

OSALL

Organisation of SA Law Libraries

"OSALL aims to link and support everyone interested in Law Librarianship in South Africa"



NEWSLETTER

Vol. 24 No. 4
November 2013

*This newsletter is published
four times a year*

OSALL

P.O. Box 783779
Sandton, 2146

<http://www.osall.org.za>

OSALL Committee members

Meryl Federl
(Chair)

Tel: (011) 836 9831
Email: meryl@lrc.org.za

Secretary
(Vacant)

Thulisa Kondlo
(PR & Liaison)

Tel: (011) 433 3004
Email:
thulisa.kondlo@nortonrose.com

Mari Brightmore
(Treasurer)

Tel: (011) 447 7441
Email:
Mari@AcademicMarketing.co.za

Mary Bruce
(Listserv administrator)

Tel: (033) 345-1304
Email: mary@lawsoc.co.za

Danielle Botha
(Website administrator)

Tel: (011) 535-8000
Email: dbotha@werksmans.com

For all newsletter contributions:

Varsha Sookdhaw
(Editor)

Tel: (011) 286 6954
Email: varshas@mrlaw.co.za

Editorial



In the blink of an eye, another year has flown by! The final issue of the Newsletter for 2013 contains useful articles, which provides us all with great assistance and advice on some of the dreaded research queries which include repealed legislation and unreported judgments.

The OSALL Committee would like to thank Juta for sponsoring our year-end event and for the beautiful gifts that were handed out to all. The well attended lunch was held at the Metro restaurant in Sandton and we were thoroughly spoiled by the sumptuous fare provided.

Our Chair, Meryl Federl reports on the BIALL Conference which she attended this year in Glasgow, Scotland. Karla Hugo has submitted an informative article guiding one on searching within Prelex (repealed legislation).

Ever wondered how a judgment is written? Gail Dendy writes on IFLARO, which is the formula used by judges. Raylene Basson provides an enlightening article on accessing unreported judgments, while our regular columnist Nico Ferreira has assisted by compiling important lists of recent journal articles, new books, and symposiums.

These excellent articles provide practical advice and assistance to all in our profession. Thank you to our kind writers who made the time and took the great effort to put pen to paper. Your generosity is much appreciated.

Special appeal from the Committee: We desperately need a kind member to sit on our committee as Secretary.

Season's greetings,

Varsha



News

Report from chairperson on the BIALL conference in Glasgow, June 2013

By Meryl Federl

First a very big thank you to Michael Brightmore of Academic Marketing Services, Sweet & Maxwell and Juta for providing the sponsorship to attend this conference. Thanks also to BIALL for paying the fees for my attendance at the conference.

I arrived in Glasgow on Tuesday afternoon via Dubai. Tip - try not to fly Emirates. While the flight seems cheaper compared to other airlines and the food is very good, the trip is rather long with a 2 hour stop in Dubai. Unless you have a bit of time to recover after the long trip, I would recommend that anyone attending the BIALL conference rather fly directly to London. I had not looked at a map and so I didn't realize that Dubai is not exactly on the way to Scotland!

I met a very interesting person sitting next to me on the flight and she suggested that I take a taxi to the hotel instead of a bus. The taxi fare was over 20 pounds but this was well worth it because I was quite exhausted when I arrived in Glasgow and the long queue at customs for non-European Union passengers didn't help.

I had planned to have the following morning to recover and walked down the main shopping street in Glasgow. I found shopping attendants very helpful and in a coffee shop someone overheard me asking for directions to an obscure bank and helped me. My laptop had been stolen from our apartment the week before so I was internet-less!

I attended the pre-conference event in the afternoon "Managing Difficult Conversations - How to Say 'No' without Jeopardizing your Career" by Alex Gould and that evening I attended the special dinner for foreign law librarians at the Hilton Hotel where the conference was being held. I enjoyed speaking to the BIALL President Elect, Jas Breslin, who had recently returned from her first trip to SA. She had enjoyed her trip so much she was already planning her next trip. Attending the dinner were other library association chairpersons from Australia, Canada and the United States.

I was interested to learn that British law librarians had been waiting for two years for the Legal Education and Training Review (LETR) to publish their report on legal education.

This was of interest to me as I had just attended a summit during May with Shirley Gilmore at Oliver Tambo airport about the future of the LLB degree in South Africa. At that summit, it was decided that the Council for Higher Education of SA be requested to conduct a standard-

setting process for the LLB degree and that this be concluded by 30 June 2014.

