CURRICULUM VITAE

CONTACT INFORMATION

Office:

Institute for Marine and Environmental Law

Faculty of Law

University of Cape Town

Rondebosch

7702

Tel: +27 (0)21-650 5216

Fax: +27 (0)21-650 5607

Email: loretta.feris@uct.ac.za

PROFESSIONAL EXPERIENCE

At Present:

Professor of Law and Director, Institute for Marine and Environmental Law Lectures and conducts research in the area of Environmental Law. Responsible for the PhD programme within the Faculty of Law, member of the executive of the Black Academic Caucus (until July 2016). NRF-rated researcher.

2004 - 2009

Associate Professor of Law, University of Pretoria, Pretoria, South Africa. Lectured and conducted research in the areas of International Environmental Law, Environmental Law and International Trade Law. Coordinated Masters' programme in Trade and Investment Law in Africa.

2001 - 2004

Assistant Director International Legal Studies Program, Assistant Co-ordinator Humphrey Fellows Program and Adjunct Professor of Law, Washington College of Law, American University, Washington DC, USA. Managed the Legal Research and Writing Program and appointed and managed adjunct faculty teaching in the programme. Assisted with programme management and curriculum development. Conducted project development and fundraising.

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Lectured and conducted research in the areas of International Trade and Development, Intellectual Property Rights and the Environment, Trade and Environment, Global Environmental Governance and Legal Research and Writing.

2000

International Legal Studies Fellow at Washington College of Law, American University, Washington DC, USA

Lectured in the areas of International Trade and Development, Intellectual Property Rights and the Environment, Trade and Environment and Global Environmental Governance.

1996 - 1999

Lecturer, Department of Public Law, University of Stellenbosch, Stellenbosch, South Africa

Lectured in Constitutional Law, Comparative Human Rights Law, Gender and the Law, Criminal Law, Jurisprudence and Public Interest Law.

1996 - 1997

Part-time lecturer, University of the Western Cape, Cape Town, South Africa Lectured in Constitutional Law.

June to December 1995

Intern, Lawyers' Committee for Civil Rights under the Law, Washington, DC USA

Worked on class actions in Housing Law and Environmental Justice.

1993-1997

Co-ordinator of Street Law, University of Stellenbosch, Stellenbosch, South Africa

Managed a law-related education, human rights and democracy training programme. Designed and co-ordinated training workshops.

1991-1992

Candidate Attorney, Jan S de Villiers & Son, Cape Town, South Africa Practised Civil Litigation, Criminal Litigation and Property Law.

QUALIFICATIONS

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LLD

University of Stellenbosch, South Africa, 2002: title: *The Conceptualisation of Environmental Justice in the Context of the South African Constitution.*

LLM

Georgetown University Law Centre, USA, 1995

LLB

University of Stellenbosch, South Africa, 1990

BA Law

University of Stellenbosch, South Africa, 1988

Admitted attorney of the Cape High Court, since 1992.

Other

Diploma in Alternative Dispute Resolution AFSA, 2008

LANGUAGES

English

fluent

Afrikaans

fluent

PUBLICATIONS

Peer Reviewed Publications

- "Constitutional Environmental Rights Relevant to Local Government" in Du Plessis (ed) Environmental Law and Local Governance (2015).
- "Section 59" Commentary on the Consumer Protection Act (2015) Naude
 & Eiselen (Eds).

