



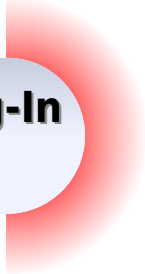
UBUNTU AND THE LAW

AFRICAN IDEALS
AND POST-APARTHEID
JURISPRUDENCE

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Ubuntu And The Law Ubuntu And The Law

**Erika Arban, Maartje De Visser, Jeong-In
Yun**



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Research Handbook provides a comprehensive overview of Third World Approaches to International Law TWAIL with chapters exploring different facets of TWAIL scholarship It covers major doctrines and topics of international law as well as TWAIL perspectives on central historical and theoretical debates *Conquest, Constitutionalism and Democratic Contestations* Joel M. Modiri, 2020-05-21 Two decades since the enactment of South Africa's present constitution the durability and endurance of past inequalities and injustices illustrate that the new South Africa lauded as a miracle nation with the best constitution in the world can no longer be regarded as an unqualified success The legal and constitutional foundations of post 1994 South Africa are in a process of renegotiation that invites new and alternative perspectives and approaches This comprehensive volume explores this process of renegotiation by engaging political and intellectual contestations circulating in South African academic and public discourse relating to continuities and discontinuities between the colonial apartheid past and the post 1994 constitutional present The authors analyse the moral intellectual and political unravelling of post 1994 South African constitutionalism as legal text and political culture and enquire whether it has been able to respond adequately to the fundamental contradictions generated by colonisation and apartheid They also consider how centring the historical problem of European domination and conquest in Africa and South Africa in particular might provide an alternative frame or lens to theorise and understand contemporary South African realities This book marks out a complex field of contestation involving competing histories locations visions and perspectives that raises multifaceted questions regarding law history and politics It is the outcome of a South African Journal of Human Rights colloquium and was originally published as a special issue of the journal **Constitutional Adjudication in Africa** Charles Manga Fombad, 2017 Providing the first comparative analysis of African attempts to promote respect for rule of law and constitutional justice this book examines the diverse and distinctive approaches to constitutional adjudication taken It captures positive and negative developments and future prospects for the different models of constitutional review

Representations and Rights of the Environment Sandy Lamalle, Peter Stoett, 2023-04-06 A critical intercultural and interdisciplinary review of our relationship with the environment and its reflection in law and governance **The Language of Comparative Constitutional Law** Erika Arban, Maartje De Visser, Jeong-In Yun, 2025-10-02 This volume is the first in depth collection to explore the impact of language on the field of comparative constitutional law It addresses the epistemological and conceptual implications of English as the lingua franca In this regard it considers the global influence of Anglophone jurisdictions in orienting the discourse through the identification of concepts designs and ideas that warrant engagement and exploration outside of those origin jurisdictions In doing so the book underscores that language is not a neutral device but can produce hegemonic pressures and expectations It further makes the role of language in conducting comparative constitutional law explicit so that its users can be more deliberate in their selection of foreign materials and are made conscious of the limitations of their findings due to language barriers The book calls for a reckoning with the rich

constitutional vocabulary that non Anglophone jurisdictions have to offer to ensure a more holistic approach to the creation of knowledge It also emphasises the need for the contextualised study of constitutional phenomena to appreciate how these are shaped by linguistic choices In addition to raising awareness about language s significance as an epistemological conceptual and methodological device the volume also puts forward constructive tools and techniques to harness language s potential making it an indispensable resource for scholars students lawmakers and judges

Environmental Constitutionalism in the Anthropocene Domenico Amirante, Silvia Bagni, 2022-04-03 This book examines the relationship between man and nature through different cultural approaches to encourage new environmental legislation as a means of fostering acceptance at a local level In 2019 the International Union of Geological Sciences IUGS recognised that we have entered a new era the Anthropocene specifically characterised by the impact of one species mankind on environmental change The Anthropocene is penetrating the discourse of both hard sciences and humanities and social sciences by posing new epistemological as well as practical challenges to many disciplines Legal sciences have so far been at the margins of this intellectual renewal with few contributions on the central role that the notion of Anthropocene could play in forging a more effective and just environmental law By applying a multidisciplinary approach and adopting a Law as Culture paradigm to the study of law this book explores new paths of investigation and possible solutions to be applied New perspectives for the constitutional framing of environmental policies rights and alternative methods for bottom up participatory law making and conflict resolution are investigated showing that environmental justice is not just an option but an objective within reach The book will be essential reading for students academics and policymakers in the areas of law environmental studies and anthropology

