

CURRICULUM VITAE: JCW VAN ROOYEN SC (December 2020)

1. Prof Jacobus Cristoffel Willem van Rooyen SC, has the following degrees from the University of Pretoria: BA (law) cum laude (1963), LLB cum laude (1966), LID (1971). He won all the final year prizes – including the Grotius medal as best student. He commenced teaching at the same University in 1966 and became head of the Department of Criminal law in 1969 and was appointed as Professor of Law, in 1971. From 1985-96 he was also Deputy Dean of the Faculty of Law. Seventeen students (including a later Justice of the Constitutional Court and three later professors) obtained their doctorates under his guidance as promoter. In 1974 he was made a Fellow of the Alexander von Humboldt Stiftung, which led to research during 1974, 1992, 1997 and 2000 in Germany, especially on media law. He is entitled to resume research in Germany at any time under this fellowship for a further 12 months, which may be taken up for a minimum of one month. He is an external examiner in media law and criminal law for UNISA and Wits and has acted as external examiner for doctorates at UNISA, the Nelson Mandela University (PE) and the University of the Orange Free State – on more than 12 occasions.
2. In 1990 the State President awarded the status of Senior Counsel to him.
3. In 1998, at the age of 55, he was granted the status of emeritus professor by the University of Pretoria and thus left the services of the University. He commenced practising as a senior counsel at the Pretoria Society of Advocates in 1998. His practice related to various fields, inter

alia in the Constitutional Court in *De Reuck v DPP and Others* 2004(1) SA 406(CC), which concerned media law. He acted *pro amicis* for 300 families who stood to be ejected from their homes in 2002. Other fields related to, inter alia, land tax, delict, labour, broadcasting, telecommunications, contract and criminal law. He took part, in his years at the Bar, in a programme assisting underprivileged people, *pro amico*, in their legal problems. He left the Bar in December 2006 to become a Councillor at ICASA up to end September 2010. He then resumed opinion work as senior counsel.

4. He has acted as a Judge from March 2003 to 2010 for effectively 12 Court terms. 27 of his judgments have been published in formal law reports (Juta and Butterworths' All South Africa Reports). His published judgment in 2010 on rights to live (*habitatio*) on a property – which introduced a wider content to that right – was accepted and applied by the Supreme Court of Appeal in 2016.
5. Juta & Co has published three books by Van Rooyen. He has also published more than 80 articles and notes in law journals and addressed national and international conferences (including in Uruguay, Argentina, Chile, the USA, the UK, Italy and Israel) on more than 40 occasions. He advised broadcasting councils in Lesotho and Mauritius during his tenure as Councillor of ICASA. In 1995 and 2005 he organized international media conferences with speakers from Germany, France, England, Zambia, Canada and the United States. The 2005 Conference was opened by the Honourable Mr Justice Moseneke, the later Deputy Chief Justice. He was invited to speak on *Cameras in Court* at the October 2014 meeting of the Associated International Press Councils of Europe in Brussels. In September 2013 he addressed the same Association in Tel Aviv on *Challenges to the Sub Judice Rule*. The latter lecture, in a widened form, was published in *Reformed Studies* 2014.
6. He was granted a laureate award of Tuks Alumni in 1996 for national and international achievement.
7. Van Rooyen has become known for his transformational role in films and publications control where he set a new freedom-orientated

approach in the eighties as Chair of the Publications Appeal Board (1980-90). His pro-freedom approach in regard to the voice of the majority led to a clash with government policy, notably when he chaired the release (without cuts) of the Steve Biko film *Cry Freedom* (1988) and the unbanning of the *Freedom Charter* (1984) and many other freedom orientated works such as the journal *Staffrider*, and the newspapers *New Nation* and *South*. Literary classics were also unbanned. His book, *A South African Censor's Tale* (2011), deals with his term as Chairperson. During this period he and his wife Martha were guests of the United States Information Service for a month in 1984 and in 1985 guests of the British Foreign Service for three weeks. Both these visits contributed to Van Rooyen's move towards more freedom of speech for the disenfranchised majority of South Africans as Chair of the Publications Appeal Board.

8. In 1990 he was elected by the Media Council to become its Chair (1991-1997). He was also appointed Chair of the Broadcasting Complaints Commission of South Africa in 1993. A position he held for 22 years. More than 400 of his judgments as BCCSA chair have been published by Lexisnexis online and two in the Butterworth Constitutional Reports. He was also appointed and re-appointed by the Minister of Finance to Chair the Banks Appeal Board from 1993-2000. Since the post fell away in 2000, his term ended.
9. Van Rooyen was also appointed by the Honourable Minister Buthelezi MP (with the present Minister Sisulu as his Deputy Minister) to Chair the Ministerial Task Group which drafted the new Films and Publications Act 1996 (1994-6). He travelled to India, the US and Canada to consult with experts. The 1996 Act, which followed upon the Report, was regarded as amounting to a fundamental departure from the strict censorship of the apartheid past and as a manifestation of freedom of expression of adults and protection of children where appropriate. He advised the Council of the Films and Publications Board on amendments to the Act in 2013-2014.
10. In 2006 he was appointed by the Minister of Communications, as approved by Parliament, to the Independent Communications Authority

of South Africa as a full time Councillor. His portfolio was the Complaints and Compliance Committee, which he set up on behalf of the Council in March 2007. He represented ICASA at telecommunications conferences in Toronto, Montréal, Geneva, Beirut and, in formulating the free-to-air broadcasting code conferred with Regulators in Moscow, Rome, London, Dublin, Mauritius and Athens.

