

Chapter One

Introduction

1.1 Background to the Study

“A United and Strong Africa” stands as the Motto of the African Union. The African Union which was formally known as the Organisation of African Unity (OAU) is a continental body consisting of 55 member states located on the continent of Africa. The advent of the African Union can be described as an event of great magnitude. The AU was announced in the Sirte Declaration in Sirte, Libya, on the 9th of September 1999, calling for the establishment of the African Union. The bloc was founded on the 26th of May 2001 in Addis Ababa, Ethiopia, and launched on the 9th of July 2002 in Durban, South Africa¹. Before the establishment of the African Union (AU) the Organisation of African Unity (OAU) was the continental body of Africa. OAU was postcolonial Africa’s first continent-wide association of independent states. OAU was an intergovernmental organization established on the 25th of May 1963 in Addis Ababa, Ethiopia, with 32 signatory governments, it became operational on the 13th of September 1963, when the OAU Charter, its basic constitutional document, entered into force. It was disbanded on the 9th of July 2002 by its last chairman, South African President Thabo Mbeki, and replaced by the African Union (AU)². Overall, the failures of the OAU outweighed its successes.

The OAU had a mixed record. Its greatest success was in relation to decolonization, other achievements included making significant contributions to the development of international law, especially in the fields of refugee law and human rights law, where several important treaties were adopted under OAU auspices, although in practice, progress was slow and uneven. Arguably, its major failing was its inability to bring peace, prosperity, security, and stability to Africa. The OAU was found wanting in its responses to the tyrannies and

kleptocracies ruining Africa, which was a deficiency that undermined its credibility. The OAU was also considered incapable of meeting the challenges of globalization³. The absence of an armed force like that of the United Nations left the organization with no means to enforce its decision. It was also not willing to become involved in the internal affairs of member nations prompting some critics to claim the OAU as a forum for rhetoric, not action. Recognizing this, the OAU in September 1999 issued the Sirte Declaration, calling for a new body to take its place. On the 9th of July 2002, this happened with the creation of the African Union. The African Union continues to this day to uphold many of the founding principles of the OAU⁴. Some of the key aims of the OAU were to encourage political and economic integration among member states, and to eradicate colonialism and neo-colonialism from the African continent.

The inauguration of the AU was hailed as a positive opportunity to firmly establish human rights on the African agenda. In the following ways, the AU's Constitutive Act, which was enacted in 2000, indicates a significant departure from the OAU Charter:

1. The shift from non-interference to non-indifference, including the right of the AU to intervene in its member state's affairs,
2. Explicit recognition of human rights,
3. Promotion of social, economic and cultural development,
4. An approach based on human-centred development, and
5. Gender equality⁵.

The African Union has over a billion people and a landmass of around 29 million km² and includes popular world landmarks, such as the Sahara Desert, Mount Kilimanjaro and the Nile River, the largest city in the AU is Lagos, Nigeria, while the largest agglomeration is Cairo Egypt. The primary working languages are English, French, Arabic, Portuguese,

Spanish, and Kiswahili. The African Union is made up of both political and administrative bodies. The highest decision-making organ is the Assembly of the African Union, made up of all the heads of state or government of member states of the AU. The Assembly is chaired by Félix Tshisekedi, President of the Democratic Republic of the Congo. The AU's secretariat, the African Union Commission, is based in Addis Ababa. The AU also has a representative body, the Pan-African Parliament, which consists of 265 members elected by the national legislatures of the AU member states. Its president is Roger Nkodo Dang. Other political institutions of the AU include: The Executive council, made up of foreign ministers, which prepares decisions for the Assembly; The Permanent Representatives Committee, made up of the ambassadors to Addis Ababa of AU member states; and The Economic, Social, and Cultural Council (ECOSOCC), a civil society consultative body.

This study focuses on the Human Rights framework established by the African Union and how effective it has been to the continent in promoting and defending Human Rights principles across member states.

1.2 Statement of the Problem

More than any other time in the history of the African Union, the past five years has witnessed discord and division between the commission on Human and peoples' Rights and the states that comprise the AU. The African Union has been critiqued about poor governance, implementation problems and rising security issues. It seems too, that citizens of member states lack trust in the continental body.

Economic development remains the AU's weakest area. The New Partnership for Africa's Development was supposed to develop a home-grown policy framework for sustainable economic development. Its goals include eradicating poverty, promoting growth and

integrating Africa into the world economy. The AU's inability to implement its economic development framework remains an obstacle to achieving its goals.

The African Union has had a shaky two decades burdened with intertwined problems of governance, external dependence and poor capacity. The continent has had a major history of unconstitutional changes of government in various countries. The AU is facing funding challenges; the African Union remains heavily dependent on external funding for its operation.

This study is addressing the extent to which the African union has been effective in its efforts to maintain Human rights and its principles across its member states and the measures put in place to ensure that these principles are being met.

1.3 Aim and Objectives of the Study

The aim of this research is to study the African Union's Human Rights Framework and its effectiveness to continental equality. The objectives are to:

1. assess the achievement the AU has actualized since its reform from OAU.
2. study the policy change from the OAU's policy of Non-interference to that of AU's policy of non-indifference.
3. identify the roles of regional economic communities and non-state actors on Human rights in African.
4. identify the effectiveness of the African Commission on Human and Peoples Rights (ACHPR) and other African union specialized bodies on the promotion and protection of Human rights.

1.4 Research Questions

1. What are the African unions achievements since the reform from OAU to the AU?
2. How has the policy change from the OAU's policy of Non-interference to that of AU's policy of non-indifference contributed to Human Rights development in Africa?
3. What are the roles of regional economic communities and non-state actors on the Human rights of the African?
4. How effective is the African Commission on Human and Peoples Rights (ACHPR) and other African union specialized bodies on the promotion and protection of Human rights?

1.5 Significance of the Study

This research would enlighten its readers on the AU and its means of promoting and protecting Human rights and its combat against Human rights violations. It would also attempt to express the effectiveness of the AU on continental equality. This research would also benefit academics specializing in Human rights, it would also provide contributions and suggestions to advise government at state level and also for the continental body to adopt.

The research would shine light on the African union's works and efforts towards Human rights promotion and protection. It would make some reliable recommendations and way forward for the African union and African leaders, and would also highlight and create awareness on the protocols, policies and measures put in place by the African Human rights bodies for the promotion and protection of Human rights, and would not shy away from criticisms to the African union.

1.6 Scope of the Study

The focus of this study is on the Human Rights framework established by the African Union and how effective it has been to the continent in promoting and defending Human Rights principles across member states.

This study would focus on the African Union's effectiveness in fostering Continental Equality as stated in the topic of this research especially in the area of Women and children rights. This research would also enlighten its readers on the progress and success on the AU on its path to achieving continental Human rights conquest, and would also address how the AU adopted the doctrine from Non-interference to Non-indifference.

1.7 Limitation of the Study

Every research has its own constraints, and this study is no exception. The research's main limitation was its reliance on secondary data. Primary data from carrying out interviews or in person on the African Unions efforts toward the protection and promotion of the Human rights of all African citizen, which would have had a significant impact on the study's outcome, were not feasible.

1.8 Definitions of Terms

Human Rights: Human Rights are rights inherent to all human beings irrespective of race, sex, nationality, ethnicity, language, religion or any other status. These are rights that govern how individual human beings live in a society and with each other, as well as their relationship with the state and obligations that the state has towards them. Human Rights are standards that identify and safe guide the dignity of all human beings.

Human rights are moral precepts or standards for particular types of behaviour and are frequently safeguarded by national and international law. They are universal in the sense that they apply everywhere and at all times.

Human rights are simply the rights we have because we exist as human beings, these rights are not granted by any state. They are universal rights inherent to us all regardless of nationality, sex, national or ethnic origin, colour, religion, language, or any other status. They range from the most fundamental such as the right to life, to those that make life worth living, such as the rights to food, education, work, health, and liberty.

Human Rights Violation: Human rights violation is the disallowance of basic rights to which all humans are legally meant to have. It is the disallowance of thought and movement. Individuals can violate these rights, so also the leadership or government. The government most often belittles, marginalised the rights of individuals or group. Examples of Human rights violation are, Discrimination, Abuse of the death penalty, Police brutality, War crimes, Female genital mutilation, Child marriage and so on.

Violation of human rights means any action or inaction, which deprives an individual of any of his or her legal rights, civil rights as articulated in federal or state law.

Universal Declaration of Human Rights (UDHR): The Holocaust and other WWII atrocities prompted the creation of the Universal Declaration of Human Rights (UDHR). The document outlines the human rights that all people are entitled to such as freedom from torture, freedom of expression, and the right to seek asylum. The UDHR, commonly referred to as the international Magna Carta, extended the revolution in international law and was ushered in by the United Nations Charter on how a government should treat its own citizens, which is now a matter of legitimate international concern, and not just simply an internal issue. It also claims that all rights are interdependent and indivisible. The influence of the UDHR has been substantial. Its principles have been incorporated into the constitutions of most of the 185 nations in the UN. Although a declaration is not a legally binding document, the Universal Declaration has achieved the status of customary international law because people regard it as a common standard of attainment for all nations and people.

Endnotes

1. Y. G Chekol. *African Union Institutional Reform: Rationales, Challenges and Prospects*. **Sage Journal**, 12(1), 2020, 29-44
<https://doi.org/10.1177/0975087819899342>.
2. M. Dauda, M. Z. Ahmad, & M. F. Keling. *Analytical Appraisal of the Factors Responsible for the Metamorphosis of the Organisation of African Unity (OAU) to African Union (AU)*. **Islamic University Multidisciplinary Journal**, 7(4), 2020, 168-190 <https://d1wqtxts1xzle7.cloudfront.net/65415266/82217-libre.pdf?>
3. G. J. Naldi. *Organization of African Unity (OAU)*, Encyclopaedia.com, 2018.
<https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/international-organizations/organization-african-unity>.
4. A. Beverton. *Organisation of African Unity (1963-2002)*. *Black Past*, 2009.
<https://www.blackpast.org/global-african-history/organisation-african-unity-1963-2002/>
5. D. Mulugeta. *Pan-Africanism and the Affective Charges of the African Union Building in Addis Ababa*. **Journal of African Cultural Studies**, 33(4), 2021, 521-537. <https://doi.org/10.1080/13696815.2021.1884971>

Chapter Two

Literature Review

This chapter contains a review of literature relevant to the African Union (AU), Universal Declaration of Human Rights (UDHR), Human rights, African Commission on Human and Peoples Rights (ACHPR), African Court on Human and Peoples Rights (ACtHPR), other regional and international actors, mechanisms adopted and other relevant institutions and their effectiveness to human rights equality on the African continent, focus would be placed on various aspects such as women rights, children's rights, and minorities, among others. This study describes how the African Union has established institutional mechanisms to support its role in the prevention of Human rights violation, its management and resolution, particularly through the establishment of its African Commission on Human and Peoples' Rights.

2.1 Conceptual Review

2.1.1 African Union

The failed Organization of African Unity (OAU) has been replaced by the African Union (AU), which is an intergovernmental organization with a regional focus. The Assembly of the Heads of states and Government of the OAU implemented the constitutive Act that established the African Union in Lome, Togo, on the 11th of July 2000. In order for the OAU

Constitutive Act to take effect, it had to be ratified by two-thirds of the OAU's member nations. In May 2001, it was made a political and legal reality, and on July 10, 2002, it was formally introduced in Durban, South Africa. The new international organization, whose headquarters are in Ethiopia's capital city of Addis Ababa, is loosely modelled after the European Union (EU). The OAU was first established in 1963 with the goal of fostering unity, camaraderie, and global collaboration among newly independent African nations. The organization, however, had difficulty achieving its stated objectives of raising the standard of living for Africans. This was hampered by internal conflict and self-serving heads of state. According to some critics, the OAU protected the interests of African heads of state without speaking of the real problems that plagued the continent¹.

The African Union (AU) was first advocated as a more effective entity to boost development throughout the region by the then-dictator of Libya, Moammar Gadhafi, in 1999. It was believed that through promoting democratic values, upholding human rights, and offering a platform to address internal and regional conflict, the new AU would have the power and capability to accomplish meaningful economic and political integration among its member nations.

In the topic of human rights, the AU developed a human right focus that is more explicit than that of the OAU. The importance of human rights was not strongly recognised under the OAU charter, which only made reference to UN charter and the Universal declaration of Human rights. Contrarily, the AU Act upholds the value of human rights through the adoption of guiding principles like gender equality, the inclusion of African peoples in Union activities, social justice, and peaceful coexistence of its member states, as well as respect for democratic ideals, human rights, the rule of law, and good governance. Therefore, the AU has taken on an institutional responsibility to ensure the effectiveness of human rights throughout

the African continent, in addition to the individual commitment of member states to safeguard and guarantee human rights within their jurisdiction¹.

The objectives of the AU are as follows:

1. To achieve greater unity, cohesion and solidarity between the African countries and African nations.
2. To defend the sovereignty, territorial integrity and independence of its Member States.
3. To accelerate the political and social-economic integration of the continent.
4. To promote and defend African common positions on issues of interest to the continent and its peoples.
5. To encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights.
6. To promote peace, security, and stability on the continent.
7. To promote democratic principles and institutions, popular participation and good governance.
8. To promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.
9. To establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations.
10. To promote sustainable development at the economic, social and cultural levels as well as the integration of African economies.
11. To promote co-operation in all fields of human activity to raise the living standards of African peoples.
12. To coordinate and harmonise the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union.

13. To advance the development of the continent by promoting research in all fields, in particular in science and technology.
14. To work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent².

2.1.2 Human Rights

Human rights are values, principles, or standards for particular norms of behaviour, and they are safeguarded by both domestic and international law. They are typically considered as absolute, fundamental rights that are "essential to all human being", regardless of age, ethnic origin, geography, language, religion, ethnicity, or any other status. They are universal in the sense that they apply everywhere and at all times, and they are egalitarian in the sense that they apply equally to everyone. Since they are viewed as requiring compassion, upholding the law, and placing a responsibility on individuals to respect the human rights of others, it is generally agreed that they should not be taken away until certain circumstances are met and due process is followed³. All living persons, or indeed all living things, have the claim to human rights. Human rights can be enjoyed by anybody, regardless of who they are or what country or religion they belong to. Included in the indication of universality is some conception of independent existence. People have rights regardless of whether those rights are recognized by their country or culture's laws, morals, or traditions. This idea of universality needs several qualifications, however. First, some rights, such as the right to vote, are held only by adult citizens or residents and apply only to voting in one's own country. Second, the human right to freedom of movement may be taken away temporarily from a person who is convicted of committing a serious crime. Third, some human rights treaties

focus on the rights of vulnerable groups such as minorities, women, indigenous peoples, and children⁴.

A right is an entitlement that an individual has that lets such individual act in a certain way, or that lets the individual demand certain treatment from the government, or that prevents others from acting towards the individual in a certain way. A right affect what you are able to do, and what other people can do to you. If rights are respected and enforced, they help build a society in which people can live safely and freely. It is imperative to note that every right creates a duty⁵.

Duty-bearers are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals such as parents, local organizations, private companies, aid donors and international institutions can also be duty-bearers⁶.

How can Human Rights Exist?

Human rights coming into existence is as a norm of national and international law which are created by enactment, custom, and judicial decisions. At the international level, human rights norms exist as a result to the creation of treaties that have been turned into international law. For example, human right is not held in slavery or servitude in Article 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the Article 8 of the International Covenant on Civil and Political Rights (UN 1966), human rights exists because these treaties establish it. Human rights standards are recognized at the national level as a result of legislative action, judicial rulings, or custom that is codified into

national law. For instance, the 13th Amendment to the U.S. Constitution forbids slavery and servitude, hence the right against slavery is recognized in the United States. Rights are referred to as human rights when they are enshrined in international law, but are more usually referred to as civil or constitutional rights when they are implemented into state law⁷.

Undoubtedly, one method that human rights exist is through the enactment of national and international legislation. Many people, however, have asserted that there are other options. If human rights exist only because of enactment, their availability is contingent on domestic and international political developments. Many people have looked for a way to support the idea that human rights have roots that are deeper and less subject to human decisions than legal enactment. One of the varying versions of this idea is that people are born with rights, rights that are in some way innate or inherent to all human beings. One way that a normative status could be inherent in humans is by being God-given. The U.S. Declaration of Independence (1776) claims that people are “endowed by their Creator” with natural rights to life, liberty, and the pursuit of happiness. On this view, God, the supreme lawmaker, enacted some basic human rights⁸.

The Catholic tradition teaches that human dignity can be protected and a healthy community can be achieved only if human rights are protected and responsibilities are met. Therefore, every person has a fundamental right to life and a right to those things required for human decency. Corresponding to these rights are duties and responsibilities to one another, to families, and to the larger society⁹.

Ascribing human rights to God's laws may grant them a secure status on a metaphysical level, but in a society with such a wide range of cultures, it does not grant them a real sense of security. There are many billions of individuals who reject the God of Judaism, Islam, and Christianity. If you want to establish human rights on theological views, you must persuade

individuals who do not believe in God or in the kind of god who prescribes rights that you believe in. It can be more difficult to convince people of this than human rights. For practical reasons, a much more secure status is provided through legal enactment at the national and international levels.

Human rights could also exist independently of legal enactment by being part of actual human moralities. All human groups seem to have moralities in the sense of imperative norms of interpersonal behaviour backed by reasons and values. These moralities contain specific norms (for example, a prohibition of the intentional murder of an innocent person) and specific values (for example, valuing human life.) If almost all human groups have moralities containing norms prohibiting murder, these norms could partially constitute the human right to life.

Although appealing, the idea that human rights are universal moral standards faces significant obstacles. Although the acceptability of human rights has grown quickly around the globe in recent decades, there is still no global moral consensus on the subject. Human rights declarations and treaties aim to alter social norms rather than merely enumerating them.

Human rights can also be explained by stating that they are most prevalent in authentic or legitimate ethical outlooks. Accordingly, asserting that there is a human right against torture primarily means that there are good grounds for thinking that torturing people is ethically wrong in every situation and that safeguards should be put in place to prevent it. According to this perspective, the Universal Declaration is an effort to create a morally justifiable political system for the entire world. It was not just seeking to find an existing moral consensus; rather, it was aiming to construct one that could be justified by extremely tenable moral and pragmatic considerations. This strategy needs dedication to the objectivity of such justifications. It holds that just as there are reliable ways of finding out how the physical

world works, or what makes buildings sturdy and durable, there are ways of finding out what individuals may justifiably demand of each other and of governments. One problem with this view is that existence as good reasons seem like a rather thin form of existence for human rights. But perhaps we can view this thinness as practical rather than a theoretical problem, as something to be remedied by the formulation and enactment of legal norms. The best form of existence for human rights would combine robust legal existence with the sort of moral existence that comes from widespread acceptance based on strong moral and practical reasons¹⁰.

2.1.3 The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a breakthrough document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, it is a set out for the very first time fundamental human rights to be universally protected. The Declaration was adopted by the UN General Assembly in Paris on the 10th of December 1948 during its 183rd plenary meeting⁸.

The universal declaration of human rights is one of the most translated documents in the world, which has been translated into hundreds of languages and dialects from Abkhaz to Zulu, the UDHR set a world record in 1999 for being the most translated document in the world.

History of the African Human Rights System

The protection of fundamental freedoms and human rights has not always been regarded as a top priority in Africa. During the colonial era, colonial occupiers frequently used humanitarian, moralistic, and religious justifications for their occupations, but it is now

widely acknowledged that colonialism was largely motivated by economic exploitation of the regions under the control of the various colonial powers. Their system had no time for the acknowledgment and defence of human rights since doing so would undermine or endanger its principal economic goal, which was the economic exploitation of the colonies. The emphasis during the formation of the Organization of African Union was on the states rather than the individual. Because of this, the OAU's main goals have been to maintain the sovereignty and territorial integrity of its member states while also defending Africa from colonial oppression¹¹.

The African Charter on Human and Peoples Rights, often known as the Banjul Charter, was adopted by the OAU, marking a turning point in the organization's approach to human rights. However, as stated in article 2/1/e of the OAU charter, one of the OAU's goals is "to promote international cooperation, having regard to the Charter of the United Nations and the Universal Declaration of Human Rights". We can therefore argue that the OAU Charter attempts to address the question of human rights by making reference to international human right treaties, even though it is insufficient¹¹.

The Organization of African Unity (OAU), was abolished when the AU was founded in 2002. Regarding the advancement of human rights, the AU Constitutive Act is viewed as marking a substantial divergence from the 1963 OAU Charter. It has made a clear stipulation that promotion and protection of human rights will be one of the objectives of the union. The Constitutive Act of the new African Union now addresses some of the flaws in the OAU Charter as a truly normative human rights framework. The Act has placed the promotion and protection of human rights on the agenda of the regional body, states have a responsibility to uphold the rule of law, foster democratic institutions, and protect the rights of individuals and entire populations. Therefore, the AU has taken on an institutional commitment to ensure the effective guarantee of human rights in Africa generally, in addition to the individual

obligation of member states to ensure the guarantee of human rights within their jurisdiction. In July 2002, the African Commission on Human and Peoples' Rights was created by the Union to do this. The African Court of Human and Peoples' Rights was established, which was a significant step in the development of the continent's human rights framework. The establishment of a human rights court was not included in the original African Charter. The Supplementary Protocol on the African ACHPR to the Establishment of an African Court on Human and Peoples' Rights, adopted by the AU in June 1998, entered into force on January 25, 2004, and was subsequently followed by a number of declarations and conventions addressing specific areas and special categories of human rights, such as those concerning children, women, youth, and so forth¹¹.

International Human Rights Law

The adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations General Assembly on December 10 of 1948 bolstered the global human rights movement. The Declaration, which was written as "a common standard of achievement for all peoples and nations", lays out fundamental civil, political, economic, social, and cultural rights that everyone should be able to enjoy for the first time in human history. Over time, it has gained widespread acceptance as the fundamental standards for human rights that everyone should uphold. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights, form the so-called International Bill of Human Rights⁸.

Since 1945, numerous international human rights treaties and other laws have been passed, giving the body of universally recognized human rights legal status. At the regional level,

several instruments have been established that provide specific methods of protection and represent the region's unique human rights issues. Additionally, the majority of States have enacted constitutions and other laws that explicitly safeguard fundamental human rights. While customary law and international treaties make up the core of international human rights law, other instruments including declarations, guidelines, and principles enacted at the international level also play a role in the understanding, application, and advancement of this body of law. The respect for human rights requires the establishment of the rule of law at the national and international levels⁷.

International human rights law lays down obligations in which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights.

1. The obligation to respect means that States must refrain from interfering with or limiting the enjoyment of human rights,
2. The obligation to protect requires States to protect individuals and groups against human rights abuses,
3. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights¹¹.

Governments commit to enacting domestic policies and laws that are consistent with their commitments and responsibilities under international human rights treaties by ratifying those accords. Mechanisms and procedures for individual complaints or communications are available at the regional and international levels in cases where domestic legal processes are unable to address human rights violations. This can help to ensure that global human rights standards are actually upheld, put into practice, and enforced locally¹².

The bout for the protection of Human rights continues, and the leading organization in the forefront is the United Nations Organisation and lately the African Union¹³.

In the last decades, the African continent has been the stage of massive human rights abuses, including genocide, war crimes and crimes against humanity, and is still prone to various forms of intra-state violence.

The idea of African solidarity and unity was a long-held goal by intellectuals in the African diaspora and was based on the thought that Africa can only be free and a political power in the world if it is united. The OAU Charter was essentially functional and reflected a compromise. Crucially, state sovereignty was enshrined as a sacrosanct principle of inter-African affairs. As a direct result, the OAU became an ineffective collection of states, mostly led by tyrants, who refused to take any action if it involved the domestic affairs of other members. The lowest point of the OAU was probably when Idi Amin of Uganda was Chairman of the organisation, in the year 1975 to 1976 which as a result was the height of his dictatorship, a dictatorship that ended up with up to 500,000 people dead, provoking a war with Tanzania, in which Tanzania reacted by invading Uganda, the OAU denounced Tanzania's response as a breach of national sovereignty. Consequently, Tanzania was saddled with the whole bill for ridding Africa of one of its more brutal and buffoonish dictators, something which drove Tanzania further into poverty. In fact, Tanzania did not fully recover from the costs incurred by the war until Uganda reimbursed Tanzania in 2007¹⁴.

Although the OAU played a role in the liberation struggles of southern Africa, its promises were never realised, any criticisms of the OAU and which there is much to critique, has to be placed within the international environment. African independence took place at the height of the Cold War and independence was immediately constrained and rigidly placed within the context of external machinations. Both Superpowers and its allies sought to manipulate

Africa and actively supported one and other with no consideration of the developmental consequences or effect this was to have on the African people and Africa as a continent. Indeed, both the Superpowers and the ex-colonial masters vehemently disliked true African unity, and all sort to weaken the continent¹⁴.

In the late 20th century, it was clear that something had to be done. It was deemed that the “trade union of the African heads-of-state” had to be reformed. In the post-Cold War environment, Africa’s problems were now perceived in a more limited regional context and responsibility was shifted to Africans themselves. Since 1989, Africa’s international influence had been greatly reduced and its leaders decided that Africa had to be more united if it was to make its voice heard in the global economy. One related reason was that most regions of the world were forging bigger economic blocs and Africa did not want to be left behind. Equally, in the euphoria that followed South Africa’s democratic transition, a feeling of “renaissance” led to various new initiatives on the continent, most notably the replacement of the OAU with the African Union in 2002¹⁴.

In relative terms, the AU is undoubtedly a step forward in achieving unity. African governments have moved away from the rigid stance that sovereignty trumps everything and now recognize the right of the AU to intervene in member states if war crimes, genocide or crimes against humanity are occurring. The AU has become involved in peacekeeping missions in Darfur and Somalia and it has taken a hard stance against coup d’états. Today, countries where there are unconstitutional changes of government are suspended from membership. Currently there has been over 10 countries who has had their membership suspended such as Madagascar, suspended after the 2009 political crisis; Guinea-Bissau, suspended after the 2012 coup d’état; and the Central African Republic, suspended after the conflict in 2012-2013; Mali, Sudan and Guinea are still suspended after its most recent activity of coup d’état which occurred in these various countries in 2021¹⁴.

2.2 Theoretical Review

According to R.J. Vincent, "human rights are the rights that every person has by virtue of his very humanity." They are grounded in our appeal to human nature. Human Rights is a dynamic concept. It is most commonly referred to as Fundamental Rights or Natural Rights. The significance of Human Rights is derived from its name itself, rights that are necessary to protect human lives. The cost of compromising such rights would be the death of human lives. Many theories have been proposed in order to provide a solid foundation for understanding the concept of Human rights, the Theory of Natural Rights for examples states that rights are inherent to humans on their birth.

Theory of Natural Rights

As its name suggests, Natural Right are rights which are born when human life is born. Humans are the creators of nature. The existence of natural rights is inevitable, inherent and inalienable. It is a natural right of a man regardless of its gender, caste, color, or creed. This right brings into existence the most common concept in the law that all men are equal before the eyes of the law and no one can be treated unfairly in any circumstance. John Locke advocated this theory affirming that natural rights were gifted rights to humans which cannot be abolished or taken away by the State. He also believed that humans are intelligent enough to make decisions as per their conscious. Such rights can be asserted anywhere. Any oppression or discrimination faced is a direct assault on the rights of humans.

2.2.1 Human Rights Notions

Human rights have different approach and can be in seen in different lights, here are some concepts in which human rights can be perceived.

Human Rights are Indeed Rights – Human rights are rights, to state the obvious. Most, if not all, claimed human rights entail obligations or responsibilities on their recipients or duty bearers. For the right holders, rights are focused on freedom, protection, status, or benefit. The duties associated with human rights often require actions that involve respect, provision, facilitation, and protection. Some legal human rights appear to accomplish little more than identify important objectives and assign responsibility for their gradual fulfilment. While rights are often compulsory in the sense of imposing responsibilities on their addressees, some legal human rights seem to do just that. Goal-like rights can of course be argued to be untrue, but it might be preferable to acknowledge that they represent a frail but useful idea of a right. Human rights norm might exist as:

- (I) A common standard of real human morality,
- (II) A moral standard that is substantiated by solid evidence,
- (III) A national legal right that is sometimes referred to as a "civil" or "constitutional" right, or
- (IV) A legal right under international law¹⁵.

Plurality of Human Rights – If someone acknowledges the existence of human rights but maintains that there is only one of them, this may make sense if they imply that there is one overarching, abstract right that results in a list of specific rights. However, it would be a very revisionist perspective if this individual meant that there is only one particular right, such as the right to free speech. Human rights address a variety of specific problems such as guaranteeing fair trials, ending slavery, ensuring the availability of education, and preventing genocide. Some thinkers support a very limited set of human rights while acknowledging their diversity.

Universality of Human Rights – Human rights may apply to all living things or to human beings in general. There is no selection involved, one does not have to be a particular kind of person or a member of some specific nation or religion to have human rights. Included in the idea of universality is some conception of independent existence. Whether or not a person's human rights are recognized by their nation or culture's laws, morals, or customs is irrelevant. This idea of universality needs several qualifications, however. First, some rights such as the right to vote apply exclusively to adults who are citizens or residents of the country in question. Second, if someone is found guilty of a major crime, their right to freedom of movement may be temporarily revoked. Thirdly, several human rights accords emphasize the rights of marginalized populations like women, children, indigenous peoples, and minorities¹⁵.

Human Rights Have High-Priority - Violations of human rights are "a grave affront to justice" and are concerns of "paramount importance." Human rights would not be able to compete with other important factors like national stability and security, individual and national self-determination, and national and international wealth if they were not given high priority. High priority does not mean, however, that human rights are absolute. Human rights should be viewed as "resistant to trade-offs, but not too resistant". Furthermore, different human rights appear to have different priorities. For instance, the right to privacy will typically prevail when the right to life is at odds with it¹⁵.

People can disagree about which rights belong to which list of rights and even about whether universal moral rights exist, but still have the same general idea of human rights. The idea that what is right or good is merely what a specific society or ruling class believes is proper or good at any given time but this has not satisfied many individuals. This anxiety has sparked a search for universal moral principles that unite cultures and their leaders across time and space. Political philosophers debated over these topics in heated discussions. Despite the fact that successive intellectuals constructed a path leading to present human

rights, people who opposed this approach also created a second lane. Those who believed that rights could only arise from the law of a specific community and could not come from any natural or inherent source opposed the development of human rights from the natural rights tradition¹⁵.

The earliest direct ancestor of human rights might be found in the conceptions of 'natural right' created by the classical Greek philosophers, such as Aristotle, but this concept was more completely explored in a book titled *Summa Theologica*. Among others, the idea that some things or behaviours were naturally right or wicked because God had decreed them to be thus, persisted for several centuries¹⁶. Humans might determine what was naturally right by using "right reasoning" (correct thinking). In the work *De jure belli et paci*, it was developed and argued that what is naturally right and bad cannot be changed. Natural right was guaranteed to have moral power because it was created by God. New foundations for natural justice were argued for by political philosophers. In 1651, the first significant attack was launched on the divine foundation of natural rights by sketching a State of Nature in which God appeared to have no influence. However, a crucial leap from 'natural right' to 'a natural right' was made. In other words, there was no longer just a list of behaviour that was naturally right or wrong, there could be some claim or entitlement which was derived from nature. This natural right was one of self-preservation¹⁵.

Further write-ups brought more reinforcement to natural rights which was in the 17th century a reaction to previous authors' work. According to this view, the congregation of humans into a state-structured society is as a result of a rational need for protection from each other's violence that would be found in the nature of state. However, the fundamental requirements of morality requires that each person treat another according to universal principles. The political doctrine was derived from moral philosophy, and as such, a state had to be organized through the imposition of, and obedience to laws that are universally applied; nevertheless,

these laws should respect the equality, freedom, and autonomy of the citizens. In this way, it has been prescribed that basic rights were necessary for civil society in which a true system of politics cannot therefore take a single step without first paying tribute to morality. However great a sacrifice the ruling power must make, the rights of every man must be held sacred¹⁶.

However, after the publication of the book titled *Leviathan*, the divine foundation of natural right was still pursued for more than a century. In the late 17th century, a strong defence of natural rights was published with the publication of *Two Treatises on Government*, but the arguments were filled with references to what God had ordained and given to mankind. This had a lasting influence on political discourse that was reflected in both the France's Declaration of the Rights of Man and the Citizen and the American Declaration of Independence, passed in 1789 by the Republican Assembly. The French declaration proclaimed 17 rights as "the natural, inalienable and sacred rights of man"¹⁶.

Political authors in England were instantly inspired by the French Declaration of Rights and its idea of inherent rights sparked vicious criticism. The clause-by-clause critique of the Declaration, entitled *Anarchical Fallacies*, argued fervently that there can be no natural rights, since rights are created by the law of a society¹⁷.

In a scathing critique of the French Declaration's statement of natural rights, it has been contended that rights were advantages gained within each society. The rights that the English and the French held were distinct because they were the outcome of various historical political conflicts. Soon after the attacks on the French Declaration, a defence of the conception of natural rights and their connection to the rights of a particular society were written. Civil rights and natural rights were distinguished in the work "The Rights of Man", which was split into two parts and published in 1791 and 1792. Necessary connections were

drawn between these rights: The rights that come with being a human are known as natural rights, this category includes all intellectual, or mental, rights as well as any personal freedoms that an individual may exercise for his or her own comfort and enjoyment without violating the natural rights of others. Civil rights are those that relate to a person in his or her right to be a member of society. Every civil right is based on a natural right that each person already possesses, but which, in some cases, his or her individual capacity does not always make it possible for them to exercise. Of this kind are all those which relate to security and protection¹⁶.

The above passage reflects another, earlier inspiration for human rights from the social contract view of writers, who argued that those who are protected by society are willing to coexist. Indeed, the state exists to uphold those rights that people are unable to defend on their own. The social order is a sacred right that forms the foundation for other rights, but the rights in a civil society are revered. It must also be based on customs because it is not a natural right¹⁷.

Modern ideas of human rights are heavily influenced by the tradition of natural rights. Human rights are now frequently seen as deriving primarily from the character of humankind itself, which is a further extension of the tradition of natural rights. Natural rights are directly related to the belief that all people are endowed with human rights just by virtue of their existence and that these rights cannot be violated.