Cadastre: Principles and Practice Roger Fisher & Jennifer Whittal, 2020-02-25 Keywords history surveying land tenure land rights cadastre cadastral professionalism law land administration land policy land boundaries river bank high water mark high water mark estuary ICMA mineral rights international law maritime zone marine spatial planning diagram general plan lease sectional title case law Explaining the principles of cadastral law and interpretation in practice this is the first publication of its kind in over 45 years It as a comprehensive text for aspiring and practicing professional land surveyors those in the real property business and those involved in land administration Written for the South African practice environment it will also be of interest to an international audience The authors approach is progressive with the intent to inspire development to meet the needs of our society for secure land tenure for all A broad range of topics are included historical roots of tenure in the ancient world the early development of the cadastre in South Africa and development of the land surveying profession and professionalism This provides context to the discussion on land law tenure and rights on legal institutions on land administration as well as government policies and reform imperatives Defining property boundaries of rights in space is a particular challenge of the cadastral land surveyor The chapters on the definition of beacons and boundaries cover a broad range of onshore and offshore application environments They span the extent of ownership and

limited real rights within the sovereign area of the Republic of South Africa These environments include the air the land surface and subterrestrial coastal waters and the sea bed Particular attention is paid to complex river and coastal property boundaries Case law is a key driver for changes in legislation and is also highly directive in terms of practice The final chapter of the book is dedicated to a themed exploration of case law relating to beacons boundaries evidence rights and restrictions Cadastre Principles and Practice will be an important addition to your professional bookshelf Order it here <https://www.sagi.co.za/product/cadastre-principles-and-practice>

Contested Properties Britta Rutert,2020-02-03 This book deals with the values of medicinal plants and associated knowledge s in the field of bioprospecting in post apartheid South Africa Bioprospecting the use of genetic or biological resources for commercial purposes is a profit oriented enterprise facing new challenges with the rise of human rights and biodiversity politics This new situation has led to claims for political leverage made by indigenous communities as well as to claims for national and local cultural identity and heritage The picture presented here contributes to the widely discussed yet so far unresolved question of how to appropriately share benefits and how to protect indigenous knowledge in this field

African Union Law Olufemi Amao,2018-07-06 This book explores the emergence of African Union AU law as a legal order and its implications for existing order in the region As an authoritative text on the development of AU law the book covers such pertinent issues as legislative powers competences direct effect in AU law subsidiarity interventionism and enforcement of laws Olufemi Amao argues that there is a gradual movement from intergovernmentalism to supranationalism in the African Union legal order and explores how this trajectory gradually and incrementally de emphasises the discourse on nation state sovereignty a concept that has caused many problems in the African context Drawing upon EU law as a comparison the book also examines how the development of supranationalism affects crucial issues such as human rights democratic reforms territorial matters tribal and religious disputes and economic relations As a comprehensive examination of the development of law within a union this book will be of great interest and use to students scholars and practitioners in international law international relations and African studies

An Almanac of Contemporary and Continuum of Jurisprudential Restatements 'lai Oshitokunbo Oshisanya,2022-07-10 A Compendium of Jurisprudential Annotations of Cases with Treaties Statutes Rules and Commentaries

Education, Colonial Sickness Njoki Nathani Wane,2024-03-18 In the last two decades we have witnessed the quest for decolonization through research writing teaching and curriculum across the globe Calls to decolonize higher education have been overwhelming in recent year However the goal of decolonizing has evolved past not only the need to dismantle colonial empires but all imperial structures Today decolonization is deemed a basis for restorative justice under the lens of the psychological economic and cultural spectrum In this book the editor and her authors confront various dimensions of decolonizing work structural epistemic personal and relational which are entangled and equally necessary This book illuminates other sites and dimensions of decolonizing not only from Africa but also other areas This convergence of critical scholarship theoretical inquiry and

empirical research is committed to questioning and redressing inequality in contemporary history and other African studies It signals one of many steps in a bid to consultatively examine how knowledge and power have been both defined and subsequently denied through the sphere of academic practice

Probing Human Dignity Stephanie N. Arel, Levi Cooper, Vanessa Hellmann, 2025-01-23 Probing Human Dignity from multiple disciplinary backgrounds by scholars from a variety of countries and different cultures is an intense intellectual and emotional venture The intensity emerges from an encounter with Human dignity that challenges individuals communities and society at large to navigate different spheres of human action including ethical moral religious and legal realms Difficulties arise in the attempt to bridge the conversation about Human Dignity across cultures and traditions This volume addresses such difficulties exploring new horizons of the discourse and offering a mosaic of the quest for Human Dignity Alas the denial of a person's dignity continues to manifest in contemporary life through injustices often related to personal hardship crisis unrest or upheaval This collection confronts such injustices with sensitive complex nuanced and academically rigorous engagement Each chapter begins from the understanding that recognizing and investigating Human Dignity often occurs at the threshold where in times of societal crisis or individual hardship questions of Human Dignity turn into ethical moral and legal dilemmas The objective of this volume is to draw on theoretical and conceptual distinctions of Human Dignity in order to inform new perspectives that probe its ambiguity The contributors offer greater clarity and push beyond existing thresholds to develop new paradigms that cross disciplinary lines while speaking to the goals and needs of post modern societies and individuals Each contributor crosses into new territory to examine a pressing legal or societal issue with a new lens The authors worked together as an international and interdisciplinary research group within the framework of the 2nd Intercontinental Academia of the UBIAS network University Based Institutes for Advanced Studies This volume reflects their journey their fruitful collaboration and their scholarly endeavors The result is a collection that serves as a fresh and exciting contribution to the contemporary Human Dignity discourse

