



# Law

## SIGNIFICANT RESEARCH CONTRIBUTIONS

Contributes to legal, social, political, economic and cultural development at a local regional and international level:

Commissioned research for South African Law Deans' Association (SALDA)

Drafting of the procedural litigation rules for the Magistrates' Courts, High Courts and the Supreme Court of Appeal

Took the lead in compiling a report on how to improve policing in Khayelitsha

Provided assistance to the International Labour Organisation (ILO), on a project titled 'Addressing the Implementation Deficits': assisting the constituents in Botswana, Lesotho, Namibia and South Africa (BLNS) to implement the comments of the Committee of Experts on the Application of Conventions and Recommendations (CEACR)

Provided capacity to the World Intellectual Property Organisation (WIPO)



### Accredited journal units

(Units are assigned to accredited research outputs and translate into a total monetary value)

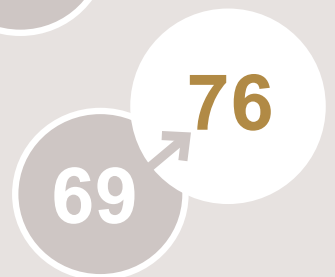


### Contracts processed

Postgraduates increased from



Doctoral cohort increased from



## 20 NRF-rated researchers

1 A rated • 4 Y rated



## Major RESEARCH GRANTS



The Institute of Marine and Environmental Law on Trans-boundary Fisheries Crime



The Centre of Criminology and the DST/NRF SARCHI Chair of Security and Justice, in collaboration with the Safety and Violence Initiative, to develop the UNODC Guide for Development Practitioners awarded to the by the United Nations Office on Drugs and Crime



The Democratic Governance and Rights Unit to develop its 'virtual research assistant' project



Funding for a new project 'Improving Access to Mining Laws in Africa'

## Inaugural LECTURES

Professor **Alexander Paterson** (Institute of Marine and Environmental Law) gave a lecture titled "Sitting on the fence as it gets cut from below: Co-managing conservation and land reform agendas in South Africa's protected areas"

Professor **Loretta Feris** (Institute of Marine and Environmental Law) gave a lecture on "A Sense of Place: New frontiers for the law?"

## Internal AWARDS

Professor **Hanri Mostert** (Department of Private Law) received the Meritorious Book Award by the University Book Award Committee in acknowledgment of her book *Mineral Law: Principles and Policies in Perspective* as one of the outstanding books recently produced by UCT authors

## External AWARDS

An award for the 10th most frequently cited criminology scholar in 2006—2010 across international journals to Emeritus Professor **Clifford Shearing** (Department of Public Law)

Yorke Prize by the Cambridge Law Faculty in recognition of the exceptional quality of his doctoral dissertation awarded to Associate Professor **Alistair Price** (Department of Private Law)



## DOCTORAL GRADUATIONS

### M.F. CASSIM (COMMERCIAL LAW)

The statutory derivative action under the Companies Act of 2008: guidelines for the exercise of the judicial discretion

Supervised by Professor R. Jooste

### L.E. DRIVDAL (CRIMINOLOGY)

The politics of leadership organising in informal settlements: ambiguities of speaking publicly and mediating conflicting institutional logics

Supervised by Professor C. Shearing and Professor J. Froestad

### L. DU TOIT (PUBLIC LAW)

Promoting renewable energy in South Africa through the inclusion of market-based instruments in South Africa's legal and policy framework with particular reference to the feed-in tariff

Supervised by Professor J. Glazewski

### A. MOYO (PUBLIC LAW)

Balancing child participation rights, parental responsibility and state intervention in medical and reproductive decision-making under South African law

Supervised by Professor D. Chirwa

### T. MUTONGWIZO (CRIMINOLOGY)

Contours of non-state governance: encountering states in South Africa and Zimbabwe

Supervised by Professor C. Shearing

### S. NAKUEIRA (PUBLIC LAW)

New architectures of governance: transnational private actors, enrolment strategies and the security governance of sports mega events

Supervised by Professor C. Shearing

### K.M. NYAUNDI (PUBLIC LAW)

How does the implementation of counter terrorism measures impact on human rights in Kenya and Uganda?

Supervised by Professor T. Bennett

### L. SEWANYANA (PUBLIC LAW)

Building sustainable human rights NGOs in emerging democracies in East and Southern Africa: the case of Uganda

Supervised by Professor H. Corder and Professor D. Chirwa

### C.O. UKATTAH (COMMERCIAL LAW)

General average and the York-Antwerp Rules: the historical quest for international conformity, the divisive effect of more recent amendments to the Rules and recommendations with regard to a way forward to regain more widespread acceptance of the Rules in today's global maritime industry

Supervised by Associate Professor G. Bradfield and Professor A. Rycroft

### C.-L. YOUNG (PRIVATE LAW)

Public trusteeship and water management: developing the South African concept of public trusteeship to improve management of water resources in the context of South African water law

Supervised by Professor H. Mostert

# DEPARTMENT OF COMMERCIAL LAW

(Including the Institute of Development and Labour Law, the Centre for Comparative Law in Africa, the Shipping Law Unit and the Intellectual Property Unit)

**Head of Department: Associate Professor Caroline Ncube**

## Departmental Profile

The Department of Commercial Law is the biggest department in the Law Faculty in terms of both staff complement and student numbers. Several of its academic staff members hold doctorate degrees whilst a few others are currently working on their doctorate degrees. In addition, a number of academic staff members are working on new books or on new editions of established works. All of this enhances the department's scholarly achievements, as evidenced by the publications listed below. The Department now has three NRF rated researchers.

The Department has an increasing number of PhD and LLM by dissertation students and teaches most of the students who are taking the LLM by coursework and the Postgraduate Diplomas in Law. It graduated its first cohort of professional masters degree graduates at the end of 2014.

In the LLB programme the Department teaches compulsory courses in Corporation Law, Commercial Transactions Law and Labour Law. It offers 14 optional courses to final year students. The Department also offers specialised commercial law courses to nearly 2600 students from other faculties.

There are four research and teaching units which form part of the Department: the Institute of Development and Labour Law, the Centre for Comparative Law in Africa, the Shipping Law unit and the Intellectual Property Unit.

## Departmental Statistics

### Permanent and long-term contract staff

Honorary Professors	2
Adjunct Professors	6
Honorary Research Associate	2
Professors	7
Associate Professors	4
Emeritus Professors	2

Emeritus Associate Professors	1
Senior Lecturers	9
Lecturers	7
Teaching and Research Assistants	2
Administrative staff	4
<b>Total</b>	<b>46</b>

### Students

Other Faculties	2489
LLB	612
PG Diplomas	66
Doctor of Philosophy	70
Master of Philosophy	78
LLM By Dissertation	15
LLM By Coursework and Dissertation	198
LLM Professional	41
Semester Study Abroad	17
Law Exchange	13
Occasional PG	2
Occasional UG	172
<b>Total</b>	<b>3773</b>

\* These figures reflect actual registrations for Commercial Law courses and LLB courses. Where a student registers for two Commercial Law /LLB courses he/she was counted twice.

