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2021



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# CONVENTION NOTEBOOK

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# 2014 Regional Convention Kids Notebook

**William Crookes, T.A. Malone, George  
Shadbolt, J. Traill Taylor, William  
Blanchard Bolton, Thomas Bedding**

## 2014 Regional Convention Kids Notebook:

Reconceptualising Unaccompanied Child Asylum Seekers and the Law Jennifer L. Whelan, 2022-09-30 Unaccompanied child asylum seekers are amongst the world's most vulnerable populations and their numbers are increasing. The intersection of their age, their seeking asylum and separation from their parents creates a specific and acute triple burden of vulnerability. Their precariousness has long been recognised in international human rights law. Yet human rights based responses have been subordinated to progressive global securitisation of irregular migration through interception, interdiction, extraterritorial processing and immigration detention. Such an approach necessitates an urgent paradigm shift in how we comprehend their needs as children, the impact of punitive border control laws on them and the responsibility of States to these children when they arrive at their borders seeking asylum. This book reconceptualises the relationship between unaccompanied child asylum seekers and States. It proposes a new conceptual framework by applying international human rights law, childhood studies and vulnerability theory scholarship in analysing State obligations to respond to these children. This framework incorporates a robust analysis of the operation and impact of laws on vulnerable populations, a taxonomy for articulating the gravity of any consequent harms and a method to prioritise recommendations for reform. The book then illustrates the framework's utility using Australia's treatment of unaccompanied children as a case study. This book illuminates key learnings from human rights law, childhood studies and vulnerability theory and transforms them into a new roadmap for law reform. As such, it will be a valuable practice based resource for practitioners, non-government organisations, advocates, policymakers and the general public interested in advocating for the rights of vulnerable populations, as well as for academics, researchers and students of human rights law, refugee law, childhood studies and vulnerability studies.

**The UN Convention on the Rights of the Child** John Tobin, 2019-03-28 The United Nations Convention on the Rights of the Child is the most extensive and widely ratified international human rights treaty. This Commentary offers a comprehensive analysis of each of the substantive provisions in the Convention and its Optional Protocols on Children and Armed Conflict and the Sale of Children, Child Prostitution and Pornography. It provides a detailed insight into the drafting history of these instruments, the scope and nature of the rights accorded to children and the obligations imposed on states to secure the implementation of these rights. In doing so, it draws on the work of the Committee on the Rights of the Child, international, regional and domestic courts, academic and interdisciplinary scholarly analyses. It is of relevance to anyone working on matters affecting children, including government officials, policy makers, judicial officers, lawyers, educators, social workers, health professionals, academics, aid and humanitarian workers and members of civil society.

*Pretoria Student Law Review* 2020-14-2 Simon Motshweni, 2020-01-01 About the publication Honoured to present to you the reader the 2020 edition of the Pretoria Student Law Review (PSLR) an annual publication which is the pride of the best law faculty in Africa according to the Times Higher Education World University Rankings. The University of Pretoria's Law Faculty ranks in the top 100 law faculties in the world.

