

Juta's Law Academic Newsletter



Juta Law – South Africa's trusted provider of legal information solutions

Dear Reader,

Many of us are involved in nurturing generations of professionals, be it as academics, supporting staff, legal professionals or publishers. As we continue to hone learners' legal critical thinking and writing skills, in this edition we pause to celebrate the learners who have discerned themselves from the crowd. On 5 September 2014 the awards ceremony for the 2013 winners of the Ismail Mahomed Law Reform Essay Competition was held in Pretoria. The winning essays illustrate the exceptional minds of a generation that is ready to continue in the formidable footsteps of those before them. Also illustrating excellence and a pioneering spirit are the Students for Law and Social Justice (SLSJ) who successfully held their Juta-sponsored national seminar from 15 to 17 August 2014. Read both these stories – and other informative articles – in the newsletter.

In this edition we introduce a new section to the newsletter, the 'University Showcase' page, which allows institutions to share their successes, accolades and other good news. First in line is UCT, reporting on the awards their alumni and present staff recently received. If your institution would like to feature in this section, please contact us – the information is provided below.

We appreciate and are excited about the support and encouragement this newsletter received. Thank you to all the enthusiastic contributors who offered submissions for this edition. It is this kind of energy that will grow the newsletter and similar initiatives to benefit the legal profession in southern Africa as a whole.

Also, thank you to everyone who provided feedback on our first edition. We welcome your views, comments or queries and look forward to hearing from you.

Good luck with the marking and enjoy the well deserved rest.

Enjoy the read!

Regards,
The Juta Law Marketing Team
Mabel, Wayne, Stef and Paula

 **Talk to us**

Please contact us if you have queries, comments or anything to add:

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 jotalaw

 JutaLaw

Minister lauds preparation of law students 'for the real world'

In a speech thanking Juta and the SA Law Reform Commission (SALRC) for a decade of collaboration on the **Ismail Mahomed Student Essay Competition** – the 2013 winners were announced at a gala event in Centurion on 5 September 2014 – Minister of Justice and Correctional Services, Michael Masutha, touched on issues of transformation of the legal profession and the enabling role to be played by the Legal Practice Bill in levelling the playing field.

The event celebrated a decade of award-winning essay writing by law students. The winner of the 2013 competition was UCT student Shaun Barns who walked away with a prize of R20 000. Runners-up Colette Ashton (Unisa), Dave Houze (WITS), Nathan Sarkas and Steven Poynton Stuart-Steer (UCT) each received R10 000.

Named in honour of the late Chief Justice Ismail Mahomed, the competition aims to encourage critical legal writing and thinking skills by LLB & LLM students, while generating innovative ideas for law reform. Judge Jody Kollapen, vice-chairperson of the SALRC, reflected on the 10 years of winning essays during the launch of a free legal writing guide for law students by the SALRC in conjunction with Juta Law.

A leather-bound commemorative publication of all winning essays since the inception of the competition in 1999 was also presented to the competition alumni who were guests of honour at the awards evening.



Shaun Barns (winner) and supervisor Dr Alistair Price



Runner up David Houze with Juta CEO Lynne du Toit



Runner up Colette Ashton



Runner up Steven Poynton Stuart-Steer



The Ismail Mahomed Essay Alumni

Congratulations!

We are proud to announce the **WINNER** of the 2013 Ismail Mahomed Law Reform Essay Competition

Shaun Barns (UCT)

Topic: *Constitutional damages: a call for the development of a framework for SA*

The **RUNNERS-UP** are:

Colette Ashton (Unisa)

Topic: *Creating pockets of diversity in South African cities: how to unlock well-located land in urban areas*

David Houze (Wits)

Topic: *Harmonising section 36(1)(b) of the Criminal Procedure Act with human rights imperatives of the South African Constitution*

Nathan Sarkas (UCT)

Topic: *A not so quiet revolution*

Steven Poynton Stuart-Steer (UCT)

Topic: *Reconsidering an understanding of damages as a surrogate of specific performance in South African law of contract*

WHY ENTER?

The Ismail Mahomed Law Reform Essay Competition aims to encourage critical legal writing by students, while generating new innovative ideas for the reform of the law. It also seeks to encourage legal scholarship and public dialogue on the link between law reform, human rights and the rule of law.



Why **YOU** should enter the Ismail Mahomed 2014 Law Reform Essay **COMPETITION**



Two individual winners in the LLB and LLM categories
stand to WIN a voucher to the value of
R20,000

**RUNNERS UP
STAND TO
WIN:**



Each of the winners'
supervisors & law faculties
WIN: Credit voucher
to the value of
R2,500



A voucher to the value of
R10,000 EACH



The lecturer &
Law Faculty submitting the
most student entries:
**GET SPECIAL
INCENTIVES**

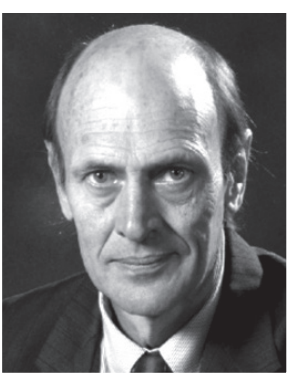
PRIZES

SUBMIT ENTRIES TO: The Secretary, South African Law Reform Commission,
Private Bag X668, Pretoria, 0001 | E-mail: jjoni@justice.gov.za
Deadline 30th November 2014

ENTER

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talks about his recently published book, *Workplace Law*

Dr John Grogan is a practising advocate, acting judge of the High Court, senior arbitrator and legal publisher. We interviewed him on the 11th edition of his best-selling Juta Law title, Workplace Law, which was published in September 2014.

Q&A:

1 We have been anticipating the 11th edition of Workplace Law for some time now. Which areas of the book have been revised and what, if any, new content areas can we expect to see?

The book has been updated throughout with both fresh case law and the latest amendments.

2 To what extent did the delays in Parliament's passing of the labour law amendments affect the publication of the new edition?

Since it was felt inadvisable to produce a new edition that would be rapidly overtaken by the amendments, publication of the 11th edition was held over for about two years.

3 Which of these new amendments to the labour law regime will have the biggest impact on the South African employment landscape?

All amendments are important, but those that are likely to have the most radical effect are the limitations

placed on labour broking and the use of fixed-term contracts, and changes to the Employment Equity Act

4 What crucial changes do you think needed to be made to the labour legislation? Were they made?

Some controls over strikes that become violent or 'dysfunctional'. No, they weren't.

5 As South Africa enters the next 20 years in our democracy, which areas of the South African labour law regime would you like to see addressed in future labour legislation?

A 'sunset clause' in the Employment Equity Act and a reference for arbitration in strikes which become dysfunctional, as I said above.