- "The Regulation of Acid Mine Drainage in South Africa: Law and Governance Perspectives" Potchefstroom Electronic Law Journal (2014, online), Vol 17(5), 2105-2163. Co-authored with Kotze.
- Water and the Law: Towards Sustainability (2014) edited volume, coedited with Kidd, Murombo and Iza.
- "The Human Right to Sanitation: A Critique on the Absence of Environmental Considerations" Review of European, Comparative and International Law (2014, online) 1-11.
- "The Right to Sanitation: Time to Delink from the Right to Water." *Human Rights Quarterly* 36.3 (2014): 607-629. Co-authored with Ellis.
- "A Customary Right to Fish when Fish are Sparse: Managing Conflicting Claims between Customary Rights and Environmental Rights" Potchefstroom Electronic Law Journal (2013, online), Vol 16(5), 555-614.
- "Land Pollution" in Glazewski, Environmental Law in South Africa (2013).
 Co-authored with Du Toit.
- "Equality Finding Space in the Environmental Discourse" Oñati Socio-.
 Legal Series [2013, online], Vol 3 (5), 877-892.
- "Environment and Human Rights: The Right to Water in South Africa and Scotland" in Reid & Visser (Eds) Private Law and Human Rights: Bringing Rights Home in Scotland and South Africa (2013). Co-authored with Gibson.
- "The Public Trust Doctrine and Liability for Historic Water Pollution in South Africa" LEAD Vol 8(1) 2012.
- "Towards Harmony between African Traditional Religion and Environmental Law" in Bennet (Ed) Traditional African Religions in South African Law 2011 pp200 – 222. Co-authored with Moitui.
- "Multilateral Trade Policies and Measures in Post-Kyoto Structures" in Draper & Mbirimi (Eds) Climate Change and Trade 2010 pp 96 – 123.
- "The Role of Good Environmental Governance in the Sustainable Development of South Africa" Potchefstroom Electronic Law Journal (13) 1 2010.

- "Trustees for the Time Being of the Biowatch Trust v Registrar Genetic Resources and Others: Access to Information, Costs Awards and the Future of Public Interest Environmental Litigation in South Africa" RECIEL 18(3) 2009 pp 338-346. Co-authored with Kotze.
- "Trade and Environment" in Environmental Management in South Africa Strydom & King (Eds) (2009) pp 269 – 293.
- "Human Rights and Locus Standi" in *Compliance and Enforcement in Environmental Law* Patterson and Kotze (Eds) (2009) pp 129 151.
- "A Rebellious Step in the Right Direction? A Note on the Dissenting Judgement of Sachs J in Fuel Retailers Association of Southern Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province" SAJELP 15(1) (2008) pp 157 - 168. (Appeared December 2009) Co-authored with Du Plessis.
- "Sustainable Development in Practice: Fuel Retailers Association of Southern Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province" 1 Constitutional Court Review (2008).
- The Socio-economic Nature of Section 24(b) of the Constitution Some Thoughts on *HTF Developers (Pty) Ltd v Minister of Environmental Affairs and Tourism* 2006 5 SA 512 (T) Vol 23 (1) *SA Public Law* (2008).
- Constitutional Environmental Rights: An Under-utilised Resource" South African Journal on Human Rights Vol 24(1) (2008)
- "Who is to Blame? Liability and Redress Related to GMOs" in Jeffery, Firestone and Bubna-Litic (eds) Biodiversity, Conservation, Law and Livelihoods: Bridging the North-South Divide (2008).
- "The EC Biotech case and its Implications for Measures Affecting Genetically Modified Organisms" Stellenbosch Law Review Vol 18 (1) (2007).
- "The Protection of Biodiversity-related Trade Knowledge" *International Environmental Law-making and Diplomacy Review 2006* (published 2007) University of Joensuu UNEP Course Series 5, 2006.
- "The Implications of the WTO's EC-Biotech Case for SADC countries" in GMOS, Trade and Food Security in SADC Draper and Khumalo (Eds) SAIIA (2007).

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- "Compliance Notices, a New Tool in Enforcement". PER Vol 3 (2006)
- "Risk Management and Liability for Environmental Harm caused by GMOs the South African Regulatory Framework" PER Vol 1 (2006).
- "Environment" (update) in The Bill of Rights Handbook De Waal, Currie & Erasmus, Juta (2005).
- "A Positive Agenda for Africa in Trade Facilitation Negotiations" *ILEAP Negotiation Brief* No 8 (2005). Co-authored with Gitonga.
- "Environmental Rights" in Socio-Economic Rights in South Africa: Analysis and Documents Christof Heyns and Danie Brand (Eds) Protea Boekhuis, Pretoria (2005). Co-authored with Tladi.
- "A Legal Framework for the Protection of Biodiversity Related Traditional Knowledge" SAJELP Vol 11 (2004) Appeared 2005.
- "Protecting Traditional Knowledge in Africa Considering African Approaches" – African Human Rights Journal Vol 4 (2) 2004.
- "The Right to Access to Reproductive Health Care in the South African Constitution – A Real Victory for Women?" in Engendering Human Rights: Cultural and Socio-economic Realities in Africa, Obioma Nnaemeka and Joy Ezeilo (Eds) St Martin's Press, New York (2004).
- "The Asbestos Crisis The Need for Strict Liability for Environmental Damage" (1999) Acta Juridica 287 – 302
- "The Asbestos Crisis The Need for Strict Liability for Environmental Damage" Environmental Justice and the Legal Process Jan Glazewski and Graham Bradfield (Eds) Juta and Co Ltd Cape Town (1999).
- "Turn-on or Turn off Pornography in the Context of the Constitution" (1998) Stellenbosch Law Review Vol 9 No 1 54 – 74. Co-authored with Bonthuys.