## Research Fields and Staff

### Associate Professor and Head of Department

#### A/PROF C. NCUBE

Business Law; Company Law; Intellectual Property Law

### Honorary Professors

#### PROFESSOR/JUDGE D.M. DAVIS

Capital Transfer and International Tax Law; Competition Law

#### JUDGE I. FARLAM

### Professors

#### PROFESSOR P.S. BENJAMIN (PART-TIME)

Labour Law

**PROFESSOR R.D. JOOSTE**

Revenue Law; Company Law

**PROFESSOR E.R. KALULA**

International Comparative Labour Law; Labour Market Regulation; Social Security

**PROFESSOR R. LE ROUX**

Labour Law, Sport Law

**PROFESSOR S. MANCUSO**

Comparative Law

**PROFESSOR A. RYCROFT**

Labour Law; Dispute Resolution

**PROFESSOR R.C. WILLIAMS (PART-TIME)**

Revenue Law; Company Law

**Emeritus Professor****EMERITUS PROFESSOR J. KINDERLERER**

Biotechnology and IPL

**Associate Professors****ASSOCIATE PROFESSOR G. BRADFIELD**

Shipping Law, International Trade

**ASSOCIATE PROFESSOR D. COLLIER**

Labour Law; Electronic Law; Intellectual Property Law

**ASSOCIATE PROFESSOR T.S. EMSLIE SC (PART-TIME)**

Revenue Law

**Emeritus Associate Professor****EMERITUS ASSOCIATE PROFESSOR J. HOFMAN****Honorary Research Associate****DR T. KRUGER**

International Trade Law

**DR L. DANCASTER**

Labour Law

**Adjunct Professors****MS A. BOSMAN****MR N. JERAM****DR T. MADIMA****MR W. SCHOLTZ****MR E. SWANEPOEL****Senior Lecturers****DR T.L. GUTUZA**

Revenue Law; Capital Transfer and International Tax Law

**DR A. HUTCHISON**

Business Law

**MS K. IDENSOHN**

Company Law

**MS K. LEHMANN**

Business Law; Global Economic Law; International Economic Law

**MS L.-A. TONG**

Intellectual Property Law

**MS J. YEATS**

Business Law; Company Law

**Lecturers****MR R. BRADSTREET**

Company Law; Business Law, Intellectual Property Law

**MS. S. BUTHELEZI**

Business Law

**MS J. FRANCO**

Business Law

**DR E. FERGUS**

Labour Law; Business Law

**MS L. NAIDOO**

Business Law; Shipping Law

**MS S. SINGLEE**

Business Law; Labour Law

**MR M. NKOMO**

Business Law; Intellectual Property Law

**MS H. STOOP**

Business Law; Company Law

**MS A.L. TITUS**

Business Law; Revenue Law

**Teaching and Research Assistants****MR J. LEACH****MS L. KENT**

## Administrators

### MR C. ELISSAC

Administrative Officer  
LLB and Postgraduate Courses

### MR M. MBEBE

Administrative Assistant  
All Commerce Courses

### MS F. KHAN

Administrative Assistant  
Labour and Development Law

### MS S. VAN DER BROCK

Centre for Comparative Law in Africa

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# INSTITUTE OF DEVELOPMENT AND LABOUR LAW

**Director: Professor R. le Roux**

## Institute Profile

The Institute of Development and Labour Law was established in 1996 through the merger of the Labour Law Unit and the Institute of Development Law. The Institute plays a leading role in development and labour law teaching and research. It is involved with training courses in South Africa and other countries in Southern Africa. It also regularly contributes to training programmes in other organisations and collaborates closely with other leading university centres and NGOs.

## Research Fields and Staff

### Professors

#### PROFESSOR E.R. KALULA

International and Comparative Labour Law; Labour Market Regulation; Social Security; Law and Regional Integration

#### PROFESSOR R. LE ROUX

Labour Law

#### PROFESSOR P. BENJAMIN

Collective Bargaining and Strike Law; Health and Safety; Minimum Labour Standards; Regulatory Framework

#### ASSOCIATE PROFESSOR D. COLLIER

Labour Market Regulation, Inequality, Intellectual Property and Development

### Adjunct Professors

#### PROFESSOR C. THOMPSON

Collective Bargaining; International Labour Law

#### DR T. MADIMA

Collective Bargaining

#### MR C. NUPEN

Dispute Resolution; Social Dialogue

#### MS T. ORLEYN

Dispute Resolution

#### MR N. JERAM

Social Security

## Administrative Staff

**MS F. KHAN**

## Researchers

**MR S. GODFREY**

Senior Researcher, Labour and Enterprise Project  
Bargaining Councils; Industrial Sociology

**MR J. THERON**

Co-ordinator of the Labour and Enterprise Policy  
Research Group (LEP)  
Labour Rights; Small and Medium Enterprise

**MS M. VISSER**

Researcher

## Honorary Research Associate

**PROFESSOR N. RUBIN**

International Labour Standards; Law and Development

## Contact Details

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# CENTRE FOR COMPARATIVE LAW IN AFRICA

**Director: Dr A. Ordor**

## Centre profile

The Centre for Comparative Law in Africa (CCLA) was established in 2011 to promote the study of comparative law and draw on the strengths of comparative methodology to research into the multifaceted field of law in Africa. The Centre presents an opportunity to develop a discipline that lends itself to optimal application in the pluralistic legal frameworks within which life is lived in Africa. In its mission to contribute to the development of comparative law in Africa, the strategy of the CCLA is to establish the field at UCT, build *capacity* in it across the continent through academic programmes, *apply* comparative law expertise in consultancies and *disseminate* new knowledge in comparative law in Africa through conferences, publications and professional networks. Its location within the Department of Commercial Law recognises the centrality of comparative law to on-going efforts at economic integration on the African continent. The CCLA offers an LLM and a postgraduate diploma in Comparative Law and conducts research on a variety of themes that apply comparative methodology. Currently the Centre is involved in a collaborative research project on mineral law and policy in three southern African countries (South Africa, Namibia and Zambia) under the UCT PERC Africa Knowledge Project as well as customary law development in Somaliland. The CCLA offers support for Africa-focused doctoral research and also undertakes consultancies from institutions in the public and private sectors.

## Professor and Chair

Professor S. Mancuso, LLB *Palermo* PhD *Trieste*

## Administrator

Ms S. van der Brock

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# SHIPPING LAW UNIT

**Associate Professor and Head:  
Associate Professor G. Bradfield**

## Unit profile

The Shipping Law Unit has been in operation since the beginning of 1993. The Unit was set up within the Department of Commercial Law to accommodate part-time and full-time studies in Shipping Law at higher postgraduate level, and to support the Maritime Law option offered to Final Level LLB students. The Shipping Law Unit provides postgraduate tuition and research in Admiralty law and practice and in all private law aspects of the law relating to the sea and ships. It serves as an information and advice centre to the shipping industry, and monitors developments in maritime law and policy in South Africa and abroad. The Unit co-operates closely with the Institute of Marine and Environmental Law which handles the public law elements of the Law of the Sea and related subjects.

## Visiting Teacher

R. Knutzen, LLB Cape Town BCL Oxon

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# INTELLECTUAL PROPERTY UNIT

**Director: Dr T. Schönwetter**

## Unit profile

The Intellectual Property Unit (IP Unit) was set up in 2007 as a centre for policy research and teaching in intellectual property law. Intellectual property is a key determinant of human development, economic growth and competitiveness; and intellectual property rules impact on various public policy areas including health, research and development, bio-diversity, clean technologies, food security, and education. Important issues range from the way in which we access and share knowledge to strategies how to commercialise inventions and avoid misappropriation. The IP Unit comprises Dr Tobias Schönwetter, A/Prof. Caroline Ncube and Ms Lee-Ann Tong, two administrators (Nan Warner and Phyllis Webb) as well as a varying number of soft-funded research collaborators, visiting scholars, fellows and visiting students from Africa, Europe and North America. The IP Unit seeks to add a credible African voice to the global debates concerning the link between intellectual property, innovation, development and public policy. The IP Unit offers PhD supervision, LLM and fellowship programmes, hosts regular stakeholder workshops and seminars and is involved in numerous national and international research projects. IP Unit members are involved in various national, regional and international networks and, the unit is the centre of two of the largest intellectual property networks on the African continent, namely the Open A.I.R. (African Innovation Research, [www.openair.org.za](http://www.openair.org.za)) network and Creative Commons Africa ([www.creativecommons.org](http://www.creativecommons.org)).