About the Author

John Grogan is one of the most respected and prolific writers on labour law in South Africa. He has been involved in the practice and teaching of labour law for more than 20 years. He left his position as head of the Department of Law at Rhodes University for private practice as a labour lawyer in 1997. Apart from practising in the labour courts, John conducts private arbitrations and continues to publish and lecture. He has been a

part-time senior commissioner of the Commission for Conciliation, Mediation and Arbitration (CCMA), a panellist on a number of bargaining councils and has acted as a judge in both the labour and the high courts. Apart from *Workplace Law*, the 2nd edition of *Dismissal* has also just been published with Juta. John is also a co-presenter of Juta's popular Annual Labour Law Seminar series, currently in its 13th year of existence.



talks about changes in Labour Law and Social Security Law

*Avinash Govindjee is one of the co-editors and contributing authors to Juta's recently published *The Role of Standards in Labour and Social Security Law: International, Regional and National Perspectives*. We asked him about the changes in the labour and social security landscape.*

Q&A:

1 What are your thoughts on the recent changes to the South African labour legislation?

I'm both excited and apprehensive. Excited that practically all the labour legislation has undergone amendment, resulting in some significant changes to the legal landscape, and apprehensive about the tremendous challenges that remain, particularly in respect of proper interpretation, application and enforcement of the new laws. I'm also particularly interested to see how the one new piece of legislation, namely the Employment Services Act, is implemented in practice, and whether this law is able to make any dent whatsoever on the deepening unemployment crisis.

2 As South Africa enters the next 20 years in our democracy, which areas of our labour law regime would you like to see addressed in future legislation changes?

I'm probably more concerned about the (in)ability to enforce some parts of existing legislation than I am about tweaking our labour law some more in the future. For example, I'm not sure that the current monitoring and enforcement mechanisms reflected in the Employment Equity Act (even post-amendment) are necessarily going to ensure compliance and adherence to the purposes of that Act. I do look forward to seeing whether legislators are, in future, able to address the expressed policy focus on youth unemployment in a systematic and

sustained manner, beyond merely relying on ad hoc policy pronouncements from the various ministries.

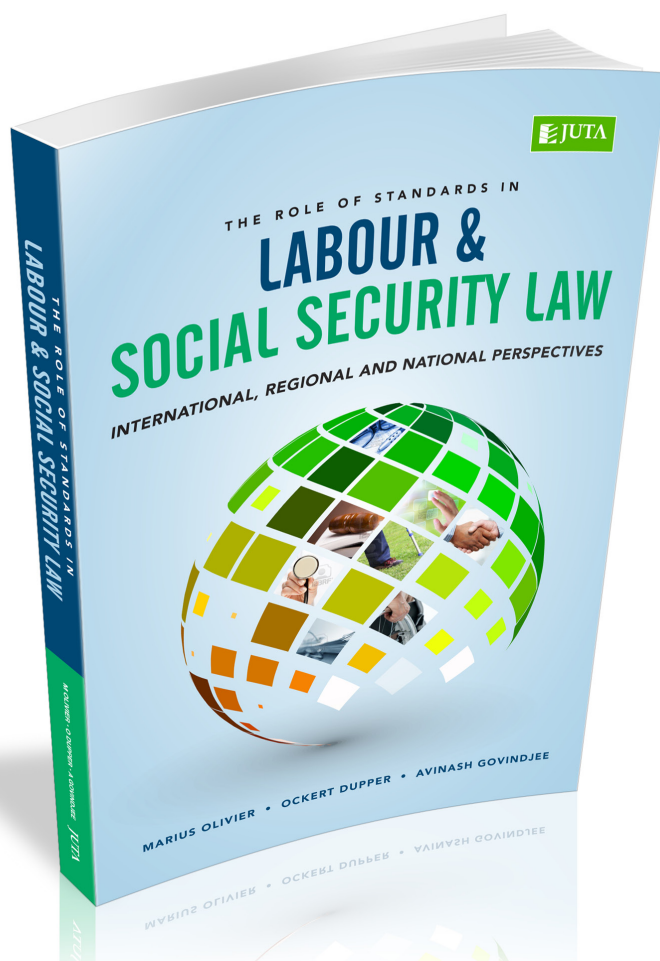
3 Your other interest is in Social Security Law. Please share some insights with us on the challenges and developments in this area of South African law.

Social security legislation is also undergoing review and amendment at present. The Unemployment Insurance Act is finally being changed so that the Unemployment Insurance Fund can, for example, play a more significant role in financing the retention of contributors in employment and the re-entry of contributors into the labour market. The introduction of 'early return-to-work' arrangements in the form of a possible new chapter in the Compensation for Occupational Injuries and Diseases Act is also exciting, especially when considering the likely positive impact of rehabilitation and return-to-work initiatives for employees, employers and an entity such as the Compensation Fund. Developments in respect of (compulsory) national retirement provisioning and national health insurance are also anticipated. Finally, with the tipping point seemingly reached in respect of the ability of the fiscus to support social grants, the ability and will of the state to fulfil the constitutional duty to provide 'social assistance' for people who are unable to support themselves or their dependants between the ages of 18 and 60 remains to be seen.

4 You have just joined Juta's popular Annual Labour Law Seminar series as a co-presenter. What benefits can attendees expect to gain from attending the Juta Labour Law Seminar?

The Annual Labour Law Seminar is a highlight on the labour law calendar and provides an ideal opportunity for attendees to gain insight into some of the latest thinking on complicated and practical issues. I think the

opportunity to interact at close quarters with people of the calibre of John [Grogan], Barney [Jordaan] and Puke [Maserumule] is priceless – the way in which they are able to explain and contextualise the latest legal developments is well known in the labour fraternity and lies at the heart of the success of the seminar. I'm thrilled to have been asked to be a part of this team.



About the Author

Avinash Govindjee is Professor of Law and deputy head of the Labour and Social Security Law Unit at the Faculty of Law, NMMU, Port Elizabeth. He is an attorney of the High Court of South Africa, practising as a consultant to the firm Burmeister de Lange Soni Inc in Port Elizabeth. He serves the Commission for Conciliation, Mediation and Arbitration (CCMA) on a part-time basis as a senior commissioner. As a consultant to the Institute for

Social Law and Policy (ISLP), he has been involved in a range of labour and social security-related projects for various South African government departments and agencies, most recently in relation to the introduction of return-to-work arrangements in South Africa. Avinash is an NRF-rated researcher and was named as one of the *Mail&Guardian's* top 200 Young South Africans in 2013.

The Society of Law Teachers of Southern Africa Conference 2015

Celebrating sound academic legal research



By Neetu Chetty,
The IIE Varsity College: Durban National

The Society of Law Teachers of Southern Africa (SLTSA) Conference creates a platform for sound academic legal research in southern Africa. The 2015 conference will be hosted by The IIE Varsity College from 6 to 8 July in Durban.

Although The IIE Varsity College enjoys a national footprint throughout South Africa, it has opted to host this event at its Durban North campus to provide delegates with an opportunity to experience Durban's sunny winter. As the host of this prestigious legal academic event, The IIE Varsity College intends to continue the legacy of previous hosts: uniting some of southern Africa's most brilliant legal minds under one roof to share recent legal developments and promote teaching and research in the field of law.

