

## Editorial

This edition of PER consists of one *oratio*, 13 articles and one book review dealing with a variety of themes.

The first contribution is an *oratio* delivered by [Lourens du Plessis](#) at a *colloquium* hosted by the Faculty of Law, University of the Western Cape, on 2 October 2015 to celebrate his life and work, in which he aptly refers to himself as a "learned jackal for justice".

The first of the 13 articles is by [Lonias Ndlovu](#), who uses the 2013 Supreme Court of India case of *Novartis AG v Union of India* to argue for legislative reform by SADC members in the granting of patents for new versions of old medicines. Secondly, [Lunga Siyo and John Mubangizi](#) consider whether the existing constitutional and legislative mechanisms provide sufficient judicial independence to South African judges, which is fundamental to democracy. [Leah Ndimurwimo and Melvin Mbao](#) trace the root causes of Burundi's systemic armed violence and argue that despite several UN Security Council Resolutions and peace agreements aimed at national reconciliation and reconstruction, mass killings and other heinous crimes remain unaddressed. In the fourth place, [Marelize Marais and Jan Pretorius](#) present a detailed contextual analysis of the categorical prohibition of hate speech in terms of section 10(1) of the *Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000 (the *Equality Act*). [Phillipa King and Christine Reddell](#) discuss the pivotal role of the public in water use rights, especially in the context of the *National Water Act* 36 of 1998 in the fifth article. The difficulties surrounding the tripartite scheme of statutory, constitutional and living law in a pluralistic system such as South Africa are the focus of the article by [Rita Ozoemena](#). She uses the case of *Mayelane v Ngwenyama* 2013 4 SA 415 (CC) as an example to illustrate the difficulties experienced in trying to balance this scheme. [Angela van der Berg](#) critically discusses and describes from a legal perspective the potential and function of public-private partnerships (PPPs) between local government (municipalities) and the private sector in fulfilling the legally entrenched disaster management mandate of municipalities. [André van der Walt and Sue-Mari Viljoen](#) argue that there are sound theoretical and systemic reasons why it is necessary to keep in mind the differences between property, land rights and housing rights when analysing, interpreting and applying any of these rights in a specific constitutional text. The special procedural measures which must be considered in terms of the *Consumer Protection Act* 68 of 2008 in order to decide if a contract is procedurally fair are analysed by [Philip Stoop](#) in his article. [Liz Lewis](#) also scrutinises the judicial development of customary law in the case of *Mayelane v Ngwenyama* 2013 4 SA 415 (CC). She pleads for a judicial approach which take cognisance of the norms and values with reference to their particular context and audience instead of those embedded in international and western law. Water security, which is dealt with by [Ed Couzens](#), remains a highly topical theme in a country such as South Africa. He explores ways to circumvent the effects of the Constitutional Court in *Mazibuko v City of Johannesburg* 2010 4 SA 1 (CC) with regard to the allocation of water to the poor. [Izelle du Plessis](#) discusses some of the existing opinions regarding the incorporation of double taxation agreements into the domestic law of South Africa. Last, but not least, [Koos Malan](#) deliberates on the rule of law and constitutional supremacy and comes to the conclusion that they are, from the perspective of the factual dimension of the law, more susceptible to the volatility of unpredictable changes and instability than the doctrine of the rule of law and constitutional supremacy purport them to be.

In the last contribution to this edition, [Robbie Robinson](#) reviews the book "International Law and Child Soldiers" written by Gus Waschefort and published by Hart Publishing (Oxford) in 2015. He is of the opinion that the book is a *sine qua non* for studies of children in international law.

Editor: Prof C Rautenbach