



FACULTY OF LAW

In the Faculty of Law we believe that teaching should be research-led and we are committed to excellence in research at all levels. As a result, we have excellent staff, both as teachers and researchers, and as leading authors in their subjects, working across all three departments of the faculty.

DEAN'S REPORT

PROFESSOR PAMELA SCHWIKKARD



OUR RESEARCH IS INTERNATIONALLY RECOGNISED FOR EXCELLENCE AND IS OF GREAT RELEVANCE TO THE NATIONAL AND INTERNATIONAL NEEDS OF OUR COUNTRY.

21

NRF-RATED RESEARCHERS

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VALUE OF RESEARCH
CONTRACTS

395

REGISTERED POSTGRADUATES

The Faculty of Law's three departments – Commercial Law, Public Law and Private Law – are responsible for course offerings and research, and each hosts one or more specialised academic and research units. Our research is internationally recognised for excellence and is of great relevance to the national and international needs of our country.

The faculty now has a total of 21 researchers holding National Research Foundation (NRF) ratings and no doubt we will see many more in the years to follow.

A new benchmark on the research front was set in 2013. In addition to growing our journal outputs, members of the faculty authored or co-authored a number of books or chapters in books, and new editions of three seminal titles were released.

With guest visits, seminars, workshops, conferences and special lectures held at and by the faculty, we have engaged with the wider community to share research and ideas. We have been privileged to interact with key international and African scholars during the year, which the faculty benefited from in teaching, research and the opportunity to obtain concepts for future research endeavours. The Democratic Governance and Rights Research Unit hosted Judge Thomas Masuku from Swaziland, who spent six weeks in the faculty conducting research.

The Centre for Comparative Law in Africa held its first "Comparative Law Methodology Workshop" in late 2012. Forty

participants of the workshop were drawn in from various African law faculties as well as from further afield (Europe and the United States).

The centre, which was established in 2011, promotes the study of comparative law and draws on the strengths of comparative methodology to research the multifaceted field of law in Africa. The Centre for Law and the Society of the Department of Public Law co-hosted, together with two major centres of research on land and the environment in South Africa and the region, a conference on “The Land Divided: Land and South African society in 2013, in comparative perspective”.

WE HAVE BEEN
PRIVILEGED TO INTERACT
WITH KEY INTERNATIONAL
AND AFRICAN SCHOLARS
DURING THE YEAR.



In December 2013, delegates from national and international governmental entities, the private sector, civil society and academia gathered for five days of inter-connected events in Cape Town. The combined “Third Global Congress on Intellectual Property (IP) and the Public Interest and the Open AIR Conference” was hosted by our IP Unit, which brought together leading experts on IP from around the world to discuss various issues under the theme “Refining the Positive Agenda: Global questions, local answers?” (see p162).

The faculty also hosted a tribute in the form of an Acta Juridica Conference, honouring former Chief Justice Pius Langa in January 2014.

Professor Evance Kalula, former director of the Institute of Development and Labour Law (IDLL), marked his departure from law with a talk titled “The Will to Live and Serve: Reflections on continuity and change in the Faculty of Law, 1992 to 2012”. The current IDLL director and past head of commercial law, Professor Rochelle le Roux, presented her inaugural lecture, titled “Employment: A dodo, or simply living dangerously?”

Various members of staff received special recognition for their teaching and research. The American Society of Criminology awarded Professor Clifford Shearing the Thorsten Sellin & Sheldon and Eleanor Glueck




Award in recognition of his outstanding scholarship in criminology. Associate Professor Rashida Manjoo received the inaugural William McKinley Award for Good Governance from Albany Law School in recognition of her contribution to the protection of women’s rights.

MEMBERS OF THE FACULTY
REMAIN COMMITTED TO
EXCELLENCE IN RESEARCH.



At the joint graduation ceremony for the faculties of health sciences and law held on 16 December 2013, constitutional law expert Professor Pierre De Vos, deputy dean of the Faculty of Law and Claude Leon Foundation Chair in Constitutional Governance, received the university’s Social Responsiveness Award for 2013.

Lastly, Associate Professor Anne Pope, former chair of our Faculty Research Ethics Committee, has been appointed by the national Minister of Health, Dr Aaron Motsoaledi, as a member of the National Health Research Ethics Council.

The director of research and other members of the faculty remain committed to excellence in research. 



A YEAR OF HONOURS AND AWARDS

Professor Salvatore Mancuso, Chair of the Centre for Comparative Law in Africa (CCLA), has had a year of honours and awards. In 2013 he received a B3 rating from the National Research Foundation (NRF) and in early 2014 he embarked on a prestigious, NRF-funded collaborative project to map Somaliland customary law. The CCLA is collaborating with the Faculty of Law at the University of Hargeisa, Somaliland.

In April 2014, Professor Mancuso was also appointed one of two co-ordinators of the thematic working group on Justice and the Rule of Law at the Global Forum on Law Justice and Development (GFLJD). Among other things, thematic working groups develop collaborative research projects for GFLJD members to promote knowledge exchange and improve development outcomes in the field of law and justice.

On the publications front, the first quarter of 2014 saw the publication of the first edition of CCLA's new *Journal of Comparative Law in Africa (JCLA)*, of which Professor Mancuso is the editor-in-chief, and in 2013 his book *Terra in Africa: Diritto Fondiario Eritreo* (Eritrean Land Law) (University of Trieste Press) was published. An updated edition to be published in English is planned for a later date. The inaugural edition of the *JCLA* features articles on various issues by contributors within and outside the African continent and aptly has as its debut article a keynote paper on *Legal Education in an Era of Globalisation and the Challenge of Development* by Professor Muna Ndulo, professor of law at Cornell Law School and director of the Institute for African Development at Cornell University.

Located in the UCT Faculty of Law, the CCLA addresses the need to devise contextually sound law and policy responses to pervasive developmental challenges facing Africa.

SPOTLIGHT ON THE CUSTOMARY MARRIAGES ACT



The Chair in Customary Law, Professor Chuma Himonga, hosted a workshop in February 2014 to share and discuss the preliminary findings of a study on *The Operation of the Recognition of Customary Marriages Act (RCMA)* and *Rules of Intestate Succession in the Constitutional Court* decision in *Bhe v Magistrate Khayelitsha*. This study is being conducted in collaboration with Dr Elena Moore, a lecturer in Sociology, and the National Movement of Rural Women.

