

# ANNUAL REPORT

2021 /  
2022

## CENTRE FOR TRANSFORMATIVE REGULATION OF WORK

The Centre for Transformative Regulation of Work - CENTROW - was formally established by the University of Western Cape Senate in 2020. CENTROW was officially launched in March 2021. This is CENTROW's first Annual Report, covering CENTROW activities in 2021 and 2022.



**CENTROW**



**UNIVERSITY of the  
WESTERN CAPE**

# ANNUAL REPORT

## 2021 – 2022

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### **CENTROW**

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## AN OVERVIEW OF THE CENTRE

The Centre for Transformative Regulation of Work (CENTROW), located in the Faculty of Law, and associated with the Mercantile and Labour Law department, was formally established by the University of the Western Cape Senate in 2020 and was officially launched on Tuesday 23<sup>rd</sup> March 2021.

CENTROW responds to the challenges and opportunities for decent work that inhere in the digital transformation of work and is involved in community- engaged research on overcoming barriers to decent work in a fast-changing global environment. CENTROW's activities promote the design and implementation of innovative labour laws and regulatory strategies that achieve decent work, and support UN SDG 8 - inclusive and sustainable economic growth, full and productive employment, and decent work for all and the aspirations of Agenda 2063.

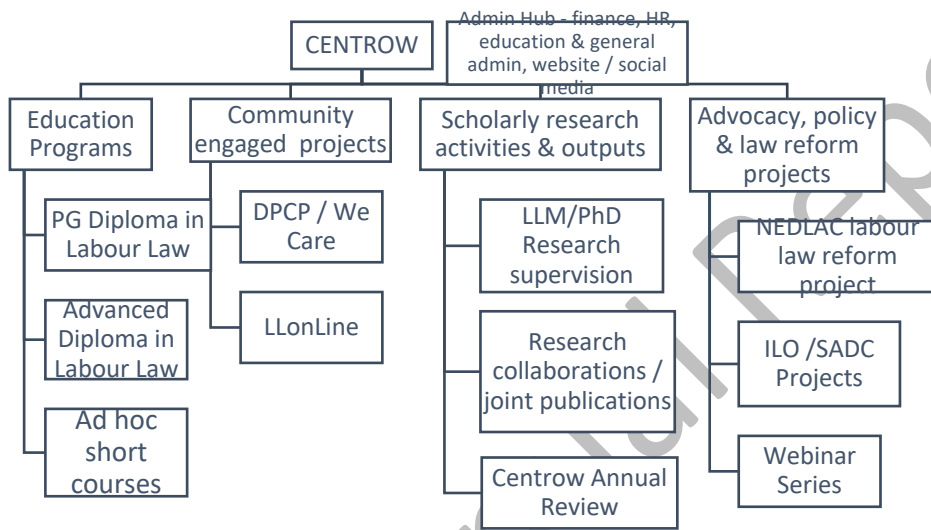
CENTROW incorporates the Social Law Project (SLP) and engages in research and advocacy for effective labour laws and labour market regulation and policy promoting decent work and social justice in South Africa, in the region, and on the continent. CENTROW conducts in-depth cross-disciplinary research and contributes to shaping policy and law on the regulation of work in a changing global environment. The CENTROW Constitution articulates the following mission for the Centre:

1. To develop a centre of excellence in labour regulation, dedicated to improving our understanding of how the law should respond to the changes taking place in the world of work under the impact of transformative technological and structural change;
2. To identify sustainable forms of worker protection based on principles of social justice and fundamental rights embodied in the South African Constitution, 1996 and the standards of the International Labour Organisation (ILO);
3. To advocate and promote legal and regulatory reform towards the sustainable implementation of these rights in new areas of the labour market, and the digital economy in particular, where effective implementation is lacking.
4. To conduct its research from the perspective of a developing country, and a South African perspective in particular, taking into account its special features and challenges.

