



UNIVERSITEIT
iYUNIVESITHI
STELLENBOSCH
UNIVERSITY

100
1918 - 2018

CONSTITUTION OF THE
REPUBLIC OF SOUTH AFRICA 1996
PREAMBLE
WE, THE PEOPLE OF SOUTH AFRICA,
RECOGNISE THE VARIOUS
PAST INJUSTICES AND OPPRESSIONS
FOR JUSTICE AND FREEDOM
WOMEN TO BUILD A DEMOCRATIC
SOCIETY AND BELIEVE THAT
SOUTH AFRICA BELONGS TO ALL
LIVE IN IT. UNITED IN OUR FREEDOM
WE THEREFORE JOINED TOGETHER
ELECTED REPRESENTATIVES TO
THIS CONSTITUTION AS THE SUPREME
LAW OF THE REPUBLIC TO:
HEAL THE DIVISIONS OF THE PAST AND
ESTABLISH A SOCIETY BASED ON
DEMOCRATIC VALUES, SOCIAL JUSTICE
AND HUMAN RIGHTS;
LAY THE FOUNDATIONS FOR A
DEMOCRATIC AND OPEN SOCIETY IN
WHICH FREEDOM IS BASED
ON THE WILL OF THE PEOPLE AND
EVERY CITIZEN IS EQUALLY PROTECTED
BY LAW;
IMPROVE THE QUALITY OF LIFE OF ALL
CITIZENS AND FREE THE POTENTIAL OF
EACH PERSON; AND
BUILD A UNITED AND DEMOCRATIC
SOUTH AFRICA ABLE TO TAKE ITS
RIGHTFUL PLACE AS A SOVEREIGN
STATE IN THE FAMILY OF NATIONS.
MAY GOD PROTECT OUR PEOPLE.
NKOSI SINELE IAFRICA.
MOKENA BOLONA SE THORASA HENO
GOD SEEN SOUTH AFRICA.
GOD BLESS SOUTH AFRICA.
MUNTU PHATUTSHORCA AFRIKA.
HONK'YELUKA AFRIKA.

FACULTY OF LAW

NEWSLETTER NUUSBRIEF

FAKULTEIT
REGSGELEERDHEID

DECEMBER

2020

DESEMBER

News from the Dean's office

Dear member of our Faculty of Law Community

It gives me great joy to write to you whilst the final examinations for this academic year are taking place. There was a brief moment this year when it was uncertain whether we would be able to complete the academic year before the end of this calendar year. It is with great resolve and collaboration that we managed to do so, and I want to thank and congratulate staff and students for attaining this milestone.

It has been eight months since lockdown started and more than ever before we miss the interaction and connection with each other and all our students. Most staff have continued to work from home but the SU Law Clinic opened on campus again in June 2020. A highlight of this semester was the opening ceremony of the Preamble Art Installation in front of the Ou Hoofgebou (Old Main Building); it presented an opportunity for a small gathering of colleagues, which definitely added to the ceremony being a memorable occasion.

Our centenary year, 2021, is upon us and whilst great uncertainty exists regarding which COVID-19 restrictions will still have to be observed next year, we are looking forward to welcoming our new and current students back on campus. The Faculty hopes that as many alumni and friends of the faculty as possible will attend the various activities during the course of 2021. We finalised the date for the faculty-wide festive event, also known as Stellenbosch home-coming, as the last weekend of September 2021. Other events to look forward to include the launch of the book *The Stellenbosch Law Faculty: From 1921 to 2021*, the All African Human Rights Moot Court Competition, several public lectures organised by our research chairs as well colloquiums and alumni year group events. We will communicate more in this regard at the start of 2021.

This newsletter shares some of the activities and achievements of our team during the second half of this year. We were honoured to host a webinar with former Deputy Chief Justice of the Constitutional Court, Justice Dikgang Moseneke, on law, justice and transformation. A second Annual Social Justice Summit and Conference and a panel discussion on gender-based violence as a human rights violation also took place virtually. The Faculty likewise prepared an [online Maties101 presentation](#) to

replace the traditional and popular visit of provisionally accepted students to our campus. Both students and staff featured in this presentation and it should provide insight to being a Maties law student to any prospective student.

Some of our staff and their family members experienced wellness challenges the last months, including the loss of loved ones. I believe that the principal message of 2020 for us all was that when health is absent, “wisdom cannot reveal itself, art cannot manifest, strength cannot fight, wealth becomes useless, and intelligence cannot be applied” (Herophilus). On a lighter note, most people will probably agree that the most-used phrase of 2020 was “You are muted”.

I am grateful that our sense of community remains strong and that there is now an opportunity for everyone to rest before we return to work (whether it will be on campus or at our home offices) in 2021. Please stay safe. Thank you for caring. Forward together.

Nicola Smit

Iindaba ezivela kwi-ofisi yeDini

Ndinombulelo wokuba umoya wethu wobanjiswano usaqhubekela ngamandla kwanokuba ngoku kukho ithuba lokuba wonke umntu aphumle ngaphambi kokuba sibuyele emsebenzini (nokuba oko kuza kwenzeka ekhampasini okanye kwii-ofisi zethu ezisemakhaya) ngo-2021. Ncedani nihlale nikhuselekile. Niyabulelwa ngenkathalo yenu. Sonke siya phambili.

Beste lid van ons Regsfakulteit Gemeenskap

Dit verskaf vir my groot vreugde om aan u te skryf terwyl die finale eksamens vir hierdie akademiese jaar afgelê word. Daar was vanjaar aanvanklik onsekerheid oor of ons die akademiese jaar voor die einde van hierdie kalenderjaar sou kon afhandel, maar ons kon dit danksy groot vasberadenheid en goeie samewerking vermag. Ek wil die personeel en studente bedank en gelukwens dat ons hierdie mylpaal kon bereik. Dit is nou agt maande sedert die inperking begin het en ons verlang nou meer as tevore na die interaksie en wisselwerking met mekaar en al ons studente. Die meeste van ons personeel het volgehou om van die huis af te werk, maar die US Regskliniek het in Junie 2020 op kampus heropen. Die openingseremonie van die Aanhef-installasiekunswerk voor die Ou Hoofgebou was hierdie semester 'n hoogtepunt; dit het die geleentheid gebied vir 'n klein samekoms van kollegas, wat daartoe bygedra het om 'n gedenkwaardige plegtigheid te skep. Ons eeufeesjaar, 2021, is om die draai en ofskoon daar onsekerheid heers oor watter COVID-19 regulasies dan sal geld, sien ons uit daarna om ons nuwe en huidige studente op kampus te verwelkom. Die Fakulteit mik dat soveel as moontlik alumni en vriende van die Fakulteit die aktiwiteite gedurende die loop van 2021 sal kan bywoon. Ons het die datum vir die Fakulteit se feesgeleentheid, ook bekend as Stellenbosch tuiskoms, as die laaste naweek in September 2021 gefinaliseer. Ander geleenthede om na uit te sien sluit in die bekendstelling

Dean, Professor Nicola Smit.



Nuus vanaf die Dekaan

van die boek *Die Stellenbosse Regsfakulteit: Vanaf 1921 tot 2021*, die “All African Human Rights Moot Court Competition”, verskeie openbare lesings deur ons leerstoel georganiseer sowel as seminare en alumni jaargroepgeleenthede. Ons sal aan die begin van 2021 verder hieroor kommunikeer. Ons deel ook graag in hierdie nuusbrieff inligting oor van ons span se aktiwiteite en prestasies gedurende die tweede helfte van die jaar. Dit was vir ons 'n eer om die gasheer te wees vir 'n web-seminaar oor die reg, geregtigheid en transformasie met voormalige adjunkhoofregter van die Konstitusionele Hof, regter Dikgang Moseneke. 'n Tweede “Annual Social Justice Summit and Conference” beraad oor sosiale geregtigheid en 'n paneelbespreking oor geslagsgebaseerde geweld as 'n menseregteskending het ook aanlyn plaasgevind. Die Fakulteit het verder 'n [aanlyn Maties101-aanbieding](#) geskep as plaasvervanger vir die gebruiklike en gewilde besoek van voorwaarderlik-aanvaarde studente aan ons kampus. Studente en personeel het aan die aanbieding deelgeneem en dit behoort aan enige voornemende studente 'n blik te gee, wat dit behels om 'n Matie-regstudent te wees.

Van ons personeel en hul familieëdele is die afgelope maande deur gesondheidsuitdagings in die gesig gestaar, insluitend om geliefdes te verloor. Ek glo dat die hoofboodskap van 2020 vir ons almal is dat wanneer gesondheid afwesig is: “wisdom cannot reveal itself, art cannot manifest, strength cannot fight, wealth becomes useless, and intelligence cannot be applied” (Herophilus). Op 'n ligter noot, die meeste mense sal waarskynlik saamstem dat die frase wat die meeste in 2020 gebruik is, was: “You are muted”.

Ek is dankbaar dat ons gemeenskapsgevoel steeds sterk bly en dat almal nou die geleentheid het om te rus voor ons terugkeer werk toe (hetsy op kampus of by ons tuiskantore) in 2021. Bly asseblief veilig. Dankie dat u omgee. Saam vorentoe.

