

Kovsilex

Newsletter of the **Faculty of Law**, University of the Free



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VISION130
Renew and Reimagine
for 2034

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Staff Promotions

Congratulations to the staff members listed below on their well-deserved promotions!



Dr Gerard Kamga
from Senior Lecturer to Associate Professor



Dr Tamanda Kamwendo
from Lecturer to Senior Lecturer



Dr Anthea-Lee September van Huffel
from Lecturer to Senior Lecturer



Dr Albert Nell
from Lecturer to Senior Lecturer



Dr Catherine Namakula
from Senior Lecturer to Associate Professor

Dean's Reflections

As we approach the end of our academic year, I want to express my heartfelt gratitude to each of you for your dedication and hard work in making this year a success. We navigated the academic project with efficiency and care, ensuring that registration was handled timely, teaching and learning proceeded smoothly, and research, along with engaged scholarship, was carried out with commitment. We established valuable collaborations, signed numerous MoUs, and successfully hosted international conferences, seminars, and prestige lectures. Both our academic and support staff have been exemplary in managing their responsibilities.

Many of our colleagues were honoured with awards at both the university and faculty levels, and some received well-deserved promotions. We also had a fantastic Faculty year-end function, which was a great celebration of our achievements. While we faced some challenges, the entire faculty worked diligently, and I want to extend my deepest thanks to you all for your efforts.

I would like to make a special mention of your impressive turnout at the graduation ceremony. Your strong presence was not only noticed but is still the subject of much praise from colleagues across the university. Well done! We have set a high standard, and I encourage us all to continue this momentum.

Finally, I encourage you all to take a well-deserved break and engage in activities that help recharge your energy. I wish each of you a very happy, joyful, and healthy holiday season.



Insights and Leadership: Faculty of Law Vice Deans in Focus

Dr Jacques Matthee: Newly Appointed Vice-Dean of the Faculty of Law

Story VALENTINO NDABA

In the dynamic landscape of academia, where traditional methodologies intersect with digital advancements, Dr Jacques Matthee stands out as a beacon of innovation and change. Recently assuming the role of Vice-Dean for Learning, Teaching, Innovation, and Digitalisation at the Faculty of Law, University of the Free State (UFS), Dr Matthee brings with him a profound dedication to knowledge, a passion for transformation, and a clear vision for the future of legal education.

With a distinguished academic background, including qualifications in LLB, LLM, and LLD, Dr Matthee has established himself as an expert in areas such as Legal Pluralism, African Customary Law, Criminal Law, and Medical Law. However, it is not just his credentials that distinguish him; it is his unwavering commitment to the pursuit of knowledge that sets him apart.

Pursuing knowledge: A lifelong passion

Reflecting on his childhood aspirations, Dr Matthee recalls dreaming of becoming a detective – a fascination that eventually led him to the realm of law. Over time, his interest in law deepened, propelling him towards his current position as a leading figure in legal academia. Yet, Dr Matthee's

ambitions extend beyond conventional success. In 2023, he surprised many by participating in his first-ever fitness event, demonstrating a determination to challenge himself beyond the boundaries of his profession. This blend of dedication, discipline, and integrity not only characterises his personal pursuits but also informs his professional endeavours.

Charting new horizons: The Vice-Dean's vision

Assuming the role of Vice-Dean for Learning, Teaching, Innovation, and Digitalisation, Dr Matthee enters uncharted territory. "It is a new position, not only within the faculty but also at UFS," he explains. "There is no model or blueprint to guide us." However, it is precisely this challenge that excites him the most. With autonomy in his role, Dr Matthee sees an opportunity to shape the future of legal education by pioneering initiatives that integrate traditional pedagogy with cutting-edge digital advancements.

"I look forward to the challenge of creating such a blueprint," Dr Matthee remarks. "Moreover, the position will allow me to explore and introduce exciting initiatives that could make a meaningful impact on the future and direction of teaching and learning in the faculty."

For Dr Matthee, the future of legal education lies not only in embracing innovation but also in cultivating an environment where curiosity thrives and knowledge knows no bounds. Under his leadership, the Faculty of Law at UFS is poised to embark on a transformative journey, where learning, teaching, and innovation converge to shape the legal minds of tomorrow.

In Dr Jacques Matthee, the UFS Faculty of Law finds not just a Vice-Dean, but a visionary dedicated to pushing boundaries, challenging norms, and sculpting a future where the pursuit of knowledge knows no limits.



The Faculty of Law at the University of the Free State (UFS) has appointed Prof Tameshnie Deane as Vice-Dean: Research, Postgraduate Studies and Internationalisation. Prof Deane officially assumed this role on 1 July 2024, following over two decades as a Professor and Head of the Criminal Law Unit at the University of South Africa (UNISA).

Prof Deane, who has approached this new position with great enthusiasm, describes it as a significant opportunity. **"This role allows me to influence the future of academic research and postgraduate education at UFS,"** she said.



Prof Tameshnie Deane Appointed as Vice-Dean in the Faculty of Law

Support for postgraduate students

Prof Deane elaborated on her vision, saying, **"My aim is to develop and implement strategies that elevate the quality and impact of research, foster innovation, and support postgraduate students in achieving their academic and professional goals."**

Among her top priorities is strengthening support for postgraduate students at the UFS. **"I plan to introduce comprehensive mentorship programmes where experienced faculty members guide students through their academic and research journeys. We will offer training in key skills such as legal writing, research methodologies, and public speaking, while also prioritising initiatives to support their mental and emotional well-being,"** she explained.

Prof Deane emphasised that creating a dynamic and supportive environment will contribute to academic excellence and personal growth for postgraduate students at the UFS.

Enhancing internationalisation and strategic collaborations

Prof Deane is also committed to advancing the internationalisation of the Faculty of Law. **"We aim to provide opportunities for international collaboration and exchange, which will broaden the scope and impact of our research and postgraduate programmes,"** she said.

Improving research quality and output remains a core objective, with Prof Deane identifying this as central to her new role.

One of the initiatives Prof Deane is eager to lead is the development of strategic partnerships with industry and academic institutions. **"Collaborations like these will provide invaluable resources for research projects,"** she noted.

To foster these partnerships, Prof Deane plans to leverage technology to strengthen communication and collaboration, support relationship-building events, and promote interdisciplinary projects that encourage diverse perspectives and innovative solutions.

Research, Postgraduate Studies and Internationalisation in the Faculty of Law at the University of the Free State (UFS).

Story Anthony Mthembu

Articles and Events

Prof Catherine Namakula anchoring Africa's reparations agenda at the UN

STORY SAMKELO FETILE

Prof Catherine Namakula, Senior Lecturer in the Faculty of Law – who is passionate about the human rights of Africans and people of African descent, as well as reparations for Africa – believes in promoting these human rights on a global, regional, and domestic scale.

Prof Namakula is a member of the United Nations Working Group of Experts on People of African Descent. She also holds the position of Professor of Human Rights and Criminal Justice at the Global Humanistic University, Curacao. Additionally, she is a published scholar in public law and has served in various positions with expert bodies and organisations.

"I am independently mandated by the Human Rights Council to advise its member states on the human rights situation, Africans, and people of African descent. In executing that mandate, I was placed in a working group with four other members appointed from other regions of the United Nations," says Prof Namakula.

Anchoring Africa's reparations agenda

She has made notable scholarly contributions related to the inclusivity of people in criminal justice processes,

promoting the parity of esteem for African languages, and ensuring effective interpretative performance. She is also a legal adviser and community leader among immigrant entities and associations in South Africa.

Notably, Prof Namakula played a significant role as the chairperson of the working group in the previous year, and now she is tasked with mapping out and anchoring Africa's reparations agenda. **"I am thankful that my department has supported the establishment of the Africa Reparations Hub. Part of the work is now being carried out here in South Africa, and we have built a robust team."**

She is not only focused on her own work, but also actively encourages others to take an interest in reparations work and the promotion of human rights for Africans and people of African descent. Prof Namakula says there is so much to be done, and the number of individuals actively engaged in this important work is limited.



Prof Catherine Namakula was independently mandated by the Human Rights Council to advise its member states on the human rights situation, Africans, and people of African descent.

Passion for the well-being of her people

According to her, the work is built on her background of a lifetime of capacity building, continued interest, and passion for the wellbeing of her people. She is operating in her space, which comes with a sense of fulfilment and renewed energy.

In line with Vision 130, Prof Namakula says the UFS Africa Reparations Hub is establishing the UFS as an academic leader in the movement.

"Our work is increasing the global visibility and impact of our institution. We are offering more from the formidable resource base of the institution, as much as bringing more at home."

"I am grateful to the university for its international focus, which has positioned the institution and its staff to expound the horizon of their work and impact. This alone benefits all stakeholders," she concludes.



Conference pioneered solutions for land tenure security

Story Valentino Ndaba

Bringing minds together to tackle land tenure challenges head-on at the International Interdisciplinary Security of Land Tenure Conference 2024.

The 2024 International Interdisciplinary Security of Land Tenure (IISLT) Conference, recently hosted by the University of the Free State's Faculty of Law, was a watershed moment in the academic exploration of land tenure security. Gathering scholars, researchers, and practitioners across diverse fields, the event provided a vital forum for tackling the multifaceted challenges surrounding this issue.