In terms of staffing arrangements, CENTROW comprises a Director and staff members appointed from time to time. For the period 2021 – September 2022, CENTROW was led by Extraordinary Prof Paul Benjamin and Emeritus Prof Darcy du Toit, and from September 2022, by Prof Debbie Collier. CENTROW research associates from the Faculty of Law and Mercantile and Labour Law Department include Prof Kitty Malherbe, Dr Tinashe Kondo, Dr Abigail Osiki, and Professor Edoardo Ales, Professor of Labour Law and Industrial Relations, Department of Law, University of Naples 'Parthenope' (Italy) and Extraordinary Professor of Law at the University of the Western Cape; and see further below for details on CENTROW's associates, whom we are grateful to be able to call on. CENTROW's governance structures include a Management Committee and Advisory Board, which will be reconstituted in 2023.

Core staff members at CENTROW include Annalize Swartz<sup>1</sup> (HR and Finance Senior Administrator), Leonore Schuller (Academic Administrator), Ivona Naidoo (Administrative Assistant), Fairuz Mullagee (Education and Project Manager), Ratula Beukes (LLoL Researcher), Ernest Booy (Education Programs), Roger Ronnie (Education Programs and LLoL Researcher), Sedica Davids (DPCP Researcher), Candice James (DPCP Researcher), Tatum Russell (DPCP Researcher), and Bronwyn February (DPCP Researcher).

Current CENTROW activities, heading into 2023, are reflected in the organogram below, with more details provided in the consolidated report below covering CENTROW activities and research outputs for the period 2021 – 2022.



CENTROW’s research agenda is wide-ranging and dynamic. Many of South Africa’s challenges are echoed in global debates, including the need for a new ‘social contract’ as a basis for economic and legal renewal. Worker rights and decent work, from this perspective, are not limited to the workplace. Work as an element of building social justice also concerns the worker as a citizen and raises issues transcending law in a narrow sense – for example, the impact of new forms of work on the environment and on the economy form part of CENTROW’s broader research agenda, requiring a multi-disciplinary approach and collaboration with partners from other disciplines to produce findings that can contribute to policy development as well as recommendations for legal development. In an exciting development, CENTROW will be supporting the National Economic Development and Labour Council (NEDLAC) and social partners on labour law reform in 2023/24.

Debbie Collier  
Director, CENTROW

<sup>1</sup> Annalize Swartz received a 2022 Rector and Vice-Chancellor 10-year long-service award, October 2022.

## INCOME AND EXPENDITURE

[TBC]

## COMMUNITY-ENGAGED RESEARCH PROJECTS

### DIGITAL PLATFORM CO-OPERATIVE PROJECT (DPCP)

In 2019 the Social Law Project (SLP) began discussions to partner with the Deutsche Gewerkschaftsbund (DGB, the principal trade union federation of Germany) on establishing the Digital Platform Cooperative Project (DPCP), aimed at developing a sustainable platform for domestic and care work owned and controlled by the workers. A contract between SLP and DGB was finalised in 2020, and Phase I of the project commenced.

The Digital Platform Cooperative Project (DPCP) involves the co-creation of a worker-owned social enterprise, premised on the seven co-operative principles, for the promotion of decent work in the domestic work sector. Domestic workers partnering with the DPCP project team have shown a keen interest in digital inclusion, and the Covid-19 pandemic accelerated the transition to digital platforms as the project unfolded.

Phase I of the project (2020 – 2022) involved awareness raising, skills and capacity-building, and trust-building, as the building blocks for a sustainable worker-owned platform enterprise. This was essential to ensure that the key beneficiaries, domestic workers were sufficiently upskilled and taught basic digital literacy to participate optimally as co-creators.

The project aims to promote human development and equip a vulnerable category of workers in the labour market (domestic workers experience intersectional forms of discrimination in the workplace) to benefit from digital transformation and make use of widely accessible technology as a means to access decent work and opportunities for organising and learning.

Human and capacity development (capacitating and upskilling the workers and project team) was the focus point in Phase I, in preparation for the co-creation of a social enterprise tech-startup in the domestic work sector. Phase II, which will commence in 2023, will involve the development and use in a pilot phase of a digital platform (WeCare) consisting of a website and mobile app which supports ease of access to decent work, organising and learning opportunities across devices. In Phase II the DPCP project team will be supporting WeCare to build a co-operative (worker-owned and managed) digital platform in the domestic services sector.

