Chagossian people to their archipelago, seem likely to continue to raise the issue in whatever domestic or international forum is willing to consider their complaint. No doubt they will rely in such future litigation on the ICJ's supportive opinion.

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doi:10.1017/ajil.2019.50

Supreme Administrative Court of Egypt—peoples—sovereignty—natural resources—human rights—treaty-making powers

THE PRESIDENT OF THE REPUBLIC ET AL. V. ALI AYYOUB ET AL. Judgment, on appeal No. 74236/62 J S. *At* https://eastlaws.com.
Supreme Administrative Court of Egypt, January 16, 2017.

On April 8, 2016, the Egyptian government announced[1] the signing of a "Convention of Demarcation of the Maritime Border" with Saudi Arabia (Convention).[2] Under the Convention, the Red Sea Islands of Tiran and Sanafir lay in Saudi territory. The move was perceived by foreign and domestic observers as the abandonment by Egypt of a long-held territorial and maritime claim in exchange for a loan from Saudi Arabia,[3] and it was challenged before the Egyptian courts. On January 16, 2017, the Egyptian Supreme Administrative Court rendered a judgment annulling the act of cession of the islands[4] on the basis of the Egyptian people's entitlement over them (Judgment).[5] The Judgment triggered a domestic judicial saga, which only ended in 2018.[6] Aside from the intriguing political dimensions of this incident, the Judgment, while interpreting the Egyptian Constitution of 2014, sheds light on some fundamental aspects of international law, namely: the identity of the "holder" of sovereignty and its relations with the "delegatee," i.e., the government; the contribution of human rights as an analytical frame for this issue; and the validity of a treaty concluded in violation of a state's treaty-making powers, a question for which there is limited practice.

[1] *Government: Sanafir and Tiran Islands Within Saudi Territorial Waters*, ALMASRYALYOUM (Apr. 9, 2016), *at* https://www.almasryalyoum.com/news/details/926066.

[2] Convention of Demarcation of the Maritime Boundaries Between the Arab Republic of Egypt and the Kingdom of Saudi Arabia, Apr. 8, 2016 (Arabic original) [hereinafter Convention].

[3] Heba Saleh, *Egypt Parliament Approves Giving Red Sea Islands to Saudi Arabia*, FIN. TIMES (June 14, 2017), *at* https://www.ft.com/content/9aaf0e00-5113-11e7-bfb8-997009366969; Timothy E. Kaldas, Tahrir Institute for Middle East Policy, *Tiran, Sanafir, and the Island of Executive Power in Egypt* (Apr. 21, 2016), *at* https://timep.org/commentary/analysis/tiran-sanafir-and-the-island-of-executive-power-in-egypt.

[4] The President of the Republic et al. v. Ali Ayyoub et al., Judgment, 2017 Supreme Administrative Court, on appeal No. 74236/62 J S (Jan. 16, 2017) [hereinafter Judgment].

[5] The case-note is based on an unofficial translation of the Judgment made by a professional translator, to be found as an annex to the Communication 115, 2017 African Commission on Human and Peoples' Rights (ACHPR), ACHR/Comm/115/18 (Nov. 2). The document is on file with the author and the *AJIL* Editorial Board.

[6] Case No. 37 and 49, Judgment, 2018 Supreme Constitutional Court, Year 38 (Mar. 3) [hereinafter Judgment SCC 2018].

The signing of the Convention caused an immediate public uproar.[7] The term "demarcation," used in its title, implied a purported prior boundary "delimitation," despite Egypt's long-held claim over the islands. Two Egyptian lawyers, together with 181 Egyptian citizens, brought an action against the signing by the Egyptian President al-Sisi of the Convention. The Administrative Court rendered its judgment on June 21, 2016,[8] annulling the act of signature as contrary to the Egyptian Constitution. The enforceable character of this judgment was confirmed by two decisions of the Administrative Court on November 8, 2016.[9] On January 16, 2017, the Supreme Administrative Court, the highest and last instance court of the Egyptian Council of State,[10] issued a Judgment confirming the first instance decision and ordering the annulment of the act of signature with immediate effect.

