# Journal of African Law

VOLUME 54 2010

Published by Cambridge University Press for School of Oriental and African Studies University of London

# **Editorial board**

- F BANDA, Department of Law, School of Oriental and African Studies, University of London: email fb9@soas.ac.uk
- C BEYANI, Department of Law, The London School of Economics and Political Science: email c.beyani@lse.ac.uk
- N ENONCHONG, School of Law, University of Birmingham: email n.e.enonchong@bham.ac.uk
- R MURRAY, School of Law, University of Bristol: email Rachel.Murray@bristol.ac.uk
- E ONYEMA, Department of Law, School of Oriental and African Studies, University of London: email eo3@soas.ac.uk
- S WILLIAMS, School of Law, University of Nottingham: email sope.williams@nottingham. ac.uk

Consulting Editor

PE SLINN, Department of Law, School of Oriental and African Studies, University of London: email psl@soas.ac.uk

**Regional Correspondents** 

E ABUYA, Moi University, Eldoret, Kenya

RACE ACHARA, Enugu State University of Science and Technology, Nigeria

E NGWAFOR, University of Yaounde II, Cameroon

Published by Cambridge University Press for the School of Oriental and African Studies, University of London, Thornhaugh Street, Russell Square, London WC1H 0XG. Typeset by TechSet Composition Limited. Printed and bound by Bell & Bain, Glasgow, UK.

# Index

	muex	
Articles Adusei, Poku	Regulatory Diversity as Key to the "Myth" of Drug Patenting in Sub-Saharan Africa	Page 26–50
Brems, Eva and Adekoya, Charles Olufemi	Human Rights Enforcement by People Living in Poverty: Access to Justice in Nigeria	258-82
Chicktay, Mohamed Alli	Sexual Harassment and Employer Liability: A Critical Analysis of the South African Legal Position	283–97
Ebobrah, Solomon T	Critical Issues in the Human Rights Mandate of the ECOWAS Court of Justice	1–25
Igreja, Victor	Traditional Courts and the Struggle against State Impunity for Civil Wartime Offences in Mozambique	51-73
Nwabueze, Remigius N	Equitable Bases of the Nigerian Land Use Act	119–42
Nwapi, Chilenye	A Legislative Proposal for Public Participation in Oil and Gas Decision- Making in Nigeria	184–211
Odeku, Kola and Meyer, Edson	Climate Change Surge: Implementing Stringent Mitigation and Adaptation Strategies in South Africa	159–83
Okafor, Obiora Chinedu	Between Elite Interests and Pro-Poor Resistance: The Nigerian Courts and Labour-Led Anti-Fuel Price Hike Struggles (1999–2007)	95–118
Onoria, Henry	Botched-Up Elections, Treaty Amendments and Judicial Independence in The East African Community	74–94
Ukpe, Aniekan Iboro	Will EPAs Foster the Integration of Africa Into World Trade?	212–31
Weldehaimanot, Simon M	African Law of Coups and the Situation in Eritrea: A Test for the African Union's Commitment to Democracy	232–57
CASE NOTE Klaaren, Jonathan and Roux, Theunis	The Nicholson Judgment: An Exercise in Law and Politics	143–55
Review Article Mostert, Hanri	South Africa's Communal Land Rights Act: A Plea for Restraint in Reform	298-312
Book Reviews Kemp, Gerhard	International Justice in Rwanda and the Balkans – Virtual Trials and the Struggle for State Cooperation, by Victor Peskin	156-58
Oette, Lutz	Saviors and Survivors: Darfur, Politics and the War on Terror, by Mahmood Mamdani	313–18

# JOURNALS



International Review of the Red

http://journals.cambridge.org/irc

# REVIEW of the Red Cross

**INTERNATIONAL** 

*Editor-in-Chief* Toni Pfanner, The International Committee of the Red Cross, Switzerland

To subscribe contact Customer Services

is available online at:

Cross

in Cambridge: Phone +44 (0)1223 326070 Fax +44 (0)1223 325150 Email journals@cambridge.org

in New York: Phone +1 (845) 353 7500 Fax +1 (845) 353 4141 Email subscriptions\_newyork@cambridge.org The International Review of the Red Cross promotes reflection on humanitarian law, policy and action in armed conflict and other situations of collective armed violence. A specialized journal in humanitarian law, it endeavours to promote knowledge, critical analysis and development of the law and contribute to the prevention of violations of rules protecting fundamental rights and values.

