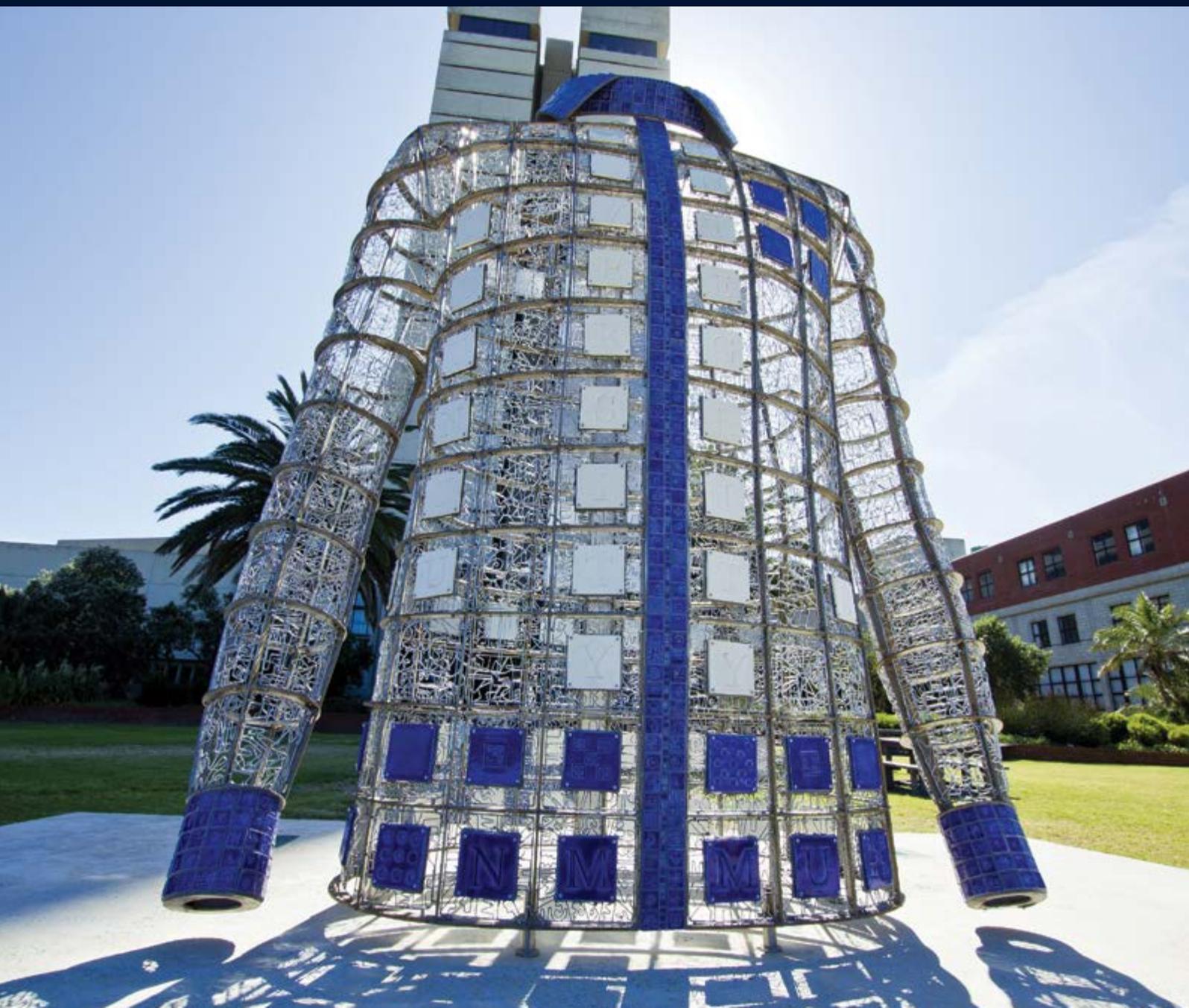


NELSON MANDELA  
UNIVERSITY

Faculty of Law



**“...Like many before me and those of my generation, I entered legal practice with a determination to employ my skills and training to at least alleviate the suffering of the oppressed if not to reverse it.”**

**– Nelson Mandela**

Address at the Zionist Christian Eastern Conference, Moria, 3 April, 1994

The artworks shown in each chapter of this publication were produced as part of the “Images of Human Rights” portfolio project which celebrated the adoption of the Bill of Rights in 1996. The full collection is on display at the Faculty of Law.

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# Advancing Social Justice and Equality through the Law

We are undoubtedly living in an age characterised by complexity, uncertainty and volatility as a result of the significantly accelerated pace of change associated with the advent of the Fourth Industrial Revolution. Universities face an uncertain task of responding to a variety of drivers for change, along with new strategic opportunities and challenges. In light of the uncertainties evident in most reasonable projections of the future of jobs and the seeming inevitability of increasingly pronounced disruption, educational systems are deeply questioning their purpose and mandate.

The crucial task of preparing our graduates to be responsible democratic citizens who are agents of progressive transformation, needs to begin with reimagining the system of higher education itself. Preparing our students for the jobs of the future is itself a complex task, as many of the jobs they are being prepared for today will no longer exist by the time they graduate. Klaus Schwab (2016) correctly points out that:

*"In the end, it all comes down to people and values. We need to shape a future that works for all of us by putting people first and empowering them. In its most pessimistic, dehumanized form, the Fourth Industrial Revolution may indeed have the potential to 'robotize' humanity and thus to deprive us of our heart and soul. But as a complement to the best parts of human nature— creativity, empathy, stewardship—it can also lift humanity into a new collective and moral consciousness based on a shared sense of destiny. It is incumbent on us all to make sure the latter prevails."*

As knowledge hubs, universities need to create conducive spaces to engage in critical conversations about how we redefine the contribution of higher education to improving the human condition in ways that resonate with who we are, where we are located and what this means for the future of our society. The law profession is central to entrenching the ideals of transformative constitutionalism and, as such, legal education should go beyond educating highly competent and knowledgeable legal professionals. It is incumbent upon our faculties of law to equip graduates who are critical thinkers and enlightened citizens with a profound understanding of the impact of the Constitution on the development of the law, and advancing human rights and equality.

At Nelson Mandela University, we are unequivocal about our commitment to changing the trajectory of the poor and



Vice-Chancellor of Nelson Mandela University,  
Professor Sibongile Muthwa

marginalised in society through generating cutting-edge knowledge for a sustainable future. What the University does and what it stands for, are closely tied into the stature of our namesake, namely, the expansion of human understanding; pushing forward the frontiers of knowledge to cultivate humanity; and contributing to the well-being of our city, province, nation, continent and world.

I am particularly proud of the contribution our Faculty of Law makes to advancing social justice and equality through its unrelenting efforts to exemplify the values of Nelson Mandela in its curricula, student support, scholarship, and engagement with the legal profession and broader society. Mandela University's flagship Bachelor of Laws (LLB) was one of only three such programmes awarded full accreditation status by the Council on Higher Education (CHE) after a comprehensive national review of the LLB programme at 17 universities in 2015/16. This serves as a testament to the high standard of legal education offered by our faculty, which is taught using a humanising pedagogical approach that releases the full transformative potential and agency of each law student. In this regard, the faculty was commended by the CHE for its proactive initiative to develop the next generation of Black legal professionals and scholars through its Postgraduate Associates programme. This is indeed commendable in light of

the national imperative to diversify the demographic profile of academic staff and to transform the legal profession.

Through its research and scholarly outputs, the Faculty of Law generates knowledge that contributes to building a socially just and democratic society. Furthermore, the faculty actively encourages its staff and students to put their legal knowledge to work to address the plight of vulnerable communities through the engagement and outreach activities of the Law Clinic, Refugee Rights Centre, Centre for Law in Action, Labour and Social Security Law Unit, and Street Law Programme.

During the fifth session of the Independent World Commission on the Oceans in 1997, Nelson Mandela asserted that *"our future as human beings depends on our intelligent and prudent use of the oceans. And that in turn will depend on the determined efforts of dedicated women and men from all parts of our planet."* Mandela University is proudly the only university in South Africa and the rest of Africa to benefit from the expertise of the Research Chair

for the Law of the Sea and Development in Africa, funded by the Department of Science and Technology. Through the work of the Chair and the Norwegian-funded FishFORCE Academy, the faculty is at the forefront of pioneering innovations to advance marine protection and ocean governance and this constitutes a critical pillar of our strategy to position the University as a premier "go to" destination for ocean sciences on the African continent.

In conclusion, we stand on the threshold of a new era as Nelson Mandela University. The direction we take depends on all of us and I firmly believe that we have the opportunity to propel the University to the next level and, in so doing, to indeed achieve our aspiration to change the world. The exceptional standards of scholarly and educational contributions made by our Faculty of Law, as well as the continued commitment of the Executive Dean and his team to advancing the transformational agenda of Mandela University, are a source of inspiration and undoubtedly align with our mission to offer life-changing educational experiences that contribute to a better world.



# Transformation, Reputation, Accreditation

The Nelson Mandela University Faculty of Law is, I suspect, much more than meets the eye, and more than the sum of its parts. Distinctive without being boutique, it is focused on delivering high quality law qualifications, while making its own particular contribution to the legal landscape. This publication offers a window into some of the most recent developments pertaining to the work of the faculty.

Formally speaking, the faculty contributes to the institution's vision of being a dynamic African university, recognised for its leadership in generating cutting-edge knowledge for a sustainable future. The faculty strives at all times to maximise the practical learning possibilities for law students and boasts highly respected academic staff and committed support staff who combine to provide a top-quality educational experience for law students.

By providing a solid legal education foundation, coupled with deliberate and ongoing interaction with members of the legal profession, the faculty seeks to equip graduates with the necessary attributes for a successful career in law. As a result, students graduating with a Nelson Mandela University law degree have assumed leading positions at top law firms and other businesses in South Africa and abroad and made a meaningful contribution to society.

The faculty and its students are particularly engaged in South African society. For example, our Centre for Law in Action (CLA) is a highly reputable and internationally-connected entity that focuses on improving the levels of service delivery at various governmental levels and increasing access to justice for people in need. The Labour and Social Security Law Unit (LSSLU) is nationally recognised for the training conducted by its members, particularly in the area of Labour Law, and the faculty's Law Clinic and Refugee Rights Centre provide key services to the broader Nelson Mandela Bay area.

On the research front, the faculty is producing an increasing body of published research work in various areas of law, and a number of colleagues are in the final phase of completing doctoral qualifications. The faculty also includes a prestigious South African Research Chairs Initiative (SARChI) Chair in the Law of the Sea and Development in Africa and boasts NRF-rated researchers and grant-holders. The faculty hosts a Research Hub every month and endeavours in this way to provide crucial research support to all postgraduate candidates.



