Online Symposium on Recent Developments in African Private International Law



It is not uncommon for African and foreign scholars of private international law (PIL) to lament the current state of the field in Africa. Until the early years of the 21st century, PIL was widely regarded, often with little hesitation, as 'a neglected and highly underdeveloped subject in Africa'.[i] Professor Forsyth famously described it as a 'Cinderella subject, seldom studied and little understood'.[ii] This limited scholarly attention is reflected, for instance, in the treatment of African PIL in the Hague Academy courses, which include only 4 courses specifically devoted to PIL in Africa, the most recent of which dates back to 1993.[iii] Since then, a number of pleas for greater attention to PIL in Africa,[iv] as well as calls for enhanced cooperation with African countries to ensure better involvement and inclusiveness,[v] have been voiced.[vi]

The last fifteen years, however, have witnessed a noticeable increase in scholarly interest and institutional engagement with PIL in Africa. This is reflected first in the growing body of academic publications,[vii] and the emergence of initiatives aimed at articulating and strengthening an African perspective on the discipline. These include, among others, the publication of the African Principles on the Law Applicable to International Commercial Contracts, and the organization of a

series of online workshops on ‘Private International Law in Africa’.

At the institutional level, since 2011, 6 African States have become Members of the HCCH, with Namibia and Rwanda joining respectively in 2021 and 2025, bringing the total number of African HCCH Member States to 9. The recent opening of a regional office for Africa in Morocco further underscores the growing institutional presence and engagement of the HCCH on the African continent.

More importantly, 33 years after the last Hague Academy Course devoted to PIL in Africa, the subject will once again be addressed within the framework of the Hague Academy. In the forthcoming Summer Courses, Prof. Richard Oppong will indeed deliver a course on the ‘Internationalism in Anglophone Africa’s Commercial Conflict of Laws’ This undoubtedly marks a significant milestone in the renewed visibility and recognition of PIL on the African continent.

There is, however, one aspect that remains relatively underemphasised: the rich and diverse, yet still understudied, body of African case law on PIL. This ‘hidden treasure’ demonstrates a simple, but often overlooked, fact: Africa is deeply connected to the rest of the world. From Chinese and Brazilian judgments being recognised in Mozambique, to Indonesian and Texan judgments being considered by courts in Uganda, or Canadian judgments sought to be enforced in Egypt; from Malawian courts applying the doctrine of *forum non conveniens* to many other remarkable decisions across the continent, African courts are actively engaging with transnational legal issues, including international jurisdiction and applicable law in employment contracts, the validity of foreign marriages, and cases of international child abduction. This case law also reveals the challenges faced by courts across the continent, which are often called upon to deal with complex issues using outdated or inadequate legal frameworks. Far from confirming the widespread perception of a stagnating field, judicial practice in Africa shows that important, and often fascinating, developments are taking place across the continent, developments that deserve far greater scholarly attention and engagement. Only through sustained scholarly engagement, by studying, commenting on, and comparing judicial approaches, and by highlighting shortcomings in existing legal frameworks and practices, can Africa develop a strong and distinctive voice in the field of PIL.

This is precisely the purpose of the present online symposium. Building on an

established tradition of this blog, Conflictoflaws.net will host the **second online symposium** on African private international law.[viii] The main objective of the symposium is to shed light on selected aspects of recent developments in private international law in Africa. A number of scholars known for their active commitment to the development of private international law on the African continent have kindly agreed to comment on some of these cases or to share their views on what, in their opinion, best illustrates the diversity of private international law in Africa.

