THE CAMBRIDGE HANDBOOK OF FOREIGN JUDGES ON DOMESTIC COURTS

Foreign judges sit on domestic courts in over 50 jurisdictions worldwide. They serve on ordinary courts, including apex and constitutional courts, as well as specialist courts, such as international commercial courts and hybrid criminal tribunals. This Handbook presents the first global comparative study of this long-standing, diverse and evolving practice, from colonial precedents to new forms of foreign judging in contemporary conditions of globalisation. Chapters by scholars of law, politics and history, and reflections by judges themselves, provide detailed information and critical analysis of foreign judging across Africa, Asia, the Caribbean, Europe, the Middle East and the Pacific. The chapters examine the notion and relevance of foreignness, rationales for foreign judges, and the implications for judicial identity, adjudication, independence and accountability. Focusing on an underexplored issue that features mainly in small states and jurisdictions of the Global South, this Handbook challenges assumptions and expands our knowledge about courts and judges.

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The Cambridge Handbook of Foreign Judges on Domestic Courts

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## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of Figures</td>
<td>xi</td>
</tr>
<tr>
<td>List of Tables</td>
<td>xiii</td>
</tr>
<tr>
<td>List of Contributors</td>
<td>xv</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>xvii</td>
</tr>
<tr>
<td>Table of Cases</td>
<td>xix</td>
</tr>
<tr>
<td>Table of Legislation</td>
<td>xxxii</td>
</tr>
<tr>
<td>Table of International Instruments</td>
<td>xli</td>
</tr>
<tr>
<td>List of Abbreviations</td>
<td>xlv</td>
</tr>
</tbody>
</table>

### Chapters by Theme

1. **An Introduction to Foreign Judges on Domestic Courts**
   - Anna Dziedzic

2. **My Reflections as a Foreign Judge in the Commonwealth**
   - Mabel M. Agyemang

3. **Judges from Other Common Law Jurisdictions on the Hong Kong Court of Final Appeal**
   - Joseph Fok

4. **Foreign Judges in Liechtenstein’s Courts**
   - Peter Bußjäger

5. **The SICC, International Judges and International Commercial Dispute Resolution**
   - Anselmo Reyes
Contents

vi

6 Foreign Judges in the Macau Special Administrative Region of China: An Emblem and a Guarantee of the ‘One Country, Two Systems’ Principle 88
Paulo Cardinal

INTERNATIONAL INFLUENCES

7 Foreign Judges in the Constitutional Courts of Bosnia-Herzegovina and Kosovo: ‘Mission Impossible’? 103
Constance Grewe

8 A Judiciary ‘Suspended’ in Transition? A Case Study of Portuguese Judges in East Timor 124
Sapna Reheem Shaila

9 Foreign Judges in International Corruption Missions in Central America 140
Carlos Arturo Villagrán Sandoval

10 Mixed Composition in International Criminal Justice: History, Justifications and Challenges 159
Harry Hobbs

PART II IMPLICATIONS AND IMPACT

FIRST-HAND ACCOUNTS

11 Impartial Adjudicators? The Role of Foreign Judges in Seychelles 181
Mathilda Twomey

12 What Is It to Be an Academic French Female Judge in Andorra? Some Personal Thoughts about a Unique Experience 200
Laurence Burgorgue-Larsen

13 Foreign Judges on Domestic and Regional Courts: The Difference between What Matters and What Seems to Matter 219
Dennis Byron

14 Foreign Judges in National Courts in the Commonwealth 233
Karen Brewer

15 Reflections 242
David Baragwanath

JUDICIAL IDENTITY AND THE JUDICIAL ROLE

16 Colonial-Era Mixed Courts, the Compensation of Foreigners for Wrongful State Acts and the Emergence of International Judges as Guarantors of Individual Rights 250
Michel Erpelding

17 Forging a Judicial Identity: The Colonial Legal Service 268
Paul Swanepoel

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## Contents

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
<th>Author(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>Domestic Criticisms of Foreign Judges: The Case of Hong Kong</td>
<td>Simon N. M. Young</td>
</tr>
<tr>
<td>19</td>
<td>Judicial Mobilities: Travelling Judges in the Pacific</td>
<td>Anna Dziedzic</td>
</tr>
<tr>
<td></td>
<td>ADJUDICATION, ACCOUNTABILITY AND INDEPENDENCE</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Foreign Judging and Securing Judicial Independence in the Anglo Caribbean</td>
<td>Tracy Robinson</td>
</tr>
<tr>
<td>21</td>
<td>Importing Justice: Foreign Judicial Appointments in Southern Africa</td>
<td>Rachel Ellett</td>
</tr>
<tr>
<td>22</td>
<td>Foreign Judges on Domestic Courts in the MENA Region: Challenges and (Missed) Opportunities</td>
<td>Siraj Khan</td>
</tr>
<tr>
<td>23</td>
<td>Foreign Judges on the Gambian Bench: Implications for Judicial Independence and the Rule of Law</td>
<td>Satang Nabaneh</td>
</tr>
<tr>
<td>24</td>
<td>The Syariah Factor: One of the Many Challenges for ‘Foreign’ Judges in the Courts of Brunei Darussalam</td>
<td>Ann Black</td>
</tr>
<tr>
<td>26</td>
<td>Shaping the Legal Landscape: Foreign Judges in the Federated States of Micronesia</td>
<td>Gonzaga Puas</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Contents

Chapters by Region

AFRICA

11 Impartial Adjudicators? The Role of Foreign Judges in Seychelles  
   Mathilda Twomey  
   page 181

21 Importing Justice: Foreign Judicial Appointments in Southern Africa  
   Rachel Ellett  
   345

23 Foreign Judges on the Gambian Bench: Implications for Judicial Independence and the Rule of Law  
   Satang Nabaneh  
   392

ASIA

3 Judges from Other Common Law Jurisdictions on the Hong Kong Court of Final Appeal  
   Joseph Fok  
   41

5 The SICC, International Judges and International Commercial Dispute Resolution  
   Anselmo Reyes  
   71

6 Foreign Judges in the Macau Special Administrative Region of China: An Emblem and a Guarantee of the ‘One Country, Two Systems’ Principle  
   Paulo Cardinal  
   88

8 A Judiciary ‘Suspended’ in Transition? A Case-Study of Portuguese Judges in East Timor  
   Sapna Reheem Shaiba  
   124

18 Domestic Criticisms of Foreign Judges: The Case of Hong Kong  
   Simon N. M. Young  
   284

24 The Syariah Factor: One of the Many Challenges for ‘Foreign’ Judges in the Courts of Brunei Darussalam  
   Ann Black  
   409

CARIBBEAN AND CENTRAL AMERICA

9 Foreign Judges in International Corruption Missions in Central America  
   Carlos Arturo Villagrán Sandoval  
   140

13 Foreign Judges on Domestic and Regional Courts: The Difference between What Matters and What Seems to Matter  
   Dennis Byron  
   219

20 Foreign Judging and Securing Judicial Independence in the Anglo Caribbean  
   Tracy Robinson  
   324
## Contents

### Europe

4. Foreign Judges in Liechtenstein’s Courts  
   Peter Bußjäger  
   56

7. Foreign Judges in the Constitutional Courts of Bosnia-Herzegovina and Kosovo: ‘Mission Impossible’?  
   Constance Grewe  
   103

12. What Is It to Be an Academic French Female Judge in Andorra? Some Personal Thoughts about a Unique Experience  
   Laurence Burgorgue-Larsen  
   200

### Middle East

22. Foreign Judges on Domestic Courts in the MENA Region: Challenges and (Missed) Opportunities  
   Siraj Khan  
   369

### Pacific

19. Judicial Mobilities: Travelling Judges in the Pacific  
   Anna Dziedzic  
   300

   Bal Kama  
   427

26. Shaping the Legal Landscape: Foreign Judges in the Federated States of Micronesia  
   Gonzaga Puas  
   447

### Cross Jurisdictional

1. An Introduction to Foreign Judges on Domestic Courts  
   Anna Dziedzic  
   1

2. My Reflections as a Foreign Judge in the Commonwealth  
   Mabel M. Agyemang  
   33

10. Mixed Composition in International Criminal Justice: History, Justifications and Challenges  
   Harry Hobbs  
   159

14. Foreign Judges in National Courts in the Commonwealth  
   Karen Brewer  
   233

15. Reflections  
   David Baragwanath  
   242
Contents

16 Colonial-Era Mixed Courts, the Compensation of Foreigners for Wrongful State Acts and the Emergence of International Judges as Guarantors of Individual Rights
   Michel Erpelding

