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LAW 2020

FACULTY OF LAW
NEWSLETTER
— 2020 —
FAKULTEIT REGSGELEERDHEID
NUUSBRIEF

News from the Dean's office

Dear member of our Faculty of Law Community

What extraordinary times we are experiencing! The novel coronavirus has undoubtedly turned the day-to-day operations of many institutions and businesses upside down. I know that this challenging time has been difficult, uncertain, and frustrating. It is clear that the health (including mental wellness) and economic impacts of this pandemic are far-reaching and that it will linger for quite some time. I write to you to assure you that during this time the safety and health of our staff and students remain our top priority. Our other priorities are to complete this academic year successfully and to remain a sustainable and thriving Faculty of Law. Not in my wildest dreams would I have imagined on leap-year's day that we would, within weeks, offer our programmes fully online, including final assessments in the case of semester modules. Stellenbosch University is doing our best to support our students – from providing laptops, zero-rated sites and free data to academic support and counselling resources and more. It requires a monumental effort of staff and students and the courage, grit and perseverance displayed will not be forgotten.

At the same time, we miss the interaction and connection with each other and all our students. We feel sad for the first-year student who barely got to settle in on campus before having to leave, for the international student who had to decide whether to stay in South Africa or return to their home country without knowing when travel restrictions will be lifted and the final year student who longs to spend a precious last semester with friends before leaving university to start a new journey.

We are, however, very proud and excited to share with you the 8 LLD, 29 LLM, 85 LLB and 4 PGDip Tax Law graduates who were the first group to have their degrees conferred virtually rather than crossing the graduation stage.

The lockdown and worldwide impasse furthermore had a significant impact on this year's hosting of events, international staff collaboration, research presentations, student exchanges and social impact initiatives. Although some activities cannot easily be rescheduled, we are optimistic that most will be moved to next year, which is also the Faculty's centenary year. 2021, therefore, promises to be a full and inspiring year. The Faculty hopes that as many alumni and friends of the faculty as possible will attend the various planned engagements during 2021. We ask, in particular, that you already "save the date" for a festive event in Stellenbosch the first weekend of October 2021. The Law Faculty Trust and Faculty are preparing a book on the history of the faculty and I would like to take this opportunity to invite alumni to forward good



quality photos, interesting stories and information that you think may be valuable to lawtrust@sun.ac.za for possible use.

The Faculty of Law is no stranger to media attention, but we particularly enjoyed the mention in the Afrikaans legal drama currently on KykNet, "Fynskrif". One attorney said to the other that she must help him with his difficult commercial crime prosecution matter, and upon being asked "What is the point?" he answers because "You have a BAcc LLB degree cum laude". I am told that the character with the BAcc LLB degree (cum laude) is one of the main protagonists in the story and I am confident that the prosecution has been successful.

Please visit our [website](#) to see recent COVID-19-related media contributions by staff members. This newsletter brings you updates and shows how resourceful our students and staff are despite having to balance family, work, studies, and life amidst a pandemic. We trust that you will enjoy reading about some of the activities of our team.

As you likely already know, the Ou Hoofgebou, CL Marais and the SU Law Clinic at 18-24 Crozier Street are more or less empty (other than for construction workers) because classes are online and staff are working remotely. It is, therefore, more important than ever for us to maintain a sense of community and gratitude. Please stay safe. Thank you for caring. Forward together.

Nicola Smit

Nanjengokuba sewusazi, isakhiwo i-Ou Hoofgebou, i-CL Marais neKlinini yeZomthetho yeYunivesithi yaseStellenbosh ekwanombolo 20-24 Crozier Street ziphantse azabinabantu kuzo (ngaphandle kwabasebenzi abangabakhi) ngenxa yokuba kuqhutywa izifundo nge-intanethi kwaye nabasebenzi basebenza bekwiindawo ezikude. Ngoko ke, kubalulekile kakhulu kuthi, kunangaphambili ukuba sibe mntumnye ngokwasekuhlaleni sibonakalise ukuba nom-bulelo ngokunjalo. Nceda uzigcine ukhuselekile. Enkosi ngenkathalo. Masiye phambili sikunye.

Beste lid van ons Regsfakulteit Gemeenskap

Watter buitengewone tye beleef ons nie tans nie! Die koronavirus het ongetwyfeld die dag-tot-dag-bedrywighede van baie instellings en ondernemings op sy kop gedraai. Ek weet dat hierdie uitdagende tyd moeilik, onseker en frustrerend was en steeds is. Dit is duidelik dat die gesondheids- (insluitend die geestelike welstand) en ekonomiese gevolge van hierdie pandemie verreikend is en dat dit nog 'n geruime tyd sal voortduur. Ek skryf daarom aan u om u te verseker dat die veiligheid en gesondheid van ons personeel en studente ons topprioriteit gedurende hierdie tyd is en bly. Ons ander prioriteite sluit in om die akademiese jaar suksesvol te voltooi en steeds 'n volhoubare en florerende Regsfakulteit te bly. Nie in my wildste drome sou ek myself op skrikkeltdag kon voorstel dat ons ons programme binne enkele weke volledig aanlyn sou aanbied, insluitend finale assesserings in die geval van semestermodules, nie. Die Universiteit van Stellenbosch doen verder ons bes om ons studente te ondersteun — van die verskaffing van skootrekenaars, nul-gegradeerde webwerwe en gratis data tot akademiese hulp- en voorligtingshulpbronne en meer. Dit verg 'n monumentale poging van beide personeel en studente en hul moed, durf en deursettingsvermoë sal nie vergeet word nie.

Terselfdertyd mis ons die interaksie en samesyn met mekaar en met al ons studente. Ons is hartseer vir die eerstejaarstudent wie skaars op kampus aangeland het, voordat hulle weer moes vertrek, vir die internasionale student wie moes besluit of hulle in Suid-Afrika gaan bly of na hulle vaderland terugkeer sonder uitsluitel wanneer die reisbeperkings opgehef sal word en die finalejaarstudent wie verlang om 'n kosbare laaste semester saam met vriende deur te bring alvorens hulle universiteit verlaat om met 'n nuwe reis te begin.

Ons is egter vreeslik trots en opgewonde om met u te deel dat 8 LLD-, 29 LLM-, 85 LLB- en 4 NGDip Belastingreg-gegradeerdes deel gevorm het van die eerste groep studente wie se grade virtueel toegeken is eerder as op die gradeplegtigheidsverhoog.

Die ineenstorting en wêreldwye dooiepunt het ook 'n beduidende

Nuus vanaf die Dekaan

impak op aanbiedingsgeleenthede, geleenthede vir personeel vir internasionale samewerking, navorsingsaanbiedings, studente-uitruiling en sosiale impak inisiatiewe gehad. Alhoewel sommige aktiwiteite nie maklik herskeduleer kan word nie, is ons optimisties dat die meeste wel na volgende jaar, wat ook die fakulteit se eeufeesjaar is, geskuif kan word. 2021 beloof dus om 'n vol en inspirerende jaar te wees. Die fakulteit hoop dat soveel moontlik alumni en vriende van die fakulteit die verskillende beplande

gebeurtenisse gedurende die loop van 2021 sal bywoon. Ons vra veral dat u reeds nou die eerste naweek van Oktober 2021 op u kalender aanteken vir 'n feestelike geleentheid op Stellenbosch. Die Regsfakulteit Trust en die fakulteit berei tans 'n boek voor oor die geskiedenis van die fakulteit en wil ek van die geleentheid gebruik maak om alumni uit te nooi om goeie gehalte foto's, interessante verhale en inligting wat u van mening is waardevol kan wees, deur te stuur na lawtrust@sun.ac.za vir moontlike gebruik.

Die Fakulteit Regsgeleerdheid is nie ongewoond aan die aandag van die media nie, maar ons het veral die vermelding in die Afrikaanse regs-drama op KykNet, "Fynskrif", baie geniet. Die een prokureur het die ander versoek om hom te help met 'n moeilike saak rakende die vervolging van kommersiële misdaad, en op die vraag: "Wat is die punt?" het hy geantwoord: "Want jy het 'n BRek LLB-grad cum laude". Ek is meegedeel dat die karakter met die BRek LLB-grad (cum laude) een van die hoofkarakters in die regs-drama is, en is ek vol vertroue dat die vervolging suksesvol was.