According to the opposing viewpoint, rights cannot be generated by human activity; they must be developed by human endeavour. Rights are seen as the outcome of a specific society and its legal framework.

In this vein, Marxist's theory also left a legacy of opposition to rights that hindered socialist thinkers from accommodating rights within their theories of society. Marxist theory

condemned rights as a fabrication of bourgeois society, in which the individual was dissociated from his or her society; rights were needed in capitalist states in order to provide protection from the state. In the Marxist's view of society, an individual is essentially a product of society and, ideally, should not be seen in an antagonistic relationship where rights are needed. However, in the late twentieth century, many socialists have come to accept certain conceptions of rights¹⁶.

The fact that human rights theories emerged from these Western political traditions poses a challenge with significant ramifications. They are not simply the result of European natural rights, but the liberalism that developed in the 19th and 20th centuries has had a significant impact on the particular rights that are seen as "natural". With human rights, the rhetorical framework of the natural rights tradition has come to serve as a vehicle for the values of Western liberalism.

Human rights cannot, in their most fundamental sense, be universal, which is a simple but effective objection. Due to the fact that these rights are Western creations and are founded on the European tradition that separates people from their societies. But it is debatable whether these rights can be implemented in communitarian or collectivist societies, which see the individual as an integral part of the society. Westerners and many other people have learned to cherish every individual human being highly, although this is not a universally held belief. On the level of protection for individuals against their society, or even the necessity for any protection at all, there is significant debate.

In addition to this problem with the concept itself, there are strong objections to the manner in which human rights have been conceptualized. Many lists of human rights read like specifications for liberal democracy. A variety of traditional societies can be found in the world that operate harmoniously, but are not based on equality let alone universal suffrage.

In order for human rights to enjoy universal legitimacy they must have a basis that survives charges in ideological imperialism. Human rights must have a universally acceptable basis in order for there to be any substantial measure of compliance¹⁶.

The African human rights system is founded on five treaties of the African Union, namely;

- a) The African Charter on Human and Peoples' Rights;
- b) The Protocol on the Rights of Women in Africa;
- c) The Convention on Specific Aspects of the Refugee Problem in Africa;
- d) The African Charter on the Rights and Welfare of the Child; and
- e) The Protocol on the Statute of the African Court of Justice and Human Rights¹⁷.

In addition, mention should be made of the New Partnership for Africa's Development (NEPAD), which seeks to address underdevelopment in Africa through the promotion of democracy, human rights, accountability, transparency and participatory governance¹⁷.

2.3 Review of Empirical Studies

Human Rights in Africa

The African Commission on Human and Peoples' Rights (ACHPR) is based in Banjul, Gambia, it is a subsidiary organisation, reporting to the African Union. It is tasked with promoting and protecting human rights and peoples' rights throughout the African continent, its main legal text of reference is the African Charter on Human and Peoples' Rights that entered into force in the year 1986. In addition to the African Charter on Human and Peoples' Rights, there are two African legal texts on the specific rights of African women and African children. The African Court on Human and Peoples' Rights is a regional court that rules on African Union states' compliance with the African Charter on Human and Peoples' Rights¹⁸.

Africa faces numerous human rights challenges in which Protecting civilians in armed conflicts, freeing human rights defenders and activists from repression, opening up political space for dialogue, tackling discrimination and violence against women and minorities, and safeguarding vulnerable people's economic, social and cultural rights are just some of them.

Since independence from colonialism, Africa has continued to bear witness to gross violations of human rights: from the Rwandan genocide, resulting in 1,000,000 deaths in less than 100 days, to the continued violence in the DRC, Northern Uganda, Darfur, and Kenya. Africa has a "corpus" of human rights mechanisms, laws and norms, at the centre of which lies the African Charter on Human and Peoples' Rights (African Charter). Contributing to the establishment of human rights system in Africa are the United Nations international law and the African Union which have positively influenced the betterment of the human rights situation in the continent¹⁷.

Unlike other African Union human rights treaties, the African Charter uniquely recognizes collective rights, individual duties and third generation rights, showing the interdependence between political, civil, economic, and socio-cultural rights. While the African Charter was approved in the year 1981, it was officially adopted in the year 1986. Since then, it has been adopted by all 53 African States and is widely recognized within Africa, at least theoretically, as setting the standard for human rights protection. The Protocol for the Establishment of an African Court (The Protocol for the Court), adopted in the year 2004, is intended to complement the African Commission on Human and Peoples' Rights (Commission), the body that has exercised continental oversight over African human rights since 1987¹⁹. However, extensive human rights abuses still occur in many sections of the continent. Most of the violations can be attributed to political instability (as a consequence of civil war), racial discrimination, corruption, post-colonialism, economic scarcity, ignorance, illness, religious bigotry, debt and bad financial management, monopoly of power, lack/absence of judicial

and press autonomy, and border conflicts. Many of the provisions contained in regional, national, continental, and global agreements remained unaccomplished.

2.3.1 The African Charter on Human and Peoples' Rights and Further Standards

The African Charter Background

The idea of drafting a document establishing a human rights protection mechanism in Africa was first conceived in the early 1960's. At the first Congress of African Jurists, held in Lagos, Nigeria in 1961, the delegates adopted a declaration referred to as the 'Law of Lagos' calling on African governments to adopt an African treaty on human rights with a court and a commission²⁰. However, at the time African governments did not take serious steps to promote this concept.

The 1963 Charter establishing the Organisation of African Unity (OAU), imposed no explicit obligation on member states for the protection of human rights. The OAU's founding Charter only required states parties to have due regard for human rights as its set out in the Universal Declaration of Human Rights in their international relations. In spite of the absence of a clear human rights mandate, the OAU took bold steps to address a number of human rights issues such as decolonisation, racial discrimination, and environmental protection and the refugee problems. The continental organisation however ignored the massive human rights abuses carried out by some African authoritarian leaders against their own citizens. This was due largely to the OAU's preference for socio-economic development, territorial integrity and state sovereignty over human rights protection, as well as firm reliance on the principle of non-interference in the internal affairs of member states²⁰.

At the initial Conference of the Francophone African Jurists which took place in Dakar, Senegal, in 1967, participants again revived the idea of the Law of Lagos on the need for

regional protection of human rights in Africa. In the Dakar Declaration, adopted after the Conference, the International Commission of Jurists were asked to consider in consultation with other relevant African organizations the possibility of creating a regional human rights mechanism in Africa. The United Nations (UN) also facilitated series of seminars and conferences in a number of African countries. The UN Human Rights Commission set up an ad hoc working group and adopted a resolution calling on the UN Secretary-General to provide the necessary assistance for the creation of a regional human rights system in Africa. These UN efforts to persuade African nations to ratify a regional human rights pact were unsuccessful. A follow-up group has been charged with making presentations on the necessity for an African regional human rights system to African heads of state and other relevant authorities. Léopold Sédar Senghor, the then-president of Senegal, pledged to bring the proposal to the OAU Assembly at its following session after the committee's visit to Senegal. At its 1979 meeting in Monrovia, Liberia, the OAU Assembly of Heads of State and Government unanimously requested the Secretary-General to appoint an expert committee to draft a regional human rights instrument for Africa that would be comparable to the European and Inter-American human rights conventions¹⁸.

In 1979, a conference of twenty African scholars was held in Dakar, Senegal, under the direction of Judge Kéba M'baye. The opening remarks of the host president, President Senghor, who urged the Committee to be inspired by African values and tradition and to concentrate on the true needs of Africans, the right to development, and the responsibilities of individuals, had a significant impact on the Expert Committee's work²⁰. The Committee created an early draft of the Charter after around 10 days of discussion.

A conference of plenipotentiaries intended to adopt the draft charter but cancelled due to several African nations' antiquated views on regional human rights protection in Africa. The most dramatic time in the Charter's history occurred at this time. The Charter project was

clearly under threat. In the middle of this tense environment, the President of The Gambia called two ministerial conferences in Banjul, The Gambia, at the request of the OAU Secretary-General. It was during these conferences that the draft Charter was finished and then submitted to the OAU Assembly. The African Charter is sometimes known as the "Banjul Charter" because of the significant role The Gambia played in history. The Banjul Charter was finally approved by the OAU Assembly on June 28, 1981, in Nairobi, Kenya. The OAU Charter became operative on October 21, 1986, following adoption by a majority of OAU member nations. All of the OAU's member nations had adopted the African Charter by the year 1999. Africa's newest state, South Sudan, deposited its instrument of ratification in 2016. Thus, all African Union member states have now ratified the African Charter²¹.

Morocco, which withdrew from the OAU in 1984, is not a member of the AU, and thus not a state party to the African Charter.

The charter has the following unique features:

- **The African Charter on Human and Peoples' Rights**

On the 26 of June 1981, the Assembly of Heads of State and Government unanimously adopted the African Charter. It became effective on 21 October 1986. As of March 2010, it had been ratified by 53 AU member states. The two principal organs charged with the supervision of states parties' compliance with the African Charter are the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights (soon to be replaced by the single African Court of Justice and Human Rights)²⁰.

The African Charter is a binding treaty that covers four main categories of rights and duties: individual rights; rights of peoples; duties of states; and duties of individuals. The

combination of the specific needs and values of the African cultures and the international human rights standards has resulted in some distinctive features, compared to other regional conventions. The Charter covers economic, social and cultural rights, as well as civil and political rights and it confers rights upon peoples and not only individuals. Furthermore, the African Charter covers 'third generation rights', and gives due importance to the assumption that a person has duties as well as rights in a given community. Article 29 of the African Charter offers a list of duties, each implicitly embodying the 'values of African civilization'²⁰.

Unlike other international human right conventions, the African Charter does not contain a general derogation clause allowing the states parties to suspend the enjoyment of certain rights during national emergencies. Instead, the African Commission has found that legitimate reasons for limiting rights and freedoms are found in Article 27(2) ACHPR, namely 'the rights of others, morality, common interest, and collective security'²⁰.

While not providing for derogation clauses, the African Charter contains a number of articles with provisions that limit the reach of these rights, and which have been referred to as 'clawback clauses. Article 9(2) ACHPR provides an example of a so-called 'clawback clause': 'every individual shall have the right to express and disseminate his opinions within the law'. The term 'within the law' was by many experts interpreted to mean that no domestic legal provision limiting the right in question could be challenged under the African Charter. The Commission rectified this interpretation in one of its communications, when it found that the term 'within the law' was to be understood to refer to international law, not domestic law (Civil Liberties Organisation in respect of the Nigerian Bar Association v. Nigeria, Communication 101/93) and has stated a general principle applying to all the rights and freedoms contained in the African Charter.

The aim of the rights and freedoms entrenched in the Charter would be defeated if national law were to rule over international law, according to the sections and subsections of the Charter. International human rights principles must always take precedence over national laws that conflict with them. Any limitation on the rights of the Charter must be in conformity with the provisions of the Charter (Media Rights Agenda and Constitutional Rights Project v. Nigeria).

2.3.2 The African Commission on Human and Peoples' Rights

As an organ that functions within the framework of the African Union (AU) the African Commission on Human and Peoples' Rights submits its regular activity report to the AU²¹. The African Commission on Human and Peoples' Rights is a quasi-judicial body tasked with promoting and protecting human rights and collective (peoples') rights throughout the African continent as well as interpreting the African Charter on Human and peoples' rights and also considering individual complaints of violations of the Charter, including investigating Human rights violations, creating and approving programs of action towards encouraging human rights, and setting up effective communication between them and states to get first-hand information on the violation of human rights²².

The African commission on Human and Peoples' Rights (ACHPR) was based on the Banjul Charter which is the regional human rights protectors of human rights for the African continent. The charter has twenty-nine articles that goes into great details on the rights and freedom that follow a strict code of non-discrimination. Although the ACHPR is under a regional government facility, they do not have any actual power and enforcement over laws. This ends up in them drafting up proposals to send up the chain of command to the Assembly of heads of states and Government and they will act accordingly²³.

For almost two decades after the creation of the OAU in May 1963, the focus of the organisation remained almost entirely on the decolonisation of the continent and the eradication of apartheid. In spite of the organisation's endorsement of the principle of the Universal Declaration on Human Rights of 1948 in the preamble of the OAU charter, the promotion and protection of human rights within OAU member states was not a major priority. As such, it concentrated its efforts on political and economic independence, non-discrimination of colonialism on the continent and apartheid in Southern Africa, at the expense of individual liberty. In July 1979, the OAU Assembly of Heads of state and Government met in Monrovia, Liberia and decided to place its members under international obligations through a positivist approach. Accordingly, at this summit, a resolution was adopted calling on the OAU secretary General to form a committee of experts which would draft an African Charter on Human and Peoples' Rights, providing among other things a mechanism to promote and protect the rights embodied in the charter. In the year 1979 a draft was produced and was unanimously adopted at a 1982 meeting in Nairobi, Kenya. The charter provides for a Human Rights commission to ensure implementation of the rights enshrined therein. This move was generally viewed as ushering in a new era of recognition of individuals rights as enshrined in the Universal Declaration of Human Rights. On the 21st of October 1986, the charter came into force. This date has been declared, and is being celebrated as an African Human Rights Day²³.

The Commission was officially inaugurated on the 2nd November 1987 in Addis Ababa, Ethiopia, after its members had been elected in July of the same year by the OAU 23rd Assembly of heads of state and Government, the commission composes of eleven members serving in their personal and independent capacity and not as representatives of their countries. The commission did not have a permanent secretariat after its inauguration and for its first five sessions, its activities were co-ordinated from the OAU General secretariat in

Addis Ababa. The secretariat of the commission which is its Headquarters is now located in Banjul, Gambia was officially inaugurated by his Excellency, Sir Dawda Kairaba Jawara, former Head of state of the Gambia, on Monday 12 June 1989²².

The African Charter established the African Commission on Human and Peoples' Rights. The Commission was inaugurated on the 2nd of November 1987 in Addis Ababa, Ethiopia. The Commission's Secretariat is located in Banjul, The Gambia. The Commission functions as the secretariat of the AU. It is composed of the Chairperson, his or her deputy or deputies and the Commissioners.

Composition

The Commission consists of 11 members elected by the AU Assembly from experts nominated by the state parties to the Charter. The Assembly considers equitable geographical and gender representation in electing the members of the Commission. Members of the Commission are elected for a six-year term and are eligible for re-election.

Once elected, the commissioners serve in their personal capacity and not as representatives of their respective countries. Previously, some members of the Commission held high political offices at the national level, which affected the Commission's independence. The AU in April 2005 issued a *note verbale* to member states prescribing guidelines for nomination of members to the Commission, which excluded senior civil servants and diplomatic representatives.

Secretariat

The Secretary of the African Commission and other support personnel required for the efficient execution of the Commission's mandate are appointed by the Chair of the African Union commission. The Secretariat assists the Commission with administrative, logistical, and technological needs.

Mandate

Article 30 of the African charter, proposes two principal functions for which the commission was established: promotion and protection of Human and peoples' rights in Africa.

Article 45 of the Charter sets out the mandate of the Commission²⁴.

1. Promotion of human and peoples' rights.

The Commission for the Promotion and Spread of Human Rights on the Continent carries out sensitization, public mobilization, and information distribution through seminars, symposia, conferences, and missions.

2. Protection of human and peoples' rights.

The Commission promotes active communication, friendly dispute resolution, state reporting (including taking into account NGOs' shadow reports), urgent appeals, and other initiatives of special rapporteurs, working groups, and missions to ensure the protection of human and peoples' rights.

3. Interpretation of the Charter.

Upon request from any state party, an individual, or an AU agency, the African Union commission is required to interpret the Charter's clauses. No AU organ has ever requested that the Commission interpret the Charter. A small number of NGOs have, nevertheless, requested the Commission's assistance in interpreting the Charter's numerous sections. The Commission has also passed other resolutions that elaborate on the Charter's contents.

4. Any other task assigned to it by the AU Assembly.

The commission is mandated under the article 45(1) to collect document, undertake studies and research on the African problems on Human and peoples' rights, and should the case

arise, give its views or make recommendations to governments'. The promotional function of the commission is to sensitise the population and disseminate information on human and peoples' rights in Africa. The commission has also been co-operating with other Human rights institutions (inter-governmental or non-governmental institutions) in many spheres relating to the promotion and protection of human rights.

Article 45(1) (b) of the charter also requires the commission to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation. It is also mandated under article 45(1) (c) to co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights. Co-operation has also been sought with other regional and international institutions, such as the European Court on Human Rights, the inter-American commission and Court on Human Rights bodies.

The second principal function assigned to the Commission by the African Charter is clearly stated under article 45(2) as: to ensure the protection of human and peoples' rights under conditions laid down in the present Charter. The protective mandate, requires the Commission to take measure to ensure that the citizens enjoy the rights contained in the Charter. This entails ensuring that the states do not violate these rights and if they do, that the victims are reinstated in their rights. To achieve this, the Charter provides 'communication procedure'. This procedure is a complaint system through which an individual, NGO or group of individuals who feel that their rights or those of others have been or are being violated, can petition complains to the Commission about these violations. A communication can also be made by a state party to the Charter which reasonably believes that another state party has violated any provision in the Charter²⁴.

The Communication will be studied by the Commission and if the criteria are met it is set out in article 56 of the Charter, it will be formally accepted for consideration. The state concerned will then be informed of all allegations brought up against her and invited to submit its comments on the allegations. After carefully studying the arguments advanced by both parties, the Commission will decide whether there has been violation, it will then proceed to make recommendations to the State and to the AU Assembly on what the State should do including how to remedy the victim. The Commission can also, and has on various occasions, initiated friendly settlements, where the complainant and the accused state enter into negotiations to settle the dispute amicably.

The Commission also sends out missions to several State parties to investigate allegations of massive and serious human rights violations. At the conclusion of such mission, the Commission makes recommendations to the State party concerned on how to improve their human rights situations. In emergency situations, where the life of the victim is in imminent danger the Commission might invoke provisional measures under Rule 111 of its Rules of Procedure requesting the state to delay any action pending its final decision on the matter.

As part of its protective mandate, the Commission also receives and considers periodic reports submitted by State parties in conformity with article 62 of the Charter. State parties are required to submit reports to the Commission after every two years, on the legislative or other measures they have taken to give effect to the rights and freedoms recognised in the Charter.

The Commission studies these reports and at the session engages in dialogue with representatives from the States, and make recommendation; if necessary.

NGOs and ordinary citizens are also permitted to request copies of these reports from the Secretariat of the Commission and study them. They can prepare counter-reports or recommend to the Commission questions that could be asked to the State representatives.

Article 45(3) of the Charter also mandates the Commission to interpret the provisions of the Charter at the request of a state party, an institution of the OAU or an African Organisation recognised by the OAU. To date, neither the OAU nor a state party to the Charter has approached the Commission for an interpretation of any of the provisions of the Charter.

However, some NGOs have sought and obtained through draft resolutions, the interpretation of some of the provisions in the Charter. Through this method, the Commission has adopted many resolutions which gives clarity and a broader interpretation to some of the ambiguous provisions in the Charter.

Under article 45(4), the Commission is allowed to perform any other task which may be entrusted to it by the Assembly of Heads of State and Government. The AU Assembly has also not entrusted the Commission with any other task apart from those specifically conferred to it in the Charter.

The workload of the Commission gradually increases every year. In spite of the financial constraints facing the Commission, it is an institution which is capable of responding to the present-day challenges in Africa. The more it is used as a regional mechanism, the stronger and more useful it will become in safeguarding human rights on the continent. NGOs, human rights advocates and lawyers should make use of the Commission and assist people to submit cases to the latter²⁴.

Bureau

At the Commission Bureau, the Chair and Vice-Chair are chosen by the Commission. They are chosen for a two-year term and have the option of running for re-election after their first term is through. The Bureau oversees and evaluates the work of the Commission's Secretariat as well as directs the Commission's activities. In addition, the Bureau has the authority to make decisions on urgent issues in between Commission sessions. It must, nonetheless, report on the situation to the Commission's members at the subsequent meeting.

Sessions of the Commission

Ordinary Sessions

Two regular sessions of the African Commission on Human and Peoples' Rights are held annually. Depending on their requirements and resources, each session lasts somewhere between 10 and 15 days. Ordinarily, the Commission sets the date for an ordinary session on the recommendation of the Commission Chairperson after consulting with the African Union Chairperson.

Extraordinary Sessions

Also possible is an extraordinary session of the Commission. The African Union Commission Chairperson or the majority of the Commission members may request that the Chairperson of the Commission call an extraordinary session.

Communications

Communications can also be regarded as complaints sent to the commission of human and peoples' rights. Communication are one of the instruments employed by the Commission to ensure that there is a compliance of governments with the human rights legislation embodied in the Charter. The Commission may receive complaints from states against another state (inter-state complaints) or by individuals and NGOs against one or more states (individual complaints) on alleged violations of the human rights of its people in accordance with its

mandate under articles 48, 49 and 55 of the African Charter. Since the Commission was founded in 1987, more than 400 distinct communications have been received²⁴.

The Commission may easily rule that the state is in violation of the human rights laws entrenched in the African Union charter if a violation is identified. In some instances, the Commission's conclusions may contain comprehensive recommendations for states or other parties engaged in the infringement of rights. For instance, it may recommend that the state should take necessary measures to comply with the Charter including payment of compensation to the victim(s).

Provisional Measures

Following the declaration and admission of a communication, the Commission may instruct the state in question to take one or more interim measures while the communication is being resolved. Provisional actions are required to stop the alleged violator from suffering irreparable harm. According to rule 118(2) of the 2010 Rules of Procedure, the Commission may refer a communication to the African Court if a state continues to disobey its request for the adoption of temporary measures after the allotted time.

Amicable Settlement

It is required by the Commission's Rules of Procedure to encourage amicable resolution of disagreements between parties. The conditions of any settlement must be agreed upon by both parties. The agreement must abide by human rights standards.

Challenges of the Commission

- The Commission and its Secretariat-related Challenges:

The Commission takes a very long time to reach a conclusion after receiving complaints, which may have an impact on the effectiveness of the commission's decision-making. Referrals to the African court have not received much enthusiasm from the Commission.

Additionally, the Commission takes its time adopting reports from Special Reporters. The Commission seriously lacks a mechanism for ensuring that the parties involved are following its recommendations. Finding the ideal balance between the Commission's promotional and protective duties is a significant task.

- States-Commission Related Challenges:

Many African states fall behind in submitting their state reports as required by the African Charter, depriving the Commission of the opportunity to regularly assess the state's human rights record. States have typically lacked the political will to follow the Commission's recommendations.

- AU-Commission Related Challenges:

The political organs of the AU don't support the Commission enough and occasionally impede its functioning, such as by obstructing the publication of its Activity Reports. Although the AU is attempting to solve this through the African Governance Architecture (AGA), there is still a major lack of coordination across AU organizations or agencies having a mandate linked to human rights²⁵.

2.3.3 The African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights (African Court) was established through a Protocol to the African Charter. The Protocol on the Establishment of an African Court on Human and Peoples' Rights was adopted in Ouagadougou, Burkina Faso, on the 9th of June 1998 and entered into force on the 25th of January 2004. The Court was established as an addition to the Commission's protective function. Decisions made by it are final and enforceable against all parties to the Protocol. The Court is made up of 11 justices who are chosen by the AU Assembly from a list of nominees submitted by the AU's member states. The judges are chosen on an individual basis; however, no two sitting judges may be citizens

of the same state. Importantly, both gender and geographic representation are given fair consideration. The judges can only be re-elected once after being elected for a six-year term. Only the Court's president is in charge on a full-time basis. Ten other judges hold part-time jobs. On July 1st, 2006, the African Court's initial judges took their oaths of office. Tanzania's Arusha serves as the Court's location²⁶.

Jurisdiction of the Court

Only nations that have ratified the Court's Protocol are subject to the African Court's jurisdiction. The African Charter, the Court's Protocol, and any other human rights convention that the relevant state has ratified are all subject to interpretation and application by the Court. The Court also has the authority to encourage amicable resolution of disputes that are currently before it. The Court has the authority to interpret its own ruling.

The AU human rights treaties and other human rights treaties that have been ratified by concerned member states are under the purview of the Court. The Court's method is not fool proof in the exercise of such important jurisdiction. On the one hand, as in the Mtikila case, the Court does not believe it necessary to evaluate the application of other treaties after having considered the alleged infringement under the relevant sections of the African Charter. On the other hand, as may be seen in the Zongo case, the Court determined that article 19 of the International Covenant on Civil and Political Rights (ICCPR) violated the right to freedom of expression²⁶.

Unless there are ongoing violations, the Court's temporal jurisdiction begins when its Protocol became effective with respect to a particular state. Tanzania was found to be responsible in *Mtikila v. Tanzania* because the country had ratified the African Charter and was therefore obligated to abide by its terms at the time of the alleged breach. It also held that

the barring of independent candidates which was the conduct complained against was a continuous act which subsisted until the coming into force of the Court's Protocol²⁶.

On any case falling under its purview, the Court may also offer an advisory opinion. Any African organization recognized by the AU, as well as member states of the AU and AU institutions, may request the advisory opinion of the Court.

Decisions on the Merit by the Court

The African Court has determined some cases on the merit since its operation in 2004. The decisions on the merit are highlighted below:

1. *Mtikila v Tanzania* (14 June 2013)

The plaintiffs in this case argued that certain provisions of Tanzania's Constitution violated citizens' rights to freedom of association, protection from discrimination, and participation in public and governmental affairs by prohibiting independent candidates from running for elective office. The Court concluded that the rights protected by articles 2, 3, and 13(1) of the African Charter had been violated²⁶.

2. *Zongo and Others v Burkina Faso* (28 March 2014)

In the Zongo case, the complainants claimed that because of their journalistic investigations, the state of Burkina Faso failed to investigate and prosecute those responsible for Nibert Zongo and three other deaths, and that this unreasonably exposed journalists to the risk of working under fear and intimidation. According to the African Court, the state violated both the right to have one's case heard by competent national courts and the freedom of expression under articles 7 and 9 of the African Charter (read in conjunction with article 66(2) (c) of the Revised ECOWAS Treaty) by failing to look into and prosecute the offenders²⁶.

3. *Konaté v Burkina Faso* (5 December 2014)

In the Konaté case, the petitioner was charged with defamation under Burkinabe law, given a prison term, and required to pay a hefty fine, damages, and costs after publishing two articles in the print media that implicated the public prosecutor. In its ruling, the Court determined that the applicant's right to freedom of expression was being disproportionately interfered with by the custodial sentence for defamation under the respondent's criminal laws, which was in violation of the African Charter, the ICCPR, and the Revised ECOWAS Treaty²⁶.

4. *Abubakari v Tanzania* (3 June 2016)

The petitioner was now serving a 30-year term after being found guilty of the crime of armed robbery. He argued that he was not given the chance or resources to fully defend himself during the time of his detention and conviction. The African Charter's article 7 had been broken, according to the court's ruling. The court also found that the trial court had violated article 7 of the Charter by improperly considering the applicant's defence that the prosecutor had a conflict of interest with the alleged victim, his defence of alibi, and his conviction based solely on the inconsistent testimony of a single witness without any identification parade²⁶.

5. Provisional Measures Ordered against Libya (*African Commission v Libya*)

Early in 2011, the African Commission for the first time referred a case to the African Human Rights Court in response to several allegations of human rights abuses in Libya. Libya had 15 days to reply to the provisional measures that the Court mandated.

Whereas, in the Court's view, there is a situation of extreme gravity and urgency, as well as a risk of irreparable harm to the applicants, particularly in relation to the Charter's guarantees of the right to life and the right to physical integrity or persons.

Due to these factors, the Court orders unanimously that Libya cease all actions that could endanger life or violate the physical integrity of individuals and may violate the Charter or

other international human rights agreements to which it is a party. (Paragraphs 22 and 25 of African Commission v. Libya)²⁷.

Admissibility Criteria for Cases Brought by Individual or NGOs

Articles 6 and 34(6) of the Protocol creating the African Court set forth the following standards for admissibility of claims brought by NGOs and individuals: Cases brought directly before the Court by individuals and NGOs are only admissible when the state against which the complaint is brought has made a declaration under article 5(3) of the Court's Protocol accepting the court's competence to receive such complaints, in addition to the seven requirements for admissibility under article 56 of the African Charter. Only Benin, Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, and Tanzania have made the declaration permitting individuals and NGOs to lodge direct complaints before the Court as of October 2016, while Rwanda's statement has been withdrawn²⁷.

Access to the Court

By first sending a communication to the African Commission, individuals and NGOs can indirectly approach the Court. This is applicable to all members who have ratified the Court Protocol and acknowledge the legitimacy of the court. The case may be brought before the Court by the Commission. If a state party to the Protocol was found to have violated the Protocol after the Commission reached a conclusion on the merits of the matter, the state may be referred to the Court if it does not abide by the Commission's conclusions.

The following entities and bodies are capable to submit cases to the Court:

The African Commission, state parties to the Court's Protocol and African inter-governmental organizations. In its first advisory opinion the African Court decided that the African Children's Committee did not have standing to bring contentious cases before the Court.

Only if a state has made a declaration pursuant to article 34(6) of the Protocol establishing the Court, NGOs with observer status before the Commission and individuals may bring issues directly before the Court²⁷.

2.3.4 Relationship Between the Court and the Commission

The Protocol establishing the Court governs the interaction between the Court and the Commission. These documents define the Court's relationship with the Commission:

1. The Court complements the protective mandate of the Commission.
2. The Court may transfer a matter to the Commission of which it is seized.
3. The Commission may of its own accord submit a communication to the Court in respect of massive violations of human rights.
4. The Commission may at any stage of the consideration of a communication, seize the Court with the examination of a communication.
5. The Commission can submit communications to the Court on the grounds of failure or unwillingness of a state to comply with its decisions or provisional measures.
6. The Court may request the opinion of the Commission when deciding on issues of admissibility.
7. The Court can give advisory opinion upon request by the Commission²⁸.

In drawing up its own rules, the Court is required to consult with the Commission as appropriate²⁶.

2.3.5 Rights of Women, Minorities, and Groups

The battle for equal rights for historically marginalized or oppressed communities has long been a priority of the human rights movement. All persons, including women and members of minority ethnic and religious groups, have equal human rights and should be allowed to exercise them without hindrance, according to human rights documents. The Universal

Declaration of Human Rights and other later treaties make special mention of the right to be free from discrimination. Participating states are obligated, for instance, under the Civil and Political Covenant to respect and defend the rights of its citizens "without distinction of any kind, such as race, colour, sex, language, political or other opinion, national or social origin, property, birth, or social status"²⁸.

The rights to freedom of association, freedom of assembly, freedom of religion, and freedom from discrimination are a few fundamental human rights that are particularly crucial for racial and religious minorities. Documents relating to human rights also include rights that expressly mention minorities and grant them special protections. As an illustration, Article 27 of the Civil and Political Covenant states that people who are members of linguistic, religious, or ethnic minorities "shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language"²⁸.

Feminists have frequently argued that common lists of human rights do not adequately account for the various risks that women confront. Early human rights agreements and documents For instance, topics like domestic abuse, sexual orientation, and the trafficking of women and girls for sex work were not given any prominence. To cover the exploitation and abuse of women, lists of human rights have had to be enlarged. In the "private" realm, most acts of violence against women take place. Human rights abuses against women frequently take place not only in public or at the hands of the authorities, but also at home by other family members. As a result, governments cannot be considered as the only parties responsible for the violation of women's human rights, and the right to the privacy of one's home and family requires restrictions in order for the police to be able to protect women who live there. It is challenging to determine how various people's exposure to risks and dangers should be addressed by the definitions of human rights. This difficulty occurs not only in

respect to gender but also in relation to age, career, political affiliation, religion, and personal interests²⁸. For instance, due process rights are significantly more helpful to young individuals (and especially young men) than they are to older people because the latter are much less likely to break the law.

Since 1964, the United Nations has primarily focused on advancing the rights of women and minorities through the drafting of specialized treaties like the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination Against Women (1979), the Convention on the Rights of the Child (1989), the Convention on the Rights of Persons with Disabilities (2007), and the Declaration on the Rights of Indigenous Peoples (2007). Specialized treaties enable international conventions to address the particular concerns faced by specific groups, such as support and care for women during pregnancy and childbirth, child custody disputes, and indigenous peoples' loss of traditional territory²⁸.

Violence frequently targets minority communities. Governments are obligated under human rights standards to forgo such violence and to create safeguards against it. A fundamental individual right, the right to life, contributes to this task. The right against genocide, which defends minorities from attempts at annihilation or devastation, also engages in it. One of the first human rights conventions to be signed after World War II was the Genocide Convention. The opposition to genocide is undoubtedly a collective right. Both people and groups possess it, and it offers group safety. It is primarily unfavourable in that it forbids governments and other organizations from annihilating groups, but it also calls for the establishment of national legal systems and other safeguards against genocide²⁹.

To enhance women's rights in Africa, the Commission has taken action. Aside from adopting the Women's Protocol, which is its most famous success in this regard, it has also enacted

resolutions on the following specific women's rights issues: the status of Women in Africa (2005); women and girl victims of sexual violence (2007); and maternal mortality in Africa (2008)²⁸.

These developments were significantly aided by the appointment of a Special Rapporteur on the Rights of Women in Africa in 1998. The mandate holder is still working to advance the Women's Protocol's implementation and acts as the Commission's focal point for the advancement and defence of women's rights in Africa.

2.3.6 The Protocol on the Rights of Women in Africa (Maputo Protocol)

The Maputo Protocol was enacted to make up for normative shortcomings and to enhance the application of the human rights protections for women contained in the Charter. The Protocol was adopted in Maputo, Mozambique, on July 11, 2003, and it became effective on November 25, 2005³⁰. It was motivated by a need that was acknowledged to make up for the poor protection that women received under the African Charter on Human and Peoples' Rights. While the African Charter promises equality before the law, the abolition of discrimination against women, and a ban on discrimination based on sex, it does not specify the specific rights of women that are violated as a result of discrimination.

