

## Personal

Name: Christopher John Robert Dugard  
Date of birth: 23 August 1936  
Place of birth: Fort Beaufort, South Africa  
Nationality: South African

## Academic qualifications

1956	BA University of Stellenbosch.
1958	LLB University of Stellenbosch.
1965	LLB Cantab (University of Cambridge).
1965	Diploma in International Law – Cantab.
1980	LLD Cantab.
1990	LLD ( <i>honoris causa</i> ) University of Natal.
1996	LLD ( <i>honoris causa</i> ) University of Cape Town.
2003	LLD ( <i>honoris causa</i> ) Nelson Mandela Metropolitan University (Port Elizabeth).
2004	LLD ( <i>honoris causa</i> ) University of the Witwatersrand. LLD ( <i>honoris causa</i> ) University of Pretoria.

## Academic appointments and offices

### *South Africa*

1961 - 1963	Lecturer in Law, University of Natal Durban.
1965 - 1969	Senior Lecturer in Law, University of the Witwatersrand.
1969 - 1998	Professor of Law, University of the Witwatersrand.
1972 - 1974	Chairman, Governing Committee of the School of Law, University of the Witwatersrand.
1975 - 1977	Dean, Faculty of Law, University of the Witwatersrand.
1978 - 1990	Director of the Centre for Applied Legal Studies, University of the Witwatersrand.  (During this period, the Centre for Applied Legal Studies (CALS) was primarily engaged in public education in the fields of human rights, labour law and the law affecting the black community. This educational role was pursued through publications, research, lectures, seminars and litigation.)
1998 -	Professor Emeritus, University of the Witwatersrand.

- 2000 - Honorary Professor, University of Pretoria (teaching in LLM Human Rights Programme).
- 2001 - Honorary Professor, University of the Western Cape.
- 2004- Honorary Professorial Research Fellow, University of Witwatersrand.
- 2005 - Honorary Professor of Law, University of Cape Town.

*Great Britain, the United States, Australia, the Netherlands, Switzerland*

- 1969 - Visiting Professor of Public and International Affairs, Woodrow Wilson School of Public and International Affairs, University of Princeton (taught course in Comparative Civil Rights).
- 1974 - 1975 Visiting Professor of Law, Duke University, (taught courses in Jurisprudence, International Law and Criminal Law).
- 1981 Visiting Professor of Law, University of California, Berkeley (Boalt Hall) (taught course in International Protection of Human Rights).
- 1985 Visiting Fellow, Research Centre for International Law, University of Cambridge.
- 1989 Visiting Professor of Law, University of Pennsylvania (taught courses in International Law and International Human Rights Law).
- 1991 Visiting Professor of Law, University of New South Wales, Australia (taught course in international law).
- 1995 - 1996 Arthur Goodhart visiting Professor of Legal Science, University of Cambridge (taught LLM course in International Criminal Law).
- 1995 - 1997 Fellow, Sidney Sussex College, Cambridge.
- 1995 - 1997 Director, Lauterpacht Research Centre for International Law, University of Cambridge.
- 1998 - 2006 Professor of Public International Law, University of Leiden.

**Professional qualifications and experience**

- 1959 Admitted as an advocate of the Supreme Court of South Africa.
- 1961 - 1963 Practised at the Durban Bar.
- 1963 - present Part-time consultant and advocate, principally in the fields of international law, human rights and constitutional law.

1998 - Appointed Senior Counsel.

Appeared as counsel or acted as a legal consultant in several cases challenging the apartheid regime from an international law perspective. For instance, in 1968 provided the legal foundation for a challenge to the validity of apartheid security laws in Namibia on the ground that the mandate for South West Africa had been lawfully terminated by the General Assembly of the United Nations: *S v Tuhadeleni* 1969 1 *South African Law Reports* (SALR) 153 (A); in 1981 appeared as counsel in a challenge to the validity of measures taken under the Group Areas Act zoning certain areas for exclusive white occupation on the ground that this zoning violated international human rights norms: *S v Adams*, *S v Werner* 1981 1 SALR 187 (A); in 1982 argued that Archbishop Desmond Tutu's passport had been unlawfully revoked: *Tutu v Minister of Internal Affairs* 1982 4 SALR 571 (T); in 1989 challenged the lawfulness of Bantustan 'state' of Bophuthatswana on the ground that its creation violated norms of international law: *S v Banda* 1989 4 SALR 519 (B); in 1988 succeeded in setting aside proclamations aimed at expanding Bantustans: *Mathebe v Government of South Africa* 1988 3 SA 667 (A); and laid the legal foundation for the argument that captured members of Southern African Liberation movements (SWAPO and ANC) should be treated as prisoners of war and not criminals: *S v Sagarius* 1983 1 SALR 833 (SWA).

### **Judicial office**

2002 - 2006 Judge *ad hoc* of the International Court of Justice in the case concerning *Armed Activities on the Territory of Congo (Democratic Republic of the Congo v Rwanda)*.

2004 Judge *ad hoc* of the International Court of Justice in the case concerning *Sovereignty over Pedro Branca/Pulau Batu Putela, Middle Rock and South Ledge* (Malaysia/Singapore).

