

# **MARIUS PIETERSE**

## **CURRICULUM VITAE: 1 DECEMBER 2020**

**Full Name:** Marius Pieterse

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**Current position:** Professor of Law; University of the Witwatersrand

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### **ACADEMIC QUALIFICATIONS:**

- BLC (cum laude); University of Pretoria; awarded 07-12-1995
- LLB (cum laude); University of Pretoria; awarded 04-12-1997
- LLM Fundamental Rights and Constitutional Practice (cum laude); University of Pretoria; awarded 20-04-1999
- PhD; University of the Witwatersrand; awarded 14-06-2006 (Title of Dissertation: *A Benefit-focussed Analysis of Constitutional Health Rights*)

### **NRF RATING:**

B2 (1 January 2021- 31 December 2026)

Previously B2 (1 January 2015- 31 December 2020); Y1 (1 January 2009- 31 December 2014)

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### **PROFESSIONAL EXPERIENCE:**

#### **Positions Held at University of the Witwatersrand:**

- Professor of Law (1 December 2007 – present)
- Assistant Dean of Research for the Faculty of Commerce, Law and Management (1 May 2007 - 31 December 2011)
- Associate Professor in the School of Law (October 2003 – November 2007)
- Senior Lecturer in the School of Law (January 2001 - September 2003)
- Lecturer in the School of Law (January 1999 - December 2000)
- Part Time Lecturer in the School of Law (July - December 1998)

#### **Previous Positions Held:**

- Researcher to judge LWH Ackermann at the Constitutional Court of South Africa (January-December 1998)
- Tutor and Sessional Lecturer in Roman Law, Department of Legal History, Jurisprudence & Comparative Law, University of Pretoria (January 1996-December 1997)

## **Other:**

- Fellow of the South African Research Chair in Cities, Law and Environmental Sustainability at NWU Potchefstroom (January 2019-present)
- Joint global co-ordinator of the International Research Group on Law and Urban Space (IRGLUS – see [www.irglus.net](http://www.irglus.net)) (September 2012-present)
- Member of the Board of Directors of Section 27 (incorporating the Aids Law Project), a human rights organisation involved with activism, research and litigation pertaining to the right to health within the context of supporting socio-economic rights (see [www.section27.org.za](http://www.section27.org.za)) (April 2008-February 2017)
- Member of the Editorial Board of the *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* (January 2007-December 2012)
- Co-managing editor of the *South African Journal on Human Rights* (January 2001- December 2004 + special issue co-editor, part 2 2008)

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## **CORE ACADEMIC ACTIVITIES:**

### **Teaching and Curriculum Development:**

I have over 20 years of university teaching experience (between the University of Pretoria and the University of the Witwatersrand). At the Wits School of Law, I have mostly taught constitutional and human rights law, in various iterations, at undergraduate (LLB) and Masters (LLM) level. Through the years, this has from time to time been supplemented by private law teaching, notably in fields of health law, family law and property law; as well as by guest lectures on health-related aspects of constitutional and human rights law in the Wits Faculty of Health Sciences.

Details of subjects taught are available on request

During my years at the University of the Witwatersrand, I have developed and modified curricula, at LLM and LLB level, in various subjects (including health law, human rights law and constitutional law). I have also provided LLB curriculum review advice to the University of Pretoria Faculty of Law (2008) and assisted Monash University: South Africa with the development of a constitutional law curriculum (2017).

### **Research Supervision:**

I have supervised the following PhDs to completion:

- Deeksha Bhana *Constitutionalizing Contract Law: Ideology, Judicial Method and Contractual Autonomy* (graduated July 2013).
- Redson Kapindu *Towards the Full Realisation of Socio-economic Rights of Refugees: Challenges and prospects for Southern Africa* (co-supervised with J Klaaren) (graduated April 2014).
- Paul Wayburne *Developing a Constitutional Law Paradigm for a National Health Insurance Scheme in South Africa* (graduated July 2014).
- Phiona Mphanga *Conceptualising, Realising and Enforcing a Right to Water for Uganda:*

*Comparative Perspectives* (graduated July 2015).

