

Law

3

DST/NRF
SARChI
Chairs

Accredited
journal units

72

R30.42m

Income raised
by contracts

Increase of
more than
2x
since 2013

2013
R11 310 000
47 contracts

NRF ratings

18

1

A rated

Internal AWARDS

Prof Hanri Mostert won the UCT Meritorious Book Award for *Mineral Law: principles and policy in perspective*.

External AWARDS

Prof Hugh Corder directed a project on the appointment of judges in six Commonwealth countries, funded by the Claude Leon Foundation. Outputs include a book and guidelines for judicial appointments.

The DST/NRF SARChI Chair: Mineral Law in Africa was awarded to **Prof Hanri Mostert**.

The DST/NRF SARChI Chair in Customary Law, Indigenous Values and Human Rights, held by **Prof Chuma Himonga**, was renewed. Prof Himonga also published *Reform of Customary Marriage, Divorce and Succession in South Africa: living customary law and social realities*.

The Democratic Governance Research Unit received support from the Norwegian embassy for a project on Women Pioneers in Law.

The Centre for Law and Society (CLS) received a substantial grant from the Constitutionalism Fund to support research and dialogue on critical issues in South African law and society.

The IP Unit secured a follow-up grant of R14 million for the next three-year phase of their Open AIR project.

HIGHLIGHTS from June 2015 to June 2016

Prof Dee Smythe was appointed director of research.

The new phase of the Open African Innovation Research (**Open AIR**) project commenced in 2015. It seeks to solve a problem at the heart of innovation policy and practice: how to reconcile tensions between knowledge appropriation and access, between excluding and sharing, and between competing and collaboration. In doing so, the project helps in addressing some of the most significant innovation challenges: to promote population health, environmental sustainability, universal education, cultural participation, food security, poverty alleviation and economic growth.

The Centre of Criminology has been involved in the police-led process of implementing the Khayelitsha Commission of Inquiry recommendations.

The Tax Institute for Fiscal Research was established, a result of collaboration between the faculties of law and commerce, in cooperation with the International Bureau of Fiscal Documentation. The institute's aim is to be Africa's leading academic research institute in fiscal matters.

The Rural Women's Action Research Unit, formerly part of the Centre for Law and Society, and now reconstituted as the Land and Accountability Research Centre (LARC), has received a range of grants to support work on rural democracy and governance, including from the Raith Foundation, Claude Leon and Ford, and the Tshemba Foundation. Renewed grants were welcomed from the Millenium Trust, HBS and the Open Society Foundation, in respect of supporting strategic litigation.

The Ford Foundation is supporting **Dr Kelley Moul**'s work in nine countries on forced and child marriage.

Prof Pierre de Vos, faculty SR representative, received a R30 000 grant from the Academic and Non-Fiction Authors' Association of South Africa (ANFASA) for an ongoing project on autobiography and the Constitution.

Assoc Prof Alistair Price edited *A Transformative Justice: essays in honour of Pius Langa* with Advocate Michael Bishop.

Prof Dee Smythe published *Rape Unresolved: policing sexual offences in South Africa*.

The Institute for Development and Labour Law published *Laws Against Strikes: the South African experience in an international and comparative perspective*, edited by **Prof Rochelle Le Roux** with Sir Bob Hepple and Prof Silvana Sciarra.

Ms Lee-Ann Tong and **Prof Caroline Ncube** edited the third issue of the *SA Intellectual Property Journal*.

Dr Hannah Woolaver was awarded a research grant of \$250,000 AUD from the Australian Research Council for a three-year research project in collaboration with Assoc Prof Sarah Williams of the Faculty of Law, University of New South Wales. The project, 'Evaluating Civil Society Participation before International Criminal Tribunals', provides the first comprehensive assessment of the methods by which civil society actors seek to intervene in international criminal tribunals and the influence of those interventions on legal outcomes, including the question of whether those interventions reflect the range of civil society interests in international criminal justice, or are limited to 'Western' perspectives.

DST/NRF SARCHI Chair in Justice and Security **Prof Mark Shaw** published the book *A Citizen's Guide to Crime Trends* with **Anine Kriegler**.

The Centre for Criminology completed a major study for the United Nations on international illicit flows and urban security.

POSTGRADUATES (end-2015)

157 Master's students

95 Master's graduates

75 PhD students

11 PhD graduates

1 POSTDOC
(end-2015)

DOCTORAL GRADUATIONS

Source: Doctoral Degrees Board

O. AKINYEYE (COMMERCIAL LAW)

Are there any justifications for exempting a harbour pilot and port authority from liability and making the shipowner and master of a ship under compulsory pilotage vicariously liable for the actionable wrongs of the pilot, and if any, are they defensible?

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

T. ANDZENGE (PUBLIC LAW)

Legal issues in the contextual diffusion of independent regulatory agencies in Nigeria
Supervised by Professor H. Corder

O.A. BADEJOGBIN (CRIMINAL JUSTICE)

Sentencing reforms in a postcolonial society. A call for the rationalization of sentencing discretion in Nigeria, drawing on South Africa and England
Supervised by Professor W. De Vos and Ms K. Phelps

J. BERG (CRIMINOLOGY)

Polycentric security governance: legitimacy, accountability, and the public interest
Supervised by Professor C. Shearing

M.C. DU PLESSIS (PUBLIC LAW)

Access to work for disabled persons in South Africa: the intersections of social understandings of disability, substantive equality and access to social security
Supervised by Professor A. Rycroft

E. GUMBOH (CRIMINAL JUSTICE)

A critical analysis of the impact of the bill of rights on punishment in Malawi
Supervised by Professor D. Chirwa

T.P. HERBSTEIN (CRIMINOLOGY)

Insurance and the Anthropocene: like a frog in hot water
Supervised by Emeritus Professor C. Shearing

K. IDENSOHN (COMMERCIAL LAW)

The basis and boundaries of employee fiduciary duties in South African common law
Supervised by Professor A. Rycroft

T.E. KADIRI (PUBLIC LAW)

Regulating land based sources and activities causing pollution of the coastal and marine environment in South Africa, Kenya and Nigeria

within the context of integrated coastal zone management

Supervised by Professor J. Glazewski

T.H. MONGALO (COMMERCIAL LAW)