The significance of the conference as a dais for policy making, regulatory developments and legal education cannot be denied. At every SLTSA conference the Law Society of South Africa (LSSA), the Judicial Service Commission and the Magistrates' Commission, among others, avidly contribute recommendations and policy reform suggestions to the legal profession. The IIE Varsity College has therefore secured plenary speakers from the whole spectrum of legal academia, the judiciary itself and the profession.

Delegates can thus look forward to dynamic yet insightful addresses from a distinguished and respected panel of plenary speakers who are leaders

in their respective areas of law and expertise. The IIE Varsity College looks forward to collaborating with SLTSA and faculties of Law from across southern Africa to ensure that the 2015 conference is a resounding success.



Call for papers



The Southern African Law Teachers' Conference 2015

The Society of Law Teachers of Southern Africa invites you to submit abstracts for consideration to be presented at the Southern African Law Teachers' Conference. The conference will be hosted by The IIE Varsity College in Durban from 6 to 8 July 2015.

The purpose of the conference is to create an intellectual platform for legal research in the spirit of unity and collegiality among legal academics. It provides academics with an opportunity to learn from and with one another. Legal research will be presented by seasoned legal academics as well as junior academics who aspire to the standard set by the former.

Call for papers

Submissions are invited from all the major disciplines of law, with specific focus on:

- The impact of social media on the law
- E-commerce
- Ethics in legal training
- Access to justice
- Alternate dispute resolution
- Legal education
- International Law
- Criminal Procedure
- Evidence
- Consumer Protection Law
- Family Law
- Labour Law
- Environmental Law
- Child Law
- Constitutional Law
- Criminal Law
- Clinical Law
- Jurisprudence
- Human Rights Law
- Insolvency Law
- Property Law
- Legal History
- Commercial Law

- E-commerce Law
- International Trade Law
- Competition Law
- Corporate Governance
- Law of Obligations

Contributions on any corporate and commercial matters will be considered for inclusion in the second issue of the *Journal for Corporate & Commercial Law & Practice*, published by Juta.

To support the vision of The IIE Varsity College of hosting a 'green' conference, all papers presented at the conference will be published in Juta's electronic newsletter.

First-time presenters are invited to compete for the First-Time Presenter's Award, sponsored by Oxford University Press.

Please submit your abstract of between 300 and 500 words to saltc2015@varsitycollege.co.za as follows:

First-time presenters: Friday, 16 January 2015

All other presenters: Monday, 12 January 2015

Full papers will be due as follows:

First-time presenters: Tuesday, 13 March 2015

All other presenters: Monday, 2 March 2015

Papers on Law Education will also be considered for publication in *The Independent Journal of Teaching and Learning*, an accredited Journal.

Diarise
6-8 July 2015

How to get your course's prescribed and recommended books in time

Jennie Bowen of Juta Sales in Durban explains why adoption details and booklists are important, and what information should be supplied to Juta to ensure that you get your prescribed or recommended books in time.

Name and contact details of lecturers

If we have the names and contact details of lecturers, we can keep them up to date on current editions of books and other relevant information (price changes, books going out of print, etc). We can then also make sure that lecturers know about and have access to desk copies and any lecturer and student support material that might be available.

Only prescribing lecturers have access to support material, so if we know who the lecturers of a course are, we can give them timeous access to support material. It also gives us enough time to supply desk copies.

Course code, start date and estimated student numbers

To make sure that we have enough stock printed for prescriptions of a particular textbook around the country, it is important that we know when courses are planned to run (quarter or semester month) and how many students there are (based on the numbers for previous years for that course or best estimates). The course name/code is important so that we can ensure that we capture courses correctly because sometimes different courses at the same institution use the same book. We can also monitor orders to see if bookshops have sufficient stock for the course.

Details of book(s)

Sometimes different books by different publishers have similar titles/authors. We need to make sure that the information we are listing is for the correct book. It also enables us to double-check that the edition being prescribed is the most current and up-to-date one available. An ISBN number uniquely identifies a book, so it is useful to put this on the booklist. (The ISBN number is a 13-digit number usually found on the back cover of the book starting with '978')

Consolidated departmental booklist?

It is useful to get one booklist from a faculty or department because it gives us an overview of the range and level of courses being taught. We can then send appropriate inspection (desk) copies of titles to

the correct person where they are using a different book but might want to change. If we receive a full booklist, we can provide you with a better service regarding potential titles of interest and new books without swamping lecturers with inappropriate or incorrect information. It also enables us to see that all prescribed books are listed and to distinguish between prescribed and recommended books. If it is a recommended title the faculty library should be notified to keep copies of recommended titles.

It is also useful for suppliers to know that they have received all the prescribed books for a department. If individual lecturers notify us of adoptions, it is hard to tell if everyone has remembered to do so. Consolidated booklists containing an administrator's or a course coordinator's contact details mean we can notify someone else in the department of new editions, reprints, books going out of print, etc if an individual lecturer is not available.

Timing of booklists

It is always best if booklists are not put together too late in the year or semester so that we can receive the booklists in timeously (if possible at least two months before the course or semester starts). At times books go into reprint due to demand and so there can be delays in supply. An early booklist means that this does not become a problem as there is time enough to reprint, or if a book is going out of print or into a new edition, there is time for lecturers to speak to us about options and alternatives. It also gives us enough time to supply lecturers with desk copies or support material, if needed.

For more information on how to draw up booklists or on any of our titles, contact:

Stefan Kruger
Juta Law Academic Consultant
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Annual Banking Law Update 2014

By Lara Smidt

Marketing Coordinator: Faculty of Law, UJ

The Annual Banking Law Update (ABLU) was presented for the 36th time in May 2014 by the Centre for Banking Law at the University of Johannesburg (UJ). This conference was founded in 1978 by Prof FR Malan, then director of the centre.

The conference included legal updates on companies, bills of exchange, tax, demand guarantees and the National Credit Act, specifically from a banking perspective. Specialist papers were presented on shadow banking in Africa, a widespread topic for discussion. International private law problems relating to demand guarantees were addressed as well as the enforcement of arbitral awards and judgments in Africa. The Code of Banking Practice and loan syndication and the Loan Market Association (LMA) in Africa were discussed. In addition, two comprehensive panel discussions took place on bank regulation, credit and consumer law.

Experts from all over the world addressed delegates at this annual event. International speakers included Prof

Agasha Mugasha, an expert on shadow banking, and Prof Nelson Enonchong, an expert on international private law problems relating to demand guarantees. Other contributors included: Prof Kathleen van der Linde, Jannie Otto, Thabo Legwaila and Charl Hugo (UJ); Proff Jopie Pretorius, Michele Kelly-Louw and Sieg Eiselen (Unisa); Prof David Butler (US); Prof Corlia van Heerden (UP); Prof Angela Itzikowits (Wits); Prof Sarel du Toit (NWU); Mr Alwyn Möller (Cape Bar); Mr Steven Gamble (LMA); and a team from the South African Reserve Bank (Ms Raksha Semnarayan, Dr Johann de Jager, Mr Chris van der Walt and Adv Michael Blackbeard). The conference was chaired by Prof Frans Malan (UJ) and Prof Willem Kruger (Unisa and Nedbank).