17 Forging a Judicial Identity: The Colonial Legal Service
   Paul Swanepoel

Index
Figures

6.1 Number and proportion of foreign judges in Macau, all courts, 1999 to 2022
6.2 Proportion of foreign judges in Macau, disaggregated by court, 1999 to 2022
10.1 Nationality of foreign judges serving in the Pacific
# Tables

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1</td>
<td>International judges of the Constitutional Court of Bosnia-Herzegovina</td>
<td>108</td>
</tr>
<tr>
<td>7.2</td>
<td>International judges of the Constitutional Court of Kosovo</td>
<td>108</td>
</tr>
<tr>
<td>11.1</td>
<td>Justices of the Seychelles Court of Appeal, 29 June 1976 to 31 December 2022</td>
<td>186</td>
</tr>
<tr>
<td>11.2</td>
<td>Justices of the Seychelles Supreme Court, 29 June 1976 to 31 December 2022</td>
<td>187</td>
</tr>
<tr>
<td>12.1</td>
<td>Judges of the Constitutional Court of Andorra, 1993 to 2020</td>
<td>209</td>
</tr>
<tr>
<td>19.1</td>
<td>Superior Courts established in the eight Pacific states since independence</td>
<td>303</td>
</tr>
<tr>
<td>19.2</td>
<td>Number and proportion of foreign judges serving on superior domestic courts in eight Pacific states, 2019</td>
<td>304</td>
</tr>
<tr>
<td>21.1</td>
<td>Estimated country of origin for foreign judges in Botswana, Eswatini and Lesotho 2008 to 2021</td>
<td>352</td>
</tr>
</tbody>
</table>
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Acknowledgements

This Handbook was motivated by comparative curiosity. We had each separately researched foreign judges: Anna Dziedzic in Pacific island states, and Simon Young in Hong Kong and Brunei Darussalam. We knew that there were other instances of foreign judging, but no single work that studied the phenomenon across the globe. Once we started looking, we were ourselves surprised at the number of jurisdictions which appoint foreign judges to domestic courts and the variety in the kinds of service foreign judges provide.

The 25 authors contributing to this Handbook are all experts in their respective jurisdictions. Many have direct involvement with the phenomenon of foreign judges, as judges themselves, officials involved in supporting judiciaries, and academics who study courts and judges. All authors made a generous commitment to share their time and expertise. They not only provided informative expert analysis of their subjects, but also challenged our own assumptions about foreign judging and shaped the comparative project.

Authors participated in a workshop in May 2021 to present their draft chapters. The workshop was hosted at The University of Hong Kong by the Centre for Comparative and Public Law and supported by a generous financial contribution from the Faculty of Law. We thank Professor Hualing Fu, Dean of the Faculty of Law, and Professor Po Jen Yap, Director of the Centre, for their institutional and personal support.

We were honoured to commence the workshop with a Joint Keynote event, featuring Mr Justice Joseph Fok, Permanent Judge of the Court of Final Appeal of Hong Kong, and Mr Justice Gummow, Non-Permanent Judge of the Court of Final Appeal of Hong Kong. The Joint Keynote, open to the public and livestreamed online, explored foreign judging in Hong Kong in a way that connected it to both the local Hong Kong context and the wider global practice. We are grateful to Justice Fok and Justice Gummow for sharing their personal experiences, as well as their expert insights. Justice Fok in particular has been steadfast in his support of this project from its inception, and it has been a privilege to share this work with him.

Originally conceived as an in-person workshop, by necessity we met online due to the travel restrictions arising from the COVID-19 pandemic. We thank all our authors and Professor Jens Woelk for their presentations and unwavering support for the project during this challenging time. Meeting online did come with a silver lining: the ability to have expert commentators from across the globe as discussants. Yassin Brunger, Melissa Crouch, Tom Daly, Ros Dixon, Fabia Fernandes Carvalho, Eric Ip, Swati Jhaveri, Coel Kirkby, Joseph Marko, Nicole Roughan, Cheryl Saunders and Alex Schwartz presented helpful and stimulating comments.
on draft chapters and we thank them for their generous engagement. Thanks are also due to Winnie Law, Alex Cheng and James Lee for their administrative and research support for the workshop.

Following the workshop, each author developed their chapters to reflect shared comparative learning. As editors, we did not provide a template, preferring to leave space for the authors to develop their own theoretical and conceptual approaches to the topic, in addition to contextual description. To enable comparison and frame discussion, we did invite the authors to reflect on a common set of questions, covering the reasons for the appointment of foreign judges; the context and the practice of foreign judging, including its reception by the wider community; the benefits, challenges and sustainability of foreign judging; and the implications for the work of courts and judges. All draft chapters were submitted for comment and revision by the editors, and we thank all authors for their willingness to cooperate and engage in what was – for us, and we hope for them – an enjoyable and productive collaboration.

Finally, we wish to thank those who made this publication possible. We are grateful to five students from the Faculty of Law at The University of Hong Kong – Sam Ko, James Lee, Trevor Wan, Danian Wan and Obile Wong – whose assistance with copy editing and further research was invaluable. We also thank Cambridge University Press, and Joe Ng in particular, for supporting this project from the start. We began with a modest proposal for a small, edited collection; but with encouragement and support of Cambridge University Press we have produced a much more comprehensive and ambitious global Handbook on a topic which, for some, might initially seem exceptional and niche, but which, on closer inspection, is theoretically and practically relevant to the scholarship on, and work of, courts and judges worldwide.
### Table of Cases

#### ANDORRA

Rebés Ventura v. Rebés d’Areny-Plandolit Reg no 113-2017 (Constitutional Court of Andorra, 14 July 2022), 217

#### AUSTRALIA

Calverley v. Green (1984) 155 CLR 242, 53  
Channel Seven Adelaide Pty Ltd v. Manock (2007) 232 CLR 245, 50  
Heydon v. The Perpetual Executors, Trustees and Agency Co. (WA) Ltd (1930) 45 CLR 31, 54  
Momcilovic v. The Queen (2011) 245 CLR 1, 50  
Napier v. Public Trustee (Western Australia) (1980) 32 ALR 153, 53  
Petty v. The Queen (1991) 173 CLR 95, 54  
Re Judiciary and Navigation Acts (1921) 29 CLR 257, 440

#### AUSTRIA

VfSlg 1381 and 1382/1932, 66  
VfSlg 4049/1961, 67  
VfSlg 10.240/1984, 68  
VfSlg 11.688/1988, 68  
VfSlg 12.384/1990, 67  
VfSlg 12.514/1990, 68  
VfSlg 16.999/2003, 67  
VfSlg 17.009/2003, 68  
VfSlg 17.941/2006, 67  
VfSlg 19.629/2010, 68  
VfSlg 19.341/2011, 68  
VfSlg 19.522/2011, 68  
VfSlg 19.632/2012, 69  
VfSlg 19.700/2012, 67
### Table of Cases

<table>
<thead>
<tr>
<th>Year</th>
<th>Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>VfSlg 19.743</td>
</tr>
<tr>
<td>2013</td>
<td>VfSlg 19.824</td>
</tr>
<tr>
<td>2014</td>
<td>VfSlg 19.942</td>
</tr>
<tr>
<td>2016</td>
<td>VfSlg 20.082</td>
</tr>
<tr>
<td>2017</td>
<td>VfSlg 20.225</td>
</tr>
</tbody>
</table>

