

North West University (NWU) Virtual Colloquium on Corporate & Financial Markets Law

Theme: Embracing technology in corporate, securities and financial markets law and the combating of financial crimes in the 4th industrial revolution

PROGRAMME

29 and 30 October 2020 –Virtual, Faculty of Law, NWU

Registration: To be done prior to the colloquium dates

DAY 1		THURSDAY 29 OCTOBER 2020	
09:00-09:30	Registration		
09:30-09:35	Welcome and Opening	Prof S De La Harpe, Executive Dean, NWU	
		KEYNOTE SESSION 1 – Chair: Prof M Carnelley, Research Director (NWU) KEYNOTE ADDRESS: Prof R Taplin (University of Leicester, United Kingdom)	
<p>Biography: Prof Ruth Taplin is the author of 23 books, over 200 articles, the first featured author of Routledge in Asian Studies, the Editor and Founder of the Interdisciplinary Journal of Economics and Business Law (IJEEL), the Director of the Centre for Japanese and East Asian Studies and holds a Doctorate from the London School of Economics in Economics. She has a number of Visiting Professorships and has a Graduate Diploma in Law. She writes many articles on Intellectual Property, Valuation, Cyber Risk, Finance, Securities, Innovation and Enterprise.</p> <p>Key note address: Prof Ruth Taplin, University of Leicester</p> <p>Cyber Risk and Intellectual Property Theft</p> <p>Abstract The desire to steal the Intellectual Property (IP) of others by creative individuals or the fruits of company teams working in patent pools to create new innovations remains the same. Political methods have become more sophisticated in terms of devaluing the output of creative humans by creating open source access which can be taken freely by all and sundry. What has changed is the new cyber based technology that allows theft of IP to occur more easily whether for pecuniary or self-aggrandising motives. Therefore, when planning to mitigate cyber risk, threat and attack, the centre of the enquiry should not be prevention based on statistical modelling nor solely Information Technology (IT) packages but on the human based variables. Hackers cannot steal Intellectual Property without human ignorance/error, collusion, grudges, greed, malice and geo-political imperatives. Therefore, it is important to understand how the technology works, such as the multi-connections of Internet of Things (IoT) devices that allows through interconnectivity so many more ways for hackers to exploit the weaknesses in so many connections to enter computer network systems; but it is also essential to understand the human motivation for the hacking. It is also of the essence to look internally in an organisation to find those with a motivation to carry out cyberattacks to undermine computer systems without being caught. Certain sectors are the most targeted including those dealing with finance, securities and with the current coronavirus pandemic, vaccines, medicines and medical records. There are a number of solutions which can be used to good effect.</p>			
09:35 – 09:55	Cyber Risk and Intellectual Property Theft, Prof Ruth Taplin, University of Leicester		
09:55 -10:00	Comfort Break		
SESSION 1 (Chair: Dr JC Kanamugire, NWU) – Aspects of Corporate Law & Practice: Panel Discussion			
10:00 –10:15	<i>The Legal Meaning of a Shareholder in other Business Enterprises in South Africa</i> , Dr N Kilian, NWU		
10:15 –10:30	<i>Judging the Conduct of Non-Executive Directors Who Involve Themselves in the Day-to-Day Operations of their Companies in South Africa</i> , Prof TH Mongalo, Wits University		
10:30 –10:42	<i>The Economic Impact of the Covid-19 Pandemic: The South African Insolvency Law Experience</i> , Prof J Calitz, University of Johannesburg		
10:42 –10:50	Q & A		
SESSION 2 (Chair: Dr O Animashaun, NWU) – Technology, Corporate Law & Practice			
10:50 – 11:10	<i>A Legal Analysis of the Regulation and Use of Technology to Promote Corporate Social Responsibility of Mining Companies in Swartruggens Area (North-West Province)</i> , Mr TI Sethunyane, LL.M Candidate, NWU		
11:10 – 11:30	<i>Is the South African Pension Law Legislative Framework Equipped to Adequately Address the Mismanagement of Retirement Fund Assets?</i> Mr C Marumoagae, Wits University		