11. In 2011 he was asked by the South African Editors Forum and Print Media South Africa to serve on the Press Freedom Commission. The task of the Commission was to ascertain which system of control would be the most suitable for the Press. The Commission was chaired by retired Chief Justice Langa. In this process Van Rooyen and Archbishop Makgoba consulted in Denmark and England. The Commission published its report on 25 April 2012. The Advice of the Commission in favour of a continuation of self-regulation was accepted by the Press Council and, in principle, by the ANC Executive. A more detailed and dignity protective Code was put forward by the Honourable Justice Langa on behalf of the Commission. In 2016 the vast majority of the amendments were accepted by the Press Council in its new Code.
12. In 2012 he was invited by the National Press Club to hold the first Percy Qoboza Memorial Lecture. The theme was the false policy of the apartheid government to control the media.
13. In December 2014 he was appointed by the ICASA Council as the Chair of the Complaints and Compliance Committee at ICASA for a term of three years. He commenced his term on 18 December 2014. The term has now ended by operation of the ICASA Act which allows for a maximum of six years as Chair. He wrote more than 250 judgments of the said Tribunal, which was declared in 2007 by the Constitutional Court as an independent Administrative Tribunal.
14. In September 2019 he was declared physically and mentally fit by a Specialist Neurologist to fill posts such as that of Chair of the Complaints and Compliance Committee or sit as an Acting Judge. After his term as Chair of the Complaints and Compliance Committee at ICASA (which may, according to the ICASA Act only be for a maximum of six years) he

held to have been unfair and in conflict with the precepts of legality – compensation ordered in terms of the promotion of Administrative Justice Act 2000.

4. **KR Sibanyoni Transport Services CC and Others v Sheriff, Transvaal High Court, and Another** 2006(4) SA 429(T); [2005] JOL 16067(T) : Practice- rescission of judgment- grounds for – no grounds for – agreement made order of court – such agreement not having been attacked on any sufficient ground.

5. **Airconditioning Design & Development (Pty) Ltd v Minister of Public Works, Gauteng Province** 2005(4) SA 103(T); [2006] JOL 17412(T): Practice – substitution of parties – application for – when to be granted – granted in the circumstances of the matter.

6. **FTCK Consultants & Others v Shoprite Checkers Ltd** 2004 (2) SA 504 (T) ; [2003] JOL 11356(T) : Consumer Affairs Act – suspending action pending outcome of Minister's decision in terms of that Act – term “in the interests of justice” analysed.

7. **H v M** 2009(1) SA 329 (W): civil contempt of court – right of respondent to a fair trial

8. **Mkwananzi and Another v Mantsha and Another** [2003] 3 All SA 222(T); [2003] JOL 8190(T): Default judgment not set aside – reasonable cause not shown.

9. **Cilliers v Botha en 'n Ander** [2003] 3 All SA 288(T): Contract concluded – consensus inferred from circumstances and some direct evidence.

10. **S v Januarie** [2003] 4 All SA 184(T); [2003] JOL 11597(T): Life imprisonment for callous murders – accused not testifying – negative inference drawn in the circumstances.

11. **FPW Engineering Solutions (Pty) Ltd v Technikon Pretoria and Others** [2004] 1 All SA 204(T); [2003] JOL 12289(T) : Higher Education Act – Minister's powers – signing of contract acquiesced in by principal of Technikon – buildings already halfway – contract ordered to continue- Turquand rule applicable to Universities.

12. **S v Buda & Others** 2004(1) SACR 9(T);[2004] JOL 12440(T) : Murder – common purpose – Confession held to have been inadmissible – accused having stated to magistrate that he was told that the making of the statement would be to his benefit – consent, accordingly, absent

13. **Khanye and Others v S** [2004] 1 All SA 662(T); [2004] JOL 12515(T): Common purpose and complicity discussed in light of *S v Thebus* (CC); complicity only proved when accused assists – mere presence not sufficient

14. **Mabapa v S** 2003(2) SACR 579 (T); [2003] JOL 11140(T): Bail pending appeal – criteria studied – comparative research – reasonable possibility of success on appeal sufficient – probability of success need not be proved.

15. **Pienaar NO & Others v Bohbot & Others** [2007] 3 All SA 60(T); [2005] JOL 19479(T) : Contract – share pool agreement permitting amendment by majority – majority amending agreement so as to provide that if a member competes with the company he would lose his shareholding. Amendment held to have been in conflict with the clause which provided for the shareholding to be paid out pro rata up to the fourth year (the fourth year granting 100%). The latter clause was, according to the Court, entrenched against amendment. Held, alternatively, that the amendment was in any case in conflict with public policy as rooted in the Constitution.

