



by cloud literally but united by a common interest in the theme of the conference : “New Rights – New Laws : Legal Information in a Changing World”. The somewhat surrealistic surroundings made less of the transition from a local to international interest group and by the time we returned to a more accustomed altitude the ice had been broken.

A few hours later we reconvened for the official opening of the conference which took place in the Two Oceans Aquarium, the highlight being a talk by Professor Vivian Bickford-Smith who recreated the atmosphere of life in Cape Town during the nineteenth century. Many of the delegates were staying in the Breakwater Lodge, built in 1859 as one of the most feared prisons of its time with the express purpose of contributing to the development of the community by containing convicts who were to build a harbour, and the theme of various combinations of legal values adapting to a changing environment was cast. This theme was never far from the surface over the days that followed as we learnt of the influence on the current legal system of indigenous, Dutch, British, Colonial and other factors.

Judge Dennis Davis dealt briefly with the contradictory concept of law and social change, explaining that

although in essence the law conserves and doesn't change, it is also a form of social change and never neutral as it always enforces a particular perspective.

Geoff Budlender described how the South African Constitution is different from most in that it is a charter for a new order, a commitment to change, enshrining rights as an engine of change, and that change is being driven by a combination of civil/political and socio-economic needs. The right to housing formed an example : the positive element highlights the duty to make provision for housing to the people who need it ; the negative element details the duty to prevent unfair eviction.

Professors Hugh Corder and Christina Murray gave us an insight into the process of negotiation that saw the development of the country's first Bill of Rights and the Constitution. Professor Murray in particular recounted the human aspects of the process which emphasised that the ultimate intention was to benefit individuals as well as groups. (Readers may refer to an article written by Professor Corder - Modern Law Review 1994:491).

Judge Kate O'Regan explained the processes that lead to the appointment of judges to the Constitutional Court and the change in the judiciary's demographics in general since the Court was established in 1994. In terms of criminal justice, the risk to constitutional justice is most profound when clamours for retribution are at their highest and the three institutions that need to be actively involved in bringing about change are the family, schools and community institutions. As the Constitution is for change and not maintaining the status quo, socio-

economic cases are well represented in this forum and some of the most significant judgments handed down to date include *Soobramoney*, *Grootboom* and *Minister of Health v TAC*.

Members of the audience queried the concept of eleven official languages on a number of occasions and were assured that one has the right to argue in court in any one of these languages, provinces are expected to operate in three languages and that national government publishes in two or three languages only.

A few of the international delegates expressed surprise that the presence of surveillance cameras in urban areas and the proliferation of road blocks have not been contested in court ; it was interesting that those of us who live with these perceived 'invasions of privacy' evinced little objection, one of the reminders of the difference in perspectives among the audience.

Papers addressing specific aspects of legal change in South Africa provided an in-depth perspective of the complexities of merging various legal, cultural and social systems.

The integration of customary law into the existing legal system started in 1985 but the ratification of several international conventions, particularly those governing women's rights, has seen increased progress in this field. In terms of changes effected by the Customary Marriages Act, marrying more than one wife has now become an expensive

undertaking (ref. S.7(6)) but there are concerns about the enforcement of this legislation. The question arose as to which system would apply in marriages involving parties from different legal systems, a trend seen more frequently right across Africa as well as further afield.

Advocate Rashida Manjoo of the Commission on Gender Equality addressed the audience on legislative recognition of Muslim marriages, an extremely interesting example of the merging of two legal systems as developing legislation tries to straddle the Constitution and elements of Sharia law.

The matter of land reform is an emotive one and South African legislation seeks particularly to address the areas of redistribution, compensation and restitution. Examples of the complexities which need to be resolved include valid ownership of pieces of land that have had numerous owners over time, lack of proof of ownership, and the target of redistributing 30% of agricultural land in South Africa over 15 years. When asked how South Africa hoped to avoid the loss of productivity seen in other African countries during similar periods of transition, the speaker replied that not giving land back is not the solution, but the process requires better management.

Human rights issues were addressed from a number of perspectives. The sheer magnitude of the task faced by the Truth and Reconciliation Commission, originally appointed in 1996 for a period of twelve to eighteen months but which heard the final application in 2003, is often overlooked but Mary Burton brought to life the process of painstakingly tracing and compiling records of missing individuals and reported atrocities. Although most of the records were archived at the end of 2001, vast quantities of information had previously been destroyed and some even went missing during the transferral to the National Archives in 2001.

