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Remarks by the Honorable Richard J. Goldstone at the Dinner for the Alvin B. Rubin Memorial Lecture

*Richard J. Goldstone**

It is a particularly personal honor to have been invited to deliver a lecture in memory of the late Judge Alvin B. Rubin. He was a cherished friend for whom I had great regard and admiration. His concern for good causes knew no bounds. I came to know him in consequence of his deep interest in programs of the American Bar Association for black lawyers who were struggling against the injustices of the apartheid government in South Africa during the 1980's.

It is appropriate, therefore, on this occasion, for me to describe the debt which South Africa owes to the legal community of the United States for its contribution to the forces which in the end killed the evil system of racial oppression in my country. That contribution began in earnest in the late 1970's. In 1979, the Carnegie and Ford Foundations sponsored the first national human rights conference in Cape Town. It was hosted by the Society of University Teachers of Law, the Natal Law Society and the Law Society of the Cape of Good Hope. The opening address was delivered by Judge M. M. Corbett, then a judge of South Africa's highest court, the Appellate Division of the Supreme Court, and who later became Chief Justice.

In 1979, human rights was a subject that the South African Government and its security forces regarded as subversive. It was therefore unusual and

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* BA, LL.B cum laude, 1962, University of the Witwatersrand; Justice of the Constitutional Court of South Africa since July 1994.

From 1991-1994, Justice Goldstone served as Chairperson of the Commission of Inquiry regarding Public Violence and Intimidation which came to be known as the Goldstone Commission. He is also Chairperson of the Standing Advisory Committee of Company Law. From August 15, 1994 to September 1996, he served as the Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda. During 1998 he was the chairperson of a high level group of international experts which met in Valencia, Spain, and drafted a Declaration of Human Duties and Responsibilities for the Director General of UNESCO (the Valencia Declaration).

Justice Goldstone is National President of the National Institute of Crime Prevention and the Rehabilitation of Offenders (NICRO), chairperson of the Bradlow Foundation, a charitable educational trust, and heads the board of the Human Rights Institute of South Africa (HURISA). He is also the Chancellor of the University of the Witwatersrand, Johannesburg, a member of the Board of its School of Law, a Governor of the Hebrew University, Jerusalem, and President of World ORT (an international technical and technology training organization). Justice Goldstone is a member of the International Panel established in August 1997 by the Government of Argentina to monitor the Argentinian Inquiry to elucidate Nazi activities in the Argentine Republic since 1938.

The many awards he has received locally and internationally include the International Human Rights Award of the American Bar Association (1994). He is an Honorary Bencher of the Inner Temple, London, an Honorary Fellow of St. Johns College, Cambridge, an Honorary Member of the Association of the Bar of New York, and a Fellow of the Centre for International Affairs of Harvard University. He is a Foreign Member of the American Academy of Arts and Sciences. He was a member of the faculty of the Salzburg Seminar in 1996 and 1998.

courageous for Judge Corbett, in his opening address, to support a Bill of Human Rights as the way forward to a democratic society. Little did he, or anyone else present at that conference, anticipate that fifteen years later South Africa would in fact have a written constitution with a Bill of Rights as its centerpiece.

The 1979 Conference also saw the birth of two new organisations. The first was the Legal Resources Center, a public interest law firm. The second was Lawyers for Human Rights, an activist organisation of lawyers who wished to foster respect for and enforcement of the human rights of all South Africans. Both became important organisations which kept the flame of human rights burning in the most oppressive atmosphere of the final decade of apartheid rule.

The role model for the Legal Resources Center was the Legal Defense Fund of the NAACP (the "Inc Fund"), which had done so much during the civil rights campaign to establish the rights of African Americans under the United States Constitution. Its then director in New York was Jack Greenberg who went on to become a distinguished member of the Law Faculty of Columbia University. One of the most outstanding members of the Johannesburg Bar, Arthur Chaskalson, was persuaded to give up private practice and become the first national director of the Legal Resources Center. In fact he remained in that position until, in 1994, he was appointed by President Mandela as the President of South Africa's new Constitutional Court.