16. **Saleem v Minister of Finance and Another** [2007] 4 All SA 1010(T); [2007] JOL 19480(T): - Customs and Excise- seizure of goods – invalid exercise of discretion by anti-smuggling officer.

17. **Radebe v S** [2006] All SA 304(T): Accused not having been informed properly of right to legal representation and the possible minimum sentences – Conviction set aside.

18. **Commercial Auto Glass (Pty)Ltd v Baker Street Trust & Others; In re Jennings NO & Others v Commercial Auto Glass (Pty) Ltd** [2006] 2 All SA 260(T): Trademarks - shatterprufe trade mark – shatter proof in written form not invading trade mark – locus standi of “trust” to sue discussed and accepted as a legitimate practice.

19. **Tecmed (Pty) Ltd v Hunter and Another** 2008 (6) SA 210 (W): pactum de quota litis - conditio ob turpem vel iniustam causam – client entitled to recovery against attorney.

20. **Technological Pump Services Developments v Irving** 630CC 2007(3) SA 370(T): Practice - Judgments and orders - Summary judgment - Application for - Affidavit in support of application - Authority to depose to - By managing director of applicant close corporation - Verifying affidavit by managing director of close corporation, supported by affidavit by close corporation's attorney, in accordance with Rule 32 of Uniform Rules of Court.

21. **Lamula Partnership v Masingita Group (Pty) Ltd** [2008] All SA 650(W): Loan and pledge agreements – simulated agreement alleged – latter rejected.

22. **H v M** 2009(1) SA 329(W): Civil contempt of Court – proved beyond reasonable doubt.

23. **Point to Point Same Day Express Service CC v Stewart 2009(2) SA 414(W); [2009] JOL 23 538(W)** – Powers of member to bind cc – on facts not found to have been empowered to release employee from restraint of trade.
24. **Kidson v Jimspeed Enterprises CC 2009 (5) SA 246 (GNP)** - Servitude - Habitatio - Lapse - Right lapsing when fundamental change in land rendering exercise of right impossible - Burning down or demolition of dwelling not resulting in lapse of right - Holder of right being entitled to rebuild dwelling. [Accepted by Suupreme Court of Appea]
25. **Ndlovu v Mokoena and Others 2009 (5) SA 400 (GNP)** - Customary law - Marriage - Validity - Lobolo - Requirements for valid customary marriage - No valid customary marriage concluded. Applied and accepted by the Supreme Court of Appeal.
26. **Standard Bank of SA Ltd v Van Vuuren 2009 (5) SA 557 (T)** - Credit agreement - Consumer credit agreement - Judicial debt enforcement by credit provider - Preliminary proceedings - Notice of default - Absence - Effect - Claim for summary judgment - Whether absence of notice constituting bona fide defence to claim so as to defeat application for summary judgment - National Credit Act 34 of 2005, s 129(1) (b).
- 26.2. **Ndlovu v Mokoena and Others 2009 (5) SA 400 (GNP)** –customary marriage – element of taking woman to man’s home not shown – no marriage.

JUDGMENTS PUBLISHED BY BUTTERWORTHS (Lexis Nexis) JUDGMENTS ONLINE

27. **Shepstone v Oribi Motors [2003] JOL 11623(T)** : Contract – justus error approach – error in persona.
28. **Esterhuizen v Fouché [2004] JOL 12405(T)**: Custody of 6 year old child not taken away from mother-views against corporate punishment expressed
29. **S v Benkes [2004] JOL 12444(T)** : Murder – father killing two children in suicide attempt – aims of punishment discussed.
30. **S v De Ruiter 2004(1) SACR 332(T); [2005] JOL 13300(T)**: Criminal Procedure Act – irregularity alleged - regional magistrate taking over from colleague after plea explanation and admissions were made – admissions and explanation made during plea phase - such not amounting to “evidence” and accordingly there was no irregularity in terms of section 118; Theft – informer acting on his own so as to trap thief – his version not believed – guilty as co-perpetrator.
31. **Genda & Another v S [2004] JOL 12452(T)**: Bail pending Appeal – criteria discussed – reasonable possibility of success sufficient
32. **Mavuso v S [2004] JOL 12514(T)** - Declaration as Habitual criminal set aside – circumstances of appellant comparable to slavery – theft in these circumstances not sufficient to justify declaration as habitual criminal.
33. **Dippenaar v S [2004] JOL 12515(T)**: Theft – corrective supervision justified since co- accused was sentenced to such supervision and appellant should have been treated equally
34. **Griesel v S [2004] JOL 12575(T)**: Theft – worker falsely accused of theft by inmate of old age home – conviction set aside
35. **Mohamed v S [2004] JOL 12597(T)** – Sentence of 153 years imprisonment cruel and inhuman – declaration as dangerous criminal more appropriate – court then re-considering the matter after 15 years
36. **Mthetwa v S [2004] JOL 12598(T)**: Imprisonment of 36 years for thefts from motorcars cruel and inhuman – sentences should have been ordered to run concurrently – 15 years imprisonment substituted.
37. **Mashia v S [2004] JOL 12600(T)**: Cattle theft – evidence as to identity of appellant reached such a stage that he should not have decided to not testify in his defence.
38. **Mokgomo v S [2004] JOL 12600(T)**: findings as to credibility by court a quo should be motivated properly with reference to the facts – when this is not done, court of appeal should intervene - otherwise right of appeal may turn into a fiction.
39. **Maseko & Another v S [2004] JOL 12722(T)**: Evidence – identification by single witness not reliable in the circumstances – omission by State to call security officer to whom the robbery was reported, taken into consideration in the evaluation of the facts as a whole.
40. **Hughes v S [2004] 12726(T)** : Criminal Capacity – reduced by effect of cerebral palsy on appellant – such reduction having an influence on sentence –exploitation of appellant by another person also a mitigating factor.
41. **M v S [2005] JOL 13295(T)**: Rape – testimony of complainant revealing possible sexuality earlier that day – state not calling person with whom such sex possibly took place while knowing his identity – contradictions in evidence of complainant creating reasonable doubt

