

# **Diplomatic Protection of Human Rights as practised by South Africa and Nigeria**

**Emmanuel Okon**

**Submitted in fulfilment of the requirement for the degree  
Doctor Legum (LLD)**

**In the Department of Public Law, Faculty of Law,  
University of Pretoria**

**Under the supervision of Professors M. Olivier (Supervisor)  
C. Nicholson & M. Hansungule (Co-supervisors)**

**2010-06-15**



## DEDICATION

To God, my family and friends

## ACKNOWLEDGMENTS

I owe a debt of gratitude to my supervisor and co-supervisors, Professors M Olivier, C Nicholson and M Hansungule, for their untiring patience and absolute dedication to duty, in guiding me with love, throughout this programme. Their professional insight, meticulous approach to the subject and understandable demand for details are reflected in the thesis. Indeed, this work is a product of the input from three great minds. I however accept full responsibility for any error of omission or commission in this thesis

I thank the University of Uyo for granting me study leave with pay to study at the University of Pretoria. I also thank Ime Nkannor of the United Bank for Africa, for her selfless efforts towards assisting me throughout the duration of the programme, particularly, by remitting funds to me when I most needed them. My special gratitude goes to Carole Viljoen of the Centre for Human Rights in painstakingly helping in formatting and arranging this work. Without her invaluable input, perhaps the thesis would not have materialized in this appreciable form.

I am also grateful to my family and friends for their support and understanding throughout the duration of the programme. Finally, I thank the Almighty God for his never-ending love and abundant mercies.

I declare that this thesis, **Diplomatic Protection of Human Rights as practised by South Africa and Nigeria** is my original work both in conception and execution and that all the sources I have used or quoted have been acknowledged by means of complete reference. I also declare that this thesis has not been previously submitted by me for a degree at any other tertiary institution

***Emmanuel Okon***

## SUMMARY

The main purpose of this research is to examine and assess the extent to which Nigeria and South Africa are prepared to invoke diplomatic protection in order to safeguard the human rights of their nationals living abroad and to determine whether there are constitutional provisions empowering them to do so. Diplomatic Protection is an institution in international law whereby a state may take diplomatic action to protect its national who has suffered some harm or injury in a foreign land, but, has not been compensated by the government of the responsible state. The practice of diplomatic protection is believed to have originated in 16<sup>th</sup> century Continental Europe, and that Vattel, a Swiss jurist and diplomat was the father of the concept. In a broad sense however, Diplomatic Protection also includes the functions performed by diplomatic missions and consular officials. It is an important institution in international law in terms of the redress it affords to individuals who suffer from injuries sustained in foreign countries.

Diplomatic protection is examined from the legal and human rights perspectives in this thesis. The method adopted for the research is to identify and critically analyze certain rights which foreigners enjoy outside their countries in order to determine whether these rights can be diplomatically protected in Nigeria and South Africa and the circumstances under which such rights can be denied, derogated or limited by the two states.

The choice of the human rights adopted in this research is determined by their importance to the individual generally, and their utility to any individual living in a foreign land. The categories of rights adopted for the examination include, fundamental rights, which are rights so basic to the individual that they cannot be derogated from even in times of national emergencies. Such rights include the right to life, the right to be free from discrimination and the right to be free from torture and other inhuman treatment or punishment.

The second category of rights examined is the right to own private property in a foreign land, while the third category is procedural rights. These are rights which assist the individual to obtain substantive justice in a court of law – that is to say, due process rights. They include the right to a fair hearing, the right to be presumed innocent until proven guilty and the right to be tried within a reasonable time.

The conclusion is that although diplomatic protection is not constitutionally entrenched in the two states, their provisions are constitutionally contemplated. However, the human rights of both nationals and aliens in Nigeria and South Africa are constitutionally protected. Nevertheless, it is envisaged that the situation will greatly improve through the implementation of the suggestions and recommendations proffered in the thesis. These include the amendment of the Constitutions of the respective states to reflect the desired change, the reorganization of diplomatic and consular missions of the two states and above all, by making human rights the corner-stone of democracy in the respective states.

## TABLE OF CONTENTS

<b>ACKNOWLEDGMENTS</b> .....	ii
<b>SUMMARY</b> .....	iii
<b>TABLE OF CONTENTS</b> .....	v
<b>TABLE OF CASES</b> .....	xi
<b>TABLE OF STATUTES</b> .....	xxii
<b>ABBREVIATIONS</b> .....	xxix
<b>CHAPTER ONE</b> .....	1
Introduction .....	1
1 Definition of terms .....	1
2 Purpose of the research .....	4
3 Who is a national? .....	6
4 The concept of nationality .....	7
5 Diplomatic protection and the Law of State Responsibility for Injuries to Aliens .....	11
6 Conditions for the exercise of diplomatic protection .....	15
7 Diplomatic protection and human rights law .....	16
8 International instruments for the protection of the human rights of foreigners ...	20
9 Categorisation of rights .....	20
9.1 Fundamental rights .....	20
(a) Right to life .....	21
(b) Freedom from torture, cruel and inhuman treatment or punishment .....	22
(c) Right not to be discriminated against .....	22
9.2 Property rights .....	23
9.2.1 Definition of property .....	25
9.3 Procedural rights .....	26
10 The controversy surrounding the hierarchy of human rights norms .....	29
11 Political rights .....	34
12 Why Nigeria and South Africa are chosen for the study .....	35
13 Objectives of the study .....	39
14 Methodology .....	40
15 Issues for determination .....	43
16 Literature Review .....	44
17 Context of the research .....	51
<b>CHAPTER TWO</b> .....	57
The Institution of Diplomatic Protection .....	57
1 Introduction .....	57
2 The status of the individual at international law .....	58
3 The changing status of the individual in international law .....	60
4 The position of the individual in municipal law .....	62
5 The law of diplomatic protection .....	64
5.1 The origin of diplomatic protection .....	64
5.2 Legal or theoretical basis of diplomatic protection .....	65
6 Nationality as a precondition for diplomatic protection .....	66
6.1 The concept of nationality .....	67
6.2 Nationality of natural persons .....	68
6.3 Acquisition of nationality .....	69
6.4 Loss of nationality .....	70
6.5 Importance of nationality .....	72
7 Nationality and diplomatic protection .....	73
7.1 Nationality of claims rule .....	73
7.2 Dual nationality .....	76