Exploring new frontiers

Dr Anthea-lee September-Van Huffel, conference organiser and Lecturer in the UFS Department of Private Law, highlighted the platform's role in generating innovative solutions to address the intricate challenges of land tenure security. **"These included heightened interdisciplinary collaborations to create holistic solutions supporting impoverished and underdeveloped rural communities, community impact projects involving multiple stakeholders to enhance socioeconomic well-being, and efforts to address structural inequalities within legal frameworks. Additionally, proposals were made for innovative profit-sharing schemes for disadvantaged land beneficiaries and the promotion of prior informed consent in land decision-making processes. We all have a beneficial inheritance to be enjoyed and shared through collective stewardship of the environment and its natural resources. It is the how that must be achieved through interdisciplinary discourse, collaboration, and innovative thinking,"** she said.

The insights gained from interdisciplinary dialogue are expected to translate into tangible actions and policy recommendations in the field of land use and development. Three key research outputs were identified, which include the publication of a Special Journal Issue, the development of a thematic book, and the initiation of an interdisciplinary Community Impact Project in collaboration with the Public Affairs Research Institute and other collaborators.

Progress in perspective

Reflecting on South Africa's three decades of democracy, Prof Vasu Reddy, Deputy Vice-Chancellor for Research and Internationalisation, emphasised the necessity of interdisciplinary collaboration in rectifying historical injustices. **"As South Africa commemorates 30 years of democracy, this conference holds particular significance. It's an opportune moment to assess the trajectory of land tenure, acknowledging milestones achieved and persisting challenges. Given our nation's history, marred by apartheid's spatial injustices and structural inequalities, it's imperative to continue seeking solutions to these entrenched issues,"** Prof Reddy said.

Insights from keynote speakers

The plenary session featured illuminating keynote addresses by Vice-Chancellor Prof Wahab Egbewole of the University of

Ilorin, Nigeria, and Prof Azubike Onuora-Oguno, Head of the Department of Jurisprudence and International Law at the same university.

Prof Egbewole delved into the intricate landscape of land tenure insecurity in Africa, stressing the urgency of safeguarding the rights of vulnerable communities. **"This conference presented a compelling opportunity for my university to collaborate with the UFS on this critical aspect of human development,"** remarked Prof Egbewole. **"My address signified our institution's commitment to fostering and sustaining this collaboration."**

Prof Onuora-Oguno echoed this sentiment, expressing enthusiasm for the partnership with the UFS. **"When the opportunity arose to partner with the University of Free State, I knew it was worth every academic energy. The involvement of other colleagues at the university in the research and academic collaboration was made very efficient by the efforts of colleagues from the UFS. It is a partnership we are excited to sustain and drive to the next level."**

Forward vision

The conference's alignment with Vision 130 and the Sustainable Development Goals (SDGs), particularly SDG 1 (eradicating poverty), SDG 8 (promoting sustained, inclusive, and sustainable economic growth), SDG 10 (reducing inequality), and SDG 11 (building sustainable communities), underscores its pivotal role in contributing to global endeavours towards sustainable development and social equity.

Prof Bradley Smith addresses matrimonial property and trust law complexities

Story VALENTINO NDABA

In his inaugural lecture on 21 February 2024 at the University of the Free State (UFS), Prof Bradley Smith explored the complexities of trust misuse in the context of property disputes during divorce proceedings. Prof Smith is an Extraordinary Professor at the UFS Faculty of Law. Drawing on two decades of judicial evolution in the Supreme Court of Appeal (SCA), Prof Smith highlighted the inconsistencies in the SCA's treatment of this issue that impedes attempts to curb "divorce planning" by way of a trust and proposed solutions to address them.

One of the core issues he identified is the abuse of trusts, where assets are placed within a family trust to diminish a spouse's personal estate value while treating the trust property as personal property for personal gain. This is often done in an attempt to evade the financial consequences of divorce. Prof Smith explained that this practice undermines the essence of trust law and that the inconsistent approaches by our courts exacerbate the challenges in dividing property during divorce proceedings in a manner that respects the spouses' matrimonial property regime.

Navigating challenges: reflections on research and its importance

Prof Smith's proposal revolves around the development of a consolidated test for piercing the veneer of an abused trust, aiming to enhance legal certainty. He emphasised the necessity of a unified approach. **"Utilising this test will ensure uniformity because of its applicability to all marriages out of community of property, irrespective of whether the accrual system is involved,"** he said.

His meticulous examination of conflicting judgments was praised by Dr Brand Claassen, head of the Department of Private Law, who described it as "the work of a master craftsman". Retired Judge of Appeal, Eric Leach, also highlighted its critical importance in clarifying complex legal issues for the public good.

"It is of critical importance and in the public interest for judicial decisions, particularly those of higher courts such as the Supreme Court of Appeal and Constitutional Court, to be subjected to careful and considered analysis and, if needs be, criticism. Prof Smith's inaugural lecture on combating trust form abuse in the context of matrimonial property claims at divorce, in which he carefully considered and analysed the conflict between several Supreme Court of Appeal judgments, was a valuable and important study on the issue," said Judge Leach. He added that he hoped Prof Smith's research would be considered by the SCA in future.



Future directions: advancing discourse and sound legal theory

Looking ahead, Prof Smith envisions further research into the applicability of the consolidated test to marriages in community of property, aiming to address remaining uncertainties that lie at the intersection of matrimonial property and trust law. He emphasised the importance of countering the prevailing "catch-me-if-you-can" attitude in divorce matters, advocating for proactive measures to uphold fairness and justice in matrimonial property disputes.

In conclusion, Prof Smith's inaugural lecture provided valuable insights into combating trust form abuse within the context of matrimonial property claims at divorce. His proposed solutions and ongoing research efforts signify a commitment to advancing discourse on trust law theory and practice, with the ultimate aim of a sound judicial approach that serves the needs of South African society.

Prof Bradley Smith tackles the ambiguities surrounding trust misuse during divorce proceedings.

Legal Education Colloquium sparks book project at UFS

Story VALENTINO NDABA



Prof Geo Quinot from Stellenbosch University, pictured with Ntando Ncamane, a Lecturer in the UFS Department of Mercantile Law.

The Department of Mercantile Law at the University of the Free State (UFS) recently spearheaded a Legal Education Colloquium, marking the genesis of a groundbreaking book project with the vision of revitalising legal education across South Africa. Attended by luminaries from academia, legal practitioners, and students, the event featured Professor Geo Quinot from Stellenbosch University, a distinguished figure renowned for his profound insights into legal education, as the keynote speaker.

Ntando Ncamane, a Lecturer in Mercantile Law, provided a comprehensive overview of the colloquium's objectives, outcomes, and future trajectory. **"The dynamic evolution of legal frameworks, notably the promulgation of the Constitution, statutes, and landmark cases, has necessitated a reformation in South African legal education,"** Ncamane remarked.

He underscored the pivotal role of digital transformation, particularly in the context of the pandemic, and emphasised the joint commitment of regulatory bodies and academic institutions towards fostering an ethos of engaged scholarship. The colloquium served as a platform to dissect and explore transformative trends, inviting stakeholders to deliberate on novel perspectives and navigate emerging challenges in legal education.

Insights from Prof Geo Quinot and eminent experts

Reflecting on the invaluable insights garnered from deliberations, Ncamane highlighted Professor Quinot's keynote address, which advocated for a reimagining of collaborative endeavours, particularly involving students. Discussions spanned an array of topics including innovative methodologies, enhancing assessment frameworks, leveraging digital platforms for education, integrating competition law into curricula, promoting engaged scholarship, nurturing emotional intelligence among students, and addressing complexities within modules such as civil procedure. Stimulating dialogues on decoloniality, decolonisation, and ubuntu ethos also permeated the discourse.

The forthcoming book, a culmination of the colloquium, will traverse themes encompassing Digital Education, Student Engagement, and Decolonisation. Ncamane elucidated, **"Contributors will be aligned with one of the themes based on the relevance of their contributions...A call for papers was issued, eliciting abstract submissions from prospective contributors."**

Scholars hailing from diverse academic institutions including the UFS, University of the Witwatersrand, University of Limpopo, University of Fort Hare, North-West University, Varsity College, and Stellenbosch University, have been enlisted for participation. Each chapter will undergo a peer review process, ensuring scholarly rigour and academic excellence.

Role and impact of the book

Articulating the envisioned role of the book, Ncamane underscored its potential to reshape legal education and curriculum development. He said, **"The book offers key approaches that can be adopted by legal scholars to improve teaching methods, ultimately benefiting students, academics, and society at large."**

With regards to timelines, Ncamane indicated that the publication is slated for release in late 2024 or early 2025, contingent upon the duration of the blind review process and editorial refinement. The Legal Education Colloquium and its ensuing book project exemplify a concerted endeavour to address the evolving imperatives of legal education, foster scholarly discourse, and contribute meaningfully to the enhancement of legal praxis in South Africa.

UFS and partners unite to celebrate World Consumer Rights Day

Story Valentino Ndaba

The University of the Free State's Faculty of Law, in collaboration with the Consumer Protection Forum (CPF), commemorated World Consumer Rights Day (WCRD) on 15 March 2024 at the Bloemfontein Campus. This globally recognised event sheds light on consumer rights and protections, with this year's theme focusing on "Safe products, safe consumers: fostering accountability and compliance".

The university's dedication to consumer protection was demonstrated through strategic partnerships formed in September 2023. Memoranda of Understanding (MOUs) signed with key regulatory bodies like the National Consumer Commission (NCC) and the National Credit Regulator (NCR) underscored commitments to integrating consumer protection principles into academic curricula. Modules like Consumer Protection and Credit Law are currently offered at second-year level and shall be expanded as an elective course at final year and master's levels.

Speaking at the WCRD celebration, Ntando Ncamane, Mercantile Law Lecturer at the UFS, emphasised the significance of collaborative efforts, stating, "What we see here today is a result of the partnership we have with members of the CPF, in particular the NCC and NCR."

