



January to October
2011
Prof Anton Kok
Acting Dean



Prof André Boraine
Dean

4.6 Law

The Faculty of Law is committed to playing a significant role in legal research in South Africa and in Africa. As a result of this commitment, various initiatives are continuously considered to improve – in volume and in quality – the Faculty’s research outputs.

In 2011, 71 accredited journal publication units were produced. In addition, four academic books, 10 chapters in three book collections, and four conference proceedings were submitted to the Department of Education for accreditation purposes. Faculty members presented papers at 20 conferences with international status and eight at national conferences and/or seminars.

Innovative research was conducted on various important areas of the law and the following are some of the highlights: The Centre for Human Rights saw the publication of an important peer-reviewed book entitled *Prosecuting international crimes in Africa*, edited by two alumni of the LLM (Human Rights and Democratisation in Africa) degree programme.

Two researchers in the Department of Jurisprudence respectively published on the ethical and legal implications of post-mortem sperm retrieval for the purposes of artificial insemination, and the still highly relevant and important question of transformation, restoration and reconciliation in post-apartheid South Africa.

Interesting and relevant articles were published by members of the Department of Mercantile Law relating to proposals for tax reform in order to promote South Africa as a gateway for investment in Africa; the impact of labour law on aspects of the newly introduced business rescue procedure and company law in general; and deficiencies in the new Companies Act of 2008 regarding offers of securities to the public. A researcher in the Department of Private Law levelled stringent criticism in a journal publication and indicated that the Supreme Court of Appeal ignored crucial provisions of the Constitution, 1996, in holding that the Minister of Safety and Security cannot be held vicariously liable in delict for the rape of a young woman by an off-duty policeman.

Members of the Department of Public Law wrote and/or contributed to three interesting new books relating to polity, disability law in Africa and medical jurisprudence. Research was undertaken around the question of whether, in the light of its constitutional recognition, proving the existence of customary law should not be dealt with in the same fashion as common law – by way of judicial notice.

Prof Danny Bradlow, a member of the Centre for Human Rights (CHR) and the SARChI Professor of International Development Law and African Economic Relations, served as the lead researcher for a study on the incorporation of international standards into financial supervisory structures in Southern African Customs Union (SACU) member states. The International Development Law Unit (IDLU) was also launched as a research unit in the CHR.

Researchers identified poverty as a new research focus area for the Faculty and in 2011 took the first steps to establish this as a Faculty-wide research theme. The purpose of establishing this as a focus area is to consolidate and coordinate existing research on the topic so as to ensure more depth in research and generate more scholarly outputs and postgraduate students. This focus lends itself particularly well to collaboration with other faculties and disciplines.

The Faculty hosted a Winter School for postgraduate study and research, with the aim of developing not only generic research skills, but also substantive knowledge to enhance more conceptual research.

In 2011, three members of staff (one being an extraordinary professor) applied for and received NRF ratings. They were Prof Johan van der Vyver (A2), Prof Danny Bradlow (B1) and Dr Magnus Killander (Y2). Prof Steve Cornelius received the South African Academy of Arts and Science Prize for the best journal article in a law journal. Dr Elzette Muller received the Norton Rose Tax Award for the best doctoral thesis. Prof Piet Delpoort received the *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* (THRHR) prize for the best short contribution to this law journal. Prof Christof Heyns was accepted as a Fulbright Visiting Fellow at Harvard Law School.

Research entities

Institutes

- Institute for International and Comparative Law in Africa

Centres

- Centre for Advanced Corporate and Insolvency Law
- Centre for Medicine and Law
- Centre for Sport and Entertainment Law
- Centre for Child Law
- Centre for Human Rights
- Centre for Intellectual Property Law

Units

- International Development Law Unit

Centre for Human Rights

The Centre for Human Rights enjoys the status of an academic department and focuses its research on human rights law and the rule of law in Africa. The Centre's International Development Law Unit is headed by Prof Danny Bradlow. It is the mission of the Unit to conduct and promote policy-oriented legal research on international development law topics, with a particular emphasis on the needs of Africa in general and southern Africa in particular.

Centre for Child Law

Apart from its strong and ground-breaking focus on children's rights litigation, the Centre for Child Law conducts research on this important area of the law.