Executive Dean of the Faculty of Law, Prof Avinash Govindjee

The work of the Faculty of Law is underpinned by the commitment of faculty staff and students to uphold the values of the Constitution and the university, including respect for diversity, excellence, *ubuntu* and integrity. As such, the faculty aligns itself with the promise of *Service to Society* that is the cornerstone of the university's intellectual and social project. The faculty is committed to producing quality law graduates who are determined and equipped to contribute to the betterment of society. All of this work is undertaken in an environment that is conducive to teaching, learning, research and engagement, with staff and student morale seen as being crucial to attaining the desired objectives.

Staff are afforded a number of opportunities to participate in leadership or other self-improvement initiatives run by the university or Higher Education South Africa. The Faculty Management Committee works hard to ensure a fair and equitable workload that allows staff to participate in such opportunities and achieve an optimum work-life balance.

The Executive Dean, newly appointed Deputy Dean, a stable cohort of top Heads of Departments and entity leaders form the Faculty Management Committee, which is intimately involved in the efficient running of the faculty. Working with an outstanding

Faculty Office and support staff team, it bodes well for a high level of administrative excellence being maintained into the future.

The recent renovations to the faculty in the Embizweni Building on the South Campus, including a new boardroom, reception area and working space for the faculty's Postgraduate Associates (PgAs), have certainly contributed to staff and student morale. In 2019, the faculty is looking forward to breaking ground for a new wing, which will house the faculty's Research Office, spaces for our Adjunct and Visiting Professors, and a small lecture theatre.

Linked to this is the formalisation of a number of important strategic appointments and relationships with nationally and internationally recognised legal luminaries, including distinguished judges, legal practitioners and academics. This includes colleagues with honorary doctoral degrees, Adjunct Professors, Research Associates and Professional Associates. The faculty plans to host a range of thought-leaders, including people of the calibre of Justice Mandisa Maya, Advocate Tembeka Ngcukaitobi, Professor Paul Benjamin, Mr Brent Williams and Professor Sam Adelman, for periods of residency from 2020 onwards. We have no doubt that their presence and the consequent interaction with students will inspire the next generation of legal scholars at Nelson Mandela University.

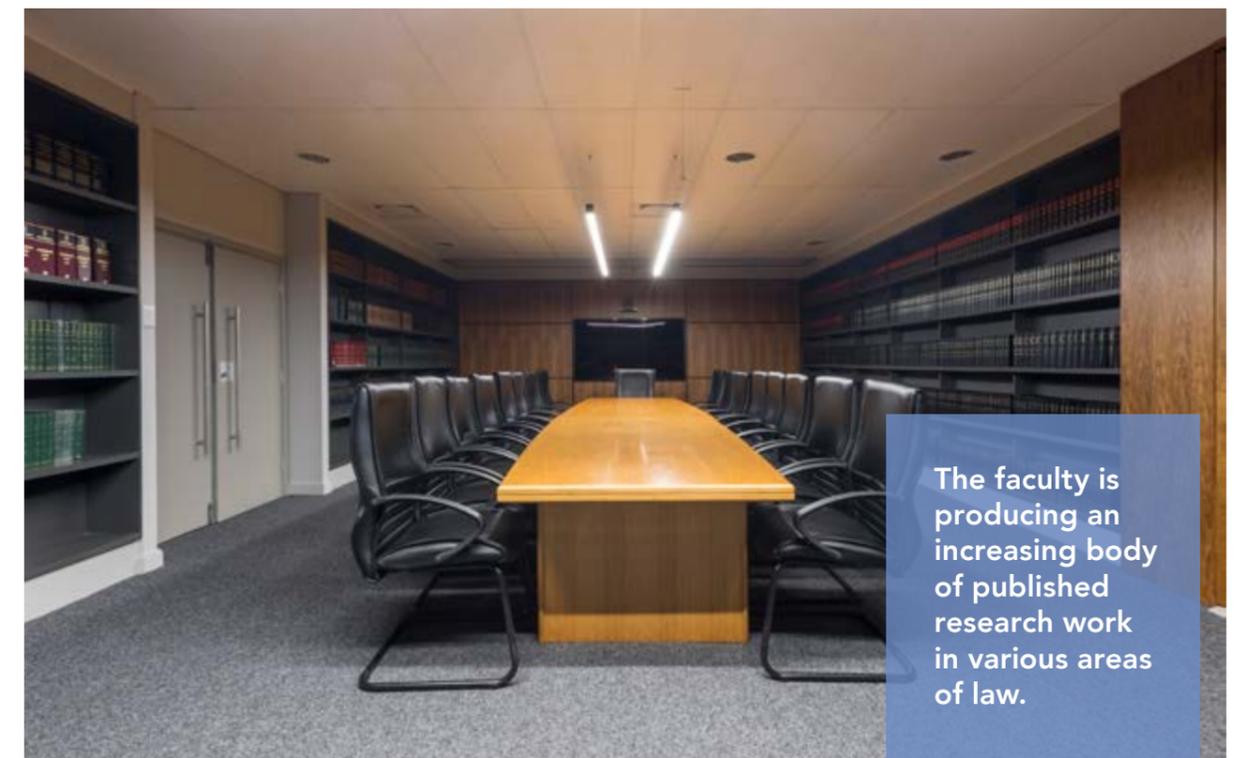
Significantly, the Faculty has also prioritised its own transformation during the past few years and has been successful in its efforts to attract and retain top black academic and support staff. As reflected on in this publication, the decision to concentrate on retaining some of the best LLB graduates for postgraduate studies by employing a cohort of PgAs for a two-year maximum period, has reaped dividends. During 2019, 22 PgAs, the vast majority being black South Africans, will contribute to the work of the

faculty. This is an ongoing programme.

Following the successful accreditation of the LLB degree during 2017 (the faculty was fortunate to be one of the first three faculties that received such accreditation from the Council for Higher Education), the faculty has ensured that it remains at the forefront of curriculum development, increased the use of technology and blended learning and introduced initiatives to improve student success rates. The publication elaborates on most of these developments, and the faculty looks forward to rolling out the first year of its new LLB curriculum in 2020.

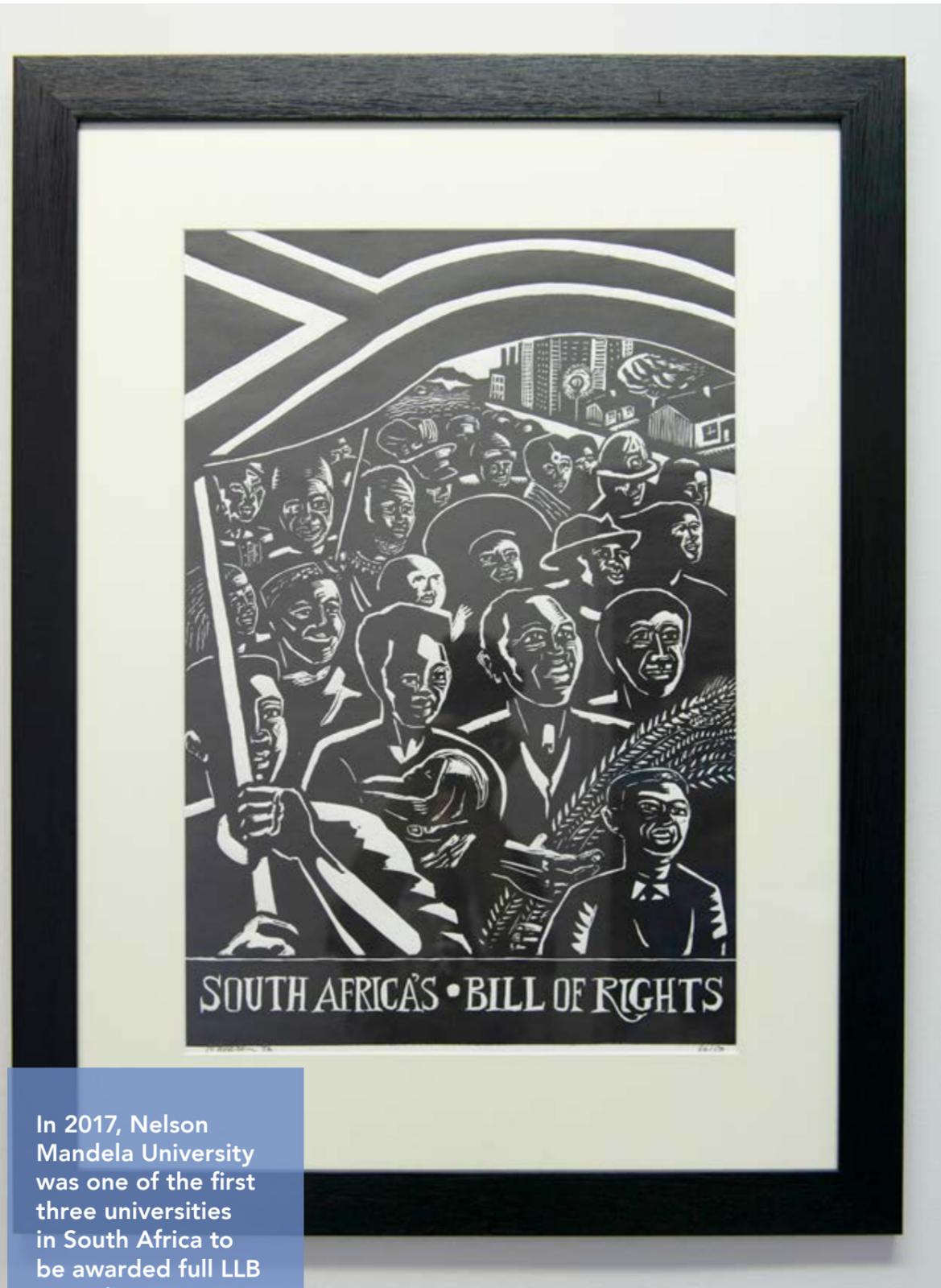
I believe that all these developments have cumulatively enhanced the reputation of the faculty and resulted in a number of other spin-offs, such as increased internationalisation opportunities for staff and students. The work of the faculty's engagement entities and research chair has been significant in this regard, and the faculty's involvement with the Law and Development Research Network (LDRN) has been a particular highlight, as reflected in this publication. Indeed, the faculty will be proud to host the annual LDRN International Conference in Port Elizabeth in 2020.

The corridors of the Faculty of Law are vibrant, filled with the voices of determined students and committed staff - who work tirelessly to inspire and guide students through their studies and to maximise their ability to secure good employment or start businesses where they are able to utilise their qualification and legal knowledge to contribute to addressing societal challenges. We trust that this publication will provide readers with some insights as to our efforts in this regard and look forward to engaging with all our stakeholders as we strive to meet the university's challenge to *Change the World*.



