

# Kelly Phelps

BA (UCT), BSocSci (Hons)(UCT), MA (Law)(Cantab)

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## WORK HISTORY

**Senior Lecturer, Dept of Public Law, Law Faculty, UCT: July 2007 – Present**

### *Research and publications*

Articles and notes in peer reviewed journals, chapters in books and online publications:

- ◆ K Phelps ‘Why parole for Oscar Pistorius is perfectly legitimate’ *The Conversation* 23 June 2015, available at <http://theconversation.com/why-parole-for-oscar-pistorius-is-perfectly-legitimate-43479>, republished in numerous publications including *The Mail&Guardian* 18 August 2015, available at <http://mg.co.za/article/2015-08-18-why-parole-for-oscar-pistorius-is-perfectly-legitimate>, SABC 18 August 2015, available at <http://www.sabc.co.za/news/a/e3a8798048d90456857cbdec5f88a647/Why-parole-for-Oscar-Pistorius-is-perfectly-legitimate-20152306>.
- ◆ K Phelps ‘Recent Cases: Sentencing’ (2013) 26 *SACJ*. (last issue for 2013 was published in 2014)
- ◆ K Phelps (14 February) ‘Oscar Pistorius trial: Why has he been on bail for the last year?’ *The Independent* (UK), available at <http://www.independent.co.uk/news/world/africa/oscar-pistorius-trial-why-has-he-been-on-bail-for-the-last-year-9129123.html?origin=internalSearch>, accessed on 5 June 2014
- ◆ K Phelps (March 28) ‘Opinion: Winners and losers in the Pistorius trial so far’ CNN.com, available at <http://edition.cnn.com/2014/03/27/opinion/pistorius-trial-winners-and-losers/index.html?iref=allsearch>, accessed on 5 June 2014
- ◆ K Phelps and R Greene (May 14) ‘Oscar Pistorius Trial: What's next?’ CNN.com, available at <http://edition.cnn.com/2014/05/14/world/africa/oscar-pistorius-trial-what-next/index.html?iref=allsearch>, accessed on 5 June 2014
- ◆ Susannah Cullinane, Nick Thompson and Kelly Phelps (April 16) ‘How damaging was Oscar Pistorius’ cross examination?’ CNN.com, available at <http://edition.cnn.com/2013/02/22/world/africa/pistorius-legal-q-and-a/index.html?iref=allsearch>, accessed on 5 June 2014
- ◆ Update chapter - K Phelps and D Smythe ‘Chapter 2: Section 3 Rape’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ Update chapter - K Phelps ‘Chapter 3: S4-7 Compelled Rape, Sexual Assault, Compelled Sexual Assault, Compelled Self-Sexual Assault’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ Update chapter - K Phelps ‘Chapter 19: S 55 Attempt, Conspiracy, Incitement/ Inducing Another Person to Commit a Sexual Offence’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ K Phelps ‘Can Oscar Pistorius Get a Fair Trial?’ for CNN.com (London), available at <http://edition.cnn.com/2013/06/06/opinion/opinion-oscar-pistorius-fair-trial/index.html> accessed on 26 June 2013.
- ◆ J Burchell, K Phelps, D Smythe ‘Jurisdiction Spotlight: South Africa’ [2012] *Journal of Commonwealth Criminal Law* 125.
- ◆ K Phelps and D Smythe ‘Chapter 2: Section 3 Rape’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ K Phelps ‘Chapter 3: S4-7 Compelled Rape, Sexual Assault, Compelled Sexual Assault, Compelled Self-Sexual Assault’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ K Phelps ‘Chapter 19: S 55 Attempt, Conspiracy, Incitement/ Inducing Another Person to Commit a Sexual Offence’ in *The Sexual Offences Commentary* 2011 Jutas.
- ◆ K Phelps ‘Chapter 7: Superstition and Religious Belief: A ‘Cultural’ Defence in South African Criminal Law?’ 2011 UCT Press.
- ◆ South African Law Reform Commission *Discussion Paper 129 Project 25* ‘Statutory Law Revision LEGISLATION ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Legislation regulating the legal profession; courts and other institutions; civil procedure and evidence; substantive criminal law; civil law; wills, estates and insolvency and constitutional and political legislation)’ October 2011.
- ◆ K Phelps ‘A dangerous precedent indeed – A response to CR Snyman’s Note on *Masiya v DPP*’ (2008) 125 *The South African Law Journal* 646.

- ◆ K Phelps and S Kazee ‘The Constitutional Court gets anal about rape – gender neutrality and the principle of legality in *Masiya v DPP*’ (2007) 20 *The South African Journal of Criminal Justice* 341.

#### Forthcoming:

- ◆ K Phelps and I Glenn ‘The trials of the centuries: Murder and the media in South Africa’ 2015.

#### Citations or references in published work

- ◆ CR Snyman *Strafreg* 6ed 2012 at 50 fn 103.
- ◆ J Burchell *South African Criminal Law and Procedure Volume 1 General Principles of Criminal Law* 4ed 2011 at 39-40.
- ◆ J Burchell *Principles of Criminal Law* 4ed 2013 at 35 fn 232; 36; 41-42.
- ◆ Referenced in recent unpublished opinion by J Burchell to NDPP in light of the *Prins* Judgment.

