

# Curriculum Vitae and Publications of John Dugard

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## CURRICULUM VITAE

### Personal

Full name	Christopher John Robert Dugard
Born	23 August 1936, Fort Beaufort, South Africa
Nationality	South African

### Academic qualifications

1956	BA, University of Stellenbosch
1958	LL B, University of Stellenbosch
1965	LL B, Cantab. (Cambridge University)
1965	Diploma in International Law, Cantab.
1980	LL D, Cantab.

### Academic appointments and offices

#### *South Africa*

1961–3	Lecturer in Law, University of Natal, Durban
1965–9	Senior Lecturer in Law, University of the Witwatersrand
1969–98	Professor of Law, University of the Witwatersrand
1972–4, 1978	Chairman, Governing Committee of the School of Law, University of the Witwatersrand
1975–7	Dean, Faculty of Law, University of the Witwatersrand
1978–90	Director of the Centre for Applied Legal Studies, University of the Witwatersrand. (During this period the Centre for Applied Legal Studies (CALS) was primarily engaged in public education in the fields of human rights, labour law, and the law affecting the black community. This educational role was pursued through the media of publications, research, lectures, seminars, and litigation.)
1998–	Emeritus Professor, University of the Witwatersrand
2000–	Honorary Professor, University of Pretoria (teaching in LL M Human Rights Programme)
2001–	Honorary Professor, University of the Western Cape
2004–	Honorary Professorial Research Fellow, University of Witwatersrand
2005–	Honorary Professor of Law, University of Cape Town
January–March 2007	Visiting Professor, Centre for Human Rights, University of Pretoria
2007	Honorary Professor of Public International Law, Grotius Centre for International Legal Studies, University of Leiden

*Australia, Netherlands, Switzerland, United Kingdom, and United States*

1969	Visiting Professor of Public and International Affairs, Woodrow Wilson School of Public and International Affairs, University of Princeton (taught course in comparative civil rights)
1974–5	Visiting Professor of Law, Duke University (taught courses in jurisprudence, international law, and criminal law)
1981	Visiting Professor of Law, University of California, Berkeley (Boalt Hall) (taught course in international protection of human rights)
1985	Visiting Fellow, Research Centre for International Law, University of Cambridge
1989	Visiting Professor of Law, University of Pennsylvania (taught courses in international law and international human rights law)
1991	Visiting Professor of Law, University of New South Wales, Australia, (taught course in international law)
1995–6	Arthur Goodhart visiting Professor of Legal Science, University of Cambridge (taught LL M course in international criminal law)
1995–7	Fellow, Sidney Sussex College, Cambridge Director, Lauterpacht Research Centre for International Law, University of Cambridge
1998–2007	Professor of Public International Law, University of Leiden

### **Professional qualifications and experience**

1959	Admitted as an advocate of the Supreme Court of South Africa
1961–3	Practised at the Durban Bar
1963–	Part-time consultant and advocate, principally in the fields of international law, human rights, and constitutional law
1998–	Appointed Senior Counsel

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

African liberation movements (SWAPO and ANC) should be treated as prisoners of war and not criminals: *S. v. Sagarius* 1983 (1) SALR 833 (SWA).

### Judicial office

- 2002–6 Judge ad hoc of the International Court of Justice in the *Case concerning Armed Activities on the Territory of Congo (Democratic Republic of the Congo v. Rwanda)*
- 2004– Judge ad hoc of the International Court of Justice in the *Case concerning sovereignty over Pedra Branca/Pulau Batu Putela, Middle Rocks and South Ledge (Malaysia v. Singapore)*

### Offices held in South Africa

- 1978–80 South African Institute of Race Relations: President
- 1978–c. 1988 Member for some ten years of National Administrative Committee, South African Institute of International Affairs
- 1980–91 Founder and member of National Council, Lawyers for Human Rights
- 1988–9 Commissioner, Human Rights Commission
- 1990–4 Board Member, Independent Board of Inquiry into violations of human rights committed by security police
- 1985–7 Chancellor to Bishop Tutu, (Anglican) Diocese of Johannesburg
- 1990–8 Member of Council, University of Fort Hare

### United Nations

- 1997–2001 Member of the International Law Commission (first South African to be elected)
- 2000–6 Special Rapporteur on Diplomatic Protection, International Law Commission (elected on nomination of African Group in the Commission)
- 2001– Chairman of the Human Rights Inquiry Commission to investigate violations of human rights and humanitarian law in the Occupied Palestinian Territories (for report see Economic and Social Council: E/CN.4/2001/121 of 16 March 2001)
- 2001–7 UN Commission on Human Rights and UN Human Rights Council: Special Rapporteur on violations of international humanitarian law and human rights in the Occupied Palestinian Territories (for first report see ECOSOC, E/CN.4/2002/33 (6 March 2002)
- 2001–6 Re-elected as a member of the International Law Commission, with highest number of votes for an African member
- 2006– Re-elected as a member of the International Law Commission