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## RESEARCH OUTPUT

### Authored books

Jooste, R.D. and Beneke, C. 2014. Tax Alert – Monthly Publication on Tax Developments. Annually. CPT: LexisNexis.

Massie, K.M., Collier, D. and Crotty, A.C. 2014. Executives Salaries in South Africa. Who Should Have a Say on Pay? 314pp. Auckland Park, SA: Jacana Media (Pty) Ltd. ISBN 9781431410125.



## Chapters in books

Amien, W. 2014. The viability for women's rights of incorporating Islamic inheritance laws into the South African legal system. In M. de Waal and M. Paleker (eds), *South African Law of Succession and Trusts*, pp.192-218. Claremont, CPT: Juta Law. ISBN 9781485106487.

de Beer, J., Armstrong, C., Oguamanam, O.C. and Schonwetter, T. 2014. Current realities of collaborative intellectual property in Africa. In J. de Beer, C. Armstrong, C. Oguamanam and T. Schonwetter (eds), *Innovation & Intellectual Property. Collaborative Dynamics in Africa*, pp. 373-394. Claremont, SA: Juta & Co Limited. ISBN 9781919895994.

de Beer, J., Oguamanam, O.C. and Schonwetter, T. 2014. Innovation, intellectual property and development narratives in Africa. In J. de Beer, C. Armstrong, C. Oguamanam and T. Schonwetter (eds), *Innovation & Intellectual Property. Collaborative Dynamics in Africa*, pp. 1-31. Claremont, SA: Juta & Co Limited. ISBN 9781919895994.

Cocchiaro, G.C., Lorenzen, J., Maister, B. and Rutert, R.B. 2014. Consideration of a legal "trust" model for the Kukula Healers' TK commons in South Africa. In J. de Beer, C. Armstrong, C. Oguamanam and T. Schonwetter (eds), *Innovation & Intellectual Property. Collaborative Dynamics in Africa*, pp. 151-170. Claremont, SA: Juta & Co Limited. ISBN 9781919895994.

Fredman, S. 2013. Gender and transformation in the South African constitutional court. In O. Vilhena, U. Baxi and F. Viljoen (eds), *Transformative Constitutionalism: Comparing the Apex Courts of Brazil, India and South Africa*, pp. 244-264. South Africa: Pretoria University Law Press (PULP). ISBN 9781920538231.

Lehmann, K.H. 2014. Testamentary freedom versus testamentary duty: in search of a better balance. In M. de Waal and M. Paleker (eds), *South African Law of Succession and Trusts*, pp. 9-40. Claremont, CPT: Juta Law. ISBN 9781485106487.

Mancuso, S. 2014. Lespressione diversa di un diritto diverso: lingua e diritto in Africa. In B. Pozzo (ed), *Lingua E Diritto: Oltre Leuropa*, pp. 39-56.

Mellville, N. and Yeats, J. 2014. Business names and industry codes of conduct (Part B). In T. Naud and S. Eiselen (eds), *Commentary on the Consumer Protection Act*, pp. 82-1-82-6. Cape Town: Juta Law. ISBN 9781485101499.

Ncube, C.B., Abrahams, L.A. and Akanisanmi, T.A. 2014. Effects of the South African IP regime on generating value from publicly funded research: an exploratory study of two universities. In J. de Beer, C. Armstrong, C. Oguamanam and T. Schonwetter (eds), *Innovation & Intellectual Property. Collaborative Dynamics in Africa*, pp. 282-315. Claremont, SA: Juta & Co Limited. ISBN 9781919895994.

Ordor, A.O. 2014. Associational life and women's constitutional rights in Africa. In S. Rohrs, D. Smythe, A. Hsieh and M. de Souza (eds), *In Search of Equality: Women, Law and Society in Africa*, pp. 208-242. Cape Town: UCT press. ISBN 9781919895888.

Ordor, A.O. 2014. Exploring civil society partnerships in enforcing decent work in South Africa. In D. McCann, S. Lee, P. Belser, C. Fenwick, J. Howe and M. Luebker (eds), *Creative Labour Regulation. Indeterminacy and Protection in an Uncertain World*, pp. 231-258. London: ILO Publishing, International Office. ISBN 9789221278207.

O'Regan, C. 2014. The constitutional court: a judge's perspective. In C. Hoexter and M. Olivier (eds), *The Judiciary in South Africa*, pp. 403-413. Cape Town: Juta. ISBN 9781485101710.

Pike, K. and Godfrey, S.D. 2014. Workers' perceptions of compliance with labour standards: assessing opportunities and the challenges for better work in Lesotho's apparel sector. In A. Rossi, A. Luinstra and J. Pickles (eds), *Towards Better Work. Understanding Labour in Apparel Global Value Chains*, pp. 191-211. New York: ILO Publishing, International Office. ISBN 9781137377531.

Theron, J.P. 2014. Non-standard work arrangements in the public sector: the case of South Africa. *ILO Cataloguing in Publication Data*, pp. 1-26. Geneva: International Labour Organisation. ISBN 9789221290971.

Theron, J.P. and Titus, U. 2013. South Africa. In D. Cracogna, A. Fici and H. Henry (eds), *International Handbook of Cooperative Law*, pp. 687-700. Berlin: Springer. ISBN 9783642301285.

Yeats, J. 2014. Business names and industry codes of conduct (Part A). In T. Naud and S. Eiselen (eds), *Commentary on the Consumer Protection Act*, pp. 79-1-81-4. Cape Town: Juta Law. ISBN 9781485101499.

## Articles in peer-reviewed journals

Amien, W. 2014. The viability for women's rights of incorporating Islamic inheritance laws into the South African legal system. *Acta Juridica*, 1(2014): 192-218.

Amien, W. and D.A. Leatt, 2014. Legislating religious freedom: an example of Muslim marriages in South Africa. *Maryland Journal of International Law*, 29(1): 505-547.

Bosman, L. 2014. The PCA's contribution to International dispute resolution in Africa. *Stellenbosch Law Review*, 25(2): 308-327.

Brickhill, J., Corder, H.M., Davis, D. and Marcus, G. 2014. The Administration of Justice. *Annual Survey of South African Law*, 1(2012): 1-24.

Davis, D. 2014. Where is the map guide to Common-Law development? *Stellenbosch Law Review*, 25(1): 3-14.

Fergus, E. 2014. Reviewing an appeal: a response to Judge Murphy and the SCA. *Industrial Law Journal*, 35: 47-78.