8	Stateless persons and refugees .....	79
9	Nationality of corporations and other legal persons.....	81
10	Other conditions for the exercise of diplomatic protection .....	87
10.1	Exhaustion of local remedies .....	87
(a)	When are local remedies exhausted?.....	89
(b)	Exceptions to the local remedies rule .....	90
(i)	Where local remedies are not available or clearly futile.....	91
(ii)	Connection between the injured party and respondent State .....	92
(iii)	Waiver .....	93
(iv)	Estoppel .....	94
(v)	Distinction between direct injury and diplomatic protection .....	95
11	Existence of an international wrong.....	96
12	Continuous nationality.....	98
13	The nature of diplomatic protection.....	100
13.1	Is diplomatic protection a right or an obligation?.....	101
13.2	Is there a duty or obligation to protect?.....	103
14	Discretionary factors influencing diplomatic protection.....	106
15	Treatment of aliens .....	110
15.1	The national standard of treatment .....	111
15.2	The minimum international standard of treatment .....	112
15.3	Human rights standard of treatment.....	114
16	Synthesis of the standards.....	115
17	Codification of diplomatic protection .....	116
17.1	The Law of State Responsibility for injuries to Aliens .....	117
18	Should diplomatic protection be used to protect human rights? .....	118
19	Diplomatic strategies for the protection of human rights.....	122
19.1	Quiet diplomacy.....	122
19.2	Negotiation .....	123
19.3	Good offices and mediation .....	123
19.4	Conciliation.....	123
19.5	Judicial and arbitral proceedings.....	124
19.6	Reprisals .....	125
19.7	Retortion.....	126
19.8	Severance of diplomatic relations .....	126
19.9	Economic pressure.....	126
20	Appraisal and conclusion .....	127
<b>CHAPTER THREE.....</b>		<b>131</b>
The Role of Diplomatic Missions in the Protection of Human Rights .....		131
1	Introduction .....	131
2	The origin of diplomatic missions.....	132
3	Codification of Diplomatic Law .....	133
3.1	Theoretical basis of diplomatic law and practice.....	135
4	Functions of diplomatic missions .....	137
4.1	Protection of human rights .....	138
5	Limits of protection .....	140
6	When nationals seek diplomatic protection.....	141
(a)	Cases of arbitrary arrest and detention.....	141
(b)	Cases of deportation and expulsion.....	142
(c)	Cases of denial of justice .....	143
(d)	Infringement of property rights .....	145
(e)	Injury at the hands of private persons .....	146
(f)	Refusal of entry visa.....	146
(g)	Protection of interests of nationals by a mission of a third State .....	147
7	Ways of effecting diplomatic protection of human rights .....	148
	by diplomatic missions .....	148
8	Preferment of claims .....	149
9	Scope or extent of diplomatic protection of human rights by diplomatic.....	151
	missions .....	151
10	Consular protection of nationals abroad .....	153

11	Consular functions .....	156
11.1	Communication and contact with nationals.....	158
11.2	Espionage cases.....	160
11.3	Prisoners exchange programme .....	161
11.4	Group protection.....	162
11.5	Cases of death of nationals abroad .....	162
12	Other consular functions .....	163
13	Amalgamation of diplomatic and consular functions: Effect on diplomatic protection .....	163
14	Diplomatic and consular privileges and immunity .....	165
15	Abuse of diplomatic and consular privileges and immunity: Effect on diplomatic protection .....	169
16	Conclusion .....	170
<b>CHAPTER FOUR.....</b>		<b>174</b>
International and Regional Instruments for the Diplomatic Protection of Human Rights.....		174
1	Introduction .....	174
2	Objective and approach adopted .....	176
<b>SECTION ONE .....</b>		<b>177</b>
3	THE UDHR.....	177
4	International instruments for the protection of human rights of foreigners .....	179
4.1	Rights of foreigners .....	179
5	Legally binding international instrument for the protection of the rights of foreigners. ....	180
5.1	International Convention on the Protection of the Rights of all Migrant Workers ... and Members of Their Families.....	180
6	Non-legally binding instruments for the protection of the human rights..... of foreigners .....	183
6.1	The Declaration on the Human Rights of Individuals who are not Nationals..... of the Countries in which they Live .....	183
7	Legal effect of declarations and resolutions of the General Assembly.....	183
8	Provisions of the Declaration on the Human Rights of Individuals who are not Nationals of the Countries in which they Live .....	187
9	Legally binding international instruments regulating the protection of human..... rights of all individuals .....	189
9.1	The ICCPR .....	189
9.2	The ICESCR.....	190
9.3	An analysis of the obligations imposed by ICESCR and ICCPR .....	191
10	Fundamental rights .....	193
10.1	Right to life and security of the person.....	193
10.2	Freedom from torture, cruel, inhuman and degrading treatment or .....	198
10.3	Right not to be discriminated against .....	202
11	Right to own property .....	205
12	Procedural rights .....	208
12.1	Right to due process of law .....	209
13	The right to a fair trial .....	213
13.1	The right to presumption of innocence.....	215
13.2	The right to be tried without undue delay .....	216
<b>SECTION TWO .....</b>		<b>217</b>
Regional Instruments for the protection of human rights: The African System .....		217
14	Introduction .....	217
15	OAU and human rights.....	220
16	Resolutions, declarations and decisions of OAU Heads of State and..... Governments (The Assembly) .....	221
17	Constitutive Act of the AU .....	221
18	The African Charter on Human and People's Rights (ACHPR).....	222
19	Implementation of the African Charter - The African Commission on Human..... and Peoples' Rights .....	223
20	The African Charter and diplomatic protection: Rights of foreigners under .....	



	the African Charter .....	225
21	Civil and political rights: Can a violation of civil or political rights under the African Charter trigger diplomatic protection? .....	230
22	The protection of socio-economic rights under the African Charter .....	232
23	Fundamental rights .....	233
23.1	Right to life under the ACHPR .....	233
23.2	Freedom from torture, cruel, inhuman and degrading treatment or punishment.....	236
23.3	Right not to be discriminated against .....	238
24	Right to property under the African Charter: Are aliens protected?.....	239
25	Procedural rights under the African Charter .....	239
25.1	The right to a fair trial .....	241
25.2	The right to be presumed innocent .....	242
25.3	The right to be tried within a reasonable time .....	243
26	Conclusion .....	245
<b>CHAPTER FIVE</b> .....		248
Diplomatic Protection of Human Rights in Nigeria: Legal and Constitutional Issues.....		248
1	Introduction .....	248
2	Relationship between international law and municipal law: A theoretical..... framework .....	249
3	Incorporation of International Law into Nigerian domestic law .....	252
3.1	Incorporation of customary international law into Nigerian municipal law .....	253
3.2	Incorporation of treaties into Nigerian municipal law .....	254
4	Diplomatic protection and Nigerian Law .....	259
4.1	Constitutional provisions .....	259
4.2	The foreign policy dimension .....	261
4.3	State practice .....	263
5	The principle of extraterritoriality.....	264
6	The Bakassi Peninsula incident.....	265
7	Nigeria's reaction to the xenophobic attacks on foreigners in 2008 .....	272
8	The British Airways incident.....	275
9	Judicial attitude to diplomatic protection in Nigeria.....	277
10	Protection of human rights in Nigeria.....	279
11	International instruments for the protection of human rights in Nigeria .....	281
12	Categorisation of human rights under the Nigerian constitution.....	284
13	Fundamental Rights.....	285
13.1	The right to life.....	285
13.2	Freedom from torture, cruel or inhuman treatment or punishment.....	290
13.3	Right to be free from discrimination .....	292
14	Right to own private property in Nigeria.....	294
15	Procedural rights.....	299
15.1	The Right to fair trial/fair hearing in Nigeria.....	299
15.1.1	Presumption of innocence.....	302
15.1.2	Right to be tried within a reasonable time.....	303
16	Enforcement of fundamental human rights in Nigeria.....	304
17	Treatment of aliens in Nigeria .....	305
18	Conclusion .....	308
<b>CHAPTER SIX</b> .....		312
Diplomatic Protection of Human Rights in South Africa: Legal and Constitutional Issues.....		312
1	Introduction .....	312
2	The position of international law in South African municipal law .....	313
3	The status of customary international law in South African municipal law .....	315
4	Incorporation of international agreements into South African municipal law ....	317
5	Judicial interpretation of section 231(4) – the self execution provisions of the South African Constitution .....	319
6	The interpretational role of international law in South Africa .....	325
7	Diplomatic protection and South African law .....	327