Book Reviews:

- Human Rights and Environmental Sustainability by Kerri Woods (2013),
 Journal of Human Rights and Environment Vol 4 192 pp.
- Environmental Law by Michael Kidd (2009) Stellenbosch Law Review Vol 20 363 – 364.

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- Collective Labour Law by John Grogan (1994) Stellenbosch Law Review Vol 2 233 – 234.
- Plaasarbeid 'n Handleiding van Basiese Arbeidsreg in die Landbousektor by Anton de Jager and Changdré Wild (1994) Stellenbosch Law Review Vol 2 232 – 233.

Non-refereed publications or popular articles

- "World Constitutionalism" in Klaus Bosselmann, Danie Fogel, and J. B. Ruhl (Eds.), The Encyclopedia of Sustainability, (2011) Vol. 3: The Law and Politics of Sustainability, pp 512-514.
- "Subsidies as an Instrument of Government Policy: Are they WTO Compliant? SAIIA Policy Briefing No 31, March 2011.
- Compendium of South African Environmental Legislation 2010. With Van der Linde L.
- South African Environmental Law through the Cases (2008). With Kotze, Du Plessis and Olivier.
- "SLAPPing Environmentalists" Without Prejudice Vol 8 No 1 (February 2008).
- "A Positive Agenda for Africa in Trade Facilitation Negotiations" ILEAP Negotiation Brief No 8, 2005 (co-authored with Lynette Gitonga).
- "The Environment in Human Rights Commission Report" *Reflections on 10 Years of Human Rights* 2005.
- "Protection of Traditional Medicinal Knowledge of Indigenous Groups" Woord en Daad (Spring 2005).
- "Madiba mag Boesak Help met Geld" Insig Vol 130 (November 1998) 30.
- "Omgewingsgeregtigheid: Wat is dit en waarom is dit belangrik?" Woord en Daad (Lente 1998) 26.
- "Health and Human Rights in International Perspective" Women and Human Rights Documentation Centre Newsletter Vol 2 No 4 (1998/99).
- A Handful of Rights Streetlaw South Africa 1997. Co-authored with Kagee.

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Submitted for and in Publication

- "Making legal sense of a sense of place in the Karoo" forthcoming in Glazewski (Ed) Proposed Hydraulic Fracturing in the Karoo: Critical Perspectives (2016).
- "Losing your home while still at home: sense of place and virtual displacement - what value for a rights-based approach?" forthcoming in Ferreira da Silva, Harris and Bhandar (Eds) The nomos of the postcolony: legacies of apartheid spatiality Routledge (Law and the Postcolonial Series), (2017).

CONFERENCES, SYMPOSIA AND WORKSHOPS

International

- Sense of place and virtual displacement what value for a rights-based approach? Presented at an international symposium on New Frontiers in Global Environmental Constitutionalism organized by the University of the Northwest and the UN Special Rapporteur on Human Rights and the Environment, April 2016.
- Poverty, equity and social justice in the context of environmental protection presented at a workshop on the Legal Foundation for Environmental Sustainability organised by UNEP at the United Nations Headquarters, New York, July 2015
- Are Humans More Than Their Health? Re-Imagining The Environmental Dimensions Of Socio-Economic Rights presented at the 3rd annual Global Network for the Study of Human Rights and the Environment workshop in Tarragona, Spain, June 2014.

