

Reinhard Zimmermann ontvang eredoktorsgraad in die Regsgeleerdheid

Tydens die Maart plegtigheid sal die graad LLD (honoris causa) aan Reinhard Zimmermann, direkteur van die Max Planck Instituut vir Vergelykende en Internasionale Privaatreg in Hamburg, toegeken word. Zimmerman is een van die invloedrykste regsakademiëci vandag.

Aan die Universiteit Hamburg, waar hy in 1978 sy doktorsgraad in Regsgeleerdheid summa cum laude behaal, ontwikkel hy 'n sterk belangstelling in regsgeleerdheid en regsvergelyking, en veral in die noue band tussen hierdie dissiplines. Alhoewel die verskille tussen Kontinentaal-Europese en Anglo-Amerikaanse regsgeleerdheid tradisioneel as bykans onversoenbaar beskou word, het Zimmermann egter die insig gehad dat die regsgeleerdheid, regsvergelykende en regshistoriese metodes kan gebruik om groter gemeenskaplikhede tussen hierdie regsgeleerdheids en regstelsels te identifiseer, en sodoende kan bydra tot die verstaan en ontwikkeling daarvan.

In sy navorsing verleen hy spesifieke betekenisvolheid aan gemengde regstelsels, soos die Suid-Afrikaanse reg, wat uitgebreide ervaring het in die harmonisering van reëls wat van die sivielregtelike – en *common law* – families afkomstig is.

Ná 'n kort besoek aan Suid-Afrika, waaronder Stellenbosch, in 1978, het hy besluit om sy akademiese loopbaan hier te begin. Op die jeugdige ouderdom van 29 is hy aangestel as die WP Schreiner Professor in Romeinse Reg en Regsvergelyking aan die Universiteit van Kaapstad en sou oor die daaropvolgende sewe jaar 'n prominente rol in die regsakademiëci speel – onder meer as president van die Suid-Afrikaanse Regsdosentevereniging, 'n amp waaruit hy in 1986 bedank het uit protes teen die destydse regering se pogings om inbreuk te maak op die outonomie van universiteite.

In Suid-Afrika het Zimmermann een van die invloedrykste bydraes op die gebied van die privaatrecht in die moderne tyd geskryf, *The Law of Obligations – Roman Foundations of the Civilian Tradition* – al beskryf as die fondament vir 'n moderne histories-gebaseerde Europese privaatrechtswetenskap. Die betekenis daarvan is egter nie tot Europa beperk nie, maar is ook vir regstelsels wat wêreldwyd deur Europese reg beïnvloed is van belang.

In 1988 is Zimmermann as professor in Privaatreg, Romeinse Reg en Historiese Regsvergelyking aan die Universiteit van Regensburg in Duitsland aangestel en vanaf 1994 tot 1996 dien hy as dekaan. Sy opgang in die Duitse regsakademiëci was meteories en in 1996 is hy met die Leibniz-prys bekroon, die hoogste toekening wat in Duitsland aan 'n navorser verleen kan word. Sedert 2002 is hy as direkteur van die Max Planck Instituut vir Vergelykende en Internasionale Privaatreg aangestel.

Zimmermann het noue bande met die Fakulteit Regsgeleerdheid aan die Universiteit Stellenbosch. Trouens, geen ander internasionale akademiëci het in hierdie tydperk meer gedoen vir die internasionale blootstelling van die Suid-Afrikaanse privaatrecht en navorsing op die gebied van privaatrecht aan dié universiteit nie.



Reinhard Zimmermann

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From left to right: Prof Julian Smith (Vice-Rector); Prof GF Lubbe (Dean, Faculty of Law, SU); Prof Judy Fudge (Canada); Prof Ockert Dupper (Organiser, SU); Prof Kamala Sankaran (India); Prof Evance Kalula (University of Cape Town); Prof Sandra Fredman (UK); Prof Sir Bob Hepple (UK); Prof Manfred Weiss (Germany).

