



**Communication and Marketing Department
Isebe loThungelwano neNtengiso
Kommunikasie en Bemerkingsdepartement**

Private Bag X3, Rondebosch 7701, South Africa
Welgelegen House, Chapel Road Extension, Rosebank, Cape Town
Tel: +27 (0) 21 650 5427/5428/5674 Fax: +27 (0) 21 650 5628

www.uct.ac.za

15 July 2019

UCT doctoral student's research contributes to South African mineral law

University of Cape Town's (UCT) PhD student, Louie van Schalkwyk has spent the last three years investigating the zoning policies procedures of three municipalities, Umhlathuze in KwaZulu-Natal, Sol Plaatje in the Northern Cape and the City of Cape Town in the Western Cape, and how they provide for mining. The purpose of her research was to determine whether these policies and procedures are suitable for the kinds of mining activities that take place in their jurisdiction.

She received her much-awaited PhD from UCT at a graduation ceremony on Friday, 12 July.

While her topic developed and changed substantially over time, it was inspired by a 2012 Constitutional Court ruling which stated that a mining right holder cannot commence mining activities – despite holding the mining right – unless and until the land is appropriately zoned by the municipality in whose jurisdiction it is located.

Since mining rights are issued by the national Department of Mineral Resources, and zoning rights are regulated by municipalities at local government level, this ruling had various consequences, including the inevitable duplication of application processes and an increased potential for conflicting decisions.

Her research highlighted the need for the different spheres of government to meet and discuss workable solutions and each of the municipalities studied has received an individual report detailing both Van Schalkwyk's findings and her suggestions for improvement.

Up until this point, Van Schalkwyk had been gaining industry experience, working as an attorney, notary and conveyancer at a law firm in Cape Town. Thus, her original idea was to further her studies in property law.

Van Schalkwyk's PhD journey started in 2015 when she enrolled as a research student under the supervision of Professor Hanri Mostert, professor of Private Law at UCT and holder of the South African Research Chairs Initiative (SARChI) Research Chair for Mineral Law in Africa (MLiA).

MLiA – where she will be continuing with a postdoc – has also been instrumental in arranging a series of workshops that bring different spheres of government together.

"We are gathering people around the table and getting solutions from all of them about how the process can be improved, what their frustrations are and what works well for each of them," she explained.

She added that they've received positive feedback from everyone involved – especially from the municipalities who often feel like they aren't being heard and battle with capacity constraints.

Attending her graduation on Friday was two very special guests, her grandmother and grandfather.

"I share a name and a birthday with my grandmother and I'm also their oldest grandchild," Van Schalkwyk added. "Since I started my PhD, she's always said 'you have to finish this before I die!'"

ENDS



Dr Louie van Schalkwyk

Photo: Je'nine May/UCT

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Issued by: UCT Communication and Marketing Department

Aamirah Sondag

Media Liaison and Monitoring Officer
Communication and Marketing Department
University of Cape Town
Rondebosch
Tel: (021) 650 5427
Cell: (076) 947 6071

Email: aamirah.sondag@uct.ac.za

Website: www.uct.ac.za