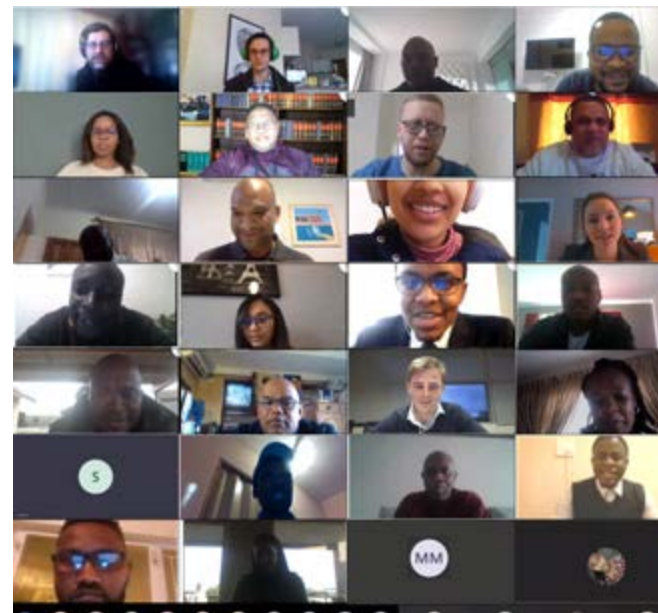
Nicola Smit

Research Chairs/Units Leerstoele/Eenhede

African Procurement Law Unit (APLU)

APLU's latest edited collection on public procurement law in Africa was published by LexisNexis. The book is entitled *Public Procurement Regulation in Africa: Development in Uncertain Times* and was edited by Professor Geo Quinot and Professor Sope Williams-Elegbe. The book comprises several essays focusing on public procurement regulation aimed at African development. Drawing on commentary from an extensive list of experts, including academics and professionals, the work outlines the legal landscape for procurement while pointing out the faults that allow procurement irregularities, including conflict of interest and corruption.

APLU also focused considerable attention on the impact of the COVID-19 pandemic on public procurement and vice versa. Professors Williams-Elegbe and Quinot presented at several virtual events on procurement and the pandemic. These included presentations by Professor Williams-Elegbe to the American Bar Association on "Anti-corruption and Compliance During COVID-19: Lessons learnt from the shut-down" and at the Social Outcomes Conference 2020 of the Government Outcomes Lab of Oxford University, entitled "Resilient Social Services Systems & Supply Chains Matter – Who Knew?!! What's Next". Professor Quinot presented on integrity issues in procurement

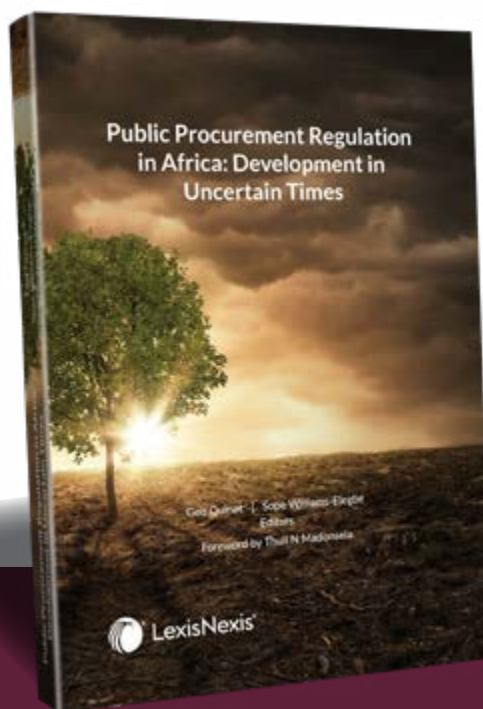


First-ever virtual class presented in the below-mentioned programmes

regulation at the VIII International Conference on Public Procurement – problems of law enforcement of the Moscow State University, and Quinot and Williams-Elegbe presented jointly on South Africa's handling of emergency procurement during the pandemic at a webinar hosted by George Washington University and Kings College London focusing on global lessons from procurement during the pandemic.

The long-awaited post-graduate programmes in public procurement law kicked off during the second semester of 2020. These are the LLM in Public Procurement Policy and Regulation and the PGDip in Public Procurement Policy and Regulation. Both these programmes are firsts, not only in South Africa, but on the continent in offering focused training in public procurement law from a distinct African perspective. Both programmes are also novel in the Law Faculty in that they are offered as professional programmes in a hybrid mode, meaning that students mostly study remotely and only attend block contact sessions once per semester.

New publication of Professors Quinot and Williams-Elegbe



HF Oppenheimer Chair in Human Rights Law

Virtual panel discussion on gender-based violence

The HF Oppenheimer Chair for Human Rights Law and the Transformation Committee of the Law Faculty presented a virtual panel discussion on gender-based violence as a human rights violation to mark Women's Month on 19 August. Professor Sandra Liebenberg, the Chair's incumbent, facilitated the panel discussion that focused on a range of critical issues surrounding gender-based violence. These ranged from South Africa's international law and constitutional obligations to address gender-based violence and femicide, to the roles of grassroots movements, religious institutions and educational institutions.

The panellists were legal and policy experts along with civil society activists. They were: Professor Bonita Meyersfeld, Ms Mandisa Khanyile, Advocate Bronwyn Pithey, Ms Joy Watson and Mr Hanzline Davids.

The panellists facilitated a critical discussion and invited participants to consider both the limits and potential of the law and grassroots movements for victims and survivors of gender-based violence. The event was extremely well-attended by over 120 participants. Read more about this event [here](#).



Virtual panel discussion on gender-based violence invitation

Human rights and COVID conferences and webinars

In addition to participating in her final (virtual session) of the UN Committee on Economic, Social and Cultural Rights, Professor Liebenberg participated in a virtual international conference on 15 October 2020, organised by the Geneva Academy of International Humanitarian Law and Human Rights. She was one of the opening plenary panellists alongside the UN Deputy High Commission on Human Rights, Ms Nada Al-Nashif, and addressed the theme of "COVID-19 responses by the global and regional human rights systems." On 19 October,

she participated in a webinar organised by the Human Rights Law Centre, University of Nottingham entitled, "After the First Wave: Initial Conclusions on the Human Rights Impact of the COVID-19 Pandemic". She published an article on the theme of why human rights should guide states' COVID-19 pandemic responses in The Conversation which can be accessed [here](#). In a recent interview, Mark Heywood and Prof Liebenberg discussed her role as UN Committee member, which can be accessed [here](#).



Gideon Basson

Transformation and visual redress

Mr Gideon Basson, a research LLM-student working under the supervision of Professors Liebenberg and Botha, has been involved in various initiatives on transformation and visual redress. On 15 October, he was a presenter at the inaugural student transformation indaba on embedding empathy as a strategy for special needs students in residences and the implications for reasonable accommodation. He has also been actively involved in the Gender Detour initiative on campus, which aims to use campus as a walkabout to cue intentional conversations about the role of gender in campus culture, emotional and physical safety and health, social life, leadership, achievement and the future workplace. Read more about the Gender Detour project [here](#). As a talented artist, Mr Basson is also involved in visual redress projects in an around the Ou Hoofgebou that houses the Law Faculty.

Law Faculty Trust Chair in Social Justice



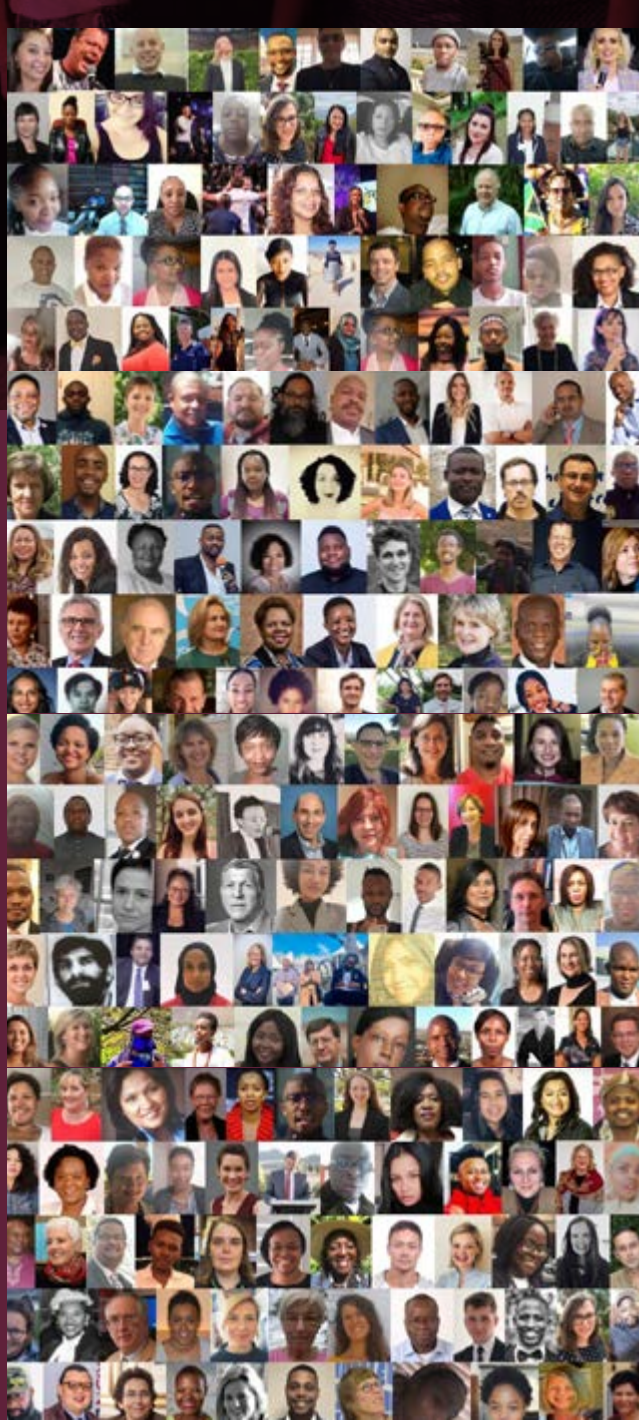
Social Justice team and Summit organisers

Second Annual Social Justice Summit

The Chair hosted the Second Annual Social Justice Summit on Wednesday 4 November 2020 from Spier wine estate in the heart of the Winelands. This second summit followed on from decisions taken during the inaugural event held in 2019. The virtual event facilitated the engagement of a wide audience, with over 400 registered attendees spanning 17 countries on four continents.