- Fergus, E. and Collier, D. 2014. Race and gender equality at work: the role of the judiciary in promoting workplace transformation. *South African Journal on Human Rights*, 30(3): 484-507.
- Godfrey, S.D. 2014. The basic conditions of employment act amendments: enabling redistribution. *Industrial Law Journal*, 35: 2587-2606.
- Greenbaum, L. and Rycroft, A. 2014. The development of graduate attributes: the book of the year project. *South African Journal of Higher Education*, 28(1): 91-109.
- Gutuza, T.L. 2014. The headquarter company structure in the Southern African context: a South African tax law perspective. *Comparative and International Law Journal of Southern Africa*, 47(2): 187-205.
- Hutchison, A.J. and Hutchison, D.B. 2014. Simulated transactions and the *Fraus Legis* doctrine. *South African Law Journal*, 131: 69-87.
- Jeram, N. 2014. A warning to all maintenance court officials. *De Rebus*, 1(September 2014): 43-44.
- Jeram, N. 2014. The pension funds adjudicator's jurisdiction over labour/employment issues in retirement funds – a return to the original position. *Industrial Law Journal*, 35: 918-925.
- Jeram, N. 2014. Time for a change to payment of minors' death benefits. *Insurance and Tax*, 1(December 2014): 1-2.
- Jooste, R.D. 2014. Companies & Close Corporations. *Juta Quarterly Review*, 4(October to December 2014).
- Jooste, R.D. 2014. South Africa (Parts 1-8). *Income Tax Reporter*, 53(1-8).
- Klopper, H. and Bradstreet, R. 2014. Averting liquidations with business rescue: does a section 155 compromise place the bar too high? *Stellenbosch Law Review*, 3: 549-565.
- Kruger, T. 2014. Rome III and parties choice. *Familie en Recht*, 1(2014): 16pp.
- le Roux, R. 2014. Employment: a Dodo, or simply living dangerously? *Industrial Law Journal*, 35: 30-46.
- Lehmann, K.H. 2014. Testamentary freedom versus testamentary duty: in search of a better balance. *Acta Juridica*, 1(2014): 9-40.
- Mancuso, S. 2014. A gap is a gap everywhere? An African contribution to the taxonomy of legal gaps. *Tulane European & Civil Law Forum*, 29(2014): 1-13.
- Mancuso, S. 2014. African law in action. *Journal of African Law*, 58(1): 1-21.
- Ncube, C.B. 2014. The draft national intellectual property policy proposals for improving South Africa's patent registration system: a review. *Journal of Intellectual Property Law and Practice*, 9(10): 822-829.
- Nkomo, M. 2014. Regional integration in the area of intellectual property: the case for Southern African development community involvement. *Law, Democracy and Development*, 18: 317-333.
- Ordor, A.O. 2014. The non-profit sector in the context of law in development in Africa. *Journal of African Law*, 58(1): 45-70.
- Prins, D. and Koornhof, P. 2014. Assessing the nature of competition law enforcement in South Africa. *Law, Democracy and Development*, 18: 136-163.
- Rycroft, A. 2014. Business needs, cultural beliefs and fairness: *Kievits Kroon Country Estate (Pty) Ltd v Mmoleli & others*. *Industrial Law Journal*, 35: 908-917.
- Rycroft, A. 2014. Insubordination and legitimate trade union activity. *Industrial Law Journal*, 35: 2689-2699.
- Rycroft, A. 2014. What can be done about strike-related violence? *International Journal of Comparative Labour Law and Industrial Relations*, 30(2): 199-216.
- Rycroft, A. 2014. What should the consequences be of an unreasonable refusal to participate in ADR? *South African Law Journal*, 131: 778-786.
- Singlee, S. 2014. Conscience discrimination in the South African workplace. *Industrial Law Journal*, 35: 1851-1870.
- Stoop, H. 2014. When does an application for business rescue proceedings suspend liquidation proceedings? *De Jure*, 2(47): 329-338.
- Theron, J.P. 2014. Decent work and the crisis of labour law in South Africa. *Industrial Law Journal*, 35: 1829-1850.
- Titus, A.L. 2014. Fiscal federalism and the EAC: the way forward. *International Law Journal on Trade, Business and Economics (IJTBE 2014)*, 1(1): 1-11.
- Titus, A.L. 2014. The role of the limited partner deeming provision in the Income Tax Act: does section 24h (2) achieve its intended purpose? *Obiter*, 35(3): 658-671.
- Tong, L. 2014. The effect of employee-authors' moral rights on employer-owned copyright: surviving article 6bis of the Berne convention. *SA Mercantile Law*, 26(2): 212-227.
- Yeats, J. 2014. Putting appraisal rights into perspective. *Stellenbosch Law Review*, 25(2): 328-342.

### Peer-reviewed published conference proceedings

- Nkomo, M. 2014. The economic partnership agreements and the role of SADC in the African economic community. Are they mutually exclusive? In M. Muchie, V. Gumede, P. Lukhele-Olorunju and H.T. Demissie (eds), *Proceedings of Unite or Perish. Africa Fifty Years After the Founding of the OAU, 1921, May 2013*, Pretoria, South Africa. Pretoria, South Africa: AISA/African Institute of South Africa. ISBN 9780798304832.

# DEPARTMENT OF PRIVATE LAW

**Head of Department:**  
**Professor Anton Fagan**

## Departmental Profile

The Department of Private Law has seven NRF-rated researchers. The Department continued to maintain its strong research record during the period of review. Members of the Department maintained a high rate of publication, which included a number of international publications.

## Departmental Statistics

### Permanent and long-term contract staff

Professors	7
Emeritus Professors	2
Associate Professors	5
Senior Lecturers	0
Lecturers	2
Honorary Research Associate	4
Admin and Clerical Staff	2
<b>Total</b>	<b>22</b>

### Students

LLB	563
Masters	9
PhD	20
<b>Total</b>	<b>592</b>

## Research Fields and Staff

### Professor and Head of Department

#### PROFESSOR H. SCOTT

Unjustified Enrichment; Law of Delict; Legal History

### Professors

#### PROFESSOR A FAGAN

Law of Delict; Jurisprudence; Constitutional Theory

#### PROFESSOR A.J. BARNARD-NAUDÉ

Jurisprudence; Legal Theory

#### PROFESSOR T. NAUDE

Law of Contract; Consumer Protection

#### PROFESSOR C. HIMONGA

African Customary Law

#### PROFESSOR D.B. HUTCHISON

Law of Contract; Law of Delict

#### PROFESSOR H. MOSTERT

Law of Property; Land Law; Mineral and Petroleum Law

### Emeritus Professors

#### EMERITUS PROFESSOR W. DE VOS SC

Unjustified Enrichment; Legal History

#### EMERITUS PROFESSOR I. LEEMAN

Copyright Law

### Honorary Research Associate

#### PROFESSOR F. DU BOIS

University of Leicester, England  
Law of Delict; Legal Theory

#### ASSOCIATE PROFESSOR M. HEWETT

South African and European Legal History

#### PROFESSOR D. MEYERSON

Macquarie Law School  
Jurisprudence, Human Rights and Moral Dilemmas,  
Theories of Law and Justice

#### JUSTICE B. VAN HEERDEN

Judge of Appeal, Supreme Court of Appeal

### Distinguished visitors

#### PROFESSOR R. EVANS-JONES

University of Aberdeen, Scotland  
Unjustified Enrichment; Legal History

### Associate Professors

#### ASSOCIATE PROFESSOR M. PALEKER

Law of Succession; Civil Procedure

#### ASSOCIATE PROFESSOR A. POPE

Law of Property; Bio-ethics; Customary Law; Family Law

#### ASSOCIATE PROFESSOR A. BARRATT

Law of Persons and Marriage; Legal History; Intellectual Property Law

#### ASSOCIATE PROFESSOR L. GREENBAUM

Legal Education; Legal Writing.

## ASSOCIATE PROFESSOR A. PRICE

Law of Delict; Jurisprudence

### Lecturers

#### MS F. OSMAN

Law of Succession; African Customary Law

#### MR J. JONKER

Legal theory

### Contract Staff

#### MS F. DIALLO

Research Co-ordinator

### Administrators

#### MRS. N. CAMPBELL

Administrative Officer  
LLB Intermediate/Final Year

#### MRS. F. MOHAMED

Senior Secretary  
LLB Preliminary Undergraduate/Postgraduate/  
LLM Courses

## Contact Details

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nikki.campbell@uct.ac.za

## RESEARCH OUTPUT

### Authored books

Evans-Jones, R. 2013. Unjustified Enrichment. Enrichment Acquired in any Other Manner. 196pp. Edinburgh: Scottish Universities Law Institute Ltd / SULI. ISBN 978041408495.