Centre for Intellectual Property Law

The Centre for Intellectual Property Law is located in the Department of Private Law. One of its aims is to promote and increase research in the area of intellectual property law. The Centre became fully operational in 2011 with the appointment of two extraordinary professors and the presentation of the first LLM modules in Intellectual Property Law, further strengthening this Centre. This was an important step in enhancing the Faculty's research capacity in this important area of the law.

Centre for Advanced Corporate and Insolvency Law

The Centre for Advanced Corporate and Insolvency Law provides a platform for researchers to work in both these areas of law since there is a strong link between certain aspects of these areas of commercial law. One of its research aims is to compile a comparative law book on the insolvency law systems in Africa.

Centre for Sport and Entertainment Law

The Centre for Sport and Entertainment Law was transferred to the Faculty of Law and it busies itself, among other activities, with research in these areas of the law.

Institute for International and Comparative Law in Africa

The Institute for International and Comparative Law in Africa (ICLA) is a research institute with the primary objective of enhancing the internationalisation and the growth of the research outputs and postgraduate focus of the Faculty, while promoting the role and the rule of law in Africa. It became fully operational in 2011, and it is envisaged that it will further strengthen the research capacity of the Faculty in relation to its focus on Africa by way of collaborative research and also an increase in accredited international publications.

Prof André Boraine

Dean: Law

Tel: 012 420 2142

Email: andre.boraine@up.ac.za

Faculty Research Output

Mercantile Law

Journal articles

- Joubert EP: 2011. Ondernemingsredding uit die wegspringblokke: Is dit sterk genoeg? Swart v Beagles Run Investments 25 (Pty) Ltd. In *De Jure*, 2(44), pp 439–446.
- Van Heerden C, Borraine A: 2011. The money or the box: perspectives on reckless credit in terms of the National Credit Act 34 of 2005. In *De Jure*, 2(44), pp 392–415.
- Van Heerden C, Coetzee H: 2011. Wesbank v Winston Papier and the National Credit Regulator. In *De Jure*, pp 463–479.
- Joubert EP, Van Eck BPS, Burdette DA: 2011. Impact of Labour Law on South Africa's New Corporate Rescue Mechanism. In *International Journal of Comparative Labour Law and Industrial Relations*, 27(3), pp 65–84.
- Van Heerden C: 2011. Unsolicited goods or services in terms of the Consumer Protection Act 68 of 2008. In *International Journal of Private Law*, 4, pp 533–545.
- Van Heerden C: 2011. The impact of the National Credit Act 34 of 2005 on standard acknowledgements of debt. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(4), pp 644–659.
- Delpont PA: 2011. About offers of securities to the public. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(4), pp 668–676.
- Esser I, Delpont PA: 2011. The duty of care, skill and diligence: The *King Report* and the 2008 Companies Act. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(3), pp 449–455.
- Delpont PA: 2011. 'Offers' and the companies Act 71 of 2008. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(2), pp 280–286.
- Delpont PA: 2011. Companies Act 71 of 2008 and the 'Turquand' rule. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(1), pp 132–138.
- Botha MM, Joubert EP: 2011. Does the Consumer Protection Act 63 of 2008 provide for strict product liability? A comparative analysis. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(2), pp 305–319.
- Renke S: 2011. Aspects of incidental credit in terms of the National Credit Act 34 of 2005. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(3), pp 464–472.
- Renke S: 2011. Measures in South African consumer credit legislation aimed at the prevention of reckless lending and over-indebtedness: an overview against the background of recent developments in the European Union. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(2), pp 208–229.
- Roestoff M, Smit A: 2011. Non-compliance with time periods – Should the debt review procedure lapse once a reasonable time has expired? *Plezer v Nedbank Limited*. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(3), pp 501–509.
- Van Heerden C, Barnard J: 2011. Redress for Consumers in terms of the Consumer Protection Act 68 of 2008: a comparative discussion. In *Journal of International Commercial Law and Technology*, 6(3), pp 131–144.
- Botha MM, Morajane TCR: 2011. Is a demand for a higher percentage of share equity a mutual interest in respect of which employees may embark on a strike? In *Journal of South African Law/Tydskrif vir die Suid-Afrikaanse Reg*, 1, pp 174–185.
- Legwaila T: 2011. Tax reasons for establishing a headquarter company. In *Obiter*, 32(1), pp 126–142.
- Gericke Mrs: 2011. A new look at the old problem of a reasonable expectation: The reasonableness of repeated renewals of fixed-term contracts as opposed to indefinite employment. In *Potchefstroom Electronic Law Journal*, 14(1), pp 105–131.
- Coetzee H, Van Heerden C: 2011. Perspective on the Termination of Debt Review in terms of section 86(10) of the National

In the list of research outputs, in all cases the heading "Papers published" refers to papers in refereed, published conference proceedings, and the heading "Journal articles" refers to articles published in accredited, peer-reviewed, refereed specialist journals.