Six chapters of the preliminary report, highlighting some of the key issues that are problematic to the implementation of the *RCMA* and the rules of intestate succession, were presented by the researchers. A major output of this research is a book, the proposal of which has already been accepted by a prominent publisher.

TWO ENDOWMENTS FOR RESEARCH AT CCLA

Research at the Centre for Comparative Law in Africa (CCLA) will benefit from two significant endowments launched at a UCT event in Lagos on 6 May 2014: the Olu Akinkugbe Business Law in Africa Fellowship and the TY Danjuma Fund for Law and Policy Development in Africa.

The Olu Akinkugbe Business Law in Africa Fellowship will bring visiting researchers from other African countries to the CCLA for a six-week visit, focused on producing a paper for publication on a topical aspect of business law in Africa. The inaugural fellow is expected to arrive in October 2014.

The US\$5 million TY Danjuma Fund for Law and Policy Development in Africa (TYD Fund), instituted by Theophilus Yakubu Danjuma, will support CCLA research, capacity building and research-dissemination events. The TYD Fund provides sustained support for research that is aimed at addressing African issues with African solutions in response to the ongoing changes in the economic, social and political landscape of the continent, including the growing global investment interest in the continent.

CCLA chair Professor Salvatore Mancuso said that, when it comes to its legal traditions, Africa is not always given an equal footing. "It is assumed that Europeans – westerners – can speak for Africa, given that African legal systems are seen as a simple heritage of the former colonial powers, despite a rich, peculiar and variegated African legal culture. This is because it is assumed that there is no law out of what has been transplanted during and after the colonial period." The fund will seek to change this by exploring new ways through which African countries can develop their legal systems to make them effective and responsive to contemporary developments on the continent and more broadly.

TAKING ON FISHERIES CRIME



The Institute for Marine and Environmental Law (IMEL) in the Department of Public Law, together with the Marine Research Institute at UCT and Interpol's Project Scale, hosted a Fisheries Crime Symposium at the Faculty of Law in July 2013. The symposium brought together international, regional and domestic experts from academia and government for a one-day seminar to discuss the challenges and opportunities for improving fisheries compliance and enforcement.

The symposium preceded a two-day consultation on fisheries crime convened by the Department of Agriculture, Forestry and Fisheries in collaboration with the Interpol Environmental Crime Programme, through its Project Scale. One of the positive outcomes of the initiative is that IMEL, together with the Nelson Mandela Metropolitan University, received a generous grant from the Ministry of Fisheries in Norway to carry out this initiative – a three-year project commencing in 2014.

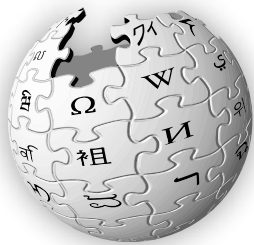
NEW LAW JOURNALS LAUNCHED

Two new peer-reviewed journals, published by Juta, were launched last year. Both are currently being edited by members of the Department of Commercial Law at UCT.

The first is the *South African Journal of Intellectual Property Law (IPLJ)*, the only South African journal to

focus solely in Intellectual Property law and policy issues, which is being edited by Lee-Ann Tong and Associate Professor Caroline Ncube. The second is the *Journal of Comparative Law in Africa*, whose editor-in-chief is Professor Salvatore Mancuso, Chair of the Centre for Comparative Law in Africa (CCLA).

The maiden issues of both journals appeared in 2013 and 2014 respectively.



WIKIPEDIA SCHOOLS

A Swiss–South African co-operation between the University of Applied Sciences and Arts of Southern Switzerland (SUPSI) and UCT's Intellectual Property (IP) Unit, in partnership with Wikimedia Switzerland and the Africa Centre based in Cape Town, led to a new National Research Foundation-funded research project in 2013. The Wikipedia Primary School Project seeks to bridge a previously identified gap between existing Wikipedia content and the requirements for successfully completing the cycle of primary education in selected African countries. The project will analyse and evaluate existing content on Wikipedia and enrich it with new content relevant to primary education where necessary, as well as foster the development of translations.

SHAW STEPS UP TO CHAIR

International scholar and justice expert Dr Mark Shaw has been nominated to take over the DST/NRF SARCHI Chair in Security and Justice from Professor Clifford Shearing, whose term ends in 2014.

Dr Shaw, who is currently the Director: Crime, Communities and Conflict at STATT Consulting in Hong Kong, is noted as a scholar with an outstanding international profile. His research grapples with contemporary and highly relevant issues of security and justice – not just in South Africa, but on the African continent. He has published more than 16 manuscripts in international journals and written 26 books and 22 chapters in books.

IP UNIT HOSTS PRESTIGIOUS GLOBAL CONFERENCE ON INTELLECTUAL PROPERTY



An unusual element of the “Open AIR Conference” was a dramatic representation of research results.

The Intellectual Property (IP) Unit in the Department of Commercial Law hosted one of the key annual global academic events in the area of IP in December 2013: “The Open African Innovation Research (Open AIR) Conference and Third Global Congress on IP and the Public Interest”. Nearly 300 academics,

advocates, lawyers and government officials from 47 countries came to Cape Town for intense engagement on key public-interest intellectual property issues. Two path-breaking publications were also launched at the conference: *Innovation and Intellectual Property: Collaborative dynamics in Africa*, published by UCT Press, and its sister report, *Knowledge and Innovation in Africa: Scenarios for the future*.

According to IP Watch, an influential Geneva-based publication, the conference is a who's who of advocates in the access-to-knowledge and public-health fields who are interested in intellectual property issues.

“This event came at a crucial time when policymakers around the world acknowledge the need for more balanced and locally relevant IP laws that facilitate innovation and development, and respond appropriately to the challenges brought about by the digital age,” said Dr Tobias Schonwetter, director of the IP Unit.

