

APPENDIX 1: LIST OF PUBLICATIONS

BOOKS:

1. *Poverty and Fundamental Rights: The Justification and Enforcement of Socio-Economic Rights* (Oxford University Press: Oxford, 2007) (provides a justification for socio-economic rights, that recognises their urgency and importance and develops a legal doctrinal approach to give effect to them; consideration is also given to the policy implications of these rights).
2. *Fundamental Rights and the Legal Obligations of Business* (Cambridge University Press: Cambridge, 2021) (develops a legal analytical framework for determining the substantive content of corporate obligations with respect to fundamental rights)

EDITED COLLECTIONS

1. *Is this Seat Taken? Conversations at the Bar, the Bench and the Academy concerning the South African Bill of Rights* (with Stuart Woolman) (Pretoria University Law Press: Pretoria, 2012) (edited volume of essays).
2. *Human Rights Obligations for Business: Beyond the Corporate Responsibility to Respect?* (with Surya Deva) (Cambridge University Press: Cambridge, 2013).
3. *Building a Treaty on Business and Human Rights: Context and Contours* (with Surya Deva) (Cambridge University Press: Cambridge, 2017).
4. *The Evolution of the Separation of Powers: Concepts and Practice* (with David Landau) (Edward Elgar, 2018).
5. *Transitional Justice, Distributive Justice and Transformative Constitutionalism: Comparing Colombia and South Africa* (with Raisa Cachalia) (Oxford University Press, December 2023)

TEXTBOOK

1. *Jurisprudence in an African Context* (with Thad Metz and Anthony Oyowe) (Oxford University Press: Oxford 2017-8 – 2nd edition due 2024)

JOURNAL PUBLICATIONS

1. Law of Evidence Chapter (1998) *Annual Survey* 735-822.
2. Law of Evidence Chapter (1999) *Annual Survey* 662-711.
3. 'Giving Socio-Economic Rights Teeth: The Minimum Core and Its Importance' (2002) 119 *South African Law Journal* 484-501.
4. 'Towards a Reasonable Approach to the Minimum Core: Laying the Foundations For future Socio-Economic Rights Jurisprudence' (2003) 19 *South African Journal of Human Rights* 1-26.

5. 'South Africa: Right to Health and Access to HIV/AIDS Drugs Treatment' (2003) 1(3) *International Journal of Constitutional Law* 524-534.
6. 'For Whom Does the Bell Toll? The Challenges and Possibilities of the Civil Union Act for Family Law in South Africa' (2008) 23 *South African Journal on Human Rights* (co-authored with Melanie Judge, 80 percent contribution by me) 466-499.
7. 'Corporate Law and the Constitution: Towards Binding Human Rights Responsibilities for Corporations' (2008) 124 *South African Law Journal* 754-789.
8. 'Moving Beyond Arbitrariness: The Legal Personhood and Dignity of Non-Human Animals' (2009) 25 *South African Journal on Human Rights* 38-72.
9. 'The Ruggie Framework: An Adequate Rubric for Corporate Human Rights Obligations?' (2010) 12 *SUR International Journal on Human Rights* 199-229.
10. 'Do Corporations Have Positive Human Rights Obligations?' (2010) 125 *Theoria* 1-35.
11. 'Is the Constitutional Court Wasting Away the Rights of the Poor? *Nokotyana v Ekurhuleni Metropolitan Municipality*' (2010) *South African Law Journal* 591-605.
12. 'Does Transformative Constitutionalism Require the Recognition of Animal Rights?' (2010) 125 *Southern African Public Law* 267-300.
13. 'Does Alexy's Analysis of Balancing Adequately Capture the Nature of Rights?' (2010) 125 *Southern African Public Law* 423-444.
14. 'Theory, Pragmatism and the Law' (2010) 125 *Southern African Public Law* 544-566 (co-authored with Alistair Williams).
15. 'Should Religious Associations Be Allowed to Discriminate?' (2011) 27 *South African Journal of Human Rights* 219-248.
16. 'How Should Rights be Limited? *Exploring Road Accident Fund v Mdeyide*' (2011) *Journal of South African Law (Tydskrif vir die Suid-Afrikaanse Reg)* 568-579.
17. 'Citizenship and Community: Exploring the Right to Receive Basic Municipal Services' (2011) 3 *Constitutional Court Review* 45-78.
18. 'Does Sandra Liebenberg's New Book Provide a Viable Approach to Adjudicating Socio-Economic Rights?' (2011) 27 *South African Journal of Human Rights* 546-557.
19. 'Religion and the Public Sphere: Towards a Model that Positively Recognises Diversity' (2012) 28 *South African Journal on Human Rights* 146-175 (co-authored with Alistair Williams).
20. 'Why Courts should not Sanction Unfair Discrimination in the Private Sphere', (2012) 28 *South African Journal on Human Rights* 296-315.
21. 'When is Animal Suffering Necessary?' (2012) 27 *Southern African Public Law* 3-27.
22. 'Human Rights Accountability in Domestic Courts: Does *Kiobel* Increase the Global Governance Gap?' (2013) *Journal of South African Law* 794-805.

