

FROM THE EDITORS

This year marks fifty years of *Responsa Meridiana* – of “legal opinions from the South” – as the journal’s name so aptly translates. We thus celebrate fifty years of collaboration between the Universities of Cape Town and Stellenbosch, aimed at providing students with a valuable forum to present their ideas on the challenges and complexities of the law. It is a milestone that is testament to the role of legal writing and legal analysis in forming well-rounded legal scholars and practitioners. The long list of now-prominent academics, judges, legal practitioners and others, who have contributed to the journal in their student days, is certainly indicative of this and we are privileged to publish some of their reflections as guest-editorials in this edition.

This anniversary presents us with an opportunity to thank all those who have contributed to the success and continuity of this project for the past fifty years, including editorial board members, faculty advisors, deans of the respective faculties, patrons and sponsors.

We are particularly grateful to Professors Andreas van Wyk, Hugh Corder, Gerhard Lubbe, Owen Dean and Helen Scott as well as Judge Douglas Scott for contributing special editorials to this edition and for joining us in “looking back to look forward”. In doing so, we reproduce the cover design popular in the 1970’s and 1980’s in the orange colour used for the original 1964 cover, whilst publishing under an open-source license for the very first time.

Once again, we are privileged to present you with student contributions that cover a wide variety of legal disciplines. In order to make the publication more accessible to students in earlier years of study, we also include shorter notes in this edition for the first time.

Tamrynne Barnes considers the difficulties of consumer protection in the context of the labelling of food products that contain Genetically Modified Organisms (GMO’s). She argues that food labelling protects consumers’ right to know and to choose which food products to consume. Her analysis is based on a comparison of South African as well as European Union labelling regulations.

Daniel Freund revisits the question as to whether judges state the law or make the law in the context of South Africa’s constitutional requirement to develop the common law in conformity with the Bill of Rights. Noting inherent tensions between constitutional rights, Freund approaches the question through the lens of inclusive and exclusive legal positivism to argue that judges do indeed make new law.

Rosanne Gorven argues for the incorporation of social factors in the assessment of disability grant applications. She suggests that social factors can be incorporated in a way that will improve efficiency and maintain the certainty that flows from the medical factors. Her paper provides an insightful contribution to the constitutional right of access to social security.

Jared Lesar considers the possibility of a defence of entrapment in South African Law. Taking a comparative-law approach, he focuses on the position of the trappee in the context of improper trapping to conclude that the defence should be recognised.

Gustav Loubser assesses copyright term extensions in the United States and the European Union and asks whether a similar extension is desirable in South Africa based on historical justifications for copyright protection as well as economic, technological, social and socio-economic considerations. He argues that developments in copyright law must take cognisance of social challenges – particularly in developing countries like South Africa.

Charné Thompson addresses the legal issues pertaining to a relatively new and rapidly evolving social phenomenon: social media. Using the media response to the Oscar Pistorius trial as a focal point, Thompson explores internet regulation and jurisdictional conflict in relation to public trials, privacy and fairness. She draws on legal and anthropological theory to conclude that creative approaches to dispute resolution are necessary for virtual law to keep pace with cyberspace realities.

Sarah Catharina van Aswegen analyses the piercing of the corporate veil and the question whether this provides sufficient protection to creditors of a subsidiary company who seek to claim from the holding company. She argues that the narrow application of piercing of the corporate veil by courts may lead to situations where the holding company cannot be held liable for unlawful harm caused. Therefore, she examines the possibility of delictual liability in such cases.

Cecile van den Berg examines the possibility of granting structural interdicts in the context of environmental rights. She takes her cue from Canadian law and the development of the law surrounding structural interdicts in South Africa to date, in arguing that this remedy should be used more frequently by South African courts in order to ensure the effective implementation of court orders.

We wish to thank the students of the respective universities for contributing through their submissions and congratulate the authors on their publications.

Finally, we would like to thank the Faculties of Law at the Universities of Cape Town and Stellenbosch and particularly the Deans of the respective faculties, Professors PJ Schwikkard and S Human for their continued endorsement of the *Responsa Meridiana*. A special word of thanks goes to our respective editorial boards for their dedication and hard work on the 2014 edition and to our faculty advisors, Prof G Bradfield and Dr Z Temmers-Boggenpoel, for their advice and support throughout the year.

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RESPONSA MERIDIANA

Editorial Board

1964



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