The IP Unit strives to add an African voice to the global debate on IP-related issues. It aims to create a leading IP programme in Africa that translates cutting-edge research into excellent teaching and increases the number of highly-skilled African IP experts. The unit also administers the Open African Innovation Research and Training (Open AIR) Network, one of Africa's largest IP networks, which seeks to investigate how IP regimes can be harnessed in Africa to facilitate innovation through collaboration – and to make processes more participatory, knowledge more accessible, and benefits more widely shared.

DOCTORAL GRADUATIONS

A. AFADAMEH-ADEYEMI (COMMERCIAL LAW)

Securing compliance with African economic integration treaties

Supervised by Professor E. Kalula

Y.A. AIYEDUN (PUBLIC LAW)

Fair trial and access to justice in South Africa: How traditional tribunals cater to the needs of rural female litigants

Supervised by Professor T. Bennett

E.M. FERGUS (COMMERCIAL LAW)

From Sidumo to Dunsmuir: the test for review of CCMA arbitration awards

Supervised by Professor A. Rycroft

B. GREENBAUM (CRIMINAL JUSTICE)

Compensation for victims of sexual violence in South Africa: a human rights approach to remedial criminal compensation provisions

Supervised by Dr A. Barratt

T.L. GUTUZA (COMMERCIAL LAW)

An analysis of the methods used in the South African domestic legislation and in double taxation treaties entered into by South Africa for the elimination of international double taxation

Supervised by Professor R. Jooste and Mr W. Horak

L. LEWIS (PUBLIC LAW)

The application and reconstruction of international law by domestic courts: an analytical framework for judicial mediation of a cosmopolitan and emancipatory international law

Supervised by Professor T. Bennett

W.K. MUTUMA (PUBLIC LAW)

Revisiting the classification of private military and security contractors under international humanitarian law

Supervised by Professor D. Chirwa

DEPARTMENT OF COMMERCIAL LAW

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

Head of Department: Professor Alan Rycroft

Departmental Profile

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

The Department has an increasing number of PhD and LL.M. by dissertation students and teaches most of the students who are taking the LL.M. by coursework and the Postgraduate Diplomas in Law.

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

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

Departmental Statistics

Permanent and long-term contract staff

Honorary Professors	2
Adjunct Professors	6
Honorary Research Associate	1
Professors	7
Associate Professors	3
Emeritus Professors	2
Senior Lecturers	8
Lecturers	7
Teaching and Research Assistants	2
Administrative staff	4
Total	42

Students

Other Faculties	2455
LLB	538
PG Diplomas	64
Doctor of Philosophy	16
Master of Philosophy	39
LLM By Dissertation	6
LLM By Coursework and Dissertation	154
TOTAL	3272

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

Research Fields and Staff

Professor and Head of Department

PROFESSOR A. RYCROFT
Labour Law; Dispute Resolution

Honorary Professors

PROFESSOR/JUDGE D.M. DAVIS
Capital Transfer and International Tax Law; Competition Law

JUDGE I. FARLAM

Professors

PROFESSOR P.S. BENJAMIN (PART-TIME)
Labour Law

PROFESSOR R.D. JOOSTE
Revenue Law; Company Law

PROFESSOR E.R. KALULA
International Comparative Labour Law; Labour Market Regulation; Social Security

PROFESSOR R. LE ROUX
Labour Law, Sport Law

PROFESSOR S. MANCUSO
Comparative Law

PROFESSOR R.C. WILLIAMS (PART-TIME)
Revenue Law; Company Law

Emeritus Professor

EMERITUS PROFESSOR J. KINDERLERER
Biotechnology and IPL

Associate Professors

ASSOCIATE PROFESSOR G. BRADFELD
Shipping Law, International Trade
ASSOCIATE PROFESSOR D. COLLIER
Labour Law; Electronic Law; Intellectual Property Law

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

Emeritus Associate Professor

EMERITUS ASSOCIATE PROFESSOR J. HOFMAN

Honorary Research Associate

DR T. KRUGER
International Trade Law

Adjunct Professors

MS A. BOSMAN
MR N. JERAM
DR T. MADIMA
MR W. SCHOLTZ
MR E. SWANEPOEL
PROF C.R. THOMPSON

Senior Lecturers

DR W. AMIEN
Business Law, Muslim Law

DR T.L. GUTUZA
Revenue Law; Capital Transfer and International Tax Law

DR A. HUTCHISON
Business Law

MS K. IDENSOHN
Company Law

MS K. LEHMANN
Business Law; Global Economic Law; International Economic Law

DR C. NCUBE
Business Law; Company Law; Intellectual Property Law

MS L.-A. TONG
Intellectual Property Law

MS J. YEATS
Business Law; Company Law

Lecturers

MR R. BRADSTREET
Company Law; Business Law, Intellectual Property Law

MS J. FRANCO
Business Law
DR E. FERGUS
Labour Law; Business Law

MS L. NAIDOO
Business Law; Shipping Law

MR M. NKOMO
Business Law; Intellectual Property Law

MS H. STOOP
Business Law; Company Law

MS A.L. TITUS
Business Law; Revenue Law

Administrators

MR C. ELISSAC
Administrative Officer
LLB and Postgraduate Courses

MR M. MBEBE
Administrative Assistant
All Commerce Courses

MS F. KHAN
Administrative Assistant
Labour and Development Law

MS S. VAN DER BROCK
Centre for Comparative Law in Africa

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INSTITUTE OF DEVELOPMENT AND LABOUR LAW

Director: Professor R. le Roux

Institute Profile

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

Research Fields and Staff

Professors

PROFESSOR E.R. KALULA
International and Comparative Labour Law; Labour Market Regulation; Social Security; Law and Regional Integration

PROFESSOR R. LE ROUX
Labour Law

PROFESSOR P. BENJAMIN
Collective Bargaining and Strike Law; Health and Safety; Minimum Labour Standards; Regulatory Framework

ASSOCIATE PROFESSOR D. COLLIER
Labour Market Regulation, Inequality, Intellectual Property and Development