The matter of financial reparation is still being debated and Jeremy Sarkin gave us an insight into the field of 'transitional justice'. The concept of pursuing financial reparation in foreign courts is supported by the arguments that it can assist with financial loss, it provides for official acknowledgement of particular events, and can serve as a deterrent to future human rights abuses. Because it is difficult to sue countries and individuals are often dead or missing, companies may be the only tortfeasors available to provide compensation.

Dr John Akokpari described the roles of the OAU (Organisation for African Unity, 1963-2002), AU (African Union, July 2002-) and NEPAD (New Partnership for African Development) in policing and preventing human rights abuses in Africa. The OAU aimed to unify the continent and decolonise countries and was not designed as a human rights protector. By 1998 there were many wars within Africa and new issues including

globalisation, rebel movements and international terrorism had emerged; the AU, modelled after the European Union, is dealing with a number of new issues including corruption, HIV/AIDS, human rights abuses and demands for transparency. NEPAD sees itself as a partner to accelerate the evolution of marginalised countries into globalisation initiatives and relies on a peer review mechanism to encourage compliance, the latter being a speculative system that still needs to be seen to be effective.

Zackie Achmat engaged the audience immediately with the statement that HIV has made it possible to purchase life. This is one of the obstacles dealt with by activists, along with political will, the huge inequality between public and private provisions to deal with medication, and the stigma in communities.

Emil Myburgh explained that trade law is increasingly about cross-border obligations and that developing countries need to implement effective bargaining and offensive strategies to counter the negative effects of agricultural subsidies and geographic indicators (GIs) on the part of some countries, for example the naming of 'champagne', 'port' and 'sherry'.

Bringing the focus back to the field of librarianship, a panel of librarians from Nigeria, Kenya, Uganda, Malawi and Zimbabwe highlighted some of the problems faced by law librarians on this continent. These range from the documentation of customary law

in countries whose demarcated boundaries run arbitrarily through formerly united communities and properties, through human resources and skills training issues, prohibitive legislation and technical problems, to keeping collections up to date when the latest available law reports in one country date back to 1994.

Bridging the gap between libraries in developed and developing countries, Sheryl Luthuli and Ruth Ward addressed us on the development of the Constitutional Court Library. The collection of material was originally driven by the nature of cases brought before the Constitutional Court and consisted largely of works relating to constitutional law and human rights. Growth has been remarkable and within the next few months the Constitutional Court will be moving to a new building where it is envisaged that the new library will be able to hold up to 400 000 volumes. Among the expanded facilities will be a Public Reading Room, open to the legal 'public' including government entities (State legal advisors, High Courts, the National Prosecuting Authority), non-governmental organisations and academic researchers (post-graduate), the commercial sector including attorneys, and other African scholars. As a

condition of a Norwegian donation, the next phase of the virtual library initiative will allow for enhanced local and remote access to the catalogue and primary court documents. As part of its changing role, the Constitutional Court Library hopes to incorporate judgments from other high courts and African countries, and to distribute CD-ROMs where there is no Internet access.

The topic of Legal Literature in a Changing South Africa was addressed by Amanda Barratt who explained to the international audience that South African law is not codified but often incorporated into statutes and that we do have a precedent system, frequently relying on old authorities (Voet, Grotius, Van Leeuwen, et al). Since 1989 the format of legal publications has changed profoundly, influenced by the legal environment and political, technical and commercial factors. The proliferation of law reports, for example, has seen a vast increase in the amount of published material but a lot of duplication has taken place.

The wealth of information and links to almost essential websites made available by Lyonette Louis-Jacques in her paper on Legal Information in a Changing World Wide Web is best visited at [www.lib.uchicago.edu/~llou/right2.ppt](http://www.lib.uchicago.edu/~llou/right2.ppt).

The final speaker, Colin Darch, presented an African perspective of intellectual property law, arguing that IP legislation protects vendors primarily and, although it is supposed to encourage discourse, its primary motive is financial gain. Dr Darch suggested that, while the author's rights should be protected against plagiarism and that integrity of

material must be preserved, copyright is not necessarily the correct model to develop. An interesting observation, confirmed by members of the audience, is that copyright demands can sometimes make research too expensive with the result that new works do not necessarily push boundaries because they do not draw on comprehensive sources.