42. **Kekana v RAF [2005] JOL 13438(T):** *Default judgment in case of claim for damages against RAF not justified without evidence having been led as to negligence*
43. **Sekotlong v S [2005] JOL 13697(T):** *Suspended sentence – making operational of – decision to do so subject to appeal to High Court*
44. **Jonker v S [2005] JOL 14306(T):** *Intoxication – criminal incapacity – un-represented accused must be informed of section 1 Act 1 of 1988 as competent verdict on a charge of attempted murder – omission to inform amounting to substantial irregularity*
45. **Mathebula & Others v S [2005] JOL 14306(T):** *Evidence – identification of appellants lacking or insufficient in leading Court to confirm convictions. Circumstantial evidence not sufficient to implicate appellant 1 – evidence of alibi of appellant 3 not sufficiently countered by testimony of complainant or by circumstantial evidence.*
46. **Nchocho v S [2005] JOL 14348(T):** *Theft of monies in offices of petrol station – state case substantially deficient and, accordingly, no duty on appellant to have testified.*
47. **Tlhomola v S [2005] JOL 14533(T):** *Murder – attempt to commit – appellant shooting complainant during scuffle – appellant not having testified – court must accept that the shot was intentional and aimed at killing the complainant...*
48. **Babili v S [2005] JOL 14943(T):** *Court – impartiality of – cross-examination by judicial officer places impartiality at risk. Evidence – leading questions by court and prosecutor leading to testimony of assault and pointing with firearm – such answers are inadmissible. Un-represented accused – should be informed as to his rights as to cross-examination and closing address fully*
49. **Bothma & Others v Krión Verloorders Aksiegroep & Others [2005] JOL 15754(T):** *Pyramid Scheme – subpoenas to testify before Commissioner – not lawful.*
50. **S v Mahamba [2005] JOL 15651(T) –** *conviction set aside on automatic review- accused not informed of possibility to have legal representation.*
51. **S v Hlatwayo [2005] JOL 15679(T) –** *review – firearm discovered as a result of a pointing out – no evidence that the accused had been informed of his rights – conviction set aside.*
52. **Lepogo Construction (Pty) Ltd v City of Tshwane Municipality [2005] JOL 15778(T):** *Tender Commission – review of decision – audi alteram partem not applied.*
53. **S v Sefalafala [2005] JOL 16099(T) –** *review - sentence for stealing of cell phone startlingly inappropriate for first offender.*
54. **S v Tau [2006] JOL 16433(T):** *Rape – identity proved beyond reasonable doubt*
55. **S v Khoza [2006] JOL 16464 (T):** *Punishment – 24 year's imprisonment for 8 housebreaking offences committed during two year period before arrest, when the appellant was 23, startlingly inappropriate in the circumstances.*
56. **S v Khumalo [2005] JOL 13075(T):** *Theft – identity of appellant not proved beyond reasonable doubt*
57. **S v M [2005] JOL 13295 (T):** *Rape – credibility of complainant questioned by court – witness having testified that she did not report to him that rape or intercourse had taken place – court setting aside conviction*
58. **S v Molahlegi [2005] JOL 15734(T):** *Criminal Procedure – concurrent sentences for convictions in different matters – may be imposed in terms of s 280.*
59. **Seroot v Pieterse [2005] JOL 15749(T):** *Damages – for loss of consortium – enticement not proved – alienation of affection*
60. **LA Group Ltd v & Another v B & J Meltz Ltd and Others [2005] JOL 15756(T):** *Trade Marks of Polo – infringed upon by marks relating to Polo by Ralph Lauren in class 25, not registered in SA, but also not manufactured with the permission of Polo Ralph Lauren; polo player horse device also infringed upon; however not infringed upon by mark with the following words: US POLO ASSN. Counterfeit Goods Act 1997 – attachment in terms of the Act invalid since a case had not been made out in the complaint to the inspector that the goods were counterfeit goods; warrants accordingly also invalid.*
61. **Kennedy & Another v Miller & Others [2005] JOL 15800(T):** *Maintenance of adult children – restoration of equipment to business so as to make it possible for the Third respondent, the mother of the children, to provide funds so as to maintain the children.*
62. **Torre v Kreiss & Others [2005] JOL 15818(T) :** *Contract – offer and counter offer – surrounding circumstances justifying inference of existence of contract – any ambiguity excluded by subsequent conduct of seller - contract enforceable from certain date – alleged note of cancellation not reaching applicant – agent adding “ohne rechtsverbindlichkeit” in signature columns – however, when “rechtsverbindlich ab*

09.05.2003" is read with it, as was to be found at the top of the contract – contract enforceable if no cancellation note is delivered. Contract held to be enforceable.

