



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

## Faculty of Law

Fakulteit Regsgeleerdheid  
Lefapha la Molao

*AFRICA'S GLOBAL LAW FACULTY*

# Africa's leading doctoral programme in law

Institute for International and  
Comparative Law in Africa,  
Faculty of Law  
**University of Pretoria**

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



# Developing advanced capacity in international and comparative law, rooted in African soil

## *Executive summary*

The Faculty of Law of the University of Pretoria will engage, with its network of partners in Africa and abroad, in a large-scale intervention to expand and deepen Africa's capacity in the field of international and comparative law. The central feature of the intervention will be to expand its current doctoral programme in this area into a comprehensive and semi-structured programme aimed at the top students of the continent. The students on the programme will be supervised through collaboration between experts in the Faculty and external experts in this field. The students will mostly be full-time and all will be required to attend regular research summits. They will get the opportunity to spend a couple of months abroad at some of the leading universities in the world, and/or to do internships at relevant international organisations, in particular the United Nations in Geneva. The programme will have as a primary objective the enhancement of potential teaching and research capacity at law faculties on the continent.

The programme will allow the Faculty to deliver 50 doctoral students per year who will have benefitted from an education on a par with the best that the world has to offer. It will be largely self-sufficient in five years.

## Introduction and background

Today, states and regions cannot achieve sustainable development in isolation from the rest of the world. The world order is characterized by competition as well as cooperation; both predicated in connection. Those who are not connected stay behind. To flourish, societies need to be attuned to developments on the global stage, and to consider how those developments will work for them while setting their own course, both domestically and internationally. They must be able to hold their own in international negotiations and discussions. Moreover, they have to be active and effective participants in shaping the basic tenets of the global order in which they live.

The international order is based on set of complex legal rules, at global, regional and national levels. It is of central importance that states have access to legal experts who are able to guide the societies in which they are based through what can otherwise be a maze in which it is easy to lose direction.

The implications for Africa are clear. Given its massive potential and opportunities for growth, coupled with a long history of marginalisation in the world, advanced capacity in the field of international and comparative law will be crucially important for the continent to take its rightful place on the world stage, and to make informed choices domestically. To do this, a critical mass of experts with the required skills who pull more or less in the same direction, is needed.

The presence of such experts is also of central importance to the continent's adherence to the rule of law. An individual lawyer who opposes infringements of the rule of law is unlikely to remain standing. Again, the collaboration of a cohort of people, throughout society is needed.

The lawyers based in Africa who are fully conversant in international and comparative law are few and far between. There is certainly no critical mass. There is a need to expand the existing capacity on the continent dramatically.

There is wide recognition of Africa's need to produce in particular more high quality, PhD graduates to meet its development needs in all fields.<sup>1</sup> This equally applies to law.

1. See e.g. the report "Building PhD capacity in Africa"  
[https://www.britishcouncil.org/sites/default/files/h233\\_07\\_synthesis\\_report\\_final\\_web.pdf](https://www.britishcouncil.org/sites/default/files/h233_07_synthesis_report_final_web.pdf)



With law, even more so than in other fields, the solution cannot simply lie in sending emerging scholars from Africa to study at the top universities in other parts of the world. What is called for is a community of legal professionals rooted in African soil – people who have studied together, who continue to be in touch with each other, exchange ideas and join forces where needed, and who have a collective sense of responsibility for the basic tenets upon which their continent rests.

This raises the question where are the emerging young lawyers currently being educated – the future cabinet ministers, permanent secretaries, chief justices, deans of law schools, CEOs of corporations, directors of civil society organisations of Africa, and representatives of their governments in international organisations and fora and as international public servants?

Africa currently has around 200 law schools and faculties. Their main focus is on domestic law. Only a few of them offer international or comparative law, and only a handful do so on the post-graduate level.

Linked to the above is the fact that there are very few research facilities on African soil to which the African Union or governments or other entities can turn if they want to have



in-depth research done on the various legal aspects of a complex issue. In many instances research institutions from outside the continent are engaged to do the research about Africa, which means the capacity that is developed is not rooted.

How, then, can a doctoral programme with a continental reach and advanced research capacity on the continent be established?

The constitutive parts of an intervention that can turn the situation around are already in place on African soil. During the last three decades, a network of people and interventions in this area has formed around the Faculty of Law of the University of Pretoria (UP). At first this was focused on human rights, but now it has a much wider reach.

