years

4044years

4549years

5054years

5559years

6064years

65 years or older

76. How many years is it since you were first admitted as a legal practitioner in South Africa? (please round to the nearest number of full years)

years

77. Prior to leaving the legal profession, how many years practising experience did you have post admission (excluding any time taken as breaks from the profession)?

years

**Studying law****78. What were the main reasons for your decision to study law? (please select all that apply)**

- ☐ I had an interest in the law
- ☐ I had an interest in social justice
- ☐ I had an interest in government and/or politics
- ☐ I had an interest in international relations
- ☐ I thought a law degree would provide good job opportunities
- ☐ I thought a law degree would ensure job security
- ☐ I thought a law degree would give me a broad skill base for employment in different fields
- ☐ I wanted intellectual stimulation
- ☐ I got the marks/grades to study law
- ☐ I wanted a good income
- ☐ I wanted prestige/status
- ☐ I wanted a career change
- ☐ I had the right aptitude for a law degree
- ☐ I wasn't good at maths or science
- ☐ I wasn't sure what else to do
- ☐ My parents/family wanted me to study law
- ☐ Other (please specify)

**79. When you started your law degree, did you plan to practise law after graduating?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**80. When you finished your law degree, did you plan to practise law?**

- ☐ Yes
- ☐ No
- ☐ I wasn't sure

**81. To what extent did your law degree meet the expectations you had when starting it?**

- ☐ Major extent
- ☐ Moderate extent
- ☐ Minor extent
- ☐ Not at all
- ☐ Not sure/can't say

**Professional Legal Training**

**82. What kind of professional legal training did you do prior to admission?**

- ☐ Candidate attorney in a private law firm
- ☐ Candidate attorney and a six months LEAD course
- ☐ Pupillage
- ☐ Other (please specify)

**83. How long (excluding breaks) were you engage in professional legal training prior to admission?**

- ☐ Six months or less
- ☐ More than six months and less than or equal to one year
- ☐ More than one year and less than or equal to one year and six months
- ☐ More than one year and six months and less than or equal to two years
- ☐ More than two years and less than or equal to three years
- ☐ More than three years

Other (please specify)

**84. When you started your professional legal training, were you planning to practise as a lawyer?**

- ☐ Yes
- ☐ No

**85. When you finished your professional legal training, did you plan to practise as a lawyer?**

- ☐ Yes
- ☐ No

**86. How would you describe your time of professional legal training? Please answer in one sentence or one paragraph.**

**Current employment characteristics****87. Which ONE category best describes the sector in which you currently work?**

- ☐ Advertising/media/arts and entertainment
- ☐ Agriculture, forestry and fishing
- ☐ Banking and financial services
- ☐ Construction
- ☐ Consulting
- ☐ Education and training
- ☐ Government and defence
- ☐ Health and community services
- ☐ Hospitality, tourism and recreation
- ☐ IT and telecommunications
- ☐ Manufacturing
- ☐ Mining, resources and energy
- ☐ Not for profit
- ☐ PR, communications and marketing
- ☐ Property and business services
- ☐ Science and technology
- ☐ Transport and storage
- ☐ Whole and retail trade
- ☐ Other (please specify)

**88. For how many years have you been employed at your current workplace?**

- ☐ Under 1 year
- ☐ 1 year < 2 years
- ☐ 2 years < 3 years
- ☐ 3 years < 4 years
- ☐ 4 years < 5 years
- ☐ 5 years < 7 years
- ☐ 7 years < 10 years
- ☐ 10 years < 15 years
- ☐ 15 years or more

89. Do you currently work full time or part time in your current main role?

Full time

Part time

Current Employment Characteristics (continued)	
90. Please specify the fractional Full Time Equivalency (FTE) of your role.	
Jr	0.1 (0.5 day / week)
Jr	0.2 (1.0 day/ week)
Jr	0.3 (1.5 days / week)
Jr	0.4 (2.0 days / week)
Jr	0.5 (2.5 days / week)
Jr	0.6 (3.0 days / week)
Jr	0.7 (3.5 days / week)
Jr	0.8 (4.0 days / week)
Jr	0.9 (4.5 days / week)
Jr	Other (please specify)
	<div></div>



Current Employment Characteristics (continued continued)

91. How many hours a week do you usually work (excluding breaks)?

hours

92. In which province is your main workplace located?

Limpopo

Mpumalanga

KwaZuluNatal

Eastern Cape

Western Cape

Northern Cape

NorthWest

Gauteng

Free State

Outside South Africa

93. And is your main workplace located in:

The central business district of a large metropolitan (including Sandton)