Comparative Law Uwe Kischel, 2019-02-21 Uwe Kischel's comprehensive treatise on comparative law offers a critical introduction to the central tenets of comparative legal scholarship The first part of the book is dedicated to general aspects of comparative law The controversial question of methods in particular is addressed by explaining and discussing different approaches and by developing a contextual approach that seeks to engage with real world issues and takes a practical perspective on contemporary comparative legal scholarship The second part of the book offers a detailed treatment of the major legal contexts across the globe including common law civil law systems based on Germany and France and extended to Eastern Europe Scandinavia and Latin America among others the African context with an emphasis on customary law different contexts in Asia Islamic law and law in Islamic countries plus a brief treatment of Jewish law and canon law and transnational contexts public international law European Union law and lex mercatoria The book offers a coherent treatment of global legal systems that aims not only to describe their varying norms and legal institutions

but to propose a better way of seeking to understand how the overall context of legal systems influences legal thinking and legal practice

Afro-Communitarian Democracy Bernard Matolino, 2019-09-09 In going beyond African socialism and consensual democracy's use of communitarianism Bernard Matolino demonstrates that there is a mode of understanding communitarianism that need not necessarily be traditionalist It is from this ever evolving communitarian notion that an African rooted form of democracy may arise Such a democratic theory is one that seeks to prioritize reality and factors that have shaped and continue to shape current experience of life on the African continent The work advocates a new mode of communitarianism without the idealism of traditional foundations of kin connections and one which takes the ontological equality of the community and the individual Such a communitarian outlook will secure the basic requirements of democratization without abdicating its communitarian responsibility The communitarian democratic theory advocated here takes seriously the particular situation of each individual and yet points out the need to appreciate the inevitability of the connections among the same individuals

Conflictual Democracy and the South African Constitution Henk Botha, 2025-04-02 Human dignity equality and freedom are central to the South African Constitution This book examines these values through a conflictual democratic lens which views conflict power and disagreement as constitutive of democracy The book explores the capacity of value based constitutional interpretation to create openings for democratic dialogue and emancipatory social struggles Conversely it also assesses the ability of constitutional interpretation to normalise and depoliticise domination inequality and exclusion The book uses a conflictual frame to shed light on the interplay between the universality of dignity equality and freedom and the particularity of the discourses and conventions that mediate their interpretation and enforcement It argues that such a frame could enable realistic assessments of the ability of the constitutional order to safeguard spaces for emancipatory struggles and respond to radical demands for the reconstitution of society Drawing on the text of the Constitution case law academic commentary and constitutional political and critical legal theory this book will be an important read for researchers of constitutional law and critical legal theory both within South Africa and beyond Henk Botha is a Professor in the Faculty of Law Stellenbosch University South Africa

An African Path to Disability Justice Oche Onazi, 2019-11-25 How should disability justice be conceptualised not by orthodox human rights or capabilities approaches but by a legal philosophy that mirrors an African relational community ideal This book develops the first comprehensive answer to this question through the contemporary literature on African philosophy which is relied upon to construct a legal philosophy of disability justice comprising of ethical ideals of community human relationships and obligations From these ideals an African legal philosophy of disability justice is offered as a criterion for critically evaluating existing laws legal and political institutions as well as providing an ethical basis for creating new ones to ensure that they are inclusive to people with disabilities In taking an alternative perspective on the subject the book outlines and emphasises the need for a new public culture of obligations owed to people with disabilities highlighting both the prospects and difficulties of

achieving the ideal of disability justice that continues to elude the lived experiences of millions of Africans today Oche Onazi's *An African Path to Disability Justice* is the first book length exploration of disability in the light of African ethics as contrasted with the human rights and capabilities frameworks Of particular interest are Onazi's thoughtful reflections on how various conceptions of community salient in African moral philosophy including group based reciprocal and relational bear on what we owe to the disabled Thaddeus Metz Distinguished Professor University of Johannesburg

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