

Editorial Introduction to the Special Issue: Advancements in International Law—Navigating the Frontiers of Aviation, Aerospace, Maritime Studies and the Fourth Industrial Revolution (4IR)

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This themed section of the 2024 volume of the South African Yearbook of International Law features selected papers from the third UNISA APGroN Conference held from 6–8 December 2023 at the Muckleneuk Campus in Pretoria, South Africa. The theme of the conference was ‘Advancements in International Law: Navigating the Frontiers of Aviation, Aerospace, Maritime Studies and the Fourth Industrial Revolution (4IR).’ The College of Law partnered with the Afrikan Peer Growth Network (APGroN) to bring together 40 scholars from across the globe to deliberate issues of concern to the African scholar with the hope of finding autochthonous solutions for transforming and reforming the African legal and economic landscape. While some of the papers from the conference were collated to produce an edited book focusing on the teaching of international law in Africa, these six papers were considered for publication in this volume owing to the international law leanings of their subject matter.

Freedom Panganayi

In his paper, ‘An Analysis of the Obligations of COMESA Public Procurement Regulations: The Case of Zimbabwe’s Public Procurement Regulatory Framework,’ Panganayi examines the interplay between international and domestic law within the context of public procurement. The paper examines the constitutionalisation of public procurement in Zimbabwe following the adoption of the 2013 Constitution, which mandates adherence to both domestic principles and international law obligations. As a founding member of the Common Market for Eastern and Southern Africa (COMESA), Zimbabwe must implement COMESA’s Public Procurement Regulations aimed at fostering regional trade. The study assesses how these regulations have been integrated into Zimbabwe’s municipal law and evaluates the extent to which Zimbabwe’s legal framework aligns with the established public procurement principles. By critically analysing the compliance and shortcomings of Zimbabwe’s public procurement laws in relation to COMESA’s standards, the paper offers valuable insights and legislative

recommendations. This contribution is pivotal, occurring over a decade after the introduction of the Public Procurement Regulations, and enriches the thematic focus of the 2024 volume of SAYIL on international law, regional law and regional cooperation, and how these interact with the domestic legal framework.

Privilege Chanana and Konanani Happy Raligilia

In their work titled ‘State Responsibility Towards Civil and Political Rights in Africa: A Reflection of the Right to Liberty and Security of Persons in Zimbabwe Under International Law,’ Chanana and Raligilia investigate the responsibility of the state towards the fulfilment of the right to liberty and security of a person in Africa. This paper emphasises the state’s role in advancing civil and political rights by arguing that the right to liberty in Africa has been underexplored. It further argues that there is less comparative discourse in terms of how different states have fulfilled their roles regarding the responsibility towards the right to liberty. In achieving this comparative exercise, three countries are chosen: South Africa, Kenya and Zimbabwe. Zimbabwe is notorious for denying its citizens the right to liberty and Kenya and South Africa have made considerable progress in providing the leeway for its people to enjoy their constitutional right to liberty. Thus, an interplay between these countries in relation to the right to liberty is discussed. In addition, this contribution seeks to deepen the understanding of state responsibility and address challenges and successes in upholding the right to liberty in the continent, adding to the wider scholarship on this fundamental human right from both domestic and international angles. Therefore, this paper reinforces the appreciation of the intricate balance between state sovereignty and the advancement of fundamental rights of the citizenry under the spirit of both regional and international law.

Thulane Lehlongwa

The African Continental Free Trade Agreement (AfCFTA) highlights a unified initiative to enhance economic relationships across Africa, paving the way for the continent to achieve self-reliance. Central to the major objectives of the AfCFTA is the prevalence of the free movement of persons, which aims for a seamless economic integration and also, to promote the development of agriculture, industrialisation, food security and transformation in a structured manner in line with the African Union’s Agenda 2063. In his article, ‘A Continental Free Trade Area in the Absence of the Free Movement of People is Inconceivable,’ Lehlongwa argues that the full realisation of a continental free trade area is unimaginable without the free movement of people. His research examines the potential of the free movement of people as a driving factor towards the attainment of the AfCFTA objectives and highlights its importance in facilitating regional economic cohesion, its demonstrated successes and possible impediments in implementing the agreement. To properly contextualise the fact that the AfCFTA is inconceivable in the absence of the phenomenon of free movement of people, the author assesses whether this concept is indeed the bedrock for that agreement

to succeed. Moreover, this work adopts a comparative approach between similarly entrenched regional trade agreements, such as the one from the European Union model, and extracts key lessons and best practices that would foster a smooth implementation of the AfCFTA. This treatise offers a valuable insight into the AfCFTA and its socio-economic aspirations and further contributes to the literature around regional integration and its implications on international law.