Professor Thuli Madonsela says: “Delegates signed a comprehensive resolution last year which committed them to the drive towards the eradication of inequality and the realisation of social justice. Our 2020 event was arranged to take this work further, and this was the key driving force behind the keynote speakers and the topics we chose for the day. Parallel breakaway plenary sessions in the afternoon delved deeper into themes that have an impact on the likelihood that social justice can be realised, such as land and poverty, economic inclusion and well-being, education and training, data analytics and poverty mapping, health, mental health and nutrition, access to justice and the rule of law, peace and social cohesion, climate change and environmental sustainability, politics and democracy, and gender and other excluded groups.”

The keynote address was delivered by Justice and Correctional Services Minister, Ronald Lamola, in which he explained the role that government should be playing in the achievement of



Participants, Second Annual Social Justice Summit



Second Annual Social Justice Summit: Parallel session: Peace and social cohesion Professor Pumla Goboda-Madikizela and Doctor Wilhelm Verwoerd

social justice. “The role of the state, amongst other things, is to deepen equality in our society. Although we as a nation-state celebrate 25 years of being a constitutional and democratic state, we must be honest – obtaining social justice is still elusive in various communities and spheres of society in general. Politically, equality is afloat but social justice requires a substantial amount of work,” Lamola told delegates.

In his opening address, Professor Wim de Villiers injected a sense of agency in tackling the pressing challenges of poverty, inequality, unemployment and corruption, while addressing issues ranging from climate change to poverty and inequality particularly in the light of lessons learnt from the coronavirus COVID-19 pandemic and subsequent lockdown. Kate Robertson, who delivered the second keynote address from London, emphasised the importance of simplicity and impact-conscious communication, which she said was essential to bring the business community and others on board. She also highlighted the importance of involving young people and seizing opportunities presented by the UN Social Development Goals (SDGs) that seek to end poverty and reduce inequality by 2030. Clare Shine who delivered her keynote address from Salzburg, Austria drew parallels between the original Europe Recovery Programme popularly known as the Marshall Plan and the Social Justice M-Plan, endorsing the latter as timely and offering her support. Archbishop, Doctor Thabo Makgoba, gave a recorded message of hope emphasising the importance of uniting for social justice, fighting poverty and rebuilding better together in the post-COVID-19 recovery period. Busisiwe Mavuso (Chief Executive Officer of Business Leadership SA) and Doctor Adrian Enthoven



Second Annual Social Justice Summit: Programme Director, Desiree Chauke and Professor Madonsela

(Executive Chairman of Yellowwoods Investment Group), in turn, highlighted the importance of tackling economic growth and redistribution as twin challenges. They also outlined some of the measures business is undertaking to combat poverty and hunger while advancing socio-economic inclusion.

Gloria Serobe outlined the vision behind the Solidarity Fund initiative, its milestones to date, particularly regarding combatting hunger and destitution in rural areas and supporting PPE acquisition initiatives for rural areas. She supported the Social Justice M-Plan and called for the strengthening of synergies. At Boshoff reminded the gathering that social justice is a responsibility, and part of the tradition, of the faith community and called upon all to step up against poverty and hunger.

“We invited them to speak on how their various sectors worked towards bridging the equality gap and incorporating the SDGs in the work done by the organisations and sectors they represent. A similar panel discussion later in the day also saw several University vice-chancellors speak on this topic,” says Madonsela.

Social Justice champions

The announcement of the Social Justice Champions of the Year was a highlight of the Social Justice Summit. The result was a culmination of a process where members of the public were asked to nominate and vote for community builders whose work is visible in closing the inequality gap while eradicating poverty. The joint winners for 2020 are Kabelo Mahlobogwane

(co-founder and Managing Director at The Marking App for teachers), and Eon Hendricks (founder of the Clay Foundation that is empowering young people in Idas Valley). Madonsela said the process would be democratised in the coming year by reaching out beyond social media avenues such as Twitter and Facebook.

Council of Social Justice champions

The Chair is also extremely excited to announce the establishment of a Council of Social Justice champions at the second Annual Social Justice Summit on 4 November 2020. Co-chaired by Professor Wim de Villiers, Principal and SU Vice-Chancellor and Basetsana “Bassie” Kumalo, successful media entrepreneur and former Ms South Africa, the Council will drive the Musa Plan for Social Justice (Social Justice M-Plan), which was launched at the Summit. Other members include Wendy Ackerman, Doctor John Kani, Justice Edwin Cameron, Justice Yvonne Mokgoro, Mr Sello Hatang, Ms Doreen Morris, Ms Kate Robertson, Ms Busisiwe Mavuso, Ms Felicia Mabuza-Suttle, Doctor Beatrice Wiid, Mr Ashraf Garda, Advocate Xoli Maduna, Professor Sakhela Bhulungu, Professor Francis Petersen, Professor Adam Habib and Ms Lindiwe Mazibuko. Ms Futhi Mtoba, will join the Council as soon as one of her current directorship’s lapses.

The Council will work with the Social Justice Chair and other

research and administrative support structures envisaged in the Social Justice M-Plan Concept Paper, to drive the implementation of the Social Justice M-Plan. The Council will serve as guardians of the M-Fund, established in pursuit of the fourth pillar of the Social Justice M-Plan specifically to drive social impact investment in community-driven initiatives, in pursuit of Local Sustainable Development Plans attuned to the global SDGs and National Development Plan objectives. The M-Fund is to be established through crowdfunding from ordinary people using digital technologies in retail outlets and seeks to help people lift themselves out of poverty and play their part in the pursuit of socio-economic equality, to shed the legacy of previously legislated inequality. It also seeks to mobilise systematised academic, business and broader civil society input to ensure all hands-on deck to support state efforts aimed at eliminating socio-economic disparities that keep certain groups and communities left behind regarding equal enjoyment of all the rights and freedoms guaranteed in chapter 2 of the Constitution.

Social Justice cafés

The Social Justice cafés organised by the Law Faculty Trust Chair in Social Justice have once again been met with great appreciation – to such an extent that the Chair was requested to host three cafés on the theme, Social Justice and Unconscious bias. Other cafés dealt with Social Justice and Access to Justice and Social Justice and the Fourth Industrial Revolution.

The last café for 2020 (Social Justice and Democracy) took place on Wednesday 25 November.

Webinars invitations

SOCIAL JUSTICE AND UNCONSCIOUS BIAS

SOCIAL JUSTICE

Café

Facilitator:
Prof Thuli Madonsela
Social Justice Chair and M-Plan Convenor, SU

Speaker:
Nene Molefi
CEO of Mandate Molefi HR Consultants

Please join us for expert advice from this internationally acclaimed thought leader in Diversity & Inclusion, Values Driven Leadership & Transformation.

Panelists:



Fanelesibonge Ndebele



Thembaethu Seyisi



Daniele-B von Ziegler Smith



Zulaikha Patel

Unconscious biases are social stereotypes about certain groups of people that individuals form outside of their own conscious awareness. We often relate on the basis of unarticulated premises and these essentially hierarchize and stigmatise difference on the basis of race, gender, class, disability, sexual orientation, nationality, religion, etc.

Please watch this video on unconscious bias in preparation for the event: <https://youtu.be/rCDRgAw18E>

Date: 5 August 2020
Time: 13H00 – 14H30
Location: The virtual Social Justice Café will be conducted via Microsoft Teams.

Learn more about Teams | Meeting options
Join with a video conferencing device
529319312@plm.vtc VTC Conference ID: 1229036662
Alternate VTC dialing instructions

Enquiries: socialjustice@sun.ac.za
+27 (21) 808 3186

 Social Justice Chair @CFSJ_MPlan
 Social Justice M-Plan



Join us to help students in financial need

Professor Madonsela and students are taking action to raise funds for students from working class and middle-class income households who are struggling to keep their higher education dreams alive due to a lack of funds. On Sunday, 22 November 2020 Professor Madonsela and the Student Representative Council (SRC) Chairperson, Xola Njengele, summited Table Mountain and on Saturday, 28 November a hike in Idas Valley Stellenbosch followed.

These events form part of the #Action4Inclusion Campaign, a student funding initiative established earlier this year by the SRC and Professor Madonsela, in an effort to ensure that no student is left behind due to their financial circumstances. All funds raised will go towards the scrapping of debt for working class and middle-class income household students who are struggling to pay their fees.



Table Mountain hike with SRC

Next steps for the Social Justice Chair

Several activities are planned, or in progress, to move forward in 2021. These include finalising the legal requirements to register the M-Fund Trust, publishing research papers and initiating the Swartland poverty mapping pilot project. Furthermore, the Social Justice M-Plan team has a new member. We are very pleased to welcome Doctor Lloyd Chigowe who joined the team as new post-doctoral fellow. Visit the [Social Justice Chair's website](#).

