











































































































































































































































3. *Daniels v Campbell and Others* (CCT 40/03) 2004 ZACC 14.
4. *Democratic Alliance v The Acting National Director of Public Prosecutions* (288/11) [2012] ZASCA 15.
5. *Fourie and Another v Minister of Home Affairs and Another* 2003 (5) SA 301 (CC).
6. *Glenister v President of the Republic of South Africa* 2011 (3) SA 347 (CC).
7. *Grootboom v The Government of the Republic of South Africa and others* 2000 (11) BCLR 1169 (CC).
8. *Harris v Minister of the Interior* 1952 (2) SA 428 (AD).
9. *Justice Alliance of South Africa v President of the Republic of South Africa and Others* [2011] ZACC 23.
10. *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs and Others* 1999 (1) SA 6 (CC).
11. *Ndlwana v Hofmeyer* 1937 AD 229.
12. *Nyathi v Members of the Executive Council for the Department of Health Gauteng* Case CCT 19/07 [2008] ZACC 8.
13. *Occupiers of 51 Olivia Road and Others v City of Johannesburg and Others* 2008 (5) BCLR 475 (CC).
14. *S v Makwanyane and Another* 1995 (2) SACR 1 (CC).
15. *S v Zuma* 1995 (1) SACR 568 (CC).
16. *Satchwell v President of the Republic of South Africa and Another* 2001 (12) BCLR 1284 (CC).
17. *Satchwell v President of the Republic of South Africa and Another* 2002 (6) SA 1 (CC).

18. *Schubart Park Resident's Association and Others v City of Tshwane and Another* Case CCT 23/12 [2012] ZACC 26.
19. *The Citizen 1978 (Pty) Ltd and Others v McBride (Johnstone and Others as Amici Curiae)* [2011] ZACC 11.

**F. Foreign Case Law.**

1. *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1 KB 223.
2. *Bellinger v Bellinger* [2003] UKHL 21.
3. *Canada (Attorney General) v Hislop* [2007] S.C.R. 429.
4. *Fitzpatrick v Sterling Housing Association Ltd* [1999] 4 ALL ER 705.
5. *Ford v Quebec (Attorney General)* [1988] 2 S.C.R. 712.
6. *Ghaidan v Godin-Mendoza* [2004] UKHL 30.
7. *Hunter et al. v Southam Inc.* [1984] 2 S.C.R. 145.
8. *Jackson and others v Attorney General* [2005] UKHL 56.
9. *McR's Application for Judicial Review* [2002] NIQB 58.
10. *R (Clift) v Secretary of State for the Home Department; Secretary of State for the Home Department v Hindawi and another* [2006] UKHL 54.
11. *R (on the application of H) v Mental Health Review Tribunal for the Northern and East London Region and The Secretary of State for Health* [2001] EWCA Civ 415.
12. *R (on the application of Royal College of Nursing and others) v Secretary of State for the Home Department* [2010] EWHC 2761.
13. *R v A* [2001] UKHL 25.

14. *R v Big M Drug Mart Ltd* [1985] 1 S.C.R. 295.
15. *R v Daviault* [1994] 3 S.C.R. 63.
16. *R v O'Connor* [1995] 4 S.C.R. 411.
17. *R v Oacks* [1986] 1. S.C.R. 103.
18. *R v Tse* [2012] S.C.C. 16.
19. *Smith v Scott* [2007] CSIH 9.
20. *The Secretary of State for the Home Department v Nasser* [2008] EWCA Civ 464.
21. *Thibaudeau v Canada* [1995] 2 S.C.R. 627.
22. *Vriend v Alberta* [1998] 1 S.C.R. 493.



**G. Publications.**

1. Discussion document on the transformation of the judicial system and the role of the judiciary in the developmental South African State - February 2012.
2. Rt Hon Lord Justice Elias ANNUAL LORD RENTON LECTURE 24 November 2009 at the Institute for Advanced Legal Studies, London Statute Law Society.
3. Ministry of Justice ‘Responding to human rights judgments’ Report to the Joint Committee on Human Rights on the Government response to human rights judgments 2011-12 available at <http://www.justice.gov.uk/downloads/publications/policy/moj/responding-human-rights-judgments.pdf> (accessed on 08 November 2012).
4. Kate O’Regan, Judge of the Constitutional Court (1994 – 2009), Helen Suzman Memorial Lecture, Johannesburg, November 22 2011.