The faculty is producing an increasing body of published research work in various areas of law.

Faculty of Law Boardroom



In 2017, Nelson Mandela University was one of the first three universities in South Africa to be awarded full LLB accreditation status by the Council on Higher Education (CHE).

'Ancestral Kingdom' by Ezekiel Budeli, Linocut

# 1 The new LLB Degree

In 2017, Nelson Mandela University was one of the first three universities in South Africa to be awarded full LLB accreditation status by the Council on Higher Education (CHE). This followed the CHE's national review of the LLB programme at 17 institutions in 2015/16.

The CHE is responsible for quality assurance in higher education and its review was undertaken to strengthen the quality of legal education provision across all South African universities that offer the LLB.

The Faculty of Law at Nelson Mandela University offers the four-year LLB programme as well as an LLB Extended Programme. Students can also enrol for a BA (Law) or BCom (Law) degree, which can be followed by a two-year LLB. The faculty has a permanent staff of 36 members and is proactively committed to growing its staff numbers and addressing imbalances in staff demographics.

The faculty hosts approximately 1200 LLB students across the four years, and services approximately 5000 undergraduate students in other faculties, including modules for BCom students in Commercial Law and Company Law, and BA modules such as Labour Law and Media Law.

The faculty supervises approximately 150 postgraduate students each year.

The following postgraduate qualifications are on offer:

- Postgraduate Diploma in Labour Law Practice (full-time or part time) (PG Dip)
- Coursework Master's in Labour Law (LLM), Coursework Master's in Criminal Justice (LLM), Coursework Master's in Ocean Governance (LLM) (from 2021)
- Research Master's (LLM)
- Doctorates (LLD)

As part of achieving full CHE accreditation, the faculty has developed a new LLB programme, which improves on and updates its current LLB degree, with a range of new modules, including the development of strong research, writing and reading skills; Africanisation and decolonisation of the curriculum, and language modules. Certain modules are being extended from semester modules to year modules, and more assignments are being introduced together with additional tutorials to develop and hone research, reading and writing skills – identified by the CHE

and legal fraternity as key graduate skills in need of improvement at all universities.

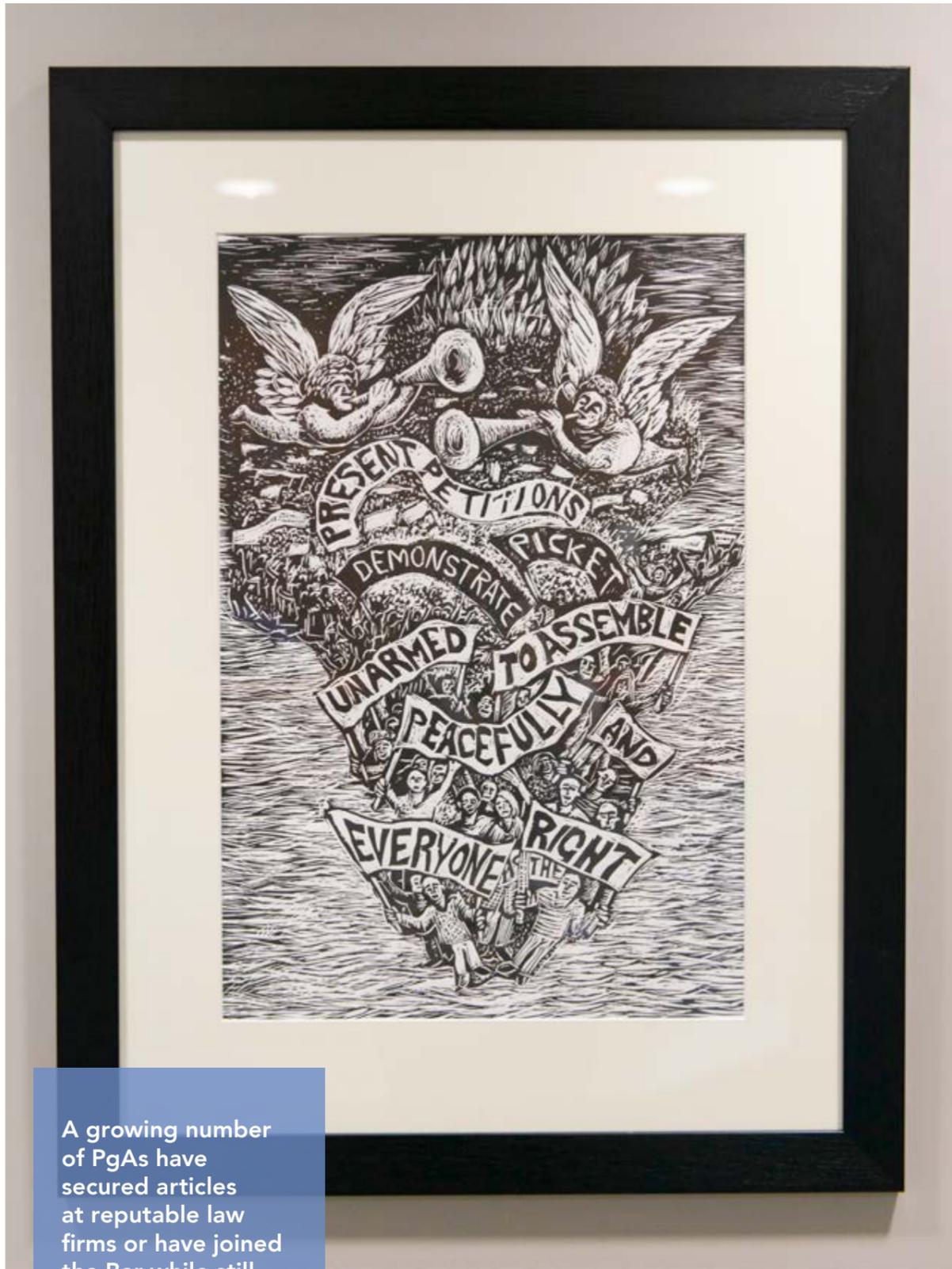
The faculty is incrementally introducing the revised and improved LLB programme, which will be offered to the first-year class of 2020 and onwards.

Since 2016 the faculty has been analysing modules in light of the need to Africanise and decolonise the curriculum, and to ensure the relevance of the content of each module. Faculty members and student representatives engaged with each module's purpose and content in order to provide meaningful input with a view to transforming the module, and enhancing its relevance for the present-day environment. As from 2019, for example, an African Regional Law module is being offered in year 4 to specifically deal with the relevant regional laws of the African continent.

The new LLB programme will retain an *Academic English (Law)* module and will introduce a tailor-made module titled *Language and the Law in a Multilingual Society*, which will focus on enabling students to acknowledge, appreciate and apply linguistic diversity and discourse in a legal context. Two elective language modules will be introduced, namely *Conversational isiXhosa for Law* and *Conversational Afrikaans for Law*. The modules will be presented at a conversational level on a continuous assessment basis. Two non-law elective modules will also be included to allow students to pursue a wide choice of non-law modules. Students will be able to choose any two modules offered at the institution, provided there are no lecture or examination timetable clashes.

From 2020, the sequencing of some modules will change. For example, *Constitutional Law* will move from year 1 to year 2 and *Legal Interpretation* will move from year 2 to year 1. New specialised elective modules will be introduced in each department from 2023, focusing on selected topics in their respective areas, such as *Advanced Mercantile Law: Capita Selecta*, *Advanced Private Law: Capita Selecta*, and *Advanced Public Law: Capita Selecta*.

Other modules, such as the current *Law of Contract* modules, will be combined to form year modules. The combining and changing to year modules offers lecturers the flexibility within the module to deal with content in more detail. Tutorials will also be introduced for these and other modules in order to deal with certain content in more detail. The assessment methodology for a number of modules will incorporate more assignments and other forms of assessment, focusing on reading, writing and research skills.



'Peaceful Protest' by John Roome, woodcut

A growing number of PgAs have secured articles at reputable law firms or have joined the Bar while still registered for their postgraduate qualification.

## 2 The Postgraduate Associate (PgA) Programme

As part of the faculty's transformation strategy linked to research, the faculty offers a Postgraduate Associate (PgA) Leadership Programme, formally introduced by the Dean in 2017 and headed by the Deputy Dean of the Faculty, Dr Lynn Biggs. The PgAs are all master's or doctoral candidates (LLMs and LLDs). The faculty appointed nine Postgraduate Associates (PgAs) in 2017, 15 in 2018, and 22 for 2019 (with 12 of the PgAs from 2018 remaining with the faculty for a second, final year).

In addition to enhancing the students' qualifications and employability, the increase in the number of students obtaining postgraduate qualifications assists in increasing the pool of candidates for filling academic vacancies, predominantly with outstanding black and female South Africans.

PgAs receive a market-related salary and contribute to lectures on the diploma courses, run tutorials and assist with marking. At the same time, they are given a solid amount of time to focus on their LLM or LLD studies.

A growing number of PgAs have secured articles at reputable law firms or have joined the Bar while still registered for their postgraduate qualification. The vast majority of PgAs are South African, with a few originating from other African countries, notably Zimbabwe and Zambia.

### The Leadership Programme

The Dean and Deputy Dean developed the Leadership Programme and started it in 2017 for the PgAs, as well as for the candidate attorneys at Mandela University's Law Clinic, and any interested students and staff members.

Once a month on Fridays, the faculty invites business professionals, legal specialists and notable, successful individuals from a range of professions to provide insights on pressing issues, including the impact of politics on the law and South Africa (such as how land expropriation without compensation impacts the economy and the country); what it is like to practise as an attorney or advocate; how to budget and plan financially (many of the PgAs and candidate attorneys are receiving a salary for the first time); how to market themselves and see themselves and the faculty as a brand; and what impacts positively and negatively on this, including the do's and don'ts of social media.

### Research Hub

Embarking on postgraduate research for the first time can be a daunting endeavour, but with support it can be an inspiring, exciting time. The faculty's Professor Patrick Vrancken, the incumbent of the SARChI Chair in the Law of the Sea and Development in Africa, leads monthly 90-minute lunchtime



The faculty's Postgraduate Associates (PGAs) seen here (back from left) Adelaide Karomo, Ntemesha Maseka, Chante Baatjes, Bathobile Vilakazi, Bonolo Mafa, Lerato Kekana, Naledi Mtswesi, (front) Siviwe Conjwa, Karabo Mokou, Mmusho Mokgwetsi, staff members Tanya Wagenaar, Executive Dean Professor Avinash Govindjee, Deputy Dean Dr Lynn Biggs and PGAs Siphile Hlwatika, Johan Thiel and Priscilla Moyo.

research hub sessions and everyone pursuing postgraduate research is welcome to attend. Postgraduates use the opportunity to ask questions about any research areas with which they are grappling and benefit from sharing in a collegial research journey.