Corporate actions and the empowerment of non-shareholder constituencies
Supervised by Professor J.D. Davis

I. OKUKPON (PUBLIC LAW)

Towards the sustainable management of electronic waste in Nigeria: South Africa as a model
Supervised by Professor L. Feris

M.T. SHALE (CRIMINAL JUSTICE)

Resilience and risk in the informal economy: a study in the regulation of flooding
Supervised by Emeritus Professor C. Shearing and Professor T.A. Börzel (external)

S. TIMM (CRIMINOLOGY)

Modalities of regulation in the informal economy: a study of waste collectors in Cape Town
Supervised by Emeritus Professor C. Shearing

M.R. TURAMWISHIMIYE (PUBLIC LAW)

Reconciling biodiversity conservation and agricultural development in the context of international and domestic law in Rwanda
Supervised by Professor J. Glazewski

H.M. VAN DEN BERG (PRIVATE LAW)

Regulation of the upstream petroleum industry. A comparative analysis and evaluation of the regulatory frameworks of South Africa and Namibia
Supervised by Professor H. Mostert

Department of Commercial Law

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

Research Report 2015

Head of Department: Associate Professor Caroline Ncube

Departmental Profile

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

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

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

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

Departmental Statistics

Permanent and Long-Term Contract Staff

Professors	6
Associate Professors	5
Senior Lecturers	8
Lecturers	9
Teaching and Research Assistants	2
Administrative staff	4
Total	34

Emeritus, Adjunct and Honorary Staff

Emeritus Professors	3
Emeritus Associate Professor	1
Adjunct Staff	4
Honorary Research Associate	1
Total	9

Students

Other Faculties	2 595
PG Dips	41
LLM (by dissertation)	1
LLM Professional	98
LLM (by coursework & dissertation)	91
MPhil (by dissertation)	10
MPhil (by coursework and dissertation)	12
PhD	24
LLB	665
Occasional (Law) UG	4
Occasional (Law) PG	161
Semester Study Abroad	19
International Affiliate	2
Law Exchange Programme	10
Total	3 733

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

Research Fields and Staff

Associate Professor and Head of Department

ASSOCIATE PROFESSOR C. NCUBE

Business Law; Company Law; Intellectual Property Law

Professors

PROFESSOR E.R. KALULA

International Comparative Labour Law; Labour Market Regulation; Social Security

PROFESSOR R. LE ROUX

Labour Law, Sport Law

PROFESSOR S. MANCUSO

Comparative Law

PROFESSOR A. RYCROFT

Labour Law; Dispute Resolution

PROFESSOR D. UNTERHALTER (PART-TIME)

Competition Law

PROFESSOR R.C. WILLIAMS (PART-TIME)

Revenue Law; Company Law

Emeritus Professors

EMERITUS PROFESSOR R.D JOOSTE

Revenue Law, Company Law

EMERITUS PROFESSOR JE HARE

Shipping Law

EMERITUS PROFESSOR J. KINDERLERER

Biotechnology and IPL

Associate Professors

ASSOCIATE PROFESSOR G. BRADFIELD

Shipping Law, International Trade

ASSOCIATE PROFESSOR D. COLLIER

Labour Law; Electronic Law; Intellectual Property Law

ASSOCIATE PROFESSOR T.L. GUTUZA

Revenue Law; Capital Transfer and International Tax Law

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

Revenue Law

Emeritus Associate Professor

EMERITUS ASSOCIATE PROFESSOR J.

HOFMAN

Honorary Research Associate

DR T. KRUGER

International Trade Law

Adjunct Staff

Ms A. Bosman

Mr N. Jeram

Dr T. Madima

Mr E. Swanepoel

Senior Lecturers

DR E. FERGUS

Labour Law; Business Law

MS J. FRANCO

Business Law

DR A. HUTCHISON

Business Law

DR K. IDENSOHN

Company Law

MS K. LEHMANN

Business Law; Global Economic Law; International Economic Law

MR M. NKOMO

Business Law; Intellectual Property Law

MS L.-A. TONG

Intellectual Property Law

MS J. YEATS

Business Law; Company Law

Lecturers

MR K BASSUDAY

Business Law

MR R. BRADSTREET

Company Law; Business Law, Intellectual Property Law

MS. S. BUTHELEZI

Business Law

MS L. NAIDOO

Business Law; Shipping Law

MS S. SINGLEE

Business Law; Labour Law

MS H. STOOP

Business Law; Company Law

MS A.L. TITUS

Business Law; Revenue Law

MR T. THABANE

Business Law, Company Law

MR J. LEACH

Business Law, Compliance Management

Teaching and Research Assistants

Mr K.C. Chisanga

Ms K. Timoney

Administrators**MR C. ELISSAC**

Administrative Officer

LLB and Postgraduate Courses

MR M. MBEBE

Administrative Assistant

All Commerce Courses

MS F. KHAN

Administrative Assistant

Labour and Development Law

MS P. DHLAMINI

Centre for Comparative Law in Africa

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Institute of Development and Labour Law

Director: Professor R. le Roux

Institute Profile

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

Research Fields and Staff**Professors****PROFESSOR E.R. KALULA**

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

PROFESSOR R. LE ROUX

Labour Law

PROFESSOR P. BENJAMIN

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

ASSOCIATE PROFESSOR D. COLLIER

Labour Market Regulation, Inequality, Intellectual Property and Development

Adjunct Professors**PROFESSOR C. THOMPSON**

Collective Bargaining; International Labour Law

DR T. MADIMA

Collective Bargaining

MR C. NUPEN

Dispute Resolution; Social Dialogue

MS T. ORLEYN

Dispute Resolution

MR N. JERAM

Social Security

Administrative Staff

Ms F. Khan

Researchers

MR S. GODFREY

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

MR J. THERON

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

MS M. VISSER

Researcher

Honorary Research Associate

PROFESSOR N. RUBIN

International Labour Standards; Law and
Development

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Centre for Comparative Law in Africa

Chair: Professor S. Mancuso

**Director: Associate Professor A.
Order**

Centre profile

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

Administrator

Ms P. Dhlamini

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Shipping Law Unit

Head: Associate Professor G. Bradfield

Unit Profile

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

Visiting Teacher

R. Knutzen

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Intellectual Property Unit

Director: Dr T. Schönwetter

Unit profile

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

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RESEARCH OUTPUT

Authored books

Jooste, R.D. 2015. Estate Planning, Loose-leaf annual updates. Durban: Butterworths. ISBN 409072494.

