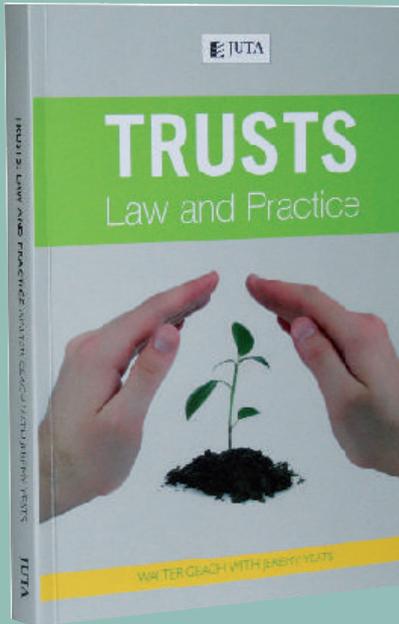


## Trusts: Law and Practice

First edition by Walter Geach with Jeremy Yeats  
Juta Law (2007) xx and 321 pages. Soft cover R465 (VAT incl)



The author of this attractively bound book, Prof Walter Geach, holds accounting and law degrees, has presented many seminars on trusts and is also the author of various publications on company law, close corporations and financial and estate planning. The consulting editor, Mr Jeremy Yeats, previously from Cox Yeats Inc, is an experienced practising attorney. According to the preface, the book is meant for people who are in some way involved in trusts, either in an advisory capacity, such as that of attorney, accountant or financial advisor, or in some personal capacity such as that of trustee or beneficiary, and would also be of value to academics who are interested in trusts and commercial matters. The publication achieves its goal admirably. The style is indeed as lucid as promised on the back cover, and therein lies its success.

The book deals extensively with so-called family trusts, a much used and abused form of trust, usually formed for estate planning and asset protection purposes. The book also deals with trusts qualifying as public benefit organisations and with trading trusts. Accounting issues, tax aspects of trusts and the advantages and problems associated with trusts are also highlighted. The benefit of the publication to lawyers is that it has a strong legal focus with extensive references in both the text and footnotes to decided cases. On the other hand, the book remains practical. Against the background of the legal framework it sets out practical guidelines for harnessing the trust form optimally. Most chapters contain useful summaries and conclusions, often in table form which makes for easy reading. So, for example, Chapter 3, dealing with the formation of trusts, contains practical guidelines and a table summarising the requirements for the formation of trusts. A separate chapter dealing with a comparison between trusts and other legal forms and entities, contains comparative tables highlighting the similarities between trusts and companies, close corporations, partnerships and individuals. Of particular use are the checklists and other similar tables, such as a checklist for trustees contracting with outsiders, and for outsiders contracting with trustees.

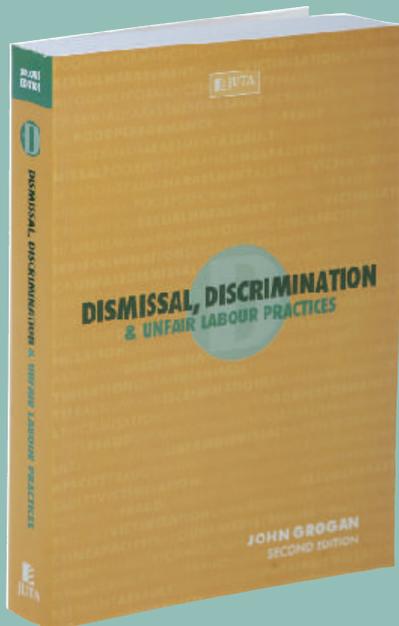
The full text of the Trust Property Control Act 57 of 1988 is reproduced at the end of the book.

The content of the book is based on case law, taxation principles and generally accepted accounting practice as at August 2007. I have no hesitation in highly recommending the publication as a valuable addition to any practitioner's library.

*Henk Havenga SC, Pretoria Bar*

## Dismissal, Discrimination and Unfair Labour Practices

Second edition by John Grogan  
Juta (2007) lviii & 622 pages  
Soft cover R485 (incl VAT)



John Grogan, former Professor and Head of the Department of Law at Rhodes University, is a part-time senior commissioner of the CCMA, member of arbitration panels of a number of bargaining councils, a private arbitrator and labour law practitioner. He has also served as acting judge in both the Labour Court and the High Court. He publishes extensively and is also the author of *Workplace Law* and *Collective Labour Law*.

*Dismissal, Discrimination and Unfair Labour Practices* was first published in 2005. The chapters on dismissal were modelled on Le Roux & Van Niekerk's *The South African Law of Unfair Dismissal* (Juta 1994), to which John Grogan's *Dismissal* (Juta 2002) was a successor. Several new chapters on unfair labour practices and workplace discrimination were incorporated in the work and form a readable compendium of the entire body of statutory and constitutional law governing the relationship between employees and their employers from commencement of employment to its termination. The work has been authoritatively cited in several reported awards of the CCMA and bargaining councils and decisions of the Labour Court. Reference to the work was also made by the Labour Appeal Court and Supreme Court of Appeal in cases such as *Engen Petroleum Ltd v CCMA (2007) 28 ILJ 1507 (LAC)*, *Republican Press (Pty) Ltd v Chemical Energy Printing Paper Wood & Allied Workers Union and others 2008 (1) SA 404 (SCA)* and *Raol Investments (Pty) Ltd t/a Thekwini Toyota v Madlala 2008 (1) SA 551 (SCA)*.

