

# COVID-19 related activities

July to September 2020

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Law Clinic (UPLC)



Centre for Human Rights



Prof Ann Skelton



Prof Birgit Kuschke



Dr Rashri Baboolal-Frank



Karabo Ozah



DrMelanie Murcott



Dr Martha Bradley



Dr Llewellyn Curlewis



Dr Gustav Muller

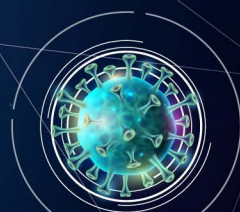


Centre for Child Law



FACULTY OF LAW COVID-19 RELATED ACTIVITIES

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## COVID-19 related activities during lockdown – July to September 2020

**Professor Ann Skelton, Department of Private Law and UNESCO Chair:  
Education Law in Africa**



Skelton participated as a member of an online high level international panel discussion on COVID-19's impact on children deprived of liberty, organised by the NGO panel on the Global Study Children Deprived of Liberty. The discussion focused on the worldwide impact of the pandemic on children in prisons, institutions and immigration detention.

### 4 August 2020

Skelton co-facilitated and presented in an online meeting of the South African National Children's Rights Coalition to discuss the COVID-19 related crisis in education, at which speakers presented from medical, educational and legal perspectives participated, in order to inform the development of shared children's rights.

### 13 August 2020

Skelton co-authored a [blog article](#) on South Africa's school shut down on the website of Global Initiative for Economic, Social and Cultural Rights, arguing that the four-week school closure announced by government on 4 August 2020 would be difficult to

justify in terms of a limitations analysis under the Constitution. For the month of September 2020, Skelton was attending the session of the Committee on the Rights of the Child but this time with a number of COVID-19 related differences. The Committee usually meets three times a year in Geneva, but due to the pandemic a special limited session was held online. The logistics of this were highly complex due to the fact that the Committee works in English, French and Spanish with simultaneous translation, and the members are spread all over the world from Venezuela to Samoa.

Skelton considered herself to be fortunate to be in the same time zone as Geneva, but as load shedding was still a daily occurrence in early September, she had to make special arrangements to remain connected. The committee finalised 18 communications and prepared lists of issues for Vietnam, Ukraine, Iceland, Philippines and Kuwait. They also met with stakeholders from those countries, including children.

[Read more about Professor Ann Skelton](#)





## Professor Birgit Kuschke's activities during COVID-19

### Professor Birgit Kuschke, Department of Mercantile Law

The COVID-19 pandemic is the largest disaster to hit the insurance history, by far exceeding any NatCat (natural catastrophe) events to date. The Unit for Insurance Law and Governance in the Faculty of Law at the University of Pretoria (UP), of which Professor Kuschke is the Director, is providing crucial professional advice to policyholders, intermediaries and insurers. The Unit is also reporting to international bodies on the national regulations, statistics and development within the country, and on matters concerning transnational cover.



[UP Law Professor Birgit Kuschke involved in group collaborations re Covid-19's impact on policy holders and insurers](#)

[UP Unit for Insurance Law and Governance is providing crucial professional advice to policyholders, intermediaries and insurers](#)

[Read more about Professor Birgit Kuschke](#)

## Dr Rashri Baboolal-Frank's activities during COVID-19

### Dr Rashri Baboolal-Frank, Department of Procedural Law

Dr Rashri Baboolal Frank is working on a book collaboration project relating to the impact of COVID-19 on property rights. The other research is ongoing relating to online emergency remote learning in COVID-19, as well as the implications of COVID-19 in the workplace. The book is anticipated to be published next year in July 2020, and all chapters have been submitted for peer review for feedback by November 2020.



[Read more about Dr Rashri Baboolal-Frank](#)



## Karabo Ozah's activities during COVID-19

### Karabo Ozah, Centre for Child Law

Karabo Ozah, Director of the Centre for Child Law (CCL) in the Faculty of Law (UP) at the University of Pretoria (UP), is playing a vital role in urging the South African government to drastically increase their social safety net interventions.

The national COVID-19 lockdown, which was implemented on 26 March 2020, and still at Level 1, has lasted for more than half a year and resulted in huge job losses and a massive increase in the number of vulnerable people depending on government for the bare minimum in an attempt to survive. Even worse, the destitute are not experiencing economical poverty only, but also social poverty, which are accompanied by an ever-increasing suffocating effect on human lives in South Africa.

On 15 September 2020, Ozah participated in a webinar by the National Centre of Excellence in Food Security (CoE-FS), jointly hosted by the University of the Western Cape (UWC) and the University of Pretoria (UP). The webinar focused on the reinforcement of the social welfare nets that are currently in place in South Africa. Titled 'Public Safety Nets to Curb Impacts of Pandemics on the Vulnerable', the webinar compared the South African social welfare system before, during and after the COVID-19 pandemic.

