

Editorial

This editorial marks the end of an era: The present issue of the *Journal* is the last to be formatted and printed by JUTA, in Cape Town, South Africa. Since the inception of the *Journal* in 2001, JUTA has provided excellent service. Over the past 12 years, a strong professional collaboration has developed, resulting in the publication of 24 issues of the *Journal*. The editors would like to take this opportunity to thank JUTA and the staff, with whom we have had the privilege to work, for their support and service. As one era ends, another beckons. The main reason for the change is that the *Journal* will from 2013 on be a fully open-access publication, accessible online. In other words, the *Journal* will be freely available in full text to anyone who is interested. A limited number of copies of the *Journal* will still be printed, and printed copies will be available on demand. The *Journal* will be hosted by the Pretoria University Law Press (PULP). We trust that this change will ensure greater access and visibility, not only to the *Journal*, but also to issues pertaining to human and peoples' rights in Africa.

This editorial also appears as a major milestone in the African human rights system has been reached: It is 25 years since the African Commission on Human and Peoples' Rights first met in November 1987. In 2011, 30 years have passed since the adoption of the founding human rights instrument of the African regional system – the African Charter on Human and Peoples' Rights. While the elaboration of human rights instruments is a necessary starting point, standards alone are not sufficient. Because the role, relevance and resonance of human rights instruments to a large extent depend on their implementation, implementing (or supervisory) bodies are very important. This is also true for the African human rights system.

At its 52nd session, held in Yamoussoukro, Côte d'Ivoire, from 9 to 22 October 2012, the African Commission took stock of its achievements and challenges. A nagging issue is the negligible demonstrable impact of the Commission's work on the continent. To assist in collecting some information on this topic, the Centre for Human Rights, together with *alumni* of its LLM (Human Rights and Democratisation in Africa) programme, in 2012 conducted research in this area, leading to the publication of a report entitled *The impact of the African Charter and Women's Protocol in selected African states* (see www.pulp.up.ac.za).

In the last decade, the African Commission was complemented by the African Court on Human and Peoples' Rights. It remains a source of disappointment that the Court has heard so few cases. While one of the main reasons for the small number of cases is the failure of notorious 'violation' states to ratify the Protocol establishing the Court, the Commission could certainly have referred more cases to the Court. At the very least, the Commission should elaborate on its Rules of Procedure, to clarify the criteria applicable to the various categories of referral in Rule 118.

As we write this editorial, the Court has yet to deliver judgment in a case on the merits. This is particularly disappointing given that the Court in June 2012 heard its first case concerning its merits. The Court met subsequently in September 2012, but did not deliver its judgment. By December 2012, when it met yet again, some five months had already passed by without a judgment being handed down. This delay makes a mockery of the stipulation in the Court Protocol that the Court must render its judgment '90 days of having completed its deliberations'. Arguing that the 'deliberations' have not yet been 'completed', or are deferred from session to session, seems fanciful and based on a very formalistic interpretation of the wording of the Protocol. The Court's tardiness and disregard for its own Rules are

all the more disappointing, given expectations that the Court would deliver its first judgment soon after hearing the case, and given the relatively uncomplicated nature of the first case heard by the Court. (The case concerns the right of a person not belonging to a political party ('an independent') to run for elected office in Tanzania: *Tanganyika Law Society, the Legal and Human Rights Centre and Reverend Christopher Mtikila v Tanzania* (Applications 9/2011 and 11/2011)).

In this issue, a number of aspects of the African Union regime relevant to human rights are discussed. These include the Democracy Charter, the AU's role in the 'responsibility to protect', and the first decision of the African Committee of Experts on the Rights and Welfare of the Child. The majority of articles focus on aspects of the domestic application of human rights in The Gambia, Kenya, Nigeria, Uganda and Zambia.

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