Empowering consumers for change

Deputy Minister of Trade, Industry, and Competition, Nomalungelo Gina, highlighted challenges faced by the Free State province, including non-compliant products and misleading advertising. Gina stressed the importance of community involvement and educational programmes in empowering consumers to make

Ntando Ncamane, a
Mercantile Law Lecturer
at the University of the
Free State, speaks at
the World Consumer
Rights Day celebration.

informed decisions.

"If we do not take it upon ourselves as a community, as consumers, to work with these regulators, law enforcement, and municipalities, to make sure we report things that are happening where we stay, we are not going to be able to combat the wrongdoings happening. If we do not have these educational programmes, our communities become willing buyers not being aware that what they are engaged in is not what they are supposed to do. Therefore, the partnerships will go a long way," added Gina.

Contributing to Vision 130

As South Africa commemorates three decades of democracy, initiatives like the WCRD celebration play a vital role in upholding consumer rights. They also

contribute to the university's Vision 130, which aims to model the UFS into a research-led and globally impactful institution by 2034.

By fostering maximum societal impact through sustainable relationships, the UFS ensures that strategic partnerships like these produce graduates who become consumer protection activists and contribute to societal change. Through collaboration between academia, regulatory bodies, and communities, these efforts contribute to a safer and more informed society, ensuring consumer protections are upheld and enforced.



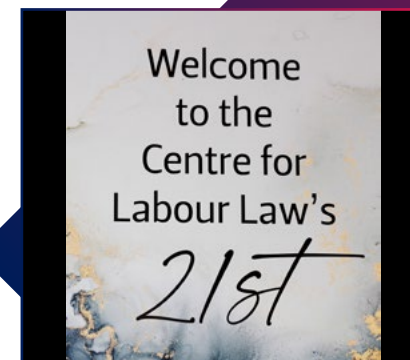
Celebrating Graduations

Story VALENTINO NDABA



Centre for Labour Celebrates 21 Years of Excellence

In 2024, the Centre for Labour Law proudly celebrated 21 years of excellence, continuing its impactful role in shaping the future of employment relations and justice. What began with fewer than 10 participants in its inaugural programme has grown into a thriving hub, with approximately 300 participants completing short Learning programmes in labour and commercial law annually.



Internationalisation

7th International Conference on the Right to Development

The Free State Centre for Human Rights, University of the Free State, in partnership with the Centre for Human Rights, University of Pretoria, South Africa; the University of Dayton Human Rights Center, USA; Universidade Autónoma de Lisboa, Portugal; the Department of Law and Political Science, University of Siena, Italy; and the United Nations Human Rights Office of the High Commissioner, hosted the seventh International Conference on the Right to Development. Under the theme **'Development, Sustainability, Law, and Human Rights,'** the conference took place at Universidade Autónoma de Lisboa in Portugal, from 6 to 8 November 2024.

Faculty of Law Graduations



Erasmus+ Staff Mobility For Teaching

In March 2024, Dr. Miklos Szirbik participated in the Erasmus+ Staff Mobility for Teaching programme within the Department of Mercantile Law at the University of the Free State (UFS).

On 14 March 2024, Dr. Szirbik, along with Dr. Shelton T. Mota Makore and Mr. S. Tavuyanago, participated in a collaborative seminar hosted by the UFS Department of Mercantile Law and the Hungarian National University of Public Works. The seminar, titled **"Insights into the War in Ukraine: Unipolarity, Multipolarity, Trade, and Geopolitics,"** facilitated critical discussions on the geopolitical and trade implications of the ongoing conflict, fostering valuable international academic engagement.



International Mercantile Law Conference

On 20-22 of November, the department of mercantile law hosted the 9th Annual International Mercantile Law Conference.

2024 United Nations Social Forum

The Social Forum 2024 centred on the critical role of financing for development in promoting human rights for all. Prof. Serges Kamga moderated a session on Domestic Resource Mobilization, where Prof. Gerard Kamga delivered an insightful presentation on ***Illicit Financial Flows from Africa and the Financing of Development.*** The discussions highlighted key challenges and opportunities in leveraging financial resources to advance human rights across the continent.



Championing diversity and internationalisation in higher education



Quinter Onyango

"Each time a woman stands up for herself, without knowing it possibly, without claiming it, she stands up for all women."

– Maya Angelou

Quinter Onyango is Senior Officer: Marketing, Communications, and Internationalisation at the University of the Free State's Faculty of Law. Her passion for international education blends seamlessly with her professional expertise in marketing and communications. Since stepping into this field in 2016 at the University of Fort Hare, Quinter has devoted herself to supporting international students and fostering partnerships and networks that bridge cultures. Her current role allows her to continue this meaningful work while focusing on international education and communications within the Faculty of Law.

For Quinter, internationalisation is not just a career; it is a calling rooted in her identity as a global citizen. She views diversity as a strength and strives to cultivate it by connecting people from various backgrounds. In her role she sees herself as both an academic and a diplomat, promoting global understanding and inclusivity. She is currently a doctoral candidate at the Free State Centre for Human Rights with a research focus on inclusive digital advocacy.

Quinter's international journey has been enriched through programs like DIES National Multiplication Trainings (NMT) Programme, Staff Exchange Mentorship Program, and the IEASA Mapping project

which have deepened her insights and expanded her network. Her approach to leadership is both transformational and strategic, always with a focus on effective communication and networking as the keys to success.

The influence of remarkable women, such as her mother and Michelle Obama, has shaped her leadership style and inspired her to fearlessly embrace change. One of the most impactful pieces of advice she has received has been: **"There are three Cs in life: choices, chances, and changes. You must make a choice to take a chance, or your life will never change."** This philosophy guides her approach to seizing opportunities and navigating challenges.

Quinter would tell her younger self to follow her heart more. She loves to unwind by listening to rhumba music. Quinter likes to stay grounded and remain in tune with her values.

Outside of work, Quinter finds joy in traveling; a passion that fuels her appreciation for the world's rich diversity. Her advice to others is simple yet powerful: **"Never give up. Always strive to be the best you can be. There is greatness in everyone, and I encourage them to work to unearth it."** This belief in the potential within every person is a driving force behind her commitment to education and empowerment.

Quinter's favourite saying; "Water may cover the footprint on the ground, but it does not cover the words of the mouth", speaks to her belief in the enduring impact of our words and actions. Through her ongoing work and leadership, Quinter

continues to make her mark promoting the values of diversity, inclusion, and global citizenship.

"The opportunity to take South Africa to the world and bring the world to South Africa is both humbling and exhilarating."

– Normah Zondo

UFS encourages youth participation in upcoming national elections

Story VALENTINO NDABA

As South Africa prepares for its national elections scheduled for 29 May 2024, the University of the Free State (UFS) emphasises the importance of youth engagement in the democratic process. These sentiments were echoed during the Human Rights Day event recently hosted by the Free State Centre for Human Rights.

Exercising the right to vote

Aligned with the university's Vision 130 strategy, which prioritises societal development, the UFS aims to educate and engage its community members on the significance of voting as a catalyst for positive change. Through initiatives like the Human Rights Day event, the university fosters awareness and advocacy for democratic principles, empowering individuals to exercise their right to vote and contribute to shaping the nation's future.

Advocating for democratic principles

Dr Annelie De Man, Coordinator of the Advocacy Division at the Free State Centre for Human Rights, highlighted the relevance of the Human Rights Day event in light of the elections. **"We celebrated Human Rights Day by raising awareness amongst our students regarding the rights that they possess including the right to vote, especially with the South African national elections approaching. We also wanted to convey the message that even though we as a country are experiencing many challenges, we still have our constitutionally guaranteed and hard fought-for rights that guarantee that our human dignity and right to equality must be respected."**

The event held on the Bloemfontein Campus served as a platform to raise awareness among students about their rights and the role of the Free State Centre for Human Rights. Limeque Redgard, a student assistant at the centre, described the event as an opportunity to educate students on human rights within the institution and to introduce them to available support mechanisms in case of rights violations.

Student-led advocacy

Badumetsie Tsieane, Executive Committee Chairperson of the Human Rights Ambassadors, noted the importance of making human rights discussions engaging for students and highlighted the role of ambassadors in promoting awareness and advocacy.

The event showcased the enthusiasm and commitment of students towards understanding and championing human rights, and also underscored the impact of initiatives like the Free State Centre for Human Rights in empowering the youth to participate actively in shaping a just and equitable society.



A call to action

As the nation gears up for the elections, UFS encourages students to exercise their democratic right to vote. Recognising the challenges faced by the country, the university reaffirms its commitment to promoting civic engagement and upholding the principles of human rights and democracy. With the support of initiatives like the Human Rights Day event, the UFS aims to equip students with the knowledge and awareness necessary to become informed and responsible citizens. By fostering a culture of engagement and advocacy, the university strives to contribute to the development of a vibrant and inclusive democracy in South Africa.

As the countdown to the elections continues, the UFS remains dedicated to empowering the youth to play an active role in shaping the future of the nation through their participation in the democratic process.

Empowering the youth to shape tomorrow's democracy.

UFS reflects on human rights and the law

Story Valentino Ndaba



Vanessa Rose September, Chair of the Albie Sachs Trust, hands over donated books to Prof Serges Kamga, Dean of the Faculty of Law at the University of the Free State.

Echoing the words of Nelson Mandela, Prof Francis Petersen, the Vice-Chancellor and Principal of the University of the Free State (UFS), emphasised the profound significance of human rights. **"To deny people their human rights is to challenge their very humanity,"** he said during his opening address at the Human Rights Celebration held by the UFS Faculty of Law on 18 March 2024.