### **Offices held in South Africa**

- South African Institute of Race Relations – President 1978 - 1980.
- South African Institute of International Affairs – Member of National Administrative Committee for some 10 years.
- Lawyers for Human Rights – Founder and member of National Council 1980 - 1991.
- Human Rights Commission – Commissioner 1988 - 1989.
- Independent Board of Inquiry into violations of human rights committed by security police – Member 1990 - 1994.
- Diocese of Johannesburg (Anglican) – Chancellor to Bishop Tutu 1985 - 1987.
- University of Fort Hare – Member of Council 1990 – 1998.

### **United Nations**

1997 - 2001 Member of the International Law Commission (first South African to be elected).

International Law Commission, Special Rapporteur on Diplomatic Protection (elected on nomination of African Group in the Commission).

- 1998 - United Nations Commission on Human Rights.
- 2000 - Chairman of the Human Rights Inquiry Commission to investigate violations of human rights and humanitarian law in the Occupied Palestinian Territories. For report, see Economic and Social Council: E/CN4/2001/121 of 16 March 2001.
- 2000 - 2007 United Nations Commission on Human Rights: Special Rapporteur on violations of international humanitarian law and human rights in the Occupied Palestinian Territories. For first report, see ECOSOC, E/CN4/2002/33 of 6 March 2002.
- 2001 - 2006 Re-elected as Member of International Law Commission, with highest number of votes for an African member.
- 2000 - 2006 Special Rapporteur to International Law Commission on Diplomatic Protection.

**International law bodies**

- 1973 - 1975 American Society of International Law: Member of Study Committee on International Protection of Human Rights.
- 1974 - 1984 International Law Association: Member of Committee on International Terrorism.
- 1985 - 1988 International Law Association: Member of Committee on Extradition and International Terrorism.
- 1992 - 1998 International Law Association: Co-Rapporteur to Committee on Extradition and Human Rights.
- 1993 - 1995 President, South African Branch of the International Law Association.
- 1998 President, South African Branch of the International Law Association.
- 1995 - Member of Governing Body of African Society of International and Comparative Law.
- 1995 - Member of Institut de Droit International (first and only South African member elected).
- 1997 - 1999 Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law (International Committee of the Red Cross).

## **Constitutional negotiations**

- 1993 Member of Technical Committee for Investigating the Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation as part of negotiations for Interim Constitution.
- 1995 Member of Technical Committee to advise Constitutional Assembly on Drafting of Bill of Rights for 1996 Constitution.

## **Awards and honours**

- 1991 Claude Harris Leon Foundation and Percy Fox Foundation Community Relations Award, 1991. Citation reads:
- “This award is made to Professor John Dugard for his concern with civil liberties and the general conduct of law in South Africa. As Director of the Centre for Applied Legal Studies, which was established largely because of his endeavours, he has worked with vigour and great courage to dismantle the apartheid legal order through public education, scholarly research and public interest litigation.”
- 1995 Distinguished Researcher Award, University of the Witwatersrand.
- 1999 Delivered Third Manfred Lachs Memorial Lecture, Peace Palace, The Hague, 15 April 1999, on “Dealing with crimes of a past regime. Is amnesty still an option?”.

## **Publications**

### Books

- *The South West Africa/Namibia dispute* (University of California Press, 1973).
- *Introduction to criminal procedure* (Juta and Co Ltd, 1977).
- *Human rights and the South African legal order* (Princeton University Press, 1978)
- *Recognition and the United Nations* (Grotius Publications, 1987).
- *The last years of apartheid. Civil liberties in South Africa*, with Haysom and Marcus (South Africa Update Series, Ford Foundation – Foreign Policy Association, 1992).
- *International law - A South African perspective*, 3rd edition, (Juta and Co Ltd, 2005).

## United Nations Reports

For the past few years, much time has been devoted to preparing reports for the United Nations International Law Commission and the United Nations Commission on Human Rights.

### *Diplomatic protection*

- First Report on Diplomatic Protection, United Nations General Assembly Official Records (UN GAOR), International Law Commission (ILC), 52nd Session, 2000, A/CN 4/506; A/CN 4/506, Addendum 1.
- Second Report on Diplomatic Protection, UN GAOR, ILC, 53rd Session, 2001, A/CN 4/514.
- Third Report on Diplomatic Protection, UN GAOR, 54th Session, 2002, A/CN/523; Addendum 1, A/CN/523/Add 1.
- Fourth Report on Diplomatic Protection, UN GAOR, 55th Session, 2003, A/CN 4/530, A/CN 4/530 Add 1.
- Fifth Report on Diplomatic Protection, UN GAOR, 56th Session, 2004, A/CN 4/538.
- Sixth Report on Diplomatic Protection, UN GAOR, 57th Session, 2005, A/CN 4/546.

### *Occupied Palestinian Territory*

- Report of the Human Rights Inquiry Commission established pursuant to United Nations Commission on Human Rights, resolution S-51/1 of 19 Oct 2000 to investigate violations of human rights and humanitarian law in the Occupied Palestinian Territories after 28 September 2000. Economic and Social Council Commission on Human Rights, E/CN 4/2001/121, 16 March 2001.
- Report on Question of the Violation of Human Rights in the Occupied Arab Territories, including Palestine, UN GAOR, 56th Session, A/56/440, 4 October 2001.
- Report on Question of the Violation of Human Rights in the Occupied Arab Territories, including Palestine, ECOSOC Commission on Human Rights, E/CN/4/2002/32.
- Report on Israeli Practices affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, UN GAOR, 60th Session, A/60/271, 18 August 2005.
- Report on the Situation of Human Rights in the Palestinian Territories occupied by Israel since 1967, ECOSOC Commission on Human Rights, E/CN 4/2006/029, 22 December 2005.