The popularity of this event grows every year and interested parties are encouraged to contact the Faculty of Law at UJ to ensure that information on next year's event reaches them in time.



Case law research

by Juta's Law Reports editors



Louis Podbielski, managing editor: *Juta Law Reports*, explains the nitty gritty of case law research.

Cases on a certain topic may be found by searching the –

- subject index
- case annotations
- statute annotations
- electronic judgment text.

Subject index

The subject index, being a collection of flynotes, contains the essence of the case in concise form, and will state the issue covered in the judgment. It is a more efficient place to search for words and phrases than searching the entire database (including the headnotes and judgment texts), which will return many more 'hits' for your search.

Each judgment has at least one flynote, arranged from the main topic down to more specific areas of law.

Every step is separated by long dashes to indicate the narrowing of the subject. So first look for your case under the main topic and then follow the entries until you have narrowed your search down to matching cases.

In the electronic law reports you can select the Search drop-down menu **Search in Flynotes** only (in Folio Views) or the **Flynote** box of the Law Reports Search (in Jutastat Online).

In Folio Views it is helpful to put quote marks around your search terms, so that only exact matches come up, for example, "notice of default" would find you the flynote below, as well as similar cases on the topic.

Credit agreement – Consumer credit agreement – Debt enforcement – Proceedings in Anticipation of judicial proceedings – Notice of default – Delivery – Requirements – Risk of non-receipt of notice – Constitutional Court's decision in *Sebola* establishing principle that notice must reach consumer

or be brought to his or her attention – *Semle*: Where facts showing consumer deliberately avoiding fulfilment, finding of fictional fulfilment of principle that notice had come to the attention of the consumer possible – National Credit Act 34 of 2005, s 129(1). *Balkind v Absa Bank* 2013 (2) SA 486 (ECG)

Case annotations

When you have a case on a topic, you can check its annotations to see whether any subsequent cases have dealt with your case. This is an important search because a later case may have overturned, criticised or qualified your case. Also, you may find more recent cases that take the matter further, or which better cover the issue. Don't forget to check the annotations of those cases too!

See, below, the *Sebola* Constitutional Court judgment on the notice of default. One would be well advised to read the annotated cases that interpret and apply *Sebola*, and to search deeper for any judgments that deal with the annotated cases. Some of these cases have subsequently not been followed, or have been doubted and criticised. (An explanation of annotating terms is supplied at the end of this article.)

Sebola v Standard Bank of SA Ltd 2012 (5) SA 142 (CC) (2012 (8) BCLR 785; [2012] ZACC 11)

dicta in paras [75]–[76] & [87] applied	2012 (5) SA 569 (WCC)	referred	2013 (2) SA 325 (SCA)
applied	2012 (5) SA 574 (KZD)	applied	2013 (2) SA 486 (ECG)
considered	2013 (1) SA 481 (WCC)	referred	2013 (2) SA 620 (CC)
dictum in para [40] applied	2013 (2) SA 1 (CC)	referred	2013 (4) SA 262 (CC)

Statute annotations

Since we strive not to clutter the statute annotations with unhelpful references, we annotate a statute only when a judgment deals with it in some depth, for example when part of it is defined or when the ambit of its application is fixed. In the statutes annotations you will find the number and year of the Act (see the excerpt below).

Act 34 of 2005 – National Credit Act

s 129 (1)(a)	2009 (2) SA 512 (D)
s 129 (1)(a)	2010 (1) SA 549 (KZD)
s 129 (1)(a)	2010 (3) SA 443 (GSJ)
s 129 (1)(a)	2010 (4) SA 531 (GNP)

Below this you will see a list of individual provisions of the Act followed by a reference to a case (or cases) in which that provision was dealt with. So, for example, if you want case law on s 129(1)(a) of Act 34 of 2005, you will be referred to all the cases that have dealt with that provision, in chronological order. You may then proceed to those cases to see whether they assist you.

s 129 (1)(a)	2010 (4) SA 597 (SCA)
s 129 (1)(a)	2010 (5) SA 518 (KZP)
s 129 (1)(a)	2011 (3) SA 581 (SCA)
s 129 (1)(a)	2012 (3) SA 600 (WCC)

During your research, do not confine yourself to either statutes or case annotations. Investigate both while tracing your way through the judgments. For example, when you use the statute annotations and find a judgment that seems to answer your question on a particular section of an Act, check the case annotations of that judgment to see if there are subsequent judgments that might have altered or added to the law made in that judgment.

Judgment text

On electronic products you can search the entire text of the law reports with the various phrase options offered, depending on whether you have a Folio Views disk or Jutastat Online. This method of searching will result in many more hits, and is recommended when the above three searches have been unsuccessful.

You can do a combined search in Folio Views by using the dropdown menu **Search for a word or phrase within a paragraph** and then typing: "phrase 1" and "phrase 2". The word **and** should be typed out between the two words or phrases, which should themselves each be between double quote marks. The search will then look for paragraphs that contain both phrases.

In Jutastat Online you can try the **Advanced Search** which has useful searches that can be used to narrow your results, such as 'one or more of certain words', 'exact phrase', or 'selected words near each other'.

Should you have any queries on law reports research, please contact Louis Podbielski at lpodbiel@juta.co.za

ANNOTATING TERMS FOR CASE LAW

appl	Applied – used where the principles of law enunciated in the annotated case have been applied to a new set of facts
appr	Approved – used where the principles of law enunciated by a court of coordinate or inferior jurisdiction have been held to be good in law by the annotating court although the annotated decision is not necessary for the disposition of the annotating case
comp	Compared – used where the different circumstances of the mentioned case are discussed to illustrate the application of the law
cons	Considered – used where the remarks in the annotated case are given close consideration without adverse criticism or clear approval
crit	Criticised – similar to 'doubted', except that the court has clearly stated that the reasoning in the annotated case is wrong
dbtd	Doubted – used where court in the annotating case has disagreed with the decision in the annotated case but it was either not necessary to overrule the decision or the court had no power to do so
dist	Distinguished – used where some essential difference between the decision in annotating and annotated case is pointed out so that the court in the annotating case distinguishes the annotated case
expl	Explained – used where the court in the annotating case has justified its decision by interpreting the decision or some not necessarily obvious point made in the annotated case

fol	Followed – used where the court in the annotating case has expressed itself as bound by the decision in the annotated case which is by a court of coordinate or superior jurisdiction
not fol	Not followed – used where the court in the annotating case has declined to follow the decision in the annotated case, which is by a court of coordinate jurisdiction
overruled	Overruled – used where the court in the annotating case has refused to apply the principles of law enunciated in the annotated case, which was given by a court of inferior jurisdiction in unrelated proceedings
qual	Qualified – used where the court in the annotating case has in some way modified, limited, restricted or moderated the decision or a point made in the annotated case without overruling it
ref	Referred to – used where the annotated case is merely mentioned in annotating case without comment of any definite kind
reversed on appeal	Reversed on appeal – used where the court in the annotating case has in an appeal reversed the decision appealed against
uphel on appeal	Upheld on appeal – used where the court in the annotating case has in an appeal upheld the decision appealed against

International Consumer Law Conference at UP First of its kind in SA

Feature

In recent years core pieces of legislation have brought about a significant change in the landscape of Consumer Law, not only in South Africa but also internationally. The National Credit Act 34 of 2005 and the Consumer Protection Act 68 of 2008 are central to Consumer Law Reform in South Africa. As a result of the nature and wording of these pieces of legislation, the relevant positions in Africa and abroad have become important.