Rufaro Chikuruwo

Chikuruwo's paper highlights a conceptual analysis of ecologically driven sustainable development and proposes a shift away from the sometimes ambiguous sustainable development, with particular emphasis on section 24(b)(iii) of the Constitution of the Republic of South Africa, 1996. With section 24(b)(iii) calling for ecologically sustainable development and the responsible use of natural resources while advancing equitable economic and social progress, Chikuruwo, in his work titled 'From Sustainable Development to Ecologically Sustainable Development: A Reappraisal of Section 24(b)(iii) of the Constitution of South Africa, 1996,' argues that ecologically sustainable development places environmental protection above unrestrained economic or social development and that represents a clear departure from sustainable development's traditional, but occasionally ambiguous balance of environmental, social, and economic objectives. This study emphasises the role of international law arguing that development must be within ecological boundaries, in line with the principles outlined in the Rio Declaration (1992) which, for instance, advocates for the promotion of three pillars of sustainable development: social concerns, environmental protection and economic development. In this regard, this article consolidates the literature that suggests a pragmatic adoption of more ecologically orientated sustainable development, grounded in the South African Constitution and international environmental law.

Dejo Olowu

Olowu's study, 'Between Islam and International Law: Quest for Common Ground and the Human Dignity Alternative' seeks to harmonise Islamic law with international law by using the right to human dignity as a common denominator to facilitate discourse between these two legal systems. While acknowledging that the scope, interpretation and practical application of human dignity remain contentious among scholars of international human rights law, the author argues that it nonetheless serves as a catalyst for reconciling Islamic law with international law. Olowu contends that reconciling these two distinct legal frameworks could play a pivotal role in fostering understanding and appreciation of the rights and obligations within and beyond the Muslim community. His work advocates for a pragmatic shift in the curriculum and the adoption of teaching methods that aim to find common ground between the legal traditions mentioned above, thereby discouraging narrow perspectives on international law, especially when it is seen as incompatible with Islamic law. This research output is a

collaboration of two legal systems and tries to synchronise their mutual coexistence. Thus, this article provides a helpful discussion of how Islamic law might intertwine with international law and how human dignity may unify these two systems.

Lilian Onyinyechi Uche and Oluchi Azoro-Amadi

In their contribution, ‘Aligning Nigeria’s International Obligations: A Comprehensive Analysis of Environmental Protection within the Industrial Law and Policy Framework,’ Uche and Azoro-Amadi address the important aspect of environmental protection, highlighting Nigeria’s gap in its labour and industrial policies towards sustainable practices. The authors state that Nigeria is experiencing environmental degradation and argue that this is mainly due to a lack of environmental considerations in policymaking on the one hand and a failure to domesticate international environmental standards on the other. By adopting certain guidelines and demarcating procedures towards waste management, pollution, the use of energy and emissions reduction and in addition to employee training and engagement in sustainable practices, the authors contend that businesses can enhance their long-term success and reputation as such initiatives will minimise environmental impact. Appreciating that businesses play a key role in preserving the environment in a sustainable manner considering international obligations and policies of the country, the study proposes regular checks and balances towards such an obligatory commitment and also recommends continual improvements in national environmental laws. This research examines Nigeria’s environmental and industrial policies by analysing the domestic law and adopting a literature review. Further, it investigates the feasibility of refining or amending these policies compatibly with the commitments and obligations that arises from international law. In doing so, the authors extract lessons on how these procedures are practised in other countries.

We hope that this themed section highlights the key issues of concern and interest to international law, currently unfolding within African states. It is only by addressing real world challenges through African legal scholarship and solutions proposed by African scholars that we can meaningfully contribute to the continent’s development. Hence the scholars featured in this section write from multi-, inter- and trans-disciplinary perspectives, thereby enriching the range of possible solutions. We hope you will enjoy reading this volume.

The Editors