Adjunct Professors

PROFESSOR C. THOMPSON
Collective Bargaining; International Labour Law

DR T. MADIMA
Collective Bargaining

MR C. NUPEN
Dispute Resolution; Social Dialogue

MS T. ORLEYN
Dispute Resolution

MR N. JERAM
Social Security

Administrative Staff

MS F. KHAN

Researchers

MR S. GODFREY

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

MR J. THERON

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

MS M. VISSER

Researcher

Honorary Research Associate

PROFESSOR N. RUBIN

International Labour Standards; Law and Development

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CENTRE FOR COMPARATIVE LAW IN AFRICA

Director: Dr A. Ordor

Centre profile

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

Professor and Chair

PROFESSOR S. MANCUSO, LLB PALERMO PHD TRIESTE

Administrator

MS S. VAN DER BROCK

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SHIPPING LAW UNIT

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

Unit profile

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

Visiting Teacher

R. KNUTZEN, LLB CAPE TOWN BCL OXON

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INTELLECTUAL PROPERTY UNIT

Director: Dr T. Schönwetter

Unit profile

The Intellectual Property Unit (IP Unit) was set up in 2007 as a centre for policy research and teaching in intellectual property law. Intellectual property is a key determinant of human development, economic growth and competitiveness; and intellectual property rules impact on various public policy areas including health, research and development, bio-diversity, clean technologies, food security, and education. Important issues range from the way in which we access and share knowledge to strategies how to commercialise inventions and avoid misappropriation. The IP Unit comprises Dr Tobias Schonwetter, 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

Mancuso, S. 2013. Terra in Africa. Diritto Fondiario Eritreo. 164pp. Trieste, Italy: EUT - Edizioni Università di Trieste. ISBN 9788883035395.

Edited books

Bosman, L. (ed) 2013. *Arbitration in Africa: A Practitioner's Guide*. 482pp. The Netherlands: Wolters Kluwer Law International. ISBN 9789041135209.

Chapters in books

Amien, W. 2013. Reflections on the recognition of African customary marriages in South Africa: seeking insights for the recognition of Muslim marriages. In A. Claassens and D. Smythe (eds), *Marriage, Land and Custom*, pp. 357-384. Claremont, South Africa: Juta & Co. Ltd. ISBN 9781485101529.

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Ordor, A.O. and Oniekor O.O. 2013. Refashioning the finishing school of legal education in Nigeria. In C.G. Nnoma (ed), *Law, Security and Development*, pp. 21-41. Nigeria: Snaap Press Ltd. ISBN 9789789102709.

Articles in peer-reviewed journals

Amien, W. 2013. Reflections on the recognition of African customary marriages in South Africa: seeking insights for the recognition of Muslim marriages. *Acta Juridica*, 1(2013): 357-384.

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Bradstreet, R. 2013. Business rescue proves to be creditor-friendly: C.J. Claassen J's analysis of the new business rescue procedure in Oakdene Square Properties. *South African Law Journal*, 130(1): 44-52.

Bradstreet, R. 2013. United States v business method patents: trial by trial and error. *Journal of Intellectual Property Law and Practice*, 8(5): 374-382.

Brickhill, J., Corder, H.M., Davis, D. and Marcus, G. 2013. The administration of justice. *Annual Survey of South African Law*, 2011: 1-48.

Davis, D. 2013. The importance of reading - a rebutter to the jurisprudence of Anton Fagan. *South African Law Journal*, 130(1): 52-59.

Emslie, T.S. 2013. Tax judgements against responsible third parties. *The Taxpayer*, 45(62): 62.3-4.

Fergus, E. 2013. The reasonable employers resolve. *Industrial Law Journal*, 34: 2486-2498.

Hutchison, A.J. and Stoop, H. 2013. Misrepresentation in consumer insurance: the United Kingdom legislature opts for a 'reasonable consumer' standard. *South African Law Journal*, 130(4): 705-721.

Hutchison, A.J. 2013. Reciprocity in contract Law. *Stellenbosch Law Review*, 24(1): 3-30.

Jooste, R.D. 2013. Commentary on Tax Law Case developments. *Income Tax Reporter*, 7(2013): 1-8.

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Kruger, T. 2013. De evolutie van het Europese internationaal privaatrecht op vlak van consumentenovereenkomsten. Journal of Consumer Law, 100-101(2013): 237-250.

Kruger, T. 2013. De exceptie cautio judicatum solvi bijna uitgestorven of toch niet? Tijdschrift voor Vreemdelingenrecht, 1(2013): 81-83.

Kruger, T. and Mallentjer, M. 2013. Het kind dat een voldongen feit is: noot onder tribunal de premire instance de Bruxelles du 18 Decembre 2012. 2(2013): 99-104.

Kruger, T. 2013. Over het toepassingsgebied van het herkomstlandbeginsel in het spanningsveld tussen het vrij verkeer en het IPR. Tijdschrift voor Belgisch Handelsrecht, 5(2013): 410-419.

Le Roux, R. 2013. A social economy and sustainability: is there potential for an interface? Obiter, 34(3): 506-521.

Lehmann, K.H. 2011. Fishing in protected waters: balancing customary rights and conversation imperatives. The South African Journal of Environmental Law and Law Policy, 18(2): 77-93.

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Ncube, C.B. and Laltaika, E. 2013. A new intellectual property organisation for Africa? Journal of Intellectual Property Law and Practice, 8(2): 114-117.

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Nkomo, M. 2013. South Africa's proposed intellectual property law: the need for improved regional cooperation. Comparative and International Law Journal of Southern Africa, XLVI 46(2): 257-272.

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Rycroft, A.J. 2013. The legal regulation of strike misconduct: the Kapesi decisions. Industrial Law Journal, 34: 859-870.

Stoop, H.H. 2013. Towards greener companies - sustainability and the social and ethics committee. Stellenbosch Law Review, 24(3): 562-582.

DEPARTMENT OF PRIVATE LAW

**Head of Department: Professor
Tjakie Naudé**

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. Research highlights of 2013 are set out below.