**International law bodies**

- 1973–5 Member of Study Committee on International Protection of Human Rights, American Society of International Law
- 1974–84 Member of Committee on International Terrorism, International Law Association
- 1985–8 Member of Committee on Extradition and International Terrorism, International Law Association
- 1992–8 Co-rapporteur to Committee on Extradition and Human Rights, International Law Association
- 1993–5, 1998 President, South African Branch of the International Law Association
- 1995– Member of Governing Body, African Society of International and Comparative Law
- 1995– Member of Institut de Droit International (first and only South African member elected)
- 1997–9 Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law, International Committee of the Red Cross (published as *Customary International Humanitarian Law*, 2 vols. (2005))

**Constitutional negotiations**

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

**Awards and honours**

- 1990 LL D *honoris causa*, University of Natal
- 1991 Claude Harris Leon Foundation and Percy Fox Foundation Community Relations Award. The citation reads as follows:

This award is made to Professor John Dugard for his concern with civil liberties and the general conduct of law in South Africa. As Director of the Centre for Applied Legal Studies, which was established largely because of his endeavours, he has worked with vigour and great courage to dismantle the apartheid legal order through public education, scholarly research and public interest litigation.

- Other recipients of this award include Archbishop Desmond Tutu (1992).
- 1995 Distinguished Researcher Award, University of the Witwatersrand
- 1996 LL D *honoris causa*, University of Cape Town
- 1999 Delivered Third Manfred Lachs Memorial Lecture, Peace Palace, The Hague, 15 April 1999, on ‘Dealing with Crimes of a Past Regime: Is Amnesty still an Option?’
- 2003 LL D *honoris causa*, Nelson Mandela Metropolitan University of Port Elizabeth
- 2004 LL D *honoris causa*, University of the Witwatersrand  
LL D *honoris causa*, University of Pretoria

## PUBLICATIONS

### Books

- The South West Africa/Namibia Dispute*, University of California Press (1973)  
*Introduction to Criminal Procedure*, Juta & Co. (1977)  
*Human Rights and the South African Legal Order*, Princeton University Press (1978)  
*Recognition and the United Nations*, Grotius Publications (1987)  
 (with N. Haysom and G. Marcus) *The Last Years of Apartheid: Civil Liberties in South Africa*, Ford Foundation–Foreign Policy Association (1992)  
*International Law – A South African Perspective*, Juta & Co (first published 1994, 2nd edn 2000, 3rd edn 2006)

### Edited books

- D. van Wyk, J. Dugard, B. de Villiers, and D. Davis (eds.), *Rights and Constitutionalism: The New South African Legal Order*, Juta & Co. (1994, repr. Clarendon Press, 1996)  
 J. Dugard and C. van den Wyngaert (eds.), *International Criminal Law and Procedure*, Dartmouth (1996)  
 P. M. Mtshaulana, J. Dugard, and N. Botha (eds.), *Documents on International Law: Handbook for Law Students and Constitutional Lawyers*, Juta & Co. (1996)

### UN reports

For the past years much of John Dugard's time has been devoted to preparing reports for the UN International Law Commission and the UN Commission on Human Rights (now UN Human Rights Council).

#### *Diplomatic protection*

- First Report on Diplomatic Protection, General Assembly Official Records (GAOR), International Law Commission (ILC), 52nd Session, 2000: A/CN.4/506. A/CN.4/506, Addendum 1  
 Second Report on Diplomatic Protection, GAOR, ILC, 53rd Session, 2001. A/CN.4/514  
 Third Report on Diplomatic Protection, GAOR, 54th Session, 2002. A/CN.4/523. Addendum 1 A/CN.4/523/Add 1  
 Fourth Report on Diplomatic Protection GAOR, 55th Session, 2003. A/CN.4/530. A/CN.4/530.Add 1  
 Fifth Report on Diplomatic Protection, GAOR, 56th Session, 2004. A/CN.4/538  
 Sixth Report on Diplomatic Protection, GAOR, 57th Session, 2005. A/CN.4/546  
 Seventh Report on Diplomatic Protection, GAOR, 58th Session, 2006. A/CN.4/567

#### *Occupied Palestinian Territories*

- Report on the Human Rights Inquiry Commission established pursuant to UN Commission on Human Rights Resolution S-51/1 of 19 October 2000 to investigate violations of human rights and humanitarian law in the Occupied Palestinian Territories after 28 September 2000. Economic and Social Council, Commission on Human Rights E/CN.4/2001/121 of 16 March 2001  
 Report on Question of the Violation of Human Rights in the Occupied Arab Territories, including Palestine. GAOR, 56th Session, A/56/440 of 4 October 2001

