



The Jacobson Leadership Program in Law and Business generously enabled twelve students to visit South Africa in March 2014. The purpose of this trip was for those students to learn about the specific challenges and opportunities that exist for businesses in that country, and how the legal system shapes those firms' activities.

The students had ten very productive meetings with a variety of stakeholders in the South African economy. These meetings included a (1) visit to the High Court and a discussion with Judge Dennis Davis, South Africa's top judge on antitrust matters (2) a meeting with the CEO of Zoono, a Pierre Omidyar-backed mobile to mobile payment technology company that provides services to sub-Saharan Africa's unbanked population (3) a visit to the headquarters of Edward Nathan Sonnenbergs, Africa's largest law firm (4) a meeting with a Parliament Official and tour of Parliament (5) almost a full day at Sanlam Investments, a leading financial services conglomerate based out of Cape Town (6) a visit to the headquarters of Cliffe Dekker Hofmeyr, one of the largest South African law firms and a DLA Piper affiliate (7) a meeting with Marlon Parker, the founder of RLabs, a startup incubator and education platform that has directly empowered over 20,000 Africans (8) a visit to Mosaic, a prominent NGO that tackles domestic violence issues, and tour of a Magistrate Court that Mosaic assists (9) a meeting with Chris Oxtoby, an NYU LLM graduate who leads research at the Democratic Governance and Rights Unit at the University of Cape Town's Law School and (10) a meeting with Western Cape Cheetah Conservation project, a non-profit that rescues cheetahs from illegal poaching operations and reintroduces them into the wild. All of these meetings are expanded upon in the following pages.

By meeting with a diverse range of law firms, technology companies, NGOs and legal professionals, the students gained a tremendously valuable knowledge base and dramatically expanded their world view. Prior to the trip, many students had little exposure to the business practices and legal regimes that exist in Africa. Because South Africa is the business center of sub-Saharan Africa, spending time in Cape Town enabled the group to receive an intensive course in several of the business and legal issues that face much of the continent. Africa is poised for dramatic population growth and is sure to become an even greater presence on the international stage as the 21st century progresses. Consequently, the experiences gained from this trip will serve the group well far into their careers. The students all wish to thank the Jacobson Leadership Program for making this trip possible and are extremely appreciative for the donors' support.

The group had the opportunity to meet with Judge Dennis Davis at the High Court in Cape Town. Judge Davis, a graduate of University of Cape Town and Cambridge, has served on the High Court since his appointment in 1998. Before assuming a position on the bench, Judge Davis taught law at the University of Cape Town and the University of Witwatersrand. Judge



Davis became the Judge President (Chief Judge) of the Competition Appeal Court in 2000, making him the nation's preeminent appellate court judge on antitrust matters. Judge Davis also serves on the Labor Appeal Court. Due to his extensive academic and judicial experience, Judge Davis has held visiting appointments at NYU, Harvard, Toronto, Georgetown and Melbourne. Judge Davis was involved in ending Apartheid and served in a pivotal role throughout the following transitional period. During the constitutional negotiations leading to an inclusive South Africa, he was the drafter of the electoral laws and the subsequent constitutional provisions that addressed the federal structure of government. He also was one of the drafters of South Africa's foundational antitrust and corporate law statutes, the Competition Act and the Company's Act, respectively. Judge Davis has even hosted his own national television show, Future Imperfect.

Judge Davis toured the group through the High Court building in Cape Town and then allowed the students to sit in his court room while he lead a discussion regarding the current state of the South African judiciary. He spoke about the limitations of the Chicago school of economics in transitional societies and how he analyses real world antitrust issues, especially as foreign investment into South Africa becomes increasingly prevalent. He also voiced his concerns regarding the long-term independence of the South African judiciary, as the ruling party, which indirectly controls judicial appointments, has had a supermajority for over 20 years. The students also greatly benefited from discussing the overall court structure of South Africa from such an accomplished jurist and academic. Having the chance to meet with and learn from someone who has played such a central role in creating the legal framework of post-Apartheid South Africa was a remarkable experience for the group.

The students met with Mike Quinn, the CEO of Zoono, a startup in Cape Town South Africa. Mike helped to found Zoono with two others, and now leads the fast-growing startup at its headquarters in Cape Town. Mike grew up in the UK and has his MBA from Oxford. Mike recently raised a \$4 million round of Series A VC funding for Zoono and has grown the company to 45 employees.