Credit Act 34 of 2005. In **Potchefstroom Electronic Law Journal**, 14(2), pp 37–65.

Maghembe N: 2011. The Appellate Division has spoken – Sequestration Proceedings do not qualify as proceeding to enforce a credit agreement under the *National Credit Act 34 of 2005: Naidoo v ABSA Bank* 2010 4 SA 597 (SCA). In **Potchefstroom Electronic Law Journal**, 14(2), pp 171–180.

Van Heerden C, Boraine A: 2011. The Conundrum of the Non-compulsory Compulsory Notice in terms of Section 129(1) (a) of the National Credit Act. In **SA Mercantile Law/SA Tydskrif Vir Handelsreg**, 1(23), pp 45–63.

Legwaila T: 2011. The Tax Treatment of Holding Companies in Mauritius: lessons for South Africa. In **SA Mercantile Law/SA Tydskrif Vir Handelsreg**, 23(1), pp 1–15.

Legwaila T: 2011. Tax impediments to holding company structures in Belgium, Ireland and The United Kingdom: Caution for South Africa. In **South African Law Journal**, pp 533–559.

Chapters in books

Grobbelaar-Du Plessis I, Van Eck BPS: 2011. Protection of disabled employees in South Africa: an analysis of the Constitution and Labour Legislation. In **Aspects of Disability Law in Africa**, PULP, pp 231–260.

Research and technical/policy output

Brink G: Technical Report: 2011. Determining the Weighted Average Margin of Dumping. For: **Trade Law centre for Southern Africa**.

Centre for Human Rights

Journal articles

Dinokopila B: 2011. The right to water in Botswana: a review of the *Matsipane Moselelhanyane* case. In **African Human Rights Law Journal**, 11(1), pp 282–295.

Ebobrah S: 2011. Human rights developments in African sub-regional economic communities during 2010. In **African Human Rights Law Journal**, 11(1), pp 216–250.

Djoyou Kamga SA: 2011. Realising the right to primary education in Cameroon. In **African Human Rights Law Journal**, 11(1), pp 171–193.

Djoyou Kamga SA: 2011. The right to development in the

African human rights system: The *Endorois* case. In **De Jure**, 44(2), pp 381–391.

Viljoen FJ: 2011. Contemporary challenges to international human rights law and the role of human rights education. In **De Jure**, 2(44), pp 207–231.

Hansungule M: 2011. How to Tackle Impunity – a comment. In **Development Dialogue**, (57), pp 108–122.

Bradlow DD, Chapman M: 2011. Public participation and the private sector: the role of multilateral development banks in the evolution of international legal standards. In **Erasmus Law Review**, 4(2), pp 91–125.

Ebobrah S: 2011. Towards a positive application of complementarity in the African human rights system: Issues of functions and relations. In **European Journal of International Law**, 22(3), pp 663–688.

Murungu CB: 2011. Towards a Criminal Chamber in the African Court of Justice and Human Rights. In **Journal of International Criminal Justice**, 9(5), pp 1067–1088.

Ebobrah S: 2011. Tackling threats to the existence of the SADC Tribunal: a critique of perilously ambiguous provisions in the SADC Treaty and the Protocol on the SADC Tribunal. In **Malawi Law Journal**, 4(2), pp 199–213.

Allain J: 2011. Trafficking of persons for the removal of organs and the admission of guilt of a South African hospital. In **Medical Law Review**, 19, pp 117–122.

Viljoen FJ: 2011. Human rights in Africa: normative, institutional and functional complementarity and distinctiveness. In **South African Journal of International Affairs**, 18(2), pp 191–216.