- Report on Question of the Violation of Human Rights in the Occupied Arab Territories, including Palestine, ECOSOC, Commission on Human Rights. E/CN.4/2002/31 of 6 March 2002
- Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied by Israel since 1967, ECOSOC, Commission on Human Rights. E/CN.4/2004/6 of 8 September 2003
- Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied by Israel since 1967, ECOSOC, Commission on Human Rights. E/CN.4/2005/29 of 7 December 2004
- Report on Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territories. GAOR, 60th Session, A/60/271 of 18 August 2005
- Report on the Situation of Human Rights in the Palestinian Territories Occupied by Israel since 1967, ECOSOC, Commission on Human Rights. E/CN.4/2006/29 of 22 December 2005
- Report on the Situation of Human Rights in the Palestinian Territories Occupied by Israel since 1967 pursuant to Human Rights Council Decision 1/106, ECOSOC, Commission on Human Rights. A/HRC/2/5 of 5 September 2006
- Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967. GAOR, 61st Session, A/61/470 of 27 September 2006
- Report of the Special Rapporteur on the Human Rights Situation in the Palestinian Territories Occupied since 1967 pursuant to Resolution 3/1 of the Human Rights Council, ECOSOC, Commission on Human Rights. A/HRC/4/116 of 20 December 2006
- Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, ECOSOC, Commission on Human Rights. A/HRC/4/17 of 29 January 2007
- Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 on the Non-implementation of Human Rights Council Resolution S-1/1, ECOSOC, Commission on Human Rights. A/HRC/5/11 of 8 June 2007

### **Editorial positions**

- 1975– Senior Member, Editorial Committee, *South African Journal on Human Rights*
- 1976– Editorial Board, *Annual Survey of South African Law*
- 1984– Corresponding editor for Southern Africa, *International Legal Materials*
- 1992– Editorial Board, *South African Yearbook of International Law*
- 1994– Editorial Board, Cambridge Studies in International and Comparative Law
- 1998– Board of Editors, *Yearbook of International Humanitarian Law*

1998–	President, Board of Foundation, <i>Leiden Journal of International Law</i>
1999–2004	Board of Editors, <i>Netherlands International Law Review</i>
2000–	Editorial Board, <i>International Criminal Law Review</i>
2003–	Advisory Board, <i>Journal of International Criminal Justice</i>
2005–	Editorial Advisory Board, <i>Human Rights Law Review</i>

## Publications on international law

### Articles in scholarly journals

- 'Objections to the Revision of the 1962 Judgment of the International Court of Justice in the South West Africa Cases', (1965) 82 *South African Law Journal* 178
- 'The Legal Effect of United Nations Resolutions on Apartheid', (1966) 83 *South African Law Journal* 44
- 'South West Africa Cases, Second Phase, 1966', (1966) 83 *South African Law Journal* 429
- 'The Organization of African Unity and Colonialism: An Enquiry into the Plea of Self-Defence as a Justification for the Use of Force in the Eradication of Colonialism', (1967) 16 *International and Comparative Law Quarterly* 157
- 'The Revocation of the Mandate for South West Africa', (1968) 62 *American Journal of International Law* 78
- 'The Simonstown Agreement: South Africa, Britain and the United Nations', (1968) 85 *South African Law Journal* 142
- 'South West Africa and the Supremacy of the South African Parliament', (1969) 86 *South African Law Journal* 194
- 'South West Africa and the "Terrorist Trial"', (1970) 64 *American Journal of International Law* 19
- 'Naciones Unidas, derechos humanos y el "apartheid"', (1970) 11 *Foro Internacional (Mexico)* 286
- 'The Opinion on *South West Africa (Namibia)*: The Teleologists Triumph', (1971) 88 *South African Law Journal* 460
- '*Namibia (South West Africa)*: The Court's Opinion, South Africa's Response and Prospects for the Future', (1972) 11 *Columbia Journal of International Law* 14
- 'Towards the Definition of International Terrorism', (1973) *Proceedings of the American Society of International Law* 94
- 'International Terrorism: Problems of Definition', (1974) 50 *International Affairs* 67
- 'The *Nuclear Tests* Cases and the *South West Africa* Cases: Some Realism about the International Judicial Decision', (1976) 16 *Virginia Journal of International Law* 463
- 'SWAPO: The *Jus ad Bellum* and the *Jus in Bello*', (1976) 93 *South African Law Journal* 144
- 'International Terrorism and the Just War', (1977) 2 *Stanford Journal of International Studies* 21
- 'South Africa's "Independent" Homelands: An Exercise in Denationalization', (1980) 10 *Denver Journal of International Law and Policy* 11
- 'Silence is Not Golden', (1982) 46 *Foreign Policy* (Washington, DC) 37

