

## Editorial

This issue of the *African Human Rights Law Journal* marks 25 years since its first issue appeared in June 2001. The *Journal* was launched in the wake of the establishment of the African Union (AU), with the adoption of the AU Constitutive Act on 11 July 2000 and its entry into force on 26 May 2001.

Since 2001, the AU human rights landscape has changed dramatically. The African Commission on Human and Peoples' Rights (African Commission) has come to greater maturity. A continental human rights court came into being and has dealt with some 350 contentious cases. The African Charter on Human and Peoples' Rights (African Charter) has been complemented by a number of Protocols, two of which entered into force during this period. A separate treaty for children, adopted as far back as 1990, and which entered into force in 1999, started operating in 2001. Over the 25 years of its existence, the *AHRLJ* has been privileged to provide critical yet constructive scholarly perspectives on this unfolding landscape.

Two issues of the *Journal* appeared annually since 2001, making this the *Journal's* forty-ninth issue. With the December 2025 issue the significant figure of 50 issues will have been reached. Consistent high-quality support from the *Journal's* editorial assistant (Isabeau de Meyer), the manager of the Pretoria University Law Press (PULP) (Lizette Hermann) and the editorial team made this consistency possible.

The *Journal* sets itself the goal of contributing to scholarship on the African human rights system. Looking back at the journey from this milestone, the *Journal* can be viewed as a primary knowledge generator of scholarly discourse on, in and for the African regional human rights system specifically, and human rights in Africa, more generally. With this issue, a total of 634 articles (as well as 93 'recent developments' and case discussions) on these topics have appeared in the *Journal*. With a total of 727 published contributions over 49 issues, the *Journal* maintained an average of 14,8 contributions per

issue. Over the years the *Journal* developed the practice of including in some of its issues a 'special focus' (themes related to human rights in Africa). Themes to which 'special focus' issues were devoted include 'The foundations and future of law, religion and human rights in Africa' (2008); '30 years of the African Charter on Human and Peoples' Rights: Looking forward while looking back' (2011); and 'The African Children's Charter at 30: Reflections on its past and future contribution to the rights of children in Africa' (2021).

Initially, the *Journal* was published by JUTA, in Cape Town, South Africa. The *Journal* in 2013 migrated to PULP. Importantly, at that moment the *Journal* became a fully open-access journal – one of the first to make the leap to 'diamond' open access.

Recognising its record of consistency and quality, the *AHRLJ* has been indexed on the following databased and indexes: South African Department of Higher Education and Training (DHET); Scientific Electronic Library Online (SciELO) SA; Directory of Open Access Journals (DOAJ); International Bibliography of the Social Sciences (IBSS); and Scopus.

The *AHRLJ* has contributed to scholarship on human rights. The article from the *Journal* most cited (according to Google Scholar) is T Metz 'Ubuntu as a moral theory and human rights in South Africa' (2011) 11 *African Human Rights Law Journal* 532-559, which was cited 709 times. The second-most cited article is that by Tamale (S Tamale 'Exploring the contours of African sexualities: Religion, law and power' (2014) 14 *African Human Rights Law Journal* 150-177, with 235 citations).

### **Articles with a continental focus**

Seven articles tackle issues that have relevance to Africa as a whole, or to sub-regions on the continent.

In the first two articles, the authors adopt different yet complementary approaches to the intractable problem of unconstitutional changes of government in Africa. This indeed is a timely discussion. The formation of the Alliance of Sahel States, a novel sub-regional grouping of states (Burkina Faso, Mali, Niger) that have all undergone such changes of government, has placed the issue squarely on the agenda. Odinkalu examines the scope and meaning of the norm prohibiting *coups* and unconstitutional changes of government in Africa in light of its evolution and history. He demonstrates that the norm supports democratic elections, is against

interminable rule, and for the protection of legitimate mandates. The article argues that popular uprisings are insurrectionary reactions to the failure of Africa's continental and regional institutions to respect this package, and calls for African states and institutions to return the norm to its original design. Also addressing the persistence of unconstitutional changes of government on the continent, Mhlanga examines how the African Continental Free Trade Area (AfCFTA) agreement's legally binding trade architecture and reciprocal market-access commitments can introduce material accountability into Africa's human rights ecosystem. The article proposes mechanisms for integrating democratic conditionalities into AfCFTA's implementation, with the aim of shifting the cost-benefit calculus for *coup* perpetrators and enabling a rules-based order that strengthens constitutional governance across the continent.

*Implications of the role of vigilante groups in curbing Boko Haram in Lake Chad Basin:* Since 2009, Boko Haram insurgency has become a serious challenge to security and safety in the Lake Chad Basin (Nigeria, Cameroon, Niger and Chad). Due to the inadequacies of security responses, vigilante groups have emerged to protect their communities through combating Boko Haram. Kilonzo discusses security concerns about the future of vigilante groups, and examines rights-based disarmament, demobilisation and reintegration of vigilante groups as a potentially valuable measure to address the security risks posed by the vigilantes to their communities.

*The African Charter requires state parties to ban 'conversion therapy':* 'Conversion therapy' is a practice that seeks to change an individual's sexual orientation or gender identity. Mugerwa-Sekawabe contends that state parties to the African Charter are required to ban 'conversion therapy' as it violates the right to dignity and the prohibition against degrading treatment of LGBTQIA+ persons.

*The African Women's Protocol requires states to address the causes of gender inequality:* The resocialisation obligation contained in global and African regional human rights law and, in particular, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol) requires states to address and modify the underlying socio-cultural norms and practices that form the root causes of gender inequality. Using a feminist lens, Mahmoudi highlights that this obligation requires states to modify the underlying socio-cultural determinants to effectively address root causes of gender inequality, violence and discrimination against women.

