

## Editorial:

This issue contains various contributions on the themes of traditional African culture, the law relating to children and juveniles, the state's social responsibilities, labour law and one on legal education.

In August 2011 Advocate Joyce Maluleke, Director in the Gender Directorate of the South African Department of Justice and Constitutional Development addressed the Annual General Conference of the South African Chapter of the International Association of Women Judges held in Potchefstroom on the dangers of harmful traditional practices such as early and forced marriages, virginity testing, widow's rituals, levirate and sororate unions, female genital mutilation, breast sweeping/ironing, the primogeniture rule, practices such as 'cleansing' after male circumcision, and witch-hunting. Although she considers respect for tradition, culture and customs to be part of the South African identity, she argues that cultural practices should be rooted in respect for human rights, democracy and equality. We publish her paper here as an *oratio*.

## Articles

- Nomthandazo Ntlama of UNISA discusses the implications for customary law of the constitutional imperative that the common law should be developed in the context of the South African Bill of Rights.
- Robbie Robinson of the North-West University tenders an explanation of the law in terms of which children, especially former child soldiers should be considered to be victims of armed conflict against the background of Article 39 of the UN *Convention on the Rights of the Child*.
- Mariana Büchner-Eveleigh of UNISA and Annelize Nienaber of the University of Pretoria assess South African legislation regarding child health against the background of the UN *Convention on the Rights of the Child*, 1989. They find serious shortcomings and conclude that improvements are required.
- Simon Tabe of the University of Dschang, Cameroon renders a critical appraisal of the repatriated Camaroonian juvenile justice system, finding that it represents a balance of the due process rights of young people, the protection of society and the special needs of young offenders although the system requires further improvement.
- Mildred Bekink of UNISA discusses the difficulties of balancing the rights of a teenager against those of the parents in matters of socio-cultural practice and belief and she argues that the principle of the best interests of the child is key, taking into account that the principle is anchored in the family.
- Ebenezer Durojaye of the University of the Western Cape examines the progress that has been made regarding the provision of HIV treatment in Africa with specific reference to equality. He argues for the improvement of access to HIV treatment for vulnerable and marginalised groups in Africa such as children and sex workers.
- Mathias Nyenti and Letlhokwa George Mpedi of the University of Johannesburg analyse the SADC social protection-related instruments to determine their impact and whether they satisfy the need for establishing minimum "social floor functions" for the purposes of social protection in the countries of the region.
- Hester Kruger and Hennie Oosthuizen of the University of the Free State reflect upon the possibility of prosecuting human traffickers for common law crimes in South Africa pending the coming into operation of legislation in terms of which statutory crimes should be created in accordance with international obligations.

- Motseotsile Marumoagae, candidate attorney in Benoni highlights employment discrimination experienced by persons with disabilities in South Africa whereby the disabled are deprived of employment opportunities.
- Elmarie Fourie and Enid Coetzee of the University of Johannesburg point out that first-generation South African law students need to be *learning to be*, rather than *learning about*. They propose that this may be achieved through "therapeutic jurisprudence" aimed at instilling skills that will be beneficial to the profession, future clients and the community as a whole.

## Notes

- .Meda Couzens of the University of KwaZulu-Natal comments on a judgment dealing with the effects of the public procurement process and its effects on the rights of the child when it involves the provision of stationary to public schools.
- Muriel Mushariwa of the University of the Witwatersrand enters into the debate on the question whether affirmative action has a life-span in South African employment law with reference to a judgment in which it was held that once an employer had reached specific employment equity targets further affirmative action is not required.

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