7.1	Constitutional provisions .....	327
8	Decided cases on diplomatic protection under South African law .....	329
9	Judicial attitude to diplomatic protection in South Africa.....	353
10	Extraterritoriality .....	359
11	South African government policy on diplomatic protection .....	360
12	Protection of human rights in South Africa.....	366
13	Human rights provisions under the South African Constitution .....	367
14	The Bill of Rights under the South African Constitution.....	368
15	International human rights instruments and South African law .....	370
16	Fundamental rights .....	372
16.1	The right to life.....	372
16.2	Right to be free from torture, cruel, inhuman and degrading treatment..... or punishment.....	374
16.3	Right to be free from discrimination .....	375
17	Right to own private property .....	377
17.1	The meaning of property under the South African Constitution.....	379
17.2	Distinction between deprivation and expropriation of property under the..... 1996 Constitution .....	379
17.3	Constraints on the expropriation of property under South African law .....	381
18	Procedural rights .....	383
18.1	Right to fair trial/fair hearing .....	383
18.2	The right to be tried within a reasonable time .....	383
18.3	Right to be presumed innocent .....	385
19	Limitation on rights under the South African Bill of Rights.....	391
20	Enforcement of rights under the 1996 Constitution .....	392
21	Treatment of aliens in South Africa.....	392
22	Conclusion .....	401
<b>CHAPTER SEVEN.....</b>		<b>404</b>
Conclusions.....		404
1	Introduction .....	404
2	Diplomatic protection in Nigeria and South Africa: A comparative analysis .....	404
2.1	Extraterritoriality .....	406
2.2	The South African experience.....	407
2.3	The Nigerian experience .....	410
3	The doctrine of 'clean hands' .....	411
3.1	The doctrine of 'clean hands' in Nigeria.....	413
3.2	The doctrine of "clean hands" in South Africa.....	414
4	The protection of human rights in Nigeria and South Africa: A .....	415
	comparative analysis.....	415
5	Fundamental rights .....	415
5.1	The right to life.....	415
5.2	Freedom from torture, cruel, inhuman or degrading treatment or punishment. ....	416
5.3	Right to be free from discrimination .....	417
6	Property rights.....	418
7	Procedural rights.....	420
8	Interpretation of human rights provisions in the Nigerian and South African..... constitutions .....	422
9	Limitation of rights .....	423
9.1	Limitation of fundamental rights under the Nigerian constitution .....	424
9.2	Limitation of rights under the South African Constitution .....	426
10	Procedure for enforcement of human rights in Nigeria and South Africa .....	427
10.1	Enforcement procedure for fundamental rights in Nigeria .....	427
10.2	Enforcement procedure in South Africa .....	428
11	Justiciability of ECOSOC rights .....	428
12	Other areas of comparison .....	430
12.1	Basic structural similarities in the Nigerian and South African constitutions.....	430
12.2	Dynamic pillars of the Nigerian and South African Constitutions.....	430
12.3	Constitutional supremacy.....	431
12.4	Democracy .....	431



12.5	The rule of law.....	432
12.6	Separation of powers .....	432
12.7	Devolution of power.....	434
13	General appraisal of the Nigerian and South African Constitutions .....	434
(a)	South Africa.....	434
(b)	Nigeria .....	435
14	Peculiar human rights problems in Nigeria .....	436
14.1	The Niger Delta problem .....	436
14.2	The Sharia law question in Nigeria .....	437
15	Diplomatic protection and human rights: The final question.....	438
16	Lessons for Nigeria and the Republic of South Africa .....	442
17	Suggestions and recommendations.....	442
<b>BIBLIOGRAPHY.....</b>		<b>448</b>
<b>INDEX .....</b>		<b>463</b>

## TABLE OF CASES

### NIGERIAN CASES

*A-G v Aideyan* (1989) 4 NWLR 646 296

*Abacha v Chief Gani Fawehinmi* [2000] 6 NWLR 254, 255, 256, 257, 283.

*Adamu v Attorney General Borno State* (1996) 8 NWLR 17 293

*Adegbite v COP* [2006] 13 NWLR 301, 303

*Adenji v The State* (2000) 2 NWLR 114 287, 289.

*Alaba v The State* (1993) 9 SCNJ 109 302

*Alabo v Boyles* (1984) 3 NCLR 830 290

*Alajemba Uke v Albert Iro* [2001] 17 WRN 172 294

*Alhaji Mogaji v Board of Customs & Excise* (1982) 3 NCLR 552 290

*Amodu Tijani v Secretary Southern Nigeria* (1921) 2 AC 24, 298

*Aroyewun v COP.*(2004) 6 NWLR (Pt. 899) 414 303

*Asakitikpi v The State* (1993) 6 SCNJ 201 304, 421

*Attorney General of Bendel State v Attorney Generals of the Federation* (1981) 10 SC 1 434

*Attorney-General of the Federation v Ajayi* [2000] 12 NWLR 509 257

*Balogun v Oshodi* (1929) 10 NLR 36 299

*Bello v Attorney General Oyo State* (1986) 5 NWLR 123 286

*Bill Construction Co. v I & S/s.T. Ltd* (2007) 7 WRN 152 300

*Bronik Motors Ltd v Wema Bank Ltd.* (1983) 1 SCNL 296 305

*Director SSS v Agbakoba*, [1999] 3 NWLR 314 260, 422

*Effiom v The State* ((1995) 1 NWLR 507 304

*Egbe v Honourable Justice Belgore* (2004) 8 NWLR 336 427

*Ekang v The State* [2000] 20 WRN 30 303, 421

*Ezoukuru v Ezeonu* (1991) 6 NWLR 708 233

*Fawehinmi v Abacha* [1996] 9 NWLR 710. 254, 255, 256, 257, 283

*Gladys Ada Ukeje v Lois Chituru Ukeje & Enyinnaya Lazarus Ukeje* [2001] 27 WRN 142 293

