Book reviews

HUMAN RIGHTS LAW IN AFRICA 1996

Christof Heyns (editor)
Kluwer Law International, The Hague & Cambridge MA (1996); pp ix & 421; US$147.50 or £91.95

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The two books under review are respectively volumes 1 and 2 of Kluwer Law International's *Human rights law in Africa* series. The aims of the series appear from the editor's introduction to the first volume (at viii). In the main they are to provide a 'comprehensive — yet up to date — guide' on the 'legal position as far as human rights in particular African countries are concerned'; and with time to include 'commentary on legislation, judicial decisions and executive action in the field of human rights', together with 'some general information on the countries in question'. Judging from the volumes at hand, the project is on track.

Volume 1 consists of three parts. The first is a table entitled 'United Nations Human Rights Treaties in Africa. Situation on 1 January 1996'. The table gives an indication of the extent to which African states have committed themselves to twenty-five international human rights instruments. Part Two contains the text of the African Charter on Human and Peoples' Rights, with an indication that at the time Eritrea, Ethiopia, Morocco and South Africa were the only states that were not parties to the Charter. The third part, which forms the bulk of the work (19–421) contains human rights and related provisions from the constitutions of all African countries, even Swaziland, where the entry merely reads: 'The Swaziland Independence Order of 1968 granted independence as of 6 September 1968. The Swaziland Independence Order was repealed by King Sobhuza II by means of the Kings Proclamation of 12 April 1973. Since that date Swaziland has not had a formal, written constitution.' (354.) It can fairly be said that volume 1 has fulfilled the first aspiration of the editor and the publishers. Collecting the constitutional materials must have been a major enterprise in itself. Moreover, limiting the 'legal position' to formal constitutional provisions, kept volume 1 within manageable proportions.

Volume 2 gives admirable effect to the further intentions of the editor. (On the title page of volume 1, Christof Heyns, Hatem Ben Salem and Umozurike Oji are indicated as ‘Series Editors'; no reference is made to ‘series editors' in volume 2.) Part One again consists of the chart of ratifications of United Nations human rights instruments by African countries. Part Two is now called 'Human rights instruments of the Organization of African Unity', and covers more than 100 pages (5–116). There is a chart of ratifications of three OAU human rights treaties (namely, the African Charter itself — by this time South Africa has become a state party); the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the African Charter on the Rights and Welfare of the Child. (In a contribution entitled 'An overview of international human rights protection in Africa' (1999) 15 *South African Journal on Human Rights* 341–445, Heyns and Viljoen have added a fourth instrument, namely the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights. The chart of ratifications is followed by Egypt, Zambia and South Africa's reservations in respect of the African Charter (at 10); the Rules of Procedure of the African Commission on Human and Peoples' Rights (11–25); the Five Year Plan of Action 1996–2001 adopted by the African Commission in Mauritius during 1996 (26–33); the text of the OAU Convention governing the Specific Aspects of Refugee Problems in Africa (34–37); and the African Charter on the Rights and Welfare of the Child (38–46). The next 70 pages are taken up by a very instructive and useful contribution by Frans Viljoen under the title 'Review of the African Commission on Human and Peoples' Rights: 21 October 1986 to 1 January 1997'. Although neither the review nor the rest of
the book suggests that this will be a regular feature, it is assumed that future editions of
the work will continue the trend set by Viljoen. An annual survey of the work of the
Commission, annotated and documented as thoroughly as Viljoen has done, promises to
be a useful addition to the growing volume of research and publications on human rights
in Africa.

Part Three of the 1997 edition (volume 2) contains an update of the human rights law of
African countries. In line with the third objective mentioned above, the information on
every country is enriched by a section called `Basic facts' (such as date of independence,
leader, capital, size, population, languages, and economic data), and a single paragraph of
`Comments', providing a broad social, political and economic context for the country
concerned. Where significant changes to a country's human rights dispensation have
occurred, the outdated text is replaced. Where the situation is unchanged, a cross
reference to the page in volume 1 where the constitutional provisions can be found, is
provided.

The remaining objective, namely to provide `commentary on legislation, judicial
decisions and executive action in the field of human rights', starts taking effect by the `commentar-
ies' which have been added to twelve of the countries (Botswana, Cameroon, Ghana,
Kenya, Lesotho, Mauritius, Namibia, South Africa, Tanzania, Uganda, Zambia and
Zimbabwe). If this feature can be extended to all the countries in the work, a further
valuable dimension would be added to the project. It is clear that the country `correspon-
dents' have been provided with a set of guidelines: by and large the commentaries follow
the same format and contain information covering, amongst others, institutions offering
legal education, the legal tradition of the country concerned, a constitutional and political
chronology, important human rights judgments, the status of international law in the
particular system, government institutions dealing with human rights, and particulars
about NGOs active in the country under discussion. Perhaps more useful than the
commentaries are the bibliographies which most of the correspondents have added
(incidentally, in the case of Namibia the commentator failed to refer to a notable work on
fundamental rights in Namibia, namely Gino J Naldi's Constitutional rights in Namibia: a
comparative analysis with international human rights (1995)). Apart from indicating the extent
of intellectual reflection on human rights in Africa, the references add depth and value to
a work which by its very nature must for the time being remain rather wide and general in
its scope. In this, to my mind, lies the main merit of the work. It is a primary and broad-
based resource on human rights in Africa. Equally important, it would appear to be a
sustainable resource, supported as it is by a reliable and credible infrastructure in the form
of the Centre for Human Rights at the University of Pretoria, and an established pub-
lisher.

At this stage encouragement is more appropriate than criticism. The project is still in its
infancy, and it should be allowed to develop. Under the best of circumstances managing a
sizeable, and in this case increasing, number of collaborators can easily turn into an
editor's nightmare — especially if a continent as vast as Africa is to be covered. The
future of the project under discussion is premised on the availability of reliable and
knowledgeable correspondents with a sense for deadlines. That the project got off to a
good start is in itself a compliment to the editor and the publishers. It would be useful if
the work could reach a stage soon where the events and developments of a particular year
are published early the next year.

One concern about the series is its availability to those who should first and foremost
benefit from its existence, namely the `judges, legislatures, law reform commissions,
diplomats and scholars' (the last-mentioned presumably including `students') (vol 1 at viii)
to whom it is addressed. Many, if not most, of these find themselves in countries where
proper legal collections are a luxury. At US$147.50 or £91.95 for volume 1 and
US$135.00 or £79.00 for volume 2, this series may well be priced out of the African
market. Nothing would make me happier than to be wrong on this score, or to learn that
the publishers donate a substantial number of the works to needy institutions. This series
deserves to enjoy the widest possible use in order to make its full contribution to the
emerging transformation of the African constitutional and political landscape. The editor
and publisher are urged to produce the next volume, and the next ... and African scholars
are called upon to heed the editor's call to offer their services as correspondents for this indispensable venture.

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