

PUBLIC LAW CONFERENCE

Public Law and the Future of Constitutional Democracy

University of Cape Town

1 – 4 July 2026



Wednesday 1 July 2026

14:30 – 16:30 – Registration at Wilfred and Jules Kramer Building, Middle Campus, UCT

17:00 – 18:30 – Opening Keynote Plenary

Venue: Lecture Theatre 1, Wilfred and Jules Kramer Building

Chair with Opening Remarks: Justice Steven Majiedt (Constitutional Court of South Africa)

Welcome: Prof Mohamed Paleker (Dean of the Faculty of Law, University of Cape Town)

Prof Mosa Moshabela (Vice-Chancellor, University of Cape Town)

Keynote Address: Chief Justice Mandisa Maya (Constitutional Court of South Africa) (online)

Judicial Leadership in a Constitutional Democracy

Vote of thanks: Justice Albie Sachs (Constitutional Court of South Africa)

18:30 – 20:00 – Welcome Reception in the Pius Langa Quad

Thursday 2 July 2026

9:00 - 10:30 – Session 1 Parallel Panels

<u>The Judicial Role Today</u> Venue: Lecture Theatre 1 Chair: Justice Benjamin Zipser (Federal Circuit and Family Court of Australia)	<u>Administrative Justice</u> Venue: Lecture Theatre 2 Chair: Mr Mitchell de Beer (University of Cape Town & Cape Bar)	<u>Contemporary Issues in Constitutional Democracy</u> Venue: Lecture Theatre 3 Chair: Prof John Golden (The University of Texas, School of Law)
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<p>Justice Sheilah Martin (Supreme Court of Canada) and Chief Justice Glenn Joyal (Manitoba Court of King's Bench) <i>The Modern Judicial Role and the Paradox of Judicial Independence</i></p> <p>Justice Colin C J Feasby (Court of King's Bench of Alberta, Canada) <i>Judicial Reasons and Democracy in the Age of Misinformation and AI</i></p> <p>Prof Preston Jordan Lim (Queen's University Canada) <i>Judicial Diplomacy</i></p>	<p>Prof Geo Quinot (Stellenbosch University) <i>An indigenous reimagination of administrative justice to craft fit-for-purpose democratic governance in Africa</i></p> <p>Dr Narelle Bedford (Bond University, Australia) <i>Responsive Justice: Why Tribunals Must Matter for the Future of Public Law</i></p> <p>A/Prof Hanna Wilberg (University of Auckland) <i>The legal effect of administrative tribunal decisions: promoting access to justice, the rule of law and socio-economic rights</i></p>	<p>Dr Aurelie M Spinola and Dr Kalpana Sivabalah (Middlesex University, Mauritius) <i>Evaluating Constitutional Resilience to Contemporary Populism: The Role of Constitutional Mechanisms in the United Kingdom and the French Fifth Republic.</i></p> <p>Dr Nick Friedman (University of Cambridge) <i>Constitutional Democracy at Scale</i></p> <p>Ms Nurina Ally and Ms Tatiana Kazim (University of Cape Town) <i>Apology as a Public Law Remedy: Securing Accountability for Breaches of Public Law Duties in South Africa</i></p>
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10:30 – 11:00 – Coffee Break

11:00 – 12:30 – Session 2 Parallel Panels

<p><u>Roundtable on Dyzenhaus, <i>The War Against Law</i></u></p> <p>Venue: Lecture Theatre 1</p> <p>Moderator: Prof Geneviève Cartier (University of Sherbrooke)</p>	<p><u>Public, Criminal Law and Detention</u></p> <p>Venue: Lecture Theatre 2</p> <p>Chair: A/Prof Jameela Omar (University of Cape Town)</p>	<p><u>Judicial Appointments and Administration</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Justice Adedotun Adedamola Grace Onibokun (High Court, Osun State, Nigeria)</p>
<p>Discussants:</p> <p>Prof David Dyzenhaus (University of Toronto)</p> <p>Prof Hugh Corder (University of Cape Town)</p> <p>Judge President/Prof Dennis Davis (University of Cape Town; Competition Appeal Court of South Africa)</p> <p>Mr Dan Mafora (University of Cape Town)</p>	<p>A/Prof Gerard J Kennedy (University of Alberta) <i>An Exception that Proves the Rule: Criminal Law and the Administrative-Legislative Paradox</i></p> <p>Prof Charles Tyler (University of California) <i>Discriminatory Legalism and Selective Prosecution</i></p> <p>Dr Duncan Wallace (University of Melbourne) <i>An Australian Fiction of Detention and Punishment</i></p>	<p>Mr John H Jeffery (Independent, Cape Town) <i>Court Administration in South Africa – the Principles and the Practicalities</i></p> <p>Mx Dimakatso Nchodu, Ms Alison Tilley, Ms Genevieve Maujean and Mr Mbekezeli Benjamin (Judges Matter, Democratic Governance and Rights Unit, South Africa) <i>Enhancing Judicial Appointment Transparency: Monitoring the Judicial Service Commission through a Score Card Approach</i></p>

