

DULLAH OMAR INSTITUTE

ANNUAL REPORT 2016

ORGANISATIONAL OVERVIEW

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THE INSTITUTE AT A GLANCE

FINANCES	2013	2014	2015	2016
Total income	R12 427 942	R 15 986 937	R 18 915 028	R 16 105 089
Total expenditure	R 12 687 435	R 14 367 186	R 16 907 226	R 17 719 207
STAFF				
Males	14	14	14	11
Female	17	17	20	21
NRF Rated	2	2	3	3
Staff with PhDs	7	10	10	8
Nationalities	12	11	9	10
Total number of staff	31	31	34	32
ACADEMIC OUTPUT				
Books	2	4	4	4
Chapters in books	14	9	28 (3*)	10 (*4)
Peer-reviewed articles	18	15	33 (23*)	23 (*11)
Doctoral degrees	4	2	3	1
OTHER OUTPUTS				
Research reports	14	22	22	11
Submissions	25	23	12	27
Conferences	2	3	2	4
Workshops and seminars	13	17	22	44
Conference Papers	37	15	9	15
MEDIA				
Print/online		25	23	18
TV/radio		25	46	31
Facebook average unique visits per post			3100	4 500 views per post
Website visits			4 702	5 371 (77% from South Africa)
Facebook	512	952	1 350	1 420 likes
Twitter	164	220	321	1050 followers

*The numbers in brackets represent publications produced by research fellows

DIRECTOR'S OVERVIEW

Introduction

2016 was a turbulent year, with students protesting on South Africa's university campuses and demanding free, 'decolonised' higher education. In other major developments, a landmark local government election resulted in a peaceful transfer of power in the country's economic centres; at the same time, deep political divisions fractured the state at every level.

There is a growing disjuncture between, on the one hand, the promise of dignity and equal worth for all, and, on the other, the lived reality of the vast majority of South Africans. Spaces for civic action are closing, and our legislatures do not hold executives to account. Civil society, the media and the courts have become the last line of defense against state corruption and dysfunction.

All of this is unfolding against the backdrop of a stagnant economy, service delivery failures and a steady rise in violence perpetrated against foreigners. Meanwhile, the digital revolution continued to transform society in unpredictable ways, opening up plentiful opportunities but also eroding the distinction between fact and fiction.

It was, consequently, all the more important for the Dullah Omar Institute to remain steadfast in working towards social justice in a constitutional democracy through engaged research, teaching and advocacy.

The staff of the Institute are passionate about social justice and the importance of evidence-led policy engagement, and in 2016 they again achieved extraordinary successes. Our partnerships with funders and the University were essential to these accomplishments. I am thus proud to present the highlights of our activities, outcomes and impacts for 2016.

Professor Jaap de Visser

Director

Research

The Institute conducts research of various kinds. Often we do it as part of international research partnerships. For instance, Lukas Muntingh and Jean Redpath undertook an audit of Kenya's criminal justice system in association with Kenyan partners. Nico Steytler edited a book on concurrent powers in federal systems that brought together scholars from around the world.

Sometimes our research outputs originate in postgraduate work. Examples are Derek Powell's book *State Formation after Civil War: Local Government in National Peace Transitions* and Aquinaldo Mandlate's book *Implementing the Convention on the Rights of the Child in Lusophone Africa*. These works, both published in 2016, were based on doctoral theses, and underline the value of our postgraduate programme.

The Institute's research is always purpose-driven. It aims to contribute to the solution of real problems, or to influence processes in the direction of social justice. For example, the Women and Democracy Initiative (WDI) launched a research project examining the power structures and dynamics of the National Health Insurance. Aquinaldo Mandlate, Benyam Dawit Mezmur and Maria Assim of the Children's Rights Project (CRP), together with Prof Julia Sloth-Nielsen and Jill Stein, as well as Marilize Ackermann from the Scalibrini Centre Cape Town, investigated the status of unaccompanied migrant children in parts of Mozambique, South Africa, Zambia and Zimbabwe. Jaap de Visser commenced a research project, examining whether and municipal planning by-laws are contributing to addressing spatial injustice.

The table below shows the Institute's main research outputs.

ACADEMIC OUTPUT	2013	2014	2015	2016
Books	2	4	4	6 (*2)
Chapters in books	14	9	28 (3*)	16
Peer-reviewed articles	18	15	33 (23*)	23 (*11)
Doctoral degrees	4	2	3	1

Convening conferences, seminars and roundtables is critical to our work. They are vehicles for us to debate and refine our research as well as enhance its impact by introducing it to the relevant sectors or the public at large. In 2016 we convened 66 such events, often in collaboration with partner institutions.

One highlight was an armchair discussion, convened by the Civil Society Prison Reform Initiative (CSPRI), at which Adv Vusi Pikoli, Prof Pierre de Vos and Jean Redpath reflected on the future of the National Prosecuting Agency. Another example is the conference entitled 'Decentralisation and Constitutionalism in Africa', which was convened by Nico Steytler, the University of Pretoria and the Stellenbosch Institute for Advanced Studies.

We hosted numerous other seminars and roundtables. They covered an array of topics, such as specialised law enforcement agencies, coalitions in local government, ethnic federalism in Ethiopia, the right to housing, increasing civil society's capacity to engage

with legislatures, and many more.

Advocacy and public scholarship

In doing engaged research, we do not want our work limited to academic publications and hidden behind paywalls. Central to our mission is taking research into the public domain, bringing it to the attention of policy- and law-makers, and mobilising to challenge the injustices we encounter.

Our advocacy takes diverse forms. Often we use international law and organisations as levers for advocacy work. For example, when international bodies review South Africa's track record in human rights, the Institute will seek to hold the government accountable to international norms. In 2016, we did this on several occasions:

- The WDI coordinated the Alternate Report Coalition, which tracked the examination of South Africa by the United Nations (UN) Committee on the Rights of the Child (UNCROC).
- We also made a submission to the UN Human Rights Council as part of the Universal Peer Review of South Africa. We urged the government to, amongst other things, end impunity around torture, make special arrangements to prosecute gender-based violence, redouble its efforts to reduce infant mortality and ensure that each child has a birth certificate.
- A third example is the shadow report which CSPRI submitted to the UN Human Rights Council when the latter reviewed South Africa's compliance with the International Covenant on Civil and Political Rights.

Furthermore, since 2005 we have used our observer status with the African Commission on Peoples' and Human Rights (ACPHR) to bring human rights violations to its attention. An important strategy for maximising our impact in this regard is to convene regular side-events at sessions of the ACPHR. For example, CSPRI's Kristen Petersen chaired such an event, on prisons and conditions of detention in Africa, at the Commission's 58th Ordinary Session.

Our excellent relationships with many international organisations provide opportunities for conducting targeted advocacy around key social justice issues. For instance, Benyam Mezmur presented at a number of side-events of the UN Human Rights Council, addressing matters such as online sexual exploitation and children's right to education. Lukas Muntingh presented at a seminar hosted by the UN Special Rapporteur on Torture, and Derek Powell was invited to the first-ever UN Data Forum.

Most of our advocacy is conducted in partnership with other civil society organisations. Together with our partners, we have campaigned on issues such as the establishment of sexual offences courts, special needs housing, the decriminalisation of sex work,

making international socio-economic rights justiciable, a transparent Parliament, and the right to education of children with disabilities.

As we are an academic institution and act in partnership with others, we are in a position to help build the capacity of civil society organisations to undertake advocacy. The WDI's Samantha Waterhouse and Vivienne Mentor-Lalu lead Parliament Watch, a project made up of 11 such organisations which we empower to monitor South Africa's legislatures. Similarly, Gladys Mirugi-Mukundi and Ebenezer Durojaye of SERP, working with the Cape Town Refugee Council, commenced a project to provide civic education on refugees and human rights in South Africa.

Accessible advocacy materials help to raise awareness and equip civil society institutions and the public to be active citizens. Our staff have a thorough knowledge of law and policy in their fields and are excellent communicators. Using contemporary technology, we are hence able to develop advocacy materials which are grounded in research yet accessible to the public. For example, CSPRI produced a video clip in English and French highlighting the travesty of criminalising petty offences like begging and loitering; the laws and regulations in this regard are invariably used to target poor and marginalised groups such as street traders, sex workers and beggars. Another example related to elections: with 2016 having been a local-government election year, SARChI supported free and fair elections by producing a manual on municipal elections and an accompanying video, *Know What You are Voting For*.

Litigation

Sometimes, the Institute supports public interest litigation, usually by submitting expert advice or contributing to court papers. For example, CSPRI's Jean Redpath submitted an expert affidavit to the Equality Court in a case dealing with the allocation of police resources. SERP's Ebenezer Durojaye contributed to an *Amicus Brief* to the UN Committee on Economic Social and Cultural Rights in a case against Spain involving forced evictions.

Impact

The impact of policy research and advocacy is not easy to measure. Law, policy and practices in government are shaped by innumerable factors, including the contribution made by particular submissions, reports, campaigns or works of research. However, that does not mean we cannot point to specific successes. For example, the fact that the Criminal Procedure Act now provides that there is no statute of limitations for torture is a result of CSPRI's submission to Parliament. Our submission to the Department of Agriculture and Fisheries on the Preservation and Development of Agricultural Land Bill,

2016 resulted in significant changes to the Bill and triggered a dedicated visit to the Institute by senior managers of the Department. The WDI's leadership of the Alternate Report Coalition to the UNCROC was commended by international structures as a best practice. Furthermore, the Committee's recommendations to South Africa very clearly reflect the work led by WDI.