2022 activities included Constitution drafting with engagements on governance and enterprise development, and ongoing digital skills development, as well as capacity building and leadership development in support of the two project outcomes: a working tech platform and a voluntary association. Towards the end of 2022, the website for WeCare neared completion, and the DPCP project team and consultants moved towards finalisation of the business model and the constitution for WeCare, a membership based Voluntary Association, in accordance with the principles of cooperativism. On 19th November, the DPCP team and 60 WeCare members celebrated the

achievements, during phase 1, of the WeCare members who had participated in the ongoing skills development activities and training sessions which the DPCP team has provided.

For more information on the DPCP project, contact the DPCP Project Manager, Fairuz Mullagee:

 [fmullagee@uwc.ac.za](mailto:fmullagee@uwc.ac.za)

#### LABOUR LAW ONLINE (LLL)

The Labour Law Online (LLL) project involves the development of a rule-based system (good old-fashioned AI (GOFAI)) that facilitates decision-making and provides support in realising the rights of members of the community who otherwise have limited access to justice – in particular non-unionised and marginalised workers, with a focus on workers seeking assistance from Community Advice Offices (CAOs). LLL is a digital tool that provides capacity and individualised support to CAOs, which currently have limited resources to assist with accurate and adequate levels of legal assistance on matters relating to labour and social security rights.

The project is supported by our partner, Arbeidsmarkt Research BV at the University of Amsterdam (ARR). ARR works with project staff at CENTROW on the programming for LLL. The ARR rule-based system is accessible:

@ Magontslag: <https://www.magontslag.nl/>

Magontslag is a critical reference for the LLL project to ensure proper technological standards are met in the conceptual and design phases of LLL, which is accessible:

@ Labour Law onLine: <https://uwc.magontslag.nl/user>

The project's first phase introduced a series of modules explaining and clarifying relevant provisions of the LRA commencing with dismissal for misconduct, capacity and operational requirements, and currently, LLL is available for assisting with aspects of dismissal law, and, in the next phase of the project, additional modules on social security and occupational health and safety and remaining aspects of labour law, employment discrimination law, and basic conditions of employment, will be developed. The programme software lends itself to developing different modules using a rule-based system dealing with human rights law and where paralegals will be central in identifying further topics relevant to their work areas.

For more information on the LLL project, contact the LLL Project Coordinator, Ratula Beukes,

 [rbeukman@uwc.ac.za](mailto:rbeukman@uwc.ac.za)

#### CENTROW HOSTED WEBINARS, SEMINARS, CONFERENCES & WORKSHOPS

The Centrow Webinar Series is available at:

 <https://www.youtube.com/@centrowuniversityofthewest4770/videos>

During the period under review, the following events were hosted by Centrow:

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2022

- Co-hosted with the SA Labour Law Society (SASLAW), a hybrid webinar on *The revitalisation of labour law: developments in the EU and the UK after Brexit* with Prof Emeritus Dr Manfred Weiss (Goethe University in Frankfurt) and Prof Simon Deakin (Cambridge University). Prof Paul Benjamin (Centrow, UWC) facilitated the discussion, 5 September 2022.
- Centrow Labour Market Regulation Webinar Series hosted Professor Miriam Cherry, 'California's "Gig Battles": Technology and Trends in the US Labor Market', 25 May 2022.
- Centrow Labour Market Regulation Webinar Series hosted Professor Nicola Countouris, 'Current debates on the definition of work and employment in Europe and the European Union', 11 May 2022.
- Centrow Labour Market Regulation Webinar Series hosted Lord (John) Hendy QC, 'The UK Status of Workers Bill, 2021 and the abolition of insecure work', 4 May 2022.
- Joint collaboration with UWC Western Cape Co-Lab and CENTROW, co-hosted an online solutions-based conference on *Platform work and Inclusion: Ensuring Decent Work and Basic Rights*, 2-3 March 2022.