I recently noticed on the BIALL website that this UK report was published in June and the BIALL legal information literacy statement was unfortunately not adopted. (www.letr.org.uk). See:

http://www.biall.org.uk/data/files/Committees/PR/Press_releases/BIALL_press_release_-_LETR_-_20130627.pdf

On Thursday, Professor Hector MacQueen from the Scottish Law Commission presented the keynote lecture: "The Business of Scots Law". Next, Carol Tullo, Director of Information Policy and Services, from the National Archives, gave a very interesting talk on their website which can be accessed via the following link:

www.legislation.gov.uk

She outlined how the website was developed in collaboration with other government stakeholders. The website is accessed by two million users a month! Should you be interested in a copy, this paper is available from me on request.

One of the most interesting sessions I attended was about copyright for lawyers. The title was "Copyright – Compliance and Communication". Dunstan Speight, Library Manager from the law firm, *Brewin Leighton Paisner LLP* discussed how he compiled a copyright guide for his firm's intranet showing users what the copyright rules were for each product according to whether the product was print or electronic.

In the UK this knowledge is very important as the Solicitors Regulatory Authority stipulates that law firms keep records of breaches of law and this includes copyright law.

The final plenary session was a very interesting panel discussion of suppliers (Thomson Reuters, LexisNexis, Linex (Legal-Information-Exchange) and Cambridge University Press), where members of BIALL also posed questions to the panel. I have suggested to the Southern African Online Information Meeting (SAOIM) that they host a similar panel discussion at their conference in June next year.

On Friday night the main supper was held at Kelvingrove Art Gallery and Museum where I had my first taste of haggis which was quite delicious. We had time to walk around the museum with a glass of champagne while the beautiful organ was played. While we were seated, we were treated to bagpipers!

The conference finished at lunchtime and as I was leaving that night for Dubai I decided to go straight to the airport. It was wonderful to meet a bunch of law librarians who were enthusiastic about their profession and to

realize that many of the problems they face in the UK are shared by us.

Some of the conference papers will be published in the next issue of the journal *Legal Information Management*. It was announced that the next BIALL conference would take place in Harrogate North Yorkshire, England during June 2014.

Photos may be viewed at the following links:

- <http://www.flickr.com/photos/innoxius/452427296/sizes/>
- <http://www.flickr.com/photos/68026101@N00/224530682>

A guide to electronic searching within the Prelex (previous legislation)

*By Karla Hugo
Juta Statutes Editor*

The nature of the legal world is such that matters can take years to reach court. Since legislation is continuously changing, legal researchers may sometimes find themselves challenged by having to search for a section of an Act that was effective at the time that an event occurred, but which has subsequently been amended or repealed. Such legislation is no longer in effect and is generally known as the Prelex.

Where past annual sets of statutes books have been kept, referring back to a particular volume that corresponds with the time of an event (such as the date of a criminal offence, a delict, a dismissal or the signing of a contract) is a simple yet somewhat lengthy process when compared to electronic searching.

If you subscribe to the electronic statutes, the product is regularly updated with the implication that you will view only the Acts that are currently in force. This emphasises the immense value to be gained from being able to navigate efficiently within the electronic Prelex folder that is provided as part of your electronic subscription. The electronic Prelex folder facilitates quick and effective access to the desired information.

In the electronic version of Juta's Statutes of South Africa, there is an annotation beneath every section (or subsection) of an Act that has been amended. The annotation provides the details of the amendment in respect of whether the section was substituted, added or repealed, as well as the details of the amending Act.

Having the details of the amending Act proves to be particularly useful since the date of commencement may be later than the year of promulgation. It is therefore wise to go back to the amending Act to verify the particulars of commencement.

Once you have been alerted to the fact that the section you require has been amended, you will need to find that section as it was at the time of the event. In the contents pane to the left of the screen you will find the Prelex folder, which stores all the amended or repealed wording of legislation.

By expanding the Prelex folder, you will find the principal Act chronologically under the year of publication, and then sequentially under the Act numbers.

If you then expand the Act, you will be presented with a list of all the amendment Acts that it has been affected by, and if you click on any of these amendment Acts, you will find the wording of the sections of the principal Act as they were prior to amendment.

It is important to note that the Prelex is excluded from the general search function. The reason for this is that the general user, as a rule, does not need to access previous legislation. Nevertheless, specialised search functions enabling a more direct route to Prelex information are available to those who do indeed utilise such information.