#### Bosnia-Herzegovina

<table>
<thead>
<tr>
<th>Year</th>
<th>Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>AP 1482/10 Abduladhim Maktouf</td>
</tr>
<tr>
<td>2015</td>
<td>AP 953/05 Bilbija and Kalinić</td>
</tr>
<tr>
<td>2014</td>
<td>AP 220/11 Dorde Ždral, Spomenka Ždral and Dragiša Jokić</td>
</tr>
<tr>
<td>2012</td>
<td>AP 434/10 H.A.I., 18 January</td>
</tr>
<tr>
<td>2010</td>
<td>AP 3927/09 Zeyad Khalaf Hamadie Al-Gertani</td>
</tr>
<tr>
<td>2010</td>
<td>K-125/10 Dismissal of Judge Simić</td>
</tr>
<tr>
<td>2019</td>
<td>U 12/09 23 members of the House of Representatives of the Parliamentary Assembly of Bosnia-Herzegovina and 5 delegates to the House of Peoples of the Parliamentary Assembly of Bosnia-Herzegovina</td>
</tr>
<tr>
<td>2015</td>
<td>U 3/13 Bakir Izetbegović</td>
</tr>
<tr>
<td>2016</td>
<td>U 23/14 Božo Ljubić</td>
</tr>
<tr>
<td>2015</td>
<td>U 9/09 Croat Caucus to the House of Peoples of the Parliamentary Assembly of Bosnia-Herzegovina</td>
</tr>
<tr>
<td>2006</td>
<td>U 5/04 Elections to the Presidency and the House of Peoples, 31 March</td>
</tr>
<tr>
<td>2006</td>
<td>U 13/05 Electoral Law</td>
</tr>
<tr>
<td>2009</td>
<td>U 5/09 Ilja Filipović</td>
</tr>
<tr>
<td>2015</td>
<td>U 10/16 Interim measure suspending the referendum and Ruling on non-enforcement of the judgment of 26 November 2015, 17 September 2016, 122</td>
</tr>
<tr>
<td>2001</td>
<td>U 26/03 Law on the Court of Bosnia-Herzegovina, 28 September 2001, 105</td>
</tr>
<tr>
<td>2020</td>
<td>U 8/19 Seven Delegates of the Council of Peoples of Republika Srpska</td>
</tr>
<tr>
<td>2015</td>
<td>U 28/14 Staša Košarac</td>
</tr>
<tr>
<td>2012</td>
<td>U 1/11 Sulejman Tihić</td>
</tr>
<tr>
<td>2005</td>
<td>U 10/05 Velimir Jukić</td>
</tr>
<tr>
<td>2015</td>
<td>U 14/12 Željko Komšić</td>
</tr>
<tr>
<td>2015</td>
<td>U 25/14 Željko Komšić</td>
</tr>
<tr>
<td>2015</td>
<td>U 26/14 Željko Komšić</td>
</tr>
</tbody>
</table>

#### Botswana

<table>
<thead>
<tr>
<th>Year</th>
<th>Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Attorney General v. Motshidiemang (Case No. CACGB-157-19, Court of Appeal, 29 November)</td>
</tr>
<tr>
<td>2016</td>
<td>Attorney General v. Rammoge (Case No. CACGB-128-14, Court of Appeal, 16 March)</td>
</tr>
<tr>
<td>2016</td>
<td>Law Society of Botswana and Motumise v. President of Botswana [2016]</td>
</tr>
<tr>
<td>2017</td>
<td>Law Society of Botswana and Motumise v. President of Botswana [2017]</td>
</tr>
<tr>
<td>2004</td>
<td>Mmusi v. Ramantele [2004]</td>
</tr>
</tbody>
</table>

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Table of Cases

National Amalgamated Local and Central Government and Parastatal Workers Union v. President of Botswana (Case No. MAHGB-000635-15, High Court, 16 February 2017), 358, 367
President of Botswana v. National Amalgamated Local Central Government and Parastatal Workers Union (Case No. CACGB-025-17, Court of Appeal, June 2017), 358
Unity Dow v. Attorney-General (Botswana) [1992] BLR 119 (CA), 359

BRUNEI DARUSSALAM

Bolkiah (HRH Prince Jefri) v. Brunei Darussalam (No. 1) [2001] 2 LRC 126, 420–421
Brunei Darussalam v. HRH Prince Jefri Bolkiah (Civil Suit No. 31 of 2000, Supreme Court, 24 April 2000), 419–420
Haji Mohammad Azrin bin Hj Ahmad v. Public Prosecutor (Criminal Appeal No. 19 of 2018, Court of Appeal, 30 April 2019), 418
Maimun Bte Omar v. Public Prosecutor (Criminal Appeal No. 1 of 2013, Court of Appeal, 16 May 2013), 418
Mohammad Zafrul Raman Bin Haji Jaman v. Public Prosecutor (Criminal Appeal No. 20 of 2018, Court of Appeal, 22 April 2019), 418
Public Prosecutor v. Ramziah binti Pehin Datu Kesuma DirajaKol (R) Hj Abdul Rahman and Hj Nabil Daraina bin Pehin Udana Khatib Dato Paduka Sari Setia Ustaz Hj Awang Badaruddin High Court (Criminal Trial No. 11 of 2018, Supreme Court, 15 January 2020), 422

CANADA

R v. Boulanger [2006] 2 SCR 49, 50
WIC Radio Ltd v. Simpson [2008] 2 SCR 420, 50

CARIBBEAN COURT OF JUSTICE

Chief Electoral Officer v. Mathlin-Tulloch [2018] CCJ 13 (AJ); (2018) 92 WIR 118 (CCJ Barbados), 331
Myrie v. Barbados [2013] CCJ 3 (OJ), 221

CENTRAL-AMERICAN COURT OF JUSTICE

Enrique Bolaños Geyer, en el carácter de Presidente de la República de Nicaragua y como Titular del Poder Ejecutivo v. Asamblea Nacional de la República de Nicaragua (Central-American Court of Justice, Expediente 69-01-03-03-2005, 29 March 2005), 153
Table of Cases

EAST TIMOR

Decision on the Constitutionality and the Legality of Law 12/2008 (Court of Appeal, 11 November 2008), 135
Decision regarding the appeal of Judge Ivo Rosa against the non-renewal of his contract by the Superior Council for the Judiciary (Court of Appeal, 31 December 2008), 24
Public Prosecutor v. Armando dos Santos (Court of Appeal, 15 July 2003), 132, 135

ECONOMIC COMMUNITY OF WEST AFRICAN STATES COURT OF JUSTICE

Wowo v. The Gambia (ECW/CCJ/JUD/09/19) [2019] ECOWASCJ 2, 401

EGYPT, MIXED COURTS

Cesare Carpi v. Daira Sania (Mixed Court of Appeals, 3 May 1876), 262

ESWATINI

Goodwill Sibiya v. The King [2019] SZHC 180, 567
Ngwenya v. Deputy Prime Minister 1970–76 SLR (HC) 88, 364

EUROPEAN COURT OF HUMAN RIGHTS

Ball v. Andorra App no 42628/10 (European Court of Human Rights, 11 December 2012), 215
Berić v. Bosnia-Herzegovina App. No. 36357/04 (European Court of Human Rights, 16 October 2007), 105
Chong Coronado v. Andorra App. no. 37368/15 (European Court of Human Rights, 23 July 2020), 215
Drozd and Janousek v. France and Spain App No 12747/87 (1992) 14 EHRR 745, 201, 203–204
Figueiredo Teixeira v. Andorra App. no. 72384/14 (European Court of Human Rights, 8 November 2016), 215
Gouarré Patte v. Andorra App. no. 33427/10 (European Court of Human Rights, 12 January 2016), 215
Kalinic and Bilbija v. Bosnia-Herzegovina App. No. 45541/04 and 16587/07 (European Court of Human Rights, 15 May 2008), 105
Loizidou v. Turkey (Preliminary Objections) no 15318/89 (23 March 1995), 266
Millan i Torres v. Andorra (friendly settlement) App. no. 35052/97 (European Court of Human Rights, 6 July 1999), 214
Pla and Puncreuau v. Andorra App. no. 69498/06 (2006) 42 EHRR 25, 214
Sejdic and Finci v. Bosnia-Herzegovina App Nos. 27996/06 and 34836/06 (European Court of Human Rights, 22 December 2009), 121
Simić v. Bosnia-Herzegovina App. No. 75255/10 (European Court of Human Rights, 15 November 2016), 109
UTE Saur Vallnet v. Andorra App. no. 16047/10 (European Court of Human Rights, 29 May 2012), 215
Vidal Escoll and Guillam González v. Andorra App. no. 38196/05 (European Court of Human Rights, 29 July 2008), 215
# Table of Cases

## EUROPEAN COURT OF JUSTICE

NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v. Netherlands Inland Revenue Administration [1963] ECR 1, 265–266

Costa v. ENEL [1964] ECR 585, 265–266

## FEDERATED STATES OF MICRONESIA

Alaphonso v. FSM 1 FSM Intrm. 209 (App. 1982), 456, 461

Etpison v. Perman 1 FSM Intrm. 405 (Pon. 1984), 456

Etscheit v. Santos 5 FSM Intrm 35 (App. 1991), 458

FSM v. Mudong 1 FSM Intrm. 135 (Pon. 1982), 454, 456–460

FSM v. Ruben 1 FSM Intrm. 34 (Truk 1981), 459

FSM v. Tammed 4 FSM Intrm. 266 (App. 1990), 454, 456, 459–460

In re Sprout 2 FSM Intrm. 1 (Pon. 1985), 456

Semens v. Continental Airlines 2 FSM Intrm. 131 (Pon. 1985), 456, 460

Tosie v. Healy-Tibbets Builders 5 FSM Intrm. 358 (Kos. 1992), 458

## THE GAMBIA

Mendy v. Judicial Service Commission (Case No. 001/2017, Supreme Court, 16 July 2020), 403