The Maputo Protocol is comprehensive in that it covers sexual and reproductive rights for the first time in a global agreement along with civil and political rights, economic, social, and cultural rights. Additionally, it has ground-breaking clauses that enhance women's rights more than any other international treaty that is currently enforceable by law. For instance, female genital mutilation is legally prohibited, and abortion is permitted in situations involving sexual assault, rape, incest, and situations in which the mother's or the foetus's life is at risk if the pregnancy is allowed to progress. In addition, the Protocol is the first international instrument on human rights to specifically include HIV/AIDS, in this case, in

relation to the rights to sexual and reproductive health. Other clauses deal with issues such as harmful traditional customs, child marriage, polygamy, inheritance, economic empowerment for women, education for women, and women in armed conflict. Notably, the Maputo Protocol acknowledges that some women experience discrimination on many levels and as a result, special rules are added for widows, old women, and women with disabilities. The Maputo Protocol has proudly inspired legislative changes in numerous state parties, in particular in respect of abortion and gender-based violence³¹.

The Protocol in Brief

The protocol requires states to “ensure that the right to health of women, including sexual and reproductive health, is respected and promoted”³¹.

1. Provide adequate, affordable, and accessible health services to women;
2. Establish and strengthen parental, delivery, and postnatal health and nutritional service for women during pregnancy and while breast feeding;
3. Prohibit all medical or scientific experiments on women without their informed consent;
4. Guarantee women’s rights to consent to marriage;
5. Set the minimum age of marriage at 18 years;
6. Ensure equal rights for women in marriage;
7. Protect women against all forms of violence during armed conflict and consider such act as war crimes;
8. Enact and enforce laws prohibiting all forms of violence against women, including unwanted or forced sex; and
9. Reform laws and practices that discriminate against women.

Laws that Protect Women's Rights Include:

1. Criminal law that penalizes gender-based violence, including violence that occurs in the family and the home;
2. Laws, with education and outreach components, that prohibit FC/FGM (Female circumcision/ Female genital mutilation);
3. Family rights that guarantee women's right to equality in marriage, including their right to land and property ownership during and upon the dissolution of marriage; and
4. Legislation that penalizes sexual harassment in schools and the workplace³⁰.

Once a state has ratified the protocol, that state is bound under international law to refrain from any acts that would defy the object or purpose of the protocol. As a result, any state that ratifies the treaty immediately assumes an obligation to uphold its stated objective "to ensure that the rights of women are promoted, realized and protected in order to enable them to enjoy fully all their human rights"³⁰

Article 26 of the protocol requires all states parties to "ensure the implementation of the protocol at national level". State parties are further required to submit periodic reports to the African commission on Human and Peoples' rights (The African Commission), which will monitor the legislative and other rights guaranteed in the protocol. In addition, state parties are required to "provide for appropriate remedies to any woman whose rights or freedom have been violated," the adoption or repeal of legislation, implementation of policies and programs, and enforcement by national level courts and other mechanisms of existing legal standards can fulfil the obligations outlined in the protocol³².

2.3.7 The African Charter on the Rights and Welfare of the Child

An important norm of the African human rights system dealing to the welfare of the African child is the African Charter on the Rights and Welfare of the Child (African Children's Charter). The African Charter of 1981 did not address a number of regional issues that were pertinent to the continent of Africa and served as the inspiration for the new charter. The use of child soldiers in armed wars, detrimental cultural and traditional practices, as well as a number of other locally specific anti-human rights behaviours within the purview of many African countries, were issues of particular concern. These concerns, which underlined the need for a context-driven and context-specific norm for the promotion and protection of the rights and welfare of the African Child, have not been effectively expressed by the African Charter and other current international and regional bills of rights.

In addition, the African Children's Charter was established by the AU's African Committee of Experts on the Rights and Welfare of Children (the Committee) to advance and defend the rights outlined in the charter. As a result, this provides an overview of the African Children's Charter and emphasizes the Committee's activities, organizational structure, accomplishments, and influence on children's rights in Africa³².

The African Children's Charter

Nine years after the passage of the African Charter, the African Children's Charter was adopted on July 1st, 1990. The African Charter and other human rights documents at the time did not go into great detail about children's rights. Instead, only brief allusions to children's rights within the context of women's rights were made. The African Charter, for instance, stipulates in article 18(3) that "the state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declaration and conventions." No other clause in the African Charter expressly tackles the unique human rights problems that African children face.

The UN played a pioneering role in the creation of international child rights legislation. The Declaration on the Rights of the Child was adopted in 1959. In 1979, African states ratified the Declaration on the Rights and Welfare of the African Child (the Declaration). According to the Declaration, "all appropriate measures" must be taken to advance and safeguard the rights and welfare of African children³².

The UN Convention on the Rights of the Child (CRC), the first international agreement outlining the civil, political, social, economic, and cultural rights of children, was adopted on November 20, 1989, and it went into effect on September 2, 1990. As of October 21st, 2016, the CRC had 196 state parties, making it the human rights pact that has received the most ratifications overall. At an early stage of the CRC's implementation, the majority of African states ratified it. The Convention on the Rights of the Child does not, however, address some of Africa's issues, including child marriage, child soldiers, child refugees, damaging traditional practices, and children living in apartheid. The need for a distinct regional instrument on children's rights that would take into account particular African concerns then spread across the continent. African specialists on children's rights and welfare came together in a working group to create the African Children's Charter in 1979³².

The African Children's Charter incorporates the CRC's universal principles while anchoring its ideas in an African cultural framework. The Charter specifically takes into account the historical context, the cultural heritage of Africa, and the ideals of African civilisation. The UN has acknowledged regional engagements in certain human rights issues on the continent, and the approval of the African Children's Charter is completely in keeping with that. Regional agreements for the promotion and protection of human rights "may make a major contribution to the effective enjoyment of human rights", the UN General Assembly stated in resolution 45/167. As a result, the CRC and the African Children's Charter are complimentary rather than in contradictory³².

The African Children's Charter is the first regional agreement to apply the CRC to the continent of Africa. As of October 21st, 2016, 47 of the African Union's member nations had ratified the 1990-adopted African Children's Charter.

In an effort to address some African issues, the Charter provides greater child protection criteria than the CRC. Some of its unique features are highlighted as:

- Cultural Context

The preamble of the Charter makes it clear that the idea of the rights and welfare of children is influenced by African cultural heritage, historical context, and ideals of the African culture.

- Definition of a Child in Article 2

'Every human being under the age of 18' is the definition of a child. The definition of a kid is unrestricted, unconditional, and inclusive unlike the CRC³³. Instead, the term aids in broadening the scope of those who benefit from protection.

- Best Interests of the Child under Article 4

The key factor used to evaluate all activities, regulations, and policies that have an impact on children is "the" best interest of the child. Unlike the CRC, which states that the child's best interests are "a" primary factor, the African Children's Charter unambiguously specifies the criteria of evaluation for all matters relating to the rights and welfare of the child³³.

- Name and Nationality Article 6

From the moment of birth, every child has the right to a name and the ability to choose a nationality. Every child has the right to be registered as soon as they are born. States are required by their constitutions to make sure that children only acquire nationality when they are born in a certain state and no other state grants it³³.

- Protection against Harmful Social and Cultural Practices Article 21

The Charter requires states to take all necessary steps to end harmful social and cultural practices that undermine an African child's dignity, welfare, and capacity for healthy growth and development. The Charter also forbids child marriage and aims to have domestic law set the minimum age of marriage at 18 years³³.

- Child Soldiers under its Article 22

Africa is very concerned about the issue of children being involved in armed conflict, and the Charter provides higher standards than other international standards. For instance, while the Charter prohibits it, the Optional Protocol on the Involvement of Children in Armed Conflict authorizes the voluntary employment of children between the ages of 16 and 18. No kid should actively participate in combat or be enlisted in the military³³.

- Refugee Children Article 23

While the CRC contains provisions for children who are refugees outside of national borders, the Charter broadens the definition of refugee children to include children who are internally displaced (IDP). The charter covers all potential causes of IDPs. A kid who is applying for refugee status or who is been granted refugee status is entitled to the necessary protection and humanitarian aid³³.

- Protection against Apartheid and Discrimination Article 26

By explicitly making reference to children affected by racially discriminatory regimes, the Charter directly confronts some of the most relevant issues like inequality and lack of access to quality education affecting children in Africa³³.

The highest priority should be attributed to the special needs of children living under discriminatory regimes and those in states subject to military destabilisation and material assistance should be provided to such children.

- Duties of the Child Article 31

African children are given responsibilities that include helping to maintain the family unit, showing constant deference to their parents, superiors, and elders, helping out when they are in need, using their physical and intellectual prowess to benefit the nation, and preserving and enhancing African cultural values. However, these obligations depend on each child's age and capacity³³.

The African Charter on the Rights and Welfare of the Child was adopted in July 1990 by the OAU Assembly. It entered into force on 29 November 1999 and had been ratified by 45 AU member states as of March 2010. The AU is the first regional organisation to adopt a binding regional instrument safeguarding the rights of children. The Charter is in many respects more protective than its universal counterpart, the UN Convention on the Rights of the Child, especially with regard to refugee children, child marriages and child soldiers.

Compliance with the Charter is supervised by the African Committee of Experts on the Rights and Welfare of the Child which examines state reports and can make recommendations on individual and inter-state communications³⁴.

The African Committee of Experts on the Rights and Welfare of the Child

This Committee is made up of people with high moral standards, integrity, objectivity, and expertise in subjects pertaining to children's rights and welfare. State parties nominate and the AU Assembly of Heads of State and Government elects the members of the Committee. The members were previously elected for a five-year term and were not eligible for re-election under article 37(1) of the Charter. However, by virtue of AU General Assembly decision (Assembly/AU/Dec.548(XXIV), article 37(1) has been amended and Committee members may now be 're-elected only once'. Once elected, the members serve in their personal capacity.

The Committee chooses a chairperson, three Vice-Chairpersons, a Rapporteur, and a Deputy Rapporteur from among its members. They can run for re-election after serving a two-year term in office³⁵.

The Secretary for the Committee is chosen by the African Union's President. The secretariat's job is to support the Committee. Members of the Committee act as both custodians of the Committee's archives and a point of contact for all communications involving the Committee.

Mandate of the Committee

Article 42 of the Charter sets out the mandate of the Committee which are,

1. The Promotion and protection of the rights enshrined in the Charter: The Committee gathers and records data, evaluates the situation on issues relating to children's rights in Africa, arranges meetings, supports national and local institutions, and, when needed, expresses its opinions and provides recommendations to the government. Additionally, the Committee develops pertinent guidelines and standards and collaborates with other institutions and organizations in Africa, abroad, and in other regions.
2. Observing the application of the Charter's rights and making sure they are protected.
3. Interpretation of the Charter's provisions at the request of a state party, an AU institution, or any other individual or group that has been approved by the African Union.
4. Carrying out additional tasks to which the Assembly of Heads of State and Government has delegated authority³⁵.

The Committee's Rules of Procedure provide forth the guidelines for its operations. The Committee's first meeting, which took place from April 29 to May 2, 2002, covered a

draft of the rules of procedure. The document was later updated, and the final version from 2003 now controls how the Committee conducts its business.

The Committee's regular meetings are referred to in its Rules of Procedure as sessions. Every session lasts for no more than two weeks. Both regular sessions and extraordinary sessions are available to the Committee. The Committee met for the first time on April 29, 2002.

The Committee meets for its regular sessions twice a year. The Committee uses its regular meetings as a stage to carry out its duties. The Committee engages in a number of crucial activities throughout these meetings, such as:

1. Organizes a meeting behind closed doors to discuss communications, the special rapporteur's report, applications for observer status, and the concept paper for the yearly commemoration of the African Child's Day, the election of a new Bureau, and other internal issues, as well as the consultant report.
2. Take in presentations from partners including United Nations organizations, global and local NGOs, etc.
3. Provide briefings and updates on particular issues, investigation missions, discussions with other AU bodies, and the results of thematic studies.
4. Taking into account different state party reports
5. Presentation of its broad observations on the African Children's Charter's provisions
6. Adoption of the draft activity report from the committee³⁵.

The Committee has held 28 ordinary sessions and one extraordinary session As at October 2016.

If the Committee so chooses, the Chairperson will call an extraordinary meeting of the Committee. The Chairperson may call special meetings of the Committee while it is not in session after consulting with the Bureau. Additionally, the Committee's chairperson has the authority to call special meetings:

1. At the written request of a simple majority of the members of the Committee;
2. At the written request of a state party to the Children's Charter.

Only one extraordinary session of the Committee has been organized; it took place in Addis Ababa from October 7–11, 2014, and was used to discuss the state reports from Ethiopia, Kenya, Guinea, South Africa, and Mozambique. Every year, the Committee must submit its reports on the actions done to put the Children's Charter into effect, together with any additional reports that may be necessary, to the Assembly of the Union through the Executive Council.

In an effort to ensure that member states are protecting the rights of children, the Committee may at any time receive communications (complaints) from any individual, group, or non-governmental organization (NGO) recognized by the OAU/AU, a member state, or the United Nations regarding any issue covered by the Charter. Every communication made to the Committee needs to be kept confidential and include the author's name and address. The Committee has already ruled on three of the four communications it has received against state parties³⁶.

In the interest of justice and with consideration for its resources, the Committee may, on its own initiative or at the complainant's request, make arrangements for the complainant to receive free legal help. Free legal aid will only be facilitated in the following circumstances:

1. It is necessary for the Committee to properly carry out its functions and to guarantee the equality of the parties before it; and

2. The complainant lacks the resources necessary to cover all or a portion of the costs involved.

The age of the child at the time of the alleged breach establishes the Committee's authority. The Committee retains the authority to continue handling communications that it has started but have not been resolved before the kid is 18 years old³⁵.

Decisions made by the African Committee of Experts on the Rights and Welfare of the Child.

- *Institute for Human Rights and Development in Africa and the Open Society Justice Initiative (on behalf of children of Nubian Descent in Kenya) v The Government of Kenya*

The applicants in this lawsuit claimed that the Kenyan government had violated the children of Nubian descent's right to nationality and registration in Kenya. They asserted that Nubians had been forcibly removed from their ancestral home in what is now known as central Sudan and enlisted into the British colonial army in Kenya during the colonial era. The colonial government allegedly refused the Nubians' request to return to their original home, but the British allegedly neglected to grant them British citizenship in Kenya prior to Kenya's independence. The Nubians alleged that the Kenyan government treated them as "aliens" because their nationality was never addressed for a very long time after Kenya's independence and they had no ancestral lands there. As a result, many parents in Kenya who are of Nubian descent find it challenging to record the birth of their children³⁶.

The Committee concluded that "birth registration and nationality are strongly and directly related." The African Children's Charter's inclusion of both rights in the same Article further strengthens this connection (para. 42). The Committee further

determined that the state's requirement that Nubian children wait until they were 18 years old before applying for Kenyan citizenship was not in their best interests. The Committee discovered numerous violations of the African Children's Charter and advised the Kenyan government to take all necessary administrative, legislative, and other measures to ensure that children of Nubian descent in Kenya who are otherwise stateless can obtain a Kenyan nationality, with registration at birth serving as proof of such a nationality³⁶.

- *Hansungule and Others (on behalf of children in Northern Uganda) v Uganda*

This case refers to the period of uprising and instability that lasted in Northern Uganda between 1986 and 2006 for around twenty years. The Lord's Resistance Army (LRA) was involved in a number of operations during this time, including kidnapping thousands of children³⁶.

The Committee determined that Uganda had violated its obligations under article 1(1) of the African Children's Charter by failing to specifically legislate for the prohibition of the recruitment of children into the armed forces. The Committee further determined that "effective implementation of laws with due diligence is part of States parties' obligation under the Charter". The African Children's Charter's article 22(2) prohibits the voluntary recruitment of children into a state's armed forces, and the Committee determined that between 2001 and 2005, children were conscripted into and utilized in the Ugandan Defence Force³⁵.

2.3.8 The Peace and Security Council of the African Union (AUPSC)

The Peace and Security Council (PSC) is the standing organ of the AU for the prevention, management and resolution of conflicts. It was established to be a collective security and 'early warning' arrangement with the ability to facilitate timely and efficient responses to

conflict and crisis situations. The PSC's core functions are to conduct early warning and preventive diplomacy, facilitate peace-making, establish peace support operations and, in certain circumstances, recommend intervention for Member States to promote peace, security and stability. The PSC also works in support of peace-building and post-conflict reconstruction as well as humanitarian action and disaster management. The PSC's authority derives from article 20 of the Constitutive Act (as inserted by article 9 of the Protocol on Amendments to the Constitutive Act 2003) together with article 2 of the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union. Under article 7 of the Protocol, the PSC's key powers include to:

1. Anticipate and prevent disputes and conflicts, as well as policies, which may lead to genocide and crimes against humanity,
2. Undertake peace-making, peace-building and peace-support missions,
3. Recommend intervention in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity,
4. Institute sanctions,
5. Implement the AU's common defence policy,
6. Ensure implementation of key conventions and instruments to combat international terrorism,
7. Promote coordination between regional mechanisms and the AU regarding peace, security and stability in Africa,
8. Follow-up promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law,
9. Promote and encourage the implementation of conventions and treaties on arms control and disarmament,

10. Examine and take action in situations where the national independence and sovereignty of a Member State is threatened by acts of aggression, including by mercenaries,
11. Support and facilitate humanitarian action in situations of armed conflicts or major natural disasters³⁶.

On July 11, 2000, in Lome, Togo, the Assembly of the Heads of State and Government of the OAU adopted the Constitutive Act that created the African Union (AU). The Organization of African Unity (OAU) was superseded by the regional intergovernmental organization known as the African Union (AU). For the Constitutive Act to take effect, it needed to be ratified by two-thirds of the OAU's member nations. In May 2001, it was made a political and legal reality, and on July 10, 2002, it was formally introduced in Durban, South Africa. The new international organization, whose headquarters were in Ethiopia's capital city of Addis Abeba, was largely modelled after the European Union (EU)³⁷.

The African Human rights system is based mainly on the African Charter. The African Charter established the African Commission on Human and Peoples' Rights (African Commission or the Commission) as its primary supervisory mechanism and vests in the Commission both promotional and protective mandates. The Commission is mandated by the Charter to promote and to protect human rights on the African continent, interpret the provisions of the Charter and perform any other tasks assigned to it by the OAU Assembly of Heads of States and Government (now AU Assembly). The Commission was formally inaugurated on the 2nd of November 1987. And as of November 2015, the Commission had received close to 500 communications, of which more than half have been finalised; and has found violations in 83 communications, involving 27 states that are parties to the African Charter. The Commission has also issued at least 41 concluding observations, 72 mission reports and not less than 293 thematic, administrative and country specific resolution³⁷.

More recently, the African Court on Human and Peoples' Rights (African Court) was established to complement the Commission's protective mandate. Assessing the impact or the extent to which states have given effect to the innovative provisions of the African Charter, the various works of the African Commission and the emerging jurisprudence of the African Court is certainly an interesting inquiry.

The African Union is based on the Constitutive Act, which enumerates the nine principal organs of the African Union. They include The Assembly of the Union, the Executive Council, the Pan-African Parliament, the Court of justice (A merger of the African court on Human and peoples' rights and the court of justice of the African Union), the Commission, the Permanent Representatives committees, the Economic, Social and Cultural council, the Specialised Technical committees and the financial institutions. The Assembly of the Union, the Executive council, the commission and specialised technical committees are equivalent to the Assembly of the Heads of Government, the Council of ministers, General secretariat and specialised commissions under the OAU structure. The Pan-African parliament, the Court of justice and the Economic, social and cultural council have equivalent structures in the African Economic community (AEC). The AU's permanent Representatives committee and financial institution are new institutions. In addition, the AU has established the peace and Security Council, which replaces the mechanism on conflict prevention, management and resolution. The Peace and Security Council is a standing decision-making organ for the prevention, management and resolution of conflicts. It shall be a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations region³⁷.

The three bodies most relevant to human rights protection under the African human rights system are the African commission on Human and peoples' rights, the African Court of Human and peoples' Rights and the African committee on the Rights and welfare of the child³⁸.

2.3.9 International Human Rights Organizations

International organizations have facilitated the globalization of the world today. This is best described than defined, there are several types of international organisation that has sprung up over the years with set goals and objectives sacrosanct to its establishment. Human rights institutions and instruments operate on different levels the International, regional and sub-regional. Discussion on Human rights remains a front burner globally today³⁹.

The 1993 UN World conference on Human rights known as the Vienna conference was attended by 841 NGOs from throughout the world, all of which described themselves as working with a human rights mission. Human rights organizations tend to be engaged in the protection of civil and political rights. The best known of such organisation, at least on the international stage, includes; Amnesty International, Human Rights Watch, the International Federation for Human Rights, Human Rights First and Inter-rights. However, civil and political rights are just one category of the many different human rights recognised by the international community, and new rights are continuing to emerge, even until today. NGOs are actively making effort in countering poverty, violence, racism, health problems, homelessness and environmental concerns to name only a few, the actual number of NGOs engaged in Human rights protection in one form or another, runs into the hundreds of thousands throughout the world.

The contributions of Human right organizations are important not only in terms of the result that are achieved, but for the assurance that people may feel about the defence of their Human rights in the world, and also because Human rights Organizations are, in a very direct sense, tools that are available to be used by individuals and groups throughout the world. They are managed and coordinated as many organizations are, they also draw a large part of their strength from other members of the community offering voluntary support to their cause.

This fact gives them great significance for those individuals who would like to contribute to the improvement of human rights in the world⁴⁰.

Amnesty International

Amnesty International is a global movement of more than seven million people who are independent of any type of political ideology, religion or economic interest and who take injustice personally. The movement campaigns for a world in which human rights are enjoyed by all.

The core activities of Amnesty International are research, advocacy, lobbying, campaigns, and action. The organization employs experts who do accurate and facts-based research into human rights violations by governments and other actors. This analysis is, then, used to influence and press governments and decision-makers to undertake the necessary steps to stop or prevent human rights violations. The organization also employs the methods of campaigns and advocacy through petitions, letters and protests to call for action. In this way, the Amnesty International covers a big spectrum of human rights from seeking the release of political prisoners to protecting sexual and reproductive rights⁴⁰.

Human Rights Watch

Human Rights Watch is an international human rights organization that investigates and reports on abuses of human rights around the world. Currently, it employs around 450 people, mostly country-based experts, lawyers, journalists, and human rights workers who work to protect Human rights.

The organization works with and advocates towards governments, businesses and armed groups, forcing them to change their policies and laws. To stay independent, Human Rights Watch refuses government and corporate funding. Researchers, who work directly on the field, uncover facts about human rights abuses. These facts are shared with millions of people

through social media every day to gain global reach. The scope of the work of the Human Rights Watch is wide and the organization is highly committed to reaching justice, dignity, compassion and equality⁴⁰.

The International Federation for Human Rights

The International Federation for Human Rights (FIDH) is an international human rights non-governmental organization comprised of 184 organizations from 112 countries, active in defending and promoting respect for civil, political, economic, social and cultural rights contained in the Universal Declaration of Human Rights⁴⁰.

FIDH operates based on interaction with its member organizations. The organization uses tools such as urgent public and private response, investigative missions, judicial observation, legal defence, political dialogue, advocacy and public awareness campaigns to draw attention on human rights abuses. Through its network of national organizations, FIDH addresses human rights abuses directed at states, armed opposition groups and multinational corporations. Through these actions, FIDH is committed to helping victims of human rights violations and holding those accountable of committing international crimes to be brought before the court.

Global Rights

Global Rights is an international human rights non-governmental organization that was established in 1978 in Washington. In 2014, the organization moved its seat to Nigeria and currently works in partnership with local activists in Africa, Asia and Latin America to build the grass root movements that would promote and protect the rights of marginalized populations.

The organization works on building capacities of underserved communities and builds platforms for participatory governance. It uses teaching and trains other organizations and

coalitions to document and expose human rights abuses, advocate for legal and policy reforms and provide legal services to those in need. The Global Rights mostly focuses on working on crosscutting issues such as access to justice, women's rights, security of human rights and natural resource governance. The focal points of all organization's programmes are women's rights, access to remedies and disabilities issues⁴⁰.

UN Watch

UN Watch is a non-governmental organization based in Switzerland. It was established to promote the protection of universal human rights as set out in the Universal Declaration of Human Rights and monitor the UN in accordance with its founding Charter. The organization's vision is a just and strong UN.

The organization is an accredited NGO in Special Consultative Status to the UN Economic and Social Council, as well as an associate NGO to the UN Department of Public Information. It actively participates at the UN Human Rights Council and in this way advance the UN's mandate in promoting human rights and international peace.

2.3.10 United Nations Contribution to African Human Rights

The UN is present on the ground supporting economic and social development as well as the promotion and preservation of human rights. This support ranges from encouraging the establishment of democratic institutions to achieving peace between warring states. The UN system plays a very important role in coordinating assistance of all types to help Africa help itself in the promotion and protection of the Human rights of its population through its special abilities as the world's leading instrument for international cooperation.

The UN maintains more than six ongoing peacekeeping missions at any given time as part of its efforts to assist Africa. It also works closely with regional cooperation institutions throughout Africa. One mission in Darfur (with the African Union) and one in the contentious Abyei region are carried out by UN forces, who also serve in the Central African Republic, the Democratic Republic of the Congo, Mali, Western Sahara, South Sudan, and Sudan⁴¹.

The United Nations Office of the Special Adviser on Africa was founded in 2003 to strengthen international support for the development and security of Africa and to promote coordination of the UN system's assistance. Additionally, it helps to encourage discussions about Africa on a global scale, notably in relation to the New Partnership for Africa's Development (NEPAD), a strategic plan established by African leaders in 2001. The NEPAD mandate underwent reform in 2019. It is currently acting as the African Union's primary development organization.

United Nations Peacekeeping Missions in Africa

Since 1960, there has been more than thirty UN peacekeeping missions across Africa, the most of any region. Addressing the challenges posed by conflicts and longstanding disputes on the African continent has been a major focus for the UN. In 1960, the first peacekeeping operation in Africa was sent into Republic of the Congo to ensure the withdrawal of Belgian forces and to assist the Government in maintaining law and order.

Since then, thousands of peacekeepers have been sent in more than 30 peacekeeping operations to African countries, including Angola, Mozambique, Somalia, Sierra Leone, Ethiopia and Eritrea, Burundi and Sudan. The latest peacekeeping mission was established in 2014 in the Central African Republic⁴¹.

International Criminal Tribunal for Rwanda

In order to "prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and neighbouring States in 1994," the UN Security Council established the International Criminal Tribunal for Rwanda (ICTR). During its operation, the Tribunal indicted 93 individuals including high-ranking military and government officials, politicians, businesspersons, as well as religious, militia, and media leaders⁴².

With its sister international tribunals and courts, the ICTR has played a pioneering role in the establishment of a credible international criminal justice system, producing a substantial body of jurisprudence on genocide, crimes against humanity, war crimes, as well as forms of individual and superior responsibility.

The ICTR is the first ever international tribunal to deliver verdicts in relation to genocide, and the first to interpret the definition of genocide set forth in the 1948 Geneva Conventions. It is also the first international tribunal to define rape in international criminal law and to recognise rape as a means of perpetrating genocide, as well as the first international tribunal to hold members of the media responsible for broadcasts intended to inflame the public to commit acts of genocide⁴².

The ICTR delivered its last trial judgement in December 2012. Since then the Mechanism for International Criminal Tribunals has assumed responsibility for the ICTR's residual functions including cases before the appeals chamber and the tracking and arrest of the accused who remain fugitives from justice.

Achievement of the United Nation to African Human Rights

Decolonization Effort

At the end of World War II in 1945, nearly every country in Africa was subject to colonial rule or administration. Following the founding of the UN in 1945 and its massive

decolonization effort, Africa is now virtually free from colonial rule. In 2011, South Sudan became Africa's newest country when it gained independence from the rest of Sudan.

Women Advancement

In eleven African countries, women hold close to one-third of the seats in parliaments, according to Women in Parliament in 2020. With 61 percent, Rwanda has the highest proportion of women parliamentarians in the world. Africa has the highest regional female entrepreneurial activity rate in the world. One in four women starts or manages a business. Rwanda and Namibia, two Sub-Saharan African countries, belong to the top ten of the most gender-equal countries, according to the 2021 World Global Gender Gap Report⁴¹.

The United Nations is the preeminent body to authorize and oversee international peacekeeping missions. It generally follows three principles for deploying peacekeepers; main parties to the conflict should consent; peacekeepers should remain impartial but not neutral; and peacekeepers cannot use force except in self-defence and defence of the mandate. However, UN peacekeepers have been deployed to warzones where not all the main parties provide consent, such as in Mali and the Democratic Republic of Congo (DRC).

The AU and regional blocs such as the Economic Community of West African States (ECOWAS) lead other peacekeeping and security focused missions as alternatives to traditional UN peace operation. Still, in the case of African union mission to Somalia (AMISOM) in Somalia, the United Nations authorized the AU mission and provided funding, logistics and other support. Similarly, the two major ad hoc security initiatives on the continent, the Multinational joint Task Force (MNJTF) against Boko Haram and the G5 Sahel's force, were authorized by the AU and won the backing of the UN Security Council, strengthening their mandates⁴².

2.3.11 Regional Cooperation Towards Human Rights in Africa

While the African Union (AU) is leading overarching efforts to establish continent-wide norms for acceptable political conduct, regional institutions are also contributing substantially to democratization and peacebuilding in their neighbourhoods. Bodies such as the Economic Community of West African States (ECOWAS) have been actively managing conflicts and preventing movement toward authoritarianism.

Regional Initiatives

Among the RECs (Regional Economic Community), ECOWAS has been the most effective, with Nigeria serving as a strong anchor and advocate for democratization and peacekeeping. ECOWAS has intervened against, sanctioned, or condemned actions taken by most of its member states over the past two decades. It has organized peaceful resolutions and restored constitutional governments in Burkina Faso, Côte d'Ivoire, and Gambia, among others. Although other bodies, such as the Southern African Development Community (SADC) and the East African Community (EAC), have also organized collective stabilization efforts and sought to advance democratic governance, they have been less successful. Apart from ECOWAS, regional bodies often lack strong champions for democratic norms. The SADC and EAC tolerate authoritarian members and have witnessed the erosion of democracy in potential anchor states like South Africa and Kenya⁴¹.

Regional institutions are unable to fulfil their core mandates largely because they are underfunded by global standards and tend to lack common identities or shared values. Little cooperation among the RECs occurs. Several of them, such as the Arab Maghreb Union and the Economic Community of Central African States, show minimal interest in democratization or peacebuilding.

Progress toward integration and multilateralism remains limited in most African regions where states face long-running conflicts⁴³.

Human Rights in the East African Community

The East African Community (EAC) is an international organisation established by governments in the region composed of seven Partner States: Burundi, Kenya, Rwanda, Tanzania, South Sudan, Uganda and The Democratic Republic of Congo. The organisation was initially re-introduced by Kenya, Tanzania and Uganda in the year 2000 having signed the treaty in the year 1999. The EAC is not new as such, having attempted to integrate all through the colonial period and post-independence, eventually collapsing for various reasons in 1977. Burundi, Rwanda and South Sudan were admitted into the fold at different intervals having satisfied the criterion for admission into the bloc⁴⁴.

The EAC Treaty and Human Rights

The EAC although originally not conceived as a human rights body, has a role to play as a protector of Human rights in the East African region.

The fundamental principle that governs the achievement of the objectives of the community by member states include promotion and protection of Human rights. Article 6(d) of the treaty is very elaborate on this point. Furthermore, Article 123 (3)(d) provides that the member states define and implement common foreign and security policies whose objectives would be to respect Human rights and fundamental freedoms⁴⁴.

Article 3(3) of the treaty stipulates that the observance of Human rights is a condition precedent to joining the East African Community. So, when a Country considers an application by a member State to become a part of the East African Community that country's observance of Human rights is among the necessary factors to be considered.

There are, however, institutional weakness that have to be addressed if the provisions of the treaty are to be implemented. There are no mechanism to enforce human rights principles at the Regional level. Article 27(2) deprives the East African Court of Justice Jurisdiction over

Human rights matters. In the recent case of James Katabazi and 21 others versus the secretary General of the Community and the Attorney General of Uganda held that it has no jurisdiction to deal with matters of Human rights⁴⁴.

This raises a number of questions. What are the criteria to be used in determining whether a country is observing Human right? Against what code is such a country measured? Is it the United Nations convention? The East African Community has to specify what instruments of Human rights binds States. A specific protocol incorporating and making these instruments part of the Treaty has to be developed. Moreover, the civil society can indeed help this one area⁴⁵.

The Human Rights Regime in the Economic Community of West African States

The Economic Community of West African states (ECOWAS), is a regional political and economic union of fifteen countries located in West Africa. The stated goals of ECOWAS is to achieve “collective self-sufficiency” for its member states by creating single large trade bloc of building a full economic and trading union. The union was established on the 28th of May 1975, with the signing of the Treaty of Lagos, with its stated mission to promote economic integration across the region. A revised version of the treaty was agreed and signed on the 24th of July 1993 in Cotonou⁴⁵.

The ECOWAS also serves as a peacekeeping force in the region, with member states occasionally sending joint military forces to intervene in the bloc’s member countries in times of political instability and unrest. Regional powerhouse Nigeria dominates the organisation politically and economically.

Here are some of the main foreign interventions carried out since 1990:

1. **Mali-**

On the 11th of January, 2013, following a UN security council resolution, the bloc authorised the immediate deployment of an intervention force aimed at helping Mali retake its islamist controlled North.

The same day, the French military launched Operation Serval to back the Malian army and drive back the islamists, who were pushing South towards Bamako.

The West African force comprised of 6,300 men, including 2,000 from Chad, which is not an ECOWAS member. The Chadian soldiers were on the front line alongside French soldiers in fighting insurgents.

On the 1st of July 2013, the ECOWAS force is absorbed by the UNs MINUSMA stabilisation force in Mali, which is currently 13,000 strong⁴⁶.

2. Guinea Bissau-

West African troops were deployed in May 2021 to help the political transition after one of the nation's many coups.

They have since served with a mandate to protect public figures and institutions. The force consists of more than 600 police officers and paramilitary gendarmes from Nigeria, Burkina Faso, Senegal and Togo.

Already in February 1999, a lightly armed ECOWAS force was deployed to help resolve crisis in the insurgency hit country, but withdrew several months later after failing and the overthrow of the head of state⁴⁶.