The Faculty will now use this platform as a basis to make a major injection into the level of capacity in the field of international and comparative law in Africa.

## Proposal

This is a proposal for a programme at the UP Faculty of Law, coordinated by the Institute for International and Comparative Law in Africa, aimed at enhancing the capacity in the field of international and comparative law of Africa at law faculties and in practice.

While what is set out here is an ambitious plan, its costs will represent excellent value, because for the most part the proposed intervention entails bringing together existing elements in the Faculty on the continent and abroad, and because doctoral studies and the publication of academic articles is subsidised by the government, as are research outputs. It is envisaged that the programme will in five years be largely sustainable.

## Institute for International and Comparative Law in Africa

The Institute for International and Comparative Law in Africa is a Faculty-wide research institute, with a special focus on advanced research. The Institute houses research professors, visiting scholars, post-doctoral fellows and doctoral students from all parts of Africa.



## ***Deepening and expanding the current doctoral programme at UP***

The programme will entail the expansion of the current doctoral programme at UP, and the addition of a number of features to maximize the experience. This will largely be done through international collaboration, on the continent and abroad.

The Faculty of Law already runs the largest and most comprehensive doctoral programme in law on the continent (described in more detail below), with 240 students currently registered, most of them with an international or comparative law component. An additional 15 top students from the continent will be accepted for admission to the doctoral programme every year. On the basis that it takes an average three years for students to finish their doctoral studies, this will mean that 45 new students will after two years be added to the existing cohort of students, and that level will be maintained.

The new students will be full-time, and a number of the strongest students on the current programme who are currently part-time will be offered the option to become full-time students. The programme will be semi-structured, in the sense that all students (full-time and part-

## **Faculty of Law**

The Faculty of Law of the University of Pretoria is over 100 year old. The Faculty is currently ranked the 76st best law faculty in the world, and the best law faculty in Africa, by Times Higher Education.



time) will be required to attend three research summits per year, each of three weeks, during which time they will interact with their supervisors in person, attend seminars presented by leading experts in the field, and take oral exams. In addition to the supervisors, the co-supervisors and post-doctoral fellows, experts from other universities, on the continent and abroad, will also attend these summit sessions, where necessary using technology.

As described in more detail below, some of the students will be offered the opportunity to spend three months doing research abroad at top universities, and some will do internships with international hosts such as the United Nations.

Of central importance will be the need to ensure that proper supervision is available to serve this large cohort of students. The existing supervisory capacity in the Faculty will be enhanced by making use of co-supervisors. This will entail appointing a couple of leading scholars in the field from law faculties in other parts of the world as extra-ordinary professors at UP, who will spend a couple of weeks per year in Pretoria during the research summits, and who can co-supervise students long-distance, alongside the supervisors based in the Faculty. The Faculty already has strong links with leading researchers worldwide who will be appointed in this role – also drawing on its networks in Africa. Given the multi-disciplinary nature of much of the research that is being done in the Faculty, co-supervisors from other faculties in the University of Pretoria will also be appointed.

The Faculty of Law does not have a tradition of appointing post-doctoral fellows. This will be changed. Post-doctoral fellows can bring a wealth of experience to the Faculty, participate in the research seminars

and also be drawn in, over time, as co-supervisors. Alumni of the programme may also be asked to serve as co-supervisors.

An important outcome will be the contribution of the advanced research that will be done by the students, in collaboration with their supervisors and researchers at UP, to legal science. They will make a significant contribution to the body of knowledge available on a range of issues concerning the role and rule of law, in a context and on a continent where there is a dearth of scholarly, in depth, publications.

The structured collaboration between the doctoral students and the supervisors will also create opportunities to increase the subsidised research outputs of the Faculty, in the form of article and books, adding to the long-term sustainability of the programme.

In addition to the above, a significant focus will be to encourage collaborative research between the supervisors, within the faculty as well as with the external supervisors, and doctoral students. This will create the advanced research facility that is currently lacking in Africa that has the capacity to take on multi-disciplinary research that is needed on the continent.