23. Creating the Space 'In Between': Towards a Conception of Equal Exchanges Between the Legal Academia of the Global South and North (2013) 16 *Yale Human Rights and Development Law Journal* 59-88.
24. What was Left Unsaid: The Unconstitutionality of the Performing Animals Protect Act in NSPCA v Minister of Agriculture, Forestry and Fisheries' (2014) 30 *South African Journal on Human Rights* 183-195.
25. 'Socio-Economic Rights, Economic Crisis and Legal Doctrine' (2014) 12 *International Journal of Constitutional Law* 710-739.
26. 'Socio-Economic Rights, Economic Crisis and Legal Doctrine: A Rejoinder to Xenophon Contiades and Alkmene Fotiadou (2014) 12 *International Journal of Constitutional Law* 747-750.
27. 'P.I.E. in the Sky: Where's the constitutional framework in high court eviction proceedings? *Marlboro crisis committee and others v City of Johannesburg*' (2014) 131 *South African Law Journal* 521-537 (co-authored with D Mackintosh)
28. 'Egalitarian Liberalism, Distributive Justice and the New Constitutionalism' (2014) 140 *Theoria* 47-69.
29. Avoidance Remains Avoidance: Is It Desirable in Socio-Economic Rights Cases? Constitutional Court Review (2014) 5 *Constitutional Court Review* 297-308.
30. Are Socio-Economic Rights Political Rights?' (2015) 31 *South African Journal on Human Rights* 86-111.
31. 'Humility, Dissent and Community: Exploring Chief Justice Langa's Political and Legal Philosophy' (2015) *Acta Juridica* 88-119.
32. Privacy, Surveillance and the Duties of Corporations: A South African Approach (2016) *Journal of South African Law* 45-67
33. 'Corporations and the Limits of State-based Models for Protecting Fundamental Rights in International Law' (2016) 23 *Indiana Journal of Global Studies* 143-170.
34. 'Proportionality, Fundamental Rights and the Duties of Directors' (2016) 36 *Oxford Journal of Legal Studies* 828-854 (co-authored with Laura Ausserladscheider Jonas).
35. 'The Necessity for a Business and Human Rights Treaty' (2016) 1 *Business and Human Rights Journal* 203-227.
36. 'Dignity, Fundamental Rights and Legal Capacity: Moving Beyond the Paradigm Set by the General Comment on Article 12 of the Convention on the Rights of Persons with Disabilities' (2016) 32 *South African Journal on Human Rights* 410-437
37. 'Equality, Dignity and Social Harmony: Exploring the Rationales and Models for Recognising Same-Sex Relationships in Law' (2016) 11 *Frontiers of Law Journal* 407-432
38. 'Exploring the Relationship Between the Environmental Right in the South African Constitution and the Protection of Animals' Interests' (2017) *South African Law Journal* 134 740-777.

39. 'Fundamental Rights as Bridging Concepts: Straddling the Boundary Between Ideal Justice and an Imperfect Reality' (2018) 40 *Human Rights Quarterly* 119-143.
40. 'Why Incitement to Harm Against those with Different Political Opinions is Constitutionally Impermissible' (2019) *Journal of South African Law* 364-374.
41. 'Is automatic loss of South African citizenship for those acquiring other citizenships constitutional? *Democratic Alliance v Minister of Home Affairs*' *South African Journal on Human Rights* (2022/3) co-authored with Ruvi Ziegler

BOOK CHAPTERS:

1. 'The Right to Health' in Woolman et al, *Constitutional Law of South Africa* (2nd ed 2006) Chapter 56A.
2. "The Jewish Law of Persons and Family Law" in Rautenbach et al (eds), *Legal Pluralism in South Africa* (Butterworths, 2007) Chapter 13.
3. 'The Civil Union Act: A Messy Compromise or Giant Leap Forward?' in S De Waal, M Judge and A Manion (eds), *To Have and To Hold* (with M Judge) (Jacana Press, 2008) 149-163.
4. 'Towards a Theory of Content for Socio-Economic Rights' in J Illiopoulos-Strangas and T Roux (eds), *National and International Perspectives on Social Rights* (2008) 3-28.
5. 'Taking Socio-Economics Rights Seriously: The Substantive and Procedural Implications' in Van Bueren (ed), *Freedom from Poverty as a Human Rights* (UNESCO Publishing, 2010) vol 4 21-50.
6. 'Corporations and Fundamental Rights: what is the Nature of their Obligations, if any?' In C Luetge (ed), *Handbook of the Philosophical Foundations of Business Ethics* (Springer: Dordrecht, 2012) 1053-1076.
7. 'Constitutionalism, the Global South and Economic Justice' in D Bonilla Maldonado (ed), *Constitutionalism of the Global South: The Activist Tribunals of India, South Africa, and Colombia* (Cambridge University Press: Cambridge, 2013) 41-94.
8. 'A Chasm Between 'Is' and 'Ought'? A Critique of the Normative Foundations of the SRSG's Framework and Guiding Principles' in D Bilchitz and S Deva (eds), *Human Rights Obligations for Business: Beyond the Corporate Responsibility to Respect* (Cambridge University Press: Cambridge, 2013) 107-137.
9. 'The Human Rights Obligations of Business: A Critical Framework for the Future' (co-authored with S Deva) in D Bilchitz and S Deva (eds), *Human Rights Obligations for Business: Beyond the Corporate Responsibility to Respect* (Cambridge University Press: Cambridge, 2013) 1-26.
10. 'Human Rights Beyond the State: Exploring the Challenges' in O Vilhena, Upendra Baxi and Frans Viljoen (eds), *Transformative Constitutionalism: Comparing the Apex Courts of Brazil, India and South Africa* (Pretoria University Law Press: Pretoria, 2013) 580-603.

11. 'Necessity and Proportionality: Towards a Balanced Approach?' in L Lazarus, C McCrudden and N Bowles (eds), *Reasoning Rights* (Hart: Oxford, 2015) 41-62.
12. 'Is the Right to Food Really Necessary?' in V Taylor and S Fukuda Parr (eds), *The Right to Food in South Africa: New Directions in Economic and Social Policies* (University of Cape Town Press: Cape Town, 2015) 53-72.
13. 'Equality, Liberty and Modern Constitutionalism', in G Hull (ed), *The Equal Society* (Lexington Press: Lanhan MA, 2015) 229-246.
14. 'Animal Interests and South African Law: the Elephant in the Room?' in D Cao and S White (eds), *Animal Law and Welfare – International Perspectives* (Springer: Heidelberg, 2016) 131-156.
15. 'The Right to Privacy, Surveillance and the Global Obligations of Corporations' in D Cole, F Fabbrini and S Schulhofer (eds), *Surveillance, Privacy and Transatlantic Relations* (Hart: Oxford, 2017) 113-138.
16. 'Public Participation and Reasonableness: Exploring the case law and jurisprudential philosophy of the South African Constitutional Court' in C Hugo and T Mollers (eds), *Transnational Impacts on law: Perspectives from South Africa and Germany* (Nomos/Juta, 2017) 381-416.
17. 'Corporate Obligations and a Business and Human Rights Treaty: a Constitutional Law Model?' in D Bilchitz and S Deva (eds), *Building a Treaty on Business and Human Rights: Context and Contours* (Cambridge University Press: Cambridge, 2017) 185-215.
18. 'Putting Flesh on the Bone: What Should a Business and Human Rights Treaty Look Like?' in S Deva and D Bilchitz (eds), *Building a Treaty on Business and Human Rights: Context and Contours* (Cambridge University Press: Cambridge, 2017) 1-24.
19. 'Towards a Defensible Relationship between the Content of Socio-Economic Rights and the Separation of Powers: Conflation or Separation?' in D Bilchitz and D Landau (eds), *The Evolution of the Separation of Powers: Concepts and Practice* (Edward Elgar: Cheltenham, 2018) 57-84
20. 'The Evolution of the Separation of Powers in the Global South and the Global North' (co-authored with David Landau) in D Bilchitz and D Landau (eds), *The Evolution of the Separation of Powers: Concepts and Practice* (Edward Elgar: Cheltenham, 2018) 1- 30.
21. 'The Performance of Socio-Economic Rights in the South African Constitution' in T Roux and R Dixon (eds), *Constitutional Triumphs, Constitutional Disappointments* (Cambridge University Press: Cambridge, 2018) 45-87.
22. 'What is the Relationship between Minimum Thresholds and Distributive Justice?' in T Kootkas, I Leijten and F Pennings (eds), *Specifying and Securing a Social Minimum in the Battle Against Poverty* (Hart: Oxford, 2019) 15-30.
23. Bilchitz, D 'Why Conservation and Sustainability Require Protection for the Interests of Animals' in W. Scholtz (ed). *Animal Welfare and International Environmental Law: From Conservation to Compassion* (Edward Elgar: Cheltenham, 2019).