a feat unequalled in Africa The PSLR is a student driven law review that creates an interactive forum for students academics and legal professionals to discuss topical legal matters that challenge the status quo At the beginning of this year lay the fantasy of newness presenting an opportunity to do great things But as I reflect on the journey leading to this publication I understand that the 2020 edition of the PSLR had an engine that ran on hope faith dedication perseverance commitment and hard work Our predecessors had a vision to create a boldly outlined legacy for the PSLR they spearheaded the setting up of a system that would last the lifespan of the PSLR Today some 13 years after the first edition of the PSLR South Africa the continent and the world at large are on the cusp of a new era socially economically and politically When my journey as Editor in Chief commenced I imagined the PSLR as a ship whose captain was myself Customarily it is easy to be a captain of a ship in calm seas but unlike most of my predecessors I have had to be the captain of a ship through the heftiest of storms The world was not truly prepared to face challenges presented by the Covid 19 let alone the PSLR In the wake of the 4IR and this new age of technology sailing this ship to success was still a heavy task to complete It is therefore with great honour to have been able to successfully complete the task for which we the 14th cohort of the Editorial Board were called for We have upheld the esteemed reputations that have been left by our predecessors Fittingly I wish to applaud my team for their inspiring commitment outstanding contribution and service in maintaining the elevated standard of the PSLR For indeed it is a publication par excellence Amidst the storms we have spearheaded the establishment of a free floating PSLR Collection in the OR Tambo Law Library This collection is dedicated to house all published PSLR editions dating since the inception of the PSLR in 2007 We have established and strengthened relations with other Law Faculties in the country and even beyond We published the very first special edition of the PSLR a focused edition that covers a critical issue brought before the South African Law Deans Association the Decolonisation of Legal Education We have established a system by which all authors who publish with us ought to have an ORCID iD We have adopted internal regulations that outline the principles that govern the Editorial Board We have spearheaded the adoption and implementation of a policy that forces us to comply with DHET Standards in order to be a DHET Accredited Journal so as to encourage and foster a student culture of critical research Jostina Mtshweni Clayton Mtshweni Lucas Berto Mateus Stephine Mashilo and Lerato Mashilo words cannot begin to express my gratitude for all the support you have given me throughout this journey Thank you for keeping me sane through one of the toughest times of my publishing career Thank you for the endless amount of support and the unconditional love you give me always You are the power oil that kept this engine running all by the sufficient grace of God I hereby pass the baton and entrust the next Editor in Chief with the difficult task of running faster and running a better marathon than myself and my predecessors To you future author I implore you to start writing for the water does not flow until the faucet is turned on To you the reader Jurgen Zwecker was right enjoy the read without fear to question what is in front of you for that is the only way we as scholars grow Simon Motshweni Editor in Chief 2020 Table of Contents Editors note by Simon Motshweni

Statutory utility rights to realise access to services as a characteristic of adequate housing by Gustav Muller The experiences of women and barriers for career advancement in tertiary institutions in a South African context by Bernardete Mendes I've changed says South African law Has the judiciary opened up to black women lawyers by Cebolenkosi Makhaye Sexual orientation and gender identities SOGI law and social change by Chanelle van der Linde Game of Thrones The battle of the Mphephus by Gudani Tshikota Critical race theory and feminist legal theory Perspectives on transformation of the judiciary by Hayley C Warring International law rules relating to migration arising from rising sea levels by Keketso G Kgomosotho The constitutionality of warrantless search and seizure operations by Khalipha Shange The constitutionality of warrantless search and seizure operations by Lehlohonolo January A comparative analysis of the proposed mandatory nature of employment legislation and its interaction with the choice of law of an international contract by Marcia van der Merwe Property rights and the basic structure of the Constitution The case of the Draft Constitution Eighteenth Amendment Bill by Martin van Staden Speak no law without justice Evaluating the retrospective force of declarations of unconstitutionality with specific reference to *Qwelane v SAHRC Others* 686 2018 2019 ZASCA 167 194 by MP Fourie Marno Swart A critique of the determination of a composite supply for VAT purposes in South Africa Lessons from selected countries by Mzwandile Ngidi Workers of the world un united A discussion through a gendered lens on why stronger protection of workers in the informal economy will better equip South Africa to cope with labour market changes of the Fourth Industrial Revolution by Shania Maharaj Dismantling the status quo Prohibiting unfair discrimination on the grounds of poverty under capitalism by Sohela Surajpal Neoliberalism and inequality in post apartheid South Africa by Thabiso Mfete When life gives you law make lemonade Exploring the legalised oppression of black women in the United States of America and South Africa and their musical response thereto by Thandeka N Khoza The Fourth Industrial Revolution A case for educational transformation by Thembekile M Mtsweni The Gabriel Fernandez case A comparative analysis of a mandated reporter in light of the Children's Act by Thiavna Subroyen Transformative adjudication and the place of administrative law in South African jurisprudence *ABSA Bank Limited v Public Protector* by Tshepo Twala Mpho Mogadime The pas de deux between education and recreation Facilitating the realisation of Articles 11 and 12 of the African Charter on the Rights and Welfare of the Child in Schools by Thandeka N Khoza Cebolenkosi Zuma African Human Rights Law Journal Volume 20 No 2 2020, 2020-01-01 In 2020 the African Human Rights Law Journal AHRLJ or Journal celebrates 20 years since it first was published The AHRLJ is the only peer reviewed journal focused on human rights related topics of relevance to Africa Africans and scholars of Africa It is a time for celebration Since 2001 two issues of the AHRLJ have appeared every year Initially published by Juta in Cape Town South Africa in 2013 it became as an open access journal published by the Pretoria University Law Press PULP PULP is a non profit open access publisher focused on advancing African scholarship The AHRLJ contains peer reviewed articles and recent developments discussing the latest court decisions and legal developments in the African Union AU and regional economic

