

COVID-19 related activities

2020

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FACULTY OF LAW COVID-19 RELATED ACTIVITIES
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Prof Reghard Brits



Prof Christof Heyns



Prof Ann Skelton



Prof Birgit Kuschke



Centre for Human Rights



Profs André Boraine and Stefan van Eck



Prof Charles Fombad



Prof Daniel Bradlow



Prof Dire Tladi



Dr Joel Modiri



Dr Melanie Murcott



Dr Rashri Baboolal-Frank



Profs Melanie Roestoff and Hermie Coetzee



COVID-19 – rights of employees in business rescue and liquidation: will it be the same rules?

Professors André Boraine and Stefan van Eck

On 25 May 2020, Professor André Boraine in the Department of Private Law at the University of Pretoria (UP) presented and facilitated a webinar for SARIPA (South African Rescue and Insolvency Practitioners) on invite on the topic 'COVID-19 rights of employees in business rescue and liquidation: will it be the same rules?'

Boraine was assisted by a trio panel, i.e. two practitioners, Mr Dawie van der Merwe, Director of Business Restructuring of BDO South Africa, and Ms Balindile Shezi, Director at Edward Nathan Sonnenbergs Africa (ENS), as well as Professor Stefan van Eck in the Department of Mercantile Law at UP.

An important aspect was the unpacking of the implications of the very recent *Numsa v SAA* judgment for business rescue practice and business rescue retrenchment procedures. The parties are now on appeal to the Labour Appeal Court. This case is testing basic rights of employees when the employer-company is subject to formal business rescue.

The COVID-19 pandemic of course had a further negative impact on the attempts to rescue the SAA since it also lost almost all



its income streams due to the pandemic – making a financial rescue even more complicated. Nevertheless, the SAA financial woes will impact negatively on continued employment for many. According to Boraine, 'The webinar was well attended and we had active participation.'

On invite of the *The Indian Centre for Insolvency and Bankruptcy (IICA)*, Prof A Boraine co-presents on a webinar on 26 June 2020 arranged by the *IICA*, together with Prof J Calitz (UJ) and Dr E Levenstein (Werksmans) on the Impact of COVID-19 on insolvency laws and practice in South African insolvency laws and some debt related problems created by the COVID-19 pandemic.



COVID-19 related activities during lockdown – March to May 2020

Professor Ann Skelton

In South Africa

Professor Ann Skelton has been closely following the COVID-19 regulatory framework and its impact on children, and, together with the Centre for Child Law, has been advising South African Children's Rights NGOs. The first task, undertaken in March just after the initial lockdown was declared, was to identify the essential services that need to be delivered to children during this time. Ann contributed to a large framework document of essential services, with her contribution focussing on children in child and youth care centres, in police cells and in prison.

Towards the end of the first three weeks of lockdown, Ann proposed an amendment to the initial lockdown regulations which had kept children awaiting trial in prisons and secure care centres under a temporary restriction of their right in terms of the Child Justice Act to be brought to court regularly. Ann argued that while the original restriction may have been reasonable and justifiable, an ongoing restriction of their rights beyond three weeks would be disproportionate – her full arguments were published in an article in the Daily Maverick on Freedom Day, 27 April 2020.

<https://www.dailymaverick.co.za/article/2020-04-27-children-are-still-locked-up-in-prison-this-freedom-day/>

Her proposal met the approval of the Ministry of Justice, and the change to the regulations, allowing for awaiting-trial children to be brought to court, was published 4 May 2020.

Ann also drafted a funding proposal for a project to be undertaken by the Centre for Child Law, to develop proper oversight mechanisms for the care and protection of children in child and youth care centres, which includes a component on the required standards for children under states of disaster of emergency, such as the COVID-19 epidemic. The funding has been granted and the work will commence in August 2020.

Ann was also part of an advocacy group of experts and academics co-ordinated by the Children's Institute at the University of Cape Town that sent an open letter to the President

on 4 April 2020, urging government to increase to the Child Support Grant (CSG) for a six month period.

See open letter here: <http://www.ci.uct.ac.za/news/letter-to-president-to-increase-CSG>

The arguments included the fact that this would deliver cash to 13 million children in the poorest households immediately, and would also inject cash into micro-economies in the poorest households.

She was interviewed on Kyknet <https://m.youtube.com/watch?v=1ZLTSAhqeA8> on 12 April 2020 and on ETV news on <https://www.etv.co.za/news/impact-covid-19-children>.

These advocacy efforts paid off to a great extent when the Government announced that it would increase the grant for every child by R300 for the month of May, followed by an additional payment for each caregiver of children by R500 for the following five months.