A suburban area of a large metropolitan

A town or small city

A rural or remote location

Career moves

94. In what year did you last practise as a lawyer?

Year

95. Which one category best describes the last role in which you practised as a lawyer?

Court or Tribunal role

Advocate

State Prosecutor

Legal Aid Attorney

Private law firm sole practitioner

Private law firm law firm with 24 partners/principals

Private law firm law firm with 610 partners/principals

Private law firm law firm with 1120 partners/principals

Private law firm law firm with 2139 partners/principals

Private law firm law firm with 40+ partners/principals

Corporate legal (inhouse)

Government legal

Nongovernment organisation/notforprofit

Academia

Other (please specify)

Other (please specify)

**96. When you left your role as a practising lawyer, please specify which of the following factors played a role in your decision (select all that apply).**

	Major extent	Moderate extent	Minor extent	Not sure	No role
Better salary/remuneration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of promotional opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More scope for flexible working arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better worklife balance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More flexibility to balance my work and personal responsibilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the workplace culture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the leadership and direction of the organisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unhappy with the relationship I had with the person to whom I reported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced bias or discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Experienced harassment or bullying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More independence/control in work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better quality of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More interesting or varied work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in practice area/different type of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Looking for a change/something new	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better position/significant job opportunity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better job security/reliability of work and/or income	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better mentorship	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better learning and development opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to start a new firm/sole practice/work for myself	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on billable hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too much pressure on bringing in clients/new business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduced stress and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

pressure					
Mental or physical health reasons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to work in a business/company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to work in a team based working environment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wanted to give back to the community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It's part of my career plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Didn't want to work as a lawyer anymore	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking time out from the profession (career break)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking time out from the profession (parental leave)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relocation with my partner/family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Redundancy/termination of employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retirement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="text"/>				

**97. What, if anything, would have changed your decision to leave the legal profession?**

**98. What, if anything, do you miss about working in the legal profession?**

**Career intentions**

**99. Would you consider working as a lawyer again in the future?**

Jr

Yes

Jr

No

Jr

Maybe

Career intentions

100. In approximately what time frame would you consider returning to the legal profession?

Within the next 12 months

12 years

35 years

610 years

More than 10 years

Not sure

101. What type of workplace would you consider working in as a lawyer? (please select the workplace that you would be most likely to consider working in)

Court or Tribunal role

Advocate

State Prosecutor

LegalAid Attorney

Private law firm sole practitioner

Private law firm law firm with 24 partners/principals

Private law firm law firm with 610 partners/principals

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Private law firm law firm with 40+ partners/principals

Corporate legal (inhouse)

Government legal

Nongovernment organisation/notforprofit

Academia

Other (please specify)

102.Please indicate briefly why you would or would not be interested in working as a lawyer in the future.

103. Please indicate what (if anything) would influence your decision.

Demographics

104. What is the highest level of legal qualification you have completed?

- ☐ Doctor of Laws / PhD in Law
- ☐ Masters of Laws
- ☐ Juris Doctor / Postgraduate qualification for admission to practice
- ☐ Bachelor of Laws (LLB) or equivalent
- ☐ Combined Bachelor of Laws (LLB) and another degree (e.g. BA/LLB or BCom/LLB or BSc/LLB)
- ☐ Other (please specify)

105. What educational institution conferred on you your South African LLB or BJuris?

- ☐ Transkei
- ☐ Zululand
- ☐ University of Johannesburg
- ☐ UNISA
- ☐ Limpopo
- ☐ Venda
- ☐ Free State
- ☐ Ft. Hare
- ☐ Potchestroom University
- ☐ Pietermaritzburg
- ☐ Univ of KwaZuluNatal
- ☐ UCT
- ☐ Rhodes
- ☐ Port Elizabeth
- ☐ Western Cape
- ☐ Wits University
- ☐ University of Pretoria
- ☐ Stellenbosch University
- ☐ I do not have a South African LLB or BJuris
- ☐ Other (please specify)

**106. Which of these categories best describes your personal gross income (pretax, excluding superannuation) in the financial year ending 28 February 2014?**

- ☐ Less than R250,000
- ☐ R250,000 R500,000
- ☐ R500,000 R750,000
- ☐ R750,000 R1,000,000
- ☐ R1,000,000 R1,500,000
- ☐ R1,500,000 R2,000,000
- ☐ R2,000,000 R2,500,000
- ☐ R2,500,000 R3,000,000
- ☐ More than R3,000,000