### Books edited

- Rights and constitutionalism. The new South African legal order, Van Wyk, Dugard, de Villiers and Davis (eds), Juta and Co, Cape Town, 1994. Reprinted by Clarendon Press, Oxford, 1996.
- International criminal law and procedure, Dugard and Van den Wyngaert (eds), Dartmouth, Aldershot UK, 1996.

- Documents on international law. Handbook for law students and constitutional lawyers, Mtshaulana, Dugard and Botha (eds), Juta and Co, Cape Town, 1996.

### **Editorial positions**

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|----------------|--|
| 1985 - present | <i>South African Journal on Human Rights</i> (Senior Member, Editorial Committee).   |
| 1976 - present | <i>Annual Survey of South African Law</i> (Editorial Board).   |
| 1984 - present | <i>International Legal Materials</i> , published by the American Society for International Law (Corresponding editor for Southern Africa). |
| 1992 -         | <i>South African Yearbook of International Law</i> (Editorial Board).  |
| 1994 -         | <i>Cambridge Studies in International and Comparative Law</i> (Editorial Board).   |
| 1998 -         | <i>Yearbook of International Humanitarian Law</i> , TMC Asser Press, The Hague (Board of Editors)  |
| 1999 - 2004    | <i>Netherlands International Law Review</i> (Board of Editors).  |
| 1998 -         | <i>Leiden Journal of International Law</i> (Board of Foundation)   |
| 2000 -         | <i>International Criminal Law Review</i> , Martinus Nijhoff (Editorial Board).   |
| 2003 -         | <i>Journal of International Criminal Justice</i> , Oxford University Press (Advisory Board).   |
| 2005 -         | <i>Human Rights Law Review</i> , Oxford University Press (Editorial Advisory Board).   |

### **Publications on international law**

#### Articles in scholarly journals

- ‘Objections to the revision of the 1962 judgment of the International Court of Justice in the South West Africa cases’ (1965) 82 *South African Law Journal* 178-191.
- ‘The legal effect of United Nations Resolutions on Apartheid’ (1966) 83 *South African Law Journal* 44-59.
- ‘South West Africa cases, second phase, 1966’ (1966) 83 *South African Law Journal* 429-460.
- ‘The Organization of African Unity and Colonialism: An enquiry into the plea of self-defence as a justification for the use of force in the eradication of colonialism’ (1967) 16 *International and Comparative Law Quarterly* 157-190.
- ‘The revocation of the mandate for South West Africa’ (1968) 62 *American Journal of International Law* 78-97.

- ‘The Simonstown Agreement: South Africa, Britain and the United Nations’ (1968) 85 *South African Law Journal* 142-156.
- ‘South West Africa and the supremacy of the South African parliament’ (1969) 86 *South African Law Journal* 194-201.
- ‘South West Africa and the “Terrorist Trial”’ (1970) 64 *American Journal of International Law* 9-41.
- ‘Naciones Unidas, derechos humanos y el “apartheid”’ (1970) 11 *Foro International (Mexico)* 286-307.
- ‘The Opinion on South West Africa (Namibia): The teleologists triumph’ (1971) 88 *South African Law Journal* 460-477.
- ‘Namibia (South West Africa): The court’s opinion, South Africa’s response and prospects for the future’ (1972) 11 *Columbia Journal of International Law* 14-49.
- ‘International terrorism: Problems of definition’ (1974) 50 *International Affairs* 67-81.
- ‘Towards the definition of international terrorism’ (1973) *Proceedings of the American Society of International Law* 94-100.
- ‘The Nuclear Tests cases and the South West Africa cases: Some realism about the international judicial decision’ (1976) 16 *Virginia Journal of International Law* 463-504
- ‘SWAPO: The Jus ad Bellum and the Jus in Bello’ (1976) 93 *South African Law Journal* 144-158.
- ‘International Terrorism and the just war’ (1977) 2 *Stanford Journal of International Studies* 21-37.
- ‘South Africa’s “independent” homelands: An exercise in denationalization’ (1980) *Denver Journal of International Law and Policy* 11-36.
- ‘Silence is not golden’ (1982) 46 *Foreign Policy (Washington DC)* 37-48.
- ‘The application of customary international law affecting human rights’ (1982) *Proceedings of the American Society of International Law* 245-251.
- ‘Grotius, the jurist and international lawyer: Four hundred years on’ (1983) 100 *South African Law Journal* 213-220.
- ‘The denationalization of black South Africans in pursuance of apartheid’ (1984) 33 *International Commission of Jurists Review* 49-60.
- ‘Israel and the international community: The legal debate’ (1984) 10 *South African Yearbook of International Law* 35-55.
- ‘The conflict between international law and South African law: Another divisive factor in South African society’ (1986) 2 *South African Journal on Human Rights* 1-28.
- ‘Permissible Measures and obligations for outside states and internal peoples towards minority rule in South Africa’ (1986) *Proceedings of the American Society of International Law* 314-317.