Mendy v. Judicial Service Commission (Case No. HC/002/17/MF/0353/A, High Court, 18 May 2017), 403


The State v. Ousainou Darboe (Criminal Case No. 14/2000, High Court, 27 November 2017), 400

The State v. Wowo (HC/468713/CR/17/8/AO, High Court, 9 January 2014), 401

Wowo v. The State (Criminal Appeal No. 11/2014, Supreme Court, 23 November 2017), 401

## GRENADA

Wildman v. Judicial and Legal Services Commission of the Eastern Caribbean States (CA Grenada, 1 March 2007), 341

## GUATEMALA

Expediente 791-2007 (Corte de Constitucionalidad de Guatemala, 2007), 154

Expediente 3720-2009 (Corte de Constitucionalidad de Guatemala, 2009), 156

Expediente 3726-2009 (Corte de Constitucionalidad de Guatemala, 2009), 156

## HONDURAS

Recurso de Inconstitucionalidad No. SCO-0180-2018 (Sala Constitucional, Corte Suprema de Justicia, 2018), 146

Resolución Numero RI-769-11 (Sala Constitucional, Corte Suprema de Justicia, 2012), 143

## HONG KONG

A Solicitor v. Law Society of Hong Kong (2003) 6 HKCFAR 570, 47
Table of Cases

Bank of East Asia Ltd v. Tsien Wui Marble Factory (1999) 2 HKCFAR 349, 51
Chen Li Hung v. Tong Lei Miao (2000) 3 HKCFAR 9, 48
China Everbright-HHD Pacific Ltd v. Ch’eng Poh (2002) 5 HKCFAR 630, 45
China Field Ltd v. Appeal Tribunal (Buildings) (No 2) (2009) 12 HKCFAR 342, 53
Democratic Republic of the Congo v. FG Hemisphere Associates LLC (No. 1) (2011) 14 HKCFAR 95, 52, 295
Democratic Republic of the Congo v. FG Hemisphere Associates LLC (No. 2) (2011) 14 HKCFAR 395, 52, 295
Eminent Investments (Asia Pacific) Ltd v. DIO Corp. (2020) 23 HKCFAR 487, 53
First Laser Ltd v. Fujian Enterprises (Holdings) Co Ltd (2012) 15 HKCFAR 569, 208
Granton Natural Resources Co Ltd v. Ameco Metals International Ltd [2012] HKCFI 1938, 79
HKSAR v. Chan Kam Shing (2016) 19 HKCFAR 640, 48
HKSAR v. Cheng Wing Kin (2020) 23 HKCFAR 83, 47
HKSAR v. Kwan Ka Hei [2020] HKCFA 21, 50
HKSAR v. Lai Chee Ying (黎智英) (2021) 24 HKCFAR 33, 295
HKSAR v. Lam Kwong Wai (2006) 9 HKCFAR 574, 50
HKSAR v. Luk Kin Peter Joseph (2016) 19 HKCFAR 619, 297
HKSAR v. Ma Wai Kwan, David [1997] HKLRD 761, 43
HKSAR v. Ng Kung Siu (1999) 2 HKCFAR 442, 295
Hong Kong Electric Co. Ltd v. Commissioner of Rating and Valuation (No. 2) (2011) 14 HKCFAR 579, 51
Hong Kong Electric Co. Ltd v. Commissioner of Rating and Valuation (No. 3) (2012) 15 HKCFAR 1, 51
Hysan Development Co. Ltd v. Town Planning Board (2016) 19 HKCFAR 372, 53
Kwok Wing Hung v. Chief Executive in Council (2020) 23 HKCFAR 518, 295
Lee Fuk Hing v. HKSAR (2004) 7 HKCFAR 600, 54
Lee Yee Shing v. Commissioner of Inland Revenue (2008) 11 HKCFAR 6, 54
Leung Chun Ying v. Ho Chun Yan Albert (2013) 16 HKCFAR 735, 54
Leung Kwok Hung (Long Hair) v. Commissioner of Correctional Services (2020) 23 HKCFAR 456, 53
Leung Kwok Hung v. HKSAR (2005) 8 HKCFAR 229, 205
Libertarian Investments Ltd v. Hall (2015) 16 HKCFAR 681, 207
Moalín Global Eyecare Trading Ltd v. Commissioner of Inland Revenue (2014) 17 HKCFAR 218, 50
Next Magazine Publishing Ltd v. Ma Ching Fat (2003) 6 HKCFAR 65, 51
Ng Ka Ling v. Director of Immigration (1999) 2 HKCFAR 4, 47, 289
Paklito Investment Ltd v. Kloehn East Asia Ltd [1993] 2 HKLR 79, 79
Peconic Industrial Development Ltd v. Lau Kwok Fai (2009) 12 HKCFAR 139, 50
Polyset Ltd v. Panhandat Ltd (2002) 5 HKCFAR 234, 50
Qinhuangdao Tongda Enterprise v. Million Basic Company Limited [1993] HKCU 0605, 79
Re Flesch QC [1999] 1 HKLRD 526, 287
Re McGregor QC [2003] 3 HKLRD 585, 287
Re Owen KC [2022] HKCA 1689, 291
Re Owen KC [2022] HKCA 1751, 291
Re Owen KC [2022] HKCFA 23, 291
Re Owen KC [2022] HKCFI 3233, 291
Ryder Industries Ltd v. Chan Shui Woo (2015) 18 HKCFAR 544, 298
S Co. v. B Co. [2014] HKCFI 1436, 79
Secretary for Justice v. Lau Kwok Fai (2005) 8 HKCFAR 304, 43
Shiu Wing Ltd v. Commissioner of Estate Duty (2000) 3 HKCFAR 215, 50
Shum Kwok Sher v. HKSAR (2002) 5 HKCFAR 381, 50
Solicitor (24/07) v. Law Society of Hong Kong (2008) 11 HKCFAR 117, 54
SPH v. SA (2014) 17 HKCFAR 364, 298
Tang Sui Man v. HKSAR (No 2) (1997–98) 1 HKCFAR 107, 54
Tsit Wing (Hong Kong) Co. Ltd v. TWG Tea Co. Pte Ltd (2016) 2 HKC 157, 48
UDL Argos Engineering & Heavy Industries Co. Ltd v. Li Oi Lin (2004) 4 HKCFAR 358, 50
Xiamen Xinxingdi Group Co. Ltd v. Eton Properties Ltd (2020) 23 HKCFAR 348, 53
Zhang Hong Li v. DBS Bank (Hong Kong) Ltd (2019) 22 HKCFAR 392, 298

INTERNATIONAL COURT OF HUMAN RIGHTS

Cabrera García and Montiel Flores v. Mexico (Inter-American Court of Human Rights, Ser. C, No. 220, 26 November 2010), 153
Velásquez Rodríguez v. Honduras (Inter-American Court of Human Rights, Ser. C, No. 4, 29 July 1988), 142

INTERNATIONAL CRIMINAL COURT


INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Prosecutor v. Martić (Report to the Vice-President Pursuant to Rule 15(B) Concerning Defence Motion to Disqualify Judge Schomburg from Sitting on Appeal) (International Criminal Tribunal for the former Yugoslavia, Panel Convened by Order of the Vice-President, Case No. IT-95-11-A, 10 October 2007), 174
Prosecutor v. Mladić, Case No IT-09-92-PT (Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Presiding Judge Alphons Orie and for a Stay of Proceedings) (International Criminal Tribunal for the former Yugoslavia, Trial Chamber I, Case No. IT-09-92-PT, 11 May 2012), 174
Prosecutor v. Šešelj (Decision on Motion for Disqualification) (International Criminal Tribunal for the former Yugoslavia, Bureau, Trial Chamber, Case No. IT-03-67-PT, 10 June 2003), 164, 174