Staff members, including the Executive Dean, senior and junior staff members engaged with research, frequently attend and participate in these useful sessions, offering their perspectives on the topics under discussion.

## Current Postgraduate Associates (PgAs)



### Ntemesha Maseka

LLB graduate Ntemesha Maseka is a PgA who attained her LLM Research *cum laude* and is going on to doctoral work. Her research interest lies in International Humanitarian Law, which forms part of Public International Law. She is one of three postgraduate students who represented the university at the 2017 edition of the annual Jean Pictet Competition, an international competition in this field, held in Macedonia, Southeast Europe.

Her Master's focused on the accountability of United Nations (UN) peacekeepers for acts of sexual violence. Her work considered this topic from an international legal perspective – particularly humanitarian law, human rights law

and criminal law. Maseka also looked at this from the South African perspective as this is one of the countries pushing for a more coherent framework of accountability. Ideally, the peacekeeper who has committed the crime should return and face prosecution. The complexity emerging in her research is that the issue straddles International and Military Law.

She says the PgA Research Hub and Leadership Programme had greatly assisted her. Engaging with her peers and experienced researchers helped her to discuss research hurdles, build a network, manage her life and decide on a future direction.



### Mmusho Mokgwetsi

LLB graduate Mmusho Mokgwetsi is a 2018-2019 PgA doing his master's on the Law of the Sea, specifically the Port State Measures Agreement of the Food and Agricultural Organisation (FAO) of the United Nations, which came into effect in 2009. South Africa became a party to it in 2016, and it needs to be incorporated in South African legislation. The agreement seeks to enhance transnational cooperation in fisheries regulation to prevent illegal fishing. According to the agreement, any vessel that brings fish into any country has to produce their official quota documentation from that country.

The crisis in our fish resources and oceans requires that the regulation and legislation gaps are urgently addressed. One of the gaps Mokgwetsi has identified is the sharing of information between states. At present, there isn't a platform or legal structure for two coastal states to share information.

Mokgwetsi says the PgA Research Hub helped him to choose his research question and hone his research skills. He adds that the Leadership Programme seminars have helped him to sharpen his insights and life skills.

## From PgA to Candidate Attorney



### Phiwokuhle Ncanywa

LLB graduate Phiwokuhle Ncanywa was a PgA in 2017 and joined law firm Joubert Galpin Searle in Port Elizabeth as a candidate attorney in 2018. Ncanywa says his PgA year proved to be a powerful gateway to the employment arena, and assisted him in securing his candidate attorney appointment. He explains that he gained a different level of maturity through his experience and contribution as a member of the faculty where he engaged with lecturers and professors, several of whom are involved in the legal field as consultants and commissioners.

The PgA programme offered him the opportunity to do the first year of his master's and to pursue his interest in Labour Law and affirmative action as a restorative function in the South African labour sector. He is researching at what stage an organisation can claim they have achieved affirmative action, and whether, in general, South Africa has improved as a result of affirmative action.

He says he thoroughly enjoyed his time at Nelson Mandela University and describes the faculty as "amazing" and "highly student proactive, led from the top by Professor Govindjee". He explains the faculty has excellent initiatives for students, and encourages a high degree of student engagement on the Africanisation and decolonisation of the law degree.

Ncanywa says his first year as a candidate attorney in 2018 was a very different experience to being at university as it was far more practical than he expected. The candidate attorneys at his firm rotate through four different aspects of the law – litigation, recoveries/collections, labour and commercial. He most enjoyed the Commercial Law rotation but has learnt the most in the debt recovery side. Once he has completed his articles and side-bar exams he will be registering for the second year of his master's degree.



### Gundo Mukwevho

LLB graduate Gundo Mukwevho was a PgA in 2017 and joined law firm Joubert Galpin Searle in Port Elizabeth as a candidate attorney in 2018. His PgA appointment was his first exposure to the working environment and he says it "did wonders" for him in terms of maturing him and developing him as a suitable candidate attorney for a reputable law firm. It enhanced his sense of responsibility, accountability, time management, communication skills and confidence.

As a candidate attorney he says the advantage of doing his articles and rotating through the litigation, recoveries/collections, labour and commercial divisions at the law firm is that it gives him an opportunity to decide which area of

law he prefers. He intends to complete his master's after he has completed his articles and side-bar exams. His master's research is based on Section 65 of the Consumer Protection Act, and the duty of care, diligence and skill required of the supplier to hold and account for the consumer's property, including liability to the owner of the property for any loss resulting from a failure to comply with the duty.

Mukwevho says he thoroughly enjoyed being part of the faculty and Nelson Mandela University, and was fortunate to find the person he wants to marry here, who was a student at the same time as him. He is originally from Limpopo Province but they will be settling in Port Elizabeth.

# 3 The Faculty of Law Transformation Forum

The Faculty of Law Transformation Forum is a proactive, student- and staff-focused initiative established in 2017 to address all aspects of transformation in the faculty and wider university. The head of the Department of Criminal and Procedural Law, Professor Aifheli Tshivhase, has been instrumental in constituting the forum.

“In mid-2016 during the #FeesMustFall wave, our faculty received a list of demands from students, most of which were related to transformation in the faculty and in the university at large,” he explains. “In response, we sat down with Professor Govindjee who had just taken over as Executive Dean, to discuss the demands and the way forward. We decided to set up a Faculty Transformation Forum where all transformation matters could be tabled and discussed on an ongoing basis.”

The role of the Transformation Forum is to advise and monitor faculty structures on all transformation matters, including the institutional culture, decolonisation and Africanisation of the curriculum; and employment equity. The Transformation Forum is accountable to the Faculty Board, to which it reports annually.

The Transformation Forum has been operational since 2017 and is a representative body that comprises a range of interest groups in the faculty. It includes the Executive Dean; Prof Tshivhase who was selected by the four heads of departments as their representative; four academic staff members from the four departments; two postgraduate associates (PgAs); two administrative staff members; one representative from the Law Clinic; the Faculty of Law student representative on the SRC, and representatives from law-focused student societies, notably the Black Lawyers Association Student Chapter, and the Law Students’ Society.

A number of issues have been addressed by the forum to date, including:

### The definition of transformation

Two key resolutions were taken in defining transformation. It was resolved that the faculty’s transformation efforts should address three focal areas of university business: teaching and learning, research, and community engagement.

It was also resolved that it is not possible to definitively define the complex and multi-faceted concept of ‘transformation’, and rather that a broad consensus on transformation should guide the forum

and faculty, based on identified principles and ideas drawn, inter alia, from:

- The South African Constitution.
- Nelson Mandela University’s approach to transformation.
- Nelson Mandela’s legacy – as the only university officially named after Nelson Mandela, our efforts to transform should engage with his legacy, which, on its own is a complex task but one that needs to be performed.

One of the key points to draw from the university’s approach to transformation is the recognition that the South African higher education landscape has been significantly shaped by apartheid legislative framework and oppressive policies, which resulted in unequal opportunities. Therefore, in working to transform the university or faculty, the historical context needs to be recognised.

### Transformation and the curriculum

The faculty has been proactively engaged with the transformation of the curriculum, as evidenced by its recent review of the LLB, with measures taken to transform the LLB, including the introduction of new modules that address decolonisation and Africanisation of the curriculum. In the new LLB, for example, one of the modules is *African Regional Law* which focuses on law and regional integration in Africa.

The decolonisation and Africanisation of the legal curriculum is a complex issue that requires careful consideration and research and Prof Tshivhase is a thought leader in this area. He is the lead contributing editor of a new book being published by Juta in 2019 focusing on decolonisation of legal education. The first of its kind, its publication is supported by the South African Law Deans’ Association.

### Transformation and employment equity

The Faculty Management Committee and the Executive Dean will keep the Transformation Forum updated on the faculty’s employment equity plan and other related matters.

The Transformation Forum is represented in all recruitment, appointment and promotion processes in the faculty.

Overall, the Transformation Forum’s input has been well received to date and it is making good progress in the faculty’s transformation objectives, with ongoing and continuous work to be done.



‘All shall be afforded dignity’ by Norman Kaplan, linocut

The role of the Transformation Forum is to advise and monitor faculty structures on all transformation matters

## 4 Research excellence and partnerships

The faculty strongly promotes research that is responsive to societal needs and local, national, regional and global challenges.

There has been a healthy annual increase in the number of Doctor of Laws (LLD) graduates, including faculty members attaining their doctorates. In 2017, the faculty had more than 30 master's (LLM) graduates, indicating a positive trend in the faculty's postgraduate growth.

Professor Mark Tait, the Head of the Department of Mercantile Law and former Chair of the Faculty Research and Engagement Committee, says a key component of the faculty's postgraduate strategy is for the majority of academic staff members to obtain their master's and doctoral degrees.

All faculty members are actively involved in the promotion of research through publications, conference attendance and presentations, and through undergraduate and postgraduate research supervision. Faculty members publish in areas as wide-ranging as military law and social security law, and present papers the world over, from Oxford to Bengaluru.

### High profile Adjunct Professors appointed

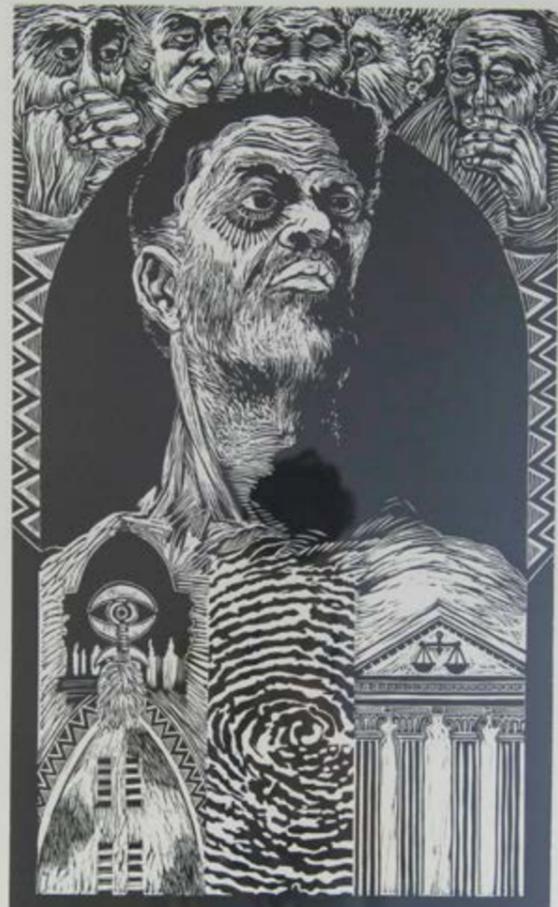
Integral to the faculty's research trajectory, pursuit of excellence and vision to be a dynamic, diverse, African university is the appointment of several new Adjunct Professors. These are honorary appointments and include judges, academics and research associates from all over the world who form part of the faculty's broader legal family.