- 'Human rights, humanitarian law and the South African conflict' (1988) 2 *Harvard Human Rights Yearbook* 101-110.
- 'Walvis Bay and international law: Reflections on a recent study' Review article of Lynn Berat Walvis Bay (1991) 108 *South African Law Journal* 82-92.
- 'The role of international law in the struggle for liberation in South Africa' (1991) *Social Justice* (USA) 83-94.
- 'Secession: Is the case of Yugoslavia a precedent for Africa?' (1993) 5 *African Journal of International and Comparative Law* 63-75.
- 'The role of international law in interpreting the bill of rights' (1994) 10 *South African Journal on Human Rights* 208-215.
- 'International law and the "final" Constitution' (1995) 11 *South African Journal on Human Rights* 241-251.
- 'The influence of international human rights law on the South African Constitution' (1996) 49 *Current Legal Problems* 305-324.
- '1996 and all that. The South West African judgment revisited in the East Timor case' (1996) 8 *African Journal of International and Comparative Law* 549-563.
- 'International Law and the South African Constitution' (1997) 8 *European Journal of International Law* 77-92.
- 'Obstacles in the way of an international Criminal Court' (1997) 56 *Cambridge Law Journal* 329-342.
- 'Is the Truth and Reconciliation Process compatible with international law? An unanswered question. Azapo v President of Republic of South Africa' (1997) 13 *South African Journal on Human Rights* 258-268.
- 'Bridging the gap between human rights and humanitarian law: The punishment of offenders' (1998) 38/324 *International Review of the Red Cross* 445-453.
- 'The South African judiciary and international law in the apartheid era' (1998) 14 *South African Journal on Human Rights* 110-126.
- 'Reconciling extradition with human rights' (1998) 92 *American Journal of International Law* 187-212 (co-authored with Van den Wyngaert).
- 'Reconciliation and justice: The South African experience' (1998) 8 *Transnational Law and Contemporary Problems* 277-311.
- 'How effective is the International Law Commission in the development of international law?' (1998) 23 *South African Yearbook of International Law* 34-44.
- 'War crimes in internal conflicts' (1998) 28 *Israel Yearbook on Human Rights* 91-96
- 'Dealing with crimes of a past regime: Is amnesty still an option?' (1999) 12 *Leiden Journal of International Law* 1001-1015.

- ‘Africa and international criminal law’ (2000) *Proceedings of the American Society of International Law* 229-231.
- ‘Diplomatic protection and human rights: The draft articles of the international Law Commission’ (2005) 24 *Australian Yearbook of International Law* 75-91.
- ‘Immunity, human rights and international crimes’ (2005) *Journal of South African Law* (Tydskrif vir die Suid-Afrikaanse Reg) 482-488.

#### Shorter comments in scholarly journals

- ‘Succession to federal treaties on the dissolution of a federation’ (1965) 82 *South African Law Journal* 430-437.
- ‘Consular immunity’ (1966) 83 *South African Law Journal* 126-132.
- ‘Succession to federal treaties revisited’ (1967) 84 *South African Law Journal* 250-254.
- ‘The treaty-making process’ (1968) 85 *South African Law Journal* 1-4
- ‘The Extradition Agreement between South Africa and Swaziland’ (1969) 86 *South African Law Journal* 88-92.
- ‘International law is part of our law’ (1971) 88 *South African Law Journal* 13-15.
- ‘Rhodesia. Does South Africa recognise it as an independent state?’ (1977) 94 *South African Law Journal* 127-130.
- ‘International law in South Africa: The restrictive approach to sovereign immunity approved’ (1980) 97 *South African Law Journal* 357-363.
- ‘South African report’ (1981) 14/April *International Practitioner’s Notebook*.
- ‘Jurisdiction over persons on board an aircraft landing in distress’ (1981) 30 *International and Comparative Law Quarterly* 901-905.
- ‘Denationalization: Apartheid’s ultimate plan’ (1983) 28 *Africa Report* (African American Institute New York) 43-46.
- ‘Educating South Africans for an independent Namibia’ (1985) 15 *South Africa International* 129-132.
- ‘The Revocation of the Mandate for Namibia revisited’ (1985) 1 *South African Journal on Human Rights* 154-159.
- ‘Soldiers or terrorists? The ANC and SADF compared’ (1988) 4 *South African Journal on Human Rights* 221-224.
- ‘Abduction: Does the Appellate Division care about international law?’ (1997) 12 *South African Journal on Human Rights* 324-328.