Jooste, R.D. 2015. Tax Alert – Online Series. Durban: LexisNexis. ISBN 9780409070354.

Edited books

Hattingh, J., Roeleveld, J.J. and West, C. (eds) 2015. Income Tax in South Africa: The First 100 Years 1914-2014, 488pp. Claremont, Cape Town, South Africa: Juta & Company Ltd. ISBN 9781485107798.

Hepple, B., le Roux, R. and Sciarra, S. (eds) 2015. Laws Against Strikes. The South African Experience in an International and Comparative Perspective, 207pp. Italy: Franco Angeli. ISBN 9788891713537.

Chapters in books

Cohen, T. and le Roux, R. 2015. Liability, sanctions and other consequences of strike action. In B. Hepple, R. Le Roux and S. Sciarra (eds), Laws Against Strikes. The South African Experience in an International and Comparative Perspective, pp.145-158. Italy: Franco Angeli. ISBN 9788891713537.

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Godfrey, S.D. and Giles, G. 2015. Minimum conditions of employment. In M. Guy (ed), *Labour Relations Law. A Comprehensive Guide*, pp. 583-650. 6th edition. South Africa: LexisNexis. ISBN 9780409048360.

Godfrey, S.D. 2015. Labour relations law in context. In M. Guy (eds), *Labour Relations Law. A Comprehensive Guide*, pp. 3-70. 6th edition. South Africa: LexisNexis. ISBN 9780409048360.

Hattingh, J. 2015. South Africa. In Y. Brauner and P. Pistone (eds), *BRICS and the Emergence of International Tax Coordination*, pp. 231-270. The Netherlands: IBFD. ISBN 9789087223045.

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Jeram, N. 2015. Disposition of lump sum benefits in terms of section 37C: an analysis of the case law. In G.L. Marx and K. Hanekom (eds), *The Manual on South African Retirement Funds and Other Employee Benefits*, pp. 199-290. Durban, South Africa: LexisNexis Butterworths. ISBN 9780409078572.

Jeram, N. 2015. Spouse's and child's pensions – an examination of the key requirements. In G.L. Marx and K. Hanekom (eds), *The Manual on South African Retirement Funds and Other Employee Benefits*, pp. 291-312. Durban, South Africa: LexisNexis Butterworths. ISBN 9780409023350.

Lermer, D., Hattingh, J. and De Bruyn, C. 2015. South Africa. In E. Reimer, S. Schmid and M. Orell (eds), *Permanent Establishments. A Domestic Taxation, Bilateral Tax Treaty and OECD Perspective*, pp. 3-44. 4th edition. The Netherlands: Wolters Kluwer Law International. ISBN 9789041159496.

Ncube, C.B. 2015. Fair is as fair does: contractual normative regulation of copyright user contracts in South Africa. In G.B. Dinwoodie (ed), *Intellectual Property and General Legal Principles. Is IP a Lex Specialis?*, pp. 49-68. UK: Edward Elgar Publishing. ISBN 9781784714949.

Ncube, C.B. 2015. Intellectual property protection of traditional knowledge and access to knowledge in South Africa. In M. Rimmer (ed), *Indigenous Intellectual Property. A Handbook of Contemporary Research*, pp. 543-564. UK: Edward Elgar Publishing. ISBN 9781781955895.

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Rycroft, A. 2015. The role of trade unions in strikes. In B. Hepple, R. Le Roux and S. Sciarra (eds), *Laws Against Strikes. The South African Experience in an International and Comparative Perspective*, pp. 109-125. Italy: Franco Angeli. ISBN 9788891713537.

Articles in peer-reviewed journals

Armstrong, C. and Schonwetter, T. 2015. Current African intersections between intellectual property rights and knowledge access. *African Journal of Information and Communication*, 1(16): 3-15

Bassuday, K. and Rycroft, A. 2015. Incapacity or disability? The implications for jurisdiction. *Industrial Law Journal*, 36: 2516-2521.

Bradstreet, R. 2015. Implications of the re-enacted discretionary power to grant judicial relief to directors in section 77(9) of the Companies Act 2008. *SA Mercantile Law*, 27(1): 145-152.

Bradstreet, R. 2015. Should creditors rely on the solvency and liquidity threshold for protection? A South African case study. *Journal of African Law*, 59(1): 121-149.

Brickhill, J., Corder, H.M., Davis, D. and Marcus, G. 2015. The administration of justice. *Annual Survey of South African Law*, 1(2013): 1-60.

Buthelezi, S. 2015. Human trafficking and the new legal framework in South Africa: intervention needed for the law to reach vulnerable girls and women. *Agenda*, 29(3): 155-164.