Besoek gerus ook ons [webtuiste](#) om onlangse COVID-19-verwante mediabydraes deur ons personelede te lees. Hierdie nuusbrieff sal u op hoogte bring en wys hoe vindingryk ons studente en personeel is, ten spyte daarvan dat hulle ook familie, werk, studies en hul eie lewens te midde van die pandemie moet balanseer. Ons vertrou dat u dit sal geniet om oor die aktiwiteite van ons span te lees.

Soos u waarskynlik reeds weet, is die Ou Hoofgebou, CL Marais en die US Regskliniek te Crozierstraat 18-24 min of meer leeg (anders as vir konstruksiewerke) omdat klasse aanlyn is en personeel vanaf die huis werk. Dit is dus vir ons belangriker as ooit om 'n gevoel van samehorigheid en dankbaarheid te handhaaf. Bly asseblief veilig. Dankie dat u omgee. Saam vorentoe!

Nicola Smit



Research Chairs/Units

Leerstoele/Eenhede

African Procurement Law Unit (APLU)

During the first half of 2020 APLU and its members kept busy with a draft Public Procurement Bill that was published for public comment in February 2020. The draft Bill proposes a complete overhaul of the existing public procurement regulatory regime. Different engagements with the draft Bill occurred:

- Prof Quinot and Prof Williams-Elegbe were both guests on Songezo Mabece's SAFM current affairs programme, *View Point*, to discuss the draft Bill and its implications for the future of South African public procurement.
- In March, APLU collaborated with ENSAfrica and the Administrative Justice Association of South Africa (AdJASA) in hosting a workshop in Johannesburg and Cape Town on the draft Bill bringing together legal practitioners, academics and public officials to deliberate on the draft.

Panellists at the APLU/ENSAfrica/AdJASA workshop on the draft Public Procurement Bill, Peter Volmink, Pippa Reyburn, Geo Quinot & Walter Bhengu.

and inform public debate on the draft.

In May 2020, a new edition of the global [Bibliography on Public Procurement Law and Regulation](#) was published by the Public Procurement Research Group (PPRG) of the University of Nottingham. As with previous editions, APLU collaborated with the PPRG in compiling the bibliography and was responsible for the section on public procurement law in Africa.

APLU is collaborating with a number of international partners, including the World Bank, the Inter-American Development Bank Group, and *Le Bureau de l'inspecteur general de la Ville de Montréal*, under the banner of a Debarment and Exclusions subcommittee of the International Bar Association's Anti-Corruption committee, to conduct research into national suspension and debarment systems. The subcommittee is currently conducting a comprehensive worldwide survey on the use of these mechanisms in national procurement law systems. The survey was launched in March with a webinar, titled "The Global Exclusion Survey: A Look at Suspension and Debarment



Prof Sope Williams-Elegbe presenting at the Blockchain Africa 2020 conference.

- Prof Quinot has been facilitating in-depth workshops for organs of state, such as the NRF, to discuss the implications of the draft Bill for their own SCM practice and to prepare inputs on the draft Bill.
- APLU's open-access law journal, the [African Public Procurement Law Journal](#) has published a special edition with short contributions focusing on particular aspects of the draft Bill to encourage

Systems from around the World". Prof Sope Williams-Elegbe has also been appointed as the vice-chair (Africa) of the subcommittee.

Prof Williams-Elegbe brought a public procurement perspective to deliberations on blockchain in Africa at the Blockchain Africa 2020 conference. She presented on "Public Procurement, Corruption and Blockchain Technology: A Preliminary Inquiry" at the conference held in Sandton, Johannesburg on 12 March 2020.

HF Oppenheimer Chair in Human Rights Law

Prof Sandra Liebenberg along with staff and students that are part of the HF Oppenheimer Chair have had an eventful few months. In addition to serving as Vice Chair of the UN Committee on Economic, Social and Cultural Rights, Prof Liebenberg serves as the Committee's Rapporteur on Follow-Up on Concluding Observations and on its Working Group on Communications. She attended the 67th session of the Committee in February where she acted as Country Rapporteur for the dialogue with the government of Ukraine on their state report to the Committee.

Since the outbreak of the COVID-19 pandemic, the Chair has been involved in various initiatives relating to the impact of responses to the pandemic on human rights both in South Africa and internationally. She served as the Rapporteur of the Committee's widely cited [statement](#) on "COVID-19 and its Impact on Economic, Social and Cultural Rights". On Human Rights Day, Prof Liebenberg published an opinion piece the *Daily Maverick* entitled, ["COVID-19 and the critical importance of achieving economic, social and cultural rights"](#). She has also given a number of media interviews and [podcast](#) talks related to human rights and COVID-19. Recently Prof Liebenberg was invited to serve on the editorial board of the Oxford Compendium of Legal and Policy Responses to COVID-19. She has also presented various lectures at the University of Cape Town Summer School and at a course convened by the Centre for Human Rights at the University of Pretoria on the "Judicial Enforcement of Socio-Economic Rights in Africa".

On 9 June, Prof Liebenberg was a panellist in a webinar on Constitutional Law, the Global South and COVID-19 organised by the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC, UJ) and the Konrad Adenauer Stiftung. The other two panellists were Prof Manuel Cepeda (Professor, Universidad de Los Andes and former President of the Colombian Constitutional Court), and Prof Amita Dhanda (Professor of Law and Head of the Centre for Disability Studies, NALSAR University of Law, India). The webinar was chaired by Prof David Bilchitz, Director of SAIFAC, and well supported

by a range of national and international participants. It provided a very fruitful comparative exchange on how the three Global South jurisdictions are responding to the COVID-19 pandemic and the longer-term implications for constitutionalism and human rights in the respective jurisdictions. The webinar can be viewed on [Facebook](#) or on [YouTube](#)

Unfortunately, the Panel Discussion on "Gender-Based Violence as a Human Rights Violation", a joint initiative of the Chair and the Law Faculty's Transformation Committee, which was planned to mark Human Rights Day had to be postponed due to the COVID-19 pandemic. It will be rescheduled as a webinar in the second semester of the year.

In April, doctoral students working within the Chair, Megan Donald and Christiaan van Schalkwyk attended a webinar hosted by the Global Network on Human Rights and the Environment, entitled "Law at the Intersection of Human Rights and the Environment". This webinar featured several leading experts in the field of human rights and the environment including Prof David Boyd, the UN Special Rapporteur on Human Rights and the Environment, and his predecessor, Prof John Knox.

An article by LLD candidate Megan Donald has been published in the latest edition of the *Stellenbosch Law Review*. Based on her LLM research on section 24 of the Constitution, the article is entitled "Unlocking the Potential of Well-Being in the Environmental Right: A Teleological Interpretation". Former LLM student in the Chair, Ms Sameera Mahomed, has had an article on meaningful engagement in socio-economic rights disputes accepted for publication in the *SA Journal on Human Rights*.

Postdoctoral fellow working under the Chair, Ms Anneth Amin (who hails from Tanzania) is engaged in intensive research. Her research focuses on how the socio-economic rights in the African Charter on Human and Peoples' Rights can be interpreted in a manner that better advances African values and philosophy, and is more responsive to the unique development challenges faced on the African Continent.



Ms Anneth Amin

On Human Rights Day, Prof Liebenberg published an opinion piece the Daily Maverick entitled, "COVID-19 and the critical importance of achieving economic, social and cultural rights".



Prof Sandra Liebenberg

Law Faculty Trust Chair in Social Justice

The Chair is extremely excited to announce the launch of its Social Justice Hub (physical research space with six computers and a [web-site](#)) that is intended to be the nerve centre on all issues relating to social justice — a place where all social justice researchers, activists and students can turn to in order to conduct research, collaborate and gain access to social justice resources. In addition, we are very pleased to be partnering with LexisNexis South Africa in providing access to a [COVID-19 Free Resource Centre](#) aimed at informing the public of its rights and responsibilities during this period.

The Social Justice Chair's flagship program, the Social Justice M-Plan is moving forward with the newly formed Social Justice and COVID-19 Policy and Relief Monitoring Alliance (SCOPRA). In the midst of the COVID-19 pandemic, more than ever before, we need an integrated social justice programme. Social justice practitioners and activists from civil society and the academic community came together to discuss and assess the social justice and implications of the COVID-19 pandemic and the policy responses to it in two virtual Social Justice Think-Tanks on Social Justice and Mental Health in the face of COVID-19. The purpose of the SCOPRA project is to constitute a social accountability bulwark that regularly tracks all COVID-19 policies and relief measures to assess and ensure compliance with the equality duty and related social justice commitments, other human rights obligations and democratic governance dictates. This includes weekly feedback to government by way of a "Policy and Rule of Law Index and a Socio-Economic Relief Delivery Dash Board" disaggregated by municipalities and selected disadvantaged groups. Read all our latest articles and research [here](#).