Regional

Ann participated in an expert meeting related to a working group of the African Commission on Human and Peoples' Rights (African Commission). The working group is developing soft-law standards setting out the obligations of states to regulate the conduct of private actors in the provision of social services. This follows on a resolutions of the African Commission in May 2019 and March 2020. The aim is to have a draft of soft-law standards on the topic in place by the time the next session of the African Commission takes place. Two virtual meeting of the committee of experts was held (via Zoom) on 8 May and 5 June 2020, coordinated by the Centre for Human Rights.

On 21 May 2020, Ann presented an online seminar on the Right to Education in the short course delivered by the Centre for Human Rights.



FACULTY OF LAW COVID-19 RELATED ACTIVITIES

International work

Ann has also been working hard at the International Level.

On 18 June 2020 she created a blog: 'Equitable re-opening of schools in Sub-Saharan Africa: Is it all or nothing?'. In her blog, Ann states that '[T]he COVID-19 pandemic has had a profound impact on education around the world. The World Bank has described it as "the largest simultaneous shock to all education systems in our lifetimes." Almost all schools in Sub-Saharan Africa have been closed. Ironically, for the millions of children who were not accessing education in the region, even prior to this year, the pandemic did not affect their right to education, although it may have impacted many of their other rights...'

<https://www.gi-escr.org/blog/equitable-re-opening-of-schools-in-sub-saharan-africa-is-it-all-or-nothing>

Throughout lockdown she has been in touch with the Advisory Board of the Global Study on Children Deprived of their Liberty, and has been collecting guidelines from all over the world on the children deprived of their liberty. On 21 April 2020 she presented in an international Webinar on *COVID-19 and Children Deprived of their Liberty*, organised by the Alliance for Child Protection in Humanitarian Action and UNICEF.

<https://alliancecpha.org/en/child-protection-webinars/webinar-covid-19-and-children-deprived-their-liberty>

She is also a member of a group, led by Terre des Hommes, which has developed guidelines for practitioners who are working with children deprived of their liberty in a public health emergency.

<https://justicewithchildren.org/advocacy/>

Ann's work as a member of the UN Committee on the Rights of the Child was affected by COVID-19 as the May 2020 session was postponed. However, the Committee has continued to work during this period. Ann was involved in the drafting of the Committee's Statement on COVID-19 which sets out States' duties in the context of lockdown and quarantine, by ensuring that online learning does not exacerbate existing inequalities or replace student-teacher interaction; activating immediate measures to ensure that children are fed nutritious food; maintaining the provision of basic services for children including healthcare, water, sanitation and birth registration; exploring alternative and creative solutions for children to enjoy their rights to rest, leisure, recreation and cultural and artistic activities; and providing professional. The statement is here:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en

Ann is currently the chairperson of the CRC complaints procedure. The working group has continued to work, and has enjoyed some successes during the period of COVID-19. On 8 April 2020 the Committee released a press statement applauding Denmark's decision to grant asylum to the mother Syrian refugee children living in the country.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25780&LangID=E>

On 29 May 2020 the Committee issued a video in which a 12-year-old Moroccan girl expresses her joy at being allowed to return to school after her complaint to the Committee resulted in Spain providing her with access to education. Ann features in the video, explaining the Committee's complaints system.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25908&LangID=E>

Ann's first term of office on the CRC Committee ends in February, and South African has nominated her for a second term. The elections for the treaty body positions take place at the United Nations in New York, with all states that have ratified the Convention eligible to vote. Due to COVID-19 the elections have been postponed, but Ann has made video as part of her re-election work – see her video posted by Child Rights Connect, Geneva:

<https://www.youtube.com/watch?v=cGeNQw-CS0Q>

International teaching

On 20 May 2020, Ann participated in a one-hour seminar with students in the Advanced LLM in Children's Rights at the University of Leiden – as part of a series called 'Meeting children's rights leaders @ Leiden'. These students usually attend the CRC Committee session in May, but as that was cancelled, a series of on line meeting were organised.

<https://www.facebook.com/internationalchildrensrightsleiden/>

Ann teaches a module on children's rights in the Oxford International Masters in Human Rights Law. This usually happens in Oxford during the summer, but this year due to COVID-19, the lecturers have been asked to provide a 'distilled overview of the course' in a one-hour pre-recorded lecture, followed later by a live on-line webinar. Ann's lecture will be watched by students from around the world on 5 June 2020 and the live webinar on 9 June 2020.



Professor Birgit Kuschke's activities during COVID-19

Professor Birgit Kuschke

The COVID-19 pandemic is the largest disaster to hit the insurance history, by far exceeding any NatCat (natural catastrophe) risks to date. The Unit for Insurance Law and Governance in the Faculty of Law at the University of Pretoria, 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. The public is invited to submit queries to BusinessInterruptionClaims@africamail.com.