communities It contains brief discussions of recently published books With a total of 517 contributions in 40 issues 436 articles and 81 recent developments not counting book reviews on average the AHRLJ contains around 13 contributions per issue The AHRLJ is accredited with the International Bibliography of the Social Sciences IBSS and the South African Department of Higher Education Science and Innovation and appears in a number of open access portals including AfricanLii the Directory of Open Access Journals and SciELO Over the 20 years of its existence many significant articles appeared in the AHRLJ According to Google Scholar the mostcited articles that have appeared in the Journal over this period are i T Metz Ubuntu as a moral theory and human rights in South Africa 2011 11 African Human Rights Law Journal 532 559 with 273 citations ii D Cornell and K van Marle Exploring ubuntu Tentative reflections 2005 5 African Human Rights Law Journal 195 220 with 97 citations iii S Tamale Exploring the contours of African sexualities Religion law and power 2014 14 African Human Rights Law Journal 150 177 with 85 citations K Kindiki The normative and institutional framework of the African Union relating to the protection of human rights and the maintenance of international peace and security A critical appraisal 2003 3 African Human Rights Law Journal 97 117 with 59 citations and T Kaime The Convention on the Rights of the Child and the cultural legitimacy of children s rights in Africa Some reflections 2005 5 African Human Rights Law Journal 221 238 with 54 citations This occasion allows some perspective on the role that the Journal has played over the past 20 years It is fair to say that the AHRLJ contributed towards strengthening indigenous African scholarship in general and human rights related themes specifically Before the Journal there was no academic outlet devoted to human rights in the broader African context Both in quantity and in quality the Journal has left its mark on the landscape of scholarly journals The AHRLJ has provided a forum for African voices including those that needed to be fine tuned Different from many other peerreviewed journals the AHRLJ has seen it as its responsibility to nurture emerging but not yet fully flourishing talent This approach allowed younger and emerging scholars to be guided to sharpen their skills and find their scholarly voices The AHRLJ has evolved in tandem with the African regional human rights system in a dialogic relationship characterised by constructive criticism When the Journal was first published in 2001 the Protocol on the Establishment of an African Court on Human and Peoples Rights African Court Protocol was not yet in force Over the years the Journal tracked the evolution of the African Court on Human and Peoples Rights African Court from a faltering start through a phase when it increasingly expressed itself in an emerging jurisprudence to the current situation of push back by states signalled by the withdrawal by four states of their acceptance of the Court s direct individual access jurisdiction The same is largely true for the African Committee of Experts on the Rights and Welfare of the Child African Children s Committee It was in 2001 that the AU elected the first members of this Committee It first met in 2002 and its first decade or so was lackluster The Committee examined its first state report only in November 2008 and decided its first communication in March 2011 Articles by authors such as Mezmur and Sloth Nielsen who also served as members of the Committee and Lloyd placed the spotlight on the work of the

