

## Recent articles and research

By Meryl Federl

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### Abbreviations:

EL: *Employment Law* (LexisNexis)

PER: *Potchefstroom Electronic Law Journal* (North West University)

PLD: *Property Law Digest* (LexisNexis)

SAPL: *Southern African Public Law* (Unisa)

THRHR: *Tydskrif vir Hedendaagse-Hollandse Reg* (LexisNexis)

TSAR: *Tydskrif vir die Suid-Afrikaanse Reg* (Juta)

### Banking law

Lawack, VA and Pretorius, JT 'The "sale" of a bank account' (2015) 78.1 *THRHR* 104.

### Business and human rights

Gwanyanya, M 'The South African *Companies Act* and the realisation of corporate human rights responsibilities' (2015) 18.1 *PER* 3103.

### Child law

Ferreira, S 'Step-parent adoption – *Centre for Child Law v Minister of Social Development*' (2015) 78.1 *THRHR* 140.

Strode, A 'A critical review of the regulation of research involving children in South Africa: From self-regulation to hyper-regulation' (2015) 2 *TSAR* 334.

### Civil procedure

Erasmus, HJ 'Judicial case management and the adversarial mindset – the new Namibian rules of court' (2015) 2 *TSAR* 259.

### Competition law

Van Heerden, C and Botha, M 'Challenges to the South African corporate leniency policy and cartel enforcement' (2015) 2 *TSAR* 308.

### Constitutional Court

Rautenbach, IM 'Overview of constitutional court judgments on the Bill of Rights – 2014' (2015) 2 *TSAR* 379.

### Constitutional law

Pretorius, JL 'Deliberative democracy and constitutionalism: The limits of rationality review' (2014) 29.2 *SAPL* 408.

Venter, R 'The new parliamentary rule on motions of no confidence: An exercise of legislative incompetence or judicial mockery?' (2015) 2 *TSAR* 395.

## Consumer law

Barnard, J and Kok, A 'A consumers fundamental right to equality in terms of the Consumer Protection Act and the role of the Promotion of Equality and Prevention of Unfair Discrimination Act' (2015) 78.1 *THRHR* 1.

Barnard, J 'Ongevraagde goedere ingevolge die Wet op Verbruikersbeskerming in regsvergelijkende perspektief' (2015) 2 *TSAR* 268.

## Contract

Bhana, D 'Contract law and the Constitution: *Bredenkamp v Standard Bank of South Africa Ltd* (SCA)' (2014) 29.2 *SAPL* 508.

Ismail, R 'Complexities with the formation of a contract – *Command Protection Services (Gauteng) (Pty) Ltd t/a Maxi Security v South African Post Office Ltd*' (2015) 78.1 *THRHR* 149.

Nortje, M 'Pre-contractual duties of disclosure in the South African common law (part 1)' (2015) 2 *TSAR* 347.

## Credit law

Fuchs, MMM 'Huidige regsontwikkeling ten aansien van uitwinbaarverklaring van verband oor onroerende saak' (2015) *PER* 18.1 3260.

Van Heerden, CM and Renke, S 'Perspectives on selected aspects regarding the registration of credit providers in terms of the National Credit Act 34 of 2005 (2)' (2015) 78.1 *THRHR* 80.

## Criminal law

Nienaber, A 'The "intentional" sexual transmission of HIV: A note of caution in light of *Phiri v S*' (2014) 29.2 *SAPL* 522.

Swanepoel, M 'Legal aspects with regard to mentally ill offenders in South Africa' (2015) 18.1 *PER* 3238.

## Customary law

Fagbayibo, B 'How central is the African Union to the promotion of traditional African values? A critical engagement' (2014) 29.2 *SAPL* 313.

Iya, P 'Challenges and prospects for traditional leadership in Africa: Towards innovative ideas to enhance African values among the youth in South Africa' (2014) 29.2 *SAPL* 260.

