

Editorial: Accelerating Endogenous Knowledge Production in Africa – Contributions from Legal Research

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1 Introduction

The special edition consists of eight papers from a special research project and symposium, conceptualised, organised and led by the editor (who is a member of the Department of Mercantile and Labour Law at the University of the Western Cape) between 29 and 31 September 2021. This project was undertaken in partnership with the Afrikan Peer Growth Network NPC, a non-profit company co-founded by the editor for the purpose of promoting autochthonous or endogenous African scholarship. The theme of the symposium "Towards Afrikan-centred participatory knowledge production" echoes the dream expressed in the title of this editorial, which seeks to accelerate endogenous knowledge production on the African continent. This editorial will answer two related questions. The first is: does accelerating or promoting autochthoneity and endogeneity in knowledge production in Africa matter, and if so, why and how does it matter? The second is related to the first, and the question is: in what ways do the contributions to legal research in this special edition help to advance the agenda of enhancing endogenous and decolonised scholarship and knowledge production on the African continent?

2 Why endogenous knowledge production is critical to Africa

The point of departure is that the knowledge economy provides a bedrock to both the general development of nations and to the real economy – which real economy is characterised by productivity, inclusive economic growth and development. This is true for the developed world as much as it is for developing nations such as those in Sub-Saharan Africa. Knowledge creation through academic research and innovation are

recognised as some of the important drivers of economic growth¹ in any nation or at the level of a regional economic community (REC) (such as Africa and as represented by the African Union).² For this reason, governments, in partnership with the private sector,³ channel funding or should channel funding into higher education to support research and development (R&D expenditure). This is in recognition of the critical role played by the universities, that is the role of knowledge creation and the fostering of innovation through research.⁴ From time immemorial, a country's intelligentsia, especially the researchers through knowledge produced and academic journal publications, has shaped industrial production and innovation, leading to development of new products and services. It has been established for example, that knowledge creation through increased publications in one focused research area such as STEM⁵ is positively associated with economic growth in both the developed and developing countries.⁶

As already intimated above, knowledge creation is not only critical for economic growth. The knowledge economy⁷ also contributes to the finding of solutions to many other challenges faced by especially societies in transition like those in Africa. Research further makes a huge contribution in shaping the policy directions and strategic undertakings by nations either at home or in terms of the foreign policies pursued. There is no doubt that every development in the Global North⁸ such as the scramble for Africa for example,⁹ has been anchored on and indeed inspired by some kind of an ideological basis developed by the

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¹ See Moyo and Phiri 2024 *Cogent Social Sciences* 2.

² Inglesi-Lotz and Pouris 2013 *Scientometrics* 129. Also see Moyo and Phiri 2024 *Cogent Social Sciences* 2.

³ More so in the developed world, but also in the developing nations.

⁴ Moyo and Phiri 2024 *Cogent Social Sciences* 2.

⁵ Which stands for Science, Technology, Mathematics and Engineering.

⁶ The same research further established that journal publications which are regarded as basic research, are usually funded by the public sector while applied research is funded by the private sector. See Moyo and Phiri 2024 *Cogent Social Sciences* 14.

⁷ A term which refers to the knowledge created through research, and the related access to such information or knowledge by the end users.

⁸ What used to be referred to as the "First World or Developed Nations" is now referred to as the "Global North", while the nations previously referred to as "Third World Countries" are now referred to as the "Global South". Global North depicts countries who are wealthier, better industrialised with a better level of economic development than the nations of the Global South with less or underdeveloped economies. The terms are about comparative development among nations of the world. See Odeh 2010 *Journal of Sustainable Development in Africa* 340.

⁹ Including the colonisation of many of the African nations as we know them today in the period stretching from 1870 to 1914.

intelligentsia in the Global North. For example, there was ideological justification for colonising Africa. The argument around what was considered the need to bring the "light" of civilisation to what was then and, in some respects, is still regarded as a "dark" and backward continent, was put forward by researchers in Europe during those times, as justification for colonising African societies. The perception of Africa's backwardness, was used to justify colonisation of Africa under the belief that colonisation was in fact some kind of European intervention considered necessary to benefit backward societies in Africa.¹⁰ By now we know that the real primary motivation for colonisation of Africa was to promote and aid the extensive industrialisation efforts in Europe at the time.¹¹