The winner of IALL's website competition, in which nominated websites are judged by their usefulness, authoritativeness, reliability, user-friendliness and presentation of new thinking, is <http://sosig.ac.uk/law/>.

The organisers had also arranged a varied social programme that was as interesting and enjoyable to seasoned locals as it was to international visitors. Professor Ahmed Kathrada was our host on Robben Island and once again time seemed to fall away as we walked in the footsteps of people who, over centuries, had been imprisoned and isolated from their communities, a sobering reminder of the unpleasant consequences for individuals as various systems of governance merge. The trip to the Cape Peninsula was as beautiful as ever and we were treated to a number of sightings of whales that had ventured close inshore ; visitors were also fascinated by the waterborne torpedoes which quickly transformed into quaint waddling African Penguins as they beached at Boulders Beach and impressed all with their raucous cries. A visit to the Africa Café gave us the opportunity to taste small portions of about thirty dishes from around Africa – novel

cuisine indeed? The conference culminated in an 'annual' dinner at Neethlingshof Wine Estate which was preceded by a tour of the wine cellars and a wine tasting. All in all, the stuff memories are made of.

I had hoped to learn more about IALL itself at the conference and admit that I was disappointed by the response to the Zimbabwean delegate's request for the establishment of an African chapter of the organisation : it was pointed out that the constitution of the organisation does not allow for 'chapters' and that African librarians should organise themselves. It was encouraging to note the response of South African librarians who immediately recommended OSALL as a forum on which to build. This creates an opportunity for local librarians to listen to the voices of colleagues from nearby countries and to help find ways in which to meet real needs that cannot be ignored. The challenge will lie largely in finding a way to communicate on a continent on which, with South Africa being the exception, only 15% of the population has access to the Internet and web-technology. The theme "Legal Information in a Changing World" remains relevant.

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## Congratulations

We would like to congratulate two of our OSALL members, who were finalists in the Sabinet Online/SLIS Information Specialists of the Year 2003 Competition -

Amanda Franken, the Library Manager of Price Waterhouse Coopers, won the award for the Senior Information Specialist of the Year 2003.

Simon Zwane, Library Assistant at Deneys Reitz, was a finalist in the Junior Information Specialist of the Year 2003.

Well done Amanda and Simon!!

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## Trekking through Galicia, or Two Weeks on the Camino...

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Elizabeth Bourne  
[e.bourne@bowman.co.za](mailto:e.bourne@bowman.co.za)

The Camino is the ancient pilgrimage route across northern Spain to the shrine of St James at Santiago de Compostella. Pilgrims have been trekking to Santiago since around 951 AD. In the Middle Ages they would have been seeking forgiveness from sins. In the 21<sup>st</sup> century people are still drawn to this great journey - for a multitude of reasons.

I was lucky enough to be one of a group who walked the final 200 kms or so from Astorga to Santiago in September. Everything was a surprise – the landscape, the weather, the walking, the accommodation.

The northwestern corner of Spain is green: rolling green hills and lush chestnut and oak woods. The weather did its bit to amaze us: cold mizzling rain and mist so thick that we could just see one step ahead; many long afternoons of burning heat.

Away back in early centuries there existed a legend that St James had been on a mission to Spain and that he had eventually been buried somewhere in the north west. It was the discovery of his tomb and the subsequent growth of his shrine at Santiago de Compostella that was the impetus for the development of the Camino - not to forget a large number of miracles including assistance to the beleaguered Spaniards of the 9<sup>th</sup> century in throwing the Moors out of Spain. Towns and trade followed the growth of the Camino. Pilgrims needed accommodation. Simple hospices or 'refugios' were built and refugios are still the standard Camino accommodation. Today's pilgrim just has to experience the atmosphere of a refugio. Pilgrims of all nations, ages, health and wealth are thrown together. You never know who you might meet: you share your stories, your blisters, your snores with whoever.

Pilgrims always carry a scallop shell – the badge of the Camino. The story of that shell is another Camino legend. In the Middle Ages your pilgrim took along just himself (or even herself – there were a few intrepid ladies) and a staff, cloak and broad-brimmed hat. Today, the pilgrim more likely carries a rucksack

and wears stout hiking boots. Whatever...., the Camino is still a great trek. In rain or sun you walk, up or down hill, through towns, farmyards or fields, or just along hard roadways. Was our trek enjoyable? Absolutely. Ancient villages, wayside shrines, vistas of countryside, silence or companionship. Not to mention the camaraderie of the bars in most villages and trying to make oneself understood with a word or two of Spanish.