We have also seen a marked improvement in the abilities of our partners in Parliament Watch to engage effectively with legislatures. Lastly, our impact is manifest when research outputs feature consistently and prominently in academic and other media. For example, ACSL's *Civic Protest Barometer*, *Municipal Audit Barometer* and *Capable Cities Index* are regularly cited in media, academic journals and key reports such as the 2016 edition of the *State of the Cities* by SA Cities Network.

Countries in transition

International organisations have come to use the knowledge and expertise of our staff members in their efforts to assist countries dealing with conflict. For example, the Forum of Federations appointed Nico Steytler to be part of a programme to train senior Somali politicians and officials in federalism. The Swiss Embassy appointed him to do the same with civil servants and politicians in Sri Lanka. The Forum of Federations appointed Jaap de Visser as an international expert on a mission to Nepal to engage with governments, academics, journalists and civil society organisations on Nepal's transition to a federal system.

Teaching and supervision

Postgraduate teaching and supervision are integral to the Institute's mission. For the eighth consecutive year, we convened the Masters Programme in Multilevel Government, under the auspices of the South African Research Chair in Multilevel Government; for the sixteenth consecutive year, we partnered with the University of Pretoria and hosted students of the Masters in Human Rights and Democratisation in Africa for the second half of their studies. Our collaboration with the Center for Federal Studies in Addis Ababa University is intensifying and has produced its first doctoral degree, co-supervised by Jaap de Visser. Ngcimezile Mweso, who conducted her doctoral studies with the support of the Institute, graduated with a thesis on the right to water in Malawi.

2016 also saw the tenth and eleventh edition of the Doctoral Colloquium, a twice-yearly platform for doctoral students of the Faculty of Law to discuss work in progress. We 'exported' the concept to Ethiopia and convened a doctoral colloquium in collaboration with the Center for Federal Studies, the European Academy (EURAC) and Fribourg

University.

Through Benyam Dawit Mezmur, the Institute makes an important contribution to managing the University's postgraduate enterprise. Professor Mezmur chairs the Faculty's Higher Degrees Committee which oversees the Faculty's production of master's and doctoral degrees.

Many of our academic staff, including postdoctoral and doctoral researchers, teach or assist in the teaching of modules in the Law Faculty's postgraduate programme. They also supervise masters and doctoral studies in the Law Faculty as well as at other Universities, such as Addis Ababa University, Eduardo Mondlane University, the University of Cape Town and University of Pretoria.

Another important, if often unseen, contribution to the academic enterprise are the myriad peer-review activities in which staff are involved. During 2016, staff members examined 19 postgraduate theses, conducted 26 blind reviews of academic articles, reviewed four NRF rating applications, moderated university courses, and assessed research grant proposals.

Our staff members are recognised as experts in their fields. Benyam Mezmur is chairperson of the UNCROC and Chairperson of the African Committee of Experts on the Rights and Welfare of the Child. In June 2016, he was also re-elected, with the highest number of votes of States Parties, to serve a second four-year term in the UNCROC. Ebenezer Durojaye was awarded a fellowship at McGill University in Montreal, Canada, to conduct research on the right to health.

Another indicator is the fact that our staff delivered no fewer than 15 guest lectures at Universities throughout the world, including Leiden University, McGill University, Delhi University, New York University, EURAC (Bolzano), the University of ABC (Sao Paulo) and the universities of Pretoria, Ghent, Essex, Namibia and Toronto.

Nico Steytler continued to serve as a member of the Financial and Fiscal Commission, advising the South African government on intergovernmental relations. He was also appointed to the international advisory board of the *African Journal of Comparative Constitutional Law* and completed his final term as president of the International Association of Centres for Federal Studies (IACFS). Jaap de Visser was appointed as secretary and treasurer of this same institution.

Media

Our staff regularly engage with radio, print, online and print media to provide expert advice and opinion. In 2016 we gave more than **30** interviews on topics such as crime statistics, pre-trial detention, the shadow report on children's rights, and torture and

abuse in prisons. We also produced **six** opinion pieces providing thought leadership on current issues. For example, CSPRI's Gwenaelle Dereymaker published an opinion piece on conditions of detention in remand detention facilities, prompted by a judgment declaring the condition of detention in Pollsmoor Remand Facility unlawful.

Our internet presence continues to grow, with more than 5 300 visitors (over a thousand more than 2015) having accessed our websites in 2016. Approximately 75% of these visitors were from South Africa. Facebook and Twitter are fast becoming essential for connecting people to the Institute's research. The combined reach of our social media outlets is more than 33 000 unique visits.

Organisation, staffing and administration

The Multilevel Government Initiative was renamed the Applied Constitutional Studies Laboratory to reflect its new direction in using interdisciplinary, statistics-based methods to analyse governance problems. The Institute's legal and constitutional work on provinces and local government continues under the remit of the South African Research Chair in Multilevel Government.

Two postdoctoral researchers, namely Seyoum Mesfin and Aquinaldo Mandlate, left us at the end of 2016. Dr Mandlate spent many years at the Institute in both CSPRI and the Children's Rights Project, during which time he made a wonderful contribution to the Institute's work and opened up opportunities in Lusophone Africa. Nadia Sutton, our bookkeeper, started her maternity leave. Kirsty Wakefield joined the Institute to assist with finances and administration. The Institute's director, Jaap de Visser, took his sabbatical leave until August 2016, with Benyam Mezmur serving as acting director in his stead.

From late September until the end of the year, student protests made it difficult to work in our premises on campus. Virginia Brookes, our chief operations manager, and Debbie Gordon, our office manager, were crucial in ensuring that the Institute could function without interruption. Our financial office successfully managed **49** cost entities, thus producing **49** financial statements each quarter, and has run such a tight ship that we consistently receive 'clean audits' from our donors' auditors.

As part of ongoing efforts to improve our financial sustainability, we appointed Gastrow & Bloch to conduct an evaluation of the Institute. This will be completed in 2017.

Mandy Cupido, Crystal Erskine, Valma Hendricks, Jacob Nthoiwa, Keathelia Supto and Kirsty Wakefield provided communications and administrative support to an increasingly international enterprise. Our staff travelled to more than **20** countries in 2016. The support team booked more than **315** flights and **78** hotel nights, in addition to providing

more than a hundred meetings, seminars and conferences with event management and communication support. Even when student protests forced us to move operations off campus temporarily, the team showed extraordinary resilience and continued delivering quality support under challenging circumstances.

The Institute celebrated Mandela Day by delivering grocery hampers to two foster homes in Eeste River and Belhar. This is the third consecutive year in which we focused our Mandela Day celebrations on these two homes. The Institute also visited a crèche in Wallacedene to serve bread and soup to children and the elderly in the area.

Doctoral degrees awarded

Dr Ngcimezile Nia Mweso

Supervisor: Prof W Le Roux

Co-Supervisor: Prof J Goldin

Topic: Realising the human right to water in Malawi through community participation

Patronage and profit often prevent women in poor communities from accessing water. A human right to water might place people at the heart of water governance, but none of the main international human rights treaties refers to such a right. In Part 1 of her thesis, Mweso argues, however, that it is implied as an unenumerated right in international human rights law. This human right to water includes both substantive and procedural obligations. In Part 2, Mweso employs the human right to water to evaluate water resource management in Malawi. Combining legal analysis with field work, she identifies gaps in the legal and policy framework and suggests legal reforms. In doing so, she develops a new normative model of water governance that could be applied in future to other developing countries.

FRENCH

Message du directeur

Introduction

2016 a été une année mouvementée, avec des manifestations sur les campus universitaires de l'Afrique du Sud et la réclamation par les étudiants d'un enseignement supérieur gratuit, libre et 'décolonisé'. D'autres développements majeurs incluent une élection municipale marquante résultant en une passation pacifique du pouvoir dans les

centres économiques du pays, ainsi que de profondes divisions politiques fracturant l'Etat à tous les niveaux.

Il y a un fossé grandissant entre, d'une part, la promesse du droit à la dignité et l'égalité pour tous, et, d'autre part, le vécu de la grande majorité des Sud-Africains. L'espace disponible pour les actions civiques rétrécit, et nos assemblées législatives ne réclament aucun compte à nos dirigeants. La société civile, les médias et les tribunaux sont devenus la dernière ligne de défense contre la corruption et le dysfonctionnement de l'Etat.

Tout cela se déroule dans le contexte d'une économie stagnante, de services publics défaillants et une augmentation constante de la violence perpétrée contre les étrangers. Pendant ce temps, la révolution numérique a continué à transformer la société de manière imprévisible, ouvrant des opportunités abondantes mais aussi érodant les distinctions entre réalité et fiction.

Il était, par conséquent, d'autant plus important pour le Dullah Omar Institute de demeurer résolu à travailler pour la justice sociale dans une démocratie constitutionnelle à travers la recherche, l'enseignement et le plaidoyer.

Le personnel de l'Institut est passionné par la justice sociale et l'importance d'un engagement politique fondée sur des données probantes, et en 2016 ils ont à nouveau obtenu d'extraordinaires succès. Nos partenariats avec nos bailleurs et l'Université ont été essentiels à ces réalisations. Je suis donc fier de vous présenter les faits saillants de nos activités, nos résultats et notre impact pour 2016.