Post-colonial Africa faces a multitude of challenges for which academic research is trusted to find solutions. While the challenges faced by Africa today may not all be blamed on colonialism, the majority of Africa's problems today, it can be argued, represents a legacy of colonialism. Some of the intractable and numerous challenges faced by Africa include: the challenge of inclusive development; unemployment and the consequent brain drain; poverty; hunger; intra-state and inter-state conflicts including armed conflicts which cause displacement and many refugee challenges mostly affecting women and children; challenge of socio-economic inequality; challenge of gender-based violence; general poor governance, whether political or corporate governance; poor service delivery; the challenge of corruption; the challenge of the rule of law, encompassing ineffective laws, partisan and/or inadequate enforcement mechanisms.¹²

A few examples will suffice to illustrate the nexus between colonialism and some of the challenges faced by African societies today. For example, colonial governments followed segregatory policies in providing amenities to the communities. After independence, national budgets had to be stretched to extend development to all parts of the post-colonial state, and to date many African national governments are still doing catch-up with the rest of the world as far as inclusive development¹³ is concerned. Colonial and/or apartheid governments deliberately avoided inclusive development, and in some instances, they sought to promote fragmentation of or divisions among African populations and promoted ethnicity in the minds of Africans.¹⁴ Today, there are many manifestations of

¹⁰ See similar views expressed in Mlambo, Masuku and Mthembu 2024 *Development Studies Research* 4.

¹¹ Mlambo, Masuku and Mthembu 2024 *Development Studies Research* 4.

¹² See Mlambo, Masuku and Mthembu 2024 *Development Studies Research* 6-7, who identify post-colonial Africa's main challenges from a sample of key African states.

¹³ Inclusive development it has been said, occurs when a country's policies can reduce poverty and inequality. See Mlambo, Masuku and Mthembu 2024 *Development Studies Research* 7.

¹⁴ The South African colonial government for example through one of the many unjust apartheid laws of the times, forcibly removed many black people from urban areas and domiciled them in the so-called independent *bantustans* or ethnic homelands, which were

conflicts along ethnic and racial lines in the post-colonial African states. Some of these conflicts have resulted in civil wars like those witnessed in the Sudan, the perpetual instability like the sad story of the Democratic Republic of Congo and conflicts in the horn of Africa, and ethnic cleansing genocides such as those witnessed in Rwanda,¹⁵ and the Gukurahundi massacres in Zimbabwe.¹⁶ It has been pointed out, and correctly so in my view, that some of the civil wars in Africa and the political instabilities that are still being experienced today are caused by the fact that during colonialism, there was unfavourable delineation of borders in many instances, which resulted in the existence of hostile ethnic groups within a single nation-state for example. The resultant cultural and religious tensions, besides causing endless wars and refugee challenges, have exacerbated poverty in the affected post-colonial African states.¹⁷ Besides, many post-colonial African leaders have dictatorial tendencies, and they use colonial era tactics to enforce control for example through unlawful arrests of political opponents, and by denying people civil liberties. Quite clearly, the ghost of colonialism is still looming large, haunting the post-colonial state.

Undoubtedly, post-colonial Africa's most pressing need is development following decades and, in some instances, centuries¹⁸ of colonial rule.¹⁹ For a long time, despite this reality, as has been argued by Arowosegbe, Africa has suffered from the absence of a recognisable body of ideology to guide and inform the ordering of priorities in tackling its development related problems. Many decades after the end of colonialism on the African continent, the African Union (hereafter, AU) has now acknowledged the challenge of inclusive development on the continent. The AU has now come up with its "blueprint and masterplan", the Agenda 2063 through which it seeks to transform Africa to become a global powerhouse in the future.²⁰ Agenda 2063 seeks to promote the goal of inclusive and sustainable socio-economic development, continental and sub-regional integration, democratic governance, peace and security among other issues aimed at repositioning Africa to become an effective player in the global political and economic affairs.²¹ Part 3 below, in answering the second question posed in part

the supposed areas of "origin" of the black people, where they were supposedly granted "citizenship". This draconian segregatory policy of forcing Africans or black citizens of the apartheid republic into ethnic homelands, was "legitimised" in the eyes of the apartheid government, through the *Promotion of Bantu Self-government Act* 46 of 1959. The homeland territories created were Transkei, Bophutatswana, Venda, Ciskei.

¹⁵ For more information on the Rwandan genocide, see Aamaas *Mass Murder and Motivation*.

¹⁶ For more information on the Gukurahundi massacres, see Gusha 2019 *Studia Historiae Ecclesiasticae*.

¹⁷ Mlambo, Masuku and Mthembu 2024 *Development Studies Research* 5.

¹⁸ South Africa for example was under colonial rule during the periods 1652-1795, then 1803-1806 under the Netherlands, then under British rule from 1795-1803, and then 1806-1961.