First, several members of the Department presented papers at local and international conferences. For example, Professor Helen Scott presented a paper entitled 'Error and Uncertainty in the South African Law of Enrichment' at a seminar on comparative unjust enrichment organised by the Paul-André Crépeau Centre for Private and Comparative Law, at McGill University in Montreal, Canada. Professor Scott also presented one of two papers at a seminar held at Edinburgh University in January 2014 under the aegis of the Edinburgh Centre for Private Law entitled 'New Directions in Unjustified Enrichment: Learning from South Africa'. Her paper, 'Rationalising the South African Law of Enrichment', sought to present the thesis of her book *Unjust Enrichment in South African Law* (further details below) to the international enrichment community, situating the project in its wider theoretical and comparative context.

Second, Professor Hanri Mostert organised a colloquium on expropriation law in the Netherlands, under the joint auspices of UCT and the Groningen Centre for Law and Governance. The colloquium took place from 26-28 September at the University of Groningen and attracted 22 experts in this field of law from all over the world. Countries represented at the colloquium include South Africa, the Netherlands, the United States of America, Canada, the United Kingdom, Israel, Poland, Italy, Germany, Australia and Ireland. A grant from the Programme for the Enhancement of Research Capacity (PERC) assisted with making possible the attendance of additional South African scholars. The theme of the colloquium was 'Rethinking the Public Interest in Expropriation Law' and it focused on six broad topics in the field of expropriation, topics which are of significance not only for purposes of South African law but also for many other jurisdictions. The colloquium was very successful, and a follow-up

gathering is planned in Rome next year from 25-28 September. The papers presented at this year's colloquium are to be published in a book edited by Prof Mostert and Prof Leon Verstappen (University of Groningen) entitled *Rethinking the Public Interest Requirement in Expropriation Law*.

Third, on 16-17 January 2014, the UCT Law Faculty hosted a conference to celebrate the life and work of the late former Chief Justice Pius Langa, and event organised by Dr Alistair Price of this Department and Adv Michael Bishop of the Cape Bar and Legal Resources Centre. Twenty papers were presented by distinguished South African and international academics addressing a variety of themes in Justice Langa's judgments and other writings, including transformative constitutionalism, equality, customary law, the value of dissent, state liability, contract and the Constitution, privacy, and the relationship between the judiciary and other political actors. Personal addresses were delivered by Justice Albie Sachs, Adv Marumo Moerane SC, and Acting Chief Justice Dikgang Moseneke. A selection of the papers and addresses will be published in the 2015 edition of *Acta Juridica* – the annual law journal of the UCT Law Faculty – in order to memorialise Justice Langa's immense contribution to South Africa's constitutional democracy during a crucial period in our legal and political history.

Finally, Professor Helen Scott's monograph, *Unjust Enrichment in South African Law: Rethinking Enrichment by Transfer* (Hart, Oxford/Oregon) was published in 2013. The same year also saw the publication *Iniuria and the Common Law* (Hart, Oxford/Oregon), an edited collection of essays (which Prof Scott edited with Dr Eric Descheemaeker).

Departmental Statistics

Permanent and long-term contract staff

Emeritus Professor	2
Professors	7
Associate Professors	2
Senior Lecturers	3
Lecturers	1
Admin and Clerical Staff	2
Total	18

Students

LLB	569
Masters	7
PhD	14
Total	590

Research Fields and Staff

Professor and Head of Department

PROFESSOR T. NAUDÉ

Law of Contract; Consumer Protection

Professors

PROFESSOR A.J. BARNARD-NAUDÉ

Jurisprudence; Legal Theory

PROFESSOR A.G. FAGAN

Law of Delict; Jurisprudence; Constitutional Theory

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

PROFESSOR H. SCOTT

Unjustified Enrichment; Law of Delict; Legal History

Emeritus Professors

EMERITUS PROFESSOR S.B. BURMAN

Socio-Legal Studies

EMERITUS PROFESSOR W. DE VOS SC

Unjustified Enrichment; Legal History

EMERITUS PROFESSOR I. LEEMAN

Copyright Law

Honorary Research Associate

PROFESSOR F. DU BOIS

University of Leicester, England

Law of Delict; Legal Theory

ASSOCIATE PROFESSOR M. HEWETT

South African and European Legal History

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

Senior Lecturers

DR A. BARRATT

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

DR L. GREENBAUM

Legal Education; Legal Writing.

DR A. PRICE

Law of Delict; Jurisprudence

Lecturer

MR J. JONKER

Legal theory

Contract Staff

MS F. OSMAN

Law of Succession; African Customary Law

MR N. SIBANDA

Research Co-ordinator

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

Paleker, M. 2013. The Law of South Africa. Civil Procedure: Lower Courts. 367pp. 3rd edition. Durban: LexisNexis. ISBN 9780409058147.

Scott, H. 2013. Unjust Enrichment in South African Law. Rethinking Enrichment by Transfer. 221pp. United Kingdom: Hart Publishing. ISBN 9781849462235.

Edited books

Descheemaeker, D and Scott, H. (eds). 2013. Iniuria and the Common Law. 240 pp. United Kingdom: Hart Publishing. ISBN 9781849465038.

Reid, E. and Visser, D.P. (eds). 2013. Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa. 513pp. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Chapters in books

Barnard-Naudé, A.J. 2013. The politics of private law: sexual minority freedom in South Africa and Scotland. In E. Reid and D. Visser (eds), Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa, pp. 37-80. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Descheemaeker, E. and Scott, H. 2013. Iniuria and the common law. In E. Descheemaeker and H. Scott (eds), Proceedings of Iniuria and the Common Law, 9-10 September 2011, Oxford. United Kingdom: Hart Publishing. ISBN 9781849465038.

Du Bois, F.G. 2013. Harassment: a wrong without a right? In E. Descheemaeker and H. Scott (eds), Proceedings of Iniuria and the Common Law, 9-10 September 2011, Oxford. United Kingdom: Hart Publishing. ISBN 9781849465038.

Fagan, A. 2013. The right to personal security. In E. Reid and D. Visser (eds), Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa, pp. 130-155. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Fagan, A. 2013. The gist of defamation in South African law. In E. Descheemaeker and H. Scott (eds), Proceedings of Iniuria and the Common Law, 9-10 September 2011, Oxford. United Kingdom: Hart Publishing. ISBN 9781849465038.