		Dr Benjamin Perryman (University of New Brunswick) <i>The Overlapping Powers Doctrine</i>
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12:30 – 13:30 – Lunch in the Pius Langa Quad

12:45 – 13:30 – Doctoral Panel A

Conceptualising the State, State Action and State Power: Contemporary Challenges Venue: Lecture Theatre 1	Law and Change Venue: Lecture Theatre 2	Legislation, Interpretation and Legal Plurality Venue: Lecture Theatre 3
Chair: Prof Geo Quinot (Stellenbosch University)	Chair: Dr Jason Brickhill (Johannesburg Bar & University of Cape Town)	Chair: Dr Megan Finn (University of Johannesburg)
Ms Raisa N Cachalia (Stellenbosch University) <i>Distinguishing State Power under the South African Constitution: From Functional Classification to Institutional Identity</i>	Ms Ropafadzo Maphosa (University of Johannesburg) <i>Courts as Political Battlegrounds: Strategic Litigation and the Future of Constitutional Democracy in South Africa</i>	Ms Ariella C Gordon (University of Cambridge) <i>The Dialogue around Disguised Legislation in the United Kingdom and Australia</i>
Mr Nakul Nayak (LSE) <i>Between Citizen, Capital, and State: Law and Politics of Digital Public Infrastructures</i>	Mr Pascual Cortés (LSE) <i>'We would have remained the same': On the Chilean Carabineros' constitutional embeddedness</i>	Mr Konstantinos Sioufas (LSE) <i>The Impact of Constitutionalism on Statutory Interpretation</i>
Mr James Monaghan (LSE) <i>Between the Minister and the law? The Civil Service and the Rwanda asylum plan in R (FDA) v Minister for the Cabinet Office [2024] EWHC 1729 (Admin), [2025] KB 269</i>	Ms Arshia Sana (O P Jindal Global University) <i>Legal Discrimination and Democratic Backsliding in India: Use, Misuse, Abuse of Law to Marginalise Minorities</i>	Mr James Gaetani (Australian National University) <i>Recognition in the age of statutes: Statute law and legal plurality in Australia</i>

13:30 – 15:00 – Keynote Plenary: [Judicial Independence and Accountability](#)

Venue: Lecture Theatre 1

Chair: Prof Hugh Corder (University of Cape Town)

Chief Justice Mumba Malila SC (Supreme Court of Zambia)

Prof Paul Daly (University of Ottawa)

Prof Ben Sihanya (University of Nairobi)

15:00 – 15:20 – Coffee Break

15:20 – 16:50 – Parallel Panels – Session 4

<p><u>Human Rights, Proportionality and Punishment</u> Venue: Lecture Theatre 1</p>	<p><u>Transformation, Authoritarianism and Populism</u> Venue: Lecture Theatre 2</p>	<p><u>Accountability Beyond Courts</u> Venue: Lecture Theatre 3</p>
<p>Chair: Ms Carol Selepe (Law Society of South Africa)</p> <p>Prof Natasa Mavronicola (University of Birmingham) and Dr Mattia Pinto (University of York) <i>Rethinking the penal accountability paradigm for serious human rights violations</i></p> <p>Mr Daniel Adjin Odonkor and Dr Nicola Palmer (University of Cape Town) <i>Navigating Criminalisation in African Human Rights Law</i></p> <p>Dr Bruce Chen (Deakin Law School) <i>Proportionality Testing under the South African Bill of Rights and Australian Human Rights Acts: Strange Bedfellows?</i></p>	<p>Justice Seena Yacoob (High Court of South Africa)</p> <p>Prof Olaf Zenker (Martin Luther University, Germany) <i>Reclaiming Transformative Constitutionalism: Postliberal Affordances between Southern-Decolonial Critique and Northern Authoritarianism</i></p> <p>Mr Denin O Omondi (Moi University, Kenya) <i>Populism, Nationalism, and Fundamentalism: Reassessing Constitutionalism Thirty Years After South Africa's 1996 Constitution</i></p> <p>Dr Justice Alfred Mavedzenge (Democratic Governance and Rights Unit, University of Cape Town) <i>Competitive Authoritarianism and the subversion of judicial autonomy in Africa</i></p>	<p>Chair: Mr Mashudu Kutama (Law Society of South Africa)</p> <p>Dr Molefhi M Phorego (Nelson Mandela University) <i>Presidential Commissions of Inquiry as a Mechanism to Effect Constitutional Review: Perspectives from Botswana and Comparable Jurisdictions</i></p> <p>Prof Dean R Knight (Victoria University of Wellington) <i>Conceptualising an integrity or fourth branch of government in Aotearoa New Zealand: promoting probity in governance and safeguarding constitutional democracy</i></p> <p>Ms Monica de Souza-Louw (University of Cape Town) <i>Promoting accountability and going 'back to basics' in South African traditional governance</i></p>