#### Selection of other peer-reviewed research output:

- ◆ Co-ordinator and assistant editor of the *South African Journal of Criminal Justice*, a peer-reviewed, accredited journal, from 2006 – 2010, when it moved to the University of KwaZulu-Natal.
- ◆ Expert assessor for Intersentia Publishers for book proposal on the global reach of South African death penalty jurisprudence, 2014.
- ◆ Expert assessor for *South African Journal of Human Rights* peer-reviewed, accredited journal.
- ◆ Expert assessor for *Social Problems* international peer-reviewed journal.
- ◆ Expert assessor for *South African Journal of Criminal Justice* peer-reviewed, accredited journal.
- ◆ Expert assessor for *Malawi Law Journal* international peer-reviewed journal.
- ◆ Contracted by the South African Law Reform Commission in 2007 and 2014 as a special advisory commissioner for Project 25 Statutory Law Reform, reviewing criminal justice statutes in order to determine whether they are in keeping with the Constitution and still relevant.

#### **Teaching**

- ◆ Criminal Law (co-convenor): 2007, 2012, 2013, 2014, 2015 (Intermediate year core course)
- ◆ Evidence (co-convenor): 2009 (Final year core course)
- ◆ Punishment and The Constitution (convenor): 2008 – 2015 (Final year optional research course)
- ◆ Punishment and Human rights (convenor): 2006 – 2015 (Masters course)
- ◆ Forensic Science and The Law (convenor): 2014, 2015 (Masters course)
- ◆ The Criminal Process (convenor): 2008, 2009 (Postgraduate criminology honours course)
- ◆ Introduction to South African Criminal Justice (convenor): Sexual Offences: 2009, 2010 (Compulsory course Florida Law School Exchange Programme)

#### ***Selection of consultancy, social responsiveness and other contributions to the criminal justice sphere***

- ◆ Contracted by CNN as legal analyst for the Oscar Pistorius Trial to explain South African legal process and context to a foreign audience. Appeared on numerous CNN domestic and international shows.
- ◆ Other press interviews on Pistorius trial include: 4 interviews with stations in Australia, 1 Australian documentary, 3 documentaries for Carte Blanche, a documentary for ETV, a panel discussion and 2 documentaries for ENCA, quoted in numerous local and international newspaper articles, including in the British newspaper the Times, the American newspapers The New York Times and Washington Post, in the Australian newspaper The Sydney Morning Herald, by the Deutsche Presse-Agentur [GmbH](#) (DPA; German Press Agency), the Associated Press, The Star and have participated in numerous local radio news chat shows.
- ◆ Interviewed by Argus and Cape Times Newspapers on the Dina Rodriguez trial (2008) and prosecution of alleged gang members (2007); Cited in Weekend Argus (2009) as expert on sentencing in Samoedien sentencing case; Local radio interviews (2013) on Maquabela murder case verdict and Anene Booysen rape and murder trial.

- ◆ Drafted a joint submission to Parliament with the Women's Legal Center and Prof Dee Smythe on the draft of the Sexual Offences Amendment Bill, 2012.
- ◆ Provided opinion to National Prosecuting Authority on sentencing implications of certain clauses of the Child Justice Bill, 2008.
- ◆ Consulted with Prof Burchell in drafting advice to the NDPP in framing their appeal of the 2012 *Prins* judgment from the Cape High Court to the SCA. A prior publication of mine is quoted in his final submission, 2012.
- ◆ Invited to attend Wolpe Trust Colloquium on masculinity and violence in February 2008 – a discussion forum for approximately 20 key professionals from across disciplines, both practitioners and academics.
- ◆ Met with and was interviewed by representative of Department of Education regarding the Sexual Offences Act and disseminating correct information to youth (2008).
- ◆ Invited as expert attendee at the Criminal Justice Research Review 2008 conducted by the Department of Justice and Constitutional Development.
- ◆ External examiner for criminal justice courses taught at UWC Law Faculty (2007 – 2010) and Monash South Africa (2013).
- ◆ Expert referee for National Research Foundation to evaluate the research standing of criminal justice academic 2007.

**Teaching/ Research Assistant, Dept of Criminal Justice, Law Faculty, UCT:** Jan 2006 – June 2007

**Intern at the Legal Resources Centre Cape Town, assisting with Richtersveld indigenous land-claim litigation against the government:** March 2005 – May 2005

**Freelance Criminological Research Work:** June 2001 – Oct 2002

- ◆ Researcher for SAYStOP (South African Young Offenders Project), an NGO
- ◆ Research Assistant to Professor Dirk van Zyl Smit concerning Prison Policies in Malawi, Institute of Criminology, University of Cape Town
- ◆ Researcher for Gun Free South Africa concerning the drafting of regulations to be included in the Firearms Control Act
- ◆ Research Assistant to Prof Dirk van Zyl Smit & Prof Elrena Van Der Spuy concerning the transmission of criminal justice policies across borders

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## EDUCATION

**Master of Arts, University of Cambridge:** Conferred 29 March 2008.

**Bachelor of Arts in Law, University of Cambridge:** 2002 – 2004

**Bachelor of Social Science (Honours) in Criminology, University of Cape Town:** 2001

**Bachelor of Arts - English Literature & Anthropology, University Of Cape Town:** 1998 – 2000

**Matriculated from Herzlia High School, Highlands, Cape Town, Deputy Head-Girl:** 1996

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## INTERESTS/ OTHER CERTIFICATION

**Sailing:** certified South African Skipper's Association 'Category E' Skipper.

**Ballet:** completed all Royal Academy of Dance Association examinations to 'Elementary' level.

**Theatre:** completed all South African Guild of Speech and Drama Teacher's examinations to 'Senior iv' level.

**TEFL:** certified TEFL teacher – teaching English as a foreign language – TEFL Training Institute, Claremont.

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**REFEREES**

**Prof Elrena van der Spuy**  
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**Prof Jonathan Burchell**  
Professor, Public Law Department;  
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