Kohn, L 'The failure of an arranged marriage: The traditional leadership/democracy amalgamation made worse by the Draft Traditional Affairs Bill' (2014) 29.2 *SAPL* 343.

Monye, SM 'Freedom of expression and traditional communities: Who can speak and when?' (2014) 29.2 *SAPL* 323.

Ndima, DD 'The resurrection of the indigenous values system in post-apartheid African law: South Africa's constitutional and legislative framework revisited' (2014) 29.2 *SAPL* 294.

Ntlama, N 'The constitutional divide of post-apartheid South Africa in the jurisdiction of the traditional justice system' (2014) 29.2 *SAPL* 282.

## Delict

Neethling, J and Potgieter, JM 'Delictual liability for negligent interference with a contractual relationship – *Minister for Safety and Security v Scott*' (2015) 78.1 *THRHR* 162.

## Education law

Murcott, M 'A Future for the Doctrine of Substantive Legitimate Expectation? The implications of *KwaZulu-Natal Joint Liaison Committee v Mec for Education, KwaZulu-Natal*' (2015) 18.1 *PER* 3133.

Murungi, LN 'Inclusive Basic Education in South Africa: Issues in its conceptualisation and implementation' (2015) 18.1 *PER* 3160.

## **Environmental law**

Du Plessis, A and Alberts, R 'Cooperative environmental governance: At the coalface of sustainable infrastructure development in South Africa' (2014) 29.2 *SAPL* 441.

## **Family law**

Coetzee Bester, B and Louw, A 'Domestic partners and "The Choice Argument": *Quo Vadis?*' (2015) 18.1 *PER* 2951.

De Jong, M and Pintens, W 'Default matrimonial property regimes and the principles of European family law – a European – South African comparison (part 1)' (2015) 2 *TSAR* 363.

Heaton, J 'The pitfalls of international surrogacy: A South African family law perspective' (2015) 78.1 *THRHR* 24.

Van Niekerk, G 'The registration of customary marriages: *Banda v General Public Service Sectoral Bargaining Council* (JR3273/2009) (26 February 2014)' (2014) 29.2 *SAPL* 494.

## **Insolvency law**

Evans, R and Mthethwa, K 'Can a debtor waive rights to property envisaged in section 82(6) of the Insolvency Act 24 of 1936 in an application for voluntary surrender?' (2014) 29.2 *SAPL* 548.

## **Intellectual property**

Amechi, EP 'Leveraging Traditional Knowledge on the medicinal uses of plants within the patent system: The digitisation and disclosure of knowledge in South Africa' (2015) 18.1 *PER* 3072.

## **International criminal law**

Tladi, D 'A horizontal treaty on cooperation in international criminal matters: The next step for the evolution of a comprehensive international criminal justice system?' (2014) 29.2 *SAPL* 368.

## **Judicial independence**

Swart, M 'Judicial independence at the regional and sub-regional African courts' (2014) 29.2 *SAPL* 388.

## **Judicial review**

Okpaluba, C 'Constraints on judicial review of executive conduct: The juridical link between the Marikana mineworkers' imbroglio and the Gauteng e-tolling saga' (2015) 2 *TSAR* 286.

## **Labour law**

Ebrahim, S 'May an employer substitute a sanction imposed by the chairperson for its own? – *SARS v CCMA*' (2015) 78.1 *THRHR* 132.

Fourie, E 'What constitutes a benefit by virtue of section 186(2) of the *Labour Relations Act* 66 of 1995? *Apollo Tyres South Africa (Pty) Ltd v CCMA* 2013 5 *BLLR* 434 (LAC)' (2015) 18.1 *PER* 3300.

Grogan, J 'Joined at the hip: Shadow over substance in dismissal disputes' (2015) 31.2 *EL* 3.

Grogan, J 'Reviewing disciplinary matters – section 158(1)(h) of the LRA considered' (2015) 31.2 *EL* 10.

McGregor, M 'Justifying sexual harassment based on culture? Never, never, never' (2015) 78.1 *THRHR* 121.