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2021

- CENTROW launch webinar, panel of CENTROW associates *Labour Law and Inequality: Where have we come from and where are we going?* moderated by Professor Evance Kalula, ILO chair of the Committee on Freedom of Association, 23 March 2021.

 <https://youtu.be/7H5KsYqWCmA>

## WEBINARS, SEMINARS, CONFERENCE & WORKSHOP PRESENTATIONS

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2022

- Dr Abigail Osiki gave a presentation on 'Overcoming inequalities: facilitating social protection for platform workers in Nigeria' as an invited panellist on the *Future of Work(ers) Policy Dialogue Webinar Series*, hosted by Southern Centre for Inequality Studies, 15 November 2022.
- Prof Darcy du Toit was co-author of *The Legal Protection of Gig Workers: Lessons for South Africa* presented at the SASLAW conference, 6 - 7 October 2022.
- Prof Paul Benjamin gave a presentation on the key issues and ongoing amendments in a plenary session at the CCMA Annual Labour Law Conference on 21 September 2022.

- Prof Paul Benjamin, participated as a Webinar panellist on ‘Implementation of ILO Convention 190. Lessons from South Africa, Mauritius and Peru’ hosted by the International Lawyers Assisting Workers Network (ILaw), 28 June 2022.
- Dr Abigail Osiki presented on ‘Building a practical model of decent work in the platform economy based on digital inclusion’ at the Platform work and inclusion: Ensuring decent work and basic rights conference organised by Western Cape CoLab and CENTROW, University of the Western Cape, 2nd to 3rd March, 2022.

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2020/21

- Prof Darcy du Toit was a panelist on ‘Thinking out of the Box: Regulating Fairwork for Platform Workers in Law and Practice’, at the 23rd Annual Conference of the South African Society for Labour Law (SASLAW) Conference, 6 November 2020.
- Prof Darcy du Toit presented a paper on ‘Labour Rights in the Gig Economy’, at the Southern Centre for Inequality Studies and the Mandela Institutes, School of Law, University of the Witwatersrand, *Digitalisation and World of Work(ers)* webinar, 5 November 2020.

## CAPACITY BUILDING, OUTREACH & RELATED ACTIVITIES

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2021-2022

- In October 2021 The ILO commissioned the Social Law Project (SLP) to produce COIDA resources for SADSAWU to enable them to raise awareness among domestic workers. The outputs comprised a leaflet, poster, summary booklet and a [video](#).
- OXFAM - Domestic Workers Rising project was a one-year partnership between UWC, Oxfam, SADSAWU, Udwoosa and Digital Girl Africa This project was essentially focused on developing digital literacy skills for domestic workers, providing tools for improving organising capability. The substantive programme content was on current labour rights topics such as COIDA and the National Minimum Wage, both of which have seen advances in the sector. With support from UWC’s Colab, three basic digital literacy workshops were held on 20 November 2021, 5 February 2022 and 14 May 2022. For each workshop, presentations were done digitally and livestreamed to two workshop venues in Cape Town (the Biscuit Mill) and Johannesburg (the Reef Hotel) with participation of 197 domestic workers in total. The workshops were followed up by digital activities via Whatsapp as a tool for promoting digital organising. A series of podcasts were produced on the gig economy, COIDA & domestic workers, Digital literacy, the Minimum Wage Act and the Impact of Covid-19 on domestic work. A key benefit of the programme was expansion of the pool of workers with basic digital skills that DPCP could draw from and continue to build on.
- Women in Informal Employment Globalising and Organising (WIEGO) in partnership with UN Women requested Centrow’s Social Law Project to run a workshop for domestic workers in Cape Town 21-22 April 2022 for members of SA Domestic Services and Allied Workers Union



(SADSAWU) and United Domestic Workers Organisation of SA (Udwosa). The workshop focused on improving workers' knowledge on accessing their rights, challenges they experience and solutions for improving their rights in respect of COIDA and UIF. An emerging idea from the workshop was "independent compliance monitors", which was flagged as an area requiring research.