The Department of Mercantile Law at the University of Pretoria identified a need for an international platform to provide all role-players (government, academia and members of the legal profession) with the opportunity to exchange information specifically in the area of Consumer Law.

The University of Pretoria International Consumer Law Conference (UPICLC) took place at the university from 25 to 27 September 2014. The conference addressed important issues on International and National Consumer Credit Law and Consumer Protection Law. This included key legislative amendments and the latest developments and case law.

Many international and national keynote speakers addressed the conference, among them Prof JM Otto and Prof Ian Ramsay from the UK. Professor Otto, former Dean of the University of Johannesburg and a leading expert on Credit Law in South Africa, has an impressive academic and research record which spans more than three decades and has published widely on Credit Law and other topics. He has also presented a vast number of research papers nationally and internationally and has received many prestigious awards for his academic contributions. Professor Otto is regularly cited with approval by the South African high courts, including the Supreme Court of Appeal and the Constitutional Court. Professor Otto and Prof NJ Grove were the authors of the SA Law Commission's *Working Paper 46 (1993): The Usury Act and Related Matters: New Credit Legislation for South Africa*.

Professor Ian Ramsay (Professor of Law at the University of Kent, UK) holds law degrees from Edinburgh University and McGill University, Montreal. From 1986 to 2007 he was a Professor at Osgoode Hall Law School, York University, Toronto, Canada. He has been a visiting

Professor at many prestigious universities across the globe including the universities of Sydney and Brazil. His research interests are primarily in the fields of credit and insolvency and the regulation of consumer markets. He has written many articles and several books in these areas including *Consumer Credit, Debt and Bankruptcy*; *Consumer Bankruptcy in Global Perspective* (both with J Niemi & William Whitford) and *Consumer Law and Policy: Text and Materials on Regulating Consumer Markets*.

The conference also included specialised plenary sessions and papers during breakaway sessions on all the relevant topics.

For further information visit the conference website:
<http://web.up.ac.za/default.asp?ipkCategoryID=22724>



Students for Law and Social Justice (SLSJ) National Seminar 2014

Events

A stepping stone to social justice

In the pursuit of social justice, where better to start than by looking at cases and issues of social injustice? For this reason the Students for Law and Social Justice (SLSJ) National Seminar of 2014 focused on social injustice, not only in South Africa but globally.

Held at the beautiful Habonim Campsite in Hermanus in the Western Cape, the seminar consisted of talks, discussions and debates about issues of social (in)justice across the world. With speakers such as Prof Karl Klare, Judge Dennis Davis and Justice Zak Yacoob leading the way, students from 14 campuses around South Africa strove to understand the problems our society faces on a daily basis. Other prominent speakers who attended were Commissioner Mohamed Ameerma, Farouk Cassim, Pregs Govender, Deputy Public Protector Advocate Kevin Malunga and Cormac Cullinan.

Topics included South Africa's foreign policy, the role of the law in democracy today, the responsibilities of multinational corporations and the conflict in Gaza. All the sessions were interactive, with students challenging speakers and speakers stepping up to the challenge. Thus the main aim of the national seminar, namely to bring students interested in social justice issues in contact

with activists, academics and lawyers to be inspired and spurred into action, was triumphantly achieved. The hope is that through this interaction students will be better equipped to deal with the challenges facing our country and our world today.

One of the ways in which this knowledge attains practical application is through the Student Advice programmes at each of the SLSJ branches. Even though social justice cannot be achieved in a mere weekend, the national seminar strives to be an important stepping stone in the process.

The feedback from one of the branch chairpersons, Isabeau Steytler, summarises the views of the students who attended: 'This year, the seminar theme was "Globalised (In)justice" and included exciting sessions on the Israel-Palestine conflict, patent laws and international trends in legal education. We also held a very special commemorative service on Onrus beach, lighting lanterns in honour of Nelson Mandela.

'The national seminar this year was fantastic. It's always incredible to see such a diverse group of students brought together by their shared interest in social justice.'



Principles of Criminal Law

Book Review

by Jonathan Burchell (2013), 4th edition, 958 pages (soft cover)

Llewelyn Curlewis, vice-chairperson of the criminal law committee of the Law Society of South Africa, reviews the fourth and improved edition of Principles of Criminal Law.

The fourth edition of this monumental work, *Principles of Criminal Law*, is distinguishable from the previous edition in length, content and also appearance. In the preface the reason for this is adeptly explained, namely that the long chapter in its predecessor (ch 2) on the evolution of the South African criminal law has been omitted. This implies that a reader who needs a fuller or more comprehensive historical survey will, unfortunately, have to refer to a previous edition of this work. The same goes for the chapter on theories of punishment in the 2005 third edition (ch 4).

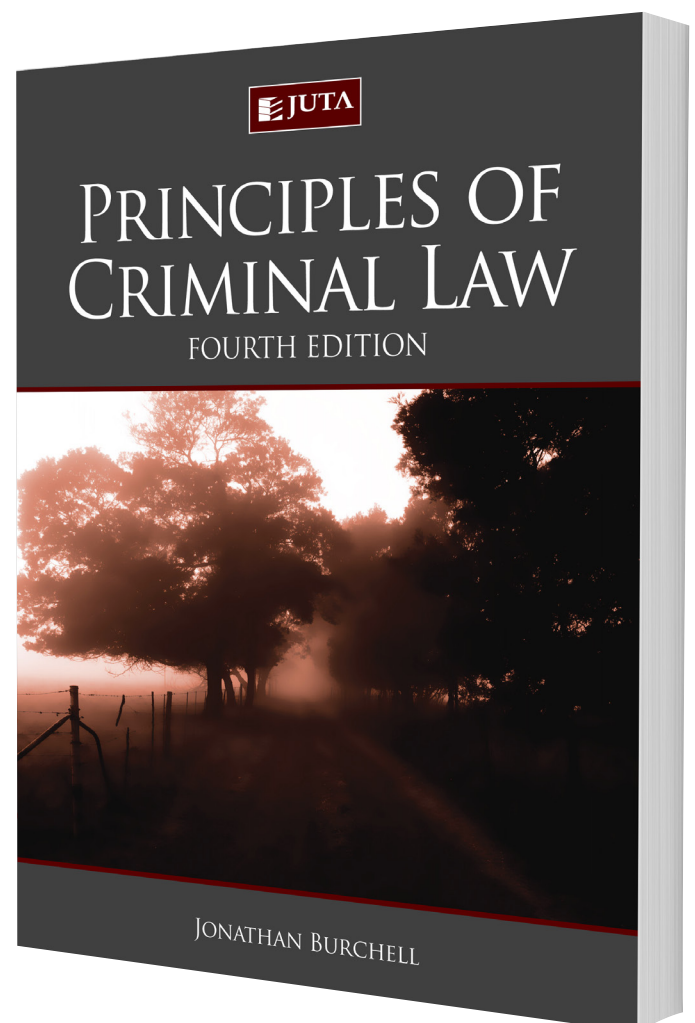
This accomplished publication is available both in print and in e-book format (hyperlinked to the third edition of *Cases and Materials on Criminal Law*) which includes 347 extracts. This allows both students and legal practitioners to toggle between the rules, cases or statutory sources even in a portable and accessible format. Headnotes have meticulously been compiled, translated and included for case extracts and judgments originally delivered in Afrikaans.