Professeur Jaap de Visser

Directeur

Recherche

L'Institut effectue des recherches de types divers, souvent à travers des partenariats internationaux. Par exemple, Lukas Muntingh et Jean Redpath ont entrepris un audit du système de justice pénale au Kenya en association avec des partenaires kenyans. Nico Steytler a édité un livre sur les compétences concurrentes des systèmes fédéraux, rassemblant des chercheurs du monde entier.

D'autre fois, nos recherches proviennent de travaux de troisième cycle, tels que le livre de Derek Powell *State Formation after Civil War: Local Government in National Peace Transitions* et celui d'Aquinaldo Mandlate *Implementing the Convention on the Rights of the Child in Lusophone Africa*. Ces ouvrages, tous deux publiés en 2016, sont basés sur des thèses de doctorat et soulignent la valeur de notre programme de troisième cycle.

Les recherches menées par l'Institut reposent toujours sur des objectifs concrets. Ils visent à contribuer à résoudre des problèmes réels, ou à influencer les mécanismes vers la justice sociale. Par exemple, l'Initiative Femmes et Démocratie (IFD) a lancé un projet de recherche sur les structures de pouvoir et les dynamiques de l'assurance maladie nationale. Aquinaldo Mandlate, Benyam Mezmur et Maria Assim, du Projet sur les droits des enfants (PDE), en collaboration avec le Professeur Julia Sloth-Nielsen et Jill Stein, ainsi que Marilize Ackermann du Scalibrini Centre Cape Town, ont étudié la situation des enfants migrants non accompagnés au Mozambique, en Afrique du Sud, en Zambie et au Zimbabwe. Jaap de Visser a débuté un projet de recherche, examinant si les règlements d'urbanisme municipaux contribuent à adresser l'injustice spatiale.

Le tableau ci-dessous présente les principaux résultats de la recherche de l'Institut.

PRODUITS ACADEMIQUES	2013	2014	2015	2016
Livres	2	4	4	6 (*2)
Chapitres de livres	14	9	28 (3*)	16
Articles revus par les pairs	18	15	33 (23*)	23 (*11)
Doctorats	4	2	3	1

L'organisation de conférences, séminaires et tables rondes est essentielle à notre travail. Ce sont des véhicules nous permettant de débattre, d'affiner nos recherches ainsi que d'en améliorer l'impact en les présentant aux secteurs concernés ou au grand public. En 2016, nous avons organisé 66 événements, souvent en collaboration avec des institutions partenaires.

Un évènement phare a été une discussion informelle, organisée par l'Initiative de réforme pénitentiaire par la société civile (IRPSC) lors de laquelle Adv Vusi Pikoli, le Professeur Pierre de Vos et Jean Redpath ont réfléchi sur l'avenir de l'agence nationale chargée des poursuites. Un autre exemple est la conférence intitulée « La décentralisation et le constitutionnalisme en Afrique », convoquée par Nico Steytler, l'Université de Pretoria et la Stellenbosch Institute for Advanced Studies.

Nous avons organisé de nombreux autres séminaires et tables rondes. Ils ont couvert un éventail de sujets, tels que les organismes d'application des lois spécialisés, les coalitions dans le gouvernement local, le fédéralisme ethnique en Ethiopie, le droit au logement, l'augmentation de la capacité de la société civile à collaborer avec les assemblées législatives, et beaucoup d'autres.

Promotion et sensibilisation

Lorsque nous faisons de la recherche, nous ne voulons pas que notre travail se limite à des publications académiques ou qu'il soit caché derrière des paywalls. Au cœur de notre mission est le désir d'emmener notre recherche dans le domaine public, de la porter à l'attention des décideurs et des législateurs, et de permettre une mobilisation contre les injustices que nous rencontrons.

Notre plaidoirie prend des formes diverses. Nous utilisons souvent le droit international et les organismes internationaux comme leviers dans notre travail. Par exemple, lorsque les organismes internationaux passent en revue le bilan de l'Afrique du Sud en matière de droits de l'homme, l'Institut cherche à tenir le gouvernement responsable vis à vis des normes internationales. En 2016, nous l'avons fait à plusieurs reprises:

- L'IDF a coordonné la Coalition du Rapport Alternatif, qui a suivi l'examen de l'Afrique du Sud par le Comité des Nations Unies sur les droits de l'enfant (ONUCDE).
- Nous avons envoyé une soumission écrite au Conseil des droits de l'homme des Nations Unies lors de l'Examen Périodique Universel de l'Afrique du Sud. Nous avons encouragé le gouvernement à entre autres, mettre fin à l'impunité des actes de torture, à prendre des dispositions particulières pour sanctionner la violence fondée sur le sexe, à redoubler d'efforts pour réduire la mortalité infantile et à s'assurer que chaque enfant ait un acte de naissance.
- Un troisième exemple est le rapport alternatif que l'IRPSC a soumis au Conseil des droits de l'homme des Nations Unies, lorsque ce dernier a examiné la conformité de l'Afrique du Sud avec le Pacte international relatif aux droits civils et politiques.

De plus, depuis 2005, nous avons utilisé notre statut d'observateur auprès de la Commission Africaine des Droits de l'Homme et des Peuples (CADHP) pour porter les violations des droits de l'homme à son attention. Une stratégie importante pour maximiser notre impact à cet égard est l'organisation régulière d'événements parallèles aux sessions de la CADHP. Par exemple, Kristen Petersen de l'IRPSC a présidé un tel événement, sur les prisons et les conditions de détention en Afrique à la 58^{ème} Session ordinaire de la Commission.

Nos relations excellentes avec de nombreuses organisations internationales offrent la possibilité de mener des campagnes ciblées autour de questions fondamentales relatives à la justice sociale. Par exemple, Benyam Mezmur a pris part à un certain nombre de manifestations parallèles du Conseil des droits de l'homme des Nations Unies, sur des questions telles que l'exploitation sexuelle en ligne et le droit des enfants à l'éducation. Lukas Muntingh est intervenu lors d'un séminaire organisé par le

Rapporteur spécial de l'ONU sur la torture, et Derek Powell a été invité au premier Forum sur les données des Nations Unies.

La majorité de notre plaidoyer est menée en partenariat avec d'autres organisations de la société civile. En collaboration avec nos partenaires, nous avons mené des campagnes sur des questions telles que la création de tribunaux spécialisés dans les infractions sexuelles, le logement de personnes ayant des besoins spéciaux, la dépenalisation du travail sexuel, la justiciabilité des droits socio-économiques reconnus au niveau international, un parlement transparent et le droit à l'éducation des enfants avec un handicap.

Etant un établissement académique avec de nombreux partenariats, nous sommes en mesure d'aider les organisations de la société civile à renforcer leurs capacités pour entreprendre des activités de plaidoyer. Samantha Waterhouse et Vivienne Mentor-Lalu de l'IFD ont mené Parliament Watch, un projet composé de 11 organisations que nous avons habilités à observer les assemblées législatives de l'Afrique du Sud. De même, Gladys Mirugi-Mukundi et Ebenezer Durojaye de SERP, en collaboration avec le Cape Town Refugee Council, ont commencé un projet devant fournir une éducation civique sur les réfugiés et les droits de l'homme en Afrique du Sud.

L'accessibilité de matériels de sensibilisation aide à sensibiliser et former le public et les institutions de la société civile à être des citoyens actifs. Notre personnel a une connaissance approfondie du droit et de la pratique gouvernementale dans leur domaine et sont d'excellents communicateurs. Grâce à la technologie contemporaine, nous sommes donc en mesure de développer du matériel de sensibilisation fondé sur la recherche tout en étant accessible au public. Par exemple, l'IRPSC a produit un clip vidéo en français et en anglais soulignant l'absurdité de criminaliser les infractions mineures comme la mendicité et le vagabondage; les lois et règlements à cet égard sont invariablement utilisés pour cibler les groupes pauvres et marginalisés tels que les vendeurs à la sauvette, les travailleurs du sexe et les mendiants. Un autre exemple lié aux élections: 2016 ayant été une l'année électorale locale, SARChI a soutenu des élections libres et équitables en produisant un Manuel sur les élections municipales ainsi qu'une vidéo *Sachez ce pour quoi vous votez*.

Procédures judiciaires

Parfois l'Institut soutient les litiges d'intérêt public, généralement en soumettant des conseils d'experts ou en contribuant des documents à la cour. Par exemple, Jean Redpath de l'IRPSC a soumis un affidavit d'expert devant la Cour d'égalité dans une affaire portant sur la répartition des ressources policières. Ebenezer Durojaye du SERP a présenté un mémoire à titre d'intervenant désintéressé au Comité des Nations Unies des droits économiques, sociaux et culturels dans une affaire contre l'Espagne sur les expulsions forcées.