3. Liberia-

In August 1990, ECOWAS sends a force of several hundred men to Liberia to intervene in a civil war ignited eight months earlier. The ECOWAS ceasefire-monitoring group, or ECOMOG, quickly grows to nearly 20,000 soldiers. Although generally described as a

peacekeeping force, ECOMOG is soon called on to take more responsibilities for maintaining order.

In early 1997, more than seven years after the war started, ECOMOG carries out a major disarmament operation, paving the way for multi-party election in July. The last ECOMOG soldiers leave Liberia in October 1999.

In August 2003, a new ECOWAS mission, ECOMIL, was deployed in Monrovia, the capital, which had been under siege by rebels for three months. Restricted to some 3,500 soldiers, the force is unable to deploy across the whole of the country and transfers its contingent to the United Nations⁴⁶.

4. Sierra Leone-

ECOMOG's Nigerian contingent drives a 1997-98 military junta, the Revolutionary United Front, from Freetown and reinstates President Ahmed Tejan Kabbah. The RUF later invades Freetown on the 6th of January 1999, before being expelled two weeks later by ECOMOG troops.

The West African intervention force, which has up to 11,000 men in Sierra Leone, officially winds up its mission in May 2000 and is replaced by the UN peacekeeping force, formed to guarantee the Lome peace accord of July 1999, which ended the civil war⁴⁶.

5. Ivory Coast-

A 1,300 strong West African force is deployed in January 2003 after a military rebellion, which effectively cuts Ivory Coast in two. In 2004, the soldiers are integrated into the UN's mission in the country⁴⁶.

ECOWAS had 15 member states which are; Benin, Burkina Faso, Guinea, Ivory Coast, Mali, Niger, Senegal, Togo, The Gambia, Ghana, Liberia, Nigeria, Sierra Leone, Cape Verde and Guinea Bissau. Eight of these are French speaking, five are English speaking and two are Portuguese speaking. All member joined the community as founding members in May 1975 except Cape Verde, which joined in 1977.

ECOWAS has experienced a major shift in its approach to human rights as a Community. From a treaty regime that paid little or no conscious attention to human rights, the Community has moved to a regime that can lay claim to a delicate but apparent competence in human rights. It has been demonstrated that human rights realisation is incidental to and necessary for the achievement of successful economic integration that adds value to the life of ECOWAS citizens.

While seeking efficacy in order to be relevant, it is essential for the ECOWAS regime to ensure that it complements rather than disrupt the existing human rights architecture⁴⁷.

Apart from its Treaty related functions, the ECOWAS Authority also takes on certain other specific roles in relation to human rights. These other roles are located in some of the protocols adopted by the Community. The responsibilities under the protocols are of an executive nature. For instance, under the Protocol on Free Movement, Right of Residence and Establishment, the Authority is empowered, through its chairperson, to direct the ECOWAS Commission to dispatch a fact-finding mission to investigate allegations of 'systematic or serious violations' of the provisions of the Protocol. This process, which only becomes operational if member states are unable to reach amicable settlement of the dispute touches on the enjoyment of economic freedoms by citizens. Intervention in this regard coincides with the authority of the African Commission, the AU Peace and Security Council (AUPSC)

and by extension, the AU Assembly to intervene in situations of serious or massive violations of human rights⁴⁷.

Above its executive functions, the ECOWAS Commission also contributes to the formulation of human rights policies in the Community. While this may not be a generic function of secretariats of international organizations, it is not an extreme function as policies initiated or formulated by the Commission should generally be proposals subject to approval by the relevant decision-making institutions of the Community. In practice such proposals are adopted with little or no amendments. As some of the proposals emerge from experiences gathered in the course of fieldwork, they are very relevant for the furtherance of the human rights direction of the Community. In 2006, the ECOWAS Executive Secretariat was responsible for the formulation of a community policy on disaster mitigation and management. In doing this, the Secretariat reportedly consulted with relevant agencies in order to take the special needs of children into account. This form of consultation before formulation of policies is an important balancing mechanism that is neglected in the ECOWAS human rights framework.

While the ECOWAS Commission does not have any specific treaty mandate for the protection of human rights, it is clear that a major part of the promotion and protection of human rights within the ECOWAS framework has been undertaken by this institution⁴⁸.

Southern Africa Development Community and Human Rights

The origin of the SADC is dated back to the 1960s and 1970s, when the leaders of majority-ruled countries and national liberation movements coordinated their political, diplomatic and military struggles to end colonial and white-minority rule in southern Africa. The immediate forerunner of the political and security cooperation leg of today's SADC was the informal Frontline States (FLS) grouping. This was formed in 1980⁴⁸.

The Southern African Development Coordination Conference (SADCC) was the forerunner of the socio-economic cooperation leg of the today's SADC. The adoption by nine majority-ruled southern African countries of the Lusaka declaration on the 1st of April 1980 paved the way for the formal establishment of SADCC in April 1980⁴⁸.

Membership of the FLS and SADCC sometimes differed.

SADCC was later transformed into the SADC on the 17th of August 1992, with the adoption by the founding members of SADCC and newly independent Namibia of the Windhoek declaration and the treaty establishing SADC. The 1992 SADC provides for both socio-economic cooperation and political and security cooperation. In reality, the FLS was dissolved only in 1994, after South Africa's first democratic elections. Subsequent efforts to place political and security cooperation on a firm institutional footing under SADC's umbrella failed.

In August 2019, SADC adopted Swahili as its fourth working language, alongside English, French and Portuguese⁴⁹.

SADC countries face many social, development, economic, trade, education, health, diplomatic, defence, security and political challenges. Individual members cannot tackle some of these challenges effectively. Cattle diseases and organised-crime gangs know no boundaries. War in one country can suck in its neighbours and damage their economies. The sustainable development that trade could bring is threatened by the existence of different product standards and tariff regimes, weak customs infrastructure and bad roads. The socio-economic and political and security cooperation aims of SADC are equally wide-ranging, and intended to address the various common challenges.

One significant challenge the SADC faces with member states is they participate in other regional economic cooperation schemes, regional political, and security cooperation schemes

that may compete with or undermine SADC's aims. For example, South Africa and Botswana both belong to the Southern Africa Customs Union, Zambia is a part of the Common Market for Eastern and Southern Africa, and Tanzania is a member of the East African Community.

According to Human Rights Watch, "SADC has been criticized for its laxity on making human rights compliance within its member states a priority"⁴⁹.

In August 1992, in Windhoek, Namibia, 10 founding member countries signed the SADC treaty, which commits them to act in accordance with the principles of "human rights, democracy and the rule of law". In recent years, however, SADC governments have taken regressive steps to weaken and undermine key rights protection mechanisms such as the SADC Tribunal⁵⁰.

In August 2014, SADC leaders stripped the tribunal of its mandate to receive complaints from individuals and organizations, leaving it only to adjudicate disputes between member countries. This drastically undercuts its human rights protection mandate.

In 2008, the regional leaders made efforts to protect women's rights by adopting the SADC Protocol on Gender and Development, obligating member states to include women's equality in their constitutions as a safeguard to prevent the use of other lower laws, including religious and customary laws, to undermine women's equality. In reality, the sub-region continues to have high rates of forced and child marriages⁵⁰.

Half of the girls in Malawi and a third of girls in Zimbabwe marry before they turn 18. Human Rights Watch has documented the many factors that contribute to teenage pregnancies in Tanzania, including child marriage, lack of information about sexuality and reproduction, and sexual violence and exploitation⁴⁶.

Girls who marry young are often denied a range of human rights: many discontinue their education, face serious health problems from early and multiple pregnancies, and suffer

sexual and domestic violence. Southern African countries should align their laws to the SADC Parliamentary Forum Model Law on Eradicating Child Marriage, adopted in June 2016, to advance the rights of women and girls⁵⁰.

Other human rights problems affect the lives of ordinary people in Angola, Mozambique, Swaziland, South Africa, and Zimbabwe. Since March 2015, Human Rights Watch has documented at least 10 cases of politically motivated killings in Mozambique. Both the ruling party, Frelimo, and the opposition Renamo shared with Human Rights Watch lists of several party members killed across the country in the past two years. Law enforcement authorities appear incapable or unwilling to investigate these crimes effectively, Human Rights Watch found. This creates an environment of impunity and fear, and hinders efforts to resolve Mozambique's political tensions⁴⁹.

In Angola, in advance of the August 23 general elections, reports of political violence and slow investigations into attacks on political figures during the election campaign are worrying. In Zimbabwe, the government of President Robert Mugabe ignored the rights provisions in the country's new constitution, neither enacting laws to put the new constitution into effect nor amending existing laws to bring them in line with the constitution and Zimbabwe's obligations under regional and international human rights conventions. In addition, non-governmental organizations have reported that the police use outdated and abusive laws to violate basic rights such as freedom of expression and assembly, and harass activists, human rights defenders, and LGBT people. There has been no progress toward justice for human rights violations and past political violence⁵⁰.

In Swaziland, political activism and trade unions are subject to restrictions that violate international law, including potential bans under the draconian Suppression of Terrorism Act, and activists and union members risk arbitrary detention and unfair trials. In South Africa,

authorities have repeatedly failed to take decisive steps to combat xenophobic violence and other forms of intolerance against foreign nationals. The International Criminal Court ruled that South Africa violated its international legal obligations by failing to arrest President Omar al-Bashir when he visited South Africa for an African Union meeting. Al-Bashir has long been subject to two ICC arrest warrants on charges of war crimes, crimes against humanity, and genocide committed in Darfur. South Africa should reaffirm its support for the ICC and continue to lead the fight for human rights and justice, as it has done in the past⁵¹.

Economic Community of Central African States (ECCAS)

The Economic community of central African states is an Economic community of the African union for promotion of regional economic cooperation in central Africa. It aims to achieve collective autonomy, raise the standard of living of its populations and maintain economic stability through harmonious cooperation.

The Customs and Economic Union of Central Africa (UDEAC from its name in French, *Union Douanière et Économique de l'Afrique Centrale*) was established by the Brazzaville Treaty in 1964. It established a custom union with free trade between members and a common external tariff for imports from other countries. The treaty became effective in 1966 after it was ratified by its then five member countries, Cameroon, the Central African Republic, Chad, The Republic of Congo and Gabon⁵¹.

At a summit meeting in December 1981, the leaders of the UDEAC agreed on principles to form a wider economic community of Central African states. The UDEAC members established ECCAS on 18 October 1983. ECCAS began functioning in 1985, but was inactive for several years because of financial difficulties (non-payment of membership fees by the member states) and the conflict in the Great Lakes area. The war in the DR Congo was particularly troublesome, as Rwanda and Angola fought on opposing sides⁵².

The ultimate goal is to establish a **Central African Common Market**. At the Malabo Heads of State and Government Conference in 1999, four priority fields for the organization were identified which are:

1. to develop capacities to maintain peace, security and stability as essential prerequisites for economic and social development
2. to develop physical, economic and monetary integration,
3. To develop a culture of Human integration,
4. To establish an autonomous finance mechanism for ECCAS⁵².

Government, representatives of opposition parties, senior officers of the armed forces and security forces, parliamentarians and representatives of civil society from the Central African countries, met in Bata, Equatorial Guinea, from the 18th to the 21st of May 1998, under the auspices of the United Nations Standing Advisory Committee on Security Questions in Central Africa, to consider issues related to the democratic process and peace in Central Africa.

The strengthening of ECCAS began with the formation of its peace and security architecture, notably, the Central African Early Warning Mechanism (MARAC) and the Central African Multinational Force (FOMAC). Both were created by the Central African Peace and Security Council Protocol (COPAX), which was although adopted in 2000, was endorsed by the required number of Heads of States to enter into force in 2004⁵².

The Central African Multinational Force on the other hand, was conceived as ECCAS's multinational non-permanent standby force intended to accomplish peace, security and humanitarian relief missions. The force's fields of activities include preventative measures, that is, preventive deployment, observation and monitoring missions, as well as, in a wider

sense, the enforcement of sanctions and policing activities, such as investigations into fraud and organised crime.

For a region with enormous crises, the FOMAC force of military, police and civilian contingents combined is shamefully small, including only about 4,800 to 5,000 individuals. ECCAS is seriously hampered by insufficient intelligence, resources, and personnel. The AU and UN usually have to provide support, for example, instead of the ECCAS, it was the AU Peace and Security Council (PSC) that mobilised forces and resources to address conflicts in Burundi and CAR. The PSC also took action against the unconstitutional change of government in CAR in 2003. Under the watch of ECCAS, presidents in the region have changed their countries' constitutions to extend their tenures or delay holding elections, including in Burundi, Cameroon, Chad, Congo, DRC, and Rwanda⁵¹.

ECCAS's capacity building depends largely on the European Union (EU). This raises questions about whose objectives and interests ECCAS truly promotes. Some states, like Burundi and Rwanda, share dual regional membership⁵³.

Arab Maghreb Union

The Arab Maghreb Union (AMU) or simply Maghreb Union is a political union and economic union trade agreement aiming for economic and future political unity among Arab countries that are located primarily in the Maghreb in North Africa. Its members are the nations of Algeria, Libya, Mauritania, Morocco and Tunisia. Specifically, the AMU sets out the conditions for an eventual free-trade zone among member states, a unified customs regime for extra-union trade, and a common market where people, products, and capital circulate freely.

The AMU is governed by a council made up of the heads of state of its five member states. The council meets biannually, with the chairmanship rotating annually. The union also

includes a council of the ministers of foreign affairs from member states, a secretary general, and joint committees made up of the heads of various ministries, including the interior, finance, energy, tourism, and postal ministries. A judicial body made up of two magistrates from each member country serves to mediate issues between member states and advise AMU councils on matters of law⁵⁴.

The idea for an economic union of the Maghreb began with the independence of Tunisia and Morocco in 1956. The Union was established on 17th of February 1989 when the treaty was signed by the member states in Marrakech. According to the Constitutive Act, its aim is to guarantee cooperation with similar regional institutions, to take part in the enrichment of the international dialogue, to reinforce the independence of the member states and to safeguard their assets. Strategic relevance of the region is based on the fact that, collectively, it boasts large phosphate, oil, and gas reserves, and it is a transit centre to southern Europe. The success of the Union would, therefore be economically important. Its secretariat is located in Rabat, Morocco⁵⁴.

Strained relations between Morocco and Algeria during most of the 1990s paralyzed the AMU, with Morocco claiming the Western Sahara as part of its territory while Algeria backed the Polisario Front in winning independence. The AMU's stance against Libya in the bombing of an airliner over Lockerbie, Scotland, in 1988 also prevented further collective agreements.

Since 1999 it has established a number of joint bodies to address common concerns, including the International Organization for Migration, the Maghrebi Bank for Investment and External Trade, the Working Group on Fisheries, and the Maghrebi desertification observatory⁵⁴.

Human Rights Infringements in Northern Africa Maghreb States

Political regimes in the Maghreb are relatively a uniform collection of dictatorial governments or low-intensity democracies. Their very existence is in itself a violation of the human right to political participation. Generally speaking, it is not only the right to vote and stand for election which is infringed but also other civic and political rights together with other personal freedoms. The absence of legal certainty means that officials or simply private individuals also violate the human rights of others on their own initiative.

In spite of the considerable variations across countries and the type of human right we are addressing, violations of women's rights may stem from established cultural traditions and legislation. These are not mutually exclusive sources. There is nothing unusual about customs rooted in the history of a society becoming institutionalised as part of a country's legal system. Likewise, preserving traditions generally deserves to be protected as part of the heritage of human cultural diversity. Yet notwithstanding this principle, human dignity ought to be safeguarded in preference to any social custom. Hence no legal sheltering of traditions which violate human dignity is acceptable⁵⁵.

However, the states in the Maghreb is far from being a social transformer working towards greater tolerance or equality. On the contrary, states often draw power on these oppressive traditions to win popular support. This results in the preservation of traditions such as female genital mutilation, child marriage and the husband's right to punish his wife⁵⁵.

Domestic social tensions lead to a climate of hostility between the groups bound up in them. Ethnic and religious diversity often becomes a breeding ground for social tensions which may either spiral into violence or enforce legislation oppressing one part of the country compared to the other, thus enshrining discrimination as a matter of law.

Social rights in the Maghreb region is broken with majority of the population who are deprived of health services, basic infrastructure, sanitation and other conditions. The

existence of poor states which have insufficient economic resources to become welfare states does not negate the fact that at least minimal wealth redistribution is always possible. There are also endogenous factors at play in the Maghreb including widespread domestic corruption and the perpetuation of economic and social systems securing the interests of one or more elites, such as a number of families, the army or a religious caste.

Likewise, the region has seen more than six years of armed conflict and diplomatic standoff in states such as Libya, Morocco and Algeria. At present, Libya has been considered as a failed state in their own right where there is no authority wielding power within their borders. Human rights violations in the form of infringements of humanitarian law are frequent and daily occurrences in these wars⁵⁵.

Specific Human Rights Violations

Democracy

Democratic means a regime in which the outcome of an election is neither predetermined nor vulnerable to major fraud. The consolidation challenges referred to concerns security along with employment and economic opportunities for the citizens. In this context, there is no exception as to which country has an established democracy with an independent and strong judiciary.

In the case of Morocco, while their monarchies have progressively ceded power to parliament, there is still a long way to go in entrenching civic freedoms. The regimes in Egypt, Mauritania and Algeria are forms of authoritarianism under the relative guise of democratic formalities. By contrast, Tunisia is hampered in their efforts to consolidate democracy by economic recession and high unemployment rates. These factors make it impossible to achieve the minimum level of prosperity needed for social peace without which democracy

cannot be consolidated in society⁵⁶. The human rights of specific ethnicities or religious denominations are infringed in Northern Africa.

Religious and ethnic groups or minorities do not have rights to political participation, free practice of their faith and other civic and political rights. These rights are violated include Christian minorities in the Maghreb. In particular, Egyptian Christians have become targets of terrorist groups in recent years. In a similar situation are the Tuareg peoples of Algeria, whose government has made no effort to integrate them or ensure their political integration into the state.

Women's Rights

Special Attention to Female Genital Mutilation

In the Maghreb region, women's rights are being severely breached in areas as diverse as political participation rights, labour rights, sexual freedom, physical and psychological integrity and other freedoms. It goes without saying that women obviously experience all of these infringements of their rights.

The customs ingrained in all Maghreb cultures to a greater or lesser extent accept women's civic and intellectual inferiority as normal. In the Maghreb it is more common that while they are not officially sanctioned by law, the public authorities and the judiciary de facto hold back in their duty to intervene in cases of violence against women. This encourages the continuation of these violations of rights, even though the law purportedly bans them. In these cases, the defencelessness of the victims is further aggravated as in the international arena the state claims to comply with standards which are not met in social practice⁵⁶.

Areas of legal oppression include all the regulations which deny women management of their assets, getting a job, entrepreneurship and equality within the family. Sometimes women joining particular professions, such as the military, their occupational and business freedom

and access to institutional posts is completely barred. Some countries require women to be under the guardianship of a male relative, be it a father, brother, husband or son. Moreover, even when women are allowed to take up a profession, they run up against socially accepted discrimination; a patient may refuse to be treated by a woman doctor for instance.

A woman's right to privacy is violated in the case of particular illnesses, treatments or surgeries when by law the doctor has to tell her husband. Social practice also makes it rare for a woman to be alone with her doctor. It is not uncommon for women to have their right to decide about their health infringed by male relatives or even by doctors themselves, or for them to be unable to make such decisions about a family member including their children.

In terms of sexual and reproductive freedom, there are numerous bans on any form of contraception. Moreover, most criminal codes in these regions still consider sexual assault as a crime against the woman's honour and her family's and not against her sexual freedom and integrity. As a result, countries such as Morocco allow the assailant to be exonerated from criminal responsibility if he offers to marry his victim. In other countries. A rape victim is socially repudiated by the refusal of the men in the community to accept her as a wife. It is therefore often the woman's parents would force her to marry her assailant. Apart from such cases, forced or child marriage is not unknown in the customs and laws of the states. Pregnancies at this age can pose a serious risk to women. Sexual violence within marriage is also not a criminal offence⁵⁶.

As for physical violence, it is increasingly rare for laws to maintain the husband's so-called right of physical chastisement of his wife, in other words, to physically punish her. However, it should be emphasised that these repeals are not accompanied by positive actions to bring an end to the normalisation of gender-based violence. Equally, police and court protocols are not put in place to help women who might wish to seek the protection of the public authorities

against their abuser⁵⁶. No legal system in the world allows what is known as honour killings, for example. A husband murdering his unfaithful wife or a father murdering his daughter who has lost her virginity. However, most laws in the Maghreb regions, criminalise sexual relations outside marriage and in practice women suffer harsher consequences.

Female genital mutilation (FGM) victimises a high percentage of women in the Maghreb. This practice does not stem directly from Islam, but rather from a tradition whose origins go back more than 3,000 years in the territories that today are Sudan, Eritrea and Ethiopia. It is extremely rare in Arab monarchies notwithstanding their religious fundamentalism. WHO figures suggest more than 60% of women are victims of this practice, reaching almost 70% in the case of Sudan⁵⁶.

In recent time, FGM has been made an offence in the state of Sudan under the Criminal Code. This is one of the measures pushed through by the military junta which with significant popular support overthrew President Al-Bashir, although it is beyond dispute that this is a positive step, it is also true that in principle Sudan is a signatory to several international documents abolishing the practice, including the African Charter on Human Rights and the Maputo Protocol, which expressly refers to FGM. Furthermore, as a member of the African Union and under the international principle of good faith it should drive the Assembly of the African Union resolution of 22 September 2015 which called on its members to ban FGM. It cannot be denied that whether due to lack of resolve or lack of means, in many countries the practice has not been curtailed even after it was formally banned. They include the Gambia, where after three successive declarations banning FGM there has been no decrease in the practice in the country. It would therefore be crucial to monitor any potential statistical variations and changes in the attitude of the country's public authorities to this issue over the next five years⁵⁵.

Besides being widespread, what the WHO calls Type III FGM is also practised in Sudan. In addition to clitorrectomy, this additionally involves the removal of the labia minora and labia majora of the vagina along with sewing up the vaginal opening until the wedding night. Type II FGM predominates in Mauritania⁵⁶.

In relation to these violations of humanitarian law which are taking place in countries in Northern Africa, it is important to note that women and children are a particularly vulnerable and victimised group in these situations. Exact figures are currently impossible to obtain.

On the role of the Islamic religion in the oppression of women or other human rights violations in the Maghreb. The texts of the Qur'an and Sunnah date from the early 8th century AD at the beginning of the Umayyad Caliphate. Due to the context of the time, the understanding of relations between men and women in many of their passages is not founded on equality. Islamic legal schools have explored a view of customary jurisprudence which reflected pre-Islamic tribal customs and reinforced patriarchy⁵⁶.

However, the Qur'an does not lay down specific commandments or bans against women but rather suggests principles. Nothing in the Qur'an condones FGM. Thus, as with the Bible and other holy books⁵⁶.

Rights of Minors and Children

Gender and social class are crucial factors when it comes to the systematic violation of a child's human rights in these regions. Child labour is common, particularly in the Maghreb, especially in the lower social classes and even more so in rural areas. In terms of violation of rights, a distinction should be drawn between situations where the social and family context encourages or requires children to drop out of school early or not to start school at all, for example, around 40% of Egypt's population is illiterate and ones where children are exposed to circumstances which are potentially harmful to their physical and psychological integrity

or sexual integrity⁵⁷. The former practice is more widespread, although at the same time more difficult to redress. So, while exploitation, in the sense of endangering a child, is a universally condemned idea, more traditional societies find it harder to understand the value of education and the need pursue it during adolescence and early youth.

Girls and young women are more often deprived of schooling. They also endure forced and early marriages. It should be noted that child marriage is still legal in countries of the Maghreb and other states in Africa, including under the age of puberty, and this also puts their physical integrity and their lives at risk in the event of pregnancy before full bodily development. Children are particularly vulnerable in armed conflict. Particularly the case of what are called the children of ISIS or Daesh⁵⁷.

LGTBQ Community

The rights of the LGTBQ community are violated with respect to freely experiencing their sexuality, affective relationships and free development of their gender identity. Slight progress has been made in the legal arena. Only Mauritania in Africa currently retain the death penalty for male homosexual relations. However, none of them use it but instead commute it to long prison sentences. The Maghreb states still have severe prison sentences for male homosexuality⁵⁷.

It is important to note that, at any rate in official terms, these states argue that it is not LGTBQ orientation or desire that is criminalised but rather sexual relations. This means that at least for theoretical purposes, they avoid the accusation of applying offender-based criminal law. Equally, it has been noted that the criminal laws of these countries often only

criminalise sexual relations between men. This should not lead to the conclusion that lesbian relations are decriminalised. Likewise, the word “transgender” is not to be found in the criminal laws of these countries, which means the expression of this gender identity is not allowed. Such conduct is usually criminalised under other names such as crimes against morality.

A social standpoint reveals that the main challenge for social change is ignorance about what homosexuality entails, for instance. The social invisibility of the LGTBQ community. Thinking of the West before the queer movement began its campaigns in the 1960s and 1970s, “paedophile”, “pederast”, “homosexual”, “sodomasochist”, “transvestite” and other coarser words were synonyms in society’s collective mind set. Mutatis mutandis, we might conclude that the average citizen of these regions does not have a very clear idea about what being homosexual means, associating it with an idea of sin, contrary to God and nature⁵⁸.

Today, Tunisia’s homosexual community is the most visibly organised in the Arab world. However, despite this movement’s professed fondness for European LGTBQ organizations, it has declined to participate in events such as the Italian LGTBQ Pride festival. They believe that the queer image would be counterproductive for traditional Muslim societies⁵⁸.

At all events, we would point out that over and above the specific legal framework, social hatred towards LGTBQ people is the most dangerous threat to homosexuals in these countries. The risk of physical assault serious enough to endanger their lives increases exponentially when the community in which they live learn about their orientation⁵⁷.

2.3.12 Recent Violations Reports on Human Rights in Some African Countries

Human rights violations continue to increase in Africa, with a report by a global rights watchdog raising the red flag for most of the countries on the African continent. The 2022

Human Rights Watch report reveals that human rights violations continued in about 26 African countries that was monitored last year, with the situation worsening in most of them⁵⁹.

The report noted that rights violations not only continued in countries facing armed conflicts, such as Cameroon, the Central African Republic, Chad, Ethiopia, Mozambique, Nigeria and South Sudan, but were also recorded in countries like Angola, Burundi, Eswatini, Rwanda, Uganda and Zimbabwe, among others⁵⁹.

1. Mozambique-

Wanton Abuses

The report indicates that the human rights situation in Mozambique worsened in 2021, where an insurgency has been dragging for nearly five years in the northern gas-rich Cabo Delgado province.

This insurrection by an Islamist-linked armed group calling itself Ansar al-Sunna 'supporters of the tradition' has resulted in the displacement of nearly 800,000 people as of June last year, as the armed group continued to attack villages, kill civilians, kidnap women and children and use boys as soldiers in its fight against government forces.

"State security forces were implicated in human rights abuses, including intimidation, sexual exploitation of displaced women, and the unlawful use of force against civilians," the report reads⁵⁹.

A human rights researcher at a Mozambican civic society organisation told Fair Planet that while both sides have been committing human rights violations, some of the root causes of this insurgency itself can be traced to a history of human rights abuses by the Maputo administration.

2. Rwanda-

Political and Civic Space Shut

The report states that Rwanda's human rights record remains atrocious, with the government of President Paul Kagame keeping the tiny African nation's political and civic space tightly closed.

"The ruling Rwandan Patriotic Front (RPF) continued to stifle dissenting and critical voices and to target those perceived as a threat to the government and their family members", the report reads. "The space for political opposition, civil society, and media remained closed. Several high-profile critics, including opposition members and commentators using social media or YouTube to express themselves, went missing, were arrested or threatened".

The Kigali regime was also accused of pursuing critics and dissidents across the globe.

"Rwanda's government and those operating on its behalf continued to exert pressure on Rwandan refugee and diaspora communities, as far afield as Australia and Canada. Refugees who are known critics of the government have been threatened and harassed"⁵⁹.

3. Burundi-

Renewed Onslaught

Burundi, another African Great Lakes country, saw "limited" progress following the coming of a new leader President Évariste Ndayishimiye in June 2020, with a number of people including journalists and human rights defenders released from prison. There was, however, renewed assault on human rights by the government of the late Pierre Nkurunziza's successor.

"Despite a lull in abuses against opposition members after the May 2020 elections, killings, disappearances, torture, arbitrary detention and harassment of those perceived to oppose the government continued throughout 2021", the report noted⁵⁹.

4. Eswatini-

Mswati Clings to Absolutism

Africa's absolute monarchy of Eswatini has been rocked by pro-democracy protests resulting in scores being killed and thousands arrested as the embattled King Mswati tries to maintain his absolutism, which his subjects see as outdated in this 21st century.

"There has been no progress on essential rights reforms, including the removal of all legislative and practical restrictions to free exercise of civil and political rights", the report noted⁵⁹.

It said these reforms would include the repealing or amendment of laws that obstruct the rights to freedoms and allowing for political parties, which would lead to democratic elections, among others.

5. Zimbabwe-

Abductions, Torture and Evictions

Zimbabwe is another country that is on a downward trajectory with abductions, arbitrary arrests and mass evictions of citizens from their ancestral lands, among other violations, being noted.

"The administration of President Emmerson Mnangagwa failed to take meaningful steps to uphold human rights and ensure justice for serious abuses primarily committed by security forces in 2021", the reported pointed out⁵⁹.

It said there had been no accountability for abuses by security forces, including the August 2018 post-election violence, and killings and rape during the January 2019 protests.

"Abductions, torture, arbitrary arrests, and other abuses against opposition politicians and activists have not been meaningfully investigated"⁵⁹.

Violations Documented

Executive director of the Zimbabwe Human Rights NGO Forum, agreed with HRW's findings on human rights violations in the southern African nation. "The Forum has, since 1998, monitored and documented human rights violations in Zimbabwe, and has stepped in to provide legal, medical and psychosocial support where needed".

With the recent UPR (Universal Periodic Review) process, for instance, the Forum coordinated with other Civil Society Organizations (CSOs) in the development of a CSOs shadow report, which formed one of the reports that UPR Working Group used as the basis for the review.

"This we do to ensure that the State's perennial rosy picture it paints in its reports does no go untested. This is thus a measure we employ to ensure that the truth is laid bare". "We do this with special mechanisms of the United Nations and African Union with the African Commission on Human and Peoples' Rights, and the United Nations Human Rights Council itself"⁵⁹.

"Locally, we have championed public interest and strategic impact litigation, engagement with the law and policy-making authorities, and defending of civic space to ensure that non-state actors and private citizens hold their government to account"⁵⁹.

6. South Africa-

Violations

Usually considered a shining beacon of human rights, South Africa was accused of failing to take meaningful measures to improve protection of social and economic rights, which has been undermined by widespread unemployment, inequality, poverty, the government's response to the Covid-19 pandemic, and corruption.

It was also found wanting in terms of protection of woman rights, environmental activists, LGBTQ+ communities and refugees and asylum seekers. "The government's Covid-19 aid programs, including food parcels during national lockdown, overlooked people with disabilities, refugees and asylum seekers, and many lesbians, gay, bisexual, and transgender (LGBTQ) people," the report pointed out⁵⁹.

It added that other human rights concerns include violence against women, failure to ensure justice and accountability for past xenophobic violence, and violence against environmental activists.

International Crisis Group's senior Consultant for Southern Africa, said the problems that South Africa faces should be understood in the context of some "extraordinary challenges" that have their roots in the country's complex history. In the context of South Africa, it should be noted that we are trying to build something that was not there before, so it would not be improper to talk of a decline as if a perfect situation existed before.

It was added that the good thing about South Africa is that it has the framework of a strong constitution as well as strong democracy supporting institutions such as a solid judiciary branch, a vibrant civic society movement and the media all of which are still able to interrogate issues and seek remedial action.

Violations Across Africa

In Egypt, the continued reliance on the abusive Emergency State Security Courts saw an increase in human rights violations in 2021, as these courts were used to prosecute and persecute peaceful activists and critics who joined thousands of dissidents already in the country's congested prisons. These courts issued death sentences in mass trials, adding to the sharply escalating numbers of executions.

In Burkina Faso, there was a marked deterioration in human rights and security situation in 2021 as attacks and atrocities by armed Islamist groups surged, unlawful killings by state security forces and pro-government militias during counterterrorism operations continued and the humanitarian situation worsened⁵⁸.

The same also took place in Nigeria, where the fight against the Islamist group Boko Haram, which rights groups say has kidnapped thousands of schoolchildren, is used as justification by the government for committing human rights violations. Armed groups and government forces also committed human rights abuses in Cameroon, including mass killings, across the country's Anglophone regions and in the Far North region. The fighting in Cameroon had displaced over 340,000 people within the country by August 2021. Responding to the armed conflict, the report states that government forces have also been responsible for violations of international humanitarian and human rights laws, including unlawful killings and arbitrary arrests⁵⁸.

HRW also states that the human rights and humanitarian situation in Ethiopia deteriorated further in 2021, with civilians impacted by a devastating conflict in Tigray, security force abuses, attacks by armed groups and deadly ethnic violence in other regions. "In Tigray, government forces and allies committed forcible displacement, large-scale massacres, widespread sexual violence, indiscriminate shelling, pillage and attacks on schools and hospitals". "The government's actions in Tigray contributed to growing international pressure to address accountability for rights abuses"⁵⁸.

2.3.13 Human Rights Achievements by the African Union

The African Union (AU) is the premier international organisation on the African continent. The Addis Ababa based organisation brings together all 54 independent states in Africa and Western Sahara, to promote continental political unity, security cooperation, economic

integration, regional integration, interstate solidarity, peace, good governance and to enhance the African agency in the global system. The AU has been successful in addressing the needs of the African political class but it is yet to make a significant difference in the lives of many ordinary Africans. The AU has socialized African leaders to accept liberal values as the foundation of international cooperation in Africa and established progressive and innovative rules and norms for the African continent. It has also created many useful decision making structure that have contributed to the prevention, management, and resolution of conflicts in Africa.

The AU has however, been less successful in connecting its activities and programs to ordinary Africans in areas such as, providing common public goods and services valued by citizens in Africa, giving voice to the majority of young people in Africa, promoting intra-Africa trade, good governance and financial independence of the African continent as well as struggled to address the expressed martial needs and quotidian concerns of ordinary Africans⁵⁹.