INTERNATIONAL COURT OF JUSTICE

Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ GL No. 169, 25 February 2019, 235, 244
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Almazeedi v. Penner [2018] UKPC 3 (PC Cayman Islands), 335
Attorney General of the Turks and Caicos Islands v. Misick [2020] UKPC 30 (PC Turks and Caicos Islands), 257
Barrow v. Attorney General of Saint Lucia [2016] UKPC 38 (PC St Lucia), 337
Bolkiah (HRH Prince Jefri) v. Brunei Darussalam (No 3) [2007] UKPC 62; [2008] 2 LRC 196
(Brunei Darussalam), 23, 335, 413, 420, 422
Bowe v. The Queen [2006] UKPC 10; [2006] 1 WLR 1623 (PC Bahamas), 330
Boyce v. The Queen [2004] UKPC 32; [2005] 1 AC 400 (PC Barbados), 331
Brantley v. Constituency Boundaries Commission [2015] UKPC 21; [2015] 1 WLR 2753 (PC St Kitts and Nevis), 331
Chief Justice of the Cayman Islands v. Governor of the Cayman Islands [2012] UKPC 39; [2014] AC 198 (PC Cayman Islands), 337
Chandler v. DPP [2022] UKPC 10 (PC Trinidad and Tobago), 331
Collymore v. Attorney General [1970] AC 538 (PC Trinidad and Tobago), 329
Fraser v. Judicial and Legal Services Commission [2008] UKPC 25; [2008] 73 WIR 175 (PC St Lucia), 326
Lewis v. Attorney General of Jamaica [2001] 2 AC 50 (PC Jamaica), 330
Mercedes-Benz v. Leiduck [1996] AC 284 (PC Hong Kong), 243
Meridian Global Funds Management Asia Ltd v. Securities Commission [1995] 2 AC 500 (PC New Zealand), 297
Misick v. The Queen [2015] UKPC 31; [2015] 1 WLR 3215 (PC Turks and Caicos Islands), 12, 237, 327, 338
Rodahl v. State of Trinidad and Tobago [2003] UKPC 78; [2005] 1 AC 328 (PC Trinidad and Tobago), 350
Sharma v. Attorney General of Trinidad and Tobago [2007] UKPC 41; (2007) 70 WIR 287 (PC Trinidad and Tobago), 331
Subett v. Attorney General of Trinidad and Tobago [2007] UKPC 55; [2008] 1 AC 655 (PC Trinidad and Tobago), 326
Thomas v. Baptiste [2000] 2 AC 1 (PC Trinidad and Tobago), 330

KENYA

Table of Cases

KIRIBATI

Attorney General v. Lambourne (Court of Appeal of Kiribati, 26 August 2022), 320
Lambourne v. Attorney General (High Court of Kiribati, 7 December 2021), 320
Muhammad v. Attorney-General [1995] KIHC 1, 311

KOSOVO

KO 01/09 Çemalqaj Kurtiçi v. The Municipal Assembly of Prizren, 18 March 2010, 119
KO 03/14 Concerning the assessment of the compatibility of Article 84 (14) [Competencies of the President] with Article 95 [Election of the Government] of the Constitution of the Republic of Kosovo, 11 July 2014, 118
KO 170/15 Concerning the assessment of the compatibility of the principles contained in the document entitled ‘Association/Community of Serb majority municipalities in Kosovo general principles/main elements’ with the Constitution, 23 December 2015, 118
KO 98/11 Concerning the immunities of Deputies of the Assembly of the Republic of Kosovo, the President of the Republic of Kosovo and Members of the Government of the Republic of Kosovo, 20 September 2011, 118
KO 119/14 Constitutional review of Decision No. 05-V-001 voted by 83 Deputies of the Assembly of the Republic of Kosovo on the election of the President of the Assembly of the Republic of Kosovo, dated 17 July 2014, 23 July 2014, 118
KO 95/13 Gjakta Kushpetewu, Visar Ymeri and 11 Other Deputies of the Assembly of the Republic of Kosovo, 9 September 2013, 119, 122
KO 97/10 In the matter of the Referral submitted by Acting President of the Republic of Kosovo, Dr Jakup Krasniqi, concerning the holding of the office of Acting President and at the same time the position of Secretary General of the Democratic Party of Kosovo, 22 December 2010, 118
KO 95/20 Liburn Aliu and 16 other deputies of the Assembly of the Republic of Kosovo, 21 December 2020, 119
KO 47/10 Naim Rrustemi and Other Deputies, 12 October 2020, 113
KO 72/20 Rexhep Selimi and 29 other deputies of the Assembly of the Republic of Kosovo, 28 May 2020, 119
KO 29/11 Sabri Hamiti and Other Deputies, 30 March 2011, 113

LEBANON, SPECIAL TRIBUNAL

In the Case against Akbar Beirut SAL, Ibrahim Mohamed Ali Al Amin, Contempt Judge, Redacted Version of Decision in Proceedings for Contempt with Orders In Lieu of an Indictment, Case No STL-14-06/1/IC], 31 January 2014, 246
In the Case against New TV SAL, Karma Mohamed Tahirin Al Khayat, Appeals Panel, Decision on Interlocutory Appeal Concerning Personal Jurisdiction in Contempt Proceedings, Case No: STL-14-05/PT/PT/AP/AR126.1, 2 October 2014, 246

LESOTHO

Director of Public Prosecutions v. Kamoli [2022] LSCA 2, 363
Table of Cases

Law Society of Lesotho v. Prime Minister of Lesotho [1985] LSCA 144, 350
Mokhosi v. Hungwe [2016] LSHG 9, 12, 257, 365

LIECHTENSTEIN

StGH 1962/1, 66
StGH 1986/7, 66
StGH 1995/21, 67
StGH 1996/3, 68
StGH 1998/45, 68
StGH 1999/11, 66
StGH 2000/39, 67
StGH 2004/45, 68
StGH 2006/44, 69
StGH 2008/56, 68
StGH 2010/136, 65
StGH 2011/200, 68
StGH 2012/75, 68
StGH 2013/53, 65
StGH 2015/196, 68
StGH 2014/061, 68
StGH 2014/104, 68

MACAU

Case 106/2004 (Court of Second Instance, 24 November 2005), 100
Case 3/2008 (Court of Final Appeal, 2 December 2008), 97
Case 17/2011/A (Court of Second Instance, 10 March 2011), 100
Case 94/2019 (Court of Final Appeal, 27 September 2019), 98, 99
Case 1145/2019 (Court of Second Instance, 26 March 2020), 100
Case 1146/2019 (Court of Second Instance, 26 March 2020), 100
Case 1174/2019 (Court of Second Instance, 26 March 2020), 100
Case 58/2020 (Court of Final Appeal, 29 May 2020), 99
Case 81/2021 (Court of Final Appeal, 3 June 2021), 99
Case 100/2021 (Court of Final Appeal, 22 April 2022), 99–100
Case 113/2021 (Court of Final Appeal, 31 July 2021), 99

MALAWI

Mutharika v. Chilima [2020] MWSC 1, 359

NAURU

Table of Cases

NEW ZEALAND

Ben Nevis Forestry Ventures Ltd v. Commissioner of Inland Revenue [2009] 2 NZLR 289, 50
Craig v. Williams [2019] 1 NZLR 457, 50
Kimberly Construction Ltd v. Mermaid Holdings Ltd [2004] 1 NZLR 586, 79
Te Runanga o Muriwhenua Inc v. Attorney-General [1990] 2 NZLR 641, 244
Trends Publishing International Ltd v. Advicewise People Ltd [2018] 1 NZLR 903, 50