- 'The Application of Customary International Law Affecting Human Rights', (1982) *Proceedings of the American Society of International Law* 245
- 'Grotius, the Jurist and International Lawyer: Four Hundred Years On', (1983) 100 *South African Law Journal* 213
- 'The Denationalization of Black South Africans in Pursuance of Apartheid', (1984) 33 *International Commission of Jurists Review* 49
- 'Israel and the International Community: the Legal Debate', (1984) 10 *South African Yearbook of International Law* 35
- 'The Conflict between International Law and South African Law: Another Divisive Factor in South African Society', (1986) 2 *South African Journal on Human Rights* 1
- 'Permissible Measures and Obligations for Outside States and Internal Peoples Towards Minority Rule in South Africa', 1986 *Proceedings of the American Society of International Law* 314
- 'Human Rights, Humanitarian Law, and the South African Conflict', (1988) 2 *Harvard Human Rights Yearbook* 101
- 'Walvis Bay and International Law: Reflections on a Recent Study', Review Article of Lynn Berat (Walvis Bay), (1991) 108 *South African Law Journal* 82
- 'The Role of International Law in the Struggle for Liberation in South Africa', (1991) 18 *Social Justice* (United States) 83
- 'Secession: Is the Case of Yugoslavia a Precedent for Africa?', (1993) 5 *African Journal of International and Comparative Law* 63
- 'The Role of International Law in Interpreting the Bill of Rights', (1994) 10 *South African Journal on Human Rights* 208
- 'International Law and the "Final" Constitution', (1995) 11 *South African Journal on Human Rights* 241
- 'The Influence of International Human Rights Law on the South African Constitution', (1996) 49 *Current Legal Problems* 305
- '1996 and All That: The South West African Judgment Revisited in the *East Timor* Case', (1996) 8 *African Journal of International and Comparative Law* 549
- 'International Law and the South African Constitution', (1997) 8 *European Journal of International Law* 77
- 'Obstacles in the Way of an International Criminal Court', (1997) 56 *Cambridge Law Journal* 329
- 'Is the Truth and Reconciliation Process Compatible with International Law? An Unanswered Question. *AZAPO v. President of Republic of South Africa*', (1997) 13 *South African Journal on Human Rights* 258
- 'Bridging the Gap between Human Rights and Humanitarian Law: The Punishment of Offenders', (1998) 38 *International Review of the Red Cross* (no. 324) 445
- 'The South African Judiciary and International Law in the Apartheid Era', (1998) 14 *South African Journal on Human Rights* 110
- 'Reconciling Extradition with Human Rights', (1998) 92 *American Journal of International Law* 187 (co-authored with C. van den Wyngaert)
- 'Reconciliation and Justice: The South African Experience', (1998) 8 *Transnational Law & Contemporary Problems* 277



- 'How Effective is the International Law Commission in the Development of International Law?' (1998) 23 *South African Yearbook of International Law* 34
- 'War Crimes in Internal Conflicts', (1998) 28 *Israel Yearbook on Human Rights* 91
- 'Dealing with Crimes of a Past Regime: Is Amnesty Still an Option?' (1999) 12 *Leiden Journal of International Law* 1001
- 'Africa and International Criminal Law', (2000) *Proceedings of the American Society of International Law* 229
- 'Diplomatic Protection and Human Rights: The Draft Articles of the International Law Commission' (2005) 24 *Australian Year Book of International Law* 75
- 'Immunity, Human Rights and International Crimes' (2005) *Journal of South African Law (Tydskrif vir die Suid-Afrikaanse Reg)* 482

*Shorter comments in scholarly journals*

- 'Succession to Federal Treaties on the Dissolution of a Federation', (1965) 82 *South African Law Journal* 430
- 'Consular Immunity', (1966) 83 *South African Law Journal* 126
- 'Succession to Federal Treaties Revisited', (1967) 84 *South African Law Journal* 250
- 'The Treaty-Making Process', (1968) 85 *South African Law Journal* 1
- 'The Extradition Agreement between South Africa and Swaziland', (1969) 86 *South African Law Journal* 88
- 'International Law Is Part of Our Law', (1971) 88 *South African Law Journal* 13
- 'Rhodesia. Does South Africa Recognise it as an Independent State?', (1977) 94 *South African Law Journal* 127
- 'International Law in South Africa: The Restrictive Approach to Sovereign Immunity Approved', (1980) 97 *South African Law Journal* 357
- 'South African Report', *International Practitioner's Notebook* (No 14, April 1981).
- 'Jurisdiction over Persons on Board an Aircraft Landing in Distress', (1981) 30 *International and Comparative Law Quarterly* 901
- 'Denationalization: Apartheid's Ultimate Plan', (1983) 28 *Africa Report* (African American Institute, New York) 43
- 'Educating South Africans for an Independent Namibia', (1985) 15 *South Africa International* 129
- 'The Revocation of the Mandate for Namibia Revisited', (1985) 1 *South African Journal on Human Rights* 154
- 'Soldiers or Terrorists? The ANC and SADF Compared', (1988) 4 *South African Journal on Human Rights* 221
- 'Abduction: Does the Appellate Division Care about International Law?', (1997) 12 *South African Journal on Human Rights* 324

*Chapters in books and monographs*

- 'Legal Aspects of Investment in Namibia' in Roger Murray, Jo Morris, John Dugard, and Neville Rubin, *The Role of Foreign Firms in Namibia* (Study Project on External Investment in South Africa and Namibia (South West Africa)) Africa Publications Trust (1974), 184

