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ABSTRACTS

GRANT, EVADNÉ, Human rights, cultural diversity and customary law in South Africa, *Journal of African Law*, **50**, 1 (2006): 2–23

In the joined cases of *Bhe* v. *Magistrate Khayelitsha and Others*; *Shibi* v. *Sithole and Others*; *South African Human Rights Commission and Another* v. *President of the Republic of South Africa and Another* (2005(1) B.C.L.R. 1 (CC)), the South African Constitutional Court held unanimously that the male primogeniture rule according men rights to inheritance not enjoyed by women enshrined in the South African Customary Law of Succession violated the right to equality guaranteed under section 9 of the South African Constitution. On one level, the decision can be seen as a triumph for the universality of human rights norms. On another level, however, the case raises difficult questions about the relationship between human rights and culture. The aim of this paper is to assess the judgment critically in the context of the ongoing debate about the application of international human rights standards in different cultural settings.

NNONA, GEORGE C., The Nigerian Investment and Securities Act: delineating its boundaries in relation to the registration of securities, *Journal of African Law*, **50**, 1 (2006): 24–46

This article examines the requirement of the Nigerian Investment and Securities Act, 1999 (ISA) that securities be registered prior to being offered to the public, with a view to determining the limits (boundaries) of that requirement. It shows that the boundaries can be staked out along three dimensions: items excluded from the registration requirement because they are not caught by the definition of securities under the ISA; items that qualify as securities under the ISA's definition of that term but which are exempt from registration for various policy reasons (exempt securities); and items which are exempt only because of the nature of the transactions involved rather than the nature of the securities themselves (exempt transactions). It shows that while doubts about the limits of the registration requirement exist at some points where the boundaries cannot be readily staked out without interpretive difficulties, such doubts and the points in relation to which they exist are relatively residual, except in areas where the Nigerian Securities and Exchange Commission has in its rule-making manifested a misconception of its powers under the ISA.

MENSAH, KWADWO BOATENG, Discretion, *nolle prosequi* and the 1992 Ghanaian Constitution, *Journal of African Law*, **50**, 1 (2006): 47–58

Section 54 of Ghana's Criminal Procedure Code, 1960 (Act 30), gives the Attorney-General discretion to enter a *nolle prosequi* in the course of a criminal trial. According to the orthodox view, this discretionary power is not subject to judicial review. The orthodox view raises a number of very important questions. First, is it really the case that the power to enter a *nolle prosequi* is not subject to judicial review? Secondly, if this is the case, how is the Attorney-General accountable for the manner in which he exercises his discretion and how is it possible to ensure that he acts fairly when he enters a *nolle prosequi*? This article challenges the orthodox theory and advocates a theory based on legal accountability. The proposed theory is founded on the view that accountability and fairness—which are central constituents of good governance—will be enhanced if the discretion to enter a *nolle prosequi* is subject to legal control. The paper goes on to show that the legal accountability theory is supported by article 296 of the 1992 Ghanaian Constitution and that it also conforms to practices found in other Commonwealth jurisdictions such as England, Canada, Fiji and Australia.

KINGAH, STEPHEN, The revised Cotonou Agreement between the European Community and the African, Caribbean and Pacific States: innovations on security, political dialogue, transparency, money and social responsibility, *Journal of African Law*, **50**, 1 (2006): 59–71

The revised version of the Cotonou Agreement that sanctions relations between the European Community (EC) and African, Caribbean and Pacific States (ACP) has been endorsed for a further five years. The new agreement contains a chronicle of changes that are significant. This research comment identifies a number of issues where novel provisions have been introduced into the text of the first agreement signed on 23 June, 2000. The new text contains innovations that relate to security, political dialogue, transparency, money and social responsibility. The security clauses include an express commitment by the partners to combat terrorism, the proliferation of weapons of mass destruction, as well as mercenary activities. In addition, adherence to the jurisdiction of the International Criminal Court is explicitly encouraged. Changes regarding political dialogue and transparency pertain to the increase in the time allotted for political consultation in the event of a serious case of violation of the articles proscribing political excesses and gross financial impropriety. In terms of development money, the list of potential beneficiaries has been widened. However, the net effect of the preceding statement may be obviated by the extensive oversight the EC Commission now has to control the use of funds. Provisions relating to structural reforms have been tempered to reflect the special needs of post-disaster stricken least developed countries. The latter reforms are equally in consonance with the partners' increasing consciousness of the fact that structural adjustment cannot be decoupled from social responsibility. In general terms, the revised Cotonou Agreement strengthens the power asymmetries in the relations.

BANDA, FAREDA, Blazing a trail: the African Protocol on Women's Rights comes into force, *Journal of African Law*, **50**, 1 (2006): 72–84

The entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 on 25 November, 2005, marked the culmination of years of lobbying for a document which would promote and protect the human rights of the continent's women by African women's rights advocates. This commentary provides a brief historical overview of the process leading up to the adoption of the Protocol by the African Union in Maputo in July 2003 before moving on to consider its substantive provisions.