

BRICK COURT
CHAMBERS

BARRISTERS

In association with:

THE  TIMES

Africa:

Expanding Legal Horizons

*Monday 28 September 2015
A full day conference
at The Royal College of Surgeons*

Brick Court Chambers in association with *The Times* is pleased to invite you to this one-day conference, presented by Members of Chambers, on legal and commercial issues arising out of Africa's emergence.

Several of these issues are also relevant to other jurisdictions and markets in Europe and across the world. Topics will include public and private law rights, international and cross-border disputes (including disputes relating to Africa in the English Courts), sanctions, and market competition and regulation.

The conference features leading advocates, practitioners and experts, including:

Lord Hoffmann, international arbitrator and former Lord of Appeal in Ordinary, Brick Court Chambers

Adv. Thuli Madonsela, Public Protector of the Republic of South Africa

Sir Sydney Kentridge QC, Brick Court Chambers

José Costa Pereira, Adviser Policy and Communication, Africa Department, European External Action Service, European Union; former Head of the Task Force Africa in the General Secretariat of the Council, European Union; former Deputy Head of Mission for Portugal in Washington and Tokyo.

Robert Barrington, Executive Director, Transparency International UK

Dr Eva Thorne, Former Africa Government Initiative Strategic Advisor to the National Oil Company of Liberia

Babajide Ogundipe, Partner, Sofunde, Osakwe, Ogundipe & Belgore (Lagos)

Aisha Abdallah, Partner, Anjarwalla & Khanna (Nairobi)

Members of Brick Court Chambers, including Jonathan Hirst QC, Helen Davies QC, Richard Gordon QC, Charles Hollander QC, Tom Adam QC, Fergus Randolph QC, Harry Matovu QC, Paul Bowen QC, Jeremy Gauntlett SC, Maya Lester, Alastair Sutton and Prof. Robert McCorquodale.

KEYNOTE SPEAKER

Admiral Sir George Zambellas KCB DSC ADC, First Sea Lord and Chief of UK Naval Staff

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AFRICA: EXPANDING LEGAL HORIZONS

Since the millennium, the average rate of growth of African economies has outstripped that of the world economy and, according to many analysts, the continent is poised to play a significant role in the global economy in the 21st century. This has major implications for the legal sector.

Africa's rapid economic growth has been spurred by major infrastructure, mining and energy projects, commodities trading, telecommunications expansion, and corporate and public-private ventures involving governments, state agencies and private equity. These projects and markets are attracting substantial amounts of foreign direct investment (FDI) and intra-African trade and investment. Africa's economic expansion has also led policymakers to consider the development and improvement of transnational structures and markets to facilitate cross-border trade and access to markets. Significant legal opportunities and challenges arise out of all this, raising complex issues which are relevant, not only for Africa, but for other developed and emerging economies and jurisdictions.

For example:

- What lessons can be learnt from the European experience in relation to the development of common or single markets and transnational regulatory regimes?
- What prominence should be given to human rights in corporate governance and commercial investment in the developing world?
- Do economic sanctions achieve more injustice and harm than good?
- How have the courts of other jurisdictions, in particular the English courts, dealt with international litigation emanating from Africa?
- Are current arbitration and enforcement regimes adequate for the resolution of international commercial disputes and the enhancement of cross-border trade and investment?
- Do the rules of international law hamper the fight against corruption in Africa and other jurisdictions across the world?

WHY ATTEND

“Africa is rapidly becoming the most magnetic part of the world for companies, investors and their advisers. Eighteen months ago we interviewed Global law firms about their work in Africa and their plans for building on this in the future. In revisiting these firms, we have found a substantial sea change. Firms that have been investing in Africa for years are realising that competition is hotting up. Newcomers are getting Board level commitment to plans and investments...”

Over the past 3 years, more than half our Africa respondents have experienced growth rates in excess of 25%, with a significant number doubling or more in size over this period. Optimism is high. The majority expect this growth to continue or even accelerate...”

(Redstone Consultants, African and International Law Firms: Friends or Foes, February 2014)

Brick Court Chambers has an established reputation in international commercial litigation and arbitration, public and private international law, European and competition law and sanctions law. Over the years, Members of Chambers have advised and acted in the leading cases in all these fields and they include recognised experts in these areas. They also sit regularly as arbitrators and mediators in such disputes. In particular, Members of Chambers have acted in high-profile cases emanating from Africa before the English courts, courts in African jurisdictions and international arbitrations. These cases have concerned major infrastructure, mining, telecoms, energy, sports and finance projects in Africa, and important constitutional and human rights challenges. They include:

- constitutional challenges to the Presidential Election in Zimbabwe in 2008 and to laws in Tanzania concerning the imprisonment of homeless children in that country;
- claims on behalf of a number of African Governments, including a major claim in the English courts against a leading global investment bank and a claim by the Government of Equatorial Guinea arising out of a notorious attempted mercenary coup in that country;
- claims to enforce judgments of African courts and ICSID awards;
- a claim concerning state expropriation of corporate assets in a mining dispute;
- a major fraud case in Tanzania;

- a major dispute between Nigerian parties concerning Nigerian offshore oil concessions;
- a long-running regulatory dispute concerning the telecoms sector in Mauritius;
- a landmark legal challenge to the UK Government concerning the rights of the displaced people of the Chagos Islands;
- other human rights cases in South Africa, Zimbabwe, Angola, Namibia, Lesotho and Botswana.

Members of Chambers have also been at the forefront of cases in the developing field of sanctions law. They have acted in cases involving sanctions against members of African regimes, including Zimbabwe, Egypt, Tunisia, Algeria, Libya, Somalia, Central African Republic, Ivory Coast, Liberia, Nigeria and Libya. In addition, Members and Associate Members of Chambers have been appointed as arbitrators in disputes relating to African projects, including a telecoms dispute in East Africa and mining disputes in South Africa and Guinea; and on a high-profile tribunal of enquiry into corruption allegations in Africa.

On top of this, we are delighted to be joined for this conference by leading international experts with detailed knowledge of African and international legal and commercial affairs, whose policy experience and insights will enhance the discussion of the legal topics. This offers an unparalleled opportunity for lawyers to gain a deeper understanding of the issues for the purpose of advising clients in the future.

WHO SHOULD ATTEND

Partners and heads of litigation, arbitration, regulatory and corporate departments in international and domestic law firms, whether they have an African presence or not; dispute resolution, regulatory and corporate associates and attorneys in international and domestic law firms; and general counsel and others with responsibility in their corporations for regulatory affairs, compliance and risk management, and international and cross-border litigation and arbitration.

PROGRAMME

The conference is a one-day event. Delegates are encouraged to attend for the whole day, but if that is not possible, they are welcome to attend for half a day. Please advise whole day, morning or afternoon at the time of response.

8.15am – 9.00am Registration and coffee

9.00am – 1.00pm Morning session

1.00pm – 1.45pm Lunch

1.45pm – 6.15pm Afternoon Session

6.15pm – 8.00pm Drinks reception in The Hunterian Museum

This conference is accredited by the BSB for CPD:

- Whole conference – 7 hours 15 minutes
- Morning session only – 3 hours 15 minutes
- Afternoon session only – 4 hours

VENUE

The Royal College of Surgeons

35-43 Lincoln's Inn Fields

London WC2A 3PE

The Royal College of Surgeons is centrally located in Lincoln's Inn Fields, behind the Royal Courts of Justice and within easy walking distance of tube stations at Holborn (Piccadilly and Central lines) and Temple (District and Circle lines).

RSVP

Places are limited.

Please ensure you reply to rsvp@brickcourt.co.uk stating whether you would like to attend the full conference, or the morning or afternoon sessions.

DONATION

Instead of a registration fee for the conference, we invite donations to two charities with which Members of Chambers are involved: the International Senior Lawyers Project (ISLP) and Protimos.

ISLP is a global legal charity which provides the pro bono services of highly skilled and experienced lawyers to promote human rights, equitable and sustainable economic development and the rule of law worldwide. ISLP assists governments, non-governmental organisations and other institutions working to build legal capacity and to advance the rights and well-being of their citizens. See the website at www.islp-uk.org.

Protimos is a charitable organisation of lawyers who are committed to providing practical legal assistance, education and capacity building to marginalised communities in the developing world. The charity brings together development lawyers from across the world, trains young local lawyers, educates communities on their legal rights, and assists local lawyers to negotiate on behalf of the affected communities and to litigate in local courts. See the website at www.protimos.org.

Donations to either or both charities may be made:

<https://mydonate.bt.com/charities/internationalseniorlawyersproject-uk>

<https://www.justgiving.com/protimoseducationaltrust/donate/>

MORNING PROGRAMME

08:15 - 09:00 REGISTRATION AND COFFEE

09:00 - 09:15 WELCOME AND CHAIRMAN'S ADDRESS

09:15 - 10:30 SESSION 1: PUBLIC LAW AND HUMAN RIGHTS ISSUES

Chair: Richard Gordon QC, Brick Court Chambers

Paul Bowen QC, Brick Court Chambers

Emily MacKenzie, Brick Court Chambers

Andrew McIntyre, Brick Court Chambers

Prof. Robert McCorquodale, Brick Court Chambers, Director of the British Institute of International and Comparative Law

Dr Eva Thorne, Former Africa Government Initiative Strategic Advisor to the National Oil Company of Liberia

This session discusses the promotion and enforcement of human rights, including the role of human rights in business and investment. In particular, it will cover (1) Africa, state sovereignty and the International Criminal Court; and (2) corporate governance, business ethics and human rights in Africa, focusing on the UN Principles on Business and Human Rights.