63. Dipaleseng Municipality v Multiprojects Machine Hire [2005] JOL 15819(T) : Bar – removal of – not justified in the circumstances – good cause not shown – amendment of tender not permitted as contended for by applicant – no prospects of success in main action.

64. Rust v Padongelukkefonds [2005] JOL 15820(T): Negligence - truck colliding during night with truck on a highway – direct evidence plus probabilities showing that truck collided into was stationary – driver of truck approaching the stationary truck, however driving at too high a speed and in that sense having been 10% negligent in relation to the damages suffered.

65. S v Mashaba & Others [2005] 15881(T): Robbery – Rape – two accused guilty of rape and robbery – third guilty of accessory after the fact.

66. Hazleton Pumps (SA) Ltd v Weir Warman Ltd & Others: 2005 JOL 15890(T): Interdict – Trade Mark - future use not likely – undertaking and deregistration by Respondents being sufficient in the circumstances to ward off application for interdict

67. Moshikaro v Malabela & Another [2005] JOL 15918(T): Provisional sequestration – not granted – insufficient evidence of insolvency.

68. Platinum Mine Investments 513 (Pty) Ltd v Freeman NO [2005] JOL 15919(T): Costs order – interpretation of on application of the parties as a result of ambiguous nature of original order. Order rectified by Court to give effect to the true intention thereof.

69. African Contractors Finance Corporation (Pty) Ltd v LW Home Builders & Another [2005] JOL 15922(T) : Striking of defence as a result of deficient and late discovery – not granted – costs order against respondents, however, on attorney and client scale.

70. Engen Petroleum v Magalieskruin Motors (Pty) Ltd & Another [2005] JOL 16064(T) : Contract – terms clearly stated – assurances as to renewal, in conflict with contract and amounted to nothing more than opinion.

71. S v Mamekoa [2003] JOL 11836(T) : review - criminal procedure.

72. Santos v Santos [2005] JOL 16069(T): Custody of two tiny boys awarded to the mother who would bring stability to their lives.

73. S v Theunissen [2005] JOL 16088(T) : Theft – distinction between theft and breach of contract – facts not justifying the only reasonable inference that appellant had abandoned the vehicle, which he had borrowed from complainant, with the intent to deprive her permanently of her control of the vehicle.

74. Howell v Howell [2005] JOL 16164(T): Relocation of child to Nigeria – Court granting application – interests of mother also relevant.

75. Wypkema v Lubbe [2005] JOL 16166(T): Provisional sentence – attorney's trust account cheque not honoured – payee of cheque not entitled to hold attorney responsible personally.

76. Legoale & Others v Legoale [2005] JOL 16196(T): Succession – rights of deceased already transferred – disposition of house in will meaningless - application for eviction from house of family member granted.

77. Deysel v Deysel [2005] JOL 16230 (T): order that maintenance remained payable in spite of change of circumstances and that it be paid in instalments.

78. ABSA Bank Ltd v Mbuli [2005] JOL 16233(T): Summary Judgment – facts relied on not amounting to a pactum de non petendo – oral variation of contract accordingly not permitted in the light of SA Sentrale KO-Op Graanmaatskappy Bpk v Shifren en Andere 1964(4) SA 760(A); Brisley v Drotzky 2002(4) SA 1(SCA) and HNR Properties and Another v Standard Bank of SA Ltd 2004(4) SA 471(SCA).

79. Matinka v S [2005] JOL 16235(T): Murder – inadmissible evidence – state not proving its case against the appellant beyond reasonable doubt.

80. Esterhuizen v Fouché [2004] JOL 12405(T): custody dispute – pre-school daughter of erstwhile couple – application by father for amendment of custody order in his favour – not granted – daughter dependent on mother and change environment not in her interest.

81. Rouget v S [2006] JOL 15962(T): foreign military activities – fine reduced in accordance with the means of the appellant.

82. Sarang v S [2003] JOL 11547(T): Bail granted on appeal – magistrate misdirecting him on the facts

83. Theron & Another v Boesmanland Biltong (Cresta) CC and Others [2006] 16766(T) : Close Corporations – winding-up application – membership – breakdown in relationship and trust – complete – alternative remedy – Court's discretion – membership dissolved – liquidation application dismissed.

