

ISSN 0221-8553 Vol. 40, No. 1, 1996

JOURNAL OF

AFRICAN LAW

Edited by

S. F. R. COLDHAM, J. HATCHARD and P. E. SLINN

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

https://doi.org/10.1017/S0021855300007087 Published online by Cambridge University Press

EDITORIAL BOARD

- S. F. R. COLDHAM, Senior Lecturer in Law, School of Oriental and African Studies, University of London
- J. HATCHARD, British Institute of International and Comparative Law
- P. E. SLINN, Senior Lecturer in Law, School of Oriental and African Studies, University of London

Consulting Editor

A. N. ALLOTT, J. P., Emeritus Professor of African Law in the University of London, School of Oriental and African Studies

NOTES TO CONTRIBUTORS

1. Manuscripts must be typed in duplicate, with double spacing and on one side of the page only.

2. They should be sent to: Dr. P. E. Slinn or Dr. S. F. R. Coldham, Department of Law, School of Oriental and African Studies, Thornhaugh Street, Russell Square, London WC1H 0XG.

3. It is regretted that no payment can be made to contributors. Authors of articles receive 25 offprints free of charge.

4. It is a condition of publication in the Journal that authors assign copyright to the School of Oriental and African Studies. This ensures that requests from third parties to reproduce articles are handled efficiently and consistently and will also allow the article to be as widely disseminated as possible. In assigning copyright, Authors may use their own material in other publications provided that the Journal is acknowledged as the original place of publication, and Oxford University Press is notified in writing and in advance.

SUBSCRIPTIONS

Journal of African Law is published twice yearly in June and December by Oxford University Press at an annual institutional subscription of $\pounds 37$ in the UK and Europe, US\$63 elsewhere, single issues $\pounds 21$ in the UK and Europe, US\$63 elsewhere. Personal subscription of $\pounds 37$ in the UK and Europe, US\$63 elsewhere.

ORDER INFORMATION

Payment is required with all orders and subscriptions are accepted and entered by the volume number (two issues). Prices include air-speeded delivery to Australia, Canada, India, Japan, New Zealand and USA. Delivery elsewhere is by surface mail. Air mail rates are available on request. Payment may be made by cheque or Eurocheque (payable to Oxford University Press), National Girobank (account 500 1056), credit card (Access, Visa, American Express, Diners' Club), direct debit (please send for details), or UNESCO coupons. Bankers Barclays Bank plc, PO Box 333, Oxford, UK, code 20-65-18, account 00715654. Claims for non-receipt must be made within four months of dispatch/order (whichever is later).

Please send orders and request for sample copies to the Journals Subscriptions Department, Oxford University Press, Walton Street, Oxford OX2 6DP, UK. Tel: 01865 267907. Fax: 01865 267773.

ADVERTISING

Advertisements are welcomed and rates will be quoted on request. Enquiries should be addressed to Jane Parker, Advertising Sales Manager, Oxford University Press, Walton Street, Oxford OX2 6DP.

© School of Oriental and African Studies, University of London.

All rights reserved; no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the Publishers, or a licence permitting restricted copying issued in the UK by the Copyright Licensing Agency Ltd., 90 Tottenham Court Road, London W1P 9HE, or in the USA by the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923.

ISSN 0221-8553

https://doi.Typcatta7pointeds.audu/bournelsianedGanate bBeinnindgevulationepreferend & Company Ltd., Plymouth

AFRICAN LAW

VOLUME 40 1996

School of Oriental and African Studies University of London

EDITORIAL BOARD

- S. F. R. COLDHAM, Senior Lecturer in Law, School of Oriental and African Studies, University of London
- J. HATCHARD, British Institute of International and Comparative Law
- P. E. SLINN, Senior Lecturer in Law, School of Oriental and African Studies, University of London

Consulting Editor

A. N. ALLOTT, J.P., Emeritus Professor of African Law in the University of London, School of Oriental and African Studies

Published by Oxford University Press for the School of Oriental and African Studies, University of London, Thornhaugh Street, Russell Square, London WC1H 0XG. Typeset, printed and bound by Latimer Trend & Company Ltd.