## Master's programmes





### ***Additional constitutive elements of the proposed programme***

The above-mentioned expansion of the doctoral programme and research capacity will be supplemented with a number of important additional interventions:

- The doctoral students and other young researchers will be given the opportunity to do a short research fellowship at other universities. This has already started to happen and students on the existing doctoral programme have done research at Universities such as Oxford, Cambridge and Harvard, and the same is now also being arranged in Sweden, Geneva, and elsewhere. Given the strong networks of staff members of the Faculty at top institutions worldwide, it is foreseen that such opportunities will be readily available.
- Internships at leading international organisations will be arranged for students with applicable doctoral topics, focusing in particular on opportunities within the United Nations and affiliated organisations in Geneva. Three staff members of Faculty serve as part-time expert in senior positions in the United

Nations in Geneva (see box), and are ideally placed to arrange such internships at the various UN agencies and aligned civil society organisations and think tanks in Geneva. Around ten UP post-graduate students have in the past been placed in such internships in Geneva, with great success. The expansion of this aspect of the programme is intended to increase the exposure of the students to cutting-edge developments in the field on international law and to experts in the field; to help them establish networks; and to enhance their self-confidence on the global stage. It is also aimed at ensuring that more candidates from Africa will be employed by and eventually work at the highest levels in the UN structures.

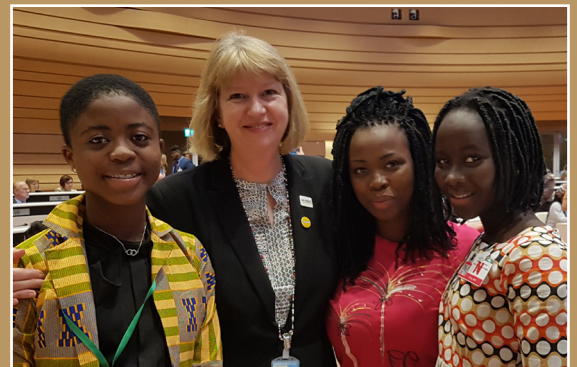
- The research summits will offer ideal opportunities to invite academics with an interest in international law and related fields at different universities in the rest of South Africa and other countries on the continent to attend the seminars as a form of continuing education.
- There are a number of established programmes that arrange summits for doctoral students from all parts of the world and which are held in different countries every year. Students and supervisors from

## Three professors from UP are part-time UN Experts

The Faculty of Law is in the unique position that three of its professors serve as independent experts in the United Nations in Geneva.



**Prof Dire Tladi** is a member of the International Law Commission.



**Prof Ann Skelton** is a member of the Committee on the Rights of the Child.



**Prof Christof Heyns** is a member of the Human Rights Committee, and a former UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

## Internships

Students of the faculty often do internships with the United Nations in Geneva.

**Beryl Orai**, who is doing her doctorate on 'peaceful assembly' under the supervision of Prof Heyns, will be an intern at the UN where Heyns leads the process in the Human Rights Committee to draft a General Comment on peaceful assemblies.



around the world get together for a couple of weeks, for intensive seminars. The prestige of these events often entails that people cover their own costs. It will be ideal to host existing international summits of this nature during the seminars in Pretoria, to allow cross-pollination.<sup>2</sup>