- John Dugard and E. M. Grosskopf, *South West Africa and the International Court. Two Viewpoints on the 1971 Advisory Opinion*, South African Institute of International Affairs (1974), 16
- Namibia and Human Rights. South African Institute of International Affairs (1976), 19.
- Independent Homelands. Failure of a Fiction*, South African Institute of Race Relations (1979), 19
- 'The "Purist" Legal Method, International Law and Sovereign Immunity', in J. J. Gauntlett (ed.), *J. C. Noster. 'n Feesbundel* (1979), 36
- 'A Satellite Arrangement?', in W. Breytenbach (ed.), *The Constellation of States* (1980), 30
- 'International Human Rights Norms in Domestic Courts. Can South Africa learn from Britain and the United States?' in Ellison Kahn (ed.), *Fiat Justitia. Essays in Memory of Oliver Deneys Schreiner* (1983), 221
- 'The Denationalization of Black South Africans in Pursuance of Apartheid: A Question for the International Court of Justice?', Occasional Paper No 8, Centre for Applied Legal Studies, University of the Witwatersrand (1984), 14
- 'The Responsibility of the Legal Profession', in Maxwell Cohen QC and Margaret E. Gouin (eds.), *Lawyers and the Nuclear Debate* (1988), 296
- 'International Terrorism and the Just War', in David Rapoport and Yorah Alexander (eds.), *The Morality of Terrorism* (1989, 2nd edn), 77
- 'Sanctions against South Africa: An International Law Perspective', in M. Orkin (ed.), *Sanctions against Apartheid* (1989), 113
- 'The Place of Public International Law in South African Law', in C. Visser (ed.), *Essays in Honour of Ellison Kahn* (1989), 108
- 'The Treatment of Rebels in Conflicts of a Disputed Character: The Anglo-Boer War and the "ANC-Boer War" Compared', in A. J. M. Delissen and G. J. Tanya (eds.), *Humanitarian Law of Armed Conflict. Challenges Ahead, Essays in Honour of Frits Kalshoven* (1991), 447
- 'Enforcement of Human Rights in the West Bank and the Gaza Strip', in E. Playfair (ed.), *International Law and the Administration of Occupied Territories* (1992), 461
- 'Apartheid: A Case Study in the Response of the International Community to Gross Violations of Human Rights', in I. Cotler and P. Eliadis (eds.), *International Human Rights Law. Theory and Practice* (1992), 301
- 'International Human Rights', in J. van Wyk, J. Dugard, B. de Villiers, and D. Davis (eds.), *Rights and Constitutionalism* (1994), 171
- 'Public International Law', in M. Chaskalson, J. Kentridge, J. Klaaren, G. Marcus, D. Spitz, and S. Woolman (eds.), *Constitutional Law of South Africa* (1996)
- 'Retrospective Justice: International Law and the South African Model', in A. James McAdam (ed.), *Transitional Justice and the Rule of Law in New Democracies* (1997), 269
- 'Collective Non-recognition: The Failure of South Africa's Bantustan States', in Boutros-Boutros Ghali. *Amicorum Discipulorumque Liber, Paix, développement, démocratie* (1998), 383
- 'Terrorism and International Law: Consensus at Last?', in E. Yakpo and T. Boumedra (eds.), *Liber Amicorum: Mohammed Bedjaoui* (1999), 159

- 'Reconciliation and Justice: The South African Experience', in Burns H. Weston and Stephen P. Marks (eds.), *The Future of International Human Rights* (1999), 399
- 'The Role of Human Rights Standards in Domestic Law: The Southern African Experience', in Philip Alston and James Crawford (eds.), *The Future of UN Human Rights Treaty Monitoring* (2000), 269
- 'L'Apartheid', in H. Ascensio, E. Decaux and A. Pellet (eds.), *Droit international pénal* (2000), 349
- 'Judicial Review of Sanctions', in V. Gowlland-Debbas (ed.), *United Nations Sanctions and International Law* (2001), 83
- 'Judicial Review in Public International Law', in E. J. H. Schrage (ed.), *Judicial Review* (2002), 35
- 'Possible conflicts of Jurisdiction with Truth Commissions', in A. Cassese, P. Gaeta, and J. R. W. D. Jones (eds.), *The Rome Statute of the International Criminal Court: A Commentary* (2002), 693
- with C. van den Wyngaert, 'Non-Applicability of Statute of Limitations', *ibid.*, 873
- 'The Problem of the Definition of Terrorism in International Law', in P. Eden and T. O'Donnell (eds.), *September 11, 2001: A Turning Point in International and Domestic Law* (2005), 187
- with D. Raič, 'The Role of Recognition in the Law and Practice of Secession', in M. Kohen (ed.), *Secession: International Law Perspectives* (2005), 94
- 'Articles 13–15 of the Statute of the International Court of Justice', in A. Zimmerman, C. Tomuschat, and K. Oellers-Frahm (eds.), *Commentary on the Statute of the International Court of Justice* (2006)
- 'Diplomatic Protection', in J. Crawford (ed.), *State Responsibility* (2006)

#### *Annual Survey of South African Law*

Dugard initiated the chapter on international law in the *Annual Survey* in 1965 and has written this chapter every year since then.