Critiques

The African Union has left its mark on the continent, although most observers agree that there is stillroom for improvement.

A Kenyan academic specializing in African affairs, recognizes the importance of the AU's presence on the continent; however, believing that it can function better in order to properly fulfil its role. It has been stated that a lot of things need to be done for it to be functional, especially in terms of human rights violations in Africa. AU has not been seen coming out very strongly to condemn this⁶⁰.

The AU needs to step up its leadership in order to address the issue. There has not been a strong voice from the AU condemning the heinous human rights violations in different

countries. Countries like Sudan, Somalia, even Burundi, yet they keep quiet. So, one wonders whether they have the teeth to act. It was suggested that the AU should emulate the structure and behaviour of similar organizations like the European Union (EU) if it wishes to better help the continent.

A constitutional crisis remains a common issue, which many African countries have dealt with in recent years. The AU has also come under criticism for failing to deal with these crises and encouraging countries to respect their laws. Although many Western nations have imposed sanctions on African nations in the past, the AU has not followed suit. Smaller organizations could dissolve the AU, once there are regional organizations, then the African Union will not be needed Union anymore⁶⁰.

African Union (AU) leaders have been faulted by Human Right activists over their failure to implement their human rights obligations and commitments. It has been further stated that the African Union leaders should start making effective and meaningful use of its treaties and protocols on democracy and human rights to improve respect for democratic principles, human rights, the rule of law and the well-being of African citizens. Since tenure elongation has paved the way for coups in some countries, the AU need to suspend governments that amend national constitutions to extend the tenure of political leaders.

The responsibility to protect is a central part of AUs leadership obligations; to take preventive and effective measures, to address democratic and rule of law deficits in several member states.

The failure to take effective and meaningful preventive measures to address these democratic and rule of law deficits will continue to undermine the legitimacy and ability of the AU to consistently deal with military coups and unconstitutional changes of government in Africa. Apart from the manipulation of the constitution, abuse of human rights and official impunity.

The crisis of poverty arising from the gross mismanagement of the economy by the ruling class aided by imperialism is also exploited to remove elected governments.

It is common knowledge that the economy of the continent is in the hands of foreign economic interests that have embarked on massive looting and exploitation of the abundant human and natural resources of African countries. As if that is not enough, the majority of them are implementing neoliberal economic policies, which have pauperised the people. The AU and its leaders must proactively apply and implement their voluntary commitments on democracy and human rights to take preventive measures to promote the rule of law, end impunity of political leaders, and ensure full respect for citizens' human rights⁶¹.

Praises

Africa still has reason to celebrate the existence of the AU, although it is easy to admit that the AU failed to take punitive action on former Zimbabwean president Robert Mugabe. It also been argued that Africa still needs the AU because it plays a pivotal role in dealing with various challenging issues currently facing the continent, especially with regards to human rights.

Africa still need the African Union, even though, they can do better than they have done. Considering the issues of the indigenous peoples, the African Court of Justice- which is part of the African Union, had a grand ruling a year ago in Kenya, respecting the rights of the indigenous people. And that was called grand ruling because it is being referenced by many countries around the world⁶².

2.3.14 The African Union and the Responsibility to Protect: From Non-Interference to Non-Indifference

AU Human Rights Efforts

A major achievement of the AU has been the gradual but steady socialization of the African political class to accept liberal values and norms as the basis for interstate Cooperation. The promotion of liberal values by the AU represents a remarkable shift of Approach to Pan-Africanism in Africa. For many years, being pan-Africanist was almost synonymous with being left, nativist, and against liberal values of democracy and human rights. Pan-Africanism as practiced within the institutional context of the AU is pro-liberal.

The AU has become a major player in the African peace and security landscape. It has changed the attitudes of many governments in Africa from a culture of indifference to a new culture of caring about the African peace and security as a whole. Before the AU, the African political class used two excuses to show indifference to wars outside the jurisdiction of their states. They conveniently hid behind the international principle of territorial integrity of states and avoided intervention in the internal affairs of other states. In addition, they ignore conflicts occurring in other African countries, claiming, peace and security were the preserve of the United Nations, which is mandated to keep peace globally and which possesses more resources than the OAU. These excuses were to prevent the OAU from intervening in internal conflicts of member states. The AU changed all that by introducing Article 4(h), which gives the union the right to intervene along the line of the Responsibility to Protect (R2P). However, Article 4(h) is yet to be invoked, it has provided the broader context and cognitive orientations for the AU to intervene in African countries to protect and save lives. The AU engages in peace support operations, which is a more acceptable phrase for peace making that involves serious military combats resulting in high casualties. Indeed, it is estimated that between 2001 and 2017, the number of casualties among African troops in peace support operations exceeded the combined casualties in United Nations peacekeeping missions in the last 70 years⁶².

The AU's daring approach to peace making, which most international organizations, including the UN, are unwilling or afraid to pursue in Africa, have saved precious civilian lives in African countries, including Burundi, Comoros, Kenya, Sudan, and Somalia. AU troops also helped facilitate the return of refugees and internally displaced people and delivery of humanitarian aid.

The AU has been instrumental in conflict prevention and peaceful settlement of violence. Through its Peace and Security Council, elections observations, the early warning system, the panel of the wise, the pan-African panel of the wise, and the Regional Economic Communities (RECS), the AU has intervened in challenging political situations in Africa, preventing them from exploding into full-blown violence. AU's creation of a low-cost, agile, and innovative international decision-making bodies in wide range of areas, including peace and security, education, human rights, governance, science and technology, social affair.

The AU has been very successful in making international laws that have shaped national legislations and policies. The rules affect a wide range of areas, including international crime and terrorism, control of epidemics, disaster management, environmental management, negotiations relating to trade and external debt, food security, refugees, populations, migration, and displaced persons.

The AU Non-Aggression and Common Defence Pact (Common Defence Pact) provides some of the most instructive and detailed regulations on regional defence and security in the world. It criminalizes states' acquisition of new territory by force, commits AU members to prohibit and prevent genocide, crimes against humanity and other forms of mass murder and in addition, it prohibits member states of AU from entering "into any international or regional commitment which is in contradiction to the present Pact"⁶².

The AU protocol on the rights of women in Africa contains many “global firsts” on women’s rights. It provided for the first time, in an international human rights treaty, woman’s right to abortion, the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS as well as the first to provide that every African woman has the right to be informed on their health status, including their HIV and AIDS status. It is also the first international treaty to impose “a legal ban on female genital mutilation” and makes it obligatory for state parties to eliminate it.

The protocol incorporates both the UN’s legal principles on women and advances these rules in so many ways. Its definition of “violence against women” transcends the definition contained in UN Declaration on the elimination of violence against women. Unlike the UN Declaration, it expanded the definition of violence against women to include acts causing economic hardship in addition to adding acts committed both in peace time and during war. It also contains elaborate rule against practices that constitute violence against women. Many of these rules are not sitting on desks gathering dust. Rather, some of them are making practical impacts. For instance, the gender equality rule pushed by the AU have led to the establishment of gender parity at the very top of the management of the AU Commission. They have made the AU one of the most gender sensitive international organizations in the world⁶².

The extensive rules that the AU has developed on human rights have provided opportunity to human rights activists to promote and defend human rights and to shame misbehaving governments in Africa. Many advocacy groups have used some of the AU rules to defend groups and individuals, especially the vulnerable population. For instance.

1. The Minority Rights Group International (MRG) and Mauritanian NGO SOS-Esclaves dragged the Mauritanian government to the African Committee of Experts

on the Rights and Welfare of the Child (ACERWC) for violating its obligations to protect children's rights under the African Charter on the Rights and Welfare of the Child. In a landmark ruling announced on January 26, 2018, the AU committee found that the authorities in Mauritania did not adequately enforce its antislavery laws or took adequate steps to prevent, investigate, prosecute, punish, and prevent the practice of slavery, creating a culture of impunity in the process. The ruling also noted that Mauritanian authorities failed to act in the best interests of its children, failing to protect them from discrimination, child labour, abuse, trafficking, and other harmful practices. It pointed out that Mauritania's antislavery law does not provide adequate protection against slavery in practice and asked the Mauritania authorities to take steps to eradicate slavery in Mauritania, including providing special measures for child victims and making the elimination of slavery a priority. The ruling which was covered widely by both local and international press is a big blow to the international reputation of Mauritania. Its government has been shamed and forced to do something about the shameful slave practices in Mauritania.

The AU has used its powers to impose AU's code of conduct and rules of engagement on African security personnel on AU peace support missions. The rules have encouraged majority of African security forces on AU mission to conduct themselves in professional ways. For instance, the AUC pushed troops contributing countries to its peace missions to enforce the Union's zero tolerance on sexual abuse⁶³.

2.3.15 Measures

Agenda 2063

In accordance with the AU Agenda 2063, the continent will be home to a culture of democratic principles, gender equality, and respect for human rights, justice, and the rule of law. The AU collaborates with member states to create and put into effect laws and policies that ensure that citizens of Africa are fully involved in development initiatives and policy making, and that they have safe and secure environments in which to live.

To promote effective governance, the preservation of civil liberties, and the protection of African citizens' rights, the AU has made sure that different treaties and policies are in place. AU treaties on the rights of persons include; The African Charter on the Rights and Welfare of the Child, African Charter on Human and Peoples' Rights, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, African Youth Charter and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa⁶³.

To aid in the implementation of sound governance and respect for human rights across the continent, the African Union established the Judicial, Human Rights, and Legal Organs. They include the African Commission on Human and Peoples' Rights (ACHPR), African Court on Human and Peoples' Rights (ACHPR), AU Commission on International Law (AUCIL), AU Advisory Board on Corruption (AUABC) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

The promotion, facilitation, coordination, and encouragement of democratic values, the rule of law, observance of human rights, involvement of civil society in the development of the continent, and the achievement of long-term solutions to humanitarian crises are all tasks that fall under the purview of the Department of Political Affairs. Additionally, the department oversees the implementation of the African Governance Architecture as well as long-term responses to political and humanitarian crises, including as preventive diplomacy⁶⁴.

17TH AU-EU Human Rights Dialogue

The 17th African Union (AU) - European Union (EU) Human Rights Dialogue was held on the 9th of November 2021 in a virtual format. The Dialogue was co-chaired by H.E. Amb. Bankole Adeoye, AU Commissioner for Political Affairs, Peace and Security and H.E. Mr. Eamon Gilmore, the EU Special Representative for Human Rights.

The AU and the EU recognized this High-Level Human Rights Dialogue as a clear manifestation of a strategic partnership of equals, rooted in shared values and common interests and guided by a long-term vision. The Dialogue proved once again to be a unique platform to update one another on the situation of human rights in respective continents and with a focus on specific country situations, share experiences, exchange points of view and strengthen cooperation on specific human rights issues.

Both sides acknowledged challenges faced as a result of COVID-19 and continue to call for a rights-based response to the pandemic, and emphasised that any measure introduced to mitigate the consequences of the COVID-19 must be lawful, necessary and proportionate. The increase in cases of sexual and gender-based violence, including domestic violence, restrictions on the exercise of fundamental freedoms, in particular freedom of expression and assembly, attacks on independent media and journalists are of particular concern. The EU and AU agreed to exchange information and good practices in the promotion and protection of human rights in the context of the pandemic⁶³.

The EU congratulated the AU and its Member States on the 40th anniversary of the adoption of the African Charter on Human and Peoples' Rights, the foundation for the African Human and Peoples' Rights System. In this spirit, both sides recalled the importance of making concrete progress towards the ratification, domestication and implementation of agreed continental and international human rights norms and standards. The EU noted the

finalisation and adoption of the AU Strategic Plan for the promotion and protection of human and peoples' rights in Africa (2021-2030) and stands ready to consider possible joint actions contributing to its implementation in Africa.

Both sides recognised that the right to development is rooted in the universality, indivisibility, interrelation, and interdependence of all human rights. The AU and the EU agreed to strengthen their cooperation in international fora on the right to development. On women's rights and gender mainstreaming, both sides agreed to work closely with their respective Member States to prevent and eliminate sexual and gender-based violence, including domestic violence. Both Parties acknowledged that the AU strategy on Gender Equality and Women's Empowerment, the EU Gender Action Plan III, and the African Pillar of the Spotlight Initiative guide actions at country level. Both sides recalled the importance of ratifying, domesticating and implementing the Maputo Protocol on Women's Rights in Africa⁶⁵.

2.4 Conceptual Framework

International Human rights law is a body of international law that has over time been established by treaties or customs which are the foundation upon which people, and organizations expect to affirm certain rights that their States are required to uphold and defend. There are numerous non-treaty-based rules and regulations (sometimes known as "soft law") which are included in the body of international human rights standards.

While international human rights law and human rights law have developed independently, some human rights treaties such as the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict and the Convention on Enforced Disappearance include provisions that are derived from international Human rights law.

International Human rights law lays down obligations which states are bound to respect. By becoming parties to international treaties, states assume obligations and duties under international law to respect, to protect and fulfil Human rights. The obligation to respect means states must refrain from interfering with or curtailing the enjoyment of Human rights. The obligation to protect requires states to protect individuals and groups against Human rights abuses. The obligation to fulfil means that states must take positive action to facilitate the enjoyment of basic Human rights⁶⁶.

Human rights are basically rights, rights we have solely because we exist as Human beings they are not granted by any state, these rights are inherent to us all, regardless of nationality, sex, ethnic origin, colour of our skins, religion, language or any other status. Everybody born in to this world have Human rights that must be protected by the law⁶⁷.

There is diversity in Human rights or a concept of plurality, diversity is the peaceful coexistence of different interest, convictions and lifestyle, diversity exists in Human rights. The pluralism of human rights is simply the multiplicity of rights, which means that there are many different types of human rights. Fortunately, the Universal Declaration of Human Rights, which codified the major human rights principles, makes it possible to view all of these principles in a single document⁶⁸.

International human rights law is built on the tenet of human rights' universality. This implies that our human rights belong to us all equally. The concept of universality is a theory that attempts to describe universal phenomena such as space, time, matter and energy, in the sense of Human beings and its connection to Fundamental Human rights this essentially attempt to describes individuals in various spheres of life in whatever race, ethnic origin, age, size or even religion Human rights should be enjoyed by everyone, every person is entitled to Human rights without discrimination. That's the Universality of Human rights⁶⁹.

The atrocities of the Second World War made the protection and promotion of human rights a top international priority. Recently, interest in the knowledge of Human rights issues have increased. The Universal Declaration of Human Rights, which became the most significant statement of what ought to be the benchmark for fundamental equality and human dignity, was published by the United Nations in 1948⁷⁰.

2.5 Summary of Gaps in Literature Reviewed

The progression in literature of this chapter has covered various topics and reviewed series of scholarly works from the aspects of the African unions full on history and creation story, from the failure of its preceding organisation the Organisation of African Unity (OAU) to the proposal of a succession by a new organisation the African Union (AU) which became a legal reality on the 10th of July, 2002. The researcher also touched on Human rights defining it in different measures and concept, further briefing on the existence of Human rights and how it came into being due to the gruesome atrocities committed during the Second World War.

On the aspect of Human rights existence, The Catholic tradition teaches that human dignity can be protected and a healthy community can be achieved only if human rights are protected and responsibilities are met. Human rights could also exist independently of legal enactment by being part of actual human moralities. The Universal declaration of Human Rights which is the codification of Human rights laws had a very essential role to play in the importance of Human rights promotion. The International human rights law and the history of the African human rights system, were addressed.

Moving to the Theoretical review, there were four theories adopted to challenge the topic of African Unions Human Rights Framework and its Effectiveness for Continental Equality, and they are,

- i. Human rights are indeed rights - This was to state that Human rights are basic, fundamental and important for all existing Human beings and they shouldn't be neglected or violated at any circumstance but always respected because they are simply rights.
- ii. Plurality of Human Rights - This theory explains that after the acceptance of the existence of Human rights it is important to know that there isn't just one singular right that covers the Human rights spectrum but a series of rights covering social, cultural and also political will of all Human beings.
- iii. Universality of Human rights - This theory covers the most important approach to Human rights which is the universal standing to Human rights, stating that human rights are worldwide and implies to every living person no matter where they are or what they are, human rights apply to every Human being no matter the race, colour, background, etc.
- iv. Human rights have high priority - This approach to the concepts and ideas of human rights states the importance of these rights and put it on a high pedestal.

Furthermore, the notions evolving around Human rights existence and how it exists, the back and forth of its definition and the background evolution of the concept of Human rights was addressed.

The Empirical review of this study, touches on, the important policy change from the OAU's policy of Non-interference to that of the AU's policy of Non-indifference, also stating treaties, bodies and organs of the African Union which has an important role to play in the promotion and protection of Human rights, such as, the African Charter on Human and Peoples' rights which was an idea of drafting a document establishing a human rights protection mechanism in Africa, with a court and a commission. It addressed the African Commission on Human and Peoples rights, its composition, secretariat, mandate, bureau and its sessions, same as the

African Court on Human and Peoples rights its jurisdiction, and various merit cases, access to the court and its relationship to the commission, the protocol to the rights of women, The African Charter on the Rights and Welfare of the Child, The Peace and Security Council of the African Union were other aspects of the African union bodies and treaties that was addressed. Also not missing out on international organizations with Human rights mandate and their contribution to Human rights especially the United Nations.

Lastly regional initiative, which covers the regional bodies of Africa, ECOWAS, EAC, SADC, ECCAS, and the Arab Maghreb union. This aspect touches on the challenges faced in this region, the decisions taken by the regional organizations to combat Human rights violations and steps taken or to be taken by them. This chapter ended by criticism and also giving praises to the African union on its Human rights efforts and also its future Human rights plans for the continent.

Despite the abundance in availability of resources and material to research on the topic of Human rights in Africa in all its ramifications, there are still gaps in the literature of this thesis most especially in the sphere of the LGBTQ community and individuals, as much it can be argued that Human rights were drafted from western philosophy the African Human rights system is not still as advanced and diversified as that of the western world, cultural background, religious beliefs and customs in Africa play a big role in the Human rights advancement in Africa, which is on a slow progression.

The African political system also hinders Human rights promotion and protection in Africa, from cases of police brutality, violations committed by political leaders and not fulfilling their mandates to their people. Government actions, policies, and regulations can significantly affect how we live. When governments function at their best, they can help everyone live better lives because they provide vital infrastructures like hospitals and schools, create secure

environments for inclusive communities to thrive in, and use other levers like policy settings to advance equality.

Unfortunately, tyranny and injustice are sometimes perpetrated by governments. States have been involved in some of history's worst human rights violations. States have been known to occasionally violate rights and freedoms in most countries, even when policies and laws are implemented with the best of intentions⁷¹.

The LGBTQ Problem

Concerning LGBT rights, many African nations have a poor representation. The LGBTQ community is constantly the target of violence, and African political, religious, and traditional leaders marginalize sexual and gender diversity. In South Africa at least 24 individuals were murdered in bias-motivated attacks in 2021. 33 of the 69 nations that criminalize same-sex relationships are located in Africa. Most of the time, these laws are left over and reflection from colonial rule, and their ambiguous vague wording such as "carnal knowledge against the order of nature" to prohibits same-sex acts, this resonates with the decorum of the era. The protection of LGBTQ rights in Africa has made some progress in the past year, despite a lack of examples.

The articles of the Penal Code in African nations that prohibit "carnal knowledge of any person against the order of nature" are unconstitutional because they go against people's rights to their privacy, their freedom, their security, and their equal protection under the law. They also violate people's rights to be free from discrimination. Angola's new penal code, revised from 1886, came into effect in January 2021 and no longer criminalises same-sex conduct. The law has a non-discrimination provision that includes 'sexual orientation' as a protected ground.

In 2020 Gabon abandoned its brief experiment with criminalising same-sex conduct when its parliament reversed a 2019 law that had criminalised same-sex conduct for the first time.

In Mauritius, there cases challenging the constitutionality of a law that punishes consensual same-sex conduct with up to five years in prison. At the same time, Mauritius' Equal Opportunities Act 2008 protects against discrimination based on sexual orientation, including in employment, education, and accommodation.

In 2016 Ghana made attempts to showed signs of tolerance when its ambassador to the UN, Sammie Pesky Eddico, affirmed at the UN Human Rights Council in Geneva that "Ghana's Constitution prohibits discrimination of all kinds" and he did not oppose the appointment of the independent expert on sexual orientation and gender identity. In Accra, Ghana's capital, the human rights commission instituted a reporting mechanism that allowed LGBTQ people to report abuse and discrimination without revealing their identities.

But this informal truce was broken in 2021. In February, when religious and political leaders forced an LGBTQ centre to close in Accra. Then in May, police arrested 21 people attending a human rights workshop in the Ho city, of the Volta region. And in August, lawmakers proposed a bill so extreme that simply saying you are gay or lesbian could land you in mandatory conversion therapy or prison for up to 10 years.

Freedoms of expression and association have been tested during the past year. Freedom of expression has been curtailed in Africa by unconstitutional discrimination of people on basis of sexuality. In recent years, as LGBTQ rights have advanced within the UN system, the African Group has acted with some uniformity in opposing these advances, including by leading the charge against the appointment of an independent expert on sexual orientation and gender identity. Leaders in Ghana, Uganda, Nigeria and Tanzania have in recent years initiated vocal attacks against LGBTQ people⁷².

The African government has steadfastly refused to conform to such advancements, not only the government but also African citizens and their discriminatory behaviours towards LGBTQ people. This is in spite of efforts made by organizations to promote equal treatment and protect the rights of LGBTQ people. The rights of LGBTQ people are under attack in countries like Uganda due to the government prohibition of even association with a Gay or Lesbian person and threatens jail time to friends and family of such persons. Prison sentences in most African countries for participating in LGBTQ acts range from 5 to 10 years.

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Endnotes

1. J. A. Adeyeye, *A Comparative Analysis of the Charter of the Organization of African Unity (OAU) and the Constitutive Act of the African Union (AU)*, **Groningen Journal of International Law**, 6(6), 2018, 215-241. <https://ugp.rug.nl/GROJIL/article/view/35453/33001>.
2. African Union, *Constitutive Act of the African Union*, Constitutive Act of the African Union, adopted by the Thirty-Sixth ordinary session of the assembly of Heads of State and Government, Lome, Togo, 11 July 2000.
3. Office of the High Commissioner for Human Rights (OHCHR), *What are Human Rights?* United Nations Human Rights office of the high commissioner, 2018. <https://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>.
4. J. Ife., K. Soldatic & L Brisksman, *Human Rights and Social Works*, Cambridge University Press, 2022, 5-27. https://books.google.com.ng/books?hl=en&lr=&id=IPxvEAAAQBAJ&oi=fnd&pg=PR9&dq=human+rights+&ots=inF3jrLHAJ&sig=T48numIoBlwrxsL9LzoNNmP0dlQ&redir_esc=y#v=onepage&q=human%20rights&f=false.
5. I. Loveland, *Constitutional Law, Administrative Law & Human Rights a Critical Introduction*. Oxford University Press, 2018, 457-592, https://books.google.com.ng/books?hl=en&lr=&id=zmdRDwAAQBAJ&oi=fnd&pg=PP1&dq=HUMAN+RIGHTS,+CONSTITUTIONAL+RIGHTS+AND+FUNDAMENTAL+HUMAN+RIGHTS&ots=hYIYWUPqBq&sig=t1-CbWeYJW9d87kzYCRn5zIhpQI&redir_esc=y#v=onepage&q=HUMAN%20RIGHTS%20CONSTITUTIONAL%20RIGHTS%20AND%20FUNDAMENTAL%20HUMAN%20RIGHTS&f=false.
6. A. Muller, *Can Armed Non-State Actors Exercise Jurisdiction and Thus Become Human Rights Duty Bearers?* **Human Rights Law Review**, 20(2), 2020, 269-305. <https://doi.org/10.1093/hrlr/ngaa012>.
7. R. Wardle, *What are Human Rights and Why are They Important?* Future Learn, 2021. <https://www.futurelearn.com/info/blog/what-are-human-rights>.
8. D. Kretzmer & E. Klein, *The Concept of Human Dignity in Human Rights Discourse*, Kluwer Law International. 2021, 41-55. https://books.google.com.ng/books?hl=en&lr=&id=u4tFEAAAQBAJ&oi=fnd&pg=PR3&dq=The+Concept+of+Human+Dignity+in+Human+Rights+Discourse&ots=anyyW3CuuP&sig=koguTXAFrKRopCZ9IMID9LH3QVU&redir_esc=y#v=onepage&q=The%20Concept%20of%20Human%20Dignity%20in%20Human%20Rights%20Discourse&f=false.

9. D. Langness, *Human Rights are God-Given Rights*, BahaiTeachings.org, 2013. <https://acjool.org/index.php/agora/article/view/1491>.

10. K. I. Anthony, *Igwebuike Philosophy and Human Rights Violation in Africa*. St Albert the great major seminary, 2021. https://www.google.com/search?q=Igwebuike+Philosophy+and+Human+Rights+Violation+in+Africa&rlz=1C1CHNY_enNG1006NG1006&oq=Igwebuike+Philosophy+and+Human+Rights+Violation+in+Africa&aqs=chrome.69i59j69i60l2.2072j0j4&sourceid=chrome&ie=UTF-8.

11. T. G. Getahun, *Descriptive Overview of the African Human Rights System*. **Cukurova Arastirmalari**, 5(1), 2019, 123-137. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3422825.

12. D. Moeckli, S. Shah & S. Sivakumaran, *International Human Rights Law*, Oxford University Press, 2022, 527-524. https://books.google.com.ng/books?hl=en&lr=&id=JzWAEAAAQBAJ&oi=fnd&pg=PP1&dq=International+Human+Rights:+Foundation&ots=m853BPxDtM&sig=rGgHF9j-ExEkR1nTXGg26lpwm08&redir_esc=y#v=onepage&q=International%20Human%20Rights%3A%20Foundation&f=false.

13. K. M. Smith, *International Human Rights Law: Historical Background*. Oxford University Press, 2022, 39-51. https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&as_ylo=2018&as_yhi=2023&q=International+Huamn+Rights+Law%3A+Historical+background+Smith+Rhona&btnG=.

14. A. Negera, *African Union Governance Regime? Revitalizing African Governance and Architecture (AGA)*, **Journal of African Union Studies**, 11(2), 2022, 61-76. DOI: <https://doi.org/10.31920/2050-4306/2022/11n2a4>.

15. N. James, *Human Rights*, Stanford Encyclopaedia of Philosophy, Metaphysics Research Lab, Stanford University, 2019. <https://plato.stanford.edu/entries/rights-human/>.

16. A. Heard, *Human Rights: Chimeras in Sheep's Clothing?* Simon Fraser University, 1997. https://www.sfu.ca/~aheard/intro.html#N_1_.

17. R. M. Lerner, *Concept and Theories of Human Development*. Routledge, 2018. 16-25. <https://www.taylorfrancis.com/books/mono/10.4324/9780203581629/concepts-theories-human-development-richard-lerner>.

18. K. Ighobor, *Prioritizing Human Rights in Africa*. African Renewal, 2023. <https://www.un.org/africarenewal/magazine/april-2023/prioritising-human-rights-africa>.

19. M. Samb, *Fundamental Issues and Practical Challenges of Human Rights in the Context of the African Union*. **Annual Survey of International & Cooperative Law**, 15(1), 2009, 62-63. <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1128&context=annlsurvey>.
20. G. Niyungeko, *The African Charter on Democracy, Election and Governance as a Human Rights Instrument*, **Journal of African Law**, 63(1). 2019, 63-80. <https://www.cambridge.org/core/journals/journal-of-african-law/article/african-charter-on-democracy-elections-and-governance-as-a-human-rights-instrument/0DE5C942CCB2B0FE86397FD9F632D446>.
21. Organization of African Union (OAU) Doc. CAB/LEG/67/3, Banjul charter, *The African Commission on Human and Peoples' Rights legal instruments*, Banjul, Gambia, 27 June 1981.
22. C. Welch, *The Organisation of African Unity and the Promotion of Human Rights*. **The Journal of Modern African Studies**, 29(4), 1991. <https://www.jstor.org/stable/161137>.
23. A. C. Odinkalu, *Proposals for Review of the Rules of Procedure of the African Commission of Human and Peoples' Rights*. **Human Rights Quarterly**, 15(3), 1993, 533-548. <https://www.jstor.org/stable/762609?origin=crossref>.
24. International Justice Resource Center, *African Commission on Human and Peoples' Rights*, International Justice Resource Center, 2020. <https://ijrcenter.org/wp-content/uploads/2020/05/ACHPR-one-pager-2020.pdf>.
25. German Institute for Human Rights, *The African Human Rights System*. Deutsche Gesellschaft Fur Internationale Zusammenarbeit (GIZ), 2022. https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/ABC_Kinderrechte/e-info-tool_abc_of_hr_for_dev_coop_the_african_hr-system_01.pdf.
26. R. Murry, *Confidentiality and the Implementation of the Decision of the African Commission on Human and Peoples' Rights*. **African Human Rights Law Journal**, Volume 19, No 1, 2019. Pp. 1-25. http://www.scielo.org.za/scielo.php?pid=S1996-20962019000100002&script=sci_arttext.
27. M. Ssenyonjo, *Responding to Human Rights Violation in Africa: Assessing the Role of the African Commission and Court on Human and Peoples Rights (1987-2018)*, **International Human Rights Law Review**, 7(1), 2018, 1-45. https://brill.com/view/journals/hrlr/7/1/article-p1_1.xml.
28. Y. Booyzen, *A Guide to the African Human Rights System*, Pretoria University Law Press, 2016. Pp. 43-51. <https://www.corteidh.or.cr/tablas/31712.pdf>.
29. M. D. Muluneh, V. Stulz., L. Francis, & K. Agho, *Gender Based Violence Against Women in Sub-Saharan Africa: A Systematic Review and Meta-Analysis of Cross Sectional Studies*, **International Journal of Environmental Research and Public Health**, 17(3), 2020, 12-15, doi: 10.3390/ijerph17030903.

30. I. Chimaraoke, *Regional Legal and Policy instruments for addressing LGBT exclusion in African*. **Sexual and Reproductive Health Matters**, 28(1), 2020, 99-102. doi: 10.1080/26410397.2019.1698905.
31. J. Geng, *Chapter 24: The Maputo Protocol and the reconciliation of gender and culture in Africa*, **Elgar Online**, Law 2019 collection, 2019. 411-429. DOI: <https://doi.org/10.4337/9781785363924.00034>.
32. D. Eugene, D. Kwamena & D. David, *Women's reproductive health decision-making: A multi-country analysis of demographic and health surveys in sub-Saharan Africa*, **Plos One**, 14(1), 2019. <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0209985>.
33. B. D. Mezmur, *The African Children Charter @30: A Distinction Without a Difference*, **The International Journal of Children's Rights**, 28(4), 2020, 693-714. https://brill.com/view/journals/chil/28/4/article-p693_693.xml?language=en.
34. O. Uchenna, *A Third Wave? Creeping Autocracy in Africa*, **African Studies Quarterly**, 20(1), 2021, 115-119. <https://asq.africa.ufl.edu/a-third-wave-creeping-autocracy-in-africa/>.
35. P. D. William, *The Peace and Security Council of the African Union: Evaluating and Embryonic International Institution*, **The Journal of Modern African Studies**, 47(4), 2009, 603-626. <https://www.jstor.org/stable/40538337>.
36. African Union, Peace and Security Dept, *The Peace and Security Council of the African Union (AUPSC)*, African Union, 2015. <https://www.peaceau.org/en/page/42-psc>.
37. S. Desmidt, *Conflict Management and Prevention under the African Peace and Security Architecture (APSA) of the African Union*, **African Journal of Management**, 5(1), 2019, 79-97. <https://www.tandfonline.com/doi/full/10.1080/23322373.2018.1563465>.
38. T. K. Tiekou, *Stirring the Pot: The African Union and the International Order*, Routledge, 2019, 212-234. https://www.researchgate.net/profile/Thomas-Tiekou/publication/336858996_Stirring_the_pot/links/60f11897fb568a7098b21310/Stirring-the-pot.pdf.
39. G. Oberleitner, *International Human Rights Institutions, Tribunals and Courts*. Springer Link, 2018, 1-22. https://link.springer.com/referenceworkentry/10.1007/978-981-10-5206-4_1.
40. Compass, *Human Rights Activism and the Roles of NGOs*, Council of Europe, <https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos>.

41. United Nations, *Peace, dignity and equality on a healthy planet*, Global Issues Africa, United Nations, 2020. <https://www.un.org/en/global-issues/africa>.
42. C. Klobucista & D. Renwick, *The Role of Peacekeeping in Africa*, *Council on Foreign Relations*, 2020. <https://www.cfr.org/background/role-peacekeeping-africa>.
43. K. Gilbert. *Regional Cooperation on Democratization and Conflict Management in Africa*, *JSTOR*, 2018, 1-2. <http://www.jstor.com/stable/resrep16979.4>.
44. E. Elau, *Human Rights in the East African Community*, SSRN, 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3582889.
45. A. Abdirahim, *Official Report of the Proceedings of the East African Legislative Assembly*, “Statement” at the opening ceremony of the second East African Civil Society organization forum, at Ngurdoto Mountain Lodge Arusha, 21 November 2011. <https://www.eala.org/uploads/Proceedings%20of%2028%20November%202011.pdf>.
46. The Swedish International Development Cooperation Agency, *Regional Cooperation in Africa*, The Swedish International Development Cooperation Agency, 2022. <https://www.sida.se/en/sidas-international-work/countries-and-regions/regional-cooperation-in-africa>.
47. S. O. Oloruntoba, *Pan-Africanism, Regional Integration and Development in Africa*, Palgrave Macmillan, 2020, 1-14. https://doi.org/10.1007/978-3-030-34296-8_1.
48. M. A. Bakare, *Political Reforms and Implications for Democracy and Instability in West Africa: The Way Forward for ECOWAS and Member States*. *Conflict Trends*, 2021(4), 2021. https://journals.co.za/doi/abs/10.10520/ejc-accordc_v2021_n4_a3.
49. M. Aeby, *SADC – The South African Arrest Development Community? Enduring Challenges of Peace and Security in South Africa*, *The Nordic African Institute*, Policy Dialogue 14, 2019. <https://www.diva-portal.org/smash/get/diva2:1351257/FULLTEXT01.pdf>.
50. S. Claar, & A. Nolke, *Deep Integration*, *Wayback Machine*, 51(02), 2010, 114-117. <https://web.archive.org/web/20100301074450/http://www.inwent.org/ez/articles/167262/index.en.shtml>.
51. Human Rights Watch, *SADC: Recommit to Human Rights Protection*, Human Rights Watch, 2017. <https://www.hrw.org/news/2017/08/07/sadc-recommit-human-rights-protection>.
52. M. Barnard, *Constitutionalising a Human Rights to Water in the Southern African Development Community*, *Utrecht Law Review*, 16(2), 2020. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/utrecht16&div=16&id=&page=>.

