

**Slaughter and May Podcast**  
**Africa Legal Podcast – Episode 26 – 'Huggers. Not Hoggers'**

Tom Pearson	<p>Hello and a warm welcome to this edition of the Africa Legal Podcast. I am absolutely thrilled to be joined today by the Africa Team, representatives of the Africa Team from leading law firm Slaughter and May. So here with me today is Nigel Boardman, Samay Shah and Justina Omatayo.</p> <p>Now Nigel is a lawyer who typically requires little introduction but forgive this brief overview. Nigel's broad practice includes domestic and international corporate finance, mergers and acquisitions, joint ventures, IPOs, demergers, private acquisitions and disposals, private equity, public takeovers, issues of compliance and corporate governance, investigations and insolvency, restructurings, investigations and sports law, and if you didn't already know who Nigel was that may feel like a long list but after today's recording it will seem like a very small one indeed. So Nigel has received a number of accolades in his time including the Financial Times Special Achievement Award, Chambers Directories Lifetime Achievement Award, Lawyer of the Decade Award from Financial News, he was included in Debretts Who's Who and ranked as a star performer for corporate and M&amp;A work by Chambers in its UK, Europe and Global directories.</p> <p>Now, on to Samay Shah. Samay has a broad financing practice covering acquisition finance, general bank finance and product finance as well as restructurings. He also has broad experience advising on corporate and commercial transactions, particularly in the infrastructure, energy and natural resources sectors.</p> <p>And last but not least, is Justina Omatayo. Justina is the Business Development Manager for the International Relations Team at Slaughter and May responsible for implementing the firm's strategy in Africa, the Middle East, Central Eastern Europe and Southern Europe. She acts as a key point of contact for our relationships with the leading independent firms and business development activity in these jurisdictions.</p> <p>So Nigel, Samay and Justina, a very warm welcome to the podcast.</p>
<b>Nigel Boardman</b>	Thanks for having us on it.
<b>Samay Shah</b>	Thanks very much.
Tom Pearson	A real pleasure. Now, let's dive right in. So, we'll start with Nigel. Nigel, you've a long and illustrious career but to focus specifically on Africa and its markets, do you recall when the continent first appeared on your desk to trigger what has become a deep connection and further, where has this connection led you to?

<p><b>Nigel Boardman</b></p>	<p>Yes, your question provoked my memory and I go back to 1973, when I was a trainee at Slaughter and May, then called an Articled Clerk, and the partner for whom I worked, Derek Simon, did a lot of work for a company called Guthrie Corporation which was mainly a Malaysian rubber company but it also had interests across Africa and the first deal that I did in Africa was in 1974, early 1974 for Guthrie in Malawi, and it was the acquisition of a trading business in Malawi. And it stuck in my mind because at the time we were buying a company and there was stamp duty on the company's shares and in the UK you could avoid stamp duty by, what was known as a stamp duty avoidance trick, no longer available incidentally, and no longer regarded as moral but then it was alright and so I sent a note to the lawyers in Malawi saying could we avoid the stamp duty charge by using this trick in Malawi, and instead of getting a legal analysis back what I got back was a note from the Malawi lawyer, by telex of course because there was no other means of communication, (<b>Host: Absolutely!</b>) which said my Brother-in-law is the Chancellor of the Exchequer in Malawi. And no discussion of whether or not we could do it so we paid the stamp duty.</p>
<p>Tom Pearson</p>	<p>I wouldn't know which way to take that, is that an invitation or a gate closed?</p>
<p><b>Nigel Boardman</b></p>	<p>I thought it was a gate closed but I was very young and innocent. Then as an associate I got involved in quite a lot of transactions across Africa and one of the things when we talk about Africa is it is one of the most diverse continents in the World. Fifty four countries, give or take, depending on how you treat Western Sahara and Somaliland, massively different in its peoples, its economies, its geographies, its climate and its state of economic development. So I think it's always a bit, you have to be careful of generalising about Africa more than you do about almost any other continent but, and this was highlighted by the next touchpoint I had which was working for a U.S. bank which was trying to finance an oil refinery in Egypt, and this was whilst I was an associate and then I worked on an oil plantation in Zimbabwe, trading company in Nigeria, a copper mine in Zambia and the list goes on and all of those were during my period as an associate. And one that sticks in my mind just as I became a partner I worked for what was then called the Counsel of Foreign Bondholders which was a rather gentlemanly forerunner for the distressed debt traders of today and they were seeking to get the Government of Zimbabwe to accept that it was responsible for Rhodesian debt and they had a counsel's opinion which said there was no responsibility and I found this slightly difficult to accept so I went away and did some research and I thought Zimbabwe has taken over Rhodesia House in London, how did they do that, and sure enough there was a statutory instrument which made them inherent all the assets of the Rhodesian Government but also all of its debts. I had this splendid meeting with a senior partner of Linklaters who said on behalf of Zimbabwe, we don't have any liability but we're willing to have a, sort of ex-gratia discussion and I was able to hand across to him the statutory instrument and say why do you not think this paragraph applies?, to see him go "Oh my God, I've misadvised myself and bring the meeting to an end whilst he retreated in disorder.</p>
<p>Tom Pearson</p>	<p>Oh to be a fly on that wall!</p>

