

# Zuma and the right to dignity

 By [Gail Schimmel](#)

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Zuma's genitals kept me awake last night. Now there is a sentence that I never thought I would say. But I find myself struggling with this issue.

Usually, my personal morality falls pretty much in sync with mainstream liberal opinions - I'm pro gay marriage; I'm anti e-tolling; I'm pro-choice; I'm anti the [Protection of Information Bill](#); and yes, I find a president with multiple wives and a rape charge in his past just a bit, well, embarrassing.

And yet I find myself uncomfortable with the idea that, in the case of an artwork exposing Zuma's genitals, freedom of artistic expression triumphs over respect for human dignity.

## Issue often challenges advertisers

As a lawyer specialising in advertising law, the protection afforded to the individual's image falls squarely in my sphere of interest, and this is an issue that often challenges advertisers who want to use iconic figures in their campaigns.

For those of us who are not polygamous presidents, the law protects the use of our image without our consent in a number of ways. Underpinning these protections is a broad right to dignity - a right that is recognised in section 10 of the Constitution, as well as by our common law. Judge Chaskalson has called the right to life and dignity "the most important of all human rights".

Dignity is infringed when a person is insulted, and subjectively feels insulted. Now, obviously, the law recognises that some insults are justified. Especially if you are a president whose behaviour becomes public property and of legitimate interest to the people of the country. The courts have recognised that legitimate criticism can be a defence to a charge of infringing a person's dignity. It has also recognised a certain level of privilege that must be given to the media.

## Place for political satire

This is where political satire finds its place. Political satire is good. It is a necessary function of democracy. The case of the Zapiro shower head cartoons, for example, falls squarely in the type of criticism that a president must expect when he assumes office.

But an artwork satirising a person's penis without their consent? Is this clever political satire? I have to say, I am not convinced.

I think that there are many other subtle ways that the same point could be made, allowing Zuma to keep a basic level of human dignity that **all** of us, even polygamous presidents, deserve.

### **Certain category that deserves no dignity?**

There has been comment in the media about "earning respect" and "artistic freedom". I am absolutely convinced that freedom of expression is vital to our on-going democracy. What concerns me is that the moment we decide that there is a certain category of person that deserves **no** dignity - not the basic human dignity of having their genitals remain a matter between them and their many wives - then we are on a slippery slope.

Dignity is a fundamental right; and a disregard of dignity an underlying feature of regimes such as apartheid and Nazism. I think artistic freedom is very important. But allowing every human being - even the ones that we personally dislike and disrespect - a core of dignity should be fundamental to our democracy and our humanity.

After all, how would you feel if it were **your** genitals on display at the Goodman Gallery? Is this really justified by our zealous support of freedom of expression?

And, as a result, Zuma's genitals are keeping me awake at night.

### **ABOUT GAIL SCHIMMEL**

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