

Max du Plessis SC



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Profile

Max du Plessis is senior counsel in South Africa and previously an Associate Tenant at Doughty Street.

He has an extensive practice in international, administrative and constitutional law; and has acted or appeared in leading cases on international law and human rights in the International Court of Justice, the African Commission on Human and Peoples Rights and the SADC Tribunal, and has acted as adviser to governments and NGOs on questions of international and international criminal law. He has acted as counsel in South Africa's leading international law cases before the Constitutional Court and Supreme Court of Appeal (including cases on diplomatic protection, the death penalty, the duty under international law to combat corruption, and extradition and non-refoulement).

Max has represented NGOs in South Africa in utilizing South Africa's Implementation of the Rome Statute of the International Criminal Court Act in pursuing cases against individuals accused of international crimes in Zimbabwe, Rwanda, Gaza and Madagascar.

He has written widely in the field of international and international criminal law. Max is adjunct professor of international law at the University of Cape Town, and adjunct professor of public

law at the Nelson Mandela University.

Education

LL.B (Honours), University of Natal (1997, top of the year)

LL.M, University of Cambridge (1999 - Mandela Scholar and Cecil Renaud Scholar)

PhD - Africa's Response to the International Criminal Court in (UKZN), University of Cambridge (2012)

Max was the Colenso Fellow at Cambridge University, and the Oppenheimer Fellow at Oxford University, on both occasions taking time off from practice to finalise publications in international law.

Languages

English

Afrikaans (spoken)

Related practice areas

International Law

International Criminal Law

Sanctions

Public International Law

International Human Rights Law

International Arbitration

International and domestic practice

Max appears and advises in leading cases on international law, international criminal law, and human rights, including before the International Court of Justice, the International Criminal Court, and the African Commission on Human and Peoples Rights.

He successfully utilises international law arguments before domestic courts.

Max is frequently asked to lead specialist strategic advisory or litigation teams dealing with high profile matters of international or public law. He is experienced in both behind-the-scenes advisory work and upfront litigation roles. He regularly acts as adviser and counsel to governments, organisations and NGOs, with a special expertise in pursuing universal

jurisdiction cases.

Examples of recent work include:

- acting as counsel for South Africa in the International Court of Justice in the proceedings launched against Israel for provisional measures (and merits) under the Genocide Convention in relation to the bombing and starvation of Gaza.
- currently acting for Palestine before the International Criminal Court, and as counsel for a state in the International Court of Justice advisory opinion proceedings on the Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.
- securing confirmation of an ICC arrest warrant to arrest President Putin for war crimes in Ukraine, prior to Putin's attendance at a BRICs conference in August 2023.
- successful review of South Africa's decision to withdraw from the Rome Statute of the International Criminal Court (thereafter acted as lead counsel for the Southern African Litigation Centre in submissions to Pre-Trial Chamber II of the ICC in the proceedings regarding South Africa's accountability for its failure to arrest President Bashir);
- acting as counsel for Earthlife Africa in a major judicial review to stop South Africa's government from procuring Nuclear Energy from Russia in contravention of procurement and international laws.
- acting and advising in cases against individuals accused of international crimes in Zimbabwe, Rwanda, Gaza and Madagascar

On international law, Max has been briefed to submit *amicus curiae* briefs before the US Supreme Court, the US Court of Appeals, and the Israeli Supreme Court. Before South Africa's Constitutional Court, he has appeared as counsel in most of the leading cases on international law, ranging from international criminal law, expropriation, terrorism, immunities, extradition and refoulement, the duty to combat corruption, and diplomatic protection.

His practice covers the range of international law issues, and he has been involved in leading cases about the death penalty, torture, the duty under international law to combat corruption, and environmental rights. Recent examples include:

- Acting as lead counsel on behalf of FMO (a Mozambican anti-corruption coalition), in the Tuna Fishing Boats Affair involving Mozambique's former Finance Minister and his extradition to the USA. FMO successfully resisted Mozambique government's efforts to

challenge the decision to extradite its former finance minister Manuel Chang to the United States to face corruption charges (**see for news on the matter**).

- currently acting pro bono (as part of Doughty Street team of barristers) on behalf Penny Sukhraj, the wife of photojournalist Anton Hammerl to secure information about his death in Libya from either the UK or South African governments. See **here**.

Media Law

Max has also acted as lead counsel in high profile media cases, including most recently on behalf of the Campaign for Free Expression in successfully arguing that former President Zuma's attempts to privately prosecute a journalist amounted to a SLAPP suit.

He and his team of juniors have been nominated for the 2024 Columbia Global Freedom of Expression Prizes in the category "Excellence in Legal Services" which recognises a legal brief, legal amicus brief or legal defence that has advanced or strengthened a global understanding and international norms of Freedom of Expression and Information.

Publications

Max is a well published author and contributor to academic texts, and regularly writes on topics of international law. Recent publications and articles include:

- Dugard's International Law: A South African Perspective (2019), Class Action Litigation in South Africa (2017), and Civil Procedure (3rd edition - 2017).
- **'The Putin-South Africa arrest warrant saga: A tale of the shrinking world of an accused war criminal'**, by Max du Plessis and Andreas Coutsoudis (18 August, 2023, EJILTALK)
- 'It has been a good week for international criminal justice: Here's why', with Eshed Cohen (invitational op-ed, News24), 24 March 2023
- 'Oligarch Alexey Mordashov dodged legal bullet by diverting his superyacht from Cape Town' (with Eshed Cohen), Daily Maverick Op Ed (14 November 2022)

Research, teaching and training

Max has taught as an associate professor at the University of KwaZulu-Natal, and has been a visiting professor or fellow at inter alia Oxford University, Cambridge University, the Harvard Kennedy School of Government, the London School of Economics, the University of Sydney, and New York Law School.

Max combines practice and academic work and writing, and has written widely in the field of international and international criminal law. He is currently an adjunct professor at both the University of Cape Town and Nelson Mandela University, Gqerba, and an honorary research fellow at the University of KwaZulu-Natal.

Max is sought after to provide high level training, seminars and expert reports for government institutions and NGOs throughout the world, including for the UK Foreign and Commonwealth Office, the Commonwealth Secretariat, the International Criminal Court, and Chatham House.

Current projects include leading a team appointed by Mishcon de Reya and the Ukraine Justice Alliance on collaborative research to assess the relationship between sanctions and reparations under international law, and whether valuable Russian assets which have been globally seized and frozen, could translate into reparations for violations of international law in Ukraine - the initiative is 'From Sanctions to Reparations.'

Media links

Address Given at ICJ on South Africa's genocide case against Israel (from 00:45):

https://www.youtube.com/watch?v=ISj3E_ufWW0

Address given in Nuremburg Court Room, PANEL VII: Immunity of Heads of State under International Law (from around 30 minutes onwards):

<https://www.youtube.com/watch?v=mJnjvq6ZGas>

Legal (Un)Certainty of Occupation: Crimea and Donbas / The Legal Status of Crimea and Donbas (from around 50 minutes onwards): <https://www.youtube.com/watch?v=mJnjvq6ZGas>

Africa and the ICC (Wayamo Foundation): <https://www.wayamo.com/archives/video/african-perspectives-on-the-icc-max-du-plessis-ii/>

Address Given at Russell Tribunal on Palestine: <https://www.youtube.com/watch?v=e-7O3PKrcBs>