

**Welcome address by the Director of the Centre for Human Rights, Professor Frans Viljoen, to the 30<sup>th</sup> African Human Rights Moot Court Competition, 21 September 2021**

Welcome to the participants, all the guests, to this landmark event, commemorating 30 years of the Moot and 100 years of the Stellenbosch University Faculty of Law. Hearty congratulations to the Dean of the Faculty of Law, Professor Nicola Smit, and all her staff, students and alumni. And a preliminary word of thanks to Professor Annika Rudman, who lead a very competent local organising team, for her professionalism and resilience.

Bienvenue à tous nos participants francophones. Je tiens à vous assurer que l'inclusion du français comme langue d'argumentation a permis au concours africaine de procès simulé d'avoir une portée véritablement continentale.

Bem-vindos a todos os nossos participantes lusófonos. Recordamos que o Concurso Africano decorreu duas vezes em Maputo.

As the name of this event indicates, it is a competition, and, understandably, the competitive element may be at the forefront of participants' minds as you engage in one, final sparring rounds with your co-counsel. However, the Moot has since its inception and for many years been and still is so much more. I highlight four distinguishing elements that have allowed the Moot to retain its momentum over three decades.

**1 The Moot is a transcontinental and transformative meeting place**

The Moot is a memorable meeting place. It is a cross-continental bridge between people, young people in particular, a means to connect and break down boundaries of ignorance and mistrust erected largely by our common but distinct colonial pasts. At its core, the Moot is a uniquely African *agora* (public space and meeting place). The Moot allows Africans to come together on the basis of what unites us, what we have in common – the African Charter on Human and Peoples' Rights and other African human rights treaties and soft law instruments, and the resolve to advance our continent "from human wrongs to human rights". Participation over these years by 175 different universities from 50 African countries underscore its vast African reach.

Beyond these numbers, a number of features unique to the African Moot guarantee its inclusive and pan-African character. It is presented as a trilingual Competition, with English, French and Portuguese in separate preliminary rounds. In the spirit of forging alliances and bridging divides, the final round of the Competition brings together two newly-constituted teams comprising the best teams in the different language rounds. Rather than identifying a single team that can claim superiority over all others, winning in this Moot requires mutuality, collaboration and teamwork.

Different from all other moots (that we know of), the African Moot does not take place in a single fixed location, but rotates, with the Centre for Human Rights yearly acting as a co-host with another faculty from across Africa. The Moot journey has meandered through 19 countries, on the south north axis, from the Cape (UWC in 2013, and now, 2021, Stellenbosch) to Cairo (American University, Cairo in 2002), and on the east west axis, from Mauritius (University of Mauritius, 2017) to Senegal (Université Gaston Berger in 2007).

It is a journey of people. For many participants the Moot presents an opportunity to visit parts of the continent for the first time. To many, it has opened the continent, and opened their minds to the possibility of studies and friendships beyond the national.

I cast my mind back to 1993. South Africa was just emerging from the isolation of apartheid, and it became possible for South Africans to travel in the continent. I fondly remember Professor Lourens Du Plessis and the Stellenbosch University team arriving in Lusaka, having travelled close to 3000 kms by land with a 4X4, together with the Stellenbosch team and colleagues.

Prof Rudman, like you, he was a professor the Public Law at Stellenbosch University. I am confident that he would have been very proud of someone from his erstwhile department, the Department of Public Law, taking the lead to inverse the flow of human traffic, from the rest of the continent, to Stellenbosch – even if by air ...

## **2 The Moot educates in a unique way**

The Moot left its mark on the content and pedagogy. At an institutional level, it is fair to say that most African law schools today include the teaching of the African human rights. We like to believe –and we have some evidence – that law schools have started to take teaching the African human rights system more seriously as a result of the Moot – even if just to equip its students better to take home the trophy! Mooting as a form of experiential learning also blossomed in the intervening years.

Perhaps more importantly, the Moot has at the personal level been transformative. Many are the ex-mooters who bring testimony its role as a “turning point” in their lives, causing them to explore a newly-found interest in upholding human rights, and pursuing public interest or strategic litigation. Introduced to experiential learning by the African Moot, the idea of mooting is now squarely integrated into the activities and curricula of most African law faculties. In fact, today, there is a plethora of moot competitions, based on the same pedagogical insight.

## **3 The Moot contributed to advancing the African human rights system**

The African Moot also aims to contribute to the strengthening of the African human rights system. More than a decade before its actually happened, the Moot foreshadowed the establishment of the African Court on Human and Peoples’ Rights – albeit in a hypothetical

form. We hope to think that the collective energy emanating from the Moot, which ran in parallel to actual developments, contributed in some way to “will” the Court into being.