During this webinar Ozah argued that 'The already gaping holes in South Africa's safety nets were cruelly exposed during lockdown'. She said that 'among other shortcomings, the National School Nutrition Programme (NSNP) was suspended, immediately denying millions of children of meals. There were delays in administering new applications for the relief grants that the state rolled out. To make matters worse, no new applications for the Disability Grant were accepted for some time. But even before COVID-19, and for all government's good work during it, the social safety nets that were in place were already falling short of objectives to radically address poverty in South Africa.'

Ozah further indicated that 'government had staged some interventions to help the most vulnerable, but there were still families that had not received anything after many months'. She added that 'children and adults with disabilities were still

not being prioritised for grant assistance. Even now, post hard lockdown, who is taking steps to prioritise and make sure that there is a fast-track process for considering those applications? I do not think it is being done. Government needs to realise that our obligation to the most vulnerable must be prioritised.'

Ozah expressed grave concern 'that during lockdown, the most vulnerable became even more vulnerable. Obviously we know that there had been some government responses trying to introduce the temporary grants, and a temporary increase in child support grants after lobbying from a lot of NGOs in the country.' She gratefully acknowledged the government's grant of R350 per child, but reiterated that it was not sufficient, and again appealed to government to prioritise their assistance to the poorest of the poor. Ozah noted government's COVID-19 relief grant of R350 and said that "It is not nothing, but not sufficient. There is quite a lot that needed to be done. And government can do quite a lot if they want to."

The lockdown has had numerous consequences, the most serious of which has been the growing number of starving people in South Africa. As many industries had to shut down, people already living on the breadline had no wages nor savings to rely on. In addition, the closing of schools resulted in approximately nine million children not receiving a daily meal through the school feeding scheme. Recent research conducted by [Ask Afrika](#) estimates that one in three adults in South Africa go to bed hungry. The downturn in economic activities and capacity by far outweighs relief available.

Ozah has dedicated her legal career to using the law to make a difference, in particular to ensure that children's constitutional rights are advanced and protected.



[Read more about Karabo Ozah](#)



## Dr Melanie Murcott's activities during COVID-19

### Dr Melanie Murcott, Department of Public Law

The Environmental Law Association of South Africa (ELA) hosted its first online Annual Conference from 3 to 5 September 2020, and its first online Student Conference from 7 to 9 September 2020. The Student Conference was co-hosted by Dr Melanie Murcott, Senior Lecturer in Environmental Law and Administrative Law, Department of Public Law, University of Pretoria, who was recently appointed as the Vice-Chairperson of the ELA. Several other members of the Faculty were involved in the Student Conference, including Mr Leon Gerber and Dr Martha Bradley from the Department of Public Law, and Deputy Dean Prof Charles Maimela.



The theme of the two events was '(Re-)configuring environmental law amidst COVID-19'. On 4 September, Murcott presented with LLB alumna Ms Michaela Tafani at the Annual Conference on 'The significance of emerging animal law in South Africa amidst COVID-19'.

For more see [www.up.ac.za/faculty-of-law/news/post\\_2920551-up-laws-dr-melanie-murcott-co-hosts-student-conference-with-the-sa-environmental-law-association](http://www.up.ac.za/faculty-of-law/news/post_2920551-up-laws-dr-melanie-murcott-co-hosts-student-conference-with-the-sa-environmental-law-association)

[Read more about Dr Melanie Murcott](#)

## Drs Martha Bradley and Melanie Murcott's activities during COVID-19

### Drs Martha Bradley and Melanie Murcott, Department of Public Law

The COVID-19 lockdown resulted in UP Law lecturers adopting Emergency Remote Teaching (ERT), a temporary shift from the normal modes of teaching. ERT substitutes what would have otherwise been face-to-face or hybrid teaching and transforms it to become digital education. The creative efforts of two lecturers in the Department of Public Law, Drs Martha Bradley and Melanie Murcott and their respective teams, are highlighted in the enclosed article on the following pages.





# What is the connection between cartoons, online games and videos and UP Law?

By Elzet Hurter



At some stage of our lives, most of us have been into cartoon binging\*, which could have included anything from *Tom and Jerry*, *The Simpsons*, *The Flintstones*, *Looney Tunes*, *Phineas and Ferb*, *SpongeBob SquarePants* to *South Park*. And then there is online gaming! *Iron Harvest* jumps to mind, and so do *WRC 9*, *Crusader Kings 3* and *Microsoft Flight Simulator*. Not to mention the remake of *Destroy all humans* ... Now you might be wondering: What does this have to do with studying Law at UP? The answer is: Nowadays – everything!