## **H. Textbooks.**

1. Currie and de Waal *The Bill of Rights Handbook* 3<sup>rd</sup> ed (2000) Juta.
2. Currie I and de Waal J *The Bill of Rights Handbook* 5<sup>th</sup> ed (2005) Juta.
3. de Ville JR *Judicial Review of Administrative Action in South Africa* Revised Edition (2003) Lexis Nexus Butterworths.
4. de Ville JR *Constitutional and Statutory interpretation* (2000) Interdoc Consultants Pty Ltd.
5. Devenish G.E *A Commentary on the South African Constitution* (1998) Butterworths.
6. Dworkin R *Freedom's Law: The Moral Reading of the American Constitution* (1999) Oxford University Press.
7. Elliott M *The Constitutional Foundations of Judicial Review* (2001) Hart Publishing Oxford and Portland, Oregon.
8. Herling D and Lyon A *Briefcase on Constitutional and Administrative Law* 4th Edition (2004) Cavendish Publishing.
9. Hogg P.W *Constitutional Law of Canada Student Edition* (2004) Thomson Carswell.
10. Kavanagh A 'Choosing between sections 3 and 4 of the Human Rights Act 1998: Judicial reasoning after *Ghaidan v Mendoza*' in Helen Fenwick, Gavin Phillipson and Roger Masterman *Judicial Reasoning under the UK Human Rights Act* (2007) Cambridge University Press.
11. Kende M *Constitutional Rights in Two Worlds: South Africa and the United States* (2009) 286.
12. Klug H *The Constitution of South Africa: A Contextual Analysis* (2010) Hart Publishing Oxford – Portland Oregon.

13. Leigh I *'The standard of judicial review after the Human Rights Act'* in Fenwick H, Phillipson G and Masterman R *Judicial Reasoning under the UK Human Rights Act* (2007) Cambridge University Press.
14. Meintjies-Van der Walt L, Singh P, du Preez M, de Freitas SA, Chinnian K, Barratt A, Govindjee A, Iya P, de Bruin JH, van Coller H *Introduction to South African Law: Fresh Perspectives* 2nd Edition (2011) Heinemann.
15. Palmer E *Judicial Review, Socio-Economic Rights and the Human Rights Act* (2007) Oxford and Portland, Oregon.
16. Starmer K, Strange M and Whitaker Q with Anthony Jennings QC and Tim Owen QC *Criminal Justice, Police Powers & Human Rights* Oxford University Press.
17. Woolman S, Roux T and Bishop M *Constitutional Law of South Africa* Student Edition (2007) Juta.



**I. Journal Articles.**

1. Allan T *'Parliament's Will and the Justice of the Common Law: The Human Rights Act in Constitutional Practice'* 47 available at <http://www.clp.oxfordjournals.org> (accessed on 03 July 2012).
2. Choudhry S *"He had a mandate" The South African Constitutional Court and the African National Congress in a Dominant Party Democracy'* (2009) 2 *Constitutional Court Review* 2.
3. Cockrell A *'Rainbow Jurisprudence'* (1996) 12 *SAJHR* 1.
4. Currie I *'Judicious Avoidance'* (1999) 15 *SAJHR* 138-165.
5. De Vos, P *'Unified opposition maybe not such a bright idea'* available at [www.constitutionallyspeaking.co.za](http://www.constitutionallyspeaking.co.za) (accessed on 25 October 2012).

6. Gardbaum S '*The New Commonwealth Model of Constitutionalism*' (2002) Vol.49 *AmJ Comp L* 707.
7. Hogg P.W '*The Charter of Rights and American Theories of Interpretation*' (1987) 25 *Osgoode Hall L.J.* 87 1987.
8. Hogg P.W and Bushell A '*The Charter Dialogue Between Courts and Legislatures (Or Perhaps the Charter of Rights Isn't Such A Bad Thing After All)*' (1997) Vol.35 No.1 *Osgoode Hall LJ* 75.
9. Hogg P.W, Bushell A and Wright W.K '*Charter Dialogue Revisited \_ OR "Much Ado About Metaphors"*' (2007) Vol.45 No.1 *Osgoode Hall LJ* 1.
10. Klare K '*legal Culture and Transformative Constitutionalism*' (1998) 14 *SAJHR* 146.
11. Klug F '*Judicial Deference Under The Human Rights Act 1998*' (2003) Issue 2 *E.H.R.L.R.* 125-133.
12. Kyritsis D '*Constitutional Review in Representative Democracy*' (2012) Vol.32 No.2 *Oxford Journal of Legal Studies* 297-324.
13. Le Roux W '*Undoing the past through statutory interpretation: the Constitutional Court and the marriage laws of apartheid*' (2005) 26 *Obiter* 526.
14. Macfarlane E '*Dialogue or compliance? Measuring legislatures' policy responses to court rulings on rights*' (2012) *International Political Science Review* 0(0) 1-18 available at <http://ips.sagepub.com> (accessed on 06 August 2012).
15. Manfredi C.P and Kelly J.B '*Six Degrees of Dialogue: A Responds to Hogg and Bushell*' (1999) Vol.37 No.3 *Osgoode Hall LJ* 513.
16. Michelman F '*Constitutional authorship, "Solomonic solutions", and the unoriginalist mode of constitutional interpretation*' (1998) *Acta Juridica* 208.