Himonga, C., Nhlapo, R.T., Maithufi, I., Mnisi, S., Mofokeng, L. and Ndima, D.N. 2014. African Customary Law in South Africa. 294pp. CPT: Oxford University Press Southern Africa (Pty) Ltd. ISBN 9780199057184.

### Edited books

Himonga, C., Nhlapo, R.T., Maithufi, I., Mnisi, S., Mofokeng, L. and Ndima, D.N. (eds) 2014. In African Customary Law in South Africa. Post-Apartheid and Living Law Perspectives: 294pp. Goodwood, Cape

Town, SA: Oxford University Press Southern Africa. ISBN 9780199057184.

### Chapters in books

Barnard-Naude, A.J. 2013. Sexual minority freedom and the heteronormative hegemony in South Africa. In O. Vilhena, U. Baxi and F. Viljoen (eds), Transformative constitutionalism: Comparing the Apex Courts of Brazil, India and South Africa, pp. 311-336. South Africa: Pretoria University Law Press (PULP). ISBN 9781920538231.

Barns, S. and Thompson, A. 2014. Reconsidering the indignus principle in the South African law of succession. In M. de Waal and M. Paleker (eds), South African Law of Succession and Trusts, pp. 123-131. Claremont, CPT: Juta Law. ISBN 9781485106487.

Eiselen, S. and Naude, T. 2014. Introduction and overview of the Consumer Protection Act. In T. Naud and S. Eiselen (eds), Commentary on the Consumer Protection Act, pp. 1-21. Cape Town: Juta Law. ISBN 9781485101499.

Hagg, G. and Himonga, C. 2014. Twenty years of reconciling traditional governance with modern democracy. In T. Meyiwa, M. Nkondo, M. Chitiga-Mabugu, M. Sithole and F. Nya (eds), State of the Nation 2014. South Africa 1994-2014: A Twenty-Year Review, pp. 106-126. South Africa: HSRC Press. ISBN 9780796924612.

Himonga, C. 2014. The dissolution of a customary marriage by divorce. In J. Heaton (eds), The Law of Divorce and Dissolution of Life Partnerships in South Africa, pp. 231-278. Claremont, South Africa: Juta Law. ISBN 9781485107347.

Mackintosh, D. and Paleker, M. 2014. A grandchild's claim to maintenance from a deceased grandparent's estate. In M. de Waal and M. Paleker (eds), South African Law of Succession and Trusts, pp. 41-77. Claremont, CPT: Juta Law. ISBN 9781485106487.

Mostert, H. and van den Berg, M. 2014. Roman-Dutch law, custodianship, and the African subsurface: the South African and Namibian experiences. In D.N. Zillman, A. McHarg, L. Barrera-Hernandez and A. Bradbrook (eds), The law of Energy Underground. Understanding New Developments in Subsurface Production, Transmission, and Storage, pp. 75-97. United Kingdom: Oxford University Press. ISBN 9780198703181.

Naude, T. 2014. Section 44: consumer's right to assume supplier is entitled to sell goods. In T. Naud and S. Eiselen (eds), Commentary on the Consumer Protection Act, pp. 44-1-44-8. Cape Town: Juta Law. ISBN 9781485101499.

Naude, T. and De Stadler, E. 2014. The Consumer Protection Act 68 of 2008 (textbook). In J. Scott and S. Corenelius (eds), The Law of Commerce in South Africa, pp. 396-438. Goodwood, CPT: Oxford University Press Southern Africa (Pty) Ltd. ISBN 9780199054732.

Naude, T. 2014. The Impact of the CPA on the Law of Contract and on specific contracts. In T. Naud and S. Eiselen

(eds), *Commentary on the Consumer Protection Act*, pp.1-14. Cape Town: Juta Law. ISBN 9781485101499.

Naude, T. 2014. The right to fair, just and reasonable terms and conditions (Part G). In T. Naud and S. Eiselen (eds), *Commentary on the Consumer Protection Act: 48-1-REG*, pp. 44-67. Cape Town: Juta Law. ISBN 9781485101499.

Scott, H. 2014. Liber homo suo nomine utilem Aquiliae habet actionem: D. 9,2,13 pr. in context. In J. Hallebeek, M. Schermaier, R. Fiori, E. Metzger and J.-P. Coriat (eds), *Inter Cives Necnon Peregrinos: Essays in Honour of Boudewijn Sirks*, pp. 699-715. Germany: V & R Unipress. ISBN 9783847103028.

Visser, D.P. 2014. Unjustified enrichment in the context of the fraudulent manipulation of bank accounts: principle, pragmatism, and equality before law. In C. Visser and J.T. Pretorius (eds), *Essays in Honour of Frans Malan. Former Judge of the Supreme Court of Appeal*, pp. 359-367. South Africa: LexisNexis. ISBN 9780409120882.

### Articles in peer-reviewed journals

Barnard-Naude, A.J. and de Vos, P. 2014. These queer gardens: a South African story. *Acta Academica*, 46(3): 134-150.

Barns, S. and Thompson, A. 2014. Reconsidering the indignus principle in the South African law of succession. *Acta Juridica*, 1(2014): 123-131.

Barratt, A. 2014. Strange bedfellows? The action for adultery and the South African Bill of Rights. *International Journal of Private Law*, 7(4): 310-327.

Dennison, B. 2014. The political question doctrine in Uganda: a reassessment in the wake of CEHURD. *Law, Democracy and Development*, 18: 264-288.

Diala, A. 2014. Reform of the customary law of inheritance in Nigeria: lessons from South Africa. *African Human Rights Law Journal*, 14: 633-654.

Fagan, A. 2014. Aquilian liability for negligently caused pure economic loss – its history and doctrinal accommodation. *South African Law Journal*, 131: 288-327.

Greenbaum, L. and Rycroft, A. 2014. The development of graduate attributes: the book of the year project. *South African Journal of Higher Education*, 28(1): 91-109.

Hewett, M. 2014. Words, law and a search engine. *Fundamina: A Journal of Legal History*, 20(1): 412-415.

Howard, J. 2014. Half-hearted regulation: corporate social responsibility in the mining industry. *South African Law Journal*, 131(1): 11-27.

Hutchison, A.J. and Hutchison, D.B. 2014. Simulated transactions and the *Fraus Legis* doctrine. *South African Law Journal*, 131: 69-87.

Mackintosh, D. and Paleker, M. 2014. A grandchild's claim to maintenance from a deceased grandparent's estate. *Acta Juridica*, 1(2014): 41-77.

Marais, E.J. 2014. The Constitutionality of Section 89(5) (c) of the National Credit Act under the property clause: *National Credit regulator v Opperman & Others*. *South African Law Journal*, 131(2): 215-233.

Mostert, H. 2014. Land as a "national asset" under the constitution: the system change envisaged by the 2011 green paper on land policy and what this means for property law under the constitution. *Potchefstroomse Elektroniese Regsblad / Potchefstroom Electronic Law Journal*, 17(2): 760-796.

Osman, F. 2014. Legislative prohibitions on wearing a headscarf: are they justified? *Potchefstroomse Elektroniese Regsblad / Potchefstroom Electronic Law Journal*, 17(4): 1318-1349.

Price, A.M. 2014. Factual causation after *Lee*. *South African Law Journal*, 131(3): 491-499.

Rice, S., Meyerson, D. and Ogg, K. 2014. 'Are we there yet?': measuring human rights sensibilities. *Australian Journal of Human Rights (AJHR)*, 20(1): 67-98.