¹⁹ See Evans 2012 *South African Historical Journal* 119. I must hasten to state that to the extent that the author suggests a characterisation of the apartheid government's bantustans project as African decolonisation, I respectfully disagree.

²⁰ See AU date unknown <https://au.int/agenda2063/overview>.

²¹ AU date unknown <https://au.int/agenda2063/overview>.

1 above,²² will demonstrate how the research papers in this special edition²³ propose to address some of these challenges faced by post-colonial Africa.

The AU's move of coming up with the said "blueprint and masterplan", the Agenda 2063,²⁴ is a welcome development, but it needs to be acknowledged that for many years, African nations²⁵ have been poorer for lack of a recognisable body of ideology guiding the ordering of priorities in tackling development related challenges.²⁶ The shaping of ideologies to inspire and guide policy directions has always been the responsibility of any country's intelligentsia. The said absence of a recognisable body of ideology, has made Africa, as individual nations and as a regional collective, vulnerable to dangers of external influences and domination for a long-time post colonialism. For example, during the period when African nations began to attain independence, Africa and other new states became the battlefield for capitalist and communist blocs' ideological warfare. This is a period better known as the Cold War.²⁷ I do not intend to dwell much on this, but a number of the liberation struggles on the African continent were inspired by Marxism.²⁸ The period of African independence, which coincided with the Cold War period, also coincided with the emergence of the USA as a global leader of the capitalist powers,²⁹ whereas the USSR was considered a leader of the communist bloc, which included a rising China at the time. As part of the capitalist ideological drive, during the 1950s and 1960s, American scholars or researchers developed the theory of political development.³⁰ The fundamental conclusion of that scholarly research was that the political development of the underdeveloped countries³¹ could only be a result of economic development, a rapid industrialisation of the underdeveloped countries' productive systems and a thorough modernisation of their cultural superstructures.³² It has been claimed

²² The question asked is: in what ways do the contributions to legal research in this special edition help to advance the agenda of enhancing endogenous and decolonised scholarship and knowledge production on the African continent?

²³ Written by African researchers based on the African continent.

²⁴ See AU date unknown <https://au.int/agenda2063/overview>.

²⁵ As individual sovereign states or Africa as a regional economic bloc.

²⁶ As observed by author Arowosegbe. See Arowosegbe *Claude Ake* 8.

²⁷ Cold War relates to a period of geopolitical tension between the United States of America (USA) and the Union of the Soviet Socialist Republics (USSR) and its allies at that time, what was then referred to as the "Western Bloc" and the "Eastern Bloc". The Cold War started in 1947, shortly after World War II and lasted until 1991, when the USSR collapsed.

²⁸ Marxism refers to a collection of Karl Marx and Friedrich Engels's ideas and their subsequent development. Marx, the more prominent of the two philosophers, like Engels, was a German intellectual, who can be aptly described as a philosopher, political theorist, economist, historian, sociologist, journalist and revolutionary socialist. The works and ideas of Marx resonated with African freedom fighters during the resistance against colonialism and apartheid. Marxism is an approach of political and socio-economic analysis, used to analyse class relations, social conflict and social transformation in society.

²⁹ See Arowosegbe *Claude Ake* 7.

³⁰ Generally, see Rostow *Stages of Economic Growth*.

³¹ Such as those in Sub-Saharan Africa.

³² Arowosegbe *Claude Ake* 7.

that the ultimate aim of this scholarly work or propagation of the said political development theory, was "the preservation of vital interests of the United States and other Western powers".³³

Africa, it has been observed, suffers an intellectual lag in the areas of research, the recording of social phenomena including history writing, and in knowledge production generally.³⁴ This state of affairs is a legacy of colonialism and African governments and intelligentsia/researchers need to do more to address the anomaly. Just to illustrate in a small way how Africa lags behind other regions of the world in knowledge production, statistics show that despite accounting for 12.5% of the global population, Africa contributes less than 2% of total global research output, innovations and total global patents produced.³⁵

Let me reiterate the critical question which this part is answering, namely: why is endogenous knowledge production in Africa critical, or asked differently, why does decolonisation of knowledge production in Africa matter? African knowledges have been said to be one of the subjugated knowledges in the global scheme of knowledge production.³⁶ The subjugation was established during the era of colonial rule in Africa, and entrenched thereafter. The function of colonialism included the superimposition of Western mode of thinking and knowing/learning. This was facilitated through at least three avenues, namely, the language of instruction; the influence of Western culture and religion, and obviously through politics.³⁷ Needless to say, curriculum, educational structures and mode of thought which were introduced by colonial administrations in Africa were designed along Western lines. The African colonies were also made to depend on the home countries of the colonisers, for knowledge production in a manner that undermined continued development of African indigenous knowledge systems which were regarded then, and even today still, as rudimentary, backward and as the undeveloped knowledge systems. African colonies imported scientific knowledge and solutions from the West. It has been noted that a culture of imported scientific knowledge consumerism was established during colonialism, continued after independence,³⁸ and it could be argued, is now being sustained through neo-colonialism.