However, the Egyptian government ignored the decision of the Supreme Administrative Court, which was challenged through two channels. First, a private suit was brought before the Cairo Court for Urgent Matters (Cairo Court) claiming that the Administrative Courts had overstepped their jurisdiction.[11] Second, the government pursued the ratification of the Convention despite the decisions of the Administrative Courts.[12] Eventually, the Supreme Constitutional Court, which was seized of a "conflict of jurisdictions" between the Administrative Courts and the Cairo Court, rendered an essentially procedural decision declaring itself "exclusively competent to adjudicate" on the Convention under Article 192 of the Constitution.[13] It noted that the agreement was an act of sovereignty within the exclusive purview "held by the executive and legislative authorities,"[14] only reviewable by the Supreme Constitutional Court. Ultimately, the Court concluded that because of the violation of the separation of powers by the highest administrative court and the Cairo Court, there was no remaining issue on the merits to adjudicate: "Accordingly, this Court has decided not to accept the dispute, since the decision to request a stay of execution of the ruling has become irrelevant."[15] The Supreme Constitutional Court did not address the issue of the islands' cession; it focused instead only on the lower courts' infractions, invalidating their rulings. Nowhere does the judgment examine the unconstitutionality of the Convention itself.

In the meantime, on November 2, 2017, the Egyptian lawyers who had brought the initial action before the Administrative Courts filed a communication with the African Commission

[7] Jared Malsin, *The Fate of Two Deserted Islands Has Egyptians Taking to the Streets Again*, TIME (Apr. 15, 2016), *at* https://time.com/4296334/egypt-protests-tiran-sanafir-islands.

[8] Ali Ayyoub et al. v. The President of the Republic et al, Judgment, 2016 Administrative Court, no 43709/70 J, (June 21) [hereinafter Judgment 2016].

[9] Decision, 2016 AC, No. 68737/70 J (Nov. 8), on the Petition Filed by the President of the Republic, the Government and the Speaker of the House of Representatives for the Stay of Enforcement of the Judgment of 21 June 2016. Decision, 2016 AC, No. 66959/70 J (Nov. 8), on the Petition Filed by Mr Khaled Ali for the Continuation of Enforcement of the Judgment of 21 June 2016.

[10] In Egypt, the State Council refers to the entire administrative court system.

[11] Decision, 2016 Cairo Court, (Sept. 29), suspended the Administrative Court Judgment 2016. Decision, 2017 Cairo Court (Apr. 2), concluding that the Administrative Courts, namely both the Administrative Court and the Supreme Administrative Court, had no jurisdiction over the dispute concerning the signature of the Treaty of Transfer and their judgments were devoid of legal effect. The Cairo Court has no jurisdiction over such matters. Ex Law No. 13/1968, 1968 Code of Civil and Commercial Procedure, Arts. 27, 45 (Jan. 1).

[12] On August 2017, President Abdel Fattah al-Sisi ratified the Convention. *See* Decree of Ratification, The Official Gazette, Egypt, No. 33 of 17 August 2017.

[13] Judgment SCC 2018, *supra* note 6, 13.

[14] *Id.* at 12.

[15] *Id.* at 20.

https://doi.org/10.1017/ajil.2019.54 Published online by Cambridge University Press

on Human and Peoples' Rights claiming that Egypt, in transferring the islands to Saudi Arabia, had violated several provisions of the African Charter on Human and Peoples' Rights.[16] At the time of writing, the status of the communication is unclear, as no mention is made on the website of the African Commission. However, after the ratification of the Convention, public sources confirm that Egypt handed over the islands to Saudi Arabia, which, since February 2018, has control over them.[17]

In this rather complex body of legal suits and judicial decisions, the Judgment plays a pivotal role both procedurally—because of the subsequent litigation to set aside this decision—and substantively—because it addresses the main legal issues of this saga of interest to international lawyers. The premise of the Supreme Administrative Court's reasoning is that Article 4 of the Egyptian Constitution of 2014[18] recognizes the people of Egypt as the source of sovereignty, and that, through the Constitution, the Egyptian people withheld from the executive and the legislative powers the authority to enter into agreements relating to "rights of sovereignty" or ceding Egyptian territory. According to the Judgment:

> The Egyptian Constitution has established the principle of sovereignty of the people in its highest form so it prohibited any kind of international obligation on the State in respect of these types of treaties [those relating to the rights of sovereignty] except after getting the approval of the People which is the owner and the source of the sovereignty. (P. 11)

The key provision of the Constitution is Article 151, which states in its second paragraph that "[v]oters must be called for referendum on the treaties . . . *related to the rights of sovereignty*."[19] Moreover, under the third paragraph of this provision, the government is precluded from concluding treaties that result "in ceding any part of State territories."