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

#### *Articles in scholarly journals*

- 'Academic Freedom in South Africa', (1970) 3 *Droits de l'homme* 186
- 'The Judicial Process, Positivism and Civil Liberty', (1971) 88 *South African Law Journal* 181
- 'The Political Trial: Some Special Considerations', (1974) 95 *South African Law Journal* 59
- 'Statutory Interpretation as an Exercise in Choice', (1978) 95 *South African Law Journal* 451
- 'Some Realism about the Judicial Process and Positivism', (1981) 98 *South African Law Journal* 372
- 'Chief Justice versus President: Does the Ghost of *Brown v. Leyds NO* Still Haunt our Judges?', (1981) 165 *De Rebus* 421
- 'Judges and Unjust Laws', (1981) 22 (2) *Codicillus* 50
- 'The Judiciary and National Security', (1982) 99 *South African Law Journal* 655
- 'A Triumph for Executive Power – An Examination of the Rabie Report and the Internal Security Act 74 of 1982', (1982) 99 *South African Law Journal* 589

- 'Using the Law to Pervert Justice', (1983) 11 (2) *Human Rights* (American Bar Association) 22–25, 50
- 'Should Judges Resign? – A Reply to Professor Wacks', (1984) 101 *South African Law Journal* 286
- 'Collective Cabinet Responsibility and Human Rights', (1985) 1 *South African Journal on Human Rights* 52
- 'The Jurisprudential Foundations of the Apartheid Legal Order', (1986) 28 *Philosophical Forum* (United States) 115
- 'A Bill of Rights for South Africa: Can the Leopard Change its Spots?', (1986) 2 *South African Journal on Human Rights* 275
- 'The Judiciary in a State of National Crisis – With Special Reference to the South African Experience', (1987) 44 *Washington & Lee Law Review* 477
- 'The Quest for a Liberal Democracy in South Africa', (1987) *Acta Juridica* 237 (also published separately in *Law Under Stress*).
- 'Towards a Democratic Order for South Africa', (1990) 2 *African Journal of International and Comparative Law* 361
- 'A Bill of Rights for South Africa?', (1990) 23 *Cornell International Law Journal* 441
- 'Towards Genuine Democracy in Conflict-Ridden Countries: A South African Perspective', (1991) 1 *Beyond Law* (Mas Alla del Derecho, Colombia) 65
- 'Human Rights, Apartheid and Lawyers. Are there any Lessons for Lawyers from Common Law Countries?', (1992) 15 *University of New South Wales Law Journal* 439

*Chapters in books and monographs*

- 'The Legal Framework of Apartheid', in Nic Rhoodie (ed.), *South African Dialogue* (1972), 80
- 'South African Lawyers and the Liberal Heritage of the Law', in *Law, Justice and Society*, Report of the Legal Commission of the Study Project on Christianity in Apartheid Society (SPRO-CAS), 19
- 'A Review of South African Legal Education', in *Legal Aid in South Africa* (1973) 160
- 'Racial Legislation and Civil Rights', in E. Hellman and H. Lever (eds.), *Conflict and Progress. Fifty Years of Race Relations in South Africa* (1979), 79
- 'Human Rights in South Africa—Retrospect and Prospect', in C. F. Forsyth and J. E. Schiller (eds.), *Human Rights: The Cape Town Conference* (1979), 263
- 'Political Options for South Africa and Implications for the West', in Robert I. Rotberg and John Barratt (eds.), *Conflict and Compromise* (1980), 17
- 'Judicial Power and a Constitutional Court', in L. J. Boulle and L. J. Baxter (eds.), *Natal and Kwa-Zulu Constitutional and Political Options* (1981), 189
- 'The South African Constitution 1910–1980', in J. E. Knoll (ed.), *Our Legal Heritage* (1982), 105
- 'The Judiciary and Constitutional Change', in D. J. van Vuuren and K. J. Kriek (eds.), *Political Alternatives for Southern Africa* (1983), 320
- 'The Judiciary and National Security', in A. N. Bell and R. D. A. Mackie (eds.), *Detention and Security Legislation in South Africa* (1985), 43

- 'Human Rights and the Rule of Law', in J. Butler, R. Elphick, and D. Welsh (eds.), *Democratic Liberalism in South Africa. Its History and Prospect* (1987), 271
- 'Changing Attitudes Towards a Bill of Rights', in J. van der Westhuizen and H. Viljoen (eds.), *A Bill of Rights for South Africa* (1988), 28
- 'Towards Racial Justice in South Africa', in L. Henkin and A. Rosenthal (eds.), *Constitutionalism and Rights. The Influence of the US Constitution Abroad* (1990), 349
- 'Helen Suzman', in R. M. Salokar and M. L. Volcansek (eds.), *Women in Law. A Bibliographical Sourcebook* (1996), 304

