



Third bi-annual German-South African dialogue on democracy:

“The Preconditions of Democracy”

Conference, 26 February 2016
Kader Asmal Moot Court Room, Law Faculty building,
University of the Western Cape

1. Background and focus

The conference will be the third of its kind. In 2012 and 2014 conferences with a comparative constitutional law approach took place in Stellenbosch and Berlin respectively. At these two occasions, German and South African scholars debated cutting-edge constitutional issues on representative and participatory democracy from a comparative perspective. This time the debate will focus on the constitutional basis of democracy. The idea is to continue the debate on a more fundamental level by shifting the focus to the prerequisites of constitutional democracy. The benefit will be twofold: Firstly, it is hoped that a consideration of different constitutional understandings of the foundations of democracy in these two countries will result in a more nuanced understanding of the similarities and differences between these two constitutional systems. Secondly, against the background of a variety of challenges faced today by democracies in both the developed and developing world, a focus on the preconditions of democracy is likely to enable both a better understanding of what is at stake in debates about the “crisis” of democracy and a more adequate appraisal of possible ways to rise to these challenges.

2. Programme

26 February 2016 (Kader Asmal Moot Court, 1st floor, Law Faculty building, UWC)

10.00 - 10.30 Welcome Address

1st panel: “We, the People” (Chair: Wessel le Roux)

10.30 - 11.00 Prof. Yonatan Fessha: “Territorial management of ethnic diversity and internal minorities in two African federations: Nigeria and Ethiopia”
11.00 - 11.30 Prof. Jelena Bäumlér: “Who is ‘the people’ in the German constitution?”
11.30 - 12.30 Discussion

12.30 - 14.00 *Lunch break (lunch served at the conference venue)*

2nd panel: Transparency and the Public Sphere (Chair: Dominik Steiger)

14.00 - 14.30 Prof. Elke Gurlit: “Transparency and Information Access: between support of a public sphere and promotion of special interests”
14.30 - 15.00 Prof. Jonathan Klaaren: “Angles of openness”
15.00 - 16.00 Discussion

16.00 - 16.30 *Coffee break*

3rd panel: Fundamental Rights and Democracy (Chair: Jacques de Ville)

16.30 - 17.00 Prof. Henk Botha: “Fundamental rights and democratic dissent: reflections on freedom of assembly in the ‘protest capital of the world’”
17.00 - 17.30 Prof. Nils Schaks: “Democracy and fundamental rights: marching in time or precarious balancing act?”
17.30 - 18.30 Discussion

18.30 -18.35 Closing Address: Towards the 2018 meeting (Henk Botha and Dominik Steiger)

19h00 – 22h00 Closing dinner (*De Grendel wine estate*)

3. Registration

Please confirm your attendance by Friday 19 February 2016 by contacting Ms Lynette Thomas at lthomas@uwc.ac.za. There is no registration fee.

4. Organisers

The conference is organised by Henk Botha, Wessel le Roux, Nils Schaks and Dominik Steiger.

5. Speakers

5.1. Yonatan Fessha, LLB (Addis Ababa University, Ethiopia), LLM (University of Pretoria), PHD (University of the Western Cape), Senior Lecturer at the Public Law and Jurisprudence Department of the Faculty of Law, Diploma in 'Federalism, constitutionalism and democratic governance in multicultural societies', University of Fribourg, Switzerland.

5.2. Jelena Bäuml, LLM (University of the Western Cape), Dr. iur. (Potsdam University), Assistant Professor of Public Law, European Law and International Public Law at Rostock University.

5.3. Chair: Wessel le Roux, BLC LLB LLD (UP), Professor of Public Law, University of the Western Cape, former Director of the VerLoren van Themaat Centre for Public Law Studies (University of South Africa); former Georg Forster Fellow of the Alexander von Humboldt Foundation.

5.4. Elke Gurlit, Dr. iur., Professor of Constitutional and Administrative Law and Legal Comparison at Johannes Gutenberg-Universität Mainz, Judge at the Constitutional Court of Bremen.

5.5. Jonathan Klaaren, BA (Harvard) MA (UCT) JD (Columbia) LLB (Wits) PhD (Yale), Professor of Constitutional and Administrative Law and former Dean at the University of the Witwatersrand, Johannesburg.

5.6. Chair: Dominik Steiger, Dr. iur. (Potsdam University), Senior Fellow at Freie Universität Berlin; Emile Noel Fellow, New York University 2014-2015.

5.7. Henk Botha, BLC LLB (Pretoria) LLM (Columbia) LLD (Pretoria), Professor of Public Law, Stellenbosch University, former Alexander von Humboldt fellow.

5.8. Nils Schaks, Dr. iur. (Freie Universität Berlin), Assistant Professor of Public Law at Mannheim University, Postdoctoral Researcher at Freie Universität Berlin 2011 – 2015.

5.9. Chair: Jacques de Ville, B Com, LLB (University of Potchefstroom), LLD (University of Stellenbosch), Professor of Public Law, Head of the Department of Public Law and Jurisprudence, University of the Western Cape

6. Outlook

The organizers intend not only to enrich the debate about democracy in their respective countries but also to establish an open forum where scholars from South Africa and Germany can meet and exchange their ideas on constitutional, especially democratic matters. The discourse between the representatives of two different legal systems has proven very fruitful. The similarities and differences between the two countries work as a catalyst for the analysis.

It is therefore intended to publish the proceedings of the three different panels jointly in a journal and to make them accessible to the public - as has been the case with the papers of the second conference which will be published by Nomos in 2016 as an open access publication. The organisers have negotiated with the editors of the journal *Law, Democracy and Development* (a peer-reviewed South African journal published by the Law Faculty of the University of the Western Cape) for the papers to be published in it.

7. Sponsors

The organisers like to thank the following institutions for their generous support:

Konrad Adenauer Stiftung



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