The Social Justice Chair and M-Plan Milestones for this year includes:

1. Inaugural Annual Social Justice Lecture that was presented by Judge President Dennis Davis and addressed the pressing question: "Social Justice and Economic Inclusion: Where to South Africa?"
2. The Action4Inclusion initiative which is a partnership with the Student Representative Council that has kept students enrolled and that has ensured that no student is left behind.
3. Social Justice Cafes on respectively the Meaning and Theories of Social Justice, and Social Justice and Feminism.

4. Two Policy Briefs to Parliament and the Executive Collaborative work across three continents (Africa, Europe and America). In commemoration of Africa month and the African dream that seeded the African Union, a virtual dialogue was held that scrutinised Africa's policy responses to COVID-19 with a view to assessing congruence with the rule of law and social justice imperatives.
5. Radio, TV and newspaper coverage nationally and globally of Prof Madonsela around her social justice work and research in the pursuit of eradicating poverty and inequality, in particular across the continent and the African diaspora.
6. The Chair was also awarded the South Africa — Sweden University Forum (SASUF) grant.

Next Steps for the Chair

The Social Justice M-Plan team has grown to five members plus more than a couple of active ambassadors. The next steps include the piloting of the Social Justice Analytical Tool for Policy Makers referred to as the 9-Dimensional Social Justice Impact Assessment Matrix (SIAM), the creation of a multi-dimensional poverty and inequality map and the establishment of the rule of law index that will further track selected policies and laws, giving priority to COVID-19 policy responses. The Chair is also actively involved in the establishment of the Social Justice M-Plan Fund, which is a crowd funding initiative to fund SDG 1 & 10 initiatives overlaid with related Agenda 2063 and NDP objectives in 4392 municipal wards, education and policy design supporting data science and related tools.

Do not miss our next virtual Roundtable on the Social Justice M-Plan and COVID-19 Policy and Relief Responses as part of launching the M-Fund that will take place at the end of July.

USihlalo weTrasti yezoBulungisa ngeNtlo kwiFakhalthi yezoMthetho USihlalo uyavuya kakhulu ngokwazisa ngokuqalisa kweZiko loBulungisa eluNtwini (Indawo ekwenziwa kuyo uphando eneeKhompyutha ezi-6 kunye newebhusayithi) neyenzelwe ukuba ibeyindawo esisivamvo soluntu ngokubhekisele kwimiba yezobulungisa eluntwini — indawo apho bonke abaphandi ngezobulungisa eluntwini, amatshantliziyo nabafundi abangaya kuyo ukuze baqhuba uphando, basebenzisane kananjalo bafumane kuyo izinto eziluncedo kubulungisa eluntwini Ngaphezu koko, sivuya kakhulu ngokusebenzisana kwethu no-LexisNexis South Africa ngokubonelela ngeziko lezinto eziluncedo zeCOVID-19 zasimahla ziko elo lijolise ekwaziseni uluntu jikelele ngamalungelo





alo noxanduva lwalo ngeli lixa.

Inkqubo ephambili kasihlalo nekuthiwa yi-Social Justice M-Plan (isicwangciso sobulungisa eluntwini) iqhubela phambili nge-Social Justice and COVID-19 Policy and Relief Monitoring Alliance (SCOPRA) esandula kusekwa (imanyano ejongene nomgaqo-nkqubo wobulungisa eluntwini nokubeka iliso kwiinkqubo zoncendo). Ngethuba lesi sifo se-COVID-19, esikhoyo kungokunje kwilizwe jikelele, ngaphaya kunangaphambili, kufuneka inkqubo edityanelweyo yezobulungisa eluntwini. Iingcali kwezobulungisa eluntwini namatshantliziyo aphuma eluntwini ndawonye neengcali zemfundo ziye zahlangana ngenjongo yokuxoxa nokuhlalutya ubulungisa eluntwini negalelo likabhubhane oyi-COVID-19 kunye nokusatyelwa kwemigaqo-nkqubo enxulumene naye, oko kusenziwa ngeendibano ezimbini zeengqondi ezingobulungisa eluntwini (Social Justice Think-Tanks) eziqhutywe ngobuxhakaxhaka bonxibelelwano kuqelelwene, ndibano ezo ebezimalunga noBulungisa eLuntwini neMpilo yeNgqondo ngeli lixa lale COVID-19. Injongo yeprojekthi yeSCOPRA kukuseka isikhuselo sokugada yonke imigaqo-nkqubo ye-COVID-19 namanyathelo oncedo ukuze kulinganisewe kananjalo kuqinisekise ukuthotyelwa kwezinyanzeliso zolingano kunye nezibophelelo zobulungisa eluntwini ezinxulumene noko, ezinye izibophelelo neminye imimiselo yolawulo lwedemokhrasi. Oku kuquka ukunika urhulumente ingxelo qho ngeveki oko kusenziwa ngenkqubo ekuthiwa “yi- Policy and Rule of Law Index and a Socio-Economic Relief Delivery Dash Board” esisalathisi somgaqo-nkqubo nomthetho kunye nedeshbhodi yezibonelelo ezingentlalo noqoqosho, nto leyo icalululwe ngokoomasipala namaqela awayesakuvinjwa amathuba. Funda apha ngawo onke amanqaku akutshanje nophando olwenziweyo.

Imimiselo ye-Social Justice Chair and M-Plan yalo nyaka iquka:

1. Ilektsa yoNyaka yokuQala yoBulungisa eLuntwini eyaqhutywa nguMongameli weelaji u-Dennis Davis neyayiphendula umbuzo otshisa ibunzi othi: “Ubulungisa eLuntwini nokuBandakanyeka kwezoQoqosho: Usingise phi na Mzantsi Afrika?”
2. Iphulo i-Action4 Inclusion nelilubambiswano neBhunga laBameli baBafundi neliqinisekisa ukuba abafundi bahlale bebhali siwe kambe kungabikho mfundi ungabhaliswanga.
3. Ii-Social Justice Cafes (iindawo zeZobulungisa zoLuntu) ngokubhekiselele, ngokulandelelana kwazo, kwiintsingiselo yazo neThiyori zezobulungisa eluNtwini nakubuFeminishi (amalungelo abasetyhini)
4. Ukwenziwa kweengxelo ezimfutshane ezimbini ngomgaqo-nkqubo

ePalamente nakwisigqeba solawulo, kuquka nezimbalwa ezingokusatyelwa komgaqo-nkqubo we-COVID-19. Ukwenziwa komsebenzi ngokumanyeneyo jikelele kumazwekazi amathathu (i-Afrika, iYurophu neMelika). Kwisikhumbuzo senyanga ye-Afrika nephupha le-Afrika nesazalisekisa imanyano ye-Afrika, kwafakwana imilomo ngobuxhakaxhaka bonxibelelwano kuqelelwene kwahlalutya indlela i-Afrika esabela ngayo imigaqo-nkqubo engokulwa ne-COVID-19 oko kusenziwa ngenjongo yokuhlalutya ukuvumelana kwayo nemithetho elawula umntu wonke nezinyanzeliso zobulungisa eluntwini.

5. Ukuthetha nokubonakala kukaNjingalwazi Madonsela koonomathotholo, oomabonakude nakumaphepha-ndaba kuzwelonke nakwihlabathi liphela malunga nomsebenzi wakhe wezobulungisa eluntwini kunye nophando lokuzama ukutshabalalisa intlupheko nokungalingani, ingakumbi jikelele kweli lizwekazi nakumazwe ekuthe saa kuwo ama-Afrika.
6. Lo Sihlalo ukwathiwe jize ngegranti ephuma kwiYunivesithi yase-Sweden neyaziwa njengegranti ye-South Africa Sweden University Forum (SASUF).