Professor Kuschke has been involved in two radio interviews during May 2020 on RSG regarding the impact of COVID-19 as a *force majeure* event, firstly on its impact on lease agreements,

and then on the impact of COVID-19 on business interruption insurance claims. On 22 June 2020 she conducted a Radio 702 interview on explaining the effect of the new Directive issued by the Financial Services Conduct Authority on business interruption cover. On 22 June the *Business Report* carried an article on Santam's rejection of a settlement proposal from hospitality operators, with comments from Prof Kuschke in this regard. (Article enclosed, [click here](#) to view). The Unit is also providing the Regulators and insurers with an opinion on strategies to prevent the insolvency of insurance companies in the country.



Response to the impact of the COVID-19 pandemic

Centre for Human Rights

Although the Centre for Human Rights (CHR) in the Faculty of Law of the University of Pretoria has been directly affected by the COVID-19 pandemic and the accompanying lockdown measures by the South African government, it has remained actively involved in a number of activities such as webinars. Their commitment is driven by the long-term goal of ensuring the advancement of the protection of human rights through education, research and advocacy on the African continent.

We are also cognisant of the human rights impact of the COVID-19 pandemic and the response thereto.

Read more on the CHR's activities during the COVID-19 pandemic: <https://www.chr.up.ac.za/covid19>



Professor Charles Fombad - COVID-19 related activities

Professor Charles Fombad

Professor Charles Fombad from the Institute for International and Comparative Law in Africa (ICLA) in the Faculty of Law (UP Law) at the University of Pretoria conducted a presentation on "Comparative analysis of the constitutional framework for controlling the exercise of emergency powers in central and west Africa," on 28 May 2020 during a Webinar on "Impact of COVID-19

pandemic on constitutionalism and rule of law in anglophone countries in central and west Africa," organised by International IDEA.



Professor Daniel Bradlow's activities from March to June 2020

Professor Daniel Bradlow

Professor Bradlow has been invited to be a lead author for a policy paper for the T20 Task force on COVID-19's. The T20 is the think tank 20 related to the G20. Prof Bradlow is writing a paper on multilateral responses to the crisis.

Professor Bradlow has been appointed by ASSAF as one of the SA representatives to the S20 working group on the circular economy. The S20 is the Science 20 related to the G20.

Professor Bradlow has written op-eds (in Conversation, Project Syndicate and Inter-Press Services) and 1 blog post (AfronomicsLaw) and given multiple interviews on my proposal for a DOVE (Debts of Vulnerable Economies) fund to deal with sub-Saharan Africa's private sector debt.

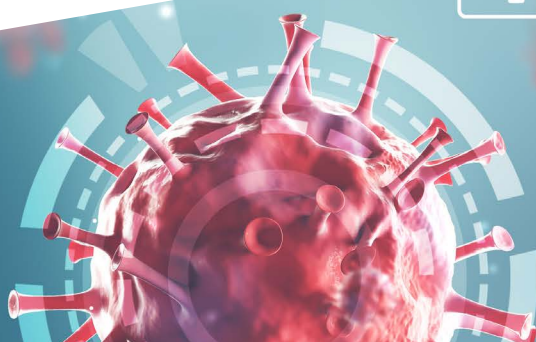
Op-eds and Blogs

- "Doves, Vultures and African Debt in the Time of COVID-19", Afronomicslaw Blog, available at: <https://www.afronomicslaw.org/2020/05/22/doves-vultures-and-african-debt-in-the-time-of-covid-19/>
- "Deterring the Debt Vultures in Africa", Project Syndicate, 20 May 2020 available at: <https://www.project-syndicate.org/commentary/new-fund-can-deter-africa-sovereign-debt-vultures-by-daniel-d-bradlow-2020-05>
- "Africa Needs a DOVE Fund: Or Should We Starve So We Can Pay our Debts?" Inter-Press Service, 19 May 2020 available at: <http://www.ipsnews.net/2020/05/africa-needs-dove-fund-starve-can-pay-debts/>
- "Vultures, doves and African debt: here's a way out", The Conversation, Africa, 5 May 2020 available at: <https://theconversation.com/vultures-doves-and-african-debt-heres-a-way-out-137643>

- "Africa Needs a Dove Fund", Friedrich Ebert Stiftung Referat Afrika Blog, 15 April 2020, available at: <https://www.fes.de/referat-afrika/neugikeiten-referat-afrika/africa-needs-a-dove-fund>
French version available at: <https://www.fes.de/referat-afrika/neugikeiten-referat-afrika/les-etats-africains-vulnerables-ont-besoin-dun-fonds-pour-leurs-dettes>
- Letter: Don't Let African debt enrich the speculators", Financial Times, 14 April 2020 available at: <https://www.ft.com/content/0680d6ce-7d79-11ea-82f6-150830b3b99a?shareType=nongift>
- "The big asks Africa needs to table with the IMF and World Bank: here's the list", The Conversation, 8 April 2020, available at: <https://theconversation.com/the-big-asks-africa-needs-to-table-with-the-imf-and-world-bank-heres-the-list-135768>

