

Marita Carnelley

Publication List

RESEARCH PUBLICATIONS INTERNATIONAL JOURNALS

- "Online gambling in South Africa— one more battle in the ongoing war: *Casino Enterprises (Pty) Ltd (Swaziland) and the Gauteng Gambling Board (GN)*, unreported case number 28704/04, dated Aug. 16, 2010" 2011(3) *Gaming Law Review and Economics* 121-127
- "Betting on dog racing: The next legalised gambling opportunity in South Africa? A cautionary note from the regulation of greyhound racing in Britain" 2010(1) *UNLV Gaming Law Journal* 73-98
- "Gambling law developments in South Africa: the summer of 2004/2005" 2005(4) *Gaming Law Review* 318-324
- "Lawfulness as a requirement in the casino licensing process in South Africa" 2003 7(4) *Gaming Law Review* 269-276
- "A précis of the South African gambling industry" 2000(1) *Gaming Law Review* 3-9

SAPSE ACCREDITED (PEER REVIEWED) SOUTH AFRICAN JOURNALS

- "The duty to support the indigent elderly in South Africa: A public or private duty?" (with Mamashela) 2016(1) *Obiter* 293-311
- "Identifying predatory, open-access academic journal publishers, in light of the South African Department of Higher Education and Training's decision to retrospectively de-accredit certain journals" 2015(3) *Obiter* 519-539
- "Die doodskoot vir of slegs die verwonding van die eis teen die derdeparty-egbreker? *RH v DE* 2014 6 SA 436 (HHA)" 2015(1) *Litnet* 333-346
- "Adultery laws: Comparing the historical developments of South African common law principles with those in English law" 2013 (2) *Fundamina* 185-211
- "Some Comments on the Dangerous Weapons Act 15 of 2013" 2013 (3) *SACJ* 354 – 363 (with Shannon Hocter)
- "Recent Cases: Gambling Law" 2013 (3) *SACJ* 439 - 446
- "A review of the criminal prosecution and sentencing of maintenance defaulters in South Africa, with commentary on sentencing strategies" 2012 25(3) *SACJ* 343-360
- "Discussion of genetic links and monetary payments in South African and foreign Surrogate Mother Agreements, based on the judgment in *Ex parte WH et al* (GNP) unreported case number 29936/11 dated 2011-09-27, and with particular reference to the English experience" 2012 45(1) *De Jure* 179 – 188
- "The purpose and ambit of the offence of concealment of birth: *S v Molefe* 2012 (2) *SACR* 574 (GNP)" 2012 33(3) *Obiter* 732 -744 (with SV Hocter)
- "Protecting a wife financially at the time of divorce – A comparison between South African women married in terms of South African civil law and Islamic law, with special reference to the Mahr" 2012 33(3) *Obiter* 482 -502 (with S Bhamjee)
- "Misattributed paternity – *Nel v Jonker* (WCHC) unreported case number A653/2009 dated 2001-02-17" 2012 33(1) *Obiter* 163 -178 (with SV Hocter)
- "Do not visit the sins of the parents upon their children: Sentencing considerations of the primary caregiver should focus on the long-term best interests of the child" 2012 (1) *SACJ* 106-116 (with CA Epstein)
- "The admissibility of the Dräger Alcotest 7110 MK 111 breathalyser - results in the South African courts" 2011(3) *SACJ* (with Winchester & Schultz)
- "Liability for the payment of public school fees" 2011(6) *PER* 34-61
- "The legal response to cardsharps and other gambling cheats" 2011(2) *Fundamina* 14-32
- "The Catch 22 situation of widows from polygamous marriages being discarded under customary law" 2011 (1) *Agenda* 118-125 (with M Mamashela)
- "Gambling Law" 2010(3) *SACJ* 439-453