The Administrative Courts based their decisions on the latter provision, assuming that the islands were under Egyptian sovereignty. In fact, Egypt has long asserted territorial claims over the islands,[20] which at the time of the Judgment were also under its effective administration.[21] According to the Supreme Administrative Court, the act of relinquishment of the islands constituted:

> a serious historical mistake—unprecedented—which affects the territory of the homeland owned by the People of Egypt, whether the previous generations, the present generation and the future generations; it is not the property of any authority of the State. (Pp. 38–39)

[16] Communication 115, 2017 ACHPR, ACHR/Comm/115/18 (Nov. 2); *see Egypt Activists Take Int'l Legal Action Against Island Deal with Saudi Arabia*, PressTV (Mar. 13 2018), *at* https://www.presstv.com/DetailFr/2018/03/13/555310/Egypt-islands-deal-Saudi-Arabia-lawsuit-African-Union.

[17] *See Western Diplomat: Saudi Arabia Received the Island of Tiran from Egypt*, i24News (Feb. 6 2018), *at* https://www.i24news.tv/ar/أخبار/middle-east/167052-180206-دبلوماسي-غربي:-السعودية-تسلّمت-جزيرة-تيران-من-مصر; *Saudi Economic Zone Planned for Tiran and Sanafir Islands*, Mada Masr (Oct. 25 2017), *at* https://madamasr.com/en/2017/10/25/news/u/saudi-economic-zone-planned-for-tiran-and-sanafir-islands.

[18] It provides that "[s]overeignty belongs only to the people, who shall exercise and protect it. The people are the source of powers . . . ."

[19] 2014 Constitution of the Arab Republic of Egypt (Jan. 15) (emphasis added).

[20] *See, e.g.*, UNSC Official Records, 659th mtg., para. 133 (Feb. 15, 1954) [hereinafter Feb. 15, 1954 UNSC Official Records].

[21] Judgment 2016, *supra* note 8, 21 et seq.; Judgment, *supra* note 4, 23 et seq.

https://doi.org/10.1017/ajil.2019.54 Published online by Cambridge University Press

The Supreme Administrative Court emphasized that Article 151, third paragraph, had the effect of prohibiting any agreements for the cession of any part of the Egyptian territory, irrespective of a referendum:

> The alienation of any part of the territory of the State or the conclusion of a treaty contrary to the provisions of the Egyptian Constitution—individually or collectively—are matters in respect of which it is forbidden to conclude any international agreement and may not be submitted to the people who declared its will through its constitution and its consequence is that it is not acceptable to cede any part of the territory or violate any provision of the Constitution. (P. 11)

The Supreme Administrative Court also discussed the operation of the procedural rights reserved by Article 151's second paragraph. Treaties relating to "rights of sovereignty," other than treaties ceding state territory, remain subject to the direct approval of the Egyptian people by referendum. The role of the government in relation to such treaties is merely confirmatory of the will of the Egyptian people, as expressed through their vote:

> The second paragraph [of Article 151 of the Egyptian Constitution] has limited the role of House of Representatives to the confirmation of what the people decides at the end, in his capacity as proxy of the Constituent sovereign . . . . The power of the House of Representatives in matters of sovereignty is a confirmation authority of the people's will and its opinion in this respect is to complete that will; the proxy merges with the principal and the proxy's role is limited to formulate the expression of this will, be it a rejection or an approval. (P. 15)

Following this reasoning, the Egyptian Parliament—the agent—could not have substituted its will for the will of the Egyptian people—the principal. Article 151 of the Egyptian Constitution thus identifies matters that are beyond the powers of the government and are directly subject to the people (i.e., treaties relating to rights of sovereignty) and matters that are outside even the current will of the people, remaining prohibited by the expressed will of the people who approved and constituted the 2014 Constitution (i.e., treaties ceding state territories).