*Soft law solutions for children displaced by climate change in Africa:* To address the exclusion of climate-displaced children from the protective scope of international law, Fox explores the potential of United Nations (UN) and regional soft law instruments to serve to protect the rights of climate-displaced children.

*Malabo Protocol and African refusal to extradite ICC suspects:* Khamala considers the circumstances under which South Africa and Kenya refused to extradite Sudanese President Al-Bashir to the International Criminal Court (ICC). He evaluates political influences on the international mutual legal assistance obligation reminiscent of the Malabo Protocol's immunity provision. He also notes that the Russian President, against whom the ICC had issued an arrest warrant, did not attend a South African BRICS summit. The author draws attention to the UN Hague Convention on International Cooperation in the Investigation and Prosecution of International Crimes, and calls for its ratification to combat atrocity crimes.

### **Articles with a country-specific focus**

Eight articles interrogate aspects of the relationship between international law (including AU human rights law) and domestic law. In these articles, a variety of international law frameworks come into play: international labour law (Ghana); the African Women's Protocol and CEDAW (Lesotho); the Optional Protocol to the Convention against Torture (Nigeria); the UN Universal Periodic Review (Somalia); the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (South Africa); and the International Covenant on Economic, Social and Cultural Rights (South Africa).

*Legal framework on child labour in Ghana:* Child labour persists in Ghana despite a range of policy and legal measures implemented by the government and other development partners. Hammond and Dowuona-Hammond review Ghana's legal, policy and institutional framework on child labour to determine whether it meets international labour and human rights norms. The article notes that domestic legislation is not sufficiently detailed on what constitutes the worst forms of child labour, and on other forms of child labour, such as the use of children in mining and the illicit production of drugs. The article proposes the expansion of the hazardous work list, and the introduction of minimum conditions for light work.

*The role of social workers in the fight against child marriage in Lesotho should be enhanced:* Although Lesotho promulgated the Children's Protection and Welfare Act 2011 to address child marriage, the level of child marriage in Lesotho remains alarming. Kelepa discusses the UN, AU and Southern African Development Community (SADC) legal frameworks available to address the challenges arising from child marriage. Adopting a multidisciplinary approach, the article suggests roles that social workers, as professionals who are equipped with the skills to handle children's issues, may play in addressing the causes of child marriage. It concludes with recommendations to enhance social workers' role in addressing this intractable social dilemma.

*Nigeria's implementation of OPCAT:* By ratifying the Optional Protocol to the Convention against Torture (OPCAT), Nigeria signalled its intention to establish and operate a national preventive mechanism (NPM) that aligns with OPCAT. In its 2021 Concluding Observations, the UN Convention against Torture (CAT) Committee determined that Nigeria had not met this requirement. Ibe examines Nigeria's compliance in light of four requirements of NPMs drawn from a review of OPCAT and the literature on NPMs. He argues that although Nigeria has taken some positive steps, it still falls short, and offers recommendations that would ensure Nigeria's greater compliance with OPCAT.

*Work as a fundamental right in Nigeria, Belarus and India:* Adopting a comparative analysis, Eyongndi, Okwori, Nnawulezi and Adedeji examine the legal framework on the right to work in the Constitution of the Federal Republic of Nigeria, 1999, using the concept of interrelatedness, interdependence and indivisibility of human rights in advancing the imperativeness of the institutionalisation of work as a justiciable right in Nigeria. Drawing on the jurisprudential practices on the right to work in India and Belarus, the article recommends that the right to work should be viewed and used as a justiciable right to address the high levels of unemployment in Nigeria.

*The value of civil society recommendations in UPR in Somalia:* Using the prism of female genital mutilation (FGM) in Somalia, which has the highest global prevalence of FGM, Storey examines the value of the involvement of civil society organisations (CSOs) in the UPR process. On the strength of this analysis, she makes proposals to be used by CSOs and states when preparing for Somalia's fourth cycle UPR review scheduled for 2026.

*A call for South Africa to ratify Optional Protocol to the CRC:* The Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC) allows for individual communications by children, groups of children or their representatives to be submitted to the UN Committee on the Rights of the Child. South Africa has not ratified the Optional Protocol, nor has Australia. Greeff considers the reasons for non-ratification by these two states, and makes an argument for their accession to OPIC.

*Right to adequate housing against local government in South Africa:* Mudau examines the judicial enforcement of the right to adequate housing against local government in South Africa. The article focuses on how courts hold local government accountable in fulfilling the right measured against the baseline factors outlined in General Comment 4 of the UN Committee on Economic, Social and Cultural Rights. The article concludes that, despite courts not explicitly referencing General Comment 4, judicial enforcement of the right is consistent with the baseline factors set out in General Comment 4.

*Tension in international law-friendly 2013 Zimbabwean Constitution:* Moyo considers the place of international law under Zimbabwe's 2013 Constitution against the background of the country's attempt to strike a balance between sovereignty and global cooperation. Noting that the Constitution contains generous provisions entrenching a place for the reception of international law norms in the domestic legal order, Moyo analyses the normative framework for the domestication of treaties, the reception of customary international law and the role of international law as an interpretative guide to domestic law. He concludes that the complex interaction between the international and national legal orders raises tensions between international obligations and national interests.

## **Recent developments**

*South African Equality Court decision related to 'black hair':* Munyai discusses *Baba & Others v Clicks Group Limited & Another*, a 2022 decision of the High Court of South Africa, Western Cape Division, Cape Town, sitting as an Equality Court. The case deals with an image of four women on social media, which caused an outcry on the premise that the image perpetuated racial stereotyping of black hair. While the Court dismissed the matter, the discussion of the case provides an opportunity for reflection on beauty hierarchies traced to Eurocentrism and the re-engineering of acceptable beauty aesthetics.

**The editors**  
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