If you are a Juta Law Online subscriber, you can select the advanced search form entitled "Acts Search" from the drop down menu above the contents pane. This enables you to find the required Act by entering the Act name or the Act number, year and (for a more focused search) a section number.

The next step is to ensure that only the Prelex box is ticked, which will allow for an exclusive search of amended or repealed legislation in relation to the specified Act.

Similarly, if you are an Intranet or CD-ROM subscriber, you can select "PhraseWord search within Prelex" (option 4) from the Search tab in the menu bar. You then simply enter the Act number and year, and are taken directly to the Prelex of that Act. Furthermore, this search function provides for the narrowing down of the search; you can enter a specific phrase or word from the amended or repealed portion for even quicker access to the information.

Should you have any queries, please feel free to contact Karla Hugo at: khugo@juta.co.za

If you didn't know ... it's IFILARO

by Gail Dendy

Ever wondered how a judgment is written? Well, there's a basic structure, or formula, which judges follow. And it's known as: IFILARO. And no, it's not a rude word – it's an acronym.

First, the judge will give the **Introduction** to the case. After all, a judgment can be regarded as a story, and hence the judge will begin by informing the reader who is involved in the case, what happened, and when it happened. He or she will also state the nature of the proceedings, for example, whether it is a trial, motion proceedings, an appeal etc. Ideally, the judge should aim to whet the appetite of the reader, much as a novel-writer would do in the hope of the reader being sufficiently enthralled to keep reading until the end.

Next, a judgment will set out the **Facts** of the case. This is the backbone of the judgment, and the judge's duty is to record the relevant facts accurately and logically. He or she will also stipulate which facts are agreed upon, and which are in dispute. Where facts are in dispute, the judge will make a factual finding. In general, it is undesirable for a judge to decide on disputed facts in motion proceedings rather than in a trial action.

Based upon the facts of a case, the judgment will then turn to the legal **Issues**. If a judge is faced with several disputed issues, he or she may decide on all of them in case the judgment gives rise to an appeal.

Next, the judge will consider the relevant **Law**, and apply this to the facts of the case. It is the **Application** of the law to the facts which, in terms of IFILARO, forms the next significant part of the judgment. Following on logically from this are the legal **Remedies** and, finally, the **Order** made by the court.

Obviously, IFILARO is a guideline which may be modified depending on the case at hand. The golden rule is to be methodical, clear, and – hopefully – to give judgments that reflect the excellence of the South African legal system.

Access to unreported judgment – a Librarian's worst nightmare

Raylene Basson – Werksmans Attorneys

Trying to find a copy of an unreported judgment appears to be a challenge for many, especially if you do not have a case number.

It may be possible to find a case number by looking at the court rolls for the High Courts if you know the parties and which court it was heard.

Judgments handed down in the Constitutional Court and Supreme Court of Appeal

Every Constitutional Court case is available on either the Constitutional Court's website, from inception of the court (1994 onwards), or on SAFLII, from 1994 onwards. The same applies to Supreme Court of Appeal cases. All of these are available on the respective websites on the day the judgment is handed down.

There should therefore not be a problem finding these cases even if you don't have the case number. If a case is dismissed the court records are not made available in the public domain. One can contact the Registrar of the Court and request the documentation pertaining to the dismissal of the case.

A priori cases

It is sometimes even difficult to get the a priori case of the Supreme Court of Appeal (SCA) as the case number is not always mentioned in the SCA judgment itself. In this instance it is usually very helpful to call the library of the SCA as they will always have a copy of the a priori case because the SCA judges would have needed a copy in order to make a judgment for the Court.

Finding High Court judgments

Electronic resources: Unreported judgments are available on Juta, LexisNexis, as well as SAFLII, which is a great help. Legalbrief Today, which is compiled for legal professionals, delivers comprehensive news coverage of important legal developments. It is subscription based and allows subscribers to download unreported judgments (if available) especially when it is a high profile matter.

The Media: Court journalists report on matters which could be topical in some instances and of great interest to one's practice area. In the absence of a case number it is useful to read media reports relating to a matter. A journalist will often mention the Judge, or in which court it was heard, or the attorneys and the circumstances relating to the matter. Sometimes a journalist will also have a copy of the judgment.

Be warned, they do not part with this information easily, especially if you are calling from a law firm. Also be aware that the case might not be as new as you think – be careful to find out exactly which day the judgment was handed down so that when you need to contact the High Court, they can be sure that they are looking at the

correct date. If you can find articles from different newspapers, this will also help to verify the date.