Acknowledging the pivotal role played by stalwarts such as Emeritus Justice Albie Sachs and Sir Sydney Kentridge, Prof Petersen delved into the strides made since the inception of South Africa's contemporary constitution.

Underlining the university's unwavering commitment to human rights, Prof Petersen added, **"For universities, it remains critical that every aspect of**

academic life is viewed through the lens of human rights. The principle of equality lies at the centre of our purpose and operations."

Furthermore, Prof Serges Kamga, Dean of the Faculty of Law, highlighted the institution's vision encapsulated in Vision 130, striving to produce graduates who embody excellence and contribute to societal transformation.

Panel discussion: Sir Sydney Kentridge's enduring legacy

Former Justice Zak Yacoob, renowned for his tenure at the Constitution Court of South Africa, paid tribute to Sir Sydney Kentridge in a panel discussion focusing on Kentridge's contributions to human rights both nationally and internationally.

Reflecting on his personal experiences working alongside Sir Kentridge, Justice Yacoob highlighted the practical essence of human rights advocacy. He recounted Sir Kentridge's seminal role in shaping the constitutional court's early judgments, particularly emphasising the incorporation of human dignity into the constitutional framework.

Justice Yacoob's insights shed light on the profound impact of Sir Kentridge's jurisprudence on society, particularly in shaping notions of dignity, equality, and freedom. **"The contribution he made was absolutely amazing. He wrote the first-ever judgement delivered by that court in April 1995. It was the first judgement that brought forth the issue of human dignity and its importance."**

Joining the discussion were esteemed panelists including Honourable Madam Justice Yvonne Mbatha and Dr Adri Du

Plessis, who provided expert commentary on Sir Kentridge's contributions to the legal fraternity. The discussion was moderated by Prof Elsabe Schoeman, Dean of the Faculty of Law at the University of Pretoria.

Honouring legal icons

Vanessa Rose September, Chair of the Albie Sachs Trust, presented books donated by the trust. The biography titled *Arthur Chaskalson: A life dedicated to justice* for all chronicles the life of Chaskalson, a towering figure in South Africa's legal landscape.

Emeritus Constitutional Court Justice Albie Sachs delivered a thought-provoking lecture, pondering the question of whether there is cause for celebration on the 30th anniversary of human rights in South Africa.

With a rich history of activism and legal scholarship, Justice Sachs reflected on the evolution of South Africa's judiciary and the enduring legacy of the Constitutional Court. Despite acknowledging prevailing challenges, Justice Sachs remained optimistic, citing the country's constitutional framework as a beacon of hope and progress. **"There's lot to be angry about, there's lots to complain about, there's lots that has to be renounced, but there's lots to celebrate. We've got a country, we've got a constitution, we've got rights, we've got instruments that we can use,"** he said.

In conclusion, the Human Rights Celebration served as a poignant reminder of the ongoing struggle for dignity, equality, and justice, reaffirming the university's steadfast commitment to upholding these fundamental principles in academia and beyond.

Reparative Justice as Human Rights



Khanya B Motshabi is a Senior Lecturer of Public Law and the Strategy Lead of University of the Free State Africa Reparation Hub.

Unjustified injuries inevitably trigger demands for remediation, almost always, at some point. If so, colonial-apartheid atrocities rightly produce claims to redress. This face of reparative justice claims is easily cognisable. But it hides a deeper and larger claim to wholeness. Wholeness returns something to its original condition, or nearly there, and compensates for intervening fissures. Return and reparation are thus key remedies for colonial-apartheid harms. Wholeness builds on such ideas as replacement, atonement, restoration, and restitution. Wholeness concepts recognise, enable, and propel national reconstruction, an essential for shattered nations. This logic is perfectly compelling. Appreciation of colonial-apartheid depredations may be faint. However, colonial-apartheid harms equate to major world system shocks. Think of natural and ecological disasters, public health crises and material armed conflict. Picture post-1945 Germany. Imagine post-Belgian genocide Congo. Take Rwanda post-genocide. And on, we could continue.

Inevitable calls for justice

Reparative justice scholarship must frame the imperative of global justice. It imagines the world of our dreams. These fit the emerging world system opportunities, including timing inflections, to which I return. The fundamental justice thrust of reparatory scholarship is as eternal, of course, as is unremedied unjust injury. This intellectual, and political, ambition fuels the University of the Free State (UFS) Africa Reparation Hub. Reparatory scholars must prove the historic injury. This is not a tool of attack, discomfiture, or division. It merely grounds the justice claim. Domain scholars must, directly and indirectly, articulate this justice

claim. Accordingly, we must cement relationships with both the African Union (AU) and sub-continental multilateral organisations.

The Reparation Hub helps formulate AU reparative claims across conceptual, legal, political, and diplomatic realms. The Hub is assembling a Panel of Experts on Africa Reparations Experts (PEAR). The hub is creating a comprehensive Africa reparations information archive and resource repository. Recently, the Hub, Department of Public Law and Faculty of Law hosted their first reparations seminar, with Prof Saleem Badat as leader and Prof Pearl Sithole as discussant. The Hub officially launches in June 2024. The Hub continues its reparatory justice research. Undergraduate and graduate teaching and learning programmes could and should follow, in well-chosen good time, with due protocols.

Building the framework for justice

Reparative scholarship inhabits an ethically and morally attractive moral universe. Subjugation of former colonists, often current neo-colonialists, does not belong there. That would be wrong. Indefensible. What we want is a world defined by justice. There, human security and a sound peace and community among nations are possible. The suppliant status of former colonies must be reversed. The current world order obstructs - effectively precludes - human rights realisation in the post-colony. Post-colonial human rights enjoyment rests not simply on abstractions like freedom, equality, dignity, separation of powers and the rule of law. Intrinsically, these abstractions offer obvious human rights and human dignity value. Less obvious is

their contextually defective human rights proposition. That the lofty rhetoric, and ostensible principles, should easily co-exist with endemic violations is strange. Deliberate worldwide human abuses, including war and genocide, especially against dark coloured persons are strange, or should be, strange. One international hegemon was at peace for about fifteen units of its near 250-year life, only. A global power has militarily attacked an estimated 85 to 100 countries, merely between 1945 and 2011.

The archetypal victim is a global South human. This is a poor human rights formula for the mythological exotics, the ones who by general misperception, are deservedly subject races. African peoples, lawyers and scholars hardly have coherent experiential human rights stories. Such is our history, past and present. That human totality has shared aspirations matters not a jot. That humanity shares the same earth-space community is an incidental and dismissible insight.

Perforce, the foundation of global South human rights protection is different. Coloniality, or enduring post-colonial colonial relations, must end. Reparation must, among other things, reverse at least those development deficits connected to colonial exploitation. Reparation, in the material form, can restore some extracted economic value. As both end and means, reparation is essential for post-colonial human liberty and fulfilment. Accordingly, decoloniality and reparations inherently drive quality post-colonial human rights outcomes. Instrumentally, decoloniality and reparations enhance global South human rights realisation. Political design imperfections aside, the painfully emerging multipolar global democracy may offer superior human

rights actualisation. Life is, in this sense, a gamble. We have no choice on that world architecture gamble. But the geopolitical recalibration, itself, is afoot and assured. So, reparative justice features in a precious trio: decoloniality, reparations and multipolarity. Under this trio lies a vital ontology: validly, dark peoples are indeed human and dark nations are indeed nations. Dark peoples legitimately claim, and truly enjoy, human rights and human dignity. That eminent scholar, Michael Riesman, illustrates acutely. Human rights and human dignity are not myth system. Human rights and human dignity are operational code, reality.

The path to human rights

The forecast multipolar, decolonial and reparative conditions present a signal world system opportunity. The timing seems apt. And the opportunity promises

much. The constitutive work is currently underway, as is evidently though murky. The architecture is difficult to imagine, design and assemble. But our dreams are crisp and bright. We want and deserve to inhabit that new world. We, the Africans, have for too long been disposable, forgettable. A world order warm to African, African-descent and post-colonial peoples prizes multipolarity, decoloniality and reparation. Post-colonial human rights fulfilment presupposes this system design principle.

The principle fuels African human rights and human dignity. So, its inherent priorities represent the world we want. There, international society defines, or punctuates, itself by human rights as multipolar, decolonial and reparative arrangements. The is the stuff of dreams. A world of dreams. The dreams of our children and their children. I previously claimed that 'our children are the force

behind the waves of history still to come.' I repeat that claim. Supported by decoloniality, multipolarity and reparation, our descendants can shape human history and human rights. We dare not squander their legacy, not least through corruption and state capture. We want better. We must behave better. Decoloniality, multipolarity and reparative justice promise, and demand, better. Then, post-colonial human rights actualisation might be optimal.



Celebrating excellence: 19 top students receive Dean's Medals at UFS April graduations

Story EDZANI NEPHALELA

During its recent April graduation ceremonies, at which at least 9 000 new graduates received their qualifications, the University of the Free State (UFS) also celebrated 19 recipients of the various faculties' Dean's Medals. These medals symbolise academic excellence and unwavering dedication, recognising exceptional students with remarkable talents and achievements.

The April graduation ceremonies conferred various qualifications across the UFS's seven faculties at the Bloemfontein and Qwaqwa Campuses from 12 to 20 April 2024.

Cecilia Van Zyl, a graduate of the Faculty of Education who received her Bachelor of Education (Foundation Phase Teaching) degree, was awarded the final Dean's Medal, concluding the April graduations on a high note.