Killander UM: 2011. Judicial immunity, compensation for unlawful detention and the elusive self-executing treaty provision: *Claassen vs Minister of Justice and Constitutional Development* 2010 (6) SA 399 (WCC). In **South African Journal on Human Rights**, 26(2), pp 386–394.

Killander UM: 2011. Interpreting regional human rights treaties. In **Sur: International Journal on Human Rights**, 7(13), pp 145–169.

Books

Adjolohoun H: 2011. *Droits De l'Homme et Justice Constitutionnelle en Afrique: Le Modele Beninois*. Harmattan, pp 193.

Dugard CJR: 2011. *International Law: a South African Perspective*. Juta, pp 583.

Mwenda KK: 2011. Public international law and the regulation of diplomatic immunity in the fight against corruption. Pretoria University Law Press, pp 218.

Chapters in books

Pfumorodze J, Fombad CM: 2011. Protecting the disabled in Botswana: an anomalous case of legislative neglect. In **Aspects of Disability Law in Africa**, PULP, pp 85–104.

Dinokopila B: 2011. The rights of people with disabilities in Botswana: legal, institutional and policy framework. In **Aspects of Disability Law in Africa**, PULP, pp 261–280.

Biegon J: 2011. The promotion and protection of disability rights in the African human rights system. In **Aspects of Disability Law in Africa**, PULP, pp 53–84.

Dinokopila B: 2011. Sentencing practices of the Special Court for Sierra Leone. In **Prosecuting international Crimes in Africa**, Pretoria University Law Press, pp 119–144.

Nkhata M: 2011. Implementation of the Rome Statute in Malawi and Zambia: progress, challenges and prospects. In **Prosecuting International Crimes in Africa**, Pretoria University Law Press, pp 277–303.

Murungu CB: 2011. Immunity of state officials and the prosecution of international crimes. In **Prosecuting International Crimes in Africa**, Pretoria University Law Press, pp 33–60.

Murungu CB: 2011. Prosecution and punishment of international crimes by the Special Court of Sierra Leone. In **Prosecuting International Crimes in Africa**, Pretoria University Law Press, pp 97–118.

Papers published

Nkhata M: 2011. Towards constitutionalism and democratic governance: *Ubuntu* and equity as a basis for regulating public functionaries in common-law Africa. In **Ubuntu, Good Faith & Equity: Flexible Legal Principles in Developing a Contemporary Jurisprudence**, 1, pp 88–114.

Research and technical/policy output

Bradlow DD, Naude Fourie A: Technical Report: 2011. The evolution of operational policies and procedures at international financial institutions: Normative significance and enforcement potential. For: **International Law Association**.

Prof Anne Skelton



Photo: Masi Losi

Prof Anne Skelton is the Director of the Centre for Child Law at the University of Pretoria. She has been fighting for the rights of children in South Africa for more than two decades and was instrumental in several landmark court cases involving children. This, together with her involvement in drafting legislation affecting children, makes her a leading figure in changing child law for the better. She was recently nominated as one of the three laureates of the prestigious 2012 World's Children's Prize, which recognises people who have done outstanding work for children whose rights have been violated.

Private Law

Journal articles

Van der Vyver JD: 2011. Prosecuting the President of Sudan: A dispute between the African Union and the International Criminal Court. In **African Human Rights Law Journal**, 11(2), pp 683–698.

Van Schalkwyk LN: 2011. Kruger NO v Goss and Another 2010 2 SA 507 (HHA). In **De Jure**, 1(44), pp 170–178.

Van der Vyver JD: 2011. Soewereniteit van kerklike organisasies – die geval van die Moreletaparkse gemeente van die NG Kerk. In *De Jure*, 1(44), pp 1–17.

Boezaart CJ, De Bruin DW: 2011. Section 14 of the Children's Act 38 of 2005 and the child's capacity to litigate. In *De Jure*, 2(44), pp 416–438.

Klopper HB: 2011. The Nature and content of "erious injury". *De Rebus*, Oct, pp 32–34.

Klopper HB: 2011. Determining "serious injury". In *De Rebus*, Nov, pp 28–31.

Van der Vyver JD: 2011. Prosecuting Terrorism in International Tribunals. In *Emory International Law Review*, 24(2), pp 527–547.

Cornelius SJ: 2011. Ambush marketing in sport. In *Global Sports Law and Taxation Reports*, 4(Dec), pp 12–21.

