

FACULTY OF LAW RESEARCH OUTPUTS 2011

ARTICLES PUBLISHED IN ACCREDITED JOURNALS (INDICATE WHETHER INTERNATIONAL JOURNAL)

Abrahams D & Moorhouse “A Proposals regarding a Weapons Review Process in South Africa Part 2” *Obiter* (2011) 32 2 249.

Badenhorst P “Conflict resolution between owners of land and holders of rights to minerals: a lopsided triangle?” 2011 *Journal of South African Law* 326-341.

Badenhorst P “The Make-up of Transitional Rights to Minerals: Something Old, Something New, Something Borrowed, Something Blue...? 2011 (4) *South African Law Journal* 763-784.

Badenhorst P “Large scale Expropriation of Mineral Rights in South Africa: The *Agri South Africa* saga” 2011 *Australian Resources and Energy Law Journal* (International Journal)

Badenhorst P & Olivier NJJ “Host communities and competing applications for prospecting rights in terms of the Mineral and Petroleum Resources Development Act 28 of 2002” 2011 *De Jure*.

Badenhorst P & Olivier NJJ & Williams C “The final judgement: *Bengwenyama Minerals (Pty Ltd) v Genorah Resources (Pty)*” 2012 (1) *Journal of South African Law*.

Badenhorst P “Transitional prospecting rights: A moratorial escort across the bridge? *De Beers Consolidated Mines Ltd v Regional Manager, Mineral Regulation Free State Region:Department of Minerals and Energy*” 2011 2 *Obiter*.

Badenhorst P & NJJ Olivier “Expropriation of ‘unused old order rights’ by the MPRDA: you have lost it! *AgriSA v Minister of Minerals and Energy*” 2012 *Journal of Contemporary Roman Dutch law*.

Biggs L & Van der Walt A “Aspects of Unfair Suspension at Work” *Obiter* 2011 323 697

Bosch C and Le Roux R “Not Letting the Whistle Blower Off: The Labour Appeal Court’s Approach to the Protected Disclosures Protecting Parliament’s Employees *Obiter* 2011

Delport HJ “An Estate Agent’s Claim for Payment of Commission, Partial Commission, Damages, Penalties and a Quantum Meruit” *OBITER* 2011 32 1 143.

Govindjee, A and Dupper, OC “Constitutional perspectives on unemployment security and a right to work in South Africa” published in a special edition of *Stellenbosch Law Review* (2011, vol 3)

Govindjee “Assisting the unemployed in the absence of a legal framework: The next frontier for the Eastern Cape Bench?” *Speculum Juris* (2011, vol 25(1)) 86

Govindjee, A Olivier, MP & Dupper, O and “Redesigning the South African Unemployment Insurance Fund: Selected key policy and legal perspectives” *Stellenbosch Law Review* (2011, vol 2, 396-425)

Govindjee, A, Olivier, MP and Dupper, O “Activation in the context of the unemployment insurance system in South Africa” *Stellenbosch Law Review* (2011, vol 1, 205-227)

Knoetze E “Die onderrig van die inheemse reg: bevoeg, of beperk deur boeke?” (2010) *Obiter* 31 3 662. (See letter for late submission).

Lawack-Davids VA & Swart L “Legal Aspects of Managing a Failure of a Central Securities Depository (CSD) Participant” (2011) *Obiter* 32 2 393.

Lawack-Davids VA “Mind the Gap – Increasing Compliance – Burden & Regulatory Misalignment” (2011) *Obiter* 32 3 712.

Marx FE “At Last A South African Proper Law of Delict” (2011) *Obiter* 32 1 224

Marx FE “Hate Speech on Social Network Sites: Perpetrator and Service Provider Liability” (2011) *Obiter* 32 2 322.

Marx FE & O’Brien N “To Regulate or to Over Regulate? Internet Service Provider Liability: The Industry Representative Body in terms of the ECT Act and Regulations” (2011) *Obiter* 32 2 537.

Mukheibir A “Road Accident v Timis – Child support grants not res inter alios acta” *The South African Law Journal* (2011) Vol 128 (2) 246 – 252.

Schrage ELJ "Steekpenningen voor het Forum van het Privaatrecht" Tydskrif vir die Suid-Afrikaanse Reg/Journal of South African Law 2011 16-37

Schrage ELJ "The Role of Private Law in Promoting Social Justice" *Obiter* 32 (2011) 1-9.

Vrancken PHG "Introductory Perspectives on Marine Tourism in South African Law" *Obiter* 2011 32 3 613.

Van der Walt A and Van der Walt G 'Remedying Breach of a Collective Agreement: Does the LRA Provide a Remedy?' *Obiter* 2011 32 3 667.