53. H. C. Ogaraku, & P. E. Ogaraku, *The Economic Community of the Central African States and Conflict in the Region*, **Accord**, Conflict Trends 2021, 2, 2021. <https://www.accord.org.za/conflict-trends/the-economic-community-of-central-african-states-and-conflicts-in-the-region/>.
54. D. Gutelius. *Arab Maghreb Union*, Encyclopaedia.com, 2018. <https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/international-organizations/arab-maghreb-union>.
55. S. E. Waltz. *Human Rights and Reform: Changing the Face of North African Politics*, University of California Press, 2022. https://books.google.com.ng/books?hl=en&lr=&id=mdt3EAAAQBAJ&oi=fnd&pg=PR7&dq=North+African+Human+Rights+&ots=eddNrBX_GJ&sig=l4XIcLWcPp4BtLQ1GbiTAfGjBfU&redir_esc=y#v=onepage&q=North%20African%20Human%20Rights&f=false.
56. O. L. Obiora, J. E. Maree & N. Nkosi-Mafutha. *Female Genital Mutilation in Africa: Scoping the Landscape of Evidence*, **International Journal of African Nursing Science**, 12, 2020. <https://doi.org/10.1016/j.ijans.2019.100189>.
57. E. Ariza. *Human Rights in the Maghreb and Mashriq*, Ideas Magazine, 50, 2021. <https://revistaideas.cat/en/els-drets-humans-al-magrib-i-al-maixriq/>.
58. C. Zenda. *Human Rights Violation Soars Across Africa, Report Finds*, Fair Planet, 2022. <https://www.fairplanet.org/story/human-rights-violations-soar-across-africa-report-finds/>.
59. T. K. Tiekou, *The African Union: Success and Failure*, Oxford Research Encyclopaedia, 2019. <https://oxfordre.com/politics/display/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-703>.
60. J. Shimanyula, *The African Union 17 Years on: Success or Failure*, DW.com, 2018. <https://www.dw.com/en/the-african-union-17-years-on-success-or-failure/a-43936625>.
61. Saharareporters, *African Union Leaders Have Failed to Implement Human Rights Commitment - Falana*, Saharareporters, 2022. <https://saharareporters.com/2022/03/23/african-union-leaders-have-failed-implement-human-rights-commitment-%E2%80%94-falana>.
62. S. F. Ramasela, *An Afrocentric Critique of the Pitfalls of the African Union in Promoting Unity, Peace and Solidarity of African States*, **Journal of African Union Studies**, 11(2), 2022, 19. <https://journals.co.za/doi/abs/10.31920/2050-4306/2022/11n2a2>.
63. J. Butty, *The African Union Between Praise and Criticism*, Daybreak African, 2022. <https://www.voaafrica.com/a/the-african-union-between-praise-and-criticism-/6734563.html>.

64. E. C. Akani, *Mainstreaming the Pan African Ideals in the African Union (AU) Agenda 2063: The Africa We Want*. **International Journal of Social Science and Economic Research**, 4(2), 2019. http://ijsser.org/files_2019/ijsser_04__100.pdf.
65. African Union, *Organisation of the 17th AU-EU Human Rights Dialogue*, Press Release, African Union Commission, 2021. <https://au.int/en/pressreleases/20211109/17th-au-eu-human-rights-dialogue>.
66. International Committee of the Red Cross, *International Humanitarian Law: Answers to your questions*, ICRC, 2010. <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0703.pdf>.
67. Equality and Human rights Commission, *What are Human Rights*, Equality and Human Rights Commission, 2019. <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>.
68. United Nations Fund for Population Activities (UNFPA), *Human Rights Principles*, United Nations Population Fund, 2005. <https://www.unfpa.org/resources/human-rights-principles#:~:text=Human%20rights%20are%20universal%20and,religious%2C%20cultural%20or%20ethnic%20background>.
69. United Nations Office on Drugs and Crime (UNODC), *International Human Rights Instrument*, United Nations Office on Drugs and Crime, 2018. <https://www.unodc.org/e4j/zh/terrorism/module-8/key-issues/international-human-rights-instruments.html>.
70. United Nations Human Rights Office of the High Commissioner. *What are Human Rights?* United Nations, 2018. <https://www.ohchr.org/en/what-are-human-rights>.
71. W. Kalin & J. Kunzli, *The Law of International Human Rights Protection*, Oxford University Press, 2019. 259-551. https://books.google.com.ng/books?hl=en&lr=&id=gverDwAAQBAJ&oi=fnd&pg=PP1&dq=Who+protects+human+rights%3F&ots=N8LL-kcQKm&sig=8g8Y47hbj31Z7qFAuSLntK6EIqI&redir_esc=y#v=onepage&q=Who%20protects%20human%20rights%3F&f=false.
72. G. Reid, *Progress and Setbacks on LGBTQ Rights in Africa- An Overview of the Last Year*, Daily Maverick, 2022, <https://www.hrw.org/news/2022/06/22/progress-and-setbacks-lgbt-rights-africa-overview-last-year>.

Chapter Three

Methodology

The methodology is to indicate how the research will be carried out, where data will be gotten from, the period, the model specification used, the technique of estimation, why it is was used and what makes it superior to other techniques and models. This aspect of the project generally defines how the research was carried out and why it was carried out the way it being carried out, a systematic guideline of how the research analysis was carried out is set out in this chapter.

The purpose of this study is to determine the effectiveness of the African unions' framework on Human rights and its pursuit for unity on her continent. Human rights are values, principles, or standards for particular norms of behaviour, and they are safeguarded by both domestic and international law. They are typically considered as absolute, fundamental rights that are "essential to all human beings," regardless of age, ethnic origin, geography, language, religion, ethnicity, or any other status¹.

3.1 Research Design

The research method used is the qualitative approach. The research design adopted was to conduct a critical evaluation and findings into the African Unions attempts and efforts to Human rights promotion and protection on the African continent, the choice of this method used was informed by the need to obtain reliable and valid data from secondary sources like journals, published articles, book, and online documentations.

3.2 Population of the Study

The continent Africa is the population of the study of this research, research was carried out to focus on the African Union and all its member states. As a result, the researcher did not

make any specific division but made studies in respect to regional initiative in terms of Regional Economic Communities.

3.3 Description of the Research Instrument

The instrument or procedure used in data gathering for this research was done through the use of secondary data. Data collection was derived from online publications, articles, journals, scholarly approved documents, and library recommended books.

This is a reliable means of data collection as it is vast and has lots of details, secondary data is a collection of various written ideas and theories, which gave the researcher a wide range of works to choose from.

3.4 Validity of Research Instrument

The secondary data used was gotten from recently updated and verified materials and according to the Lead city research specification, the majority of the data used are documents from not less than 5 years. This is to help get reliable information and accuracy on the research topic.

3.5 Reliability of the Research Instrument

An instrument is said to be reliable when it measures under varying conditions and at different times. The data that was derived for this research was based on results gotten from different materials and not just from a single source. The data that was utilized was crosschecked with other publications and materials for reliability and accuracy, and showed to be the same findings after various comparisons and evaluations.

3.6 Administration of Research Instrument and Method of Data Collection

The researcher collected data from secondary sources for the accumulation and compilation of resources needed in this research. Secondary data sources were mainly covered by government publications, technical document, and annual reports of organizations, various

scholarly publications in books, journals, unpublished articles, conference papers, and so on. Secondary data helped to crosscheck and compare information with other sources of information, learn about major events, technical details, historical decisions and main organisational players and roles.

The benefit of sourcing from secondary data as research material is, it provided a multitude of interpretations. For this study, it made it possible to conduct data collection and analysis in an iterative manner.

3.7 Method of Data Analysis

The data collected was subjected to context analysis to ascertain the relevance or otherwise of the findings to the objectives of the study. The analysis of data firstly dealt with the descriptive introduction of the focal point of study, which is the African Union, based on the data collected via different instruments. Then, an analysis was conducted for similar and different Organisation just as the African Union on their efforts to promoting and protecting Human rights in Africa. It is the researcher's contention that the research on the African Unions Human rights framework and its effectiveness for continental equality allows one to gain insights into the specific context of what the AU has done in its efforts to promote Human rights.

Endnote

1. K. D. Magliveras & G. J. Naldi, *The African Union (AU)*, Wolters Kluwer, 2018. https://books.google.com.ng/books?hl=en&lr=&id=KT9sDwAAQBAJ&oi=fnd&pg=PT6&dq=african+union+praise+&ots=rLCcS49QSt&sig=khNRozQ4ENh9YLSiT_7uK8iaqZY&redir_esc=y#v=onepage&q=african%20union%20praise&f=false.

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Chapter Four

Results and Discussion of Findings

The purpose of this chapter is to analyse the findings gathered from the research using secondary sources of data. The findings point out specific issues faced by the African Union, measures and solutions in which the union can take towards continental equality.

4.1 Demographic Data Analysis

4.1.1 OAU – AU

The OAU has been concerned with human rights since it was founded, as seen by the fight for Africa's independence and the right to self-determination. The fact that those agitating and fighting for independence used human rights norms to support their struggle is undoubtedly embodied in this, as colonialism showed no regard for the human rights of colonized people.

Because of colonization, Africans endured years of persecution and severe violations of their human rights. The OAU was founded on the principles of state sovereignty and non-interference in 1963, and one of its main goals was to fight for the decolonization of Africa. It was thought that Africa could not be considered free until the last colony had won the right to self-determination, gained independence, and the war against apartheid. This was related to the commitment of OAU member states under Article 20(3) of the African Charter to help individuals engaged in liberation battles. Africa was able to triumph over its liberation efforts because to the collective voice of the continent and the adoption of shared stances on colonialism and independence in international fora like the United Nations (UN). The African peoples used human rights principles to support their quest for independence.

During the OAU, there were various other human rights instruments which were also adopted. These included The Convention Governing the Specific Aspects of Refugee Problems in Africa; the African Charter on the Rights and Welfare of the Child (ACRWC); The 1999 Grand Bay (Mauritius) Declaration and Plan of Action; and The Protocol establishing the African Court of Human and Peoples' Rights (the African Court).

Although the OAU made a substantial contribution to the decolonization and freedom of its member nations and peoples, it did not explicitly promote the principles of human rights as they apply to both individuals and communities. Furthermore, the OAU lost its effectiveness in promoting and safeguarding human rights in a decolonized and free Africa by taking an unconditional stance on non-interference.

Africa's commitment to human rights, democracy, governance, and development was expanded and strengthened by two significant events. First, the African Union's Constitutive Act, which confirms Africa's commitment to the advancement and defence of human rights, was adopted. The second was the New Partnership for Africa's Development (NEPAD), which also places human rights at the centre of development. They were both aimed to reinforce social, economic and cultural rights, as well as the right to development on the continent.

African Union (AU)

It was praised as a welcome chance to firmly prioritize human rights on the African agenda with the formation of the African Union. Significant differences from the OAU Charter are made by the AU's Constitutive Act, which was enacted in 2000. In the following respects:

1. Changing the approach from one of non-interference to that of non-indifference, which includes granting the African Union the authority to interfere in the internal affairs of member states,

2. Clearly recognizing human rights,
3. Promotion of social, economic and cultural development,
4. A strategy that emphasizes human-centred development, and
5. Gender equality.

Given the evolving nature of human rights, both the Organization of African Unity and the African Union have over time taken on board a variety of new issues relating to these rights. As evidence, there has been an increase in the number of conferences, meetings, declarations, and resolutions adopted with human rights in Africa as their sole focus, in addition to express human rights instruments like the African Charter on Human and People's Rights. (ACHPR), the African Charter on the Rights and Welfare of the Child (ACRWC), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Women's Rights Protocol), the Protocol on the Establishment of the African Court on Human and People's Rights, and the Charter on Democracy, Governance and Elections.

The African Union assembly established several organizations, including the African Commission on the Charter on Human and Peoples' Rights (the African Commission), the African Court, and the African Committee of Experts on the Rights and Welfare of Children (ACERWC), with the express purpose of enforcing these instruments.

The African Union Constitutive Act now makes all of these initial, crucial goals from the OAU Charter explicit. The Act also lists additional important goals that were not included in the OAU Charter, which includes:

Protection and promotion of human rights in accordance with the ACHPR and other pertinent human rights instruments, with a focus on issues of gender equality, democratic rule, and good governance, as well as encouraging the development of cooperation in all spheres of human endeavour to improve the standard of living for Africans.

The main premise for the creation of the AU is that it should be able to stand in a qualitatively superior form of unification and integration for the African continent. Therefore, the primary goal of the African Union is to establish a successful AU to improve Africa for its people. The African people's aspirations for an effective and participatory governance systems, human rights, peace and security, integrity, development, social justice, and integration should be met by an effective AU, which should be able to do so with the resources and dedication necessary.

The OAU's principle of non-intervention in the internal affairs of member states was not adhered to by the African Union, in which the African Union also adopted a more interventionist strategy to combat genocide, war crimes, crimes against humanity, human rights abuses, and unconstitutional changes in government. This strategy involved the use of sanctions and the implementation of the Non-indifference policy. The African Union has also continued to create suitable institutions and legal frameworks, paving the path for the development of a culture of non-indifference that enables the organization to respond to crimes against humanity in Africa. The AU has enriched the African human rights protection system and provided an enabling environment within which it can vigorously pursue human rights promotion and protection by continuing to adopt human rights instruments, strengthen existing institutions, or establish new ones for their implementation. Amongst these mechanisms are the Pan-African Parliament (PAP), the Peace and Security Council (PSC), the Economic, Social and Cultural Council (ECOSOCC), the African Peer Review Mechanism (APRM) and the African court. Unlike the OAU, where human rights remained in the reserve of the African Commission, the AU has expressly ensured that human rights are mainstreamed throughout its organs, activities and programmes. According to one analysis, the transformation of the OAU to the AU has brought about a huge potential for human rights to play a greater part on the continent.

It is acknowledged that much more work has to be done to develop a human rights culture and respect for human rights on a continental, regional, and national level.

With regards to its political, economic, and social dimensions, the AU is currently dealing with numerous difficulties. The organization's greatest levels of dedication and resources are needed to meet these difficulties. These are some of the most important concerns for the defence and advancement of human rights¹.

4.1.2 The African Union's Biggest Challenges

I. Africa's Culture and Values

African cultures have properly come under fire for failing to uphold women's rights, largely due to detrimental customs that undermine gender equality. Numerous campaigns have been started to stop these actions against women, such as female genital mutilation and early marriage. Both the Women's Rights Protocol and the ACRWC work together to end these actions on a continental scale. Nevertheless, this action still continues. To fight such actions and stop prejudice against women, national legislation and state ordinances have been created. Women's organizations agree that it is near impossible to simply legislate traditional practices out of existence because they are so ingrained in society. However, they also recognize that doing so requires political will and commitment, community dialogue with traditional leaders, civic and human rights education, and dialogue within communities.

To claim that culture has no place in the discussion of human rights would also be incorrect. Since colonialism in Africa aimed to undermine African customs and the rights of the African people, the war for independence in Africa was also a fight for the continent's identity, cultural heritage, and respect for human rights. The African Cultural Charter was adopted by the OAU in 1976 to safeguard the preservation of African cultures. Africa must now defend its cultural heritage once more from the effects of globalization and Western lifestyles on its traditional ways of life and social norms. Ironically, civilizations must interact with one

another, adapt, and develop while yet retaining their distinctive qualities if they are to endure over time.

In 2006, the AU adopted the Charter for the Cultural Renaissance of Africa, which will inform, inspire and allow Africans to search for and discover their true African identity. The AU also adopted various instruments on culture such as the Nairobi and Algiers Declarations.

Both these Declarations were adopted at the AU Conferences of Ministers of Culture (Nairobi Declaration in 2005 and the Algiers Declaration in 2008) and endorsed by the AU Executive Council and the Assembly thereafter^{2,3}.

The Nairobi Declaration

The Nairobi Declaration was adopted by the Heads of State and Government of the African Union at its Sixth Ordinary Session in Khartoum, the Republic of The Sudan, on January 23 and 24, 2006; it was influenced by the Cultural Charter for Africa, which was adopted by the Heads of State and Government of the Organization of African Unity at its Thirteenth Ordinary Session in Port Louis, Mauritius, on July 2, 1976.

With it stating that culture should be viewed as the collection of unique linguistic, spiritual, material, intellectual, and emotional qualities of the society or a social group, and that any human community must be controlled by norms and principles based on culture. Knowing that every person has the unalienable right to organize their cultural life in complete accordance with their political, economic, social, philosophical, and spiritual beliefs, and being convinced that every culture in the world is deserving of respect in the same way that everyone is deserving of unrestricted access to culture.

Recalling that throughout the colonial era and despite cultural dominance which dehumanized some African peoples, distorted their history, systematically attacked and undermined African values, and attempted to gradually and formally replace their languages

with those of the colonizers. The required tenacity for resistance and the independence of the continent was found by the African peoples in their culture, also being conscious that culture is the most effective way for our people to navigate the problems of globalization and set Africa's own course for technological development.

There is no cap to a people's capacity for cultural development, and African culture is meaningless unless it actively participates in political, economic, and social liberation struggle, as well as in efforts at rehabilitation and unification, that a shared commitment serves as the foundation for fostering the harmonious cultural development of States and societies. Considering that the process of globalization, which is made possible by the rapid advancement of information and communication technologies, poses a challenge to cultural variety and identities and necessitates widespread mobilization to foster dialogue between civilizations².

The Algiers Declaration (2008) - emphasized that culture is a collection of ways and means by which African people, both individually and collectively, establish their identity and preserve and pass it down from one generation to the next. In order to create a united, peaceful, and wealthy Africa, the Declaration reiterated the importance of culture for sustainable development, continental integration, and the realization of the African Renaissance. In order to address the numerous issues, the continent is currently facing, including the high rates of illiteracy, malaria and tuberculosis, extreme poverty, the HIV/AIDS pandemic, conflicts, and other emerging issues like the food crisis, climate change, the financial crisis, and the economic meltdown, the AU aspires to use culture as a vehicle for social and economic development.

Despite the fact that Africa is a very diverse continent, culture has been considered to be the foundation of society and progress, merging a people's beliefs, habits, and traits while

encouraging communication and connection. In order to improve the African people's unity in variety, whether within families, the public sphere, communities, or organizations, culture should serve the great purpose of uniting Africans. Culture should help Africa to make sense of itself in order to assert its roots, reflect on its troubled past, and forge a better, safer and prosperous way forward through a shared African Vision.

Cultural policies and programs should be able to give leaders and key development actors the necessary information and tools to support the promotion and protection of peace in a long-lasting and humane way; the promotion of indigenous knowledge as a foundation for a genuine "African Cultural Renaissance"; ensuring that African democracy does not become the hostage of tribalism or ethnic preferences; ensuring that the issues of development are couched in African rationality; encouraging pluralism, ethnic/cultural diversity, tolerance, and respect for human rights³.

Because African culture is strongly rooted in a long heritage of the supremacy of collectivism, sense of belonging to a community, humanism, and Ubuntu, the African Charter lays a strong focus on people's rights. The coexistence of Africa's people continues to be fundamentally influenced by its languages, history, and traditions.

II. Human Rights and Development

In the ACHPR, the right to human rights and development is clearly recognized and expressed. Adoption of the UN Declaration on the Right to Development (DRD), which is contained in UN General Assembly Resolution 41/126 from 1986, has also helped to develop this notion in the future. The right to development encompasses more than just social and economic advancement; it is both an inherent human right and one that is fundamentally connected to the full enjoyment of a number of other rights with social, cultural, political, and economic implications.

The key elements of the right to development are:

- i. **Direct participation in Development:** This implies links to opportunities and resources as well as institutional processes of social organization and governance. Voting in elections and being a passive recipient of social and welfare benefits are insufficient. The practice of civil and political rights facilitates this engagement by fostering discussion and debate, which in turn opens doors for policy impact.
- ii. **Sustainable Development:** This covers obligations between an individual and his or her family, community, and society as well as environmental rights.
- iii. **The Promotion of Peace and Security and the Right to Self-Determination:** This speaks to the freedom of the people to choose their government, how they want to pursue social, economic, and cultural development, and how they want to manage their resources and wealth⁴.

The goal of the right to development is to uphold all rights, eliminating the fictitious distinction between so-called first-generation (civil and political) and second-generation (social, economic, and cultural) rights that has been constructed in the past. It is therefore claimed that the infringement of any one of these rights constitutes a violation of the right to progress in all of its manifestations.

Given the analysis of the Declaration on the Right to Development (DRD), it is necessary to ensure fair economic development around the world in order to address the development problem faced by developing nations as a result of a history of exploitation. However, it is acknowledged that internal factors like corruption, poor management of various national funds and resources, and poor governance also play a part. In this regard, the argument is that because of the interconnectedness that the Declaration on the Right to Development (DRD) creates between nations, the right to development has an impact on the entire global

community. In this sense, providing development assistance is seen as a responsibility on the part of developed nations to ensure that their counterparts in developing nations can effectively exercise their human rights. According to Guevara, the Declaration on the Right to Development does not establish a legal responsibility by identifying obligations, beneficiaries, and methods for pursuing restitution, hence no such right exists⁴.

One of the main responsibilities of the African Union's Department of Social Affairs is to provide the political leadership necessary to harmonize and coordinate Africa's efforts to ensure that significant improvements are made in all Africans' lives. The African Union Commission has adopted a Strategic Plan that prioritizes human rights as the cornerstone of its social development programs and activities. This is done in the context of the rights to development, as they are expressed in the AU Constitutive Act, the Vision and Mission of the AU Commission, and the African Charter on Human and Peoples' Rights. Numerous topics are covered by the programs of the Department of Social Affairs, including migration, health and endemic diseases, population, reproductive health and rights, social protection of weak groups, culture, gender equality, sports, education, and human resource development. Communities and groups who are poor and marginalized are given special consideration⁴.

The AU Commission has implemented special steps to address the social issues on a continental scale.

1. The Ouagadougou Declaration and Plan of Action on Employment and Poverty Alleviation from 2004 expresses concern for the sustainable livelihoods of the African population in general and those of vulnerable groups in particular. In the Declaration, everyone is entitled to equal opportunity⁵.
2. The Charter for Social Action 1999 - The respect for fundamental human rights, the basic needs and aspirations of the populace, the pursuit of social justice and equity

goals, and universal access to social services are just a few of the values that are integrated within this. The Charter includes developing national social policies and including the social dimension in all levels of planning, programming, and implementation among its strategies⁶.

3. The 2008 AU Continental Social Policy Framework – This framework gives member states direction in promoting the rights of marginalized and excluded groups, people living with HIV/AIDS, including orphans and other vulnerable children, youth in general, refugees and internally displaced people, people with disabilities, families, and the elderly, as well as ensuring their welfare. Africa's need for social integration (societies that are inclusive, stable, and based on the promotion and protection of all human rights, non-discrimination, respect for diversity, and participation of all peoples), economic dynamism (including "pro-poor" growth policies), and an active role for government in the provision of basic services at the local and national level informed the development of the Policy Framework. In this context, it has been recognised that social policy should advocate for a human development strategy that prioritizes investing in people and places them at the centre of development; (b) discuss the societal conflict that exists between cultural identity and the freedoms that modernity promises; (c) provide equal access to rights and resources in order to create equity and justice among specific societal groups and geographic areas of a nation (as this prevents social exclusion); and (d) represent the realistic realities of Africa, which integrate social and economic policies while acknowledging their interdependence⁷.

It is evident from the AU commission's aforementioned metrics that development covers more than simply economic progress; it also includes social improvement and improved living conditions. In this view, development is basically about the principles, practices, procedures, and institutions of social and political organization as much as it is about

enhancing the capabilities and choices of people. Therefore, the goal of development is to increase people's capacity to overcome issues like poverty, other social and economic hardships, abuse of women's rights, and environmental risks.

III. Social, Economic and Cultural Rights

As more nations transitioned to democracy after holding free elections to choose their leaders, African nations have been praised for their growing respect for human rights. However, since social, economic, and cultural rights are intertwined with civil and political rights and are two sides of the same coin, participation in elections should not be the only indicator of human rights. Rather, and more importantly, the indicator should be the full and equal enjoyment of these rights. There is a tendency to simply discuss civil and political rights when the promotion and preservation of human rights are mentioned. The complete and active participation of individuals in democratic processes like elections, freedom of speech, and the right to life has historically served as the yardstick for assessing the enjoyment of such rights⁴.

The OAU agreed that human rights should encompass all rights and that corruption and poor governance in Africa were barriers to both socioeconomic growth generally and the enjoyment of social, economic, and cultural rights in particular⁴.

Since Africa still faces significant obstacles and dangers, even while it may be stated that the situation regarding the respect for civil and political rights has improved, the same cannot be said for economic, social, and cultural rights. These include diseases, poverty, racism, xenophobia, inequality, corruption, conflicts, violence against women and children, HIV/AIDS, terrible governance, and marginalization. The difficulties of sustaining democracy and development as well as the protection and promotion of human rights will continue to plague the continent as long as these issues have an impact on people's daily lives.

The question that emerges is how the AU can ensure that social, economic, and cultural rights are equally recognized and important, including their enforceability and the needless division between civil and political rights and social, economic, and cultural rights. Indeed, an all-encompassing human rights approach requires that the AU has to promote social, economic and cultural rights which embrace the right to development as contained in the African Charter in the same way as civil and political rights are promoted⁴.

Most AU member states have adopted a bill of rights in their constitutions to guarantee fundamental human rights and freedoms, but these pertain mostly to civil and political rights, which are regarded as enforceable.

Vulnerable Groups

Groups are best protected by the proper application of social, economic, and cultural rights, as well as the right to development, in addition to civil and political rights, since it is generally accepted that social exclusion and inequality make a group vulnerable. Vulnerability of groups or people results from poverty and exclusion from mainstream development, policies and programs. The provision of adequate basic services remains a major challenge, and this can be resolved by increasing access to services for the vulnerable populations in the areas of health, education, water, sanitation, and housing, among other things. Children, the elderly, people with disabilities, young people, orphans, other vulnerable children, people with HIV and AIDS, low-income families, refugees, and those who have been forcibly displaced are all vulnerable groups. The AU Commission has specific programs targeted at each of these vulnerable categories⁷.

These are some legal protection frameworks and policies established by OAU/AU and its African leaders in promoting and protecting the rights and welfare of vulnerable groups

The Declaration and Plan of Action on Africa Fit for Children (2001), the Call for Accelerated Action on the Implementation of the Plan of Action on Africa Fit for Children (2007), The Plan of Action on the Education Decade (2008), The Continental Policy Framework on Human Rights and Persons Living with HIV/AIDS (2006), in addition to the declarations and plans of action adopted at two Special Summits of Heads of State and Government such as the Abuja Declaration and Framework Plan of Action on HIV/AIDS, Tuberculosis, and Other Related Infectious Diseases (2001), The EU-Africa Plan of Action to Combat Trafficking in Human Beings, especially Women and Children (2007), The Policy Framework on the Sustainable Development of Sport in Africa (2008), and The Study on Social Protection Systems in Africa (conducted in 2008)⁷.

Democracy and Governance

It is undeniable that the conducting of democratic elections has increased across Africa. However, Democracy can't be judged solely by the results of elections; democratic behaviours, such as effective governance and the struggle against corruption and its effects on social and economic rights, have taken the place of just election results as democratic indicators. To this end, the AU adopted the Charter on Democracy, Governance and Elections and the Convention on Combating Corruption. Any nation that assumes power through unconstitutional means, such as military coups or any transfer of power from an elected government, is subject to sanctions imposed by the African Union. Unfortunately, recent developments in Africa have demonstrated how thin democracy still is.

The Department of Political Affairs of the AU Commission is tasked with overseeing, among other things, elections, democracy, humanitarian issues, and human rights. Additionally, it has created an electoral fund to help member nations observe elections, and it has held workshops on human rights and corruption with national organizations dedicated to defending those rights and preventing corruption, respectively. The creation of the Pan-

African Parliament (PAP), which has the critical responsibility of promoting democracy, intends to encourage participation and raise the AU's visibility to increase its relevance and legitimacy among Africans.

A significant advancement in the areas of democracy, human rights, and governance on the continent occurred in 2007 with the creation of the African Court and the nomination of judges⁷. Another is the African Peer Review Mechanism (APRM), which was established as an addition to the New Partnership for Africa's Development (NEPAD) after the Durban Summit adopted the Declaration on Democracy, and Political, Economic, and Corporate Governance in July 2002. According to the 2002 Declaration, states participating in NEPAD “believe in just, honest, transparent, accountable and participatory government and integrity in public life”⁸.

The 2002 Declaration also committed participating states to establishing an APRM to promote adherence to and fulfilment of its commitments. On the 9th of March 2003, the NEPAD Heads of State and Government Implementation Committee, meeting in Abuja, Nigeria, adopted a Memorandum of Understanding (MOU) on the APRM. This MOU effectively operates as a treaty. It came into effect immediately, with six countries agreeing to be subject to its terms. Those countries that do not accede to the MOU are not subject to review. The March 2003 meeting also led to the adoption of a set of objectives, standards, criteria and indicators for the APRM. The meeting agreed to the establishment of an APRM Secretariat and the appointment of a seven-member panel of eminent persons to oversee the conduct of the APRM process and ensure its integrity. The APRM is a voluntary mechanism open to any AU country. A country formally joins the APRM upon depositing the signed MOU at the NEPAD Secretariat⁹.

Gender Equality

As the African Union provided little to no direct attention to women as a group, the lack of women's rights from the provisions of the African charter was a target for criticism. This is true even while women's participation in liberation movements, even within the confines of power dynamics, women raised gender inequality issues to the attention of Africa, focusing OAU and AU attention on the status of a women in a society. These omissions were sought to be addressed by the adoption and the ratification of the Women's Rights Protocol.

Despite the fact that many African constitutions call for gender equality and against discrimination, some African societies generally oppress women by giving them poor status and practicing damaging traditions like female genital mutilation and cutting.

The Solemn Declaration on Gender Equality in Africa, the Policy Framework and Plan of Action on Sexual and Reproductive Health and Rights, and other commitments have all been adopted by the AU Commission in addition to the Women's Rights Protocol as part of its efforts to advance gender equality². The Heads of State and Government, through their adoption of the 2004 Ouagadougou Declaration on Employment and Poverty Alleviation, expressed concern about the major challenges and obstacles to gender equality as well as the low levels of women's representation in social, economic, and political decision-making structures and spheres of life which still persist; the increasing feminisation of poverty, aggravated by discrimination and unequal opportunities and treatment; and the underutilisation of the entrepreneurial creativity and job creation potential of African women⁵.

Five women and five men have been appointed to the AU's Commission, achieving a 50:50 gender balance. Also worth noting is that gender equality and women's involvement are provisions in the majority of the treaties passed since 2003. Some even explicitly call for the participation of women in the entities that make decisions for the AU. Women were both the first Interim President of ECOSOCC and the first President of the Pan-African Parliament.

In order to coordinate all of its activities and programs related to gender and to ensure that gender is mainstreamed into all of the African Union's programs and policies in accordance with the Decision on Mainstreaming Gender and Women's Issues within the African Union, the AU Commission also established a Women, Gender, and Development Directorate in the Office of the Chairperson. There is also the AU Women's Committee, which serves as an advisory body to the chairperson of the AU Commission's. The Committee collaborates with governments and civil society to oversee the application of the Women's Rights Protocol and the Solemn Declaration on Gender Equality in Africa, among other duties².

Despite pledges to promote gender equality, prejudice against women and the underrepresentation of women in decision-making persist. Examples include the poor status given to women in society, the violence and abuse they experience, the continued high rate of maternal mortality, and the increasing femininity poverty. This can be attributed to a number of things, including the pervasive discrimination that exists in African societies, patriarchal attitudes and stereotypes regarding the place of women in society, and the small number of women's organizations that have explicitly included human rights in their missions, despite the fact that a human development approach calls for us to all make the connection between human rights and development¹².

Therefore, in order to address gender inequalities and women's uneven access to education, health, and other social services, legal and policy obligations must always be backed by efforts to counteract societal discrimination. Combating harmful traditional practices through enhanced awareness-raising initiatives and the active participation of traditional and community leaders are only a few of these ways; the economic empowerment of women; concrete actions and strategies to end violence and abuse against women and girls; increased access to basic social services such as education of the girl child; and increased access to sexual and reproductive health services and rights. Much, therefore still needs to be done to

accelerate actions in order to achieve the Millennium Development Goals, as they all directly and indirectly impact on the lives of women⁹.

4.1.3 The Human Rights Impact of Covid-19 on the African Continent

The Africa director at Human Right Watch, stated that “The Covid-19 crisis has wreaked havoc on the livelihoods of millions of households across Africa, leaving families hungry and desperate for help”⁴.

Between March 2020 and August 2021, Human Rights Watch interviewed more than 270 people in Cameroon, Ghana, Kenya, Nigeria, and Uganda about the impact of the pandemic on access to food and livelihoods, and government efforts to respond. Researchers spoke to affected individuals and families, health workers, government officials, and representatives of nongovernmental organizations, international financial institutions, and bilateral donors, among others.

In Kenya and Nigeria, Human Rights Watch documented job losses, falling income, and widespread hunger among people living in poverty in Nairobi and Lagos. In Kenya, the research also highlighted an increase in violence against women and girls during Covid-19-related lockdowns and curfews. In Ghana and Uganda, researchers examined an increase in child labour due to the pandemic. In Cameroon, the research highlighted corruption and a lack of transparency in the government’s use of funds intended to address the health and economic impacts of Covid-19⁴.

In Ghana, a 14-year-old girl said that, after losing access to free school meals because of school closures, she worked nine hours a day gutting and scaling fish. “If I don’t do it, life will be tough for all of us”⁴.