It has been said that there is a challenge of power inequalities, injustices and asymmetrical relations in knowledge production between the Global North and the Global South.³⁹ This unfortunate state of affairs is a legacy of colonialism, where Africa developed a dependence on Europe or the West for scientific and

³³ Arowosegbe *Claude Ake* 7.

³⁴ African scholars bemoan this state of affairs. See Arowosegbe *Claude Ake* 2.

³⁵ Mutapi 2021 <https://theconversation.com/africa-needs-to-speed-up-research-excellence-heres-how-169552>.

³⁶ See Arowosegbe *Claude Ake* 3.

³⁷ Harrison 2022 *APPON Philosophical Quarterly* 26.

³⁸ Crawford, Mai-Bornu and Landstrom 2021 *Journal of the British Academy* 26.

³⁹ Crawford, Mai-Bornu and Landstrom 2021 *Journal of the British Academy* 26.

other forms of knowledge production. In this regard, it has been bemoaned by African scholars that "most of what is received as knowledge about Africa is produced in the West",⁴⁰ and that there is predominance of non-African writers on African issues in academic journals.⁴¹ The sad state of affairs is aptly captured in Arowosegbe's words as follows:

... just as Africa has been reduced to raw material production and Europe specializes in the production of capital goods and finished products, there is also the ideological reduction of the continent to a source from which data are generated and exported to Europe for advancing the frontiers of knowledge.⁴²

The sad situation where the Africa-based scholars collect and export the raw data from empirical research conducted on the continent to be turned into finished knowledge products by Africanist academics in universities in the Global North, was described by Zeleza as an "international intellectual division of labour" and also as "a culture of imported scientific consumerism".⁴³ This must now be reversed through deliberate combined efforts of the African intelligentsia,⁴⁴ policy makers and governments. African stories need to be told from an Afrocentric perspective, through the works of researchers and writers who have first hand experience of life in Africa, researchers who write about phenomena that they have both experienced and observed from a vantage point of being in Africa or having had an African experience.

Africa needs to develop an Afrocentric approach to knowledge production, a shared, recognisable and well-defined ideology with respect to the ordering of priorities in tackling its development related challenges. There is no doubt that after years of colonial rule which undermined inclusive development and the development of indigenous knowledge systems on the continent, Africa desperately needs development. Without understanding who Africans are, and without a guiding ideology that is anchored on endogenous knowledge systems to inform the ordering of priorities, Africa's desperation for development will always be exploited by stronger economies, not only those from the Global North, but emerging powers too. We have all seen the devastating effects of the exploitation of African states through mining deals and construction deals which are tilted in favour of state-owned entities from emerging world powers such as especially China and to some extent Russia. A recent case in point involves the Chinese Exim Bank which concluded a loan agreement with the Ugandan government to upgrade Uganda's International Airport.⁴⁵ The aggressive terms of the contract included the requirements that the Ugandan government is

⁴⁰ Mama 2007 *African Studies Review* 4.

⁴¹ Crawford, Mai-Bornu and Landstrom 2021 *Journal of the British Academy* 22.

⁴² Arowosegbe 2008 *Africa Spectrum* 346.

⁴³ Zeleza 2002 *Journal of Southern African Studies* 9-23.

⁴⁴ The African intelligentsia must produce knowledge that is relevant to the needs of societies in transition such as those found on the African continent.

⁴⁵ See News24 2022 <https://www.news24.com/fin24/economy/china-puts-aggressive-terms-on-uganda-airport-loan-researchers-20220228>.

required to channel all revenue from the country's only international airport into an account held jointly with the lender.⁴⁶ In addition, the security for the loan is not just the revenue generated from the airport, but the airport itself. Impliedly the stringent terms require the government of Uganda to utilise the revenue from the airport to repay the loan, before any revenue generated therefrom can be ploughed into public services which Ugandan citizens desperately need.⁴⁷

These entities from emerging powers like China have reportedly exploited the desperation of African governments, their poor planning, poor ordering of priorities, poor monitoring mechanisms and the corrupt tendencies of the ruling elite in Africa. The sorry state of affairs in Africa with respect to the managing of the rich African states' natural resources is typified by an imaginary story which has sadly become a common African experience. Imagine a situation where a man or woman has inherited a very rich and extensive family estate and is expected to manage that estate in trust as a fiduciary in order to also preserve it for future generations. Instead, the man or woman then sells large portions of the estate to the highest bidder for selfish personal gain and for the gain only of those within his innermost circle.