11:30 –11:50	<i>Mainstreaming Black African Women into Managerial Positions in the South African Corporate Sector in the Era of 4IR, Mr D Matotoka & Prof KO Odeku, University of Limpopo</i>
11:50 –12:00	Q & A
12:00 –13:00	Lunch
KEYNOTE SESSION 2 – Chair: Dr N Kilian, NWU	
KEYNOTE ADDRESS: Dr TV Warikandwa, University of Namibia	
<p>Biography: Dr Tapiwa Victor Warikandwa - holds a Doctor of Laws in International Trade Law. He is a Senior Lecturer and Head of Department in the Faculty of Law at the University of Namibia. He specialises in International Trade Law, Labour Law, Indigenisation Laws, Mining Law and Constitutional Law amongst other disciplines. Prior to coming to Namibia, Dr. Warikandwa worked as a legal officer and later legal advisor in the Ministry of Public Service Labour and Social Welfare in Zimbabwe. Key amongst his duties was legal drafting. Dr Warikandwa worked with the law reviser of the Ministry of Justice in Zimbabwe in reviewing laws administered by the Ministry of Public Service Labour and Social Welfare. Dr Warikandwa also completed an ordinary and advanced training in Labour Law Making at the International Labour Organization's International Training Centre in Turin Italy. On numerous occasions, Dr. Warikandwa was actively involved in the activities of the Cabinet Committee on Legislation on behalf of the Ministry of Public Service Labour and Social Welfare. Dr. Warikandwa has since written books on labour law and women's rights in South Africa and Namibia amongst others, as well as publishing articles in accredited peer reviewed journals such as Law, Development and Democracy, Speculum Juris, Journal for Black Studies, Potchefstroom Electronic Law Journal, Comparative International Law Journal for Southern Africa and the African Journal of International and Comparative Law, Juridical Tribune, amongst others. He was also a Post-doctoral Fellow and has also worked as a senior lecturer at the University of Fort Hare in South Africa. Dr Warikandwa studied for his Bachelor of Laws, Master's degree and Doctoral degree at the University of Fort Hare in South Africa. He currently is the Chief Editor of the Namibian Law Journal and the Managing Editor of the SADC Law Journal.</p> <p>Key note address: Dr Tapiwa Victor Warikandwa, University of Namibia</p> <p>Cybercrime, Data Sharing and the Financial Services Market: An appraisal of South Africa's Protection of Personal Information Act 4 of 2013</p> <p>Abstract The global financial services market has witnessed a substantial increase in cybercrime in the contemporary era. Increases in cybercrime related to the financial services market have prompted financial regulators to pass new laws and regulations aimed at curbing the rate of occurrence of cybercrimes related to data sharing. To that end, banks and businesses in Europe have swiftly moved to comply with the European Union's 2018 General Data Protection Regulation (GDPR). Whilst it is accepted that data protection regulation is not a new concept in Europe, many African countries do not have laws on data protection. This implies that there is need to pass or develop laws on using personal data, in order to curb potential cybercrime in the financial services market in most African countries. With the financial services market being highly susceptible to cyber risks owing to the digitization of the financial sector, it is imperative to examine the adequacy of South Africa's regulatory framework in so far as the protection of personal or group data in the financial services market is concerned. This article thus examines South Africa's Protection of Personal Information Act 4 of 2013 (POPIA) with a view to ascertaining its suitability and/or adequacy in protecting personal or group data in the country's financial services market. With the global Covid-19 pandemic bringing about issues around contact tracing and the creation of databases pertaining to delicate personal information, there is need to test the POPIA's conformity with strict European Union guidelines relating to GDPR.</p>	
13:00 – 13:20	<i>Cybercrime, Data Sharing and the Financial Services Market: An appraisal of South Africa's Protection of Personal Information Act 4 of 2013, Dr Tapiwa Victor Warikandwa, University of Namibia</i>
SESSION 3 (Chair: Mr C Marumoagae, Wits University) – Technology, Corporate Crime & Practice	
13:20 – 13:40	<i>Corporate Governance and Corporate Corruption in Namibia: Strategic Approaches in the 4th Industrial Revolution, Dr N Asheela-Shikalepo, University of Namibia</i>
13:40 – 14:00	<i>The Role of Cutting-edge Technology in Combating Corporate Fraud in South African Companies, Ms PC Mothibi, LLM Candidate, NWU</i>
14:00 – 14:20	<i>The Regulation and Use of 5G Technology to Combat Cybercrime in the South African Banks, Ms PT Ncube, University of Pretoria</i>
14:20 – 14: 30	Q & A
14:30 – 15:00	Tea/Coffee and comfort break
SESSION 4 (Chair: Prof TH Mongalo, Wits University) – Technology, Financial Markets Law & Practice	
15:00 – 15:20	<i>The Nexus Between Mobile Money Regulation, Innovative Technology and the Promotion of Financial Inclusion in Zimbabwe, Mr E Torerai, LLD candidate, NWU</i>