The Court ultimately found a fundamental violation of constitutional provisions regulating the treaty-making powers of the state (pp. 15, 23–38, 44). The Egyptian government manifestly violated this internal law, making the conclusion of the Convention invalid. Thus,

> the administrative measure called by the Egyptian Government in its Appeal report a Preliminary Agreement to demarcate the borders, and the subsequent relinquishment of the two islands—whatever are its reasons—since they are part of the Egyptian territory, are contrary to the Constitution and the law. It infringes a constitutional ban addressed to the three authorities, and the People themselves. (P. 38)

As the Court concludes, "the irrefutable evidence drawn by the Court from various sources and numerous internal and international practices" precluded the Egyptian government from concluding the Convention or alienating part of the Egyptian territory (p. 44).

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The Judgment of the Supreme Administrative Court sheds light on several important questions of international law. First, the distinction between the Egyptian political branches and the Egyptian people touches upon the locus of sovereignty in international law. The Judgment makes clear that the sovereignty of the people survives the exercise of the right of self-determination and remains operational in certain matters, grounding an action by the "principal" (the people) against its "agent" (the government). The Judgment recalls that the original holder of territorial sovereignty is and remains the people, and it does so in a context different from that of decolonization. This is noteworthy in light of the recent *Advisory Opinion on Chagos*, where the International Court of Justice observed that it was "conscious that the right to self-determination, as a fundamental human right, has a broad scope of application,"[22] which reaches beyond decolonization. The Court's distinction between the principal and the agent is also operationalized through collective participatory rights. Such rights arise in this instance from the text of the Egyptian Constitution, but they are also increasingly recognized in international human rights law.[23]

Second, the fact that such a violation may be inconsistent with international human rights law, and that it may be characterized as such by an international body such as the African Commission, is also noteworthy, as it could provide an approach for applying the rule codified in Article 46 (provisions of internal law regarding competence to conclude treaties) of the Vienna Convention on the Law of Treaties.[24] There is indeed very limited international practice on the operation of this rule[25] or what constitutes a "manifest" violation of a rule of treaty-making powers of "fundamental importance." Inconsistency with international human rights law may provide a persuasive ground to argue that the violation is "manifest" (ascertained by an international body[26]) and the relevant rule is of "fundamental importance" (as it partakes in the protection of human dignity).

Third, the implications of the Judgment for the "permeability" of state decision-making powers under international law deserve a closer look. The Tiran and Sanafir case raises a variety of considerations, including strategic[27] and economic ones.[28] But implicit in the Judgment is another framing that focuses on the broader *problématique* of human rights and power over natural resources.

[22] Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, at 35, para. 144 (Int'l Ct. Just. F8eb. 25, 2019); *see also* Diane Amann, Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, 113 AJIL __ (2019).

[23] *Id.*, paras. 144–74.

[24] Article 46(1) reads: "State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance." *See* Vienna Convention on the Law of Treaties, May 23, 1969, 1155 UNTS 331, at 343.

[25] *See, e.g.*, Case Concerning the Delimitation of Maritime Boundary Between Guinea-Bissau and Senegal, Decision, XX RIAA 119, 139, paras. 53 et seq. (July 31, 1989) (where the rule did not apply due to Salazar's practice); Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nigeria: Eq. Guinea Intervening), Judgment, 2002 ICJ Rep. 303, 430, para. 265 (Oct. 10).

[26] *Land and Maritime Boundary Between Cameroon and Nigeria*, *supra* note 25, para. 265.

[27] Feb. 15, 1954 UNSC Official Records, *supra* note 20.

[28] Amina Moustapha, *Saudi Arabia Announces First Project on Tiran and Sanafir*, EGYPT INDEP. (Oct. 25 2017), *at* https://www.egyptindependent.com/saudi-arabia-announces-first-project-tiran-sanafir.

https://doi.org/10.1017/ajil.2019.54 Published online by Cambridge University Press

This question has been traditionally framed as an analysis of the limits placed by human rights—substantive and procedural—on the conduct of resource extraction activities.[29] However, this framing has three shortcomings. First, it pays limited attention to human rights, not as safeguards against natural resources-related activities, but as entitlements over natural resources.[30] Second, the prevailing framing overlooks the fact that certain limitations of state power arise specifically from such entitlements. The question here is not about the permissible operating space under human rights law within which natural resources-related activities unfold (an "externality-avoidance" prism), but rather about competing entitlements over natural resources arising from human rights. Such competing claims impose "entitlement-driven" limitations on the powers of states. These limitations are different from and additional to the externality-avoidance limitations arising from general human rights. Third, the difference between entitlement-driven and externality-avoidance limitations of state power has significant practical implications. Entitlement-driven limitations offer better legal means against the appropriation and misuse by government elites of the resources of a people, the so-called "resource curse,"[31] as well as against other governmental abuses of power with irreversible consequences for individual and collective entitlements over natural resources, as the Tiran and Sanafir case illustrates.