Zoono was launched in 2009 based on an idea in a text message. They now process millions of dollars in payments each month.

Currently, one of Zoono's major customers is Zambian Breweries, a subsidiary of SABMiller, which supplies Zambia with beverages including Coca-Cola. Zoono has partnered with Airtel Money, a mobile platform that allows mobile access to Zoono services.

Zoono provides two products: Zoono Payments and Zoono Growth. Both products are geared towards helping Micro and Small Enterprises (MSEs) and their Corporate suppliers grow in emerging markets. These businesses face two major problems: the cash dilemma and the financing dilemma. The cash dilemma is the heavy dependency on cash transactions in emerging markets because of low banking penetration. The dependency on cash results in as much as 15–20% inefficiency in doing business. Zoono Payments solves the cash dilemma by providing money transfer, supplier payment, bill payment, and mobile transactions services. Meanwhile, MSEs also face a financing problem—namely, that they are short on capital due to a lack of affordable financing. Zoono Growth offers affordable and accessible capital financing linked to customer usage of Zoono Payment. That is, customers of Zoono Payments can prequalify for financing through Zoono Growth.

First, the group met Mike at Zoono's office. They were given a short tour of the office, where they met with Zoono's employees and learned about their current personnel. After the tour, we accompanied Mike to lunch at a nearby restaurant. Mike explained Zoono's business model, how it was heavily influenced by—the very successful—MPeso, and Zoono's development and future plans.

The conversation quickly turned to the very unique and interesting regulatory issues that Zoono faces. Zoono operates primarily in Zambia. Due to consumer distrust and lack of stability, Zambia completely lacks a banking economy. As a result, most commercial transactions depend on cash. Because using cash is very inefficient, Zoono has stepped in to fill the void left by banks. Although regulators would normally oppose such a non-traditional solution, the complete failure of the banking system has largely caused them to work with Zoono rather than against them.

The meeting with Zoono was an incredibly valuable experience that allowed the students to examine the intersection between finance, startups, law, and business. It also gave the group important insights into business opportunities in developing countries as well as the hurdles of running a startup generally. Zoono is a fascinating company, and this was a unique and meaningful meeting for the South Africa trip.





For morning coffee, the students visited ENSafrica—Edward Nathan Sonnenbergs—Africa’s largest law firm. With over 550 practitioners, ENSafrica is fully integrated across African borders, working on multi-jurisdictional cases and areas of expertise including corporate finance, M&A, international trade, insurance, tax and regulatory compliance.

During the visit, the students met with Kelle Gagné, a fellow NYU School of Law graduate (JD 2002). As part of the banking and finance department, Ms. Gagné specializes in cross-border structured finance transactions and regularly advises financial institutions on derivatives, securities lending and repo transactions, and related collateral issues.

Ms. Gagné discussed her career trajectory from U.S. lawyer admitted in New York to foreign legal counsel at ENSafrica, serving as a guide as to what an international legal career would look like. The meeting provided insight into South Africa’s legal system, noticeable differences from the American system, and major legal challenges to conducting business in the country. The breadth and depth of ENSafrica’s work in Africa provided a springboard for many of the students’ questions. Ms. Gagné was extremely helpful in explaining concepts that the students were grappling with from the meetings earlier in the week, and generously shared her time with the students.





The students met with Andrew Petelele, Parliamentary Official, and was given a tour of the South African Parliament.

The current South African Parliament is a bicameral system. There are two houses of Parliament: the National Council of Provinces (NCOP) and the National Assembly. The NCOP is composed of 90 members that represent each province of South Africa. Each delegation of 10 is headed by a Premier. The National Assembly is composed of 400 members that are elected by voters on a proportional system. Each party is allocated a number of seats proportional to the number of votes it receives in the national election and the party chooses the delegates to the National Assembly. The members of the National Assembly elect the President of South Africa. Currently, the National Assembly is majority ruled by the African National Congress (ANC) and the current President is Jacob Zuma. Members are elected every five years.

During the tour of the Parliamentary buildings, students were able to see the history of South Africa's colonization and movement through Apartheid. The building that currently houses the NCOP was originally used by the Cape Parliament in the late 1800s and early 1900s, when the country was under British control. The building materials for construction were shipped from England, and thus construction of the building took around 20 years and greatly exceeded budgeted costs.