Amanyathelo kaSihlalo welixa elizayo

Iqela lesicwangciso ekuthiwa yi-Social Justice M-Plan likhule ukuya kufikelela kumalungu amahlanu laba nabo noonozakuzaku abangephi bazimiseleyo. Amanyathelo elixa elizayo aquka ukusungulwa kwesixhobo sobulungisa eluntwini ekuthiwa yi-Social Justice Analytical Tool for Policy Makers neso kuthiwa yi-9-Dimensional Social Justice Impact Assessment Matrix (SIAM), ukuyilwa kwemaphu entlantlu-ninzi echaza intlupheko nokungalingani nokumiselwa kwesalathisi esingokugcinwa komthetho esiza kuphinda sibeke iliso kwimigaqo-nkqubo nemithetho, kambe kunikwe ingqalelo ephambili ukusatyelwa kwemigaqo-nkqubo enge-COVID-19. USihlalo uyabandakanyeka ngamandla ekusekweni kwengxowa-mali ekuthiwa yi-iSocial Justice M-Plan Fund, elilinge lokuqokelela imali ngendlela ye-crowd funding ukuze kuxhaswe amalinge e-SDG 1 & 10 ngokuhambelana neenjongo ze-Agenda 2063 ne-NDP kwiwadi zoomasipala ezingama-4 392, kwezemfundo nokuyilwa kwemigaqo-nkqubo yokuxhasa inzululwazi engedatha nezixhobo ezinxulumene noko.

Ungaphoswa ke yi-Roundtable yethu elandelayo eza kuqhutywa ngobuxhakaxhaka bonxibelelwano kuqelelwene nemalunga ne-Social Justice M-Plan nokusabela imigaqo-nkqubo noncedo olunge-COVID-19 njengenxalenye yokusungula kwethu iNgxowa-mali i-M-Fund eyakuthi ibanjwe ekupheleni kwenyanga kaJulayi.

South African Research Chair in Property Law

The SARCPL is embarking on a new project that seeks to investigate the impact of pandemics on property law. In this project, a group of SARCPL researchers will analyse how property rights are affected by the exceptional measures needed to provide for public health and safety during a global pandemic such as the current COVID-19 pandemic. This research is of particular value as it will be important to consider what challenges may lie ahead as South Africa deals with the after-effects of, not only the pandemic, but the measures taken in response to it.

Key issues that the project will address include the following:

1. The position of the homeless during and after COVID-19 measures;
2. The position of tenants who are unable to pay rent or pay utility bills;
3. The position of homeowners unable to make mortgage payments;
4. The impact and effect of the moratorium on evictions on all affected parties;
5. The scope of and justification for constitutional protection of property during and after a declaration of a state of emergency and a declaration of a state of disaster;
6. The effect, on a deeper or more fundamental level, of the pandemic on understandings of the power-relationships that underpin property law;
7. An evaluation of the systemic response of the property law system specifically, and the legal system more widely, to the pandemic;
8. An evaluation of the remedies, if any, available to a) the state by parties who failed to adhere to property-related regulations; b) private parties who were affected by property-related regulations found to be invalid or unconstitutional after the fact; c) private parties who suffered harm because of the unlawful conduct of other private parties who failed to adhere to property-related regulations.

The SARCPL already has its first output from this project in the form of a contribution by SARCPL Chair, Professor Boggenpoel, to a video on [Property and Pandemics](#), organised by Professors Davy, Pellissery and Jacobs. This video shares insights from various property scholars around the world on the impact of the coronavirus pandemic on property law in general. In particular, Prof Boggenpoel highlights the need to analyse the ways in which property rights are affected by the exceptional measures needed to provide for public health and safety during a global pandemic such as the coronavirus. She goes further to provide various examples of the extent to which property (relationships) have been altered during the time of COVID-19. Additionally, she holds that in order to enable a thorough understanding of these changes, a facilitative view of property must be developed to ensure that vested or established property rights do not prevent or undermine necessary measures to protect the public in times of crisis.

Another expected outcome from this project will be an edited volume of peer-reviewed essays published by Juta dealing with different aspects of property law that stand to be affected by the pandemic in the short, medium and longer term. A call for contributions to this edited collection will be distributed during next month.



Lectures/Seminars/Workshops

Lesings/Seminare/Werkswinkels

Roundtable on Electoral Democracy in Africa



The roundtable was an opportunity for academics and non-governmental organisations to discuss the importance of strengthening electoral democracy in Africa. The focus was on presidential elections in 2018 and 2019. The overarching goal was to create a platform for established and upcoming researchers to analyse the credibility of recent presidential elections in the countries under study. Furthermore, the roundtable was aimed at investigating the extent to which domestic electoral laws conform to the standards set by the African Union, to build on the current trend of women's participation in elections and to appraise emerging challenges in relation to the use of technology in elections. The roundtable brought together 40 participants

Photo info From left to right: Front: Prof. Babatunde Fagbayibo, Prof. Nicola Smit, Mr. Sibusiso Nkomo, Prof. Charles Fombad, Prof. Danwood Chirwa, Ms Lauren Kohn, Mr. Tresor Makunya, Prof. Eghosa Osaghae, Dr Nkatha Kabira and Dr Paul Kariuki Back: Prof Bradley Slade, Prof Annika Rudman, Prof. Enyinna Nwauche

5 & 6 March 2020, Faculty of Law, SU

from SU, other universities in South Africa and Zambia, from the International Commission of Jurists and virtually from International IDEA at The Hague and the University of Namibia.

The roundtable was a continuation of the Faculty's ambition to collaborate with other universities in Africa and to contribute to contemporary, inclusive, and progressive knowledge building through education and research.

Bowman Gilfillan's Annual Pro Bono and CSR celebratory

Professor Theo Broodryk was the keynote speaker at Bowman Gilfillan's Annual Pro Bono and CSR celebratory event, on 18 March in Sandton, ahead of Human Rights Day. He spoke about the work of the Law Clinic and on the topic of access to justice through class action.



The Southern African Law Teachers Conference

At the Southern African Law Teachers Conference, held at Skukuza from 20 to 24 January 2020, Prof Bradley Slade presented a paper entitled “A lack of interpretive and/or institutional restraint? An analysis of *United Democratic Movement v Speaker of the National Assembly* 2017 5 SA 300 (CC)”. In this paper the Constitutional Court outlined several considerations that the speaker must take into account when deciding whether to conduct a motion of no confidence via secret ballot. Although the court left the ultimate decision to the speaker, the application of these considerations would arguably always require of the speaker to order a vote to take place via secret ballot. As the lack of judicial restraint in matters concerning structural judicial review is objectionable from a democratic perspective, this paper considered whether the court demonstrated a lack of interpretive and/or institutional restraint in setting out these considerations.

Prof Slade found that although the Constitution is supreme and that the exercise of all public power must be subject to constitutional control, courts should nevertheless have a more restrained approach when it decides to discuss the manner in which functionaries like the speaker must exercise her discretion, especially in cases where



Prof Bradley Slade

it concerns the review of the speaker’s power to conduct internal affairs that usually concerns matters that falls within the heartland of Parliament. The absence of a restrained approach could have severe consequences on the separation of powers doctrine, the reputation of the judiciary, the efficacy of the workings of the national legislature, and inter-branch comity.

Prof Sope Williams-Elegbe also presented a paper, which was entitled “Public procurement and sustainable development: A South African perspective”.

The Society for Law Teachers of Southern Africa (STL-SA) has confirmed that the 2021 conference to be organised by the Nelson R Mandela School of Law, University of Fort Hare and held in East London from 10-16 July 2021 will focus on:

- The progress and failures of constitutionalism and political governance systems in South and Southern Africa;
- Evaluating existing national and global economic and environmental governance frameworks in terms of their fitness for purpose vis-à-vis the current challenges facing the national and global communities; and
- Re-imagining the future by thinking creatively and innovating around the necessary normative and governance framework changes.

Various events

Mercantile Law Buzz group

Mercantile Law held their April Buzz group on 16 April 2020. The presenter was Prof Phillip Sutherland and he spoke on the corona regulations and its influence on competition law.