Podcasts

- Podcast: COVID-19 in Africa Episode 10 by Sound Africa on SoundCloud (interview on African debt and DOVE fund) available at: <https://soundcloud.com/soundafrica/covid-in-africa-episode-10>
- Podcast: 5 June 2020: Africa's Private Debt: What to do About Those Vulture Funds Circling Overhead? from The China in Africa Podcast on Apple Podcasts at: <https://podcasts.apple.com/us/podcast/the-china-in-africa-podcast/id484409506?i=1000476860001>



Professor Dire Tladi – COVID-19 related activities

Professor Dire Tladi

20 April 2020: Professor Dire Tladi has been appointed to serve on the Geneva-based Institut de Droit International's (IDI) Commission on Pandemics and International Law. He joins other leading international lawyers such as former President of the International Criminal Tribunal Theodore Meron and Judge of the International Court of Justice Xue Hanqin. The *Institut de Droit International* is an organisation devoted to the study and development of international law, whose membership comprises some of the world's leading public international lawyers. It was awarded the Nobel Peace Prize in 1904.



Africa Rights Talk: Season 2 Episode 8 – What role does international law play in curbing the challenges presented by COVID-19?

In conversation with Prof Dire Tladi on 12 June 2020- "...the immediate dangers we are facing right now are not legal dangers. The immediate dangers we are facing right now are health dangers..."

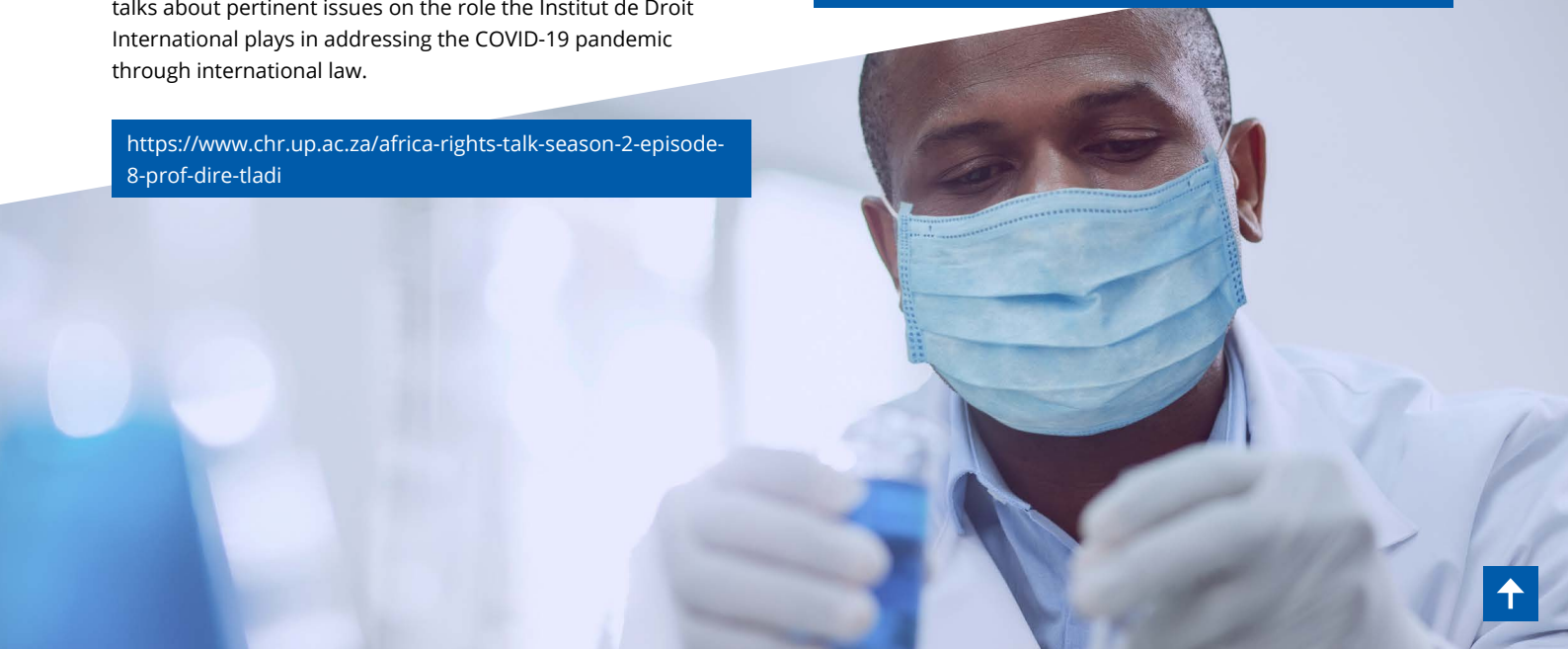
In this episode, Professor Dire Tladi explains how his journey and passion for international law has led him to becoming a member of the UN International Law Commission and its Special Rapporteur on Jus Cogens. In a most recent monumental achievement, he was elected to serve on the Institut de Droit International's (Institute for International Law) commission on pandemics and international law. In this conversation, he talks about pertinent issues on the role the Institut de Droit International plays in addressing the COVID-19 pandemic through international law.