With the COVID-19 pandemic hitting the world like a storm and the consequent unavoidable move to virtual learning (also known as Emergency Remote Learning or ERT), UP Law had no choice but to adapt.

## The approach to online learning followed in Public Law

PBL 320 is a third year core module in International Law, PBL 310 is a third year core module in Administrative Law, and OMR 410 is a fourth year elective module in Environmental Law.

International Law regulates the relationships amongst countries. For instance, when Grace Mugabe wanted immunity for assault charges in South Africa, and when the Saudi Arabian journalist Khashoggi was murdered, legal relationships between countries were

implicated, and the International Law was applicable.

Administrative Law regulates the relationships between people in South Africa by way of public administration. So, when you apply for your identity document or passport, and your application is unfairly or unlawfully refused by an official, the Administrative Law can come to the rescue and help you hold the official accountable. This includes using the court process known as judicial review.

Environmental Law regulates our relationships with the environment: our use of water, the ways in which our waste is managed and the pollution we cause as a by-product of human existence. One of the biggest issues in Environmental Law at the moment, is the global climate crisis.

All of the modules follow the UP way of learning by dividing the study units into three phases: PREPARE, ENGAGE and

CONSOLIDATE. The module design on the UP online academic platform clickUP is aligned with this approach.

The PREPARE phase ensures that students peruse the study material and prepare for lectures. Reading materials are made available on ClickUP and brought to life with relevant cartoons, memes and other graphics as well as YouTube videos. In PBL 320 and OMR 410 Powtoons (containing animated content) have been designed to ensure students have a basic understanding and overview of the applicable laws before engaging with its complexities during the main online lecture.

Comprehension questions guide students through the prescribed materials such as case law and scholarly journal articles; enabling students to engage at a deeper level with lectures. They are also a valuable preparation tool. Students have to complete these activities before embarking on the ENGAGE phase.



The ENGAGE phase enables students to self-assess their work to ensure that they have a thorough understanding of the content. The ENGAGE phase, therefore, refers to the students' engagement with the lecture made available on clickUP. In this phase, we use a mixed approach to lessen student fatigue and establish a change of pace by using narrated slideshows, podcasts, interview-style lectures and video recordings of lecturers explaining difficult content—simulating what students would experience in contact classes. In OMR 410 students share their thoughts about the materials via a discussion board on ClickUP and engage in lively debates about the environmental problems we face today.

Since video recordings can be 'data-intensive' and Wi-Fi is expensive and not always easily accessible in South Africa, we generally convert video recordings to MP3-files that can be accessed via UP's free data link to ensure that no student

is left behind. By varying the modes of delivery in lectures and matching them to the content to be covered during a specific week, we hope to ensure that students will remain interested in and excited to engage with what is often rather tricky work. We aim to adopt a similar approach when contact classes resume.

The last phase of learning is CONSOLIDATION, during which students need to revise their work and ensure that they can apply what they have learnt. The CONSOLIDATION phase offers students the opportunity to test their understanding of the content of the lecture by answering a short quiz, tutorial questions or other assessment. In OMR 410 students are given the opportunity to participate in a voluntary Zoom question and answer session with their lecturers. During the Q&A session students engage in guided discussions, to ensure that they understand the key issues.

#### The PBL 320 team consists of:

- Lecturers: Dr Martha Bradley and Prof Annelize Nienaber
- Educational consultant: Mrs Faith Mathibedi
- Academic Associate: Ms Jessie Phiffer
- Assistant Lecturer: Mr Marno Swart
- Tutors: Mr Felix le Roux and Mr Mbongeni Ncube

#### The PBL 310 team consists of:

- Lecturer: Dr Melanie Murcott
- Academic Associate: Ms Doris Uwicyeza
- Tutors: Mr Felix le Roux and Mr Nicholas Herd

#### The OMR 410 team consists of:

- Lecturers: Dr Melanie Murcott and Dr Martha Bradley
- Academic Associate: Ms Doris Uwicyeza

## Public Law online offering – Some exciting features



PAJA according to the long title

PAJA according to the Court

PAJA according to attorneys

### Meme competition

To encourage students to link their knowledge of Administrative Law to real-world issues, such as the government's response to COVID-19, Dr Murcott introduced a meme competition in PBL 310. Students were encouraged to generate and submit memes about the course content and then voted for their favorite memes. Two joint first place winners received a cash prize of R500, and two joint second place winners received R300.

The memes were not only hilarious, but also informative and insightful. Dr Murcott and other members of the PBL 310 team generated a few memes of their own, and some students generated memes to show love and appreciation to the PBL 310 team.

← Meme by Ms Chelsea Swanepoel submitted for the PBL 310 meme competition. The meme is about the Promotion of Administrative Justice, Act 3 of 2000 (PAJA), the main statute that students learn about in the module.