- Eric Makoni *Law, Spatial Planning and the Making of South African Cities* (graduated July 2020).
- Stuart Wilson *The Law of Dispossession: Property Law, Power and Social Change* (graduated July 2020).

One further PhD thesis (Young Jae Kim *At the Crossroads of Human Rights Law, International Development Law and International Investment Law – Reflection on the Right to Development in the Exercise of Expropriation*) was submitted for examination in September 2020.

In addition, I have supervised a substantial number of LLM by coursework research reports, and LLB research reports, to completion.

I am currently supervising 6 PhD theses, on topics including social cohesion through urban governance; public participation and delivery of socio-economic rights; urban governance and heritage protection; intra-municipal cooperative governance structures; housing typologies and standards; housing-related responsibilities of local government; and constitutional intervention powers in malfunctioning municipalities.

Details of past and current supervision at all levels, as well as a list of student publications resulting from supervised work, are available on request.

### **Administration & Academic Citizenship:**

I was the assistant dean of research in the Faculty Commerce, Law and Management at the University of the Witwatersrand from 2007-2011. In this capacity, I chaired the Faculty's Research Committee and served also on the University Research Committee (URC), the Faculty Executive Committee as well as on the Executive Committee of the URC.

Through the years, I have been involved in the activities of several running committees in the School of Law. Notably, I have been a member of its management/executive committee in 2001-2002, 2011, 2013 and 2016-2017 and a member of its postgraduate studies committee in 2008, 2012-2017 and 2019-2020. I served as the chair of the School's Admissions Committee from 2001-2003 and as its research advisor from 2003-2006. In the Faculty of Commerce Law and Management, I have served on the research committee and on various ad hoc committees such as quinquennial review committees. I have also been a member of high-profile central university committees including the Wits 2001 Review Committee (2008-2011) and the Council SRC Constitutional Review Task Team (2006). I was chairperson of the quinquennial review of the Wits School of Mathematics in 2016. I have been a member of the University Senate since 2008.

Details of academic citizenship activities are available on request.

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### **CONSULTATION AND ADVISORY WORK:**

I often collaborate with organisations in an advisory capacity, and am regularly invited to

participate in expert meetings, serve on advisory boards and suchlike. Over the years, I have interacted in this manner with international organisations, national, provincial and local government departments, organised local government, academic units, applied research organisations and NGOs. I also do research-related consultancy work (including legislative/regulatory drafting) for a similar broad range of entities. Some recent, high-profile interactions of this kind are:

- Participated in virtual expert group meeting on “Inclusive Cities” co-organised by UN Habitat, the Geneva Human Rights Platform of the Geneva Academy and the Geneva Cities Hub in coordination with the office of the UN High-Commissioner for Human Rights (hosted from Geneva, 5-6 May 2020).
- Member of South African National Department of Human Settlements Policy and Legislative Review Task Team (POLERT) (2018-present).
- Member of South African Local Government Association (SALGA) project steering committee: “Creating a supportive regulatory environment for the informal sector - improving regulatory tools and practise in local government” (2020-present).
- Member of research team contracted by Gauteng Provincial Government and South African Cities Network to produce research on legal instruments for enabling and unlocking township economies (2019-2020).
- Member of review panel for South African National Treasury Local Government Budget and Expenditure Review (July 2019).
- Participated in UN Habitat Urban Legislation Unit Expert Group Meeting (strategic planning for Urban Legislation Unit and review of Planning Law Assessment Framework) (Stockholm, 6-8 December 2017).

A comprehensive list of advisory and consultancy work is available on request.

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## **ACADEMIC COLLABORATION AND COMMUNITY INVOLVEMENT:**

I am an active participant in the research/policy development community around urban governance, constitutionalism and human rights.

