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Welcome to the 17th SADC Lawyers' Association Annual Conference

The **Law Society of South Africa (LSSA)** is delighted to be co-hosting the **17th SADC Lawyers Association Annual Conference in Cape Town from 17 to 19 August**. We look forward to welcoming and interacting with delegates attending the conference. We trust that you will have a memorable and enriching experience and that you have the opportunity to network with colleagues and visit our beautiful mother city, Cape Town, and its surrounding areas. Click here for a link to the [full conference programme](#).

We also thank **Juta Law**, our sponsors and partners in this special *Legalbrief* conference newsletter initiative. This is an extension to our existing relationship in terms of which Juta provides the popular **Legalbrief LSSA Weekly** news update to all practising attorneys and candidate attorney every Friday morning as a free sponsored current awareness publication.

Mvuso Notyesi and Jan van Rensburg,

Co-Chairpersons, Law Society of South Africa

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General: Chief Justice provides food for thought

When South Africa's Chief Justice, **Mogoeng Mogoeng**, delivered his keynote address at this year's SADC Lawyers' Association conference in Cape Town, delegates were presented with more than enough challenges to engage them for the rest of the event.

The Chief Justice officially opened the conference, co-hosted by the SADC Lawyers' Association and the Law Society of South Africa. Almost 400 delegates from member states are participating in the two-day event, the 17th such conference in the history of the SADCLA and the second to be held in South Africa.

It started with a social function when delegates met over cocktails on the evening of Wednesday 17 August and were welcomed with an address by **Judge Vincent Saldanha**.

Chief Justice Mogoeng, who has held the position for five years, is known for the unexpected comments he often injects into his formal speeches and for the challenges he is unafraid to put before his audience. In addition to his judicial experience, Mogoeng is a lay preacher of the Pentecostal Winner's

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Civil Society and International Criminal Justice in Africa: Challenges and Opportunities

Recent decades have witnessed an increased role for civil society in international law making and the development of international institutions. The design, legal framework and establishment of the International Criminal Court is

Chapel and is used to holding his audience in rapt attention. His opening address is something not to be missed.

The first plenary session tackles a serious practical problem: dealing with delays in international construction projects. It is not a problem unique to Africa and a 2001 UK report for example found that 70% of government-funded projects 'were delivered late'. However with a number of major new development projects in the region it is a challenge that needs to be widely discussed.

What makes the session even more important is the sad truth that construction law is not a subject generally included as part of LLB courses in African universities even though the future of the continent is wholly dependent on the roll-out of massive infrastructure developments which comprise a significant percentage of GDP. Experts say the whole-life cost of these projects depends on the timely, cost-effective delivery of quality construction work.

The two top experts to speak during this plenary session will introduce construction law and standard form construction contracts to delegates and will focus on delay claims in particular as these are usually complex and may significantly impact on the capital costs of a project.

Wildlife poaching, one of the crucial issues to be discussed during the conference, affects virtually every country in the region. It will be the focus of one of the two streams for delegates on Thursday following the first plenary session. Africa's remaining wildlife is a huge drawcard for tourism, but is gravely threatened by large- and small-scale poachers. With porous borders between SADC reserves – sometimes via fences deliberately removed to create larger parks but sometimes due to poachers or refugees – and the increasing sophistication and ruthlessness of poachers, this is a particularly difficult issue to manage and many legal challenges arise as a result.

The **outcome of this session** could provide useful input for next month's **17th world Conference of the Parties to CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)**, to be held in Johannesburg. Debate is likely to emerge during this SADCLA session, for example, over the divisive issue of whether to reconsider the world ban on the elephant trade and what should be done with the captured stockpiles of illegal ivory. A number of affected African countries disagree that the ban should continue, and this session could well see strong arguments from both sides of the question focused on the legal challenges the two options present.

At the same time as the discussion on poaching there is a parallel session on the development of commercial arbitration in the region. This form of dispute resolution has huge potential in the SADC area, so delegates will be forced to make a tough decision about which of the two sessions to attend.