### **Criminal law and procedure**

#### *Articles in scholarly journals*

- '1570 Revisited: An Examination of South African Criminal Procedure and the Hiemstra Proposals', (1970) 87 *South African Law Journal* 410
- 'Lay Participation in the Administration of Justice', (1972) 1 *Crime, Punishment and Correction* 65
- 'Training Needs in Sentencing in South Africa', (1985) 1 *South African Journal on Human Rights* 93

#### *Shorter Comments in scholarly journals: criminal law*

- 'Provocation', (1966) 83 *South African Law Journal* 261
- 'Insane Automatism', (1967) 84 *South African Law Journal* 131
- 'The Demise of *DPP v. Smith* and the Renaissance of Subjectivism in Criminal Intent', (1967) 84 *South African Law Journal* 210
- 'Judges, Academics and Unjust Laws: The *Van Niekerk Contempt Case*', (1972) 89 *South African Law Journal* 271

#### *Shorter comments in scholarly journals: criminal procedure*

- 'The Rights to Counsel: South African and American Developments', (1967) 84 *South African Law Journal* 1
- 'The Courts and the Attorney-General', (1968) 85 *South African Law Journal* 232
- 'Bail: More Power to the Attorney-General', (1968) 85 *South African Law Journal* 466
- 'The Courts and Section 6 of the Terrorism Act', (1970) 87 *South African Law Journal* 289
- 'Autrefois Acquit and Substantially Identical Offences', (1971) 88 *South African Law Journal* 301

#### *Annual Survey of South African Law*

Chapter on criminal procedure, 1966–8.

### **Book Reviews**

Professor Dugard has written over sixty book reviews for the following journals: *American Historical Review*, *American Journal of Comparative Law*, *American Journal of International Law*, *British Year Book of International Law*, *Cambridge Law Journal*, *International and Comparative Journal of Southern Africa*, *Journal of Contemporary African Studies*, *South African Law Journal*, *South African Yearbook of International Law*.

## CASES

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

*S v. Tuhadeleni and others* 1969 (1) SA 153 (A)

Challenge to the validity of Terrorism Act 83 of 1967 in Namibia on the ground that the Mandate for South West Africa had been lawfully revoked by the UN General Assembly.

*S v. Ramotse* 1970 Annual Survey of SA Law 80

Objection to the exercise of criminal jurisdiction over an ANC leader abducted from Botswana.

*Sobukwe v. Minister of Justice* 1972 (1) SA 693 (A)

Attempt to secure the right of the leader of the Pan-Africanist Congress to leave South Africa on the basis of a fundamental right to leave one's country.

*Lendlease Finance Co (Pty) Ltd v. Corporation de Mercadeo Agricola v. CMA* 1975 (4) SA 397 (C). 1976 (4) SA 464 (A)

Assertion of restrictive approach to sovereign immunity.

*Inter-Science Research and Development Services v. Republica Popular de Moçambique* 1980 (2) SA 111 (T). 1982 (3) SA 330 (T)

Assertion of restrictive approach to sovereign immunity.

*Nkondo v. Minister of Police* 1980 (2) SA 894 (O)

Objection to the exercise of criminal jurisdiction over a person whose international flight had been forced to land in distress.

*S v. Adams. S v. Werner* 1981 (1) SA 1980 (2) SA 313 (W). 1981 (1) SA 187 (A)

Challenge to validity of Group Areas Act proclamation in which it was argued that a municipal court should have regard to international human rights norms in the interpretation of South African statute.

*Tutu v. Minister of Internal Affairs* 1982 (4) SA 571 (T)

Argued that Bishop Desmond Tutu's passport had been revoked unlawfully by the executive.

*Mathebe v. Regering van die Republiek van Suid-Afrika* 1988 (3) SA 667 (A)

Successful challenge to the validity of proclamation incorporating district of Moutse into KwaNdebele.

*S v. Banda* 1989 (4) 519 (B)

Challenge to the statehood of Bophuthatswana, on the grounds that it failed to qualify as a state under international law.

*Staatspresident v. Lefuo* 1990 (2) SA 679 (A)

Successful challenge to the validity of proclamation incorporating township of Botshabelo into QwaQwa.

*Attorney-General of Lesotho v. Swissbourgh Diamond Mines* 1997 (8) BCLR (Lesotho, CA)

Successful challenge to expropriation law.

*Swissbourgh Diamond Mines v. Government of the RSA (TP)* 1999 (2) SA 279 (T)

Act of State Doctrine.

*Harksen v. President of the RSA* 2000 (2) SA 825 (CC)

Extradition.