Equality in the workplace: Reflections from South Africa and elsewhere

A highly successful conference that placed the Employment Equity Act under the spotlight was recently held at the Wallenberg Research Centre at the Stellenbosch Institute for Advanced Study (STIAS) in September 2008. Themed *Equality in the Workplace – Reflections from South Africa and elsewhere*, the conference was presented by the Centre for International and Comparative Labour and Social Security Law (CICLASS) at Stellenbosch University, in association with the Institute of Development and Labour Law (University of Cape Town) and the Social Law Project (University of the Western Cape).

A number of prominent experts in the field of equality addressed the conference, which

was made possible with the generous financial support of the Konrad Adenauer Foundation. These included international experts such as Professor Sir Bob Hepple and Professor Sandra Fredman (both from the United Kingdom), Professors Manfred Weiss (Germany), Judy Fudge (Canada) and Kamala Sankaran (India). Local experts included Professors Cathi Albertyn (Wits Law School), Charles Ngwena (University of the Free State) and Halton Cheadle (University of Cape Town). A number of judges also participated, including Judge Dennis Davis of the Cape High Court and Judge Dhaya Pillay of the Labour Court.

The conference proceedings will appear in book form later this year.

Regter-President van die Grondeishof praat by Morti Malherbe-gedenklesing

Die gasspreker by die jaarlikse Morti Malherbe-gedenklesing op 1 Oktober was die Regter-President van die Grondeishof, die agbare Fikile Bam. Regter Bam wat hier op die foto saam met die Dekaan van die Fakulteit Regsgeleerdheid, prof Gerhard Lubbe, verskyn, beklee hierdie amp reeds sedert die Grondeishof se ontstaan in 1996. In Januarie 2008 is hy as buitengewone professor in die Departement Privaatreg van die Universiteit Stellenbosch aangestel.

Tydens sy lesing het Regter Bam verskeie van die vraagstukke oor die reg of aanspraak om iemand op 'n ander persoon se eiendom sonder die eienaar se toestemming te begrawe en die reg om sodanig begrawe te word, bespreek. Hy het

ook met sy besoek tyd ingeruim om die studente te ontmoet, en het nog twee lewendige en interessante lesings aangebied.



Regter Fikile Bam en Prof GF Lubbe

ALUMNI NOTICES

LLB Reünie 1979

'n Reünie word beplan vir die LLB klas van 1979. Vir meer inligting kontak asseblief Adv Billy Downer by Bwjdowner@npa.gov.za

Alumni Information

It is important that your contact information as alumnus of this faculty is correct and updated with the University's alumni office. Please visit www.matiealumni.net or contact Malena Fourie at mfour@sun.ac.za in this regard.

NUUSBROKKIES

Matie-alumnus kry eredoktorsgraad van Duitse universiteit

'n Oud-student van die Universiteit Stellenbosch en gerekende regskenner, prof Dirk van Zyl Smit, is onlangs deur die Ernst Moritz Arndt Universiteit van Greifswald, Duitsland, 'n eredoktorsgraad in die Regsgeleerdheid toegeken. Prof van Zyl Smit, professor in vergelykende en internasionale strafwet aan die Nottingham Universiteit in Engeland, het in 1970 die graad BA (Regte) en in 1972 die LLB-graad verwerf aan die US.

Prof Van Zyl Smit was tot die einde van 2005 Professor in Kriminologie aan die Universiteit van Kaapstad en is hy ook 'n advokaat in die Hooggeregshof van Suid-Afrika. Hy was in die afgelope paar jare 'n besoekende professor aan die Humboldt Universiteit in Berlyn asook die Paul Cézanne Universiteit in Aix-en-Provence en ook 'n Senior Fulbright Navorsingsgenoot aan die New York University School of Law. Prof Van Zyl Smit is die mederedakteur van Punishment and Society en het vele artikels oor kriminologiese teorie en oor vonnisoplegging en gevangenskap geskryf.