Adjunct Professors are recognised for their leadership in major public or private organisations at a national and international level. Through this formal relationship they make outstanding independent contributions to the academic programme, society and the legal and business profession. They invaluablely assist the faculty in developing and strengthening engagement with business and the profession and in enhancing the levels of experience and expertise within the university.

Their commitment to transformation and a more just society is aligned with the faculty and university's vision and mission, and they contribute to the life-changing educational experience that the faculty and university seeks to provide for all students. The calibre of Adjunct Professors in the faculty speaks of its standing in the legal community.

The 2017/18 Adjunct Professor appointments include:

- Professor Brent Williams, Chief Executive Officer of Cliffe Dekker Hofmeyr.
- Professor Paul Benjamin, Director at Cheadle, Thompson and Haysom, former Professor at the University of Cape Town and the University of the Witwatersrand with a National Research Foundation B-rating.
- Advocate Tembeka Ngcukaitobi, author of: *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa*.



'Access to courts' by Vedant Nanackchand, superwood cut

Currently, there is an increase in respect of the number of candidates per annum that are graduating with a Doctor of Laws (LLD) qualification (including faculty staff members)

## Adjunct Professors



### Professor Brent Williams

*Chief Executive Officer and Managing Partner of Cliffe Dekker Hofmeyr. He is an Adjunct Professor in the faculty's Department of Mercantile Law.*

Prof Williams is a highly respected South African commercial law attorney, recognised nationally and internationally for his leadership in the area of commercial law, and for his commitment to the professional development of young attorneys and black professionals in the commercial law sphere.

In 2011, at Cliffe Dekker Hofmeyr, he was the first black legal professional to be appointed as a managing partner of a major national corporate law firm in the history of South Africa's legal profession. He has devoted considerable time and effort towards the transformation of the profession, which he regards as both a social justice and constitutional imperative.

Prof Williams' particular expertise is in mergers and acquisitions, corporate action, and capital markets. He also has significant experience in South African economic indigenisation (Broad-Based Black Economic Empowerment, B-BBEE) legislation and its application to corporate and commercial transactions, having contributed to the development of aspects of this legislation.

Prof Williams' presence in the faculty significantly contributes to the integration of the academic and professional components of the faculty's programmes, and to the body of expertise.



### Professor Paul Benjamin

*Director at Cheadle, Thompson and Haysom, former Professor at the University of Cape Town and Wits University, with a National Research Foundation B-rating. He is an Adjunct Professor in the faculty's Department of Mercantile Law.*

Prof Benjamin is one of South Africa's most respected labour and employment law specialists, renowned for his leadership in national and international bodies, and for his expertise in labour policy development and the drafting of legislation. He is a legal author and commentator and has made a significant contribution to legal research and to the advancement of social justice. He is a co-author of *South African Labour Law*, the leading commentary on employment law in South Africa.

Prof Benjamin has acted as a judge in the Labour Court, he has substantial teaching experience and a considerable international network. His understanding of the relationship between law and policy has been central to his work in legislative development and drafting. He was the principal drafter of the Basic Conditions of Employment Act, 1997, and

has been involved in the drafting of a range of other laws for the departments of Labour, Mineral Resources, Energy, Health, Public Service and Administration and Trade and Industry. He has consulted to the International Labour Organisation (ILO) and, in this capacity, has participated in major labour law reform processes in Kenya, Tanzania and Lesotho.

Labour Law and Social Security is one of the fields of law for which the Faculty of Law at Nelson Mandela University is most recognised. Through the faculty offerings of the LLM (Labour Law), the Postgraduate Diploma in Labour Law Practice, and the work of the Labour and Social Security Law Unit (LSSLU), a centre of excellence in these areas of law has been established at the university. Legal academics and practitioners of the calibre of Prof Benjamin make a valuable contribution to further developing the faculty's strength in this area.



### Professor Tembeka Ngcukaitobi

*Author of: The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa. He is an Adjunct Professor in the faculty's Department of Criminal and Procedural Law.*

Advocate Ngcukaitobi is a ground-breaking researcher and thought leader who has litigated in most of the superior courts in South Africa, including the Constitutional Court and the Supreme Court of Appeal, and acted as a Judge in the Labour Court and Land Claims Court. One of the most important cases in which he litigated was the release of the state capture report and the establishment of the commission of inquiry into state capture.

Advocate Ngcukaitobi is a key role-player in strengthening the engagement between the faculty's Department of Criminal and Procedural Law and the legal profession. He passionately engages students on legal advocacy and has a special ability to inspire students and staff. His commitment to social justice, the development of young lawyers and the key role he is playing in important transformation debates resonates with the faculty and university's vision and mission.

Through his book, *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa* he tells the story of South Africa's first black lawyers in the late nineteenth and early twentieth centuries. They believed in a constitutional system that respected individual rights and freedoms, and they used the law as an instrument against the pandemic injustices of the time, including forced labour and land dispossession.

Advocate Ngcukaitobi describes the Constitution of South Africa as "a wonderful, inspirational document. You need to have a Constitution that binds everyone ... the law doesn't think I'm black, you're white, you're woman etc. It thinks we are the same, so that helps us, it keeps us all together."

He is currently pursuing novel research on Nelson Mandela, which will no doubt engender new, robust debates about the history of South Africa and the law.





Professor Patrick Vrancken

### The Law and Development Research Network

The Department of Public Law, headed by Dr Joanna Botha, became an institutional partner of the Law and Development Research Network (LDRN) in 2018.

The LDRN was launched in September 2017 by its founding partners (Åbo Akademi University, Finland; Humboldt University, Berlin; International Institute of Social Studies, The Hague; University of Antwerp; University of Leiden; Tilburg University, Utrecht; Warwick University, UK; Cardiff University, UK; and the Universidad Austral, Argentina). In September 2018 the LDRN welcomed eight new institutional partners from South Africa, Brazil and India. The current LDRN Board now includes eight Northern and nine Southern Hemisphere partner institutions.

The LDRN seeks to enhance knowledge and understanding of the role of law in relation to development and governance, focusing on the social functioning of legal systems, primarily in the context of countries in the Global South. The LDRN community engages in research initiatives and collaborative projects that explore the role of law in development.

LDRN events include an annual PhD School hosted by an institutional partner. In 2018 fifteen PhD candidates from Africa, Asia, Australia, Europe and North America gathered in Finland. The theme was *Vulnerability and Resilience: Questions for the North and South*. The school offered plenty of opportunity for exchanges with peers and experts, specialist sessions, method clinics, individual feedback, and sharing of questions and advice on the research and writing process. The faculty will send a PhD candidate to the June, 2019 School in The Hague.

An LDRN conference is held annually in September, offering a valuable opportunity for researchers to connect with each other and with the LDRN. The 2018 Conference which was

hosted by Leiden and themed Interfaces, highlighted the diverse and interdisciplinary nature of law and development. Over 120 researchers from 30 countries focused on the role of law in addressing problems of development and governance, especially regarding access to justice. The fourth annual conference will be held in September 2019 at Humboldt University, Berlin. The 2020 LDRN Conference will be hosted by Nelson Mandela University – the first Southern partner to host this event.

In addition, the faculty's Department of Public Law has planned a number of exciting teaching and research workshops and collaborative research projects with LDRN partners for 2019.

For more information about the LDRN: <https://lawdev.org>

### Research Collaboration with the University of Johannesburg

In 2017 the Deans of law faculties of Nelson Mandela University and the University of Johannesburg (UJ) committed their faculties to collaborate on a joint research project to produce books on the following themes:

- Marine and Maritime Law or the Law of the Sea, edited by Prof Patrick Vrancken from Nelson Mandela University and Prof Charl Hugo from UJ.
- Public Law, focusing on responsible governance and development, edited by Prof Joanna Botha from Nelson Mandela University and Prof Hennie Strydom from UJ.

The focus of the collaboration is on creating an opportunity for younger scholars to work with senior academics in authoring papers and book chapters and encouraging younger scholars to publish. The faculty hosted a workshop at Cape St Francis in 2018 where academics from both institutions presented papers based on their chapter contributions.

### SARCHI Chair in the Law of the Sea and Development in Africa

This South African Research Chairs Initiative (SARCHI) Chair in the Faculty of Law was established in 2013 and has been renewed for a second five-year cycle until 2023.

The Chair focuses on the following three areas:

- South Africa and the Law of the Sea, including the legal regime governing the South African continental shelf and the exploitation of its resources.
- Development in Africa and the Law of the Sea, including relevant indigenous law research at an international and comparative level on:
  - The East coast of Africa and the Indian Ocean
  - The West coast of Africa and the Atlantic Ocean
  - The Southern Ocean and Antarctica.
- The legal aspects of marine tourism.

A number of master's and doctoral candidates are working with the Chair Incumbent, Professor Patrick Vrancken, on research relating to the Law of the Sea. The Chair's research-