### Chapters in books and monographs

- 'Legal aspects of investment in Namibia' in Murray, Morris, Dugard and Rubin *The role of foreign firms in Namibia*. Study Project on External Investment in South Africa and Namibia (South West Africa), Africa Publications Trust (1974),
- *South West Africa and the International Court. Two viewpoints on the 1971 opinion*, Dugard and Grosskopf, South African Institute of International Affairs (1974).
- *Namibia and Human Rights*, South African Institute of International Affairs (1976).
- *Independent Homelands. Failure of a fiction*, South African Institute of Race Relations (1979).
- 'The "purist" legal method, international law and sovereign immunity' in Gauntlett (ed) *J C Noster 'n Feesbundel*, Butterworths (1979).
- 'A satellite arrangement?' in Breytenbach (ed) *The constellation of states*, South African Foundation (1980).
- 'International terrorism and the just war' in Rapoport and Alexander (eds) *The morality of terrorism*, Columbia University Press (2nd ed 1989).
- 'International human rights norms in domestic courts. Can South Africa learn from Britain and the United States?' in Kahn (ed) *Fiat Justitia. Essays in memory of Oliver Deneys Schreiner* (1983).
- *The denationalization of black South Africans in pursuance of apartheid: A question for the International Court of Justice?* Occasional Paper No 8, Centre for Applied Legal Studies, University of the Witwatersrand (1984).
- 'The responsibility of the legal profession' in Cohen and Gouin (eds) *Lawyers and the nuclear debate*, University of Ottawa Press (1988).
- 'Sanctions against South Africa: An international law perspective' in Orkin (ed) *Sanctions against apartheid* (1989).
- 'The place of public international law in South African law' in Visser (ed) *Essays in honour of Ellison Kahn*, Visser (1989).
- 'Enforcement of human rights in the West Bank and the Gaza Strip' in Playfair (ed) *International law and the administration of occupied territories* (1992).
- 'The treatment of rebels in conflicts of a disputed character: The Anglo-Boer War and the "ANC-Boer War" compared' in Delissen and Tanya (eds) *Humanitarian law of armed conflict. Challenges ahead. Essays in honour of Frits Kalshoven*, Martinus Nijhoff (1991).
- 'Apartheid: A case study in the response of the international community to gross violations of human rights' in Cotler and Eliadis (eds) *International human rights law. Theory and practice*, Canadian Human Rights Foundation (1992).
- 'International human rights' in Van Wyk, Dugard, De Villiers and Davis (eds) *Rights and constitutionalism*, Juta (1994).

- ‘Public international law’ in Chaskalson, Kentridge, Klaaren, Marcus, Spitz and Woolman (eds) *Constitutional law of South Africa*, Juta (1996).
- ‘Retrospective justice: International law and the South African model’ in McAdam (ed) *Transitional justice and the rule of law in new democracies*, University of Notre Dame Press (1997).
- ‘Collective non-recognition: The failure of South Africa’s Bantustan states’ in Boutros-Boutros Ghali. *Amicorum Discipulorumque Liber* (1998).
- ‘Terrorism and international law: Consensus at last?’ in Yakpo and Boumedra (eds) *Liber Amicorum: Mohammed Bedjaoui* (1999) 159-172.
- ‘Reconciliation and justice: The South African experience’ in Burns, Weston and Marks (eds) *The future of international human rights*, Transnational Publishers (1999) 399-432.
- ‘The role of human rights standards in domestic law: The Southern African experience’ in Alston and Crawford (eds) *The future of UN human rights treaty Monitoring*, Cambridge University Press (2000).
- ‘L’Apartheid’ in Ascensio, Decaux and Pellet (eds) *Droit International Penal*, A Pedone (2000).
- ‘Judicial review of sanctions’ in Gowlland-Debbas (ed) *United Nations sanctions and international law*, Kluwer (2001).
- ‘Judicial review in public international law’ in Scharge (ed) *Judicial review*, Nijmegen: Ars Aequi Libri (2002) Paul Scholten Instituut, University of Amsterdam ISBN 90-6916-456-6.
- ‘Possible conflicts of jurisdiction with truth commissions’ in Cassese, Gaeta and Jones (eds) *The Rome Statute of the International Criminal Court: A commentary* (2002).
- ‘Non-applicability of Statute of Limitations’ (with Van den Wyngaert) in Cassese Gaeta and Jones (eds) *The Rome Statute of the International Criminal Court: A commentary* (2002).
- ‘The problem of the definition of terrorism in international law’ in Eden and O’Donnell (eds) *September 11, 2001. A turning point in international and Domestic law* (2005) Ardsley NY Transnational Publishers ISBN 1-57105-326-3.
- ‘The role of recognition in the law and practice of secession’ (with Raic) in Kohen (ed) *Succession: International law perspectives* (2005).
- ‘Articles 13-15 of the Statute of the International Court of Justice’ in Zimmerman and Tomuschat (eds) *Commentary on the Statute of the International Court of Justice*, Oxford University Press (2006).
- ‘Diplomatic protection’ in Crawford (ed) *State responsibility*, Cambridge University Press (2006).

#### Annual survey of South African law

Initiated the chapter on international law in the *Annual survey* in 1965 and writes this chapter every year since then.

## **Jurisprudence, human rights and criminal procedure**

### Articles in scholarly journals

- ‘The judicial process, positivism and civil liberty’ (1971) 88 *South African Law Journal* 181-200.
- ‘Academic freedom in South Africa’ (1970) 3 *Droits de l’homme* 186-194.
- ‘The political trial: Some special considerations’ (1974) 95 *South African Law Journal* 59-72.
- ‘Statutory interpretation as an exercise in choice’ (1978) 95 *South African Law Journal* pp 451-454.
- ‘Some realism about the judicial process and positivism’ (1981) 98 *South African Law Journal* 372-387.
- ‘Chief Justice versus President: Does the ghost of *Brown v Leyds NO* still haunt our judges?’ (1981) 165 *De Rebus* 421-422.
- ‘Judges and unjust laws’ (1981) 22/2 *Codicillus* 50-55.
- ‘The judiciary and national security’ (1982) 99 *South African Law Journal* 655-659.
- ‘A triumph for executive power – an examination of the Rabie report and the Internal Security Act 74 of 1982’ (1982) 99 *South African Law Journal* 589-604.
- ‘Using the law to pervert justice’ (1983) 11/2 *Human Rights* (American Bar Association) 22-25, 50-54.
- ‘Should judges resign? – a reply to professor Wacks’ (1984) 101 *South African Law Journal* 286-294.
- ‘Collective cabinet responsibility and human rights’ (1985) 1 *South African Journal on Human Rights* 52-54.
- ‘The jurisprudential foundations of the apartheid legal order’ (1986) 28 *The Philosophical Forum* (USA) 115-123.
- ‘A Bill of Rights for South Africa: Can the leopard change its spots?’ (1986) 2 *South African Journal on Human Rights* 275-77.
- ‘The judiciary in a state of national crisis – with special reference to the South African experience’ (1987) 44 *Washington and Lee Law Review* 477-501.
- ‘The quest for a liberal democracy in South Africa’ (1987) *Acta Juridica* 237-58 (Also published separately in *Law under stress*).
- ‘Towards a democratic order for South Africa’ (1990) 2 *African Journal of International and Comparative Law* 361-383.
- ‘A Bill of Rights for South Africa?’ (1990) 23 *Cornell International Law Journal* 441-466.