15:20 – 15:40	<i>Lifestyle Audits of Public Officers in Nigeria: A Cure for Corruption and Tax Evasion?</i> , Dr O Animashaun, NWU
15:40 – 16:00	Shareholder Oppression as Conduct Repugnant to Public Policy”: Infusing The Concept of Ubuntu in the Interpretation of Section 163 of the Companies Act 71 of 2008, Adv A Sibanda
16:00 – 16:15	Q & A
16:15	End Day 1
DAY 2	FRIDAY 30 OCTOBER 2020
09:00 – 09:30	Registration/Tea/Coffee
	KEYNOTE SESSION 3 – Chair: Prof L Ndlovu, Dean of Law, UNIVEN KEYNOTE ADDRESS: Prof T Gutuza, University of Cape Town (UCT)
	<p>Biography: Prof Tracy Gutuza is currently an Associate Professor in the Department of Commercial Law and is involved in the teaching of both undergraduate and postgraduate law students, in the areas of tax law, corporate finance law, basic contract law and company law. After obtaining her LLB at UCT in 1995, A/Prof Gutuza completed her articles and was admitted as an attorney in 1997. Thereafter she worked as a legal advisor at a niche commercial bank and at an oil company and focused on property, finance and tax. In 2003, after completing her first LLM at UNISA and her second LLM at University College London, A/Prof Gutuza joined the UCT Law Faculty as a lecturer in business law. A/Prof Gutuza spent 8 months at SARS in 2014/2015 in the Legal and Policy division, and re-joined the faculty in March 2015. A/Prof Gutuza is the UCT convenor of the Get Smarter online course on tax, and has also presented a number of short courses on International Tax Law, Islamic financing and the tax aspects of securitisation, corporate finance and tax administration. Her research interests are in the areas of business law, tax law, finance law, international tax law and legal education. Her PhD thesis focused on the methods used to relieve international double taxation in South African domestic legislation and tax treaties entered into by South Africa.</p> <p>Key note address: Prof Tracy Gutuza, UCT</p> <p>The Protection of Data: Is South African Financial Information Safe?</p> <p>Abstract: In order to adequately embrace the digital economy, to use technology in corporate, securities and financial markets law and to combat financial crimes in the 4th industrial revolution, information and data must be available to the market and to the regulatory authorities. This availability is however limited by the South African Constitution which provides that everyone has a right to privacy, which includes a right to protection against unlawful collection, retention, dissemination and use of personal information. The balance between the availability of information and data on the one hand, and the limitation of the right to privacy on the other hand, is found in the South African Constitution through the provision that certain rights, which includes the right to privacy, can be limited to the extent that the limitation is 'reasonable and justifiable in an open and democratic society based on dignity, freedom, and equality'. It is in this context that the question which this article seeks to consider is the retention and dissemination of information and data. This includes the certainty that information and data is not unlawfully disseminated, leaked or stolen from those to whom such information is provided. South Africa, like many other countries, has enacted legislation to protect and secure such information. However, the growth and regulation of, inter alia, the digital economy and financial markets, means that increasing information and data is collected and retained. The first question to be asked in this context is whether the South African law and structures are adequate in protecting the retention and dissemination aspects of the right to privacy. The second question follows on the first question and considers the rights of financial market participants when providing information in a regulatory context. The third question considers the dissemination and use of information in a cross - border context, where information is shared with a foreign government, both by way of request and automatic exchange of information. The objective of this article is therefore to highlight the concerns and legal constraints in the dealing with the retention and dissemination of data and information, bearing in mind that data and information will play an increasingly important role in the global digital economy.</p>
09:30 – 09:50	<i>The Protection of Data: Is South African Financial Information Safe?</i> , Prof T Gutuza, UCT
	SESSION 5 (Chair: Dr TV Warikandwa, UNAM) – Financial Law, Technology & Financial Crime
09:50 – 10:10	<i>Mobile Banking and Mobile Money: Prospects and Challenges</i> , Dr MG van Niekerk & NH Phaladi, University of Limpopo
10:10 – 10:30	<i>Supervisory and Intelligence Technology (Suptech) to Combat Money Laundering and Financing of Terrorism in Africa: Efficiency and Surveillance</i> , Prof L de Koker, La Trobe University