During Apartheid in the mid-1900s, citizens of European descent controlled the Parliament. Black people within the country were not allowed to vote and Indians as well as Coloreds were given lesser say in government affairs. The building that held the Apartheid government is situated in between the current NCOP and National Assembly. It is styled similarly to the British Parliament, and is used now only for committee and staff meetings. The father of Apartheid, Hendrick Verwoerd, was stabbed to death within this chamber during a session of Parliament in 1966.

The third building of Parliament, which now houses the National Assembly, was built in the 1980s. This is the chamber in which former State President F. W. de Klerk announced that the African National Congress would be legalized and that Nelson Mandela would be released from prison in February of 1990. Following this decision, a new constitution was written in 1994 that ended Apartheid and gave all South African citizens the right to vote. The National Assembly has a constitutional mandate to create laws, keep oversight of the budget and Executive branch, as well as elect the President. The 1994 National Assembly elected Nelson Mandela as the President.

South Africans are very proud of their Parliamentary buildings, and believe that they represent the evolution the country has experienced. All citizens are able to attend meetings of the National Assembly, and the chamber is frequently full for important speeches and votes. Each year, a special month is held for women and children, in which those members of the population are encouraged to attend Parliamentary sessions and learn more about the South African government.



The students had the privilege of spending almost an entire day at Sanlam Investments, the investment and capital markets arm of the Sanlam Group. Headquartered in Cape Town, Sanlam is a global financial services conglomerate with over 15,000 employees and \$5 billion in annual revenue. Sanlam was founded as a mutual insurance company in 1918, and while its insurance operations account for 50% of the Group's revenue, the firm has expanded into other business lines, offering a diverse array of financial products and investment management services. Sanlam Investments is responsible for investing capital to generate returns on Sanlam's own insurance float as well as the funds of its clients. Sanlam Investments manages \$77 billion on behalf of clients, providing wealth management products to individuals and asset management services to institutions.

Sanlam Investments assembled a comprehensive agenda for the students and provided extensive access to senior management. The CEO, Johan van der Merwe, hosted a lunch event for the group that was attended by 32 Sanlam professionals from across the firm's business lines. At that lunch, students had the opportunity to discuss the emerging markets financial services space with the firm's COO, the CEO of Risk Management, the CEO of Retail Business, the Head of Derivative Structuring, Head of Corporate Governance, the CEO of Employee Benefits, the Deputy Head of the Institutional Business, and the Head of Research & Positioning. In addition to lunch, the students spent several hours in break out group sessions with Sanlam employees, including the aforementioned senior managers, on the topics including investment management, legal and compliance, business strategy, and intellectual property. Within these sessions, the students were able to speak with Sanlam professionals regarding their core areas of expertise and share insights from their own work experience. The group also had the opportunity to tour Sanlam's campus and view the firm's trading operations. The visit at Sanlam ended with the students participating in a networking event with Sanlam's young professionals.

In its visit to Sanlam, the students gained tremendous insight into how the financial services industry operates within the emerging markets. South Africa has an incredibly robust capital market and a very sophisticated investment industry. In many ways Sanlam's investment professionals have a similar trading experience to their counterparts in the United States and Europe. However, there are obviously challenges that are unique to South Africa and the emerging markets. For instance, South Africa does not allow more than 25% of any corporation or individual's assets to be invested abroad, which invariably reduces the ability of the firm to diversify its capital. Also, because of the large wealth gap among South African citizens, Sanlam offers many unique retail products that are not often seen in developed markets. For instance, the actuarial arm of Sanlam developed a market for micro life insurance providing death benefits that finance funeral costs. The life insurance limits are kept intentionally low in order to allow for lower overhead costs and higher margins. The policies are not individually underwritten and rates are charged solely based on age. The take away from the product is that traditional financial products can be altered in ways that cater to the cultural and economic conditions of developing markets



The students visited Cliffe Dekker Hofmeyr for a presentation and networking event. Cliffe Dekker is one of the largest firms in South Africa and is a leader in mergers and acquisitions there, with offices in both Cape Town and Johannesburg.