Hy is ook die skrywer van verskeie boeke waaronder *Taking Life Imprisonment Seriously in National and International Law* (2002), *South African Prison Law and Practice* (1992) en *Prison Labour: Salvation or Slavery? International Perspectives* (1999). Op eie bodem was prof Van Zyl Smit aktief betrokke by regshervorming en was hy die primêre konsultant vir die Wet op Korrektiewe Dienste (1998). Hy was ook 'n lid van die Nasionale Raad vir Korrektiewe Dienste vanaf 1995 tot 2004. Prof Van Zyl Smit was ook die projekteier vir die komitee van die Suid-Afrikaanse Regskommissie wat vonnisoplegging ondersoek het en was hy die skrywer van dié komitee se verslag en konsep-wetgewing getiteld *A New Sentencing Framework* (2000).

Hy was 'n raadgewer vir Malawiese regering oor nuwe gevangeniswetgewing en vir die Council of Europe oor die nuwe European Prison Rules. Hy het ook as raadgewer gedien vir die Verenigde Nasies (VN) se Kantoor vir Dwelms en Misdaad en was sodanig betrokke by die Kantoor se handleiding oor alternatiewe vir gevangenskap.

Deputy Chief Justice Dikgang Moseneke delivers the annual human rights public lecture at the Stellenbosch University Law Faculty

On 22 October Deputy Chief Justice Moseneke delivered the annual human rights public lecture hosted by the Stellenbosch University Law Faculty. The title of Justice Moseneke's address was *Transformative Constitutionalism: Its Implications for the Law of Contract in South Africa*. The lecture was attended by approximately 200 persons representing a cross-section of the bench, members of the bar and side-bar, civil society organisations and students.

In his address Justice Moseneke highlighted the imperative for all forms of power – whether public or private – to be subject to constitutional scrutiny and control. The Deputy Chief Justice recalled key moments in South Africa's history of contract when the courts dispatched equitable normative doctrines in the name of upholding sanctity of contract. He also drew attention to the paradox that despite rigorously holding public state organs to account for their constitutional obligations, the courts "have shown remarkable slowness, or perhaps reticence in allowing the fundamental rights or values of our constitution to influence the law of contract through direct or indirect horizontality".

The Deputy Chief Justice concluded his lecture by observing that "those who plead cases before court are themselves steeped in a tradition that

seeks to preserve rather than innovate legal reasoning and rules particularly within the sphere of the common law. The result is that reliance on constitutional provisions is often half-hearted and an afterthought." These observations are of special relevance for legal academics and practitioners in South Africa. They challenge us to greater intellectual rigour in exploring the implications of constitutional rights and values for both public and private law, including areas such as the law of contract which have traditionally been immune from the influences of human rights law.

The Stellenbosch Law Faculty wishes to express their appreciation to Webber Wentzel for sponsoring the Annual Human Rights Lecture series of the Faculty.

Visiting professor appointed as judge of the International Criminal Court

Prof Christine van den Wyngaert, a former visiting professor who still maintains a close relationship with the faculty of law, was appointed as a permanent judge of the ICC at a meeting in New York. At present she is a judge of the UN tribunal for the former Yugoslavia in The Hague. Prof van den Wyngaert taught criminal law and international criminal law at the University of Antwerp, Belgium. The ICC, with its seat in The Hague, is the first permanent international tribunal with jurisdiction to try individuals accused of war crimes, crimes against humanity and genocide.

Fellow of the Royal Society of SA

Prof AJ van der Walt from the Department of Public Law was recently elected as a Fellow of the Royal Society of SA. The Royal Society of SA was established in 1908 according to a royal charter and aims to promote academic and research activity in South Africa.



Deputy Chief Justice Moseneke

ISP Project: Faculty of Law and Legal Aid Clinic 2009–2011

Combating Poverty, Homelessness and Socio-Economic Vulnerability under the Constitutional Dispensation

The Law Faculty is pleased to announce the launch of a new research and outreach initiative focused on combating poverty, homelessness, and socio-economic vulnerability under the Constitutional dispensation. As part of its Institutional Strategic Plan (ISP), the University of Stellenbosch has approved a start-up grant of R6 880 000 over three years (2009-2011) to help get the project off the ground. The project will bring together the research efforts of several members of the Law Faculty and the community outreach efforts of the Legal Aid Clinic to energise and accelerate the Law Faculty's work in this important area of the law.