<p><b>Nigel Boardman</b></p>	<p>Yes, it was a great moment for me as a sort of young Turk at the time and then before I became a partner, in 1981 I attended a pitch for the Government of Botswana and you remember, Botswana got its independence in 1966. At the time it did I think it was the third poorest country in the World, and indeed Britain paid it to go away, gave it a dowry to go away and for the first few years of Botswana's independent life it had its capital city in Rustenburg in South Africa because there was nowhere for the Government to exist. Gabarone was not yet built and the dowry from the British Government was used to pay it is so it had been an extremely poor country and then they discovered diamonds and other resources, but I met on this pitch the Attorney General, M.D. Mokama who was a great man and I absolutely loved his attitude to life and to work, and he was typical of that Botswana generation of independence politicians like Madam Chiepe who was a fantastically strong Minister of Mines and Quett Masire who went on to become President after Suretse Khama and these were fun people to be with, they were extraordinary able and they just had a really good sense of morality. And to give you an example, later on when they were over and I was working with them, I took them out for a lunch and there was a senior, the Head of the Permanent Secretary of the Finance Department and one of his juniors and the junior ordered fillet steak and Baledzi Gaolathe who was the Permanent Secretary of Finance said something to him in Setswana and he changed his order.</p>
<p>Tom Pearson</p>	<p>How path... know your audience I think is the lesson there. Fantastic.</p>
<p><b>Nigel Boardman</b></p>	<p>And what he then said to me was "I do not want our young men to develop expensive tastes" and they had this drive to make sure that they behaved properly and a rigid code like that which I thought was fantastic, so I really fell in love with Africa, mainly through my working with the Botswana Government – decent, hard-working, fun people. There was another episode later in my career with them which again highlighted that kind of approach. I'd been in London with the Permanent Secretary of Mines and the Permanent Secretary of Finance, a different one, and the Permanent Secretary of Finance bought a television to take back with him, but he had to stop off in South Africa and so the Permanent Secretary of Mines said he would bring it in to Botswana for him and when we got to the Customs the Permanent Secretary of Botswana produced the television and the Customs officer said "is this for your own personal use Sir?" and the Permanent Secretary of Mines said "No, no, it's for a friend of mine, I'm just bringing it in for him because he's stopped off in South Africa", and the Customs official said "Well I'm afraid you can't do that Sir, you will have to leave it here and he will have to collect it when he arrives." and the Permanent Secretary of Mines, Minerals, said "Well actually, the person is your boss, he's the Permanent Secretary of Finance and your boss reports in to him" and the Customs officer looked him in the eye and said "That's extremely helpful Sir because he will know I'm telling the truth (<b>Host:</b> Fantastic!) And the television stayed there for the Permanent Secretary of Finance to collect. So really, this is a slightly long diversion but it gave me an interest in Africa, particularly Botswana, and it also gave me an interest in the culture of Africa and how it was that these people without a great deal of education, were able to negotiate with and develop a country on a democratic basis, and so I became through that interested in African tribal used art and I collect African tribal</p>