During the presentation, a partner and two associates, all members of the firm's Corporate and Commercial practice, spoke on several subjects of interest to the group. First, one of the associates gave a detailed history of the legal system in South Africa, explaining the origins of the blended English, Dutch, and tribal law practiced there. He explained the nuances of the process through which the post-Apartheid government implemented a constitution and oversaw the fundamental shift in South African law during that period. The second associate presented on the Constitutional Court, highlighting its symbolic significance as well as major cases. The presentation also noted South African efforts to transform its judiciary to be more representative of the nation's demographic makeup. Both associates spoke to the role of the Black Economic Empowerment program in effecting this change in law and business in South Africa. After the two associates presented, a partner spoke to the group about Cliffe Dekker Hofmeyr specifically. He explained the firm's history, its connection with DLA Piper, and how it hires attorneys, staffs matters, and serves its clients. The presentation outlined the advocate/attorney system used in South Africa and highlighted the differences and similarities between American and South African law firms. After the presentation, the attorneys fielded questions from the group. During this segment, they spoke to the unique regulatory environment in South Africa, industry and business in Cape Town, and some specific challenges that lawyers face in that part of the world.

After the presentation, Cliffe Dekker invited a group of lawyers to meet the students at a networking event. The group met attorneys from a wide range of practice groups and from all levels of seniority. During this segment of the visit, the students learned more about the legal education in South Africa and how it differs from that in America. The attorneys also elaborated on their specific practices and the types of cases they handle. The group gained valuable insight into the South African legal and business environment during these individual conversations.



The students' first meeting in Cape Town, South Africa was with Marlon Parker at RLabs. Marlon Parker is the founder of RLabs and we had the meeting at RLabs' headquarters. RLabs was founded in 2008 as an environment for community driven innovation and reconstruction. RLabs is headquartered in Cape Town, but has a presence in the U.K., Europe, Asia, South America, and other parts of Africa.



Essentially, RLabs facilitates innovation in the community. They offer robust training services, consulting, and connect innovators and entrepreneurs with developers. RLabs has an incubation services for generating new innovative ideas and provides investment of \$20k for incubated projects through a variety of partnerships. They also support communities by providing free training programs (through the RLabs Academy) and collaborate with innovators to provide support to communities through mobile support services. RLabs' activities are best seen as a mixture of innovation-focused incubation and support and community-driven activism.

Upon arriving at RLabs, Marlon took the group on a tour of the facilities. This included an introduction with members of the RLabs community in the middle of a brainstorming event and a stop-in with RLabs' in-house developers who build the projects that are developed at RLabs. During this time, Marlon introduced the various functions of RLabs and discussed some of the organization's community driven efforts.

Following the tour, Marlon sat with us and discussed various topics related to RLabs including the history of the organization, his own background, the startup scene and socioeconomic status of Cape Town generally, legal assistance for himself and Cape Town startups generally, successful projects, and future plans. RLabs has had a number of successful "exits" or acquisitions throughout the years by major technology companies. The group learned that RLabs is, at its core, about helping the community. In the words of Marlon: "Most of the negative influences in our communities are businesses; drugs are a business, human trafficking is a business, prostitution is a business. Consequently, here at RLabs we realize that to change our communities we can't think like a charity, we have to think like a business - and our product is hope."

RLabs was a fascinating meeting for the group since it straddles the divide between business, innovation, and community outreach. RLabs highlights the growing trend of socially-beneficial/charitable startups. It proves that one can run a business, and even make a profit, but still improve the community. Not only was the structure, business, and outcomes of RLabs fascinating from a law and business perspective, but their efforts were inspiring on a human level.

The students visited MOSAIC, a non-governmental organization, based in Cape Town, whose mission is to combat domestic violence in South Africa. The meeting was arranged by The Global Fund to Fight AIDS, Tuberculosis and Malaria through a contact of one of the students on the trip.

The students visited the headquarters of the group, and one of the organization's leaders took them to a court at which MOSAIC runs one of its advocacy programs. Women, and men, who have suffered domestic violence go to the court, and a MOSAIC worker helps them fill out a form detailing the violence and the situation. This court is in an especially poor location, and the threat of gang violence looms over its work. The MOSAIC workers also must contend with the perpetrators of the attacks, who often come to the court to threaten those seeking and

providing help. The students also met with the person who runs the administrative side of the court, and the person who is in charge of the document flow to the judges. One thing that struck the students was the speed with which the reports are processed: the time for most is under a day. Once a report is processed, a judge decides whether it should be enforced. Enforcement of an order gives the individual seeking it a protective order, similar to a restraining order, against the attacker, and a warrant that can be used in the future to have the police arrest the attacker.

Of course, like many NGOs, MOSAIC faces significant funding issues, especially because one of their large donors is considering scaling back its donation for the next fiscal year. MOSAIC is thus confronted with the hard decision to have to close a number of its advocacy locations, at untold cost to the individuals who depend upon the organization's services.