<https://www.chr.up.ac.za/africa-rights-talk-season-2-episode-8-prof-dire-tladi>

UP Law academic, Prof Dire Tladi, appointed to international pandemic commission

A University of Pretoria (UP) Law academic has been appointed to serve on the Geneva-based Institut de Droit International's (IDI) Commission on Pandemics and International Law. Professor Dire Tladi of the UP Faculty of Law's Institute for International and Comparative Law in Africa and Department of Public Law was appointed to serve on the commission and joins other leading international lawyers such as former President of the International Criminal Tribunal Theodore Meron and Judge of the International Court of Justice Xue Hanqin.

https://www.up.ac.za/public-law/news/post_2889102-up-law-academic-appointed-to-international-pandemic-commission



Dr Joel Modiri's activities during COVID-19

Dr Joel Modiri

Dr Joel Modiri, a senior lecturer in the Department of Jurisprudence participated as a moderator in an online webinar on 'Future Africa Post-Covid-19', which suggested researchers must play a leading role in reshaping African society. The Webinar was hosted on 2 June 2020, and participants from around the world joined the UP-hosted webinar. The webinar was hosted in commemoration of Africa Month, which is celebrated throughout May, and looked at what the future holds

for the continent in the wake of the COVID-19 pandemic. Moderator Dr Joel Modiri, Senior Lecturer in UP's Department of Jurisprudence, said the pandemic has "brought our daily activities to a halt" and it highlights inequalities and surfaces the interdependence of communities as they come together to find a way out.



Videos produced for COVID-19 and Administrative Law purposes

Dr Melanie Murcott and Tim Fish Hodgson

- Covid Regs and Admin Law Part 1 – purpose of administrative law, standards of review, separation of powers and the empowering legislation pursuant to which various regulations and directives have been promulgated during lockdown. <https://www.youtube.com/watch?v=ph4IVfL7hhY>
- Covid Regs and Admin Law Part 2 – DA cases <https://www.youtube.com/watch?v=tW3g2ue-l9g&t=16s>
- Covid Regs and Admin Law Part 3 – Esau and HSF cases https://www.youtube.com/watch?v=F2SPSdrH_As&t=13s
- COVID-19 – De Beer judgment <https://youtu.be/moOjDykoawl>



Dr Rashri Baboolal-Frank's activities from March to June 2020

Dr Rashri Baboolal-Frank

[MIT COVID-19 Challenge: Beat the Pandemic II](#)

Dr Rashri Baboolal-Frank participated in the above online colloquium as she presented a pitch and slides relating to implementing a new methodology for online education. She collaborated with other participants regarding the impact of COVID-19 in education and healthcare. The MIT COVID-19 challenge is run on a short timeframe, and encourages creative

and innovative thinking. The collaboration and research is ongoing to beat the Pandemic that affects all of us in every facet of our daily lives.

Dr R Baboolal-Frank is involved in various research activities relating to the impact of the pandemic.



Professors Melanie Roestoff and Hermie Coetzee's activities during COVID-19

Professors Melanie Roestoff and Hermie Coetzee

South African Western Cape High Court refers to an article by Professors Melanie Roestoff and Professor Hermie Coetzee in the Journal for Contemporary Roman-Dutch Law/Tydskrif vir Hedendaagse Romein-Hollandse Reg, Vol 71, No. 4, pp 678-668, Consent to Jurisdiction – Unlawful provision in a credit agreement in terms of the National Credit Act- Is the jurisdiction of a Court ousted thereby? Standard Bank of SA Ltd v Kekana; Standard Bank of SA Ltd v Mbedu; [2020] ZAWCHC 44 (25 May 2020).



Professor Reghard Brits' activities from March to June 2020

Professor Reghard Brits

On 20 May 2020, Prof Reghard Brits from the Department of Mercantile Law presented a paper, titled "Debt Relief and Property Law", during an international online seminar as part of the "PropertyCon" initiative, a weekly online event started by Dr Bram Akkermans from Maastricht University in the Netherlands. The presentation discussed the implications of debt relief measures from a constitutional property law perspective. The topic is especially important in light of the likelihood that new and far-reaching debt relief measures might be necessary worldwide in the coming months and years to address the economic fallout of the COVID-19 crisis.