	<p>used art. I've remained attracted and attached to the continent ever since. M.D. Mokama, who I mentioned earlier, is the only client I've had who had to leave a meeting because his cattle were being attacked by lions and there have been other episodes of that sort which continue to make it a charming and interesting challenge.</p>
<b>Africa Legal Host</b>	<p>Never a dull moment and Nigel, diversion aside, if there is anyone that can get away with it, it would be you, pulling out those kinds of anecdotes, I'm a sucker, so you're more than welcome. You know, it's great to hear that it is the very governments on which this incredible continent relies and develops through that gave you some of your most memorable episodes in dealing with the continent, it gives me a lot of hope. And you know, focussing more on the deals and transactions again, you've mentioned a few but are there any truly standout deals, you know, either from the beginning of your career or towards the current.</p>
<b>Nigel Boardman</b>	<p>Yes let me start in Botswana, there would be a couple I've negotiated for the Botswana Government on their diamond contracts with DeBeers and that is one of the only success stories of a public/private partnership across Africa, and its worked really well both for the country and for the shareholders.</p>
Tom Pearson	<p>And this would be Debswana.</p>
<b>Nigel Boardman</b>	<p>Debswana is the joint venture vehicle and that's been there for since I think 1969 no 70s, seventy something, 77 I think, 76 Jwaneng, 71 I think Orapa. So it's been a very, very long and successful partnership between the two and a credit to both parties that they've managed to make that work and both deserve enormous credit for working together. So that would be significant, and then in the North of Botswana when I first got involved there was this mine called Benemguarto concessions which was set up in 1967 in fact involving Slaughter and May as one of the legal teams involved in it. But it had some difficult times and had debt restructurings and there was a threat that it would have to close, this was in 1981 and in fact it only closed in about 20, about three years ago. So we managed to keep open what was the largest private employer in Botswana for a very long period of time, bringing wealth and skills to that area of Botswana and I feel proud of that. So those would be within Botswana are two of the things that stick out for me.</p> <p>Then other ones, I worked with the post-apartheid Government of South Africa on the reform of company law and that was a really interesting challenge to make a modern system of law which fitted the South African economy and worked within the context of its history and traditions. There have been others around Africa but those would be the standout ones I suppose for me.</p>
Tom Pearson	<p>Absolutely fascinating Nigel, you know such a rich history of the continent and personal stories that interweave with its development. So speaking of development where has this all led to? You know, what is your current role in relation to Africa at the firm, at Slaughter and May?</p>

<p><b>Nigel Boardman</b></p>	<p>Yup, so I chair the Africa practice which is a very easy role because Justina and Vis do all the work and so chair is quite an appropriate term, I seem to sit there. It does involve meeting the law firms and clients with activities in Africa, and in normal times it means I get to travel around Africa which is a real treat. We try to make sure that we know all the leading law firms in Africa so that we can direct clients to the appropriate firm for their needs across Africa and we have no intention of creating our own offices or our own legal practices in Africa. That's not what we do as Slaughter and May anywhere in the World let alone in Africa.</p> <p>So we're not going to do that so we want the local firms to be strong enough to provide the best service possible to our clients when they need it, and our whole policy is to help work closely with African law firms to ensure that our clients receive the best service possible across Africa. And to do that we need to know who they are, we need to exchange knowledge and views. We learn a lot from speaking to them about how things work in their countries and without that knowledge we would be giving advice blind and I think there is a danger that people do think that Africa, the local law doesn't matter when it matters absolutely fundamentally and making sure that you have a great legal firm beside you to advise on it is crucial.</p> <p>Justina will talk about some of the particular activities we have but to give you a sort of taster, we run a legal exchange symposium every year, once in Africa, once in London every other year where we get about 120 people from about 30 different countries to exchange views and share views on African legal developments. We have a similar programme for lawyers just about the stage when they become young partners called Explore where they come to London for three weeks for an intensive training programme and get to meet each other and again Justina will run through those in more detail, and we have a helpline for law firms where if they haven't come across a weather derivative we can help them with that, we send out training packs, we help with precedents and provide some advice on software programs that they might use and taxonomies to keep precedents and build up a library which is useful for some of the law firms in smaller jurisdictions. So what we're trying to do is help African firms be successful, and there was quite a good article by, or review by, one of the African legal consultancies which divided law firms up into Huggers and Hoggers. In other words are you helping African law firms or are you trying to hog the work away from them and our intent in practice to be Huggers not Hoggers.</p>
<p><b>Tom Pearson</b></p>	<p>Absolutely fantastic insight there Nigel. Moving on to Samay as one of the future Huggers rather than Hoggers. You became a partner at the firm this year and are set to continue and expand upon your existing work with the Slaughter and May Africa practice group. Now tell us what is your vision for the firm's interaction with the continent and further the firms you work so closely with in key jurisdictions.</p>
<p><b>Samay Shah</b></p>	<p>Sure. I should start by saying that I've spent my life so far as a partner in a semi-lockdown state so one of the frustrations has been not being able to visit the continent and visit all the people at the various firms that we created</p>