- ‘Towards genuine democracy in conflict ridden countries: A South African perspective’ (1991) 1 *Beyond Law (Mas Alla del Derecho, Colombia)* 65-76.
- ‘Human rights, apartheid and lawyers. Are there any lessons for lawyers from common law countries?’ (1992) 15 *University of New South Wales Law Journal* 439-447.

#### Chapters in books and monographs

- ‘The legal framework of apartheid’ in Rhodie (ed) *South African dialogue* McGraw-Hill (1972).
- ‘South African lawyers and the liberal heritage of the law’ in *Law, justice and society* Report of the Legal Commission of the Study Project on Christianity in Apartheid Society (SPRO-CAS).
- ‘A review of South African legal education’ in *Legal aid in South Africa* University of Natal (1973).
- ‘Racial legislation and civil rights’ in Hellman and Lever (eds) *Conflict and progress. Fifty years of race relations in South Africa* (1979).
- ‘Human rights in South Africa – retrospect and prospect’ in Forsyth and Schiller (eds) *Human rights: The Cape Town Conference* (1979).
- ‘Political options for South Africa and implications for the west’ in Rothberg and Barratt (eds) *Conflict and compromise* (1980).
- ‘Judicial power and a constitutional court’ in Boule and Baxter (eds) *Natal and Kwa-Zulu constitutional and political options* (1981).
- ‘The judiciary and constitutional change’ in Van Vuuren and Kriek (eds) *Political alternatives for Southern Africa* (1983).
- ‘The South African Constitution 1910-1980’ *Our legal heritage* (1982).
- ‘The judiciary and national security’ in Bell and Mackie (eds) *Detention and security legislation in South Africa* (1985).
- ‘Human rights and the rule of law’ in Butler, Elphick and Welsh *Democratic liberalism in South Africa. Its history and prospect* (1987).
- ‘Changing attitudes towards a bill of rights’ in Van der Westhuizen and Viljoen (eds) *A Bill of Rights for South Africa* (1988).
- ‘Towards racial justice in South Africa’ in Henkin and Rosenthal (eds) *Constitutionalism and rights. The influence of the US Constitution abroad* (1990).
- ‘Helen Suzman’ in Salokar and Volcansek (eds) *Women in law. A bibliographical sourcebook* (1996).

## **Criminal law and procedure**

### Articles in scholarly journals

- '1570 revisited: An examination of South African criminal procedure and the Hiemstra proposals' (1970) 87 *South African Law Journal* 410-423.
- 'Lay participation in the administration of justice' (1972) 1 *Crime, punishment and correction* 65-70.
- 'Training needs in sentencing in South Africa' (1985) 1 *South African Journal on Human Rights* 93-105.

### Shorter Comments in scholarly journals

#### *Criminal Law*

- 'Provocation' (1966) 83 *South African Law Journal* 261-266.
- 'Insane automatism' (1967) 84 *South African Law Journal* 131-138.
- 'The demise of *DPP v Smith* and the renaissance of subjectivism in criminal intent' (1967) 84 *South African Law Journal* 210-212.
- 'Judges, academics and unjust laws: The Van Niekerk contempt case' (1972) 89 *South African Law Journal* 271-287.

#### *Criminal Procedure*

- 'The rights to counsel: South African and American developments' (1967) 84 *South African Law Journal* 1-6.
- 'The courts and the Attorney-General' (1968) 85 *South African Law Journal* 232-237.
- 'Bail: More power to the Attorney-General' (1968) 85 *South African Law Journal* 466-469.
- 'The courts and section 6 of the Terrorism Act' (1970) 87 *South African Law Journal* 289-293.
- 'Autrefois acquit and substantially identical offences' (1971) 88 *South African Law Journal* 301-305.
- *Annual survey* Chapter on criminal procedure 1966-1968.

## **Book reviews**

Wrote over 60 book reviews altogether for the following journals: *South African Law Journal*, *British Year Book of International Law*, *American Journal of International Law*, *American Historical Review*, *American Journal of Comparative Law*, *International and Comparative Journal of Southern Africa*, *Journal of Contemporary African Studies*, *Cambridge Law Journal* and *South African Yearbook of International Law*.