10:30 - 11:00 COFFEE

11:00 - 12:15 SESSION 2: MARKET REGULATION AND COMPETITION

Chair: Fergus Randolph QC, Brick Court Chambers

Alastair Sutton, Brick Court Chambers

Jeremy Gauntlett SC, Brick Court Chambers

Robert O'Donoghue, Brick Court Chambers

José Costa Pereira, Adviser Policy and Communication, Africa Department, European External Action Service, European Union; former Head of the Task Force Africa in the General Secretariat of the Council, European Union; former Deputy Head of Mission for Portugal in Washington and Tokyo.

This session discusses the development of single and common markets and currencies in Africa to underpin cross-border trade, including issues of free movement, competition law (both M&A and anti-trust), state aid and the environment. The session considers lessons to be learnt from EU and US experience, having regard to initiatives in the African Union and in regional economic communities.

12:15 - 13:00 SESSION 3: SANCTIONS

Chair: Maya Lester, Brick Court Chambers

Margaret Gray, Brick Court Chambers

Richard Blakeley, Brick Court Chambers

Sanctions are increasingly used in international relations, and they are intended to achieve different and often ill-defined aims. In relation to Africa, they usually consist of EU asset freezes, travel bans and arms embargoes.

This session explores developments in the use of sanctions, and how they impact on commercial relations, and on litigation in national courts and arbitration, including (1) recent cases on sanctions relating to Zimbabwe, Egypt, Tunisia and Libya and issues relating to misappropriation of State funds, mutual legal assistance and regime sanctions; and (2) sanctions issues in the English courts, including the impact of sanctions on contractual relations and judicial review of sanctions listing decisions

13:00 - 13:45 LUNCH

AFTERNOON PROGRAMME

13:45 - 14:45

SESSION 4: AFRICAN DISPUTE RESOLUTION IN LONDON

Chair: Helen Davies QC, Brick Court Chambers
Jonathan Hirst QC, Brick Court Chambers
Charles Hollander QC, Brick Court Chambers
Tom Adam QC, Brick Court Chambers
Alec Haydon, Brick Court Chambers

This session considers the approach of the English courts to disputes emanating from Africa. Advocates with direct experience of litigating commercial cases with an African dimension in London, including before the Commercial Court, will provide comment and insights in relation to recent cases and the specific issues that might arise in that context.

14:45 - 15:30

SESSION 5: ARBITRATION – ENFORCEMENT OF AWARDS

Chair: Harry Matovu QC, Brick Court Chambers
Jo Box, Brick Court Chambers
Kyle Lawson, Brick Court Chambers
Babajide Ogundipe, Partner, Sofunde, Osakwe, Ogundipe & Belgore (Lagos)
Aisha Abdallah, Partner, Anjarwalla & Khanna (Nairobi)

This session assesses regimes for the recognition and enforcement of arbitral awards in England and in Africa, including (1) the New York Convention and the OHADA regime in Africa; (2) the approach of the English Courts; (3) the approach of the Nigerian Courts; and (4) the approach of the Kenyan/East African Courts

15:30 - 16:00

AFTERNOON TEA

16:00 - 17:30

SESSION 6: CORRUPTION – A DISCUSSION

Chair: Sir Sydney Kentridge QC, Brick Court Chambers
Lord Hoffmann, Brick Court Chambers, former Lord of Appeal in Ordinary
Adv. Thuli Madonsela, Public Protector of the Republic of South Africa
Robert Barrington, Executive Director, Transparency International UK

Corruption has a massive impact on economies across the world. But how should it be combated in an age of globalised money-laundering and asset-moving? And should legal action be possible against government ministers and officials accused of plundering state assets without waiting for regime change? Should there be exceptions to principles of sovereignty and state immunity in international law in the fight against corruption? The Public Protector of South Africa will present an address to the conference and this session will consider these issues in a high-profile discussion.

17:30 - 18:15

KEYNOTE SPEAKER

Admiral Sir George Zambellas KCB DSC ADC, First Sea Lord and Chief of UK Naval Staff

Naval Power in the 21st Century: Supporting Global Business and International Law

18:15 - 20:00

CONFERENCE CLOSE AND DRINKS RECEPTION

Hunterian Museum, Royal College of Surgeons

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