84. **De Jager v S [2006] JOL 17685(T)**: *Appellant found guilty of theft of substantial sum of money by way of electronic transfer – appellant having been sentenced to 7 years imprisonment of which 2 years had already been spent in prison – sentence reduced to 5 years of which 4 years are suspended subject to community service in the form of training in a field in which he is an expert.*
85. **Sithole & Others v S [2005] JOL 16285(T)**: conviction of robbery confirmed – doctrine of recent possession applied.
86. **Advanced Mechanical & Lubrication Technology (Pty) Ltd v Conradie Ontwikkelings BK & Ander [2006] JOL 16692(T)**: unilateral mistake in concluding contract – no misrepresentation – not a defence in the circumstances.
87. **Deyzel v Deyzel (2) [2006] JOL 17111(T)**: *(Civil) Contempt of Court – onus on applicant to prove elements beyond reasonable doubt (approach accepted by SCA in its Fakie judgment 2006(4) SA 326(SCA)).*
88. **Fullimput 211 CC v Sono & Another [2006] JOL 17423(T)**: *Final interdict granted – buss dispute – contempt of court – in one case not proved beyond reasonable doubt.*
89. **S v Mtsweni [2006] JOL 17430(T)**: substitution on review with offence under amended legislation – authorized if convicted person suffers no prejudice.
90. **Vegtech 2000 (Pty) Ltd v Van Schoor; Vegtech 2000 (Pty) Ltd v Makwador Eleven CC [2006] JOL 17364 (T)** : *Contract – exceptio non adimpleti contractus – exceptio not justified in the circumstances.*
91. **In re Torre NO & Others v Tarazona & Others [2006] JOL 17523(T)** : *Company law – liquidation – sale of assets – court orders – approval of contract – intervening respondents – alternative offer – application by creditor – interest of creditors – application dismissed.*
92. **Slakes Maphanga Inc v Outsurance Ltd Insurance [2006] JOL 17625(T)**: *attorney applying set-off – amounts not liquidated – set-off not valid. Application for leave to appeal dismissed.*
93. **Bulwane & Another v S [2006] JOL 17724(T)**: *conviction of murder set aside and replaced with assault with intent to do grievous bodily harm – principles of common purpose examined and applied.*
94. **Botha v Botha [2006] JOL 16764(T)**: *dispute as to custody – costs divided between the two parties in accordance with their conduct in the three facets of the case.*
95. **Botha v Botha [2006] JOL 17473(T)**: *dispute about costs order – not case for rule 42 correction – application for leave to appeal not granted.*
96. **S v Sibeko [2006] JOL 17973(T)**: *Death of magistrate during trial – new trial ordered.*
97. **Edwards v Strydom & Another [2007] JOL 18943(T)**: *Summary judgment not granted – exceptio non adimpleti contractus successful.*
98. **Kleynhans NO v Smith [2006] JOL 18048(T)** – *Sectional titles – administrator having interest in a management company – such interest not disclosed – appointment for a limited period approved by court.*
99. **Marais v Schoombie [2006] JOL 18487(T)** – *Negligence of attorney in advising client on settlement in divorce proceedings.*
100. **Industro Clean Pty. Ltd & Another v Saincic & Others [2006] JOL 16923(T)**: *appeal against preliminary order dismissed – preliminary order not being appealable – prospects of success on merits discussed in the alternative – compensatio, on a prima facie basis, was held to have taken place.*
101. **Pretorius v De Clercq [2006] JOL 17985(T)**: *application for eviction of seller – seller refusing to vacate with reference to PIE – Court regarding his defence as amounting to fraud legis.*
101. **Kruger & `n Ander v Labuschagne NO en Andere [2006] JOL 17996(T)** : *Attempts at having order of insolvency set aside by applicant, who appeared personally in this matter on several occasions – application dismissed.*
102. **Van Rooyen NO & Others v Registrar of Deeds & Others [2006] JOL 18576(T)** – *order by SCA made as to the nullification of a notarial deed – order not including registered right – Registrar requiring Court order before removal of real right – such order granted.*
103. **Van Rooyen NO & Others v Registrar of Deeds & Others [2006] JOL 18633(T)** – *application for leave to appeal to the SCA against costs order against Prime Minister dismissed; application for leave to appeal against finding on merits also dismissed..*
104. **Pitje v Mutual & Federal Insurance Company & Another [2007] JOL 18962(T)**: *declaration as vexatious litigant not suspended by application for leave to appeal to the SCA, since the application was not lodged timeously.*
105. **Sadiku v Sadiku & Another [2007] JOL 19342(T)**: *Conflict of laws – matrimonial regime- Nigerian law applicable – no other intention could be inferred.*