**Important cases involving questions of international law and constitutional law in which I have appeared as consultant or counsel**

- *S v Tuhadeleni* 1969 1 SA 153 (A)  
Challenge to the validity of Terrorism Act 83 of 1967 in Namibia on the ground that the Mandate for South West Africa had been lawfully revoked by the UN General Assembly.
- *S v Ramotse* 1970 Annual Survey of SA Law 80  
Objection to the exercise of criminal jurisdiction over an ANC leader abducted from Botswana.
- *Sobukwe v Minister of Justice* 1972 1 SA 693 (A)  
Attempt to secure the right of the leader of the Pan-Africanist Congress to leave South Africa on the basis of a fundamental right to leave one's country.
- *Lendlease Finance Co (Pty) Ltd v Corporation de Mercadeo Agricola v CMA* 1975 4 SA 397 (C); 1976 4) SA 464 (A)  
Assertion of restrictive approach to sovereign immunity.
- *Inter-Science Research and Development Services v Republica Popular de Mocambique* 1980 2 SA 111 (T); 1982 3 SA 330 (T)  
Assertion of restrictive approach to sovereign immunity.
- *Nkondo v Minister of Police* 1980 2 SA 894 (O)  
Objection to the exercise of criminal jurisdiction over a person whose international flight had been forced to land in distress.
- *S v Adams; S v Werner* 1981 1 SA 1980 2 SA 313 (W); 1981 1 SA 187 (A)  
Challenge to validity of Group Areas Act proclamation in which it was argued that a municipal court should have regard to international human rights norms in the interpretation of South African statute.
- *Tutu v Minister of Internal Affairs* 1982 4 SA 571 (T)  
Argued that Bishop Desmond Tutu's passport had been revoked unlawfully by the executive.
- *S v Banda* 1989 4 519 (B)  
Challenge to the statehood of Bophuthatswana, on the grounds that it failed to qualify as a state under international law.
- *Mathebe v Regering van die Republiek van Suid-Afrika* 1988 3 SA 667 (A)  
Successful challenge to the validity of proclamation incorporating district of Moutse into KwaNdebele.
- *Staatspresident v Lefuo* 1990 2 SA 679 (A)  
Successful challenge to the validity of proclamation incorporating township of Botshabelo into QwaQwa.
- *Attorney-General of Lesotho v Swissbourgh Diamond Mines* 1997 8 BCLR (Lesotho, CA)  
Successful challenge to expropriation law.



- *Swissbourgh Diamond Mines v Government of the RSA*, (TP) 1999 2 SA 279 (T)  
Act of State Doctrine.
- *Harksen v President of the RSA* 2000 2 SA 825 (CC)  
Extradition.

**Cases in which I have given expert evidence on questions of international law (status of SWAPO and ANC combatants under international law)**

- *S v Sagarius* 1983 1 SA 833 (SWA)
- *S v Mogoerane* (TPD; 6/8/1983)
- *S v Thoms* (Appeal reported in 1990 2 SA 802 (A))
- *S v Mncube and Nondula* (TPD Circuit Court, Messina; 5/5/1988; Appeal reported in *S v Mncube* 1991 3 SA 133 (A))

**Other reported cases in which I appeared as counsel**

- *S v Gumbi* 1962 1 SA 188 (D)
- *S v Arenstein* 1963 2 599 (N)
- *S v Malinga* 1963 1 SA 692 (A)
- *S v Roodt* 1983 3 SA 382 (T)

**Conferences**

Delivered a paper at or participated in the following conferences outside South Africa:

- 1973 Annual Meeting, American Society of International Law, Washington DC (paper on outlawing international terrorism).
- 1974 Human Rights Committee, American Society of International Law, Wingspread, Wisconsin (seminar participant).
- 1974 International Law Association, American Branch, New York (panellist).
- 1976 Namibia and Human Rights, International Commission of Jurists, Dakar, Senegal (conference participant).
- 1976 International Law Association, Madrid (committee participant).
- 1978 'The International Legal Effects of South Africa's System of Apartheid', City of New York Bar (paper).
- 1980 Colloquium on Law and Liberty to Honour Charles Hamilton Houston, Amherst College, Massachusetts (paper on failures of legal positivism).
- 1982 Annual Meeting, American Society of International Law, Washington DC (paper on International Law and Domestic Courts).

- 1982 International Law Association, meeting on International Terrorism, Lexington, Virginia (participant).
- 1982 Allard K Lowenstein Symposium on International Human Rights Law, Yale Law School (panellist).
- 1982 Seminar on Justice and Society, Aspen Institute for Humanistic Studies, Aspen (participant).
- 1982 Seminar on Tradition and Modernization, Aspen Institute for Humanistic Studies, Jerusalem (participant).
- 1983 Annual meeting, African-American Institute, Harare (panellist).
- 1983 International Law Association, meeting on International Terrorism, Fletcher School of Law and Diplomacy, Tufts University, Boston (participant).
- 1983 'US Foreign Policy: Adjusting to Change in the Third World', Aspen Institute for Humanistic Studies, Wingspread, Wisconsin (participant).
- 1984 'Recent Developments in South Africa', Study Commission on US Policy towards South Africa, New York (paper on South African Constitution).
- 1985 'Recent Political and Constitutional Developments in South Africa', Ford Foundation Seminar, Washington DC.
- 1985 'Role of the Judiciary in South Africa', American Bar Association Seminar on Legal Aspects of Apartheid, Washington DC.
- 1985 'The Role of the International Court in the Elimination of Apartheid' Media Round Table sponsored by United Nations, The Hague (paper delivered).
- 1986 'Permissible Measures and Obligations of Outside States towards Minority Rule in South Africa', American Society of International Law, Annual Meeting, Washington DC (paper delivered).
- 1986 International Law Association, Meeting on Non-Extradition of Political Offenders and International Terrorism, Fletcher School of Law and Diplomacy, Tufts University, Boston.
- 1987 Colloquium on the 'Judiciary in a Time of National Crisis' Washington and Lee School of Law (paper delivered).
- 1987 'The Responsibility of the Legal Profession' Canadian Conference on Nuclear Weapons and the Law, Ottawa (paper delivered).
- 1987 Conference on Sanctions held in Gaborone, Botswana (paper delivered on legal aspects of sanctions against South Africa).
- 1987 Meeting of International Law Association Committee on Problems of Extradition in Relation to Terrorist Offences, Heidelberg, Germany (member of committee, preparation of Committee's Report to the Plenary Meeting of the International Law Association held in Warsaw in August 1988).