Impact

L'impact de la recherche et des plaidoiries sur les politiques n'est pas facile à mesurer. Les lois, stratégies et pratiques gouvernementales sont façonnées par d'innombrables facteurs, y compris la contribution faite par les présentations individuelles, les rapports, les campagnes ou les travaux de recherche. Toutefois, cela ne signifie pas que nous ne pouvons pas pointer vers des réussites spécifiques. Par exemple, le fait que le Code de procédure pénale ne contient pas un délai de prescription pour la torture est le résultat d'une soumission de l'IRPSC au Parlement. Notre soumission au département de l'Agriculture et de la pêche sur le projet de loi de 2016 sur la préservation et le développement des terres agricoles a donné lieu à des modifications importantes au projet de loi et a entraîné une visite des cadres supérieurs du département à l'Institut. Le leadership de l'IDF au sein de la Coalition du Rapport Alternatif pour l'ONUCDE a été souligné par des structures internationales comme un modèle de pratique exemplaire. En outre, les recommandations du Comité à l'Afrique du Sud reflètent clairement le travail mené par l'IDF.

Nous avons aussi constaté une nette amélioration dans les capacités de nos partenaires au sein de Parliament Watch à participer efficacement auprès des assemblées législatives. Enfin, notre impact est manifeste lorsque les résultats de nos recherches paraissent régulièrement et de manière notable dans le milieu universitaire et autres médias. Par exemple, le *Civic Protest Barometer*, *Municipal Audit Barometer* et *Capable Cities Index* de l'ACSL sont régulièrement cités dans les médias, les revues spécialisées et autres rapports clés tels que l'édition 2016 de *State of the Cities* par le Réseau des Villes Sud-Africaines.

Pays en transition

Les organisations internationales utilisent les connaissances et l'expertise de notre personnel dans leurs missions d'assistance aux pays fragilisés par les conflits. Par exemple, le Forum des Fédérations a nommé Nico Steytler comme membre d'un programme de formation au fédéralisme des hauts responsables politiques et hauts fonctionnaires somaliens. Une tâche similaire lui a été confiée par l'Ambassade Suisse pour les fonctionnaires et les politiciens du Sri Lanka. Le Forum des Fédérations a nommé Jaap de Visser comme expert international en mission au Népal, afin de collaborer avec les gouvernements, les universitaires, les journalistes et les organisations de la société civile sur la transition du Népal à un système fédéral.

Enseignement et supervision

L'enseignement et la supervision de troisième cycle font partie intégrante de la mission de l'Institut. Pour la huitième année consécutive, nous avons organisé le programme de maîtrise sur la gouvernance multi-niveaux sous les auspices de la Chaire de recherche de l'Afrique du Sud sur la gouvernance multi-niveaux; pour la seizième année

consécutives, nous nous sommes associés à l'Université de Pretoria et avons accueilli les étudiants de la maîtrise en droits de l'homme et démocratisation en Afrique pour la deuxième moitié de leurs études. Notre collaboration avec le Centre for Federal Studies à l'Université d'Addis-Abeba s'intensifie et a produit son premier doctorat, co-supervisé par Jaap de Visser. Ngcimezile Mweso, qui a mené ses études de doctorat avec le soutien de l'Institut a obtenu une thèse sur le droit à l'eau au Malawi.

2016 a aussi vu la dixième et onzième édition du colloque de doctorat, une plate-forme bisannuelle permettant aux doctorants de la faculté de droit de discuter de leurs travaux en cours. Nous avons 'exporté' le concept en Ethiopie et avons organisé un colloque de doctorat en collaboration avec le Center for Federal Studies, l'Académie Européenne (EURAC) et l'Université de Fribourg.

A travers Benyam Mezmur, l'Institut apporte une contribution importante à la gestion de l'entreprise de troisième cycle de l'Université. Professeur Mezmur préside le Comité des diplômes de haut niveau de la faculté, qui supervise les diplômes de maîtrise et de doctorat octroyés par la faculté.

Un grand nombre de notre personnel académique, y compris les chercheurs postdoctoraux et doctorants, enseignent ou assistent dans l'enseignement des modules du deuxième cycle de la faculté de droit. Ils supervisent également des maîtrises et des doctorats dans la faculté de droit, ainsi que dans d'autres universités, telles que l'Université d'Addis-Abeba, l'Université Eduardo Mondlane, l'Université du Cap et de l'Université de Pretoria.

Une autre importante, si souvent invisible contribution à l'entreprise académiques sont la multitude d'activités d'évaluation par les pairs menées par le personnel. Au cours de l'année 2016, les membres du personnel ont examiné 19 thèses de deuxième et troisième cycle, effectué 26 évaluations en aveugle d'articles universitaires, examiné quatre demandes de notation NRF, modéré des cours universitaires, et évalué des propositions de subvention de recherche.

Nos membres du personnel sont des experts reconnus dans leurs domaines. Benyam Mezmur est président de l'ONUCDE et Président du Comité africain d'experts sur les droits et le bien-être de l'enfant. En juin 2016, il a été réélu avec le plus grand nombre de voix des États parties, pour servir un deuxième mandat de quatre ans au sein de l'ONUCDE. Ebenezer Durojaye a reçu une bourse pour effectuer des recherches sur le droit à la santé à l'Université McGill à Montréal au Canada.

Un autre indicateur est le fait que notre personnel a été invité à intervenir pas moins de 15 fois dans divers universités à travers le monde, telles que l'Université de Leiden, l'Université McGill, l'Université de Delhi, l'Université de New York, EURAC (Bolzano),

l'Université de ABC (Sao Paulo) et les Universités de Pretoria, Ghent, Essex, Namibie et Toronto.

Nico Steytler a continué à servir en tant que membre de la Commission Financière et Fiscale, conseillant le gouvernement sud-africain sur les relations intergouvernementales. Il a également été nommé au conseil consultatif international de l'African Journal of Comparative Constitutional Law et complété son dernier mandat en tant que président de l'Association Internationale des Centres d'Etudes Fédérales (IACFS). Jaap de Visser a été nommé secrétaire et trésorier de cette même institution.

Média

Notre personnel collabore régulièrement avec la radio, la presse écrite et en ligne pour fournir des avis et conseils d'experts. En 2016, nous avons donné plus de **30** interviews sur des sujets tels que les statistiques sur la criminalité, la détention provisoire, le rapport alternatif sur les droits des enfants, la torture et les mauvais traitements dans les prisons. En outre, nous avons produit **six** articles d'opinion, apportant un leadership de réflexion sur des questions d'actualité. Par exemple, Gwenaelle Dereymaker de l'IRPSC a écrit un article d'opinion sur les conditions de détention dans les établissements de détention provisoire, motivé par un jugement déclarant les conditions de détention dans maison d'arrêt de Pollsmoor illégales.

Notre présence sur Internet continue de croître, avec plus de 5300 visiteurs ayant consulté nos sites en 2016 (plus d'un millier de plus qu'en 2015). Environ 75% de ces visiteurs proviennent de l'Afrique du Sud. Facebook et Twitter sont en passe de devenir essentiel pour relier les gens à la recherche de l'Institut. La portée combinée de nos médias sociaux est de plus de 33 000 visites uniques.

Organisation, personnel et administration

L'initiative gouvernementale à multi-niveaux a été rebaptisé le Laboratoire d'études constitutionnelle appliquées afin de refléter sa nouvelle orientation dans l'utilisation de méthodes interdisciplinaires basées sur des statistiques dans l'analyse des problèmes de gouvernance. Le travail de l'Institut sur la constitution et les lois entourant les provinces et les collectivités locales continue sous la supervision de la Chaire de recherche de l'Afrique du Sud sur la gouvernance multi-niveaux.

Deux chercheurs post-doctorants, à savoir Seyoum Mesfin et Aquinaldo Mandlate, nous ont quittés à la fin de 2016. Dr Mandlate a passé de nombreuses années à l'Institut au sein de l'IRPSC et le Projet sur les droits des enfants, au cours desquelles il a grandement contribué au travail de l'Institut et ouvert des opportunités en Afrique lusophone. Nadia Sutton, notre aide-comptable, a commencé son congé maternité. Kirsty Wakefield a rejoint l'Institut pour aider aux finances et à l'administration. Le

directeur de l'Institut, Jaap de Visser, était en congé sabbatique jusqu'en août 2016, Benyam Mezmur fut directeur intérimaire.

De fin Septembre jusqu'à la fin de l'année, dû aux protestations universitaires, il fut difficile de travailler dans nos locaux sur le campus. Virginia Brookes, notre directrice des opérations et Debbie Gordon, notre gestionnaire de bureau ont joué un rôle crucial, permettant à l'Institut de fonctionner sans interruption. Notre bureau financier a géré avec succès **49** centres de coûts, produisant ainsi **49** états financiers chaque trimestre. Grace à leur rigueur, nous recevons continuellement des audits favorables des auditeurs de nos donateurs.

Dans le cadre de nos efforts en cours pour améliorer notre viabilité financière, nous avons nommé Gastrow & Bloch pour procéder à une évaluation de l'Institut. Celle-ci sera complétée en 2017.

Mandy Cupido, Crystal Erskine, Valma Hendricks, Jacob Nthoiwa, Keathelia Sapto et Kirsty Wakefield ont fourni un appui administratif et en communication à une entreprise toujours plus internationalisé. Notre personnel a voyagé dans plus de **20** pays en 2016. L'équipe de soutien a réservé plus de **315** vols et **78** nuits d'hôtel, en plus d'un support à la communication et à la gestion d'événements lors de plus d'une centaine de réunions, conférences et séminaires. Même lorsque les manifestations étudiantes nous ont forcées à temporairement déménager nos activités en dehors du campus, notre équipe a fait preuve d'une extraordinaire résilience et a continué à fournir un soutien de qualité dans des circonstances difficiles.

