Faculty Fortnight
UCT Law Faculty News & Updates
23 July 2024
Shaping the Future
@UCTLaw

the Law Faculty's internal newsletter to keep you posted on things you might have missed and events, publications and initiatives to look out for.

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FACULTY NEWS

Staff Welcomes

The Faculty warmly welcomes two new staff members, **Dr Nicola Palmer** (Criminology, Public Law Department) and **Itumeleng Likhoele** (Administration, Commercial Law Department). We also welcome **Bilqees Anthony**, who is provided temporary administrative support to **Rene Francke** in Public Law. In the next issue of Faculty Fortnight, we'll include a proper introduction and pics so you will know Nicola, Itumeleng and Bilqees when you meet in the Common Room or in the passages.

We also extend a warm welcome back to colleagues returning from sabbaticals and special leaves. These include **Prof Ada Ordor** who has just returned from six months as a Visiting Professor at Harvard Law School; **Nurina Ally**, back from a six-month sabbatical; **Dr Khomotso Moshikaro**, back from time as a Fellow in Criminal Law and Evidence (Edinburgh University), and as Visiting Professor in the Common Law in a Global Context (Ruhr Universitat Bochum); **Dr Tshepo Mosaka**, back from study & research leave; **Lauren Kohn**, back from two years of doctoral and sabbatical leave; and also welcome to **Dr Justice Mavedzenge** who will be teaching on a number of courses this semester.

Staff Farewells

The Faculty bids farewell to **Professor Anton Fagan**, who took early retirement from the end of June this year. An NRF B-rated researcher, Prof Fagan was the *WP Schreiner Professor of Law* at the Faculty. This Chair of Roman Law and Jurisprudence was established in 1923 from funds raised in memory of Mr W P Schreiner. Fagan's primary research interest is the South African law of delict and this, along with jurisprudence, was Anton's teaching focus.

Regarding his career at UCT Fagan says, "I have no regrets ... Excluding my five years as a student, I spent 28 and a half years at UCT. The first 20 were golden years, and I wouldn't have wanted to be anywhere else." *(source SAJR)*

The Faculty wishes Professor Fagan all the best for his next venture.

Acting Judge

Prof Waheeda Amien has been appointed as an Acting Judge of the Gauteng Division of the High Court. The appointment commences on 22 July 2024 and runs till 20 September 2024.

We wish Prof Amien all the best for her stint at the bench.

The meaning of Voice

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Distinguished Professor Philippe-

English usage, provides examples for each entry for the use of that specific word. Each use or meaning is evidenced by quoting an author or an authority, to show how each meaning of a word can be used. In the case of "voice", Salazar's book *African Athens* is mentioned to illustrate, and thus validate, the uses of "public voice " and "abstract voice " in politics.

Joseph Salazar has become the quoted OED authority on one use of the term "Voice". The Oxford English Dictionary (OED), as the multiple-volume authority on

'A sharp distinction between the public voice...and the abstract voice of the political parties.
P.-J. Salazar, Afr. Athens v. 89'

Quipped Distinguished Prof Salazar "*...It is amusing that a French writer appears in the hallowed OED as an authority on English language.*"

Winter Olympics in the Faculty

While some colleagues took leave to recover from the intensity of the exam period, and others travelled to conferences and seminars, others were involved in a range of academic and not-so-academic activities. One such activity was the DGRU-LARC Inter-Unit Winter Olympics 2024!

InterUnit Winter Olympics 2024

InterUnit Winter Olympics 2024

InterUnit Winter Olympics 2024

We're not sure which unit won, but it does look like a great time

Tales of a Reading Table

It is not often that an inanimate object is reported on in the *Faculty Fortnight* – or has the potential to become something of a Faculty mascot.

But when Criminology announced that there was furniture up for grabs due to the refurbishment of the Criminology space on Level 6, the old reading table that served as the lecturer's "podium" was spotted by **Prof Johann Hattingh**. Identified as carrying quite a bit of Faculty history, most likely originating from the Law Library, made of oak, and probably from the 1940s, Johann saw fit to rescue to table and pay it some well-deserved attention.