- “The right to legal representation at state expense for children in care and contact disputes – a discussion of the South African legal position with lessons from Australia” 2010 (3) *Obiter* 638-661
- “Sentencing the elderly – an act of mercy or discrimination? *S v Phillips* (DCLD) unreported case number CC141/08 dated 2008-07-25” 2010(1) *Obiter* 208-216 (with SV Hocter)
- “The awarding of post-divorce maintenance to a Muslim ex-wife and children in the South African courts: The interaction between divine and secular law” 2009(3) *Obiter* (with R Denson) 679-701
- “Judicial discretion in the determination of post-divorce child support: a brief overview of the application of the South African Maintenance Act 99 of 1998 as compared to the Canadian Federal Child Support Guidelines of 1997” 2009(2) *Obiter* 307-327 (with J Easthorpe)
- “The role of pathological gambling in the sentencing of a person convicted of armed robbery: a comparative discussion of the South Africa, Canadian and Australian jurisdictions” 2008(3) *SACJ* 291-304
- “A tale of two mummies. Providing a womb in South Africa: surrogacy, the agreement and the legal rights of the parents within the Children’s Act 38 of 2005. A brief comparative study with the United Kingdom (with S Soni)” 2008(2) *Speculum Iuris* 36-52
- “Advanced age as a mitigating factor in the South African criminal courts (with SV Hocter)” 2008(2) *Obiter* 268-274
- “Review of a refusal to grant a prospecting right. *Global Pact Trading 207 (Pty) Ltd v the Minister of Minerals and Energy; the Regional Manager: Minerals and Energy, Free State region; the Deputy Director-General: Minerals and Energy* (Case Nr 3118/2006 (O)) unreported” 2008(1) *Obiter* 113-123 (with PJ Badenhorst)
- “The enforcement of foreign judgments, arising from gambling debts, in the South African courts” 2007(2) *JJS* 1-17
- “ICD diagnostic codes and the constitutional rights of patients” 2007(3) *Obiter* 537-561 (with K Du Toit)
- “Enforcement of the maintenance rights of a spouse, married in terms of Islamic law, in the South African courts” 2007(2) *Obiter* 340-351
- “South African interactive gambling regulation – the 2006 developments” 2007(2) *Speculum Iuris* 258-265
- “Gambling machine malfunctions, programming errors, jackpot payout refusals and the inevitable dispute between patron gambler and casino” 2007(2) *THRHR* 319-328
- “Constitutional challenges to school rules” 2007(1) *Obiter* 143-151
- “Maintenance arrears and the rights of the child: *S v November* 2006 1 SACR 213 (C)” 2007(1) *TSAR* 199-205 (with SV Hocter)
- “The decision-making power of the gambling regulatory boards – judicial review and political interference” 2007(1) *De Jure* 144-155
- “Illegal gambling and the forfeiture of the premises: *NDPP v Mohunram* [2006] SCA 11 (RSA)” 2007(1) *SACJ* 60-69
- “The court misfires - *Lazarides v Chairman of the Firearms Appeal Board* 2005 JDR 0584 (T)” 2006(3) *Obiter* 645-662 (with E van den Berg)
- “Rape, legality and indecency - *S v Buthelezi* 2005 (unreported, NPD) case no 219/04” 2006(1) *Obiter* 197-205 (with SV Hocter)
- “Tata ‘ma millions? The enforceability of a gambling debt between the lottery operator and the ticket-holder; and the enforceability of a partnership agreement to share lottery winnings already paid to one of the partners” 2006(1) *Obiter* 358-368
- “The consequences of same-sex marriages for same-sex life partners: *Minister of Home Affairs v Fourie / Lesbian and Gay Equality Project v Minister of Home Affairs* 2005-12-01 case number CCT 60/04” 2006(1) *Obiter* 379-390 (with M Mamashela)
- “(Bio)tracing bad decisions: *South Durban Community Environmental Alliance (SDCEA) v Head of Department: Department of Agriculture and Environmental Affairs and Others*” 2005(2) *SAJELP* 151-171 (with J Ridl & E Couzens)
- “The wearing of the headscarf - the plight of Muslim women: a brief comparative synopsis” 2005(3) *Obiter* 695-709 (with W Banoobhai)
- “The South African military court system – independent, impartial and constitutional?” 2005(2) *Scientia Militaria* 55-77