The presentation was also partially based on a forthcoming article co-authored with Prof Hermie Coetzee, also from the Department of Mercantile Law, on the novel "debt intervention" procedure soon to be introduced via amendments to the National Credit Act of 2005 to provide debt relief to low-income debtors in South Africa.



Professor Christof Heyns' activities from March to June 2020

Professor Christof Heyns



[Covid-19 Jurisprudence on the right of peaceful assembly and police use of force – The Institute for International and Comparative Law in Africa \(ICLA\) in the Faculty of Law at the University of Pretoria is preparing summaries of Covid-19-related jurisprudence around the world on the right of peaceful assembly and police use of force.](#)

1 June 2020: ICLA and the Centre for Human Rights (CHR) at UP Law have been preparing regular updates on states that have derogated from their obligations to respect and protect the right of peaceful assembly under the Covenant on Civil and Political Rights and under the regional human rights treaties in Europe and the Americas.

[Webinar on the Pandemic and International Law – Thinking about humanitarian impact and human rights implications](#)

4 June 2020: Pandemics know no borders, making it important to clarify rules of international law, such as the duty of cooperation, responsibility for outbreaks, and immigration-related issues. On the front line, the realities of COVID-19 create major challenges for humanitarian workers.

The Institute for International and Comparative Law in Africa (University of Pretoria, UP) and the Dullah Omar Institute for Constitutional Law, Governance and Human Rights (University of the Western Cape, UWC) have jointly convened an expert panel which discussed these pressing issues. The first segment discussed the impact of COVID-19 on vulnerable populations and its consequences for humanitarian action. The second segment focused on the extent to which the pandemic justifies significant interferences with individual rights and liberties by the authorities.

[Webinar on the New use of force law for South Africa – Hosted by the African Policing Civilian Oversight Forum \(APCOF\)](#)

8 June 2020: The 15 May 2020 judgment of Judge Hans Fabricius in the Pretoria High Court was scathing of the security forces' actions and called for guidelines on the use of force. Are the limitations of section 49 of the Criminal Procedure Act, and its inability to guide the appropriate use of force by law enforcement officers, exposed once again?

[Webinar on the Right of peaceful assembly in Southern Africa in the context of Covid-19](#)

9 June 2020: The United Nations Office of the High Commissioner for Human Rights - Regional Office for Southern Africa, in collaboration with the Centre for Human Rights in the Faculty of Law at the University of Pretoria, is convening a webinar on the right of peaceful assembly in Southern Africa in the context of COVID-19.

[Webinar on Proto-Defences](#)

10 June 2020: This webinar will provide an opportunity for LLD students who have not yet defended their thesis to prepare for their oral defence by making a similar short presentation of their work and answering oral questions about it.

- Anne Ireri – Investigating child sex abuse in Kenya
- Fikire Birhane – Right to life of children associated with non-state armed groups
- Steven Ndhlovu – The criminal justice system's response to SGBV in Malawi

If you are interested in attending, please contact cheree.olivier@up.ac.za for meeting details.



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net change

Prime rate	7.25	Unch
5pm on Friday		
R/\$	▲ 17.34	+0.11
R/£	▲ 21.43	+0.23
R/€	▲ 19.38	+0.20
4.30pm on Friday		
Gold	▲ 1744.85	+13.00
Silver	▲ 17.86	+0.33
Platinum	▲ 838.70	+17.70
Oil (Brent)	▲ 42.82	+1.39
Friday's close		
All share index	▲ 54224.4	+283.2
Top40 index	▲ 49812.3	+223.2
FTSE-100	▲ 6292.6	+68.5
Dow Jones (6pm)	▲ 26161.8	+81.7

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CORONAVIRUS (Covid-19)

TREASURY

\$1bn boost for SA's emergency Budget

NDB approves loan as government scrambles to breathe life into an economy left reeling by lockdown curbs

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FINANCE Minister Tito Mboweni's emergency Budget has received a \$1 billion (R17.3bn) boost as he prepares to reprioritise R130bn to fund part of the government's R500bn stimulus package to respond to Covid-19 fallout.

The New Development Bank (NDB) last week approved a \$1bn Covid-19 Emergency Programme Loan to South Africa. However, details of the loan's terms and interest rate have not been forthcoming.

South Africa has the highest number of Covid-19 cases on the continent, and its health-care infrastructure is under pressure.

The lockdown measures to curb the spread of the pandemic have crippled the economy, and gross domestic product (GDP) is forecast to shrink by



NDB VICE-PRESIDENT and chief operations officer Xian Zhu. | Supplied

doubtful digits.

NDB vice-president and chief operations officer Xian Zhu said the loan

would assist the government to roll out health care and provide a social safety net.

"The NDB's assistance will address urgent health needs in South Africa to overcome the Covid-19 pandemic and help mitigate socio-economic impacts on the most vulnerable populations," Zhu said.