L'Institut a célébré Mandela Day en offrant des paniers alimentaires à deux foyers d'accueil à Eeste River et Belhar. C'est la troisième année consécutive que nous concentrons nos célébrations de Mandela Day sur ces deux foyers. L'Institut a également visité une crèche à Wallacedene pour servir du pain et de la soupe aux enfants et aux personnes âgées dans la région.

Doctorats conférés

Dr Ngcimezile Nia Mweso

Directeur de thèse: Prof W Le Roux

Co-Directeur de thèse: Prof J Goldin

Sujet: La réalisation du droit à l'eau à travers à la participation communautaire au Malawi

Le patronage et le profit empêchent souvent les femmes dans les communautés pauvres d'accéder à l'eau. Le droit humain à l'eau pourrait placer ces personnes au

cœur de la bonne gouvernance de l'eau, mais aucun des principaux traités internationaux relatifs aux droits de l'homme ne fait référence à un tel droit. Dans la partie 1 de sa thèse, Mweso affirme toutefois que ce droit est implicitement reconnu comme tel dans le droit international des droits de l'homme. Ce droit à l'eau comprend des obligations de fond et de procédure. Dans la partie 2, Mweso emploie le droit humain à l'eau pour évaluer la gestion des ressources en eau au Malawi. Combinant une analyse juridique au travail de terrain, elle identifie les lacunes dans le cadre législatif et politique et suggère des réformes juridiques. Ce faisant, elle développe un nouveau modèle normatif de gouvernance de l'eau qui pourrait dans le futur être appliqué dans d'autres pays en voie de développement.

FOCAL AREAS

SOCIO-ECONOMIC RIGHTS PROJECT (SERP)

For millions of South Africans living in poverty, day-to-day life is far removed from the Constitution's promise of dignity for all. SERP believes this promise will remain hollow unless marginalised people are appropriately empowered. It thus engages with policy-makers, as duty-bearers, and communities, as rights-holders, to help ensure that socio-economic rights become a reality, adopting a diversity of approaches in its work to this end.

Strengthening community leaders' knowledge of rights

SERP conducted workshops on socio-economic rights for community leaders in three informal settlements: Sea Wind in Steenberg, Blikkiesdorp in Delft, and Mandela Park in Khayelitsha. The project aimed to strengthen their ability to monitor the government's performance in realising their rights and hold it accountable for failures in this regard. The training provided information about the human rights outlined in international, regional and national instruments and the government's corresponding obligations. Communities were also informed about institutions that could assist them in redressing rights violations.

Raising awareness of the rights of refugees and asylum seekers

Given that xenophobia continues to be a problem in South Africa, policy-makers and frontline service providers have to be fully aware of the rights of refugees and asylum seekers under national and international law. In conjunction with the Cape Town Refugee Centre and KwaZulu-Natal Christian Council, SERP conducted training workshops on this subject. The workshops highlighted the need for a range of stakeholders, including the departments of Home Affairs and Social Development, the South African Police Service, frontline service providers and municipal councillors, to be more responsive to refugees and asylum seekers. During the year this initiative reached more than 400 people.

Keeping community and special housing needs on the agenda

South Africa has a dire need for special housing arrangements, such as old-age homes and homeless shelters, to cater for particular vulnerable groups; the government in turn is duty-bound to prioritise these requirements. As the coordinator of a coalition on special-needs housing, SERP hosted a series of advocacy meetings to discuss strategies for mobilising civil society groups and ensuring finalisation of a policy on

housing of this kind.

SERP also continued to facilitate discussions between informal dwellers and government officials in order to advance the realisation of housing rights. For instance, in the case of Blikkiesdorp, whose residents are being relocated to make way for the expansion of Cape Town International Airport, SERP has been providing community leaders with technical support in their engagements with government officials.

Monitoring state implementation of and reporting on the ICESCR

Since South Africa's ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2015, SERP, as the coordinator of a coalition of civil society groups, has monitored government implementation of the Covenant. In particular, it has been engaging with the Department of Justice and Constitutional Development (DOJ & CD), the South African Human Rights Commission and other stakeholders to ensure timely submission of the initial state report to the Committee on the ICESCR, due in April 2017. SERP coordinated several advocacy meetings of the coalition for South Africa's ratification of the ICESCR and its Optional Protocol (OP-CESCR), and participated in a workshop the DOJ & CD held to elicit civil society's input on the drafting of the state report.

Participating in the African Commission on Human and Peoples' Rights

SERP regularly participates in sessions of the African Commission on Human and Peoples' Rights (ACHPR) and organises side-events at these occasions. In 2016 it convened a series of workshops on a draft ACHPR resolution regarding the penalisation of poverty. During a special session of the ACHPR marking the thirtieth anniversary of the African Charter, SERP engaged in side-events on sexual and reproductive rights and convened a side-event on the ratification of the OP-CESCR by African countries.

In addition, the Dullah Omar Institute is participating in the first comprehensive study on HIV and human rights in Africa. The study is due to be launched at a session of the ACHPR in 2017. Ebenezer Durojaye of SERP is involved in drafting this report and, on behalf of the ACHPR's HIV committee, is coordinating the work of the other researchers in the study.

WOMEN AND DEMOCRACY INITIATIVE (WDI)

The WDI seeks to improve the way in which legislatures function, particularly in carrying out oversight and accountability roles. The unit's objective is to increase civil society claims on legislatures, which it does by supporting access to information, strengthening knowledge of processes and building civil society's capacity for robust, collective engagement. The WDI focuses on women's rights.

Context, challenges and opportunities

The role for legislatures to provide political leadership, respond to the public and exercise oversight over the executive is critical. Legislatures are key sites of engagement between the public and the state, and serve as a source of information that would otherwise remain inaccessible. However, the securitisation of South Africa's deliberative spaces is a matter of concern. The tensions that have become evident in Parliament between political parties and within the ruling party pose challenges for democracy – yet also present opportunities. As such, this is a critical time for defending the constitutional role of legislatures and the potential they hold as a means for civil society to address inequalities.

With the exception of a few social movements, smaller NGOs and CBOs have generally been absent in provincial and national-level participation opportunities, despite their expertise in local advocacy; conversely, national organisations tend to be ineffective in bringing practical reform at local level. Investing in building strategic alliances for coordinated advocacy can thus help reverse pessimism about democracy and enhance civil society's political influence.

Activities during 2016

The WDI leads Parliament Watch, a partnership of ten organisations that aims to make legislatures more accountable by intensifying civil society's monitoring of their performance. PW used four themes for monitoring: openness and public access; responsiveness to public input; independence from the executive; and general effectiveness. It comprises a diversity of individuals with varying experience with the legislatures. Therefore, the WDI continued to provide partner organisations with relevant capacity-building support. Nineteen monitors received training, and were engaged in monitoring 13 committees in the National Assembly, one in the Western Cape Legislature, and two in the Eastern Cape Legislature.

The WDI also co-hosted two seminars, in the Western and Eastern Cape, and published a report on Parliament Watch's monitoring for 2015, entitled: *Not in the*

House: The Extent of and Responsiveness to Public Input in South Africa's Legislatures 2009-2015.

Other work on legislatures included

- monitoring, and encouraging public engagement on, the appointment of the Public Protector;
- monitoring an inquiry into the SABC board;
- assessing the quality of engagement of a range of committees on women's rights;
- encouraging organisations to be more involved in provincial legislatures' state-of-the province addresses; and
- engaging legislatures on their oversight role with regard to the Department of Social Development's obligation to establish an advisory board.

The WDI's work on participation and women's rights included a contribution to the Dullah Omar Institute's Universal Peer Review submission; a submission on domestic violence legislation to the government's high-level panel for assessing key legislation; and activities to increase the women's sector's engagements in legislatures generally and with regard to the release of police crime statistics in particular.

In addition, the WDI continued to head the Alternate Report Coalition – Children's Rights South Africa (ARC-CRSA). It led a civil society delegation to the UN Committee on the Rights of the Child (UNCROC) and, in response to the reply by the Government of South Africa, coordinated and edited a follow-up submission. The WDI hosted consultative meetings with the sector to ensure broad participation throughout the process, facilitated the production of advocacy materials, and generated good media coverage for ARC-CRSA.

The WDI worked as well on the right to education of children with disabilities. This entailed assisting the NGOs involved in preparing a shadow report on the UN Convention on the Rights of Persons with Disabilities.

In partnership with OSF, the WDI commenced a new project, one examining the interests at play in decision-making on the National Health Insurance.

Outcomes and impacts

Through its role in ARC-CRSA, the WDI contributed to developing methodologies for facilitating broad-based collaboration in the women's sector. The UNCRROC's concluding observations to the South African government reflect many of the recommendations in ARC-CRSA's report and final submissions.

The WDI's work through Parliament Watch and its other activities targeting women's

sector organisations with community-level membership has strengthened civil society's capacity to engage with legislatures.

Feedback from CSOs indicates that the monitoring report *Not in the House* informed their strategies for promoting specific human rights in South Africa's legislatures.

Children's Rights Project (CRP)

Activities within the project are generally aimed at conducting research, advocacy, and training with a view to assess and inform the compliance of domestic law and policy with the international and regional instruments. The work of the CRP is grounded in both the UN Convention on the Rights of the Child as well as the African Charter on the Rights and Welfare of the Child (ACRWC).

