

ABSTRACTS

IWOBI, ANDREW UBAKA, Tiptoeing through a constitutional minefield: the great Sharia controversy in Nigeria, *Journal of African Law* 48 (2004): 111–164

Since the restoration of civilian rule in Nigeria in 1999, the governments of various Northern states have initiated reforms designed to remodel their legal systems in conformity with the Sharia. An issue which has generated intense controversy, especially in legal and political circles, is whether these reforms are consistent with certain key provisions of the 1999 Constitution. This study begins by tracing the historical process through which the application of the Sharia has emerged as a matter of profound constitutional importance in Nigeria. This is followed by a detailed analysis of specific provisions of the 1999 Constitution which are considered to have a direct bearing on the constitutionality of the Sharia reforms. Particular attention is paid to those provisions which proclaim the supremacy of the Constitution, prohibit the adoption of a state religion and prescribe the jurisdiction of various courts. Consideration is also given to the effect of various fundamental rights guaranteed by the Constitution on the Sharia penal regimes introduced as part of the reforms. The study demonstrates that various facets of the reforms are difficult to reconcile with the 1999 Constitution and concludes that fundamental constitutional reforms will be required to redress this state of affairs.

LLOYD, AMANDA, and MURRAY, RACHEL, Institutions with responsibility for human rights protection under the African Union, *Journal of African Law* 48 (2004): 165–186

The transformation of the Organization of African Unity (OAU) into the African Union (AU) has been the subject of some, albeit limited, debate. The role that the promotion and protection of human rights will play in the AU appears, on the face of the various documents, to be an important consideration, yet which organs will have responsibility in ensuring their implementation is still not clear. This article aims to discuss the framework of and relationship between the institutions established under the auspices of the OAU and how these have changed since the transformation to the AU. It argues that insufficient attention has been paid to ensuring a coherent and integrated approach to human rights across the Union. Organs such as the African Commission and the new African Court of Human and Peoples' Rights, however, have huge potential to influence the way forward.

ODHIAMBO-ABUYA, E., United Nations High Commissioner for Refugees and status determination *imtaxaan* in Kenya: an empirical survey, *Journal of African Law* 48 (2004): 187–206

This article reports the results of a survey that the author conducted on procedures used by the United Nations High Commissioner for Refugees (“UNHCR”) to assess applications for asylum in Kenya. It focuses on some core challenges facing the regime. The article is divided into six sections.

In the first, the procedures for seeking asylum are outlined. The second and third sections discuss issues relating to the financial situation of the UNHCR and, hence, its ability to process claims. The next section evaluates the contents of the letter that communicates an asylum decision and the extent to which it facilitates appeals. Questions regarding the removal of rejected claimants are examined in the penultimate section. In conclusion, the final section recommends that Kenya's refugee determination scheme needs to aim at realizing the standards set by UNHCR and international refugee and human rights laws. It also suggests that more efforts should be made at addressing the factors which produce refugees.

AYINE, DOMINIC M., Managing trade liberalization: legal system deficiencies and the political economy of contingency protection in Ghana, *Journal of African Law* **48** (2004): 207–238

This article proposes to critically examine how effectively Ghana has managed pressures by domestic import-competing industries and unionized labour for protection since the country engaged in radical and far-reaching trade liberalization under World Bank and IMF auspices. It argues that the heavy influence of public choice theory on the conception of regulatory role of government in the economy held by these principal architects of Ghana's trade reforms has resulted in the omission to provide for contingency protection measures for domestic industries adversely impacted by imports as a consequence of liberalization. Though these measures pose a counternormative threat to free trade, the article takes the position that they are necessary tools for the effective management of protectionist pressures and therefore for sustaining free trade itself. Finally, it concludes that the uncritical application of choice theoretic analyses to Ghana's trade reforms may be mistaken and that there is no rational alternative to dealing with the problem of protectionist pressure other than a resort to the legitimate mechanism provided under international law.

GALEGA, SAMGENA D., Strict liability for defective products in Cameroon? Some illuminating lessons from abroad, *Journal of African Law* **48** (2004): 239–267

Notwithstanding the weaknesses of the tort of negligence as a mechanism for compensating victims of defective products, it remains the only avenue for recourse when the rights of consumers in Cameroon are infringed. While strict liability for defective products has been introduced in several (mostly Western) jurisdictions, Cameroonian law in this context remains unchanged. This article makes a critical analysis of the reform/experiences in those jurisdictions. It argues against the prevailing negligence or fault-based system in Cameroon within the context of the contemporary global economic order and advocates for the introduction of a strict liability regime. It contends that law reform will not have any more negative consequences on the Cameroonian economy and nascent industries than it did in those jurisdictions where the scheme is currently operational. Nevertheless, it cautions on what to expect in the advent of law reform and sounds a warning note on the potential pitfalls for the Cameroonian legislator to guard against.