The imaginary story told above, typifies the sad state of affairs still prevalent in many post-colonial African states, something that may not be found in many Asian or European countries today. For example, ruling elites or parties in many African countries, have, for decades, presided over political, economic and social "decay" in their countries, with unprecedented levels of poverty, high levels of unemployment, poor service delivery, dilapidated transport infrastructure, poor social services including poor public healthcare, endemic corruption, incessant conflicts and wars leading to displacements of many children and women while men are involved in armed conflicts in many parts of the continent of Africa. This is the reality for many African countries despite some of these countries being among the richest nations in the world, in terms of natural resources and other endowments.

This research project proceeds from the premise that the African intelligentsia and researchers, have a contribution to make to the finding of solutions to all these challenges highlighted above. Admittedly, Africa faces intractable challenges, which are both material and ideological, and the challenges need to be confronted head-on using a strategic and multi-pronged approach. The challenges need to be properly dissected and characterised for long-lasting solutions to be found. For example, many African countries which are poorly governed are reeling under serious effects of neo-colonialism which takes advantage of corrupt politicians to plunder a nation's natural resources – such as

⁴⁶ See News24 2022 <https://www.news24.com/fin24/economy/china-puts-aggressive-terms-on-uganda-airport-loan-researchers-20220228>.

⁴⁷ See News24 2022 <https://www.news24.com/fin24/economy/china-puts-aggressive-terms-on-uganda-airport-loan-researchers-20220228>.

minerals for example. Neo-colonialism, once understood to mean the control of less developed countries by developed countries through indirect means, has now assumed a new and wider meaning.⁴⁸ Today it encompasses a form of global power in which transnational corporations and global and multilateral institutions combine to perpetuate colonial forms of exploitation of developing countries.⁴⁹ It has been said that neo-colonialism does this as a form of capitalism that enables capitalist powers (both nations and companies, especially multinationals) to dominate subject nations through the operations of international capitalism rather than through direct rule⁵⁰ as was the case during colonial rule. To deal with the challenge of underdevelopment and all its manifestations and causes, yet another call is being made through this paper, for Africa to develop an Afrocentric approach to knowledge production, a shared, recognisable and well-defined ideology with respect to the ordering of priorities in tackling its development related challenges.

3 Contributions of legal research to endogenous knowledge production in Africa

The second question which this editorial seeks to answer is: in what ways do the contributions to legal research in this special edition help to advance the agenda of enhancing endogenous and decolonised scholarship and knowledge production on the African continent? We have identified the intractable challenges that Africa is grappling with.⁵¹ I briefly present how the legal research contributions in the edition seek to contribute to autochthonous and endogenous knowledge production which seeks to contribute towards finding customised solutions to African challenges.

Some of the challenges faced by contemporary post-colonial Africa include the challenge of inclusive development and poor service delivery as already highlighted in this work. Authors, *Okeng* and *Diala*, in their contribution,⁵² examine the challenge of service delivery in South Africa, arguing that the South African legislative framework creates a social contract between the state and the citizens for service delivery.⁵³ The authors argue that the legitimacy of a government in a constitutional state such as South Africa is measured by how the government, whether at municipal, provincial and national level delivers basic amenities and service to citizens.⁵⁴ The authors are convinced that the social contract is evident not just in "the Constitution and the constitution-making process, but also in statutory laws and policies such as the *Municipal Systems*

⁴⁸ Halperin 2024 <https://www.britannica.com/topic/neocolonialism>.

⁴⁹ Halperin 2024 <https://www.britannica.com/topic/neocolonialism>.

⁵⁰ Halperin 2024 <https://www.britannica.com/topic/neocolonialism>.

⁵¹ See part 2 above.

⁵² Okeng and Diala 2024 *PELJ* 1-34.

⁵³ Okeng and Diala 2024 *PELJ* 1-2.

⁵⁴ Okeng and Diala 2024 *PELJ* 23.

