

Editorial: Volume 13 No 2 2013



This is the second issue of the African Human Rights Law Journal since we have gone on-line. The editors trust that the new format has increased the readership of the Journal and, in particular, the international exposure of academic writing on aspects of human rights in Africa.

This issue appears as the African Union (AU) and Africans celebrate ten years of the Protocol to the African Charter on the Rights of Women (African Women's Protocol). One of the most progressive human rights instruments ever adopted by the AU, the African Women's Protocol was adopted on 11 July 2003, and entered into force on 25 November 2005. (It is sometimes referred to as the 'Maputo Protocol', referring to the city of its adoption.) By 30 November 2013, 36 of the 54 AU member states have become party to the Protocol. Most non-state parties are from North Africa. A country often considered a leading democracy in Africa - Botswana - is also yet to become a party.

On 9 and 10 December 2013 the Centre for Human Rights, University of Pretoria, hosted a conference on Article 14 of the African Women's Protocol, which deals with the sexual and reproductive rights of women. Peer-reviewed papers presented at this conference will be published in the Journal's first issue of 2014.

Twenty years have passed since the entry into force of South Africa's interim Constitution on 27 April 1994. The Journal aims to devote an issue in 2014 to the celebration of this 20-year milestone. We call, in particular, for papers from other parts of Africa and from Africanist and South Africanist legal scholars outside Africa to critically reflect on the impact of the South African Constitution - a constitution of which the process of drafting, content and the Constitutional Court it establishes is said to be the 'best' and 'most liberal' in the world and an exemplar in the Age of Rights (post-1989). Contributors are invited to reflect on the following:

- the influence of the South African constitution-making process in their countries;
- the influence of South African constitutionalism in political and popular discourse and the questions of sub-imperialism/South African exceptionalism raised by that;
- critiques of the Euro-American character of South African constitutionalism; and
- the influence of the South African constitutional jurisprudence.

On a different note, the editors of the Journal note that, following the expiry of the terms of four members of the African Commission on Human and Peoples' Rights, three commissioners (Yeung Kam John Yeung Sik Yuen, Soyata Maiga and Lucy Asuagbor) were re-elected, and a new commissioner was elected. The newly-elected commissioner is Mr Lawrence Murugu Mute, previously a member of the Kenya National Human Rights

Commission. Mr Mute is the first person with a disability to be elected to the African Commission. We congratulate him, and express our best wishes for his term on the Commission. The editors also note and congratulate the new Bureau of the Commission consisting of the Chairperson (Kayitesi Zainabo Sylvie) and Vice-Chairperson (Mohamed Béchin Khalfallah).

As in the past, this issue of the Journal contains contributions with a general (African) scope, and with a country-specific focus. Two contributions deal with the topic of violence which, in its many manifestations, affects Africa and its people in multiple and profound ways. Koko touches on the challenges to democratic transition in some selected 'post-violence' African countries, while Beninger investigates the possibility of combating violence in sub-Saharan African schools by using legal strategies based on international human rights law. Dinokopila sheds some light on the Pan-African Parliament (PAP), focusing in particular on the need for, and lack of, collaboration between the PAP and the institutions of the African regional human rights system, civil society organisations and national human rights institutions. This contribution adds to the meagre academic discourse that has thus far emerged around the PAP.

The country-specific contributions explore aspects of human rights and democratisation in respect of four countries in East Africa and the Horn of Africa: Sudan, Kenya, Tanzania and Uganda. As in previous issues, matters related to issues of transitional justice and female genital mutilation (FGM) are placed under the spotlight. Against the background of the indictment of Kenyan President Kenyatta and Deputy-President Ruto before the International Criminal Court, Asaala and Dicker enquire as to the significance to Kenya of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence. Yusuf and Fessha subject the Tanzanian law dealing with FGM (in particular, the Penal Code, as amended in 1998) to scrutiny, asking whether it has been effective in reducing the occurrence of FGM in that country.

Other contributions focus on identity and citizenship in Sudan (Abdulbari); the place of international law in the 2010 Kenyan Constitution (Orago); and the application of traditional justice to achieve restorative justice in respect of crimes committed by child soldiers (Among). In the 'Recent developments' section, Durojaye comments on a recent decision of the Nigerian High Court on the rights of persons living with HIV.

We acknowledge with appreciation and sincerely thank the independent reviewers who gave their time and talents to ensure the consistent quality of this issue of the Journal: Prudence Acirokop; Jean Allain; John Osogo Ambani; Lorette Arendse; Japhet Biegon; Erika de Wet; Christiano D'Orsi; Linette du Toit; Solomon Ebobrah; Precious Eriamiatoe; Yonatan Fessha; Charles Fombad; Ilze Grobbelaar; Thomas Obel Hansen; Laurence Helfer; Faith Kabata; Anton Kok; Tom Mulisa; Rachel Murray; Salima Namusobya; Laurie Nathan; Dennis Ndambo; Charles Ngweni; Kate O'Regan; Ann Skelton; Karen Stefiszyn; Julie Stewart; Cori Wielenga; and Sisay Yeshanew.