The African Children's Charter Project

The CRP is a key member of the African Children's Charter Project (ACCP), which seeks to strengthen the capacity of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). More specifically, the ACCP assists the Committee in implementing its strategic plan, which has two broad components:

- promoting children's rights and welfare in the institutions, bodies and mechanisms of the African Union (AU); and
- empowering civil society to use AU mechanisms (especially the mechanisms of the ACERWC) in promoting children's rights and welfare.

In 2016, the CRP prepared country briefs on States reporting before the ACERWC during its 28th Ordinary Session, which was held from 21 October to 1st November 2016 in Banjul, The Gambia. The purpose of the briefs was to provide the Committee with information in its dealings with States Parties. Accordingly, briefs were prepared in respect of Eritrea, Ghana and Sierra Leone.

The CRP also led the development of the concept note for the commemoration of the Day of the African Child, which is celebrated every June 16, in 2017, the theme of which is 'The 2030 Agenda for Sustainable Development for Children in Africa: Accelerating Protection, Empowerment and Equal Opportunity'.

Through these and other activities, the CRP continued to contribute to ensure that the ACERWC is effective in implementing its strategic plan and in fulfilling its mandate to hold States Parties as well as other actors accountable for their obligations to children.

The Unaccompanied Migrant Children Project

As reported previously, in March 2015 the International Office of Migration (IOM), in partnership with Save the Children (SC), awarded a tender to the Dullah Omar Institute to study the profile of unaccompanied migrant children crossing international borders and identify their protection needs in four African countries. The remaining field work, namely a study of Zimbabwe, was conducted in 2016, and the draft country reports, duly finalised. The plight of migrant children is to remain a focal area for the CRP in the

future. While a comparative analysis among the countries of the study was not an objective of the study, the respective country reports underscore common elements such as the legislative and policy frameworks both at the domestic and international levels and their gaps. Moreover the research findings in general focus on the challenges faced by unaccompanied migrant children in relation to documentation, trafficking and smuggling, shelter, food and clothing, health, education, violence, detention, family tracing, reunification and resettlement.

Developing an ACRWC implementation handbook

With the support of Save the Children International, the CRP conducted research towards the *Implementation Handbook on the African Children's Charter*. The *Handbook* draws on illustrative experiences that countries have had in implementing the Charter, and takes stock of the ACRWC's growing body of jurisprudence on children's rights. Once finalised, the *Handbook* will be one of the authoritative references on the African Children's Charter. It is anticipated that it will be published in 2017.

Academic activities in the field of children's rights

Members of the CRP engage in academic activities pertaining to children's rights and human rights in general. These include teaching, supervision, serving as internal and external examiners for postgraduate dissertations, serving as examiners for postgraduate courses, and writing scholarly articles. For instance, during the year, members lectured at range of institutions, including the University of Pretoria, Eduardo Mondlane University, Addis Ababa University, Makalle University, Leiden University, the University of Geneva and the University of Essex.

APPLIED CONSTITUTIONAL STUDIES LABORATORY (ACSL)

The digital revolution opens new opportunities for applied analytical research to harness the power of big data in addressing problems of governance that cut across the law, state and society. Established in 2016 as a successor to the Multilevel Governance Initiative, the ACSL applies big data, computational methods and digital technology to law, government and development. It seeks in particular to measure and assess state formation, the rule of law, the capability of cities, social justice, accountability, and civic conflict.

A significant achievement over the past three years has been the development of a new set of analytical tools capable of relaying high-quality data and analysis into the public domain in real time. Research of this kind is all the more important in an era where social media and 'alternative facts' have gained ascendancy over factual accuracy and scientific methods.

Key outputs in 2016 are discussed below.

Publication of the Just Cities for Women Bulletin

The *Just Cities for Women Bulletin* (JC4W) examines South Africa's differential treatment of men and women, particularly at local government level. How are men and women represented at this level, whether in political office or management? Is there a persistent imbalance, and if so, how just are our cities? What do the numbers say? The first instrument of its kind, the JC4W will periodically publish data and analysis on a range of indicators relating to the role of women in cities.

Key trends:

- Women constitute the majority of the population with about 51.2 percent
- 54 percent of registered voters are women and women are more likely to vote than men
- 11.4 percent of adult women have tertiary education compared to 10.8 percent of men
- Women are underrepresented in local government political positions with only 39 percent of political posts held by women
- Women are grossly underrepresented in senior professional positions at the local government level, occupying only one quarter of general management posts
- Less than one-in-ten municipal managers and only 31 percent of CFOs are female
- Most residents of poor households are female and most poor households are headed by women
- State housing subsidies (RDP housing) advantage women slightly

2. The publication of the revised Civic Protest Barometer 2007-2016

The *Civic Protest Barometer* (CPD) has become the leading barometer of civic conflict in the country, with its information used widely by policy-makers, civil society organisations, academics and the media. The 2016 CPB measures trends in protest action in South Africa's municipalities in the period 2007 to July 2016, and reveals that, against a background of increasing protest action throughout the country, the number of civic (municipal service delivery) protests has decreased significantly.

In 2017-2018 the ACSL is to consolidate the various barometers into a comprehensive *City Governance Barometer*. This will use very large data-sets to measure the implementation of the legislative and policy framework for accountable local government and social justice in South Africa's major cities.

Advancing the theory and practice of state formation and sustaining peace

A review of the UN's peace-building architecture in 2015 stressed the importance of sustaining peace in countries prone to violent conflict. The ACSL has contributed to both the practice and theory of state formation and sustaining peace. Notable achievements include the publication of Derek Powell's book, *State Formation after Civil War: Local Government in National Peace Transitions*, which offers a new model for studying state formation in a national peace transition.

Current models of peacebuilding place too great an emphasis on state-building as a matter of design, at the cost of appreciating state formation as an unplanned historical process. The dominant focus on national institutions also ignores the role of cities and civic polities in constituting the modern state. Powell's book, which draws evidence from 19 peace processes, including South Africa's, argues that the starting-point for building a systematic theory is the recognition that, despite their conflicts, people in fragile societies bargain terms for peaceful coexistence and make attempts to constitute the right to rule as valid state authority. Powell reveals, too, that there is a distinct 'local government dimension' to peace transitions.

Powell's work on 'the management of transitions from conflict' has also been utilised by the Nepalese committee charged with developing a legislative framework to manage Nepal's transition from a unitary to a federal order.

Furthermore, the ACSL is working on the completion of a major new work of scholarship on decentralisation in Zimbabwe. Tinashe Chigwata completed three publications dealing with fiscal decentralisation in Zimbabwe, the stalled Zimbabwean Constitution, and traditional leadership.

Promoting just and inclusive cities

The publication of three reports in the *Capable Cities Index* (CCI) in 2015 had a significant impact on the debate in South Africa on cities and social justice in 2016. The CCI is a composite index that ranks the 27 largest cities in South Africa in terms of their consistency in maintaining high levels of capacity, performance and compliance over the period 2010 to 2014. A capable city is one that maintains consistently high scores in all three components of capability. The CCI was extensively referenced in the *State of the Cities Report*, and Derek Powell was a panellist at the launch of this report.

South African Research Chair (SARChI) in Multilevel Government, Law and Policy

Established in 2013, the SARChI Chair examines how development in South Africa and elsewhere in Africa can be advanced by multilevel governance embedded in the rule of law. The focus in 2016 fell on three broad geographical regions: South Africa; the Horn of Africa, Ethiopia and Somalia; and the Middle East and Southeast Asia.

South Africa

Together with Jaap de Visser, the Chair produced the ninth issue of *Local Government Law of South Africa*, the country's leading reference work on local government law.

A number of research projects were completed during the year. These dealt with major themes in the functioning of provinces and municipalities in South Africa. Examples are the impact of the courts on the system of multilevel government; the withering away of politically salient territorial cleavages; the emergence of 'watermark' ethnic federalism; and the quest for unity in South Africa.

As far as applied research is concerned, two events dominated the year: the 20th anniversary of the 1996 Constitution, and the local government elections of August 2016, which brought about a profound shift in political alignments.

With regard to the 20th anniversary, the Chair hosted the Consul-General of India and a conference entitled 'Celebrating constitutionalism in India and South Africa'. In addition, a colloquium was held on 'The South African Constitution as an export model'.

With regard to the local government elections, the Chair assisted Jaap de Visser in updating a 2000 publication entitled *Electing Councillors: A Guide to Municipal Elections*. Furthermore, in partnership with the South African Local Government Association, the Chair hosted a seminar on coalitions and minority governments in local government.

The Horn of Africa, Ethiopia and Somalia

The second focus area concerned multilevel government in Africa, specifically in the Horn of Africa, Ethiopia and Somalia. With Zemelak Ayele from the Centre of Federal Studies, Addis Ababa University, research was conducted on local governments in African federal and devolved systems of government; the struggle for balance between financial autonomy and fiscal discipline; the judiciary in federal systems in Africa; and the nature of the 'federal character' principle.

The most important output of the Chair was the conceptualisation and convening of the

4th Stellenbosch Annual Seminar on Constitutionalism in Africa, a prestigious meeting of the continent's constitutional scholars. It was co-organised by Professor Charles Fombad of the Institute of International and Comparative Law, University of Pretoria, and hosted by the Stellenbosch Institute of Advanced Study. The theme was 'Decentralisation and constitutionalism in Africa'. Twenty-one papers were delivered and are being prepared for publication by Oxford University Press.