	<p>great relationships with and not see them face to face but I am hoping to do that in the not too distant future – let's see.</p> <p>In terms of our international strategy, I think our current international strategy works really well so I wouldn't see it changing drastically over the coming years. I think our key focus would be to continue to promote our Africa practice in a similar way to what we currently do so that would be things like trips on the continent, currently those are all virtual but hopefully they will be physical, in person trips soon. We will continue to build long term relationships with clients and that is both clients in Africa but also international clients who have an interest in Africa or who are looking to expand in Africa, and also attending and speaking at conferences with our relationship law firms to build that deep knowledge and understanding that Nigel talked about. Ultimately though I'd say the most important part of our strategy is actually just working on complex African matters. That is our forte and that's what we love doing as lawyers.</p> <p>I'm a financing lawyer with a particular interest in project finance and in this context I think Africa is going to be a really exciting place in the coming years, particularly as we start to see the energy transition gain momentum and see how that really develops in Africa compared to other regions of the World. In terms of how we sort of think about Africa, our key jurisdictions of focus are Kenya, South Africa, Egypt, Nigeria and Ghana because they act as hubs for North, East, South and West Africa. We also seem to be doing most of the work in those countries so that's where we tend to focus but what we do also need to bear in mind, and Nigel touched on this, is that Africa is not a homogenous continent, it's a very large and very diverse place so we need to be careful not to solely focus on specific countries, and we are very keen to continue building experience and relationships all over the continent. In terms of law firms in Africa, as Nigel said we've established some really great, strong relationships in the key markets I mentioned but also in markets beyond that and our international strategy is not to have exclusive relationships with law firms. So when we talk to clients about which law firms to use, we decide on a case by case basis because different clients have different needs and preferences and we need to stay dynamic and versatile. This does have a benefit I'd say to our relationship firms because what I've found, particularly as an associate is that we can often introduce our relationship firms to clients who previously used a different firm so I suppose that takes the Huger not Hogger analogy slightly further.</p>
Tom Pearson	<p>I couldn't agree more, I think you've definitely established the credentials on the Huger rather than Hogger side of things and you know, I couldn't agree more on the necessity and the need for that flexible approach. This is far from an homogenous continent, it is, as Nigel said, probably, most at your peril, to try and think of this particular continent as one that has singular cultural issues, business issues and so on so your approach does seem to match that and speaking of, you know, always having the client's best interests at heart, I'm interested what do you think is the single, biggest or most-important gap in the delivery of required legal services on and in relation to the continent which you think the firm is uniquely positioned to solve.</p>

