



THE BULK OF ALBIE SACHS' WORK AS AN ADVOCATE INVOLVED DEFENDING PEOPLE CHARGED UNDER RACIST STATUTES AND REPRESSIVE SECURITY LAWS IN SOUTH AFRICA. IN 1966 HE WENT INTO EXILE. AFTER SPENDING 11 YEARS STUDYING AND TEACHING LAW IN ENGLAND HE WORKED FOR A FURTHER 11 YEARS IN MOZAMBIQUE AS LAW PROFESSOR AND LEGAL RESEARCHER. IN 1988 HE WAS BLOWN UP BY A BOMB PLACED IN HIS CAR, LOSING AN ARM AND THE SIGHT OF AN EYE. IN 1990 HE RETURNED HOME AND TOOK AN ACTIVE PART IN THE NEGOTIATIONS WHICH LED TO SOUTH AFRICA BECOMING A CONSTITUTIONAL DEMOCRACY. AFTER THE FIRST DEMOCRATIC ELECTION IN 1994 HE WAS APPOINTED BY PRESIDENT NELSON MANDELA TO SERVE ON THE NEWLY ESTABLISHED CONSTITUTIONAL COURT.

ALBERT "ALBIE" SACHS

FORMER JUSTICE ON THE CONSTITUTIONAL COURT OF SOUTH AFRICA

APRIL 10, 2015

12:30 TO 2:00 PM

BERKELEY LAW, ROOM 110

The Sacred and the Secular: Same-sex Marriage in South Africa

Minister of Home Affairs and Another v Fourie and Another; Lesbian and Gay Equality Project and Others v Minister of Home Affairs and Others, is a landmark decision of the Constitutional Court of South Africa in which the court ruled that same-sex couples have a constitutional right to marry. The judgment, authored by Justice Albie Sachs and delivered on 1 December 2005, gave Parliament one year to pass the necessary legislation.

It is one thing, Sachs wrote, for the Constitutional Court to acknowledge the important role that religion plays in public life; it is quite another for it to use religious doctrine as a source for interpreting the Constitution. It would be out of order to employ the religious sentiments of some as a guide to the constitutional rights of others. Judges would be placed in an intolerable situation if they were called upon to construe religious texts and take sides on issues that have caused deep schisms within religious bodies.

The Constitution, Sachs continued, contains a number of provisions that underline the constitutional value of acknowledging diversity and pluralism in South African society, and give a particular texture to the broadly-phrased right to freedom of association contained in section 18. Taken together, they affirm the right of people to self-expression without being forced to subordinate themselves to the cultural and religious norms of others, and highlight the importance of individuals and communities being able to enjoy what has been called the "right to be different." In each case, space has been found for members of communities to depart from a majoritarian norm.

Lunch will be served! Register here:

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