- “S v Wasserman 2004 (1) SACR 251 (T): Is dobbelverslawing ‘n wesenslike en dwingende omstandigheid in terme van die Strafwysigingswet 105 van 1997 wat ‘n geringer vonnis regverdig?” 2005(1) *JJS* 153-161
- “The decision-making power of the head of the Department of Education to expel learners” 2005(2) *SAPR/PL* 128-153
- “Civil litigation against interactive gambling operators” 2004(1) *De Jure* 105-118
- ”Recent Gambling Law Cases” 2004 (1) *SACJ* 79-86
- “Sentencing of gambling addicts in Canada: Lessons for South Africa” 2004(1) *Obiter* 184-189
- “Bestiality: The paradox of the "paragon of animals" - S v M 2004 1 BCLR 97 (O)” 2004(2) *Obiter* 506-518 (with SV Hocter)
- “A perspective on recent Constitutional Court judgments relating to homosexuality” 2003(1) *Obiter* 269-282 (with L Ristow)
- “Maintenance defaulters: Aiding the process and process-in-aid” 2003(2) *Obiter* 506-519 (with SV Hocter)
- “Applications for fire-arm licences” *Obiter* 2003(2) 555-567 (with E van der Berg)
- “Closure of illegal casinos, interpretation of the gaming legislation and the role of the National Gambling Board – the Supreme Court of Appeal has spoken” 2002(1) *THRHR* 134-143
- “The principle of co-operative government and the powerplay between the National Gambling Board and the provincial gambling boards. *National Gambling Board v Premier of KwaZulu-Natal, the KwaZulu-Natal Gambling Board* CCT 32/01 2001-12-21” 2002(1) *Obiter* 196-205
- “The integration of the TBVC Sun International casinos into the South African regulatory system: the applicability of the Northern Province provincial legislation to Venda Sun and the legality of the Free State Zone 1 Casino Licence (Bloemfontein area)” 2002(1) *Journal for Juridical Science* 88-100
- “Interactive Gambling. A South African comparative perspective (Part II): Regulatory frameworks in selected jurisdictions” 2002(1) *Obiter* 1-26
- “Expulsion of learners from Eastern Cape Secondary Public Schools – An Administrative law perspective on disciplinary hearings” 2002(2) *Obiter* 282-308
- “Questioning and detention by casino staff of suspected cheats” 2001(2) *TSAR* 370-381
- “Guarding the guardians: Non-judicial and judicial control over unlawful decisions by the South African gaming boards” 2001(1) *Obiter* 74-101
- “Post-constitutional legal developments in the South African gambling law through judicial precedent” 2001(1) *Stell LR* 131-154
- “Pathological gambling as a defence in Criminal law” 2001(2) *Obiter* 379-388 (with SV Hocter)
- “Delays in criminal trials: S v Van Huyssteen [2000] 3 All SA 439 (C)” 2001(2) *Obiter* 428-439 (with T Anna)
- “Interactive Gambling. A South African Comparative Perspective (Part I): Universal legal challenges” 2001(2) *Obiter* 273-299
- “Illegal gambling” 2000(1) *SACJ* 106-111
- “Consequences of unlawful administrative action by a gaming board – *Hunters Entertainment Centre v Chairman, Northern Province Casino and Gaming Board*” 2000(1) *Obiter* 208-218
- “The Proliferation of Gambling, Problem Gambling and Public Policy” 2000(1) *Obiter* 192-199
- “The Validity of Provincial Regulation of Gambling on the Internet” 2000(1) *Obiter* 358-371
- “Application for a mining licence and the *audi alteram partem* rule – *Director: Mineral Development, Gauteng Region v SAVE the Vaal*” 2000 (63)4 *THRHR* 689-698 (with PJ Badenhorst)
- “Confidentiality and the Right of Access to Information in the Application Procedure for Casino Licenses. *Esikhehlani v Mpumalanga Gaming Board* unreported case 2111/1997 (TPD) 1997-05-07” 1999(2) *De Jure* 330-339
- “Inter-party enforcement of legal gambling debts. *Sea Point Racing CC v Wilkinson* [1999] 2 All SA 626 D” 1999(1) *Obiter* 218-223
- “Conflicting national and provincial gambling legislation - which should prevail where reconciliatory interpretation is not possible? *Papachristoforou v MEC for Finance and Economic Affairs, North West Province* 1998 10 BCLR 1237 (B) and *Hotel Slots (Pty) Ltd v Minister of Safety and Security* 1999 8 BCLR 895 (NC)” 1999(2) *Obiter* 426-436