Significant developments in the areas covered by the work necessitated a second edition. Discussion of developments since May 2005 expanded the work by some 70 pages. The editing and technical standard of the work is high and, as in the previous edition, the text is enlivened with discussion of decided cases to identify the principles laid down and to illustrate how they are applied in practice. The second edition is based on judgments and other material available as at June 2007. The work is divided into seven parts and 30 chapters dealing with a variety of relevant topics such as statutory and non-statutory unfair labour practices, specific discriminatory practices, employment equity, victimisation, automatic unfair dismissals, specific forms of misconduct, group misconduct, misconduct outside working hours and the procedures for challenging dismissals and unfair labour practices, to name but a few. Discipline is an essential part of every workplace environment and misconduct is the most common justification for dismissal in South Africa. Chapter 16 deals with specific forms of misconduct and chapter 17 provides employers and practitioners with useful guidelines for dealing with misconduct cases in a procedurally fair manner. There is abundant reference to reported decisions and the footnotes contain very useful commentary and cross references to other parts of the work. The work has a comprehensive table of statutes and cases, an extensive word index and a list of acronyms often used in practice.

Labour law is probably one of the most dynamic areas of the law and keeping a work in this area up to date and relevant is no easy task. Grogan has been praised for his ability and commitment to keep his contributions to the area of labour law up to date. In this respect the question arises whether he and the publisher should not consider a loose leaf format of *Dismissal, Discrimination and Unfair Labour Practices* in future.

Labour law practitioners, human resources managers, judges, arbitrators, lecturers and post-graduate students are all likely to benefit from this work. The second edition of *Dismissal, Discrimination and Unfair Labour Practices* is highly recommended and would certainly add value to the library of every serious labour law practitioner.

*Riaan Grundlingh, Pretoria Bar*

## Odyssey to Freedom

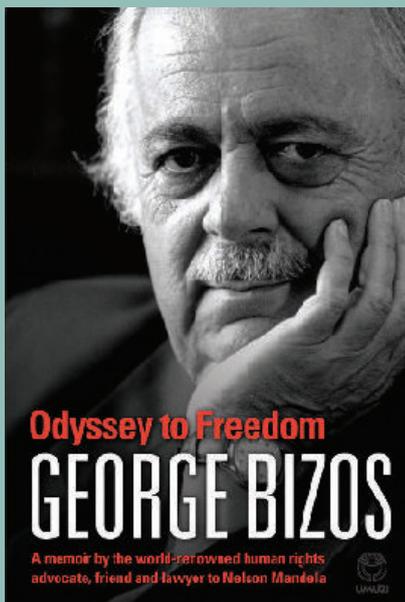
A memoir by the world-renowned human rights advocate, friend and lawyer to Nelson Mandela

By George Bizos

Random House (2007)

616 pages

Hard cover R274 (VAT incl)



Bizos' autobiography appears, at first blush, to be an intimidating read. It is a veritable tome of just over 600 pages. Furthermore, notwithstanding Mandela's imprimatur of approval (he authored the foreword), the title of *Odyssey to Freedom* does roll off the lips rather ostentatiously and the byline of *A memoir by the world-renowned human rights advocate, friend and lawyer to Nelson Mandela* appears to the cynic to be less than modest or, at worst, a tactless ploy to punt the book using the world-renowned Mandela trademark.

However, the age-old adage of 'don't judge a book by its cover,' or in this case its title, never rang truer. The aptness and relevance of the title only comes through once one has journeyed with Bizos from his birthplace in the modest and romantic Greek village of Vasilitsi in 1928 to his involvement, on behalf of South Africa, with the Athens Olympics in 2004.

That epic journey commences with a delightful window into Bizos' childhood and upbringing. It recalls when, as a mere boy, Bizos together with his father courageously rescued seven New Zealand soldiers hiding on the German-occupied Greek island and describes their dramatic flight to safety. It traverses Bizos and his father's sojourn through to South Africa as refugees and their subsequent struggle to make ends meet. It records Bizos' good fortune in acquiring an education and provides a wonderful if at times all too brief and limited insight into the trials and tribulations of his personal life, most notably: the stumbling blocks in his relationship with his father, the painful and tragic distance between him and his family occasioned by his flight from Greece during the Second World War and events thereafter, his marriage to Arethe and the raising of their own family, and the eventual bridging of the distance between himself and his mother and siblings. A number of photographs, many from the Bizos family archive, are reproduced in black and white and compliment the text.