### **Highlights:**

- Organised (under auspices of IRGLUS, jointly with UN Habitat Urban Legislation Unit), introduced and moderated session entitled *Achieving Spatial Equity through Human Rights and Rule of Law* at the 10<sup>th</sup> World Urban Forum, held in Abu Dhabi, 8-13 February 2020.
- Organised and moderated *Urban Law Day on Law, the New Urban Agenda and Sustainable Cities* co-hosted by UN Habitat Urban Legislation Unit and University of the Witwatersrand School of Law, held in Johannesburg, 29 March 2019.
- Participated in Norwegian Centre for Human Rights, Human Rights and Sustainable Development Research Group, Expert Meeting on the Right to the City (Oslo, 21-23 March 2018).
- Delivered public lecture entitled “South Africa’s Constitutional Court and the promotion of participatory democracy in urban socio-economic rights disputes” at the Institute of Public

Affairs at the University of Chile, in Santiago, 13 July 2016.

- Co-organised symposium in honour of Dikgang Moseneke held in Johannesburg, 30 November 2016.
- Organised international workshop on *Law, Urban Space and Social Justice*, under auspices of the International Research Group on Law and Urban Space, held at the Onati Institute for Socio-legal Studies in Onati, Spain, 4-6 June 2014.

### **Conference Presentations and Public Lectures:**

I regularly deliver public lectures and present work at international and domestic academic events (including more than 50 papers presented at international academic conferences). Five of my most recent, high-profile presentations are:

- “Urban housing, resilience and sustainability: Reflecting on the legal internalization of the NUA with some COVID-19 hindsight” – invited presentation at UN Habitat / Fordham Urban Law Center Urban Law Day roundtable webinar “Law and the New Urban Agenda and the Current Crisis”, hosted from New York, 6 October 2020.
- “Anatomy of a crisis: Structural factors contributing to the collapse of urban municipal governance in Emfuleni, South Africa” – presented at South African Cities Studies Conference, held virtually from Johannesburg 31 August-4 September 2020.
- “Rights-clashes, legal fault-lines and COVID-19 in South Africa’s informal settlements” – invited presentation at UN Habitat / Institute for Advanced Legal Studies (University of London) Urban Law Day webinar “The Post-COVID City: Lessons for the future in law and development”, hosted from London, 10 July 2020.
- “Components of rights-based urban service delivery” – presented at South African Cities Network Webinar for Urban Governance Paper Series Launch, hosted from Johannesburg, 8 April 2020.
- “Devolution, constitutionalism and urban autonomy in cities of SADC” – presented at City Futures IV conference hosted by European Urban Research Association and Urban Affairs Association, held in Dublin, 20-22 June 2019.

A comprehensive list of conference presentations, panel memberships and other forms of participation at academic events, expert meetings and policy workshops, is available on request.

### **Research/Academic Fellowships:**

I was a visiting research fellow at the World Trade Institute (WTI) in Bern, Switzerland from 27 November until 13 December 2017, funded by a program between the WTI and the Swiss Secretariat for Economic Cooperation (SECO), working on a project entitled “Urban governance in SADC: Cities in International and Regional Trade”.

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## **RESEARCH AND PUBLICATIONS:**

I am the author of two sole-authored academic monographs as well as of more than 60 peer-reviewed academic journal articles or book chapters. I have also published working papers, op-eds and blog posts on various topics relating to urban governance, constitutionalism and human rights. My research is predominantly desk-based but I am also familiar and comfortable with both qualitative and quantitative research methodologies.

### **LIST OF PUBLICATIONS:**

(All publications are sole-authored unless otherwise indicated)

(For citations, see my Google Scholar profile at

<https://scholar.google.co.za/citations?user=wiQN9fMAAAAJ&hl=en> )

### **Books:**

- *Rights-based Litigation, Urban Governance and Social Justice in South Africa: The Right to Joburg* (Routledge/Taylor & Francis, 2017).
- *Can Rights Cure? The Impact of Human Rights Litigation on South Africa's Health System* (PULP, 2014).

