

Editorial

This issue of the *African Human Rights Law Journal* is divided into two sections: first, a section containing regular contributions; and second, a special focus section containing contributions dealing with contemporary challenges to the rule of law in Africa.

The contributions in the first section of the *Journal* cover both the African regional human rights system and aspects of the human rights situation in national jurisdictions on the continent.

The *Journal* appears at a time of heightened scrutiny of the African Commission on Human and Peoples' Rights. This is largely due to the tension between the Commission and the African Union's policy organs over the granting of observer status to the non-governmental organisation, the Coalition of African Lesbians (CAL). In 2015 the AU Executive Council directed the Commission to withdraw the status granted to CAL. For some time the Commission suspended its response pending the outcome of a request for an advisory opinion on this issue to the African Court on Human and Peoples' Rights. After the Court had declined to hear this request, tensions were brought to a head at a 'retreat' organised between the African Commission and the AU Permanent Representatives Committee (the ambassadors of member states to the AU Commission in Addis Ababa), which took place in June 2018.

It is therefore important that scholars in this *Journal* continuously examine aspects of the African Commission's mandate and functioning, with a view to its constant improvement. Three contributions in this issue do so: Nanima interrogates the approach of the African Commission to evidence obtained through human rights violations; Okoloise aims to provide constructive suggestions to improve states' implementation of the African Commission's recommendations; and Budoo reflects on women's rights monitoring mechanisms.

The year 2018 marks 15 years since the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol; often referred to as the Maputo Protocol). Assessing the influence of the African Women's Protocol after a relatively short period, there is cause for some optimism. While it took some time, state parties now report regularly to the African Commission in terms of the Protocol-specific guidelines.

This process allows for greater scrutiny of a state's record on women's rights.

As with human rights scholarship more generally, in respect of women's rights there is also a 'turn' away from dissecting standards towards a greater preoccupation with the implementation and state compliance with these standards. This 'turn' also sees closer attention being devoted to supervisory or monitoring mechanisms – as is exemplified by the two complementary contributions (Budoo in this section; and Rudman in the 'Focus' section) critically examining the suitability of the supervisory structure of the African Women's Protocol. Whatever reform may be required it is our view that – as the Protocol stands – the African Commission has the competence to receive and make findings on individual communications related to alleged violations of the African Women's Protocol. To come to a different conclusion, based on a literal interpretation of the African Women's Protocol, would be to miss the obvious point that the Protocol complements the African Charter as far as substance is concerned, but leaves intact (and is superimposed on) the monitoring mechanism already in place.

Worldwide civil society is a thorn in the flesh of authoritarian and corrupt governments. Not surprisingly, these organisations are regularly targeted in an effort to minimise their influence. Africa has seen its fair share of legislation, policies and executive conduct in this regard. Recent discoveries of oil and gas in various parts of the continent have brought with them opportunities both to address long-standing inequality and social hardship, and for self-enrichment of narrow elites and corruption. Responding to the adoption of the 2016 Non-Governmental Organisations Act in Uganda, Mbazira and Namatovu in their contribution spell out its implications for the civic space and human rights advocacy in the extractive industry in Uganda.

Other country-specific articles (by Diala, Agaba, Bakare, Mahadew and Fritz) deal with Mauritius, Nigeria, Uganda and South Africa.

This issue also contains nine contributions constituting a 'Special Focus' on 'The rule of law in sub-Saharan Africa: Reflections on promises, progress, pitfalls and prospects'. Professor Charles Fombad and Dr Eric Kibet, the editors, introduce the special focus section of the *Journal* (starting on page 205 of this issue). Professor Fombad is professor of law at the Centre for Human Rights and the Institute of International and Comparative Law in Africa. He organises an annual symposium on an aspect of constitutionalism in Africa. The Special Focus brings together peer-reviewed and reworked papers presented at the 2017 symposium. The focus on the rule of law is timely and important to the realisation of human rights. The optimism and exuberance for human rights and liberal democracy of the 1990s and early 2000s have been replaced by greater caution and skepticism. The rule of law is closely associated with the liberal democratic state,

and is a prerequisite for effective judicial review and checks and balances.

It has come to our attention that, in terms of the international ranking of scholarly journals undertaken by the Washington and Lee School of Law, the *African Human Rights Law Journal* is ranked the top internationally-cited law journal in Africa. (See <https://journals.assaf.org.za/per/announcement/view/47>.) In a total list of 1 527 indexed 'law journals', worldwide, only 18 are from Africa: 16 are published in South Africa, one in Malawi, and one in Ethiopia. Although the *AHRLJ* is placed first among 'African' journals, its modest global position (at 837) underlines the limited exposure of African-based scholarship, on the one hand, and the need to publish contributions that just cannot go unnoticed by scholars in the human rights field, on the other. We reiterate our call to all scholars – from across Africa and further afield – to submit contributions to the *Journal*, at any time, on any human rights-related topic.

Our sincere appreciation and thanks go to all who have been involved in making the *AHRLJ* the quality and well-regarded journal it has become since its establishment in 2001.

For this particular issue, we extend our genuine gratitude to our anonymous reviewers who gave so generously of their time, expertise and insights: Jean Allain; Lorette Arendse; Usang Assim; Hlengiwe Dube; Ebenezer Durojaye; Christof Heyns; Nora Ho Tu Nam; Faith Kabata; Emmanuel Kasimbazi; Debra Long; Moseki Maleka; Stuart Maslen; Satang Nabaneh; Charles Ngwena; Michael Nyarko; Chidi Odinkalu; Chairman Okoloise; Annika Rudman; Omar Sheira; Ann Skelton; Philip Stevens; Emerson Sykes; Attila Teplan; Dire Tladi; Ben Twinomugisha; Fanie van Zyl; and Attiya Waris.