- The Right to Fish when Fish are Sparse presented at the 11th IUCN Academy of Environmental Law Colloquium held in Hamilton, New Zealand, July 2013.
- The Movement of Cultured Oysters within South Africa: Implications for the Spread of Marine Alien and Invasive Species co-authored with Tammy Robinson and presented at the Trabio Conference in Berlin in November 2012.
- The Emerging Right To Sanitation: Socio-Economic Or Environmental Right?
 Presented at the 10th IUCN Academy of Environmental Law Colloquium held in Baltimore, USA, July 2012.
- Equality Finding Space in the Environmental Discourse, presented at the Global Network for Human Rights and the Environment workshop in Onati Spain, June 2012.
- A Liability Framework for Acid Mine Drainage presented at the 9th IUCN
 Academy of Environmental Law Colloquium on Water and the Law: Towards
 Sustainability held at Mpekweni, Eastern Cape July 2011.
- In Search of Equity for Africa: an Assessment of Three Frameworks that Impacts on Biodiversity and Climate Change presented at the 8th IUCN Academy of Environmental Law Colloquium held in Ghent, Belgium, September 2010.
- Constitutional Environmental Rights: An Under-utilised Resource Paper presented at the 5th IUCN Academy of Environmental Law Colloquium held in Rio de Janeiro and Parati, Brazil, May-June 2007.
- Trade Facilitation Development at the WTO. Paper presented at a Trade Workshop held in Dar es Salaam, Tanzania, October 2007.
- The Effectiveness of Financial Provisions in the Enforcement of Environmental Law: South Africa as a Case Study. Paper presented at the 4th IUCN Academy of Environmental Law Colloquium held in New York, USA, October 2006.
- Who is to Blame? Liability and Redress related to GMOs. Paper presented at the 3rd IUCN Academy of Environmental Law Colloquium held in Sydney, Australia, June 2005.
- Trade Facilitation in SADC A Legal Perspective. Paper presented at a Trade Workshop held in Nairobi, Kenya, October 2004.

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- Conceptualizing a Rights-Based Approach to Eco-Justice. Paper presented at the 2004 Global Integrity Group Meeting entitled Global Ecological Governance for Eco-Justice and Public Health held in Montreal, Canada July 2004.
- An African Model for Biodiversity Protection: Can we make it work? Paper presented at The 7th International Wildlife Conference, held at the Washington College of Law, American University, Washington DC USA, October 2002.
- The World Summit on Sustainable Development, an Insider's Perspective. Panel discussion held at the Washington College of Law, American University, Washington DC USA, September 2002.
- The WTO Ministerial Meeting In Doha Another Seattle? Talk presented at a symposium on the Doha Ministerial Round held at the Washington College of Law, American University, Washington DC USA, November 2001.
- Building Community in South Africa. Talk presented at Symposium on "African, African-American, Afro-Latino and Caribbean: Collective Community or not" sponsored by the Black Ivy Alumni League in New York City, USA, May 2001.
- Intellectual Property Rights and HIV/AIDS. Talk presented at a panel discussion organised by the Intellectual Property Law Association of American University held at the Washington College of Law, American University, Washington DC USA, April 2001.
- Human Rights and the Environment Panel discussion moderated at the Washington College of Law, American University, Washington DC USA, April 2001.
- Seattle, WTO and the Role of Developing Nations. Talk presented at panel discussion on the 1999 WTO Ministerial Meeting in Seattle held at the Washington College of Law, American University, Washington DC USA, Spring 2000.
- The Right to Access to Reproductive Health Care in the South African Constitution A Real Victory for Women? Paper presented at the 1998 Women in Africa and the African Diaspora Conference in Indianapolis, USA, October 1998.

