

CHRISTOF HEYNS
AFRICAN HUMAN RIGHTS
MOOT COURT COMPETITION

33

CONCURSO AFRICANO DE
JULGAMENTO FICTÍCIO SOBRE
DIREITOS HUMANOS

INTERNATIONAL HYBRID CONFERENCE

Call for Papers

The **Centre for Human Rights, University of Pretoria**, and the **School of Law, University of Rwanda**, are pleased to announce a one-day international conference on business and human rights, and unconstitutional change of government and hereby invite proposals for papers.

The conference will be held as part of the **33rd Christof Heyns African Human Rights Moot Court Competition**.

**Business and human rights, and
unconstitutional change of government**

22 July 2024

School of Law, University of Rwanda

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**Centre for
Human Rights**
UNIVERSITY OF PRETORIA



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The conference will address the two of the three main themes underlying the hypothetical case of the 2024 edition of the Moot Court Competition. These themes are: (a) business and human rights; and (b) unconstitutional change of government. The working languages of the conference are English, French and Portuguese, with simultaneous interpretation available. Interested academics are invited to submit papers on any of these themes (focusing on the aspects outlined in each theme).

Abstracts should be emailed to yusuf.sayaad@up.ac.za and pihabimana@gmail.com by **30 April 2024**.

BACKGROUND AND AIM OF THE CONFERENCE

Business and human rights: Taking stock of the requisite interplay

The concept of business and human rights is one of the most topical issues of recent times. The debate about these concepts has centered on what it means for a business to have an obligation to protect human rights, but also whether indeed a business should have human rights obligations. If so, what are these rights and to whom do they apply?

Today's world is dominated by business as a result of globalisation. But what should companies' responsibilities be towards this world, towards the societies in which they operate, exploit and serve? In the past, corporate social responsibility (CSR) was supposed to answer this question. Today, the CSR framework belongs to the past, as it is a voluntary action by companies in favour of society.¹ The current debate is about the relationship that should exist between business and human rights. This implies the public responsibility for human rights that should characterise business operations, in line with the UN Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011. The UNGPs are the most authoritative and widely adopted set of principles for responsible business.

¹ Deva Surya and David Birchall (eds) *Research Handbook on Human Rights and Business* (Northampton: Edward Elgar Publishing 2020) 120.

This non-binding document calls on governments and companies around the world to identify, prevent, mitigate and remedy actual and potential human rights abuses in the course of their business activities.²

A process towards the adoption of a binding treaty on business and human rights is underway within the United Nations.

The Conference will explore Africa's engagement (actual and potential contributions) to this evolving field.

Unconstitutional change of government: ever justifiable?

Unconstitutional change of government (UCG) is not a new phenomenon in Africa. In the post-independence period, this practice became more widespread, probably due to the weakness of the newly independent States and the non-interventionist policy of the Organisation of African Unity (OAU).³ It was nonetheless less so since the start of the democratisation process in the early 1990s. It is estimated that more than 80 coups have been documented since independence.

The same trend has recently resurfaced in different parts of the continent.⁴ Governments were overthrown, first in Mali, three times in just over a decade (2012-2021). In 2015, an attempted *coup d'état* was foiled against the late Burundian president Pierre Nkurunziza, who had attempted to run for a third term of office that was widely deemed unconstitutional. The former presidents of Zimbabwe and Sudan were deposed by their own militaries in 2017 and 2019 respectively. On 5 September 2021, the former president of Guinea, Alpha Kondé, was overthrown by an elite unit of the country's special forces. In the year 2022, Burkina Faso suffered the same fate twice, first in January 2022 and then on 30 September 2022. More recently, Niger and Gabon were mired in this unconstitutional exercise on 26 July 2023 and 30 August 2023 respectively.