MOSAIC was unlike many of the other visits, focusing on some of the most voiceless and vulnerable aspects of South African society. The students felt that it was important to include a visit to an organization like MOSAIC to round out the trip.





The group met with Chris Oxtoby, a former NYU LLM student who now works with the Democratic Governance and Rights Unit (DGRU) at the University of Cape Town.

The DGRU is concerned with the judicial appointment process within South Africa. When the new South African Constitution was enacted in 1994, it called for the judiciary to be representative of the country's population. There were no additional guidelines in place within the Constitution to describe what proper representation would be or upon what criteria judges should be selected. At the time of this mandate, the judiciary was composed mainly of white males. This led to a focus on electing women and blacks for future appointments.

The process for selecting judges within in South Africa is as follows. A third party first nominates candidates. Many candidates are former advocates, and a decision to become a judge means a substantial pay cut and more rigorous work. This deters many people from accepting nominations. After the pool of nominations is totaled, the Judicial Service Commission (JSC) creates a short list of candidates to interview. This short list is composed of those candidates the JSC feels should be included or has a real prospect for appointment. The JSC then interviews short-listed candidates and deliberates over who should be appointed. These deliberations are private and not open to public comment.

The DGRU is concerned about the type of candidates that are selected by the JSC. Because of the push for a more diverse judiciary, candidates with less experience and bad intentions can end up being selected to the judiciary. There is no published list of the candidates that is distributed to the public. The DGRU hopes to change this and starting in 2009, created reports on the candidates. These research reports include information on the candidates taken from previous opinions and publications. The members of the DGRU also attend the interviews held by the JSC and report on the candidate answers.

Chris noted that there is still work to be done in creating a completely independent judiciary. The short-listing process that is undertaken by the JSC is very opaque and there are no listed criteria over who is able to reach the interview stage. Because of the financial deterrents to becoming a judge, Chris speculated that all candidates are passed through to the interview stage, as there are usually not enough nominations for open positions. The JSC holds all of the power in selecting the judges and Chris noted that the interview process is not always fair; in some situations candidates of equal qualifications are given drastically different questions. There is concern these interviews are adjusted according to the candidates' political leanings and previous decisions. In addition, since there is no constitutional description of what a representative judiciary entails, Chris expressed concern over the ability of the JSC to tell whether or not it had reached its goal. The DGRU hopes to create a better and more independent judiciary by increasing the amount of information the public has about the process and thus increasing its transparency.

The group visited the Western Cape Cheetah Conservation project at Inverdoorn Game Reserve, a non-profit organization dedicated to the rescue and reintroduction into the wild of illegally owned cheetahs as well as education efforts. There,



they met with the director of the WCCC, Leah Brousse, as well as a "cheetah ambassador", Velvet. Velvet was rescued from a dingy apartment where she and her siblings were illegally being kept in a bathtub until they were old enough to be smuggled to the Middle East for sale. Unfortunately, she was permanently injured as a youngster and will never be able to be reintroduced into the wild. Luckily, her siblings are completely healthy and the WCCC was able to raise them and complete a grueling but rewarding two year process to return them to their natural habitat. The WCCC has successfully completed the rescue and reintroduction process with dozens of cheetahs, but despite their efforts cheetahs will most likely no longer exist in the wild by 2030. At Inverdoorn, the students were able to see first hand how dedicated conservationists are battling poachers, habitat destruction, and other challenges in order to preserve biodiversity. Furthermore, the group learned how the WCCC partners with for-profit game reserves and international conservation efforts in order to execute on the financial aspects necessary to fund the project. Understanding how the business considerations of non-profits can impact their work was fascinating.

Today there are just 7,500 cheetahs left and South Africa is home to fewer than 1,000 of these majestic cats. Cheetah numbers have been diminished because so much of their habitat was taken to farm livestock - and farmers the world over are intolerant of large predators. Now conservation of cheetah focuses on translocating 'problem cheetahs' to new conservation areas where their presence is celebrated. The conservation of cheetah is affected by high lion populations (a natural enemy) in national parks, but there are fair-sized populations in the Kruger National Park and Kgalagadi Transfrontier Park. A new trend for conserving cheetah in South Africa sees them being placed in private game reserves, especially where there are no lions. And here they are thriving. Cheetah conservation is critical to preserving the existence of the species.