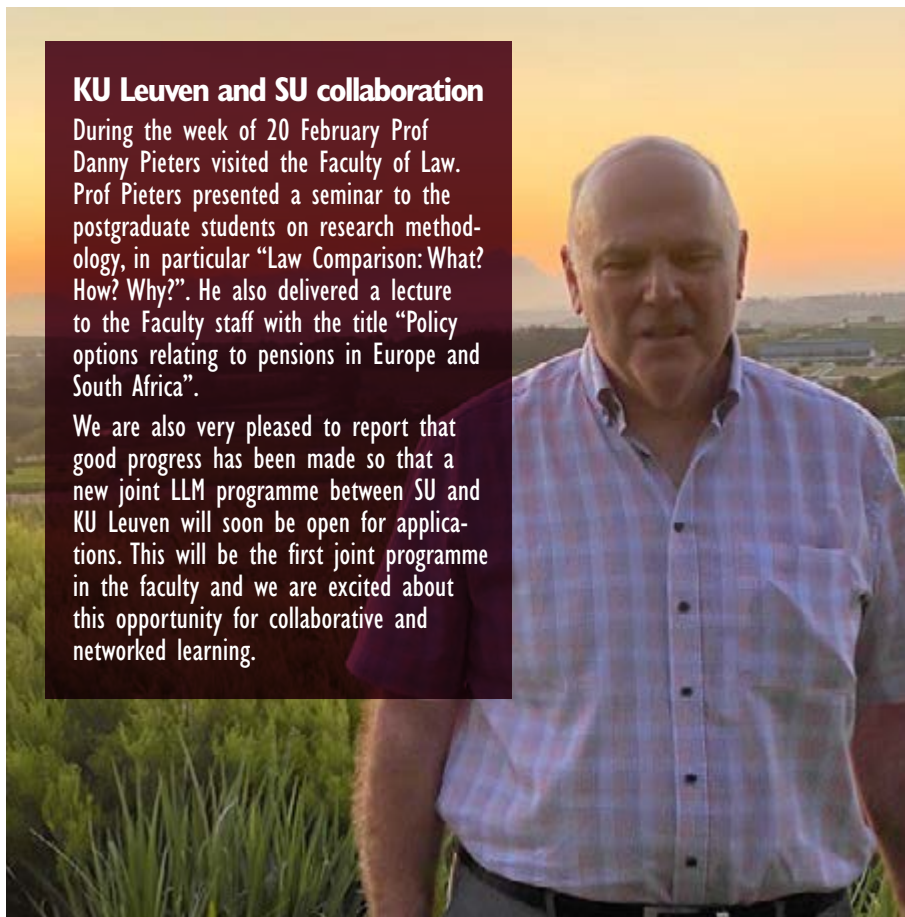
Prof Sope Williams-Elegbe spoke at the following events:

- “The Global Exclusion Survey: A Look at Suspension and Debarment Systems from around the World”, a webinar by the Debarment and Exclusions sub-committee of the IBA’s Anti-Corruption Committee, 18 March 2020.
- [“Corruption and coronavirus: Transparency’s role in ensuring an effective response and recovery”](#), a webinar by Open Ownership, 29 April 2020.
- Colloquium on COVID-19 and the African Continental Free Trade Agreement (AfCFTA): “How the AfCFTA could stimulate an inclusive and developmental post-COVID-19 economic revival?” University of Cape Town, Mandela School

KU Leuven and SU collaboration

During the week of 20 February Prof Danny Pieters visited the Faculty of Law. Prof Pieters presented a seminar to the postgraduate students on research methodology, in particular “Law Comparison: What? How? Why?”. He also delivered a lecture to the Faculty staff with the title “Policy options relating to pensions in Europe and South Africa”.

We are also very pleased to report that good progress has been made so that a new joint LLM programme between SU and KU Leuven will soon be open for applications. This will be the first joint programme in the faculty and we are excited about this opportunity for collaborative and networked learning.



Faculty and Students *Fakulteit en studente*

Internationalisation – Internasionalisering

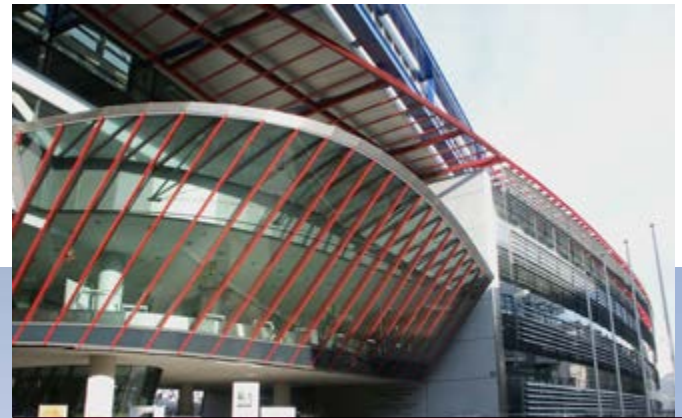
KU Leuven Global Law programme

Due to the national lockdown, Prof Nicola Smit's planned visit to Leuven, Belgium scheduled to start on 28 March had to be cancelled. However, Prof Smit decided to continue with her participation in the KU Leuven Global Law Programme. Consequently, the course (Labour and social protection law: A perspective from the south) continued online. Audio podcasts and PowerPoints covered six broad themes, and coupled with two Zoom-sessions, where students had the opportunity to ask Prof Smit questions, enabled the international students to engage with the material and write an essay of 5 000-8 000 words for assessment.

Not only was this an opportunity to strengthen the ties between Leuven and SU but it also afforded our dean the opportunity to experience online teaching first hand!

Centre for Climate Law at the University of Graz

Prof Oliver Ruppel serves as a member of the Scientific Advisory Board of the recently established Centre for Climate Law (ClimLaw) at the University of Graz in Austria. At the official occasion of the inception conference of ClimLaw on 17 June 2020, Professor Dr. Oliver Ruppel gave an online presentation on "Climate Law and Climate Science".



"ReSoWi" building, home to the Faculties of Law and Social Sciences at the University of Graz



Leuven, Belgium



First-year welcome & orientation

The Faculty of Law believes that Welcoming plays an important role in introducing new undergraduate students to the Faculty and the academic programme. Therefore, the Faculty has expanded its Welcoming programme in the last few years. The programme starts off with a formal welcome by the dean, which is attended by both parents and students. During the days following the formal SU welcome, students typically receive several lectures, participate in group work, are introduced to various student societies affiliated with the Faculty and attend programme specific information sessions. A highlight in the Welcoming programme is a sit-down lunch, which include the entire first-

year law students. By the end of the Welcoming programme, we hope that our first-years have settled in, have made new (life-long) friends and are ready to take on the first year of their studies. The Welcoming programme was formally concluded this year, with a new initiative that we hope will become an established occasion going forward: Before joining the long-celebrated (and infamous) Toga party — as arranged by the JV/S — our first-years participated in the Pledge Ceremony. During the ceremony they were first addressed by the dean and Professor Madonsela, where after they signed the Pledge and received their copies of the Constitution, and the Faculty's Code of Conduct.



Eerstejaar verwelkoming en oriëntering

Die Fakulteit Regsgeleerdheid glo dat die verwelkoming 'n belangrike rol speel in die bekendstelling van nuwe voorgraadse studente aan die Fakulteit en die akademiese program. Daarom het die Fakulteit die afgelope paar jaar sy Verwelkomingsprogram uitgebrei. Die program begin met 'n formele verwelkoming deur die dekaan, wat deur ouers sowel as studente bygewoon word. Gedurende die US se formele verwelkomingsprogram, ontvang studente 'n aantal lesings, neem hulle deel aan groepwerk, word hulle bekendgestel aan verskillende studenteverenigings wat aan die Fakulteit verbonde is en woon hulle spesifieke programinligtingsessies by. 'n Hoogtepunt in die Verwelkomingsprogram is 'n aansitmiddagete saam met al

die eerstejaarstudente in regsprogramme. Aan die einde van die Verwelkomingsprogram hoop ons dat die eerstejaars hulself gevestig het, nuwe (lewenslange) vriende gemaak het en gereed is om die eerste jaar van hul studies aan te pak. Die Verwelkomingsprogram is vanjaar formeel afgesluit, met 'n nuwe inisiatief wat ons hoop om 'n gevestigde geleentheid in die toekoms te word: Voordat die jarelange (en berugte) Toga-partytjie plaasvind — soos gereël deur die JV/S — neem die eerstejaars deel aan die Ondernemingseremonie. Tydens die seremonie is hulle deur die dekaan en Professor Madonsela toegesprek, waarna hulle die Onderneming onderteken en hul kopieë van die Grondwet en die Gedragskode van die Fakulteit ontvang.