As noted earlier, the Convention between Egypt and Saudi Arabia framed the question not as a transfer of territory, the renunciation of a territorial claim, or even maritime delimitation, but as demarcation, i.e., as a merely technical operation to establish an already existing boundary. The reason for resorting to this legal denomination was likely to circumvent the entitlements of the Egyptian people expressly reserved in Article 151 of the Egyptian Constitution and to avoid the substantive and procedural limitations arising from those entitlements. In its Judgment, the Supreme Administrative Court linked these constitutional limitations to the original entitlement of the people (p. 15). In the absence of such entitlement-driven limitations, the transfer would have been a mere territorial transaction between two sovereign states. The people's entitlement, if based only on an externality-avoidance logic of procedural limitations, would not have affected the basic power of the government to relinquish territorial title. It is only when procedural limitations are linked to the deeper entitlement of people to such territory, or its resources, that the limitations challenge not only the manner but the very power of the government to transfer title. Thus, the Judgment implicitly sheds light on the subtle yet important difference between externality-avoidance and entitlement-driven limitations arising from human rights.

The framing of this question from a human rights perspective is not limited to the right to self-determination. For example, Article 21 of the African Charter provides for a collective right to dispose freely of natural resources and wealth. As in the context of Article 20

[29] *See, e.g.*, Catherine Redgwell, *Contractual and Treaty Arrangements Supporting Large European Transboundary Pipeline Projects: Can Adequate Human Rights Be Secured?*, *in* ENERGY NETWORKS AND THE LAW: INNOVATIVE SOLUTIONS IN CHANGING MARKETS, ch. 6 (Martha M. Roggenkamp, Lila Barrera-Hernández, Donald N. Zillman & Iñigo del Guayo eds., 2012).

[30] There is a significant, albeit piecemeal, literature on the entitlements over natural resources arising from human rights. *See, e.g.*, BEN SAUL, INDIGENOUS PEOPLES AND HUMAN RIGHTS: INTERNATIONAL AND REGIONAL JURISPRUDENCE, intro. (2016).

[31] *See, e.g.*, Jeffrey D. Sachs & Andrew M. Warner, *Natural Resources and Economic Development: The Curse of Natural Resources*, 45 EUR. ECON. REV. 827 (2001).

https://doi.org/10.1017/ajil.2019.54 Published online by Cambridge University Press

(self-determination), the jurisprudence relating to Article 21 of the African Charter leaves no doubt that the term "peoples" refers not only to a people in a decolonization context[32] but also to the entire population of a state's territory[33] or even to indigenous peoples,[34] who are entitled to enjoy their right to freely dispose of natural resources. Thus, while the government of each state must assume responsibility for exercising this right, it must do so in the name of and for the benefit of the people, since sovereignty over the state's natural resources belongs to the people.[35]

To further clarify the distinction between externality-avoidance and entitlement-driven limitations of state powers, it is useful to recall a decision of the UN Human Rights Committee (HRC), *Chief Bernard Ominayak (on behalf of Lubicon Lake Band) v. Canada*.[36] The complainant claimed that Canada had allowed Alberta to expropriate the Band's lands for private oil exploration in a way that prevented the group from enjoying its natural resources and maintaining its traditional way of life. These actions were initially framed through the community's right to self-determination[37] under Article 1 of the International Covenant on Civil and Political Rights (ICCPR).[38] This collective right entails both externality-avoidance and entitlement-driven limitations on the power of states. Indeed, a state is not only required to enable the way of life of the relevant people (in today's terminology, to "respect, protect, and fulfil") but also to recognize their entitlement over the resources of the land. However, the Human Rights Committee held that claims alleging violation of Article 1 of the ICCPR are not justiciable.[39]

In an attempt to provide some measure of protection, the Committee recharacterized the claim as a possible violation of Article 27—the individual right to enjoy one's culture.[40] By allowing the provincial government to sign industrial development leases on traditional native lands, the Committee found that Canada had breached Article 27.[41] Through this recharacterization, something was gained (the admissibility of the complaint) but something was also lost. By relying on Article 27, the Committee emphasized Canada's obligation to respect and protect the community's culture and customs; in other words, it adopted an externality-avoidance prism. But the entitlement dimension of the claim under the collective right to self-determination fell between the cracks.