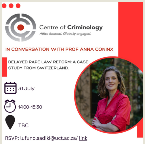
Removing the table to his office, Johann gave the table a solid once-over, assessing for sturdiness and possible damage, and then set about doing what needed to be done with old wood – starting with applying two layers of Burmese teak oil to the wood, and leather oil to the inlay. After a few more teak oil treatments. Johann applied a bees wax mixture, transforming what had looked like a sad, unwanted table into a piece of furniture that carries its academic history proudly. Johann said of the photographs he shared "*You will see I crowned the table with an ostrich egg as a symbol of a new life.*"

L to R, and below: From dried out blemished old wood, to richly nourished oak - the transformation of the Reading Table.

FACULTY CALENDAR - forthcoming events

- **Delayed Rape Reform** | 31 July: a Centre of Criminology Seminar
  WIPO-WTO Colloquium | 6 – 9 August 2024: this gathering is the regional WIPO-WTO Colloquium for IP teachers and the Second IP Scholars Africa Conference
- **Annual Rabinowitz Lecture** | 20 August: with Professor Tarun Khaitan (LSE)
- **Insolvency and Business Rescue Law Conference** | 29 – 30 August
- **Mediation goes Mainstream** | 5 – 6 September
- **Africa Law & Society Colloquium** | 6 – 7 September
- **Regional Teaching & Learning Conference** | 12 September @ Stellenbosch

LECTURES, SEMINARS & CONFERENCES



Centre of **Criminology**
Africa focused. Globally engaged.

IN CONVERSATION WITH PROF ANNA CONINX

DELAYED RAPE LAW REFORM: A CASE STUDY FROM SWITZERLAND.

31 July

14:00-15:30

TBC

RSVP: lufuno.sadiki@uct.ac.za/ link

The Centre of Criminology is pleased to invite you to an engaging conversation with **Professor Anna Coninx** on the topic of *Delayed Rape Law Reform: A Case Study from Switzerland.*

This insightful seminar will take place on the 31st of July from 14:00 to 15:30 (exact venue TBC).

RSVP at the link here, or contact Dr Lufuno Sadiki via email at . We look forward to your participation in this important discussion.

Corporate Media & Moral Liberalism
The 2024 Rabinowitz Lecture

SAVE THE DATE

The 2024 Rabinowitz Visitor is **Professor Tarun Khaitan**, Professor (Chair) of Public Law at the London School of Economics & Political Science. Prof Khaitan will deliver the annual Rabinowitz Lecture on Tuesday 20 August on the topic of *Corporate Media & Moral Liberalism*.

When: Tuesday 20 August
Where: Oliver Tambo Moot Court
Time: 17h30 – 19h30

Refreshments will be served after the lecture, so please register your attendance here for catering purposes.

In addition to his role at LSE, Prof Khaitan is also an Honorary Professorial Fellow at Melbourne Law School. Previously, Prof Khaitan was the Professor of Public Law & Legal Theory at Oxford.

Call for Abstracts

The 2024 SADC Law Seminar is coming up 31 October - 1 November, with the theme *SADC and the AU: Assessing the Symbiotic Relationship Between Sub-regional and Continental Processes.*

Deadline for the submission of abstracts: 28 June 2024
Decisions on abstracts will be communicated by: 8 July 2024
Deadline for full draft papers: 25 October 2024
Article length: an article may not exceed 12 000 words (including abstracts and footnotes)
Date of seminar: 31 Oct – 01 Nov 2024
Venue: University of Fort Hare, Alice campus
Virtual link: To be provided on the programme.

Please contact Mr Ndyebo Nini at nnini@ufh.ac.za or +27 (0) 40 602 2236

The full call was shared on email by Prof Ada Ordor on 17 July.

AI & LAW CONFERENCE - Review

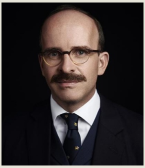
The Faculty's international, interdisciplinary conference on AI & Law took place over three days from 3 - 5 July. With session convenors both from within the Faculty, elsewhere at UCT, and from further afield, participants had the opportunity to listen to papers that touched on a wide range of pressing and pertinent issues, opportunities and challenges in the AI field with relevance to and implications for law.
Colleagues who were away or unable to attend missed an excellent opportunity to engage in discussions within and across themes over the duration of the conference.