Ukwamkelwa noqhelaniso ngomnyaka wokuqala

IFakhalthi yoMthetho ikholelwa ekubeni ukwamkela kunendima ebaluleke kakhulu ekwaziseni abafundi abatsha abafundela izidanga zokuqala kwifakhalthi nakwinkqubo yemfundo ephakamileyo. Ngoko ke, kwiminyaka embalwa edlulileyo iFakhalthi iyandisile inkqubo yayo yoKwamkela. Le nkqubo iqala ngokwamkelwa ngokusesikweni ngudini weyunivesithi, nokuthi izinyanswe ngabazali nabafundi. Ngethuba leentsuku ezilandela ukwamkelwa ngokusesikweni kwiYunivesithi yaseStellenbosch (SU), abafundi bafumana inani lezifundo ezithile, bathathe inxaxheba kwimisebenzi yeqela, baziswe kumaziko awohlukeneyo wabafundi nanxulumene neFakhalthi baze bazimase neeseshoni ezithile ezimalunga neenkqubo nezinika ulwazi. Xa kusamkelwa kwenziwa isidlo sasemini, nesiquka bonke abafundi abasanda kufika ngomnyaka wokuqala. Ekupheleni kwenkqubo yoKwamkelwa, siba nethemba loku-ba abafundi bethu bonyaka wokuqala bazinzile, bafumene abahlobo abatsha (bexesha elide) kwaye sebe kulungele ukuqalisa izifundo zabo zonyaka wokuqala. Inkqubo yoLwamkelo ifikelele esiphelweni ngokusesikweni kulo nyaka, ngoko kuza kusungulwa inkqubo entsha nesithemba ukuba iyakuthi ibeyeyesigxina ukuya phambili: Ngaphambi kokuzibandakanya kwitheko, i-Toga party, ekudala libhiyozelwa (elidume kakubi) — njengoko ilungiselelwe ngabe JV/S — abafundi bethu bathatha inxaxheba kwiTheko leziBhambathiso ekuthiwa yi-Pledge Ceremony. Ngethuba leli theko baqala bawiselwa intetho ngudini noNjingalwazi Madonsela, baze emva koko basayina iSibhambathiso, bafumana iikopi zabo noMgaqo wokuZiphatha kwifakhalthi.



Recognition/Erkenning

Dr Bernard Wessels

Dr Bernard Wessels has been selected as the South African member of the World Tort Law Society (WTLS). The WTLS was established jointly by the European Centre of Tort and Insurance Law, the Institute for European Tort Law and the Research Centre of Civil and Commercial Jurisprudence of Renmin University of China.

The WTLS is an international academic society focusing on tort law (the law of delict), as it is applied in different jurisdictions around the world. The WTLS has members from several jurisdictions, including the



USA, Austria, UK, China, Canada, the Netherlands, France, Germany, Italy, Denmark, Australia, South Africa, Israel, Chile, Japan, South Korea, Russia, India, Malaysia, Taiwan and South Africa.

The society aims to facilitate a conversation between leading tort/delict scholars from around the world, and to promote the development of tort law (law of delict) theory and practice worldwide. Emphasis is placed on organising academic cooperation among scholars from different countries and regions in the world to reflect the latest legal development and to enhance information.

The society tackles a comparative research project on a biannual basis. The theme for the next research project is "Artificial Intelligence and Tort Law/Law of Delict".

NRF ratings

"The NRF rating system is a key driver in the NRF's aim to build a globally competitive science system in South Africa. It is a valuable tool for benchmarking the quality of our researchers against the best in the world."

We are delighted that Prof Sope Williams-Elegbe and Prof Cornie

van der Merwe have both received their NRF ratings. Prof Williams-Elegbe was rated B2, i.e. internationally acclaimed researcher. Prof Cornie van der Merwe was awarded the very coveted A1-rating. This is a truly exceptional achievement and we congratulate Prof Van der Merwe.

Winners of 2019 AdJASA Student Essay

The competition was launched as an annual project of the Administrative Justice Association of South Africa (AdJASA) in 2019. All currently registered LLB (or other undergraduate law degree) students at South African universities are eligible by submitting a 4000 to 6000 word essay dealing with any aspect of administrative law.

The 2019 judging panel consisted of Retired Deputy Chief Justice Dikgang Moseneke, Prof Cora Hoexter (Wits University) and Ms Prelisha Singh (Webber Wentzel partner and current AdJASA President). The panel evaluated all essays anonymously. The prizes were generously sponsored by LexisNexis.

First prize: "The conflation of judicial deference and the doctrine of separation of powers in South Africa" by Neil de Kock.

- First prize: "The conflation of judicial deference and the doctrine of separation of powers in South Africa" by Neil de Kock.
- Second prize: "Not a Storm in a Teacup: Reconciling the Public Interest with Certainty and Legality in Judicial Review" by Jamie Pretorius.
- Third prize: "A New Horizon for Judicial Review: Health Establishment Administrators and the National health Act 61 of 2003" by James Wewege.

We congratulate all students in the 2019 student essay competition and, in particular, our prize-winning students.

Celebrating success, hard work and dedication

On 20 May, SU hosted a virtual ceremony to recognise the top first year achievers of 2019 across all faculties. The Faculty of Law is very proud that two of our students were recognised at this occasion. Each student also had the opportunity to nominate a first-year lecturer who made the biggest impact on their success. From the LLB group, Mr Slade van Rooyen was the top achiever (with an average of 87.5%) and he nominated Prof Sonia Human. From the BAcc LLB group, Ms Nur-Ayn Mohamed (with an average of 89.6%) was the top achiever, and she nominated Dr Debbie Horsten.

It gives us great pleasure to congratulate these students (and lecturers). Thank you for inspiring those around you. After all, success is best when it is shared!



Slade van Rooyen



Nur-Ayn Mohamed

Alexander von Humboldt research recognition

Recently the Alexander von Humboldt Foundation's selection committee announced that Prof Theo Broodryk will be awarded a Georg Forster Research Fellowship. The Faculty is very proud of this achievement that involves a coveted opportunity to conduct research together with a German counterpart.

2020 Student Court

Between an international pandemic, the resulting national state of disaster, and a rapid shift to online learning, all sectors of the student body have adapted to operating within the new environment. Nevertheless, the 2020 Student Court has risen to the challenge, and we remain committed to upholding the Student Constitution and promoting transparency and accountability within Student Governance.

The Student Court bench for 2020 is comprised of a diverse group of LLB students in our penultimate and final years of study. Having a firm grounding in Constitutional Law from our previous years of study, we have a passion for protecting Constitutional rights and freedoms, and strive to follow the Constitutional Court's example of fostering the values of human dignity, equality and freedom in fulfilling our function.

The Chief Justice for 2020 is Nicholas Carroll who is in the final year of his LLB. Through his participation in moot court competitions in the preceding years of his degree, Nicholas has developed a passion for litigation, particularly in the sphere of Constitutional and Administrative Law.

In the position of Deputy Chief Justice we have Estelle Hislop. Estelle is in the penultimate year of her LLB, with an interest in reading, investigative journalism and debating, and is no stranger herself to moot court competitions.

The Court's Secretary is Jolandi Janse van Vuuren who is in her final year of LLB study. Jolandi shares a passion for reading with Estelle and feels that the universal impact of injustice renders it impossible to close one's eyes to the injustices occurring around one.

Managing the Media and Communication portfolio is Omolemo Motale. Omolemo is busy with her penultimate year of the LLB degree, and, beyond her studies, takes an interest in the nuances of human life and social interaction reflected in the legal system and its application.

Heading up Legal Literacy for the year is Anri Swanepoel who is in her final year of LLB studies. Over her preceding years of legal education Anri has developed an interest in the court system and the administration of justice, hoping to serve on the bench in the future.

Nicholas Carroll states that "As a Court, our goal for the year is to increase student awareness of our function, thus promoting accessibility to the Court. In addition to this, we hope to educate the student body on the systems through which to seize the Court. Already, we have rendered an interpretation of the Student Constitution, while also having successfully completed an internal review of our own Rules of Procedure, these having been approved by the Appeal Court. Beyond this, we have assisted with the Student Representatives' Council inauguration, while we continue to work with the Societies' Council on the approval of society constitutions and the streamlining of this process. We look forward to continuing our service to the student community for the rest of the year. In this we are committed to the pursuit of justice through upholding the Student Constitution, while giving effect to the values of the Republic's Constitution."



Nicholas Carroll



Estelle Hislop



Jolandi Janse van Vuuren



Omolemo Motale



Anri Swanepoel

Faculty staff

Fakulteitpersoneel

Congratulations to Prof Madonsela who was recently included in Forbes Africa's 50 Most Powerful Women list, a first-of-its-kind Pan-African unranked compilation of the continent's leading women.