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- Hattingh, J. 2015. AB LLC and another v commissioner of the South African Revenue Services. *International Tax Law Reports*, 17(6): 911-955.
- Hattingh, J. 2015. Krok and another v commissioner for the South African revenue services. *International Tax Law Reports*, 18(1): 42-74.
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- Jooste, R.D. 2015. Barter transactions. *Tax Planning*, 29(2015): 116.
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- le Roux, R. 2015. Benefits: have we found the way out of the labyrinth? *Industrial Law Journal*, 36: 888-899.
- le Roux, R. 2015. La Greve: entre protection et defiance du juge: le principe de la majorite est-il toujours applique en Afrique du Sud? *La Revue de Droit Compare du Travail et de la Securite Sociale*, 1(2015): 97-114.
- Munyi, M. and De Jonge, B. 2015. Farmers and breeders rights: bridging access to, and IP protection of, plant varieties in Africa. *African Journal of Information and Communication*, 1(16): 16-25.
- Munyi, M. and De Jonge, B. 2015. Seed systems support in Kenya: consideration for an integrated seed sector development approach. *Journal of Sustainable Development*, 8(2): 161-173.
- Naidoo, L. 2015. Revisiting the South African (marine) insurance warranty against the English insurance act of 2015 and the Nordic marine insurance plan of 2013: *Viking Inshore Fishing (PTY) LTD v Mutual & Federal Insurance Company Limited*. *SA Mercantile Law*, 27(3): 560-576.
- Naidoo, L. 2015. The Nairobi international convention on the removal of wrecks, 2007: sinking or salvaging South Africa's wreck-removal legislation? *South African Law Journal*, 132(4): 849-874.
- Ncube, C.B. 2015. Location is everything, on and offline: the Fairhaven domain name dispute. *Journal of Intellectual Property Law and Practice*, 10(11): 817-818.
- Ncube, C.B. 2015. The politics of national intellectual property policy design and the provision of health services in South Africa. *South African Intellectual Property Law Journal (IPLJ)*, 3(2015): 15-39.
- Nkomo, M. 2015. The trade related aspects of intellectual property rights (TRIPS) - Pharmaceuticals transitional period: can it help build capacity in African least developed countries (LDCs)? *International Journal of African Renaissance Studies*, 10(2): 48-68.
- Ordor, A.O. 2015. Tracking the law and development continuum through multiple intersections. *The Law and Development Review*, 1(2015): 1-28.
- Price, A.M. and Hutchison, A.J. 2015. Judicial review of exercises of contractual power: South Africa's divergence from the common law tradition. *Rabels Zeitschrift fuer Auslaendisches und Internationales Privatrecht*, 79(4): 822-851.
- Rens, A. and Pfumrodze, J. 2015. Neglect of the human rights dimension in African IP policymaking. *African Journal of Information and Communication*, 1(16): 82-87.
- Rycroft, A. 2015. Employer and employee obligations with regard to alternatives to retrenchment. *Industrial Law Journal*, 36: 1775-1781.
- Rycroft, A. 2015. Inherent requirements of the job. *Industrial Law Journal*, 36: 900-906.
- Rycroft, A. 2015. Strikes and the amendments to the LRA. *Industrial Law Journal*, 36: 1-20.
- Theron, J.P., Godfrey, S.D. and Fergus, E. 2015. Organisational and collective bargaining rights through the lens of Marikana. *Industrial Law Journal*, 36: 849-869.
- Tong, L. 2015. Employee-made intellectual property: statutory considerations for the contractual regulation of ownership. *Industrial Law Journal*, 36: 870-887.
- Willmers, M., van Schalkwyk, R.F. and Schonwetter, T. 2015. Licensing open data in developing countries: the case of the Kenyan and City of Cape Town open data initiatives. *African Journal of Information and Communication*, 1(16): 26-37.

Department of Private Law

Research report 2015

Head of Department: Professor Anton Fagan

Departmental Profile

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

Departmental Statistics

Permanent and Long-Term Contract Staff

Professors	7
Associate Professors	5
Lecturers	2
Admin and Clerical Staff	2
Total	16

Emeritus and Honorary Staff

Emeritus Professors	2
Honorary Research Associates	4
Total	6

Students

LLB	668
Masters	30
PhD	22
Total	720

Research Fields and Staff

Professor and Head of Department

PROFESSOR H. SCOTT

Unjustified Enrichment; Law of Delict; Legal History

Professors

PROFESSOR A. FAGAN

Law of Delict; Jurisprudence; Constitutional Theory

PROFESSOR A.J. BARNARD-NAUDÉ

Jurisprudence; Legal Theory

PROFESSOR T. NAUDE

Law of Contract; Consumer Protection

PROFESSOR C. HIMONGA

African Customary Law

PROFESSOR D.B. HUTCHISON

Law of Contract; Law of Delict

PROFESSOR H. MOSTERT

Law of Property; Land Law; Mineral and Petroleum Law

Emeritus Professors

EMERITUS PROFESSOR W. DE VOS

Unjustified Enrichment; Legal History

EMERITUS PROFESSOR I. LEEMAN

Copyright Law

Honorary Research Associates

PROFESSOR F. DU BOIS

University of Leicester, England
Law of Delict; Legal Theory

ASSOCIATE PROFESSOR M. HEWETT

South African and European Legal History

PROFESSOR D. MEYERSON

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

JUSTICE B. VAN HEERDEN

Judge of Appeal, Supreme Court of Appeal

Distinguished visitors

PROFESSOR R. EVANS-JONES

University of Aberdeen, Scotland
Unjustified Enrichment; Legal History

Associate Professors

ASSOCIATE PROFESSOR M. PALEKER

Law of Succession; Civil Procedure

ASSOCIATE PROFESSOR A. POPE

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

ASSOCIATE PROFESSOR A. BARRATT

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

ASSOCIATE PROFESSOR L. GREENBAUM

Legal Education; Legal Writing.

ASSOCIATE PROFESSOR A. PRICE

Law of Delict; Jurisprudence

Lecturers

MS F. OSMAN

Law of Succession; African Customary Law

MR J. JONKER

Legal theory

Contract Staff

MS F. DIALLO

Research Co-ordinator

MS S. FICK

Lecturer

MS J. WILKE

Lecturer

Administrators

MRS. N. CAMPBELL

Administrative Officer
LLB Intermediate/Final Year

MRS. F. MOHAMED

Senior Secretary
LLB Preliminary Undergraduate/Postgraduate/LLM
Courses

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RESEARCH OUTPUT

Authored books

Hellenberg, D.A., Corder, H.M., de Vos, P., Schwikkard, P.J. and Pope, A. 2015. World Justice Project: Rule of Law Index 2015. 188pp. USA: World Justice Project. ISBN 9780988284692.

Himonga, C. and Moore, E. 2015. Reform of Customary Marriage, Divorce and Succession in South Africa. Living Customary Law and Social Realities. 392pp. South Africa: Juta. ISBN 9781485107293.

Edited books

Hepple, B., le Roux, R. and Sciarra, S. (eds) 2015. Laws Against Strikes. The South African Experience in an International and Comparative Perspective. 221pp. Italy: Franco Angeli. ISBN 9788891713537.

Hoops, B., Marais, E.J., Mostert, H., Sluysman, J.A.M.A. and Verstappen, L. (eds) 2015. Rethinking Expropriation Law 1. Public Interest in Expropriation. 410pp. The Netherlands: Eleven International Publishing. ISBN 9789462366312.

