**Preliminary Bibliographic Note (For use by participants at the History of Black Lawyers Workshop. Not for distribution)**

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Researchers have only begun the work of uncovering and narrating the histories of black lawyers in South and Southern Africa.[[1]](#footnote-1) Arguably parallel to a rising interest in the globalization of the contemporary legal profession, locally based scholarship on the history of black legal professionals has seen a recent mini-boom. Some of this scholarship begins with a regional perspective, exploring multiple aspects of legal work within the region.[[2]](#footnote-2)

One focus has been the role of lawyers in nationally constitutive thought.[[3]](#footnote-3) Unsurprisingly, land, access to land, and concepts of property have played a large role in these debates.[[4]](#footnote-4) Tara Weinberg has investigated how communities, land activists, and lawyers created new juristic forms and entities for holding property collectively, in part through struggles against forced removals ‘from below’.[[5]](#footnote-5) Ralph Madlalate has analyzed how race and geography remain intertwined in what one could call South African legal landscapes of transformation.[[6]](#footnote-6) These questions are close to those seen in legal contestation over urban family housing, as recently explored by Max Bolt.[[7]](#footnote-7)

Another theme has been the recovery and uncovering of several distinct internal professional borders.[[8]](#footnote-8) In this vein, Elizabeth Thornberry has researched and published on the first (1881) black law agent in the Colony of the Cape of Good Hope and thus South Africa’s ﬁrst black lawyer, Andrew Gontshi. She has argued that at this time law provided not a source of justice but a set of tools that could be used to advance a political agenda.[[9]](#footnote-9) Thornberry’s 2019 book, Colonizing Consent: Rape and Governance in South Africa’s Eastern Cape, explored the sexual politics of governance in the Eastern Cape in the mid to late 1800s.[[10]](#footnote-10)

The post-apartheid debate over the transformation of the South African legal profession has been intensely contested.[[11]](#footnote-11) The country’s institutions of legal education have been a particularly contested site for legal professional politics, at the intersection of currents from various directions.[[12]](#footnote-12) Likewise, as Alice Brown and others have documented, pro bono lawyering has been an arguably distinctive South African variety, constituted by and practised within a profession contesting over race.[[13]](#footnote-13)

This academic research project in the histories of black lawyers works with and alongside these growing strands of scholarship, wishing to increase the thread count. The 3 August 2022 workshop aims to support, critically explore, and extend these histories in several eras and fields. Through new and recently published work as well as by profiling ongoing research, this event will chart and debate the participation of black legal professionals in the construction of legal and social orders.

