the Mareivale litigation for Cyril Ramaphosa and the NUM. He relished being able to contribute to a broader struggle for freedom; it moved him and it motivated him. The LRC gave him the chance to do this.

Arthur then became involved in institution-building on a grander scale: he started his constitutional work. While we were still in the throes of apartheid, he was an adviser to the Namibian Constitutional Assembly. I was quite recently in Namibia, in the company of the former Chair of the Namibian Constitutional Assembly and Prime Minister of Namibia, Hage Geingob. He spoke about their constitution-making process – and then, quite unexpectedly, started talking about Arthur – with awe and affection. I suspect that Arthur’s role in Namibia was much greater than any of us knew. Certainly, given his modesty, we did not learn about it from him.

What was to come next, of course, was his massive work in our own constitutional negotiations and the drafting of the interim Constitution. His hand is clearly visible in the text which was finally approved: his fingerprints are all over the document. You see them in the care, precision, and attention to detail; and you see them in the Constitution’s recognition that we need to go beyond a typical liberal constitution, which aims to limit the power of the state. Arthur understood that we needed what some have called a post-liberal constitution – a constitution which not only limits the power of the state to interfere with the rights of the individual, but which also addresses the regulation of private power; and even more fundamentally, a constitution which recognises the need to empower the state to address and redress the consequences of centuries of dispossession and discrimination. We needed a constitution which would provide a framework for the democratic transformation which was yet to come. The interim Constitution, and its successor the final Constitution, are among Arthur’s most enduring memorials.

And then came his masterpiece – the Constitutional Court. The first Constitutional Court consisted of a remarkable group of people. I do not exaggerate if I say that I am not aware of any apex court, anywhere in the world, which has had such a rich and diverse array of talent and experience. It included some very large personalities – some with egos to match. Arthur’s job was to weld them together, to lead them, and yet again to build institutional structures and procedures which would be durable. And what a success he made of it. The respect and affection in which his colleagues held him was palpable, and it was well-founded.

Our Constitution created a number of new institutions. We have to admit that the record of some of these institutions is inconsistent, and that our ambition may have over-reached our ability. But I think few people would dispute the proposition that the Constitutional Court has been an outstanding success – I would say the outstanding success of the new institutions. I think few would dispute the proposition that a very large part of the credit for this has to go to Arthur Chaskalson. It is not just a matter of the penetrating and profound judgments which he wrote. Perhaps even more important, Arthur understood how to build this institution, how to make it work, how to make it durable, and how to lead it.

It is an extraordinary story of achievements. Each one of them, standing on its own, was remarkable. Who in one lifetime could achieve that much? How did Arthur do all of this? Of course he was brilliant, but there are other brilliant people. How did Arthur do this?

I want to suggest three factors which were significant.

First, there was the transparent integrity in everything he did. You could trust Arthur Chaskalson. He was a person of rock-solid integrity and morality. The result was that even those who disagreed with him, very seldom questioned his motives. Even his opponents respected him and trusted him. He won trust, and that trust enabled him to achieve amazing results. He was a touchstone to what is right and what is just. Kate O’Regan said to me last weekend ‘Whenever I am not sure, I ask myself what Arthur would say.’

Second, was the way he engaged with people. It was a respect and concern for people, not theoretical philosophies, that lay at the heart of his life and his work. His core belief was that it was human beings that were really important in life – and therefore also in the law. He put people at the centre of everything which he did.

Two events come back to me when I think about that.

Press release

Tribute to the late former Chief Justice Arthur Chaskalson

The GCB is deeply saddened by the sudden passing of the former Chief Justice and honorary president of the GCB, Arthur Chaskalson. His contribution to the legal fraternity has left an indelible mark in defense of an independent legal profession, for which we owe him eternal gratitude.

As a judge, he was the most ardent supporter of an independent judiciary. His legal prowess was matched only by his humility and judicial temperament. His stewardship as the first President of the Constitutional Court, and his contribution to the law and the development of our constitutional jurisprudence, were unparalleled and have helped place South Africa as a proud member of the democratic countries of the world. He was undoubtedly one of the greatest legal minds of our times and we hope to build on the legacy which he has left behind. We, as the GCB, and the nation extend our support and sympathies to his family during this time, for the loss of a true son of the soil.

He lived his life as an avid servant of the law and his life’s work will forever be a testament to the values of a democratic South Africa.

May his soul rest in peace.

Ishmael Semenya SC, chairman of the GCB
3 December 2012