This comes at a time when the African Union (AU) has stepped up its efforts to curb the scourge of UCG by putting in place a solid legal and policy framework. It includes a number of declarations dating back to the days of the Organisation of African Unity (OAU), the most recent being the Lomé Declaration of 2000.⁵ It is also provided in the 2007 African Charter on Democracy, Elections and Governance.⁶ These two instruments outline and prohibit various forms of UCG, including coups d'état.⁷ The latest normative development is the criminalisation of this concept in the Malabo Protocol, which has not yet entered into force.

This suggests that a fairly solid legal framework is in place to try and curb the scourge of UCG across the continent. However, the recent wave of coups raises the question of the effectiveness of the AU's policy and its sanctions regime. An equally relevant consideration is that of the overthrow of a democratically elected but manifestly incompetent government. What is the legal nature of such a military coup? Can it ever be justified if it is supported by a popular uprising or acclaimed by the population on the streets? What is the future of constitutionalism and democratic governance in Africa, given the constant resurgence of this phenomenon?

The Conference will explore these and other related questions.

2 See OHCHR 'The UN Guiding Principles on Business and Human Rights: An Introduction' available at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf accessed 19 March 2024.

3 Frederick Cowell 'Preventing coups in Africa: Attempts at the protection of human rights and constitutions' (2011) *The International Journal of Human Rights* Vol. 15 (5) 753.

4 UN Security Council 'In Hindsight: The Security Council and Unconstitutional Changes of Government in Africa' Report available at <https://www.securitycouncilreport.org/monthly-forecast/2022-07/in-hindsight-the-security-council-and-unconstitutional-changes-of-government-in-africa.php?print=true> accessed 11 March 2024.

5 Declaration on the Framework for an OAU response to unconstitutional changes of Government AHG/Decl.5 (XXX-VI) 2000 available at https://au.int/sites/default/files/decisions/9545-2000_ahg_dec_143-159_xxxvi_e.pdf, accessed 11 March 2024; F Nguendi Ikome 'The Lomé Declaration: context, content, and interpretation' Institute for Global Dialogue' (2007) available at <https://www.jstor.org/stable/resrep07759.8> accessed 11 March 2024; The 1997 Harare Declaration; and the 1999 Algiers Declaration are the previous declarations on the UCG outgrown by the Lomé Declaration.

6 African Charter on Democracy, Elections and Governance (ACDEG) adopted in Addis Ababa 30 January 2007 and entered into force 15 February 2012.

7 See ACDEG *Ibid.* Article 23(5).

SUBMISSION GUIDELINES

- The organisers invite abstracts by anyone interested in presenting a paper at the International Hybrid Conference. The aim is to publish the papers in an international peer-reviewed journal with a focus on Africa, the *African Human Rights Law Journal*.
- Abstracts should be between a minimum of 250 and a maximum of 350 words, and should have:
 - (a) a clear and descriptive title;
 - (b) indicate the main question(s) to be addressed;
 - (c) outline the methodological approach; and
 - (d) state the expected results.

In addition, the authors' biographies must be sent with the abstracts. Authors should also indicate whether participation will be in person or virtually and, in the case of in-person participation, the possibility of obtaining funding.

Abstracts should be emailed to yusuf.sayaad@up.ac.za and pihabimana@gmail.com by **30 April 2024**.

IMPORTANT DATES

There are three main stages in the process: submission of abstracts, presentation of a paper and a draft article, and submission of a full article.

Stage 1

- Abstracts should be submitted to the organisers by **30 April 2024**;
- Abstracts will be reviewed by **8 May 2024**;
- Selected abstracts will be announced on **10 May 2024** for presentation and submission of a draft article.

Stage 2

- Presentations and draft papers should be sent to the organisers by **15 July 2024**;
- Papers will be presented in person or virtually on **22 July 2024**.

Stage 3

- Presented papers, revised after presentation, must be submitted for peer-review by **31 August 2024**;
- Papers will be published in the 2024 no 2 issue of the *African Human Rights Law Journal* or a subsequent issue.



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