

Editorial

On 13 August 2011 Deputy Chief Justice Dikgang Moseneke delivered the keynote address at the Annual General Conference of the South African Chapter of the International Association of Women Judges held on the Potchefstroom Campus of the North-West University. We are pleased to open this edition with this address in which he concluded: "We need judges who are needs driven and who are determined to vindicate rights of aggrieved litigants impartially and without fear or favour. That deep instinct of fairness which seems to abound in women would be a great asset to our judiciary."

In this edition we furthermore publish five articles, one note and three case notes.

Articles

- In their article Chuks Okpaluba of the University of Fort Hare and Lawrence Juma of Rhodes University endeavour to isolate the emerging approaches to the determination of actual or apparent bias in adjudication by analysing topical South African case law.
- Against the background of the reconceptualisation of indigenous land rights Elmién du Plessis of the University of Johannesburg addresses the questions whether it would be possible to classify the indigenous land rights system as a commons, and if it would provide a useful analytical framework in which to solve the problem of securing land tenure in South Africa.
- Shannon Bosch and Marelise Maritz of the University of Kwazulu-Natal consider the role private security contractors (PSCs) play in armed conflicts and their status in international humanitarian law before weighing the effectiveness and constitutionality of South African legislation in terms of which PSCs are regulated and mercenarism is outlawed.
- Against the background of the often-unseen social and challenges faced by mentally ill patients, Magdaleen Swanepoel of the University of South Africa considers the human rights that influence the mentally ill patient in South African medical law.
- The overall onus that faces employers and employees when determining whether a dismissal from employment was acceptable or not is the focus of an analysis of South African labour legislation by Riaz Ismail and Itumeleng Tshoose of the University of South Africa.

Note

- David Brimer, Partner, Schindlers Attorneys in Johannesburg and Alan Brimer, Professor Emeritus of the University of KwaZulu-Natal (father and son) critically comment (with some almost irreverent examples from Scripture as addendum) on positivistic lawyers' "usual attempt to catch the meaning of a thing by entangling it in a net of words."

Case notes

- Chris-James Pretorius of the University of South Africa discusses the question whether the material mistake of a contractual party induced by the fraud of an independent third party could sustain a plea of *iustus error* raised by the mistaken party as dealt with by the South African Supreme Court of Appeal in 2011.
- Linda Muswaka of the North-West University (Mafikeng Campus) discusses the possibility of an author being sued for infringement even though he has acquired copyright in a work that he created by making unauthorised adaptations to another's copyright material with reference to a judgment of the South African Supreme Court of Appeal of 2006 with comparative reference to the position in the UK.
- With reference to a judgment of the South African Constitutional Court of 2011 dealing with occupational health and safety, Itumeleng Tshoose of the University of South Africa advocates the introduction of a unified system of occupational health and safety.

Francois Venter