Himonga, C. and Pope, A. 2013. Mayelane v Ngwenyama and minister for home affairs: a reflection on wider implications. In A. Claassens and D. Smythe (eds), Marriage, Land and Custom, pp. 318-338. Claremont, South Africa: Juta & Co. Ltd. ISBN 9781485101529.

Hutchison, D.B. 2013. JC de Wet's contribution to the development of the law of mistake in contract. In J. Du Plessis and G. Lubbe (eds), A Man of Principle. The Life and Legacy of JC De Wet, pp. 190-216. Claremont, CPT: Juta Law. ISBN 9781485100751.

Laing, S. and Visser, D.P. 2013. Principles, policy and practice: human rights and the law of contract. In E.

Reid and D. Visser (eds), *Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa*, pp. 330-360. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Mostert, H. 2013. Nuisance. In E. Reid and D. Visser (eds), *Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa*, pp. 256-293. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Naudé, T. 2013. The typology of breach of contract: JC de Wet's contribution in comparative perspective. In J. Du Plessis and G. Lubbe (eds), *A Man of Principle. The Life and Legacy of JC De Wet*, pp. 270-301. Claremont, CPT: Juta Law. ISBN 9781485100751.

Reid, E. and Visser, D.P. 2013. Introduction. In E. Reid and D. Visser (eds), *Private Law and Human Rights. Bringing Rights Home in Scotland and South Africa*, pp. 1-11. United Kingdom: Edinburgh University Press. ISBN 9780748684175.

Scott, H. 2013. Pits and pruners: culpa and social practice in digest 9.2. In A. Burrows, D. Johnston and R. Zimmerman (eds), *Judge and Jurist: Essays in Memory of Lord Rodger of Earlsferry*, pp. 251-264. Great Britain: Oxford University Press. ISBN 9780199677344.

Scott, H. 2013. Contumelia and the South African law of defamation. In E. Descheemaeker and H. Scott (eds), *Proceedings of Iniuria and the Common Law*, 9-10 September 2011, Oxford. United Kingdom: Hart Publishing. ISBN 9781849465038.

Articles in peer-reviewed journals

Bangeni, A. and Greenbaum, L. 2013. An analysis of the textual practices of undergraduate and postgraduate novice writers in law. *Per Linguam: A Journal of Language Learning*, 29(2): 72-84.

Barnard-Naudé, A.J. 2013. "For Michelman, on the contrary": republican constitutionalism, post-apartheid jurisgenesis and O'Regan J's dissent in minister of home affairs v Fourie. *Stellenbosch Law Review*, 24(2): 342-358.

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Barnard-Naudé, A.J. 2013. 'The greatest enemy of authority'- Arendt, Honig and the authority of post-apartheid jurisprudence. *No Foundations: An Interdisciplinary Journal of Law and Justice*, 10: 120-137.

Barratt, A. 2013. 'Whatever I acquire will be mine and mine alone': marital agreements not to share in constitutional South Africa. *South African Law Journal*, 130: 688-704.

De Jager, J. 2013. Addressing xenophobia in the equality courts of South Africa. *Refuge*, 28(2): 107-116.

Dennison, B. 2013. The resonance of Christian political conceptions within international humanitarian law. *Uganda's Paper Series: On International Humanitarian Law*, 1(1): 157-172.

Fick, S.J. 2013. Valid consent to objectifying treatment should be allowed. *Southern African Public Law*. 28: 346-382.

Greenberg, J., Smith, D. and Pope, A. 2013. Stem cells on South African shores: proposed guidelines for comprehensive informed consent. *SAMJ South African Medical Journal*, 103(1): 6.

Himonga, C. and Pope, A. 2013. Mayelane v Ngwenyama and minister for home affairs: a reflection on wider implications. *Acta Juridica*, 1(2013): 318-338.

Himonga, C., Taylor, M. and Pope, A. 2013. Reflections on judicial views of Ubuntu. *Potchefstroomse Elektroniese Regsblad/ Potchefstroom Electronic Law Journal*, 16(5): 372-429.

Himonga, C. 2013. The right to health in an African cultural context: the role of Ubuntu in the realization of the right to health with special reference to South Africa. *Journal of African Law*, 57(2): 165-195.

Milius, D. 2013. 'Information aid' and the dissemination of innovation. *Global Policy*, 4(1): 122-124.

Ozdemir, V., Badr, K.F., Dove, E.S., Endrenyi, L., Geraci, C.J., Hotez, P.J., Milius, D., Neves-Pereira, M., Pang, T., Rotimi, C.N., Sabra, R., Sarkissian, C.N., Srivastava, S., Tims, H., Zgheib, N. and Kickbusch, I. 2013. Crowd-funded micro-grants for genomics and "big data": an actionable idea connecting small (artisan) science, infrastructure science, and citizen philanthropy. *Integrative Biology*, 17(4): 161-172.

Price, A.M. 2013. The evolution of the rule of law. *South African Law Journal*, 130(4): 649-661.

Scott, H. 2013. Killing and causing death in Roman law. *Law Quarterly Review*, 129: 101-122.

Scott, H. 2013. South Africa. *Restitution Law Review*, 21: 204-212.

Scott, H. 2013. Unjustified enrichment. Annual Survey of South African Law, 2011: 1257-1260.

Wilke, J.M. 2013. The right to privacy and drug-testing in sport in South Africa: could the New Zealand case of Cropp v judicial committee provide some guidance? Obiter, 34(1): 49-63.

DEPARTMENT OF PUBLIC LAW

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

Head of Department: Professor D.M. Chirwa

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 and policing. During the course of 2013, members of the Department were involved in the production of five books and four edited books. In addition a large number of book chapters and journal articles were published.