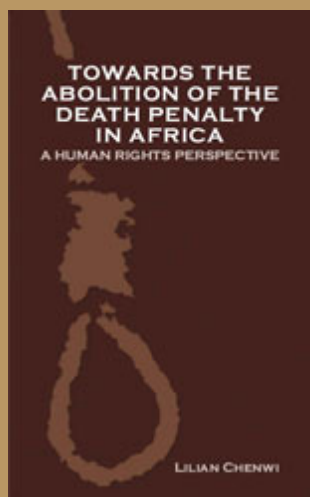
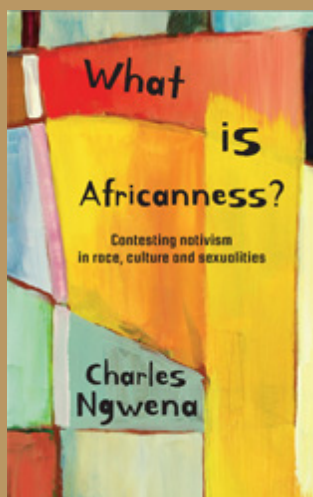
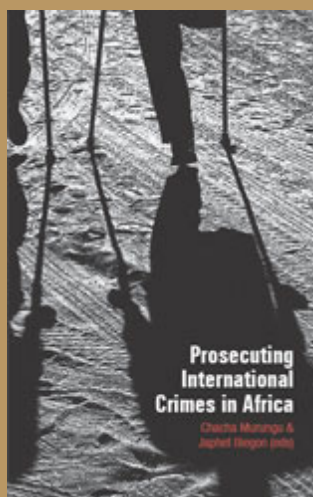
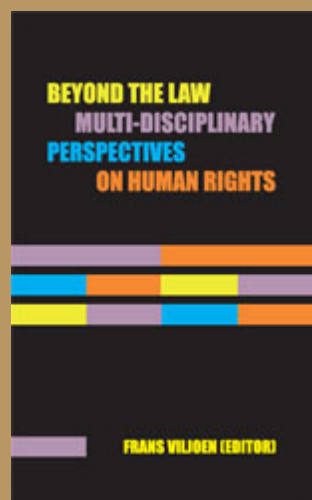
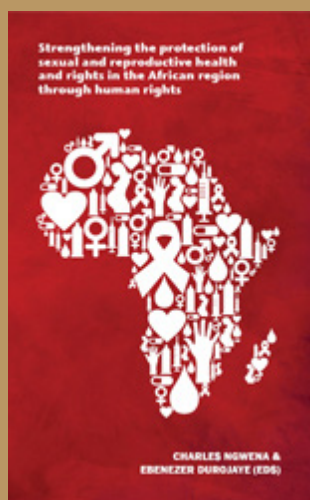
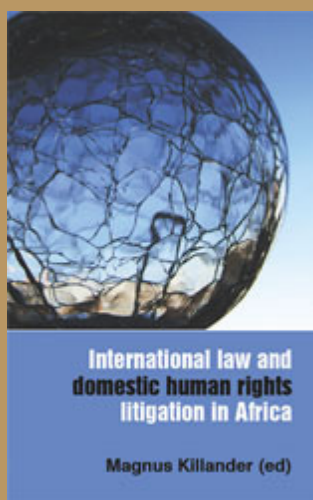
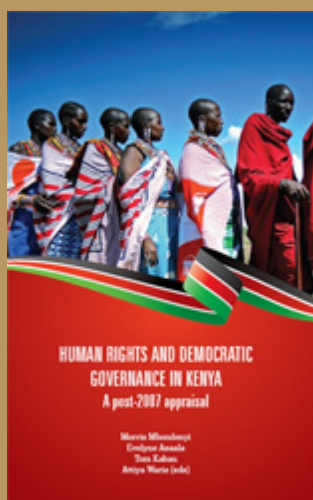
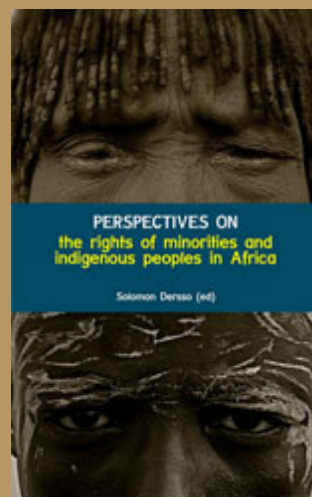
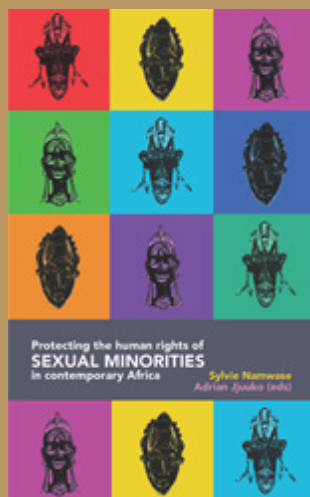
- In appropriate cases, the possibility of joint degrees will be explored with top universities abroad.
- The doctoral programme will have a special focus on students who plan to enter academia – those who will be the professors of international law and related areas at African universities in the future, responsible for the education of the next generation.

<sup>2</sup> On the Annual Junior Faculty Forum on International Law, see [annualjuniorfacultyforumil.org/](http://annualjuniorfacultyforumil.org/)

# Pretoria University Law Press (PULP)

The Faculty of Law houses the only printing press on the continent dedicated to legal publications. To date PULP has published more than 220 academic books and it publishes six journals. The students, post-doctoral fellows and others involved in the programme will be invited to publish with the Pretoria University Law Press, or PULP.