17. Michelman F.I 'On the uses of interpretive 'charity': Some notes on application, avoidance, equality and objective constitutionality from the 2007 term of the constitutional court of South Africa' (2008) 1 *Constitutional Court Review Pretoria University Law Press*.
18. Moseneke D Deputy Chief Justice of the Republic of South Africa 'Striking a Balance Between the Will of the People and the Supremacy of the Constitution' (2012) Vol. 129 (Part 1) *SALJ* 9.
19. Rautenbach IM 'Policy and judicial review – political questions, margins of appreciation and the South African constitution' (2012) 1 *TSAR* 2012 20-34.
20. Sinnott-Armstrong W 'Weak and Strong Judicial Review' (2003) 22 *Law and Philosophy Kluwer Academic Publishers* 381-392.
21. Tremblay L.B 'The legitimacy of judicial review: The limits of dialogue between courts and legislatures' (2005) 1 *Con. Vol.3 No.4 Oxford University Press and New York University School of Law* 617 – 648.
22. Tushnet M.V 'New Forms of Judicial Review and the persistence of Rights –and Democracy-Based Worries' (2003) 33 *Wake Forest L. Rev.*813-838.
23. Tushnet M.V 'The Rise of Weak-form Judicial Review' in Tom Ginsburg and Rosalind Dixon (eds) *Comparative Constitutional Law* (2011) 321-333.
24. van Zyl Smit J 'HRA section 3 and the limits of statutory interpretation' available at [www.statutelawsociety.org](http://www.statutelawsociety.org) (accessed on 20 September 2012).
25. Waldron J 'The Core Case Against Judicial Review' (2005-2006) 115 *Yale L.J.* 1346.
26. Woolman S 'The Amazing Vanishing Bill of Rights' (2007) 124 *SALJ* 762 – 794.

***J. International Law Instruments.***

1. European Convention on Human Rights.

***K. Internet Websites.***

1. <http://mg.co.za/article/2012-03-02-what-the-judicial-review-should-be-about> (accessed on 07 March 2012).
2. <http://mg.co.za/article/2011-11-04-courting-disaster-with-the-judiciary> (accessed on 09 February 2012).
3. <http://www.businesslive.co.za/southafrica/2012/03/05/we-can-change-the-constitution:redebe> (accessed on 06 March 2012).
4. <http://www.supremecourt.gov.uk/about/history.html> (accessed on 27 September 2012).
5. <http://www.judiciary.gov.uk/about-the-judiciary/introduction-to-justice-system> (accessed on 27 September 2012).
6. <http://www.constitutionalcourt.org.za/site/thecourt/history.htm#why> (accessed on 07 August 2012).
7. <http://www.timeslive.co.za/politics/2012/02/13/zuma-wants-constituional-court-powers-to-be-reviewed> (accessed on 15 February 2012).
8. [www.elections.org.za/content/Dynamic.aspx?id=1316&name=Elections&LeftMenuId=100&BreadCrumblD=220](http://www.elections.org.za/content/Dynamic.aspx?id=1316&name=Elections&LeftMenuId=100&BreadCrumblD=220) (accessed on 02 August 2012).
9. [http://www.ifaisa.org/Is\\_South\\_Africa's\\_Constitution\\_in\\_Danger?](http://www.ifaisa.org/Is_South_Africa's_Constitution_in_Danger?) (accessed on 30 May 2012).
10. <http://mg.co.za/article/2011-11-04-courting-disaster-with-the-judiciary> (accessed on 09 February 2012).



11. <http://www.politicsweb/view/politicsweb-Why-the-SCA's-Judgment-is-of-seminal-importance-Hele-Zille> (accessed on 24 March 2012).

## **WORD COUNT**

30 932 words, includes chapters and footnotes only.