Said Prof Nicolas Petit, one of the two conference keynote speakers: *The event was amazing. Most of the sessions that I attended were rich in content...It is too early to think about the future, but I could see this evolve into a biannual fixture. UCT is now in a good position to claim its ground as the forum for discussion on all things AI & law in Africa.*

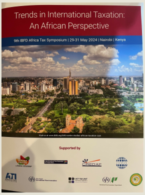
A photo gallery, with a selection of great pics, is available on the conference page.

05-05 July 2024

9th Africa Tax Symposium, Nairobi



Professor Johann Hattingh and **Adjunct Professor Des Kruger** participated in the recent International Bureau of Fiscal Documentation (IBFD) *9th Africa Tax Symposium* held in May in Nairobi, Kenya. Prof Hattingh presented a Masterclass on the *Implementation of a Global Minimum Tax from an African Perspective*, and chaired a session on the topic of *Tax Treaty Developments in Africa: Navigating Current Complexities, while* Des Kruger spoke on the topic of *VAT on Cross-Border Digital Trade: Overcoming Practical Hurdles in Africa*. In addition, Prof Hattingh attended meetings as a member of the Technical Committee of IBFD's *Centre for Studies in African Taxation*, which organises the symposium, appoints annual Research Fellows, and is involved in capacity development initiatives. UCT benefits greatly from a comprehensive academic cooperation agreement with IBFD that supports the teaching and research in the field on taxation.


Trends in International Taxation: An African Perspective
9th IBFD Africa Tax Symposium | 29-31 May 2024 | Nairobi | Kenya
Supported by

CSAT
9th Africa Tax Symposium

Criminology Out & About

The Centre of Criminology held its *SAPS Research Ethics Seminar* on 21 May. Speakers included **Col (Dr) Lindie Smit** from SAPS Research Ethics Section, **Prof Lukas Muntingh** from UWC, **Dr Guy Lamb** from Stellenbosch University and **Dr Anine Kriegler** from ISS. Assoc Prof Irvin Kinnes also provided input at this important seminar.

Stellenbosch

Assoc Prof Irvin Kinnes and a delegation of students attended, and presented papers at, last week's *Inaugural Stellenbosch Criminal Justice Colloquium* (18-19 July 2024). UCT Law presenters included **Assoc Prof Irvin Kinnes**; PhD students **Daniel Sichinga** and **Simbarashe Kaneunyenya***;* **Phelimon Papale**, a masters student; and Post Doctoral researcher, **Dr Sisanda Mguzulwa**.

PUBLICATIONS

Developments, Opportunities and Complexities in Global South Climate Litigation

Assoc Prof Melanie Murcott has jointly guest edited a new special collection, with **Dr Maria Antonia Tigre**, Director of Global Climate Change Litigation, Sabin Centre, Columbia Law School, in the *Journal of Human Rights Practice* (an Oxford University Press publication), which was officially published on 28 May 2024 in Volume 16, Issue 1. The collection is titled *Developments, Opportunities and Complexities in Global South Climate Litigation*.

It is part of a broader project led by Murchott and Tigre since 2021 with the Global Network for the Study of Human Rights and the Environment that seeks to highlight advancements in, and obstacles to, climate litigation in the Global South from the perspectives of scholars and practitioners in the Global South. A key goal was to amplify the voices of and build community among, Global South scholars in the field of climate change. Aligned with this goal, the collection comprises 16 papers by scholars from Africa, Latin America, and Asia on various topics relating to climate litigation in the region. In addition to guest editing these papers, **Assoc Prof Murcott** co-authored the introduction of the collection and an article titled *The Judge-Made 'Duty' to Consider Climate Change in South Africa*.

The special collection will be launched at the *International Union for the Conservation of Nature Academy of Environmental Law Colloquium* in July 2024.

Below: One of the presentations delivered by Tigre and Murcott about the project on a panel at Lisbon University.

Number of cases (Jul. 2022)

South African Customary Law of Succession

Assoc Prof Fatima Osman has recently had published a chapter titled The Communal Nature of the South African Customary Law of Succession: Developments in the 21st Century in the book titled *Reimagining Legal Pluralism in Africa*.