Act, the Municipal Structures Act and the Service Charter".⁵⁵ The authors who write from a vantage point of being based in South Africa, having established that the Constitution in section 154, imposes a duty on the spheres of government to act cooperatively to ensure the efficient delivery of basic services to citizens, argue that the net effect of section 154 read together with section 151(4) of the Constitution, is that it imposes an unnecessary burden on local government. They recommend that instead of national government over-supervising the local government, it should instead provide better material support to local government's service delivery efforts.⁵⁶

The area of human rights protection, and especially the protection of vulnerable persons such as migrant women and children escaping from the harsh realities of armed conflicts in their own countries in Africa, and the related right to education of children has received attention in research and regulation. While at times the reporting by those far removed from the continent can be misleading, it is heartening to examine endogenous knowledge production by writers who have observed phenomena on the African continent. Two contributions in this edition advance frontiers of knowledge in the area of children's rights. First, *Nanima* in his article, broadly evaluates the position of international and (African) regional law on the protection of refugee children.⁵⁷ Specifically, *Nanima* addresses and analyses Kenya's legislative and policy regime as well as its practices with regard to the education of refugee children.⁵⁸ It is important to note that the author has lived experiences in East Africa and speaks not only out of his expertise as a children rights lawyer who works within relevant AU structures, but identifies with the challenges, having observed them in person. This contribution analyses the right to education in Kenya in view of international law.⁵⁹ The author uses the principles of availability, accessibility, acceptability and adaptability from international law, and makes a case for their use as a framework for a shift from progressive to positive realisation of the right to education in Kenya within the country's existing framework and in light of Kenya's international law obligations.⁶⁰

Mahleza and *Maake-Malatji* contribute the second paper in this edition that addresses the important theme of a child's right to education, especially a migrant child.⁶¹ In their contribution, the authors, analyse relevant South African education laws and policies together with the immigration laws and how the relevant provisions affect undocumented and stateless children in their efforts to

⁵⁵ Okeng and Diala 2024 *PELJ* 23.

⁵⁶ Okeng and Diala 2024 *PELJ* 24.

⁵⁷ *Nanima* 2024 *PELJ* 1.

⁵⁸ *Nanima* 2024 *PELJ* 2.

⁵⁹ See part 2 of the author's contribution which touches on international and regional position on refugees. *Nanima* 2024 *PELJ* 5-13.

⁶⁰ *Nanima* 2024 *PELJ* 4.

⁶¹ *Mahleza* and *Maake-Malatji* 2024 *PELJ* 1.

access and exercise the right to education.⁶² The authors make firm suggestions that the Department of Basic Education (DBE) must take practical steps to ensure that South Africa complies with its international obligations in terms of relevant international instruments.⁶³ Some of the international instruments analysed in the paper include the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), the *Convention on the Rights of the Child* (CRC) and the *African Charter on the Rights and Welfare of the Child* (ACRWC).⁶⁴ The practical recommendations made by the authors include calls for the DBE to reform policies, regulations and practices which prevent undocumented migrant children from registering at schools and from accessing educational facilities.⁶⁵

The very exciting article by *Jane Diala*⁶⁶ contributes to endogenous knowledge production on the multicultural nation of Nigeria's challenges to grapple with one of Africa's worst scourges, gender-based violence (GBV) and intimate partner violence (IPV). Diala importantly reminds readers that GBV and/or IPV in the African context, as represented in particular by the Nigerian context, manifests itself within structural gender dynamics and is reinforced by both religious and cultural norms.⁶⁷ The seriousness of GBV or IPV as a human right violation has seen it attract international regulation through treaties and conventions to which Nigeria is a signatory.⁶⁸ Diala bemoans the fact that while Nigerian laws recognise and guarantee women's rights for the most part, there are what the author calls "semi-autonomous fields"⁶⁹ which resist social transformation and frustrate women's enjoyment of their freedoms or liberties guaranteed by the domestic laws and international law.⁷⁰ Having exposed the societal lines of weaknesses in effectively addressing cases of GBV or IPV, Diala suggests a raft of practical interventions which include finding ways to involve religious and cultural leaders in the fight against GBV/IPV.⁷¹ The author further suggests public participation in development of policies and strategies to deal with GBV/IPV, and the amendment of various laws to fix gaps in the regulation of GBV/IPV.

⁶² Mahleza and Maake-Malatji 2024 *PELJ* 6-25.

⁶³ Mahleza and Maake-Malatji 2024 *PELJ* 25-26.

⁶⁴ Mahleza and Maake-Malatji 2024 *PELJ* 3-6.

⁶⁵ Mahleza and Maake-Malatji 2024 *PELJ* 25-26.

⁶⁶ Just to make a distinction between Diala A and Diala J.

⁶⁷ Diala 2024 *PELJ* 2.