Honesty compels me to reveal that we did not carry our packs: we had a back-up vehicle. We stayed in several refugios but also tried hospedaje or rooming-house accommodation and spent a night in an ancient farmhouse with massive walls and tiny windows. The Camino is well-signposted with yellow arrows and way markers but some of us had a great time being lost in breathtakingly beautiful countryside while taking a lift in our trusty vehicle.

Ten days of walking brought us to Santiago complete with our sore feet, healthy tans and multiple experiences and to the enormous Romanesque/Baroque cathedral which is the goal of Camino pilgrims. We attended the pilgrim mass and saw the Botufumeiro censer swung across the

cathedral with proper Spanish verve. Santiago is a neat little city. We stayed in rooms high above an arcaded street looking out onto rooftops.

We just had to be proper tourists and visit Cape Finisterre, the most north-westerly point of Europe – some 100 km west of Santiago. We sat on the Cape and watched the Atlantic swells roll in. We also tried the local delicacies including pulpo – octopus, that is.

What a wonderful experience the Camino is. Would I like to walk some more of the Camino? Yes, of course. After all the Camino starts in fact in France although it is most well known as the route stretching from the Pyrenees westwards to Santiago. To all who are drawn to this journey I would say as one says to fellow Camino travellers “Buen Camino”.

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## The first female Law Lord has been appointed by the government

Senior appeal judge Lady Justice Hale has been made a Lord of Appeal in Ordinary, Downing Street said on Friday.

Dame Brenda Hale, 58, who has been a Lady Justice of Appeal since 1999, will become one of 12 Law Lords.

Although members of the Appellate Committee of the House of Lords - the highest court in the land - are known as Law Lords, the new member will be known as Lady Hale,

a spokesman for the Department of Constitutional Affairs said. Lady Hale became a QC in 1989 and served as a recorder or part-time judge from 1989 to 1994, when she was appointed a judge of the Family Division. Lady Hale will take up the £175,055-a-year post in January. Prior to the promotion of Lady Hale, the most senior female judge in England and Wales was Dame Elizabeth Butler-Sloss, president of the High Court's Family Division.

Scotland has had a female Law Lord since 1996, when Lady Hazel Cosgrove was appointed to the Supreme Court in Edinburgh.

### Outspoken

Lady Hale has been outspoken about sexism in the judiciary. In an interview published last month, she said she had been "deeply affronted" by the way judges' official lodgings are run like gentlemen's clubs, where ladies are expected to retire after dinner to leave the men to talk. On at least one occasion, she said, she had refused to leave the dining room.

In 2001, Lady Hale launched an attack on the wearing of legal wigs, saying they "deny women their femininity" and "humanise all of us into men".

In a lecture to the Reform Club, she said the traditional horsehair wigs worn by judges and barristers are "intrinsically male and masculine".

### Appointment welcomed

Director of the equality campaign group the Fawcett Society, Dr Katherine Rake, said: "The appointment of the first woman to the House of Lords is long overdue and Brenda Hale will be

an excellent and extremely incisive Law Lord.

"This is a particularly welcome appointment at a time when the system for selecting judges is being criticised for producing an overwhelmingly white, male judiciary."

She added that the UK lags behind other countries in appointing women as senior judges.

Canada appointed its first woman to the highest court over 20 years ago, while the US, Australia and New Zealand all have women judges in their highest courts

"Even with this appointment the House of Lords remains extremely unrepresentative: only one in twelve of our top judges are female and there are no black or minority ethnic judges," Dr Rake said.

"We look forward to the appointment of more high calibre women and black or minority ethnic Law Lords in the immediate future to ensure that the House of Lords is a legitimate body in our modern society."

Story from BBC NEWS:  
<http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk/3210003.stm>

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## A Christmas Joke !!

Submitted by Danielle Heij  
[dheij@bclr.com](mailto:dheij@bclr.com)

Three guys kick the bucket on Christmas Eve and ascend to heaven, where they are met by St Peter.