According to the chapter abstract, this chapter examines the evolution of the communal nature of succession through a case study conducted in a rural village in South Africa. It draws on findings from a range of interviews with members of the community, traditional leaders, and state officials responsible for the administration of estates. The case study reveals an entrenchment of the pre-constitutional position, which prioritised the individualised acquisition of assets rather than traditional notions that focussed on succession to the position of household head.

REIMAGINING LEGAL PLURALISM IN AFRICA

BALANCING INDIGENOUS, STATE, AND RELIGIOUS LAWS

EDITED BY
ANTHONY C. DIALA AND CHRISTA RAUTENBACH

BRILL | NIJHOFF

For the chapter, link here. For information on the full book, visit the publisher's website at Reimagining Legal Pluralism in Africa.

The 'minimum core' approach to the right to basic education

Nurina Ally (Department of Public Law) has co-authored an article for the *African Human Rights Law Journal* titled '**Lessons from the "minimum core" approach to the right to basic education in South Africa**'. While the Constitutional Court is generally viewed as having rejected a minimum core approach, the authors argue that the position in relation to the right to basic education has been much less clearcut. South African courts have never expressly disowned a minimum core approach to basic education. In fact, there is also a line of case law in which the right to basic education has been given minimum content. It is suggested that lessons may be drawn from this 'minimum core' type approach in respect of other immediately and progressively realisable socio-economic rights. The article is available HERE.

INTERNATIONALISATION

IMEL PhD students awarded Summer School scholarships

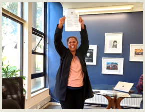
Congratulations to **Danjelle Midgely** and **Nadine Nyamangirazi**, both IMEL PhD students who were awarded EU Albatross scholarships to attend a month-long SDG Summer School on Planetary Health at the University of Geneva in July 2024. The SDG Summer School is inspired by the UN Sustainable Development Goals, and the 2024 theme is *Planetary Health*, with a focus on the impact of climate change on human health. It emphasises team-based problem-solving and the agile creation of practical prototypes, driven by real-world challenges, presented by experts from international organizations in Geneva.

Danjelle Midgley is a first-year PhD student under the supervision of A/Prof. Melanie Murcott. Danjelle's research focuses on climate change litigation strategies in South Africa. Danjelle works as an attorney at the Centre for Environmental Rights in the Activist Support and Training programme. She is excited to attend the course and learn new practical problem-solving skills to add to her legal knowledge to be put to use in her work as an environmental and climate justice lawyer and scholar in South Africa.

Nadine Nyamangirazi is also a first-year PhD law student under Melanie's supervision. Nadine's research centres on the intersection of international trade and environmental law within the African context. She is confident that the insights gained from the SDG Summer School will not only enrich her academic pursuits but also provide significant professional growth opportunities, empowering her to advance her career and make a meaningful impact in her field. Nadine is particularly drawn to the collaborative nature of the SDG Summer School, which fosters an environment conducive to learning, sharing ideas, and forging meaningful connections. She looks forward to engaging deeply with her peers and mentors, gaining valuable insights, and contributing to innovative solutions during this transformative experience.

ENGAGED SCHOLARSHIP

The University of Cape Town **Refugee Rights Unit (RRU)** was successful in its appeal application to the Supreme Court of Appeal regarding *Sur Place* refugee claims. After five long years, starting in the Western Cape High Court, Attorney **Monique Schoeman** and Advocate **David Simonsz** (UCT alum) have tirelessly devoted their efforts in support of the RRU's clients' rights to seek refuge in South Africa.



The concept of a refugee *sur place* is expressly recognised by the United Nations High Commissioner for Refugees (UNHCR). A simple understanding of the term is "*a person who was not a refugee when they left their country, but who becomes a refugee at a later date, is called a refugee 'sur place*'". A person becomes a refugee "sur place" due to circumstances arising or changing in their country of origin during their absence.

Says Director Prof. Fatima Khan"
Until this judgment, South Africa had not yet developed a significant jurisprudence on sur place refugee claims. In previous cases, the Constitutional Court had only made a passing reference to the issue. The case brought before the Supreme Court of Appeal by the Refugee Clinic was the first to directly assert a ***Sur Place*** *claim. This case has advanced the jurisprudence of refugee law in South Africa and brought domestic law in line with international standards.*

This is a victory for all *sur place* refugees living in South Africa, and a welcomed decision which highlights the principles enshrined in our Constitution. Congratulations to the Refugee Rights Unit, and to Monique Schoeman.