Van Zyl said her journey was more about getting the best results than receiving accolades. *"Throughout my academic journey, my focus has always been on doing my best rather than seeking accolades. Upon careful reflection, I realised that this recognition is a by-product of my dedication and hard work in pursuing my passion. I firmly believe that my difficult experiences and challenges, such as teaching practice sessions or daunting assignments, have shaped my success. While initially daunting, these trials pushed me out of my comfort zone and compelled me to work harder and strive for excellence. I would also like to acknowledge the wonderful support and encouragement of [the UFS's] highly knowledgeable lecturers, professors, and helpful tutors."*

Beginning of the journey

During the Faculty of Natural and Agricultural Sciences graduations, Wikus Vorster (BSc Actuarial Science), Mienke Botha (BSc Agric Animal Science), and Rinus Behrens (BSc Honours Food Science) were awarded an amount of R50 000 each in addition to their medals, for their academic dedication by Dr

Snowy Khoza, a seasoned adviser, strategist, and development activist in infrastructure development.

She encouraged graduates to view graduation as just one milestone in their journey. *"Regardless of your career path, remember the importance of continuous research to stay relevant and contribute to the community,"* she said.

Lifelong learning

Likeleli Monyamane, a chartered accountant registered with the South African Institute of Chartered Accountants (SAICA), shared her journey with the other graduates during her congratulatory address. She advised students on lifelong learning, professionalism, the power of mentorship, and leadership.

"As we move from one chapter to another and transition from one season of our lives to another, we ought to remember to keep on adding new tools to our 'toolbox' – the toolbox of knowledge, skills, and competencies. While the university may have prepared you for the next few years of your career, you will need to continue to learn and get knowledge to remain relevant and to have longevity in your career."

She said education played a crucial role in helping her get to where she is. *"If I had the whole day, it wouldn't be enough to describe the tremendous role that education has played in my life and how, as an orphaned child, educators became a critical part of my upbringing to provide guidance and mentorship, as well as to call out my gifts and talents based on my interactions with me. For this reason, it gives me great pleasure to stand before you today and congratulate you on your wonderful achievement of obtaining a qualification in the field of education."*

The other recipients of the Dean's Medal included:



- Damian James Foreman (Bachelor of Psychology Honours)
- Daniel du Preez Goosen (Master of arts with specialisation in Philosophy)
- Dineo Mosolodi (Bachelor of Social Science)
- Abigail Ruth Caroline Webb (Bachelor of Social Work)
- Arran Daniel Wood (Master of Architecture)
- Elrike Wolmarans (Bachelor of Medical Science with specialisation In Radiation Sciences)
- Marisca Stander (Bachelor of Science in Physiotherapy)
- Shezree Tiel (Bachelor of Medicine and Bachelor of Surgery)
- Chanie Burger (Bachelor of Medical Science Honours in Human Molecular Biology)
- Juan Venter (Bachelor of Divinity)
- Hané Pieters (MMedSc degree with specialisation in Medical Physics)
- Louwrens Lodewikus Vorster (Bachelor of Science majoring in Actuarial Sciences)
- Kegomoditswe Iris Makhoro (Bachelor of Theology Honours with specialisation in Old Testament)
- Ubenita Rummelien (Bachelor of Laws)
- Charlene Black (Bachelor of Accounting)
- Christopher Adolph Strydom (Bachelor of Administration Honours)

Across all faculties, recipients of the Dean's Medal embody the UFS's Vision 130 core values of excellence, integrity, and social responsibility. Their achievements

reflect their dedication, hard work, and the university's commitment to fostering academic excellence and producing graduates who will positively impact the world.

Reflecting on 30 years of democracy in South Africa

Story Valentino Ndaba



Back (from left) Dr Brand Claassen (Head of the Department of Private Law), Dr Jacques Matthee (Vice-dean Faculty of Law), Dr Marianne Sèverin (Institute for African Studies at Bordeaux University, France), Dr Marda Horn, Dr James Faber, Dr Lerato Ngwenyama. **Front (from left)** Dr Caroline Müller-Van der Westhuizen, Dr Anthea-lee September-Van Huffel and Portia Senokoane.



The University of the Free State's Department of Private Law in the Faculty of Law recently hosted an enlightening seminar titled 30 years of democracy in South Africa on 26 April 2024. Dr Marianne Sèverin, from the Institute for African Studies at Bordeaux University in France, graced the event with her expertise. Her doctoral research delved into the Political Networking of the African National Congress (ANC), providing a rich backdrop for her discussion on South African democracy with the faculty's esteemed staff and eager students.

Navigating the adolescent years

In her engaging discourse, Dr Sèverin likened South African democracy to that of **"a teenager"**, acknowledging the strides made since the advent of democracy in 1994. However, she astutely pointed out that despite the country boasting a robust Constitution, the pervasive issues of corruption and poverty remain significant hurdles. Drawing from her deep knowledge of the ANC, she shed light on the party's overwhelming dominance in

politics, which, unfortunately, provides fertile ground for corrupt practices to flourish unchecked.

The perspective of the 'born free' generation

Of particular interest to Dr Sèverin were the perspectives of the young attendees, affectionately known as the 'Born Free' generation, who never experienced the apartheid era firsthand. Their casual acceptance of democracy struck a chord with her. Dr Marda Horn, Senior Lecturer in the Department of Private Law noted, "She found through her discussions that they seemed to take democracy for granted and did not appreciate how lucky they were to live in a democracy."

Lessons from across the continent

Throughout her presentation, Dr Sèverin artfully weaved in anecdotes from other African nations, such as Zimbabwe, Congo-Brazzaville, and the Democratic

Republic of the Congo, where democracy has faltered. Her passion for South Africa was palpable as she recounted the emotional moment she experienced during the Rugby World Cup in France in 2023 when the national anthem resonated. Expressing her admiration for the ethos of **"ubuntu"** demonstrated by the Springboks, she confessed that this philosophy has become her guiding principle in life, a testament to the profound impact of South African culture on her.

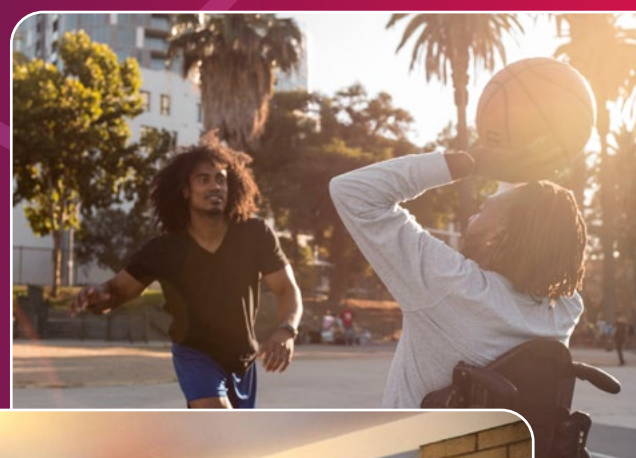
A call to cherish and safeguard

The seminar provided a platform for deep reflection on the progress and challenges of democracy in South Africa, urging participants to cherish and safeguard the hard-won freedoms of the nation. As South Africa approaches the elections scheduled for 29 May 2024, the seminar serves as a timely reminder of the importance of youth engagement in shaping the country's democratic future.



UFS International Conference on Disability Rights advances inclusion and equality

Story Valentino Ndaba



Empowering change: Advocates and experts unite at the UFS Conference on Disability Rights to foster inclusion and equality for all.

The Faculty of Law at the University of the Free State (UFS) through its Free State Centre for Human Rights, in collaboration with the Centre for Universal Access and Disability Support (CUADS) and Counterpart International, recently hosted the International Conference on Disability Rights from 24-26 April 2024. This significant event not only convened experts and advocates but also marked the launch of the Disability Rights Unit within the Faculty of Law.

Themed **“Embracing Inclusion and Equality: A Perspective on Disability Rights Transformation”**, the conference served as a platform for insightful discussions and presentations aimed at fostering a more inclusive society.

Prof Serges Kamga, Dean of the Faculty of Law, emphasised the importance of the newly established Disability Rights Unit, stating, **“The Disability Rights Unit will pave the way for promotion and protection of disability rights in our society.”**

Martie Miranda, Head of CUADS, echoed this sentiment, underscoring the crucial role of such initiatives in advancing disability rights. **“While CUADS provides holistic student support to students with disabilities, the Disability Rights Unit will provide for leverage in terms of access as their fundamental human right to optimally participate equally to their peers.”**

disabilities. The presentation highlighted the systemic barriers hindering access to education, healthcare, transportation, and employment. Moreover, it drew attention to the underlying influence of Western paradigms, emphasising the need for a holistic worldview to address entrenched biases and promote inclusivity.

Barriers to inclusion: The case of “unsound mind” provisions

Dr Dianah Msipa from the University of Pretoria delved into the legal hurdles faced by individuals with intellectual and psychosocial disabilities due to **“unsound mind”** provisions in African legislation. These provisions, found in several countries, restrict fundamental rights such as voting, property ownership, and personal liberty based solely on disability. Dr Msipa highlighted the urgent need for African states to align with international standards, advocating for universal legal capacity to ensure the full inclusion of persons with disabilities.

Visibility of disability: Data collection challenges

Bianca van der Schyff, representing the National and Provincial Women's Representative for DeafBlind in South Africa, addressed the critical issue of data collection regarding dual sensory impairments. She stressed the inadequacies in existing legislation which fails to capture the unique challenges faced by DeafBlind individuals, particularly concerning domestic violence. Van der Schyff put emphasis on the necessity of specialised research and comprehensive data collection to inform targeted interventions and support services for this marginalised group.