### Price information is available at: http://journals.cambridge.org/irc

Free email alerts Keep up-to-date with new material – sign up at http://journals.cambridge.org/alerts

CAMBRIDGE

UNIVERSITY PRESS

For free online content visit: http://journals.cambridge.org/irc

https://doi.org/10.1017/S0021855310000124 Published online by Cambridge University Press

# Outstanding Titles from Cambridge!

Child Soldiers Sierra Leone's Revolutionary United Front Myriam Denov \$85.00: Hb: 978-0-521-87224-9: 246 pp. \$28.99: Pb: 978-0-521-69321-9





Genocide A Normative Account Larry May \$85.00: Hb: 978-0-521-19465-5: 296 pp. \$28.99: Pb: 978-0-521-12296-2

The Evolving Dimensions of International Law Hard Choices for the World Community John F. Murphy \$85.00: Hb: 978-0-521-88271-2: 296 pp. \$29.99: Pb: 978-0-521-70923-1



Migration and Human Rights The United Nations Convention on Migrant Workers' Rights Edited by Ryszard Cholewinski, Paul de Guchteneire, and Antoine Pecoud \$99.00: Hb: 978-0-521-19946-9: 472 pp. 539.99: Pb: 978-0-521-13611-2



The Limits of Transnational Law Refugee Law, Policy Harmonization and Judicial Dialogue in the European Union Edited by Guy S. Goodwin-Gill

and Hélène Lambert \$90.00: Hb: 978-0-521-19820-2: 280 pp.

Future Perspectives on International Criminal Justice Edited by Carsten Stahn and Larissa van den Herik \$195.00: Hb: 978-9-067-04309-0: 800 pp.



LEGAL THOUGHT AND PRACTICE



International Law and Armed Conflict Challenges in the 21st Century Edited by Noëlle Quénivet and Shilan Shah-Davis \$135.00: Hb: 978-967-04311-3: 462 pp.

The Law of Armed Conflict International Humanitarian Law in War Gary D. Solis \$89.00: Hb: 978-0-521-87088-7: 692 pp.



Now in Paperback! Enforcing Obligations Erga Omnes in International Law Christian J. Tams

Cambridge Studies in International and Comparative Law \$39.99: Pb: 978-0-521-12889-6: 424 pp.

Religion in Legal Thought and Practice Howard Lesnick

\$135.00: Hb: 978-0-521-11910-8: 644 pp. \$75.00: Pb: 978-0-521-13448-4

Prices subject to change.

www.cambridge.org/us





£ .....

https://doi.org/10.1017/S0021855310000124 Published online by Cambridge University Press

# Outstanding Titles from Cambridge!

### Now in Paperback!

Constitutional Rights in Two Worlds South Africa and the United States

### MARK S. KENDE

This book examines the South African Constitutional Court's first 15 years to determine how it managed to issue some of the world's most innovative human rights decisions. It also compares the South African rulings with those from the U.S. Supreme Court. The book concludes that the Supreme Court could learn some valuable lessons from the Constitutional Court's transformative yet pragmatic approach to difficult human rights questions. \$29.99: Paperback: 978-0-521-17176-2: 336 pp.

### **Fictions of Justice**

The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa

### KAMARI MAXINE CLARKE

By taking up the challenge of documenting how human rights values are embedded in rule of law movements to produce a new language of international justice that competes with a range of other formations, this book explores how notions of justice are negotiated through everyday micropractices and grassroots contestations of those practices.

Cambridge Studies in Law and Society \$85.00: Hardback: 978-0-521-88910-0: 350 pp. \$34.99: Paperback: 978-0-521-71779-3

### Justice and Reconciliation in Post-Apartheid South Africa

Edited by FRANÇOIS DU BOIS and ANTJE DU BOIS-PEDAIN

Here the authors assess the transitional processes under way since the early 1990s to create a stable and just society. Change in South Africa is often credited to the efforts of the Truth and Reconciliation Commission (TRC), but the work of this institution forms but a facet of a much broader picture. The authors look at the steps which accompanied and followed the TRC's activities, such as land restitution, institutional reforms and social and cultural initiatives.

Cambridge Studies in Law and Society \$103.99: Hardback: 978-0-521-88205-7: 334 pp.

Prices subject to change

www.cambridge.org/us/law







# JOURNALS



Leiden Journal of International Law is available online at: http://journals.cambridge.org/ljl

#### To subscribe contact Customer Services

in Cambridge: Phone +44 (0)1223 326070 Fax +44 (0)1223 325150 Email journals@cambridge.org

in New York: Phone (845) 353 7500 Fax (845) 353 4141 Email subscriptions\_newyork@cambridge.org

# Leiden Journal of International Law

Published for the Foundation of the Leiden Journal of International Law

Editor-in-Chief Larissa van den Herik, Leiden University, The Netherlands

Firmly established as one of Europe's leading journals in the field, the *Leiden Journal of International Law (LJL)* provides a forum for two vital areas, namely international legal theory and international dispute settlement. It is unique in providing the most comprehensive coverage of the world's most important international tribunals inThe Hague and elsewhere.

### Price information is available at: http://journals.cambridge.org/ljl

Free email alerts Keep up-to-date with new material – sign up at http://journals.cambridge.org/register

For free online content visit http://journals.cambridge.org/ljl

# JOURNALS



The Journal of Modern African

Studies

is available online at: http://journals.cambridge.org/moa

To subscribe contact

Phone +44 (0)1223 326070

Email journals@cambridge.org

subscriptions\_newyork@cambridge.org

Fax +44 (0)1223 325150

Phone +1 (845) 353 7500 Fax +1 (845) 353 4141

**Customer Services** 

in Cambridge:

in New York:

Email

# THE JOURNAL OF MODERN AFRICAN STUDIES

Editor

Christopher Clapham, University of Cambridge, UK

The Journal of Modern African Studies surveys developments in modern African politics and society. Its main emphasis is on current issues in African politics, economies, societies and international relations. Editorial policy avoids commitment to any political viewpoint or ideology, but aims at a fair examination of controversial issues.

