



CALL FOR PAPERS  
ANCL BIENNIAL CONFERENCE 2018  
HOST: DEPARTMENT OF LAW – UNIVERSITY OF BOTSWANA

*“COURTS, POWER AND CONSTITUTIONAL LAW IN AFRICA”*  
11 – 14 OCTOBER 2018

The African Network of Constitutional Lawyers (ANCL), in collaboration with the Department of law at the University of Botswana and partners, is organising the next ANCL Biennial Conference in Gaborone – Botswana in 2018 on the theme “Courts, Power and Constitutional Law in Africa”.

The progressive introduction and establishment of constitutional courts or special tribunals with explicit constitutional law and fundamental rights protection mandates across the continent has no doubt reached its highest point since the beginning of the 21<sup>st</sup> century. The rising powers and role of courts in general is perhaps one of the most substantial developments in African constitutionalism over the last three decades. In some countries, the actual role of courts in safeguarding fundamental rights, the rule of law, democratic governance, in protecting vulnerable groups, and in umpiring division of powers has been marginal at best, often despite their formal empowerment.

In many, if not most, African countries, courts have not lived up to their expectations. However, some courts in Africa continue to play an increasingly central role in not only defining the relationship between state organs, including non-state actors and individual citizens, but also in determining directives, measures and scope of governance especially in the protection of vulnerable people within a state and in ensuring that their constitutional and fundamental rights are protected at all times. This growing role is compatible with the conception that it is within the scope and duty of courts to continuously interpret and enforce constitutional provisions guaranteeing the separation of powers and fundamental rights.

Beyond their mandate to protect constitutional and fundamental rights, several courts also play a role in safeguarding democratic governance or other forms of governance a state might select. By so doing, many courts also contribute to the work of regional bodies, such as the African Commission on Human and Peoples’ Rights, the African Committee of Experts on the Rights and Welfare of the Child, and the African Court on Human and Peoples’ Rights through interpreting regional legal norms at the domestic level.

1

WITH THE SUPPORT OF -:





To understanding the underlying fundamentals of the role of courts, separation of powers and constitutionalism in Africa, this conference seeks to address a number of key questions, including:

- a) To what extent do courts succeed in fulfilling their mandate, and how and under what conditions do courts survive attacks on their independence?
- b) In the midst of concerns about national and regional security, the continuous emergence of rebel groups, statelessness, HIV/AIDS, health concerns, maternal mortality, poverty and abuse of power, how should courts respond to such concerns without compromising the ideals of constitutional democracy?
- c) What are we to make of the continuous and non-democratic abuse of power on the continent and the role of courts, in the management and mismanagement of national and regional peace, and how it has affected the trust in democratic governance in Africa?
- d) To what extent does the social, economic and political power enjoyed by political elites, citizens or social movements contribute to the creation or success of judicial review at the national level? Is it time for Africa to rethink the conventional or craft its own understanding of the separation of powers between the arms of government in the furtherance of good governance?
- e) What factors affect the design of courts and how does their design in turn affect their performance?
- f) Do courts have any role in and influence constitutional reform and amendment processes?
- g) What are the effects and implications of the expansive role of regional and sub-regional tribunals on the design, powers, and practice of domestic constitutional courts?

The organisers invite both experienced and upcoming African constitutional experts and individuals interested in constitutionalism in Africa to submit abstracts responding to these questions or to any other question related to the general theme of the conference. Also, prospective participants should pay attention to questions of public power: how, and under what conditions, do courts, enjoy the power, legitimacy and independence necessary to serve as a balanced and meaningful check on national actors in the general foresight of advancing progressive democratic governance in Africa. We invite potential participants to reason closely within the framework of the theme of this conference and the questions it intends to answer when choosing a topic or approach for their papers or panels.





Specifically, the organisers are calling on participants interested in presenting papers to pay attention on the following issues in answering the questions above:

- a) Constitutional courts as judicial bodies of principle pragmatism or precedent;
- b) Public opinion and constitutional courts;
- c) Constitutional courts as political actors;
- d) Remedies fashioned by constitutional courts in Africa;
- e) Comparative constitutional methodologies adopted by African constitutional courts and use of foreign law by African constitutional courts;
- f) Transformative constitutionalism and African constitutional courts.

By addressing these questions, the conference organisers aim to contribute to the nascent debate and existing scholarship in Africa on comparative constitutional law and jurisprudence, comparative politics, comparative administrative law, comparative jurisprudence on the adjudication of socio-economic and cultural rights, international law, and good governance across the continent.

The conference will feature keynote addresses from both prominent and upcoming constitutional experts as well as plenary sessions focusing on the general theme of the conference. However, central to the structure of the conference, they shall be two days dedicated to the papers and panels selected through this Call. The organisers welcome proposals for fully-formed panels<sup>1</sup> to respond to a particular or any aspect related to the central theme of the conference.

The conference will adopt a multidisciplinary approach.<sup>2</sup> As a result, papers and panel proposals need not be limited to legal measures, and may focus on any comparative, empirical, jurisprudential, philosophical, practical, or policy perspective, related to the conference theme that would enhance constitutionalism in Africa, with an interest in the study of courts, power, and constitutional law.

We welcome submissions from both experienced and upcoming scholars, jurists and researchers, as well as interested practitioners.

Abstracts should be limited to maximum 500 words. Preference will be given to papers that adopt an inter-African comparative approach.

---

<sup>1</sup> Panel proposals should include at least three papers by scholars who have agreed in advance to participate.

<sup>2</sup> We particularly welcome paper or panel proposals that offer genuinely multi-disciplinary perspectives from various areas of law as well as from scholars in the humanities and the social sciences.

WITH THE SUPPORT OF -:





We plan to select a maximum of 25 abstracts that meet the modalities stated above. The authors of the selected abstracts will be invited to submit full papers, which will be peer reviewed and published after the conference.

All submissions must be made through the conference website - [www.ancl-radc.org.za/botswanaconference](http://www.ancl-radc.org.za/botswanaconference), or alternatively, through [info@ancl-radc.org.za](mailto:info@ancl-radc.org.za) or [ancl.radc@gmail.com](mailto:ancl.radc@gmail.com) by September 30, 2017.

Successful applicants will be notified by October 15, 2017.

All participants will be responsible for their own travel and accommodation expenses. Exceptions will be made in appropriate circumstances.

WITH THE SUPPORT OF -:

