

Table of cases

A

<i>Abassi v Secretary of State for Foreign and Commonwealth Affairs</i> (2003) 42 ILM 358.....	301,304
<i>Al-Jedda v The United Kingdom</i> ECHR (Grand Chamber) Decision of 7 July 2011..	107
<i>Arab Organization for Industrialization, Arab British Helicopter Company</i> <i>and Arab Republic of Egypt v Westland Helicopters, United Arab Emirates,</i> <i>Kingdom of Saudi Arabia and State of Qatar</i> (1987) 80 ILR 622.....	110
<i>Australia and New Zealand Banking Group v Commonwealth of</i> <i>Australia; Amalgamated Metal Trading v Department of Trade and</i> <i>Industry; Maclaine Watson v Department of Trade and Industry; Maclaine</i> <i>Watson v International Tin Council</i> (1990) 29 ILM 675.....	110
<i>Azanian Peoples Organisation (AZAPO) v President of the Republic of South</i> <i>Africa</i> 1996 8 BCLR 1015 (CC), 1996 4 SA 671 (CC).....	311

B

<i>Barcelona Traction, Light and Power Company</i> 1970 ICJ Rep 44.....	229
<i>Beer und Regan v Germany</i> 1999 ECHR 6.	277,278
<i>Behrami and Behrami v France; France and Saramati v France, Germany</i> <i>and Norway</i> ECHR Decision (Grand Chamber) of 2 May 2007.	107
<i>Beric v Bosnia and Herzegovina</i> ECHR Decision of 16 October 2007.....	107
<i>Binga v Cabinet for South West Africa</i> 1988 3 SA 155 (A).....	310,311

C

<i>Carmichele v Minister of Safety and Security</i> 2001 (10) BCLR 995 (CC).	180
<i>Carmichele v Minister of Safety and Security (Centre for Applied Legal Studies</i> <i>Intervening)</i> 2001 4 SA 938 (CC) 968.....	308
<i>Case concerning the Frontier Dispute</i> (Burkina Faso/Republic of Mali) Judgment of 22 December 1986 ICJ Rep.....	7
<i>Commission v Council</i> [2005] ECR I-7879.	123
<i>Consortium X v Swiss Federal Government (Conseil federal)</i> Chambre sociale 25 janvier 2005 04-41012.	278
<i>Costa v ENEL</i> 1964 ECR 614.....	45
<i>Creighton Ltd v Government of the State of Qatar</i> 127 ILR 154.....	281
<i>Criminal proceedings against Maria Pupino</i> [2005] ECR I-5285.....	123,125

E

<i>East African Development Bank (EADB) v Blueline Enterprises CACA</i>	
110/2009.	261-282
<i>Eastern African Development Bank v Ziwa Horticultural Exporter Limited</i>	
Application No 1048 of 2000.	269,272

F

<i>Fisheries Jurisdiction (Federal Republic of Germany v Iceland), Jurisdiction of the Court, Judgment 1973 ICJ Rep.</i>	23
<i>Fisheries Jurisdiction (United Kingdom v Iceland), Jurisdiction of the Court, Judgment 1973 ICJ Rep.</i>	23

G

<i>Gabcikovo-Nagymaros case, Judgment of 25 September 1997 ICJ 1997.</i>	7
<i>Gajic v Germany ECHR Decision of 28 August 2007.</i>	107
<i>Germany v Council 1998 ECR I-973.</i>	48
<i>Glenister v President of the Republic of South Africa 2011 3 SA 347 (CC).</i>	307-325
<i>Government of the Republic of South Africa v Von Abo 2011 (3) All SA 261 (SCA).</i>	298-307

H

<i>Harksen v President of the Republic of South Africa 2000 2 SA 825 (CC)</i>	307
<i>Hornsby v Greece Application No 18357/91 19 March 1997.</i>	266,267,281

I

<i>Interhandel case (Switzerland v United States of America) Preliminary objections ICJ Rep 1959 6.</i>	300
<i>Immobiliare Saffi v Italy Application No 22774/93 European Court of Human Rights 28 July 1999.</i>	266

K

<i>Kasumaj v Greece ECHR Decision of 5 July 2007.</i>	107
<i>Kaunda v President of the Republic of South Africa 2005 (4) SA 235 (CC).</i>	299,303,306,307

L

<i>Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua intervening) Judgment of 11 September 1992 ICJ Rep 1992.</i>	7
<i>Liberian Eastern Timber Corp v Government of Republic of Liberia 650 F Supp 73 1986.</i>	281
<i>Lisbon Treaty Judgment German Constitutional Court 30/06/2009.</i>	46
<i>Lutcher SA Cellulose e Papel v Inter American Development Bank 382 F 2d 454 1966, 1967 ILR 183.</i>	270

M

<i>Maclaine Watson v Department of Trade and Industry; JH Rayner (Mincing Lane) v Department of Trade and Industry</i> (1988) 80 ILR 109.....	109
<i>Maluleke v Minister of Internal Affairs</i> 1981 1 SA 707 (B).....	309,211
<i>Marvin R Broadbent et al v Organization of American States</i> 628 F 2d 27 1980.....	264
<i>Mavrommatis Palestinian Concessions case</i> PCIJ Series A No 2 1924.....	300

P

<i>Pan American World Airways Incorporated v SA Fire and Accident Insurance Co Ltd</i> 1965 3 SA 150 (A).....	309,311
<i>Parliament v Council</i> [1999] ECR I-869.....	122
<i>Pharmaceutical Manufacturers Association of South Africa: In re Ex parte President of the Republic of South Africa</i> 2000 (2) SA 674 (CC); 2000 (3) BCLR 241 (CC).....	303
<i>President of the Republic of the South Africa v Quagliani, and two similar cases</i> 2009 2 SA 466 (C).....	309,310
<i>Progress Office Machines CC v South African Revenue Service</i> (2007) 4 All SA 1358 (SCA).....	311

Q

<i>Quagliani v President of the Republic of South Africa; Van Rooyen and Brown v The President of the Republic of South Africa</i> (unreported, TPD Cases Nos 959/04 and 28214/06).....	309,310
---	---------

R

<i>R (on the application of Al-Jedda) (FC) v Secretary of State for Defence</i> 2007 UKHL 58.....	108
<i>R v Khan, Khan and Khan</i> 2010 EWCA Crim 2880.....	135
<i>R v Maka</i> 2006 2 Cr App R (S) 14.....	135
<i>R v Makai (Atilla)</i> 2008 1 Cr App R (S) 73.....	135
<i>R v Plakici</i> 2005 1 Cr App R (S) 19.....	135
<i>R v Roci and Ismailaj</i> 2006 2 Cr App R (S) 15.....	135
<i>Reparations for Injuries Suffered in the Employment of the United Nations</i> 1949 ICJ Rep 174.....	226
<i>Respublica v De Longchamps</i> (1784) I Dallas Reports III.....	230

S

<i>S v Makwanyane</i> 1995 3 SA 391 (CC) 413.....	308
<i>Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health</i> 1982 ECR 3415.....	47
<i>SS Lotus (France v Turkey)</i> PCIJ Rep ser A No 10 (1927).....	128
<i>Stauder v City of Ulm</i> 1969 ECR 419.....	46
<i>Swissbourgh Diamond Mines (Pty) Ltd v Government of the Republic of South Africa</i> 1999 2 SA 279 (T).....	310,314

T

Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Honduras/Nicaragua) Judgment of 8 October 2007 ICJ 2007. . . . 7

U

United States v Frank US (11th Circuit) 15th March 2010.. . . . 128

V

Van Gend en Loos v Nederlandse Administratie der Belastingen 1963 ECR 1.. . 45

Van Zyl v Government of the RSA 2008 (3) SA 294 (SCA); 2008 (1) All SA 102 (SCA).. . . . 229,301

Von Abo v Government of the Republic of South Africa 2009 (2) SA 526 (T). 298-307

W

Waite and Kennedy 1999 ECHR 13.. . . . 277,278

Y

Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union 2008 ECR II-3533. 48

Subject index

A

Administration of justice
 United Nations. 247
 Affirmative action. 57-59
 Africa
 African Peer Review Mechanism. 183-201
 Objectives. 187
 Climate change. 201-208
 Democracy. 186,195,218
 Economy. 62-64
 Foreign investment. 61-93
 Integration. 209-225
 Political stability. 183-201
 African Commission on Human and People's Rights.. . . . 149
 African Peer Review Mechanism. 183-201,221
 African Tax Administration Forum. 149
 African Union.. . . . 147,183,186,209-225
 Dissolution. 219
 Institutions.. . . . 215
 Universal jurisdiction. 246