Scott TJ: 2011. Effect of the destruction of a dwelling on the personal servitude of *Habitation Kidson v Jimspeed Enterprises CC* 2009 5 SA 246 (GNP). In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(1), pp 155–169.

Boezaart CJ: 2011. The Children's Act: a valuable tool in realising the rights of children with disabilities. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(2), pp 264–279.

Scott TJ: 2011. Middellike aanspreeklikheid Van die Staat vir Misdadige Polisie-optrede: Die Heilsame Ontwikkeling duur voort *F v Minister of Safety and Security* 2010 1 SA 606 (WKK). In *Journal of South African Law/Tydskrif vir die Suid-Afrikaanse Reg*, 1, pp 135–147.

Scott TJ: 2011. Die hoogste hof van Appél smoor heilsame regsontwikkeling Minister of Safety and Security v F 2011 3 SA 487 (HHA). In *Journal of South African Law/Tydskrif vir die Suid-Afrikaanse Reg*, 4, pp 773–787.

Scott TJ: 2011. Die *Condictio Furtiva*: Gepaste remedie of *Deus Ex Machna? Crots v Pretorius* 2010 6 SA 512 (HHA). In *Journal of South African Law/Tydskrif vir die Suid-Afrikaanse Reg*, 2, pp 383–393.

Louw AS: 2011. Domesticating life partnerships in South Africa. In *Juridikum - Austria's Critical Law Review*, 2, pp 234–243.

Cornelius SJ: 2011. Sluikreklame in Sport. In *LitNet Akademies*, 8(3), pp 1–19.

Van der Vyver JD: 2011. Prosecuting the Crime of Aggression in the International Criminal Court. In *National Security & Armed Conflict Law Review*, pp 1–56.

Prof Erika de Wet



Prof Erika de Wet is an extraordinary professor in the Department of Public Law. She is also a professor in International Constitutional Law at the University of Amsterdam in The Netherlands. In 2007, she received a five-year excellence grant from The Netherlands Organisation for Scientific Research for a research project on hierarchy in international law. Her publication, *The Chapter VII powers of the United Nations Security Council*, has, among others, been cited by the International Court of Justice, the European Court of Human Rights and the Supreme Court of the United Kingdom (2007). She is a member of the Advisory Committee on Issues of Public International Law of The Netherlands.

Skelton AM: 2011. From Cook County to Pretoria: a Long Walk to Justice for Children. In *Northwestern Journal of Law and Social Policy*, 6(2), pp 414–427.

Vessio M: 2011. A short discussion on the effects of the *In Duplem* rule upon commencement of litigation and after judgement. A view both 'inside' and 'outside' the National In Credit Act. *Obiter*, 31(3), pp 725–734.

Van der Linde A, Van Schalkwyk LN: 2011. Die reg van die kind op kontak met beide ouers: Opmerkings na aanleiding van onlangse ontwikkelinge in die Nederlandse reg. In *Potchefstroom Electronic Law Journal*, 14(1), pp 68–103.

Van der Vyver JD: 2011. The Right to Self-Determination of Cultural, Religious and Linguistic Communities in South Africa. In **Potchefstroom Electronic Law Journal**, 14(1), pp 1–28.

Cornelius SJ: 2011. Commercial Appropriation of a person's image: *Wells v Atoll Media (Pty) Ltd* (unreported 11961/2006) [2009] ZAWCHC 173 (9 November 2009). In **Potchefstroom Electronic Law Journal**, 14(2), pp 182–205.

Bekker JC, Van der Merwe IA: 2011. Proof and ascertainment of the customary law. In **Southern African Public Law**, 26(1), pp 115–127.

Cornelius SJ: 2011. Commercial Appropriation of Identity: How Could Two Courts Get It So Wrong? In **The International Sports Law Journal**, (3-4), pp 165–167.

Chapters in books

Boezaart CJ, Skelton AM: 2011. From pillar to post: Legal solutions for children with debilitating conduct disorder. In **Aspects of Disability Law in Africa**, PULP, pp 107–132.

Papers published

Cornelius SJ: 2011. The Unexpressed Terms of a Contract. In **Law Across Nations Governance, Policy & Statutes**, International Association of IT Lawyers, pp 332–341.

Research and technical/policy output

Kuschke B: Policy Document: 2011. Climate Change and Insurance Law General Report submitted to the Aida World Congress held in Paris (May 2010) [Preliminary General Report which will be followed by the future publication of a selection of individual reports (Marcel Fontaine)]. In **Climate Change and Insurance Law General Report submitted to the Aida World Congress held in Paris (May 2010) [Preliminary General Report which will be followed by the future publication of a selection of individual reports (Marcel Fontaine)]**, For: International Association of Insurance Law/Association Internationale De Droit des Assurances, pp 1–18.

Procedural Law

Journal articles

Van der Merwe IA: 2011. Criminal Procedure. In **Annual Survey of South African Law**, pp 325–392.

Van Heerden C, Boraine A: 2011. The money or the box: perspectives on reckless credit in terms of the National Credit Act 34 of 2005. In **De Jure**, 2(44), pp 392–415.

Olivier NJJ, Williams C: 2011. *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd & another (Trustees of the Hoogekraal Highlands Trust & SAFAMCO Enterprises (Pty) Ltd (amicus curiae): Minister of Agriculture & Land Affairs (intervening)* [2008] JOL 22099 (CC). In **Journal for Juridical Science/Tydskrif Vir Regswetenskap**, 35(2), pp 99–128.

Pickles CMS: 2011. The introduction of a statutory crime to address third-party foetal violence. In **Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg**, 74(4), pp 546–566.

De Villiers WP: 2011. Is the prosecuting authority under South African law politically independent? An investigation into the South African and analogous models. In **Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg**, 74(2), pp 247–263.

Boraine A, Van Wyk JS: 2011. Reconsidering the plight of the five foolish maidens: Should the unsecured creditor stake a claim in real security? In **Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg**, 74(3), pp 347–371.

Bekker PM: 2011. Die Regsteoretiese Grondslag van die Integrasiereël in die Suid-Afrikaanse Kontrakereg. in **Obiter**, 32(2), pp 341–354.

Olivier NJJ, Williams C: 2011. State liability for Final Court Orders Sounding in Money: at long last alignment with the Constitution. **Obiter**, 32(3), pp 489–520.

Van Heerden C, Boraine A: 2011. The Conundrum of the Non-compulsory Compulsory Notice in terms of Section 129(1) (a) of the National Credit Act. In **SA Mercantile Law/SA Tydskrif vir Handelsreg**, 1(23), pp 45–63.

De Villiers WP: 2011. Should legal professional privilege be limited to exclude in-house lawyers under South African criminal law? In **South African Journal of Criminal Justice**, 24(1), pp 42–51.

Bekker JC, Van der Merwe IA: 2011. Proof and ascertainment of the customary law. In **Southern African Public Law**, 26(1), pp 115–127.



Prof Christof Heyns is the former dean of the Faculty of Law and is currently serving as United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions. His research focus is the legal principles that apply to the killing of people under circumstances that violate international law. His first thematic report will deal with crowd control, and more specifically the use of lethal force by the security forces during social demonstrations. He is currently co-writing a book on regional human rights systems.

Public Law

Journal articles

- Fombad CM: 2011. Constitutional reforms and Constitutionalism in Africa: reflections on some current challenges and future prospects. In *Buffalo Law Review*, 59(4), pp 1007–1108.
- Stevens GP: 2011. Forget me not: Thoughts on the crossroads between law and medicine in assessing claims of amnesia. In *De Jure*, 2(44), pp 273–289.
- Fombad CM: 2011. African bill of rights in a comparative perspective. In *Fundamina: A Journal of Legal History*, 17(1), pp 33–64.
- Le Roux-Bouwer J, Courtenay M: 2011. Sexual penetration, participation and new legislation: a critical note. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(2), pp 286–295.
- Stevens GP: 2011. Unravelling the entrapment enigma: Reflections on the role of the mental health expert in the assessment of battered woman syndrome and coercive control advanced in support of a defence of non-pathological criminal incapacity. In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(3), pp 432–448.
- Carstens PA: 2011. Revisiting criminal medical negligence resulting in death – *S v Van Heerden* 2010 1 SACR 529 (ECP). In *Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg*, 74(4), pp 677–682.
- Malan JJ: 2011. The discretionary nature of the official language clause of the Constitution. In *Southern African Public Law*, 26(2), pp 381–407.
- Bishop M: 2011. Rationality is dead! Long live rationality! Saving rational basis review. In *Southern African Public Law*, 25(2), pp 312–345.
- Brand JFD: 2011. Judicial deference and democracy in socio-economic rights cases in South Africa. In *Stellenbosch Law Review*, 22(3), pp 614–638.