[32] Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria, Comm. 155/96, ACHPR, para. 56 (Oct. 27, 2001).

[33] Front for the Liberation of the State of Cabinda v. Republic of Angola, Comm. 328/06, para. 130 (ACHPR Nov. 5, 2013).

[34] ACHPR v. Republic of Kenya ("Ogiek Case"), Judgment, App. 006/2012, paras. 195–201 (ACHPR May 26, 2017).

[35] Fatsah Ouguergouz, The African Charter on Human and Peoples' Rights: A Comprehensive Agenda for Human Dignity and Sustainable Development in Africa 287 (2002).

[36] Lubicon Lake Band v. Canada, Ominayak (on behalf of Lubicon Lake Band) v. Canada ("Ominayak Case"), Merits, Comm. No. 167/1984, UN Doc. Supp. No. 40 (A/45/40) (Mar. 26, 1990).

[37] *Id.* at 2.

[38] International Covenant on Civil and Political Rights, Dec. 16, 1966, GA Res. 2200a (XXI), 999 UNTS 171 (*entered into force* Mar. 23, 1976).

[39] *Ominayak Case*, *supra* note 36, para. 13.3.

[40] *Id.*, para. 32.2.

[41] *Id.*, para. 33.

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The omission of the entitlement dimension in the *Ominayak* case is but one example of a more general lacuna, which has so far been analyzed only in an ad hoc manner. This dimension is important for the frequent cases of resource misuse by authoritarian regimes,[42] post-apartheid land restitution in South Africa,[43] and tensions between the entitlements of states and those of peoples.[44] In most legal systems, ownership of resources is vested in the state[45] and this entitlement is often spelled out at the constitutional and legislative level.[46] In such a context, international law offers limited grounds, if any, to challenge duly authorized extractive activities that do not encroach upon general human rights (e.g., to life, health, private and family life, etc.), even if such activities deplete natural resources and the wealth they generate is not properly redistributed. An externality-avoidance prism of human rights merely places certain bounds on the *manner* in which international dealings relating to natural resources are conducted. From an externality-avoidance perspective, the power of the state to grant a concession or to transfer a territory is not challenged as such; what is challenged is its potential encroachment on human rights, which can be addressed through mitigation measures. By contrast, an entitlement-driven prism challenges the very core of decision-making power over resources. The original (hypothetical) delegation of powers from the people to the government is brought back to life and fleshed out, in human rights terms, to contest the powers of the state.

In these cases, what is challenged is not merely the *manner* in which extractive or other resource-related activities are conducted; it is the very *entitlement* to do so. The challenge is based on a competing entitlement, a competing decision-making claim, which imposes limitations on the state. The Judgment of the Supreme Administrative Court is therefore significant because it sheds light, with unusual clarity due to the peculiarity of the facts, on this subtle but important distinction.

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[42] Leif Wenar, Blood Oil: Tyrants, Violence, and the Rules that Run the World (2015).

[43] *See, e.g.*, Alexkor Ltd v. Richtersveld Community, 2003 CCT 19/03, CCSA, para. 64 (Oct. 14) (S. Afr.).

[44] *See, e.g.*, First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indian Affairs and Northern Development Canada), 2016 CHRT 2 (Jan. 26).

[45] *See* Yinka Omorogbe & Peter Oniemola, *Property Rights in Oil and Gas Under Domanial Regimes*, *in* Property and the Law in Energy and Natural Resources 118 (Aileen McHarg, Barry Barton, Adrian Bradbrook & Lee Godden eds., 2010).

[46] See, for instance, as regards national constitutions, Article 20(XI), Constitution of the Federative Republic of Brazil, which states that "those lands traditionally occupied by the Indians" belong to the federal government; similarly, for decisions of national courts, see Attorney-General of the Federation v. Attorney-General of Abia State, 2002 6 NWLR, S.C.N., 542–905 (Apr. 5) (Nigeria).