Interviews in Nigeria, Ghana, and Uganda were conducted by or in conjunction with partner organizations, including Justice & Empowerment Initiatives (Nigeria), Friends of the Nation (Ghana), and the Initiative for Social and Economic Rights (Uganda).

Most people interviewed reported that they had not received any government support. The lack of unemployment support, child benefits, and other forms of financial or in-kind assistance for people who lost jobs or income reflects the weaknesses of African social protection systems. Data from the International Labour Organization (ILO) reveals that fewer than 20 percent of Africans have access to any social protection¹¹.

Many African governments sought to close gaps in social protection coverage during the pandemic by introducing measures like cash transfers and food assistance. But Human Rights Watch found in Ghana, Kenya, Nigeria, and Uganda that the programs introduced or expanded reached only a fraction of households needing support.

Human Rights watch found evidence that local officials and politicians in charge of enrolling people in a Covid-19 cash transfer program ignored eligibility criteria and directed benefits to their relatives or friends instead. Other deserving households received no assistance.

Under international human rights law, governments have an obligation to fulfil the right to an adequate standard of living, including the rights to food, water, and adequate housing, and the right to social security, which are also recognized as entitlements under African human rights law. The right to social security requires countries to provide people with healthcare, old-age, child, unemployment, and other benefits needed to obtain an adequate standard of living, including in times of economic crisis. The behaviour of wealthy governments and corporations has created a lack of access to affordable Covid-19 vaccines in Africa. Lack of vaccines, combined with the shortage of government funds for fiscal stimulus, has slowed recovery in African nations¹¹.

Rising poverty has reduced the access of many Africans to food, water, and other elements of the right to an adequate standard of living. In Nigeria, according to National Bureau of Statistics (NBS) surveys analysed by Human Rights Watch, levels of hunger more than doubled during the pandemic. “People have been surviving by showing love to each other,” said a member of the Nigerian Slum, “You can’t watch your neighbour starve, but you can only give food if you have it yourself”⁴.

Globally and in Africa specifically, the economic impacts of the Covid-19 crisis have disproportionately affected women and girls and intensified incidences of gender-based violence. Human Rights Watch found that hardship brought about by the pandemic in Kenya, as well as the government’s failure to ensure access to health, economic, and social support services amid restrictions on movement, contributed to an increase in sexual and other forms of violence against women and girls. Poverty and lack of access to alternative housing present significant barriers for people to leave abusive situations and seek help.

With their household income disrupted, children in many African nations have increasingly gone hungry. The United Nations Children's Fund (UNICEF) estimated that acute food insecurity rose in Africa by almost 15 percent in the first six months of 2020. By April 2020, more than 50 million African schoolchildren had lost access to free school meals, 40 million of whom were affected for at least six months⁴.

4.1.4 North Africa Could Benefit from a Functioning Regional Organisation

The main REC in North Africa is the Arab Maghreb Union, founded 30 years ago in Morocco, with Algeria, Libya, Mauritania, Morocco and Tunisia as members. While it was an attempt to unite the region amid political rivalry among member states, it has been weakened by accusations of meddling in one another’s domestic affairs and power contests over regional hegemony.

The principle of subsidiarity at the African Union (AU) which is the non-written rule that regional economic communities (RECs) should take the lead in solving conflicts in their region is being put to the test in North Africa.

Attempts at solving the conflict in Libya would arguably have benefited from a strong regional organisation in North Africa; one that could exercise the powers and responsibilities that the principle of subsidiarity bestows. Yet the region is plagued by the conflict between Algeria and Morocco, as well as the absence of Egypt from its only REC, first created in 1989.

The AMU, which held its last high-level meeting in 2008, is inactive and lacks the capacity to take on any responsibilities at this stage. However, some developments in the region, such as Morocco's return to the AU, could contribute to reviving the AMU. In addition, the change of government in both Algeria and Libya may have the potential to change the dynamics in the region for the better, and help with the reactivation of the AMU¹⁰.

Still, the AMU faces challenges in terms of representation and legitimacy, as AU member states such as Egypt and Western Sahara are still not members. This will make it difficult for the AMU to represent the AU in the North, as it is not inclusive.

AU member states in North Africa belong to multiple and overlapping RECs and Regional Mechanisms (RMs). These include the AMU, the Community of Sahel-Saharan States (CEN-SAD) and the Common Market for Eastern and Southern Africa (COMESA). None of the North African states is a member of only one REC. Such overlapping membership, mandates and priorities in RECs have also resulted in competition over priorities and stretched financial resources, particularly those collected from member states. This makes it difficult to implement a REC's vision, especially relating to peace and security¹⁰.

In this scenario, it is difficult to assign the division of labour not only between the AU and RECs but also among the RECs that operate in North Africa.

The principle of subsidiarity is clearly problematic, especially when the position taken by RECs contrasts with that of either the Peace and Security Council (PSC) or the AU Assembly, or when there is an apparent conflict of interest. These tensions have critical consequences for the coherence of purpose and action within Africa¹².

This is most apparent in situations where organizations outside Africa wield undue influence, such as the League of Arab States (LAS) in North Africa. In a move that illustrated the overall divisions in Africa over Libya, some Northern states' rejection of the AU's call for an 'inclusive transition' in Libya in favour of the LAS's position, legitimised the military intervention in Libya in 2011.

This divergence is indicative of other challenges ahead. These stem from the diverging goals and aspirations of the AU and the LAS, especially in terms of the AU's rejection of unconstitutional change of government. The LAS does not share this view, as illustrated by its earlier support for the removal of Gaddafi.

The first step in applying the principle of subsidiarity in defining the division of labour between the AU and RECs one of the aims of the AU reforms is to define what it means in legal terms, when it can be applied and which organ decides its applicability. Clear policies and action plans should be developed that define which responsibilities RECs can implement independently, on both political and technical levels.

Such an articulation should ultimately overcome internal tensions and paradoxes that stem from the PSC Protocol and the Memorandum of Understanding between the AU and RECs/RMs. These give primacy to the AU and RECs at the same time. Modalities on how to apply the principle of subsidiarity in situations where the position taken by a REC is in

conflict with that taken by either the PSC or the AU Assembly, or when there is an apparent conflict of interest, should be articulated¹².

Thus, the division of labour between the AU and RECs/RMs should be defined based on tangible experience rather than hard-to-grasp principles.

The lessons learned so far in terms of AU–REC collaboration should inform the process of defining the division of labour. The AU’s role as the lead organisation in policy-level decision-making and coordination should also be clarified in unambiguous terms¹⁰.

For the principle of subsidiarity to be applied, there has to be a primary REC to take on the responsibility of safeguarding peace and stability. This will help in overcoming delays in responding to crisis situations. The AMU will thus have to take on the primary role as regional representative in North Africa. This will involve becoming more representative by overcoming the intra-regional rivalries that continue to weaken it. This is the only way the AMU will garner the legitimacy to be able to intervene in crises and to coordinate and command NARC in the event the PSC approves a peace mission⁹.

4.1.5 SADC Should Recommit to Human Rights

Lawmakers from the Southern African Development Community (SADC) must strengthen laws to protect human rights amid growing threats in the region, including violations linked to Mozambique’s conflict and a clampdown on the rights to freedom of expression and peaceful assembly.

Conflict and Human Rights Violations

The human rights situation in Mozambique has deteriorated since fighting began more than three years ago in Cabo Delgado province, by an armed group which calls itself “Al-Shabaab”. The conflict has killed more than 2,000 people and violent attacks by the armed group grew by 300% in the first four months of 2020¹¹.

Mozambican armed forces have been accused of crimes under international law and human rights violations in pursuit of those suspected of being involved with the armed group, including extrajudicial executions, torture and other ill-treatment.

“Until now, the victims of the conflict in Cabo Delgado are no closer to justice, truth and reparation. Mozambican authorities have failed to bring to justice all those suspected of crimes under international law and human rights violations¹⁰.

The rights to freedom of expression, association and peaceful assembly have increasingly come under attack in countries where people have demanded more accountability from their governments, including Eswatini, Lesotho, Mozambique and Zimbabwe.

SADC member states must also enact and implement laws and policies that promote justice and equality, including ensuring access to employment and social services especially health, education, water, sanitation and food in line with regional constitutional and international human rights standards¹³.

Eradication of Child Marriage

Girls who marry young are often denied a range of human rights, many discontinue their education, face serious health problems from early and multiple pregnancies, and suffer sexual and domestic violence. Southern African countries should align their laws to the SADC Parliamentary Forum Model Law on Eradicating Child Marriage, adopted in June 2016, to advance the rights of women and girls².

On the 3rd of June, 2016, The Southern African Development Community Parliamentary Forum (SADC-PF) adopted the Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage. The 39th Plenary Assembly meeting in Swaziland, SADC-PF adopted the first ever model law on child marriage in the region which will require member

states to harmonise their national laws to prevent child marriages in support of the African Union Campaign to End Child Marriage in a Generation¹³.

Child marriage affects 70 million girls in the world¹⁴. Eastern and Southern Africa alone harbours seven million child brides. The SADC-PF and other partners developed the model law in response to the high prevalence of child marriage in Southern Africa, which is largely driven by high poverty levels, gender inequity, traditions, religion, and limited educational opportunities for girls. “Child marriage mostly affects girls in rural areas, the uneducated or under-educated and those from the poorest households in SADC and other African countries. It is therefore, glaring evidence of societal failure to provide equal protection, opportunities and services to all adolescents”¹³.

Africa’s common positions and collective voice have asserted tremendous influence in the evolution of the continent’s human rights architecture and in shaping Africa’s future.

4.2 Presentation of Data

4.2.1 Research Questions

The following research questions serve as a guide to the study;

Question 1: What are the African unions achievements since the reform from OAU to the AU?

Question 2: How has the policy change from the OAU’s policy of Non-interference to that of AU’s policy of non-indifference contributed to Human Rights development in Africa?

Question 3: What are the roles of regional economic communities and non-state actors on the Human rights of the African?

Question 4 How effective is the African Commission on Human and Peoples Rights (ACHPR) and other African union specialized bodies on the promotion and protection of Human rights?

Question 1: What are the African unions achievements since the reform from OAU to the AU?

Building sustainable peace in Africa required a paradigm shift, a clear reform from the Organisation of African Unity to the African union was a necessary step toward achieving peace and security on the continent and also promoting Human rights and protecting human dignity, The OAU's reform was essential to help Member States establish efficient democratic governance systems with a solid institutions that can confront the tyranny of African leaders and the countless human rights violations across the continent. The decision to re-launch Africa's pan-African organisation was the outcome of a consensus by African leaders that in order to realise Africa's full potential, there was a need to refocus attention from the fight for decolonisation and ridding the continent of apartheid, which had been the focus of the OAU.

The African union is guided by its vision of "An Integrated, Prosperous and Peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena"⁷.

The new AU undertook three major reforms;

First, it would prioritize "non-indifference" over the OAU's principle of "non-intervention."

The new organization would embrace the Responsibility to Protect (R2P) doctrine, which asserts that sovereignty is not a privilege but a responsibility and that states cannot invoke it to shield themselves from scrutiny for harming their citizens. Indeed, in such situations, other states are obligated to intervene. This concept was incorporated into the AU's Constitutive Act under Article 4(h)⁶.

Second, it established several new institutions that were meant to be more effective than their predecessors. These included the AU Commission (AUC), which runs day-to-day operations and is mostly staffed by professionals, unlike the OAU's General Secretariat, which had been

dominated by political appointees. The Pan-African Parliament and the Economic, Social, and Cultural Council (ECOSOCC) were also established. Both institutions play a role in the AU's conflict prevention and management initiatives. The ECOSOCC engages the AU on peace and security issues through its Peace and Security and Political Affairs Committees. It also conducts visits to countries in conflict, prepares reports and analyses on conflict situations, and engages conflicting parties directly⁷.

Third, new protocols were set up to enforce ethical standards. Adopted in January 2007, the African Charter on Democracy, Elections, and Governance, for instance, outlines punitive measures against incumbents that refuse to leave power after losing elections, or those that seek to revise constitutions and laws to remain in office at all cost¹⁵.

Question 2: How has the policy change from the OAU's policy of Non-interference to that of AU's policy of non-indifference contributed to Human Rights development in Africa?

The Organization of African Unity and the African Union adopted separate approaches to addressing the affairs of its member states respectively a non-interference policy, by the OAU, and a non-indifference policy by the AU.

The term non-interference refers to the absence of foreign interference in national affairs, in this case the OAU deliberately maintained a policy of not interfering with its members' internal affairs through interventionist actions. The term non-indifference hence refers to the approach of the AU, where the organisation on several occasions, with varied tools and approaches, have interfered in its members' internal affairs. The AU has taken a different approach and has intervened to support constitutional political change, provide military interventions, and initiated several attempts to establish peace or end conflict through mediation and peace talks. In other words, an active role compared to that of the OAU.

While the OAU may have previously appeared to be ineffective and more about words rather than action, something changed in the first period of the 1990s. The organisation made more progress in questioning their assumptions of security and peace than it had in the past. When the OAU was established, it mainly had three challenges which were: decolonisation, development, and the maintenance of peace and security. In 1990, most African states had achieved independence from its former colonial powers, with the exception of Southern African apartheid regime. The major challenges left for the organisation were those of development, peace and security. With the acceptance that these were closely linked, the organisation realised it needed to renew its determination to work together towards peaceful and effective resolution of conflicts on the continent. It was time to take measures aiming for conflict prevention, resolution and management with a new approach. The goal was to ensure that conflicts were not to be a factor hindering socioeconomic development, previously, non-interference was linked to security, but now new aspects of security were included. The OAU was not the only organisation changing its perceptions on security in the early 1990s. The United Nations was also going through change⁷.

Due to the brutality of the conflicts on the continent during the 1990s, a certain realisation was occurring in the organisation: what they had been doing so far was not effective enough to prevent or resolve conflicts that broke out and the best alternative would eventually be to replace the OAU with a new organisation.

With the African Union, came also the establishment of the African Union Peace and Security Council, AUPSC. The organ is intended to take a position from which it facilitates peace-making, conducts early warning and preventive diplomacy, establish peace support operations and when needed, recommend intervention in member states to promote peace, security and stability, the African Union has taken a more proactive approach. Since 2005, the AU has authorised more than 64 000 peacekeepers to missions in Burundi, Comoros,

Darfur, Somalia, Mali and Central African Republic in an attempt to operationalise the non-indifference policy¹⁶.

Question 3: What are the roles of regional economic communities and non-state actors on the Human rights of the African?

The preservation of Human Rights is important not just to the betterment of the lives of people in a society, but also for the development of society. The violation of human rights is almost tantamount to the destruction of society, as the society is made up of humans and every other thing revolves around the enjoyment of rights. By virtue of the laws of international human rights, there is an obligation that rests on the shoulders of the state to respect the enjoyment of peoples' rights and ensure that they are not curtailed.

Non-State Actors (NSA) is a nomenclature used to describe transnational corporations, civil society groups, international organizations (including the World Trade Organisation, the World Bank and the International Monetary Fund) in the scheme of International human rights laws and treaties. They are generally understood as referring to entities other than the state¹⁷.

Non-state actors play a major role in policy making of nation-states. They come with paraphernalia that will supplement the work of government. For example, in Kenya during the formulation of the National Disaster Risk Reduction Policy, NSAs contributed in policy formulation through funding, research and data analysis, technical support and lobbying policy makers, NSAs offer evidence-based recommendations which will ensure that the welfare of people is well reflected. NSAs play a role in monitoring and evaluation of policies.

NSAs play a pivotal role in ensuring a level of inclusivity. Governments may sometimes forget the voices of marginalised groups. When marginalised groups are not recognised or are even criminalised, they are not able to access services and support to alleviate their

community challenges. Through relationships they build with marginalised stakeholders and being better equipped to reach out to them through media outreach, information dissemination, NSAs are well placed to represent these marginalized stakeholders and advocate for their priorities and interests with Government in the process shaping country positions on key issues and help in broad based consensus building¹⁸.

Question 4: How effective is the African Commission on Human and Peoples Rights (ACHPR) and other African union specialized bodies on the promotion and protection of Human rights?

The African Commission, based in Banjul, Gambia, is a quasi-judicial mechanism tasked with promoting and protecting human rights and collective rights as well as interpreting the African Charter on Human and Peoples' Rights. The Commission receives complaints from states parties, individuals, and nongovernmental organizations (NGOs) from all 55 African Union member states.

The growing importance of intensified protection of human rights on the African continent comes into sharp focus at a time when several countries across the continent are facing acute human rights crises. The Commission's establishment 35 years ago is an important reminder that political independence and the liberation of Africa are best achieved when underpinned by human rights and democratic governance, the Commission was founded to defend both individual and collective human rights following a period when the Organization of African Unity (OAU), did not place emphasis on individual rights and freedoms. In the 1970s, with no regional human rights mechanism, civil society groups and international organizations worked hand in hand to expose human rights abuses on the continent. In 1979, a group of experts produced a draft charter on human and peoples' rights, which was unanimously

adopted at a 1981 OAU heads of state meeting in Nairobi, Kenya, thus creating the Commission on the 2nd of November, 1987⁴.

Apart from the Commission, the AU created the African Court on Human and Peoples' Rights by a protocol to the African Charter adopted on June 9, 1998, which entered into force on January 25, 2004. The court has jurisdiction over cases and disputes concerning human rights violations and complements the Commission's mandate.

The Commission has issued critical decisions, that have expanded standards and understanding on human rights in Africa and the rest of the world, including on the right to development, Indigenous peoples' rights, women's rights, children's rights, media freedoms, and rights-focused government responses to the Covid-19 pandemic.

The Commission, in its 2016 ruling on the Democratic Republic of Congo (DRC), stated that the Congolese government violated numerous human rights in its brutal repression of peaceful protests against the harmful operations of a foreign mining company.

Another landmark ruling of the Commission was its 2010 ruling in the Endorois case where it found multiple violations of the African Charter in the eviction of the Endorois people from their homeland in central Kenya. It was the first ruling of any international tribunal to find a violation of the right to development, and the first ruling to explain who Indigenous peoples in Africa are, and what their rights to land are.

The Commission has also adopted resolutions on various human rights issues across the continent. In 2020, it issued a resolution reaffirming that human rights and freedoms should be central in governments' responses to the Covid-19 pandemic.

In 2021, the Commission adopted a resolution to respect, without restriction, the principle of non-refoulement of asylum seekers and refugees. The resolution condemned all expulsions of asylum seekers and refugees to countries where their lives or freedoms would be threatened.

In a March 2022 resolution, the Commission urged AU member states to take steps to protect marginalized groups and ensure their right to food and nutrition, including during protracted crisis, conflicts, and natural disasters.

Notably, the Commission has also developed legal guidance on how to implement many key human rights set out in the African Charter and other human rights treaties and documents such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "Maputo Protocol")¹⁹.

4.3 Discussion of Findings

The African Union (AU) has existed for fifty years now, it started out as the Organisation of African Unity (OAU) in 1963 then disbanded to African Union in 2002. Throughout the years the Organisation has seen its fair share of ups and downs. The organisation has put in place different mechanisms to protect and preserve human rights²⁰.

The African Union has left its mark on the continent, although most observers agree that there is still room for improvement.

4.3.1 Strategies for the African Union to Improve the Protection of Human Rights

An Inclusive Approach to Human Rights

The African Union should avoid polarization and make sure that all rights, including social, economic, and cultural rights, are preserved and promoted even when some rights are considered to be enforceable while others are not. A human rights-based strategy to development is recommended in order to prevent the typical polarization between the latter rights and political and civil rights. Such a strategy should integrate civil, political, and social rights while also establishing a fair and just social compact between the state and its citizens.

Linking the human rights agenda to the larger development agenda will also be made easier with a human rights-based approach. The AU agenda is particularly important to the current

conversation on human security and human rights. Governments would also be required, as part of a human rights approach, to create clear action plans with metrics, objectives, and deadlines for their accomplishment as well as to devote significant resources to those goals⁴.

Institutional and Constitutional Arrangements

The African Union's Constitutive Act establishes a continental legal framework for the defence and advancement of human rights. The AU adopted an institutional focus on human rights and clearly acknowledges the mainstreaming of human rights in all of the AU's operations and programs in accordance with the spirit of the Constitutive Act. However, it must guarantee that all human rights rules, standards, and principles are successfully incorporated into a variety of activities and practices, including the AU's peacekeeping missions, election monitoring, and crisis management. For instance, all portfolio Departments in the African Union Commission are required to incorporate human rights into their programs as part of the execution of their mandates; as a result, the topic of human rights is no longer only within the purview of the African Commission on Human and Peoples' Rights. The defence of human rights is seen as an element of the Peace and Security Council's role. The peace and security agenda should also include social, economic, and cultural rights because conflicts aggravate societal problems including the lack of access to food, water, health care, sanitization, and education, which call for extra attention both during and after conflicts⁴.

The AU should also support the mainstreaming of respect for the principles that are inherent in human rights, both in member states' legal systems and in their decision-making processes. It is still crucial to build the capability of institutions with a focus on human rights and to give them the necessary resources at the continental, regional, and national levels in order for them to effectively carry out their mandate of promoting and defending human rights.

Cooperation of Human Rights-Related Institutions

Mechanisms for its implementation, such as the African Commission, The African Court, The ACERWC, The APRM, The PAP, National Human Rights Institutions, and NGOs, came along with the development of legal instruments aimed at protecting human rights. The question of whether there will be enough funds to assure the success of all these systems will always remain given the lack of resources and the need to prevent duplication of effort. Additionally, it can be necessary to prevent the growth of organizations with a focus on human rights. For instance, whether it is necessary to create a distinct agency for the protection of children is an often asked subject. Whatever the solution is, it is critical that there be effective collaboration between all these human rights organizations, including the ACERWC, the African Commission, and other organizations. Equally, the APRM process should complement the efforts of existing human rights institutions¹¹.

To generate coherence and synergy between their methods and actions, it may be good for these mechanisms to develop a plan of activities that build on one another's endeavours. Additionally, it could be necessary to rationalize current African institutions.

Coherent and Thorough Approach to Standard Development and Application

The AU has over the years adopted a number of legal instruments, policy instruments, and policymaker statements with an emphasis on human rights. All of these must, however, be consolidated and expanded upon as a part of the institutional history of Africa. This will also serve as the AU's contribution to the establishment of a comprehensive and cogent approach to the formulation of standards, as well as a system for promoting and protecting human rights across the entire continent.

The creation of standards should involve the following: streamlining the activities of these institutions, reviewing the instruments and organizations already in existence with a human rights agenda, and creating a unified institutional approach to human rights.

In addition to the aforementioned, it is important to foster discussion on important human rights issues and concerns in Africa as well as research to guide policy development and legal decision-making⁸.

Methods and Mechanism for Enforcement

Various legal and policy tools have been adopted by the AU and regional organizations to advance and defend human rights on the African continent. Through the establishment of constitutions, laws, and policies, there has also been a rise in the realisation of rights on a domestic level. And the establishment of institutions such as courts, human rights institutions, parliaments, ombudspersons, and certain civil society and non-governmental organizations.

Despite the fact that all of these tools and systems exist to advance and safeguard human rights, many of them lack funding and political support. The institutions with a focus on human rights will be unsuccessful in their duties if there isn't the political will, money, or resources to operationalize them. As a result, it is still difficult to carry out and enforce commitments and obligations.

Member states are legally obligated to implement the values and standards inherent in continental or international law or human rights instruments at the domestic level. The domestication and application of those instruments, rather than the act of ratification, is what is most crucial for making the rights guaranteed by those documents a reality. Different member states have different procedures for implementing these criteria into national legislation. It is best to give them meaning once they have been validated by passing

legislation, policies, and plans of action. To guarantee successful implementation, these laws and regulations must be in line with human rights norms and have ongoing financial support.

Access to courts is another factor in whether rights can be enforced. Ordinary people, who may not be familiar with the judicial system, frequently cannot access courts. Therefore, the AU should also encourage the creation of substitute institutions like national human rights commissions and ombudspersons, who offer both official and informal complaint procedures and are readily available to the public. However, to be effective, these mechanisms have to be independent, well resourced, and complemented by an independent judiciary and an active legislature.

Focus on Vulnerability and Exclusion

It has been pointed out that vulnerability is caused by the exclusion and marginalisation of certain groups. Thus, strategies for addressing vulnerability and exclusion should include integrated, multispectral and multidisciplinary approaches, and should have the following elements:

Be Rights-Based- This approach promotes, protects and defends the rights particularly the social, economic and cultural rights of the most vulnerable and marginalised as being integral to sustainable development.

Focus on Poor people's Realities- This will require their active involvement and participation.

Invest in Organisational Capacities- Community driven approaches led by community-based organizations and informal networks have been always been critical for the survival of communities. Communities need to have control over funds, resource allocation, and

decision-making, as this relies on people's strengths and knowledge. Such empowerment also helps people to address inequalities inherent in the way society is structured and organised.

Promote Social Protection Policies- This is based on a scaled-up community driven model aimed at strengthening community capacity to provide support during times of need, coupled with an effective monitoring and evaluation system to assess the social and economic impact of the programmes that target poverty reduction and inequality.

Change Social Norms- This can be done through effective awareness raising campaigns, civic and human rights education, and the involvement of traditional and community leaders, in order to address harmful traditional practices and gender inequalities.

Recognise the Importance of Social Policy- Social policy should be viewed as a web of policies that act in a complementary, multidimensional, multi-sectoral and multidisciplinary manner.

Implement Poverty Reduction Strategies- These strategies should not only take into account income and consumption, but more importantly the factors that place people at risk of poverty or that worsen their poverty, including enhancing their capabilities to overcome poverty and other social and economic challenges¹⁴.

Endnotes

1. J. M. Okeke, *Ambition Versus Realism: Evaluating the Prospect of the African Union Institutional Reform Agenda*, Tena Forum Secretariat, 2018, 6-20. https://ipss-addis.org/wp-content/uploads/2019/04/2018_tana_papers_en.pdf#page=14.
2. International Federation for Human Rights, *Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation*. 2007. http://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf
3. A. Kassab, & M. Bokrouh. *Compendium Country Profile Cultural Policy in Algeria*, 2014. https://www.culturalpolicies.net/wp-content/uploads/2019/10/algeria_full_profile_2014.pdf
4. Human Rights Watch, *African Rights Commission's Work More Important Than Ever*, Human Rights Watch, 2022. <https://www.hrw.org/news/2022/11/02/african-rights-commissions-work-more-important-ever>.
5. International Labour Organisation. *The 2014 AUC's Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa*, 2015. http://www.ilo.org/africa/areas-of-work/labour-migration/policy-frameworks/WCMS_671951/lang--en/

6. African Union, *Constitutive Act of the African Union*, Constitutive Act of the African Union, adopted by the Thirty-Sixth ordinary session of the assembly of Heads of State and Government, Lome, Togo, 11 July 2000. https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf
7. African Union. *An Integrated, Prosperous and Peaceful Africa*, 2008 <https://www.peaceau.org/uploads/au-continental-framework-web.pdf>
8. Assembly of the African Union. *Decisions and Declaration of the Assembly of the African Union*, 2002. http://au.int/sites/default/files/decisions/9549-assembly_en_9_10_july_2002_assembly_heads_state_government_first_ordinary_session_0.pdf
9. S. Labenski, *Countering Conflict Related Sexual and Gender-based Violence Through Reparations*, **LSE Law Policy Briefing**, 42, 2020, <https://dx.doi.org/10.2139/ssrn.3535642>.
10. K. A. Busia, *The Challenge of Africa*, Routledge, 2023. https://hdl.handle.net/10520/ejc-aa_afrus_v11_n2_a2.
11. M. David, *Covid-19 Response and Human Rights in Selected African Countries*, **Australian journal of Human rights**, 26(3), 2021. <https://doi.org/10.1080/1323238X.2020.1813381>.
12. PSC Report, *North Africa could benefit from a functioning regional organisation*, *PSC Report*, 2019. <https://issafrica.org/pscreport/psc-insights/north-africa-could-benefit-from-a-functioning-regional-organisation>.
13. N. Omoregbee, *Southern African Development Community (SADC) and Economic Integration in Southern Africa: Lessons for Regional Organizations in Africa*, **Hallmark University Journal of Management and Social Sciences**, 2(3), 2020, 74-82. https://www.researchgate.net/profile/Kamaldeen-Lawal/publication/345064760_Merged_Hallmark_Journal_Coverpdf_alaka_and_lawa_l/links/5f9d4047299bfb1b53e547a8f/Merged-Hallmark-Journal-Coverpdf-alaka-and-lawal.pdf#page=83.
14. African Union, *AU Reforms present a unique Opportunity for Greater Synergy in Addressing Inter-Related Issues of Security and Governance in Africa*, African Union Webmail, 2021. <https://au.int/en/pressreleases/20210617/au-reforms-present-unique-opportunity-greater-synergy-addressing-inter>.
15. P. Nantulya, *The African Union Wavers Between Reform and More of the Same*, African Center for Strategic Studies, 2019. <https://africacenter.org/spotlight/the-african-union-wavers-between-reform-and-more-of-the-same/#:~:text=Intended%20to%20address%20some%20of,and%20the%20institutional%20gaps%20that>.
16. M. H. Langerud, *From the Organization of the African Unity to African Union: From A Policy of Non-Interference to a Policy of Non-Indifference*, 2016.

https://www.duo.uio.no/bitstream/handle/10852/51787/1/Langerud_2016_Master-thesis.pdf.

17. O. C. Nweke, *Non-State-Actors and Human Rights Violations*, Grinn, 2020. [https://www.grin.com/document/1167990#:~:text=Clapham%2C%202006\)-,WHO%20ARE%20NON%2DSTATE%20ACTORS,human%20rights%20laws%20and%20treaties](https://www.grin.com/document/1167990#:~:text=Clapham%2C%202006)-,WHO%20ARE%20NON%2DSTATE%20ACTORS,human%20rights%20laws%20and%20treaties).
18. A. Ng'onga, *Magnifying the Role of Non-State Actors in the African Continental Free Trade Area*, Cuts International, 2021. <https://cuts-lusaka.org/pdf/policy-brief-magnifying-the-role-of-non-state-actors-in-the-africa-continental-free-trade-area.pdf>.
19. N. Fungai, *Human rights: Has the African Union failed to protect human rights?*, International Political Economy Club, 2019. <https://ipeclub.co/human-rights-has-the-african-union-failed-to-protect-human-rights/>.
20. W. Micha, C. C. Aniekwe, L. Oette & S. Vendeginste, *The African Charter on Democracy, Elections and Governance: Past, Present and Future*, **Journal of African Law**, Volume 63, S 1, 2019, 9-38. <https://www.cambridge.org/core/journals/journal-of-african-law/article/african-charter-on-democracy-elections-and-governance-past-present-and-future/342605584448147F12AF98118411F9D4>.

Chapter Five

Conclusion

This final chapter contains the summary of the research, recommendations on the way forward and conclusions reached.

5.1 Summary of Findings

The Africa Union aspires to see a continent with a common culture of good leadership, democratic principles, gender equality, and adherence to the rule of law and human rights.

The AU works with member states to develop and put into practice policies that aim to create strong, well-governed institutions and enact laws that will ensure that African citizens are fully involved in policy making and development initiatives and that these citizens are provided with safe and secure environments in which to live.

In order to promote effective governance, the protection of human freedoms, and the preservation of rights of African citizens, the AU has made sure that numerous treaties and policies are in place. AU treaties on the right of persons include the African Charter on the Rights and Welfare of the Child, African Charter on Human and Peoples' Rights, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, African Youth Charter and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

To aid in the implementation of sound governance and respect for human rights across the continent, the African Union established the Judicial, Human Rights, and Legal Organs. They include the African Commission on Human and Peoples' Rights (ACHPR), African Court on Human and Peoples' Rights (AfCHPR), AU Commission on International Law (AUCIL), AU Advisory Board on Corruption (AUABC) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

The Department of Political Affairs is in charge of advancing, facilitating, coordinating, and encouraging democratic values, the rule of law, respect for human rights, civil society engagement in the continent's development, and the achievement of long-term solutions to humanitarian crises. Additionally, the department oversees the implementation of the African Governance Architecture as well as long-term responses to political and humanitarian crises, including as preventive diplomacy.

5.2 Conclusion

The African Union has contributed to the drafting of treaties to promote peace, democracy and good governance. Many of its treaties contain global firsts. This is true even though many member states still have loopholes in protecting democracy.

The African Union has shown it is capable of providing leadership and acting as advisor to governments and intergovernmental agencies. The Union has also been effective in changing the mind set of African political elites from their traditional posture of indifference to one that encourages them to intervene in each other's affairs.

It has successfully developed forward-thinking development frameworks such as the agenda 2063 and the African Continental Free Trade Agreement. It has also created development agencies, including the AUDA-NEPAD.

The African Union has been good at socialising African governments to accept development ideas and make them pillars of national growth plans. It has also mobilised resources to boost the continent's development initiatives. This has included efforts to make COVID-19 vaccines available to member states.

But there are weaknesses, the union has also convened and has been mobilised for bad causes. An example was the shielding of the former President of Sudan, Omar al Bashir, and Kenyan President Uhuru Kenyatta from calls to appear before the International Criminal Court to answer charge of crimes against humanity.

An example of the Unions weakness is a more conservative approach and the softening of its zero-tolerance position on military regimes. It has been soft on recent coup makers. This is in contrast to its outspoken stance in previous years and the steps it took to ostracise military regimes in Guinea-Bissau and Sao Tome and Principe in 2003, Togo in 2005, Mauritania in 2005 and 2007, Guinea in 2008, Mali in 2012, as well as Egypt and Central African Republic in 2013.

The recent resurgence of coups on the continent suggests that the African Union needs to revisit its position on unconstitutional changes of governments and strengthen its agenda to

promote democracy. The continent needs a stronger African Union leadership on this issue and many others.

Human rights, whether viewed from the Left or Right perspective, from a progressive or reactionary stand-point, is essentially a major world-wide legal, philosophic, political, social and moral phenomenon of the 21st century.

Before 1945, less than 50 years ago, there was hardly any international conference involving heads of state and government or intellectuals, assembled to discuss exclusively the subject of human rights, except those concerning narrow aspects of rights. Before the 1970s hardly any imperialist state had human rights as a major attribute of its foreign policy.