The High Court: Contacting the Records/Archive Department at the High Courts without a case number, could be time consuming. The Records/Archive Department cannot assist if you do not have a case number and even if you have a case number, you will be requested to make your own copies.

Judgments: Not all cases reported on, are court judgments. In some instances an order or a settlement agreement is handed down. Court orders and or settlement agreements are not published or available unless you obtain a copy from the court file or the acting attorney.

At Werksmans Attorneys we have a very helpful court messenger for the South Gauteng High Court, who has the necessary contacts as well as resources to assist in obtaining a copy of a judgment. Some law firms would have CA's who are on court duty and are able to obtain such information.

Attorneys/Involved Parties: If all else fails, contact the attorneys or the parties involved. If you have reason to believe it is a human rights related case, it is possible that one of the human rights NGO's may have been one of the attorneys and they usually upload the case (and sometimes pleadings) onto their websites. By looking at these websites you will also get an idea of what sort of subjects were covered.

Websites for NGO's include:

- Lawyers for Human Rights: www.lhr.org.za
- Legal Resources Centre: www.lrc.org.za
- Socio-Economic Rights Institute: www.seri-sa.org
- Centre for Environmental Rights: www.cer.org.za
- Section27: www.section27.org.za
- Centre for Applied Legal Studies: www.wits.ac.za/law

SAFLII

If you do find a case via the registrar and it is NOT available on SAFLII at that time, please send them to SAFLII, who are now based at the University of Cape Town, for uploading. They appreciate the input of law librarians in making the database as comprehensive as possible. E-mail address: info@saflii.org

Publications Noted

Compiled by:
Nico M Ferreira

Symposium noted

Cybercrime, *in* JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, vol. 103, no. 3, 2013, p. 663-948.

Evidence reform, *in* GEORGIA LAW REVIEW, vol. 47, no. 3, 2013, p. 657-922.

Legal domains, *in* EDINBURGH LAW REVIEW, vol. 17, no. 3, 2013, p. 420-430.

Legalization of same-sex marriages, *in* BYU JOURNAL OF PUBLIC LAW, vol. 27, no. 2, 2013.

Teaching legal history in US law schools, *in* AMERICAN JOURNAL OF LEGAL HISTORY, vol. 53, no. 4, 2013.

Wrongful conviction, *in* UNIVERSITY OF CINCINNATI LAW REVIEW, vol. 80, no. 4, 2012.

Journal articles noted

Aiyebilehin, J. General structures, literatures, and problems of libraries: revisiting the state of librarianship in Africa, *in* LIBRARY PHILOSOPHY & PRACTICE, December 2012, p. 1-20.

Akakandelwa, A. A comparative study of perceived work related stress among library staff in two academic libraries in Southern Africa, *in* LIBRARY MANAGEMENT, vol. 34, no. 8/9, 2013, p. 1-13.

Albitz, R. Copyright information management and the university library: staffing, organizational placement and authority, *in* JOURNAL OF ACADEMIC LIBRARIANSHIP, Sept 2013, p. 429-435.

Canick, S. Library services for the self-interested law school: enhancing the visibility of faculty scholarship, *in* LAW LIBRARY JOURNAL, vol. 105, no. 2, 2013, p. 175-198.

Cihak, H. Temptations of the Sirens: ethical issues in libraries, *in* LAW LIBRARY JOURNAL, vol. 104, no. 4, 2012, p. 531-551.

Delaney, J. Employer use of Facebook and online social networks to discriminate against applicants for employment and employees, *in* LABOR LAW JOURNAL, vol. 64, no. 2, 2013, p. 86-102.

Elvy, S-A. Towards a new democratic Africa: the African Charter on Democracy, Elections and Governance, *in* EMORY INTERNATIONAL LAW REVIEW, vol. 27, no. 1, 2013, p. 41-116.

Furler, D. Sixteen must have apps for the new tablet owner, *in* AUSTRALIAN LAW LIBRARIAN, vol. 21, no. 2, 2013, p. 134-139.

Hollingum, J. Collection development policies in law firm libraries: do we need them? *in* LEGAL INFORMATION MANAGEMENT, vol. 13, no. 1, 2013, p. 62-65.

Hoskins, R.G. The influence of open access on journal cancellations in university libraries in South Africa, *in* ELECTRONIC LIBRARY, vol. 31, no. 5, 2013, p. 574-592.