- Debbie Collier and Ratula Beukes in collaboration with the Labour, Development and Governance Research Unit (LDG) at UCT, partnered in a six-country (Brazil, Colombia, India, Tunisia, South Africa, and the UK ) research project developed and implemented by the Equal Rights Trust and the Solidarity Center's International Lawyers Assisting Workers (ILAW) Network, aimed at producing a comparative exploration of the right to non-discrimination in work and employment in the six countries. The purpose of the study is to better understand why employment and work discrimination persists despite the widespread adoption of anti-discrimination laws; and to identify what role anti-discrimination law can play in preventing and addressing work and employment discrimination, especially in light of the extra-legal obstacles. The project also seeks to understand how anti-discrimination law be better drafted and implemented to ensure that those most in need of its protections are able to access it fully.

## SCHOLARLY RESEARCH AND PUBLICATIONS

### BOOKS

2022

- Tindara Addabbo, Edoardo Ales, Ylenia Curzi, Tommaso Fabbri, Olga Rymkevich, Iacopo Senatori (eds) *Defining and Protecting Autonomous Work: A Multidisciplinary Approach* (2022) Palgrave Macmillan / Springer Nature; Switzerland.
- C. Thompson and P Benjamin *South African Labour Law* (Juta, update service) – Revision Service 79 – December 2022.

### JOURNAL ARTICLES & BOOK CHAPTERS

2022

- Edoardo Ales 'Genuine Autonomous Work: Toward a Tailor-Made Social Protection', chapter in Tindara Addabbo, Edoardo Ales, Ylenia Curzi, Tommaso Fabbri, Olga Rymkevich, Iacopo Senatori (eds) *Defining and Protecting Autonomous Work: A Multidisciplinary Approach* (2022) Palgrave Macmillan / Springer Nature; Switzerland.
- Darcy du Toit and Kelly Howson 'Protecting Platform Workers: Options and Challenges' (2022) 43 ILJ 711.
- Darcy du Toit 'La tutela dei diritti dei lavoratori domestici e di cura: verso un nuovo paradigma'

(‘The protection of the rights of domestic and care workers: towards a new paradigm’) in Lilli Casano (ed) *Verso un mercato del lavoro di cura? Questioni giuridiche e nodi istituzionali*, (2022) ADAPT University Press.

- Osiki Abigail “Scope of Protection: A retrospective and prospective overview of the Protected Disclosure Act 2000” (2022) (4) *Journal of Comparative Labour and Social Security Law Review* 145.
- Osiki Abigail “The impact of socio-legal inequality on women in the Nigerian domestic work sector” (2022) (26) *Law, Democracy & Development* 48-83.
- Abigail Osiki ‘Facilitating Decent Work: The Case of Domestic Workers in Nigeria (2022) 43 *ILJ* 726.

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2021

- Darcy du Toit ‘Discrimination on an ‘Arbitrary Ground’ and the Right of Access to Justice’ (2021) 42 *ILJ* 1.
- Fredman, Sandra, Darcy du Toit, Mark Graham, Aradhana Cherupara Vadekkethil, Gautam Bhatia, and Alessio Bertolini. "International Regulation of Platform Labor: A Proposal for Action." *Weizenbaum Journal of the Digital Society* 1, no. 1 (2021): 1-1.
- Englert, Sai, Mark Graham, Sandra Fredman, Darcy du Toit, Adam Badger, Richard Heeks, and Jean-Paul Van Belle. "Workers, platforms and the state: The struggle over digital labour platform regulation." In *A Modern Guide To Labour and the Platform Economy*, pp. 162-176. Edward Elgar Publishing, 2021.