**THULI MADONSELA,
SOUTH AFRICA**

**LAW TRUST CHAIR, SOCIAL JUSTICE
RESEARCH AT STELLENBOSCH UNIVERSITY**
DAILY MANTRA: "Give everything your best shot."

A few years have passed since advocate Thulisile Nomkhosi Madonsela was the most feared woman in South Africa. Her role as the public prosecutor of South Africa from 2009 to 2016, was decorated by "no fear and no favor," as she led the corruption charges against the serving president, Jacob Zuma, known as "state cap-

ture". Her initial findings prompted the ongoing Zondo Commission of Inquiry into state capture. After vacating her position, Madonsela has remained the moral voice for South Africa through her influence on social media. She has settled at the Stellenbosch University in the Western Cape province as a dedicated law professor. There, she focuses on teaching constitutional, administrative and social justice law while pursuing democracy strengthening research. "I enjoy my peace-making disposition that comes with being a mother for many, who often have disparate needs and outlooks," she says. She's the founder of the Thuma Foundation for Democracy Leadership and Literacy which launched the Sizazakhele Enterprising Communities, a social initiative which seeks to ignite entrepreneurial centered communities and is currently piloting at Emamuzimeleni near Empangeni in KwaZulu-Natal. She has become a mountain climber of note and led a women's day hike up to the summit of Kilimanjaro, called #Trek4Madonsela Expedition, to raise support for the dignity of girls through sanitary pads and highlight social justice among other issues like climate change. "It was the most difficult physical and emotional challenge I ever faced. Over 200 000 girls got sanitary pads as an outcome of the expedition," she says. To her, being a powerful woman in 2020 means to be at peace with yourself and the world while enjoying the ability to collaborate with others to influence change.

Congratulations to our colleague, Mr Thala Msutu who graduated with his LLM (*cum laude*) from SU during the virtual March graduation.

He also got engaged to Mudzuli Rakhivhane (who is an alumna of our faculty and is currently a clerk in the Constitutional Court of the Chief Justice).



Mr Thala Msutu and Mudzuli Rakhivhane

Dr Bernard Wessels and his wife, Catrina, welcomed a baby girl at the end of May. Congratulations to them both!



New Staff

Ms Gretchen Jansen

Gretchen Jansen is a lecturer in the Department of Mercantile law, joining SU in 2020. She completed her LLB and LLM (Intellectual Property Law) degrees at SU in 2017 and 2018 respectively.

Prior to joining the Department of Mercantile law, she worked as an assistant-lecturer at the SU Law Clinic, presenting part of Practical Legal Training 471. Her research and teaching interests include intellectual property law in the digital environment, copyright law, and performers' rights. We wish her a long and fulfilling career in academia.



Gretchen Jansen

Alma Coertzen

Alma Coertzen joined the faculty in 2015 as Blended Learning Coordinator and recently became a permanent member of the team as the Legal Education Designer, a position that was created in the beginning of 2020.

She is currently busy with her MPhil in Higher Education at SU where the focus of her research is the first-year experience of law students. When she can find time between her work and studies, she enjoys spending time with her family, going for a run in the Jonkershoek Valley or just relaxing with a good book and a nice glass of red wine. With the move to online teaching and learning this past term we are especially thankful that Alma is now a full-time member of our team!



Alma Coertzen

Postdoctoral research fellows at the Law faculty

Dr Elvis Fokala

In January 2020, Dr Elvis Fokala was selected to be a member of a children's rights think-tank in Africa. Accordingly, on 16 January, he participated and presented a paper on reinforcing child participatory rights in Africa, during the Pan-African Child Rights Forum on the invitation of UNICEF and the Secretariat of the African Committee of Experts on the Rights and Welfare of the Child in Addis Ababa, Ethiopia. The purpose of the forum was to provide Child Rights' actors an opportunity to discuss progress, gaps, and emerging issues related to Child Rights in Africa and share their views on the critical actions needed to fully implement child rights instruments on the continent.

On 28 and 29 February 2020, Dr Fokala was part of a delegation of the Department of Social Affairs at the Africa Union to the Pan African Parliament (PAP) in Midrand. He presented a paper on Africa's legislative response to online child sexual exploitation to PAP's sub-committees on Justice and Human Rights, Gender and Health. The aim of the high-level meeting with Pan African parliamentarians was to raise awareness on the growing trend of online child sexual exploitation in Africa and to devise new strategies to improve the protection of children's access to the internet.



Dr Elvis Fokala

Dr Callixte Kavuro



Dr Callixte Kavuro

Dr Callixte Kavuro started his postdoctoral research fellowship in January 2020 in the Public Law Department under the supervision of Prof Henk Botha. Dr Kavuro is a passionate refugee rights advocate with extensive research, publishing and teaching experience in the field of constitutional law, refugee law and immigration law. He worked with the University of the Western Cape (UWC) as lecturer. Dr Kavuro is driven for, and by social justice and socio-economic development of the refugee community in South Africa. It is within this context that he conducted his doctoral research project, entitled "Refugees' access to socio-economic rights: Favourable treatment for the protection of human dignity".

In line with lobbying and advocating for the rights of refugees, his post-doctoral research interests are on their involvement in democratic processes. In this respect, he is engaged with two research questions whether foreign nationals have the legal right to vote and stand in the School Governing Body (SGB) elections; and, if yes, what are factors impeding them from becoming members of the SGB. These questions rise simply because foreign parents have also a right to have a say in the quality of education provided to their children. Based on his research projects, he intends to publish journal articles on various matters affecting vulnerable non-citizens. Dr Kavuro's goals and ambitions are to contribute to the comprehensive development of emerging fields of refugee and immigration law. Such comprehensive development is scholastically prerequisite to assist human rights activists, attorneys for migrants, migrant-based organisations and law students to understand more clearly the legal position of different vulnerable non-citizens and their rights thereof in our constitutional democracy.

Postdoctoral research fellows at the Law faculty

Dr Sanita van Wyk

Dr Sanita van Wyk joined the Law Faculty as a postdoctoral research fellow in January 2020, after qualifying and practising as an attorney of the High Court of South Africa. Her postdoctoral host is Professor Oliver Ruppel of the Department of Mercantile Law. Dr Van Wyk's doctoral dissertation is entitled "The impact of climate change law on the principle of sovereignty over natural resources",



which was published as a book by the German Publishing House, Nomos, in 2017. Her research remains firmly rooted in international law, including international environmental law and climate law, and currently her research is focused on climate litigation, comparative climate law in African jurisdictions and the United Nations Sustainable Development Goals.

Social Impact *Sosiale Impak*

SU Law Clinic news

SU Law Clinic/Lifestyle Legal

As previously reported, the application for certification in order to pursue class action against Lifestyle Legal and their websites was scheduled to be heard in the Western Cape High Court on 21-22 April 2020. As a result of COVID-19, the matter was unfortunately removed from the roll. We have requested allocation of new (post-lockdown) dates on the court's semi-urgent roll and await feedback from the Judge President's office.

As a reminder: LegalWise South Africa has filed an intervention application to be joined as applicants in the pending certification application. According to papers filed at court, LegalWise has received "numerous complaints from its members describing the same harassment and threats and consequences as described by the applicants in the main application". In addition, PASA (the Payment Association of South Africa) has applied to intervene as amicus curiae (friend of the court) to assist the court in the matter. In its papers, PASA explains that the respondent websites, companies, and directors have been exited from the National Payment System after due diligence investigations. The respondents are opposing both the LegalWise and PASA applications.

Despite the current COVID-19 circumstances, the first semester at the SU Law Clinic has been filled with momentous events. Such events include news on the Clinic's Lifestyle Legal litigation and "in duplum"-judgment, new members joining our team and successful farmworkers' relocation negotiations.



SU Law Clinic & others/National Credit Regulator & others

On 13 December 2019 the Western Cape High Court issued its landmark “in duplum” judgment in favour of the applicants, the effect being that all amounts (including legal fees) that accrue under the National Credit Act against the debtor during the time that they are in default, are limited to the arrears debt at the time of default. The judgment has been appealed by the Legal Practice Council and Bayport, effectively suspending its

immediate impact. The applicants’ legal team is in negotiations with opposing counsel to agree on a timeline for the filing of heads of argument to progress the case. We remain positive that the Court of Appeal’s judgment will confirm and strengthen the decision of the High Court. The Clinic has allocated many of its resources to the institution of the pending class action to give effect to the terms of the judgment.

The Clinic’s Team

Two of our Candidate Legal Practitioners, Veruschka Foster and Mvuyisi Mjuda, passed their admissions examinations. Congratulations to them both.