### COVID-19 litigation and Administrative law

As so many areas of the South African government's response to COVID-19 touched on Administrative Law, Dr Murcott created interview style lectures with Mr Tim Fish Hodgson, an expert in human rights from the International Commission of Jurists. These lectures focus on lockdown litigation that took place against the government, including the ban on smoking, the re-opening of schools, the lifting of curfews and other restrictions imposed.

### Photo submissions

Environmental Law is a visual subject that requires students to consider their relationships with their environment, bearing in mind that the water we drink, the food we eat and the air we breathe all comes from the environment. OMR 410 students submit a written assignment together with photographs, which illustrate environmental issues, and include animal rights, climate change and environmental injustice. Dr Murcott believes that students learn the most when they are outside their comfort zones, thinking about the world and the law in a critical way. She says: 'By encouraging students to reflect on their relationships with the environment the hope is that they will begin to understand the law differently. This might result in a change in their behavior, for instance, they may consume less meat realising the shocking contribution that factory farming makes to the global climate crisis.'

➔ Photo submitted by Ms Nicola Irving for OMR 410 with her assignment on the topic: 'Other living beings have rights, we just have not recognised them in law yet.'



### Powtoons<sup>1</sup>

During the time of COVID-19 and ERT, we have been fortunate enough to find a way to embrace the use of online platforms fully. Creating short animated videos in the form of Powtoons that highlight the most basic concepts of the topics covered in the course have two distinct advantages:

First, lecturers, academic associates and tutors had an outlet for their creativity, and secondly, students have been given a visual enactment of difficult and sometimes highly abstract concepts which has contributed to their understanding of the study material. It has been an enriching experience! And to top it all, if the Powtoons are not disseminated well in advance, our students have started reminding us that they are eagerly awaiting them!

Ms Jessie Phyffer, Academic Associate in International Law, is our resident creative Powtoonist.



### Our own video game and fully animated, partially 3D lecture – What students in PBL 320 can expect later this year and in the future

Creating the background narrative for the International Law video game once again allowed us to get our creative juices flowing in an attempt to familiarise our students with some of the more difficult concepts, such as the prohibition on the use of force in international law. The stresses of academic life can sometimes be overwhelming and may force lecturers to seek refuge in what is comfortable and routine. The fact that we were able to create something new, exciting and educational to help explain difficult concepts is a proud achievement for the Department of Public Law. We hope to expand the story of the video game over the next few years by including more of the themes in International Law.

Our video game will come to life because of the tireless work of Mr Dennis Kriel, Senior Instructional Designer/Educational Technologist from the Department of Education Innovation at UP.

#### Our first fully animated, partially 3D lecture—'An introduction to international air law: Aerial sovereignty and the interception of civil aircraft'

International Law presents us with exciting subject matter, such as the Law of the Sea, the Law of Armed Conflict and the Air and Space Law. Dr Bradley teamed up with Mr André du Plessis from the Department of Education Innovation to produce our first-ever fully animated, partially 3D lecture on international air law. Air law is a highly specialised area of International Law,

which is technical and complex as it addresses the sovereignty of airspace that determines when and whether civilian and military aircraft may fly over the territory of a particular state. Since air law is so complex and specialised and given the fact that this will be the first time that students encounter space law, they will likely experience difficulties, especially with some of the more abstract concepts.

Our aim with the fully animated lecture, is to help students visualise the situations that are covered in the study material. They will be able to see a situation unfolding on their computer screens and this will make it easier to understand the steps required by international law in the case of an unauthorised over-flight. As UP Law embraces a hybrid approach to teaching, we hope to be able to create similar fully animated virtual lectures every two years to explain complex aspects of international law encountered by students for the first time in their studies.

This lecture is due to be released on 16 October 2020. We decided on this particular medium as it is often difficult for those students who lack an appropriate frame of reference to work from to envision technical subject matter, such as the interception of aircraft by military forces. The absence of a suitable frame of reference makes it difficult for students to connect abstract rules of law to what happens in 'reality'. In this way, students can see how the law operates in real-life situations.

#### Computer games

To further enhance their online training, the Public Law team is developing an

International Law computer game, which should launch in October 2020. According to Dr Bradley, the leader of the development team, this forthcoming revolution in online learning 'is probably the most exciting part of our online offering'. The programme is being developed with the assistance of Dennis Kriel, Senior Instructional Designer/Educational Technologist at UP.

The first instalment of this game will be implemented as a test run this year, but the PBL 320 team plans to roll out more 'levels' in the years to come. The script was designed by Ms Phyffer, an LLM student specialising in International Air and Space Law.

Dr Bradley and Ms Phyffer created the script with input from Faith Mathibedi and Prof Annelize Nienaber, Head of the Department of Public Law, and worked closely with Mr Kriel regarding character development, etc.