10:30 – 10:50	<i>The Regulation of Financial Markets for Low Income Earners in South Africa</i> , Dr JC Kanamugire, NWU
10:50 – 11:00	Q & A
11:00 – 11:20	Tea/Coffee and comfort break
	SESSION 6 (Chair: Prof D Zongwe, Walter Sisulu University) – Financial Economic Law, Technology & Practice
11:20 – 11:40	<i>Extracting Value from Intellectual Property as A Corporate Asset: Some Artificial Intelligence (AI) Reflections</i> , Prof L Ndlovu, UNIVEN
11:40 – 12:00	<i>Class Actions in Competition Law Damages Cases</i> , Prof K Moodaliyar, Wits University
12:00 – 12:20	<i>Copyright as Collateral in Securities Lending Transactions: A Comparative Analysis Between South Africa and Ohada States</i> , Dr CJ Nwabueze, Enugu State University of Science and Technology
12:20 – 12:25	Q & A
12:25 – 13:25	Lunch
	SESSION 7 (Chair: Dr MG van Niekerk, University of Limpopo) – Financial Law, Technology & Financial Crime
13:25 – 13:45	<i>Paying in: Adapting Payment Law and Technology for Financial Inclusion in South Africa</i> , Prof D Zongwe, Walter Sisulu University
13:45 – 14:05	<i>An Analysis of Regulation and the Use of Machine Learning Systems to Combat Money Laundering and Terrorist Financing Activities in the South African Banking Sector</i> , Ms D Ndhlovu, LLB candidate, NWU
14:05 – 14:20	<i>Towards Ingenious Technology and the Robust Enforcement of Financial Market Laws to Curb Money Laundering in Zimbabwe</i> , Mr M Ncube, LLD candidate, NWU
14:20 – 14:30	Q & A
	SESSION 8 (Chair: Dr N Asheela-Shikalepo, University of Namibia – Corporate Finance Law, Technology & Financial Crime
14:30 – 14:50	<i>The Reliance on Artificial Intelligence Measures to Curb Money Laundering Practices in the South African Banking Institutions and Real Estate Sector</i> , Prof HT Chitimira, NWU
14:50 – 15:10	<i>Reconciling the ‘Bittersweet Chemistry’ Between Technology and Corporate Takeovers Through Reinforcement of the National Security Interests in Merger Control</i> , Mr J Mudzamiri, LLD candidate, UFH and Prof P Osode, University of Fort Hare (UFH)
15:10 – 15:30	<i>The Integration and Reliance on Technology to Enhance Transparency, Independence and Accountability by Company Directors in South Africa</i> , Dr F Hamadziripi, NWU
15:30 – 15:50	Q & A
	SESSION 9 (Chair: Prof P Osode, UFH – Corporate Finance Law, Technology & Financial Crime
15:50 – 16:10	<i>A Legal Analysis of the use of Innovative Technology in the Promotion of Financial Inclusion for Low-Income Earners in South Africa</i> , Mr PT Magau, LLD candidate, NWU
16:10 – 16:30	<i>Cryptocurrency: Can the Unruly Enigma of Fintech be Regulated?</i> Dr F.O Ukwueze, University of Nigeria
16:30 – 16:50	<i>The Regulation of Competition Between Firms in a Rapidly Technological Developing Banking Industry in South Africa</i> , Dr T Kondo, University of the Western Cape
16:50 – 17:00	Q & A
17:00 – 17:05	Vote of Thanks: Prof HT Chitimira
	End Day 2