Nurina Ally, working with the *Real Reform for ECD Campaign*, has contributed to submissions on the draft *Children's Amendment Bill, 2024*. The Bill introduces substantial amendments in relation to the regulation of Early Childhood Development. Since 2021, Nurina has contributed to ongoing discussions with the Department of Basic Education and other stakeholders on the need for law reform in the sector, culminating in the draft amendments. Her published work on regulatory reform has also contributed to proposed amendments to ECD health and safety regulations.

For more information on changes in the ECD sector, see her co-authored op-ed, '*ECD should be a priority for new basic education Minister – our children's futures depend on it*'.

The Land & Accountability Research Centre (LARC) was involved in a commemoration hosted by the Nkuzi Development Association, marking *111 years since the passing of the Native Land Act on June 19, 1913*. Nkuzi Development Association NPC was founded in 1997 to respond to an urgent need to assist 'communities within the Makhado area to lodge land claims after the introduction of the Restitution of Land Rights Act No. 22 of 1994.' At that time, the offices of the Land Claims Commission were only in Pretoria.

Nkuzi assisted in completing claims forms, facilitating land claims committees, and documenting supporting evidence for the land claims. The communities and groups of claimants were supported to ensure they met the December 31, 1998, deadline for lodging land claims.

The commemoration through a night vigil and protest action was a key action point for grassroots organizations and those affected by land injustices in the land sector to voice their frustrations and concerns regarding the direction of land and agrarian reforms in South Africa.

COMMEMORATION OF LANDLESSNESS & INSECURE TENURE

On June 18, a night vigil was hosted where a programme of action was discussed, and **two researchers from LARC** had the opportunity to present the latest updates on relevant land laws. On June 19, individuals, communities, farm dwellers, farm workers, those living on communal land, and aspiring farmers marched through the CBD of Polokwane to the Premier of Limpopo's office, where they handed over a memorandum of demands to the Department of Agriculture, Rural Development, and Land Reform, as well as the Land Claims Commission. The memorandum submitted by the communities urges the department, among other things, to enforce the two LAMOSA judgments and prevent traditional leaders from coercing people into paying levies or abusing their authority in land-related matters. Two officials from the department received the memorandum and have committed to providing a response by the first week of July 2024.

How will the GNU function?

A lot has been said about the GNU and how it's going to function, says NewzroomAfrika. Naledi Moleo (NewzroomAfrika) spoke to Emeritus Professor of Public Law, **Prof Hugh Corder,** and Public Policy expert at the Wits School of Governance Dr TK Pooe, about this. President's Ramaphosa's opening of parliament address gave an overview of what the 7th administration plans to focus on, and while some experts are concerned by parliamentary oversight and what it will entail under a GNU, others are concerned by policies and what the GNU will prioritise.

Watch the GNU discussion HERE.

ANNOUNCEMENT & NOTES

LAW FACULTY INDUCTION BOOKLET

As a result of findings from our 2023 "*New Staff Induction*" survey, the Transformation Committee identified a gap in resources for Faculty induction of new staff – ie. a comprehensive Faculty Induction Booklet. This booklet has now been developed. You can email Fatima.Osman@uct.ac.za or gaby.ritchie@uct.ac.za for a copy. Comments and suggestions for additional information always welcome!

FACULTY DROP-BOX | REMINDER

In the interests of inclusivity and being able to share any concerns you may have about the Faculty, the Transformation Committee runs a Vula site on which you can share these concerns. If you are new and are not on this Vula site, please email Benjamin.cronin@uct.ac.za and you will be added. Generally, what the TC is looking for via this channel is feedback of a more general or structural nature on matters relating to inclusivity/transformation which the TC can work on going forward as part of its operations. Share your thoughts - visit the *INCLUSIVITY DROPBOX* on vula.

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Got something to share? Have thoughts on what we should include in Faculty Fortnight?

Please send your news & ideas to gaby.ritchie@uct.ac.za – we'd really like to hear from you.