⁶⁸ Examples of such international instruments are CEDAW (already introduced above), the *Declaration on the Elimination of Violence against Women*, 1993 (DEVAW), the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women*, 2003 (the Maputo Protocol). See Diala J 2024 *PELJ* 2.

⁶⁹ Such as family, tradition, custom, religion.

⁷⁰ Diala J 2024 *PELJ* 4-5.

⁷¹ Diala J 2024 *PELJ* 22-23.

Author *Nortje's* interesting article⁷² makes a case for a break with what he believes to be a Eurocentric leaning of the criminal justice system in South Africa. Nortje boldly advocates for the Africanisation and decolonisation of the South African criminal justice system and in particular, the use of the uBuntu concept in sentencing proceedings as part of the process of decolonising the criminal justice system.⁷³ Nortje demonstrates in his article that the *Criminal Procedure Act 51 of 1977* was enacted during the period of apartheid and that this legislation which has since been amended no less than 75 times to shed it of its colonial roots and character, remains premised on the concept of retribution.⁷⁴ The African concept of uBuntu which represents the African ontology of humanness and the essence of humanity dignity,⁷⁵ has long been recognised in the transformation matrix of the constitutional state of South Africa, built upon the foundation of the constitutional dispensation. The *Interim Constitution of South Africa, 1993* specifically mentioned uBuntu,⁷⁶ which is the foundation of fundamental values found in the Bill of Rights of the *Constitution of the Republic of South Africa, 1996*. Conspicuously, uBuntu no longer features in the final Constitution,⁷⁷ despite informing the key values in the Bill of Rights such as human dignity, equality, fairness, and justice. Contrary to the vindictive or retributive nature of the Eurocentric criminal justice system undergirded by the "colonial" *Criminal Procedure Act*, the concept of uBuntu advocates compassion and treating even the accused persons with dignity, which is an African treatment of human-beings after they have offended – integration into society.⁷⁸ Nortje firmly proposes decolonisation of the criminal justice system including sentence proceedings through the use of uBuntu. To achieve this, the author proposes, possibly, the amendment of the Constitution or alternatively interpreting the "spirit, purport and objects of the Bill of Rights"⁷⁹ during sentence proceedings to include the concept of uBuntu.⁸⁰ The call to decolonise the law on sentence proceedings is firmly in line with this editorial's call to advance the agenda of enhancing endogenous and decolonised scholarship and knowledge production on the African continent.

Other legal research contributions to endogenous knowledge production include three contributions touching on contemporary commercial law issues on the African continent. The author *Saki* examines data protection legal measures in

⁷² Nortje 2024 *PELJ* 1.

⁷³ Nortje 2024 *PELJ* 1.

⁷⁴ Nortje 2024 *PELJ* 9.

⁷⁵ Nortje 2024 *PELJ* 9-10.

⁷⁶ Nortje 2024 *PELJ* 10.

⁷⁷ Nortje 2024 *PELJ* 11.

⁷⁸ Nortje suggests that this is exactly what the court in *S v Makwanyane* 1995 3 SA 391 (CC) tried to achieve through its treatment of ubuntu during sentencing when it chose to abolish the inhumane death sentence. Nortje 2024 *PELJ* 10.

⁷⁹ A phrase used in s 39(2) of the Constitution to represent fundamental values of the Bill of Rights.

⁸⁰ Nortje 2024 *PELJ* 23-24.

Zimbabwe during the Covid-19 pandemic and in light of international law.⁸¹ Saki observes that there were concerns that the health-related data processing methods in Zimbabwe during the Covid-19 pandemic were insufficient to meet the data protection principles of consent, transparency, purpose and storage, thus potentially violating the right to privacy.⁸² The author further observes that such fears were exacerbated by the fact that there was no data protection law in Zimbabwe during the pandemic, and the *Cyber Data Protection Act*, was only passed in 2021 after the pandemic.⁸³ Saki concludes that despite the absence of a data privacy law, the Zimbabwean Constitution, the Public Health Act and alignment with international instruments such as the *African Charter on Human and Peoples' Rights* (the *Charter*) to some extent ensured that Zimbabwe managed to rely on some data protection principles during a pandemic. Saki goes on to analyse the new *Cyber Data Protection Act, 2021* and how its application and interpretation should be informed by international principles.⁸⁴ These principles are distilled from international instruments such as the newly passed African Union's *Convention on Cyber Security and Personal Data Protection* (the *Malabo Convention*) which entered into force on 8 June 2023. The *Malabo Convention* deals with electronic transactions, personal data protection, cyber security and cybercrime, and specifies six principles on data processing namely: consent and legitimacy; lawfulness and fairness; purpose, relevance and storage; accuracy; transparency; confidentiality and the security of personal processing.⁸⁵ In addition to these international principles, Saki draws insights for Zimbabwe cyber data protections laws from other best practices such as the African Commission on Human and Peoples Rights *Declaration of Principles on Freedom of Expression and Access to Information* (2019), the EU General Data Protection Regulation (GDPR) 2016 and the *OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*.

