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The 2017 volume 32 of the *SAPL* was a special issue. In it, we published contributions from a galaxy of South African and international academics, judges and legal practitioners of great repute all writing in honour of the former Chief Justice of South Africa, Judge Sandile Ngcobo. Without prejudice to maintaining the regular and normal issues, the *SAPL* will, continue to encourage special issues based on particular themes from time to time.

This number is a normal issue of the journal in which the reader will find various articles on disparate topics covering a wide-range of areas of public law starting with Siphonkosi's analysis of the juridical transformative impact on the South African concept of ubuntu. The question here is not whether ubuntu is recognised as part of South African law but that the courts, especially the Constitutional Court, had since embraced it and had made efforts to incorporate it into constitutional adjudication in modern times. In spite of the colonial era jurisprudence literally relegating the concept into oblivion, the author hopes that the courts will not only rely on ubuntu to resuscitate old remedies that had operated in its likelihood, but will also create a new set of remedies that will serve South Africa's noble constitutional project.

Not long ago, South Africa was one of the countries in the forefront of not only negotiating for the adoption of the Rome Statute Establishing the International Criminal Court, she was equally one of the countries that ratified the Rome Statute and swiftly enacted a domestic law incorporating its provisions into her domestic jurisprudence. In her article on the threat of South Africa to withdraw from the ICC, Lee Stone shows how much in a hurry South Africa wanted to opt out of the Rome Statute without following the international and domestic parliamentary due processes for doing so. In the process, South Africa, an ardent supporter of the international human rights since 1994, violated the same international human rights law, ignored international arrest warrants on Al Bashir, disobeyed court orders in that regard and facilitated Al Bashir's departure from South Africa. In interrogating the many legal issues surrounding this case, the author wondered as to whether the South African government did not create

the impression that political considerations sometimes outweigh the international legal obligations of a nation.

Moving away from international law, the next contribution takes us to the law of delict where Themba Maseko discusses the recent deviation case of *Minister of Safety and Security v Morudu* where the question was whether the minister was vicariously liable

for the criminal conduct of a police officer who had travelled out of his fingerprint office in an official vehicle and shot a man he suspected was his wife's lover with his personal firearm. The author's contention is that, in spite of the development of the law of vicarious liability by the Constitutional Court to conform to the spirit and purport of the Bill of Rights, the Supreme Court of Appeal had failed to uphold the High Court's finding of vicarious liability in this case. He then posits that there was surely a close connection between the police officer's conduct and his employment with the business of his employer and that to hold otherwise was in breach of the Bill of Rights and in contrast with the modern law of vicarious liability.

One of the most important features of the Constitution of South Africa is the introduction of a number of constitutional values designed to energize democracy. One of such values is the principle of accountability. Although the Constitution of South Africa is such a huge document, but it has not defined every term found in the celebrated document including 'accountability'. So, the courts, in particular, the Constitutional Court, have in effect delivered lessons on most of these terms, with particular reference to the constitutional values. In his contribution to this volume, Chuks Okpaluba not only sets out to define 'accountability', he also goes further to identify its ramifications in contemporary South Africa's constitutional jurisprudence. Having considered that the principle of accountability binds every state actor or functionary, the author contends that no functionary—not the President, the Legislature or the Judiciary—can brush aside the duty of accountability wherever it is imposed without being in breach of a constitutional mandate. Further, that when called upon the courts have a corresponding constitutional duty to declare a breach of the duty of accountability as an infringement of the Constitution.

The wide-reach of public law takes us to the ongoing public debate on the issue of involuntary circumcision of males in illegal initiation schools in South Africa of which Porsche Makama raises the question whether it is not a violation of African customary law. Initiation into adulthood, according to Makama, is an important part of 'African customs' but the absence of a regulatory regime geared towards the protection of the young male initiates from injury or death has enabled the emergence of illegal circumcision schools where such deaths and injuries often occur. Notwithstanding that the human rights of the individual initiate guaranteed in the Constitution and the Children's Act of 2005 are often implicated in this sphere, evidence shows that there are instances where young males are taken from the streets or their homes to the

circumcision camps with or without their consent. Whatever the argument and whichever way one looks at the matter, the author recommends some regulatory measures to improve the circumcision schools and to eliminate the deaths and injuries which tend to foreshadow a veritable customary practice.

While the above contribution deals with a problem peculiar to young men, the next article in this volume raises an issue that is peculiar to minor girls—their reproductive autonomy rights under the South African law and the rights and wrongs of the Choice on Termination of Pregnancy Act. Here, Admark Moyo, investigates the contradictions between the children's autonomy, parental responsibility and state intervention in reproductive decisions on the termination of pregnancy. The article sets out to investigate the extent to which South African law protects and empowers sexually active adolescents to make decisions concerning their termination of pregnancy without parental approval or consent. The article therefore focuses on whether the Choice on Termination of Pregnancy Act strikes an appropriate balance between children's autonomy, parental responsibility and state intervention in the reproductive decision-making process.

In his contribution, Clive Vinti interrogates the curious case of the non-co-operating interested party in anti-dumping investigation in South Africa through the study of the North Gauteng High Court judgment in *Farm Frites International v ITAC*. In this article, the author undertakes a critical evaluation of the plight of the non-co-operating interested party in anti-dumping through a detailed analysis of the *Farm Frites* judgment. From the viewpoint of the author the problem encountered in that case arose from the court's ambiguous identification of the main issues before it and the subsequent amorphous reasoning of the court in relation to the conclusions it made. After digging holes in the judgment, the author comes to the conclusion that the *Farm Frites* judgment has unwittingly fuelled the narrative that South African courts neither understand the issues of dumping nor do they correctly interpret the relevant provisions.

In light of the raging debate in the public domain in present-day South Africa on 'land expropriation without compensation', the 'Land Matters and Rural Development' contributions of the trio of Juanita Pienaar, Willemien du Plessis and Ebrezia Johnson to the *SAPL*, are even more relevant now than ever. They draw attention to the obvious fact that the government of the day does not appear to have mapped out a clear way forward on land reform despite much wrangling over the issue. However, in this instalment of their land matters contribution, they have concentrated on the most important measures and court decisions pertaining to land restitution, land reform, unlawful occupation, housing, land use planning, deeds, surveying, rural development and agriculture. It is important to mention that among the leading cases discussed in this contribution include: *Daniels v Scribante* where the Constitutional Court highlighted the link between redress as a consequence of historical imbalances, access to housing and tenure security and human dignity; *RP Jacobs v Communicare and City of Cape*

Town on eviction; *Claasen v MEC, Transport and Public Works, WC* on an application for the rescission of an eviction order from property belonging to the state; and *Mtshali v Johannesburg City Council* on an application for the rescission of an eviction order and structural interdict.

Wishing you a happy reading.