1. Kenneth S. Broun, *Black Lawyers, White Courts: The Soul of South African Law* (Ohio University Press, 2000); Dikgang Moseneke, *My Own Liberator: A Memoir* (Pan Macmillan South Africa, 2016); Tembeka Ngcukaitobi, *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa*, 1 edition (Penguin, 2018); Bongani Ngqulunga, *The Man Who Founded the ANC: A Biography of Pixley Ka Isaka Seme* (Penguin Random House South Africa, 2017). [↑](#footnote-ref-1)
2. George Hamandishe Karekwaivanane, *The Struggle Over State Power in Zimbabwe: Law and Politics since 1950* (Cambridge University Press, 2017); George H. Karekwaivanane, “Through the Narrow Door: Narratives of the First Generation of African Lawyers in Zimbabwe,” *Africa* 86, no. 01 (February 2016): 59–77, https://doi.org/10.1017/S0001972015000789; Maxim Bolt, “Making Workers Real: Regulatory Spotlights and Documentary Stepping-Stones on a South African Border Farm,” *HAU: Journal of Ethnographic Theory* 7, no. 3 (December 2017): 305–24, https://doi.org/10.14318/hau7.3.017. [↑](#footnote-ref-2)
3. Sanele Sibanda, “The Land Is Ours - South Africa’s First Black Lawyers and the Birth of Constitutionalism. TEMBEKA NGCUKAITOBI. Penguin Books, 2018. 312 Pp. ISBN: 978 1 77609 285 7. Lawfare - Judging Politics in South Africa. MICHELLE LE ROUX AND DENNIS DAVIS. Jonathan Ball, 2019. 351 Pp. ISBN 978-1-86842-960-8,” *South African Historical Journal* 0, no. 0 (December 9, 2021): 1–18, https://doi.org/10.1080/02582473.2021.2005124; Tshepo Madlingozi, “South Africa’s First Black Lawyers, AmaRespectables and the Birth of Evolutionary Constitution – a Review of Tembeka Ngcukaitobi’s The Land Is Ours: South Africa’s First Black Lawyers and the Birth of Constitutionalism,” *South African Journal on Human Rights* 0, no. 0 (December 31, 2018): 1–12, https://doi.org/10.1080/02587203.2018.1557371; Ngcukaitobi, *The Land Is Ours*. [↑](#footnote-ref-3)
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5. Tara Weinberg, “A History of Community Property Associations in South Africa,” in *Land, Law and Chiefs in Rural South Africa: Contested Histories and Current Struggles*, ed. William Beinart, Rosalie Kingwill, and Gavin Capps (New York City: NYU Press, 2021), 208–28. [↑](#footnote-ref-5)
6. Ralph Madlalate, “Dismantling Apartheid Geography : Transformation and the Limits of Law,” *Constitutional Court Review* 9, no. 1 (December 1, 2019): 195–217, https://doi.org/10.2989/CCR.2019.0008. [↑](#footnote-ref-6)
7. Maxim Bolt and Tshenolo Masha, “Recognising the Family House: A Problem of Urban Custom in South Africa,” *South African Journal on Human Rights* 35, no. 2 (April 3, 2019): 147–68, https://doi.org/10.1080/02587203.2019.1632737. [↑](#footnote-ref-7)
8. Timothy Gibbs, “Apartheid South Africa’s Segregated Legal Field: Black Lawyers and the Bantustans,” *Africa* 90, no. 2 (February 2020): 293–317, https://doi.org/10.1017/S0001972019001050; Timothy Gibbs, “Mandela, Human Rights and the Making of South Africa’s Transformative Constitution,” *Journal of Southern African Studies* 45, no. 6 (November 2, 2019): 1131–49, https://doi.org/10.1080/03057070.2019.1687999. [↑](#footnote-ref-8)
9. Elizabeth Thornberry, “Procedure as Politics in the Cape Colony: The Career of Andrew Gontshi, 1880-1904,” *The Journal of African History* 61, no. 3 (November 2020): 409–27, https://doi.org/10.1017/S0021853720000559. [↑](#footnote-ref-9)
10. Elizabeth Thornberry, *Colonizing Consent: Rape and Governance in South Africa’s Eastern Cape* (Cambridge University Press, 2019). [↑](#footnote-ref-10)
11. Kirsten Whitworth, Bonita Meyersfeld, Cebile Ndebele, Jonathan Klaaren, and Alice Brown, “Transformation of the Legal Profession” (Johannesburg South Africa: Centre for Applied Legal Studies & Foundation for Human Rights, August 2014), https://www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/programmes/gender/Transformation%20of%20the%20Legal%20Profession.pdf; Jonathan Klaaren, “South Africa: A Profession in Transformation,” in *Lawyers in 21st-Century Societies: Vol. 1: National Reports*, ed. Richard L. Abel et al. (Bloomsbury Academic, 2020), 535–46, https://www.researchgate.net/publication/354355704\_South\_Africa\_A\_Profession\_in\_Transformation; Thandiwe Matthews and Charmika Samaradiwakera-Wijesundara, “The Fiction of Transformation: An Analysis of the Relationship Between Law, Society and the Legal Profession in South Africa,” *South African Journal on Human Rights* 31, no. 3 (December 2015): 553–78, https://doi.org/10.1080/02587203.2015.12035717. [↑](#footnote-ref-11)
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13. Thabang Pooe, Alice Brown, and Jonathan Klaaren, “Pro Bono in South Africa,” in *Global Pro Bono: Causes, Context, and Contestation*, ed. Scott L. Cummings, Fabio de Sa e Silva, and Louise G. Trubek, 1st ed. (Cambridge: Cambridge University Press, 2022), 535–69, https://osf.io/preprints/socarxiv/6m4wa/. [↑](#footnote-ref-13)