Hoops, B., Marais, E.J., Mostert, H., Sluysman, J.A.M.A. and Verstappen, L. (eds) 2015. Rethinking Expropriation Law 2. Context, Criteria and Consequences of Expropriation. 398pp. The Netherlands: Eleven International Publishing. ISBN 9789462366329.

Price, A.M. and Bishop, M. (eds) 2015. A Transformative Justice. Essays in Honour of Pius Langa. 494pp. Claremont, Cape Town, RSA: Juta & Company Ltd. ISBN 97814855108764.

Chapters in books

Barnard-Naude, A.J. 2015. 'I am the first accused': seven reflections (and a postscript) on Derrida's Mandela. In A. Allo (ed), The Courtroom as a Space of Resistance Reflections on the Legacy of the Rivonia Trial, pp. 171-188. England: Ashgate Publishing. ISBN 9781472444608.

Du Bois, F.G. 2015. Contractual obligation and the journey from natural law to constitutional law. In A. Price and M. Bishop (eds), A Transformative Justice. Essays in Honour of Pius Langa, pp. 281-312. Claremont, Cape Town, RSA: Juta & Company Ltd. ISBN 97814855108764.

Hepple, B., le Roux, R. and Sciarra, S. 2015. Introduction. In B. Hepple, R. Le Roux and S. Sciarra (eds), Laws Against Strikes. The South African Experience in an International and Comparative Perspective, pp. 15-

26. Italy: Franco Angeli. ISBN 9788891713537.

Mostert, H. 2015. Sudafrika. In G. Ring, H. Grziwotz and A. Keukenschrijver (eds), *Nomos Kommentar. BGB Sachenrecht. Band 3*, pp. 2499-2520. 4th edition. Germany: Nomos. ISBN 9783848711031.

Mostert, H. 2015. No right to neglect? Exploratory observations on how policy choices challenge the basic principles of property. In S. Scott and J. Van Wyk (eds), *Property Law Under Scrutiny*, pp. 11-30. Claremont, South Africa: Juta. ISBN 9781485107484.

Mostert, H. 2015. The poverty of precedent on public purpose/interest: an analysis of pre-constitutional and post-apartheid jurisprudence in South Africa. In B. Hoops, E.J. Marais, H. Mostert, J. Sluysmans and L.C.A. Verstappen (eds), *Rethinking Expropriation Law 1. Public Interest in Expropriation*, pp. 59-92. The Netherlands: Eleven International Publishing. ISBN 9789462366312.

Price, A.M. 2015. State liability and accountability. In A. Price and M. Bishop (eds), *A Transformative Justice. Essays in Honour of Pius Langa*, 313-335. Claremont, Cape Town, RSA: Juta & Company Ltd. ISBN 97814855108764.

Articles in peer-reviewed journals

Andrews, P. 2015. Justice, reconciliation, and the masculinist way: what role for women in truth and reconciliation commissions? *New York Law School Law Review*, 60(1): 199-224.

Badejogbin, R. 2015. Interplay of the customary law of testacy and statutory regulation of intestacy with respect to the transfer of customary law rights in land in South Africa. *SADC Law Journal / Southern African Development Community Law Journal*, 4(1)2014/2015: 10-25.

Barnard-Naude, A.J. 2015. For a politics of presupposed equality: the struggle for sexual minority freedom in Africa. *Agenda*, 29(1): 85-95.

Barratt, A. 2015. Private contract or automatic court discretion? Current trends in legal regulation of permanent life-partnerships. *Stellenbosch Law Review*, 26(1): 110-131.

Barratt, A. 2015. South African courts abolish the delictual claim based on adultery – *rh v de* in the supreme court of appeal and the constitutional court. *International Family Law Journal*, 1(3)2015: 224-229.

Cramer, R. and Mostert, H. 2015. 'Home' and unlawful occupation: the horns of local government's dilemma: *Fischer and another v persons unknown* 2014 3 SA 291(WCC). *Stellenbosch Law Review*, 26(3): 583-611.

Du Bois, F.G. 2015. Contractual obligation and the journey from natural law to constitutional law. *Acta Juridica*, 1(2015): 281-312.

Fagan, A. 2015. Causation in the constitutional court: *Lee v Minister of correctional services*. *Constitutional court review*, 5(2015): 104-134.

Fick, S.J. 2015. Obtaining alternative accommodation through family: [Discussion of *Omar NO v Omar* [2011] ZAWCHC 415]. *Stellenbosch Law Review*, 26(3): 678-690.

Fick, S.J. and Van Der Merwe, P. 2015. *RAF v Sweatman* (162/2004)[2015] ZASCA 22 (20 March 2015) a simple illustration of the SCA's statutory misinterpretation of section 17(4)(C) of the Road Accident Fund Act 56 of 1998. *Potchefstroom Electronic Law Journal*, 18(7): 2804-2828.

Hoops, B., Saville, J. and Mostert, H. 2015. Expropriation and the endurance of Public purpose. Comparative observations on the effects of a subsequent change in the purpose for which expropriation was undertaken for South African law. *European Property Law Journal*, 4(2): 1-36.

Kakooza, A.Z. and Dennison, B. 2015. Implementation of a revised curriculum at Uganda Christian University. *Journal of Commonwealth Law and Legal Education*, 10(1): 1-14.

London, L., Himonga, C., Fick, N. and Stuttaford, M. 2015. Social solidarity and the right to health: essential elements for people-centred health systems. *Health Policy and Planning*, 30: 938-945.

Marais, E.J. 2015. When does state interference with property (now) amount to expropriation? An analysis of the Agri SA Court's state acquisition requirement (part 1). *Potchefstroom Electronic Law Journal*, 18(1): 2983-3031.

Marais, E.J. 2015. When does state interference with property (now) amount to expropriation? An analysis of the Agri SA Court's state acquisition requirement (part 2). *Potchefstroom Electronic Law Journal*, 18(1): 3033-3069.

Meyerson, D. 2015. Is there a right to access innovative surgery? *Bioethics*, 29(5): 342-352.

Meyerson, D. 2015. The moral justification for the right to make full answer and defence. *Oxford Journal of Legal Studies*, 35(2): 237-265.