# Price information is available at: *journals.cambridge.org/moa*

Free email alerts Keep up-to-date with new material – sign up at http://journals.cambridge.org/alerts

For free online content visit: http://journals.cambridge.org/moa



### NOTES ON STYLE FOR CONTRIBUTORS

The editors ask authors to observe the following notes on style in preparing their submissions. A full style guide is available on request from jal@soas.ac.uk.

### General

Articles should be no longer than 12,000 words (including footnotes). Please also provide an abstract of no more than 150 words at the beginning of the article. Use footnotes, rather than endnotes.

### Spelling

Use British English, but with the "ize", not "ise", suffix.

### Capitalization

Please use lower case for professional titles and generic terms such as government, director, minister, common law. The titles of treaties, acts, agreements, declarations, resolutions, conventions, etc should be capitalized and not italicized.

### Foreign words and phrases

Truly foreign words and phrases (except proper nouns) should be italicized and followed by a translation in square brackets. Please do not italicize words, phrases and abbreviations generally accepted in the English language.

### Abbreviations

Do not use full stops for abbreviations or for initials within names. Article, chapter, section, ordinance, proclamation, paragraph, etc should be in full and in lower case in the text, but abbreviated in footnotes to art, chap, sec, ord, proc, para etc. Abbreviated forms used in the text must be in full in the first instance, followed by the abbreviated form/acronym in brackets. Per cent to be written in full in the text; use % in footnotes.

### Punctuation

Punctuation should be "outside" quotation marks (unless the punctuation is clearly part of the quotation) and footnote cues should come after punctuation. Use "smart" double quotation marks, followed by single quotation marks within a quotation. Quotations more than five lines long in the text should be indented.

### Numerals and dates

Numbers and ordinals from one to ten inclusive should be spelled out; after that use digits. However, always use digits for footnotes, percentages and references to sections or pages of a document.

### Citations

Give all journal and book titles in full and in italics.

### Books

Author's initial and surname *Title in Italics* (volume or edition, year of publication, publisher) at page number.

### Chapters in edited volumes

Author's initial and surname "Chapter/article title in lower case" in Editor's initial and surname (ed) *Book Title in Italics* (year, publisher) page number of beginning of chapter at page number of quote.

### Journal articles

Author's initial and surname "Title in lower case" (year) volume/issue *Title of Journal in Italics* page number of beginning of article at page number of quote.

### Newspapers

Author's initial and surname "Title in lower case" (date of publication) *Title of Newspaper* (location if deemed necessary) at page number.

### Unpublished papers (eg conference papers)

Author's initial and surname "Title in lower case" (paper presented at name of conference, place, date) at page number of quote.

### Electronic sources

Cite using the phrase "available at: <http://...>", followed by the date last accessed in brackets. Please remove all hyperlinks.

### Cases

Cite cases in accordance with the normal practice in the relevant jurisdiction. Case names should be italicized.

### Abbreviating and cross-referencing citations

Author's surname Abbreviated Title in Appropriate Format for Book / Article etc, above/below at note XX. Do not use op cit, loc cit, supra, infra to refer to other footnotes. Use "ibid" to refer to an immediately preceding work with the same page number. Use "id" to refer to an immediately preceding author, or immediately preceding work with a different page number.

### Journal of



VOLUME 54 NUMBER 2 2010

### Contents

- 159 Climate Change Surge: Implementing Stringent Mitigation and Adaptation Strategies in South Africa Kola Odeku and Edson Meyer
- 184 A Legislative Proposal for Public Participation in Oil and Gas Decision-Making in Nigeria Chilenye Nwapi
- 212 Will EPAs Foster the Integration of Africa Into World Trade? Aniekan Iboro Ukpe
- 232 African Law of Coups and the Situation in Eritrea: A Test for the African Union's Commitment to Democracy Simon M Weldehaimanot
- 258 Human Rights Enforcement by People Living in Poverty: Access to Justice in Nigeria Eva Brems and Charles Olufemi Adekoya
- 283 Sexual Harassment and Employer Liability: A Critical Analysis of the South African Legal Position Mohamed Alli Chicktay

**Review Article** 

298 South Africa's Communal Land Rights Act: A Plea for Restraint in Reform Hanri Mostert

**Book Review** 

313 Saviors and Survivors: Darfur, Politics and the War on Terror, by Mahmood Mamdani Lutz Oette



Cambridge Journals Online For further information about this journal please go to the journal web site at: journals.cambridge.org/jal



Mixed Sources Product group from well-managed forests and other controlled sources www.fsc.org Cert.no. Tr-COC-002769 © 1996 Forest Stewardship Council