National

- A Sense of Place: New Frontiers for the Law, inaugural lecture, UCT, October 2014.
- A Sense of Place: New Frontiers for the Law, invited key note address at the 2014 Symposium of Contemporary Conservation Practice, November 2014.
- A Customary Right to Fish presented at the Regional Magistrates Workshop organized by SAJEI at Sun City in October 2013.
- The Right to Sanitation Is International Law Leading us Down the Sewers? presented at the Human Rights Indaba in November 2012 in Potchefstroom co-hosted by the Konrad Audenhauer Foundation and the University of the North West.
- Traditional Knowledge across Borders: Tragedy of the Commons presented at the First Annual SADC Seminar Series, Cape Town, November 2011.
- Whose Knowledge is it Anyway: The Need for Transboundary Protection of Traditional Knowledge presented at the TRANPROBIO conference on Transboundary Protection of Biodiversity, Potchefstroom, November 2011.
- Human Rights and Environment: Access to Water presented (with Gibson) at conference on Private Law and Human Rights in South Africa and Scotland, Stellenbosch, June 2011.
- Climate Change and Trade Measures presented at the ELA workshop, Salt Rock, May 2010.
- Multilateral Trade Policies and Measures in Post-Kyoto Structures presented at SAIIA workshop, March 2009.
- The Role of Good Environmental Governance in the Sustainable Development of South Africa presented at colloquium on Good Governance and Sustainable Development, Cradle of Humankind, August 2009.
- Maintaining the Interest in Public Interest Litigation: Will our Courts Lead the Way? Paper presented at the 2009 Environmental Law Association Conference held in Johannesburg in May 2009.
- New Liability Rule for Environmental Emergencies in Antarctica. Paper presented at the Society of Law Teachers of Southern African (SLTSA) conference held in Cape Town in July 2006.
- An Overview of the EC-Biotech case. Paper presented at a workshop on GMOs and Trade organised by SAIIA, March 2006. Also presented at the Society of

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Law Teachers of Southern African (SLTSA) conference held in Cape Town in July 2006.

- An Overview of the Cartagena Protocol on Biosafety. Paper presented at a workshop on GMOs and Trade organised by SAIIA, March 2006.
- Compliance Notices, a New Enforcement Tool for Environmental Law. Paper presented at the ELA Environmental Law Workshop held in Cape Town, February 2006.
- International Liability Regimes Paper presented at experts meeting on liability and redress organized by the Department of Environmental Affairs and Tourism, September 2005.
- The Agreement on Trade Related Intellectual Property Rights and the Convention on Biodiversity. Paper presented at a workshop on MEAS and Trade, organised by the Institute for Global Dialogue, September 2005.
- Liability for Harm Caused by GMOs a Deficient Regulatory Framework. Paper presented at that Annual conference of IAIAsa and ELA, August 2005.
- The Legal Status of International Environmental Laws. Paper presented at round-table discussion on key multilateral environmental agreements and their implications for science and technology, organized by the Department of Science and Technology, July 2005.
- Facilitating intra-Africa Trade is Integration the Answer? Paper presented at a conference on Regional Integration in Johannesburg, SA, January 2005.
- GMOs and Food Security: What does the EU's Policy on GM Food Hold for Africa? Paper presented at the international ECSA meeting at the University of the Western Cape, January 2004.
- Protecting Traditional Knowledge through the National Management Biodiversity Bill: An Opportunity Missed. Paper presented at the annual meeting of the ELA, November 2003.
- The Emerging Trade Agenda and its Implications for Developing Countries. Paper presented at the Trade and Investment Summit in Midrand, South Africa, September 2001.
- Walking the Tightrope Bioprospecting, TRIPS and the Protection of Traditional Ecological Knowledge. Paper presented at the Law and Transformation Conference at WITS Law School, Johannesburg South Africa, August 2000.

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• The Asbestos Crisis in South Africa – an Environmental Justice Perspective. Paper presented at the International Environmental Justice Conference at the University of Cape Town, Cape Town, South Africa, May 1998.