Tsavo Raath joined our team as the Clinic’s paralegal and he will be closely involved with the next intake of final-year LLB Practical Legal Training (PLT) students. One of the Clinic’s key objectives is to provide, in cooperation with the SU Law Faculty, clinical legal education to law students through teaching, training and real-life exposure to the practice of law. Every year, a new group of motivated and diligent students pass through the Clinic’s doors. During the year, they develop and hone their practical skills, offer their legal knowledge and service to vulnerable and marginalised clients, and develop into industry-ready law graduates with a firm grasp of what it takes to succeed as a legal practitioner. Nompumelelo Kubheka (middle February) and Lu-Anne Faraa (middle March), our postgraduate consultants, also joined our team in the first semester.

The newest addition to our team is Ms Sharon Smith. She was appointed as our Office Administrator with effect from 1 August 2020.



Tsavo Raath



Ms Sharon Smith

Relocation negotiations successful

During October 2017, the Clinic opened files for 18 families from a farm in Paarl, when we were approached to assist these occupiers with relocation negotiations with the farm owner’s attorneys. After successful negotiations on behalf of ten of these families, settlement agreements were signed by the parties, after which court orders, incorporating the settlement agreements, were handed down in Paarl Magistrate’s Court. On Friday, 13 March 2020, these ten families received the keys to their own properties in Vlakkeland Estate, Paarl, and took up occupation of their properties.



Suksesvolle hervestigingsonderhandelings

Gedurende Oktober 2017 het die Kliniek lêers oopgemaak vir 18 gesinne van ’n plaas in die Paarl, toe ons genader is om hierdie inwoners te help met hervestigingsonderhandelinge met die prokureurs van die plaaseienaar. Na suksesvolle onderhandelinge namens tien van hierdie gesinne, is skikkingsooreenkomste deur die partye onderteken, waarna hofbeslissings, waarby die skikkingsooreenkomste opgeneem is, in die Paarl-landdroshof uitgereik is. Op Vrydag, 13 Maart 2020, het hierdie tien gesinne die sleutels ontvang vir hul eie eiendomme in Vlakkeland Estate, Paarl, en is hulle besittings daarheen verplaas.

The SU Law Clinic closed on 26 March for the duration of levels 5 and 4 of lockdown. After a thorough screening process and a formal Return-to-Work plan were drafted and implemented, our SU Law Clinic reopened its doors for clients on 22 June. Legal services are provided subject to strict health protocols (and per appointment only). Our colleagues are truly committed and inspirational.



Memorial/ Herdenking

Riaan Kruger

(17 Julie 1949 – 26 April 2020)

Adriaan Marthinus (Riaan) Kruger is op 17 Julie 1949 gebore. Hy het in die lane van Bellville groot geword. Op 8-jarige ouderdom het hy en sy familie 'n tragedie beleef toe sy ouer broer in die polio pandemie van daardie tyd gesterf het. Veral sy ma het gesukkel om die trauma te verwerk. Die Kruger-familie het gevolglik getrek en vir omtrent twee jaar in King Williamstown gewoon. Dit was vir Riaan moeilike jare. Dit het beter met hom gegaan toe die Krugers na omtrent twee jaar na Bellville teruggetrek het.

In Hoërskool DF Malan, Bellville, het Riaan presteer. In 1966 was hy hoofseun en hy was ook 'n uitstekende rugbyspeler en atleet – hy was die 100m-kampioen van die WP in 1965.

Hy het in die opwindende jare van 1968 tot 1972 sy regstudies aan die US voltooi. Vir die volle vyf jaar was hy 'n inwoner van Huis Marais. Ek het die voorreg gehad om vir die duur van sy hoërskool- en universiteitsloopbaan altyd in dieselfde klasse as hy te wees. In Huis Marais was ons vir vyf jaar kamermaats.

Op Stellenbosch het Riaan in verskeie sportsoorte, maar veral in rugby baie goed gevaar en 1968 en 1969 het hy vir die gedugte onder 20-span van US gespeel. Hy het ook 'n groot bydrae gelewer daartoe dat Huis Marais in 1970 en 1971 die Sauer beker gewen het. Hy

was ook die sekretaris van die koshuis se huiskomitee.

Na universiteit was hy eers staatsaanklaer en daarna staatsadvokaat in Kaapstad. Hy het toe as regsadviseur by die KWV in die Paarl begin werk, waar hy sedertdien woonagtig was. In 1981 het hy 'n MBA (cum laude) aan die US geslaag.

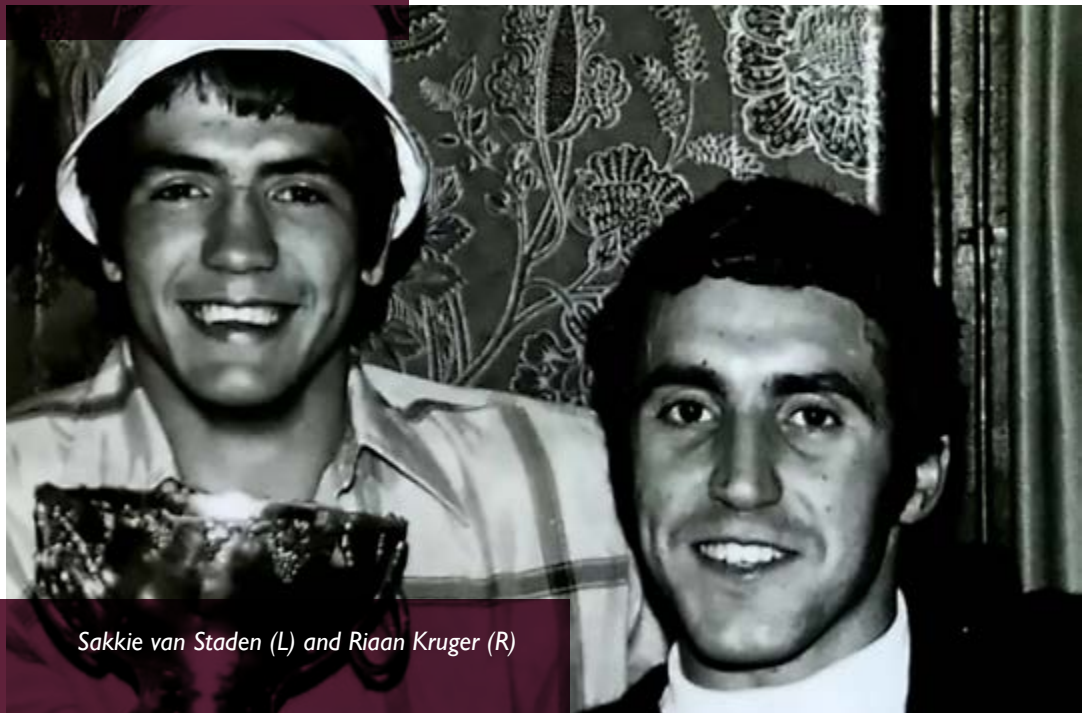
In die vroeë tagtigerjare het hy begin werk by die bedryfsorganisasie, die Kaapse Wyn en Spirituallieë Instituut (KWSI), wat later SALBA geword het. Hy het diep spore in die drankbedryf getrap. As hoof-uitvoerende beampte het hy in 2015 afgetree. Sedertdien was hy steeds in die drankbedryf aktief as voorsitter van die Wyn en Spirituallieë Raad. Hy het egter ook tyd ingeruim om 4x4-toere in suidelike Afrika te onderneem wat hom baie plesier verskaf het.

Hy was vantevore getroud met Anne (gebore Van Zijl) en twee kinders, André en Mia, is uit die huwelik gebore. Hy is later weer getroud met Mercia Mostert.

Vanweë my jarelange vriendskap met Riaan en die interessante tye en belewenisse wat ons meegemaak het, kan ek met vertroue getuig dat sy belangrikste karaktertrekke sy meelewendheid, positiewe en gebalanseerde siening van die lewe en sy pligsgetrouheid was. Hy was 'n onderhoudende verteller, maar ook 'n goeie luisteraar. Hy het maklik gelag, maar ook maklik 'n traan gestort – nooit uit self-bejammering nie, maar uit empatie met ander se hartseer. Ek het hom nooit kwaad gesien nie, selfs nie op die rugbyveld nie. Hy was vergewensgesind en by uitstek 'n vredemaker en bemiddelaar. Hy was 'n lojale vriend.

Riaan Kruger sal gemis word.

Geskryf deur Sakkie van Staden



Sakkie van Staden (L) and Riaan Kruger (R)



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