
Law of Persons

by Trynie Boezaart

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The aspirational nature of the transformative constitutional project in South Africa continues to serve as a catalyst for the ongoing development of the law. These developments have necessitated constant updates to existing textbooks to incorporate and evaluate the impact of the various legislative and judicial interventions. The new edition of the *Law of Persons* by Professor Trynie Boezaart is, as a result, a necessary, insightful, and timely update to a publication with an impressive publication history of more than 25 years. The seventh edition provides a comprehensive and well-structured analysis of the general principles of the law of persons in light of the applicable constitutional provisions, legislation and judicial precedent. The book demonstrates that courts remain alive to their obligation to ensure that the executive authority and the legislature adhere to their constitutional obligations. For instance, in *Kos v Minister of Home Affairs*, the court held that the Alteration of Sex Description and Sex Status Act 49 of 2003 was not implemented in accordance with its main objectives and purpose. The courts also carefully protected the child's best interests when, for instance, the child's rights to family and parental care were considered. In *Centre for Child Law v Director-General, Department of Home Affairs*, the court held that unmarried fathers are equally entitled to register their children in line with the Births and Deaths Registration Act 51 of 1992.

The book is divided into seven chapters. The first chapter mainly deals with definitions of concepts (legal subjects, including natural persons and juristic persons; legal subjectivity; status; the law of persons and justice and the Constitution). Chapter Two considers the beginning of legal subjectivity (birth, the protection of the unborn's interests, birth control, and the registration of births). There is a strong emphasis on the legal ramifications of the beginning of legal personality and the concept of birth. Chapter Three reflects on the meaning and relevance of domicile, the kinds of domicile, succession, and problem cases related to domicile (prisoners, members of the armed forces, diplomats, illegal immigrants, and persons residing at a particular place for health reasons). This chapter highlights that illegal immigrants lack domicile in South Africa and other jurisdictions. Nonetheless, they may be legalised and acquire domicile. Chapter Four considers the effect of age on status (classification of persons according to age, children's rights, infants, minors and the termination of minority). Chapter Five discusses children born of unmarried parents

(the categories of children born of unmarried parents, the status of children conceived by artificial fertilisation, proof of parentage, the legal relationship between a child and unmarried parents and changing the status of a child of unmarried parents). Chapter Six outlines the diverse factors that influence status, such as mental or physical illness, economically founded impediments, drunkenness, drug addiction, and the appointment of curators. The book aptly addresses the legal ramifications of the factors influencing status. The last chapter is allocated to the termination of legal subjectivity (determination of the moment of death, *commorientes*, proof of death, the presumption of death, the procedure in case of death, and the violation of a body or grave).

This edition incorporates valuable insights into the ongoing transformation of the law of persons in South Africa, specifically referencing the influence of the Bill of Rights and the court's role in this process. Recent examples of judicial reasoning are included to illustrate the judiciary's influence on the interpretation of various relevant Acts of Parliament. These include the Alteration of Sex Description and Sex Status Act of 2003, the Civil Union Act of 2006, the Children's Act of 2005, and the Births and Deaths Registration Act of 1992. Specific attention is given to the acquisition of parental responsibilities, the rights of unmarried fathers, surrogacy agreements and birth registration. The book contains a complete bibliography and tables of cases and statutes. The seventh edition is a well-structured, convenient, and valuable introduction to studying the law of persons.

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