### **Peer-reviewed academic journal articles published outside of South Africa:**

- "Anatomy of a Crisis: Structural Factors Contributing to the Collapse of Urban Municipal Governance in Emfuleni, South Africa" (2021) *Urban Forum* online first DOI <https://doi.org/10.1007/s12132-020-09406-4>.
- "Devolution, Urban Autonomy and Local Governance in the Cities of the SADC" (2020) 28(4) *African Journal of International and Comparative Law* 612-635.
- "Local Government Law, Development and Cross-border Trade in the Global Cities of SADC" (2020) 13(1) *Law & Development Review* 127-157.
- "Urban Autonomy in South African Intergovernmental Relations Jurisprudence" (2019) 13(2) *Vienna Journal on International Constitutional Law* 119-146.
- "Where is the Periphery Even? Capturing Urban Marginality in South African Human Rights Law" (2019) 56(6) *Urban Studies* 1182-1197.
- Socio-economic Rights Adjudication and Democratic Urban Governance: Reassessing the "Second Wave" Jurisprudence of the South African Constitutional Court (2018) 51(1) *Verfassung und Recht in Ubersee* 12-34.
- "Perverts, Outlaws and Dissidents: (Homo)sexual Citizenship and Urban Space in Johannesburg" (2015) 26 *Urban Forum* 97-112.
- "May Real Men Cry in Court? Masculinity, Equality and the South African Constitutional Court" (2014) 40 *Journal of Southern African Studies* 361-379.
- "Rights and the City: An Exploration of the Interaction between Socio-economic Rights and the City" (2012) 23 *Urban Forum* 257-278 [with Thomas Coggin].
- "Impeding Access? Stigma, Individual responsibility and Access to Post-HIV-Exposure prophylaxis (PEP) in South Africa" (2011) 30 *Medicine and Law* 279-294.
- "Health, Social Movements and Rights-based Litigation in South Africa" (2008) 25 *Journal of Law and Society* 364-388.

- “The Legitimizing/Insulating Effect of Socio-economic Rights” (2007) 22 *Canadian Journal of Law and Society* 1-20.
- “Eating Socio-economic Rights: The Usefulness of Rights-talk in Alleviating Social Hardship Revisited” (2007) 50 *Human Rights Quarterly* 796-822.
- “The Potential of Socio-economic Rights Litigation for the Achievement of Social Justice: Considering the Example of Access to Medical Care in South African Prisons” (2006) 50 *Journal of African Law* 118-131.
- “Possibilities and Pitfalls in the Domestic Enforcement of Social Rights: Contemplating the South African Experience” (2004) 26 *Human Rights Quarterly* 882-905.