The fresh injection of funding will enable members of the Law Faculty to intensify their research on topics impacting upon poverty and inequality. Research initiatives will examine various facets of the question: how can the 1996 Constitution, with its justiciable Bill of Rights, be used to roll back historical trends of social and economic marginalisation? The research will extend not only into Constitutional interpretation, but also into implications for law-making and policy-making across a broad spectrum.

The project has a strong training focus. It will enable the Law Faculty to recruit and fund 20 to 30 new full-time postgraduate students to write master's and doctoral theses within the broad area of law and poverty. Plans are in place to provide intensive training and advisory support to such students, both to assist them in succeeding in their academic programmes and to equip them to become catalysts for social transformation as they enter the work force. Thematic workshops, conferences, and lectures throughout the year will help to integrate individual participants' research efforts into a collaborative whole that is greater than the sum of its parts.

On the practical side, the project will augment the efforts of the Faculty's Legal Aid Clinic as it works to reduce marginalisation by ensuring access to legal services for disadvantaged communities. Through its contributions in cases involving evictions from land and housing, debt relief, family violence and access to resources such as social grants, the Clinic is well-placed to identify and litigate potential test cases relating to constitutional rights, which can in turn help to set rights-enhancing precedents for the benefit of other similarly marginalised communities.

The project is coordinated by Professor AJ van der Walt (*South African Research Chair in Property Law*) and Professor Sandra Liebenberg (*HF Oppenheimer Chair in Human Rights Law*). Professor van der Walt's contribution concentrates on Land, homelessness and social vulnerability, while Professor Liebenberg will focus on socio-economic rights. The rest of the group is made up by Professor Juanita Pienaar (*Land reform and security of tenure*), Professor Henk Botha (*Consolidating and deepening democracy*), Professor Lourens du Plessis (*Legal and constitutional interpretation*), Professor Geo Quinot (*Administrative justice*), Professor Ockert Dupper (*Equality, redress and poverty relief*) and Ms Marion Hattingh (*Legal Aid Clinic*). The project is managed by Ms Julie Maupin, a specialist in international economic law with Juris Doctor and Masters degrees from Yale University.

Although the project only got off the ground in early January, the first group of postgraduate students has been registered, and plans for the first training sessions and workshops are already underway.

LLM Programmes at Stellenbosch University, Faculty of Law



The faculty of law offers two LLM by course work programmes for the 2009 academic year.

LLM BY COURSE WORK

For this programme students are required to complete four modules of their choice as well as a studyproject of 10 000 to 15 000 words. A wide variety of modules are on offer and with this programme, students are able to compile their own programme based on their specific academic interest. Modules from which students can make their selection include: Advanced Company Law, Competition Law, Employment Discrimination, Employment Rights, International Tax Law, International Business Transactions, International Commercial Arbitration, Information Technology Law, Intellectual Property Law, Public Law Aspects of International Trade, Comparative Private Law, International Law and Children's Rights, Comparative Apartment Ownership, Law of Trusts, Advanced SA Human Rights Law, International Criminal Law, Legal Medicine, Selected issues in Labour and Social Security Law and Corporate Acquisitions.

LLM INTERNATIONAL TRADE LAW

For this specialised programme students are required to complete the following three compulsory modules: International Business Transactions A and B as well as International Commercial Arbitration. Students must also choose a fourth module, either International Tax Law or Public Law Aspects of International Trade. They must complete a studyproject of 10 000 to 15 000 words.

Admission requirements and application procedure

A student with an LLB degree conferred by this University or any other bachelor's degree in Law (excluding the Bluris degree) and who has attained an average of 60% in the final year of this degree or a comparable achievement in another (for example, foreign) qualification, or a student who has attained a level of proficiency or accomplishment in Law which, in the judgement of the Faculty, is regarded as adequate for this purpose, may apply in writing to read for a Master's degree in Law. Every application will be considered on merit.

Prospective students should apply before 15 December at <http://sun025.sun.ac.za/portal/page/portal/Maties/English>

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