- 1987 'The Teaching of International Criminal Law as Part of International Law and Human Rights Law', Conference on Teaching of International Criminal Law, Syracuse, Italy, under the auspices of the International Institute of Higher Studies in Criminal Sciences (paper delivered).
- 1988 'The Enforcement of Human Rights in the West Bank and Gaza Strip', Conference on the Law of Military Occupation held in Jerusalem under the auspices of Al Haq Law in the Service of Mankind (paper delivered).
- 1989 'Prospects for Peace in Southern Africa' American Society of International Law, Annual Meeting, Chicago (paper delivered).
- 1989 'Effects of Apartheid on the Protection of Minorities' Conference on Ethnic Conflict, Human Rights and the UN System, Oxford, organised by Harvard Law School Human Rights Program and International Centre for Ethnic Studies, Sri Lanka (paper delivered).
- 1989 Conference on South Africa and the Rule of Law, Nuneham Park, Oxford (participant).
- 1992 International Law Association, Cairo (panellist on problem of State Succession and Secession).
- 1992 Association Internationale de Droit Penal, Helsinki Workshop on Extradition and Human Rights.
- 1992 'Self-Determination, Territorial Integrity and Secession. The Implications for Human Rights of the Dissolution of Yugoslavia', Academia Internacional Liberdade E Desenvolvimento, Sintra, Portugal. Conference on 'International Human Rights Policies for the Next Decade: The 1993 World Conference on Human Rights' (paper delivered).
- 1993 'South Africa's Return to the International Community and International Law', African Society of International and Comparative Law: Fifth Annual Conference, Accra (paper delivered).
- 1994 Meeting of International Law Association Committee on Extradition and Human Rights, Bellagio, Italy (rapporteur).
- 1994 66th Conference of International Law Association, Buenos Aires, Argentina (presented report of Committee on Extradition and Human Rights; printed in *ILA Report of 66th Conference*, 142-170).
- 1994 Conference on International Criminal Court, Siracusa, Italy (panellist).
- 1995 Meeting of Institut de Droit International, Lisbon, Portugal.
- 1995 Conference on Amnesty and Transitional Justice, Siracusa, Italy (panellist)
- 1996 Meeting of International Law Association, Committee on Extradition and Human Rights, Bellagio, Italy (rapporteur).
- 1996 Colloquium to celebrate the 50th Anniversary of the International Court of Justice, The Hague. Participant. Published as *Increasing the Effectiveness of the International Court of Justice* (UNITAR Nijhoff 1997).

- 1996 67th Conference of International Law Association, Helsinki, Finland (presented Report of Committee on Extradition and Human Rights; printed in *ILA Report of 67th Conference*, 214-246).
- 1996 'International Law in South Africa', African Society of International and Comparative Law, Regional conference, Nottingham (paper delivered).
- 1996 African Society of International and Comparative, Law Eighth Annual Conference, Cairo (panellist).
- 1997 Meeting of Institut de Droit International, Strasbourg, France.
- 1997 Meeting of International Law Association, Committee on Extradition and Human Rights, Otzenhausen, Germany.
- 1997 Conference on International Criminal Court, Birkbeck College, London (paper delivered).
- 1997 'International Human Rights Law in South Africa', Conference on International Human Rights, Research Centre for International Law, Cambridge (paper delivered).
- 1997 Colloquium to celebrate 50th Anniversary of International Law Commission, United Nations, New York (participant).
- 1999 'Judicial Review of Sanctions' Colloquium on 'United Nations Sanctions and International Law', Graduate Institute of International Studies, Geneva (paper delivered).
- 1999 'US Attitude towards the ICC', Duke University, USA, Conference on International Criminal Court (paper delivered).
- 1999 Meeting of Institut de Droit International, Berlin, Germany.
- 1999 Conference on International Criminal Law, Siracusa, Italy (paper delivered).
- 1999 African Society of International and Comparative Law. Eleventh Annual Conference, Harare (panellist).
- 2000 'International Criminal Law in Africa', American Society of International Law, Annual Meeting, Washington DC (paper delivered).
- 2000 Gorbachev Foundation Conference on Constitutionalism, Madrid.
- 2001 Inter Action Council Seminar on Humanitarian Intervention, Boston.
- 2004 'International Terrorism', European Society of International Law, Florence (paper delivered).
- 2005 'Legal Aspects of the Palestine/Israel Dispute', European Society of International Law, Geneva (paper delivered).

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