In a **2014 landmark speech, Kenya's recently-retired Chief Justice Willy Mutunga** located the growing trend towards alternative ways of resolving all kinds of conflict firmly in the tradition of Africa. He described the various forms of alternative dispute resolution as a 'homecoming' for Africans since this approach to conflict had long been part of Africa's system of justice and the continent had now 'reclaimed a place of honour for alternative justice systems'. He also described ADR as a useful confidence-booster for investors who preferred to resolve disputes via arbitration since it was speedier, less expensive and yet still enforceable.

Delegates to the SADCLA can look forward to hearing of progress in the field from various parts of Africa where ADR has been extended to commercial disputes.

Friday 19 August sees more economic issues start the second day of conference, with a plenary session on the role of economic protection and African multilateral institutions, the impact of economic partnership agreements and regional integration processes in the region. Given the recent example of European Union membership fragility – a year ago who would have predicted Brexit? – the question of maintaining closer economic ties between African countries in the region takes on new urgency.

a key example of this trend. Yet, once international institutions are established, there are few opportunities and mechanisms for civil society to participate directly within the formal proceedings of such institutions, with participation largely limited to states.

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HIV & Social Security Law: The SADC Region

HIV & Social Security Law

comprises a collection of conference papers from representatives of the ILO, the SADC Tribunal and academics from different universities in the SADC region. They assess the extent to which national governments have enacted measures to deal with HIV-related issues in the domains of labour law, health law, social protection and social security law. The legal situation in the EU is included as an example.

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Kenyan-South African Dialogue on Devolution

In a radical break with its past, democratic South Africa established a system of devolution that was confirmed in the 1996 Constitution. In reaction to a system of highly centralised government that had seen the abuse of power, spatial inequality and underdevelopment, Kenya has also opted for devolution. This system was embodied in the 2010 Constitution and implemented with the establishment of 47 counties after the general elections in March 2013. Devolution lies at the heart of Kenya's new constitutional dispensation and provides a means of addressing past injustices.

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The SADC Law Journal

The *SADC Law Journal* is an annual peer-reviewed journal which provides a forum for legal themes of relevance to the SADC legal fraternity.

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Comparative Law in Africa: Methodologies and Concepts (Comparative Law in Africa series) (2015)

The Centre for Comparative Laws in Africa held its inaugural methodology workshop from 22 to 24 October 2012. Over 40 scholars from various universities in South Africa, Africa, Europe and the United States of America participated in plenary and panel discussions around comparative law in cultural, interdisciplinary and subject context, Western legal traditions and mixed jurisdictions in African comparative legal studies, traditional and informal

Mid-morning delegates will once again be faced with a choice between two equally important discussions.

Stream 1 concerns the difficult balancing act between ensuring the free movement of persons, something mandated by international law as well as the domestic law of many countries, and on the other hand preventing human trafficking. Just what does justice demand?

Stream 2, the other option for delegates, is what will surely prove a crucial session on judicial appointments: do selection processes contribute to an independent and impartial judiciary, and what about judicial 'accountability'?

With a growing trend across the region towards an open and transparent system of application and public interviews for judicial appointment, this session promises a timely assessment of what has been achieved so far. It will also allow for shared ideas on the challenges still faced, such as the widespread problem of insufficient resources to fund research on the potential candidates prior to their interviews.

During the afternoon, and while **SADCLA council members hold their AGM**, delegates are invited to a networking session on the theme of using collaborative alliances, legal networks and integrated law firms to service clients regardless of where in Africa they do business.

The **final conference speaker is South Africa's former Justice and Constitutional Minister, Jeff Radebe**. Now Minister in the Presidency for Planning, he will round off the conference with an address during Friday night's gala dinner.

law in Africa, religious law in Africa and its comparative implications and the role of African comparative legal studies in the development of law in Africa.

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