24. 'Socio-Economic Rights and Expanding Access to Justice in South Africa: What Can Be Done?' in P. Dann, M. Riegner and M. Bönnemann *The Global South and Comparative Constitutional Law* (Oxford University Press: Oxford, 2020) 210-234.
25. 'How can Rights be Individuated?' in A. Linares-Cantillo, C. Valdivieso-León and S. Garcia-Jaramillo *The Colombian Constitution in Comparative Context* (Oxford University Press: Oxford, 2020) 237-257.
26. 'What is the Role of Socio-economic Rights in addressing Historical Injustice?' in D Bilchitz and R Cachalia (eds), *Transitional and Distributive Justice: reflections from Colombia and South Africa* (2023)
27. 'The Difference History Makes: Comparative Reflections on Socio-Economic Rights and Historical Consciousness in South Africa and Colombia' (with M Correa Henao) (2023) in D Bilchitz and R Cachalia (eds), *Transitional and Distributive Justice: reflections from Colombia and South Africa* (2023)
28. 'Developing a Conceptual Framework for Global South Comparisons: Colombian and South African Contributions' (with R Cachalia) (2023) in D Bilchitz and R Cachalia (eds), *Transitional and Distributive Justice: reflections from Colombia and South Africa* (2023)

FORTHCOMING ARTICLES AND BOOK CHAPTERS

1. 'Expanding Jurisdiction for Fundamental Rights Violations by Businesses: South African law and the Role of an International Treaty' in J Neels (ed) *Private International Law and the Contribution of Christopher Forsyth* (forthcoming Eleven, 2024).
2. 'Corporate Accountability Towards Animal Well-being: Exploring the Legal Possibilities' in *South African Law and Welfare for Animals* (2024)
3. 'Necessary Suffering' *Oxford Handbook on Global Animal Law* (2024)
4. 'Globalization and Corporations: Why Direct Obligations Matter – a Reply to Dr Fontana' (2004)

BOOK REVIEWS AND NON-ACADEMIC PUBLICATIONS

1. 'Placing Basic Needs at the Centre of Socio-Economic Rights Jurisprudence' (2003) *Economic and Social Rights Review*.
2. 'The Right to Health-Care Services and the Minimum Core' (2006) *Economic and Social Rights Review*.
3. Book Review: *Understanding Jurisprudence* (by Denise Meyerson) (2007) 124 *South African Law Journal* 900-908
4. 'Juridical Remedies and Socio-Economic Rights: a Response to Christopher Mbazira' (2008) *Economic and Social Rights Review*.
5. 'Book Review: *Justice and Reconciliation in Post-Apartheid South Africa*' (2010) *Journal of South African Law* (Tydskrif vir die Suid-Afrikaanse Reg) 873-876

MAJOR REPORTS

1. 'Business and Human Rights: International Developments and Implications of the Reform of Corporate Law in South Africa' (2008) published by the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (author)
2. 'Business and Human Rights: The Responsibilities of Corporations for the Protection and Promotion of Human Rights' (2008) published by the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (author)
3. 'The State Duty to Protect, Corporate Obligations and Extra-territorial Application in the African Regional Human Rights System', Report for the Mandate of the Special Representative of the Secretary General on Business and Human Rights, (2009) (input and reviewing)
4. 'Access to Justice: Human Rights Abuses Involving Corporations', Report for International Commission of Jurists, (2009) (input and reviewing)
5. 'Constitutional Change and Participation of LGBTI Groups: a Case Study of South Africa': prepared for the International Institute for Democracy and Electoral Assistance (2014-5)
6. 'The Performance of the South African Constitution': prepared for the International Institute for Democracy and Electoral Assistance, part-author and senior manager and reviewer
7. 'A Treaty on Business and Human Rights: Where to from Here?': prepared for the Foundation for Human Rights, author (2019)