*Ibidapo v Lufthansa Airlines* (1997) 4 NWLR 124 254

*Ifejerika v The State* (1999) 4 NWLR (Pt. 583) 59 303

*Ika Local Govt Area v Mba* (2007) 12 NWLR 677 27, 28, 300

*Ikem v Nwogwugwu* [1999] 13 NWLR 140 247, 297

*Ikhazuagbe v COP* (2004) 7 NWLR 346 303

*Jack v The University of Agriculture Makurdi* (2004) 5 NWLR 208 305 427

*Jonason Triangle Ltd v C.M. & Partners Ltd* (1999) 1 NWLR 555 300, 301

*Josiah v The State* (1985) 1 NWLR 125 300, 301

*Kalu v The State* (1998) 13 NWLR 531 288, 390, 415/6

*Kotoye v C BN* (1989) 1 NWLR 419 300

*Leaders & Co Ltd. v Kusamotu* (2004) 4 NWLR 519 300, 301

*Muojekwe v Ejikeme* [2000] 5 NWLR 403 294

*Musa v COP* (2004) 9 NWLR 483 303

*Mustapha v Governor Lagos State* (1987) 2 NWLR 539 286

*Nigeria-Arab Bank Ltd. v Comex* (1999) 6 NWLR 648 27 27, 300

*Odo v COP* (2004) 8 NWLR 46 303

*Ohunka v The State* (1988) 1 NWLR 539 286, 3\*2

*Okoro v The State* (1988) 5 NWLR 259 3\*2

*Osakwe v FGN* (2004) 14 NWLR (Pt 893) 303

*Peter Niemi v Attorney General Lagos State* (1996) 6 NWLR 587 290

*R v Aniogo* (1943) 9 WACA 62 289

*R v Ebi* (1986) NSCC 17 288

*Ransome Kuti v Att. Gen. of the Federation* (1985) 2 NWLR 211 284, 415

*Rasak Osayide v Joyce Amadin* (2001) 1 CHR 459 290

*Shugaba Darman v Minister of Internal Affairs* (1982) 3 NCLR 915 72, 308

*Trendtex Corporation v Central Bank of Nigeria* (1977) 1 QB 529 ,84, 253, 254

*Tukur v Government of Gongola State* (1989) 4 NWLR 517 305

*UBA Plc v Okonkwo* (2004) 5 NWLR 445 27, 300

*Ubani v Director SSS* (1999) 11NWLR 129 252, 256, 280

*Ugbeneyovwe v The State* (2004) 12 NWLR 626 303

*Umana v Attah* (2004) 7 NWLR 63 303

*University of Ilorin v Oluwadare* (2006) 14 NWLR 751 427

## **SOUTH AFRICAN CASES**

*Azanian Peoples Organisation [AZAPO] v The President of South Africa* 1996 (4) SA 671 (CC) 325

*Chairman of the Public Service Commission v Zimbabwe Teachers Association* 1996 (9) BCLR 1189 (ZS) 79 380

*Coetzee v Attorney General KwaZulu-Natal* 1997 (1) SACR 546 (D) 1997 (1) SACR 546 (D).303, 383, 421

*Dawood v Minister of Home Affairs* 2000 (3) SA 936 (CC). 391

*Feedmill Development v Attorney General, KwaZulu-Natal* 1998 (2) SACR 539 (N) 383, 421

*Foulds v Minister of Home Affairs* 1996 (4) SA 137 (W) 395

*Goodwin v Director-General Department of Justice and Constitutional Development* 2124/08 TPD (Unreported), decided on 23/6/08 355

*Harksen v Lane* 1999 (1) SA (CC) 380

*Hewlett v Minister of Finance* 1982 (1) SA 502 (ZSC) 380

*Hoffman v South African Airways* 2001 (1) SA 1 (CC) 377

*Interscience Research and Development Services v Republic Popular De Mocambique* 1980 (2) SA 111 (T) 315

*Jeebhai v Minister of Home Affairs* 2007 (4) SA 201 210, 393, 396-398

*Kafraria Properties v Government of the Republic of Zambia* 1989 (2) SA 709 315

*Kaunda v The President of Republic of South Africa* 2005 (4) SA 235 (CC), ILM vol 44 (2005) 114, 104, 118, 119, 122, 124, 131, 327, 329, 330-338, 354, 356, 360, 362, 365, 372, 384, 390, 398, 400, 401, 403, 405, 407, 409, 414

*Lawyers for Human Rights v President RSA* 2004 (4) SA 125. 390 1988 (3) SA 51 (CC) 434, 390, 392, 393

*Mfolo v Minister of Education* 1992 (3) SA 181 (BGD) 376

*Mohammed v The President of the RSA* 2001 (7) BCLR 685 BCLR (CC) 195, 197, 198, 335, 336, 354, 359, 372, 373, 384, 390, 398, 400, 407

*Mutukan v Laerskool Potgietersrus* 1996 (3) SA 223 (T) 376

*National Coalition for Gay and Lesbian Equality v Minister for Justice* 1999 (1) SA 6 (CC) 377

*Nduli v Minister of Justice* 1978 (1) SA 893 (A) 315,

*Omar & Others v Minister of Law and Order* 1987 (3) SA 839 (A) 367

*Osman v Attorney General Transvaal* 1998 (4) SA 1224 (CC) 388

*Paekh v Minister of Home Affairs* 1996 (2) SA 710 (DCLD) 395

*Patel v Minister of Home Affairs* 2000 (2) SA 343 (D) 372, 384., 390, 393, 398

*President of the Republic of SA v Hugo* 1997 (4) SA 1 (CC) 376

*Prince v President of the Cape Law Society* 2000 (3) SA 845 (SCA) 377

*Prinsloo v Van der Linde* 1997 (3) SA 1012 (CC) 376

*Quagliani v President of the RSA* Case 959/04 TPD (unreported) 319, 322

*R v Pitje* 1961 (2) SA 587 (A) 367

*R v Sisulu & Others* 1953 (3) SA 276 (A) 367

*Roothman v President RSA* 2005 (3) All SA 600 (T) 329, 342, 344, 354, 406, 4\*7

*S v Adams S v Werner* 1981 (1) SA 187 (A) 408

*S v Gwadiso* 1996 (1) SA 292 388



- S v Julies* 1996 (7) BCLR, 899 (CC) 387
- S v Makwanyane* 1995 (6) BCLR 665 (CC) 195, 196 324, 373, 374, 415
- S v Mbatha* 1996 (2) SA 464 (CC) 387
- S v Mello* 1998 (3) SA 712 388
- S v Petane* 1988 (3) SA 51 (C) 317
- S v Van Niekerk* 1972 (3) SA 711 (A) 367
- S v Williams* 1995 (3) SA 632; 1995 (7) BCLR 861 (CC) 374
- S v Zuma* 1995 (2) SA 642 (CC); 1995 SACR 568; 1995 BCLR 40 214, 385, 386
- Sanderson v A-G* [1997] 12 BCLR 1675 243
- Sanderson v Attorney General KwaZulu-Natal* 1998 (2) SA 38 (CC) 383, 384
- Scagell v Attorney-General, Western Cape* 1996 (2) 579 385
- Sobukwe v Minister of Justice* 1972 (1) SA 693 (A) 367
- South Atlantic Islands Development Corporation v Buchan* 1971 (1) SA 234 (C) 315 351
- State v Manamela* C C SA 2000 (5) LRC 65 215, 216
- Swissborough Diamond Mines (PTY)Ltd v Government of the RSA* 1999 (2) SA 279 (T) 84, 85, 87
- Thatcher v Minister of Justice and Constitutional Development* 2005 (1) SA 375 (C) 329, 338-342, 354, 406, 407, 408
- Thint Holding (South Africa) (PTY) Ltd v National Director of Public Prosecutions, Zuma v National Director of Public Prosecutions* 2009 (1) SA 141 (CC) 389
- Van Rooyen /Brown v President of the RSA* Case 2824/06 TPD (unreported) decided on 6/3/08) 319, 322
- Van Zyl v Government of the RSA* 2005 (4) All SA 96 (T) 84, 85, 87, 104, 329, 344, 347, 354, 363, 365, 406, 407, 408
- Von Abo v Government of RSA* 2009 (2) SA 526 (T)121 207, 329, 348-353, 364, 4\*7, 4\*8
- Woolworths (Pty) Ltd v Whitehead* 2000 (3) SA 529 (LAC) 377
- Xu V Minister of Home Affairs* 1995 (1) SA 185(T); 1995 (1) BCLR 62 (T) 394 418