Pritchard, S.M. The rising rate of plagiarism, careless citation practice, bad grammar, and failure to read (and I'm not talking about the students), *in* PORTAL LIBRARIES AND THE ACADEMY, vol. 13, no. 4, 2013, p. 339-341.

Ryan, M. The effect of time of day on reference interactions in academic law libraries, *in* REFERENCE & USER SERVICES QUARTERLY, vol. 52, no. 4, 2013, p. 298-301.

Schulze, W.G. A conspectus of South African legal periodicals: past to present, *in* FUNDAMINA, vol. 19, no. 1, 2013, p. 61-105.

Semugabi, J. Recent political-legal developments, practical legal training and the Law Development Centre Library in Uganda, *in* LEGAL INFORMATION MANAGEMENT, vol. 13, no. 1, 2013, p. 43-51.

Taylor, L. The opportunities and challenges in the adoption of e-books in academic law libraries, *in* CANADIAN LAW LIBRARY REVIEW, vol. 37, no. 4, 2012, p. 180-182.

Van Niekerk, J.P. An introduction to South African law reports and reporters: 1828 to 1910, *in* FUNDAMINA, vol. 19, no. 1, 2013, p. 106-145.

Webster, T. China's human rights footprint in Africa, *in* COLUMBIA JOURNAL OF TRANSNATIONAL LAW, vol. 51, no. 3, 2013, p. 626-663.

New journal noted

Africa Nazarene University Law Journal. Vol. 1, no. 1, 2013. Juta. ZAR 560.00

Books noted

Ako, R.T. Environmental justice in developing countries: perspectives from Africa and Asia-Pacific. 2013. Routledge. ISBN 9780415636339 USD135.00

Bulto, T.S. Extraterritorial application of the human right to water in Africa. 2013. Cambridge University Press. ISBN 9781107031081 GBP70.00

Chan-Meetoo, C. Media ethics and regulation: insights from Africa. 2013. Langaa RPCIG, Cameroon. ISBN 9789956790111 GBP22.95

Clinch, P. Legal research: a practitioner's handbook. 2nd ed. 2013. Wildy, Simmonds & Hill Publishing. ISBN 9780854901234 GBP45.00

Cornell, D. (ed.). The dignity jurisprudence of the Constitutional Court of South Africa: cases and materials. 2013. Fordham University Press. ISBN 9780823250080 USD195.00

Dawson, N.M. (ed.). Lawyers, the law and history. 2013. Dublin: Four Courts Press. ISBN 9781846822445 USD74.50

De Stadler, E. Consumer law unlocked. 2013. Siber Ink. ISBN 9781920025519 ZAR 350.00

Hansjee, B. The survivor's guide for candidate attorneys. 2nd ed. 2013. Juta. ISBN 9781485100317 ZAR 325.00

Millard, C. Cloud computing law. 2013. Oxford UP. ISBN 9780199671687 GBP79.86

Muchie, M. (ed.). The African Union ten years after: solving African problems with Pan-Africanism and the African Renaissance. 2013. Africa Institute of South Africa. ISBN 9780798303873 GBP34.95

Nigerian Institute Advanced Legal Studies (ed.). Restatement of customary law of Nigeria. 2013. Safari Books, Nigeria. ISBN 9789788407911 GBP29.95

Ohuruogu, C.C. (ed.). Nigerian legal methods. 2013. Newcastle upon Tyne: Cambridge Scholars Publishing. ISBN 9781443851268 GBP47.59

Oluduro, O. Oil exploitation and human rights violations in Nigeria's oil producing communities. 2013. Intersentia. ISBN 9781780681313 GBP90.00

Prah, M. Insights into gender equity, equality and power relations in Sub-Saharan Africa. 2013. Fountain Publishers, Uganda. ISBN 9789970252343 GBP29.95

Sundahl, M.J. The Cape Town Convention: its application to space assets and relation to the law of outer space. 2013. Martinus Nijhoff. ISBN 9789004208919 EUR110.00

Schwartz, M.H. What the best law teachers do. 2013. Harvard University Press. ISBN 9780674049147 USD29.95

Watkins, D. Research methods in law. 2013. Routledge. ISBN 9780415672146 USD55.95

West, R. Teaching law: legal pedagogy in the context of politics, justice, and practice. 2013. Cambridge University Press. ISBN 9781107044531 USD90.00

Woolman, S. The selfless constitution: experimentalism and flourishing as foundations of South Africa's basic law. 2013. Juta. ISBN 9780485100072 ZAR 735.00