16:50 – 17:30 – Transfer to Dinner venue from Kramer Law Building

17:30 – 22:00 – Gala Dinner at the Norval Foundation Art Gallery

Dinner speaker: Judge President/Prof Dennis Davis (University of Cape Town/Competition Appeal Court of South Africa)

Building Constitutional Jurisprudence from Nothing: 30 years of the Constitutional Court

Dress: Smart casual

Friday 3 July 2026

9:00 – 10:30 – Parallel Panels – Session 4

<p><u>Control of Discretionary Power</u></p> <p>Venue: Lecture Theatre 1</p> <p>Prof David Dyzenhaus (University of Toronto)</p>	<p><u>Constitutional Challenge and Change in Africa</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Mr Frankl Weber (Law Society of South Africa)</p>	<p><u>Equality: Wealth, Education, Identity</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Ms Zenobia Du Toit (Miller du Toit Cloete Inc)</p>
<p>Prof Genevieve Cartier (University of Sherbrooke) <i>Discretion, Prerogative Power and Constitutional Democracy</i></p> <p>Dr Edward Clark (Te Herenga Waka Victoria University of Wellington) <i>The Shared Burden of Justification and the Separation of Powers: A Dynamic Equilibrium?</i></p> <p>Dr Isabeau Steytler (Stellenbosch University) <i>The procedural fairness gap in the review of non-administrative actions in South Africa</i></p>	<p>Dr Musa Kika (Institute for Human Rights and Development in Africa, Gambia) <i>Jurisprudence of Coups: Trends in Constitutional Adjudication of Coups in Africa</i></p> <p>A/Prof Jameelah Omar (University of Cape Town) <i>The discriminatory component of consent: an analysis of sexual assault in South Africa</i></p> <p>Dr Ibrahim Harun (University of the Western Cape) <i>From Balance to Domination: Executive Power and Democratic Accountability in Post-2010 Kenya</i></p>	<p>A/Prof Jason Brickhill (University of Cape Town/Johannesburg Bar) <i>The Constitutional Imperative to Regulate Extreme Wealth</i></p> <p>Dr Lisa Draga (University of the Western Cape) <i>Language in education: Access to education versus recognition of diversity</i></p> <p>Ms Jessica Waldman (University of Cape Town) <i>A denial of common humanity? Unsolved murders, impunity and the right to a dignified death investigation</i></p>

10:30 – 11:00 – Coffee Break

11:00 – 12:30 – Keynote Plenary: [Reconceiving Public International Law](#)

Venue: Lecture Theatre 1

Chair: Dr Nicola Palmer (University of Cape Town)

Justice Richard Goldstone (Constitutional Court of South Africa)

Prof Antony Anghie (National University of Singapore)

Ms Tafadzwa Pasipanodya (Partner and Chair, Africa Practice, Foley Hoag LLP, Washington DC)

Emeritus Prof John Dugard SC (Leiden University/University of the Witwatersrand) (online)