### **Peer-reviewed academic journal articles published in South Africa:**

- “A Year of Living Dangerously? Urban Assertiveness, Cooperative Governance and the First Year of Three Coalition-led Metropolitan Municipalities in South Africa” (2019) 46(1) *Politikon* 51-70.
- “Rights, Regulation and Bureaucratic Impact: The Impact of Human Rights litigation on the regulation of informal trade in Johannesburg” (2017) 20 *Potchefstroom Electronic Law Journal* 1-28.
- “Geography, Marginalisation and the Performance of the Right to have Access to Health Care Services in Johannesburg” (2016) 20 *Law, Democracy & Development* 1-19.
- “Law, Rights, Space and Sexual Citizenship in South Africa” (2015) 41 *Social Dynamics* 482-501.
- “A Right to Transport? Moving Towards a Rights-based Approach to Mobility in the City” (2015) 31 *South African Journal on Human Rights (SAJHR)* 294-314 [with Thomas Coggin].
- “The Right to the City and the Urban Environment: Re-imagining Section 24 of the 1996 Constitution” (2014) 29 *SA Public Law* 175-193.
- “Development, the right to the city and the legal and constitutional responsibilities of local government in South Africa” (2014) 131 *South African Law Journal (SALJ)* 149-177.
- “Procedural Relief, Constitutional Citizenship and Socio-economic Rights as Legitimate Expectations” (2012) 28 *SAJHR* 359-379.
- “Disentangling Illness, Crime and Morality: Towards a Rights-based Approach to HIV Prevention in Africa” (2011) 11 *African Human Rights Law Journal* 57-74.
- “Legislative and Executive Translation of the Right to have Access to Health Care Services” (2010) 14 *Law, Democracy & Development* 1-25.
- “Children's Access to Health Care Services Within and Outside of the Parent-Child Relationship” (2010) 73 *Tydskrif vir Hedendaagse Romeins-Hollandse Reg (THRHR)* 230-247.
- “Relational Socio-economic Rights” (2009) 25 *SAJHR* 198-217.
- “Placing Human Rights in the Centre of Public Health: A Critique of *Minister of Health, Western Cape v Goliath*” (2009) 126 *SALJ* 231-245 [with Adila Hassim].
- “Finding for the Applicant? Individual Equality Plaintiffs and Group-based Disadvantage” (2008) 24 *SAJHR* 397-424.
- “The Interdependence of Rights to Health and Autonomy in South Africa” (2008) 125 *SALJ* 553-572.
- “Health Care Rights, Resources and Rationing” (2007) 124 *SALJ* 514-536.
- “Indirect Horizontal Application of the Right to have Access to Health Care Services” (2007) 23 *SAJHR* 157-179.

- “Enforcing the Right not to be Refused Emergency Medical Treatment: Towards Appropriate Relief” (2007) 18 *Stellenbosch Law Review* 75-90.
- “Resuscitating Socio-economic Rights: Constitutional Entitlements to Health Care Services” (2006) 22 *SAJHR* 473-502.
- “What do we Mean when we Talk about Transformative Constitutionalism?” (2005) 20 *SA Public Law* 155-166.
- “Towards a Reconciliation of Contract Law and Constitutional Values: *Brisley and Afrox* Revisited” (2005) 122 *SALJ* 865-895 [with Deeksha Bhana].
- “Coming to Terms with Judicial Enforcement of Socio-economic Rights” (2004) 20 *SAJHR* 383-417.
- “Beyond the Welfare State: Globalisation of Neo-liberal Culture and the Constitutional Protection of Social and Economic Rights in South Africa” (2003) 14 *Stellenbosch LR* 3-28.
- “Reconstructing the Private/Public Dichotomy? The Enforcement of Children’s Constitutional Social Rights and Care Entitlements” (2003) *Tydskrif vir die Suid-Afrikaanse Reg (TSAR)* 1-19.
- “Equality in the Global Village” (2003) 36 *Comparative and International Law Journal of South Africa (CILSA)* 172-197.
- “Towards a Useful Role for Section 36 of the Constitution in Social Rights Cases? *Residents of Bon Vista Mansions v Southern Metropolitan Local Council*” (2003) 120 *SALJ* 41-48.
- “The Right to be Free from Public or Private Violence after *Carmichele*” (2002) 119 *SALJ* 27-39.
- “Religious Confusion: *Christian Education South Africa v Minister of Education*” (2001) 64 *THRHR* 672-678.
- “It’s a ‘Black Thing’: Upholding Culture and Customary Law in a Society Founded on Non-Racialism” (2001) 17 *SAJHR* 364-403.
- “Stereotypes, Sameness, Difference and Human Rights: Catch 22?” (2001) 16 *SA Public Law* 93-121.
- “Divorced Parents and the Religious Education of their Children: *Allsop v McCann*” (2001) 118 *SALJ* 216-224 [with Elsje Bonthuys].
- “Constructing Freedom Jurisprudence” (2001) 118 *SALJ* 87-101.
- “Towards Comparable Worth: *Louw v Golden Arrow Bus Services*” (2001) 118 *SALJ* 9-18.
- “Many Sides to the Coin: The Constitutional Protection of Religious Rights” (2000) 33 *CILSA* 300-317.
- “Beyond the Reach of Law: HIV, African Culture and Customary Law” (2000) *TSAR* 428-441.
- “In Loco Parentis: Third Party Parenting Rights in South Africa” (2000) 11 *Stellenbosch LR* 324-342.
- “Killing it Softly: Customary Law in the New Constitutional Order” (2000) 33 *De Jure* 35-53
- “Still Unclear: The Validity of Certain Customary Marriages in terms of the Recognition of Customary Marriages Act” (2000) 63 *THRHR* 616-625 [with Elsje Bonthuys].
- “The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000: Final Nail in the Customary Law Coffin?” (2000) 117 *SALJ* 627-635.
- “The Constitutional Court Decides on Bail” (2000) 117 *SALJ* 31-41.
- “Discrimination through the Eye of the Beholder” (2000) 16 *SAJHR* 121-137.
- “Foreigners and Socio-Economic Rights: Legal Entitlements or Wishful Thinking?” (2000) 63 *THRHR* 51-61.
- “A Different Shade of Red: Socio-Economic Dimensions of the Right to Life in South Africa”