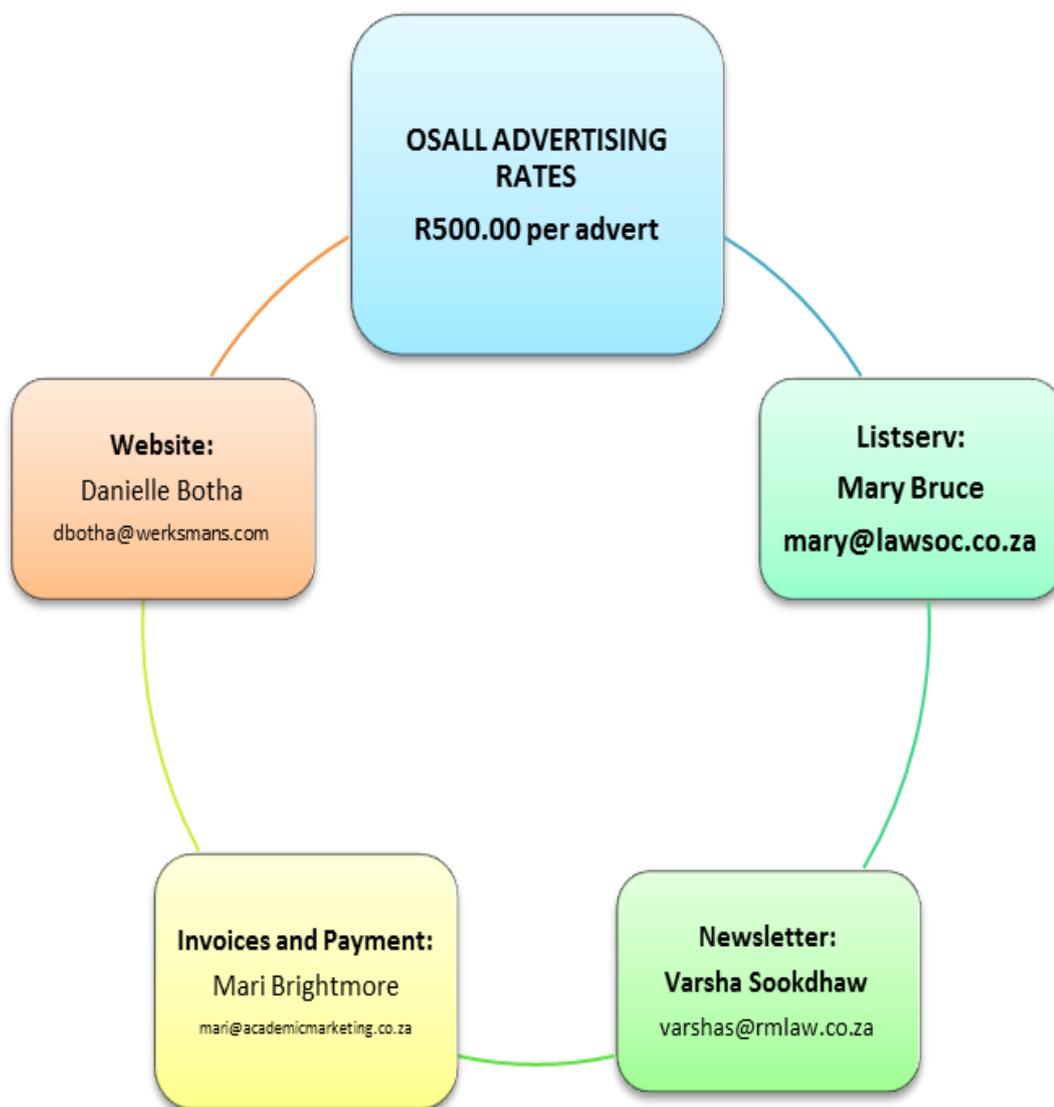
Conventions noted

Kampala Convention (African convention for the protection and assistance of internally displaced persons in Africa), see 52 (2013) International Legal Materials, p. 400-410.

**THE OSALL COMMITTEE WOULD
LIKE TO TAKE THIS OPPORTUNITY
TO THANK ALL WHO
HAVE ASSISTED US
THROUGHOUT THE YEAR**

**WISHING ALL OUR
MEMBERS
A MERRY CHRISTMAS
&
HAPPY NEW YEAR**





Please note:

- Proof of payment must be submitted prior to publishing and or posting of adverts.
- Adverts must be submitted in JPEG format.