The book consists of three parts, divided into numerous sections and no fewer than 88 chapters.

In the words of Prof Jonathan Burchell, a Fellow of the University of Cape Town, who has published widely in the fields of criminal law and also personality rights: 'There are considerable changes and improvements to the general principles section' in this edition in relation to the constitutional debate and academic exchange on the principle of legality following the *Masiya v Director of Public Prosecutions, Pretoria and Another (Centre for Applied Legal Studies and Another, Amici Curiae)* 2007 (5) SA 30 (CC) case (on the ambit of the common-law crime of rape). The chapter on causation has required a reworking following the Supreme Court of Appeal judgment in *Tembani v S*

(2007) 2 All SA 373 (SCA) regarding the role of medical intervention. Revised discussions on the elements of robbery, criminal defamation, corruption and the civil forfeiture of assets are included. A consideration of the most recent version of s 49 of the Criminal Procedure Act 51 of 1977 is included to distinguish properly between private defence and public authority as defences, which is evident from the change to the positioning of the chapter dealing with this compared to previous editions.

Consent as a defence has also been revisited and controversial related issues such as euthanasia are examined in detail. The extensive changes as a result



of the Child Justice Act 75 of 2008 are explained and critically evaluated. The author even pruned his own critique and examination on court cases. This had a significant impact on the chapters dealing, inter alia, with provocation, child sexual experimentation, racketeering, sentencing discretion, common purpose liability and the recklessness (or volitional) element of *dolus eventualis*. Major changes have been made to the section on specific crimes. These are too many to mention here. Predominantly the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 is 'to blame' for this. Also, organised crime, dealt with in one chapter in the third edition, has now been divided into seven separate chapters for easy reading.

Burchell is a top-class authority on criminal law.

All relevant judgments delivered up to the end of 2012 have been included and even important ones up to 4 October 2013. As in the previous editions, central principles/issues are highlighted in bold typeface and in digestible form in each chapter, which is of tremendous assistance to practitioners. Even the

evocative and enigmatic photograph used on the cover, taken by Suretta Venter, is exceptional and the final production has involved the contribution of a dedicated team of experts. The discussion of and comments in the book reflect the latest case law and obviously also the view of the author.

Producing this edition required skill, efficiency, patience, dedication, invaluable knowledge and experience. It is interspersed with cryptic and enlightening commentary by the author. The author has managed to provide both practitioners and academics with a most useful and necessary handbook which can be recommended unreservedly. It is indeed an extraordinary accumulation of judicial thinking. However, one cannot help but commiserate with the impecunious student/candidate attorney who is obliged to acquire this voluminous leviathan. *Principles of Criminal Law* is a tremendous work that has been prepared with precision and meticulousness and elicits nothing but profound respect for which the author can justly be applauded.

About the Reviewer

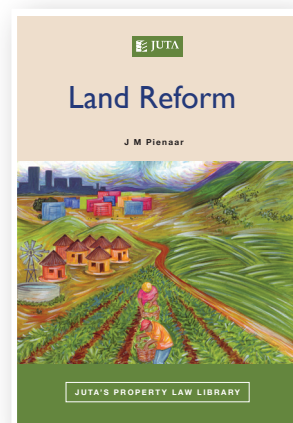
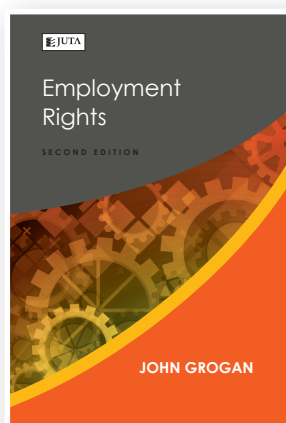
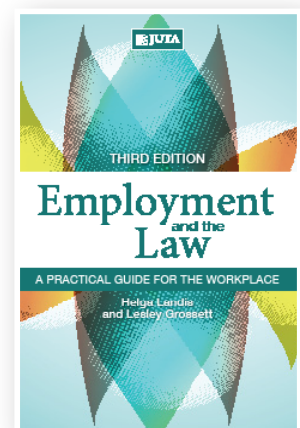
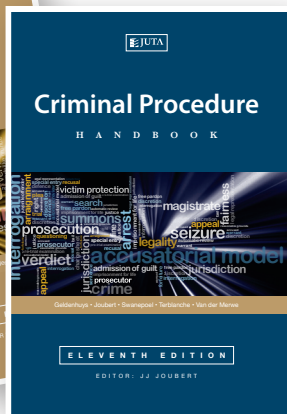
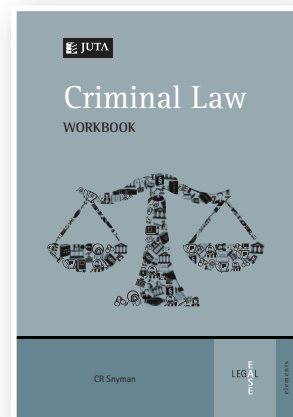
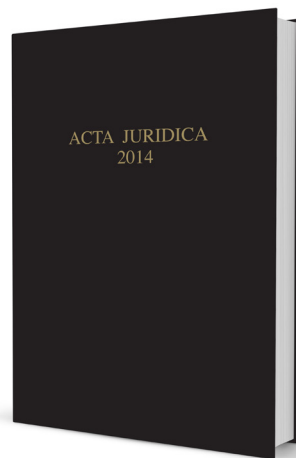
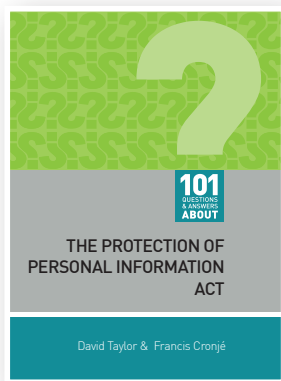
Llewelyn Curlewis LLM (Unisa) BLC LLD Cert Forensic Accounting (UP) is an attorney at Pieterse & Curlewis Inc in Pretoria. Dr Curlewis is the president of the Law Society of the

Northern Provinces, a member of its criminal law committee and vice-chairperson of the criminal law committee of the Law Society of South Africa.

