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The interpretation, application and incorporation of international law into South Africa’s domestic law by South African courts, within the framework of the South African Constitution

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South Africa's (post-apartheid) Constitution embraces international law, in multifaceted, unique and underutilised ways. Yet, as demonstrated by the study, despite the Constitution's transformative embrace of international law, the approach of South African courts to international law has not always been consistent or rigorous, nor has it always given full effect to the Constitution's embrace of international law. The study assesses the question to what extent the South African courts have realised the Constitution's embrace of international law by describing, theorising, and systematising the approach to international law within South Africa's domestic constitutional framework. In doing so, it analyses and critiques the approach taken by the courts, and offers proposals for charting the way ahead in a manner consistent with and faithful to international law and the Constitution (including its founding value of the rule of law). This is done to ensure that South Africa's courts can better realise the international-law-friendly promise of its Constitution.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'Exploring the Frontiers in International Law'.

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