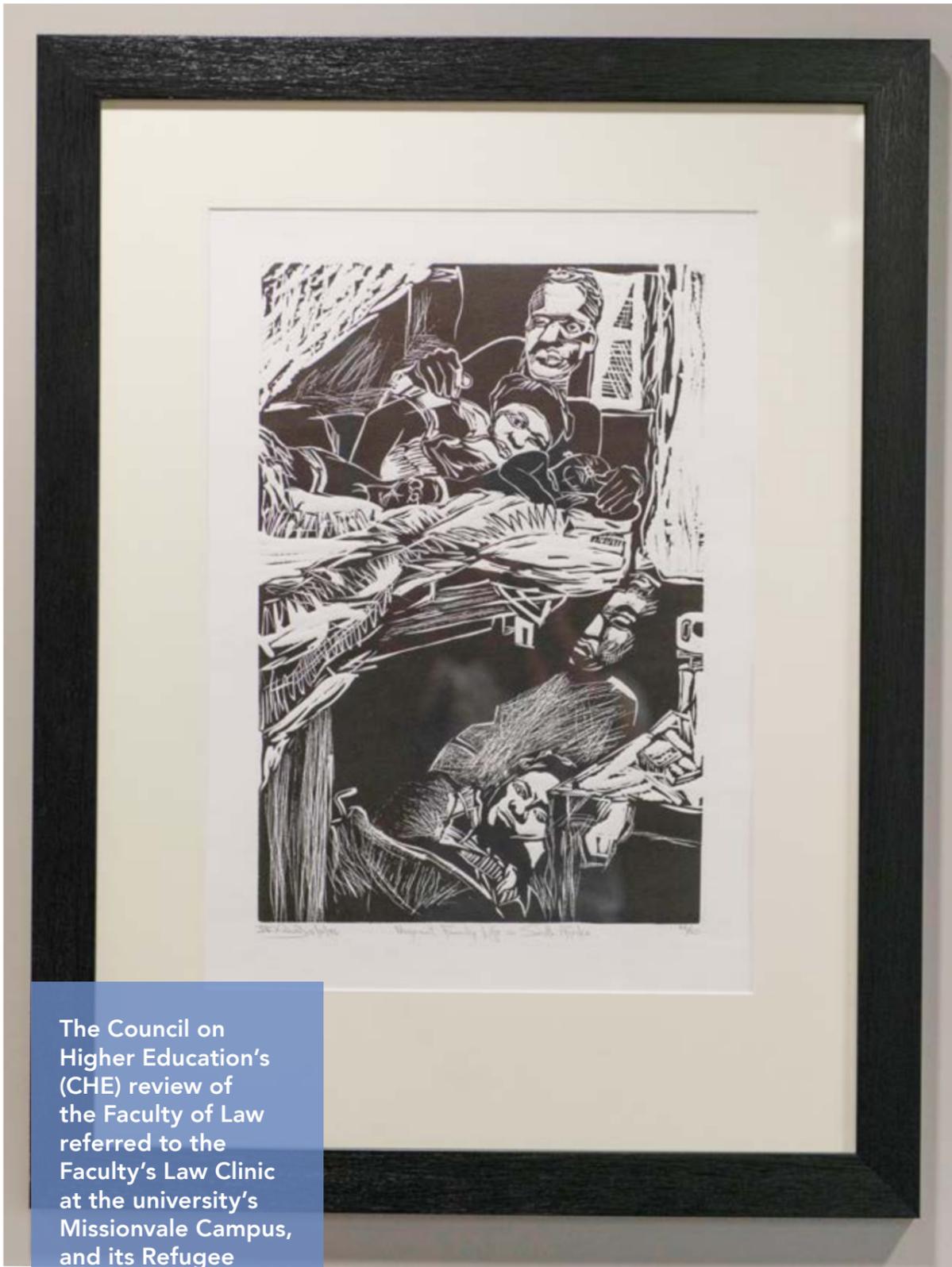
related activities are expanding (including invitations to deliver international presentations) as a result of its stature and pan-African focus.

Prof Vrancken is the co-editor of a seminal 800-page book published in 2017, titled *The Law of the Sea – The African Union and its Member States*. His co-editor is Emeritus Professor Martin Tsamenyi, former director of the Australian National Centre for Ocean Resources and Security (ANCORS) and an adviser to Ghana on issues relating to maritime boundaries and fisheries governance.

This book is the first work that attempts to systematically collate the legal aspects of ocean governance in African countries. It is an indispensable reference for all role-players in the African maritime domain, including governments, business, civil society, lawyers, scientists and students. Prior to its publication there was a heavy reliance on what was written on the Law of the Sea from outside of Africa, which was often unreliable, biased and incomplete. This book, by contrast, is produced on the continent, focuses exclusively on the continent and is written by people who are based in Africa or are part of the diaspora.



A number of master's and doctoral candidates are working with the Chair Incumbent, Professor Patrick Vrancken, on research relating to the Law of the Sea.



The Council on Higher Education's (CHE) review of the Faculty of Law referred to the Faculty's Law Clinic at the university's Missionvale Campus, and its Refugee Rights Centre at the Bird Street Campus, as examples of best practice.

'Migrant family in South Africa' by Nhlanhla Xaba, linocut

## 5 Engagement excellence

### The Centre for Law in Action and FishFORCE

The Centre for Law in Action (CLA) has increased its footprint from a provincial (Eastern Cape) impact to covering seven provinces and establishing an international presence – mainly in the fields of law enforcement and access to justice.

In 2015 the CLA shifted its focus to include sea fisheries and related crimes in South Africa and a number of countries in the Indian Ocean rim. The Director of the CLA, Professor Hennie van As, is heading an academy called FishFORCE, which is addressing organised crime in the fisheries environment and establishing fisheries law enforcement as a new and emerging fisheries compliance model. Through knowledge-based and intelligence-led investigations, FishFORCE aims to increase successful prosecutions of the perpetrators of fisheries crime. The CLA is collaborating with international organisations such as INTERPOL and the United Nations Office on Drug Control (UNODC).

In 2016, a five-year partnership and funding agreement of R50-million was concluded with the Norwegian Department of Foreign Affairs to address international organised crime in the fisheries environment through the FishFORCE programme.

The programme includes the development and implementation of training for the various agencies involved in the battle against fisheries crimes, underpinned by research on a number of related topics, such as crime rates and trends, cases investigated and the outcomes thereof, the reasons why certain prosecutions fail, and how legislation can be improved.

FishFORCE has already trained officials from a number of law enforcement agencies in South Africa and internationally. In South Africa, training has been provided for the Department of Agriculture, Forestry and Fisheries (DAFF), South African

Revenue Service (SARS), Cape Nature, South African National Parks (SANParks), the Border Management Agency and the City of Cape Town.

### The Labour and Social Security Law Unit

The faculty's Labour and Social Security Law Unit (LSSLU) has expanded its high-quality training and output by adding its Practical Labour Law Programme. The LSSLU's training courses in the field of Labour Law attract participants from across South Africa. The faculty's strength in Labour Law is highlighted by the high demand for places on its programmes, notably the Commission for Conciliation Mediation and Arbitration (CCMA)-accredited Postgraduate Diploma in Labour Law Practice and the LLM (Labour Law).

Heading the unit is Professor Adriaan van der Walt, an authority in Labour Law who serves the CCMA as a part-time senior commissioner. He has previously served the Employment Conditions Commission as Chairperson and has recently been appointed as Chairperson of the National Minimum Wage Commission. Thando Qotoyi, the unit's deputy head, is a part-time CCMA commissioner.

### The Law Clinic and Refugee Centre

The Council on Higher Education's (CHE) review of the Faculty of Law referred to the faculty's Law Clinic at the university's Missionvale Campus, and its Refugee Rights Centre at the Bird Street Campus, as examples of best practice.

The Refugee Rights Centre offers refugees and asylum seekers free assistance. The Law Clinic is known for providing outstanding legal services to indigent members of the community.

Candidate attorneys who work at the Law Clinic are paid by the Law Society. A number of articulated clerks also work at the Law Clinic, and final-year law students perform stints there every two weeks.

The Law Clinic's Director, Matilda Smith, is working with her team on the planning and associated resources required to expand the clinic's outreach beyond Nelson Mandela Bay, to include nearby areas in the Eastern Cape, such as Kirkwood.

### Human Rights and the Street Law Programme

The Street Law Programme is designed to provide a practical understanding of the law, human rights and democracy to a wide range of communities. This assists people in understanding the laws that affect them in their everyday lives. It is a practical course that includes group discussions, problem-solving, critical thinking, debates, mock trials and excursions.

The Street Law Programme is presented to school learners, teachers, community and youth organisations, church groups, children in places of safety, and prisoners.

Through the programme participants gain the following:

- Awareness of their legal human rights and how the existing legal system can be leveraged to protect them.
- Awareness of how to access the South African judicial system
- Improved understanding of the principles of democracy.
- The tools to think about the arguments for and against certain laws and to help them to be more tolerant of opposing points of view.
- The ability to draw on alternative ways of resolving disputes, such as mediation, arbitration and negotiation, instead of taking the law into their own hands or resorting to violence.

The Director of the Street Law Programme is Advocate Lindi Coetzee from the Department of Mercantile Law. She focuses, inter alia, on the implementation of community projects within the law curriculum, and the design of interdisciplinary training programmes to improve access to justice for marginalised people. The faculty engages intensively in programmes that increase access to justice for all.

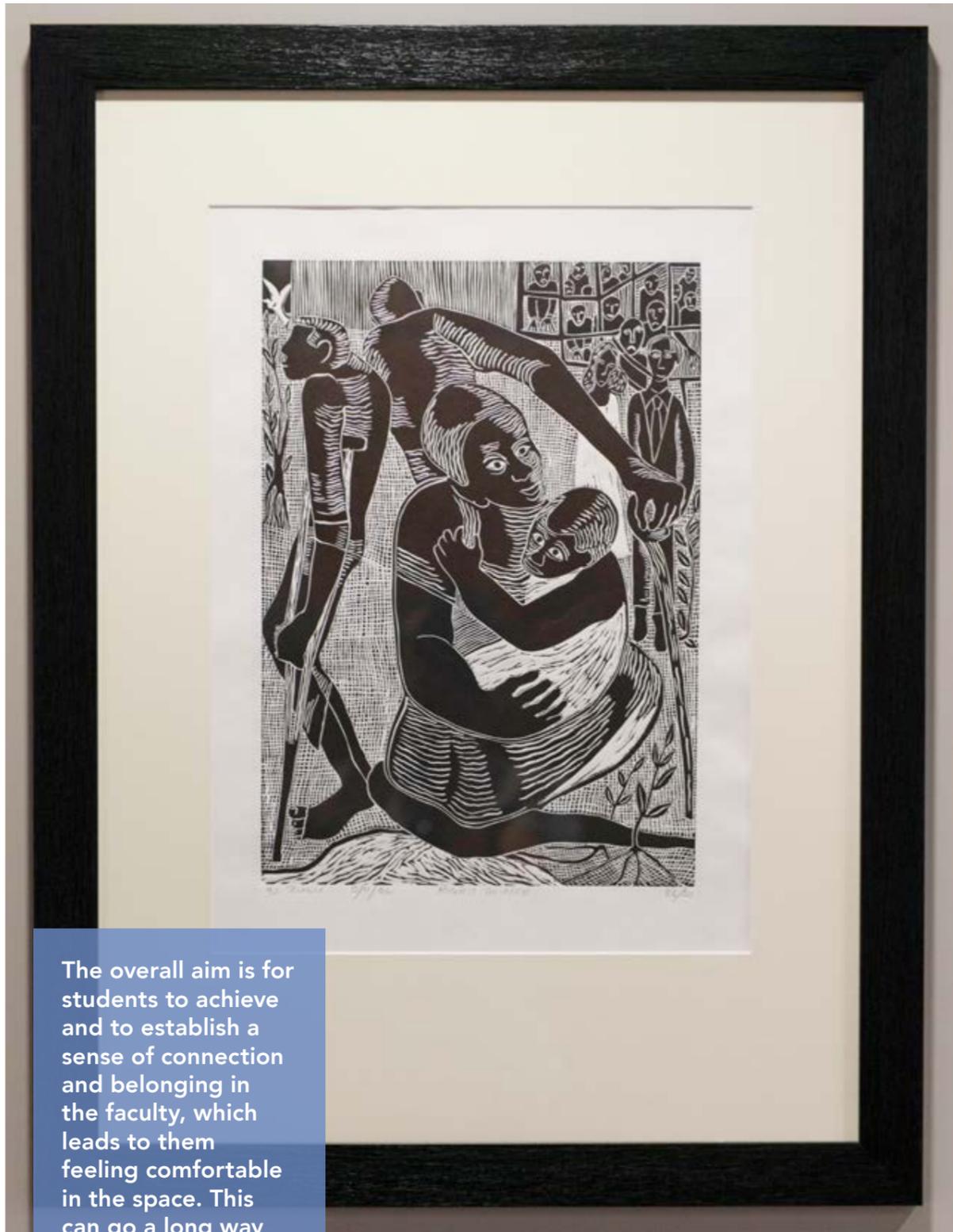


These computer generated impressions capture the expanded infrastructure space of the Faculty of Law on the first floor of the main building. The extensions are expected to be completed by mid-2020.