ACADEMIC LEADERSHIP

- At present Chair of the Higher Degrees Committee in the faculty of law
- Director of research in the faculty of law 2012-2014.
- Served on the following committees:
 - HDC (current Chair)
 - o FRC (Chair)
 - o FMC
 - Ethics
 - o Scholarships
- Served on the following university committees:
 - o URC
 - University Travel Committee (current Chair)
 - Short research visits committee (Chair)
 - Space Allocation Committee
 - o Panel member: Student Disciplinary Tribunal of Appeal

Other:

- Regular external examiner to University of the Witwatersrand, University of the Western Cape and the University of the North West.
- Part of team that conducted Stellenbosch University Department of Public Law external evaluation: October 2014

Advisory Boards and Referee Duties

- Iilwandle Zethu (Journal of Ocean Law and Governance in Africa) member of Advisory Board
- South African Journal on Environmental Law and Policy

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- South African Law Journal
- Stellenbosch Law Review
- African Human Rights Law Journal
- Potchefstroom Electronic Law Journal
- Botswana Law Journal

STUDENT SUPERVISION

- Ph.D. supervision: currently supervising two students. One PhD graduated.
- LLM by dissertation: one student
- LLM, minor dissertation: currently supervising 6 students. Between 2009 and 2015 successfully supervised approximately 18 students at the University of Cape Town. Between 2004 and 2009 successfully supervised approximately 40 students at the University of Pretoria.

SELECTED CONSULTANCIES

- New Development Bank (BRICS) review of environmental and social safeguards.
- IUCN Law commission: independent review panel to ensure biodiversity conservation.
- Water Research Commission: research on the governance of Catchment Management Agencies and supervising minor dissertations that feeds into this research.
- Eastern Cape Parks and Tourism Authority: legal opinion on customary law pertaining to access to the Dewsa-Cwebe MPA, which has fed into a process of the amendment of the current MPA and provision for customary practices in the newly proposed MPA.
- UNEP/IUCN: developed a curriculum for compliance and enforcement of multilateral environmental agreements, to be implemented at universities worldwide.
- Parliament: training of legal advisors in administrative law.

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- Department of Environmental Affairs (DEA): Development of Environmental Management Inspectorate training programme and training materials and most recently acting as a reviewer in the updating of these materials. Training of Environmental Management Inspectors. Training of environmental officials in the Integrated Coastal Management Act and most recently in appeals and review procedures. Provided advice on negotiations for international liability regime on GMOs in Cartagena Protocol on Biosafety
- Law Society of South Africa: training of attorneys in Environmental Law.
- Department of Justice: training of magistrates.
- Department of Public Enterprises: legal advice pertaining to law reform, EIAs and climate change.
- Centre for Environmental Management (CEM), Potchefstroom: training in environmental law of officials in public and private sector.
- Law Reform Commission: review of environmental laws.
- Legal Aid Office, Grahamstown: workshop on Environmental Law for lawyers in Eastern Cape.
- South African Human Rights Committee: drafting of Environmental Rights Chapter for the Ten Year Review of Human Rights.

International Trade

- WTO: training in trade facilitation of African trade officials.
- International Lawyers and Economists against Poverty (ILEAP): advisory briefs and training in international trade law.
- South African Institute for International Affairs: research on trade and environment.
- Investment and Trade Policy Centre (ITPC): research and training in international trade law (DFA and DTI).
- International Working Group for the Doha Agenda (IWOGDA): a project initiated by the Consumer Unity and Trusts Society (India) to develop a knowledge base and build capacity in certain aspects of international trade as it relates to the Doha negotiations. Developed briefing paper on dispute settlement.

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PROFESSIONAL MEMBERSHIPS

- Executive member of the Black Academic Caucus, UCT: Vice chairperson until 2016.
- Member of ELA (Environmental Law Association of South Africa) and regional chairperson Western Cape (2009-2013).
- Chairperson of ELA (2004-2005).
- Chairperson Gauteng Branch of ELA (2003-2004).
- Associate member, American Bar Association (2000-2004).

INTERNATIONAL COMMISSIONS AND NETWORKS

- Independent Expert for UNEP on the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV)
- Law Commissioner IUCN (World Conservation Union).
- IUCN Academy of Environmental Law member, past member of teaching and training committee and served on task team that explores innovative teaching of environmental law.

BOARD MEMBERSHIP

- Board member, Natural Justice.
- Board member, Biowatch.
- Non-executive board member, SAMSA, the South African Maritime Safety Authority (2010-2013).
- Board member, UP Water Institute 2008-2009.

COMMUNITY SERVICE

• Executive member (2014-2015), Parties with a Purpose in Cape Town, a charitable organisation.

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 Executive member, Board of Directors, Friends of South Africa (FOSA) 2002-2003.