Student law titles

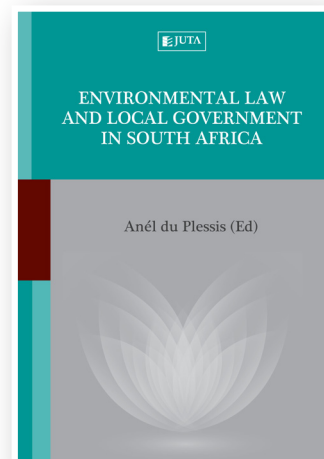
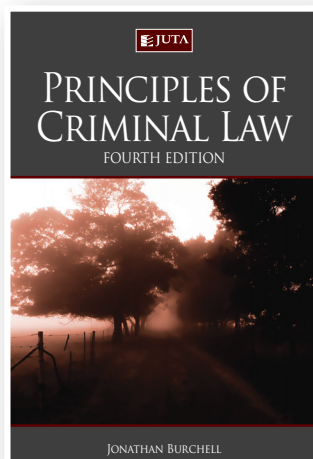
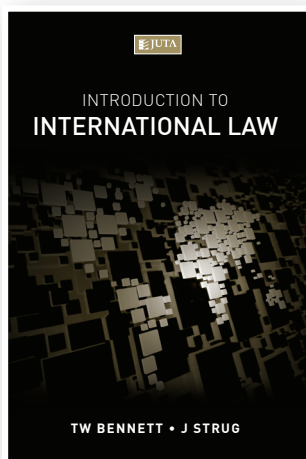
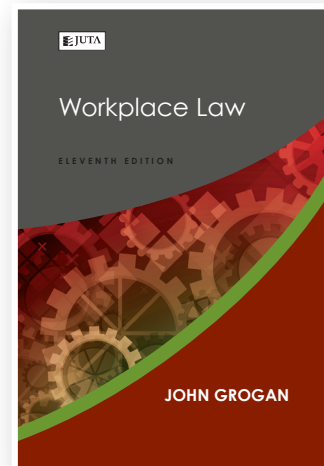
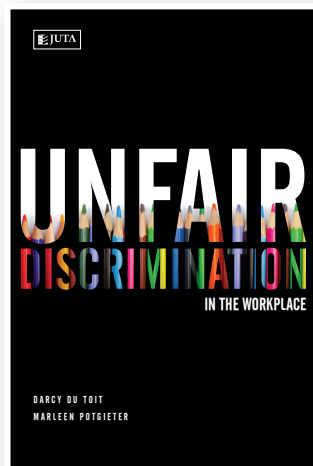
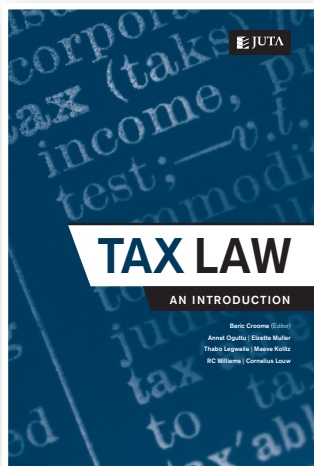
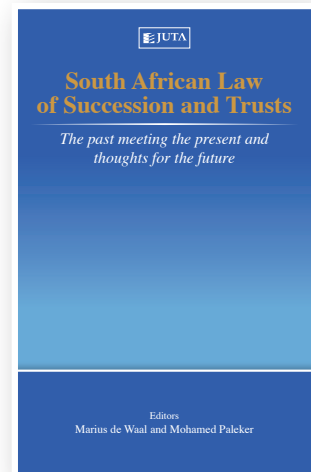
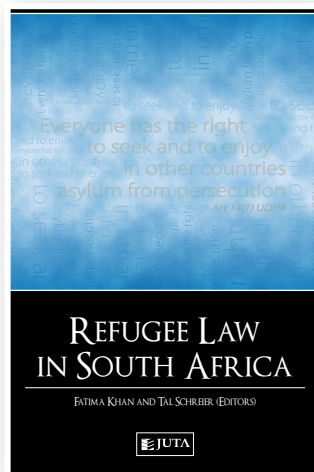
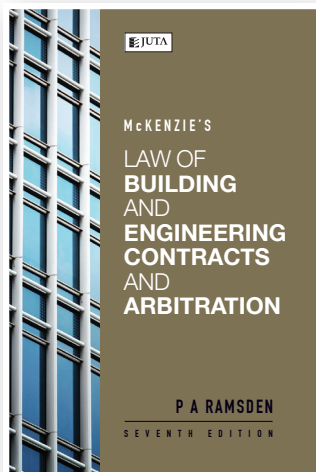
Hot Off the Press

Meeting the needs of South African law students and lecturers through the development of suitable learning and support materials and concise training guides.



Student law titles

Hot Off the Press

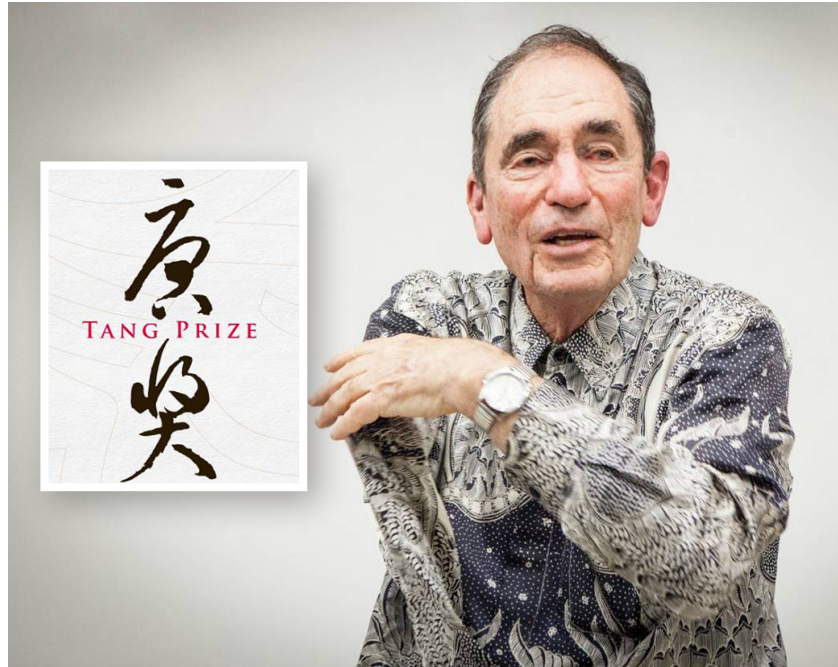


Alumni news

Tang Prize for Albie Sachs

The 2014 Tang Prize was awarded to UCT Law alumnus Justice Albie Sachs for 'his many contributions to human rights and justice globally through an understanding of the rule of law in which the dignity of all persons is respected and the strengths and values of all communities are embraced, in particular through his efforts in the realisation of the rule of law in a free and democratic South Africa, working as activist, lawyer, scholar, and framer of a new Constitution to heal the divisions of the past and to establishing a society that respects diversity and is based on democratic values, social justice and fundamental human rights.'