Von Bonde J A Critical of the Introduction of Proportional Analysis by the South African Courts in Civil Forfeiture Jurisprudence *Obiter* 2011 32 1 83.

Von Bonde J Victims Crime in International Law and Constitutional Law: Is the State Responsible for Establishing Restitution and State-funded Compensation Schemes South African Journal of Criminal Justice 2011 23 2 183

Von Bonde J Legal Expenses POCA Clauses: A loophole to make Crime Pay? South African Journal of Criminal Justice 2011 24 309.

ARTICLES PUBLISHED OR ACCEPTED FOR PUBLICATION IN NON-ACCREDITED JOURNALS

Govindjee A and Taiwo "Justiciability and enforceability of fundamental objectives and directive principles in Nigeria: Lessons from South Africa and India" *Nigerian Bar Journal* (2011) volume 7 65-101;

Govindjee A and Dupper "SA needs principled approach to defuse poverty crisis" in *Mail & Guardian* (22 July 2011, p 33);

Govindjee A & Taiwo "Religious and cultural practices in Nigerian schools: taking a clue from the South African concept of 'reasonable accommodation'" submitted to the *Journal of Public and International Law* (University of Ibadan, Nigeria) (2011);

Govindjee A and Kruger "A question of interpretation: A comparative study of 'unenumerated' rights recognition in India and South Africa" to be published in a special edition of the *Journal of the ILS Law College, Pune, India* (2011);

Schrage ELJ Kwaliteit en Diversiteit: *Du sprichst ein großes Wort gelassen aus*. Enige gedachten over het Rapport van de Evaluatiecommissie Rechtswetenschappelijk Onderzoek 2009) (Amsterdam 2009), in WPNR 6887 (2011), p. 431-437

Schrage ELJ Die verschuldensunabhängige Haftung des Vermieters, in *Studia Prawno Ekonomiczne* (Łódzkie Towarzystwo Naukowe) LXXXIII (2011), 191-205

Schrage ELJ Arricchimento senza causa nel diritto intermedio, in *Revue Internationale des Droits de l'Antiquité*, 3^e Série LVII (2010), p. 421-435 [came out in 2011]

Schrage ELJ Contra non valentem agere non currit praescriptio, in *Vermogensrechtelijke Analyses* 2011/2, p. 72-89.

Vrancken PHG "Aspects of the Legal Environment of Coastal and Marine Tourism in South Africa" *Tourism in Marine Environments An Interdisciplinary Journal* 2011 Vol 7 3/4 113

1. BOOKS PUBLISHED, WHETHER AS SOLE OR CO-AUTHOR (PLEASE SPECIFY)

Olivier, MP and Govindjee, A "Social Protection Lessons from SADC for the Global South" in Modi, R (ed) *South-South Co-operation: Africa on the Centre Stage* International Political Economy Series (2011, Palgrave Macmillan) 184-202

Govindjee "Constitutional law and human rights" in Meintjes van der Walt *et al Fresh Perspectives: Introduction to Law* (Pearson Education / Maskew Miller Longman, Cape Town, first edition – 2008; second edition, Heinemann Publishers 2011)

Govindjee and Taiwo "Globalization and its effects on the emerging jurisprudence on the right to education in South Africa and Nigeria" in *Globalization, International Law and Human Rights* (2011, Oxford University Press) 111-146

Govindjee and Kruger *The Basic Structure Doctrine Debate: South African Explorations* in Jain and Narayan (eds) *Basic Structure Constitutionalism – Revisiting Kesavananda Bharti* (2011, Eastern Book Company) 209-227

Vrancken PHG *South Africa & the Law of the Sea* 2011 Martinus Nijhoff (Publisher).

REVISION OF CHAPTERS IN BOOKS PUBLISHED BEFORE 2008

Knoetze E Revision of Chapter 6 on Delict in Rautenbach, Bekker and Goolam *Introduction to Legal Pluralism* 3rd ed (2010) LexisNexis

Delpont, HJ *South African Property Practice and the Law* (Juta) Revision Service 17, 2011.

7. PAPERS DELIVERED AT INTERNATIONAL CONFERENCES

Govindjee A “The adjudication of socio-economic rights by the Constitutional Court of South Africa: Walking the tightrope between activism and deference?” presented by invitation at the *First National Law School of India Review Annual Public Law Symposium on the Adjudication of Socio-Economic Rights by the Indian Supreme Court* (National Law School, Bangalore, India, 10 December 2011);

Knoetze E International conference paper Lyon, France, July 2011 International Society of Family Law “Fathers responsible for the sins of their children? Notes on the accessory liability of a family head in the customary law delict”

Lawack-Davids VA International conference paper Cyprus, Greece 19 – 22 September 2011 Law Across Nations – Governance, Policy and Statutes “Legal and regulatory Framework of Mobile Banking and Mobile Payments in South Africa”

Schrage ELJ Conference of the Société d'Histoire des Droits de l' Antiquité Fernand de Visscher in Liège (Belgium), 19-24 September 2011 (Die verschuldensunabhängige Haftung des Vermieters)

Schrage ELJ Leyden at the Conference on Law and Equity, Approaches in Roman and Common Law (Unjust Enrichment).