<i>Table of cases</i>	389
Antarctica.....	161
Treaty.....	161
Armed groups.....	226-236
Obligations.....	230,232
Personality of.....	232-236
Articles on the Responsibility of International Organisations.....	94-119
Scope.....	100
Asian-Legal Consultative Organization.....	149
 B	
Banjul Charter.....	279
Botswana	
Taxation.....	69-71
 C	
Cabora Bassa <i>see</i> Cahora Bassa	
Cahora Bassa hydroelectric project.....	1-36
Capital gains tax.....	82-84
Children	
Human trafficking.....	130,140
Climate change.....	154-161
Africa.....	201-208
Copenhagen Accord.....	201
Durban Platform.....	155,159,202
Climate change	
Kyoto Protocol.....	154,159
United Frameworks Convention.....	202-208
Vulnerability Principle.....	201-208
Common Monetary Area.....	88
Companies	
Capital gains tax.....	82-84
Controlled foreign.....	75,76,91
Gross income test.....	74
Group of.....	88
Headquarters.....	61-93
Holding.....	65-66
Management fees.....	85
Secondary tax on.....	77,91
Thin capitalisation.....	79
Companies Act 71 of 2008.....	73
Constitution of the Republic of South Africa, 1996.....	298-307
Constitutional Pluralism.....	37-60
And affirmative action.....	57-59
And human rights.....	54-56
Origins.....	45
Third world.....	55

Constitutionalism.	37-60
Eclectic concept of.	43-44
Statist concept of.	39-43
Controlled foreign companies.	75,91
Convention on Climate Change (1992)	
Article 3(1).	204,205
Article 3(2).	202,203,204,205,206,207,208
Article 4(4).	203,206,207
Article 4(8).	203,207
Article 4(9).	203,207
Article 4(10).	203,207
Convention on the Privileges and Immunities of the Specialized Agencies.	262
Convention on the Rights of the Child.	230-231
Copenhagen Accord.	201
Council of Europe	
Human trafficking.	124
Criminal accountability	
UN officials.	244
Customs	
Southern African Customs Union.	149

D

Democracy	
Africa.	186,195,218
Diplomatic protection.	28-307
Directive on Preventing and Combating Human Trafficking.	120-145
Discrimination	
Against women.	163-182

E

East African Development Bank.	261-282
Economy	
South Africa.	62-64
Election violence	
Kenya.	192-195
Electricity.	1-36
Escom.	1-36
Ethics and law.	44
European Contract Law.	27
European Convention on Human Rights.	279
European Court for Human Rights.	263,281
European Union.	217
Directive on Preventing and Combating Human Trafficking.	120-145
Exchange controls.	88

F

Feminism.	163-182
----------------	---------

Foreign investment	
Africa.	61-93
Frelimo.	2,15,16,32,33
French <i>Code Civil</i>	
Article 1302.	26
Functional immunity.	261-282

G

Geneva Conventions.	226,228
Group of companies	
Definition.	88

H

Headquarter companies.	73
Definition.	90
Exchange controls.	88
Human rights.	54-56,228
African Commission.	149
Human trafficking.	120-145
Human trafficking.	120-145
Children.	130,140
Compensation.	131,141
Council of Europe.	124
Definition.	126-127,135
National Rapporteurs.	133,144
Prevention.	132,142
Council of Europe	
Sexual Offences Act 2003 (UK).	134
Support for victims.	129,139
United Kingdom.	133
Hydroelectric projects.	1-36

I

Immunity	
functional.	261-282
of assets.	270
waiver of.	265,266
Income Tax Act 58 of 1962.	73,76,77,78,79,81,82,83,85,86,88,91
Individual rights.	283-292
Intellectual property.	154
International Centre for Settlement of Investment Disputes.	290-291
International Constitutional Law.	37-60
International Court of Justice	
Articles on the Responsibility of International Organisations.	113
International Covenant on Civil and Political Rights.	2,79
International Covenant on Economic, Social and Cultural Rights (1976).	56
International Criminal Court.	150,152

International Environmental Law.....	202
International Human Rights.....	229
International Humanitarian Law.....	227,232
International Law	
Armed groups obligations.....	230
Diplomatic protection.....	283-292
Exclusivity.....	179
Feminist perspectives.....	163-182
Human trafficking.....	120-145
Jurisdiction.....	127
Legal personality.....	227
Queer perspectives.....	163-182
Study, teaching of.....	258
United Nations	
Sixth Committee.....	237-260
Status of the individual.....	228
Women's rights.....	164,167,173
International Law Commission.....	94,147,226,242,249
Reports.....	249
International legal personality.....	98-99
International Organisations	
Accomplice liability.....	108-109
Definition.....	100-102
Functional immunity.....	263
Position of members.....	104-106
Responsibilities.....	94-119
Rules of the.....	102-104
State responsibilities.....	110
Wrongful acts.....	94-119
International wrongful acts.....	94-119

J

Jurisdiction	
Human trafficking.....	127
United Kingdom.....	138
Universal.....	246

K

Katz Commission.....	63,67,71-72,86,89,90
Kenya	
Democracy.....	196
Election violence.....	192
Kyoto Protocol.....	154,204,205

