



## JUTA'S ADVANCE NOTIFICATION SERVICE

DECEMBER 2018

**Dear South African Law Reports and Criminal Law Reports subscriber**

Herewith the cases in the December 2018 law reports

**JUDGMENTS OF INTEREST IN THE DECEMBER 2018 EDITIONS OF THE SALR AND SACR LAW REPORTS. SEE ALSO, FURTHER BELOW, THE TABLE OF CASES FOR THE BOTSWANA LAW REPORTS 2015.**

- [Click on the case name to download the original judgment.](#)

### **SOUTH AFRICAN LAW REPORTS**

#### **Whether singing song is racist act**

In 2013, in the course of a strike, certain striking workers sang a song called 'Hit the boer'. The workers' firm later instituted disciplinary proceedings, and charged, inter alia, that singing the song was racially offensive conduct. They were found guilty of the charge, and dismissed therefor. Ultimately, the matter came to the Constitutional Court, and it considers, inter alia, whether singing the song is racism. *Duncanmec (Pty) Ltd v Gaylard NO and Others* 2018 (6) SA 335 (CC)

#### **Marijuana: private possession, use and cultivation**

*Prince* concerns the constitutionality of statutory provisions criminalising private cultivation, use or possession of marijuana. The Constitutional Court confirms, in part, the High Court's declaration of invalidity, and states the position for the period after its order, pending Parliament's intervention. *Minister of Justice and Constitutional Development and Others v Prince and Others* 2018 (6) SA 393 (CC)

#### **Is there a duty to investigate an alleged irregularity in the exercise of a public power?**

In the early 2000s the Registrar of Pension Funds cancelled the registrations of many retirement funds. It was alleged that some of the cancellations were irregular, and this concern eventually resulted in the applicant, acting in the public interest, seeking a court order that they be investigated. The matter came eventually to the Constitutional Court, and it here considers, inter alia, whether a public functionary has a general duty to investigate an alleged irregularity in the exercise of a public power. *Hunter v Financial Sector Conduct Authority and Others* 2018 (6) SA 348 (CC)

## **SOUTH AFRICAN CRIMINAL LAW REPORTS**

### **Is long-term imprisonment the answer for serial substance abusers?**

Repeat offenders were found in possession of minimal amounts of proscribed substances. The court noted that long-term imprisonment was not generally the answer to substance abuse as a lifestyle choice and that the mechanisms provided for by Prevention and Treatment for Substance Abuse Act 70 of 2008 and Probation Services Act 116 of 1991 ought to be employed. *S v Frederick and Another* 2018 (2) SACR 686 (WCC)

### **Head of state immunity and the spouse of a head of state**

In 2017, while in South Africa with her husband, then President Robert Mugabe of Zimbabwe, Dr Grace Mugabe allegedly assaulted a third person. Does customary international law include a rule that a head of state's spouse is immune from the criminal jurisdiction of another state? *Democratic Alliance v Minister of International Relations and Co-Operation and Others* 2018 (2) SACR 654 (GP)

### **Child victims of crime and anonymity**

The Supreme Court of Appeal found that the provisions of s 154(3) of Criminal Procedure Act 51 of 1977 were irrational and unconstitutional for not protecting the anonymity of child victims of crime. Whether this should extend into adulthood was a matter for the legislature. *Centre for Child Law and Others v Media 24 Ltd and Others* 2018 (2) SACR 696 (SCA)

## **WE WELCOME YOUR FEEDBACK**

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Kind Regards

**The Juta Law Reports Team**

## **SOUTH AFRICAN LAW REPORTS**

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