Founded by Dr Samuel Yin in December 2012, the Tang Prize is awarded biennially and recognises scholars who are conducting revolutionary research in the four major fields: Sustainable Development, Biopharmaceutical Science, Sinology, and the Rule of Law.



Staff accolades

Cambridge Yorke Prize for Dr Alistair Price

In June 2014, the Faculty Board of Law at Cambridge University in the UK awarded the Yorke Prize to Private Law lecturer Alistair Price for his doctoral dissertation entitled 'The Influence of Human Rights on State Negligence Liability in England and South Africa'. The thesis was written between 2008 and 2012 in Cambridge under the supervision of Prof Christopher Forsyth, before Dr Price took up his position at UCT.

The prize, which was established in the 1870s and today carries a purse of £1 500, was awarded 'in recognition of the exceptional quality of [Dr Price's] dissertation ... which makes a substantial contribution to its field of legal knowledge'. Previous winners of the prize include distinguished legal historians Sir John Baker (1975) and Professor Paul McHugh (1988) and Sir Perceval Maitland Laurence (1878), an English classical scholar and Judge President of the High Court of Griqualand, Kimberley, in 1882.

Kudos to a terrific Law teacher

Two UCT academics, Professor Jenni Case (Chemical Engineering) and Associate Professor Mohamed Paleker (Law), were honoured at the prestigious National Excellence in Teaching and Learning Awards in November 2013.

Commenting on his commendation for excellence in teaching and preparation of an impressive teaching portfolio, Prof Paleker said: 'One of my mantras is to make learning fun. When we were younger, our teachers taught us by play. For some odd reason when we grow older, they stop doing that. Learning becomes a serious business ... However, I believe that if you make learning fun, anyone will be able to assimilate anything.'

Prof Paleker is also a great believer in the benefits of moots for students. 'I have not found a better way for students to assess what they have learnt in the LLB than by doing a moot,' he says.

Making our mark across South Africa

Johannesburg 22 May The Judiciary in South Africa Book Launch

Juta Law was proud to launch The Judiciary in South Africa in both Cape Town and Johannesburg. Judge Phineas Mojapelo was the guest speaker at the Chalsty Auditorium, School of Law, Wits University on 21 May. The next day, 22 May, Judge Dennis Davis featured as the guest speaker at the Wilfred and Jules Kramer Building, Middle Campus, UCT.

Pretoria 20 May UNISA Lunch

As part of our ongoing series of road shows Juta Law hosted a luncheon with book display for authors and academic staff at Unisa on 20 May 2014. The event was attended by current and prospective authors who lecture at Unisa as well as members of Unisa's College of Law executive team.

Potchefstroom 9 September NWU Potchefstroom Campus

Part of Juta's ongoing series of roadshows. Juta was also present, as sponsors, at the finals of NWU's inter-campus mock trial competition.

KwaDlangezwa 22 July University of Zululand

Part of Juta Law's ongoing series of roadshows.

Cape Town 29 May UCT Law Launch

On 29 May, The UCT Department of Public Law in collaboration with Juta, UCT Press and other South African law publishers held a well-attended book launch at UCT. The event served as an opportunity to celebrate the output of academics from the UCT Law Faculty and the Public Law Department in particular.

Pietermaritzburg 23 July UKZN - Pietermaritzburg Campus

Part of Juta Law's ongoing series of roadshows.

Durban 24 July Varsity College

Part of Juta Law's ongoing series of roadshows.

Durban 24 July UKZN - Howard College

Part of Juta Law's ongoing series of roadshows.

Grahamstown 8 October Rhodes University

Part of Juta Law's ongoing series of roadshows.

Stellenbosch 16 October Launch of The Stellenbosch Law Review

A special edition of The Stellenbosch Law Review in honour of Prof. David Butler was launched.

Port Elizabeth 7 October NMMU

Part of Juta Law's ongoing series of roadshows.

East London 9 October University of Fort Hare

Part of Juta Law's ongoing series of roadshows.

Mock Trial Competitions

Mock Trial Competitions, enhancing student skills and inter campus cooperation at NWU

For the first time students from NWU's Vaal and Mafikeng campuses participated in the annual NWU Juta Mock Trial Competition, initiated by the Potchefstroom Campus. All three campuses have expressed interest about the trials that will follow in the subsequent years.

The winner of this year's competition, that evidenced and fostered camaraderie among the different

campuses, was the team from the Mafikeng Campus. All involved agreed that they were filled with inspiration by the manner in which all three campuses worked together, motivating and learning from one another.

The organisers are already contemplating strategies on how to further improve on this year's successful Mock Trial, ultimately enhancing inter campus relationships to the benefit of all NWU law students.



The IIE Varsity College-University of The Free State Students, Rising To The Challenge

The University of Free State [UFS] first LLB degree students receiving tuition at The IIE Varsity College recently represented the The IIE Varsity College - UFS partnership, at The University of Free State First Year Moot Court Competition held in Bloemfontein.

After rigorous knock out rounds between The IIE Varsity College campuses in each region, the top three teams, representing the KZN, Gauteng and Cape Town regions made their mark in The Free State High Court. Albeit, only the second year that the partnership has been represented in the competition, the students rose to the occasion in arguing a factual scenario before judges in the Free State High Court. Having registered to study the UFS LLB degree through The IIE Varsity College, these law students stemming from backgrounds of medicine, engineering and the sciences described the competition as a 'life altering' experience that has given them a greater appreciation for legal practice in South Africa.



Students names from left to right are Tyra Jane Chantston, Dhamien Reddy, Holly Wynne, Dr Ryan Steve Campher, Jenine Jane Naidu, Leboaoane Shanto Philip Mahuma.

Hard work pays off for UKZN Moot Court winner

Chiedza Mlingwa was declared the victor in University of Kwa-Zulu Natal's Ellie Newman Memorial Moot Court Competition in early October. The victory was especially momentous for her as she is the first Zimbabwean student to win the competition in the 42 years of its existence.

Ms Lauren Simpson was second and Mr Musa Kika and Mr Greg Mazen were joint third.

The stellar performance and high level of advocacy the competitors exhibited during the mock trial drew

praise from the bench of judges comprising Mr Justice Patel, Mr Justice Gorven and Mr Justice Olsen.

During the event proceedings, law academic Ms Tanya Woker was recognised by Dean and Head of the School of Law Professor Managay Reddi for winning the Moot Court 30 years ago as proof that the winners of the competition go on to play a vital role in bringing about social change in their communities.



Moot finalists, from left: Ms Lauren Simpson, Ms Chiedza Mlingwa (winner), the Honourable Mr Justice Patel, Mr Greg Mazen and Mr Musa Kika.