The symposium will run over the coming days and will feature contributions addressing a wide range of themes and African jurisdictions. These include the following:

1. **Chukwuma Okoli (University of Birmingham) and Abubakri Yekini (University of Manchester, Uk)**, on the recognition and enforcement of international court judgments in Nigeria
2. **Boris Awa (Kigali Independent University, Rwanda)**, on the recognition and enforcement of foreign judgments in the CEMAC region
3. **Béligh Elbalti (The University of Osaka, Japan)**, on the enforcement of a Chinese judgment in Mozambique
4. **Anam Abdul-Majid (Advocate and Head of Corporate and Commercial Department, KSM Advocates, Nairobi, Kenya) and Kitonga Mulandi (Lawyer, KSM Advocates, Nairobi, Kenya)**, on choice of court agreements in in Kenya
5. **Solomon Okorley (University of Johannesburg, South Africa)**, on the application of the 1980 HCCH Convention in South Africa
6. **Theophilus Edwin Coleman (University at Buffalo School of Law, New York)**, on proof of foreign law and fragility of foreign marriages in Ghanian courts
7. **Elisa Rinaldi (University of Pretoria, South Africa)**, on Cross-border employment, contract and delictual liability merge in the South Africa

As aptly pointed out by Professor Oppong, 'there is a need for greater international engagement with African perspectives on [PIL]. There is also a need to attract more people to researching and writing on the subject in Africa.'[ix] In line with these observations, we likewise hope that this initiative 'will contribute to both greater international engagement with, and increased participation in, private international law in Africa'.[x] Therefore, we encourage readers, in Africa

and elsewhere, to actively engage with this initiative by sharing their views or by highlighting other developments of which they are aware. We also hope that this initiative will encourage researchers in Africa and beyond to make fuller use of the available resources and case law, and to comment on them, whether in the form of blog posts or scholarly contributions in academic journals.

This platform remains open and welcoming to such contributions.

Béligh Elbalti & Chukwuma S.A. Okoli

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[i] Richard F. Oppong, 'Private International Law in Africa: The Past, Present, and Future' 55 *AJCL* (2007) 678.

[ii] Christophe F. Forsyth, *Private International Law – The Modern Roman-Dutch Law including the Jurisdiction of the High Courts* (5th ed., Juta, 2012) 46-47.

[iii] Abd-El-Kader Boye, 'Le statut personnel dans le droit international privé des pays africains au sud du Sahara: conceptions et solutions des conflits de lois: le poids de la tradition négro-africaine personnaliste', 238 *Recueil des Cours* (1993) ; U U. Uche, 'Conflict of Laws in a Multi-Ethnic Setting: Lessons from Anglophone Africa', 228 *Recueil des Cours* (1991) ; Salah El Dine Tarazi, La solution des problèmes de statut personnel dans le droit des pays arabes et africains 159 *Recueil des Cours* (1978) ; and Ph. Francescakis, 'Problèmes de droit international privé de l'Afrique noire indépendante', 112 *Recueil des Cours* (1964).

[iv] Richard F. Oppong, 'Private International Law and the African Economic Community: A Plea for Greater Attention' 55 *ICLQ* (2006) 911.

[v] Richard F. Oppong, 'The Hague Conference and the Development of Private International Law in Africa: A Plea for Cooperation' 8 *YPIL* (2006) 189.

[vi] Orji Agwu Uka, 'A call for the wider study of Private International Law in Africa: A Review of Private International Law In Nigeria', on this blog; Chukwuma

Okoli, ‘Private International Law in Africa: A Comparative Lessons’, on this blog.

[vii] Jan Neels, ‘List of Publications on South African Private International Law as from 2020’, on this blog; Chukwuma Okoli, ‘Private International Law in Africa: A Comparative Lessons’, on this blog.

[viii] The first online symposium organized on this blog was devoted to Private international law in Nigeria. The symposium features interesting contributions by Chukwuma S. A. Okoli and Richard Oppong, Anthony Kennedy,Richard M. Mlambe, Abubakri Yekini and Orji Agwu Uka.

[ix] Richard F. Oppong, ‘Private International Law Scholarship in Africa (1884-2009)’ 58 *AJCL* (2010) 326.

[x] Oppong, Ibid.