

P·E·R

Pioneer in peer-reviewed,
open access online law publications

Author

Karl Marxen

Affiliation

University of Johannesburg

Email

karl.marxen@posteo.de

Date Submitted

21 August 2022

Date Revised

11 October 2022

Date Accepted

11 October 2022

Date Published

27 October 2022

Editor Prof C Rautenbach

How to cite this article

Marxen K "Editorial: Festschrift for
Charl Hugo" *PER / PELJ* 2022(25)
- DOI [http://
doi.org/10.17159/1727-3781/2022/
v25i0a14962](http://doi.org/10.17159/1727-3781/2022/v25i0a14962)



DOI [http://
doi.org/10.17159/1727-3781/2022/
v25i0a14962](http://doi.org/10.17159/1727-3781/2022/v25i0a14962)

This collection of essays is published in honour of Professor Charl Francois Hugo on the occasion of his 65th birthday in July 2022 and well-deserved retirement. It is a *Festschrift* to celebrate the professional life, and academic accomplishments of Charl Hugo, and this endeavour is best described by Malan in his personal tribute to Charl Hugo. Malan put it thus: "It is a *liber amicorum*", – meaning a book of friends. Indeed!

This *Festschrift* comprises four personal tributes and fourteen peer-reviewed research articles. Without the practitioners and academics who provided these contributions, the *Festschrift* project would not have materialised. This *Festschrift* project was primarily edited by me but only made possible with the support of various colleagues and friends who generously volunteered so that the necessary double-blind peer-review process could be completed. They need to stay anonymous, but their support is gratefully acknowledged. Professor Christa Rautenbach invested much of her time and energy to help with completing this *Festschrift* in various ways and capacities, as did Tina Coetzer and their respective colleagues at the Potchefstroomse Elektroniese Regsblad / Potchefstroom Electronic Law Journal (PER/PELJ). They were highly supportive and instrumental in the publication of this *Festschrift*. In addition, the support of the Faculty of Law, University of Johannesburg and its current executive dean, Professor Wesahl Domingo, is kindly acknowledged. Also, the German-South African Lawyers Association / Deutsch-Südafrikanische Juristenvereinigung (DSJV) immediately expressed their willingness to support this *Festschrift* project, for which I would like to thank Rüdiger Dorobek and Raphael van de Sand of the DSJV, in particular.

Appreciation for a plurality of views and discussion

Many people have contributed to this *Festschrift*. Authors who are legal practitioners, others who are established professors with an international footprint, alongside emerging researchers, and "old" friends who have been in Charl Hugo's life for many years and even decades. The plurality of views, the divergence of research topics, and the multitude of legal approaches in the contributions that collectively form this *Festschrift* all reflect Charl Hugo's distinctive personality traits. His openness to different worldviews, appreciation for debate and sound arguments, and willingness to listen to people from diverse backgrounds or different schools of thought. In short, an interest in other – yes, even dissenting – voices and profound respect for a diversity of opinions.

From the Western Cape, around the world

Charl Hugo began his career as a lecturer at the University of Stellenbosch, where he eventually became a full professor until he resigned in 2005 to practice full-time as an advocate at the Cape Bar for several years. From 2013 on, he was a professor at the University of Johannesburg and headed the Centre for Banking Law. He holds the degrees: BA (Law) and LLB from the University of Pretoria, LLM from the University of South Africa, and LLD from the University of Stellenbosch.

Since the late 1980s, Charl Hugo has published widely, and his research has appeared in conference proceedings, peer-reviewed journals, and books both in South Africa and abroad. After his first academic article was published in 1989,¹ he continued as an eager and valued contributor to academic legal research for over three decades. On several occasions, he joined intellectual forces and co-authored articles or co-edited books with other researchers and colleagues.²

International exchange of thoughts and people always mattered to Charl Hugo in every respect, and he devoted much of his energy towards

* Karl Marxen. Research Associate, Faculty of Law, University of Johannesburg, South Africa; Lecturer in Private Law, Company Law, and Commercial Law, at WelfenAkademie Braunschweig, Germany; Fellow, Institute of International Banking Law and Practice (IIBLP), USA. First State Examination (Hamburg), PGCert (Witwatersrand), LLM (Stellenbosch), LLD (Johannesburg). Email: karl.marxen@posteo.de. ORCID: <https://orcid.org/0000-0002-1150-7232>.