The Anton Mostert Chair of Intellectual Property Law

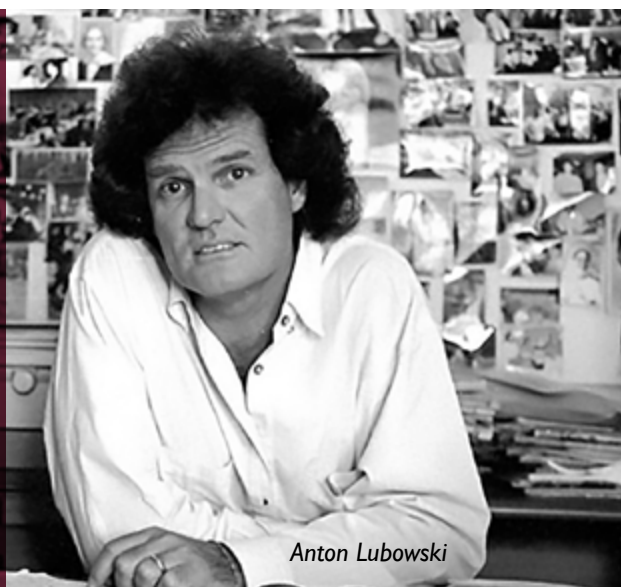
Professor Sadulla Karjiker presented a paper during the recent Asian Law Institute (ASLI) conference, hosted by the National Law University, Delhi and the Asian Law Institute, which took place from 7 to 9 November 2020. The title of the paper was “Geographical Indications, the cuckoo in the IP nest: Time to draw the line”.

Faculty and students Fakulteit en studente

Events/Geleenthede

Memorial lecture

On 12 September a memorial lecture was held to celebrate the life of anti-apartheid activist and advocate Anton Lubowski who was assassinated outside his home in Windhoek on 12 September 1989, 31 years ago. The (online) Memorial Lecture is presented by SU's Development and Alumni Relations Division, in partnership with the Faculty of Law and Simonsberg Men's Residence. It is the second occasion of such lecture and this year's speakers were Judge Dennis Davis, Professor Pumla Gobodo-Madikizela and Doctor Ismail Lagardien. They discussed the topic "Social Justice, Quo Vadis – Is Social Justice happening?" The session was moderated by Max du Preez, editor of *Vrye Weekblad*, author, commentator and friend of the late Anton Lubowski.



Anton Lubowski

'All rise – A judicial memoir' -webinar/aanlyn seminaar

On 18 November the Law Faculty hosted a webinar with former South African Constitutional Court and Deputy Chief Justice Dikgang Moseneke (2002-2016), Professors Sandra Liebenberg and Bradley Slade. During this webinar themes of law, justice and transformation was discussed, as raised and reflected in Moseneke's new memoir, *'All rise – A judicial memoir'*.

Op 18 November het die Regsfakulteit 'n webinar aangebied met die voormalige Suid-Afrikaanse Konstitusionele Hof en adjunkhoofregter Dikgang Moseneke (2002-2016), en professors Sandra Liebenberg en Bradley Slade. Gedurende die aanlyn seminaar is temas van die reg, geregtigheid en transformasie bespreek, soos uitgelig en weerspieël in Moseneke se nuwe memoir, *'All rise – A judicial memoir'*.

Former Deputy Chief Justice Dikgang Moseneke

Professor Geo Quinot presented an AUXIN session on Higher Education in Community, which was very well received. The [video](#) is available online.

Professor Pienaar's justice in society conversation

Professor Juanita Pienaar participated in one of a series of conversations dealing with "Justice in society" with regards to the land issue, nationally, but also here in Stellenbosch specifically. The conversation, facilitated by Professor Louis Jonker, included the mayor of Stellenbosch, Advocate Gesie van Deventer. The conversation is available on [YouTube](#).

Preamble Art Installation UFakelo loBugcisa oluneNgabula-zigcawu



The newly opened Preamble Art Installation will be a constant reminder of how far we have come as a nation in South Africa and as a university community in Stellenbosch.

This is according to Professor Wim de Villiers, Rector and Vice-Chancellor of SU, who spoke at the opening of the Preamble Art Installation in front of the Ou Hoofgebou in Ryneveld Street in Stellenbosch on Tuesday 3 November 2020. The 134-year-old building houses the SU Faculty of Law.

According to De Villiers, the University is on a journey of renewing its institutional culture, which includes what is visually apparent in the spatial layout, visual iconography and visible symbolism on its campuses.

"We want to unite the University community with symbols that heal and help us move forward together. And this installation is part of that ongoing process," Professor De Villiers said.

UFakelo loBugcisa oluneNgabulazigcawu obutsha olusanda kuvulwa luza kuthi gqolo ukuba sisikhumbuzo sokuba sisuka kude kangakanani njengesizwe eMzantsi Afrika kwaye nanjengoluntu lwale yunivesithi yaseStellenbosch.

Oku kuthethwe nguNjingalwazi uWim de Villiers, iNqununu noSekele Ngqonyela weYunivesithi yaseStellenbosch, obethetha kuvulo loFakelo loBugcisa oluneNgabulazigcawu phambi kwe-sakhiwo i-Ou Hoofgebou esikwiSitalato iRyneveld eStellenbosch ngoLwesibini umhla wesi-3 kweyeNkanga 2020. Esi sakhiwo sibudala buyiminyaka eli-134 sineFakhalthi yezoMthetho yeYunivesithi yaseStellenbosch ngaphakathi kuso.

Ngokuka De Villiers, iyunivesithi le ikwiphulo lokuhlaziya inkcubeko yamaziko ayo, nto leyo equka imbonakalo yobume bomhlaba wayo, imifanekiso ebonakalayo yabantu abadumileyo kunye nemiqondiso ebonakalayo kwiikhampasi zayo.

Utthe, "Sifuna ukumanya uluntu lwale Yunivesithi ngemiqondiso ephilisayo nesincedisayo ukuba siqhubele phambili sikunye. Kwaye olu fakelo luyinxalenye lwenkqubo eqhubekayo."

Opening function for the Preamble Art Installation

"It will be a constant reminder of the framework provided by the Constitution, which also guides us as a University community. It is an expression of our commitment to democratic values, social justice and human rights; and of the need to improve the quality of life of all citizens and to build a united South Africa." The installation, in celebration of the Constitution of South Africa, comprises three separate metal plates depicting the preamble to the Constitution in three languages (Afrikaans, English and Xhosa). Water cutting technology was used to excise the words of the preamble on the plates.

The installation was designed by well-known landscape artist, Strijdom van der Merwe. Also speaking at the event, Van der Merwe said that he has fond memories of taking classes in the Ou Hoofgebou many years ago: "Little did I know that after so many years, I would be able to make a contribution to transformation at Stellenbosch University through art."

He gave an overview of the artwork and said that, amongst others, he was particularly careful to create a sculpture that would not distract from the front view of the building as the Ou Hoofgebou is often used as a visual symbol of the University. Van der Merwe adds that the collaborative nature of the project makes it special. "We started with a particular idea, but the design went through a number of changes as we received input from various role-players to get to where we are now." Another dynamic feature of the artwork is that the text from each plate is projected onto the ground as the sun shines through the plates at certain angles and at certain times of the day. "In this way, a dynamic experience is created between the text and the

Continues overleaf

passer-by to ‘experience’ the preamble as it were”, Van der Merwe explains.

Background/Intsusa-mabandla

In providing the background to the event, Professor Nicola Smit, Dean of the Faculty of Law, said that the Preamble project was conceived as part of the broader visual redress process of the Faculty of Law. The Faculty initiated the project in 2017 as part of SU’s visual redress process that aims to add art and symbols to the University’s campuses giving effect to the institution’s vision of an inclusive institution committed to a transformative student experience, amongst others. Professor Geo Quinot co-ordinated the project, which involved a comprehensive consultation process involving, amongst others, the SU Visual Redress Committee, Faculty staff and students and the SU Management, as well as external role-players.

Professor Smit reflected on the importance of the art installation, “Our memories of the past together with this new visual reminder of the aspirations of the people of South Africa, including all of us, provide us the opportunity to use memory (both past and present, individual and collective) to grow our relationships with all people in an inclusive and reflective manner. From the start, it was important to us that the Preamble of the Constitution will act as a physical link between the public space outside the Ou Hoofgebou and the Faculty of Law, symbolising a society anchored in a constitutional democracy and the importance of access to justice and the realisation of social justice for all. I believe that you will all agree with me that we have achieved that goal with this beautiful artwork and now what remains is to live up to the promise of our Constitution.”

Comments Dr Leslie van Rooi, Senior Director: Transformation and Social Impact: “We believe that art installations such as this one will contribute to transforming our spaces to be welcoming, inclusive and increasingly diverse as envisaged in the University’s *Vision 2040 and Strategic Framework 2019-2024*. It creates opportunities to encourage reflection and conversations about lessons from the past and the possibilities of our future as enshrined in our Constitution. This process of reflection started in the late 1990’s and was again highlighted as a priority during and after the Fees Must Fall protests,” says Van Rooi.