PAPUA NEW GUINEA

Creighton v. The Queen [1952] PGSC 4, 435
Damaru v. Vaki [2015] PGNC 308, 443
Haiveta v. Wingti (No. 3) [1994] PNGLR 197, 438
Jaminyen-Urinjimbi v. The Queen [1967] PGHCA 4, 436
Kristeff v. The Queen [1967] PGHCA 2, 436
Magiten v. Beiggi (No. 2) [2005] PNGLR 647, 438
Malagigi v. Geelan [1953] PGSC 11, 434
Marape v. Paraka [2014] PGNC 118, 443
Namah v. Pato [2014] PGSC 1, 439
Peter v. South Pacific Brewery Ltd [1976] PNGLR 537, 427
Public Prosecutor v. Rooney (No. 1) [1979] PGSC 22, 430–431
Public Prosecutor v. Rooney (No. 2) [1979] PGSC 23, 430–431
Re Constitution Section 225 and Re National Court circuit to Bali and Vitu Island [2011] PGNC 266, 440
Re Enforcement of Basic Rights under the Constitution, Conditions of Detention at Bialla Police Lock-up [2006] N3022, 439
Re Enforcement of Basic Rights Under the Constitution, Section 57 [2021] PGNC 8, 439
Re Hau Koava [1959] PGSC 10, 436
Re Lack of Correctional Service (CS) Facilities in Enga Province [2010] PGNC 251, 439
Re Michael Somare; Recommendation on Penalty [2011] PGLT 1, 440
Re National Court Circuit, Southern Highlands Province [1989] PGNC 70, 440
Re Powers, Functions, Duties and Responsibilities of the Commissioner of Police [2014] PGSC 39, 442
Re Reference to Constitution section 19(1) by East Sepik Provincial Executive [2011] PGSC 41, 438
Re Section 57 of the Constitution of Papua New Guinea, Enforcement of Basic and Human Rights [2006] PGNC 201, 439, 444
Re Somare [1981] PGSC 23, 439
Reference by Simbu Provincial Executive [1987] PNGLR 151, 437, 444
Reference by the Ombudsman Commission of Papua New Guinea [2010] PGSC 10, 438
State v. Independent Leadership Tribunal ex parte Sasakila [1976] PNGLR 491, 427, 444
### Table of Cases

**State v. Mataio** [2004] PGNC 239, 445  
**Tago v. Arura** [1950] PGSC 10, 434

### SAMOA

- **Ah Chong v. Legislative Assembly of Western Samoa** [1996] WSSC 3, 244  
- **Attorney-General of Samoa v. Matalava** [2007] WSCA 8, 245  
- **Samoa Party v. Attorney-General** [2010] WSCA 4, 245

### SINGAPORE

- **CBX v. CBZ** [2021] SGCA(I) 4, 75

### SOUTH AFRICA

- **Justice Alliance of South Africa v. President of the Republic of South Africa** 2011 (5) SA 388 (CC), 367  
- **Van Rooyen v. State** [2003] 2 LRC 533, 333

### SEYCHELLES

- **Bar Association of Seychelles v. President of the Republic** [2004-2005] SCAR 1, 186, 190-192  
- **Dhanjee v. Michel** [2012] SLR 1, 192  
- **Government of Seychelles v. Moulinie** [2012] SLR 351, 197  
- **Linyon Sanzman v. Linyon Demokratik Seselwa** [2016] SCCA 25, 195-196  
- **Michel v. Dhanjee** [2012] SLR 258, 185, 191-193  
- **Poole v. Government of Seychelles** [2015] SCCA 10, 197  
- **Re Ailee Development Corporation Ltd** [2008] SLR 97, 194  
- **Volcere v. Felix** [2018] SCCC 4, 185  
- **Volcere v. Georges** [2018] SCCA 43, 185

### TANGIER, MIXED COURT

- **Ministère Public v. Joseph Aerts et Alberto Azerraf** (Section of First Instance, 28 December 1938 and 4 January 1939), 252  
- **Ministerio Público v. Joseph Aerts and Alberto Azerraf** (Appeals Section, 10 March 1939), 252, 267

### TRINIDAD AND TOBAGO

- **Collymore v. Attorney General** (1967) 12 WIR 5, 329

### TUVALU

- **Teonea v. Pule o Kaupule of Nanumaga** [2009] TVCA 2, 307
### Table of Cases

#### UNITED KINGDOM

- *Bilta (UK) Ltd (in liquidation) v. Nazir (No. 2)* [2016] AC 1, 50
- *Cavendish Square Holding BV v. Makdessi* [2016] AC 1172, 50
- *Council of Civil Service Unions v. Minister for the Civil Service* [1985] AC 374, 196
- *JT Stratford and Son Ltd v. Lindley* [1965] AC 269, 243
- *R v. Sussex Justices, ex parte Macarthy* [1924] 1 KB 256, 35
- *Seldon v. Davidson* [1968] 1 WLR 1083, 53
- *Sinocore International Co Ltd v. RBPG Trading (UK) Ltd* [2017] EWHC 251 (Comm), 79
- *Terrell v. Secretary of State* [1953] 2 QB 482, 279
- *Young v. Bristol Aeroplane Ltd* [1944] KB 718, 54

#### UNITED STATES

- *Jesner v. Arab Bank PLC* 584 US _ (2018), 246

#### VANUATU


#### ZAMBIA

Table of Legislation

ANDORRA
Llei qualificada de la nacionalitat (Nationality Act) 1993, 209
Llei qualificada del Tribunal Constitucional (Constitutional Court Act) 1993, 204–206, 209, 211, 214, 216

AUSTRALIA
High Court of Australia Act 1979, 177
Judiciary Ordinance 1921–1938, 435
Papua Act 1905, 435
Papua New Guinea Provisional Administration Act 1945, 435
Supreme Court Ordinance 1949, 435

AUSTRIA
Federal Constitutional Law (Bundes-Verfassungsgesetz) BGBl. No. 1930/1, 65, 66, 68

BARBADOS
Supreme Court of the Judicature (Amendment) Act 2011, 236

BAHAMAS
Constitution of the Commonwealth of The Bahamas 1973, 341

BAHRAIN
Decree Law No. 27 of 2021 amending provisions of the Judicial Authority Law, 381
Decree Law No. 42 of 2002 Judicial Authority Law, 381
Royal Decree No. 3 of 2022 on Appointing Judges, 381
Royal Decree No. 31 of 2004 on the Appointment of Judges, 381
Table of Legislation

BELIZE
Constitution of Belize 1981, 98, 339

BERMUDA
Constitution of Bermuda 1968, 337

BOSNIA-HERZEGOVINA

BRUNEI DARUSSALAM
Application of Laws Act (Cap. 1), 413
Brunei (Appeals) Order 1989, 417
Constitution of Brunei Darussalam 1959, 410, 418
Emergency (Continuation and Validation of Emergency Provisions) Order 2004, 410
Internal Security Act (Cap. 133), 417
Legal Profession Act (Cap. 132), 414
Mohammedan Laws Enactment 1912, 412
Mohammedan Marriage and Divorce Enactment (No. 3) 1913, 412
Penal Code (Cap. 22), 410, 423
Prevention of Corruption Act (Cap. 131), 410
Religious Council, State Custom and Kathis Court Enactment 1955, 413
Sedition Act (Cap. 24), 425
Supreme Court Act (Cap. 5), 417, 419-423
Syariah Courts Order (Cap. 184), 419
Syariah Penal Code Order 2013, 410, 421, 423, 424, 426
Syariah Penal Code Procedure Order 2019, 410, 423

CAYMAN ISLANDS
Constitution of the Cayman Islands 2009, 324

CENTRAL AFRICAN REPUBLIC
Loi organique portant création, organisation et fonctionnement de la Cour Pénale Spéciale (Organic law on the creation, organisation and functioning of the Special Criminal Court) Law No. 15/003, 3 June 2015, 166

CHINA
Judges Law of the People’s Republic of China 1995, 84
Table of Legislation

EAST TIMOR
Constitution of the Democratic Republic of East Timor (2002), 131
Statute of the Judicial Magistrates Law No. 8/2002, 131
Taxation of Bayu–Undan Contractors Law No. 3/2003, 135

EGYPT
Règlement d’organisation judiciaire pour les procès mixtes en Égypte (Judicial Charter of the Mixed Courts of Egypt) (1875), 254, 259

EL SALVADOR

ESWATINI
Constitution of the Kingdom of Swaziland 2005, 351, 352

FEDERATED STATES OF MICRONESIA
Constitution of the Federated States of Micronesia 1978, 26, 451–462
National Criminal Code, Public Law No. 1–134, 457, 459
National Judiciary Act, Public Law No. 1–31, 457

FIJI
Constitution of the Republic of Fiji 2013, 4, 308, 315

THE GAMBIA
Constitution of the Republic of The Gambia 1970, 393, 396
Constitution of the Republic of The Gambia 1997, 36, 393, 395, 397, 403
Constitutional Review Commission Act 2017, 403
Indemnity (Amendment) Act 2001, 395

GUATEMALA

GUYANA
## Table of Legislation

**HONDURAS**

- Decreto No. 120-2013 Ley Organica de la Zonas de Empleo y Desarrollo Economico (Organic Law for Employment and Economic Development Zones), 143
- Decreto No. 283-2010, 142

