

# Invitation Uitnodiging Taletšo le Lenaneo



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

## Inaugural address

### Professor Monray Marsellus Botha

Head of the Department of Mercantile Law,  
Faculty of Law, University of Pretoria

06 March 2017

[www.up.ac.za/law](http://www.up.ac.za/law)



The Faculty of Law at the University of Pretoria cordially invites you to the inaugural address of

### Professor Monray Marsellus Botha

[BLC, B Com (Hons), LLB, LLM (Pret), MCom (UJ) LLD (NWU), AIPSA Diploma (AIPSA/Pret), Diploma in Alternative Dispute Resolution (AFSA/Pret), Diploma in Corporate Law (UJ)]  
Head of the Department of Mercantile Law

titled

**Date** Monday, 6 March 2017  
**Time** 18:00 for 18:30  
**Venue** Senate Hall, Hatfield Campus, Lynnwood Road, University of Pretoria  
**RSVP** [moipone.williams@up.ac.za](mailto:moipone.williams@up.ac.za)  
**Enquiries** Email as above or telephone +27 (0)12 420 2363

Persons with physical disabilities are requested to contact +27 (0)12 420 2363 if assistance is required. Although provision will be made for most dietary requirements, please feel free to inform us of your special requirements. Please RSVP as soon as possible, as seats are limited.

## 'First do no harm! On oaths, social contracts and other promises: Navigating the labyrinth'

### Abstract

### 'First do no harm! On oaths, social contracts and other promises: Navigating the labyrinth'

*Can't find the exit  
Can't find the way out  
All you can think is to back out*

*What's the point of giving up  
When you just only live once*

*You won many battles in your life  
So that's why you got this far  
From being a kid to being an adult  
From being an amateur to being a pro*

*Life's a labyrinth  
You just need to try  
and try  
Until you find the door for success*

- Zed Rapadas, June 11 2014



Corporations are dominant economic institutions: they govern our lives and determine what we eat, what we watch, what we wear, where we work and what we do. Their culture, iconography and ideology surround us: they dictate to governments, their supposed overseers, and exercise control over society at large. Corporations govern in the manner of states.

One of the fundamental changes to the corporate law domain in South Africa came about with the introduction of the Companies Act 71 of 2008. The Companies Act goes further than the traditional function of company law in that it crosses the corporate Rubicon by extending the company's obligations beyond the parameters of traditional South African company law and expressly recognises the significant societal role of enterprises. The Companies Act acknowledges an existing principle: it makes provision for the fact that companies must reaffirm the concept of the company as a means of achieving economic and social benefits and enhance the welfare of South Africa as a partner in the global economy.

The governing body of a company should take into account the legitimate and reasonable needs, interests and expectations of all material stakeholders in the execution of its duties in the best interests of the organisation over time. Consequently, an inclusive, stakeholder-centric approach which stands in contrast with a shareholder-centric approach is evident. From this it is clear that a moral obligation to stakeholders other than shareholders in the form of a "social contract" is created by a stakeholder-centric approach. Companies obtain various benefits from society, such as the recognition of a separate legal personality as well as the regulatory framework within which it operates. In return companies have obligations, such as to comply with human rights imperatives: the "social contract" requires, in exchange for these benefits, that the company has corresponding obligations towards society. One of these obligations is "to do no harm", yet it may also be required to take positive steps to improve the society in which it operates by achieving social benefits.