'Dennis, Jessie and I are passionate about this project as PBL 320 was originally a high- impact module, and we are trying to push the envelope with learning through gaming. Of course, we will learn a lot from our first release, which will enable us to improve future products', an excited Dr Bradley said.

**'We will use the PBL 320 game specifically to help students gauge the complicated law on the 'use of force' and are therefore pushing for its release in 2020. In these times, we need to be innovative! It is expected that this game will be most valuable and will create an opportunity in emergency remote teaching (ERT) to reach students who learn in different ways.'**

<sup>1</sup> Excellent and effective teaching demands a host of devices, techniques and strategies, not only to achieve cross-critical outcomes, but because variety is much needed. Cartoons are effective teaching tools for enhancing learning in education as it positively enhances constructive learning, cooperative learning and collaborative learning among peers.





## Feedback on Dr Martha Bradley's ERT engagements

'The fact that they actually use multiple platforms to engage with the students is highly commendable. They are making use of power tools, such as short video clips, Powtoons, games, narrated slideshows, YouTube videos and Q&A sessions, which offer a fantastic way to illustrate principles. In my view, in terms of facilitating teaching and learning, this is an excellent and clear progression to where UP is prepared to engage, consult, incorporate and articulate. This is a job well done by the lecturers and academic associates/tutors who have developed modules in these formats.'

– Prof Monray Marsellus Botha,  
former Deputy Dean: Teaching and Learning, UP Law

'The consistent efforts of the PBL 320 team to provide learning material that is clear, accessible, practical and well-designed has made the migration to an online learning system feel almost natural. Videos uploaded contain short introductions to build the necessary foundation and are followed by detailed lectures that consolidate all the reading and theory necessary for a given section. Continuous assessments help students to apply the theory learnt and also warn them if they are struggling with a topic. PBL 320 in its current online form provides a platform that enables a thorough understanding of the content taught and equips students with the tools they will need to tackle real-world issues in practice confidently.'

– Shaun Putter, third-year LLB student

## Feedback on Dr Melanie Murcott's ERT engagements

'As my lecturer, you have taught me a great deal, and I have really benefitted by completing this course. Your passion for your subject and your uncompromising approach to teaching have prepared me well for the corporate world. This year, to hone my skills, I took your advice and read case law and articles in full, and I am proud to say that I no longer find such material tedious. I also do not rely on fellow students' summaries any more. Thank you for not taking shortcuts while teaching Administrative Law, and thank you for reminding me why I chose to study law in the first place. Thanks to you, it all makes sense and has made me a better student. Continue inspiring others like me to reach for the stars, to tap into their inner resources and make the best of their time at varsity, keep restoring hope and, most importantly, continue making law cool again.'

– Keolebogile Kagung

'This semester has not been easy for anyone, but we were fortunate to have the best lecturer! You enabled me to complete the PBL 310 module and taught me many lessons that I will take with me into my legal career. Thank you for your dedication and inspiration! I look forward with great excitement to working with you in environmental law next year.'

– Timoney-Rae Janse van Rensburg

'I want to thank you (and your team) for the effort you have put into making distance learning achievable. Thank you for the enjoyable lecture videos that made the work easy to understand, and for the thorough tutorials providing additional explanations. You have enabled me to improve my marks and to engage with and understand the work truly.

Your hard work does not go unnoticed. You have made studying much less stressful and have enabled me to continue with my studies during the pandemic. The content of this module was well organised, and it was evident that it had been thoughtfully and thoroughly prepared. Thank you from the bottom of my heart!

– Mignonne Roestoff

'Thank you for giving me a fantastic experience during the past semester. Your passion for your subject is contagious and has ignited my interest in the study of law. I am even considering enrolling for a master's degree in constitutional and administrative law.

I want you to know that your efforts did not go unnoticed. Your entertaining memes also made the module enjoyable. The extra effort you put into sending us videos and records is much appreciated. When we started with online learning, I was anxious because I did not have all the necessary resources. However, with your help, I managed to obtain a distinction for this module, even without textbooks. This is quite a big deal for me!

I really respect and genuinely admire you. I appreciate your style, your sense of humour and how you present yourself. You have a fantastic personality! I am your biggest fan.'

– Lucia Phale



## Dr Llewellyn Curlewis's activities during COVID-19

### Dr Llewellyn Curlewis, Department of Procedural Law

During the Covid-period, Dr Llewellyn Curlewis has been interviewed by a plethora of radio stations on various topics. The numerous topics of the various interviews (which included short and long discussions, anything between 10min and 1 hour) ranged from debates on the Regulations on all levels to corruption issues currently investigated by the Zondo Commission of Enquiry and related criminal investigations by the Special Investigative Directorate.