A second conference, co-hosted by the Chair, was entitled 'Federalism as a peace-making instrument in the Horn of Africa'. Held in Addis Ababa, the event was a partnership with the Centre for Federal Studies of Addis Ababa University, the Institute of Federalism of Fribourg University, Switzerland, and the Institute for Studies on Federalism and Regionalism (EURAC) in Bolzano, Italy.

With Somalia having set out to use federalism as a way of resurrecting its failed state, the country is of particular interest for multilevel governance in Africa. The Chair participated in training workshops on federalism which the Forum of Federations held in Nairobi, Kenya, for senior Somali politicians and officials. He also drafted a guide to the distribution of powers in terms of the Provisional Federal Constitution of Somalia, a booklet which was issued in the Somali language.

The Middle East and Southeast Asia

In the international arena, the Chair, as the outgoing president of the International Association of Centers for Federal Studies (IACFS), co-organised its 2016 conference with the Centre of Multilevel Federalism at the Institute of Social Sciences, New Delhi, India. The conference took place from 16-18 November under the theme, 'The value of comparative federalism: the legacy of Ronald L. Watts', in honour of the world's foremost scholar on federalism, who died in October 2015.

On the strength of the Chair's work on multilevel governance in Africa and South Africa, he was invited to share his knowledge and insights with Sri Lanka, Nepal and the Philippines. Political and socio-economic conditions in these Southeast Asian countries have strong similarities with those in Africa and South Africa, which suggests that the different regions' experiences of multilevel governance could be made to speak productively to each other.

In the light of possible peace negotiations in Yemen, the Chair was part of a project organised by IDEA International and the office of the UN Special Envoy to Yemen to comment and advise on the Yemen Drafted Federal Constitution as a potential way forward among the warring parties.

The Chair received the following visiting scholars who participated in seminars and engaged with doctoral students:

- Dr Zemelak Ayele, Centre of Federal Studies, Addis Ababa University (September).
- Prof Henk Kummeling, Faculty of Law, former Dean of the Law Faculty, Utrecht University, and chairperson of the Dutch Electoral Council (July).
- Prof Eldred Masunungure, Department of Political Science, University of Zimbabwe (July).
- Prof Xavier Philippe, Director of the Louis Favoreu Institute of Public Law, Aix-Marseille University (May).

CIVIL SOCIETY PRISON REFORM INITIATIVE (CSPRI)

CSPRI focuses on criminal justice and human rights in Africa, paying particular attention to the deprivation of liberty. People deprived of liberty are at risk of human rights violations relating to their treatment and conditions of detention; the deprivation may itself be a violation if it is arbitrary or contravenes the law. Moreover, when people are imprisoned, it has consequences for their families and communities.

CSPRI works in three main thematic areas. The discussion below deals with its activities, outputs and impacts in each of these areas.

Prevention and eradication of torture

The right to redress in the African region

CSPRI provided technical assistance to the African Commission on Human and Peoples' Rights (ACHPR) Committee for the Prevention of Torture in Africa in the development of a General Comment on the Right to Redress for Victims of Torture and Other Ill-Treatment in Africa. It is anticipated that the General Comment will be adopted in 2017.

Addressing impunity in law enforcement

In partnership with the African Policing Civilian Oversight Forum (APCOF), the Independent Police Investigative Directorate (IPID) and the Judicial Inspectorate for Correctional Services (JICS), CSPRI secured funding from the UK Magna Carta Fund to bring together these two South African oversight institutions, IPID and JICS, and their UK counterparts, namely the Prisons and Probation Ombudsman, Her Majesty's Inspectorate of Prisons, and the Independent Police Complaints Commission.

The project focuses on the structural and functional deficiencies of specialised oversight institutions. The aim is to improve accountability for human rights violations by officials of South African law enforcement agencies.

South Africa's National Prosecuting Authority

The National Prosecuting Authority (NPA) in South Africa has come under increasing fire for, inter alia, the decline in the number of cases being prosecuted, the lack of a dedicated oversight mechanism to review prosecutorial decisions; internal disincentives to prosecute, lack of accountability and difficulty in reviewing decisions not to investigate or prosecute, and the politicisation of the institution and perceived or real lack of independence. CSPRI undertook a study assessing its performance and recommending reforms. Among the key areas identified for reform are the appointment and dismissal of

senior staff, measuring the performance of the NPA, the meaning of the legal requirement of the National Director of Public Prosecutions (NDPP) to be a 'fit and proper' person and the role in overseeing the NPA. The results of the research will be released in 2017.

Included in the project was an armchair discussion in which the former NDPP, Adv Vusi Pikoli, Prof Pierre De Vos (UCT) and CSPRI researcher Jean Redpath discussed the future of the NPA. An opinion-editorial on the reasons for the NPA's declining performance was published in *Business Day*.

Advocacy for the prevention of torture

CSPRI was part of a two-day global-experts' meeting with the UN Special Rapporteur on Torture in July 2016 in Washington to discuss the question of conducting interviews and interrogation in the context of torture prevention. The meeting was used to inform the Special Rapporteur's thematic report to the UN General Assembly on the issue.

Other advocacy activities include

- giving a presentation at a CSVR workshop on torture and litigation;
- hosting a workshop in August 2016 in Mozambique on OPCAT following the country's ratification of the Optional Protocol, and submitting a follow-up report to the review under the Convention against Torture;
- participating in a workshop on torture equipment hosted by the Institute for Security Studies and the Omega Research Foundation;
- participating in a session of the EU-NGO Human Rights Forum held under the banner, 'United against all forms of torture: Applying a cross-cutting perspective to prevent, prohibit and redress torture globally'; and
- presenting at a workshop on torture hosted by the Judicial Inspectorate for Correctional Services.

CSPRI coordinated the submission of a number of thematic reports by South African NGOs to the UN Human Rights Committee in response to South Africa's overdue report on the implementation of the International Covenant on Civil and Political Rights. CSPRI was the lead author of the thematic report on criminal justice and human rights. Key recommendations in the report were adopted by the Committee on Human Rights and reflected in its Concluding Observations on South Africa.

Policing

Western Cape

CSPRI was contracted to develop modalities of monitoring the conduct and

performance of the police in the Western Cape. The project involved gaining an understanding of what constitutes professional policing and, on that basis, developing monitoring tools. These are set to make a substantial contribution to enhancing transparency and accountability, and, ultimately, to improving community-police relations.

This work builds on the findings and recommendations of the Khayelitsha Commission, to which CSPRI made submissions. One of the Commission's main findings related to the unequal distribution of policing resources. In the absence of the SAPS' amending its resource-allocation process, the Social Justice Coalition entered a case in the Equality Court in Cape Town. CSPRI provided the expert affidavit for this matter, which is likely to be heard in 2017. Presentations in this vein were also made to the Western Cape Portfolio Committee and the Western Cape Department of Community Safety.

Malawi

A pocket guide on arrest and detention, which CSPRI developed in previous years, was converted into a cell phone application for use by police and other officials in Malawi, thus supporting the formal training curriculum for the country's police.

Pre-trial detention

Examining the impact of pre-trial detention

Supported by the Open Society Initiative for Southern Africa (OSISA), and in partnership with the Open Society Initiative for Eastern Africa (OSIEA), the Open Society Justice Initiative (OSJI) and the UN Development Programme (UNDP), CSPRI completed research on the socio-economic impact of pre-trial detention in Kenya, Mozambique and Zambia.

The research relied on interviews with detainees as well as their families and friends. Its results show that the vast majority of pre-trial detainees are integrally involved in supporting their families, whether financially, emotionally or in other ways. Their absence has a measurable impact, often more than halving incomes, depleting savings, plunging families into debt, and forcing the sale of assets.

Campaigning for decriminalisation of petty offences

CSPRI is an active member of the campaign for the decriminalisation and declassification of petty offences. During the year it continued its advocacy in this regard, convening a side-event on the issue at the 59th session of the ACHPR. CSPRI also participated in regional consultations in South Africa on the ACHPR document, *Draft Principles on the Declassification and Decriminalisation of Petty Offences in Africa*.

Making bail and surety more accessible

Bail and surety legislation and its interpretation are often an impediment to pre-trial release. It tends to be underutilised by courts, a factor that contributes to the unnecessary detention of accused persons. CSPRI reviewed the bail and surety legislation of three African countries – Malawi, Mozambique and Burundi – each of which represented Anglophone, Lusophone and Francophone legal systems, respectively. The question was what could be done to make bail more accessible by means of policy reform, law reform and capacity-building.

It appeared that the laws are unclear about custody time limits and time limits for first court appearance, thus contributing to pro-longed detention. Pre-trial detention review mechanisms are often missing, bail amounts set above the economic capabilities of accused persons, and legal representation inaccessible for indigent persons. The research lends support to CSPRI's work with regional stakeholders on broader pre-trial justice issues.

Evaluating Western Cape Community Courts

In 2016 CSPRI was commissioned by OSF(SA) to conduct an evaluation for Department of Justice and Constitutional Development of the three community courts in Cape Town (Cape Town, Fezeka and Mitchells Plain). Community courts were last evaluated in 2006. The report found significant improvement, with many of the concerns of the 2006 evaluation having been addressed. Such courts have a measurable impact on crime if they are adequately supported by policing. The report recommended that the further roll-out take this into account.

