Celebrating Nelson Mandela’s Leadership

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It was expected on Mandela’s birth day, 18 July (2014), which was declared "International Mandela Day” by the United Nations (UN) General Assembly Resolution A/RES/64/13. This Resolution was adopted in 10 November 2009 to pay tribute to Nelson Rolihlahla Mandela in recognition of his outstanding contribution to democracy, peace and freedom in the world. Like his "Long Road to Freedom” (Mandela 1994), this was a historic resolution as no other human being had ever received such an honour from the UN since its establishment after World War II in 1945. According to the stirring tribute that UN Secretary General Ban Ki-Moon paid to him after his death in December 2013:

Mandela was more than one of the greatest leaders of our times. He was one of the greatest teachers. And he taught by example...
This grandest of all baobab trees left deep roots that reach across the planet...
Mr Mandela devoted his life to the service of his people and humanity, and he did so at great personal sacrifice...

He sacrificed so much and was willing to give up for freedom and equality, democracy and justice. No man did more in our time for the values and aspirations of the UN (Mangu 2014: 37).

Echoing Ban Ki-Moon, Abdou Diouf, Secretary-General of the International Organisation of La Francophonie (OIF) also agreed that Nelson Mandela was “the greatest man of the contemporary world” (Mangu 2014: 40) while Barack Obama held that Madiba was

The last great liberator of the 20th century...
one of the most influential, courageous and profoundly good human beings...on this Earth...
He achieved more than could be expected of any man... (Mangu 2014: 54-55).
Coming out shortly after Mandela Day, the second issue of this Journal is therefore dedicated to Nelson Mandela. The Institute for Democracy, Governance, Peace and Development in Africa (IDGA) thereby intends to celebrate in its own way a real gem of a political leader who entered history as a “divine-human being” and a “secular saint”, to coin words from Professor Tukumbi Lumumba –Kasongo, not only because his profound and collective leadership transcended the ideological and political webs of state, cultural, local, national, regional and continental borders in the way he responded to social injustices associated with the desiderata of the former apartheid regime in South Africa and other world systems and their contradictions (Lumumba-Kasongo 2014: X),

but also and mostly because

Africa – and certainly the entire world – needs a new leadership with a unitary political vision, a sound comprehension of the contemporary world, love of freedom, solid intellectual and political capacities of negotiation and good management of human and social issues, compassion, tolerance, humility and principles that inspire other people. These are also the qualities of Nelson Mandela’s leadership. (Lumumba-Kasongo 2014: IX).

Perhaps more than anything else, the major challenge confronting human societies in general and African societies in particular is lack of leadership that can take them forward on the road to democracy and good governance which are a sine qua non for development and peace. Such a leadership should emanate from women and men with a clear vision of where they want to take their societies, from intellectuals able to generate ideas, be they knowledge producers like academics or opinion-makers like journalists, unionists, religious or business people. However, genuine leadership is also collective and integrative leadership that is keen to champion the interests of the people without which there cannot be leaders or leadership at all.

Since all the papers published in this second issue of the journal revolve around leadership that is cruelly lacking in our societies but which Nelson Mandela embodied, it is quiet fitting that it starts with an article on the man whom former British Minister Peter Hain referred to as “the icon of all the icons” and whose exemplary leadership will and should inspire the current generations and several others to come.

In his article entitled “Nelson Mandela, the re-enchantment of politics”, Abbé (Father) Bertin Beya Malengu reflects on the importance of forgiveness in politics, issues, challenges and prospects. More and more people tend to dislike politics considered as a dirty business characterised by lies, thefts, violence, corruption, plots, and affairs. Bertin Beya demonstrates with some philosophical ease how Nelson Mandela managed to contribute to the “re-enchantment of politics” through forgiveness he transformed into a value instead of revenge and hatred that usually govern politics. Therefore, as Madiba proved during his political life, politics and virtue are not mutually exclusive.
Mandela made another contribution to modern constitutional law with the Truth and Reconciliation Commission which was established by the South African Constitution. “Forgiveness” that he introduced in politics was inspired by the African philosophy of “ubuntu”. Bertin Beya Malengu’s article is a call for the moralisation of politics as Madiba did it despite Barack Obama’s prophecy that “we will never see again among us somebody like Nelson Mandela”. In his words, he set “an example that all humanity should aspire to, whether in the lives of nations or in our own personal lives” (Mangu 2014: 55). If we cannot match his leadership, we should at least strive to approach the model and follow his example.