Meyerson, D. 2015. Why should justice be seen to be done? *Criminal Justice Ethics*, 34(1): 64-86.

Mostert, H. 2014. The thing called mineral right re-examining the nature, content and scope of a rather confounding concept in South African law. *Recht in Afrika*, 1(2014): 28-51.

Naude, T. and Koep, C. 2015. Factors relevant to the assessment of the unfairness or unreasonableness of contract terms: some guidance from the German law on standard contract terms. Stellenbosch Law Review, 26(1): 85-109.

Price, A.M. 2014. The contract/delict interface in the constitutional court. Stellenbosch Law Review, 25(3): 501-510.

Price, A.M. 2015. State liability and accountability. Acta Juridica, 1(2015): 313-335.

Price, A.M. and Hutchison, A.J. 2015. Judicial review of exercises of contractual power: South Africa's divergence from the common law tradition. *Rebels Zeitschrift fuer Auslaendisches und Internationales Privatrecht*, 79(4): 822-851.

Quinot, G. and Greenbaum, L. 2015. The contours of pedagogy of law in South Africa. Stellenbosch Law Review, 26(1): 29-62.

Scott, H. 2015. South Africa. *Restitution Law Review*, 23(2015): 255-260.

Scott, H. 2015. Unjustified enrichment. *Annual Survey of South African Law*, 1(2013): 1182-1198.

Van Niekerk, H. 2015. Unlocking mineral-tenure security: the application procedures under the mineral and petroleum resources development Act 28 of 2002. *Obiter*, 36: 387-402.

Department of Public Law

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

Research report 2015

Head of Department: Professor Elrena van der Spuy

Departmental Profile

The Department of Public Law now has 9 NRF rated researchers and continues to produce high level research in various areas, including constitutional law and human rights, international law, environmental law, refugee law, criminal law, criminal procedure and evidence, land rights, crime, safety and policing. During the course of 2015, members of the Department were involved in the production of various publications including monographs, book chapters, journal articles and research reports.

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

Departmental Statistics

Permanent and Long-Term Contract Staff

Professors	13
Associate Professors	2
Senior lecturers	5
Lecturers	4
Contract Staff	1
Administrative Staff	3
Teaching Assistants	4
Total	32

Emeritus and Honorary Staff

Emeritus Professors	5
Research Associates	8
Honorary Professors	2
Total	15

Students

LLB	665
LLM – Coursework and Minor Dissertation	66
LLM (by dissertation)	9
MPhil – Coursework and Minor Dissertation	48
Postgraduate Diploma	14
Doctor of Philosophy	53
Semester Study Abroad	19
Total	874

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

Research Fields and Staff

Professor, Chair of Criminology and Head of Department

PROFESSOR E. VAN DER SPUY

Policing (public); Police Reform; History of criminal justice reform

Professors

PROFESSOR D. CHIRWA

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

PROFESSOR H.M. CORDER

Administrative Law; the Judicial Process

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

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

PROFESSOR L.A. FERIS

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

PROFESSOR J.I. GLAZEWSKI

Environmental Law; Energy Law, Antarctic, Marine Pollution Law

PROFESSOR R. MANJOO

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

PROFESSOR C.M. MURRAY

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

PROFESSOR A.R. PATERSON

Environmental Law; Biodiversity; Protected Areas; Environmental Fiscal Reform

PROFESSOR P.J. SCHWIKKARD

Evidence, Criminal Procedure

PROFESSOR M. SHAW

Organised crime, security, policing

PROFESSOR C. SHEARING

Governance of physical and environmental security

PROFESSOR D. SMYTHE

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

Associate Professors

ASSOCIATE PROFESSOR W. AMIEN

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

ASSOCIATE PROFESSOR R. CALLAND

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

Emeritus Professors

PROFESSOR T.W. BENNETT

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

PROFESSOR J. BURCHELL

Criminal Law; Personality Rights

PROFESSOR H. CHEADLE

Labour Law; Human Rights; Constitutional Litigation; Legal Drafting

PROFESSOR D.J. DEVINE

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

PROFESSOR D. VAN ZYL SMIT

Criminal Law; Prisons and Punishment

Honorary Professors

Professor J. Dugard
Advocate W. Trengove

Honorary Research Associates

Adv V. De La Hunt
Professor J. Froestad
Associate Professor S. Jagwanth
Dr C. Darch
Dr J.H. Hall
Dr D. Pinnock
Mr M. Bishop
Ms T. Schreier

Senior Lecturers

MS J. BERG

Governance of Security; Plural Policing; Policing Accountability

DR K. MOULT

Criminology, Research Methods, Gender-based violence

MS K. PHELPS

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

MS C.H. POWELL

Constitutional Law; International Law; International Criminal law

DR H. WOOLAVER

International Law, International Criminal Law

Lecturers

MS M.C. DU PLESSIS

Social Security Law and Governance; Workers' Compensation

MS S. LUTCHMAN

Evidence; International Law; Rights of the Child

MS M.A. YOUNG

International law of the sea, Marine law; Environmental law

MS J. OMAR

Criminal law; Criminal Procedure; Evidence

MS L. KOHN

Constitutional Law; Administrative Law

Administrative Staff

MS D. MWAMBALA

Administrative Officer

MS R. FRANCKE

Senior Secretary

MS T. MURPHY

Senior Secretary

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Centre of Criminology

Director: Professor Mark Shaw

Centre Profile

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

During the course of 2015 the work of the Centre was focused around some of the most pertinent challenges facing South Africa and Africa more generally within the overall context of an increasingly globalised world. This work included a strong emphasis on research in: (1) organised crime and illicit trafficking in South Africa and Africa, including with a focus on the evolution of criminal networks in fragile states and their impact on governance, democracy, livelihoods and the environment; (2) developments and challenges for policing, both public, private and community driven, and reforms; (3) urban safety challenges with a particular focus on the evolution of city insecurity in the 'global south'; (4) criminal justice policy questions, with an emphasis on developing country contexts; and (5) violent crime, with particular attention to its impact on youth and women.