Rossouw, T.M., Van Zyl, C. and Pope, A. 2014. Responsible conduct of research: global trends, local opportunities. *South African Journal of Science*, 110(1/2): 2013-0103 (6pp).

Scott, H. 2014. Rationalising the South African Law of Enrichment. *Edinburgh Law Review*, 18(2014): 433-451.

Scott, H. 2014. South Africa. *Restitution Law Review*, 22(2014): 235-242.

Scott, H. 2014. Unjustified enrichment. *Annual Survey of South African Law*, 1(2012): 1046-1052.

Stuttaford, M., Al Makhamreh, S., Coomans, F., Harrington, J., Himonga, C. and Hundt, G.L. 2014. The right to traditional, complementary, and alternative health care. *Global Health Action*, 7: 24121 (8pp).



# DEPARTMENT OF PUBLIC LAW

(Including the Centre of Criminology; Institute of Marine and Environmental Law; Democratic Governance and Rights Unit; Centre for Law and Society; and Refugee Rights Unit)

**Head of Department: Professor Elrena van der Spuy**

## Departmental Profile

The Department of Public Law now has 9 NRF rated researchers and continues to produce high level research in various areas, including constitutional law and human rights, international law, environmental law, refugee law, criminal law, criminal procedure and evidence, land rights, crime, safety and policing. During the course of 2014, members of the Department were involved in the production of various publications including monographs, book chapters, journal articles and research reports.

The five research units attached to the Department – the Centre of Criminology, the Institute of Marine and Environmental Law, the Democratic Governance and Rights Unit, the Centre for Law and Society and the Refugee Rights Unit – continued to make a substantial contribution to research output, policy involvement, advocacy and outreach activities on a wide range of issues of socio-legal importance.

## Departmental Statistics

### Permanent and long-term contract staff

Professors	14
Associate Professors	2
Senior lecturers	4
Lecturers	4
Contract Staff	2
Administrative Staff	3
Teaching Assistants	3
<b>Total</b>	<b>32</b>

### Honorary staff

Research Associates	8
Honorary Professors	2
Emeritus Professors	2

## Students

LLB	612
LLM – Coursework and Minor Dissertation	72
LLM (by dissertation)	6
MPhil – Coursework and Minor Dissertation	41
Postgraduate Diploma	14
Doctor of Philosophy	36
Semester Study Abroad	17
<b>Total</b>	<b>798</b>

\*These figures reflect actual registrations for Public Law courses and LLB courses. Where a student registers for two Public Law/LLB courses he/she was counted twice.

## Research Fields and Staff

### Professor and Head of Department

#### PROFESSOR E VAN DER SPUY

Policing (public); Security Sector Reform; Police Reform; Peace-keeping

### Professors

#### PROFESSOR T.W. BENNETT

African customary law; land rights; public and private international law

#### PROFESSOR J. BURCHELL

Criminal Law; Personality Rights

#### PROFESSOR H. CHEADLE

Labour Law; Human Rights; Constitutional Litigation; Legal Drafting

#### PROFESSOR D CHIRWA

International Human Rights; the Rights of the Child; Domestic implementation of Human Rights; Administrative Law; Social and Economic Rights

#### PROFESSOR H.M. CORDER

Administrative Law; the Judicial Process

#### PROFESSOR P. DE VOS, CLAUDE LEON FOUNDATION CHAIR IN CONSTITUTIONAL GOVERNANCE

Constitutional Law; Current issues in Constitutional Law; Governing under the Constitution

#### PROFESSOR L.A. FERIS

Environmental law; Environment and Human rights, Trade and Environment; Water and Sanitation.

#### PROFESSOR J.I. GLAZEWSKI

Environmental Law; Energy Law, Antarctic, Marine Pollution Law

#### **PROFESSOR C.M. MURRAY**

Constitutional Law including Co-operative Government, Parliament, Intergovernmental Relations, Local Government, Constitution Making, and Comparative Constitutional Law

#### **PROFESSOR A.R. PATERSON**

Environmental Law; Biodiversity; Protected Areas; Environmental Fiscal Reform

#### **PROFESSOR P.J. SCHWIKKARD**

Evidence, Criminal Procedure

#### **PROFESSOR M. SHAW**

Organised crime, security, policing

#### **PROFESSOR C. SHEARING**

Governance of physical and environmental security

### **Associate Professors**

#### **ASSOCIATE PROFESSOR R. CALLAND**

Accountable Government; Access to Information; Whistle Blowing Legislation; Constitutional Law; Public Ethics

#### **ASSOCIATE PROFESSOR D. SMYTHE**

Law and Society (particularly the use of interdisciplinary research methods); Criminal Justice Policy; Human Rights; Violence against Women

### **Emeritus Professors**

#### **PROFESSOR D.J. DEVINE**

International Law of the Sea; General Principles of International Law; Regional Integration

#### **PROFESSOR D. VAN ZYL SMIT**

Criminal Law

### **Honorary Professors**

#### **PROFESSOR J. DUGARD**

#### **ADVOCATE W. TRENGOVE**

### **Honorary Research Associates**

#### **ADV V. DE LA HUNT**

#### **PROFESSOR J. FROESTAD**

#### **ASSOCIATE PROFESSOR S. JAGWANTH**

#### **DR C. DARCH**

#### **DR J.H. HALL**

#### **DR D PINNOCK**

#### **MR M. BISHOP**

#### **MS T. SCHREIER**

### **Senior Lecturers**

#### **DR W. AMIEN**

Legal Pluralism; Family Law; Muslim personal law; Law and Religion; Law and culture; Human Rights, Gender and the Law; Gender Studies; Politics; Multiculturalism; Islamic Law; and Citizenship

#### **MS J. BERG**

Governance of Security; Plural Policing; Policing Accountability

#### **MS K. PHELPS**

Constitutional Criminal Adjudication; Punishment; the Principle of Legality and Sexual Offences

#### **MS C.H. POWELL**

Constitutional Law; International Law; International Criminal law

### **Lecturers**

#### **MS M.C. DU PLESSIS**

Social Security Law and Governance; Workers' Compensation

#### **MS S. LUTCHMAN**

Evidence; International Law; Rights of the Child

#### **DR H. WOOLAVER**

International Law, International Criminal Law

#### **MS M.A. YOUNG**

International law of the sea, marine law; environmental law

### **Contract Staff**

#### **ASSOCIATE PROFESSOR R. MANJOO**

Women's Human Rights; Violence against Women; Culture, Religion, Tradition and Human Rights

#### **MS L. KOHN**

Constitutional Law; Administrative Law

### **Administrative Staff**

#### **MS D. MWAMBALA**

Administrative Officer

#### **MS R. FRANCKE**

Senior Secretary

#### **MS V. TOLENI**

Administrative Assistant

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# CENTRE OF CRIMINOLOGY

**Acting Director: Julie Berg**

**Chair: Professor C. Shearing and Prof M Shaw**

## Centre Profile

The Centre is a niche research unit within the Faculty of Law at the University of Cape Town. The South African National Research Foundation (NRF) Chair of Security and Justice, a South African Research Chairs Initiative of the Department of Science and Technology and the NRF is hosted by the Law Faculty at the University of Cape Town. Professor Clifford Shearing, held the chair until August 2014. Prof. Mark Shaw took up this position with effect from 1 September 2014.

During the course of 2014 the work of the Centre was focused around some of the most pertinent challenges facing South Africa and Africa more generally within the overall context of an increasingly globalised world. This work included a strong emphasis on research in: (1) environmental risk and security; (2) developments and challenges for policing, both public, private and community driven, and reforms; (3) organised crime and illicit trafficking in South Africa and Africa, including with a focus on the evolution of criminal networks in fragile states and their impact on governance, democracy, livelihoods and the environment; (4) criminal justice policy challenges, with an emphasis on developing country contexts; and (5) violent crime, with particular attention to its impact on youth and women.