PAPERS DELIVERED AT NATIONAL/LOCAL CONFERENCES

Botha J “How secret should we be? Freedom of expression threatened yet again” Presented on 23 August 2011 at the Private Law and Social Justice Conference held at NMMU.

Denson R “A General Exposition of the Interpretation of the Best Interests Of the Child” Presented on 23 August 2011 at the Private Law and Social Justice Conference held at NMMU.

Govindjee A “The role of international and regional standards in the development of an appropriate rehabilitation, re-integration and return-to-work policy framework for South Africa”, co-presented at the *International Conference on the Interaction between International, Regional and National Labour Law and Social Security: Standards and Methods* (Stellenbosch Institute for Advanced Studies, South Africa, 13-14 October 2011)

Govindjee A “Reforming the South African social security adjudication system: The role and

impact of international and regional standards” co-presented at the *International Conference on the Interaction between International, Regional and National Labour Law and Social Security: Standards and Methods*” (Stellenbosch Institute for Advanced Studies, South Africa, 13-14 October 2011)

Govindjee A “Complexities of understanding and applying employment equity: the challenge for universities” presented by invitation at the *CANRAD’s Difficult Dialogue* debate (NMMU, 19 September 2011)

Govindjee A “The Constitutional Court on essential services” co-presented by invitation at the *Aspects of collective labour law and constructive dismissal: Problems and Puzzles* Seminar (NMMU, South Africa, 22 July 2011)

Govindjee A “Can law change anything without organisation?” presented by invitation at the *Labour at the crossroads: Inequality at the workplace workshop* (Graduate School of Business, UCT, South Africa, 4-5 July 2011)

Govindjee A “Unemployment security as a framework for poverty alleviation” presented by invitation at the *Law and Poverty Colloquium* (Stellenbosch, South Africa, 29-31 May 2011)

Govindjee A “The Employment Services Bill” presented at the *Winds of Change: The 2011 Labour Law Amendments* Seminar (NMMU, South Africa, 4 February 2011) and at an ABSA Bank Corporate Managers seminar (8 March 2011)

Marx FE NMMU Private Law & Social Justice Conference (23 August 2011): "Cyber Bullying".

Marx FE Conference on THE MOBILE REVOLUTION (1 November) Johannesburg: "Mobile Bullying".

Marx FE 2nd ANNUAL SOUTH AFRICAN CYBER CRIME CONFERENCE (ACCP in collaboration with ISS) Cape Town 29 Nov: "Cyber Bullying or Cyber Criminals?: The Convention on Cybercrime"

Mukheibir A “*Law of Delict – Requiescat in Pace*” Presented on 23 August 2011 at the Private Law and Social Justice Conference held at NMMU.

Qotoyi. T “Incompatibility and Poor Work Performance” Presented on 06 October 2011 at the Conference for Department of Sport Recreations Arts and Culture: Balancing Effective Service Delivery with Fairness in Employment in the Public Sector held at NMMU.

Van der Walt. A: “The Employment Equity Amendment Bill” and “A Major Fix: The Labour Relations Amendment Bill” (with F Le Roux) presented at the *Winds of Change: The 2011 Labour Law Amendments* Seminar (NMMU, South Africa, 4 February 2011)

Van der Walt. A: Forum Shopping “Using Administrative Law and Law of Contract Provisions to Resolve Labour Law Disputes” Presented on 07 October 2011 at the Conference for Department of Sport Recreations Arts and Culture: Balancing Effective Service Delivery with Fairness in Employment in the Public Sector held at NMMU.

Van der Walt. G: “The Best Interests of the Child: comparing the position in Mauritius and South Africa” Presented on 23 August 2011 at the Private Law and Social Justice Conference held at NMMU.

Wagenaar T Paper presented at the Private Law Conference: “Needletime: What’s the hold-up?”

ATTENDANCE OF CONFERENCES WITHOUT DELIVERING A PAPER

Denson R attended the 14th Annual Miller Du Toit/UWC Faculty of Law Family Law Conference Titled “Implementation in a Changed Child and Family Law Environment: Challenges and Opportunities” held in Cape Town on the 17 – 18 March 2011.