*Olivier and Nortje*⁸⁶ touch on a very contemporary issue of critical importance to Africa, and especially to South Africa, arguably the leading economy on the continent – and that issue concerns the challenge of money laundering and terrorist financing in a continent plagued by many armed conflicts. The research problem tackled by the authors stems from the Financial Action Task Force (FATF)'s observation that South African companies are often abused for the purposes of money laundering, corruption and terrorist financing, including financial crimes related to government tenders.⁸⁷ FATF takes the position that the misuse of companies for illegitimate purposes can be reduced if relevant

⁸¹ Saki 2024 *PELJ* 1.

⁸² Saki 2024 *PELJ* 3.

⁸³ Saki 2024 *PELJ* 3.

⁸⁴ Saki 2024 *PELJ* 8-13.

⁸⁵ Saki 2024 *PELJ* 8. The Malabo Convention was in fact concluded in 2014, yet only entered into force in 2023.

⁸⁶ Olivier and Nortje 2024 *PELJ* 1-32.

⁸⁷ Olivier and Nortje 2024 *PELJ* 3-4.

investigative authorities are provided with information regarding beneficial ownership (BO) of company securities.⁸⁸ The *General Laws (Anti-Money Laundering and Combatting of Terrorist Financing) Act 22 of 2022* (the *AML Act*) introduced amendments to the *Companies Act 71 of 2008*, which seeks to improve BO regulation through identifying the true owners or controllers of entities used for illegitimate purposes.⁸⁹ The authors, while appreciating the good intentions of the proposed amendments, critique certain aspects of the amendments such as some definitions and the absence of criminal offences to punish failure to disclose BO information, and the potential of increased administrative burden and compliance costs of the disclosure obligations on small to medium enterprises.⁹⁰

The author *Kgwete* tackles yet another important contemporary African challenge affecting Africa-based or Africa-related companies. South Africa recently experienced a number of corporate scandals of seismic proportions such as the Tongaat Hullet financial reporting scandal and the Steinhoff accounting scandal which destroyed a South African company (Steinhoff) that had become a global retail giant.⁹¹ Kgwete's contribution to endogenous knowledge production is through providing a critical evaluation of the establishment and role of audit committees under the *Companies Act 71 of 2008*, with a specific focus on the policy rationale and the contribution of audit committees towards financial reporting in South Africa.⁹² The author underscores the critical point that the audit committees play a key role in the accuracy and integrity of financial statements and reports for the benefit of the company's stakeholder community.⁹³ The paper examines the composition, appointments, functions and removal of audit committees; the place of accounting records and financial statements in corporate financial reporting; and the auditing of financial statements.⁹⁴ The author concludes by making suggestions for amendments of the *Companies Act 71 of 2008* to enhance the effectiveness of the audit committee as a vital cog in the financial reporting in a company.⁹⁵

Each of the eight exciting papers in this article, some co-written and some written by individual authors, are in line with the theme of this research project, and the specific call made in this editorial. The call is to advance the agenda of enhancing endogenous and decolonised scholarship and knowledge production on the African continent. The contributions in this special edition provides a step towards

⁸⁸ Olivier and Nortje 2024 *PELJ* 3.

⁸⁹ Olivier and Nortje 2024 *PELJ* 3-4.

⁹⁰ Olivier and Nortje 2024 *PELJ* 1.

⁹¹ Kgwete 2024 *PELJ* 3-4.

⁹² Kgwete 2024 *PELJ* 3.

⁹³ Kgwete 2024 *PELJ* 3.

⁹⁴ Kgwete 2024 *PELJ* 19-21.

⁹⁵ Kgwete 2024 *PELJ* 23-24.

finding autochthonous lasting solutions to many of the intractable challenges that Africa faces as highlighted in this editorial.

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List of Abbreviations

AU	African Union
BO	beneficial ownership
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DBE	Department of Basic Education
FATF	Financial Action Task Force
GBV	gender-based violence
IPV	intimate partner violence
PELJ	Potchefstroom Electronic Law Journal
USA	United States of America
USSR	Union of the Soviet Socialist Republics