**107. Approximately what percentage of your total household income comes from your salary?**

- ☐ 100%
- ☐ 80-99%
- ☐ 60-79%
- ☐ 40-59%
- ☐ 20-39%
- ☐ 0-19%
- ☐ Not sure/rather not say

**108. Were you born in South Africa?**

- ☐ Yes
- ☐ No

**109. Are you a South African citizen or a permanent resident of South Africa?**

- ☐ Yes
- ☐ No

**110. Do you regularly speak a language other than English at home?**

- ☐ Yes
- ☐ No, English only



**111. Do you identify as being White, Indian, Coloured, or African?**

- ☐ White
- ☐ Indian
- ☐ Coloured
- ☐ African
- ☐ Other (please specify)

**112. Which best describes your marital status?**

- ☐ Single
- ☐ Married or de facto
- ☐ Divorced, separated, widowed

**113. How many dependent children do you have (including stepchildren)?**

- ☐ 0
- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5 or more

**114. Are any of these children ... (select all that apply)**

- ☐ Aged under 6 and living with you all / some of the time
- ☐ Aged 6-12 and living with you all / some of the time
- ☐ Aged 12-17 and living with you all / some of the time
- ☐ Aged 18 or older and living with you all / some of the time
- ☐ None of the above

**115. Are you the primary carer in your family?**

- ☐ Yes
- ☐ No
- ☐ There is no primary carer: the role is shared

**116. Who is the primary carer?**

- ☐ My partner
- ☐ My expartner
- ☐ My or my partner's parents
- ☐ Other (please specify)

**117. Do you have any other family or carer responsibilities?**

- ☐ Yes
- ☐ No

**118. Please indicate for whom you have carer responsibilities**

- ☐ Grandparent/s (mine or my partner's)
- ☐ Parent/s (mine or my partner's)
- ☐ Sibling/s (mine or my partner's)
- ☐ Other (please specify)

Follow up interviews and Thanks

Thank you for your participation in our survey!

CALS may be undertaking follow up oneonone interviews or telephone interviews with a number of lawyers to discuss their career progression, rationale for career moves and future intentions in more detail. The interviews will take about an hour for the oneonone interviews and between 30 and 45 minutes for the telephone interviews. Please note that this will be a confidential process: responses will not be attributed to individuals or their employer in our reporting or in our discussions. If you choose to provide your contact details, you may be contacted for purposes of this research only and your contact details will not be provided to any other party than the CALS team conducting this research.

**119. Would you be interested in participating in a oneonone or telephone interview? If so, please provide your appropriate contact details below: name, email address, telephone.**

- ☐ No thanks
- ☐ Yes oneonone interview
- ☐ Yes telephone interview
- ☐ Yes either type of interview

Other (please specify)

# Annexure C

# CALS

Centre for Applied  
Legal Studies

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Tel + 27 11 717-8600 Fax + 27 11 717 1702  
[www.law.wits.ac.za/cals](http://www.law.wits.ac.za/cals)

Tel: 011 717 8609 (direct)

Ref: Whitworth/TLP

To: [Name]

Email: [address]

Date

Dear Name

## Transformation of the Legal Profession: Invitation to a breakfast meeting

We would like to invite you to a breakfast meeting at The Wits Club at West Campus, Wits University, Braamfontein from **08:00 to 09:30** on **Thursday 26 June 2014**.

The Centre for Applied Legal Studies, together with the Foundation for Human Rights, is conducting a research project into the transformation of the legal profession. This breakfast is one of a series of Breakfasts for Change, which comprises the focus group component of the research. The focus group will be led by Professor Bonita Meyersfeld, with one of our researchers, Ms Alice Brown. Further information on the research is included in the appendix.

Please confirm your attendance by contacting Ms Cebile Ndebele on 011 717 8648 or [Cebile.Ndebele@wits.ac.za](mailto:Cebile.Ndebele@wits.ac.za).

Please do not hesitate to contact me if you have any questions in connection with this project.

Kind Regards



Kirsten Whitworth

**Attorney: Centre for Applied Legal Studies**

Tel: 011 717 8609

Email: [Kirsten.Whitworth@wits.ac.za](mailto:Kirsten.Whitworth@wits.ac.za)



### Appendix

The South African legal profession continues to face the challenge of meaningful transformation. While junior stages of the legal profession see a diverse representation of professionals, the top positions in the profession, from senior partners of law firms, to senior counsel at the bar and senior members of the judiciary, are less diverse. Senior positions do not reflect the diversity of the country, and are dominated by men, with a marked absence of diversity on the basis of race, gender and other marginalising characteristics such as sexual orientation, disability and religion.