Books

Malan JJ: 2011. *Politokrasie*. PULP, pp 358.

Chapters in books

- Grobbelaar-Du Plessis I, Van Eck BPS: 2011. Protection of disabled employees in South Africa: an analysis of the Constitution and Labour Legislation. In *Aspects of Disability Law in Africa*, PULP, pp 231–260.
- Pfumorodze J, Fombad CM: 2011. Protecting the Disabled in Botswana: an Anomalous Case of Legislative Neglect. In *Aspects of Disability Law in Africa*, PULP, pp 85–104.
- De Wet E: 2011. Human rights considerations and the enforcement of targeted sanctions in Europe: The emergence of core standards of judicial protection. In *Securing Human Rights? Achievements and Challenges of the UN Security Council*, Oxford University Press, pp 141–169.

Jurisprudence

Journal articles

Nienaber AG: 2011. Consent to and authorisation of the export and use of human biological specimens for future research – perspectives from three African countries. In **Comparative and International Law Journal of Southern Africa**, XLIV(2), pp 225–254.

Van Marle K: 2011. Reflections on post-apartheid being and becoming in the aftermath of amnesty: *Du Toit v Minister of Safety and Security*. In **Constitutional Court Review**, 3, pp 347–367.

Van Marle K: 2011. Feminist futures. In **Feminists@law**, 1(1), pp 3.

Van Marle K: 2011. Asking for the moon: A 'musing' on Cornell's Beyond Accommodation: Ethical feminism, deconstruction and the law'. In **Feminists@law**, 1(1), pp 5.

Thomas PJ: 2011. Different responses to judicial corruption: the South African common law. In **Fundamina: A Journal of Legal History**, 17(2), pp 139–152.

Kok JA: 2011. Not so hunky-dory: Failing to distinguish between differentiation and discrimination – *Standard Bank of South Africa Ltd v Hunkydory Investments 194 (Pty) Ltd (No 1)*. In **Journal of Contemporary Roman Dutch Law/Tydskrif vir Hedendaagse Romeins-Hollandse Reg**, 74(2), pp 340–346.

Madlingozi T: 2011. On Transitional Justice Entrepreneurs and the Production of Victims. In **Journal of Human Rights Practice**, 2(2), pp 208–228.

Lwabukuna OK: 2011. Internal displacement in Africa, African solutions to African Problems: challenges and prospects. In **Journal of Internal Displacement**, 1(2), pp 131–141.

Arendse LE: 2011. The school funding system and its discriminatory impact on marginalised learners. In **Law, Democracy and Development**, 15(1), pp 339–357.

Arendse LE: 2011. The obligation to provide free basic education in South Africa: an international law perspective. In **Potchefstroom Electronic Law Journal**, 14(6), pp 97–127.

Van der Walt J: 2011. The murmur of Being and the Chatter of Law. In **Social and Legal Studies**, 20(3), pp 389–400.

Dountio J: 2011. The protection of traditional knowledge: challenges and possibilities arising from the protection of biodiversity in South Africa. In **South African Journal of Art History**, 26(1), pp 10–22.

Nienaber AG: 2011. The grave's a fine and private place. A preliminary exploration of the law relating to posthumous sperm retrieval". In **Southern African Public Law**, 25(2), pp 707–714.

Modiri JM: 2011. The grey line in between the rainbow: (re) thinking and (re)talking critical race theory in post-apartheid legal and social discourse. In **Southern African Public Law**, 26(1), pp 177–201.

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Prof Karin van Marle



Prof Karin van Marle is Head of the Department of Jurisprudence. Her main areas of interest are post-apartheid jurisprudence, critical legal theory, feminist theory (ethical feminism, ethics of care, violence, poverty and death), critical race theory, gender theory, postmodern legal theory, and law and literature. She is a member of the South African Association of Law Teachers and serves on the Editorial Board of *Law and Critique* and *Feminist Legal Studies*. She has published widely in national and international accredited journals and has acted as referee for national accredited journals, as well as for applications for NRF ratings.