Anyway, as Mandela demonstrated when he retired from politics after his first term of office, leadership is subject to norms, whether legal or moral. In a democratic and constitutional state, a leader is not a Leviathan.

He is subject to the rules; especially those entrenched in the Constitution, which is the supreme law in almost all countries in our contemporary world. Even a head of state who is expected to exercise political leadership is subject to the law. He or she is politically and also criminally responsible for any criminal act committed in the exercise of his or her functions and such criminal responsibility should be effective and not only a purely theoretical one.

Ambroise Kamukuny Mukanay and Félicien Kalala Mupingani, Professor and Assistant at the Faculty of Law at the University of Kinshasa, DRC, examine the 2006 Constitution of the DRC on the issue of the criminal responsibility of the Head of State and strive to answer the question whether it is a fictitious constitutional fabric or can be made effective. This is a particularly important question in African law given the deep gap that generally exists between what is prescribed by the constitutional norms that provide for the rule of law and political practice which is characterised by constant disrespect for the same norms. The result is a "constitutional disorder" that is nurtured by some constitutional lawyers who were yet expected to contribute to the consolidation of the constitutional order and bring the "disorder" to an end.

The “disorder of the discourse” of constitutional law has never been as much worrying as nowadays when some African heads of state intend to amend or change the constitutions of their countries in order for them to remain in power beyond the constitutional terms. As under the military or one party regime, some studies have been commissioned and some constitutional scholars advocating a “constitutional law of the belly” have been requisitioned to clean the “dishes” and are already busy at work. In the DRC, for instance, people have been taught that “to amend the Constitution (including its intangibles provisions prohibiting a presidential third term), is also to respect it” as if “to rape his own mother (the Constitution is the mother of all our laws) would be tantamount to proving his maternal love”. It is therefore not surprising that criminal law and criminal lawyers have found themselves duty bound to intervene and end with what appears to be a betrayal or a resignation of a number of African constitutional lawyers.
Pierre Akele Adau undertakes to provide some "criminal law responses to the discourse of disorder or to the disorder of the constitutional law discourse in the DRC" after the ruling coalition encouraged by its "constitutional lawyers" has made it clear that it would amend the entrenched provisions of the 2006 Constitution or replace it with a new one that would allow the incumbent president to remain in power beyond his second and final constitutional term expected to end in 2016 according to the current constitution. These criminal law responses are constitutional and also challenge the newly appointed members of the Constitutional Court as many people wonder whether they will be able to discharge their duty to uphold the Constitution and protect human rights independently, without fear or favour to the President and the ruling coalition that appointed them.

On the other hand, there is no leadership without respect for individual and collective rights which are protected by national and international instruments, including the African Charter for Human and Peoples’ Rights, which is the principal human rights instrument at the regional level.

Furthermore, while refugees and asylum seekers are already protected by international instruments such as the 1951 UN Convention and its Protocol of 1967 or by the OAU Convention governing the specific aspects of refugees problems in Africa despite their poor implementation, there is a category of persons who resemble them and yet are not sufficiently protected, namely the environmentally displaced people, especially those who cross the national borders. Their number dramatically increased over the past years with the increasing number of natural disasters. It is even set to increase further as a result of climate change.

As any human beings or group of people, the environmentally displaced persons deserve to be protected. Dr Gérard Aivo inquiries into their fate in his article dealing with “The issue of the legal regime of environmentally displaced people”.