12:30 – 13:30 – Lunch in the Pius Langa Quad

12:45 – 13:30 – Doctoral Panel B

<p><u>Law, Society and Equality</u></p> <p>Venue: Lecture Theatre 1</p> <p>Chair: Prof Nico Steytler (University of the Western Cape)</p>	<p><u>Accountability, Relief and Public Law</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Mr John Jeffery (Independent, South Africa)</p>	<p><u>Testing Democratic Resilience</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Mr Jonathan Mort (Jonathan Mort Inc)</p>
<p>Ms Sinethemba Memela (University of New South Wales) <i>The Interpretation of Constitutional Labour Rights and material inequality in South Africa</i></p> <p>Mr Balu G Nair (University of Melbourne; National Law School of India University) <i>Affirmative duty to protect: A broad accountability mechanism or a narrow duty on the Indian State?</i></p>	<p>Mr Nathaniel Reilly (University of Oxford) <i>Damaging Good Governance: A Game-Theoretic Perspective</i></p> <p>Mr Benjamin Christy (University of Auckland) <i>A New [Zealand] Parliamentary Sovereignty: Can sovereign parliaments be liable for human rights violations?</i></p> <p>Dra Anne Bombay (KU Leuven) <i>Courts and the Vacant Seat of the Legislator: Judicial Remedies for Unlawful Legislative Inaction in Constitutional Democracies</i></p>	<p>Ms Lisa de Waal (Stellenbosch University) <i>Accountability in South Africa's International Law Participation: Measuring the Health of its Constitutional Democracy</i></p> <p>Ms Lisa Mariß Leibniz (University Hannover) <i>Right-Wing Extremism and Democratic Erosion: A Comparative Analysis of Institutional Resilience in Germany and South Africa</i></p> <p>Mr Douglas McDonald-Norman (University of Technology Sydney; UNSW) <i>The Canary: Tribunals and Democracy in India</i></p>

13:30 – 15:00 – Parallel Panels – Session 5

<p><u>Distribution of Power within Constitutional Systems</u></p> <p>Venue: Lecture Theatre 1</p> <p>Chair: Justice Colin Feasby (Court of King's Bench of Alberta)</p>	<p><u>Unwritten Norms</u></p> <p>Venue: Lecture Theatre 2</p> <p>Chair: Justice Steven Majiedt (Constitutional Court, South Africa)</p>	<p><u>Speech, Protest and Struggle</u></p> <p>Venue: Lecture Theatre 3</p> <p>Chair: Prof Bradley Slade (Stellenbosch University)</p>
<p>Mr Dan Mafora (University of Cape Town) <i>Executive Authority under the Constitution: Doctrine in Search of a Theory</i></p> <p>Prof John Golden (University of Texas at Austin) <i>Madison's Separation-of-Powers Oversight? Correcting for the</i></p>	<p>Hon Justice Adedotun Onibokun (Nigerian High Court/Redeemer's University) <i>Identifying and Upholding the Unwritten Norms, Values and Cultures that Sustain Democracy in Nigeria</i></p> <p>A/Prof Marcelo B Rodriguez Ferrere (University of</p>	<p>Ms Celia G Winnett (Sixth Floor Selborne Wentworth Chambers, Australia) <i>Anonymous Political Speech in a Constitutional Democracy</i></p> <p>Dr Tanveer R Jeewa (Stellenbosch University) <i>The History of Mass Unlawful Occupation</i></p>

<p><i>Legislature's Long-Term Disadvantage</i> Dr Andreas Karsten (CUQ Ulster University, Doha) <i>From Riots to Responsibility, the Role of "Sanctuary Cities" in a World of Increasing "Sanctuary" Risks and Perpetual Violence: A New Democratic Frontier</i></p>	<p>Auckland) <i>The weaponisation of comity in New Zealand</i> Dr Shreeya Smith (Western Sydney University) <i>Democracy under the Constitution: how democratic participation and accountability inform our understanding of the power of the Commonwealth in Australia</i></p>	<p>Prof Mlungisi Ernest Tenza (University of KwaZulu-Natal) <i>An investigation into the justifiability of the use of struggle songs, slogans and apartheid symbols as modes of expression and heritage in a democratic South Africa</i></p>
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15:00 – 15:20 – Coffee Break

15:20 – 16:50 – Parallel Panels – Session 6

The Public-Private Interface Venue: Lecture Theatre 1	The Judicial Branch and Judicial Process Venue: Lecture Theatre 2	The Efficacy of Constitutional Democracies Venue: Lecture Theatre 3
<p>Chair: Ms Pippa Reyburn (ENS Attorneys)</p> <p>Prof Janina L Boughey (University of New South Wales) <i>Government Outsourcing of Expertise: Lawfulness and Legitimacy</i></p> <p>Dr Meghan Finn (University of Johannesburg) <i>Revisiting the remedial repertoire in South Africa's horizontal constitutionalism</i></p> <p>Ms Claire Rankin and Ms Margeaux Wassenaar (Legal Resources Centre, South Africa; Webber Wentzel, South Africa) <i>Crossing the divide: the diminishing returns of retaining siloed public, private and commercial legal sectors in judicial reasoning</i></p>	<p>Judge Benjamin Zipser (Federal Circuit and Family Court of Australia) <i>The role of the judicial branch of government in the Australian constitutional democracy</i></p> <p>Prof Ntombizozuko Dyani-Mhango (University of Pretoria) <i>The doctrine of stare decisis and judicial accountability in the South African Constitutional Court</i></p> <p>Dr Sanya Samtani (University of Cape Town) and Prof Jonathan Klaaren (University of the Witwatersrand) <i>When 'force' and 'will' require 'mere judgment': Engaging the Constitutional Court through Presidential and Parliamentary Referrals</i></p>	<p>Chair: Prof Henk Botha (Stellenbosch University)</p> <p>Dr Robert J Craig (University of Bristol) <i>In defence of First Past The Post</i></p> <p>Ms Ritwika Sharma (Jindal Global Law School) <i>Delimitation of Electoral Constituencies in India – Constitutional Expectations, Political Realities</i></p> <p>Adv Benjamin Cronin (University of Cape Town) <i>State Capture from within: The technocratic threat to the rule of law</i></p>