"In honour of the season," St Peter says to them, "before I let you pass through the Pearly Gates, you must each give me something that represents Christmas."

The first man fumbles through his pockets and pulls out two lighters. He holds them up proudly and flicks them on.

"What do they represent?" St. Peter asks him.

"They're candles!" replies the first man.

"Ah! You may pass through the Pearly Gates!"

The second man fumbles through his pockets and pulls out a couple of sets of keys. He holds them up proudly and shakes them. "What do they represent?" St. Peter asks.

"They're bells!" replies the man.

"Ah - well done, you too may pass through!"

The third man fumbles desperately through his pockets, finally pulling out a skimpy pair of silky women's knickers. He holds them up proudly. "What do these represent?" St. Peter asks, looking a bit puzzled.

"They're Carol's!"

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## OCLC and the Library Hotel settle trademark complaint DUBLIN, Ohio, USA, 24 November 2003

OCLC Online Computer Library Center, Inc. and The Library Hotel (New York, New York) have reached a settlement agreement regarding the use of the Dewey Decimal Classification® system trademarks by The Library Hotel. On Sept. 10, 2003, OCLC filed a trademark infringement complaint against The Library Hotel in federal court in Columbus, Ohio. Under the settlement terms, The Library Hotel will receive permission from OCLC to use the Dewey Decimal Classification® trademarks in its hotel and in its marketing materials, with an acknowledgment that OCLC is the owner of the Dewey® trademarks. The Library Hotel will make a financial donation to a non-profit organization that promotes reading by children. "We are pleased that this matter has been resolved so quickly," said Jay Jordan, OCLC President and CEO. "The agreement is a good outcome for both the library cooperative and The Library Hotel. It permits the use of the Dewey Decimal Classification® trademarks at the hotel and in the

hotel's marketing materials and acknowledges OCLC's trademark rights." The Library Hotel also is pleased with this settlement. "We do not believe that our use of the Dewey® trademarks in our beautiful boutique hotel near the New York Public Library infringes OCLC's Dewey® trademarks," said the hotel's owner, Henry Kallan. "But acknowledging OCLC's Dewey® trademarks and making a charitable contribution to promote reading by children, rather than spending money litigating, seems to be a reasonable way to resolve this matter."

#### About OCLC

Founded in 1967, OCLC Online Computer Library Center is a nonprofit, membership, computer library service and research organization dedicated to the public purposes of furthering access to the world's information and reducing information costs. More than 43,000 libraries in 86 countries and territories around the world have used OCLC services including cataloging, reference, resource sharing, eContent and preservation services. OCLC and its worldwide member libraries cooperatively produce and maintain WorldCat®, making it the world's largest and richest database of bibliographic information. OCLC is headquartered in Dublin, Ohio, USA and has

over 1,200 employees worldwide. For more information visit <http://www.oclc.org/> More information on the Dewey Decimal Classification® system can be found at

<http://www.oclc.org/dewey/>.

#### About The Library Hotel

The intimate 60-room Library Hotel, located on "Library Way" at Madison Avenue and 41st Street in New York City, just steps from the majestic New York Public Library and the Pierpont Morgan Library was designed to feel more like a private club than a hotel. Each of the Library's elegantly appointed guest rooms is decorated with framed art and a library of books that relate to the room's specific Dewey Decimal® theme. Guests can request a room based on personal interests. Henry Kallan, one of New York's leading "indie" boutique hoteliers, created the Library Hotel.

Additional information on The Library Hotel can be found at <http://www.libraryhotel.com/>.

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#### Publications Noted

Nico Ferreira  
UNISA Law Library  
[ferrenm@alpha.unisa.ac.za](mailto:ferrenm@alpha.unisa.ac.za)

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#### WEB ADDRESSES NOTED

For various articles and discussions on digital rights management, see <http://www.epic.org/privacy/drm/>

For more than 100 000 official documents of the World Trade Organization, see <http://docsonline.wto.org/>

For information on academic conferences around the world, see <http://www.conferencealerts.com>

A database of labour contracts can be viewed at <http://www.iir.berkeley.edu/library/contracts/index.html>

Said to be the best general reference web site in the world (?), see <http://www.loc.gov/rr/askalib/virtualref.html>

"Knowledge management and the law firm librarian", see <http://www.law.com/jsp/article.jsp?id=1043457917273>

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