### The Ubuntu Community Outreach Programme (UCOP)

The faculty's Ubuntu Community Outreach Programme (UCOP) started with a Sandwich Bar in 2017. Sandwiches and coffee or tea are prepared for students at lunchtime every day. All students are welcome and more than 75% of the students using the facility are financially disadvantaged black South Africans. The Sandwich Bar fills a critical need as students who are hungry are unable to concentrate on their studies, which has a direct impact on their ability to succeed.

The Sandwich Bar is a collaboration between the Law Students Society (LSS), Black Lawyers Association (BLA), International Law Students Association (ILSA) and Golden Key (GK). Each group is responsible for arranging volunteers for a particular day. The Sandwich Bar is currently funded by staff donations and faculty funds, as well as the sale of clothes and cakes, arranged by the volunteers. The faculty is working on increasing this to a 'meal a day fund' through the residences.



The overall aim is for students to achieve and to establish a sense of connection and belonging in the faculty, which leads to them feeling comfortable in the space. This can go a long way to instilling a sense of persistence, positivity and commitment to their law qualification.

'Life' by William Zulu, linocut

## 6 Student Representation, Access and Success

### SRC Representative for Law

The 2017/2018 Students' Representative Council (SRC) representative for the Faculty of Law was Gamuchirai Mudehwe, a fourth-year LLB student in 2019.

An international student from Harare, Zimbabwe, he was inspired to study law by the justice system and rule of law in his home country Zimbabwe. "I chose to study at Nelson Mandela University because I resonated with the name 'Nelson Mandela' and because the faculty has a very good word of mouth reputation in Zimbabwe, Zambia, Malawi and East Africa."

The SRC Law Faculty representative's role is to serve on the SRC as the 'go to' person for all law students. Issues and concerns, such as funding, registration, exams and day-to-day student life issues are addressed by the Faculty of Law Student Council, headed by the SRC Law Faculty representative. From here, issues are raised with faculty management, and at SRC and faculty council meetings.

"The biggest issue at the beginning of 2018 was that of academic exclusion from the faculty for students who had failed law in 2017," he explains. "All students are given an opportunity to appeal against their exclusion from further studies before the Appeals Committee. There were quite a number of law students, particularly second-year students, facing academic exclusion, and as a faculty we managed to assess the problem holistically and motivate how we would assist students whose exclusion was overturned. Several measures were put in place, including the appointment of a counselling psychologist as an academic adviser in the faculty."

He explains that psychological issues, including stress and depression have been identified as a major problem affecting a number of students. Other key issues include debt in the family and the death of a relative who is a breadwinner; all of which call for counselling.

Another pressing issue in which Mudehwe was involved was the 2018 registration process as many students do not receive their funding in time for registration. "The SRC and all of us faculty representatives appealed to the university to address this, and it was agreed that all students could register and pay as soon as their funding came in."

While some progress was made by the SRC in his term of office, he feels it is not as high-functioning as it could be. "It is highly political with plenty of political lobbying that leads to a fractured council and a rejection of ideas simply because they are not proposed by the dominant lobby."

He explains: "I unsuccessfully proposed, for example, that we invite several legal leaders, such as judges and advocates, together with other experts such as sociologists, to look at prominent issues, such as transformation or the land issue, discuss what the Constitution of South Africa says about them, and discuss them in depth with the student body to get a clearer, more informed picture. This would generate interesting, important debates amongst the students in place of rhetoric and slogans."

"As law students we benefit from in-depth discussions and decisions taken about transformation through the Law Faculty's Transformation Forum. The Faculty of Law student representative on the SRC sits on this forum, as do a number of other representatives from student bodies."

He believes an important role of the SRC and its faculty representatives is to lead students in informed, open-minded thinking and mutual tolerance as future leaders. "I will continue to encourage this amongst my peers in 2019 as I am the Residence Student Assistant for my residence and there are many issues to deal with on an ongoing basis. We first discuss the issues as students and then present them to the Senior Manager for Student Housing and the Living and Learning Programme. It is all about improving the situation, self-development, belonging,



Street law in action

community living, improving our leadership skills and a conducive environment for academic success.”

#### Online RADAR System for Student Success

The early-warning online tracking and monitoring system (called RADAR), introduced in the faculty in 2014, monitors student progress and proactively flags any academic performance issues for each individual LLB first-year student.

Research on how to identify academic issues reveals that students who obtain less than a 55% average in the first semester of first-year, tend to be more at risk of not graduating in time or in a reasonable amount of time, or not at all. The LLB is a four-year degree but most students take five years, or more, to graduate.

Counselling psychologist and access assessment specialist Kim Hurter, from the university's Centre for Access Assessment and Research (CAAR), has been appointed as an academic adviser in the faculty. She meets with students who are at risk of falling off-track academically in order to understand what is holding them back – this can range from under-preparedness for the rigorous LLB degree as a result of a disadvantaged secondary school background, or language and social issues.

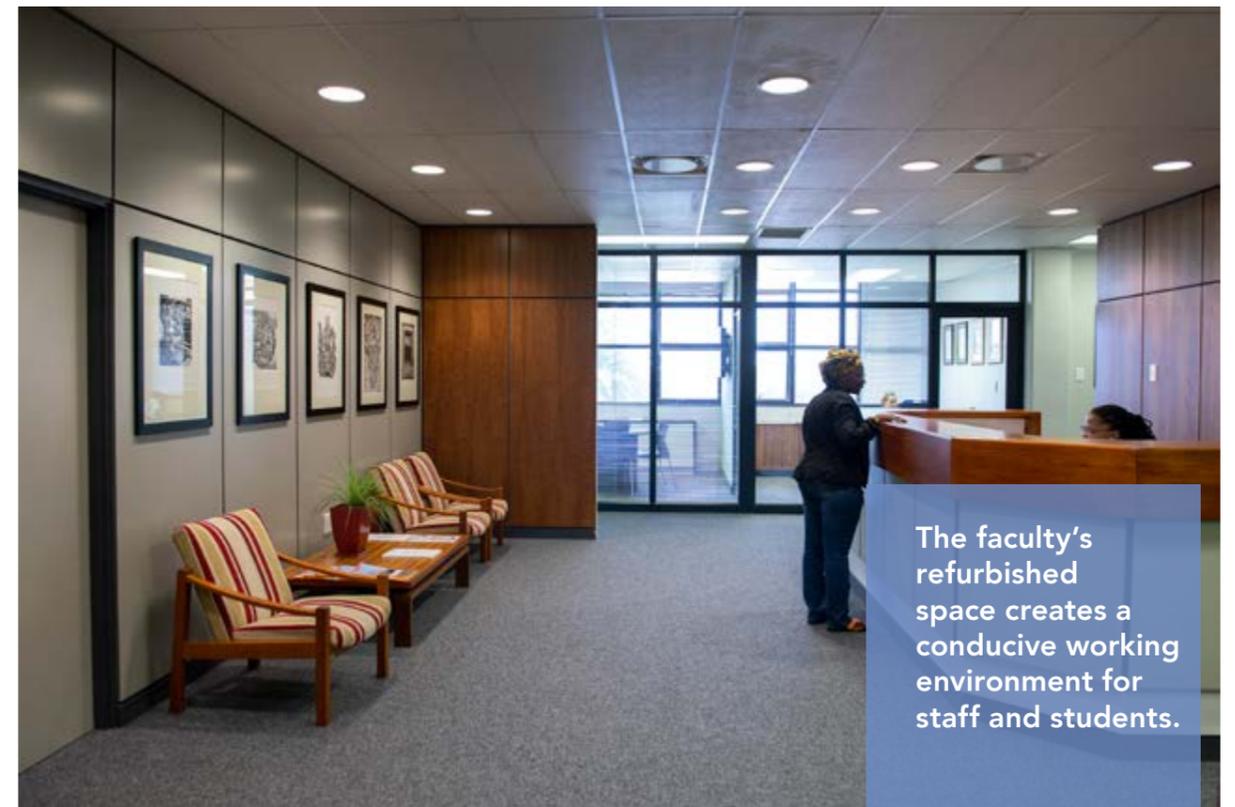
The academic adviser establishes a relationship of shared responsibility with students to assist them in successfully navigating the various systems required for the attainment of their qualification. This includes providing information around university

rules and regulations, or administration related to financial aid or accommodation; connecting students to academic and support networks or peer-facilitated learning communities; meeting with students to discuss academic progress and alignment of their educational and career goals.

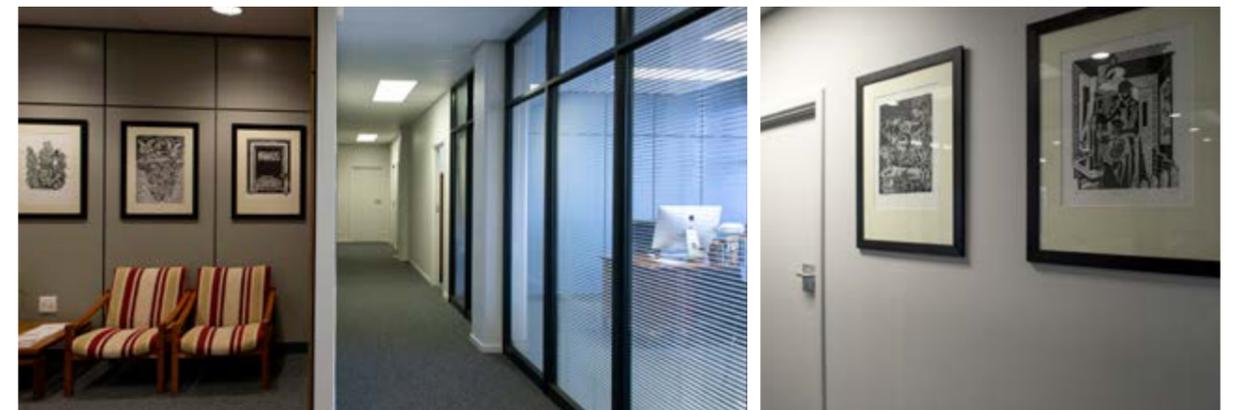
In many cases, supplementary instruction is required in the form of facilitated extra tutorials for students to better understand the curriculum content. Time management and study skills are other identified areas where students need assistance. Students also feel the pressure of family expectations and financial stress as free education does not cover their many costs, or their bursaries are not paid on time, which means that they have to attend classes without textbooks, or food and accommodation. These factors contribute to a highly stressful start to the year.

