

Editorial Éditorial

Our main theory, which in a way is a foundation on which we build our doctrine in a university environment, is based on the idea that human rights evolve in international organisations in order to protect individuals against the absolutism or omnipotence of states, which are none other than those that gave rise to them (from the point of view of legal positivism). This idea is at the heart of what we call the strange human rights loop theory.

Indeed, when we consider this theory, our thinking is set in movement and invariably ends up at the starting point, only to start again in the same direction, in a kind of ‘interlocking hierarchy’ between human rights, international organisations, individuals and states in which the dynamism of each element emanates from that of the other and feeds it permanently, thereby keeping the whole process alive. The strange human rights loop theory is also the foundation of the African Union, and is the supporting pillar of its institutional architecture;

Moreover, in my reflections on the interpretation of the African Charter on Human and Peoples’ Rights (Charter), I stated in an article during the 2020 lockdown that African regional human rights law has a dual standard, a two-headed structure with, on the one hand, the African Commission on Human and Peoples’ Rights and, on the other, the African Court on Human and Peoples’ Rights.¹ These two institutions, which complement each other, regulate by themselves the relations between states (governments) and individuals.

In another article published during the same period, I articulated the idea that the science of human rights, which is the subject of this publication, comports a veritable science of government that is of interest to sociologists. This science of government holds that there are interactions between academic knowledge and bureaucratic practices, which interactions open the way to scientific activism.²

It is in this backdrop that I consider it an honour to write the preface to this fifth issue of the *African Human Rights Yearbook* (2021). Having analysed its content, I am convinced, without any shadow of doubt, of the ubiquity of these interactions. For those who are familiar with the science of human rights, it is also part of the

¹ RN Lumbu ‘Sur la contestation de la *potestas interpretandi* de la Commission africaine des droits de l’homme et des peuples vis-à-vis de la Charte africaine des droits de l’homme et des peuples. *Potestas ordinaria* ou *potestas extraordinaria*’ (2020) 7(1) *Cahiers africains des droits de l’Homme et de la Démocratie et du Développement Durable* 44.

² RN Lumbu & JN Lumbu ‘L’influence des philosophies des lumières sur l’abolition de l’esclavage en France d’antan (XVIIIème siècle)’ (2020) 7(1) *Cahiers africains des droits de l’Homme et de la Démocratie et du Développement Durable* 89.

science of government, bridging the gap between the academic knowledge of legal scholars specialised in human rights on the one hand and, on the other hand, bureaucratic practices, in the broadest sense of the term, that is, the way human rights are practiced by judges and honorary commissioners who are in fact quasi-judges, their know-how in the contentious human rights framework regularly submitted to them under the Charter.

Of course, the best way to make the Charter a concrete, living and dynamic instrument is to interpret it literally, in a way that is simple but not simplistic. However, beyond that, the Charter should be read and interpreted not only in its letter, but also in its spirit, with a view to understand the original intention of its drafters, and this, given the lack of access to its *travaux préparatoires*, which are not accessible to the general public. Where these two organs falter, scholarly writings come to boost the system and give it the impetus to grow.

While the Commissioners and judges, in whom is vested the interpretative authority by virtue of the Charter, occasionally adopt new avenues of reading, hesitating sometimes to go further, scholarly writings come at the right time to shine the spotlight on the most obscure areas of the African regional human rights law.

It is in this context that the authors of this fifth volume reflect, in the context of both the science of government and the theory of the strange loop, on relevant themes such as the rights of children in armed conflicts, the interpretation of fundamental social rights, fair trial, human dignity, the implementation of the Kampala Convention, the role of NGOs, the death penalty and peoples' rights. This fifth volume also features various topics on arts, culture and heritage, which are the African Union theme of the year 2021. It ends with the traditional Case commentaries which, as usual, live up to their reputation for sterling intellectual rigour.

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