Tribute to Edwin Cameron on his retirement as a Justice of the Constitutional Court

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Chief Justice, dignitaries and, especially, Justice Cameron

‘This disease will be the end of many of us but not nearly all, and the dead will be commemorated and will struggle on with the living, and we are not going away. We won’t die secret deaths anymore. The world only spins forward. We will be citizens. The time has come. Bye now. You are fabulous creatures, each and every one. And I bless you: More life. The Great Work Begins’ (Angels in America).

I begin with these final, moving words by Prior, one of the chief protagonists in the play Angels in America as they encapsulate for me, very much the contribution that Justice Edwin Cameron has made to my own life and that of thousands if not millions of South Africans. As a young religious Jewish boy struggling with my same-sex sexuality and growing up in apartheid South Africa, what seemed to lie ahead of me was a secret life in the shadows, of being perhaps an ‘unapprehended felon’ (as Justice Cameron very aptly described it in his inaugural lecture as a Professor at Wits University). Yet, that very academic intervention together with his tireless campaigning (together with a number of iconic activists) helped create an alternative future: one in which sexual orientation was officially recognized in our Constitution as a protected characteristic on the basis of which neither the state nor private bodies could discriminate. Justice Cameron asserted strongly the value of dignity for LGBT people, that we are citizens worthy of equal concern and respect, a reality that this very court has helped to bring about from decriminalization of sodomy to the recognition of same-sex marriage.

In the same closing speech of Angels in America, Prior speaks about a fountain in Jerusalem named Bethesda, in whose waters all who were sick were healed. The fountain had run dry but Prior thinks of a time when the waters will flow again. After centuries of sickness, South
Africa needs the healing waters of Bethesda. Justice Cameron has sought to provide very concretely both physical and psychological healing to many people scarred in our country. He has also known the fear of death hanging over him, and bravely chose to disclose his HIV-positive status despite his own personal struggles that he documented so movingly in his book *Witness to AIDS*. He did so not for any personal gain but in the hope of finding a way to ensure that millions of South Africans were able to shed the psychological stigma of HIV/AIDS. He, also, has strongly advocated for the millions of South Africans living with this disease to be able to gain access to the life-saving treatment that, at one time, was denied to them by our government. In this quest, he has, together with organisations like the Treatment Action Campaign, helped to save millions of lives and bring healing waters to our country.

Justice Cameron’s concern for every individual is not bounded by race or gender, by religion or class, or, indeed, whether one holds South African citizenship or not. His compassion is so extensive that it goes beyond the human species too. In a case dealing with animal cruelty during his time at the SCA, Justice Cameron was prepared to recognise that non-human animals are deserving of protection ‘because they are sentient beings that are capable of suffering and of experiencing pain’ (*Openshaw* minority judgment, para 33). In a precedent-setting judgment world-wide, this court built on these insights to recognise the intrinsic value to be attached to the lives of animals as individuals.

Equality on the basis of sexual orientation, the right to health-care, the intrinsic value of animals are just some of the facets of Edwin Cameron’s massive contribution to the advancement of the law. These are some of the areas of my own academic research which have been strongly enriched by his writings, judgments and advocacy. Indeed, achieving rights involves, as Prior suggests, ‘Great work’. And Justice Cameron has been prepared to develop the institutions that can help achieve these goals. One of these is an institution of which I am the director, namely, the South African institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC, in short). SAIFAC was formed by Justice Laurie Ackermann of this court with the vision of creating a world-class research institute to generate original research relating to its areas of focus, engage with the work of the Constitutional Court and hopefully inform it. We run conferences on cutting edge areas of the law every year and seek also to contribute to the advancement of fundamental rights and
constitutionalism in our country and beyond our borders. In fact, next week we will hold a conference of over 20 papers that will be looking at the work of the Constitutional Court in the past 2 years and we will publish these in 2020 in the Constitutional Court Review journal.

Justice Cameron served from early on in the Institute’s life as a trustee and, in that capacity, played a critical role in its transition from a stand-alone institution to its home as a part of the University of Johannesburg. I have had the privilege to report to and engage with Justice Cameron in this capacity: our interactions showed me another dimension of this great judge and human being, someone who is also an institution-builder, who combines both a capacity to determine an end goal with the practical ability to make the necessary adjustments to realise that goal. Justice Cameron recognises the value of academic research in its own right and its ability to inform and guide practice. On behalf of SAIFAC, I wish to thank Justice Cameron for his work in enabling it to continue and hope that he takes pride in the work that we are doing. The work Justice Cameron did for SAIFAC is just a small part of the many institutions he has been part of building and I want to pay tribute to the important role he has played, not only as a judge, but in both academic life and civil society.

A famous saying from my religious tradition states that ‘it is not your duty to finish the work; but you are not free to desist from it’ (Ethics of the Ancestors). Edwin Cameron has been prepared with every fibre of his body, to help South Africa advance towards a society where the dignity, equality and freedom of all are respected. His contribution is immense and I have no doubt that there is more to come. In the words of Prior, I wish you, Justice Cameron, ‘more life’ and tremendous quality of life in the years to come.