Centre Statistics

Permanent and Long-Term Contract Staff

Professors	4
Senior Researchers/Staff Associates	4
Research and Administrative Staff	2
Post-Doctoral Fellow	1
Honorary Research Associates	5
Total	16

Research Fields and Staff

Permanent Staff

PROFESSOR M. SHAW

Policing, Organised crime and Illicit economies, Crime and Development

PROFESSOR E. VAN DER SPUY

Policing (public); Police Reform; History of criminal justice reform

MS J. BERG

Governance of Security; Plural Policing; Policing Accountability

Emeritus Professor

PROFESSOR C. SHEARING

Governance of Physical and Environmental Security

Research and Administrative Staff

DR. S. HOWELL; SENIOR RESEARCHER

Policing, drug policy and gangs

DR. A. FAULL; SENIOR RESEARCHER

DR. S. HENKEMAN; STAFF ASSOCIATE/SENIOR RESEARCHER

Violence, structural violence and crime prevention

DR. C. GOREDEMA; STAFF ASSOCIATE/ SENIOR RESEARCHER

Organised crime, illicit financial flows and money laundering

MR. M. SKADE; RESEARCHER

Urban security policy and transport security

MS. T. HUME

Finance Assistant as of October 2015

Postdoctoral Fellow

DR ANNETTE HÜBSLE-FINCH

Illicit environmental trafficking and environmental crime

Honorary Research Associates

MR C. CULLINAN

Director, EnAct International, Practising Environmental Attorney

DR D. NEL

Associate Professor J. Froestad
Institute of Administration and Organization Theory,
University of Bergen

DR D. PINNOCK

Youth and development; Gang studies

DR G. SUPER

Punishment and democracy; crime and crime prevention

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Institute of Marine and Environmental Law

Director: Professor Loretta Feris

Institute Profile

The Institute of Marine and Environmental Law undertakes research, teaching and consultancy in the fields of marine and environmental law both at the international level and in the context of Southern Africa. It also participates in multi-disciplinary projects in collaboration with other specialists in marine and environmental subjects. In 2015 members of the Institute worked collaboratively as well as individually on a number of projects. **Professor Feris** continued her work on environmental rights and on the legal implications of the concept of place. She presented a paper on environmental rights at a seminar on the legal foundation of environmental sustainability convened by the United Nations Environment Programme (UNEP) as part of the Midterm Review of the Montevideo Programme IV. In collaboration with Professor Glazewski, she continued work on water governance and in particular clarification of the concept “responsible authority” as it relates to Catchment Management Agencies. **Prof Glazewski** continued his research on transnational fisheries crime in collaboration with counterparts at NMMU and the Norwegian Ministry of Trade and Fisheries as well as research on legal and governance aspects of hydraulic fracturing in the Karoo. **Professor Paterson** continued with his research in the area of protected areas law and governance, biodiversity, land reform and community conservation. His research in these areas led to several publications on indigenous peoples’ rights in the Central Kalahari Game Reserve, connectivity in the Greater Cederberg Biodiversity Corridor, and biodiversity and local governance. He also presented a paper at the IUCNAEL Colloquium held in Jakarta (Indonesia) focusing on participatory forest management. His main highlight of 2015, was completion of the IUCN Environmental Law Centre’s Protected Areas Law and Governance Project, of which he was the lead author, and running workshops in Bonn (Germany) and Wuhan (China) focusing on the resources to emerge from this project. **Micha Young** continued to focus

on her key research area, being conservation in areas beyond national jurisdiction. During 2015, this resulted in a publication centred around the International Court of Justice's judgment in the whaling case. She also continued to further her research into a key principle underpinning governance in areas beyond jurisdiction – the principle of the freedom of the seas.

Institute Statistics

Permanent and Long-Term Contract Staff

Professors	3
Emeritus Professor	1
Lecturers	1
Honorary Research Associate	2
Administrative and Clerical Staff	½
Total	7½

Students

Doctoral	3
Masters (MPhil)	29
Masters (LLM)	68
Masters (Prof Masters)	2
Postgraduate Diploma	10
LLB - Final Year	16
Non-Law students (cross faculty)	18
Total	146

Research Fields and Staff

Permanent Staff

PROFESSOR L.A. FERIS

Environmental law; human rights and environment; water and sanitation, sense of place.

PROFESSOR J.I. GLAZEWSKI

Environmental law; energy law; Antarctic; marine pollution law

PROFESSOR A.R. PATERSON

Environmental law; biodiversity; protected areas; environmental fiscal reform

MS M.A. YOUNG

International law of the sea, marine law; environmental law

Emeritus Professor

EMERITUS PROFESSOR D.J. DEVINE

Law of the sea; international law

Honorary Research Associates

DR J. HALL

Role of the judiciary in environmental governance

MR R. KINNA

International environmental law (specifically water), river basin governance and liability for transboundary harm.

Administrative Assistant

Ms P. Murphy

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Democratic Governance & Rights Unit

Director: Associate Professor R. Calland

Deputy Director: Ms V. Karth

Unit Profile

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

In 2015, our researchers were engaged in a number of activities. Tabeth Masengu amongst others, spoke at the African international Association of Women Judges conference in Pretoria, organised a panel and spoke at the South African Development Community (SADC) lawyers AGM in Dar es Salaam, Tanzania and facilitated at a Judges training workshop held in Bagamoyo, Tanzania organised by Equality Now, an NGO based in Kenya. Tabeth concluded the national legal sector meetings, spoke at a Judges Matter meeting and provided strategic advice to the Malawi law society. She also published a chapter in *Constitution Building in Africa* (Visser and Steyler eds) and an article in the *South African Journal on human rights*. In the faculty, Tabeth taught three sessions of the *Governing Under the constitution* module to an LLM class.

Chris Oxtoby participated in a conference, convened by Professor Hugh Corder and the Bingham Centre for the Rule of Law, which developed a set of principles (“The Cape Town Principles”) on judicial appointments in commonwealth countries. Chris supervised the preparation of three research reports and submissions for Judicial Service Commission interviews during 2015. He and Roger Gachago were involved in a joint project with Austlii to develop data mining facilities on the Safflii database. A paper reporting these findings is currently being finalised. The initial findings of this research were presented

by Gachago at the Law Via the Internet conference in Sydney in October 2015.

