

The Law of Persons Sixth Edition
Trynie Boezaart
Juta (2017)
258pp

The first thing the law of persons brings to my mind is the doctrine of the *nasciturus* fiction. I am pretty sure the case is the same with many of you. The day my lecturer tried to explain it to our class was the first time I was exposed to substantive law, and right there I began to suspect being a lawyer was going to be pretty tricky. Wait, what? An unborn baby is considered born and his mom can sue people for him, but if he later dies she can't? Who does things like that? I didn't get it and flunked my first law of persons exam, like most of my classmates. Any of you have similar memories?

Having read the textbook under review, it seems that first year law students are still being put through an experience similar to mine. This is so since the book starts out in earnest with – yes – the *nasciturus* fiction. From there it progresses more-or-less through the seven stages of man.

The book deals in sequence with the law on when a human comes into being; what his rights as, first a child, and then an adult are; when he loses control over these rights due to madness and the like; and ends off with when he shuffles off this mortal coil. Strange to think that these rules – unlike say those of contract law or criminal law – affect each and every one of us throughout life and determines who we are and what we can do with our lives.

The book sets out the law as it relates to each of these stages of life in a well organised manner. The text is neatly arranged. Care was plainly taken to keep each issue under discussion separate and thus make this field of law easy to study. It is written in standard, if dullish, South

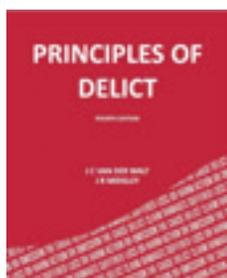
African academic English. The writer keeps things brief and to the point. As a result of all of this, the book is easy to use as a lodestar for finding the way to getting started on a brief involving this part of the law.

Should the practising advocate buy this book? Probably not. While its subject matter can be interesting – especially when it comes to morbid things like death, madness, bastard children etc. – most of these provisions of the law are seldom at issue in cases fought in court. Most of you will probably not deal with them on a regular enough basis to have to buy this book. However, it sets out clearly and extensively the law on children's rights and, since it reflects the law up to June 2016, may well be very useful for a new advocate who is going to practise in family law.

On a personal note, reviewing the book gave me some deliverance. I finally understand the *nasciturus* fiction. No more do I care what my grades say, I get law!

Verlaine de Wit

Johannesburg Society of Advocates



Principles of Delict Fourth Edition
JC Van Der Walt and JR Midgley
LexisNexis (2016)
346 pp

This textbook was first authored by JC Van Der Walt with successive updates and revisions by subsequent co-author Professor JR Midgley. It is a reprint of the updated *Law of South Africa (LAWSA)* section titled *Delict* (-Volume 15). The updates include material available up to 31 March 2016.

This is the 4th edition of this work, with the last edition published twelve years ago. Since the previous edition, a number of important cases have been handed down, including *Loureiro v iMoula Quality Protection (Pty) Ltd* 2014 (3) SA 394 (CC) (vicarious liability; public policy) and *Le Roux v Dey (Freedom of Expression Institute & Restorative Justice Centre as Amici Curiae)* 2011 (3) SA 274 (CC) (the criteria of wrongfulness; apology), and the present

edition is a welcome update, incorporating these decisions.

The layout and style of the book remains as unfussy as it was in prior editions: chapters are short and simple and the structure is easy to follow; the material is labelled accurately and logically and the content is to the point and not laboured with extraneous discussion.

It is written in accessible language, making it a valuable reference for both students and practitioners, who wish to glean the principles at a glance. The case discussion, particularly of recent decisions of the Constitutional Court and Supreme Court of Appeal, which appears in-text (and not merely in the footnotes), is concise and on point.

Professor Midgley frankly states in his foreword that this edition has introduced some revision to what were thought to be settled principles of delict. What is clear from this edition is that courts have increasingly taken the liberty of modernising the law of delict, and chief amongst these developments has been the courts, continued efforts to ensure that delictual principles (and their application) are in-

fused with, and compliant with, constitutional norms and values – the continuing crusade of “constitutional colonisation of the common law”.

To cater for these developments, the authors have adopted a pragmatic approach, designed to marry the traditional principles with developing and current legal trends and norms. The text also aims to navigate carefully through the case law, such as *Lee v Minister of Correctional Services* 2013 (2) SA 144 (CC) (which posits a common sense approach to the factual causation test) by finding a way to position it within the existing structure of legal principles.

Through the simple and clear layout; succinct language, as well as the pragmatic approach to synthesising existing principles with modern developments, the text makes an excellent student handbook and a useful reference for practitioners who need an easy reference that deals with the basic principles of delictual liability. It is a helpful and timely edition. **A**

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