The Legal Resources Center chose its cases carefully and well. The majority of cases it took to court involved the rights of communities or large sectors of victims of apartheid. It obtained substantive relief in many cases, some of them from reluctant conservative members of the judiciary. The orders it won established, for example, the right of wives to live with their husbands who had been granted permission to live in "white" cities. Other orders protected the rights of whole communities from forced removals, an apartheid policy which led to the displacement from their ancestral lands of large communities. Some of them were forcibly moved into crowded areas which had inadequate facilities.

Some of the more progressive South African law schools established law clinics and began to teach "street law." Their services were used by many thousands of indigent black South Africans who were able to assert their legal rights against those who wished to ignore them. Training of black lawyers was sponsored by a number of United States law schools. Scholarships were established and young black lawyers were hosted for periods of one or two years at leading American law schools. In 1988, the first black law clerk in South Africa was a Yale Law School student whose four month visit to Johannesburg was paid for by his university. It was my privilege to have him work in my chambers. Within months of his arrival other judges in South Africa hired black law clerks—the ice was broken.

The small number of black lawyers in South Africa organised themselves into two black lawyers associations. The American Bar Association for many years paid for the National Institute for Trial Advocacy (NITA) to hold annual training sessions in the major South African cities for the benefit of many aspiring young black lawyers. Year after year, leaders of the United States

bench and bar helped in these training sessions. Some South African judges assisted in those sessions and I was privileged to be one of them. It was in consequence of that program that I met Alvin and Janice Rubin. In about 1986, I was invited by the then chairperson of the Litigation Section of the American Bar Association, Professor Michael A. Tigar, to attend its annual meeting in California and to speak to the importance of the NITA program. Judge Rubin was a leading member of the Litigation Section and over the days of the meeting the Rubins and my wife and I became firm friends. I spoke at that meeting of the importance of the program they had been sponsoring. I was able to inform them first hand of the confidence which the NITA program had brought to many young black lawyers. They agreed to continue the program.

South African judges were also engaged by the United States legal community. For a number of years the Aspen Institute has been holding seminars on the internationalization of human rights for the Federal judiciary. Between 1983 and 1985, with financial assistance from the Ford Foundation, South African judges were invited to attend some of those seminars. Again, I was privileged in having been invited to attend one such seminar. It was in February 1984 and was held in Mobile, Alabama. It was a turning point in my judicial career. I learnt at that seminar what options there were for imaginative judicial officers to foster and protect human rights even in a repressive system. In more recent years other South African judges have also had the privilege of attending Aspen human rights seminars. By the time of their appointment in 1994, all but one of the eleven original members of the Constitutional Court of South Africa had attended such Aspen seminars. My colleague who had not had that experience accepted an invitation soon after his appointment. We have been able to use the knowledge and techniques discussed at those seminars for the benefit of members of the oppressed majority in our own country.

In those dark days of apartheid, the position of black lawyers in South Africa was an unhappy one. The bench was white and male and black defendants preferred to have their cases tried by white lawyers. They naturally felt that their chances of success were greater than they might be if they were represented by a black lawyer. Frustration and a deep sense of injustice pervaded black lawyers' associations. It fell to leading African American lawyers to give them courage and inspiration. Lawyers such as Judge Leon Higginbotham, Judge Thelton Henderson, Judge Nathaniel Jones and the former director of the Inc Fund, Julius Chambers, and many others became important role models. It is those South African black lawyers who benefitted from their experience who are today being widely briefed in both criminal and civil cases and who are being appointed as judges. They are playing a key role in helping to transform the judiciary and the way in which it is perceived by the majority of our people.

These helped keep the hope of liberty and justice alive during the apartheid years. They enabled some South African lawyers, counsel and judges, to demonstrate that the law and the courts could protect the vulnerable, the poor and the oppressed even in the most difficult circumstances.

The efforts of the American Legal community played a meaningful role in South Africa's transition to democracy. We learnt from it the virtues of a constitutional democracy and the power for good of a fair judicial system. That contribution must be measured against the way in which the lawyers of so many countries turned their backs on South Africa and gave it up for lost. This singular contribution from American lawyers is not sufficiently appreciated in your country. It should be a source of pride and inspiration. It is fitting that it should be recalled at a dinner in which the legacy of Judge Alvin B. Rubin is being remembered and celebrated.