“What we want to achieve with this art installation is to contextualise the Ou Hoofgebou as part of our heritage by placing a contemporary work of art, which represents the spirit of our time, next to the classical architecture of the building. SU wants to open a discourse on art at local and national level as part of our visual redress process.”

“Esifuna ukukuphumelela ngolu fakelo lobugcisa kukunxulumanisa i-Ou Hoofgebou njengexalenye yelifa lethu ngokubeka umsebenzi wobugcisa bale mihla, obumele umoya wexesha lethu, ecaleni kwesakhiwo esayilwa ngobuchule bakudala. Le Yunivesithi yaseStellenbosch ifuna ukuvula ingxoxo ngobugcisa kumgangatho wengingqi nokazwelonke njengexalenye yenkqubo yethu yokulungisa okubanakalayo.”

The Ou Hoofgebou was inaugurated in November 1886. The Faculty of Law, that will celebrate its centenary in 2021, has been housed in the Ou Hoofgebou since its inception in 1921. (Part of this text was provided by Martin Viljoen)

Certificate Programme in Labour Dispute Resolution Practice

For the past seven years, Professor Christoph Garbers from the Department of Mercantile Law has presented the Certificate Programme in Labour Dispute Resolution Practice to not only upskill people involved in the day to day practice of labour law, but to also prepare interested participants for their roles as practising commissioners of the CCMA and panellists of bargaining councils. The CCMA, of course, is the largest labour dispute resolution institution in South Africa and is called on to resolve around 300 000 labour disputes per year – dealing mostly with unfair dismissal, unfair labour practice and unfair discrimination disputes. From there a constant need for well-trained individuals to assist in this function. Presented in conjunction with the CCMA, the course focuses on a combination of principle and practice and, as such, makes use of a wide array of established academics, practitioners and commissioners for its presentation. The course has proved to

be very popular (it has grown to where we have around 170 participants per year). In total, 1 181 students have participated in the programme over the past seven years and it has delivered a large number – 681 – successful students as potential commissioners of the CCMA. In the latest round of applications for the post of commissioner of the CCMA, 87 former students applied for the position of commissioner. And, as recently as 2018, by far the majority of appointments to the CCMA were made from the Stellenbosch course (more than from all the other public universities combined in the period 2016-2018). One particular source of pride for the Faculty has been the diversity of students participating in the programme. We have been able to consistently maintain a level of 85% of students from the African, Coloured and Indian demographic groups and we have been able to deliver 543 successful African, Coloured and Indian students as potential commissioners.

Internationalisation/Internasionalisering

The Dean, Professor Nicola Smit, reports that the Faculty has finalised two new educational agreements with leading international faculties of law with two more agreements which are close to finalisation. “It is important that our students have opportunities to study at international partners and so

broaden their legal education and experience. Similarly, it is just as important that we welcome international students to our programmes in Stellenbosch to enrich our classroom with students with diverse views and backgrounds and so contribute to increased globalisation in our programmes”, she says.

Pathways agreement with Cambridge University

The Faculty of Law has successfully concluded a pathways agreement with the Faculty of Law of Cambridge University. Whilst Cambridge has maintained such agreements with top Australian universities since 2014, this is the first agreement with a university in Africa. The agreement will allow students from Stellenbosch to undertake three and a half years of full-time law study at Stellenbosch and three terms at Cambridge. Successful completion of the LLM or Masters degree in Corporate Law (MCL) at Cambridge will be accepted by Stellenbosch in recognition for the final semester modules of the LLB Programme.

Professor Jens M. Scherpe, the Director of International Strategy and Partnerships at Cambridge University commented: “We are delighted to extend our network of pathways agreements, and to forge links with one of the leading African law schools. The pathways agreements attract outstanding students to undertake the LLM or MCL at Cambridge, and we are looking forward to

welcoming these students from South Africa to Cambridge.” Professor Smit, says that “this agreement serves as confirmation that our programmes are held in high regard internationally and it provides an excellent opportunity for our students to receive a prestigious international qualification. The Faculty is understandably very proud of the recognition being granted to our undergraduate programmes and looks forward to the strengthening of academic ties with one of the world’s top universities”.

Stellenbosch law students interested in this programme, must independently apply to Cambridge University during their penultimate year of their LLB degree and must take note of their relevant application procedures and deadlines. Selection criteria apply and successful students will commence their studies at Cambridge University in October of their final year of the LLB programme. Once students have completed the full degree requirements at Cambridge University for the award of the LLM or MCL, Stellenbosch will credit students for the modules in the final semester of the LLB and students will graduate from SU.

LLM Educational agreement with KU Leuven/LLM Opvoedkundige ooreenkoms met KU Leuven

The Stellenbosch and KU Leuven Faculties of Law wish to promote mobility of students and to cooperate in the area of teaching. To promote these aims an agreement was concluded to allow a number of KU Leuven students, under certain conditions, to enrol concurrently for one of the Master in Law (LLM) programmes at SU, while pursuing their Initial Master in Law at KU Leuven. In terms of the agreement a maximum of 15 students from KU Leuven may spend one academic year registered in the SU LLM programme and such year of successful studies at SU will be recognised by KU Leuven towards their programme. At the same time a new Student Exchange agreement, which also covers undergraduate students, was also concluded in order to promote student mobility even further.

Die Stellenbosch en KU Leuven regs fakulteite wil studente se mobiliteit bevorder en in onderrig en leer saamwerk. Om hierdie doelstellings te bevorder, is ’n ooreenkoms gesluit om ’n aantal KU Leuven-studente onder sekere voorwaardes tegelykertyd



in te skryf vir een van die US LLM-programme (Magister in Regsgeleerdheid), terwyl hulle, hulle aanvanklike LLM aan die KU Leuven volg. Ingevolge die ooreenkoms mag ’n maksimum van 15 studente van KU Leuven een akademiese jaar vir die US LLM-program geregistreer wees, en sodanige jaar van suksesvolle studies aan die US sal deur KU Leuven erken word vir hul program. Terselfdertyd is ’n nuwe ooreenkoms vir studente-uitruil, wat ook voorgaande studente insluit, gesluit om die mobiliteit van studente verder te bevorder.

Recognition/Erkenning



Jacques du Plessis

Professor Jacques du Plessis was awarded a B1-rating by the NRF. This is an excellent achievement and we are very proud of this outcome of the peer-review process. With this rating it is confirmed that he is an internationally recognised researcher who is a leader in his research discipline.

Professors Jacques du Plessis and **Sandra Liebenberg** have been appointed for a second term as distinguished professors. The Faculty of Law congratulates them with this achievement and the recognition of their academic status and impact within the university as well as their relevant disciplines.



Sandra Liebenberg



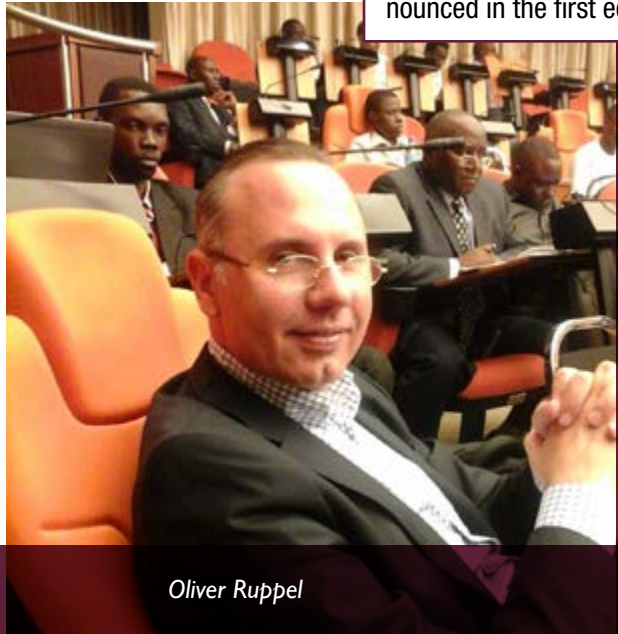
Langa Maziya

Our colleague **Langa Maziya** was promoted from junior lecturer to lecturer in the Department of Private Law. Ms Maziya graduated with her LLM and was admitted as legal practitioner during the course of the year. We are happy to celebrate this further milestone in her academic career and wish her all the best with her doctoral studies and lecturer duties next year!

Congratulations are in order for **Doctor Franziska Myburgh** with being awarded the best overall contribution to the *Journal for Contemporary Roman* (THRHR) in 2019 (Myburgh “The *in duplum* rule(s) and attorneys’ fees” 2019 *THRHR* 30). This accomplishment was announced in the first edition of *THRHR* 2020.



Franziska Myburgh



Oliver Ruppel

Professor Oliver Ruppel was appointed to the Scientific Advisory Board of the newly established Centre for Climate Law (ClimLaw) at the University of Graz in Austria. Recently, Professor Ruppel was also appointed as distinguished professor at the China African Institute Xiangtan University. Moreover, Professor Ruppel has accepted the invitation to join the “United Nations Food and Agriculture Organization (FAO) Global Soil Partnership Expert Working Group on Soil Legislation”, which reviews and updates the SoiLEX database containing all soil-related legal instruments of the world.



