

EDITORIAL: Special Edition The Universal Declaration of Human Rights at 70: African Perspectives on Progress and Prospects

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Abstract

This special edition comprises selected papers on critical reflections on the 70th anniversary of the Universal Declaration of Human Rights (UDHR). The authors critique the contextual relevance of the UDHR to the implementation of human rights within selected domestic legal systems in Africa.

Keywords

Universal Declaration of Human Rights; human rights critique; Africa; human rights violations; corruption and human rights.

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Editorial

In 2018, the editor of this special edition called for submissions authored by scholars and practitioners from the Global South to develop and submit insightful scholarly pieces that reflect on contextual challenges encountered in realising the dream of universalising the aspirations contained in the Universal Declaration of Human Rights (hereafter the UDHR). This was to celebrate the 70th anniversary of the adoption of the UDHR. The contributors engaged with some of the most contentious thematic issues in socio-legal debates informed by philosophic perceptions and realities in Africa. The fundamental premise upon which the UDHR was crafted (all human beings are born free and possess inalienable rights ...) has, undoubtedly, ignited a universal clamour for human rights, evidenced by regional and national human rights instruments which regurgitate this premise. Yet, seven decades after its adoption, an avalanche of socio-economic factors in different parts of Africa account for the seemingly unbridgeable distance between the aspirations enshrined in the UDHR and the experience in African societies. Put simply, the realisation of these ideals has stalled in Africa.

African cannot afford to ignore the UDHR. Not only is the UDHR the gold standard for the protection of human rights;¹ it is currently part of customary international law.² African states greatly admire the UDHR. For instance, President Nelson Mandela was so inspired by the UDHR that he signed the acclaimed South African Constitution on an anniversary of the UDHR.³ However, as Africa takes her place in the large family of nations, it is important for African scholars to critically assess the continent's position in relation to the UDHR. Why does the human rights situation continue to deteriorate in Africa, more than 70 years after the adoption of the UDHR?

In this special edition, three distinct articles penned by legal scholars address African perspectives on the progress, prospects and challenges on the implementation of the ideals of the UDHR. The authors assess the position and relevance of the UDHR, in conjunction with the rest of the International Bill of Rights, to the human rights situation in Africa. In the first

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¹ Roberts *The Contentious History of the International Bill of Rights* 1.

² Jayawickrama *The Judicial Application of Human Rights Law* 6.

³ For critical acclaims of the South African Constitution, see Jones *Constitutional Idolatry and Democracy* 9; Ackerman *Human Dignity* 15.

article, Agbor identifies and explores unresolved contentious issues surrounding the adoption of the UDHR. He focuses on the meaning of human rights, which have been unfortunately conflated with international human rights, and interrogates the perception of human rights as a Western innovation and a by-product of Western civilisation. In this regard, Agbor questions the bias and inconsistency in the application of human rights, which he argues depends on the mistrust and misgivings of Africans about human rights. After interrogating these issues, Agbor briefly discusses one of the factors which has taken hostage of human rights progress in Africa; namely, corruption with the complicity of the West.

In the second article, Dube critiques the conception of the South African Bill of Rights and its appropriation by the international human rights movement. He argues that contrary to the claims of the international human rights movement and its attempt to take credit for the adoption of the Bill of Rights, the South African Bill of Rights was neither adopted nor borrowed from the West. Dube traces the conception of the South African human rights movement, which also took the form of a liberation movement – the African National Congress - to show that Africans in South Africa conceived the first Bill of Rights in 1923, slightly more than a decade after the formation of the liberation movement. Dube debunks the appropriation of the South African Bill of Rights by the international human rights movement and submits that the failure of the post-apartheid government to deliver on some of the most important promises of the Bill of Rights should not be used to treat the Bill of Rights as no more than a neo-liberal instrument which is irrelevant to the needs of South Africans and the realities of their circumstances.

In the third article, Kajiru and Nyimbi demonstrate that despite the promises of the UDHR and several African instruments on the protection of human rights, some African beliefs hinder the progress of human rights on the continent. The authors focus on Tanzania to illustrate how archaic myths, superstition and harmful cultural beliefs against persons with albinism stall the protection of the vulnerable group from discrimination, torture and unlawful killings. The authors explore how Tanzanian law, in the context of the UDHR, other international instruments, and African instruments, could be harnessed to afford greater protection to persons living with albinism.

Current socio-legal discourse on the continent, as well as incidents in different parts of the globe, evoke critical debates that illuminate one's perspectives on deeper and unresolved controversies. The murder of George Floyd, an African-American, by a police officer in 2020, comes into mind. Mr Floyd died in police custody when a police officer pressed his knee against his neck for over eight minutes while other police officers stood by and watched. The murder challenged America's global standing as a

beacon of human rights and freedom, and ignited Black Lives Matter, a movement against gross violations of the rights of African-Americans in the West.

Across Europe, the conversation against the violation of Africans has never been more brutal. Slavery, the slave trade and colonialism dominate the discourse. In Africa, scholars of all disciplines seek to discredit, discount and reject Western institutions, cultures and values through the movements on decolonisation and Africanisation. The discourse shows that Africans are seeking ways to regain their identity, restore their values, and reconstruct their communities in uniquely African ways. Importantly, the scholars are altering the intellectual landscape by vying for a decolonised curriculum.

It is difficult to peep into the future and to speak with certitude about the outcomes of these movements, what they may achieve and when they can do so. Notwithstanding, it is certain that the education that Africans seek will not only empower and expand their minds; it will liberate them from the yoke of the past when the truth is told to everyone and spoken at every occasion. The truth shall be about an Africa that is based on universal values such as gender equality, tolerance, forgiveness, *ubuntu* and shared responsibility which accommodates everyone, irrespective of their race, age, colour, social background, economic class, religious beliefs or sexual orientation. We are hopeful that this dream will definitely come true, even if it does not happen during our lifetime. We are honoured in playing our role (which we do see as a noble duty) in this progressive intellectual movement, which, ultimately, shall empower, enlighten and liberate the minds of Africans, for the benefit of Africans.

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