<p><b>Samay Shah</b></p>	<p>So I wouldn't say there is a gap in the delivery of legal services we as a firm provide. I mean our focus and what we pride ourselves on is being able to act on the most complex transactions all over the world so I think the most important question for us really is how we ensure that we maintain the highest standards of service to our clients in relation to any matter or transaction which involves Africa and one way we do this is by knowing and having deep relationships with the leading law firms in the region, maintaining those relationships and actually helping those firms to develop with some of the programmes which Nigel mentioned, and which Justina will come on to talk about.</p> <p>It's really about growing together with those firms on the ground. I think that our multi-specialist approach, together with partnering with the top legal minds on the continent makes us quite a unique proposition for clients. One of the things I'd say about transactions in Africa, and I think Nigel brought these up in some of his anecdotes, is that they often require quite a creative approach to, let's say novel legal issues which you may not encounter in other parts of the world, particularly in the western world and this is where I think our broad experience practice is, partnered with the best minds on the continent really shine and really help our clients.</p>
<p><b>Tom Pearson</b></p>	<p>Absolutely and you know that creative approach to novel legal issues that you mention I think it's worth noting that they can be quite fun, you know this is a frontier market in some respects. You know there aren't many places where you do get to flex the brain muscles to quite an extent or be granted the opportunity to be as creative and as novel in your approach as a lawyer then many opportunities that Africa presents, and switching back to Nigel here for a moment, Nigel sitting as a non-executive director on the UK Department for Business, Energy and Industrial Strategy, the BEIS, what insight can you offer on the future trading relationship between the UK and select African jurisdictions. Do you foresee the African Continental Free Trade Agreement as increasing or decreasing the willingness for African states to strike a deal with the UK?</p>
<p><b>Nigel Boardman</b></p>	<p>The African Free Trade Agreement is a great conceptual step forward and people deserve a lot of credit for getting it off the ground. At the moment it is not proving a practical step forward particularly and I think that will take time but I think it's the right way to go. Africa as you know has far little intra-continental trade than most other, if not all other, continents and that's partly a result of its heritage and its geography and it's something that needs to be corrected if we want to see as we do Africa develop fast into a stronger set of economies. So I'm a strong supporter of the African Free Trade Agreement and I think it would be good for Africa and what's good for Africa is good for the rest of the World including the UK.</p> <p>Trade is not a solely competitive activity, the world benefits from trading activity because the country becomes wealthier, the world becomes wealthier and therefore there is more markets for peoples' goods and services. So that to my mind is the thing that I would focus on most as being a highly desirable</p>

	<p>outcome. With it of course, there is a massive infrastructure deficit. Many of the colonial powers made routes to the coast but didn't make routes between the various countries where there might not be the colonial power and so the infrastructure across Africa is not as strong as it needs to be in order to encourage that free trade and to get the free trade working you need not only the legal structure but you need the physical structure.</p> <p>Coming to your question about the UK, the UK post-Brexit, is able to negotiate its own free trade agreements and I don't know how many of your listeners will have actually looked at a free trade agreement, I've looked at one or two, it's not an area that I specialise in but I've looked at them out of interest and when you are negotiating a free trade agreement on behalf of 28 countries, as the EU, there are a whole lot of constituents you have to take into account and to give a simple example, the French will want you to protect the name of Champagne, the British will want you to protect the name of Stilton and so on and every country will have its own particular preferences. That takes a long time. Now that we are one country negotiating, I think and we have in place many agreements that the EU have with Africa which we can replicate and simplify, I think there is no reason to believe that we can't develop very strong replacement trading arrangements to replace those that the EU currently has.</p> <p>So I am optimistic about the ability to do that and to make them more focussed on what we and the individual African country regard as priorities. So I believe that we should see an increase in trade. Theresa May made her trip to Africa to encourage that and I think that there is more scope for those kind of links but basically the two have a lot in common, it's a common time zone, the economies are in many cases synergistic and it would be great to see an increase in trade.</p>
<p><b>Tom Pearson</b></p>	<p>And I couldn't agree more. As someone who is exceptionally interested in seeing greater interaction and trade between the UK and key African jurisdictions I have a small plea to you there Nigel is do stick around with the BEIS and help them do all they can when it comes to advising you know, our Government on how to make this happen. So thank you very much for that insight there.</p> <p>Moving on to Justina, you lead on the development and operation of the firms very well regarded Africa Symposium, PLEASE which is the Practical and Legal Exchange African Symposium. Now I understand that there are some important changes to the event format for 2020. Would you care to give us a quick snapshot?</p>
<p><b>Justina Omotayo</b></p>	<p>For the first time this year, PLEASE will be taking place online in a virtual format on 26<sup>th</sup> November. Just to take a step back previously we held PLEASE alternate years at our office in London with the other year in Africa. To date this has included Botswana, Kenya, Ghana, Morocco, Uganda and</p>