For more information on PULP, visit [www.pulp.up.ac.za](http://www.pulp.up.ac.za)



## Why the Faculty of Law at UP is ideally suited to host such a programme

The Faculty of Law of the University of Pretoria is often described as ‘Africa’s Global Law Faculty’. According to the Times Higher Education system, it is the highest-ranking law faculty on the continent, and the number 76 law faculty in the world.

Through its UNESCO and African Union prize-winning Centre for Human Rights, the Faculty started to position itself as the leader in legal education on the continent a number of decades ago. This and other initiatives have grown exponentially over the years, and no faculty on the continent has a comparable network and footprint in the region. This places it in an ideal position to recruit the strongest students from all countries in Africa for post-graduate studies, and to make this a truly continental and consequential initiative.

It is envisaged that many of the new doctoral students will be recruited from the ranks of one of Faculty’s several masters programmes, which attract top students from across the continent.

### *Research capacity in the Faculty*

It is not an idle claim to say that the Faculty of Law has stronger capacity in international and comparative law than any other faculty on the continent. But even more importantly, its capacity in the field of international and comparative law as far as it applies to Africa is unmatched. The enhanced doctoral programme described above will on the one hand be possible because of this research capacity, but it will in turn have a significant impact on the capability of those in the faculty, working together, to do advanced research on the complex legal problems facing the continent, and to participate from African soil as part of global research projects.

In addition to having strong capacity in the field of international and comparative law in general, areas of special interest in the Faculty include: human rights, constitutional law, child rights, education law, environmental law, international criminal law, trade and investment, extractive industries, intellectual property, insolvency, banking and insurance law.

Current staff members at UP publish on a regular basis in the top journals of the world, on global issues as well as issues of specifically African interest. They also advise international organisations and governments, appear in significant cases or file amicus briefs, and do contract research. It should also be mentioned that staff members of the Faculty teach on a regular basis at other top universities in the world, and thus have easy access to facilitate research visits by students.

The number of Faculty members who serve as part-time experts in senior positions in the United Nations and other international bodies (currently three) is unrivalled not only in Africa but in most countries in the world, and offers opportunities for students to gain exposure at the highest level. Staff members of the Faculty currently serve as expert members of the International Law Commission, the Committee on the Rights of the Child and the Human Rights Committee and have been members of the UN special Procedures. There are also staff members who serve in African Union human rights structures. Staff members have likewise argued important cases in the highest domestic and international courts of law. These staff members are ideally placed to link students to internships and other opportunities.

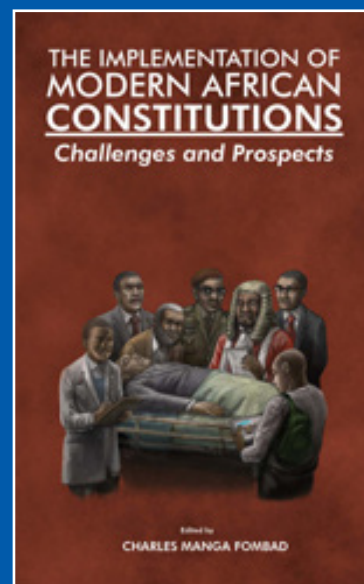
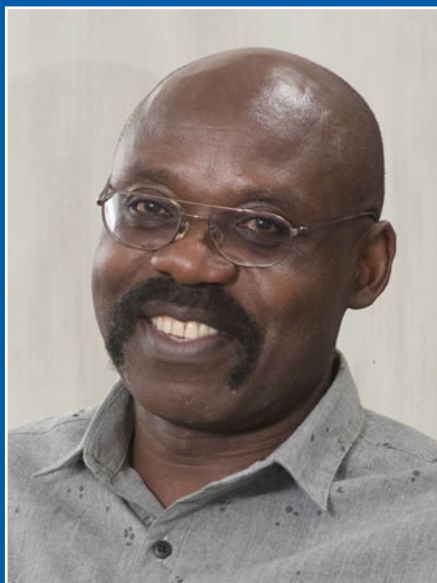
A unique feature of the Faculty of Law is the fact that the Faculty has a number of parallel centres of excellence and chairs, each one focusing on a range of areas of law specifically from an African perspective. This includes the following:

- Centre for Human Rights
- Centre for Child Law
- Institute for Development Law in Africa, hosting the SARCHi Chair in Professor of International Development Law and African Economic Relations
- UNESCO Chair in Education Law in Africa
- Adams and Adams Chair in Intellectual Property Law in Africa
- Unit on Extractive Industries in Africa
- Insurance Law Unit.
- Insolvency Law in Africa Unit

# African Constitutions

## Oxford University Constitutions of the World

Prof Charles Fombad is widely regarded as the leading world expert on African constitutions. He is among other things responsible for the coverage of African Countries for the Oxford University Constitutions of the World online.



## Stellenbosch Annual Seminar on Constitutionalism in Africa

Every year, the Faculty organises the Stellenbosch Annual Seminar on Constitutionalism in Africa, at the Stellenbosch Institute for Advanced Study, bringing together the leading scholars in the field, as well as doctoral students.



## Africa's expert on the law on 'killer robots'

Doctoral alumnus **Thomson Chengeta** was an undergraduate law student in Zimbabwe when he participated in the African Moot Court Competition.

He then did a masters' degree at UP, a masters at Harvard, and his doctorate at UP on autonomous weapons under the supervision of Prof Heyns, who was the independent UN expert who worked on the topic. He attended expert meetings in Italy and at Oxford with Prof Heyns.



## Strong post-graduate programmes

More than 680 students are currently registered on master's level. A staggering 240 students are registered on the doctoral programme. 35 % of the post-graduate students are from other African countries.

The effect of the post-graduate supervision that is being done in Pretoria is already evident. One measure of the impact of the post-graduate programme is the kind of positions at that its former alumni occupy. Graduates of UP serve on the highest level, in South Africa and other African states.

The post-graduate programme in law at UP has an equally strong impact in academia. To highlight one measurable aspect concerning the role of alumni in academia: An online search of the qualifications of those who teach law in South Africa shows that UP comes up more often than any other university in the country as the institution where they obtained at least one of their post-graduate degrees. The same statistics for the continent are not available, but UP is most likely also the largest provider of post-graduate degrees of those who teach law on the continent.

## Journals housed in the Faculty of Law



### **African Human Rights Law Journal (AHRLJ)**

The African Human Rights Law Journal (AHRLJ) is a peer-reviewed journal on human rights related topics in Africa.



### **African Disability Rights Yearbook (ADRY)**

The African Disability Rights Yearbook (ADRY) is a peer-reviewed journal on disability rights in Africa. It is published once a year.



### **De Jure Law Journal (De Jure)**

De Jure is a peer-reviewed general law journal that publishes original research concerned with the development and dissemination of cutting-edge legal research.



### **African Human Rights Yearbook (AHRY)**

The African Human Rights Law Journal (AHRY) is a peer-reviewed journal on promotion and protection of human rights.

Uniquely, the Faculty has its own publishing house for books on the law of Africa, the hugely successful Pretoria University Law Press, which has produced high quality titles since its inception. This provides an ideal outlet for research emanating from the programme to be published, but also for senior doctoral students to work with staff members to get the experience of editing and screening PULP publications.