Collective rights are also examined in Dr Junior Kabange Nkongolo’s article on “Improving the mineral governance through a fundamental rights approach to community participation: the Africa Charter on Human and peoples’ Rights as a legal basis”. The author deals with the rights of local communities in African countries which are well-endowed with natural resources. The members of these local communities still fail to enjoy these resources because of their marginalisation or exclusion in the governance of these resources in flagrant violation of the relevant provisions of the African Charter that enshrine the right of the people to enjoy their natural resources. According to Dr Kabange Nkongolo, community participation in the management of natural resources is indispensable for sustainable development and such participation can be made more effective through a fundamental- rights based approach. Local communities affected by a mineral project should be involved in order to safeguard their rights and legitimate interests. Community participation would lead to more transparency and responsibility in the governance of mineral resources.
It would also contribute to the reduction of conflicts and therefore to social peace and socio-economic development. However, it requires that the members of local communities be informed about their rights in order to champion them before competent institutions such as the African Commission and Court of Human and Peoples’ Rights. African states should ratify the African Charter and its Protocol establishing an African Court on Human and Peoples’ Rights while making the declaration required for them to enjoy *locus standi* before this Court. The marginalisation or exclusion of these local communities constitutes a violation of their fundamental rights. It also has dire consequences on the well-being of the population and the national economy.

Since the 1990s, the economic and financial situation of the DRC has been characterised by the fall of national production, the reduction of public revenues and the high levels of inflation. The national currency – Zaire as it was then known before its replacement of the Congolese Franc since 1997 – lost much of its value and sovereignty to several foreign currencies, especially the US dollar. This situation is expressed by the concept of “dollarization”, which had positive but mainly negative consequences on the economy of the country. More than two decades later, in their reconstruction efforts, the governmental authorities and those of the Reserve Bank have come to realize that it is urgent to bring “dollarisation” to an end or enter into a new era of “de-dollarisation” of the economy.

Emile Muadimanga Ilunga holds an MBA from the Belgian University of Liege and is a consultant in banking, finance and business management in Kinshasa, DRC. His article reflects on this issue as it deals with “De-dollarisation of the economy of the Democratic Republic of Congo: issues, challenges and prospects”.

The last article of this issue of the Journal dedicated to Nelson Mandela is entitled “Assessing Peace Journalism on Kenya Television Network’s Diaspora Voice in the 2013 Elections” and examines the contribution of the media to relatively peaceful elections that were held in 2013 in Kenya. It is written by Fredrick Oduor Ogenga, PhD, head of the Department of Communication, Media and Journalism at Rondo University College in Kenya. It has been said that the media are like the “Aesop tongue”, the worst and the best of things. It can help build a nation but also destroy it. It can contribute to war or peace. It can divide or unite people, especially in multi-ethnic countries where conflicts between communities are recurrent and tend to escalate during elections as generally in Kenya and other African countries facing similar problems. The Kenyan elections of 2007 were marred with unprecedented violence that left several thousand people dead or injured. On the eve of the 2013 elections, a new style of journalism known as "peace journalism" was experienced to prevent the repetition of these acts of violence. Kenya Television Network became the platform for this new journalism through its “Voice of Diaspora” programme that aired messages calling for peace during and after elections.
Dr Ogenga resorts to the political economy of the media in Kenya to assess this “peace journalism” that dodged the question of electoral irregularities to promote the interest of peace and capital. He argues that, unfortunately, this journalism did a disservice to the media as the "fourth power" since it paved the way for politicians it intended to serve to turn away from it by enacting legislation and other measures aimed at undermining its independence.

Through the Truth and Reconciliation Commission established in post-apartheid South Africa in order to reconcile the people of this “rainbow nation”, Nelson Mandela and his comrades had realised that true reconciliation among people was only possible after they had told one another the truth and committed to stop fighting. Kenyan "peace journalists" unfortunately failed to draw their inspiration from Madiba by not realising that uncritical journalism that covered electoral irregularities just to promote peace was ephemeral. It only became propaganda that prevented the media from playing their role as an independent actor in building a society everybody is happy to live in.

However, we can only claim Nelson Mandela’s legacy and boost about being of his generation only if we succeed in moving beyond incantatory formulas of tributes and slogans calling for his immortality to cherish the ideal and values he fought for, commit to building a better and more human and brotherly world and if we could make every day of our lives a "Mandela Day", that is a day for service and sacrifice for the well-being of all our fellow human beings, without any discrimination, and for humanity as a whole.

References


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