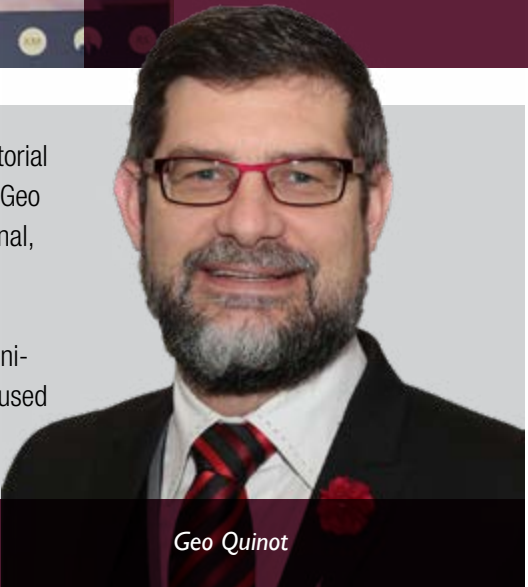
Bradley Greenhalgh

Bradley Greenhalgh, the Faculty’s Student Coordinator graduated with his doctoral degree in the field of labour law. We wish to congratulate Doctor Greenhalgh with this excellent achievement!

Q: What is the best part of being finished with your doctorate?

A: “Being able to spend time with the family, and actually doing all the things I was missing out on with them. But also, just having time back again, to do... stuff (sock collecting; beer tasting; cycling; weekend markets etc.)!

Professors Geo Quinot and **Sope Williams-Elegbe** were appointed to the editorial board of the *Public Procurement Law Review* international law journal. Professor Geo Quinot was also appointed to the editorial board of the new international law journal, *Droit Public Comparé – Comparative Public Law*. Professor Geo Quinot has joined forces with colleagues from the School of Public Leadership in conducting workshops across the Western Cape Province to all municipal councillors on ethical leadership and decision-making. Professor Quinot focused on ethical leadership in the context of supply chain management.



Geo Quinot



Nicola Smit

Professor Nicola Smit was again invited to be part of the KU Leuven Global Law programme in 2021.

Professor Sandra Liebenberg attended her final (virtual) session of the UN Committee on Economic, Social and Cultural Rights and finishes her term as deputy chair and as member of this esteemed committee.

Faculty staff Fakulteitpersoneel

Welcome, little ones/Welkom, kleingoed



Maseeiso Theko



Braam de Lange

Moskou Mpumelelo
Du Toit

Mrs Silke (and Billy) de Lange gave birth to a beautiful baby boy, **Braam** on 22 July. Mrs Bianca and Moskou du Toit also had a baby boy on 22 August, named **Moskou Mpumelelo Du Toit** after two of his great grandfathers. And Doctor Mpho and Bereng Theko had a beautiful baby girl on 12 October, **Maseeiso Theko**.

New appointments

The Faculty of Law is pleased to announce that two new colleagues will be joining the Department of Public Law in 2021. **Professor Shannon Hocter** and **Doctor Delano van der Linde** will join the Faculty in July and February 2021 respectively.

Professor Shannon Hocter

Professor Shannon Hocter's teaching and research focus is in criminal justice and legal history. He holds BA LLB and LLM degrees from the University of Cape Town (UCT), a postgraduate diploma in Latin from the University of Wales Trinity Saint David, and DJuris from the University of Leiden in the Netherlands, for a thesis entitled "The Crime of Housebreaking in South African Law – A Comparative Approach". Professor Hocter's academic career began at UCT's Faculty of Law as a part-time lecturer in specific crimes before he took up a contract teaching post at the University of Port Elizabeth (UPE), where he was later appointed to a senior lectureship teaching criminal law and jurisprudence. After his promotion to associate professor at UPE, Professor Hocter took up a chair in law at the University of Natal (now the University of KwaZulu-Natal) in Pietermaritzburg, where he has taught since 2002.

Professor Hocter served as Deputy Dean of the Faculty of Law at the

University of KwaZulu-Natal from 2010 to 2011. He has published numerous articles in law journals, along with several chapters in books, and has authored 12 books in criminal law, statutory offences and road traffic law, including five edited works. He has served as editor-in-chief of the *South African Journal of Criminal Justice* since 2010, of *Fundamina – A Journal of Legal History* since 2019, and as assistant editor of *Obiter* since 2002. He is also a member of the Academic Advisory Board for the *European Journal of Crime, Criminal Law and Criminal Justice*. He has a C2 NRF rating. Professor Hocter is a member of the Selden Society, the Stair Society, the South African Branch of the International Law Association (SABILA), and is the current President of the Southern African Society of Legal Historians.

When not musing abstractedly about the unending philosophical depths of criminal law, Shannon likes to partake of red wine, dark chocolate and crime fiction – preferably all at the same time!



Professor Shannon Hocter

Doctor Delano Cole van der Linde

Doctor Delano Cole van der Linde is a Senior Lecturer and Subject Chair (Criminal Law and Criminal Procedure) at the Faculty of Law, North-West University (NWU). He has taught several modules at NWU, including Criminal Law (General Principles and Specific Crimes) as well as Legal Interpretation. He has also organised intercampus student conferences, including the 2018 student conference on gender-based violence and the 2019 conference on youth leadership.

He obtained his degrees (LLB, LLM and LLD) from SU. His main field of research is organised crime. His doctoral dissertation, wherein he strongly advocates for legislative reform, details the issues surrounding Chapter 4 of the Prevention of Organised Crime Act 121 of 1998. His further research interests are cross-cutting and include criminal procedure, law of evidence, corruption, policing and criminal justice. Some of his most recent publications include "Poverty as a Ground of Indirect Discrimination in the Allocation of Police Resources – A Discussion of *Social Justice Coalition v Minister of Police* 2019 4 SA 82 (WCC)" (*Potchefstroom Electronic Law Journal*); "Evidentiary and procedural issues relating to the Prevention of Organised Crime Act" (*South African Law Journal*); "The overlap between the common law and Chapter 4 of the Prevention of Organised Crime Act: Is South Africa's anti-gang legislation enough?" (*South African Journal of Criminal Justice*; forthcoming). He is currently a Junior Editor of the *Potchefstroom Electronic Law Journal* and serves on the editorial board of the *Tydskrif vir die Hedendaagse Romeins-Hollandse Reg (Journal of Contemporary Roman-Dutch Law)* and is a member of the *Vereniging Hugo de Groot*. In 2020 he received funding from the NRF to conduct postdoctoral research which enabled him to expand on



Doctor Delano Cole van der Linde

his doctoral research. Doctor Van der Linde has also attended several conferences including the South African Law Teachers Conference (Skukuza), a doctoral conference at the Centre for Trust, Peace & Social Relations at the University of Coventry (England) as well as the Social Justice Summit and International Conference (Stellenbosch).

In his free time, Doctor Van der Linde enjoys exploring new restaurants, indulging in Netflix and (attempting) to care to his ever-growing jungle of houseplants.



Students Studente

All African Human Rights Moot Court 2020

Over the years, the SU Faculty of Law, has actively participated in the All African Human Rights Moot Court Competition (AHRMC) hosted by different universities across the continent. In fact, we have an excellent track record in this event and in 2013, SU was runners up while in 2016, we came out as the winners.

This year's competition was hosted by the Université Virtuelle de Sénégal (UVS) and Université Cheikh Anta Diop de Dakar (UCAD). For the first time the competition was hosted virtually. This SU team's journey started with intensive reading of the hypothetical case, *NGO Liberty and Others and the State of Donamistan*. With the theme of this year's AHRMC being human rights in the digital age, the irony of this was not lost on them! Doctor Elvis Fokala (the team's mentor and coach and post-doctoral fellow in the Faculty of Law) reports that over the next few months the team worked hard engaging with our continent's fascinating human rights paradigm to produce written memorials. The heads of arguments, provided legal arguments on jurisdiction, juristic persons, freedom of expression, communications interception, corruption and technology. Doctor Elvis Fokala says, "While arguing against teams before a virtual panel of judges was a daunting prospect, we were excited to finally give our arguments and the issues they raised a voice."

He adds, "I am proud to announce that our hard work paid off and the SU law team was awarded the ninth best memorials and fifth best team of 29 participating English-speaking teams. The oralists were also ranked amongst the top 10 best speakers on the African continent, with Ms Claire Rankin ranking fifth and Mr Nicholas Carroll ranking eighth in the En-



Mr Nicholas Carroll and Ms Claire Rankin

glish-speaking category."

After completing two preliminary rounds the team went through to the semi-finals of the competition and they participated in the virtual semi-final round during the second week of November. Although the team performed very well, we did not, unfortunately, progress to the final round.

We are pleased to announce that SU will be hosting the competition in Stellenbosch in 2021.

