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Review: Special issue in *Journal of African Law: The African Charter on Democracy, Elections and Governance at 10*

Nandi N Makubalo

The *Journal of African Law* has been in existence for over 60 years and has built a reputation as the authoritative academic source on legal issues pertaining to the African continent. It therefore is appropriate that it has chosen to dedicate a special issue on the implementation of arguably one of the most important international legal instruments in Africa: 'The African Charter on Democracy, Elections and Governance at 10' (published as *Journal of African Law*, Volume 63, Supplement S1). A phenomenon that makes the special issue rich and diverse is that African democracy, elections and governance are dissected and discussed from different viewpoints. An additional significant feature of the special issue is that it is available in open access, making it accessible to a broad audience. The special issue presents an accessible resource even for readers with little prior knowledge of the subject.

The focus of this special issue – the African Charter on Democracy, Elections and Governance (African Governance Charter) – has had a significant normative and institutional impact since its adoption on 30 January 2007. It therefore is both apt and timely that a comprehensive assessment of the Charter is made just over a decade after its inception.

In the introduction to the special issue the guest editors, Micha Wiebusch, Chika Charles Aniekwe, Lutz Oette and Stef Vandeginste, first present a brief overview of the chronology of the Democracy

Charter as well as its impact to date. They also make reference to some of the other outputs that stem from the collaborative efforts that were instrumental to the realisation of this special issue. This includes admirable examples of how encouraging dialogue with practitioners – a perennial struggle in the academic world – has been a central objective. The main content of the special issue is split into six articles all considering different aspects of the African Democracy Charter, including its contextuality, instrumentality and impact.

The first substantive article, 'The African Charter on Democracy, Elections and Governance: Past, present and future', authored by the guest editors, begins by placing the Democracy Charter in its historical context, succinctly allowing the reader to orient themselves with the subject from the outset. It proceeds to consider the present and future dimensions of the Charter. It is helpful that they delve into various factors, including the legal context and the actor dynamics, which shape the present and future implementation of the instrument. Unfortunately, the socio-political context has not received the same degree of focus and thoroughness.

The subsequent article on 'The African Charter on Democracy, Elections and Governance as a justiciable instrument' by Justice Ben Kioko and Vice-President of the African Court on Human and Peoples' Rights (African Court) considers the involvement of individuals and non-governmental organisations (NGOs) in enforcing the African Democracy Charter in African courts. Justice Kioko develops his argument by expounding the case of *APDH v Côte d'Ivoire*.

'The African Charter on Democracy, Elections and Governance as a human rights instrument' by Professor Gérard Niyungeko, a former judge and president of the African Court, clarifies what a human rights instrument is. He further investigates the elements in the Democracy Charter that clearly relate to human rights and what the approach to the issue is of the African Court. The article is useful in the sense that there is a thorough breakdown of the instrumentality of the African Democracy Charter as a human rights instrument and of its provisions on issues of human rights. The only weakness is that it is not critical enough of the African Court's lack of opinion on the direct link to human rights issues of the Democracy Charter.

'Towards a right to resist gross undemocratic practices in Africa' by Professor Pacifique Manirakiza, former commissioner of the African Commission on Human and Peoples' Rights (African Commission), enquires as to whether the African Democracy Charter enshrines the right to resist gross undemocratic government changes. The chapter clearly distinguishes between the right to resist in international law

and the right to resist in African law. It reinforces the distinctiveness of the African context and further discusses the issues that have led to the increased number of uprisings in the last decade with a focus on the upholding of democracy.

The article 'The status and legitimacy of popular uprisings in the AU norms on democracy and constitutional governance' was written by Commissioner and Chairperson Solomon Dersso of the African Commission. The article stresses the availability of legal criteria to legitimise changes of government that resulted from uprisings. Criteria suggested by the author that may confer constitutional legitimacy on uprisings include the extent to which uprisings are a measure of last resort, the popularity of protestors and the peacefulness of the protests. Of significance is that the practicality of the criteria is tested on the Egyptian uprising of 2013, making the article thought-provoking and practical.

'Presidential term limits and the African Union' is a collaboration by Micha Wiebusch and Christina Murray, a Senior Adviser of the Standby Team of Mediation Advisers in the United Nations (UN) Department of Political Affairs. This article discusses the manipulation and unconstitutional changes of presidential term limits, a conundrum that is almost comparable to the spreading of an infectious disease in Africa. In light of the current political arena in Africa, this article undeniably is important and relevant. Readers can appreciate an in-depth history and analysis of the manipulation of term limits, as well as the solution-centred approach adopted by Wiebusch and Murray.

'The African Charter on Democracy, Elections and Governance at 10' offers a succinct introduction to and analysis of the African Democracy Charter, making it clear to the reader how the Charter was established, why it was established and its objectives. It highlights the present status of the instrument and predicts the future implementation and predicted challenges and successes going forward. The fact that the contributors represent leading experts in the field has ensured that the content is well informed, thought out and precise.

A general criticism would be that on occasion the later chapters fall foul of repeating previously-made arguments and on these, albeit rare, occasions it becomes more obvious that the special issue is comprised of a series of collective works as opposed to being a single piece. The special issue also fails to explicitly discuss other important aspects of the African Democracy Charter framework, such as poverty alleviation set in article 33 of the Charter and the fight against diseases such as Ebola, malaria and HIV set in

article 27. Given the gravity and scale of these issues, this comes across as a rather striking omission.

Overall the special issue will benefit policy makers and practitioners of African governance and politics, African law makers and advocates and scholars in the fields of international relations, politics, governance and law. An additional set of people who might benefit are those who have a more general interest in staying abreast with African development and governance. One of its many endearing features is the fact that the content of the special issue specifically aims to feed into and influence local, national and regional politics, law and governance systems.