Measuring criminal justice in Africa

CSPRI assists African civil society organisations in understanding research methods that can track trends in their countries and improve their ability to measure the impact of their work.

In June 2016, CSPRI hosted a three-day workshop for partner organisations from various African countries to focus on monitoring criminal justice system performance. A related aim of the workshop was to share the findings of a five-country study which investigated whether recent constitutional reforms in these countries (Burundi, Côte d'Ivoire, Kenya, Mozambique and Zambia) had led to reform of subordinate criminal procedure and prisons laws. The shortcomings that were identified can be used in advocacy for law reform.

CSPRI also made a presentation on criminal justice statistics in Africa during a side-event at a meeting of the UN Crime Commission in Vienna in May 2016 within the

context of the UN Sustainable Development Goals.

Auditing Kenya's criminal justice system

Together with two Kenyan partners (the Legal Resources Foundation and Resources Oriented Development Initiatives), CSPRI conducted an audit of Kenya's criminal justice system, with the focus on case-flow management and conditions of detention. Quantitative and qualitative data were collected nationally from 26 sites, including prisons, police cells and courts. Conducted under the auspices of the National Council on Administration of Justice (NCAJ), it was the biggest study of its kind in Africa. The preliminary results were featured in the Kenyan media and sparked nationwide debate.

DULLAH OMAR INSTITUTE - UWC

Income and Expenditure Statements

	<u>2016</u>	<u>2015</u>
	R	R
INCOME		
Funders	14 485 496	16 506 107
Consultancies	1 619 592	2 408 921
University of the Western Cape <small>(includes 2 x Professorial posts, premises, utilities & IT)</small>	-	-
TOTAL INCOME	16 105 089	18 915 028
EXPENDITURE		
Advertising	-	7 302
Bank Charges	-	565
Salaries	11 166 820	9 884 521
Stationery	84 059	75 622
Photocopying	12 422	32 997
Postage & Distribution	14 906	7 503
Telephone	58 989	60 848
Travel & Accommodation	1 456 297	1 277 336
Printing & Publications	406 343	297 251
Subscriptions & Books	70 467	280 538
Audit Fees	39 516	31 122
Workshops / Meetings	314 584	439 015
Consultation Fees	353 344	277 362
Partner Activities	253 862	505 724
Post-Graduate Bursaries	1 682 443	1 892 808
Conferences & Seminars	373 172	541 247
Research	976 097	611 620
Website & Media	84 348	103 224
Rent (CT Office)	18 870	90 866
Catering for Meetings & Socials	98 932	24 016
Computer Equipment (incl Maintenance)	147 852	106 679
Funders returned to donors	105 884	359 060
TOTAL EXPENDITURE	17 719 207	16 907 226
CLOSING BALANCE FOR YEAR	(1 614 118)	2 007 802
Surplus carried forward from previous year	9 175 287	7 135 765
Prior Year Adjustment	2 246	31 720
NET CLOSING BALANCE 30-12-2016	7 563 415	9 175 287

Prepared by: V. Brookes

Approved by:

UNIVERSITY OF THE WESTERN CAPE
GRANTS AND CONTRACTS MANAGEMENT

23 MAY 2017

Tashreeqah Taliep
TASHREEQAH TALIEP

STAFF OUTPUTS

Books

Mandlate A *Implementing the Convention on the Rights of the Child in Lusophone Africa* (2016) The Hague: Eleven International Publishing.

Powell D *State Formation after Civil War: Local Government in National Peace Transitions* (2016) Abingdon: Routledge.

Book updates

Steytler N & De Visser J *Local Government Law of South Africa* 9 ed (2016) Durban: Lexisnexis.

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Book chapters

Agaba D 'The impact of the African Charter and Maputo Protocol in Uganda' in Ayeni VO (ed) *The Impact of the African Charter and Maputo Protocol in Selected African States* (2016) Pretoria University Law Press 263-280

Chigwata TC 'Fiscal decentralization: Constraints to revenue-raising by local government in Zimbabwe' in Schoburgh E & Ryan R (eds) *Handbook of Research on Sub-National Governance and Development* (2016) Pennsylvania: IGI Global.

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Dereymaker G & Muntingh L 'South Africa' in Carver R & Handley L (eds) *Does Torture Prevention Work?* (2016) Liverpool University Press Series.

Durojaye E 'The viability of the Maastricht Principles in advancing socioeconomic rights in developing countries' in Bård A & Vinh V (eds) *Duties across Borders: Advancing Human Rights in Transnational Business* (2016) Cambridge & Antwerp: Intersentia 135-154.

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Chigwata TC 'The role of traditional leaders in Zimbabwe: Are they relevant?' (2016) 20 *Law, Democracy & Development* 69-90.

De Visser J (with Steytler N) 'Confronting the state of local government: The 2013 Constitutional Court decisions' (2016) *Constitutional Court Review* 1-23.

De Visser J 'Devolution by court injunction: The case of land use planning in South Africa' (2016) 10(1) *Ugandan Journal of Management and Public Policy Studies* 84-99.

Durojaye E & Oluduro O 'The African Commission on Human and Peoples' Rights and the woman question (2016) 3 *Feminist Legal Studies* 315-335.

Durojaye E 'Legal and human rights dilemma relating to sexuality education in Africa' (2016) 5 *International Journal of Public Law and Policy* 305-316.

Durojaye E 'Special Rapporteur on the Rights of Women in Africa 2007-2015' (2016) 14(3) *Gender and Behaviour*.

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Fernandez L & Muntingh L 'The criminalization of torture in South Africa' (2016) 60(1) *Journal of African Law* 83-109.

Isokpan AJ & Durojaye E 'The impact of the Boko Haram insurgency on the child's right

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De Visser J (with Steytler N) *Local Government Resource Book* (2016) for SALGA.

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Mezmur B Draft synthesis/combined report on unaccompanied migrants in five SADC countries, for IOM.

Redpath J (Petersen K & Muntingh L) Research report on evaluation of the Cape Town Community Courts, for the Department of Justice and Constitutional Development.

Redpath J (with Lorizzo T) *Compensation for Illegal Detention in Mozambique*, report for CHR, Maputo.

Sloth-Nielsen J Update of the 2010 publication, *Advancing Children's Rights: A Guide for Civil Society to the African Committee on the Rights and Welfare of the Child* (2016) for Save the Children East Africa.

Steytler J Comments on Yemen Draft Federal Constitution, IDEA, the Hague, the Netherlands, 7 November 2016.

Conference papers

Duroajye E 'Litigating health rights before the African Commission', for a workshop organised by Health Rights Initiative and Yinka Owoeye and Co., Lagos, Nigeria, 1-5 August 2016.

Durojaye E ' HIV/AIDS and indigenous populations in Africa', for the UN Expert Seminar on Indigenous Peoples and the Right to Health, Centre Mont-Royal, Montreal, Canada, 21-22 February 2016.

Durojaye E 'Inequality in South Africa: A warning sign', for an international conference on new and old inequalities in the era of Sustainable Development Goals, organised by the Institute for the Study of International Development, McGill University Faculty Club, McTavish, Canada, 10-12 March 2016.

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Durojaye E 'Litigating the right to health before regional human rights bodies', for a seminar organised by Human Rights Awareness Promotion Programmes, Kamapala, Uganda, 19 September 2016.

Durojaye E 'Non-discrimination and equality in access to health care services for indigenous populations', for the UN Expert Seminar on Indigenous Peoples and the Right to Health, Centre Mont-Royal, Montreal, Canada, 21-22 February 2016.

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Mezmur B 'Child sexual exploitation in travel and tourism: Some reflections on the basis of the CRC', in Stellenbosch at the launch workshop of the Report of ECPAT entitled 'Offenders on the move: Sexual exploitation of children in travel and tourism', 12 May 2016.

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Sloth-Nielsen J Paper on initiatives to end child marriage in southern Africa, for the international conference 'Culture, dispute-resolution and the modern Family', London, 6-8 July 2016.

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Steytler N 'The impact of India's federalism on South Africa's system of multilevel government' for 'Celebrating constitutionalism in India and South Africa', 11 May 2016.

Steytler N 'The South African model of multilevel government as a peace-making device in highly divided societies' for SARChI Colloquium, 'The South African Constitution as an export model', University of the Western Cape, 16 May 2016.

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Steytler N: Co-host 'Decentralisation and Constitutionalism in Africa', with Prof Charles Fombad – Stellenbosch Annual Seminar on Constitutionalism in Africa, 7-9 September 2016.

Steytler N: Co-organiser 'Celebrating constitutionalism in India and South Africa: Remembering Dr B.R. Ambedkar, the founding father of the Indian Constitution, and recognizing the latter's impact on the South African Constitution', with Dullah Omar Institute, Faculty of Law, and Indian Consulate in Cape Town – School of Public Health, University of the Western Cape, 11 May 2016.

Steytler N: Co-organiser 'Decentralisation and constitutionalism in Africa', with Institute of International and Comparative Law, University of Pretoria, and STIAS.

Steytler N: Co-organiser 'Federalism as a peace-making instrument in the Horn of Africa', with Centre for Federal Studies (CFS) of Addis Ababa University (AAU), in collaboration with the South African Research Chair in Multilevel Government, Law and Policy (Sarchi), Institute of Federalism of Fribourg University, and Institute for Studies on Federalism and Regionalism (EURAC) – Addis Ababa, 2 December 2016.