L

Land grabs	
Zimbabwe.....	298-307

<i>Table of cases</i>	393
Lusaka Agreement.	2
M	
Mali.	196
Management fees.	85
Margo Commission.	63,64
Mauritius	
Income Tax Act 1995.	69,85
Taxation.	68-69
Mozambique.	1-36
Treaties.	1-36
N	
Natural persons.	242
NEPAD.	183-201,216
Nkomati Accord.	20
Non-governmental Organizations.	163-182
Non-state Armed Groups.	226-236
O	
Observer status	
United Nations.	259
OECD.	63,67,68,73,78,79,85
Organisations, international	
Responsibilities.	94-119
P	
Pan African Parliament.	147,215
Peer Review Mechanism	
Africa.	183-201
Pluralism	
Constitutional.	37-60
Political stability	
Africa.	183-201
Portugal.	1-36
Treaties.	1-36
Poverty alleviation.	56-57
Predecessor states.	1-36
Q	
Queer theories.	163-182
R	
Red Cross	
International Committee.	228
Revenue Laws Amendment Act 59 of 2000.	72

Revenue Laws Amendment Act 45 of 2003.....	71,91
Rights	
individual.	298-307
Rome Statute.	247
Rule of law	
United Nations.	257

S

Secondary tax on companies.	77
Securities Transfer Tax Act 25 of 2007.....	87
Sexual Offences Act 2003 (UK).....	134
South Africa	
Company regime.	61-93
Diplomatic protection.	298-307
Economy.	62-64
Fiscal environment.	67-92
Foreign investment in.	61-93
Public diplomacy.....	162
Taxation.	67-92
Treaties.	1-36
Xenophobia.....	188
Southern Africa Development Community.	148
Tribunal.....	148
Southern African Customs Union.....	149
Sovereignty.....	212,215
Space law.	161
State immunity.....	262
State Law Adviser	
Report.	146-162
State succession.	1-36
Vienna Convention on Succession of States.....	5
UN Sixth Committee.....	242
State responsibilities	
Articles on the Responsibility of International Organisations.....	110
Succession of states.	242

T

Tanzania.....	261-282
Court of Appeal.....	261-282
Taxation.	61-93
African Tax Administration Forum.....	149
Botswana.....	69-71
Capital gains.	82-84
Management fees.....	85
Mauritius.....	68-69
Secondary tax on companies.....	77,91

Taxation

Securities Transfer Tax Act 25 of 2007.	87
Treaties.	84
Taxation Laws Amendment Act 7 of 2010.	71,73,75,76,79,80,81,83,91
Taxation Laws Amendment Act 24 of 2011.	73,82,86,90
Terrorism	
Conventions.	240
Sixth Committee.	240
Third world.	55
Transboundary aquifers.	243
Transfer pricing.	79
Treaties.	1-36,161
Antarctica.	161
Electricity.	1-36
Portugal.	1-36
South Africa.	1-36
Tax.	84
Treaty survival.	1-36

U

Ubuntu.	158
UNCITRAL.	252
UNIDROIT.	153-154,161
United Kingdom	
Human trafficking.	120-145
National Rapporteur on.	144
Prevention.	143
Victims.	139
Jurisdiction.	138
Legislation.	134,136,137
Sexual Offences Act 2003.	134
United Nations	
Administration of justice.	247
Charter	
Article 1.	50,171
Article 2.	171
Article 61.	172
Article 71.	163-182
Report on.	254
Climate change.	154
Consultative status.	163-182
COPUOS.	162
Economic and Social Council.	163-182, 186,203,215
General Assembly.	237-260
Headquarters.	256
Legal Committee.	237-260
Observer status.	259

United Nations

Officials

Criminal accountability. 244

Outer space. 161

Recognition of. 228

Rights

Women. 163-182

Role of UN. 254

Rule of law. 257

Security Council. 150,152

Sixth Committee. 237-260

Administration of justice. 247

International Law. 258

Natural persons. 242

Observer status. 259

Role of UN. 254

Rule of law. 257

Succession of states. 242

Terrorism. 240

Transboundary aquifers. 243

UN Headquarters. 256

UN officials

Criminal accountability. 244

UNCITRAL. 252

Universal jurisdiction. 244,246

UN Sixth Committee. 246

V

Venda. 149

Vienna Convention on Succession of States 1978. 5

Article 2(f). 6

Article 11. 7

Article 12. 7,21

Article 15. 8,10

Article 16. 6

Article 17. 6

Article 24. 6

Article 34. 10

Article 35. 10,21

Vienna Convention on the Law of Treaties 1969

Article 26. 206

Article 29. 8,10

Article 48. 34

Article 61(1). 22,24,25,29,36

Article 62. 34

W

WIPO..... 154

Women

 Rights. 163-182

Wrongful acts

 International organisations. 94-119

X

Xenophobia. 188-192

Z

Zimbabwe

 Land grabs..... 298-307