*Yuen v Minister of Home Affairs* 1998 (1) SA 958 (C) 395

## **OTHER CASES**

*Aminoil case Kuwait v American Independent Oil Co.* 21 ILM 976 (1978) 145 159

*Abassi v Secretary for Foreign and Commonwealth Affairs and Secretary of State for Home Department.* Judgment of (2002) 11 06 [2002] EWCA Civ 1598 , 354, 358

*Advisory Opinion in the Nationality Decrees Issued in Tunis and Morocco*(1923) PCIJ Rep Series B No 4 42 251

*Advisory Opinion on Legal Consequences for the continued Presence of South Africa in Namibia (South West Africa) Not Withstanding Security Council Resolution* (1970) 276 33

*Alabama Claims Arbitration, Moore, 1 Int Arb* 495 (1872) 125

*Alexander case* (1898) 3 Moore International Arbitrations 2529 79

*Ambatielos Arbitration (Greece v UK)* 12 RIAA. 83 (1956) 23; I L R 306 (1956) 17,88, 89, 90, 93

*American International Group Inc v Islamic Republic of Iran* (1983) 4 Iran-US CTR 93

*Amnesty International (On behalf of Orton and Vera Chirwi) v Malawi* Communication 64/92, 68/92 72/92 Opinion of 3 Nov 1994 234, 249

*Amoco International Finance Corp. v Iran* (1987) Iran-USCTR 189 – Iran US Claims Tribunal 6 145

*Artico v Italy* (European Court) (1980) 3 EHRR 1 214

*Asian Agricultural Products Ltd case* (1990) 30 ILM 577 142

*Asylum case (Columbia v Peru)* (1950) ICJ Reports 266 229, 264

*Attorney General v Lawrence* (Court of Appeal of St. Christopher & Nevis) (1983) 31 WR 176, [1985] LRC (Const.) 921 205

*Attorney-General v Jobe* (Privy Council on appeal from The Gambia) [1985] LRC (Const.) 556 205

*Bankovic v Belgium* (Preliminary Objections) (2001) 123 ILR 92

*Barbera, Messegue and Jabardo v Spain* (European Court) (1988) 11 EHRR 360 215

*Barcelona Traction Light & Power Co. Ltd. (Belg. V Spain)* (1970), ICJ. Rep. 3 5, 33, 49, 63, 78, 81, 83, 84, 87, 98, 103, 106, 109, 110, 146, 151, 179, 328, 332, 406

*Belgian Linguistic Case*, 5 Eur. Ct. H.R. (ser. A) (1968) 64 204

*Bissangou v The Republic of Congo* (2006) AHRLR 80 (ACHPR 2006) 257, 232

*Boffolo's case* (1909) 10 RIAA 528 5, 143

*Bradford Corporation v Pickles* (1895) AC 587 138

*Buvot v Barbuit* ( 1737) Cas t Talb 281 254

*CAA and Vivendi v Argentina* (Decision on Annulment) (2002) 07 03 93 93

*Campbell (Pty) Ltd v The Republic of Zimbabwe* (2008) SADC (T) Case No. 2/2007 207, 353

*Case Concerning Avena and other Mexican Nationals (Mexico v USA)* ICJ Rep 2004 60, 95

*Case Concerning Elettronica Sicula (ELSI) (US v Italy)* (1989) 1 ICJ Reports 15 82, 88, 95

*Case Concerning the Arrest Warrant of 11 April 2000 ( DRC V Belgium)* ICJ Rep 3 (2002) 41 ILM 141 41

*Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v Iran)* ICJ Reports (1980) 3 91, 95, 96, 130, 167

*Catillo Petruzzi v Peru* (Preliminary objection) (1988) 09 4 Inter Am Ct HR Ser C No 41 94, 95

*Chattin's Claim (United States of America (B E Chattin ) v United Mexico State* (Mexico Claims Commission) (1927) 422; 4 UNIAA 282 5, 28 144, 418

*Centre for Minority Rights Development (Kenya) and Minority Rights Groups International on behalf of Endoris Welfare Council of Kenya* (Communication 276/2003) 232.

*Chohal v UK* (Decision of (1996) 11 219

*Chorzow Factory Indemnity Case (Germany v Poland)* (1928) PCIJ Ser A No 17 29 6, 240

*Civil Liberties Organisation v Nigeria* (2000) AHRLR 186 (ACHPR 1995) 232

*Claire Claim (France v Mexico)* (1929) 5 RIAA 516 6, 9

*Commercial F SA v Council of Ministers* 88 ILR 691

*Constitutional Rights Project v Nigeria* (2000) AHRLR 235 (ACHPR 1999) 232

*Cruz Varas case*, March 20, (1991) RUDH 209, (1991) 190 198

*Cutting Case (1880) Moore's Digest of International Law* (1906) Vol II 228 144

*Dallal v Iran* (1983) USCIR 31 78

*De Weer v Belgium* (European Court) (1980) 2 EHRR 439 214

*Dickson Car Wheel Co. v United Mexican States* 4 UNRIAA 669 678 80

*Dr Breger's case* Whiteman Digest vol VIII 861 5, 43

*Dr. Bentley's Case (R v Cambridge University)* (1723) 1 STR 557 27, 28

*Fei v Columbia, Human Rights Committee, Communication No. 514/1992, HRC 1995 Report, Annex X1* 207 214

*Filartiga v Pena-Irala* 630 F. 2nd 876 (1980) US Court of Appeals (Second Circuit) 21 142

*Giry v Dominican Republic, Communication No. 193/1985, HRC 1990 Report, Annex IX, C* 212

*Golder v United Kingdom* (1975) 1 EHRR 524 26

*Government of Malaysia v Selangor Pilot Association* [1978] AC 337 (PC) 379 423

*Hammel v Madagascar, Communication No. 155/1983, HRC 1987 Report, Annex VIII, A* 205 212

*Hartley v Mayoh* [1954] 1 Q B 383 153

*Hermoza v Peru Human Rights Commission, Communication No. 203/1986, HRC 1995 Report, Annex X 1* 216

*HLR v France* (Decision of the European Court) 1997-10-30. *Journal De International* 226-7 (1998); 3 216

*HMHK v Netherlands* 94 ILR 342 1\*5

*Hurtado v California* 110 US 516 (1884) 196 204

*Institute for Human Rights & Development in Africa v Angola* (2008) AHRLR 43 (ACHP 2008) 227

*Interhandel Case (Switzerland v United States of America)* (1959) ICJ Rep 6 17, 88 89, 91, 93

*Interights & Others v Botswana* (2003) AHRLR 55 (ACHPR 2003) 374

*International Fisheries Co. Case (US v Mexico)* 1931 4 UNRIAA 71 97

*International Pen and others (on behalf of Ken Saro-Wiwa) v Nigeria* Communication 48/90, 50/91, 52/91, 89/93, 13th Annual Activity Report: 1999-2000 (2000) AHRLR 297 (ACHPR 1999) 216, 241, 242

