

## FROM THE EDITORS

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The *Responsa Meridiana* law journal, the result of a proud collaborative effort between the Universities of Cape Town and Stellenbosch, provides a unique opportunity to students to present their ideas on the complexities of the South African law. In a rapidly changing legal environment, influenced by a new constitutional dispensation and the challenges of a globalised world, meaningful and innovative discourse about the law and the direction it is taking is essential for its continued development. This is what the *Responsa Meridiana* endeavours to promote. Certainly, the range of articles published this year is testament to this aspiration.

**Shaun Barns** explores whether the positive duties placed on the state, particularly the South African Police Service, by the Constitution are adequately represented by the doctrine of vicarious liability. He deals with the pertinent and pressing issues associated with the application of vicarious liability to cases where institutional failures have resulted in the police causing physical injury to citizens.

**Courtney Botha's** paper explores the tension between the commercial interests of pharmaceutical companies and the rights of indigenous peoples whose knowledge is increasingly exploited for commercial purposes. Botha sheds light on the issue by examining the South African *Hoodia* and *Rooibos* cases, the Indian Traditional Knowledge Digital Library and the planned South African National Recordal System. Her critique of current patent law is, against the background of BRICS and globalisation, a timely contribution to the rapidly developing area of intellectual property law.

**Nathan Sarkas** claims that the inspiration behind his original and relevant paper entitled “*A Not So Quiet Revolution*” was the unprecedented media coverage of the *Oscar Pistorius* case. Nathan explores the current judicial understanding of freedom of expression and the *sub judice* rule, and in particular whether or not “pre-eminence” has in our current political landscape been afforded to this right and rule, respectively.

**Steven Poynton Stuart-Steer** considers the availability of a claim for damages as a surrogate of specific performance in South African law. The current position in South African law is uncertain. However, he proposes that by distinguishing the interest that contractual damages protect from the interest that a plaintiff has in specific performance one is able to distinguish the remedy of surrogate damages.

**David Marais** discusses mortgage foreclosures in light of the National Credit Act, with particular emphasis on balancing the rights of the creditor and the debtor. He examines the question from a constitutional angle, specifically with reference to the right of access to adequate housing, and with consideration of English law.

**Nandi Pretorius** assesses the criminal liability of companies and finds the South African law inadequate in addressing this issue. With reference to Australian law, she examines the corporate culture doctrine and the possibility of following a similar approach in South Africa.

**Louise Rive** takes her cue from the recent meat scandals in Europe and South Africa and investigates whether and how the interests of religious consumers are taken into account in meat labelling. She argues that poor implementation of food labelling legislation and regulations, minimal sanctions and penalties for their violation, combined with uncertainty as to the exact ambit of religious food commandments, undermine the protection of religious consumers.

**Delano Cole van der Linde** presents an interesting argument for the decriminalisation of incest. He critically examines the values that the criminalisation of incest is meant to protect and questions their relevance in the 21<sup>st</sup> century. The argument is supported by a constitutional analysis and comparative perspectives from US and English law.

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 2013 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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