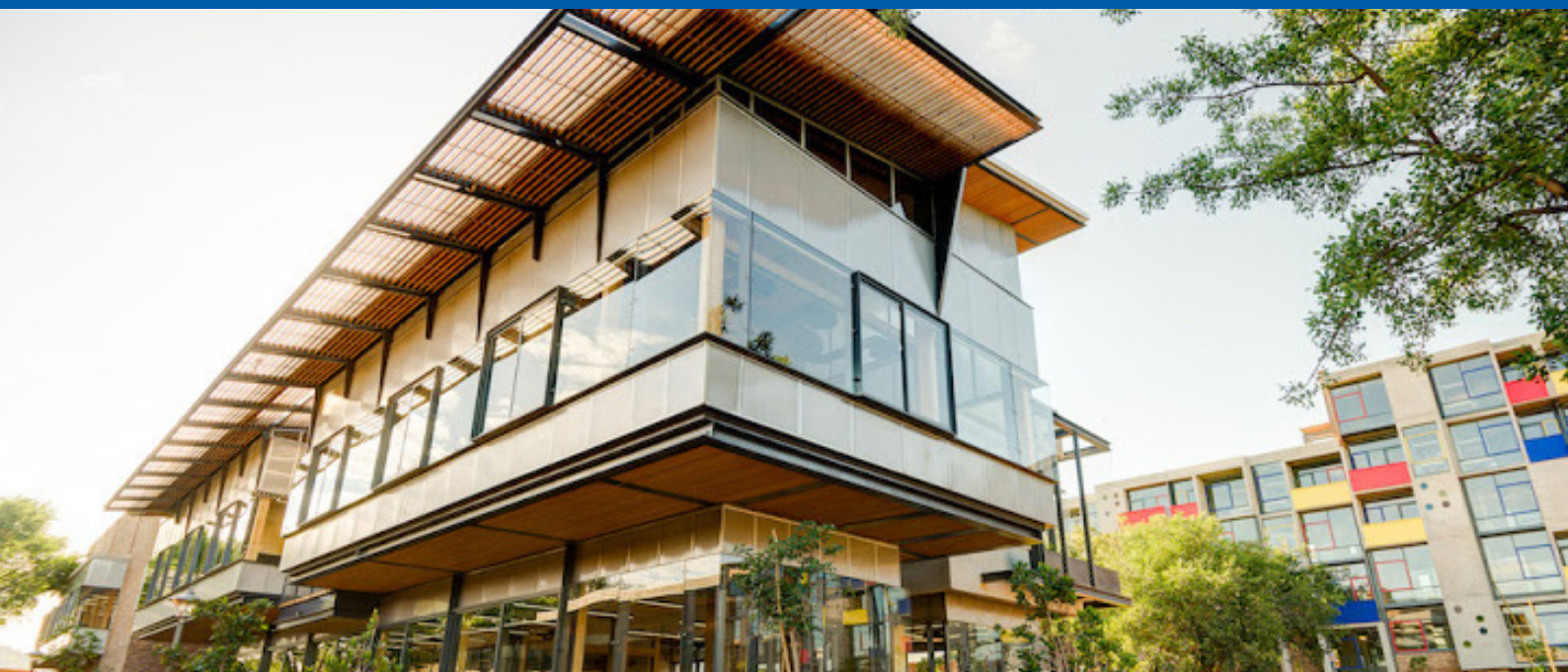
## The University of Pretoria as a base for such a programme

The Faculty of Law is one of nine faculties at the University of Pretoria. The fact that the Faculty is based in this university, is an added advantage. The University of Pretoria is a comprehensive university, with a strong research record, covering a wide range of disciplines. This allowing multi-disciplinary work to be done by doctoral students, including those in law. The University's connectivity level is very high, being based in the capital city of one of the leading states in Africa, with easy access to one of Africa's major airports, and in close proximity to some of the other top South African universities in Pretoria and Johannesburg, and research institutions, such as the Council for Scientific and Industrial Research, the Human Sciences Research Council and the Institute for Strategic Studies.

The programme will draw on the capacities of the Faculty of Law, but will also be able to use the excellent facilities of the newly opened Future Africa campus.

## Future Africa

Future Africa is a new campus, near the main campus, which serves the entire university. It has a range of conference and other meeting facilities, as well as accommodation, for doctoral students, post-doctoral fellows and visiting professors.



## Intern at UN Committee on the Rights of the Child

"I was a visiting student at the United Nations Committee on the Rights of the Child. During my visit, I had the opportunity to sit in the public meetings and I also interviewed members of the petitions unit, with the support of my supervisors. This led to an internship opportunity at Child Rights Connect (an International NGO that works closely with the Committee on the Rights of the Child). I worked alongside the legal team at Child Rights Connect in building a data base on treaty body communications dealing with children's rights, which will be launched later this year to coincide with the 30th anniversary of the CRC."

**- Gertrude Quan Mafoa**



## *The benefits of size and depth*

There is a clear economy of scale to establishing a relatively large research and doctoral training programme, known for its high quality, while being sensitive to the danger of sucking the oxygen out of the broader environment.