Curlewis was also involved with online tutoring and webinars with the Western Cape Bar Council. Consequently all eight pupils have successfully passed their Bar Exam, of which six are UP LLB alumni.



## Dr Gustav Muller's activities during COVID-19

### Dr Gustav Muller, Department of Private Law

On 22 July 2020, the Minister for Communications and Digital Technologies, Ms Stella Ndabeni-Abrahams, published a policy and policy direction in [Government Notice 800 in GG 43537, dealing with the Electronic Communications Act 36 of 2005](#). This included an invitation to members of the public to provide written comments on proposed policy and policy direction on rapid deployment of electronic communications networks and facilities:

*'The purpose of the proposed policy is to provide clarity on the deployment of electronic communications networks and facilities. The purpose of the proposed policy direction is to direct the Authority to prescribe regulations on procedures and processes for resolving disputes that may arise between an electronic communications network service licensee and any landowner, in order to satisfy the public interest in the rapid rollout of electronic communications networks and electronic communications facilities.'*

UP Law's Dr Gustav Muller in the Department of Private Law at the University of Pretoria (UP) used the opportunity to make a submission to the Minister via the Acting Director-General of the Department of Communications and Digital Technologies on the proposed policy on the rapid deployment of electronic communications networks and facilities.

In his proposal to the Minister, Muller elucidated on (1) rights and obligations, (2) principle of cooperative governance, (3) a firm distinction between causing "damage" to property and paying "damages" for the "damage" caused, (4) access fees, (5) deployment fees, (6) compensation for damaged caused, (7) disputes and complaints, and (8) regulations.

Muller subsequently disseminated his letter to his network on LinkedIn, which was noticed by the Chair of the Gauteng Attorneys' Association (GAA), Ms Chantelle Gladwin-Wood, who in turn invited Muller to speak at the GAA's 3rd Annual General Meeting on the policy as it pertains to property law, and more specifically statutory servitudes in terms of the Electronic Communications Act and the potential of expropriation in this regard.



[Read more: UP Law's Dr Gustav Muller provides feedback to Minister on proposed policy and direction on rapid deployment of electronic communications networks and facilities](#)

## Centre for Child Law's activities during COVID-19

### Centre for Child Law (CCL)

The Centre for Child Law (CCL) has been very busy during the COVID-19-lockdown period.

In one of the cases in particular, *Equal Education and Others v Minister of Basic Education and Others* (22588/2020) [2020] ZAGPPHC 306; [2020] 4 All SA 102 (GP) (17 July 2020), regarding the reinstatement of the National School Nutrition Programme during school closure as a result of COVID-19 lockdown, the CCL participated as Amicus Curiae to argue that the right to nutrition had to be read together with the right to education in a manner that best protects the interest of children.

Acting Deputy Judge President (ADJP) of the North Gauteng High Court, Suleet Potterill, ordered the Department of Basic Education (DBE) to urgently and with immediate effect feed the 9 million hungry children that were in question. In her judgment ADJP Potterill stated that "A more undignified scenario than starvation of a child is unimaginable. The morality of a society is gauged by how it treats its children. Interpreting the Bill of Rights promoting human dignity, equality and freedom can never allow for the hunger of a child...".

ADJP Potterill also handed down a supervisory interdict, requiring the DBE and provincial education departments to file plans for

the resumption of the NSNP to all qualifying learners within ten days of the judgment, and thereafter to provide the courts with progress reports every 15 days.

[Read more: joint media statement: Education rights organisations and school communities to now monitor government's compliance with the school meals court judgment](#)

[Read more: Court orders the department of basic education to urgently feed 9 million hungry children](#)

On 21 August 2020, the CCL launched a research report titled '*Child trafficking in South Africa: Exploring the myths and realities*'. The study forms part of the Centre's efforts to address uncertainties among government departments as to their obligations, roles and responsibilities pertaining to vulnerable groups of children, particularly migrant children. The enclosed report on the next page contains detailed information.





## CENTRE FOR CHILD LAW LAUNCHES NEW STUDY ON CHILD TRAFFICKING IN SOUTH AFRICA

FOR IMMEDIATE RELEASE:

21 August 2020

Today the Centre for Child Law (the Centre) launched a research report titled *Child trafficking in South Africa: Exploring the myths and realities*. The study forms part of the Centre's efforts to address uncertainties among government departments as to their obligations, roles and responsibilities pertaining to vulnerable groups of children, particularly migrant children.

Based on concerns that unsubstantiated claims about child trafficking are being used to discourage migration and increase the securitization of borders, which can impinge on children's rights especially undocumented migrant children the Centre for Child Law in collaboration with the African Centre for Migration & Society (ACMS) concluded a qualitative study into the discourse of child trafficking in South Africa.