#### OTHER PUBLICATIONS

- Darcy du Toit co-authored a chapter on care work (in the context of SLP/DPCP) in *Verso un mercato del lavoro di cura? Questioni giuridiche e nodi istituzionali*, edited by Lilli Casano, and published by ADAPT University Press (October 2022).
- Fairuz Mullagee, Nitya Nangalia and Salonie Muralidhara Hinyur, ‘Domestic work and platformisation in India and South Africa: a look at enablers and barriers’ in Olivia Blanchard, Carina Lopes and Patrick Devaney (eds) *Global perspectives on women, work, and digital labour platforms: A collection of articles from around the world on women’s experiences of digital labour platforms* (Digital Future Society 2022) at [https://digitalfuturesociety.com/app/uploads/2022/07/Global\\_Perspectives\\_on\\_Women\\_Work\\_and\\_Digital\\_Labour\\_Platforms.pdf](https://digitalfuturesociety.com/app/uploads/2022/07/Global_Perspectives_on_Women_Work_and_Digital_Labour_Platforms.pdf).

#### POLICIES, WHITE PAPERS, SUBMISSIONS & LEGAL DRAFTING

- Profs Kitty Malherbe and Debbie Collier responded to the Overview of EPL Regulatory Interventions Adopted during the Covid-19 Pandemic (Summary Questionnaire) October 2022, submitted to the ILO.

- Prof Darcy du Toit participated in the process leading up to the publication of the International Law Association, White Paper 23 The Future of Labour Law (2023) published at <https://www.ilaparis2023.org/wp-content/uploads/2022/11/ADI-ILA-travail-VHD2-EN.pdf>.
- January 2022 Fairuz Mullagee drafted a submission on behalf of the domestic workers trade unions, in support of the National Minimum Wage Commissioners proposal for increasing domestic workers minimum wages to the same level as that of all other workers.

## EDUCATION PROGRAM

- The South African Qualifications Authority (SAQA) NQF Qualifications Committee approved the Advanced Diploma in Labour Law (ADLL) qualification in February 2022 and the first intake consisting of a class of 30 students is planned for the 2023 academic year. The programme comprises 8 modules (each 120 credits) and will be delivered over a single year.
- At the UWC spring 2022 graduation ceremony, 9 students who completed the programme requirements for the PGDip in Labour Law were awarded diplomas.
- The Labour Law onLine (LLL) team is preparing to present a final year LLB elective on Labour Law, legal logic and technology in 2024 titled *Digitalising Labour Law*. The elective draws from the LLL / Magontslag project with ARR at the University of Amsterdam.

## CENTROW MEMBERS AND LIST OF CENTROW ASSOCIATES

### CENTROW AND UWC ASSOCIATES (IN ALPHABETICAL ORDER)

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#### CENTROW ASSOCIATES (EXTERNAL TO UWC, IN ALPHABETICAL ORDER)

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<a href="#">Bradley Conradie</a> Senior Partner Bradley Conradie Halton Cheadle Attorneys	<a href="#">Prof Barry Dwolatzky</a> Emeritus Professor School of Electrical and Information Engineering (Wits)	<a href="#">Prof Sandra Fredman</a> Professor of Law Oxford University	<a href="#">Ms Shamima Gaibie</a> Director Cheadle Thompson Haysom Attorneys
<a href="#">Prof Mark Graham</a> University of Oxford Director, Fairwork Foundation	<a href="#">Dr Ruediger Helm</a> Law firm huber.mücke helm Human Rights at the Workplace	<a href="#">Prof Teun Jaspers</a> Emeritus Professor of Law University of Utrecht	<a href="#">Prof Evance Kalula</a> Chairperson ILO Committee on Freedom of Association (CFA)
<a href="#">Prof Eva Kocher</a> Director, Law Faculty, European University Viadrina, Frankfurt (Oder), Germany	<a href="#">Prof Wilma Liebman</a> Senior Research Associate Labor and Worklife Program Harvard Law School	<a href="#">Mthunzi Mdwaba</a> Chair of Productivity South Africa TZoro IBC	<a href="#">Kgomotso Mokoena</a> Lecturer, University of Johannesburg
<a href="#">Venolan Naidoo</a> Partner, Fasken National Vice-President (SASLAW)	<a href="#">Prof Achim Seifert</a> Chair of Civil Law, German & European Labour Law & Comparative Law	Alistair Smith ILO specialist in Social Dialogue & Labour administration alistair@sni.co.za	<a href="#">Marlese von Broemsen</a> Director, Law Programme
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