The lack of diversity in the legal profession has gained widespread media attention with respect to the appointment of senior members of the judiciary. The Judicial Services Commission has come under scrutiny for its appointment patterns, decision-making processes and the extent to which the constitutional imperatives of racial and gender diversity are reflected in its recommendations to the President.

There have been successes of course. The racial diversity of the Constitutional Court in the 20 years of democracy has gone from seven white justices and four black judges to the current bench of two white judges and the majority being black judges. In the same period, however, the number of women on the Constitutional Court has remained the same: two in 1994 and two today, betraying a lack of meaningful transformation in respect of gender.

Against this background, the project aims to broaden the frame of reference of the debate to the profession as a whole to challenge the binary distinction between talent and diversity; understand the specific emphasis on race and not gender, where racial transformation has advanced, albeit slowly, and gender transformation has had a much slower growth pattern; and uncover other less visible barriers to transformation.



# Annexure D

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## Participant Information Sheet

Dear Potential Participant

Greetings! Thank you for considering participating in our research.

The Centre for Applied Legal Studies (CALS), together with the Foundation for Human Rights, would like to invite you to participate in a research project examining transformation within the legal profession (“the project”).

The South African legal profession continues to face the challenge of meaningful transformation. While junior stages of the legal profession see a diverse representation of professionals, the top positions in the profession, from senior partners of law firms, to senior counsel at the bar and senior members of the judiciary, are less diverse. Senior positions do not reflect the diversity of the country, and are dominated by men, with a marked absence of diversity on the basis of race, gender and other marginalising characteristics such as sexual orientation, disability and religion.

The lack of diversity in the legal profession has gained widespread media attention with respect to the appointment of senior members of the judiciary. Indeed, the Judicial Services Commission has come under scrutiny for its appointment patterns, decision-making processes and the extent to which the constitutional imperatives of racial and gender diversity are reflected in its recommendations to the President.

Yet, there have been successes of course. The racial diversity of the Constitutional Court in the 20 years of democracy has gone from seven white justices and four black judges to the current bench in which the majority of the judges are black and two are white. In the same period, however, the number of women on the Constitutional Court has remained the same: two in 1994 and two today, betraying a lack of meaningful transformation in respect of gender.

Against this background, the project aims to broaden the frame of reference of the debate to the profession as a whole to: challenge the binary distinction between talent and diversity; understand the specific emphasis on race and not gender, where racial transformation has advanced, albeit slowly, and gender transformation has had a much slower growth pattern; and uncover other less visible barriers to transformation.

In the current phase of research under the banner of “Breakfasts for Change,” the research team will conduct approximately six structured discussion group meetings with 25 to 40 legal practitioners in total. Ideally, the interviewees will be broadly representative in terms of age, race, gender and stage of career. Each meeting should thus have no more than six to eight participants.

Information and data collected during these meetings will be kept anonymous in the research. The researchers will take detailed notes during the interview. The researchers will keep personal information gained confidential. Although identities will be withheld, demographic information will be used for statistical and research purposes.

We invite you to participate in this study – which will take the form described above and last sixty to ninety minutes. We hope that participants will be forthright, candid and comfortable with the mission and purpose of this study and the fact that their contributions will be anonymous.

If you agree to participate, you may choose not to answer particular questions, and, should you initially consent to participate, you may withdraw your consent at any time. We must emphasise that participation in this research is entirely voluntary, and that you will not be paid for participation.

The study will be reported to the Foundation for Human Rights and made accessible through academic publication. A summary of the research will be available to each participant who requests it.

Please contact us with any questions at Jonathan Klaaren ([jonathan.klaaren@wits.ac.za](mailto:jonathan.klaaren@wits.ac.za)) and at Alice Brown ([brown.alice99@gmail.com](mailto:brown.alice99@gmail.com)).

Regards Jonathan Klaaren

Alice L. Brown

Funding is facilitated by the Foundation for Human Rights which is funded by the Department of Justice and Constitutional Development and the European Union under the Sector Budget Support Programme – Access to Justice and the Promotion of Constitutional Rights.

**Participant Consent Form**

I have read and understood the Participant Information Sheet regarding the Transformation of the Legal Profession and/or I have discussed the research project with the CALS researchers.

I understand that reporting from the study will be anonymous, that I may withdraw if I wish, and that the information will be kept confidential.

I give consent to participate in semi-structured interviews in this research project of the Centre for Applied Legal Studies.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_