Mboweni has warned that the country needs to slow down its reliance on debt, as the budget deficit could rise to unsustainable levels, which could push an already weak fiscal position to the brink of a debt crisis.

"A sovereign-debt crisis is a very serious matter, and we are looking it in the eye by 2024 if we do not redo our Budget; if we do not manage our house finances carefully," Mboweni said.

Investec's Kamilla Kaplan said the special adjustment Budget was likely to outline a significant deterioration in fiscal ratios.

"We expect a substantial revenue shortfall, increased spending pressures, and a contraction in nominal GDP growth will yield a 2020/21 consolidated Budget deficit of 15 percent of GDP versus National Treasury's original forecast of a 6.8 percent of GDP deficit," Kaplan said.

Credit rating agencies have warned that South Africa's growing debt burden could push the country's sovereign credit rating deeper into sub-investment status.

Old Mutual's Johann Els said a debt crisis would force South Africa to seek help from the International Monetary Fund.

"(It) would result in the public service and state pensions being slashed, along with all kinds of structural reform programmes we do not want," he said.

Mboweni wants all government expenses to be justified for each new

period under the proposed zero-based budgeting.

The National Council of Provinces last week passed the 2020 Appropriation Bill without amendment. The bill is intended to appropriate money from the National Revenue Fund for the state's requirements for the 2020/21 financial year.

Investec's Lara Hodes said the pandemic would exacerbate the fragility of South Africa's economic predicament.

"We are anticipating a contraction of around 10.1 percent this year for the domestic economy. However, a high degree of uncertainty exists with regards to the potential containment of the virus and a notably higher outcome could prevail," Hodes said.

"State-owned entities, notably Eskom, continue to remain a key drag on the fiscus, and government guarantees on their debt is a major concern for rating agencies."

TELECOMS

Cell C considers axing
40% of staff in shake-upDINEO FAKU
dineo.faku@nln.co.za

BELEGUERED Cell C has proposed cutting up to 40 percent of its workforce as part of a new operational structure, only weeks after the Competition Commission approved its recapitalisation transaction.

Cell C, South Africa's third-largest telecoms company, said 960 positions out of 2 500 might be affected by the restructuring. In line with the new operational structure.

"Cell C can confirm that it has reached a difficult decision and initiated discussions with junior management and semi-skilled staff to implement a restructuring of its operations to align the organisation with its new operating model," the company said on Friday.

The group said it was in the process of consulting staff. "This current consultation process in terms of section 189A (2) of the Labour Relations Act advises staff of the possibility of redundancy of certain positions and possible retrenchments," said Cell C.

It said a final decision had not been made and the consultation process

with employees was to obtain input for consideration before a final decision.

The organisational shake-up would also affect 30 senior managerial posts, the company added.

Cell C, which was recapitalised in 2017, when Blue Label Telecoms acquired a 45 percent stake for R5.5 billion, is drowning in R9bn debt. It required a debt restructure or recapitalisation to avoid further defaults on its debt repayments.

Cell C has generated losses for many years, and in an effort to become sustainable the company shifted from a build-and-buy strategy to a roaming model. It also implemented a turnaround strategy last year.

Cell C said on Friday that it had become necessary to review its operating model and organisational structure.

"It is the company's view that over time the operating model has resulted in several inefficiencies. This is contributing to the operating and financial challenges the company currently faces."

Last month, the Competition Commission approved the company's proposed recapitalisation transaction to



CELL C says 960 positions out of 2 500 might be affected by restructuring. | SIMPHIWE MBOKAZI African News Agency (ANA)

help the group keep afloat.

The approval gave Gatsby SPV, a shelf company, the green light to acquire certain of Cell C's assets on condition that Gatsby was not owned by companies that competed with Cell C.

Thabang Mothelo, spokesperson for the Information Communication Technology Union (ICTU), said the proposed cuts had come as a surprise

given the recapitalisation transaction and green shoots in the second half of 2019.

"ICTU is enraged by this unlawful notification because Cell C hasn't officially notified the union about its plans to renege and why it is violating the conditions set out in the recapitalisation application..." said Mothelo, adding that job security was one of the key conditions for the

recapitalisation.

"One of key conditions was that recapitalisation support by the Competition Commission would include guaranteeing job security of workers," said Mothelo.

Mothelo said the union understood that Cell C's financial performance had steadily improved before the lockdown, and it had performed even better under lockdown.

INSURANCE

Santam rejects settlement proposal from hospitality operators

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SANTAM has rejected a business interruption settlement proposal from more than 400 tourism and hospitality operators relating to the Covid-19 pandemic, forcing claimants to head to court for a declaratory order or as part of a class action.

On Friday, Insurance Claims Africa (ICA) announced that Santam had rejected its proposal.

A court process will benefit only the insurance industry, causing the mass closure of tourism businesses and lead to widespread job losses.

ICA chief executive Ryan Woolley said he was disappointed.