Guided by the experiences of unaccompanied migrant children, service providers working with migrant populations and government departments in two border areas in Limpopo and Mpumalanga Provinces as well as in Johannesburg and Cape Town the study sought to identify the gaps in current knowledge on child trafficking. While not denying the existence or severity of child trafficking in South Africa the study found that in the absence of reliable information and data on child trafficking policy and practice is largely assumption-led, rather than evidence based. Furthermore, exaggerated and sensationalised claims about child trafficking are shaped and driven by the media and anti-trafficking organisations and make little effort to separate out human trafficking from smuggling or from sex work; sex work in particular is defined by the consensual exchange of sex between adults and cannot include persons under the age of 18.

Claims about child trafficking have also been used in courts and have raised concerns that State actors coming into contact with 'irregular' migrant children use 'child trafficking' to justify measures which can inadvertently harm migrant children and their families. These include the widely publicised cases of the interception and repatriation of children smuggled into South Africa to join their parents, unaccompanied asylum-seeking children being refused documentation, and school learners without adequate documentation (this also includes South African citizens) being denied access to school.

The study shows that child trafficking is one piece of a much larger and complicated picture of *irregular migration, children on the move, documentation challenges and increasing levels of xenophobia and restrictions of migrants' rights*. It therefore argues for a new approach and new conversations that provide a clearer understanding of the experiences and vulnerabilities of child migrants and children without documents in South Africa based on rigorous research and data rather than relying on unsubstantiated claims and 'moral panics' that are detached from the realities of everyday life. Moreover, the experiences and stories of unaccompanied child migrants point to the failures of the state to address the structural poverty, prevailing inequality, xenophobia and chronic gender-based violence endemic in society.

As a result we find that the consequences of using child trafficking to represent the myriad realities of children on the move and especially in the name of 'child protection' are that migrant children are



exposed to additional risks and vulnerabilities some of which are directly linked to blocked access to documentation and education.

The study calls for more in-depth, ethical and long-term research that explores the experiences of children crossing borders and the overall scope and nature of child trafficking. This study is a crucial step in trying to build a more accurate picture of ‘child trafficking’ in South Africa.

The Centre is open to engaging with stakeholders on the findings of this report in order to ensure progress and chart a way forward.

Access full report [here](#) & policy brief [here](#)

**Ends.**

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For more information, please contact:

Dr. Becky Walker [bexjwalker@gmail.com](mailto:bexjwalker@gmail.com)

Ms. Isabel Magaya [isabel.magaya@up.ac.za](mailto:isabel.magaya@up.ac.za)

**The Centre for Child Law – 012 420 4502**

## University of Pretoria Law Clinic's activities during COVID-19

### Law Clinic (UPLC)

#### Development and implementation of an electronic UPLC file management system

During lockdown Level 5, the UP Law Clinic staff at both the Hatfield and Hammanskraal offices worked from home due to an electronic "Law Clinic File Management System" (LCFMS) that was under development by Chief Attorney **Mr Lourens Grové** since December 2019.

The development of such an electronic system was conceptualised and driven by the Fourth Industrial Revolution. The first basic version of the system was rolled out during February 2020. Therefore, the implementation of the LCFMS came at just the right time to assist with business continuity for the UP Law Clinic when the COVID-19 virus arrived in South Africa on 6 March 2020 with consequent national lockdown on 26 March 2020.

The impact of the lockdown on the UPLC was therefore to a large extent mitigated since staff could continue working on current files and cases from home. The LCFMS' development continues.

#### The Research and Short Courses Department of the Law Clinic: a very successful adaptation to online training

**Mrs Charlotte van Sittert**, Head of Research and Short Courses, continued to present courses throughout lockdown. The National Credit Regulator Debt Counselling Training Course, accredited by the National Credit Regulator for the training of aspirant debt counsellors, is one of the courses that were presented to delegates. This course was developed to be presented as a blended learning solution that takes advantage of technology enabled learning and face to face contact sessions. Due to COVID-19, the course was adapted to a fully online course.

The national exam was also presented online and with the assistance of the excellent technical team of Enterprises University of Pretoria, everything went seamlessly. Feedback from delegates, as well as the Regulator is very positive. The fourth fully online NCR DC course ended with the national exam on Saturday, 29 August and the fifth course started on Monday, 31 August 2020.

The second course that was also converted to a fully online course is the Programme in Legal Collections. This programme is aimed at empowering employees of credit providers working in the legal collection environment with knowledge and technical skills related to their everyday activities. This course rolled out as a fully online course on 10 August 2020.

#### Practical Law (PRR400): a new innovation for live-client student interaction

The lecturers in Practical Law (PRR 400), **Mr Frik Grobler** and **Ms Samantha Yell**, had to adapt the module to interact with the students through ClickUP.