**HONG KONG**

- Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, 5, 42–48, 52, 54, 78, 244, 289, 291–295
- District Court Ordinance (Cap. 336), 42, 286
- High Court Ordinance (Cap. 4), 42, 286
- Hong Kong Court of Final Appeal Ordinance (Cap. 484) 5, 28, 42–45, 286, 288, 291, 292, 297
- Interpretation and General Clauses Ordinance (Cap. 1), 293
- Judicial Officers Recommendation Commission Ordinance (Cap. 92), 43, 294
- Legal Practitioners Ordinance (Cap. 159), 286, 287, 291
- Magistrates Ordinance (Cap. 227), 286
- Oaths and Declarations Ordinance (Cap. 11), 44, 292–293
- Official Languages Ordinance (Cap. 5), 290
- Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Ordinance 2021 (Ord. No. 13 of 2021), 293

**JAMAICA**

- Constitution of Jamaica 1962, 326, 334

**KENYA**

- Constitution of Kenya (Amendment) Act 2008, 8

**KIRIBATI**

- Constitution of Kiribati 1979, 306, 308, 315
- High Court Judges (Salaries and Allowances) Act 2017, 239

**KOSOVO**

- Law on the Constitutional Court 2008 No. 03/L-12, 108

**KUWAIT**

- Constitution of Kuwait 1992, 374
Table of Legislation

Decree related to Law No. 14 of 1977 on the ranks of Judges and Prosecutors and the Administration of Legislation and Opinions, 374
Decree related to Law No. 15 of 1979 on the Civil Service, 374
Law No. 10 of 1959 on the Organisation of the Judiciary, 374–375
Law No. 10 of 1996 Amendments of the Judicial Organisation Law promulgated by Decree by Law No. 23 of 1990, 374–375
Law No. 17 of 1960 on Criminal Procedure, 374
Law No. 23 of 1990 on the Organisation of the Judiciary, 4, 374
Law No. 26 of 1969 on the State Security Court, 374
Law No. 40 of 1972 on Appeals to the Court of Cassation and its Procedures, 374

LESOTHO

Constitution of Lesotho 1993, 351, 362

LIECHTENSTEIN

Constitution of the Principality of Liechtenstein (Landesverfassung) 1921, 28, 60, 61, 63, 68
Judiciary Act LGBl. 2007 No. 347, 62, 64
Law on the Constitutional Court (Staatsgerichtshofgesetz) LGBl. 1925 No. 8, 60, 61, 65
Personal and Company Law (Personen- und Gesellschaftsrecht) LGBl. 1926 No. 4, 58

MACAU

Basic Law of the Macau Special Administrative Region of the People’s Republic of China, 88–89, 92–93, 96, 99, 100
Law No. 2/93/M Law on the Right to Assemble and Demonstrate in Public Places (Regula o direito de reunião e de manifestação em lugares públicos), 99
Law No. 9/1999 Law on Judicial Organisation (Lei de Bases da Organização Judiciária), 92, 93, 96
Law No. 10/1999 Judges and Prosecutors Statute (Estatuto dos Magistrados), 93
Law No. 2/2009 Law for the Defence of State Security (Lei relativa à defesa da segurança do Estado), 96

MARSHALL ISLANDS

Constitution of the Republic of the Marshall Islands 1979, 4

MONACO

Sovereign Ordinance No. 2.084 of 16 April 1963, 10

NAURU

Constitution of Nauru 1968, 308, 315
Supreme Court Act 2018, 306
Table of Legislation

NAMIBIA

Constitution of the Republic of Namibia 1990, 4

NICARAGUA

Political Constitution of the Republic of Nicaragua 1987, 154

PAPUA NEW GUINEA

Commission of Inquiry Act 1951, 429
Criminal Code Act 1974, 430, 443
National Court Act 1975, 429, 430
Organic Law on the Duties and Responsibilities of Leadership, 428–429
Organic Law on the Guarantee of the Rights and Responsibilities of Constitutional Officeholders, 429
Organic Law on the Terms and Conditions of Employment of Judges, 4, 429
Underlying Law Act 2000, 427, 438–439
Village Courts Act 1989, 428

QATAR

Law No. 10 of 2003 on Judicial Authority, 4, 378, 379
Law No. 12 of 2008 Establishing the Supreme Constitutional Court, 380
Law No. 13 of 1971 on the System of the Courts of Justice, 378
Law No. 7 of 2005 Qatar Financial Centre, 82
Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules, 380–381

SAMOA

Village Fono Act 1990, 245

SAN MARINO

Declaration of Citizens’ Rights and Fundamental Principles of San Marino Constitutional Order 1974, 10

SEYCHELLES

Constitution of the Republic of Seychelles (Eighth Amendment) Act 2017, 184
Constitution of the Republic of Seychelles 1993, 4, 24, 181–184, 192, 197
Courts Act 1964 (Cap. 52), 183, 185
Criminal Procedure Code 1955 (Cap. 54), 183
Judiciary Act 2008 (Cap. 104), 183, 194
Legal Practitioners Act 1994 (Cap. 111), 184, 189, 193
# Table of Legislation

xxxix

Penal Code 1955 (Cap. 158), 183  
Public Service Salary Act 2013, 194

**SINGAPORE**

Constitution of the Republic of Singapore, 73  
Constitution of the Republic of Singapore (Amendment) Act 2014 (No. 39 of 2014), 73  
Constitution of the Republic of Singapore (Amendment) Act 2019 (No. 38 of 2019), 73  
Supreme Court of Judicature (Amendment) Act 2014 (No. 42 of 2014), 73  
Supreme Court of Judicature (Amendment) Act 2018 (No. 1 of 2018), 75  
Supreme Court of Judicature (Amendment) Act 2019 (No. 40 of 2019), 73  
Supreme Court of Judicature Act 1969 (Cap. 322), 73, 79

**SOLOMON ISLANDS**

Constitution of Solomon Islands 1978, 308, 315

**SOUTH AFRICA**

Constitution of the Republic of South Africa 1996, 234

**TONGA**

Act of Constitution of Tonga 1875, 306, 308, 315

**TUNISIA**

Constitution of Tunisia 2014, 387

**TURKS AND CAICOS ISLANDS**

Constitution of the Turks and Caicos Islands 2011, 324, 338

**TUVALU**


**UNITED ARAB EMIRATES**

Federal Law No. 10 of 1973 on the Federal Supreme Court, 4, 376  
Federal Law No. 3 of 1983 regarding Federal Judicial Authority, 376–377  
Federal Law No. 6 of 1978 on the Creation of Federal Courts and on Transferring Local Jurisdiction to Local Judicial Bodies to those Emirates, 376

*Abu Dhabi*

ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulation 2015, 378  
Law No. 4 of 2013 concerning Abu Dhabi Global Market, 81
<table>
<thead>
<tr>
<th>Table of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dubai</strong></td>
</tr>
<tr>
<td>Decree No. 19 of 2016 Concerning the establishment of a Judicial Tribunal for the Dubai Courts and DIFC Courts, 81</td>
</tr>
<tr>
<td>Law No. 9 of 2004 on the Dubai International Financial Centre, 81</td>
</tr>
<tr>
<td>Law No. 10 of 2004 DIFC Court Law, 81, 378</td>
</tr>
<tr>
<td>Law No. 12 of 2004 on the Judicial Authority at the Dubai International Financial Centre, 81</td>
</tr>
<tr>
<td>Ras al-Khaimah</td>
</tr>
<tr>
<td>Law No. 5 of 2012 on the Law of the Organisation of the Judiciary, 376</td>
</tr>
<tr>
<td><strong>UNITED KINGDOM</strong></td>
</tr>
<tr>
<td>Basutoland, Bechuanaland Protectorate, and Swaziland (Court of Appeal) Order in Council 1954 (S.I. 1954, No. 1569), 349</td>
</tr>
<tr>
<td>British Caribbean Federation Act 1956, 220</td>
</tr>
<tr>
<td>Promissory Oaths Act 1868, 294</td>
</tr>
<tr>
<td>West Indies Act 1957, 221</td>
</tr>
<tr>
<td><strong>VANUATU</strong></td>
</tr>
<tr>
<td>Constitution of the Republic of Vanuatu 1980, 308, 315</td>
</tr>
<tr>
<td>Judicial Service Commission Act 2003 (Cap. 270), 308</td>
</tr>
</tbody>
</table>
Table of International Instruments