106. *De Beer v De Beer* [2007] JOL 18984(T): *dispute about custody – relationship of wife with other man pending divorce not, in the circumstances, a ground for not granting custody to her.*
107. *Nkosi v S* [2007] JOL 19044(T): *conviction of housebreaking held to have been incorrect -- amended to one of theft and, accordingly, six year imprisonment reduced to two years.*
108. *Ngomane v S* [2007] JOL 19045(T): *15 year sentence too harsh for murder with dolus eventualis – crime one of passion – reduced to 7 years.*
109. *Tieg Hersteldienste cc v BH & SH Properties (Pty) Ltd* [2007] JOL 19265(T): *Provisional sentence granted – certificate of payment had been issued by agent of defendant within course of mandate -- such amounting to liquid document.*
110. *Statusfin Finansiële Dienste (Edms) Bpk v Kotze & `n Ander* [2007] JOL 19267(T): *Notarial bond – registration not a prerequisite – transfer based on contract – order of execution granted.*
111. *Senyolo v S* [2007] JOL 19632(T): *plea of guilty set aside on appeal since no questioning of appellant took place to ensure that he understood the plea – to remit the matter for re-opening of trial held to be in conflict with the appellant's right to have the proceedings concluded within a reasonable time – appellant already having been in prison for seven years – no delays attributable to him - convictions and sentences set aside.*
112. *Medi-Clave (Pty) Ltd v Rossouw & Another* [2007] JOL 19009(T): *Anton Piller order set aside as a result of serious flaws in the execution of the order.*
113. *Ndlovu v Mokoena & Others* [2009] JOL 23452(NGD): *traditional marriages of deceased – first marriage not fully concluded and, thus, not valid.*
114. *Nedbank Ltd v Petch Manufacturing (Pty) Ltd & Others* [2008] JOL21319 (W): *application for amendment of plea and counterclaim acceded to.*
115. *Mans v Minister van Korrektiewe Dienste en `n Ander* [2008] JOL 18943(W) : *reduction of effective prison sentence based on court which punished applicant no having considered that applicant had intermittently been in prison; sentence, in any case, shockingly inappropriate and amounting to an irregularity in regard to which a Judge may intervene.*
116. *Edwards v Strydom & Another* [2007] JOL 18943(T): *exceptio non adimpleti contractus upheld.*
117. *Nedbank v Melanie Hall Corporate* [2007] JOL 19984(T): *notice to registered address of client sufficient; summary judgment granted.*
117. *Seroot v Pieterse* [2005] JOL 15749 (T): *action for damages for loss of consortium – upheld*
118. *Commercial Auto Glass (Pty) Ltd v Baker Street Trust and others; In re Jennings NO and others v Commercial Auto Glass (Pty) Ltd* [2006] 2 All SA 260 (T)

PUBLICATIONS: PROF JCW VAN ROOYEN

PUBLICATIONS

(a) Books

Die Kontrak in die SA Internasionale Privaatreg (Juta & Kie 1971 - 239 pages)

Publikasiebeheer in Suid-Afrika (Juta & Kie 1978 - 172 pages)

Censorship in South Africa (Juta & Co 1987 - 152 pages)

"Censorship" in Joubert (ed) *The Law of SA* (1993) 53-119

A South African Censor's Tale Protea (2011) 180 pages

(b) Booklet

Pornography - The CNA's Answer (1993) 20 pages

(c) Report

Report of the Task Group Film and Publication Control (Chairperson and main author) (Government Printer Pretoria 1995) 80 pages

(d) Articles and longer notes

- 1 "Uitdruklike Regskeuse in die Internasionale Kontraktereg" 1971 THRHR 362
- 2 "Aspekte van die Opsie" 1974 De Jure 32
- 2 "Regsdwaling en Dolus" 1974 Tydskrif Hedendaagse Romeins-Hollandse Reg 18
- 3 "Agentekommissie" 1974 De Jure 32
- 4 "Aspekte van die Wet op Publikasies" 1975 De Jure 122
- 5 "Die Appèlraad oor Publikasies en die Gemeenskapsopvatting 1977 De Jure 338
- 6 "S v De Blom" 1978 Mutatis Mutandis 39
- 7 "Sensuur : 'n Weerhouding van Kennis?" 1978 Simposium van Vereniging van Prokureursordes 78
- 8 "Wederregtelikheid en Poging" EM Hamman Gedenkbundel (1984) 165
- 9 "Kuns, Reg en Godsdienst" 1985 NGTT 23
- 10 "Die Rol van die Wet op Publikasies in die Handhawing van Morele Standaarde" 1988 SA Publiekreg 131
- 11 "1963-1988 : from absolutism to differentiation. An analysis of the changing perspectives informing the work of the Publications Appeal Board" 1989 South African Law Journal 340*
- 12 "Morality and the Control of the Arts & Entertainment in South Africa" in WS Vorster (ed) The Morality of Censorship (Unisa 1989) 1
- 13 "The Limits of Authority and Censorship in South African Publications Control" 1988-9 Ecquid Novi 4*
- 14 "State Control of the Arts in South Africa" 1990 Media Law (London) 136
- 15 "The Publications Act, Morality and Changing Perspectives" 1991 Stellenbosch Law Review 264
- 16 "Publications Appeal Board : Court or Inquisition?" 1991 SA Journal of Human Rights 342
- 17 "Practical reflections on the application of the 'criteria' provision of the Publications Act 1974" 1991 SA Public Law 239*
- 18 "Meer as tagtig jaar regsonderrig" 1991 (April) Consultus 49
- 19 "Die Wet op Publikasies : 'n Christelike Lewensbeskouing?" 1990 De Jure 354*
- 20 "Freedom of Speech and of Expression" 1992 Ecquid Novi 167*
- 21 "Absolute Rules of Morality?" 1992 Journal of Juridical Science 85*
- 22 "Film and Television : A Quest for Freedom" 1992 Ecquid Novi 182*
- 23 "'n Menseregte Handves : Die Toekoms van die Wet op Publikasies 1974" 1992 De Jure 110*
- 24 "Censorship in a future South Africa : A Legal Perspective" 1993 De Jure 283*
- 25 "Hate Speech on Television and the European Commission of Human Rights" 1994 De Jure 364-369*
- 26 "Should the media have an ethical duty beyond its legal duties?" 1994 Ecquid Novi 140-146*
- 27 "Censorship in a Future South Africa" in Westra (ed) Freedom to Read (1994) 24-44