The theoretical part of the module was handled in a way similar to other law modules. As our students are grouped in "firms". Grobler and Yell also had to consult with each "firm" of students. To this end Blackboard Collaborate was used successfully, consultation times were booked and the firm then interacted with the two supervising attorneys.

The big challenge was the practical part that traditionally included live-client consultations at the premises of the UPLC, which of course was not possible as a result of the lockdown. We installed two webcams in consultation rooms at the clinic in Hatfield. Grobler and Yell, acting as clients, had a simulated consultation with each of the firms. Once that was completed successfully, the UPLC arranged for actual clients to consult with the firms of students from our premises, using the webcams. The students logged in from home through Blackboard Collaborate. Grobler and Yell acted as the coordinators and supervised the online consultations.

Thereafter the "firms" of students had to arrange their own Collaborate meetings, discuss the matter, develop a strategy for their specific client, and then had to draft the necessary documents, pleadings and notices required. These were submitted electronically to Grobler and Yell for assessment. This new approach worked and students received their required practical training, albeit in a very innovative and different way.





## FACULTY OF LAW COVID-19 RELATED ACTIVITIES

### Representations to include University Law Clinics in the Minister of Justice's Directions

The Director of the UPLC, **Mr Eddie Hanekom**, through representations to the Minister of Justice, in his capacity as President of the South African University Law Clinics Association (SAULCA), through the Law Society of South Africa (LSSA) and the Legal Practice Council (LPC), succeeded in convincing the Minister to include Directors and Managers of University Law Clinics in the definition as "head of institution". Those directors and managers were thus authorised to issue permits to staff members for urgent and essential legal work.

As a result, all university law clinics could continue practicing during Levels 4 and 3 of the lockdown, assisting the indigent and those of a low income in our communities during the lockdown, regardless of the closure of universities.

Furthermore, resulting from our representations to the Minister of Justice, "candidate legal practitioners" were also allowed to continue with their work and in particular to attend to court appearances. This concession by the Minister is of benefit to the entire legal profession and not only to university law clinics. Court appearances continued while "working from home".



During Level 4 of the lockdown, appearances in all courts for urgent and essential matters continued. **Hanekom**, as well as a junior attorney, **Ms Gabriela Oosthuizen**, did all the appearances in all courts on behalf of the attorneys and candidate attorneys at the Hatfield office

of the UPLC, working from home. Consultations with clients took place at the various courts' premises where the cases were set down.

### UPLC limited on-premises services reopened on 15 June 2020

A number of attempts were made to obtain approval of a plan for reopening of the UPLC by the UP Management. A risk assessment was done, Standard Operation Procedure were put in place, a "COVID-19 Plan and Protocol" was compiled, staff were trained on-premises and PPE's were sourced and distributed to all staff. Eventually, after a rigorous inspection of both premises, a Health and Safety Plan and Protocol was finally approved by the UP Occupational Health and Safety.

Staff worked on premises on a weekly rotation in two separate group from Monday, 15 June 2020 until Friday, 26 June 2020, consulting only with current clients. One group of staff worked at the office under the supervision of **Mr Piet Breedt, Grové and Hanekom**, while the other group was "working from home".

Since then, the UPLC has continued both at Hatfield and at Hammanskraal with the on-premises rotation. **Mrs Sophi Diale** is supervising the activities at Hammanskraal.

### Court appearances continues: Intermittent Court closures

Although continuing with court appearances, this is very difficult to manage because one often arrives at court in the morning, only to find that the court is closed due to a COVID-19 infection. Closures are for periods of time ranging from a couple of days to more than a week. The Pretoria High Court, the Pretoria Magistrates' Court, and the Temba Magistrates' Court in Hammanskraal all recently were closed from time to time. The same applies to police stations, as local Brooklyn Police Station and Garsfontein Police Station also recently closed.

### Legal representation of accused in the Hatfield Criminal Court resumed

Representation of indigent members of the public at the Hatfield Community Court also resumed. UPLC's task there is to represent accused in criminal cases who cannot afford to pay for representation by a private attorney or advocate. After negotiating with local officials of the Department of Justice and the Magistrate at the Hatfield Court, the implementation of some safety procedures for dealing with accused persons during the pandemic and lockdown, **Ms Edna Pitsi** continues with her duties there on a bi-weekly rotation.

**Mr Happy Shabangu** of the UPLC executed an inspection of the Court premises, and as a result UP donated and installed some perspex screens inside the courtroom.

### Limited consultations with new clients

From Monday, 29 June to Friday, 10 July 2020, the UPLC started consulting with new clients on urgent and essential cases. The demand for legal assistance was and still is overwhelming, forcing us to refuse to assist in many cases which the courts would not deem urgent or essential. Consultations with new clients on a limited basis resumed again on Tuesday, 21 July 2020 and are continuing.



