With a new and the most comprehensive account of the South African Constitutional Court’s social rights decisions to date, Brian Ray argues that the Court’s procedural enforcement approach has had significant but underappreciated effects on law and policy and challenges the view that a stronger substantive standard of review is necessary to fulfill their potential. Drawing connections between the Court’s widely acclaimed early decisions and the more recent second-wave cases, Ray explains that the Court has responded to the democratic-legitimacy and institutional-competence concerns that consistently constrain it by developing doctrines and remedial techniques that enable activists, civil society, and local communities to press directly for rights-protective policies through structured, court-managed engagement processes. Engaging with Social Rights shows how those tools could be developed to make state institutions responsive to the needs of poor communities by giving those communities and their advocates consistent access to policy-making and planning processes.

Brian Ray is the Joseph C. Hostetler-BakerHostetler Professor of Law at Cleveland-Marshall College of Law, Cleveland State University. He has published widely on social rights and judicial review, and his work has appeared in leading journals, including the Stanford Journal of International Law, the South African Journal of Human Rights, and the Constitutional Court Review.
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Engaging with Social Rights: Procedure, Participation, and Democracy in South Africa’s SecondWave  
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ENGAGING WITH SOCIAL RIGHTS

Procedure, Participation, and Democracy in South Africa’s Second Wave

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I have taken far longer than I anticipated to complete this book, and I am grateful to many people and institutions for support, advice, and good counsel along the way. Funding for the research was generously provided by the Fulbright Commission, the Cleveland State Faculty Scholarship Initiative, and the Cleveland-Marshall Fund.

My interest in South African constitutional law was sparked by Richard Goldstone’s serendipitous invitation to apply for a foreign clerkship with him at the Constitutional Court in 2003. Jim Brudney is responsible for arranging that invitation (and for turning me into an academic). I will be forever grateful for that opportunity and for Richard’s and Jim’s support and mentorship throughout my career.

I first learned of the remarkable meaningful engagement remedy in conversations with Stuart Wilson and Jackie Dugard at the 2006 Law and Society Conference, when both were at the Centre for Applied Legal Studies, and Stuart, before he was a lawyer, was in the midst of negotiating the favorable settlement that resulted from the very first engagement process in the Olivia Road case. Both Stuart and Jackie have generously shared their expertise and insights over the years as I’ve grappled with the Court’s social rights jurisprudence, and I could not have written this book without that assistance.

Penelope Andrews is the reason I was able to attend that conference as a new academic. I am grateful for her generosity (in that and many other instances) and to the rest of the African Collaborative Research Network, especially Mark Kende and Jonathan Klaaren, for welcoming me wholeheartedly into the fold. I am indebted to Jonathan Klaaren more specifically for repeatedly challenging me to think more critically about engagement’s limits and for organizing a seminar at the University of Witwatersrand in 2008 that forced me to stop thinking about these issues in purely theoretical terms. During that same trip, David Bilchitz graciously arranged for me to present my early ideas on engagement at the South African Institute for Advanced Constitutional, Public, Human
Acknowledgments

Rights and International Law (SAIFAC). That was the first of several times I have profited from David’s critical engagement with my work over the years.

I completed much of the book in 2013 while I was a Fulbright Scholar at the Socio-Economic Rights and Administrative Justice Research Project (SERAJ) at the University of Stellenbosch and the Socio-Economic Rights Project at the University of the Western Cape’s Community Law Centre (CLC). Both institutions provided excellent facilities and stimulating intellectual environments. At Stellenbosch, Sandy Liebenberg graciously opened her home to me and my family and helped us navigate the complexities of the move to South Africa. Sandy and the talented faculty and graduate students at SERAJ, especially Geo Quinot, André van der Walt, and Shanelle van der Berg, were invaluable in helping me work through these ideas. The book is infinitely better for the many opportunities, both formal and informal, their gracious engagement with me and my ideas provided during that visit.

At the CLC, Ebenezer Durojaye, Gladys Mirugi-Mukundi, and Keathélia Sapto graciously incorporated me into their important work with several community organizations and gave me the opportunity to see how democratic engagement might work in practice. CLC hosted a community seminar on meaningful engagement co-organized by SERAJ that year, and I am indebted to them and the participants in the seminar who deepened my understanding of the challenges implementing engagement processes in practice.

During my Fulbright stay in South Africa, the inimitable Stuart Woolman invited me to participate in the 2013 Constitutional Court Review (CCR) conference. The crucible of that event helped me to sharpen my ideas on the eviction decisions and to identify them as part of the distinctive model this book describes. I owe a large debt to Stuart and the participants in that conference, in particular to David Bilchitz, David Lando, and Katie Young for providing thoughtful and critical commentary on my work, and to Stuart Wilson and Jackie Dugard for their deeply informed analyses of those same decisions.

A stimulating and extended e-mail exchange with Frank Michelman regarding the Mapango decision was the basis for the CCR piece. Frank’s thoughtful engagement with the Court’s decisions is a model I aspire to emulate, and the influence of his work permeates the book. I also rely extensively on Chuck Epp’s work, and he graciously provided very helpful suggestions for refinements to Chapters 8 and 9.
ACKNOWLEDGMENTS

My colleagues at Cleveland-Marshall provided helpful feedback on several draft chapters I presented at faculty colloquia. Eric Tucker, our distinguished visitor from Osgoode Hall Law School, gave me much needed encouragement and guidance throughout the process and provided insightful comments on several chapters. Eric also arranged for me to present these ideas to the Osgoode Hall faculty at a relatively early stage, which gave me confidence to pursue the book project. Our talented and dedicated librarians, in particular Amy Burchfield, Sue Altmeyer, and, more recently, Neeri Rao, went out of their way to respond to every request. Neeri also coordinated the excellent citation check and edit by the library’s research assistant, Kyle Connell.

It was a real pleasure working with Cambridge University Press. John Berger was extremely helpful in guiding me through this process as well as patient with my delays. Steven Acerra put together a wonderful cover, and Anamika Singh and Holly Monteith were careful and thorough editors.

This manuscript developed out of two earlier articles: “Evictions, Aspiration and Avoidance,” 5 Constitutional Court Review 173 (2014), and “Proceduralism’s Triumph and Engagement’s Promise in Socio-Economic Rights Litigation,” 27 South African Journal of Human Rights 107 (2011). I am grateful to Juta for permission to adapt portions of each article, which appear in parts of Chapters 6 and 9. The CLC graciously permitted me to use the summary of the Hlophe decision in Chapter 8, which was published in “Courts, Capacity and Engagement: Lessons from Hlophe v City of Johannesburg,” 14 Economic and Social Rights Review 3 (2013).

Finally, I am deeply indebted to my parents, Roy and Frances Ray, for their long support and to my wife, Kim, for too many things to list. I dedicate this book to her for all of those things, but especially for taking a chance on South Africa, and to my four children, Audrey, Iain, Evelyn, and Adrian, who make it all worthwhile.