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**Editors**
Sona Pancholy  
B. Folake Ogunyemi

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Laurence Boisseau

This article examines the extent to which mediation and ADR can be used to moderate civil litigation in South Africa in line with comparable developments in other jurisdictions. It does so in the context of Amartya Sen’s theory of justice, based on individuals’ capacity to order their lives, and of transparency as a justice norm relating to court procedures. Through a fictional case study on court-based ADR in a franchise dispute the article explores ways in which a regulatory framework can accommodate ADR in case management systems and delimit some of the institutional requirements for such an arrangement. It makes a proposal along these lines, and evaluates it in terms of Sen’s theory and other justice norms.

TOWARDS AN ETHICAL RELATION TO THE NONHUMAN OTHER: DECONSTRUCTION, VEGANISM AND THE LAW

Jan-Harm De Villiers

This article explores the ethical significance of deconstruction for law and advances veganism as a form of deconstruction that exposes and resists the anthropocentric character of social and legal configurations. The article engages with Jacques Derrida’s project of deconstructing the human subject and draws on Donna Haraway’s reconception of deconstruction as the philosophy of the “else.” By examining the philosophical foundations of justice and deconstruction, the article exposes the limits of a system of law and investigates the capacity of deconstruction to advance the ethical relation to the nonhuman other.

AUTOLOGOUS STEM CELL THERAPY: AN ANALYSIS OF THE SOUTH AFRICAN REGULATORY REGIME

Donnich W Jordaan

This article analyses the regulation of autologous stem cell (ASC) therapy in South Africa. The article is structured in three parts: In the first part of the analysis it is argued that ASC preparations qualify qua registrable medicines in the subclass of biological medicines within the regulatory framework established by the Medicines and Related Substances Control Act (Medicines Act). In the second part of the analysis it is argued that ASC therapy is indeed subject to regulation, primarily in terms of the regulatory framework established by the Medicines Act that effectively requires an ASC therapy to pass the rigorous test of clinical trials before it may be prescribed or supplied to a patient. It is further argued that there exist various layers of additional regulatory rules — some from the regulatory framework established by the Medicines Act and some from the regulatory framework established by the Human Tissue Act — pertaining to the harvesting, storage and preparation activities of the ASC therapy process. In the third part of the analysis a possible human rights challenge to the regulation of ASC therapy is explored: an argument is developed that employs the right to control one’s own body to argue for special exemption of ASC therapy based on its autologous nature that differentiates it from mass-produced medicine. With reference to case law, it is argued that such a challenge will fail. Finally, it is argued that the system of clinical trials that is open to the current regulation of medicine in general and ASC therapy in particular is aligned with human dignity. It is therefore concluded that ASC therapy is not only comprehensively regulated in South Africa, but also that the current regulatory regime is fair, public, good and aligned with our society’s commitments to human rights.
STELLENBOSCH
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