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

Departmental Statistics

Permanent and long-term contract staff

Professors	14
Associate Professors	3
Senior lecturers	3
Lecturers	3
Administrative	2
Teaching Assistants	5
Total	30

Honorary staff

Research Associates	1
Honorary Professors	2
Emeritus Professors	2

Students

LLB	538
LLM – Coursework and Dissertation	63
LLM (by dissertation)	6
LLM Exchange Programme	1
MPhil	29
Postgraduate Diploma	8
PhD	39
Total	684

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

Research Fields and Staff

Professor and Head of Department

PROFESSOR D.M. CHIRWA

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

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 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 Constitution

PROFESSOR W. DE VOS

Criminal Procedure; Law of Evidence; Constitutional aspects of Procedure; Class Actions

PROFESSOR L.A. FERIS

Environmental law; Human rights, Liability; Biodiversity; Climate Change; Trade and Environment

PROFESSOR J.I. GLAZEWSKI

Environmental Law; Energy Law, Antarctic, Marine Pollution Law

PROFESSOR C.M. MURRAY

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

PROFESSOR A.R. PATERSON

Environmental Law; Biodiversity; Protected Areas; Environmental Fiscal Reform

PROFESSOR P.J. SCHWIKKARD

Evidence, Criminal Procedure

PROFESSOR C. SHEARING

Governance of Security; Environmental Security

PROFESSOR E. VAN DER SPUY

Policing (public); International Assistance to Policing in Transition; Security Sector Reform; Police Reform; Peace-keeping

Associate Professors

ASSOCIATE PROFESSOR R. CALLAND

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

ASSOCIATE PROFESSOR D. SMYTHE

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

Emeritus Professors

PROFESSOR D.J. DEVINE

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

PROFESSOR D. VAN ZYL SMIT

Criminal Law

Honorary Professors

PROFESSOR J. DUGARD

ADVOCATE W. TRENGOVE

Honorary Research Associates

JUSTICE L.W.H. ACKERMANN

Emeritus Justice of the Constitutional Court

Senior Lecturers

MS C.H. POWELL

Constitutional Law; International Law; International Criminal law

MS K. PHELPS

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

MS J. BERG

Governance of Security; Plural Policing; Policing Accountability

Lecturers

MS M.C. DU PLESSIS

Social Security Law and Governance; Workers' Compensation

MS S. LUTCHMAN

Evidence; International Law; Rights of the Child

DR H. WOOLAVER

International Law, International Criminal Law

Contract Staff

ASSOCIATE PROFESSOR R. MANJOO

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

MS M. VON BROEMBSSEN

Law and Poverty; Human Rights and Legal Empowerment of the Poor; the Interrelationship between the Informal Economy; Alleviation of Poverty and Law

MS L. KOHN

Constitutional Law; Administrative Law

Administrative Staff

MS D. MWAMBALA

Administrative Officer

MS R. FRANCKE

Senior Secretary

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CENTRE OF CRIMINOLOGY

Director: Professor C. Shearing

Centre Profile

The Centre is a niche research unit within the Faculty of Law at the University of Cape Town. Our research and analysis in 2013 was organised around three principal foci, namely, developments in policing; developments in penal policy and the emergence of new environmental risks and responses to them. A uniting theme is the concern to ensure that the programmes contribute to both theory development and to policy development and implementation.

The Centre's research programme builds on established areas within Criminology and established strengths within the Centre of Criminology and is stretching the boundaries of Criminology in ways that will enable it to recognise and respond to the changing international and local risk landscapes.

Research on policing at the Centre of Criminology is concerned both with public police and private policing developments in South Africa and in transitional contexts, particularly in Africa.

Centre Statistics

Permanent and long-term contract staff

Professors	2
Senior Lecturer	1
Administrative Staff	2
Research Staff	4
Honorary Research Associates	3
Total	12

Research Fields and Staff

Permanent Staff

PROFESSOR C. SHEARING

Governance of Physical and Environmental Security

PROFESSOR E. VAN DER SPUY

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

MS. J. BERG, SENIOR LECTURER,

Governance of Security; Plural Policing; Policing Accountability

Honorary Research Associates

MR C. CULLINAN

Director, EnAct International, Practising Environmental Attorney

DR DEON NEL, WWF (SA)

ASSOCIATE PROFESSOR J. FROESTAD

Institute of Administration and Organization Theory, University of Bergen

Research Staff

MS E. ATKINS (INFORMATION MANAGER)

Multi-media Electronic Resource Library

MR T. HERBSTEIN

Environmental Security Programme

Administrative Staff

MS V. TOLENI

Administrative Assistant

MS T. HUME

Finance Administrator

Postdoctoral Fellow

DR G. SUPER

Prisons and Crime in South Africa

DR L. PASQUINI

Environmental Security

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INSTITUTE OF MARINE AND ENVIRONMENTAL LAW

Director: Professor A.R. Paterson

Institute Profile

The Institute of Marine and Environmental Law undertakes research, teaching and consultancy in the fields of marine and environmental law both at the international level and in the context of Southern Africa. It also participates in multi-disciplinary projects in collaboration with other specialists in marine and environmental subjects. 2013 again saw members of the Institute continuing with research in several specialist areas, with one of the highlights being the publication of Professor Glazewski's loose leaf edition of *Environmental Law in South Africa*, to which several members of the Institute contributed chapters. Professor Glazewski also published a chapter on the legal and regulatory aspects of carbon capture and storage. Professor Loretta Feris continued with her research examining the right to sanitation in both international law and domestic law. She presented several papers emerging from this project at domestic and international conferences and published papers and book chapters on traditional fishing rights, water and sanitation rights. Professor Paterson continued with his research in the area of protected areas law and governance which saw him being appointed lead author of the IUCN Environmental Law Centre's Protected Areas Law and Governance Project. His research in this area led to the publication of several papers and chapters on conservation and land reform, transboundary protected areas and indigenous peoples' rights to natural resources in protected areas. Ms Micha Young, who joined the Institute as a lecturer at the beginning of 2013 to build the Institute's marine research component following the sad death of Professor Gibson in 2012, immediately contributed substantively to the Institute's research profile through the publication of an article on the law and policy framework governing subsistence fishers in South Africa. In addition to the above, the Institute hosted several research workshops in 2013 which included: the Environmental Law Association's Postgraduate Research Conference; a workshop on South Africa's new national planning legislation; and a Transnational Fisheries Crime Symposium in collaboration with MARE, INTERPOL and Norwegian counterparts.

