

## Editorial

This volume of the *African Human Rights Law Journal* appears as we are about to herald in 2016: the year that the African Union (AU) dedicates to human rights, with a focus on the rights of women. That the continental body has earmarked 2016 as 'African Year of Human Rights' is certainly to be welcomed; nevertheless, it is important that the year be one of critical stocktaking dedicated to our collective expression of concern, care and the need for corrective action.

This move by the AU as an institution – and by its member states – reflects a growing acceptance of the pivotal place of human rights on the continent – at least at the discursive level. Greater state involvement in the African human rights system is indeed laudable and is required to invigorate the system and to ensure its effective functioning. Experience has, however, shown that some states may attempt to usurp and dominate the human rights space and exploit their participation in the human rights discourse to demonise and delegitimise human rights defenders. By creating government-organised non-governmental organisations ('GONGOS') to participate in human rights fora, states may, for example, aim to distort and undermine human rights work on the continent. In similar vein, some caution may be expressed about the creation of a Pan-African Institute for Human Rights (PAIHR). To be established by 2016, the Institute is aimed at supporting the AU's human rights mechanisms. It is a matter of concern that the Institute is set to function as part of the AU's Department of Political Affairs, rather than as an independent entity, such as the Inter-American Institute of Human Rights, based in Costa Rica.

This volume of the *Journal* covers diverse and topical issues related to groups particularly vulnerable to human rights violations: persons living with HIV (PLHIV); lesbian, gay, bisexual or transgender (LGBT) persons; and women and girls. In his wide-ranging and comprehensive analysis, Eba categorises HIV-specific legislation in sub-Saharan Africa, and assesses the extent to which these laws have supported or threatened the rights of PLHIV. Addressing an issue of particular significance - the rights of LGBT persons - Ibrahim examines the discourse around LGBT persons, and its relevance for and resonance with Africa.

Turning to the AU landscape: Amvane joins the debate on the need for UN Security Council authorisation of AU intervention action undertaken pursuant to article 4(h) of its Constitutive Act; and

Windridge analyses the first merits decision of the AU's 'judicial branch', the African Court on Human and Peoples' Rights.

Turning to the domestic arena, Kaaba investigates the challenges African courts experience in adjudicating electoral disputes related to presidential elections. Vettori asks whether mandatory mediation poses an obstacle to access to justice. Continuing on the theme of access to justice, Bamgbose explains the link between clinical legal education, greater access to justice, and good governance. Focusing on an often-neglected segment of Nigerian society, Okafor and Ugochukwu explore the agency of 'the poor' in the jurisprudence of Appellate Courts in that country.

The next four contributions each focuses on a precarious aspect of women's rights – child marriage; access to contraception; impunity for sexual violence; and justice for the survivors of sexual violence perpetrated during armed conflict. All these contributions speak to pressing contemporary issues. Nwauche's contribution on child marriage, in particular, comes at an appropriate time, following in the wake of the First African Girls' Summit on Ending Child Marriage in Africa, held in Lusaka, Zambia, at the end of November 2015. Comparing the situation in Nigeria and South Africa, Savage-Oyekunle and Nienaber emphasise the crucial role of available information on contraception to give adolescent girls real access to contraceptive services. In their respective contributions, Kitharidis and Tunamsifu draw academic attention to the vexing and distressing on-going prevalence of rape, other sexual violence and impunity in the Democratic Republic of the Congo.

The final two articles in the *Journal* (by Mubangizi and Njotini) focus on aspects of the human rights situation in South Africa.

In the section on recent developments, Killander provides an overview of the most salient developments on the AU human rights landscape during 2014. The final two contributions in this section relate to judgments of the South African High Court. Van der Vyver takes a stand on the failure of the South African government, ignoring a decision of the High Court, to arrest Sudanese President and indictee before the International Criminal Court, Omar Al Bashir. Mujuzi discusses the issue of juristic persons' competence to bring private prosecutions, as it arose in a recent decision of the South African High Court.

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