Rautenbach, IM 'Requirements for affirmative action and requirements for the limitation of rights' (2015) 2 *TSAR* 431.

## **Language rights**

Malan, JJ 'Die begrip "amptelikheid" van 'n taal in die lig van onlangse buitelandse regspraak' (2015) 78.1 *THRHR* 116.

## **Local government**

Mathenjwa, MJ 'The role of the principle of legality in preserving municipal constitutional integrity' (2014) 29.2 *SAPL* 534.

## **Medical law**

Van der Westhuizen, CS 'The solution to demands made on parents' decision-making in the neonatal intensive care unit: Mediation or litigation?' (2015) 78.1 *THRHR* 63.

## **Mining law**

Hartzer, S and du Plessis, W 'The liability of historical mine authorisation holders for rehabilitation of "old order mine dumps"' (2014) 29.2 *SAPL* 469.

## **Private law**

Dirix, E 'Multiculturalism in private law in Europe' (2015) 2 *TSAR* 221.

## **Property law**

Botha, M 'The final word: Can a home-owner's association veto transfer upon insolvency?' (2015) March *PLD* 2.

Marais, EJ 'When does state interference with property (now) amount to expropriation? An analysis of the *Agri SA* Court's state acquisition requirement (part I)' (2015) 18.1 *PER* 2983.

Marais, EJ 'When does state interference with property (now) amount to expropriation? An analysis of the *Agri SA* Court's state acquisition requirement (part II)' (2015) 18.1 *PER* 3033.

Pienaar, GJ 'The real agreement as *causa* for the transfer of immovable property' (2015) 78.1 *THRHR* 47.

Smit, T 'The unexpected special levy' (2015) March *PLD* 5.

Sonnekus, JC 'Gebrek aan wetenskap vervlak regspraak tot kasuïstiek' (2015) 2 *TSAR* 405.

Van Schalkwyk, LN 'Sessie van eiendomsreg en van terugvorderingsbevoegdheid – Kan 'n saaklike reg deur sessie oorgedra word? – *Page Automation (Pty) Ltd v Profusa Properties CC t/a Homenet OR Tambo*' (2015) 78.1 *THRHR* 170.

## **Religious and cultural rights**

Ratiba, MM "'Just piles of rocks to developers but places of worship to Native Americans" – exploring the significance of earth jurisprudence for South African cultural communities' (2015) 18.1 *PER* 3197.

## **Security law**

Sonnekus, JC and Schlemmer, EC 'Sameloop van 'n *pactum de non cedendo* sessie in *securitatem debiti* en retensieregte (deel 1)' (2015) 2 *TSAR* 239.

## **Sport law**

Cornelius, S 'Die regsgeldigheid van verpligte arbitrasie by geskille oor die gebruik van verbode middels in sport' (2015) 2 *TSAR* 443.

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## **Open access law journals:**

- *African Human Rights Law Journal*: [www.chr.up.ac.za/index.php/about-the-journal.html](http://www.chr.up.ac.za/index.php/about-the-journal.html)
- *African Public Procurement Law Journal* (Faculty of Law, Stellenbosch University, South Africa) <http://applj.journals.ac.za/pub>
- *De Jure* published by the University of Pretoria: [www.dejure.up.ac.za/](http://www.dejure.up.ac.za/)
- *Journal for Juridical Science* published by the Faculty of Law, University of the Free State: <https://africansunmedia.snapplify.com/product/journal-for-juridical-science-382>
- *Law, Democracy & Development* is the journal of the Faculty of Law at the University of the Western Cape: [www.idd.org.za/current-volume.html](http://www.idd.org.za/current-volume.html)
- *Potchefstroom Electronic Law Journal*: [www.nwu.ac.za/p-per/volumes](http://www.nwu.ac.za/p-per/volumes)
- *Speculum Juris* published by the Nelson R Mandela School of Law, University of Fort Hare: [www.speculumjuris.co.za/articles](http://www.speculumjuris.co.za/articles)

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