*Iran v US No A/18 (Iran – US Claims Tribunal)* (1984) 5 Iran – USCTR 143

*Ireland v UK* (1978) ECHR 25 236

*Island of Palmas case* 2 RIAA 829 (1928)125 125

*Jespers v Belgium European Commission* (1981) 5 EHRR 305 126

*Jurisdiction of the Courts of Dazing (Advisory Opinion)* (1928) P.C.T. Ser B, No 15 17-18 59, 60

*Knapp v Railway Executive* [1949] 2 All E. R. 508 139

*La Grand case (Germany v USA)* (2001) ICJ Rep. 466 60, 440

*Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria) Equatorial Guinea intervening* (Judgment) ICJ Reports, (2002) 280, 252, 264, 265, 266, 267, 268

*Legality of the Threat or Use of Nuclear Weapons Advisory Opinion* ICJ Rep (1996) 226 126, 184, 193

*Libyan American Oil Company (LIAMCO) v Libyan Arab Republic* (1977) 62 ILR 140 6

*Lilleyman v Inland Revenue Commissioners* (Supreme Court of British Guyana) (1964) 13 WLR 224 2\*6

*Loewen Group Inc. v USA* 7 ICSID Rep 442 100

*Lonrho Exports Ltd v EGGD* (1996) 4 All E.R 673 687; 108 ILR 596 13

*Mantovanelli v France* (European Court) (1997) 24 EHRR 370 214

*Maroufidou v Sweden* Human Rights Committee Communication No. 58/1979 Report, Annex IX, C 211

*Mavrommatis Palestine Concessions (Jurisdiction)* PCIJ Collection of Judgments series A No 2 (1924) 6, 12, 64, 65, 94, 97, , 100, 161, 109, 113, 150, 345, 441

*Maxwell v Dow* 178 US 581 (1900) 196 204

*Merge case* (1955) 22 ILR 443 77, 78

*Mezei case, Shanglemessy v US*, 345 US 206 200

*Minister for Employment and Immigration v Chiarelli* (1992) 03 26. File no. 21/920 (2001) SCC 7; (2001) 5 LRC 19 201

*Munn v Illinois* 94 US 113 1877 142 194

*Nationality Decree in Tunis and Morocco case* (1928) PCIJ Ser B No 4 280, 68

*Neer Claim (U.S v Mexico)* (1926) 4 R I A A 60 6, 9, 111, 113, 144, 146

*Nottebohm's Case (Liechtenstein v Guatemala)* (1955) ICJ 4 7, 8, 15, 67, 68, 72, 73-76, , 78, 79

*North Sea Continental Shelf cases* ICJ Rep. (1969) 3 264

*Paez v Sweden* Decision of the European Court of October 30 1977 Journal de Droit International (1998) 226 198

*Pagnouille (on behalf of Matzou v Cameroon* Communication39/90; 10th Annual Activity Report; 1996-1997 (2000) AHRLR 57 (ACHPR 1997) 243 244

*Palko v Connecticut* 302 US 319 (1937). 33, 204

*Panevezys-Sadutiskis Railway case*, PCIJ, Series A/B, No.76; 9. AD 308 15, 66, 68, 72, 91, 101, 150, 151

*Pinochet's case (R v Bow Street Metropolitan Stipendiary Magistrate Ex p. Pinochet Ugarte) (No.2)* [2001] 1 AC 119 142

*Pinto v Trinidad and Tobago*, Human Rights Committee, Communication No. 232/1987, HRC 1990 Report, Annex IX, H 207 214

*Powell v Alabama* 287 US 45 (1932) 196 204

*Quintanilla Claim (Mexico v US)* 4 RIAA 101 (1926) 142

*R v Sussex Justices ex parte Mc Carthy* [1924] 1 KB 256 305

*R v Askov*, Supreme Court of Canada. [1990] 2 SCR 119 217, 243

*R v Immigration Officer ex parte Thakrar* (1974) 2 WLR 593 254

*R v Mac Dougall*, Supreme court of Canada, [2000] 1 LRC 390 217

*R v Oakes* Supreme Court of Canada [1987] LRC (Const) 477 215, 385

*R v Rose* (1884) 15 Cox CC 540 288

*R. v Turnbull Ex p. Petroff* (1971) 17 FLR 438 136

*R.B. v France*, (decided by the Court on 1998-09-7 *Journal De Droit International*, 217-218 (1999) 198

*Rencontre Africaine pour la Defense des Droits de l' Homme v Zambia* ( *African Commission on Human and People's Rights*) Comm. No. 71/92 (1996) 227

*Reparations for Injuries suffered in the Service of the United Nations, Advisory Opinion* ICJ Report (1949) 174 . 60, 79

*Roberts's Claim* (1927) 4 RIAA 77 9, 100 113

*Rudolf Hess case* ILR vol 90 387 176

*SEDCO v National Iranian Oil Co.* 10 Iran – USCTR 180 185; 80 AJIL 1986 969 130

*Sei Fuji v California* (1952) 19 ILR 312 178

*Shar v Attorney-General (No.2)* High Court of Uganda, [1970] EA 523 226

*Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001) 251, 431

*Societe Leverage Prestations v France* *European Court*, (1996) 24 EHRR 351

*Soering v UK.* July 7, 1989, RUDH 99 (1989) 195, 197

*South Pacific Properties (Middle East) v Arab Republic of Egypt* (1993) 32 ILM 933 97, 108

*SS Lotus* (1927) PCIJ Series A No 10 (France v Turkey) 264, 293

*State of Bihar v Kameshwar Sigh* Supreme Court of India, [1952] SCR 889 2\*6

*Steiner and Gross v Polish State* (1927-8) 4 ILR 93

*Stogmuller v Austria* 11 EHRR 155 (1979-80) 243 269

*The Mexican Railway Union Claim (Great Britain v Mexico)* (1930) 5 UNRAA 155 429

*The North American Dredging Company Claim (United States v Mexico)* (1926) 4 UNRAA 26-30 429

*Third Avenue Associates v Permanent Mission of the Republic of Zaire to the United Nations* 988 Ed. 2d, 295 (1993) 99 ILR 194 198

*Tinoco Concession case* (1924)) 1 UNRAA 18 A.J.I.L.(1924) 47, 87

*Twining v New Jersey* 211 US 78 (1908) 204

*Vilvarajah case* (October 30, 1991) RUDH 537 (1991) 198

*Woolmington v DPP* [1935] AC 462 215



## TABLE OF STATUTES

### NIGERIA

- 2001 The Rome Statute of the International Criminal Court (Implementation) Act 48 of 2001 28, 284, 371, 398
- 1999 The Constitution of the Federal Republic of Nigeria 1999 27, 38, 55, 69, 70, 71, 250, 258, 259 260, 261 287, 290, 292, 295, 310, 405, 415, 420, 424, 435
- 1990 African Charter on Human and People's Rights (Ratification and Enforcement Act 1983). Cap 10 Laws of the Federation of Nigeria 1990 255, 283, 314
- 1990 Passport (Miscellaneous Provisions) Act (Cap 343) Laws of the Federation of Nigeria 1990 260
- 1990 The Criminal Code Act (Cap 77) Laws of the Federation of Nigeria 287, 288, 289, 291
- 1990 The Immigration Act (Cap 171) Laws of the Federation of Nigeria 1990 260
- 1984 State Security (Detention of Persons) Decree No 2 of 1984 (as amended) 255, 256,
- 1979 The 1979 Constitution of the Federal Republic of Nigeria 38, 256, ,258 261 287, 291, 435
- 1978 The Land Use Act 6 of 1978 295, 297, 298
- 1976 Public Lands Acquisition Act 296
- 1971 The Acquisition of Lands by Aliens Law of Lagos State (1971) 25
- 1963 The Republican Constitution of the Federation of Nigeria 38
- 1962 Diplomatic Immunities and Privileges Act Cap 99 283
- 1960 Independence Constitution of Nigeria 38
- 1958 The Interpretation Act (Cap. 89 of 1958 Laws of Nigeria) 35