	<p>that was absolutely amazing because we get to experience the different cultures across the continent.</p> <p>The key objective of PLEASE is to bring together professionals with an interest in Africa, predominantly lawyers, with the key objective of bringing like-minded individuals who share a common interest on the continent and really create that community feel whereby we all come together on an annual basis and discuss issues pertaining to Africa. The PLEASE programme is usually three days. On the Wednesday evening that comprises of a nice dinner, Thursday and Friday full day conference and then on the Saturday we get to explore the jurisdiction we're in. Obviously when we were in London last year we had 150 people which was quite a good turnout for us, and the attendees comprised of private practice lawyers from our relationship law firms across the continent and some of our relationship firms from further afield that also have an interest in Africa. In-house lawyers from our clients and some government officials. With COVID obviously this was meant to be our Africa year. Sadly we have had to reinvigorate things and that's why we are now we are now online which is not so bad after all because it opens up many other avenues. And this year we will conclude the programme by bringing everyone together and really just having a nice discussion about what the continent and what the future for the continent is.</p>
<p><b>Tom Pearson</b></p>	<p>And I think it's so important to be bringing those three sets together. You know the international legal expertise of Slaughter and May, your local law firms and the clients. The most important piece of the pie is often forgotten so it's great to see that tripartite approach to the organisation and operation of this event and I think it being online is simply going to ensure that it's even easier for the right individuals to connect with other likeminded individuals without any burdensome travel arrangements, hotel costs or visas so I think it could be bumper year for the event rather than anything of the negative.</p> <p>But most importantly Justina let's talk about content and outcomes. What is the key theme or themes for the 2020 event? Talk us as to why PLEASE is so central to the growth and development of the firm's Africa group.</p>
<p><b>Justina Omotayo</b></p>	<p>So this year's theme, it wouldn't be right with COVID19 to not have a theme that's particularly relevant to that. So the theme of this year's conference is navigating the crisis. We felt, you know, pandemic and all, we are still navigating, it's still choppy waters at the moment. The programme will have a strategic focus on M&amp;A trends across the continent and how companies have recovered or are recovering from the impact of COVID19. We will then be rolling out a series of webinars next year for a few months and this is to provide further content on PLEASE and particular topics would include sustainability, oil and gas. And we know busy people don't have time to sit down for a full day and take in a day of content in a virtual format. So by having a series of webinars we just feel it's much more punchy for very busy individuals.</p>

	<p>PLEASE is a central part of the growth of our Africa practice group because as Samay mentioned it's a huge part of having a successful Africa practice is to know the best minds and via this imposing and we are not only able to collaborate jointly by presenting topical issues with relationship law firms but we are able to learn about their various issues on the continent and again a deeper understanding of the markets which allow us to better serve our clients. And ultimately when we do work on those nuance transactions we believe we can provide a better service.</p>
<p>Tom Pearson</p>	<p>Well I for one am extremely interested in this development. The fact that there is going to be a series of web seminars rather than just a singular event. You talk about the necessity for information exchange and networking. I think that the opportunity is just enhanced there. There's a greater period of time to actually meet, connect, discuss and learn rather than it all being focused on a singular event in a singular location. So Africa Legal will certainly be doing our part in ensuring that our community are aware of the PLEASE events and the web seminars and we look forward to working with you on that.</p> <p>Well everyone that does bring us to time believe it or not and I've had a wonderful time speaking with you all today. So Nigel, Samay and Justina, a very big thank you from me for joining me on this episode of the Africa Legal Podcast. And as always a very warm thank you to all of our listeners. If you are new to the series and would like to peruse our back catalogue you can find us on Spotify, Soundcloud or Apple podcast and don't forget to subscribe to your preferred podcast provider to make sure that you don't miss out on any must hear content which is hosted by this series. Also never forget to visit us at <a href="http://Africalegal.com">Africalegal.com</a> for all the news, views and insight that improve your life as a modern African Legal professional. So without further ado I will say I have been Tom Pearson this has been the Africa Legal Podcast.</p>