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

We convened a forum for South African Judges in November which explored the theme of constitutional and transformative adjudication, and a forum for judges from other SADC regions in May, which focused on the separation of powers and case flow management. We continued our Court Intern programme in Malawi and Namibia. This is a partnership project with Oxford University’s pro Bono Public group through which we place post-graduate students as interns in superior courts. It continues to be well received by the courts. One UCT and one Oxford student were sent to the Supreme Court of Namibia, while two UCT students were sent to the Supreme Court of Malawi. Our ‘virtual research assistant’ project in the region continues to be popular with judges and lawyers in the region, and provides great opportunities for post graduate students to gain practical research experience whilst providing high quality research support to judges around the region. Students at UCT worked on various projects for judges – from producing legal opinions and comparative research reports to the provision of articles and other background resources.

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

Unit Statistics

Permanent and Long-Term Contract Staff

Associate Professors	1
Permanent researchers (1 senior researcher)	2
Deputy Director	1
Project Leaders	2
Policy and Advocacy lead	1
IT co-ordinator	1
Website Developer	1/2
Content editors	3
Administrator	1/2
Total	12

MS S. MWARSHU

Legal content editor

MS I. PAPP

Legal Content Editor Intern

MR N. KHUMALO

Legal content editor

MS C. PILLAY

General office administration, web development

Contact Details

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Research Fields and Staff

Permanent and Contract Staff

ASSOCIATE PROFESSOR R. CALLAND

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

MS T. MASENGU

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

MR C. OXTOBY

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

Professional and Administrative Staff

MS V. KARTH

Judges Support in the SADC region, Programme and Financial Management

MS M. BADEVA-BRIGHT

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

MR A. MAHLANGU

Develop and deploy new web system architectures for AfricanLII

MR O. BADEJOGBIN

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

Centre for Law and Society

Director: Professor D. Smythe

Centre Profile

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

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

Centre Statistics

Permanent and Contract Staff

Professor	1
Chief Researcher/Associate Professor	1
Senior Researchers	3
Researchers	9
Research Assistants	6
Administrators	2
Research Associates	4
Total	26

Research Fields and Staff

Permanent and Contract Staff

PROFESSOR D. SMYTHE

Director of the Centre for Law and Society (On sabbatical in 2015)

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

DR A. CLAASSENS

Chief Researcher and RWAR Programme Director (Acting Director 2015)

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

MR B. BOYLE

Senior Researcher (RWAR)

Mining in former homeland areas, corruption, political participation

MR M. CLARKE

Researcher (RWAR)

Land rights, communal land, tenure security, land under the Ingonyama trust

MS M. DE SOUZA

Researcher (RWAR)

Traditional leadership and governance, traditional dispute resolution

MR T. DUDA

Researcher (RWAR)

Traditional leadership and governance

MS D. JEFTHAS

Researcher (Acting Deputy Director 2015)
Gender-based violence, transitions to higher education, legal education, identity

MS N. LUWAYA

Researcher (RWAR)
Women's land rights, participatory research practices, land rights

DR K. MOULT

Senior Researcher
Law and society, criminal justice policy implementation, women and the law, violence against women, empirical research methods

MR P. NDINISA

Researcher (RWAR)
Land rights, communal land

MS T. THIPE

Researcher (RWAR)
Traditional leadership and governance, traditional dispute resolution, gender studies

MS M. VON BROEMBSSEN

Senior Researcher/Senior Lecturer
Economic justice, law and development

MS T. WEINBERG

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

MS S. YENI

Researcher (RWAR)
Land rights, communal land, land under the Ingonyama Trust

Research Associates

Mr M. Jara
Ms N. Gasas
Dr S. Mnisi-Weeks
Dr R. Kingwill

Research Assistants

Ms J. Diala
Ms L. Khan
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Ms M. Mutloane
Ms R. Nekura
Ms T. Paine

Administrators

Ms J. Thomas (Financial Manager)
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Refugee Rights Unit

Unit Director: Ms. F Khan

Unit Profile

The Refugee Rights Unit is a multifunctional unit with four main components: It incorporates a Law Clinic which provides direct legal services to thousands of refugees and asylum seekers; it conducts Applied Research in refugee law and related topics; it teaches Refugee and Immigration Law to the undergraduate LLB students and Refugee Law and Human Rights to the Masters Students; and, it undertakes a significant amount of targeted advocacy and training of government officials, the judiciary, civil society partners and refugee communities.

The Refugee Rights Unit is an implementing partner of the United Nations High Commissioner for Refugees (UNHCR) and is funded UNHCR, The Sigrid Rausing Trust and Hivos.

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

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

The Refugee Rights Unit remains not only committed to directly assisting refugees and asylum seekers but

also in teaching and engaging in research which can be used to promote and further the law in this area and as an advocacy tool in the future. The Unit has compiled a Refugee Law textbook titled *Refugee Law in South Africa*. Members of staff also write refugee law related articles for the purpose of publishing in peer-reviewed journals.

Unit Staff

Director

Ms F. Khan

Unit Attorneys

Mr J. Chapman
Ms M. Schoeman
Mr P.W. Mfubu
Mr N. Mauritz
Ms N.H. Willie

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RESEARCH OUTPUT

Authored books

Hellenberg, D.A., Corder, H.M., de Vos, P., Schwikkard, P.J. and Pope, A. 2015. World Justice Project: Rule of

Law Index 2015. 188pp. USA: World Justice Project. ISBN 9780988284692.

Smythe, D.L. 2015. Rape Unresolved. Policing Sexual Offences in South Africa. 300pp. South Africa: UCT press. ISBN 9781919895895.

Edited books

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Buthelezi, M., Ouma, C. and Shoro, K. (eds) 2015. The Spoken Word Project. 185pp. Germany: Lektor. ISBN 9783954610310.

Corder, H.M., Federico, M. and Orru, R. (eds) 2014. The Quest for Constitutionalism. South Africa Since 1994. 265pp. England: Ashgate Publishing. ISBN 9781472416315.

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- de Vos, P. 2015. Mind the gap: imagining new ways of struggling towards the emancipation of sexual minorities in Africa. *Agenda*, 29(1): 39-53.
- de Vos, P. 2015. The right to be different: the same-sex marriage judgment of South Africa's Constitutional Court. *Annuaire Internationale de Justice Constitutionnelle*, 30(1): 15-20.
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