### RULES OF COURT

- 1979 Fundamental Rights (Enforcement Procedure) Rules 1979 L N 1 of 1979 305

### INTERNATIONAL BI-LATERAL AGREEMENT

- 2006 The Green Tree Accord of 2006-06-12 269, 271, 279



## **SOUTH AFRICA**

- 2002 The Rome Statute of the International Criminal Court Act 27 of 2002 28, 284, 371, 398
- 2001 The Diplomatic Immunities and Privileges Act 37 of 2001 324, 371
- 2000 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 377
- 2000 The Promotion of Administrative Justice Act 3 of 2000 34\*, 342,
- 1996 The Constitution of the Republic of South Africa 1996 27, 38, 69, 314, 315, 316, 317, 318, 319, 320, 324, 326, 327, 329, 331, 339, 341, 351, 367, 368, 369, 372, 375, 377, 381, 382, 383, 385, 391, 401, 403, 405, 415, 424, 435
- 1996 The International Cooperation in Criminal Matters Act 75 of 1996 339, 341, 389
- 1995 The South African Citizenship Act 88 of 1995 69, 70, 76
- 1994 The Restitution of Land Rights Act.22 of 1994 382
- 1993 The Constitution of South Africa Act 200 of 1993 313, 388
- 1992 The Drug and Drug Trafficking Act 140 of 1992 387
- 1991 Aliens Control Act 96 of 1991 394, 399
- 1983 The Constitution of South Africa Act 110 of 1983 38
- 1981 The Foreign States Immunities Act 87 of 1981 343
- 1977 Aliens Control Act 59 of 1977 344
- 1977 Criminal Procedure Act 51 of 1977 373, 385, 386, 387, 388
- 1969 The Arms and Ammunition Act 75 of 1969 387
- 1967 The Terrorism Act 83 of 1967 366
- 1965 The Gambling Act 51 of 1965 386
- 1962 The Extradition Act 67 of 1962 32\*, 322
- 1961 The Constitution of South Africa Act 32 of 1961 38
- 1959 Extension of University Education Act 45 of 1959 366
- 1957 The Immorality Amendment Act 21 of 1950 366

- 1956 The Blacks (Prohibition of Interdicts) Act 64 of 1956 366
- 1955 The General Law Amendment Act 62 of 1955 388
- 1953 The Black Labour (Settlement of Disputes) Act 48 of 1953 366
- 1953 The Bantu Education Act 47 of 1953 366
- 1953 The Reservation of Separate Amenities Act 49 of 1953 366
- 1952 The Blacks (Abolition of Passes and Co-ordination of Documents) Act 67 of 1952 366
- 1951 The Black Authorities Act 68 of 1951 366
- 1951 The Prevention of Illegal Squatting Act 52 of 1951 366
- 1951 The Separate Representation of Voters Act 46 of 1951 366
- 1950 The Population Registration Act 30 of 1950 366
- 1950 Suppression of Communist Act 44 of 1950 366
- 1949 The Prohibition of Mixed Marriages Act 55 of 1949 366`
- 1937 Aliens and Travellers Control Act 1 of 1937 366
- 1910 The Constitution of South Africa of 1910 38

## **SELECTED INTERNATIONAL INSTRUMENTS AND DOCUMENTS**

### **THE UN SYSTEM**

- 1990 International Convention on the Protection of Human Rights of all Migrant Workers and Members of their families 10, 22, 110, 174, 175, 180-182
- 1989 Second Optional Protocol to the International Convention on Civil and Political Rights, aiming At the Abolition of the Death Penalty 1991 21, 174, 191, 289
- 1989 Convention on the rights of the child CRC (1989) 21, 174
- 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. (1984) 21, 198`
- 1979 Convention on the Elimination of all Forms of Discrimination against Women 203
- 1969 The Vienna Convention on the Law of Treaties 323

- 1966 International Covenant on Economic, Social and Cultural Rights (1966) 10, 115, 190, 191
- 1966 International Covenant on Civil and Political Rights (1966) 10, 115, 189, 190, 191
- 1966 The Optional Protocol to the International Convention on Civil and Political Rights 1966 191
- 1965 International Covenant on the Elimination of All Forms of Racial Discrimination (1965) 203
- 1963 Vienna Convention on Consular Relations 4, 53, 156, 157, 158, 159, 163, 164, 166, 170, 171, 174
- 1961 Vienna Convention on Diplomatic Relations 4, 53, 133, 134, 137, 138, 139, 140, 147, 151, 152, 153, 155, 171, 174
- 1958 The ILO Convention relating to Discrimination on Professions of 1958 203
- 1954 Convention Relating to Stateless Persons 81, 203
- 1950 Convention Relating to the Status of Refugees (1951) 80, 81, 2\*3
- 1948 Universal Declaration of Human Rights 177 178, 220
- 1945 Charter of the United Nations 19, 114, 115, 128, 152, 186, 218, 247, 281
- 1930 The Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws (1930) 7, 8, 34, 67, 68, 71, 76, 77, 79

## **GA RESOLUTIONS & DECLARATIONS**

- 1993 Vienna Declaration and programme of Action on Human Rights 29, 30
- 1985 Declaration on the Human Rights of Individuals who are not Nationals of the Countries in Which they Live Res. 144 U N GAOR 40<sup>th</sup> Sess. Supp No 53 U N Doc A RES/ 40/144 (1985). 4, 10, 20, 21, 22, 110, 174, 175, 180, 183, 186, 187/8, 193
- 1981 Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief. Adopted in 1981. GA Res 36/55, 36 UN GOAR Upp. (No.4) at 171 UN Doc. A/36/51 203`
- 1974 General Assembly Charter on Economic Rights and Duties of States (1974) GA Res. 281 (XXIX) 1974 29 UN GAOR Supp (No 31) 132, 382
- 1970 Declaration on Principles of International law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the UN GA Res. 2635 (XXV) 1970-10-24. 126, 128/9

1962 General Assembly Resolution on Permanent Sovereignty over Natural Resources (1962).GA Res. 1803 (XVII) 1962 17 UN GAOR Supp (No 17) 132 382

## **DRAFT ARTICLES**

2006 Final Draft Articles on Diplomatic Protection 1, 8, 9, 15, 16, 57, 62, 64, 66, 1\*2

2001 Draft Articles on Responsibility of States for Internationally Wrongful Acts 11, 12, 117, 126

1961 Harvard Draft Convention on International Responsibility of States for Injuries to Aliens 25

1956 Draft Convention on the International Responsibility of States for Injuries to Aliens 11, 12, 102, 117

1929 Draft Articles on Nationality (Harvard Research in International Law) 7, 26

## **REPORTS**

2003 Fourth Report of the Special Rapporteur on Diplomatic Protection document A/CN 4/530 and Addendum 82

2002 Third Report of the Special Rapporteur on Diplomatic Protection document A/CN 4/523 and Addendum 93

2001 Second Report of the Special Rapporteur on Diplomatic Protection document A/CN 4/514 53<sup>rd</sup> Session and Addendum 90

2000 First Report of the Special Rapporteur on Diplomatic Protection document A/CN 4/506 and Addendum ILC 52<sup>nd</sup> Session 2, 43, 77, 99, 102, 1\*6, 119, 439, 44\*

1988 Preliminary Report on Diplomatic Protection, by Mohamed Bennouna Special Rapporteur (1988) 02 4 A/CN 4/484 14, 15

## **THE AFRICAN SYSTEM**

2008 Protocol on the Statute of the African Court of Justice and Human Rights 371

2005 Protocol on the Rights of Women in Africa 55, 221

2004 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights 371.