The idea of an African Court was first raised in the 1960s, but at that stage shelved as premature. In the early 1990s, with the fall of the Berlin Wall, and the third wave of democracy engulfing the continent, calls for an African Court were increasingly being made. A pertinent example is the appeal made at a seminar held by the African Commission and the Raoul Wallenberg Institute – a supporter of this event – in 1992, just after the first iteration of the Moot had been held in Harare, Zimbabwe.

Following a brainstorming convened in 1993 by the International Commission of Jurists, in collaboration with the African Commission, a draft Protocol to bring the Court into being was prepared – referred to as the Vasak Draft, after Czech jurist Karl Vasak, its primary author.

In 1993, the second edition of the Moot took place in Lusaka, Zambia.

In January 1994, the International Commission of Jurists convened a group of African experts in Geneva. The outcome was a rewritten version of the Protocol (ICJ Draft). In June 1994, the OAU Assembly of Heads of State and Government requested the OAU Secretary-General to convene a meeting of Government Experts to ponder the establishment of an African Court on Human and Peoples’ Rights. This resolution set in motion a series of government expert meetings, the first in Cape Town (1995).

In parallel, in 1995, the Moot formalised its pan-African reach, and the next year it was held in Oujda, Morocco.

Subsequent meetings of government experts, which took place in Nouakchott, Mauritania, and Addis Ababa, led to the adoption in Ouagadougou, Burkina Faso, of the Court Protocol in 1998.

In 2006, when the first actual Judges of the African Court on Human and Peoples’ Rights were sworn in, the Moot reached the halfway mark of its 30-years existence, with a session of the hypothetical court in Addis Ababa, Ethiopia.

During the second 15 years of the Moot’s life cycle, the Judges from the African Court sat on our hypothetical Court, and counsel increasingly sought reliance on judgments of the African Court.

Now, we are at a point where one observes during the Moot rounds, as I did earlier today, amazed at the ease with which counsel let fall from their tongues the names of the Court’s judgments: *Gombert, Isiaga, Konate, Umuhoza...*

#### **4 The Moot has become an African institution**

The Moot has become an institution, firmly inscribed into the calendar of annual African events of law schools across the continent. For 30 years now, it has been taking place without interruption. Even CoVID-19 did not stand a chance to disrupt this pattern. In 2020, the whole Competition was held virtually. This year, the preliminary rounds took place virtually, and produced the 8 English-language, 5 French-language and 1 Portuguese-language team who that are competing during these final rounds, consisting of a quarterfinal for English speaking teams and semi-final for both English and French teams.

If the Moot was institutionalised on the continent, it definitely also did so in the Centre. The Centre celebrated 35 years this year. That means that the Moot has been integral to Centre's agenda for all but the first five years of its existence. The Moot defined the determined the trajectory Centre's trajectory, shifting its focus from initial involvement close role constitutional drafting towards embracing a more pan-African agenda. The contacts and connections established through the Moot also lead to the establishment of the Centre's Master's in Human Rights and Democratisation in Africa (HRDA). It is no coincidence that almost all of the HRDA partners have also acted as co-host of the Moot.

There is one person without whom the Moot would never have been. That person is our colleague, friend mentor, and previous Centre Director, Professor Christof Heyns. It was Christof's wildly imaginative mind that conjured up the idea of a moot for students from across the continent. It was his endless optimism that inspired the Centre team, of which I was privilege to be part, to look past the obstacles and see possibilities or opportunities.

Alongside him, stand a long line of Moot organisers at the Centre, and local organising committees at partner faculties ... all professional, unflappable under pressure, dedicated beyond the claim for over time and the term of their professional contracts.

One individual we must, I very much want to celebrate, is Norman Taku. For many years, he was synonymous with the Moot. Norman came to the Moot first as a participants. Inspired by his experience, he came to the 1996 Oujda Morocco, he arrived as a volunteer, made himself indispensable and stayed on as moot coordinator and overseer, and eventually Assistant Director of the Centre. His passion for the Moot, his eloquence and flair remain legendary and have a treasured place among Moot memories. In his wake follow along line of Moot Court Coordinators, the most recent of which is Yusuf Sayaad , whose shadow is cast wide and large over every aspect of the last few Moots the Centre had co-organised.

For me personally, my association with the Centre started in 1991, and I was fortunate to be part of the team that, under the leadership of Christof Heyns. Those were the days when we faxing into and across southern Africa just became a possibility, and when getting a fax successfully received at a neighbouring state was case for a minor victory dance.

Together we have indeed come a long way.

There is much cause for celebration, and for much anticipation that the moot would renew itself and remain a transformative agent for African institutions and individuals that cross its path. May the Moot prosper and be part of the African landscape for the next 30 years and beyond that!

Este é um ano marcante. O Concurso comemora trinta anos de existência, já que a faculdade de Direito de Stellenbosch celebra cem anos de existência. Que possa haver muitos mais!

Cette année, le Moot célèbre ses 30 ans d'existence et la faculté de droit fête ses 100 ans d'existence. Qu'il y en ait encore plus!