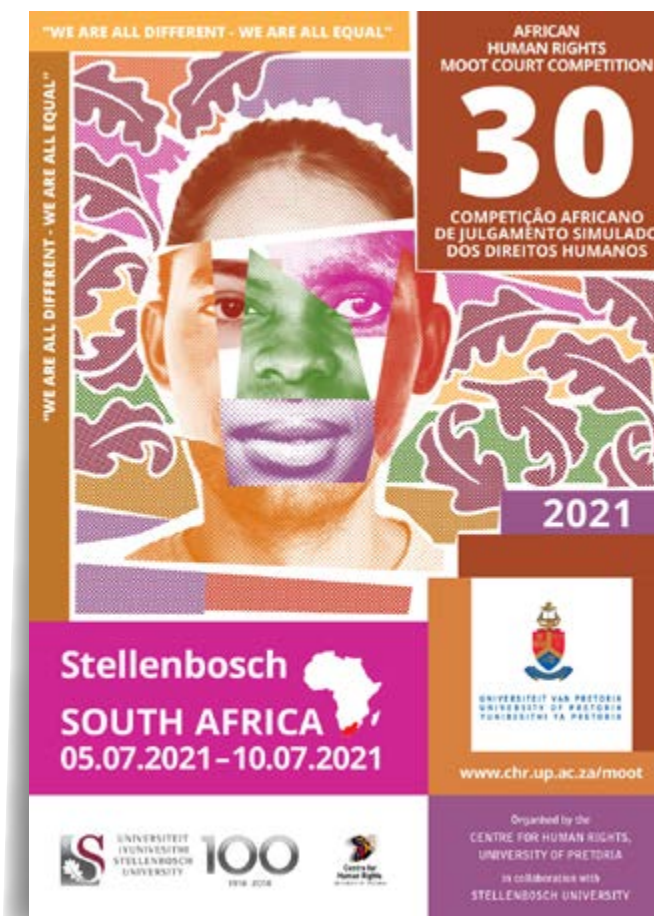
All African Human Rights Moot Court Competition 2021

Preparations for the 2021 All African Human Rights Moot Court Competition (AHRMC) were formally launched on 7 September 2020 in Stellenbosch, South Africa, when the Director of the Centre for Human Rights, University of Pretoria, Professor Frans Viljoen, the Vice Rector (Research, Innovation and Postgraduate Studies) of SU, Professor Eugene Cloete, together with the Dean of the Faculty of Law, Stellenbosch University, Professor Nicola Smit, signed the Memorandum of Understanding.

The thirtieth edition of the competition will take place from 25 July to 1 August 2021, in Stellenbosch, South Africa. Given the disruptions caused to the academic calendar due to COVID-19, the organisers agreed to adjust the previously announced dates. The theme is "We are all different – we are all equal".

Hosting the 2021 The AHRMC in Stellenbosch will mark an important milestone for each of the partners. The Centre for Human Rights will be celebrating the thirtieth anniversary of the African Moot Competition. The host, the SU Faculty of Law, will in 2021 be commemorating its Centenary.

The local organising committee is headed by Professor Annika Rudman, who is a professor in the Department of Public Law. Her scholarly interests are focused on the African human rights system, and she has participated in numerous AHRMCs. The SU Law Faculty is delighted to partner with the Centre for Human Rights welcoming participants from the breadth and length of the African continent to the Southern tip of Africa. The AU Agenda 2063 is the point of departure in the official moot slogan "From human wrongs to human rights" and the motto for the 2021 moot competition is therefore that, "We are all different – we are all equal". Equality, difference and identity will be the leading themes in 2021; spurring students participating in the competition to explore human diversity through a human rights lens, recognising all that brings us together in our differences.



It is the first time that the competition is hosted by the SU Faculty of Law. Much hard work has already gone into this endeavour, and we have a lot of work ahead of us. Our commitment is to extend a warm Cape Winelands welcome to all participants, even though we will be hosting them in the midst of our winter, to make sure this event leads to many long-lasting partnerships.

(Based on the official welcome by Professor Annika Rudman, on behalf of the Organising Committee of the 2021 All African Human Rights Moot Court Competition, Faculty of Law, SU.)



Director of the Centre for Human Rights, UP, Professors Frans Viljoen, the Vice Rector (Research, Innovation and Postgraduate Studies) of SU, Eugene Cloete, together with Nicola Smit, signed the Memorandum of Understanding

FOSCARS

In the absence of a final year law dance, final year students announced their Foscars in an electronic 2020 LLB Final Year Yearbook that they created. Herewith some of the awards.

LECTURER AWARD
THE ENTERTAINER

The lecturer who always leaves you in stitches.

The top 3 nominees

- Prof. Sutherland
- Prof. Garbers
- Prof. H Botha

The winner:

PROF. H BOTHA

LECTURER AWARD
THE VIRTUOSO

The lecturer who possesses outstanding technical ability in a particular field. Consequently, this will be awarded to the lecturer who excels in the art of teaching.

The top 3 nominees

- Prof. Quinot
- Dr Jansen van Rensburg
- Prof. De Waal

The winner:

PROF. DE WAAL

LECTURER AWARD
THE MARKING MACHINE

The lecturer who churns out marked tests/assignments at a rate like no other.

The Top 3 nominees

- Dr Izelle Du Plessis
- Dr Nel
- Dr Myburgh

The winner:

DR NEL AND HER MARKING COMPANION, PAN THE BENGAL CAT

LECTURER AWARD
#TBT

The lecturer you most likely would have been friends - with had you been in your final year when they were.

The Top 3 nominees

- Ms Phenyane
- Dr Myburgh
- Prof. Quinot

The winner:

PROF. QUINOT

Student publications/Studente-publikasies

Some of our undergraduate students successfully submitted their research for publication this year. On behalf of the Faculty of Law, congratulations to these young researchers!

- **Ferdinand Botha** "The legal nature of performance reconsidered" (2020) *SALJ* (137) 246.
- **Shaniaé Maharaj's** contribution "Workers of the world, un-united: A discussion through a gendered lens on why stronger protection of workers in the informal economy will better equip South Africa to cope with labour market changes of the Fourth Industrial Revolution" was included in the

(2020) *Pretoria Student Law Review* 238.

- **Theodora Mkali** (with Professor Annika Rudman) "A Gender Perspective on Electoral Processes in Malawi: The Right of Malawian Women to Participate in the Political Process under the Maputo Protocol" 2020 (1) *Southern African Public Law*.
- **Frederik R van Dyk** "The Interlocutory or Final Effect of Court Orders: The Mandament van Spolie as a Point of Departure – *Metchem Steelpoort CC v Eskom Holdings SOC Ltd* (22375/2019) 2019 ZAGPJHC 277 (13 August 2019)" (2020) 83 *THRHR* 444.

New Juridical Society members/Nuwe Juridiese Vereeniging lede



Die studente verteenwoordigers in die Fakulteit Regsgeleerdheid (asook hulle portefeuljies) vir 2020/21 is soos volg:/ The 2020/21 student representatives in the Faculty of Law and their portfolios are as follow:

- **Sebastian Foster** – Voorsitter/Chairperson
- **Bernard Oosthuizen** – Vise-Voorsitter/Vice Chairperson
- **Johane Berry** – Sekretaris-Generaal/Secretary-General
- **Liam Erasmus** – Transformasie/Transformation
- **Luke Magerman** – Tesourier/Treasurer
- **Simkuhle Khumalo** – Studentesake & Geleenthede/Student Affairs & Events
- **Robyn Schonegevel** – Openbare Betrekkinge/Public Relations
- **Tasmika Barath** – Media & Bemaking en Geleenthede/Media & Marketing and Events
- **Peter Brink** – Studenteverryking/Student Enrichment

2020 Graduation/Gradeplegtigheid

The following degrees and diplomas were conferred on 14 December: **6 LLD, 44 LLM, 75 LLB** and **5 PGDip Intellectual Property Law**.

Baie geluk aan elke student met hierdie prestasie! Daar was **6 LLB, 13 LLM** en **1 NGDip** studente wat cum laude gradueer het.



Social Impact Sosiale Impak



SU Law Clinic news

We are pleased to report that, on Monday, 22 June 2020 our office reopened. Consultations only take place by appointment (no walk-in consultations), Clinic staff is present at the office on a rotational basis, and clients who visit the Clinic must at all times adhere to its COVID-19 protocol, which includes wearing a mask and sanitising regularly. The Clinic was one of the first clinics nationally to reopen its doors to the public during COVID-19. On 2 August, Stephan van der Merwe was featured on Carte Blanche. He spoke about the importance of managing personal finances. #debtorprotection. For our tips on managing your finances, visit the Carte Blanche website.

Update on the SU Law Clinic & others/ National Credit Regulator & others

On 13 December 2019 the Western Cape High Court issued its landmark "statutory *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 appellants" Practice Note, Certificate in terms of rule 10, Chronology and Heads of Argument are due by 9 November 2020. 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.



Law Clinic staff in front of the Clinic

SU Law Clinic/Lifestyle Legal case

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, the Payment Association of South Africa (PASA) has applied to intervene as amicus curiae (friend of the court) to assist the court in the matter.

The application for certification in order to pursue class action against Lifestyle Legal and their websites was initially scheduled to be heard in the Western Cape High Court on 21 to 22 April 2020. As a result of COVID-19, the matter was unfortunately removed from the roll and set down for 5 and 6 October 2020. Regrettably, due to unforeseen circumstances outside the Clinic's control, the Registrar has informed the parties that a judge cannot be allocated to hear the matter on the dates as set down. After these two unfortunate postponements, we are pleased to report that a new hearing date for the application for certification in order to pursue class action against Lifestyle Legal and their websites, has been arranged for 27 and 28 January 2021. The application for the interventions from LegalWise and PASA will be heard along with the certification application.

Clinic's practical legal training students

During September, the Clinic's Practical Legal Training students had the privilege of attending two synchronous webinars with the esteemed Advocate Chris Marnewick, SC (author of *Litigation skills for South African Lawyers*). Addressing the students through an online platform, Marnewick offered his personal take on fact analysis, pursuing the theory of a case, and practical cross-examination techniques. Marnewick used witness statements from the infamous Oscar Pistorius trial to highlight the importance of understanding the legal basis upon which examiners build their cases, as well as using those statements to extract the one relevant detail that could sway the court's opinion in favour of their client. It was a privilege listening to an expert of his calibre speak, and we appreciate him taking the time to offer his experience and wisdom.