CHAPTERS IN SOUTH AFRICAN BOOKS

- "AARTO" (Section E) in SV Hoorcooper's *Motor Law* (2017) 3rd edition (2017) C4-1 - C 4-2 (with K Khumalo)
- Update "Sexual Offences" in S Hoorcooper (ed) *SA Criminal Law and Procedure Vol III: Specific Offences* (2014) (with Shannon Hoorcooper)
- Update "Maintenance Offences" in S Hoorcooper (ed) *SA Criminal Law and Procedure Vol III: Specific Offences* (2013)
- Update "Domestic Violence" in S Hoorcooper (ed) *SA Criminal Law and Procedure Vol III: Specific Offences* (2012)
- "Sundays and Public Holidays" in Joubert WA (ed) *Law of South Africa Vol 26 Second Re-issue* (2011) 2nd edition 137-152
- "AARTO" (Section E) in SV Hoorcooper's *Motor Law* (2008) 2nd edition (2011) C4-1 - C 4-2
- "Offences relating to Gambling and Lotteries" in S Hoorcooper (ed) *SA Criminal Law and Procedure Vol III: Specific Offences* (2011 publication forthcoming) [update]
- "Birth and Adoption" in Kruger & Skelton (eds) *Law of Persons in South Africa* (2010)
- "Introduction" in Skelton & Carnelley (eds) *Family Law in South Africa* textbook (2010)
- "Family Law Practice in Skelton & Carnelley (eds) *Family Law in South Africa* textbook (2010) Oxford University Press
- "A 100 years of adultery – re-assessment required?" in M Kidd and SV Hoorcooper (eds) *Stellar Juris* (2010) 183-204
- "Persons" in Joubert WA (ed) *Law of South Africa Vol 20 Part 1 2nd Re-issue* (2010) 431-509 [update]
- Contributor to English and Afrikaans editions of *Introduction to South African Family Law / Inleiding tot die Suid-Afrikaanse Familiereg* (with R Robinson, S Human, A Boshoff & B Smith) (2009 and 2012) [update]
- Nine chapters in *Butterworth's Forms and Precedents: Law of Persons and the Family* (2009) (electronic versions): Marriage; Affiliation; Mental Health; Domestic Violence; Life Partnerships; Adoption; Minors; Oaths and Defamation [updates]
- "Media" in Joubert WA (ed) *Law of South Africa Vol 17(1) Second Re-issue* (2009) 105-205 (with SV Hoorcooper)
- "Explosives, Arms and Ammunition" in Joubert WA (Ed) *Law of South Africa Vol 10 Part 1 2nd Reissue* (2008) 61-182 [update]
- "Gambling Regulation: A comparison between the Roman and South African gambling laws" in SV Hoorcooper and PJ Schwikkard (eds) *The Exemplary Scholar. Essays in Honour of John Milton* (2007) 252-271 (with EJH Schrage)
- "Gambling" for *Butterworth's Forms and Precedents* (2007)(electronic version) [update]
- "Digest of Cases" in H Brand *Gambling Laws of South Africa* (2006) 12-1 -12-69
- "Administration of Mineral and Petroleum Law Statutes" with PJ Badenhorst & H Mostert in PJ Badenhorst and H Mostert *Mineral and Petroleum Laws of South Africa: A Commentary and Statutes* (2006) 2-1 – 2-11 [update]
- "Gambling, Gaming and Lotteries" in Joubert WA (ed) *Law of South Africa Vol 10 Part 2 2nd edition* (2005) 163-275 [update]
- "Firearms and dangerous weapons and explosives" in J Milton & M Cowling *SA Criminal Law and Procedure Vol III: Specific Offences* (2005) 1- 57 [update]
- "Administration of Mineral and Petroleum Law Statutes" with PJ Badenhorst & H Mostert in PJ Badenhorst and H Mostert *Mineral and Petroleum Laws of South Africa: A Commentary and Statutes* (2004) 2-1 – 2-11
- "Domestic Violence" in J Milton & M Cowling *SA Criminal Law and Procedure Vol III: Specific Offences* (2004) 1-15
- "Abortion" in J Milton & M Cowling *SA Criminal Law and Procedure Vol III: Specific Offences* (2004) 1-19 [update]
- "Maintenance" in J Milton & M Cowling *SA Criminal Law and Procedure Vol III: Specific Offences* (2004) 1-32 (with SV Hoorcooper) [update]
- "Attractions Law" in PV Vrancken (ed) *Tourism and the Law in South Africa* (2001) 361-383

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- “Gambling and Sport in South Africa” in *Sports Betting* (2011) (TMC Asser Institute The Hague) with S Cornelius (2011)
- Update of the chapter on “South Africa” in *Casino City’s Internet Gambling Report. An Evolving Conflict between Technology and law* 12th Edition (2010) chapter 24 (available online at <http://www.internetgamblingreport.com>)
- “Gambling and Sport” in A Louw *International Encyclopaedia of Sports Law South Africa* (2009)
- Update of the chapter on “South Africa” in M Balestra (ed)) *Internet Gambling Report* 10th Edition (2007) chapter 37
- Update of the chapter on “South Africa” in M Balestra (ed)) *Internet Gambling Report* 9th Edition (2006) 545-555
- Update of the chapter on “South Africa” in M Balestra (ed)) *Internet Gambling Report* 8th Edition (2005) 619-625
- Rewriting of the chapter on “South Africa” in M Balestra (ed)) *Internet Gambling Report* 7th Edition (2004) 559-564

BOOKS EDITED

- Co-editor (with SV Hoor & A Mukheibir) *De Jure Gentium et Civili: Festschrift in Honour of Eltjo Schrage* (2014)
- Co-editor (with SV Hoor) of *Law, Order and Liberty: Essays in honour of Tony Mathews* (2011)
- Co-editor (with A Skelton) of *Family Law in South Africa* textbook (2010) Oxford University Press