- 28 "Press and Broadcasting Freedom in a new South Africa" 1994 *Communicatio* 55-61*
- 29 "The Disclosure of Journalists' Sources in SA Law" 1995 *SA Journal of Human Rights* 132-143*
- 30 "Does the offence of blasphemy have a future under the South African Constitution?" 1995 *Hervormde Teologiese Studies* 1127-1133*
- 31 "Should a new Publications Act contain a security paragraph?" 1996 *De Jure* 345-350*
- 32 "Drafting a new Film and Publications Bill for South Africa" in Duncan (ed) *Between Speech and Silence* (1996) 172-190
- 33 "Pitfalls in drafting a new Films and Publications Bill for South Africa" 1996 *De Jure* 291-304*
- 34 "Freedom of Speech and Pornography : Is there a limit?" 1996 *Communicatio* 63-70*
- 35 "Should the Scope of Self-Defense be Widened?" 1996 *Strategic Review for Southern Africa* (vol xviii no 2) 70-80*
- 36 "The End of the Indecent or Obscene Photographic Matter Act 1967" 1996 *SA Journal of Criminal Justice* 331-334*
- 37 "Addressing Violence : A New Films and Publications Act for South Africa" 1996 *Ecquid Novi* 43-56*
- 38 "The Standard of Proof in Civil Contempt Cases" - 2003 *SA Journal of Human Rights* 124.
- 39 "The clash between freedom of religion and freedom of expression in state control of the arts and entertainment in South Africa" Nagel(ed) *Gedenkbundel vir JMT Labuschagne* (Lexis Nexis Butterworths 2006) 145-161.
- 40 "A Death Knell for Censorship: The Reasonable Man" *Essays in Honour of Frans Malan* (LexisNexis) 349-357*
- 41 "Challenges to the Sub Judice Rule in South Africa" 2014 *Reformed Theological Studies* 2714 -2722*
- *Subsidised journals

(e) Notes

- | | | |
|---|---|--------------------------------------|
| 1 | "In Praeteritum non vivitur" | 1970 <i>Scintilla Juris</i> 16 |
| 2 | "Die Daggawet" | 1971 <i>De Rebus</i> 360 |
| 3 | "Cornelis Jakob Langenhoven" | 1973 <i>De Jure</i> 5 |
| 4 | "J de V Roos" | 1974 <i>De Jure</i> 7 |
| 5 | "Generaal JBM Hertzog" | 1975 <i>De Jure</i> 4 |
| 6 | "Heresy" | Standard Encyclopaedia for SA (1974) |
| 7 | "Die sesde TV-beslissing van die Bundesverfassungsgericht" (The sixth TV judgment of the German Constitutional Court) | 1993 <i>De Jure</i> 167-171 |

- 8 Eight discussions of books in local law journals
- (f) Monthly summaries and discussions of judgments of the Supreme Court : De Rebus (1975-1980)
- (g) **Discussions of judgments**
- | | | |
|----|--|----------------------|
| 1 | Holland v Holland | 1973 THRHR 316 |
| 2 | Premier Wire & Steel Co (Pty) Ltd
v Maersk Line | 1970 THRHR 202 |
| 3 | Timms v Nicol | 1968 THRHR 196 |
| 4 | Cooper Bros v Botriell | 1971 THRHR 422 |
| 5 | S v Mokonto | 1971 Scintilla Juris |
| | | 50 |
| 6 | S v Rabson | 1973 De Jure 82 |
| 7 | S v Ntuli | 1975 THRHR 406 |
| 8 | S v Moroney | 1978 De Jure 393 |
| 9 | S v Lekgathe | 1983 De Jure 183 |
| 10 | S v Motleleni | 1976 TSAR 278 |
| 11 | S v Perera | 1979 TSAR 66 |
| 12 | S v Lesch | 1983 De Jure 376 |
| 13 | S v Williams | 1983 De Jure 198 |
| 14 | S v Cleminshaw | 1981 De Jure 365 |
| 15 | R v Parry | 1981 De Jure 168 |
| 16 | S v Barnard | 1986 De Jure 158 |
| 17 | S v Roodt | 1987 De Jure 171 |
| 18 | Case of Otto-Preminger Institut v Austria
(11/1993/406/485) (Judgment of the
European Court of Human Rights) | 1995 De Jure 229 |

DEGREE CERTIFICATES COULD BE MADE AVAILABLE (University of Pretoria)

BA (Law) 1963 Cum Laude

LIB 1966 Cum Laude

LID 1971: Contracts in Conflict of Laws (In Afrikaans. Published by Juta

1972 (With Summary in English)