The work of the Centre recognises the critical importance of addressing safety issues as a core challenge of holistic development. To do this requires stretching the boundaries of criminology in ways that will enable it to recognise and respond to the changing international, regional and local landscape of risk.

## Centre Statistics

### Permanent and long-term contract staff

Professors	3
Senior Lecturer	1
Research and Administrative Staff	4
Post-Doctoral Fellow	1
Honorary Research Associates	5
<b>Total</b>	<b>14</b>



## Research Fields and Staff

### Permanent Staff

#### PROFESSOR M. SHAW

Policing, Organised crime and Illicit economies, Crime and Development

#### PROFESSOR E. VAN DER SPUY

Policing (public); Police Reform; Peace-keeping and police: History of criminal justice reform

#### MS. J. BERG, SENIOR LECTURER

Governance of Security; Plural Policing; Policing Accountability

### Emeritus Professor

#### PROFESSOR C. SHEARING

Governance of Physical and Environmental Security

### Research and Administrative Staff

#### MS E. ATKINS (INFORMATION MANAGER)

Multi-media Electronic Resource Library

#### MR T. HERBSTEIN

Environmental Security Programme

#### MS V. TOLENI

Administrative Assistant until June 2014

#### MS. K. COUZYN

Administrative Assistant as of October 2014

### Postdoctoral Fellow

#### DR S HOWELL

Drugs and Gang Research

### Honorary Research Associates

#### MR C. CULLINAN

Director, EnAct International, Practising Environmental Attorney

#### DR DEON NEL

WWF (SA)

#### ASSOCIATE PROFESSOR J. FROESTAD

Institute of Administration and Organisation Theory, University of Bergen

#### DR DON PINNOCK

Youth and development; Gang studies

#### DR GAIL SUPER

Punishment and democracy; crime and crime prevention

## Contact Details

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# INSTITUTE OF MARINE AND ENVIRONMENTAL LAW

**Director: Professor Jan Glazewski**

## Institute Profile

The Institute of Marine and Environmental Law undertakes research, teaching and consultancy in the fields of marine and environmental law both at the international level and in the context of Southern Africa. It also participates in multi-disciplinary projects in collaboration with other specialists in marine and environmental subjects. 2013 again saw members of the Institute continuing with research in several specialist areas, with two of the highlights being Professor Feris and Professor Paterson delivering their inaugural lectures titled 'A sense of place: New frontiers in the law' and 'Sitting on the fence as it gets cut from below: Co-managing conservation and land reform agendas in South Africa's protected areas' respectively. Professor Glazewski spent much of the year working with fellow authors to update 14 of the 26 chapters in the loose leaf edition of his book, *Environmental Law in South Africa*. In addition to continuing with the PescaDolus Project, where he is working in collaboration with the Norwegian Ministry of Fisheries as well as NMMU on trans-boundary fisheries crime, Professor Glazewski convened an international seminar on 'Proposed Shale Gas Extraction/Fracking in the Karoo' during October 2014. Professor Feris, who was on sabbatical in the first half of the year, continued her work on sanitation and also participated in a Water Research Commission Research Project on water governance. Professor Paterson continued with his research in the area of protected areas law and governance, and in the capacity as lead author of the IUCN Environmental Law Centre's Protected Areas Law and Governance Project, convened several workshops at the World Parks Congress held in Sydney in November 2014. His research in this area also led to the publication of several papers and chapters on protected areas governance, conservation and land reform, indigenous peoples' rights in protected areas and connectivity. Micha Young, the final fulltime member of the Institute, published several papers on marine spatial planning and international environmental law.

## Institute Statistics

### Permanent and Long-term Contract Staff

Professors	3
Associate Professors	0
Emeritus Professor	1
Lecturers	1
Honorary Research Associate	1
Administrative and Clerical Staff	1
<b>Total</b>	<b>7</b>

### Students

Doctoral	7
Masters (MPhil and LLM)	57
Postgraduate Diploma	12
LLB – Final Year	19
Non-Law students	14
<b>Total</b>	<b>109</b>

## Research Fields and Staff

### Permanent Staff

#### PROFESSOR L.A. FERIS

Environmental law; human rights and environment; trade and environment; water and sanitation

#### PROFESSOR J.I. GLAZEWSKI

Environmental law; energy law; Antarctic; marine pollution law

#### PROFESSOR A.R. PATERSON

Environmental law; biodiversity; protected areas; environmental fiscal reform

#### MS M.A. YOUNG

International law of the sea, marine law; environmental law

### Emeritus Professor

#### PROFESSOR D.J. DEVINE

Law of the sea; international law

### Honorary Research Associate

#### DR J. HALL

Role of the judiciary in environmental governance

## Administrative Assistant

MS P. MURPHY

## Contact Details

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# DEMOCRATIC GOVERNANCE & RIGHTS UNIT

**Director: Associate Professor R. Calland**

## Unit Profile

The Democratic Governance and Rights Unit conducts applied and comparative research in the field of judicial governance with a particular interest in judicial appointments and gender equality and diversity in the judiciary and in the legal profession in both South Africa and the region. We provide bespoke research support to judges in the SADC region. We are a member of the international free access to law movement through our SAFLII and AfricanLII projects. We publish the largest free-access collection of legal materials from southern Africa and we are a leader in supporting and providing free access to Law on the continent.

2014 saw Chris Oxtoby and Tabeth Masengu presenting their research findings at a number of conferences – hosting a panel discussion at the International Association of Women Judges AGM and presenting a paper at Oxford Human rights conference in Rwanda in May amongst others. Chris Oxtoby also participated in our exchange programme with Södertörn University in Sweden, teaching comparative constitutional law for three weeks to undergraduate students in Stockholm. Tabeth convened a number of legal sector workshops around the country which interrogated gender issues in the sector and Chris concluded research for a monograph on separation of powers and the Constitutional Court and presenting his findings at a workshop.

In September we hosted the annual International Law via the Internet Conference (LVI) in partnership with Kenya Law with participants from over 35 countries. Hosting the LVI in Africa provided a unique opportunity to combine advocacy for the now well-developed Free Access to Law Movement in Africa with practical models for implementing legal information technologies to further promote and increase the impact of open access to law and, consequently, greater access to justice. The conference tailored its plenary and parallel sessions to the challenges faced by the government, the judiciary, academic institutions, legal practitioners, and citizens in utilising open access law in Africa in particular, and the developing world more generally.

We convened a forum for South African Judges in November which explored the theme of pro-poor judging and piloted our Court Intern programme in Malawi and Namibia. This is a partnership project with Oxford University's pro bono Public group through which we

place post-graduate students as interns in superior courts. It was well received by the courts and will be further rolled out in 2015. Our 'virtual research assistant' project in the region has really gained traction and provides great opportunities for post graduate students to gain practical research experience whilst providing high quality research support to judges around the region. Students at UCT worked on 9 projects for judges – from producing legal opinions and comparative research reports to the provision of articles and other background resources.

On a technical level, we started development of an offline legal resource "Pocket Law" which will be updatable when there is access to the internet – this will be rolled out in 2015 as a research tool for students, judges and practitioners in the region.

## Unit Statistics

Associate Professors	1
Permanent researchers	2
Deputy Director	1
Project Leaders	2
Policy and Advocacy lead	1
IT co-ordinator	1
Website Developer	1/2
Content editors	3
Administrator	1/2
<b>Total</b>	<b>12</b>

## Research Fields and Staff

### Permanent and Contract Staff

#### ASSOCIATE PROFESSOR R. CALLAND

Transparency Law & Policy, the Right of Access to Information, Whistle Blowing, Public Ethics, Political and Economic Governance, Constitutional Law, Multi-stakeholder Processes, Climate Finance Governance.