Lessons from Mozambican disability legislation

Felisberto Elija Nhanenge and Jytte Nhanenge from Mozambique shed light on community inclusion through an examination of Mozambican disability legislation. Despite strides in policy, challenges persist in ensuring full societal participation for people with

Advocating for dual-sensory impairments

The presentation underscored the importance of advocacy and empowerment for DeafBlind individuals, urging for a nuanced understanding of their needs and rights within broader disability discourse. Advocacy organisations play a vital role in raising awareness and promoting inclusive support services, yet there remains a pressing need for greater recognition of the complexities inherent in dual-sensory impairments.

In conclusion, the UFS International Conference on Disability Rights served as a catalyst for dialogue and action, reaffirming the university's commitment to fostering an inclusive society that upholds the rights and dignity of all individuals, regardless of ability, as stipulated in Vision 130 – the strategic intent of the UFS to reposition itself for its 130th anniversary in 2034. As discussions continue and initiatives take shape, the conference represents a pivotal step towards realising the transformative potential of disability rights advocacy.

Faculty of Law : Disability Rights Unit

Launched by Prof Serges Kamga
Dean : Faculty of Law
26/04/2024

NHI Act:

Let the litigation begin

Story Dr Larisse Prinsen



Opinion article by Dr Larisse Prinsen,

Department of Public Law, Faculty of Law, University of the Free State

On 15 May 2024, the National Health Insurance (NHI) Bill was signed into law by President Ramaphosa during a public ceremony. This did not come as a surprise as Minister in the Presidency, Khumbudzo Ntshavheni, had already stated in January that enactment would take place before the 2024 elections. Universal access to health care is an ANC promise, after all, which has led to some calling this public display – as well as the remarks made before the signing – electioneering, considering the closeness of the election to be held at the end of the month.

Now that the Bill has become an Act, however, its actual real-life implementation may be stalled for some time. As the President himself stated during the signing ceremony, the Act is to be implemented in stages. This could potentially take many years if the example of the previous, pivotal piece of health-related legislation, the National Health Act – which took more than a decade to become fully operational – is anything to go by. Each stage of implementation will also bring the potential for a slew of unique legal challenges for the Act and its implementation.

Legislation that could combat the implementation of the NHI Act

There is also the issue of the missing money bill. An Act such as the NHI Act, which has massive financial and economic ramifications, should be accompanied

by a money bill drafted by the National Treasury, setting out the financial aspects of the primary Act. So far, no money bill has been drafted, which pauses the implementation of the NHI Act. Should the implementation of the NHI proceed without clarification of the rand-and-cent aspects, legal challenges may be brought.

Further pieces of legislation that could possibly be used to combat the implementation of the NHI Act include the Consumer Protection Act, which aims to establish and protect consumer rights, such as the right to quality goods and services and to select the supplier of your choice; the Competition Act, which fights against restrictive practices and the abuse of a dominant position; or the Protection of Personal Information Act, which may have implications for the large gathering of personal information that will be necessary for the NHI system to be workable. Another notable piece of legislation to consider is the Promotion of Administrative Justice Act.

Various constitutional challenges

Various constitutional challenges are also rumoured to be in the pipeline, with Solidarity, the Democratic Alliance, the Health Funders Association, the South

African Medical Association, the Board of Healthcare Funders, the South African Health Professionals Collaboration, as well as Business Unity South Africa all having previously suggested that they may consider, or outright declaring that they will take legal action against the Act as soon as Ramaphosa's 'special pen' touches paper.

The NHI Act may be constitutionally challenged on various grounds. To start with, there are concerns regarding the rule of law's requirement that the law be clear, unambiguous, and not vague. The lack of clarity on the benefits and cover provided by the NHI scheme has raised many issues. Not only is the 'what will be covered?' but also the 'who will be covered?' unclear. This not only constitutes legislative vagueness, but this uncertainty also makes it almost impossible to apply our system of checks and balances whereby a determination may be made whether the State is truly adhering to its mandate in Section 27 of the Constitution to take progressive steps to realise the rights enshrined in the Bill of Rights. Litigation may also be instituted based on arguments that Section 33 of the NHI Act,

which may lead to the demise of medical aid schemes, is unconstitutional and that it limits the constitutional provision of access to health-care services. In terms of the limitation clause of the Constitution, a limitation is only justified when, among other requirements, there are no less restrictive measures by which the purpose of the limitation may be achieved. Challenges could also be brought against the NHI Act based on nonadherence to requirements of procedural fairness and the principles of participatory democracy, as the consultation processes preceding the enactment have largely been labelled as mere lip service to consultation requirements without having seriously considered the various concerns, objections, submissions, and comments, and even blatantly dismissing them. Other possible causes of action are related to the infringement of the right to autonomy, privacy, association, freedom of expression, as well as freedom of trade, occupation, and profession.

Law and health care intersect

As the ink dries on the NHI Act, the stage is set for many legal dramas to unfold, indicating that the Act's destiny will be decided by a gavel rather than a pen. While the ceremonial signing marked a historical milestone in the attempt to promote equality in South Africa, the road to implementation is fraught with challenges. With no accompanying money bill in sight and a landscape ripe for constitutional scrutiny, the Act's journey forward is likely to be tumultuous. As stakeholders gear up to challenge its provisions on various fronts – from procedural fairness to constitutional rights – the NHI Act is poised to become

a battleground where the nuances of law and health care intersect. As the curtains rise on this legal saga, the true test of the Act's viability and constitutionality awaits.

More institutional experts can be found at:

www.ufs.ac.za/media/leading-researchers



A new era for reparatory justice

Story Valentino Ndaba

In a landmark event, the University of the Free State (UFS) recently launched the UFS Africa Reparations Hub (ARH), marking a significant milestone in the continent's ongoing quest for reparatory justice. The launch was accompanied by a high-level hybrid colloquium centred on the theme Unifying Africa for Action to Advance Reparatory Justice.

A vision realised

The establishment of the ARH, housed within the Faculty of Law's Department of Public Law, aligns with the UFS Vision 130, demonstrating the university's commitment to fostering dialogue on Africa's reparation. The hub supports a coherent reparation strategy for the continent. It aims to anchor the Africa reparation strategy, host a panel of reparation experts and provide a comprehensive database on reparations.

Khanya Motshabi, Senior Lecturer in Public Law and the event's Programme Director, opened the proceedings by welcoming delegates from across the globe, emphasising the timeliness and importance of the hub's mission. **"This colloquium launch of the UFS Africa Reparation Hub is indeed exciting and auspicious. The theme, Unifying Africa for Action to Advance Reparatory Justice, is an idea whose time has come,"** Motshabi remarked.

A global perspective

Prof Serges Kamga, Dean of the Faculty of Law at UFS, delivered the welcome address, highlighting the need for unity in addressing Africa's historical and contemporary injustices. **"This colloquium is a platform to move the discourse forward, to learn from other disciplines,**

and to create and collaborate to discover solutions to the pressing issues of reparations in Africa and beyond."

The colloquium featured a keynote address by Prof Verene Shepherd, Director of the Centre for Reparations Research at the University of the West Indies, Jamaica. Prof Shepherd, a renowned historian and Vice-Chair of the United Nations (UN) Committee on the Elimination of Racial Discrimination, brought a wealth of experience and perspective to the discussion.

"Any hub focused on reparatory justice that is located within a university, whether in the Americas or Africa must be grounded in a clearly articulated philosophy and rationale for its work. This rationale must be located within the context of conquest, colonial rule built on racial superiority, ethnic hierarchising, racial discrimination, apartheid and post-independence legacies. There is a debt that needs to be paid for the impact of the apartheid experience – a cruel manifestation of colonialism which manifested itself in this philosophy that holds one race superior and another inferior. Seeking repair for colonialism must influence this search for justice and be at the foreground of the work of the hub," said Prof Shepherd.

The event also featured a distinguished panel, including Martin Okumu-Masiga (Secretary-General of the Africa Judges and Jurists Forum) who brought a legal perspective to the discourse; Dr Ahmed Bugri (Senior Expert and Coordinator for Reparatory Justice and Racial Healing at the African Union (AU) who discussed the AU's role in supporting reparatory justice initiatives; as well as Prof Kula Theletsane (Director of the Organ on Politics, Defence, and Security Affairs in the Southern African Development Community) who

explored regional dynamics in the push for reparations. Dr Catherine Namakula, Convenor of the UFS Africa Reparations Hub, moderated the session, guiding the conversation towards actionable strategies for advancing reparations and fostering racial healing across Africa.

Future endeavors

The quest for reparations for past and present injustices in Africa has gained considerable traction, with significant milestones including the AU resolution advocating a united front and the UN recommendations for addressing legacies of systemic racism and discrimination. The hub seeks to build on these foundations by facilitating uncensored dialogue and collaboration on the reparation's agenda.

The ARH's forthcoming initiatives include the preparation of a comprehensive database of reparations information and resources, the assembly of a Panel of Experts on Africa Reparations, and the publication of an edited book titled: Guiding Principles for Africa's Reparations. Additionally, the hub has already begun hosting seminars to further the conversation on reparatory justice.



From left: Sunday Ojo (Researcher: UFS Africa Reparation Hub), Khanya Motshabi (Strategy Lead: UFS Africa Reparation Hub); Prof Shaun de Freitas (Head: Department of Public Law); Dr Catherine S Namakula (Convenor: UFS Africa Reparation Hub); and Dr Shelton Makore (Technical Lead: UFS Africa Reparation Hub).



Winter School confronts the crisis of democratic constitutionalism in Africa

Story Leonie Bolleurs

The African Network of Constitutional Lawyers (ANCL) and the Faculty of Law of the University of the Free State (UFS) recently hosted a Winter School on African Constitutionalism titled Confronting the 'Crisis' of Democratic Constitutionalism in Africa. According to Khanya Motshabi, Senior Lecturer in the Department of Public Law and Strategy Lead: UFS Reparation Hub at the UFS, the 2024 Winter School is a first for Africa.