- A well-established research programme allows those who participate to collaborate with each other (as well as doctoral students) 'in-house' and to have a viable intellectual atmosphere. A body such as the African Union will have a one-stop shop where it can do with projects requiring inputs from different areas of expertise, for example when drafting treaties and developing model laws.
- A large-scale with a good reputation allows wide recruitment of students, which in turn allows the organisers to select those who will benefit most from the experience to be admitted to the programme. The reputation of the programme will open employment and other doors for the alumni.
- It also allows for the appointment of a dedicated person to serve as the coordinator of the doctoral programme, who can take care of issues such as funding and visas and coordination and the other

administrative hurdles which are essential to the success of such a programme.

- Having a reasonably large group of students located in one place and time enables one to attract top class external experts, who have limited time, to engage with them.
- A large-scale, sustained doctoral programme allows the organisers to engage in consequential and long-term agreements with hosts for the students at top universities abroad, and for internships. It also makes it worthwhile to ensure that a mentoring and monitoring system is in place to support students abroad.
- Scale also allows the organisers to negotiate support for students on the programme from foundations and others who sponsor bursaries etc., which will help to make the programme sustainable. The same applies to applying for grants to contribute towards the work of the researchers.
- Scale makes it possible for a powerful network to develop between alumni spanning the continent, which will enrich the rest of their careers.
- Scale is required to have a measurable impact on a continent as vast as Africa.

## Notable alumnus: Minister of Justice of South Africa, Ronald Lamola

Minister of Justice of South Africa, **Ronald Lamola**, is a double alumnus of UP: he holds master's degrees in Corporate Law as well as Extractive Industries.



An established reputation for an initiative on the continent will help to counter the brain drain, and the mindset that true excellence is to be found elsewhere.

The experience at UP has also shown that this is a way to attract African scholars who live abroad to return to the continent and as it were to “plough back”.

## Finances and budget

The proposed programme will be highly cost-efficient, for a number of reasons:

- The basic building blocks are already in place. For example, the programme will be housed in the Institute for International and Comparative Law (see box), a double story building next to the Law Faculty, where there is sufficient office space to house the administrative staff and visiting professors. Many of the students will stay and meeting will take place at Future Africa (see box).
- The faculty supervisors have their own offices and receive university salaries – they won't need any additional payment. The new co-supervisors will be part-time and thus come a relatively low cost.
- The size of the programme will allow the economy of scale benefits described above.
- Only limited additional funding for students is required. Many of the students already on the doctoral programme are already on bursaries from the university. Part of the job of coordinator will be to approach funds that have been set up to support post-graduate education, and arrange funding for the students on the programme as well as sponsorships for internships.
- Doctoral studies in South Africa are heavily subsidized and the University will receive a steady stream of income from the programme.
- The output of subsidized publications that flows from collaboration between supervisors (including co-supervisors who are based at other universities) and students, often working on areas which have not been covered by researchers in any depth, will cause a significant inflow of funds for the university.

## Conclusion

The existing work done at the University of Pretoria in the area of international and comparative law in Africa is ideally placed to be considerably expanded and to be taken to a next level and to make a significant contribution to the welfare of the continent and all its inhabitants. This will be done in the first place through the delivery of professionals who can compete with the best in the world.

## Coordinator

**Director, Institute for International and Comparative Law in Africa Christof Heyns**



Christof Heyns is professor of human rights law at the University of Pretoria. He also teaches at Oxford University and the Geneva Academy of International Humanitarian Law and Human Rights.

Heyns is currently a member of the United Nations Human Rights Committee. He is also a member of the Working Group on Death Penalty, Extra-Judicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa of the African Commission on Human and Peoples' Rights.

Heyns was UN Special Rapporteur on extrajudicial, summary or arbitrary executions 2010 – 2016. During 2016, he chaired the UN Independent Investigation on Burundi.

He holds degrees in law and philosophy from the Universities of Pretoria, the Witwatersrand and Yale Law School. He has been a Humboldt Fellow at the Max Planck Institute in Heidelberg and a Fulbright Fellow at Yale Law School and Harvard Law. He is a member of the Advisory Board of the Bonavero Institute of Human Rights at Oxford.

Heyns served as Dean of the Faculty of Law, and Director of the Centre for Human Rights. As Dean one of his main areas of focus was the expansion of the doctoral programme in the Faculty. He initiated the following masters programmes at the university: Masters in Human Rights and Democratisation in Africa (2000); Trade and Investment Law in Africa (2006); Extractive Industries (2017) and is a founding member of PULP.



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