Committee Initially these articles primarily served to describe and provide information that otherwise was largely inaccessible but over time they increasingly provided a critical gaze and contributed to the constructive evolution of the Committee's exercise of its mandate By 2011 the African Commission on Human and Peoples Rights African Commission was already quite well established but it also underwent significant growth over the subsequent 20 year period Numerous articles in the Journal trace and analyse aspects of this evolution Contributions in the Journal also cover most of the AU human rights treaties and soft law standards A number of issues contain a special focus section dealing with a thematic issue of particular relevance or concern such as the focus on the Protocol to the African Charter on the Rights of Women 2006 no 1 30 years of the African Charter 2011 no 2 and sexual and reproductive rights and the African Women's Protocol 2014 no 2 The scope of the Journal extends beyond the supranational dimension of human rights Over the years many contributions explored aspects of the domestic human rights situation in countries such as the Democratic Republic of the Congo Eswatini Ethiopia Lesotho Malawi Mauritius Nigeria South Africa Tanzania Uganda and Zimbabwe From time to time the specific focus sections also veered towards domestic human rights protection See for instance the focus on 20 years of the South African Constitution 2014 no 2 on adolescent sexual and reproductive rights in the African region 2017 no 2 on the rule of law in sub Saharan Africa 2018 no 1 and on dignity taking and dignity restorations 2018 no 2 Child Marriage, Rights and Choice Hoko Horii,2021-11-18 This book addresses the issue of agency in relation to child marriage In international campaigns against child marriage there is a puzzle of agency While international human rights institutions celebrate girls exercise of their agency not to marry they do not recognize their agency to marry Child marriage usually defined as any formal marriage or informal union where one or both of the parties are under 18 years of age is normally considered as forced which is to say that it is assumed that are not capable of consenting to marriage This book however re examines this assumption through a detailed socio legal examination of child marriage in Indonesia Eliciting the multiple competing frameworks according to which child marriage takes place the book considers the complex reasons why children marry Structural explanations such as lack of opportunities and oppressive social structures are important but not exhaustive explanations Exploring the subjective reasons by listening to children's perspectives their stories show that many of them decide to marry for love desire to belong to the community and for new opportunities and hopes The book then demonstrates how the child marriage framework and indeed the human rights framework in general is constructed on too narrow a vision of human agency One that cannot but fail to respect and promote the agency of all regardless of gender race religion and age This book will be of interest to scholars students and practitioners in the areas of children's rights legal anthropology and socio legal studies

Documents Accompanying the Journal of the House of Representatives Michigan,1898 Indigenous Children's Right to Participate in Law and Policy Development Holly Doel-Mackaway,2021-09-28 This book presents a model for reforming and developing Indigenous related legislation and policy not only in Australia but also in other jurisdictions The model provides

guidance about how to seek listen to and respond to the voices of Indigenous children and young people The participation of Indigenous children and young people when carried out in a culturally and age appropriate way and based on free prior and informed consent is an invaluable resource capable of empowering children and young people and informing Indigenous related legislation and policy This project contributes to the emerging field of robust ethically sound participatory research with Indigenous children and young people and proposes ways in which Australian and international legislators and policymakers can implement the principle of children s participation by involving Aboriginal children and young people in the development of law and policy pertaining to their lives This book provides accounts from Aboriginal children and young people detailing their views on how they can be involved in law and policy development in the future It shows the latest state of knowledge on the topic and will be of interest to researchers academics policymakers legislators and students in the fields of human rights law children s rights participation rights Indigenous peoples law and family child and social welfare law

*Children and International Human Rights Law* Aisling Parkes,2013-08-15 The United Nations Convention on the Rights of the Child 1989 is one of the most highly ratified human rights treaties in the world with 192 states currently signed up to it Article Twelve is fundamental to the Convention and states that all children capable of forming views have the right to express those views and recognises that all children have the right to be heard in any judicial and administrative proceedings affecting them This book explores the historical and theoretical background to Article Twelve and examines the various models of participation which have been created to facilitate a better understanding of this provision Aisling Parkes analyzes the extent to which Article Twelve has been implemented under international law and in domestic law as well as setting out recommendations for the most effective ways of implementing Article Twelve in all areas of children s lives

*The Law Journal ,1872* *Foster Children, Rights and the Law* Matthew Trail,2025-03-31 This book discusses child wishes rights and participation in the foster care system Making decisions in a foster child s best interest is a widely used but also widely criticized international legal doctrine This work discusses the two major legal frameworks best interest and normalcy for which foster care decisions are made and how those frameworks might shape how child welfare professionals view and interpret children s rights and participation Normalcy the idea that decisions should promote a normal life is a separate legal doctrine which can be in conflict with best interest determinations However the concept of normalcy is also theoretically built into best interest decisions and therefore also plays a role in most child welfare systems Mixing both empirical legal and child welfare research the book demonstrates the ways in which risk aversion and fear drive best interest decision making to the detriment of both practitioners and the children they aim to serve It argues that a children s rights framework starting with normalcy is a better tool for promoting child participation and centering the child within the dependency process The book will be of interest to academics researchers and policymakers working in the areas of children s rights law child welfare and international human rights law

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