#### MS T. MASENGU

Human Rights, Women, Equality and Constitutionalism and Judicial Appointments.

#### MR C. OXTOBY

Judicial Governance, Separation of Powers, Anti-terrorism Law and Practice.

### Professional and Administrative Staff

#### MS V. KARTH

Judges Support in the SADC region, Programme and Financial Management; Marketing & PR

#### MS M. BADEVA-BRIGHT

AfricanLII Programme Management; Training; Content Development; Strategic Direction and Development

#### MR R. GACHAGO

SAFLII Programme Management; Content development, Strategic Development

#### MR A MHLANGO

Develop and deploy new web system architectures for AfricanLII

#### MR O. BADEJOGBIN

Lead the regional development and implementation of policy and advocacy for the Unit as a whole

#### MS A. PRETORIUS

Statutes and legal content editor

#### MS K. AMON

Legal content editor

#### MR N. KHUMALO

Legal content editor

#### MS C. PILLAY

General office administration, web development

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# CENTRE FOR LAW AND SOCIETY

**Director: Associate Professor D. Smythe**

## Centre Profile

With a primary focus on producing excellent empirical studies of law in context, based on participatory methodologies and collaborative partnerships, CLS is committed to sound research underpinning evidence-based advocacy on critical legal and social issues. In recent years we have expanded our areas of focus, retaining the emphasis on participation, knowledge-sharing, and capacity-building as central tenets of our Centre's scholarly approach. In 2009 the Rural Women's Action Research Programme (RWAR) was established within the Centre, with the objective of challenging government policies and laws that undermine the citizenship rights of the 18 million people living within them and set the former homelands apart from the rest of South Africa as zones of chiefly sovereignty. We are committed to foregrounding the understandings, initiatives and expertise of people living in rural areas in informing law and policy. To this end we support rural leaders to make direct submissions to parliament and engage directly in policy debates. We engage in ongoing conversations with our rural partners in order to develop joint strategies for change. We have made a significant contribution to shifting academic discourse in the area of rural power relations and citizenship rights and in creating a space for community-based groups and organisations to challenge the government's approach to land reform, traditional courts and the elevation of chiefly interests at the expense of the citizenship rights of ordinary people. Our work has also contributed to extensive media coverage and political debate about these issues, and we have provided extensive research and conceptual support in relation to a number of cases in the Constitutional Court.

In 2014 we launched a postgraduate Programme in Criminology, Law and Society, in partnership with the Centre for Criminology, to train the next generation of scholars concerned with issues of law and society in Africa.

## Permanent and Contract Staff

Associate Professor	1
Chief Researcher/Associate Professor	1
Senior Researchers	3
Researchers	7
Research Assistants	6

Administrators	2
Research Associates	5
Total	25

## Research Fields and Staff

### Permanent Staff

#### **ASSOCIATE PROFESSOR D. SMYTHE – DIRECTOR OF THE CENTRE FOR LAW AND SOCIETY**

Law and society, criminal justice policy, women and law, violence against women, interdisciplinary research methods

#### **DR A. CLAASSENS – CHIEF RESEARCHER AND RWAR PROGRAMME DIRECTOR**

Land rights, customary law, law and society, rural women's rights in respect of land and marriage, property and power relations, citizenship and governance

#### **MR B. BOYLE – SENIOR RESEARCHER (RWAR)**

Mining in former homeland areas, corruption, political participation

#### **DR M. BUTHELEZI – SENIOR RESEARCHER (RWAR)**

Traditional leadership and governance, traditional dispute resolution, negotiating identities in transforming societies

#### **MS M. VON BROEMBSEN – SENIOR RESEARCHER/ SENIOR LECTURER**

Economic justice, law and development

#### **MS M. DE SOUZA – RESEARCHER (RWAR)**

Traditional leadership and governance, customary marriage

#### **MS F. EBERHARD – PHD CANDIDATE AND CONTRACT RESEARCHER (RWAR)**

Mining in former the homelands, property rights and power relations

#### **MS D. JEFTHAS – RESEARCHER**

Gender-based violence, transitions to higher education, legal education, identity

#### **MS N. LUWAYA – RESEARCHER (RWAR)**

Women's land rights, participatory research practices, land rights, traditional dispute resolution

#### **MS B. MATLALA – RESEARCHER (RWAR)**

Participatory action research; terms of community partnerships, land rights with a specific focus on women's land rights, citizen participation in development

### MS T. THIPE – RESEARCHER (RWAR)

Traditional leadership and governance, traditional dispute resolution, gender studies

### MS. T. WEINBERG – RESEARCHER (RWAR)

Land rights, including women's land rights, customary tenure in historical perspective, land restitution and communal tenure.

### Research Associates

Mr M. Jara  
Ms N. Gasa  
Prof C. Lund  
Dr S. Mnisi Weeks  
Dr R. Kingwill

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# REFUGEE RIGHTS UNIT

**Unit Director: Ms. F Khan**

## Unit Profile

The Refugee Rights Unit is a fully independent Unit, with four main components: the Unit's Refugee Law Clinic provides direct legal services to thousands of refugees and asylum seekers in the Western Cape each year; the Unit conducts applied research in refugee law and related topics; it teaches refugee law to undergraduate law and masters' students within the Department of Public Law; and, it undertakes a significant amount of targeted advocacy and training of government officials, the judiciary, civil society partners and refugee communities.

The close relationship between the Refugee Law Clinic's practice the Unit's teaching of Refugee and Immigration Law courses to LLB and LLM students, and the Unit's research is a unique aspect of the Unit's work. The Refugee Law Clinic provides the Unit with a close link to the practical application of refugee law in South Africa and therefore directly informs and supports the Unit's teaching activities and research outputs. Students often engage with the most current issues facing refugees and asylum seekers in South Africa, including those involved in the strategic litigations undertaken by the Refugee Law Clinic. Students are also encouraged to volunteer at the Refugee Law Clinic in order to gain practical experience and fulfil community service requirements. The Unit's teaching component includes the direct supervision of undergraduate and graduate level research work in the field of refugee and immigration law.

The Working Paper Series, ([www.refugeerights.uct.ac.za/research/working\\_papers/](http://www.refugeerights.uct.ac.za/research/working_papers/)) publishes the research reports of the Refugee Rights Unit, occasional papers of the Unit members and versions of some of the papers presented by the Refugee Rights Unit members. A key focus of the Working Papers is the promotion of the rights of refugees in South Africa and the global South.

The Refugee Rights Unit remains not only committed to directly assisting refugees and asylum seekers but also in teaching and engaging in research which can be used to promote and further the law in this area and as an advocacy tool in the future. The Unit has edited and written a Refugee Law textbook titled *Refugee Law in South Africa*. The textbook was published by Juta & Co Ltd in 2014 and is available for purchase on the Juta Website. Members of staff also write refugee law related articles for the purpose of publishing in peer-reviewed journals.

## Unit Staff

### Director

MS F. KHAN

### Unit Attorneys

Mr J. Chapman  
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Mr P W. Mfubu

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## RESEARCH OUTPUT

### Authored books

Himonga, C., Nhlapo, R.T., Maithufi, I., Mnisi Weeks, S., Mofokeng, L. and Ndimba, D.N. 2014. African Customary Law in South Africa. 294pp. CPT: Oxford University Press Southern Africa (Pty) Ltd. ISBN 9780199057184.

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### Edited books

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