5.3 Recommendations

The below Recommendations are to encourage the African Union to prioritize and act in accordance with some major critical areas, areas such as Regional and Military engagement, Justice and Accountability, Human Rights and Governance, as well as Strengthening Rights focused on Multilateral Institutions.

1. Regional Human Rights Scrutiny and Military Engagement

The African Union has to engage in the Supporting and enforcement of a joint AU-UN Framework on Human Rights and Accountability by fully implementing the OHCHR Human Rights Due Diligence Policy in countries where the AU is conducting peace support and counterterrorism operations and establish a dedicated AU human rights unit within the Peace and Security Department tasked with providing technical assistance to those operations.

In collaboration with the ACHPR, the African Union should increase the presence of human rights officers in Africa-led counterterrorism missions and ensure that cooperation agreements on counterterrorism operations include specific clauses setting out human rights standards such as the UN Human Rights Due Diligence Policy.

The African Union in collaboration with regional and international partners, should support meaningful and effective security sector reform efforts, and take concrete measures to improve security forces compliance with international law.

Also, in collaboration with international partners, the Union should urge member States to provide prompt and adequate redress for civilian victims of laws-of-war violations by setting up a system for condolence payments for civilian casualties and property damage. In addition to monetary payments, options could include public acknowledgement, apologies, and livelihood assistance, reflecting the circumstances and needs of affected civilians. Those responsible for war crimes should be prosecuted.

2. Human Rights and Governance

Prioritizing rights driven agendas by strengthening the independence of the mandate of human rights institutions in Africa and ensuring that member states do not interfere in the functioning of all regional human rights institutions.

In collaboration with sub-regional economic blocs, the African Union should encourage member states to show support on speedy ratification of the AU Charter on Democracy, Elections and Governance by all 55 member states.

In collaboration with the ACHPR, the African Union ought to openly press governments to ensure respect and protection of rights. This includes holding regular, free, fair, and credible elections, as well as the right to expression, peaceful protest, and assembly.

The African Union should increase diplomatic pressure and publicly urge member states to take prompt, credible, and impartial steps to investigate the allegations of election-related killings, beatings, and assaults by security forces, and to hold those responsible accountable.

3. Justice and Accountability

The African Union need to Support efforts to ensure accountability through fair, credible trials for those most responsible for mass atrocities and other serious human rights abuses, including through implementation of specialized accountability mechanisms such as the Hybrid Court for South Sudan. Others include Guinea moving ahead with the trial of alleged perpetrators of the country's 2009 stadium massacre and the Democratic Republic of Congo strengthening its domestic capacity to try serious crimes committed in the country.

In collaboration with the ACHPR, support cooperation with the International Criminal Court on relevant cases, investigations, and indictments pursuant to UN Security Council Resolution 1593. Notably for the investigation and prosecution of atrocities committed in Darfur, Sudan.

The African Union with the support of international partners should support the establishment of an African led sanctions regime that includes travel bans and asset freezes against those responsible for ongoing serious human rights abuses.

Support of the full operationalization of the African Court on Human and Peoples' Rights by encouraging all State Parties to the Protocol to make the declaration recognizing the competence of the Court to receive cases from NGOs and individuals.

4. Rights Focused Multilateral Engagements

Expansion and support of the AU-UN Addis Ababa Road map by the African Union to strengthen collaboration between regional accountability mechanisms like the UN Human Rights Council and the African Commission on Human and Peoples' Rights.

The African Union ought to show its support for an overarching human rights agenda within the AU's peace and security architecture by investing in the development of strong tools for conflict management, prevention, and rights-focused responses to emerging crises.

African Union should promote and sustain stronger cooperation between AU human rights institutions and international human rights institutions such as the Office of the High Commissioner for Human Rights (OHCHR) and the Inter-American Human Rights institutions.

Promote stronger human rights dialogues between sub-regional economic blocs and sub-regional human rights organizations. Publicly promote AU support for national human rights institutions and civil society organizations.

Urge national governments to ban the chaining of people with mental health conditions and develop adequate, quality, and voluntary community-based support mental health services.

The African Union should promote access to healthcare for all by encouraging AU member states to commit 15% of their national budgets to health in accordance with the Abuja Declaration.

Some other recommendations for the African Union are for the Union to Repeal legislation upholding inequality between men and women and take affirmative action measures to progressively overcome social gender biases making for the inequality of women.

The Decriminalise homosexuality.

Step up international cooperation to safeguard the rights of migrants and protect them from human trafficking. It is also essential to implement policies which secure their human rights, especially in employment issues, in the country of arrival.

In the case of the people of Western Sahara, we are of the view that as a colonial country, in this case under Spain until 1975, any solution to the conflict must include the application of Resolution 1514 (XV) of the United Nations Assembly, which enshrines the principle of self-

determination for colonial countries. Likewise, Saharawis currently living in camps in Algeria must be allowed to return home.

5.4 Contribution to Knowledge

This work sort out to define what Human rights is, the African union, and also to connect the relationship between the African union and Human rights, in the sense of How is the African union trying to promote the laws and ideas of Human rights on the African continent, what measures they are willing to put in place to serve the citizens of the African continent and protect their Human rights. Human rights are benefit for every person despite location or origin, making it the responsibility of the African union and its governments to uphold its laws and ideas. This work has enlightened its readers on the bodies and instruments created by the African Union to fight against Human rights violations but rather protect and promote Human rights causes, such bodies as, the African charter on Human and Peoples' rights which is also known as Banjul charter which is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent, the African commission, which is fully known as the African Commission on Human and peoples' rights, this body was founded in 1987 and is tasked with promoting and protecting human rights and collective peoples' rights throughout the African continent as well as interpreting the African Charter on Human and Peoples' Rights and considering individual complaints of violations of the Charter. The African Court on Human and Peoples' Rights, which is simply known as the African Court, which is also an organ for the African union is an international court established by the member states of the African Union to implement provisions of the African Charter on Human and Peoples' Rights. The African union has one of if not the most expressive instrument on the rights to women which is the Maputo protocol and it came into force in 2005.

This work aims to shine the light upon the effectiveness of the African union on Human rights promotion and protection, obviously there are a lot of criticism to be made but the African Union have put in place various measures to contribute to the promotion of Human rights, such as Agenda 2063 which is a set of initiatives proposed and currently under implementation by the African Union

5.5 Suggested Areas for Further Research

Further research on the topic of the African Union and its effectiveness to continental equality could be made in various and so many areas, such as the decriminalization of LGBTQ persons, female genital mutilation, promotion of the female child education, abolishing early child marriage; due to customs and tradition of the African people some of the backdated practices still go on in the continent.

An important area for further research is the collaborative efforts from the African regional bodies alongside the continental body, when tackling a widespread problem such as Human rights violations, the divide and conquer mentality yields the greatest results, the cooperation between the African regional bodies and the African union is very essential. Another area for further study is a look into the unconstitutional change of government and low level of democracy on the African continent.

Bibliography

Article

- Abdirahim, A. *Official Report of the Proceedings of the East African Legislative Assembly*, “statement” at the opening ceremony of the second East African Civil Society organization forum, at Ngurdoto Mountain Lodge Arusha, 21 November 2011. <https://www.eala.org/uploads/Proceedings%20of%2028%20November%202011.pdf>.
- Aeby, M. *SADC – The South African Arrest Development Community? Enduring Challenges of Peace and Security in South Africa*, The Nordic African Institute, Policy Dialogue 14, 2019. <https://www.diva-portal.org/smash/get/diva2:1351257/FULLTEXT01.pdf>.
- Anthony, K. I. *Igwebuike Philosophy and Human Rights Violation in Africa*, St Albert the great major seminary, 2021. https://www.google.com/search?q=Igwebuike+Philosophy+and+Human+Rights+Violation+in+Africa&rlz=1C1CHNY_enNG1006NG1006&oq=Igwebuike+Philosophy+and+Human+Rights+Violation+in+Africa&aqs=chrome.69i59j69i60l2.2072j0j4&sourceid=chrome&ie=UTF-8.

- Ariza, E. *Human Rights in the Maghreb and Mashriq*, Ideas Magazine, No 50, 2021. <https://revistaideas.cat/en/els-drets-humans-al-magrib-i-al-maixriq/>.
- Beverton, A. *Organisation of African Unity (1963-2002). Black Past*, 2009. <https://www.blackpast.org/global-african-history/organisation-african-unity-1963-2002/>
- Butty, J. *The African Union Between Praise and Criticism*, Daybreak African, 2022. <https://www.voaafrica.com/a/the-african-union-between-praise-and-criticism-/6734563.html>.
- Elau, E. *Human Rights in the East African Community*, SSRN, 2019. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3582889.
- Fungai, N. *Human rights: Has the African Union failed to protect human rights?* International Political Economy Club, 2019. <https://ipeclub.co/human-rights-has-the-african-union-failed-to-protect-human-rights/>.
- Gilbert, K. *Regional Cooperation on Democratization and Conflict Management in Africa*, JSTOR, 2018, 1-2. <http://www.jstor.com/stable/resrep16979.4>.
- Gutelius, D. *Arab Maghreb Union*, Encyclopaedia.com, 2018. <https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/international-organizations/arab-maghreb-union>.
- Heard, A. *Human Rights: Chimeras in Sheep's Clothing?* Simon Fraser University, 1997. https://www.sfu.ca/~aheard/intro.html#N_1
- Ighobor, K. *Prioritizing Human Rights in Africa*, African Renewal, 2023. <https://www.un.org/africarenewal/magazine/april-2023/prioritising-human-rights-africa>.
- Klobucista, C. & Renwick, D. *The Role of Peacekeeping in Africa*, Council on Foreign Relations, 2020. <https://www.cfr.org/background/role-peacekeeping-africa>.
- Labenski, S. *Countering Conflict Related Sexual and Gender-based Violence Through Reparations*, LSE Law Policy Briefing, 42, 2020. <https://dx.doi.org/10.2139/ssrn.3535642>.
- Langness, D. *Human Rights are God-Given Rights*, BahaiTeachings.org, 2013. <https://acjol.org/index.php/agora/article/view/1491>.
- Lawal, Z. O. *Synopsis: Enforcement of Fundamental Human Rights Under the Nigerian Constitution*, AAA Chambers, 2022. <https://www.aachambers.com/articles/analysis-on-the-enforcement-of-fundamental-human-rights-under-the-nigeria-constitution/#:~:text=These%20Fundamental%20Human%20Rights%20pertain,movement%3B%20freedom%20from%20discrimination%3B%20and>.

- Naldi, G. J. *Organization of African Unity (OAU)*, Encyclopaedia.com, 2018. <https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/international-organizations/organization-african-unity>.
- Nantulya, P. *The African Union Wavers Between Reform and More of the Same*, African Center for Strategic Studies, 2019. <https://africacenter.org/spotlight/the-african-union-wavers-between-reform-and-more-of-the-same/#:~:text=Intended%20to%20address%20some%20of,and%20the%20institutional%20gaps%20that>.
- Ng'onga, A. *Magnifying the Role of Non-State Actors in the African Continental Free Trade Area*, Cuts International, 2021. <https://cuts-lusaka.org/pdf/policy-brief-magnifying-the-role-of-non-state-actors-in-the-africa-continental-free-trade-area.pdf>.
- Nweke, O. C. *Non-State-Actors and Human Rights Violations*, Grinn, 2020. [https://www.grin.com/document/1167990#:~:text=Clapham%2C%202006\)-,WHO%20ARE%20NON%2DSTATE%20ACTORS,human%20rights%20laws%20and%20treaties](https://www.grin.com/document/1167990#:~:text=Clapham%2C%202006)-,WHO%20ARE%20NON%2DSTATE%20ACTORS,human%20rights%20laws%20and%20treaties).
- Oberleitner, G. *International Human Rights Institutions, Tribunals and Courts*, Springer Link, 2018. 1-22. https://link.springer.com/referenceworkentry/10.1007/978-981-10-5206-4_1.
- Ogaraku, H. C. & Ogaraku, P. E. *The Economic Community of the Central African States and Conflict in the Region*, Accord, Conflict Trends 2021, 2, 2021. <https://www.accord.org.za/conflict-trends/the-economic-community-of-central-african-states-and-conflicts-in-the-region/>.
- Okeke, J. M. *Ambition Versus Realism: Evaluating the Prospect of the African Union Institutional Reform Agenda*, Tena Forum Secretariat, 2018, 6-20. https://ipss-addis.org/wp-content/uploads/2019/04/2018_tana_papers_en.pdf#page=14.
- Reid, G. *Progress and Setbacks on LGBTQ Rights in Africa- An Overview of the Last Year*, Daily Maverick, 2022. <https://www.hrw.org/news/2022/06/22/progress-and-setbacks-lgbt-rights-africa-overview-last-year>.
- Saharareporters, *African Union Leaders Have Failed to Implement Human Rights Commitment - Falana*, Saharareporters, 2022. <https://saharareporters.com/2022/03/23/african-union-leaders-have-failed-implement-human-rights-commitment-%E2%80%94-falana>.
- Shimanyula, J. *The African Union 17 Years on: Success or Failure*, DW.com, 2018. <https://www.dw.com/en/the-african-union-17-years-on-success-or-failure/a-43936625>.
- Tieku, T. K. *The African Union: Success and Failure*, Oxford Research Encyclopaedia, 2019. <https://oxfordre.com/politics/display/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-703>.
- United Nations, *Peace, dignity and equality on a healthy planet: Global Issues Africa*, United Nations, 2020. <https://www.un.org/en/global-issues/africa>.

Wardle, R. *What are Human Rights and Why are They Important?* Future Learn, 2021. <https://www.futurelearn.com/info/blog/what-are-human-rights>.

Zenda, C. *Human Rights Violation Soars Across Africa, Report Finds*, Fair Planet, 2022. <https://www.fairplanet.org/story/human-rights-violations-soar-across-africa-report-finds/>.

Book

Booyzen, Y. *A Guide to the African Human Rights System*, Pretoria University Law Press, 2016, 43-51. <https://www.corteidh.or.cr/tablas/31712.pdf>.

Busia, K. A. *The Challenge of Africa*, Routledge, 2023. https://hdl.handle.net/10520/ejcaa_afrus_v11_n2_a2.

Ife, J., Soldatic, K. & Brisksman, L. *Human Rights and Social Works*, Cambridge University Press, 2022, 5-27. https://books.google.com.ng/books?hl=en&lr=&id=IPXvEAAAQBAJ&oi=fnd&pg=PR9&dq=human+rights+&ots=inF3jrLHAJ&sig=T48numloBlwrxsL9LzoNNmP0dlQ&redir_esc=y#v=onepage&q=human%20rights&f=false.

Kalin, W. & Kunzli, J. *The Law of International Human Rights Protection*, Oxford University Press, 2019, 259-551. https://books.google.com.ng/books?hl=en&lr=&id=gverDwAAQBAJ&oi=fnd&pg=PP1&dq=Who+protects+human+rights%3F&ots=N8LL-kcQKm&sig=8g8Y47hbj3IZ7qFAuSLntK6EIqI&redir_esc=y#v=onepage&q=Who%20protects%20human%20rights%3F&f=false.

Kretzmer, D. & Klein, E. *The Concept of Human Dignity in Human Rights Discourse*, Kluwer Law International, 2021, 41-55. https://books.google.com.ng/books?hl=en&lr=&id=u4tFEAAAQBAJ&oi=fnd&pg=PR3&dq=The+Concept+of+Human+Dignity+in+Human+Rights+Discourse&ots=anyW3CuuP&sig=koguTXAFrKRopCZ9IMID9LH3QVU&redir_esc=y#v=onepage&q=The%20Concept%20of%20Human%20Dignity%20in%20Human%20Rights%20Discourse&f=false.

Lerner, R. M. *Concept and Theories of Human Development*, Routledge, 2018, 16-25. <https://www.taylorfrancis.com/books/mono/10.4324/9780203581629/concepts-theories-human-development-richard-lerner>.

Loveland, I. *Constitutional Law, Administrative Law & Human Rights a Critical Introduction*, Oxford University Press, 2018, 457-592. <https://books.google.com.ng/books?hl=en&lr=&id=zmdRDwAAQBAJ&oi=fnd&pg=PP1&dq=HUMAN+RIGHTS,+CONSTITUTIONAL+RIGHTS+AND+FUNDAMENTAL+HUMAN+RIGHTS&ots=hYIYWUPqBq&sig=t1->

[CbWeYJW9d87kzYCRn5zIhpQI&redir_esc=y#v=onepage&q=HUMAN%20RIGHTS%20C%20CONSTITUTIONAL%20RIGHTS%20AND%20FUNDAMENTAL%20HUMAN%20RIGHTS&f=false](https://books.google.com/ng/books?hl=en&lr=&id=KT9sDwAAQBAJ&oi=fnd&pg=PT6&dq=african+union+praise+&ots=rLCcS49QSt&sig=khNRozQ4ENh9YLSiT_7uK8iaqZY&redir_esc=y#v=onepage&q=HUMAN%20RIGHTS%20C%20CONSTITUTIONAL%20RIGHTS%20AND%20FUNDAMENTAL%20HUMAN%20RIGHTS&f=false).

Magliveras, K. D. & Naldi, G. J. *The African Union (AU)*, Wolters Kluwer, 2018. https://books.google.com/ng/books?hl=en&lr=&id=KT9sDwAAQBAJ&oi=fnd&pg=PT6&dq=african+union+praise+&ots=rLCcS49QSt&sig=khNRozQ4ENh9YLSiT_7uK8iaqZY&redir_esc=y#v=onepage&q=african%20union%20praise&f=false.

Moeckli, D. Shah, S & Sivakumaran, S. *International Human Rights Law*, Oxford University Press, 2022, 527-524. https://books.google.com/ng/books?hl=en&lr=&id=JzWAEAAAQBAJ&oi=fnd&pg=PP1&dq=International+Human+Rights:+Foundation&ots=m853BPxDtM&sig=rGgHF9j-ExEkR1nTXGg26lpwm08&redir_esc=y#v=onepage&q=International%20Human%20Rights%3A%20Foundation&f=false.

Oloruntoba, S. O. *Pan-Africanism, Regional Integration and Development in Africa*, Palgrave Macmillan, 2020, 1-14. https://link.springer.com/chapter/10.1007/978-3-030-34296-8_1.

Smith, K. M. *International Human Rights Law: Historical Background*, Oxford University Press, 2022, 39-51. https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&as_ylo=2018&as_yhi=2023&q=International+Huamn+Rights+Law%3A+Historical+background+Smith+Rhona&btnG=.

Tieku, T. K. *Stirring the Pot: The African Union and the International Order*, Routledge, 2019. 212-234, https://www.researchgate.net/profile/Thomas-Tieku/publication/336858996_Stirring_the_pot/links/60f11897fb568a7098b21310/Stirring-the-pot.pdf.

Tieku, T. K. *The African Union at 20: a lot has been achieved despite many flaws*, The Conversation, 2022. <https://theconversation.com/the-african-union-at-20-a-lot-has-been-achieved-despite-many-flaws-175932#:~:text=The%20African%20Union%20has%20developed%20a%20well%20oiled%20machine%20promoting,and%20led%20to%20relative%20success>.

Document

Organization of African Union (OAU) Doc. CAB/LEG/67/3, Banjul charter, *The African Commission on Human and Peoples' Rights legal instruments*, Banjul, Gambia, 27 June 1981.

Journal

Adeyeye, J. A. *A Comparative Analysis of the Charter of the Organization of African Unity (OAU) and the Constitutive Act of the African Union (AU)*, **Groningen Journal of International Law**, 6(6), 2018, 215-241. <https://ugp.rug.nl/GROJIL/article/view/35453/33001>.

- Akani, E. C. *Mainstreaming the Pan African Ideals in the African Union (AU) Agenda 2063. The Africa We Want*, **International Journal of Social Science and Economic Research**, 4(2), 2019. http://ijsser.org/files_2019/ijsser_04__100.pdf.
- Bakare, M. A. *Political Reforms and Implications for Democracy and Instability in West Africa: The Way Forward for ECOWAS and Member States*, **Conflict Trends**, 2021(4), 2021. https://journals.co.za/doi/abs/10.10520/ejc-accordc_v2021_n4_a3.
- Barnard, M. *Constitutionalising a Human Rights to Water in the Southern African Development Community*, **Utrecht Law Review**, 16(2), 2020. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/utrecht16&div=16&id=&page=>.
- Chekol, Y. G. *African Union Institutional Reform: Rationales, Challenges and Prospects*, **Sage Journal**, 12(1), 2020, 29-44. <https://doi.org/10.1177/0975087819899342>.
- Chika, A. *The African Charter on Democracy, Elections and Governance: Past, Present and Future*, **Journal of African Law**, 63(1), 2019, 9-38. <https://www.cambridge.org/core/journals/journal-of-african-law/article/african-charter-on-democracy-elections-and-governance-past-present-and-future/342605584448147F12AF98118411F9D4>.
- Chimaraoke, I. *Regional Legal and Policy instruments for addressing LGBT exclusion in African*, **Sexual and Reproductive Health matters**, 28(1), 2020, 99-102. doi: 10.1080/26410397.2019.1698905.
- Claar, S. & Nolke, A. *Deep Integration*, **Wayback Machine**, 51(02), 2010, 114-117. <https://web.archive.org/web/20100301074450/http://www.inwent.org/ez/articles/167262/index.en.shtml>.
- Dauda, M., Ahmad, M. Z. & Keling, M. F. *Analytical Appraisal of the Factors Responsible for the Metamorphosis of the Organisation of African Unity (OAU) to African Union (AU)*, **Islamic University Multidisciplinary Journal**, 7(4), 2020, 168-190. https://d1wqxts1xzle7.cloudfront.net/65415266/82217-libre.pdf?1610555815=&response-content-disposition=inline%3B+filename%3DAnalytical_Appraisal_of_The_Factors_Resp.pdf&Expires=1692688482&Signature=LKi3fS4O-1NQj5TcipA77mfQi6JfJzf1LOwxQjJdrhRuqKVfQOUciz39vkucaXEjvlg9P96zugtk~mNYMS8YyL7A0cm4gk751eeZzbExu8QjQqqOzMXSdhWC7cKvcROW6VJHjLprc1wql6xD3cwMcQKi4lnYER0JJU0Wm8~xODFeF1Lfz-0-Z7A3ZOpTMtDsc-wC3116eWfHVvkpZzZkLpnzqaZ2Udsj4DWWgl1MGOohP063~nnmLaicY6VgSy2p5GG0y2JkAkZbhv0WTxvPDMhXNlqerlr14fM~BHxndEfA7Av3L3MnsLRKrCl2wKKth8aKMqIP9fOBfzJVBuKFw__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA
- David, M. *Covid-19 Response and Human Rights in Selected African Countries*, **Australian Journal of Human rights**, 26(3), 2021. <https://doi.org/10.1080/1323238X.2020.1813381>.

- Desmidt, S. *Conflict Management and Prevention under the African Peace and Security Architecture (APSA) of the African Union*, **African Journal of Management**, 5(1), 2019, 79-97. <https://www.tandfonline.com/doi/full/10.1080/23322373.2018.1563465>.
- Eugene, D., Kwamena, D. & David, D. *Women's reproductive health decision-making: A multi-country analysis of demographic and health surveys in sub-Saharan Africa*, **plos one**, 14(1), 2019. <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0209985>.
- Getahun, T. G. *Descriptive Overview of the African Human Rights System*, **Cukurova Arastirmalari**, 5(1), 2019, 123-137. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3422825.
- Mezmur, B. D. *The African Children Charter @30: A Distinction Without a Difference*, **The International Journal of Children's Rights**, 28(4), 2020, 693-714. https://brill.com/view/journals/chil/28/4/article-p693_693.xml?language=en.
- Micha, W., Aniekwe, C. C., Oette, L. & Vendeginste, S. *The African Charter on Democracy, Elections and Governance: Past, Present and Future*, **Journal of African Law**, 63(1), 2019, 9-38. <https://www.cambridge.org/core/journals/journal-of-african-law/article/african-charter-on-democracy-elections-and-governance-past-present-and-future/342605584448147F12AF98118411F9D4>.
- Muller, A. *Can Armed Non-State Actors Exercise Jurisdiction and Thus Become Human Rights Duty Bearers?* **Human Rights Law Review**, 20(2), 2020, 269-305. <https://doi.org/10.1093/hrlr/ngaa012>.
- Mulugeta, D. *Pan-Africanism and the Affective Charges of the African Union Building in Addis Ababa*. **Journal of African Cultural Studies**, 33(4), 2021, 521-537. <https://doi.org/10.1080/13696815.2021.1884971>
- Muluneh, M. D., Stulz, V., Francis, L., & Agho, K. *Gender Based Violence Against Women in Sub-Saharan Africa: A Systematic Review and Meta-Analysis of Cross Sectional Studies*, **International Journal of Environmental Research and Public Health**, 17(3), 2020, 12-15. doi: 10.3390/ijerph17030903
- Murry, R. *Confidentiality and the Implementation of the Decision of the African Commission on Human and Peoples' Rights*, **African Human Rights Law Journal**, 19(1), 2019, 1-25. http://www.scielo.org.za/scielo.php?pid=S1996-20962019000100002&script=sci_arttext.
- Niyungeko, G. *The African Charter on Democracy, Election and Governance as a Human Rights Instrument*, **Journal of African Law**, 63(1), 2019, 63-80. <https://www.cambridge.org/core/journals/journal-of-african-law/article/african-charter-on-democracy-elections-and-governance-as-a-human-rights-instrument/0DE5C942CCB2B0FE86397FD9F632D446>.

- Negera, A. *African Union Governance Regime? Revitalizing African Governance and Architecture (AGA)*, **Journal of African Union Studies**, 11(2), 2022, 61-76. DOI: <https://doi.org/10.31920/2050-4306/2022/11n2a4>.
- Obiora, O. L., Maree, J. E. & Nkosi-Mafutha, N. *Female Genital Mutilation in Africa: Scoping the Landscape of Evidence*, **International Journal of African Nursing Science**, 12, 2020. <https://doi.org/10.1016/j.ijans.2019.100189>
- Odinkalu, A. C. *Proposals for Review of the Rules of Procedure of the African Commission of Human and Peoples' Rights*, **Human Rights Quarterly**, 15(3), 1993, 533-548. <https://www.jstor.org/stable/762609?origin=crossref>.
- Omoregbee, N. *Southern African Development Community (SADC) and Economic Integration in Southern Africa: Lessons for Regional Organizations in Africa*, **Hallmark University Journal of Management and Social Sciences**, 2(3), 2020, 74-82. https://www.researchgate.net/profile/Kamaldeen-Lawal/publication/345064760_Merged_Hallmark_Journal_Coverpdf_alaka_and_lawa_l/links/5f9d4047299bfb1b53e547a8f/Merged-Hallmark-Journal-Coverpdf-alaka-and-lawal.pdf#page=83.
- Ramasela, S. F. *An Afrocentric Critique of the Pitfalls of the African Union in Promoting Unity, Peace and Solidarity of African States*, **Journal of African Union Studies**, 11(2), 2022, 19. <https://journals.co.za/doi/abs/10.31920/2050-4306/2022/11n2a2>.
- Samb, M. *Fundamental Issues and Practical Challenges of Human Rights in the Context of the African Union*, **Annual Survey of International & Cooperative Law**, 15(1), 2009, 62-63. <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1128&context=annlsurvey>.
- Ssenyonjo, M. *Responding to Human Rights Violation in Africa: Assessing the Role of the African Commission and Court on Human and Peoples Rights (1987-2018)*, **International Human Rights Law Review**, 7(1), 2018, 1-45. https://brill.com/view/journals/hrlr/7/1/article-p1_1.xml.
- Uchenna, O. *A Third Wave? Creeping Autocracy in Africa*, **African Studies Quarterly**, 20(1), 2021, 115-119. <https://asq.africa.ufl.edu/a-third-wave-creeping-autocracy-in-africa/>.
- Vanessa, G. *African Union Agenda 2063 and Tourism Development in Africa: Contribution, Contradiction and Implication*, **International Journal of Tourism Cities**, 5(2), 2019, 288-300. <https://doi.org/10.1108/IJTC-02-2019-0029>.
- Welch, C. *The Organisation of African Unity and the Promotion of Human Rights*, **The Journal of Modern African Studies**, 29(4), 1991. <https://www.jstor.org/stable/161137>.
- William, P. D. *The Peace and Security Council of the African Union: Evaluating and Embryonic International Institution*, **The Journal of Morden African Studies**, 47(4), 2009, 603-626. <https://www.jstor.org/stable/40538337>.

Thesis

Langerud, M. H. *From the Organization of the African Unity to African Union: From A Policy of Non-Interference to a Policy of Non-Indifference*, 2016. https://www.duo.uio.no/bitstream/handle/10852/51787/1/Langerud_2016_Master-thesis.pdf.

Website

African Union. *An Integrated, Prosperous and Peaceful Africa*, 2008 <https://www.peaceau.org/uploads/au-continental-framework-web.pdf>

African Union, *AU Reforms present a unique Opportunity for Greater Synergy in Addressing Inter-Related Issues of Security and Governance in Africa*, African Union Webmail, 2021. <https://au.int/en/pressreleases/20210617/au-reforms-present-unique-opportunity-greater-synergy-addressing-inter>.

African Union, *Constitutive Act of the African Union*, Constitutive Act of the African Union, adopted by the Thirty-Sixth ordinary session of the assembly of Heads of State and Government, Lome, Togo, 11 July 2000. https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf.

African Union, Peace and Security Dept, *The Peace and Security Council of the African Union (AUPSC)*, African Union, 2015. <https://www.peaceau.org/en/page/42-psc>.

African Union, *Organisation of the 17th AU-EU Human Rights Dialogue*, Press Release, African Union Commission, 2021. <https://au.int/en/pressreleases/20211109/17th-au-eu-human-rights-dialogue>.

Assembly of the African Union. *Decisions and Declaration of the Assembly of the African Union*, 2002. http://au.int/sites/default/files/decisions/9549-assembly_en_9_10_july_2002_assembly_heads_state_government_first_ordinary_session_0.pdf

Compass, *Human Rights Activism and the Roles of NGOs*, Council of Europe, <https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos>.

Equality and Human rights Commission, *What are Human Rights*, Equality and Human Rights Commission, 2019. <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>.

Geng, J. *Chapter 24: The Maputo Protocol and the reconciliation of gender and culture in Africa*, Elgar online, Law 2019 collection, 2019, 411-429. DOI: <https://doi.org/10.4337/9781785363924.00034>.

German Institute for Human Rights, *The African Human Rights System*, Deutsche Gesellschaft

- Fur Internationale Zusammenarbeit (GIZ), 2022, https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/ABC_Kinderrechte/e-info-tool_abc_of_hr_for_dev_coop_the_african_hr-system_01.pdf.
- Gutelius, D. *Arab Maghreb Union*, Encyclopaedia.com, 2018, <https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/international-organizations/arab-maghreb-union>.
- Human Rights Watch, *African Rights Commission's Work More Important Than Ever*, Human Rights Watch, 2022, <https://www.hrw.org/news/2022/11/02/african-rights-commissions-work-more-important-ever>.
- Human Rights Watch, *AU Human Rights & Policy Brief: Top Recommendations to the African Union Leadership*, Human Rights Watch, 2021, <https://www.hrw.org/news/2021/02/16/au-human-rights-policy-brief>.
- Human Rights Watch, *SADC: Recommit to Human Rights Protection*, Human Rights Watch, 2017. <https://www.hrw.org/news/2017/08/07/sadc-recommit-human-rights-protection>.
- International Committee of the Red Cross, *International Humanitarian Law: Answers to your questions*, ICRC, 2010. <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0703.pdf>.
- International Federation for Human Rights, *Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation*. 2007. http://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf
- International Justice Resource Centre, *African Commission on Human and Peoples' Rights*, International Justice Resource Centre, 2020. <https://ijrcenter.org/wp-content/uploads/2020/05/ACHPR-one-pager-2020.pdf>.
- International Labour Organisation. *The 2014 AUC's Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa*, 2015. http://www.ilo.org/africa/areas-of-work/labour-migration/policy-frameworks/WCMS_671951/lang-en/
- James, N. *Human Rights*, Stanford Encyclopaedia of Philosophy, Metaphysics Research Lab, Stanford University, 2019. <https://plato.stanford.edu/entries/rights-human/>.
- Kassab, A. & Bokrouh, M. *Compendium Country Profile Cultural Policy in Algeria*, 2014. https://www.culturalpolicies.net/wp-content/uploads/2019/10/algeria_full_profile_2014.pdf
- Mutua, M. W. *The African Human Rights System: A critical Evaluation*, Human Development Report, 2000. https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1015&context=ot-her_scholarship.

Office of the United Nations High Commissioner for Human Rights (OHCHR), *What are Human Rights?* United Nations Human Rights Office of the High Commissioner, 2018. <https://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>.

PSC Report, *North Africa could benefit from a functioning regional organisation*, PSC Report, 2019. <https://issafrica.org/pscreport/psc-insights/north-africa-could-benefit-from-a-functioning-regional-organisation>.

The Swedish International Development Cooperation Agency, *Regional Cooperation in Africa*, The Swedish International Development Cooperation Agency, 2022, <https://www.sida.se/en/sidas-international-work/countries-and-regions/regional-cooperation-in-africa>.

UNFPA, *Human Rights Principles*, United Nations Population Fund, 2005, <https://www.unfpa.org/resources/human-rights-principles#:~:text=Human%20rights%20are%20universal%20and,religious%2C%20cultural%20or%20ethnic%20background>.

United Nations Human Rights Office of the High Commissioner, *What are Human Rights?* United Nations, 2018. <https://www.ohchr.org/en/what-are-human-rights>.

UNODC, *International Human Rights Instrument*, United Nations Office on Drugs and Crime, 2018, <https://www.unodc.org/e4j/zh/terrorism/module-8/key-issues/international-human-rights-instruments.html>.

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Most Polite Student Premiere Academy Lugbe Abuja - 2006

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H. Referees

Will be provided on request

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The University Compliance Certification

This is to verify that this thesis written by Ayobami OLUWADAHUNSI with Matriculation Number LCU/PG/001933 in the Department of Political and International Relations, Faculty of Management and Social Science, Lead City University, Ibadan, is in full compliance with the approved university format and style.

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