Senior attorney and lecturer Stephan van der Merwe delivered an online presentation at the recent University of Pretoria International Consumer Law Conference during 21 to 23 September. He discussed a pending class action case of the Clinic that is supported by Professor Theo Broodryk's ground-breaking empirical research.

Law Clinic taking the lead with eviction matters/ Regskliniek neem leiding met uitsettingsake

The Clinic is the organisation that assists the greatest number of clients in eviction matters in the Western Cape. Over the past year (from 1 October 2019 to 30 September 2020), notwithstanding the COVID-19 pandemic and the Clinic being closed to the public from 26 March 2020 to 21 June 2020, the attorney and candidate legal practitioners in the Clinic's eviction department, opened files for 95 clients with eviction-related problems. Further the Clinic finalised 121 matters of clients with eviction related problems over the past year. The eviction department is currently working on 198 pending files for clients with eviction related matters. From 1 October 2019 to 30 September 2020, the Clinic successfully finalised 26 eviction applications, either by reaching mutually acceptable settlement agreements that were made orders of court, or by successfully opposing the eviction applications in court.

As mentioned in the previous newsletter, the Clinic has also successfully assisted 36 families from farms in Stellenbosch, Paarl, Simondium and Wellington, respectively, with their relocations from the farms on which they resided. These families have all been relocated to properties that have, or will soon be, registered in the clients' names, following the Clinic's negotiations on their behalf. In these matters, financial assistance is offered to the farm occupiers by the farm owners, with the aim to enable the occupiers to relocate from the farms, and the Clinic would then be requested to assist the occupiers with advice on their rights, as well as with assistance in the negotiations with the farm owners or their attorneys. These negotiations most often result in farm occupiers receiving ownership of homes, which ultimately results in permanent security of tenure.

As a result, the Clinic not only assists clients with opposing eviction applications, providing legal advice on the Prevention of Illegal Eviction Act (PIE) and Extension of Security of Tenure Act (ESTA), threatening evictions, and applications to restore their possession of the properties on which they reside, but also with negotiations before or after court applications have been instituted.

Die Regskliniek is die instansie wat die grootste aantal kliënte in die Wes-Kaap met uitsettingskwessies bystaan. Die prokureurs en kandidaatregspraktisyne van die Kliniek se uitsettingsdepartement het die afgelope jaar (van 1 Oktober 2019 tot 30 September 2020) vir 95 kliënte lêers oopgemaak met kwessies verwant aan uitsettings – dit ondanks die COVID-19-pandemie en die feit dat die kliniek vanaf 26 Maart 2020 tot 21 Junie 2020 vir die publiek gesluit was.

Verder kon die Kliniek tydens die afgelope jaar 121 lêers vir kliënte met uitsettingskwessies finaliseer. Die departement

werk tans aan 198 aktiewe lêers van kliënte wat deur uitsettingskwessies in die gesig gestaar word. Vanaf 1 Oktober 2019 tot 30 September 2020 het die Kliniek ook 26 uitsettingsaansoeke wat in howe teen kliënte ingestel is, suksesvol afgehandel, of deur wedersyds aanvaarbare skikkings-ooreenkomste wat as hofbevele bekragtig is, of deur die suksesvolle opponering van uitsettingsaansoeke wat deur howe van die hand gewys is.

Soos in die vorige nuusbrieff genoem, het

die Kliniek ook 36 gesinne van plase in Stellenbosch, Paarl, Simondium en Wellington, onderskeidelik, suksesvol bygestaan met hul hervestiging vanaf die plase waarop hulle gewoon het. Nadat die Kliniek die onderhandelinge namens hierdie gesinne behartig het, het die gesinne almal verhuis na eiendomme wat nou op hul name geregistreer is of binnekort so geregistreer sal word. In hierdie hervestigingsonderhandelinge waarmee die Kliniek bystand verleen, bied die plaaseienaars finansiële steun aan die plaasokkupeerders, om hulle in staat te stel om die wonings op die plaas te ontruim. Die Kliniek word dan versoek om dié mense oor hul regte te adviseer en hulle by te staan met onderhandelinge met die plaaseienaars of hul prokureurs. Hierdie proses van onderhandelinge lei dan gewoonlik daartoe dat plaasokkupeerders eienaarskap van hulle eie wonings ontvang, wat lei tot permanente verblyfsekerheid vir die okkupeerders.

Die Kliniek help dus nie net kliënte om uitsettingsaansoeke te opponeer, of om kliënte te adviseer oor PIE- en ESTA-wetgewing, dreigende uitsettings en aansoeke om kliënte se besit van die eiendom waarop hulle woon, te herstel nie, maar ook met onderhandelinge voor of ná enige hofaansoeke ingestel word.

The eviction department is currently working on 198 pending files...

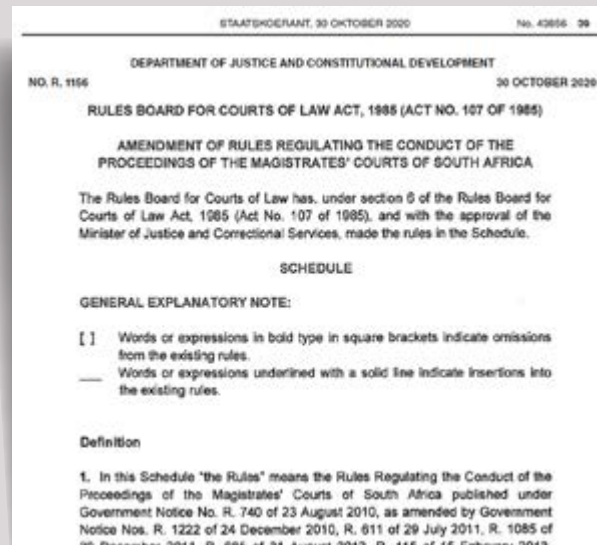
Law Clinic pioneering empirical research on Clinical Legal Education in its latest accredited journal publication

The Clinic is ending the year on another high note with the publication of Stephan van der Merwe's much anticipated article

"Towards Designing a Validated Framework for Improved Clinical Legal Education: Empirical Research on Student and Alumni Feedback". The article details groundbreaking research on the impact of clinical education on law students, and has been the culmination of two decades of teaching at the Clinic.

Law Clinic continues fight for consumer protection and debt justice

In the Clinic's senior attorney Stephan van der Merwe's *South African Law Journal* (2019) publication entitled "Too simple for National Credit Act matters: Reconsidering the scope of Magistrates' Courts rule 5(2)(b)", he argued for an amendment to the Rules of the Magistrates' Courts to encourage more transparency in litigation based on the National Credit Act. The content of this article was echoed by the Clinic in our relevant submissions to the Rules Board. We are pleased that the Rules Board recently published amendments to the rules in accordance with these suggestions, to come into operation on 1 December 2020. We view this development as another important step in the efforts to increase consumer protection and debt justice.



Amendment of rules regulating the conduct of the proceedings of the magistrates' courts of South Africa

Legal writing project/ Regsskryfprojek

In line with the precautionary measures taken by SU's Law Faculty in response to COVID-19, all in-person writing consultations with the writing consultants are being discontinued and available online via Skype/Zoom or MS Teams for 2020. Although the consultants had to overcome many obstacles this year, we were encouraged and inspired by the support of our colleagues, as well as our students' commitment and enthusiasm in relation to their academic responsibilities. To assist students during unprecedented and difficult times has been a challenge, but definitely also a privilege.

We are also very proud to announce that our Legal writing development online short course will be launched in 2021. Please keep the course in mind for any legal practitioners that require a refresher course for their legal writing or needs to improve their writing.

In ooreenstemming met die voorsorgmaatreëls wat die US se Fakulteit Regsgeleerdheid tref, is alle geskeduleerde gesig-tot-gesig skryfkonsultasies met die skryfkonsultante opgeskort en aanlyn beskikbaar, via Skype/Zoom of MSTeams, vir 2020. Alhoewel die konsultante hierdie jaar baie struikel-blokke moes oorkom, is ons aangemoedig en geïnspireer deur die ondersteuning van ons kollegas, sowel as ons studente se toewyding en entoesiasme ten opsigte van hul akademiese ver-

antwoordelikhede. Om studente by te staan tydens ongekende en moeilike tye was 'n uitdaging, maar beslis ook 'n voorreg.

Ons is ook baie trots om aan te kondig dat ons aanlyn kortkursus vir Regsskryfontwikkeling (Legal writing development) in 2021 van stapel gestuur sal word. Hou die kursus in gedagte vir regspraktisyne wat 'n opknappingskursus benodig vir hul regsskryfvaardighede en/of algemene skryfvaardighede.

Financial literacy project

Since COVID-19 and the start of lockdown in March, we asked the students to change their in-person presentations to a digital PowerPoint presentation, video and/or podcast. We divided the theme of financial literacy in 6 subthemes: Wants and needs, National Credit Act, Consumer Protection Act, Budgeting, Financial planning, and General spending tips. Their presentations were translated and both Afrikaans and English videos were sent to 11 schools and 21 farms in the surrounding area. Accordingly, the students shared their knowledge, and the project reached its objective.

The Clinic will close to the public on 11 December 2020 and will reopen on 7 January 2021.



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Contact us
www.sun.ac.za/law
Telephone: 00-27-21 808 4853

Visit us
Ou Hoofgebou/Old Main Building
Cnr of Victoria & Ryneveld Street
Stellenbosch