¹ It dealt with the concept of a "holder in due course" in negotiable instruments; see Hugo 1989 *SA Merc LJ*.

² Inter alia with authors who also contributed articles to this *Festschrift*, namely Kelly-Louw, Marxen, Möllers, and Strydom.

developing and strengthening such ties. He has been notable for his active role in promoting academic exchange programmes and partnerships. For several years, Charl Hugo was instrumental to the academic partnership between the University of Johannesburg and the University of Augsburg in Germany. The exchange partnership led to annual joint conferences he and Professor Thomas Möllers of Augsburg organised, which also resulted in their publication of co-edited books.³ These academic visits, alternatingly in South Africa and Germany, paved the way for lasting personal and academic ties between the two universities and the respective doctoral students and professors. His frequent visits to Europe to visit colleagues (who quickly became friends too!), universities and research institutions, and other parts of the world to attend conferences (most recently Indonesia and Russia, to name but a few) bear testimony to Charl Hugo's wish and ability to connect internationally.

This ability to connect also translated into an increasingly diverse and internationally oriented list of speakers at the Annual Banking Law Update (ABLU) conference, the organisation for which Charl Hugo assumed responsibility since 2013. In his research, Charl Hugo regularly applied comparative methods, drew inspiration from foreign case law and academic writing, and always dared "to look beyond" with a positive outlook. The appearance of the merchants for peace anecdote in his writing aptly illustrates this strength.

Passing on knowledge

Quality legal education requires knowledgeable lecturers and engaging academics who encourage students to think critically, enjoy their studies, and acquire an excellent moral compass en route to graduation. Charl Hugo is a prime example of such a lecturer. Campbell, writing on the role of law lecturers, remarked:⁴

Teachers bring their own personal attributes and characteristics into the classroom. These include their own worldviews, which are naturally brought to bear in students' educational experience. This personal human element [...] serves to enrich student learning and experience.

Campbell may have written these lines with a particular aspect of legal studies in mind, that is decolonising clinical legal education, but I would

³ Hugo and Möllers *Transnational Impacts on Law*; Hugo and Möllers *Legality and Limitation of Powers*; and Hugo and Möllers *Legal Certainty and Fundamental Rights*.

⁴ Campbell "Decolonising Clinical Legal Education" 38.

argue that his findings are universally applicable and hold merit beyond the discussion of decolonising legal education. For the legal profession to remain both critical and progressive, it is vitally important that students have access to engaging lecturers and quality lectures. This is, in fact, what Charl Hugo's students could always expect – enriching, thought-provoking, and engaging lectures.

Sound reasoning and practical sense

Charl Hugo provided highly suitable examples from actual legal practice – not just fabricated textbook examples that sometimes seem "too good" (or oddly complicated!) to be true. Instead, he gave them rather authentic factual legal problems that encourage critical thinking and creativity within the bounds of the law. Concluding a lecture or a seminar discussion, he would not dwell on "the right" answer but let his students know his conviction that, as long as they are supported by sound reasoning and practical sense, different solutions may be valid. Students and junior colleagues have been encouraged by his unique approach, and – I expect – Charl Hugo also created a lasting legacy in this regard. He often said he wanted to "give back" using his knowledge and practical experience as an academic and advocate, thus contributing to quality legal education and good commercial practice. He did, and did so superbly.