17:00 – 18:30 – Keynote Plenary: [30 Years of South African Constitutionalism](#)

Venue: Lecture Theatre 1

Chair: Dr Nomfundo Ramalekana (University of Cape Town)

Prof Joel Modiri (University of Pretoria)

Mr Dan Mafora (University of Cape Town)

Prof Cathi Albertyn (University of the Witwatersrand)

Ms Prelisha Singh (Webber Wentzel Attorneys)

Saturday 4 July 2026

9:00 – 10:30 – Keynote Plenary: [Comparative Influences in National Jurisdictions](#)

Venue: Lecture Theatre 1

Chair: Chief Justice Satiu Simativa Perese (Supreme Court of Samoa)

Lord Justice Rabinder Singh (English Court of Appeal)

Prof Charles Fombad (University of Pretoria) (online)

Prof Jason Varuhas (University of Melbourne)

10:30 – 11:00 – Coffee Break

11:00 – 12:30 – Parallel Panels – Session 7

The Interface between International Law and Constitutional Law Venue: Lecture Theatre 1	Privacy, Surveillance and Technological Power Venue: Lecture Theatre 2	Legislation and Legislatures Venue: Lecture Theatre 3
Chair: Dr Nicola Palmer (University of Cape Town)	Chair: Dr Felicity Kalunga (University of Zambia)	Chair: Mr Paul Hoffman SC (Accountability Now)
Dr Fiona Roughley (Banco Chambers, Australia) <i>International Law and Constitutional Democracy: Interconnection, Independence and Immunity</i>	Dr Róisín Á Costello (Trinity College Dublin) <i>A Republican Theory of Privacy: securing intellectual freedom and the right to walk tall in the modern state</i>	Dr Robert Greally (University of Bristol/New York University) <i>The Least Examined Branch: A Genealogy of Legislative Assemblies in Public Law</i>
Dr Gus Waschefort (4-5 Gray's Inn Square Chambers) <i>A Practitioner's Perspective on the Domestication of Customary International Law: A comparison of English and South African Constitutional Principles as Safeguard for the Separation of Powers</i>	Dr Lukman Adebisi Abdulrauf (University of Ilorin, Nigeria) <i>Rethinking Constitutionalism in the Digital Era: Big Tech, Platform Power and the Future of Democracy in Africa</i> Mr Yuri Behari-Leak (University of Cape Town)	Ms Marion Sandilands (University of Ottawa/Conway Litigation) <i>Corroding the Rule of Law through Law-Making: Examples from Canada</i> Mr MP Fourie-Viljoen (Constitutional Court of South Africa) <i>Invalidation of Legislation on Public</i>

<p>Dr Matilda Gillis (Corpus Christi College, Cambridge) <i>Plausible Deniability, Genocide and Public Law: Rethinking the Relationship Between Constitutional Democracy and Norms of Jus Cogens</i></p>	<p>Justice Needs a Human Face: Artificial Intelligence, Social Justice, and Access to Courts in South Africa</p>	<p><i>Participation Grounds: Constitutional Tensions and Remedies</i></p>
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12:30 – 13:30 – Lunch

13:30 – 15:00 – Closing Plenary Keynote: Public Law and the Future of Constitutional Democracy

Venue: Lecture Theatre 1

Chair: Prof Cora Hoexter (University of the Witwatersrand)

Justice Sheilah L Martin (Supreme Court of Canada)

Deputy Chief Justice Dunstan Mlambo (Constitutional Court of South Africa)

Prof Sir Jeffrey Jowell KC (Blackstone Chambers)

Closing remarks: Prof Hugh Corder and Prof Jason Varuhas

The organisation and staging of a conference such as this Public Law Conference would be impossible without the generous and willing support of a number of donors, all of which are based in South Africa. The 2026 Organising Committee would like to express its great gratitude to the following bodies whose financial and in-kind support has made this event possible:

The Millennium Foundation

The University of Cape Town, the University of the Western Cape, and Stellenbosch University, in each instance through the Dean of Law.

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