

## Editorial

This issue consists of six articles on human rights that are of concern to Africa generally, and nine articles that together form a 'Special focus' on aspects of the rights of children in sub-Saharan Africa, specifically.

Ilori takes a closer look at one of the most prominent and influential soft law instruments adopted by the African Commission on Human and Peoples' Rights (African Commission), the Declaration of Principles on Freedom of Expression, and Access to Information in Africa. Initially adopted in 2002 simply as the 'Declaration of Principles on Freedom of Expression', it was revised in 2019. The contribution provides a useful schematic comparison between the 2002 and 2019 versions. It illustrates how the revised Declaration addresses human rights challenges posed by internet shutdowns, social media bans, problematic laws on online harms and expensive internet access. The article further highlights how state and non-state actors must play their role in safeguarding human rights online.

In a contribution directed at Nigeria, Olika laments that this country, similar to many other African states, is still many years away from a sustainable realisation of socio-economic rights. He draws our attention to the basic reality that socio-economic rights cannot be enforced in the absence of adequate fiscal resources. As identified by development practitioners, taxation is one of the most sustainable ways for governments to raise revenue. Olika looks into the factors that impact negatively on a government's ability to raise revenue, such as illicit financial flows, corruption and a large informal economy. His article advances that the obligation to respect, protect, and fulfil the essential minimum socio-economic rights standards is an important avenue to mobilise domestic resources for the protection and promotion of socio-economic rights.

In 2024, South Africa marks 30 years since its transition to a true democratic dispensation, with the adoption of the 1993 'interim' Constitution, and its entry into force on 27 April 1994. The next two

articles relate to an issue of great contemporary interest in South Africa: property rights and land reform. Van Huffel discusses the legal implications of applying an approach of state custodianship to communal land. She contends that the South African state resorts to misconstructions of customary land tenure rights in its land reform policy that emulate apartheid era thinking, rather than facing the realities of modern-day land practices. The author argues that public participation and consultation with communities can be used as a means to accurately assess the reasonableness of regulatory legislation and policies. Viljoen departs by outlining the distinction between openly accessible public property and public property that is exclusively managed by the state for specific governmental purposes. Drawing on experience related to public property in the city of Cape Town, she highlights the fact that regular private property discourse is ill-suited to uncover and explore the nature, character, as well as the rights and interests of the state as public land owner. She argues that, from a human rights perspective, public land ownership should be approached and repurposed in line with constitutional commitments expressed in relation to property.

Interrogating the justiciability of economic, social and cultural rights under the legal system of South Sudan, Valfredo argues that these rights are judicially enforceable by virtue of their inclusion in the Constitution and domestic legislation. He adds that socio-economic rights may also be legally enforced within the domestic context of South Sudan, by reliance on the relevant treaties that are automatically incorporated as part of the Bill of Rights. In addition, and subsidiary to the national system, distinct frameworks for justiciability and legal enforcement of these rights may be established at the supranational level – within the United Nations, African Union and East African Community contexts.

Drawing attention to women's participation in politics, Lihiru interrogates the gender quota system for the Zimbabwean National Assembly, and assesses its compatibility with domestic and international law norms and standards. She demonstrates that the 30 per cent quota violates domestic law (specifically section 17 of the 2013 Zimbabwean Constitution). She points out that, although women are allowed to also compete for first-past-the-post (FPTP) parliamentary seats, the number of women elected for FPTP seats has decreased. Lihiru argues that Zimbabwe should extend the proportional representation electoral system and 'Zebra' system applicable in the election of senators to the election of Members of Parliament.

This issue of the *Journal* continues the tradition of collaboration between the *Journal* and scholars working in and on aspects of human rights in Africa, to bring together articles around a particular theme in the form of a 'Special focus' section. In this issue, the 'special focus' falls on promoting access to basic education through the law in sub-Saharan Africa. This theme is all the more pertinent in 2024, a year in which the African Union chose the following as its annual theme: 'Educate an African fit for the 21st century: Building resilient education systems for increased access to inclusive, lifelong, quality, and relevant learning in Africa'. The year 2024 also marks 25 years since the entry into force of the African Charter on the Rights and Welfare of the Child. Children's rights to education are extensively provided for in article 11 of this African-centred treaty. The 'Special focus', therefore, is very timely. It contains nine contributions of a wide thematic and regional reach, preceded by an introductory editorial.

Professor Ann Skelton (UNESCO Chair: Education Law in Africa, Department of Private Law, University of Pretoria, South Africa, and also the current Chairperson of the United Nations Committee on the Rights of the Child), Dr Faranaaz Veriava (Senior Lecturer, Department of Private Law, University of Pretoria, South Africa) and Dr Perekeme Mutu (post-doctoral research fellow with the UNESCO Chair) served as editors of this special focus. The *Journal* editors gladly acknowledge the professionalism and collegiality of the three co-editors.

The editors would also, once again, wish to thank all the reviewers who devoted their time and expertise to ensuring the quality of the *Journal*.

## **Editors**

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