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

*Sv. Sagarius* 1983 (1) SA 833 (SWA)

*Sv. Mogoerane & others* (TPD. 6/8/1983)

*Sv. Thoms* (Appeal reported in 1990 (2) SA 802 (A))

*Sv. Mncube & Nondula* (TPD Circuit Court, Messina. 5/5/1988 (Appeal reported in *S v. Mncube* 1991 (3) SA 133 (A))

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

*Sv. Gumbi* 1962 (1) SA 188 (D)

*Sv. Arenstein* 1963 (2) 599 (N)

*Sv. Malinga* 1963 (1) SA 692 (A)

*Sv. Roodt* 1983 (3) SA 382 (T)

CONFERENCES

John Dugard has been invited to deliver a paper at or to participate in the following conferences outside South Africa:

- 1973 Annual Meeting, American Society of International Law, Washington, DC.  
Paper on outlawing international terrorism.
- 1974 Human Rights Committee, American Society of International Law, Wing-spread, Wisconsin. Seminar participant.
- 1974 International Law Association, American Branch, New York. Panellist.
- 1976 Namibia and Human Rights, International Commission of Jurists, Dakar, Senegal. Conference participant.
- 1976 International Law Association, Madrid. Committee participant.
- 1978 City of New York Bar. Paper, 'The International Legal Effects of South Africa's System of Apartheid'.
- 1980 Colloquium on Law and Liberty to Honour Charles Hamilton Houston, Amherst College, Massachusetts. Paper on failures of legal positivism.

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



- 1988 Conference on the Law of Military Occupation, held in Jerusalem under the auspices of Al Haq (Law in the Service of Mankind). Paper, 'The Enforcement of Human Rights in the West Bank and Gaza Strip'.
- 1989 American Society of International Law, Annual Meeting, Chicago. Paper, 'Prospects for Peace in Southern Africa'.
- 1989 Conference on Ethnic Conflict, Human Rights and the UN System, Oxford, organized by Harvard Law School Human Rights Program and International Centre for Ethnic Studies (Sri Lanka). Paper, 'The Effects of Apartheid on the Protection of Minorities'.
- 1989 Conference on South Africa and the Rule of Law, Nuneham Park, Oxford. Participant.
- 1992 International Law Association, Cairo (panellist on problem of State Succession and Secession).
- 1992 Association Internationale de Droit Pénal, Helsinki. Workshop on Extradition and Human Rights.
- 1992 Academia Internacional Liberdade e Desenvolvimento, Sintra, Portugal. Conference on 'International Human Rights Policies for the Next Decade: The 1993 World Conference on Human Rights'. Paper, 'Self-Determination, Territorial Integrity and Secession. The Implications for Human Rights of the Dissolution of Yugoslavia'.
- 1993 African Society of International and Comparative Law: Fifth Annual Conference, Accra. Paper, 'South Africa's Return to the International Community and International Law'.
- 1994 Meeting of International Law Association Committee on Extradition and Human Rights, Bellagio, Italy.
- 1994 66th Conference of International Law Association, Buenos Aires, Argentina. (Presented report of Committee on Extradition and Human Rights. Printed in ILA Report of 66th Conference.)
- 1994 Conference on International Criminal Court, Siracusa, Italy. Panellist.
- 1995 Meeting of Institut de Droit International, Lisbon, Portugal.
- 1995 Conference on Amnesty and Transitional Justice, Siracusa, Italy. Panellist.
- 1996 Meeting of International Law Association, Committee on Extradition and Human Rights, Bellagio, Italy.
- 1996 Colloquium to celebrate the 50th Anniversary of the International Court of Justice, The Hague. Participant. (Published as *Increasing the Effectiveness of the International Court of Justice* (1997).)
- 1996 67th Conference of International Law Association, Helsinki, Finland. Presented Report of Committee on Extradition and Human Rights. (Printed in ILA Report of 67th Conference.)
- 1996 African Society of International and Comparative Law, Regional Conference, Nottingham. Paper, 'International Law in South Africa'.
- 1996 African Society of International and Comparative Law. Eighth Annual Conference, Cairo. Panellist.
- 1997 Meeting of Institut de Droit International, Strasbourg, France.

- 1997 Meeting of International Law Association, Committee on Extradition and Human Rights, Otzenhausen, Germany.
- 1997 Conference on International Criminal Court, Birkbeck College, London. Paper.
- 1997 Conference on International Human Rights, Research Centre for International Law, Cambridge. Paper, 'International Human Rights Law in South Africa'.
- 1997 Colloquium to celebrate 50th Anniversary of International Law Commission, UN, New York. Participant.
- 1999 Colloquium on 'United Nations Sanctions and International Law', Graduate Institute of International Studies, Geneva. Paper, 'Judicial Review of Sanctions'.
- 1999 Duke University, USA. Conference on International Criminal Court. Paper on the United States' attitude.
- 1999 Meeting of Institut de Droit International, Berlin, Germany.
- 1999 Conference on International Criminal Law, Siracusa, Italy. Paper.
- 1999 African Society of International and Comparative Law. Eleventh Annual Conference, Harare. Panellist.
- 2000 American Society of International Law, Annual Meeting, Washington, DC. Paper, 'International Criminal Law in Africa'.
- 2001 Gorbachev Foundation Conference on Constitutionalism, Madrid.
- 2002 Inter-Action Council Seminar on Humanitarian Intervention, Boston.
- 2004 European Society of International Law, Florence. Paper on international terrorism.
- 2005 European Society of International Law, Geneva. Paper on the legal aspects of the Palestine–Israel conflict.