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Date and Location</th>
<th>Citations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acuerdo de Esquipulas II, Guatemala, 7 August 1987</td>
<td>151–153</td>
<td></td>
</tr>
<tr>
<td>Agreement between the British Government and the Sultan of Brunei for the Establishment of a British Protectorate, Brunei, 17 September 1888</td>
<td>1888 UKTS 5582, 41</td>
<td></td>
</tr>
<tr>
<td>Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina on the Establishment of the Registry for Section I for War Crimes and Section II for Organised Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organised Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina, Sarajevo, 1 December 2004</td>
<td>Official Gazette of BiH, No. 12/04, 166</td>
<td></td>
</tr>
<tr>
<td>Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, Phnom Penh, 6 June 2003</td>
<td>2529 UNTS 41723, 166</td>
<td></td>
</tr>
<tr>
<td>Agreement Establishing the Caribbean Court of Justice, St Michael, 14 February 2001</td>
<td>2255 UNTS 319, 221, 223, 333</td>
<td></td>
</tr>
<tr>
<td>Basic Principles on the Independence of the Judiciary endorsed by General Assembly resolutions 40/52 of 29 November 1985 and 40/146 of 13 December 1985</td>
<td>197, 387</td>
<td></td>
</tr>
<tr>
<td>Capitulations between France and Turkey, Constantinople, 28 May 1740, 56 CTS 41</td>
<td>256</td>
<td></td>
</tr>
<tr>
<td>Convención Adicional al Tratado General de Paz y Amistad (Additional Convention on Non-Recognition of Constitutional Coups), Washington DC, 20 December 1907</td>
<td>150</td>
<td></td>
</tr>
</tbody>
</table>
Table of International Instruments

Convenio entre el Gobierno de la República de Honduras y la Secretaría General de la Organización de los Estados Americanos para el establecimiento de la Misión de Apoyo contra la Corrupción y la Impunidad en Honduras (Agreement between the Government of the Republic of Honduras and the General Secretariat of the Organization of American States for the establishment of the Support Mission against Corruption and Impunity in Honduras), Washington DC, 10 January 2016, 145–146, 148, 154–155

Convention between France and Spain respecting Relations in Morocco, Madrid, 27 November 1912, 217 CTS 288, 250

Convention between Japan and the United States, Shimoda, 17 June 1857, 117 CTS 43, 257


Convention on Choice of Court Agreements, The Hague, 30 June 2005, 44 ILM 1294, 75

Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979, 1249 UNTS 13, 416


Convention Regarding the Abolition of the Capitulations in Egypt with Rules Concerning Judicial Organization, Montreux, 8 May 1937, 182 LNTS 37, 264–265

Convention regarding the Organization of the Tangier Zone, Paris, 18 December 1923, 28 LNTS 541, 250, 254


Declaración de Esquipulas, Guatemala, 25 May 1986, 151–153

General Act of the International Conference of Algeciras relating to the Affairs of Morocco, Algeciras, 7 April 1906, 201 CTS 39, 250


Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy, Nassau, 5 July 2001, 2259 UNTS 293, 220–222


Statute of the International Criminal Tribunal for Rwanda, UN Doc S/RES/955 (8 November 1994), 164

Statute of the International Criminal Tribunal for the Former Yugoslavia, UN Doc S/RES/827 (25 May 1993), 164

Statute of the Special Court for Sierra Leone, UN Doc S/2002/246 (16 January 2002), 165

Tratado General de Paz y Amistad (General Treaty of Peace and Friendship) Washington DC, 20 December 1907, 150

Treaty between Liechtenstein and Austria on Avoidance of Double Taxation (LGBL. 1970 No. 37, modified by LGBL. 2016 No. 251), 63

Treaty Establishing the Caribbean Community, Chaguaramas, 4 July 1973, 946 UNTS 17, 220

Treaty of Friendship, Commerce and Navigation between France and Siam, Bangkok, 15 August 1856, 115 CTS 391, 257

Treaty of Peace, Friendship and Commerce between China and Great Britain, Tientsin, 26 June 1858, 119 CTS 163, 257
Table of International Instruments

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Date of Ratification</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treaty on Legal and Judicial Cooperation between the Governments of the Arab Republic of Egypt and the Kingdom of Bahrain</td>
<td>17 May 1989, 385</td>
<td></td>
</tr>
<tr>
<td>Treaty on Legal and Judicial Cooperation between the Governments of the Arab Republic of Egypt and the United Arab Emirates</td>
<td>5 February 2000, 385</td>
<td></td>
</tr>
<tr>
<td>Treaty on Legal and Judicial Cooperation on Civil, Commercial, Criminal and Private Law matters between the Governments of the Arab Republic of Egypt and the Kingdom of Kuwait</td>
<td>6 April 1977, 375, 385</td>
<td></td>
</tr>
<tr>
<td>United Nations General Assembly, Universal Declaration of Human Rights, 10 December 1948</td>
<td>244, 460</td>
<td></td>
</tr>
<tr>
<td>United Nations Interim Administration Mission in Kosovo, ‘Assignment of International Judges/Prosecutors and/or Change of Venue’</td>
<td>Regulation No. 2000/64, UN Doc UNMIK/REG/2000/64 (15 December 2000), 165</td>
<td></td>
</tr>
</tbody>
</table>
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADGMC</td>
<td>Abu Dhabi Global Market Court</td>
</tr>
<tr>
<td>AIFCC</td>
<td>Astana International Financial Centre Court</td>
</tr>
<tr>
<td>BOTs</td>
<td>British Overseas Territories</td>
</tr>
<tr>
<td>CAA</td>
<td>Constitutional Appointments Authority</td>
</tr>
<tr>
<td>CARICOM</td>
<td>Caribbean Community</td>
</tr>
<tr>
<td>CCJ</td>
<td>Caribbean Court of Justice</td>
</tr>
<tr>
<td>CICIG</td>
<td><em>Comisión Internacional Contra la Impunidad en Guatemala</em> (International Commission against Impunity in Guatemala)</td>
</tr>
<tr>
<td>DFID/CS scheme</td>
<td>United Kingdom Department for International Development/Commonwealth Secretariat scheme</td>
</tr>
<tr>
<td>DIFCC</td>
<td>Dubai International Financial Centre Courts</td>
</tr>
<tr>
<td>ECC</td>
<td>English Commercial Court</td>
</tr>
<tr>
<td>ECCC</td>
<td>Extraordinary Chambers in the Courts of Cambodia</td>
</tr>
<tr>
<td>ECOWAS</td>
<td>Economic Community of West African States</td>
</tr>
<tr>
<td>ECSC</td>
<td>Eastern Caribbean Supreme Court</td>
</tr>
<tr>
<td>EUMIC</td>
<td>European Union Multilateral Investment Court</td>
</tr>
<tr>
<td>FSM</td>
<td>Federated States of Micronesia</td>
</tr>
<tr>
<td>HKCFA</td>
<td>Hong Kong Court of Final Appeal</td>
</tr>
<tr>
<td>HKSAR</td>
<td>Hong Kong Special Administrative Region</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>ICO</td>
<td>International Civilian Representative for Kosovo</td>
</tr>
<tr>
<td>ICTR</td>
<td>International Criminal Tribunal for Rwanda</td>
</tr>
<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
</tr>
<tr>
<td>JSC</td>
<td>Judicial Service Commission</td>
</tr>
<tr>
<td>MACCIH</td>
<td><em>Misión de Apoyo contra la Corrupción y la Impunidad en Honduras</em> (Mission to support the Fight against Corruption and Impunity in Honduras)</td>
</tr>
<tr>
<td>MENA</td>
<td>Middle East and North Africa region</td>
</tr>
<tr>
<td>NCC</td>
<td>Netherlands Commercial Court</td>
</tr>
<tr>
<td>OAS</td>
<td>Organization of American States</td>
</tr>
<tr>
<td>OECs</td>
<td>Organisation of Eastern Caribbean States</td>
</tr>
<tr>
<td>OHR</td>
<td>Office of the High Representative for Bosnia-Herzegovina</td>
</tr>
<tr>
<td>QICDRC</td>
<td>Qatar International Court and Dispute Resolution Centre</td>
</tr>
</tbody>
</table>
## List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RILCH</td>
<td>Institutional Strengthening for the Fight against Corruption in Haiti</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>SCSL</td>
<td>Special Court for Sierra Leone</td>
</tr>
<tr>
<td>SICC</td>
<td>Singapore International Commercial Court</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>UNMIK</td>
<td>United Nations Interim Administration Mission in Kosovo</td>
</tr>
<tr>
<td>UNMISET</td>
<td>United Nations Mission of Support to East Timor</td>
</tr>
<tr>
<td>UNTAET</td>
<td>United Nations Transitional Administration in East Timor</td>
</tr>
</tbody>
</table>