"Santam told us they want certainty through the legal process. They're not willing to deal with this issue on an urgent basis, which means they will

fight a war of attrition. It's a case of delay, deny and defend. And if your business closes, you have no case. It's disappointing."

ICA has made the same offer to other leading insurers.

Specialist business interruption insurance for hospitality and tourism industries includes extensions for claims arising from infectious or contagious notifiable diseases.

Although Covid-19 was a declared notifiable disease, many insurers are either rejecting the claims or frustrating the process. Insurers have blamed government regulations for the losses, saying their policies were never written to cover pandemics.

Santam denies refusing to pay these claims.

A spokesperson said: "We are processing a number of Covid-19 claims and are committed to quickly paying

all valid claims that meet the definition of loss described in our policies. In terms of the JSE regulations, Santam is not at liberty to disclose information that has not been made available to shareholders."

Santam's interim results, which will be released in September, will provide further details.

The insurer said it was aware of pending legal action but remained confident of its position on the interpretation of what was covered by the insurance policies.

"In the interest of all parties, we welcome a swift court process to obtain legal certainty," Santam said.

Fighting the claims in court is likely to lead to a drawn-out process that could spell disaster for the industry.

The tourism and hospitality sector sustains more than 740 000 direct and 1.5 million indirect jobs and con-

tributes 8.6 percent to gross domestic product.

Professor Birgit Kuschke from the University of Pretoria said if rejected claims were not dealt with by issuing summonses against the insurers within the prescribed periods as agreed upon in the policies, which might vary between 90 days and six months, the claims would prescribe.

"If you submit an insurance claim and it's rejected, there are contractual terms limiting your ability to sue the company. The larger problem – and matter of urgency – is to get a moratorium on time lines from the regulators, such as the Financial Sector Conduct Authority, and relevant ministries, due to the Covid-19 lockdown."

Kuschke said she had been inundated with queries, and has advised claimants and lawyers to consolidate their actions and form a coalition with

other law firms and advisory groups such as ICA, to seek a moratorium on these timelines so clients do not lose their ability to claim, as well as a declarator on whether the insurance cover is triggered by the pandemic and subsequent lockdown.

Some global insurance companies had compromised with clients and not all insurers were declining the claims, but they were frustrating the process by sending clients from pillar to post to prove causation, confirmed attorney Nicole Schoeman-Louw.

"What the insurers should rather do is negotiate a compromise that will ensure both businesses are not imploded,"

Schoeman-Louw warned that if these matters were not expedited, "it could crumble the legal system, with an influx of debt collections, evictions and sequestrations applications".



ABOUT 10 percent of South Africa's 400 000 mining employees come from neighbouring countries. | Reuters

MINERALS COUNCIL

Return of
foreign
miners will
be delayedDINEO FAKU
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THE MINERALS Council South Africa has flagged that the process of facilitating the return of foreign mine workers as the lockdown restrictions were eased would take longer than expected due to delays at the Mozambique and Lesotho border posts.

Nikisi Lesufi, the council's senior executive for the environment, health and legacies, told Parliament's portfolio committee on minerals and energy on Friday that about 3 500 employees from Mozambique and about 8 500 from Lesotho were prepared to return to work.

"The border posts in Mozambique can only process 400 employees a day. We are going to take two to three weeks to process the employees in Mozambique. In Lesotho, there are close to 8 500 employees and three border posts. Each one of them can only take 130 employees a day. It will take much longer to process employees in Lesotho over a 20- to 25-day period to bring the workers back," said Lesufi.

He added that the plan would be endorsed by the National Joint Operational and Intelligence Structure.

On arrival in South Africa, the miners would be expected to be quarantined for two weeks. Lesufi said last month that the council would embark on a three-month process of facilitating the return of 9 500 mine workers from neighbouring countries as of next week.

He said about 10 percent of South Africa's 400 000 mining employees came from neighbouring countries, particularly Lesotho and Mozambique.

About 260 000 miners would have been screened and had returned to work. The mining industry has recorded 1 289 positive cases and three deaths, while 484 employees have recovered. Mining production took a 47.3 percent knock in April due to the lockdown restrictions.

Council chief executive Roger Baxter told the committee that the industry accepted that the prime responsibility for ensuring the effective implementation of measures to ensure healthy and safe working practices rested with management.

"The industry has been doing a huge amount of work together with its partners, organised labour and the government, to manage the pandemic. The fact that we have done a lot more testing and screening means that our systems are working. The quarantine system is working, and the tracing and tracking systems are working," Baxter said.

Tebello Chabana, the council's senior executive for transformation, said the industry was helping to sustain communities through, among other things, the provision of food and water. "The Covid-19 pandemic has exacerbated the inequalities that exist in our society. Mining companies had to come to the rescue of our mining communities," said Chabana.