Institute Statistics

Permanent and Long-term Contract Staff

Professors	3
Associate Professors	0
Emeritus Professor	1
Lecturers	1
Honorary Research Associate	2
Administrative and Clerical Staff	1
Total	8

Students

Doctoral	8
Masters	39
Postgraduate Diploma	4
LLB – Final Year	14
Non-Law students	15
Total	80

Research Fields and Staff

Permanent Staff

PROFESSOR L.A. FERIS

Environmental law; human rights and environment; trade and environment; sanitation biodiversity; liability.

PROFESSOR J.I. GLAZEWSKI

Environmental law; energy law; Antarctic; marine pollution law

PROFESSOR A.R. PATERSON

Environmental law; biodiversity; protected areas; environmental fiscal reform

MS M.A. YOUNG

International law of the sea, marine law; environmental law

Emeritus Professor

PROFESSOR D.J. DEVINE

Law of the sea; international law

Honorary Research Associate

DR J. HALL

Role of the judiciary in environmental governance

DR E.V. WITBOOI

Law of the sea; marine fisheries

Administrative Assistant

MS P. MURPHY

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DEMOCRATIC GOVERNANCE & RIGHTS UNIT

Director: Associate Professor R. Calland

Unit Profile

Based in the Department of Public Law at the University of Cape Town, the DGRU's mission is to advance the principles and practice of constitutional democracy in Africa. Recognising the gap between the promise of constitutionalism and the reality of daily life for the majority of Africans, the DGRU aims to stimulate fresh thinking on the intersection between rights and transformative governance. In collaboration with others, the DGRU supports the process of law and policy reform, and informs public debate, through inter-disciplinary research and advocacy.

The vision for the future is that in ten years' time, the DGRU will have a strong international reputation as a place where bold new ideas are born and then turned into working practice, providing a stimulating environment for policy-makers, academic thinkers and students alike, and an intellectual bridge between Europe and Africa on some of the most significant public law issues that face modern societies everywhere.

Unit Statistics

Associate Professors	1
Permanent researchers	2
Programme Manager	1
Administrator	1
Total	5

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

MS T. MASENGU

Refugee Law, Women's Rights and the impact of the Protocol to the African Charter on the Rights of Women in Africa on Democracy and Governance

MR C. OXTOBY

Judicial Appointments, Judicial Ethics, Human Rights, Anti-terrorism Law and Practice in Southern and Eastern Africa and the 2010 World Cup

Administrative Staff

MS V. KARTH

Programme and Financial Management; Website Management, Marketing & PR

MS C. PILLAY

General office administration, web development

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CENTRE FOR LAW AND SOCIETY

Director: Associate Professor D. Smythe

Centre Profile

The Centre for Law and Society (CLS) [formerly the Law, Race and Gender Research Unit (LRG)] was established in 1993. CLS's founding mission was to provide legal decision-makers with an understanding of the ways in which the history and social context of South Africa inform the creation, application and interpretation of our laws. Its first project was to provide training and support to judicial officers as courts faced the challenge of transforming their structures and jurisprudence in line with constitutional and democratic values after 1994. CLS trained over a thousand judicial officers, developing materials on issues including HIV, sexual offences, domestic violence, race and racism, and judicial ethics.

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.

CLS runs the website Custom Contested (www.customcontested.co.za), a one-stop website that provides news, information and analysis on laws and policies affecting custom, tradition and citizenship rights, exploring what is at stake for ordinary South Africans. In addition, we maintain an institutional website for CLS (www.cls.uct.ac.za) on which, inter alia, all of our materials are available. In 2014 we launched a postgraduate Programme in Criminology, Law and Society, in partnership with the Centre for Criminology, to train the next generation of scholars concerned with issues of law and society in Africa.

Permanent and Contract Staff

Associate Professor	1
Chief Researcher/Associate Professor	1
Senior Researchers	3
Researchers	7
Research Assistants	6
Administrators	2
Research Associates	5
Total	25

Research Fields and Staff

Permanent Staff

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

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

DR A. CLAASSENS – CHIEF RESEARCHER AND RWAR PROGRAMME DIRECTOR

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

MR B. BOYLE – SENIOR RESEARCHER (RWAR)

Mining in former homeland areas, corruption, political participation

DR M. BUTHELEZI – SENIOR RESEARCHER (RWAR)

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

MS M. VON BROEMBSSEN – SENIOR RESEARCHER/ SENIOR LECTURER

Economic justice, law and development

MS M. DE SOUZA – RESEARCHER (RWAR)

Traditional leadership and governance, customary marriage

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

Mining in former the homelands, property rights and power relations

MS D. JEFTHAS – RESEARCHER

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

MS N. LUWAYA – RESEARCHER (RWAR)

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

MS B. MATLALA – RESEARCHER (RWAR)

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

MS T. THIPE – RESEARCHER (RWAR)

Traditional leadership and governance, traditional dispute resolution, gender studies

MS. T. WEINBERG – RESEARCHER (RWAR)

Land rights, including women's land rights, customary

tenure in historical perspective, land restitution and communal tenure.

Research Associates

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MS N. GASA
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DR S. MNISI WEEKS
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MR O. KOLAWOLE
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REFUGEE RIGHTS UNIT

Unit Director: Ms. F Khan

Unit Profile

The Refugee Rights Unit was founded in 1998 as a Project within the UCT Law Clinic, aimed at providing legal support services to the growing number of refugees and asylum seekers in South Africa. It has since evolved into a fully independent Unit, with four main components: the Unit's Refugee Law Clinic provides direct legal services to thousands of refugees and asylum seekers in the Western Cape each year; the Unit conducts applied research in refugee law and related topics; it teaches refugee law to undergraduate law and masters' students within the Department of Public Law; and, it undertakes a significant amount of targeted advocacy and training of government officials, the judiciary, civil society partners and refugee communities.

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

The Working Paper Series, (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.

Unit Staff

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MS L. DE LA HUNT

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MR J. DE JAGER
MS M. SCHOEMAN

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Research output

Authored books

Bennett, T.W. and Strug, J. 2013. Introduction to International Law. 423pp. Cape Town: Juta Law. ISBN 9781485100065.

Froestad, J. and Shearing, C.D. 2013. Security Governance, Policing, and Local Capacity. 224pp. USA: CRC Press, Taylor & Francis Group. ISBN 9781420090147.

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