Motshabi said the aim of the winter school, which was attended by members of the UFS University Management Committee, academia, students, experts in constitutional law, law practitioners, and justices of the Constitutional Court of Zambia, was to gather prominent and emerging African intellectuals, practitioners, judges, and policy drivers to assess the state of democratic constitutionalism in Africa. **"We wanted to explore the progress and failures of the past decades, place African developments in a global context, analyse current problems, and propose solutions for building an African version of democratic constitutionalism that reflects its unique circumstances, challenges, experiences, and popular preferences,"** he commented.

Prof Anthea Rhoda, Deputy Vice-Chancellor: Academic, attended the event, providing opening remarks and emphasising the alignment of the winter school with the university's Vision 130. She highlighted the university's commitment to social justice and its broader mission to impact society by addressing persistent social problems and fostering transformation across the African continent. **"Our vision alludes to the fact that universities are expected to play an important role in providing skills, building the economy, solving persistent**

social problems, and transforming our post-apartheid society," she remarked, adding that the discussion and input of this winter school are not only focused on South Africa, but also aim to confront the issue of democratic constitutionalism across the African continent.

Prof Vasu Reddy, Deputy Vice-Chancellor: Research and Internationalisation, who also attended the event, said, **"This is a highly prestigious meeting that brings a great gathering of African scholars and judges from an apex court in Zambia to Free State soil. A meeting such as yours offers excellent opportunity to think more deeply about African constitutionalism that triggers further engagement on continental development, law, society, and politics."**

Prof Reddy also commented on the theme of confronting the crisis of democratic constitutionalism: **"You engage an important theme and topic. 'Crisis' is an important word and presents possibilities. Not only does it describe the challenges and dangers of wicked problems facing us, but central to its meanings are also the opportunities at our disposal."**

Decline in constitutional democracy

The ANCL and the UFS Faculty of Law are concerned that although constitutional democracy has grown over the past 30 years, it has declined in the past decade. Regimes maintain the appearance of democracy while ignoring its fundamental principles, such as free and fair elections and the rights to speech, expression, and association. Anyango Oyieke, ANCL Secretary-General, noted that effective constitutional democracy requires not

only institutional arrangements, but also an active civil society, strong political parties, and a culture that tolerates differences and exercises power with restraint.

Motshabi and Oyieke believe that despite varied democratic experiences in Africa, many countries have seen a decline in democratic governance marked by constitutional manipulation, intimidation, flawed elections, and military coups. Even where elections are credible, the winner-takes-all mentality undermines governance and delivery of basic needs. High levels of insecurity, stalled poverty reduction, and worsening youth unemployment contribute to a preference for military regimes over democracy. Motshabi and Oyieke observe that the African Union and Regional Economic Communities struggle to fulfil their democratic promises, undermining the legitimacy of democracy and putting constitutionalism and governance in crisis.

The event addressed several key thematic areas, including the development of a theory of African constitutionalism, examining the historical context of constitutionalism and nation-building, and integrating decolonisation within constitutional theory. Discussions also covered human rights and constitutionalism, the establishment of institutions to secure democracy, how effective dictators think, and the use of constitutional petitions as tools to entrench constitutionalism. Additionally, the role of elections and electoral processes in a constitutional democracy was explored, along with the impact of undemocratic changes of government on the principles of constitutionalism.

Valuable insights on African constitutionalism

Frontline constitutional scholars of African descent and colleagues from around the world brought the latest knowledge and valuable insights into African constitutionalism.

Dr Gerard Kamga, Division Coordinator: Research and Postgraduate Programmes in the Free State Centre for Human Rights and Programme Director for Research and Postgraduate Studies in the Faculty of Law, delivered three sessions. The first two sessions explored The Mechanics of (Un)Constitutional Power Transfer in Postcolonial Africa: the case of Françafrique. Dr Kamga's third session addressed Currency, Constitutionalism, and Sovereignty. On the second day, Prof Charles Fombad, Professor of Law and Director of the Institute for International and Comparative Law in Africa at the University of Pretoria, presented on Towards a Theory of African Constitutionalism. Prof Danie Brand, Director of the Centre for Human Rights

and acting Judge of the High Court of South Africa, contributed a presentation on Constitutionalism and Transformation in Africa.

Motshabi himself led sessions on Confronting the Past: Constitutionalism and the Making of a Nation State and Decolonisation and Constitutional Theory. From beyond South African borders, Prof Azubike Onuora-Oguno, Associate Professor in the Faculty of Law at the University of Ilorin and a solicitor and advocate of the Nigerian Supreme Court, discussed Human Rights and Constitutionalism. Oyieke covered How to be a dictator, which analysed how effective dictators think and undermine constitutional democracy. Prof Wahab Egbewole, Professor in the Faculty of Law and Vice-Chancellor of the University of Ilorin, as well as senior advocate in the Nigerian Supreme Court, spoke on Unconstitutional Change of Government. Prof Tameshnie Deane, Vice-Dean: Research and Postgraduate Studies of the UFS Faculty of Law, delivered the final session on Constitutional Petitions as a Tool for Entrenching Democracy.

Democratic governance on the continent

Motshabi concluded that the one-week course aimed to fill an important gap by offering participants the chance to acquire the latest knowledge and information on African constitutionalism. The course provided an analytical and critical appraisal of current issues and the unique opportunity to conceptualise solutions while practising the art of networking. By developing a collaborative environment, the winter school not only highlighted the progress and failures of the past decades, but also encouraged the development of innovative solutions tailored to Africa's unique circumstances. This initiative marks a significant step towards building a strong and dependable system for democratic governance on the continent.



Participants in the Winter School on African Constitutionalism had the opportunity to acquire the latest knowledge and information on African constitutionalism.



Drafting the South African constitution: an account by Justice Albie Sachs

Story Anthony Mthembu

The Faculty of Law at the University of the Free State (UFS) hosted the inaugural Albie Sachs Prestige Lecture on the UFS Bloemfontein Campus on 30 October 2024. The lecture – delivered by Emeritus Constitutional Court Justice Albie Sachs – was titled, 'Who actually wrote the Constitution, and why they gave eleven unelected judges the power to strike down laws and actions of the democratically chosen parliament and president'?

In attendance at the lecture were Chief Justice of South Africa, Mandisa Maya; acting Vice-Chancellor of the UFS, Prof Anthea Rhoda; Judge of the Supreme Court of Appeal, Justice Nolwazi Mabindla-Boqwana; Senior State Advocate, Antoinette Ferreira; Project Director of the Albie Collection and Chair of the Albie Sachs Trust for Constitutionalism and the Rule of Law (ASCAROL), Vanessa September; as well as the Dean of the Faculty of Law, Prof Serges Kamga, among other high-profile guests.

In his opening address, Prof Kamga indicated that the lecture aimed to provide some responses to the core questions about the constitution and constitutionalism in South Africa. As such, Prof Rhoda echoed this sentiment, highlighting that, "when it comes to the events that preceded, surrounded, and followed the drafting and adoption of our country's constitution, there are few commentators better placed than Judge Albie Sachs".

The making of the constitution

As part of his lecture, Justice Sachs gave a detailed account of the making of the South African constitution. According to Justice Sachs, a total of 490 members of parliament came together to draft the constitution, which included members of the National Assembly and the Senate. These members had been mandated by 20 million South Africans who wanted a better future. As such, he described that moment as a "huge accomplishment on the part of the liberation movement".

However, he highlighted that fulfilling this mandate was not an easy task, as it required an enormous amount of thought and mobilisation of legal technology to enable those in power at the time to surrender control of the army, police, and to some extent the economy and law-making, among other aspects. These negotiations resulted in a two-state process of constitution-making, which included the drafting of an interim constitution and the establishment of a parliament that would draft the final constitution.

Justice Sachs indicated that once the constitutional assembly sent the constitutional text to the constitutional court to ensure its compliance with agreed principles, it was found non-compliant in eleven respects, for which they had to find solutions in order for the constitution to be adopted.

As he concluded his address, Justice Sachs underscored his pride in having been involved in what he describes as a wonderfully rich story.

Forging a partnership

Subsequent to the address by Justice Sachs, the Faculty of Law and ASCAROL signed a Memorandum of Understanding (MoU), formalising the Albie Sachs Prestige Lecture as an annual event and allowing further collaboration. In fact, Prof Kamga highlighted that if Justice Sachs was not available to deliver a lecture, the trust would appoint someone in his place. To further solidify this partnership, the faculty was gifted with some of Justice Sachs' works, including books and other materials, for its library.

Prof Rhoda expressed gratitude for this collaborative effort, saying, **"We are grateful to have found such a partner in Justice Albie Sachs and the Albie Sachs Trust. May this relationship continue to blossom and bear fruit – to the benefit of our young leaders of tomorrow."**



From the left (back row): Dean of the Faculty of Law, Prof Serges Kamga; Judge of the Supreme Court of Appeal, Justice Nolwazi Mabindla-Boqwana; Deputy Vice-Chancellor: Research and Internationalisation at the University of the Free State (UFS), Prof Vasu Reddy; Project Director of the Albie Collection and Chair of the Albie Sachs Trust (ASCAROL), Vanessa September; and acting Deputy Vice-Chancellor: Academic at the University of the Free State (UFS), Prof Philippe Burger. **From the left (front row):** Acting Vice-Chancellor of the University of the Free State (UFS), Prof Anthea Rhoda; Emeritus Constitutional Court Justice Albie Sachs; and Chief Justice of South Africa, Mandisa Maya.