The legal world and beyond

Charl Hugo often reminded us that there is more to life than the legal world and duties relating to work. In his view, family and friends, first and foremost, are essential, and he always made that clear despite being a hardworking academic. Spending time in the great outdoors, camping, hiking and birdwatching are among his favourite activities. He also played an active role in his church community in Stellenbosch and Melville/Johannesburg, and he continues to draw strength from that, especially during trying times. Unfortunately, recently he lost several people who were very close and dear to him. His mother, Catriona Margaret Hugo (affectionately known to many as Tati), passed away in March 2021 at the age of 94. Sadly, his close friends Stephen de la Harpe, Marius de Waal, and Christof Heyns also passed away recently. All three were professors in law and known to many contributors to this *Festschrift*. In such times, Charl Hugo could always rely on friends and family, most notably his wife Annatjie, to support him.

From pen and paper – to kayak and running shoes

Charl Hugo was always an avid sportsman and loved tennis, kayaking and long-distance running. He ran the (in)famous Comrades Marathon (an 89km ultra-marathon event) in 1982, 1984 and 2000. This enthusiasm for running did not end in later years when he moved to Johannesburg to assume his position at the University of Johannesburg. Instead, he established a weekly running routine in Gauteng. For several years a group of runners, among them myself, joined Charl Hugo every Friday at six in the morning (sharp!) for some (semi-)ambitious running through the hilly suburbs of Emmarentia, Melville and Greenside. Another contributor to this *Festschrift* joined this informal running club for a while too, and this may have unintentionally inspired yet another doctoral research project currently successfully underway.⁵

Mentoring in formal and informal ways

Charl Hugo has mentored several young aspiring academics over the years, at Stellenbosch University, at the University of Johannesburg, and elsewhere. He offered them more than the proverbial helping hand, such that Charl Hugo is now responsible for the careers of several successful academics. He always sought out the potential in young people, and often he was very effective in nurturing such ambition in undergraduate as well as postgraduate students. Some of the people involved in this *Festschrift* bear testimony to that. It is in their names, especially, that this *Festschrift* wishes to thank Charl Hugo wholeheartedly for offering his support and encouragement and providing an outstanding role model in academic AND personal matters.

Charl Hugo is a respected academic, a trusted colleague, a superb lecturer and supervisor, and an excellent friend to many. May he enjoy his retirement and find the time to go bird watching, spend time outdoors and – most importantly – be with his family and friends.

Bibliography

Adams 2022 *PER/PELJ*

Adams F "The UCP as a Choice of Non-State Law in International Commercial Contracts" 2022 *PER/PELJ*

⁵ More on that in Adams' contribution in this *Festschrift*; see Adams 2022 *PER / PELJ*.

Campbell "Decolonising Clinical Legal Education"

Campbell J "Decolonising Clinical Legal Education" in Tshivhase AE, Mpedi LG and Reddi (eds) *Decolonisation and Africanisation of Legal Education in South Africa* (Juta Cape Town 2019) 31-47

Hugo 1989 *SA Merc LJ*

Hugo C "Aspekte van Eiendomsverkryging deur 'n Reëlmatige Houer" 1989 *Sa Merc LJ* 1-22

Hugo and Möllers *Legal Certainty and Fundamental Rights*

Hugo C and Möllers TMJ (eds) *Legal Certainty and Fundamental Rights: A Cross-Disciplinary Approach to Constitutional Principles in German and South African Law* (Nomos Baden-Baden 2020)

Hugo and Möllers *Legality and Limitation of Powers*

Hugo C and Möllers TMJ (eds) *Legality and Limitation of Powers Values, Principles and Regulations in Civil Law, Criminal Law, and Public Law* (Nomos Baden-Baden 2019)

Hugo and Möllers *Transnational Impacts on Law*

Hugo C and Möllers TMJ (eds) *Transnational Impacts on Law: Perspectives from South Africa and Germany* (Nomos Baden-Baden 2017)

List Of Abbreviations

ABLU	Annual Banking Law Update
DSJV	German-South African Lawyers Association / Deutsch-Südafrikanische Juristenvereinigung
PER/PELJ	Potchefstroomse Elektroniese Regsblad / Potchefstroom Electronic Law Journal
SA Merc LJ	South African Mercantile Law Journal