In this situation, Hurter assists students in connecting with the financial aid offices in the university to achieve resolution. A buddy system is also in place, where senior students are appointed to assist first-year students to orientate themselves into the university system and the degree programme.

The overall aim is for students to achieve and to establish a sense of connection and belonging in the faculty, which leads to them feeling comfortable in the space. This can go a long way to instilling a sense of persistence, positivity and commitment to their law qualification.



The faculty's refurbished space creates a conducive working environment for staff and students.





The faculty remains in close contact with its alumni and creates a range of opportunities for alumni to contribute to the faculty's work.

'Free language and free culture' by Thami Jali, linocut

## 7 Alumni Around the World

The faculty remains in close contact with its alumni and creates a range of opportunities for alumni to contribute to the faculty's work. Alumni serve the faculty in various ways, including contributing as guest lecturers, sitting as presiding officers in Moot Court competitions, donating to faculty initiatives, and providing opportunities for work-shadowing, internships and mentoring.

To keep in touch with its growing network of graduates, the faculty makes extensive use of social media, notably LinkedIn and Facebook, and it features notable alumni achievements on its website ([law.mandela.ac.za](http://law.mandela.ac.za)).

The faculty is deliberately re-designing its space to acknowledge the important contributions of its alumni, and it is hoped that alumni will spend periods of residence based at the faculty's new Annex, so that they are able to spend time with faculty and students, and influence the work of the faculty in a positive way.

Below is a snapshot of the faculty's diverse network of leading alumni in South Africa and internationally, several of whom are Nelson Mandela University alumni award winners. These alumni have graduated across the decades of the university's evolution to Nelson Mandela University, which is the universal name now used for graduates and alumni.



The Faculty's reception area

### Judge Willem van der Linde

BJuris and LLB (University of Port Elizabeth, now Nelson Mandela University), Cert Adv Co & Securities Law (distinction) (UNISA), H Dip (Tax) (with distinction) (University of Johannesburg).

Judge Willem van der Linde was appointed as a Judge of the High Court, Gauteng Division, with effect from 1 January 2016. From time to time he sits as an acting Judge on the Competition Appeal Court.

Judge van der Linde is the past chairman of: the Johannesburg Bar; the General Council of the Bar of South Africa; the disciplinary committee of the Independent Regulatory Board of Auditors; the editorial committee of *Advocate*, the official journal of the General Council of the Bar of South Africa, and past group leader of Advocates Group 621, the oldest group of advocates in South Africa.

He was admitted to the Johannesburg Bar in December 1983 and served as Senior Counsel from 1996 for 20 years until his appointment as a Judge.



### Shanaaz (née Tiry) Mahomed

BSc (Botany, Biochemistry and Chemistry), BJuris, LLB (all at Nelson Mandela University).

Shanaaz Mahomed is a patent attorney and a partner at the intellectual property firm, Spoor & Fisher. In 2005 she became the first black female patent attorney in South Africa. She specialises in the prosecution of South African patent applications and deals specifically with patent matters in the pharmaceutical, chemical and biochemical fields.

She is a fellow and council member of the South African Institute of Intellectual Property Law, a member of the Law Society of the Northern Province, chairperson of the Patent Examination Board (2015-June 2018), and a board member of the Patent Examinations Board since 2010.

### Mzukisi Kota

LLB (Nelson Mandela University), LLM (Leiden University, The Netherlands).

Mzukisi Kota is a partner at Webber Wentzel in the public law practice, focusing on the interaction of the public and private sector, primarily through the regulation of certain industries by the government or the use of public funds in private sector transactions. He has specialist expertise in infrastructure development, particularly in the energy and transport sectors, and was part of the team that developed the South African Department of Energy's Renewable Energy Independent Power Producers (REIPP) Procurement Programme, and continues to advise on that programme.

He has also advised on the Coal Baseload IPP Procurement Programme and the Cogeneration IPP Procurement Programme, and is currently advising on the development of other energy projects in South Africa. He was part of the team drafting the Electricity Regulation Amendment Bill, 2012 and the draft National Energy Regulator Amendment Bill, 2012. In relation to transport, he has advised on a number of public-private partnership transactions entered into between government and private parties, such as the Bombela Concession Company in relation to the Gautrain Rapid Rail Link.



### Kurt Pakendorf

Nelson Mandela University BProc graduate Kurt Pakendorf is currently the Chief Strategy Officer and General Counsel for Face IT Limited in London, UK and California, USA. He has led and negotiated the establishment of one of the world's largest Professional Counter Strike: Global Offensive Professional eSports leagues with 20 professional teams. He is also the Director of Esports Championship Series (ECS) Limited London and the founder, Director and co-owner of Anicus Law Limited - a boutique, international legal services firm offering legal and strategic business consulting services. He is the current co-founder and a managing partner of The Sable Accelerator in the UK - a trusted expert network of expatriate South Africans giving back to their country in different forms. Prior to this, he was the Chief Executive Officer and Director of MobileWave Group plc in London. Pakendorf co-authored the UK Current Law Statutes and Petroleum Law 1998.



## Letter from Judge Willem van der Linde

Dear Dean

I am very glad that you have decided to lift the faculty up for others to see it. From my distant vantage point in Gauteng, it can do with some visibility. I notice the innovation there that marks your tenure and I am reminded of Alfred, Lord Tennyson's "the old order changeth, yielding place to new, and God fulfils himself in many ways, lest one good custom should corrupt the world."

I have said before that there has been a paradigm shift in the university's existence from 1975 to 1979 when I was here as a full time student. There has been the move away from an essentially euro-centric institution to one that has embraced the surrounds out of which it has grown. It has cannibalised the old Technicon, the old Teacher's Training College, and the old Saasveld Technikon campus in George.

And it has had that very important name change, which has become the symbol in this land, not only of freedom from oppression and of liberation, but also of unification and of a celebration; not of what divides us, but of what unites us.

In the legal profession, the changes have been as marked. When I studied here, the approach of the faculty, as with those in the rest of the country, was common law oriented. But our common law has of course a parochial origin, undeniably eurocentric, not influenced at all by the continent on which we live. Post-graduate research had a penchant

for the Old Authorities. The judgments of our highest court were replete with references to how the Romans and later the Dutch would have resolved legal disputes.

But the issues of the Romans and the issues of the Dutch were not our issues. And so when in 1994 our constitutional democracy introduced a rights-based culture, our legal landscape was transformed. The common law remains with us, but now it derives its force from the Constitution which informs and infuses all law, and indeed with its underlying values of openness and accountability, informs and infuses the ethic of all public discourse.

I do not regret though the values instilled in the class of '79, that of a didacticism that was concerned with principle rather than with precedent; with concepts rather than with cases. That instilled in us an approach to the law that drives us to discern the issue in the case; and to find answers to it at a conceptual level, rather than slavishly to try seeing what others have done before.

There is a special value in a faculty that stays in touch with its alumni, and vice versa; there is a symbiosis that operates not only on the material level, but also on the transcendental. That is a value-add to be treasured all round.

Willem van der Linde  
Johannesburg  
4 March 2019



**Kurt Kannemeyer**

Nelson Mandela University BProc graduate Kurt Kannemeyer is based in Spring Valley, New York, where he is the Chief Executive Officer at the Haitian American Cultural and Social Organisation, Inc. He is a strong advocate for social justice and has considerable experience in leadership roles in both the non-profit and corporate sectors. He is also a writer and sought-after speaker both nationally and internationally. In his previous position he was the Chief Development Officer at St Christopher's, Inc. in New York.

Kannemeyer serves as a Director of the International & National Fellows Programme of the Fellows of the Academy (Greenburgh North-Castle UFSD). He serves on several boards and featured on the *Top 25 Inspirational Stories* on The Today Show in the USA.

**Danise Lopes**

Nelson Mandela University LLB graduate and trade law attorney Danise Lopes is the Coca-Cola Company's Global Head of Intellectual Property, based in Atlanta, Georgia. Her past positions in the company include serving as head of the Global Trademarks Group and on the Trademark Counsel European Union Group.

Lopes is a Registered UK Trademark Attorney (RTMA), a member of both the Institute of Trademark Attorneys (ITMA) and the International Trademark Association (INTA) and a former Vice-Chair of the Unfair Competition Committee: Association of European Trademark Owners.

Lopes was the first female president of the Student Representative Council (SRC) at the then University of Port Elizabeth (now Nelson Mandela University). In 2012 she received the Advocate of the Year Award (Global Supplier Diversity) for her work with minority and woman-owned businesses and law firms in the United States.

**Conrad van Loggerenberg**

BCom, LLB *cum laude* (Nelson Mandela University), and LLM Duke University School of Law.

Conrad van Loggerenberg is a partner in the Corporate Department at Paul Weiss in New York and a member of the firm's Private Funds Practice Group. He focuses on the formation and operation of private investment funds, including bringing to market a variety of private equity funds, hedge funds, credit funds, distressed funds, co-investment funds, seed capital funds and venture capital funds. He advises leading global investment firms in their investment management of merger and acquisition (M&A) transactions, and has substantial experience in establishing customised private investment funds with respect to a range of US and non-US investors. Van Loggerenberg also maintains an active pro bono practice, representing not-for-profit interests and individuals.

He recently co-authored a chapter of *The International Comparative Legal Guide (ICLG) to Alternative Investment Funds 2018*, titled *Private Equity's Seesaw: Changing Dynamics in Fundraising Terms*.



The Nelson Mandela University Law Faculty's staff and student body, including staff (front from left) Prof Adriaan van der Walt, Mrs Nikki Terblance, Prof Mark Tait, Prof Avinash Govindjee, Dr Joanna Botha, Prof Aifheli Tshivhase and Dr Lynn Biggs.



The Faculty's new Annex to the Embizweni Building as shared in this computer generated impression will include some additional office space for the Faculty Research Office and will be designed to include space for HEAVA professors, visiting members of the profession and some offices for permanent staff.



**"The power of education extends beyond the development of skills we need for economic success. It can contribute to nation-building and reconciliation."**

**– Nelson Mandela**



# Change the World

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