Exploring Access to Healthcare and Education for Persons with Albinism

On 12 November 2024, the University of the Free State (UFS) Faculty of Law's Disability Rights Unit, the Faculty of Health Sciences' Dermatology Department, and the Unit for Institutional Change and Social Justice hosted a successful Roundtable Discussion focused on improving access to healthcare and education for persons with albinism.

The roundtable brought together experts, advocates, and stakeholders to discuss the unique challenges faced by persons with albinism in accessing healthcare and education, and to explore potential solutions. The event was organized into four key sessions: 1) Access to Healthcare and Specialised Medical Care; 2) Inclusive Education; 3) Psychosocial Support and Combating Stigma; and 4) Protecting the Rights of Persons with Albinism.

The event began with a warm welcome from Prof. Kamga, Dean of the Faculty of Law, and Prof. Maruma, Head of the Department of Dermatology. Dr. Qhobela, UFS Deputy Vice-Chancellor for Institutional Change, Strategic Partnerships, and Societal Impact, delivered opening remarks, setting the tone for the day. Keynote addresses were provided by Ms. Mazibuko, Director of the Albinism Society of South Africa; Commissioner Teele from the Commission for Gender Equality; and Commissioner Kwinana from the South African Human Rights Commission.

Presenters included representatives from the Africa Albinism Network, Albinism Society of South Africa, Equal Education Law Centre, Global Albinism Alliance, University of Pretoria's Centre for Human Rights, the Mothering and Albinism Project, the National Albinism Task Force, University of Zululand, and UFS CUADS, all of which are organisations working to support persons with albinism.

The event also featured virtual exhibitions of artwork by local artists Ms. Athenkosi Kwinana and Mr. Zamo Ndhlaizi, both

of whom are persons with albinism, showcasing their talents and raising awareness of their lived experiences.

The diverse group of attendees included representatives from the South African Human Rights Commission, Counterpart International, the Department of Social Development, Training Portal, Walter Sisulu University, University of Limpopo, University of Kwazulu Natal universities, UFS students, and members of the broader community.

The roundtable also fostered opportunities for future collaboration between departments, institutions, and organisations dedicated to advancing the rights and well-being of persons with albinism. It laid the foundation for an upcoming international conference on the rights of persons with albinism, scheduled to take place in 2025.



Driving Faculty of Law Research Agenda

The Faculty of Law Research Day 2024 at the University of the Free State (UFS) had a lasting impression on attendees. Held on 19 and 20 September in the Council Chambers, this event showcased the Faculty's commitment to fostering research excellence and innovation, aligning with UFS's Vision 130 to remain a research-led, student-centred institution contributing to societal development.

Day 1 began with a keynote address by Dr Martin Nsibirwa of the South African Human Rights Commission, who explored the Commission's role under Section 184(3) of the Constitution. His insights set the tone for a day filled with engaging discussions across three panels. Panel A

deltved into the intersection of artificial intelligence, technology, and human rights, featuring presentations on AI's impact in Africa, data privacy frameworks, and the legal challenges of anonymous online trolls. Panel B addressed justice, equality, and reparations, with highlights including discussions on colonial reparations, domestic violence justice reforms, and the growing role of science-savvy lawyers. Panel C examined perspectives on litigation and law reform, covering topics such as the contributions of Sir Sydney Kentridge QC and the role of Ubuntu in legal reform.

Day 2 focused on themes of security, ethics, and legal innovation. Panel D explored security and harassment issues,

including post-war human security challenges in Sri Lanka and employer liability in cases of secondary sexual harassment. Panel E highlighted ethics and legal education, emphasising the importance of teaching legal ethics and proposing a "HEART-Law" initiative to integrate community-focused research into law curricula. Discussions also touched on deregulation in civil aviation to advance African free trade and the persistent struggle for spatial inclusivity in South Africa's housing policies.

Throughout the event, speakers, faculty, and attendees exchanged ideas, fostering collaboration across disciplines and promoting a deeper understanding of pressing legal issues.



Reflecting on Bram Fischer's Briefcase on exploring the legacy of apartheid

Story Jacky Tshokwe

On Thursday 14 November 2024, the University of the Free State (UFS) hosted a captivating public lecture titled Bram Fischer's Briefcase: What's Left of Apartheid? The event, held in the Albert Wessels Auditorium on the Bloemfontein Campus, featured Prof Premesh Lalu from the University of the Western Cape as the keynote speaker, with a response from Prof Steven Friedman from the University of Johannesburg.

This thought-provoking evening brought together attendees to explore South Africa's political history through an interdisciplinary lens, blending history, theatre, and art.

Prof Lalu presented a compelling narrative tracing the journey of Bram Fischer's briefcase, which had been exchanged with Sydney Kentridge after the Rivonia Trial. Reimagined in the 1997 theatrical production Ubu and the Truth Commission – created by Jane Taylor, William Kentridge, and the Handspring Puppet Company – the briefcase was transformed into the Dogs of War puppet, symbolising apartheid's enforcers.

Through the lens of this production, Prof Lalu explored the underlying tensions in South Africa's political history, questioning whether Fischer's briefcase revealed apartheid as a tragicomedy – one whose dismantling was crucial for genuine reconciliation in the nation's post-apartheid journey.

Insights from renowned scholars

Prof Premesh Lalu, a respected historian and former Director of the Centre for Humanities Research at the University of the Western Cape, shared his expertise on post-apartheid narratives. Drawing from his extensive research and celebrated publications, such as *The Deaths of Hintsa* and *Undoing Apartheid*, Prof Lalu provided an incisive analysis of the intersection between historical memory and creative expression.

Responding to the lecture, Prof Steven Friedman, an authority on democratic theory and practice, offered his reflections on the themes raised. Drawing on his own body of work, including *Good Jew*,

Bad Jew and his critical weekly column *Against the Tide*, Prof Friedman enriched the discussion with his perspectives on South Africa's democratic evolution and the legacies of apartheid.

The event provided a platform for intellectual engagement and critical reflection, drawing attention to the enduring complexities of South Africa's history and its relevance to contemporary reconciliation efforts. Attendees left with a deeper understanding of how art and history intersect to challenge, reinterpret, and heal societal wounds.

This lecture was a highlight on the UFS academic calendar, reaffirming the university's commitment to fostering dialogue on critical issues shaping South Africa's past, present, and future.



The University of the Free State (UFS) hosted the third Bram Fischer Memorial Lecture. Present at the lecture were from **left to right**: Prof Serge Kamga, Dean for the Faculty of Law, Prof Vasu Reddy, Deputy Vice-Chancellor: Research and Internationalisation, Prof Anthea Rhoda, Acting Vice-Chancellor and Principal of the UFS, Prof Premesh Lalu from the University of the Western Cape who presented the lecture, Prof Steven Friedman of the University of Johannesburg and who responded, and Prof Philippe Burger, Acting Deputy Vice-Chancellor: Academic. At the back is Prof Danie Brand, Director of the Free State Centre for Human Rights.



Student Centeredness

Recognition of Achievement Ceremony

The Faculty extends its heartfelt congratulations to the Class of 2024 Faculty of Law Top Achievers!



Connect to Kovsie

The University of the Free State recently hosted the Connect2Kovsie Grade 12 Open Day on 27 July 2024 at the Bloemfontein Campus. This event welcomed Grade 12 learners from across the region, offering them, along with parents and educators, an opportunity to engage with UFS faculties, explore academic programmes, and envision the possibilities of a transformative education journey at one of South Africa's leading universities. It was a day of inspiration and connection, paving the way for the next generation of leaders



UFS Students Compete in Prestigious International Moot

University of the Free State (UFS) students participated in the Willem C. Vis International Commercial Arbitration Moot held in March 2024 in Austria. This esteemed competition aims to promote the study and practice of international commercial sales law and arbitration.

The Moot centers around a simulated dispute arising from a contract of sale between parties in countries that are signatories to the United Nations Convention on Contracts for the International Sale of Goods. This experience provided UFS students with an invaluable opportunity to engage with complex legal issues on a global platform.



Law Career Week

On 5 and 6 March 2024, UFS Career Services hosted its annual Law Career Week. As the demand for skilled legal thinkers and representatives continues, the UFS takes pride in being a nurturing ground for diverse and impactful careers in law.



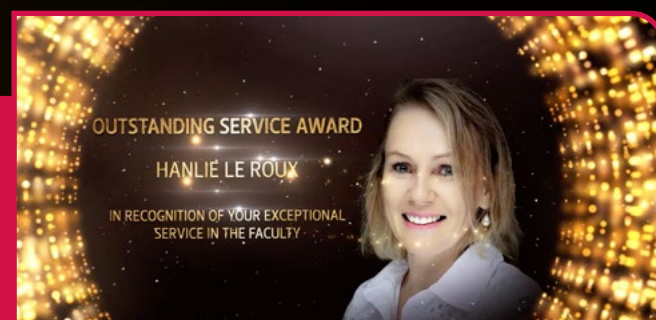
Faculty Awards

Recognition of Achievement Ceremony

UFS Faculty of Law Celebrates Excellence

The Faculty of Law at the University of the Free State recently celebrated outstanding contributions through its Faculty Recognition Awards. Aligned with the UFS Vision 130 framework, the awards honored academic and support staff for their achievements, reflecting the university's values of Excellence, Innovation, Accountability, Care, and Sustainability.

This initiative highlighted the faculty's commitment to fostering inclusivity, collaboration, and progress, reinforcing its role as a key driver of academic and societal advancement.





**Merry Christmas
& Happy Holidays**



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