2000 Constitutive Act of the African Union 174, 176, 219, 221

1990 African Charter on the Rights and Welfare of the Child 55, 219, 221

- 1991 The Bamako Convention on the Ban of Import into Africa and Control of Trans boundary Movement and Management of Hazardous Waste within Africa 55 221
- 1981 African Charter on Human and Peoples' Rights 34, 176, 219, 222, 232, 236, 238, 239, 240, 241,,242, 243
- 1969 The OAU convention Governing the Specific Aspects of Refugee Problems in Africa 55, 220
- 1975 ECOWAS Treaty of 1975 306

### **SELECTED OAU RESOLUTIONS**

- 2005 Resolution on Impunity 28
- 2004 Pretoria Declaration on Economic, Social and Cultural Rights 232
- 2003 Principles and Guidelines on the Right to a Fair Trial and Legal Aid in Africa (African Commission's principles and Guidelines adopted at its 33<sup>rd</sup> ordinary session in Niamey, Niger in May 2003) 247
- 1999 Resolution on the Right to a Fair Trial and Legal Assistance in Africa adopted at the 26<sup>th</sup> session in Kigali, Rwanda (1-15 Nov1999) 247
- 1992 Resolution on the Right to Recourse and Fair Trial of 1992 (adopted at the 11<sup>th</sup> session in Tunis, Tunisia 2-9 March 1992.) 246

### **THE INTER-AMERICAN SYSTEM**

- 1969 American Convention on Human Rights 26, 218

### **THE EUROPEAN SYSTEM**

- 1950 European Convention on Human Rights and Fundamental Freedoms 218

## ABBREVIATIONS

AAR	Annual Activity Report
AC	Appeal Cases
ACHPR	African Commission on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ADRDM	American Declaration on the Rights and Duties of Man
AHRLR	African Human Rights Report
<i>AJIL</i>	American Journal of International Law
AI	Amnesty International
All ER	All England Reports
Am Society of Int Law	American Society of International Law
<i>AM U INT'L L REV</i>	<i>American University International Law Review</i>
ANC	African National Congress
AU	African Union
B. C. INT'L & COMP.L.REV	Boston College International and Comparative Law Review
BCLR	Butterworth Constitutional Law Reports
BHRC	Butterworth Human Rights Cases
<i>Brit. J. Pol. S</i>	British Journal of Political Science
<i>Brit. Y.B. Int'l L.</i>	<i>British Yearbook of International Law</i>
<i>BYb IL Comm'n</i>	<i>British Yearbook of International Law Commission</i>
C & F	Clark and Finelly's House of Lords Cases
CA	Court of Appeal
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CC	Constitutional Court
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CHR	Centre for Human Rights
<i>CILSA</i>	<i>Comparative and International Law Journal of Southern Africa</i>
CILJ	Comparative International Law Journal
<i>CILSA</i>	<i>Comparative and International Law Journal of Southern Africa</i>

CJTL	Columbia Journal of Transnational Law
Cranch Reports	Cranch Reports, United States Supreme Court
CRC	Convention on the Rights of the Child
DOC	Document
DRC	Democratic Republic of Congo
ECHR	European Court of Human Rights Report
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West Africa
EJIL	European Journal of Human Rights
ER	English Reports
FLR	Federal Law Report
F Supp	Federal Supplement
F 2nd	Federal Reporter, Second Series
GA	General Assembly
GAOR	General Assembly Official Records
GG	Government Gazette
Hague Receil	Recueil des Cours de l' Academie de Droit International
HCHR	High Commissioner for Human Rights
HIJL	Harvard Institute Journal of Law
Hum.Rts. Brief	Human Rights Brief
HUM. RTS. L. J	Human Rights Law Journal
HRC	Human Rights Committee
HRLJ	Human Rights Law Journal
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICCMA	International Cooperation in Criminal Matters Act
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICJ Reports	International Court of Justice Reports
ICLR	International and Comparative Law Review
ICLQ	International and Comparative Law Quarterly
IHRR	International Human Rights Reports

ILC	International Law Commission
ILM	International Legal Materials
ILR	International Law Reports
Iran-USCTR	Iran-US Claims Tribunal Reports
IQR	International Quarterly Review
JAL	Journal of African Law
JCPC	Judicial Committee of the Privy Council
KB	Kings Bench Division
LNTS	League of Nations Treaty Series
LRC	Law Reports of the Commonwealth
MCD	Movement for Democratic Change
Mod LJ	Modern Law Journal
NGO	Non-Governmental Organisations
NLR	Nigerian Law Reports
NO	Number
NWLR	Nigerian Weekly Law Reports
OAS	Organization of America States
P	Probate, Divorce & Admiralty Division
PAJA	Promotion of Administrative Justice Act
PAR	Paragraph
PC	Privy Council
PCIJ Reports	Permanent Court of International Justice Reports
QB	Queens Bench Division
Recueil des Cours	Recueil des cours de l'Academie de droit international
Rev.Afr.Comm'n.Hum Peo Rts.	Review of the African Commission of Human and Peoples' Rights
RIAA	Reports of International Arbitral Awards
SA	South African Law Reports
SACR	South African Criminal Law Reports
SAJHR	South African Journal of Human Rights
SALJ	South African Law Journal
SAYIL	South Africa Yearbook of International Law
SC	Supreme Court of Nigeria
SCOR	Security Council Official Reports



SCR	Supreme Court Reports
St Louis U L J	Saint Louis University Law Journal
THRHR	Tydskrif vir Hedendaagse Romein-Hollandse Reg
TLR	Times Law Report
TRC	Truth and Reconciliation Commission
TSAR	Tydskrif vir die Suid-Afrikaanse Reg
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHRC	United Nations Human Rights Committee
UNIAA	United Nations International Arbitral Awards
UNRIAA	United Nations Report of International Arbitral Awards
UNTS	United Nations Treaty Series
UNYB	United Nations Yearbook
US	Reports of the United States Supreme Court
US	United States
VCCR	Vienna Convention on Consular Relations
VCDR	Vienna Convention on Diplomatic Relations
VOL	Volume
WACA	Selected Judgments of the West African Court of Appeal
WNLR	Western Nigeria Law Report
WLR	Weekly Law Reports
WRN	Weekly Report of Nigeria
Yale L J	Yale Law Journal
YB	Yearbook
YBILC	Yearbook of International Law Commission
ZLR	Zimbabwe Law Reports