(1999) 15 *SAJHR* 372-385.

- “Traditional Leaders Win Battle in Undecided War” (1999) 15 *SAJHR* 179-187.

### **Peer Reviewed Chapters/Sections in Books:**

- “Shifting Paradigms from Between the Lines? Legal Internalizations of the Right to Adequate Housing in South Africa” in NM Davidson & G Tewari (eds) *Law and the New Urban Agenda* (Routledge; 2020) 131-144.
- “On ‘Dialogue’, ‘Translation’ and ‘Voice’: Reply to Sandra Liebenberg” in S Woolman & M Bishop (eds) *Constitutional Conversations* (PULP; 2008) 331-347.
- Chapter 39 “Life” in S Woolman; T Roux et al (eds) *Constitutional Law of South Africa* (Juta; 2ed; Original Service; 07-2006) 21pp.
- Chapter 17 “Traditional African Jurisprudence” in C Roederer & D Moellendorf (eds) *Jurisprudence* (Juta; 2004) 438-464.
- Section 8.6 “Remuneration and Employment Benefits” (part of chapter on discrimination in employment policies and practices) in JL Pretorius; ME Klinck & C Ngwena (eds) *Employment Equity Law* (Butterworths; 2001) pp 8-81 - 8-110.

### **Working Papers:**

- “Components of Rights-based Urban Service Delivery” in South African Cities Network *Urban Governance Paper Series* vol 1 (2019) 6-17.
- “Urban Assertiveness, Legal Frameworks, Informal Networks and Inter-city Trade in Cities of SADC” WTO/SECO Working Paper 22/2017.

### **Non-Peer Reviewed Academic Publications:**

- “Socio-economic Rights and Private Law: The Next Frontier” (2007) 8(3) *ESR Review* 2-6.
- “The Constitutional Court and the Bill of Rights” in I Goodman (ed) *The Constitutional Court of South Africa: The First Ten Years* (2004) 59-67.

### **Op-eds/Popular Press:**

- “What’s needed to fix collapsing coalitions in South Africa’s cities” *The Conversation Africa* (10 December 2019).
- “We need to talk about Joburg’s rising tide of filth” *Daily Maverick* (17 April 2019).
- “How structural flaws contribute to the crisis in South Africa’s municipalities” *The Conversation Africa* (29 August 2018).
- “Cape Town water crisis: Crossing state and party lines isn’t the answer” *The Conversation Africa* (31 January 2018).
- “Are South Africa’s opposition-led coalition metros flexing their muscles?” *The Conversation Africa* (13 August 2017).
- “There are dangers behind giving South African MPS the right to a secret ballot” *The Conversation Africa* (22 June 2017).
- Contributing editor to *Urban Joburg* ([www.urbanjoburg.com](http://www.urbanjoburg.com)), a Johannesburg-based urbanism blog listed as one of *The Guardian Cities’* “global voices” (June 2012-December 2014).