INDEX

Articles		PAGE
Allott, Antony	The Journal of African Law 1957–96: Then and Now	143
Bussani, Mauro	Tort Law and Development: Insights into the Case of Ethiopía and Eritrea	43
Cotran, Eugene	Marriage, Divorce and Succession Laws in Kenya: Is Integration or Unification	
Daniels, W.C. Ekow	Possible? The Impact of the 1992 Constitution on Family Births in Charge	194
Jones, Chris	Rights in Ghana Plus Ça Change, Plus Ça Reste le Même? The New Zanzibar Land Law Project	183
Mackenzie, Fiona	Conflicting Claims to Custom: Land and Law in Central Province, Kenya, 1912–52	62
McAuslan, Patrick	Good Governance and Aid in Africa	168
Mutharika, A. Peter	The 1995 Democratic Constitution of Malawi	205
Mwaikusa, J.T.	The Limits of Judicial Enterprise: Judicial Powers in the Process of Political Change in	
Ndulo, Muna B. and Kent,	Tanzania Constitutionalism in Zambia: Past, Present and	243
Robert B.	Future The Dala of Terror Memory and in a Tandar	256
Ogowewo, Tunde I.	The Role of Target Management in a Tender Offer: The Position in Nigerian Law	1
Okafor, Obiora Chinedu	The Fundamental Right to a Passport Under Nigerian Law: An Integrated Viewpoint	53
Parker, Peter	South Africa and the Common Purpose Rule in Crowd Murders	78
Reyntjens, Filip	Constitution-Making in Situations of Extreme Crisis: The Case of Rwanda and Burundi	234
Slinn, Peter	James Read the Law Reporter: The Case Law of the African Commonwealth	279
Slinn, Peter, Coldham, Simon and Hatchard,	Introduction: Forty Years On—A Re-Reading of African Law	133
John Wanda, B.P.	The Rights of Detained and Accused Persons in Post-Banda Malawi	221
Woodman, Gordon R.	Legal Pluralism and the Search For Justice	152
Case Notes		
Obadina, Derek Ade	A Critique of Judicial Performance	106
Quansah, E.K.	Marriage by Divine Revelation: A Case of an	
\sim /	Unfulfilled Prophesy	103
Slinn, Peter	Floor-Crossing in Zambia	115
Recent Developments	Status of the Death Penalty	119
	Rights Commission in Uganda	119
	The Establishment of Free Zones in Ghana	119
	Tunisia Adopts a Code for the Protection of	
	Children	120
	Imprisonment of Judgment Debtors	120
INTERNATIONAL DEVELOPMENTS	Second Extra-ordinary Session of the African	
	Commission	121
	Action on the Harare Commonwealth Declaration	122
BOOK REVIEWS		
Hatchard, John	The Protection of Human Rights in African Criminal	
	Proceedings, edited by M. Cherif Bassiouni and	
	Ziyad Motala	129
Obadina, Derek	The Nigerian Judge and His Court, by J.D. Ogundere	127
Slinn, Peter	Law and Development in the Third World, edited by Yash Vyas et al.	128

JOURNAL OF AFRICAN LAW

Vol. 40 No. 1 CONTENTS THE ROLE OF TARGET MANAGEMENT IN A TENDER OFFER: THE POSITION IN NIGERIAN LAW Tunde I. Ogowewo 1 PLUS ÇA CHANGE, PLUS ÇA RESTE LE MÊME? THE NEW ZANZIBAR LAND 19 LÁW PROJECT Chris Jones TORT LAW AND DEVELOPMENT: INSIGHTS INTO THE CASE OF ETHIOPIA AND ERITREA Mauro Bussani 43 Å THE FUNDAMENTAL RIGHT TO A PASSPORT UNDER NIGERIAN LAW: AN 53 INTEGRATED VIEWPOINT Obiora Chinedu Okafor CONFLICTING CLAIMS TO CUSTOM: LAND AND LAW IN CENTRAL PROV-INCE, KENYA, 1912-52 Fiona Mackenzie 62 SOUTH AFRICA AND THE COMMON PURPOSE RULE IN CROWD MURDERS Peter Parker 78 **CASE NOTES** Marriage by Divine Revelation: A Case of an Unfulfilled Prophecy E. K. Quansah 103 A Critique of Judicial Performance Derek Ade Obadina 106 Floor-Crossing in Zambia Peter Slinn 115 **RECENT DEVELOPMENTS** Status of the Death Penalty 119 New Human Rights Commission in Uganda 119 The Establishment of Free Zones in Ghana 119 Tunisia Adopts a Code for the Protection of Children 120 Imprisonment of Judgment Debtors 120 INTERNATIONAL DEVELOPMENTS 121 Second Extra-ordinary Session of the African Commission Action on the Harare Commonwealth Declaration 122 **BOOK REVIEW** The Nigerian Judge and His Court, by J. D. Ogundere Derek Obadina 127 Law and Development in the Third World, edited by Yash Vyas et al. Peter Slinn 128 The Protection of Human Rights in African Criminal Proceedings, edited by M. Cherif Bassiouni and Ziyad Motala John Hatchard 129

African Affairs was founded in 1901 to commemorate and continue the work of Mary Kingsley on the study of Africa. Each issue contains five or six original articles on modern history, and social, economic and political developments. The articles reflect these disciplines and all regions of Africa, ensuring something of interest for most Africanists.

Recent and forthcoming articles

Vladimir Shubin

The Soviet Union/Russian Federation's Relations with South Africa with Special Reference to the Period since 1980

Wiseman Chirwa

Fishing Rights and Fears of Ecological Degradation along Southern Lake Malawi, 1920-64

Joseph Ayee

The Measurement of Decentralization: the Ghanaian Experience 1988-92

Kweku Ampiah

Japanese Aid to Africa: a Study of the Political Marketing of Japan in Africa

Roger Gocking

Ghana's Public Tribunals: an Experiment in Revolutionary Justice

David Simon

Restructuring the Local State in Post-Apartheid Cities: Namibian Experience and Lessons for South Africa

Douglas Anglin

International Monitoring of the South African Elections

Gisela Geisler

Troubled Sisterhood: Women and Politics in Southern Africa

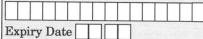
Tom Lodge The South African Elections of 1994

African Affairs THE JOUBNAL OF THE ROYAL AFRICAN SOCIETY Volume 95 1996 **ORDER FORM 1996** □ Please enter my subscription to: AFRICAN AFFAIRS Subscription rate Volume 95 (4 issues) □ Institutional £63/US\$118 □ Individual £36/US\$60 Please note: \pounds Sterling rate applies in Europe, US\$ rate elsewhere, and that customers in the EU, and in Canada, are subject to their local sales tax. Name..... Address.....

City/County..... Postcode.....

 \Box I enclose the correct remittance.

Please debit my American Express/ Diners/Mastercard/Visa/JCB Card Number



For further subscription informa-

tion please write to: Journals Marketing (X96), Oxford University Press, Walton Street, Oxford,

OX2 6DP, UK.

Fax:(+44) (0) 1865 267485