However, the vast majority of the autobiography is dedicated to Bizos' exploits at the Bar. A sample of memorable cases documenting his lengthy and remarkable career, ranging from appearances in non-descript magistrates' courts in far-flung corners of the country to high profile political trials, appeals and commissions of inquiry, provides for fascinating reading.

Far from constituting dry and stolid reminiscences of case law, Bizos' description of these legal milestones is written in a simple and accessible style. Selected transcripts from cases have also been appropriately woven into the narrative in a number of instances. Furthermore, the courage, role and qualities of the many legal luminaries of yesteryear – including Nelson Mandela, Oliver Tambo, Duma Nokwe, Bram Fischer, Vernon Berrangé, Ismail Mahomed, Arthur Chaskalson, Joel Joffe and Sydney Kentridge, amongst others – come to the fore. The end product is a riveting highlights package of legal jousts that contributes to the historical record of South Africa (and, to a more limited extent, Namibia and Zimbabwe).

Bizos' legal recollections also serve as wonderful illustrations of the essential foci of every good advocate. The significance of legal strategy, the importance of thorough research, the need to be intimately familiar with one's brief, the art of cross-examination and court craft, the imperative to act with integrity and, equally crucial, the necessity to remain independent in the face of daunting odds, are all subtly demonstrated with reference to compelling examples.

As for the byline of the book, it is nothing less than true. To the extent that it betrays a pride in a lifelong alliance and friendship with Mandela, it is entirely justifiable and eminently understandable. Quoting from Mandela's foreword: 'George Bizos and I have known each other well for close on sixty years. Over these years we have shared much and have grown to be close friends ... George's autobiography, *Odyssey to Freedom*, is not only a personal account of an extraordinary life but an invaluable addition to the historical record of our nation, captured here by a man whose contribution towards entrenching the human rights that lie at the heart of South Africa's constitutional values is impossible to overrate.'

This rich and rewarding book provides captivating reading for the layperson. For the lawyer who seeks to understand the nature of the beast he dances with daily, it is essential reading.

*Faizel Ismail, member of the Johannesburg Bar*



## FROM THE PUBLISHERS

### Book announcements

The following books have been received from the publishers:



#### The Administration of Deceased Estates and Drafting of Wills

By Louis Kernick  
Juta Law (2006), xviii  
and 379 pages  
Soft cover R425.65  
(VAT incl)



#### Deeds Office Practice Manual

By the Deeds Office  
of South Africa  
Juta Law (2007),  
880 pages  
Loose leaf R945  
(VAT incl)

### WATER LAW PROBLEMS

The Water Research Commission (WRC) wants to know of any problems with the interpretation and/or the application of the National Water Act, 36 of 1998.

The WRC has therefore entrusted a project to identify such problems, to MARITZA UYS, a water law specialist.

Anyone who is aware of problems with the Act, or of other water law problems, is requested to please contact Ms UYS urgently: [muis@lantic.net](mailto:muis@lantic.net) or 082 965 0950. Confidentiality guaranteed.

### PROBLEME MET WATERREG

Die Waternavorsingskommissie (WVK) wil graag weet van enige probleme wat ondervind word met die uitleg of die toepassing van die Nasionale Waterwet, 36 van 1998.

Die WVK het derhalwe 'n projek om sodanige probleme te identifiseer, toevertrou aan MARITZA UYS, 'n waterreg spesialis.

Enigeen wat van probleme met die Wet of van enige ander waterregprobleme weet, word versoek om Me UYS asseblief dringend te kontak: [muis@lantic.net](mailto:muis@lantic.net) of 082 965 0950. Vertroulikheid gewaarborg.

## Feeling a little **disorganised?**



### Binders for Advocate/Consultus

Subscribers who wish to keep their copies of the journal filed away neatly should consider purchasing our custom-made binders, strong enough to hold approximately 12 copies.

Order from: The Executive Officer, GCB, PO Box 2260, Johannesburg 2000, together with a cheque in the sum of R60 per binder (VAT and postage incl) payable to the General Council of the Bar of SA.



Law Practice Management Committee. Lawyer Assistance Committee. Membership Committee.Â Topics include: POA-What Trusts & Estates and Elder Law & Special Needs Attorneys Need to Know; Litigating POA Disputes; Ethically Representing a Client with Diminished Capacity; Financial Abuse of the Elderly; Contested Article 81 Guardianships; Interstate Guardian Practice Mediation Instead of Litigation; Administering Estates and Trusts to Avoid Litigation; New York Trust Code-Addressing the Differences Between New York's Current Trust Laws and. A trust is a three-party fiduciary relationship in which the first party, the trustor or settlor, transfers ("settles") a property (often but not necessarily a sum of money) upon the second party (the trustee) for the benefit of the third party, the beneficiary. A testamentary trust is created by a will and arises after the death of the settlor. An inter vivos trust is created during the settlor's lifetime by a trust instrument. A trust may be revocable or irrevocable; in the United States, a trust is